lection and reporting requirements to institutions covered under the reporting requirement of the mortgage metrics program of the Comptroller or the Director. Not later than 60 days after the date of the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Comptroller of the Currency and the Director of the Office of Thrift Supervision shall update such requirements to reflect amendments made to this section by such Act.

(B) Inclusiveness of collections
The requirements under subparagraph (A) shall provide for the collection of all mortgage modification data needed by the Comptroller of the Currency and the Director of the Office of Thrift Supervision to fulfill the reporting requirements under subsection (a).

(2) Report
The Comptroller of the Currency shall report all requirements established under paragraph (1) to each committee receiving the report required under subsection (a).

REFERENCES IN TEXT

Codification
Section was enacted as part of the Helping Families Save Their Homes Act of 2009, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS
Subsec. (b)(1)(A). Pub. L. 111–203, §1493(b), inserted at end “Not later than 60 days after the date of the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Comptroller of the Currency and the Director of the Office of Thrift Supervision shall update such requirements to reflect amendments made to this section by such Act.”

Effective Date of 2010 Amendment
Amendment by Pub. L. 111–203 effective on the date on which final regulations implementing that amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, see section 1490(c) of Pub. L. 111–203, set out as a note under section 1601 of Title 15, Commerce and Trade.

SUBCHAPTER III—NATIONAL MORTGAGE ASSOCIATIONS
§1716. Declaration of purposes of subchapter
The Congress declares that the purposes of this subchapter are to establish secondary market facilities for residential mortgages, to provide that the operations thereof shall be financed by private capital to the maximum extent feasible, and to authorize such facilities to—

(1) provide stability in the secondary market for residential mortgages;
(2) respond appropriately to the private capital market;
(3) provide ongoing assistance to the secondary market for residential mortgages (including activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing;
(4) promote access to mortgage credit throughout the Nation (including central cities, rural areas, and underserved areas) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing; and
(5) manage and liquidate federally owned mortgage portfolios in an orderly manner, with a minimum of adverse effect upon the residential mortgage market and minimum loss to the Federal Government.


AMENDMENTS
Par. (3) Pub. L. 102–550, §1381(a)(1), (2), substituted “residential” for “home” in two places, substituted “(including activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities)” for “(including mortgages securing housing for low- and moderate-income families involving a reasonable economic return)” and struck out “and” at end.
Par. (4) Pub. L. 102–550, §1381(a)(3), (4), added par. (4) and redesignated former par. (4) as (5).
Par. (5). Pub. L. 102–550, § 138(a)(1), (3), redesignated par. (4) as (5) and substituted “residential” for “home”.
1989—Pub. L. 101–73 added par. (1) to (3), struck out subpars. (a) and (b), and redesignated subsec. (c) as par. (4). Prior to amendment, subsecs. (a) and (b) related to supplementary assistance to the secondary market and to provision of special assistance, respectively.
1939—Pub. L. 90–448 struck out provisions which established in the Federal Government a secondary market facility for home mortgages in view of section 1716b of this title which created two separate and distinct corporations.
1914—Subsec. (c). Act June 3, 1939, amended last sentence.
1953—Subsec. (a)(1)(E). Act June 30, 1953, § 12, in cl. (2), substituted “principal amount to be paid therefor” for “unpaid principal balance thereof”, and “aggregate principal amount” for “aggregate amount”; and substituted three provisions for former proviso which made such cl. (2) and any terms therein inapplicable to any defense or disaster mortgages as defined in subpar. (G) of par. (1).
1952—Subsec. (a)(1). Act July 14, 1952, § 3(a)(1), authorized the FNMA to purchase Government-insured or guaranteed home mortgages other than defense or disaster mortgages if they are insured after Feb. 29, 1952.
1952—Subsec. (a)(1)(G). Act July 14, 1952, § 3(a)(4), increased the FNMA commitment powers from $252,000,000 to $1,152,000,000 outstanding at any one time if the commitments relate to defense or disaster mortgages.
1951—Subsec. (c)(4). Act May 28, 1951, inserted “$5,000,000” for “$2,000,000”.

EFFECTIVE DATE OF 1968 AMENDMENT
For effective date of amendment by title VIII of Pub. L. 90–448, see section 808 of section 1716b of this title.

EFFECTIVE DATE OF 1949 AMENDMENT
Joint Res. Oct. 25, 1949, ch. 729, § 7, 63 Stat. 906, provided in part: “That the amendment made by this section (with respect to mortgages guaranteed under section 501 of the Servicemen’s Readjustment Act of 1944, as amended [this section], shall apply only to such mortgages guaranteed after the date of enactment of this Act [Oct. 25, 1949].”

DECLARATION OF FUNCTIONS
Functions of President under this section delegated to Secretary of Housing and Urban Development, see Ex. Ord. No. 11732, July 30, 1973, 38 F.R. 20429, set out as a note under section 301 of Title 3, The President.

SERVICE OR SALE OF MORTGAGES PURCHASED PRIOR TO JULY 1, 1948; FULFILLMENT OF PRIOR COMMITMENTS
Act July 1, 1948, ch. 784, § 2, 62 Stat. 1209, provided that: “Nothing in the amendment made by the first section of this Act [amending sections 1716, 1717 to 1721 of this title] shall limit the authority of the Federal National Mortgage Association to service or sell any mortgage purchased prior to the date of the enactment of this Act (July 1, 1948), or to purchase, service, or sell any mortgage with respect to which a commitment to purchase was made prior to the date of the enactment of this Act (July 1, 1948).”


Act July 1, 1948, amended section generally to create a Federal National Mortgage Association with power to purchase, service, or sell insured or guaranteed mortgage, provide for the powers and successions of the Association, and to eliminate the former national mortgage association.


Act July 1, 1948, amended section generally to create a Federal National Mortgage Association with power to purchase, service, or sell insured or guaranteed mortgage, provide for the powers and successions of the Association, and to eliminate the former national mortgage association.
Section 1716a, act Sept. 1, 1951, ch. 378, title VI, §608(a), 65 Stat. 315, required that one of the persons constituting the Board of Directors of the Federal National Mortgage Association be appointed by the Administrator of Veterans' Affairs from among personnel of the Veterans' Administration.


The purposes of this title include the partition of the Federal National Mortgage Association as heretofore existing into two separate and distinct corporations, each of which shall have continuity and corporate succession as a separated portion of the previously existing corporation.

One of such corporations, to be known as Federal National Mortgage Association, will be a Government-sponsored private corporation, will retain the assets and liabilities of the previously existing corporation accounted for under section 1719 of this title, and will continue to operate the secondary market operations authorized by such section 1719. The other, to be known as Government National Mortgage Association, will remain in the Government, will retain the assets and liabilities of the previously existing corporation accounted for under sections 1720 and 1721 of this title, and will continue to operate the special assistance functions and management and liquidating functions authorized by such sections 1720 and 1721.


REFERENCES IN TEXT

This title, referred to in text, means title VIII of Pub. L. 90–448, which enacted this section, amended sections 24, 378, 1431, 1434, 1464, 1716, 1717 to 1725a, 1725c and 1757 of this title, section 709 of Title 16, Crimes and Criminal Procedure, section 846 of former Title 31, Money and Finance, section 1820 (now 3720) of Title 38, Veterans' Benefits, section 612 of former Title 40, Public Buildings, Property, and Works, sections 1452d, 3334 and 3335 of Title 42, The Public Health and Welfare, and enacted provisions set out as notes under this section and section 1721 of this title.

Section 1720 of this title, referred to in text, was repealed by Pub. L. 98–181, title I [title IV, §483(a)], Nov. 5, 1983, 97 Stat. 315.

CODIFICATION

Section was enacted as part of the Housing and Urban Development Act of 1968, and not as part of the National Housing Act which comprises this chapter or the Federal National Mortgage Association Charter Act which comprises this subchapter.

EFFECTIVE DATE

Pub. L. 90–448, title VIII, §808, Aug. 1, 1968, 82 Stat. 545, provided that: "The amendments made by this title [enacting this section and amending sections 24, 378, 1431, 1434, 1464, 1716, 1717 to 1725a, 1725c and 1757 of this title, section 709 of Title 16, Crimes and Criminal Procedure, section 846 of former Title 31, Money and Finance, section 1820 (now 3720) of Title 38, Veterans' Benefits, section 612 of former Title 40, Public Buildings, Property, and Works, sections 1452d, 3334 and 3335 of Title 42, The Public Health and Welfare, and notes under this section and section 1721 of this title] shall be effective from and after a date, no more than one hundred and twenty days following the date of enactment of this Act [Aug. 1, 1968], as established by the Secretary of Housing and Urban Development. Notice of the establishment of such effective date shall be published in the Federal Register at least thirty days prior thereto.''

SAVINGS PROVISION

Pub. L. 90–448, title VIII, §809, Aug. 1, 1968, 82 Stat. 545, provided that:

'(a) No cause of action by or against the Federal National Mortgage Association existing prior to the effective date established pursuant to section 808 [set out above] shall abate by reason of the enactment of this title. Any such cause of action may thereafter be asserted by or against the appropriate corporate body named in section 302(a)(2) of the National Housing Act [section 1717(a)(2) of this title].

'(b) No suit, action, or other proceeding commenced by or against the Federal National Mortgage Association, or any officer thereof in his official capacity, prior to the effective date established pursuant to section 808 shall abate by reason of the enactment of this title. A court may at any time thereafter during the pendency of any such litigation, on its own motion or that of any party, order that the litigation may be maintained by or against the appropriate corporate body named in section 302(a)(2) of the National Housing Act [section 1717(a)(2) of this title] or the appropriate corresponding officer thereof.''

TRANSITIONAL PROVISIONS


'(a) On the effective date established pursuant to section 808 of this Act [set out above], each share of outstanding nonvoting common stock, with a par value of $100 per share, of the Federal National Mortgage Association shall be changed into and shall become one share of voting common stock, without par value, of such corporation. For the purposes of the Internal Revenue Code of 1986 [formerly I.R.C. 1954, Title 26, no gain or loss is recognized by the holders of such stock on such change, and the basis and holding period of such stock in the hands of the stockholders immediately after such change are the same as the basis and holding period of such stock in their hands immediately prior to such change.


'(d) Those persons who are the officers and employees of the Federal National Mortgage Association immediately prior to the effective date established pursuant to section 808 [set out as a note above] shall become the officers and employees of the Government National Mortgage Association on such date. The Federal National Mortgage Association and the Government National Mortgage Association shall provide by contract for the conditions and methods under which and by which the Federal National Mortgage Association during the transitional period may employ those individuals who are employees of the Government National Mortgage Association on such effective date; and may provide by contract for the operation by either of such corporations of any of the functions of the other. The Secretary of Housing and Urban Development shall make every reasonable effort to place in other comparable Federal positions any individuals who are career or career-conditional employees of the Government National Mortgage Association on such effective date and who are subsequently during the transitional period neither employed by the Federal National Mortgage Association nor retained by the Government National Mortgage Association.'"

(a) Creation; succession; principal and other offices

(1) There is created a body corporate to be known as the “Federal National Mortgage Association”, which shall be in the Department of Housing and Urban Development. The Association shall have succession until dissolved by Act of Congress. It shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. Agencies or offices may be established by the Association in such other place or places as it may deem necessary or appropriate in the conduct of its business.

(2) On September 1, 1968, the body corporate described in the foregoing paragraph shall cease to exist in that form and is hereby partitioned into two separate and distinct bodies corporate, each of which shall have continuity and corporate succession as a separated portion of the previously existing body corporate, as follows:

(A) One of such separated portions shall be a body corporate without capital stock to be known as Government National Mortgage Association (hereinafter referred to as the “Association”), which shall be in the Department of Housing and Urban Development and which shall retain the assets and liabilities acquired and incurred under sections 1720 and 1721 of this title prior to such date, including any and all liabilities incurred pursuant to subsection (c). The Association shall have succession until dissolved by Act of Congress. It shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. Agencies or offices may be established by the Association in such other place or places as it may deem necessary or appropriate in the conduct of its business.

(B) The other such separated portion shall be a body corporate to be known as Federal National Mortgage Association (hereinafter referred to as the “corporation”), which shall retain the assets and liabilities acquired and incurred under sections 1718 and 1719 of this title prior to such date. The corporation shall have succession until dissolved by Act of Congress. It shall maintain its principal office in the District of Columbia or the metropolitan area thereof and shall be deemed, for purposes of jurisdiction and venue in civil actions, to be a District of Columbia corporation.

(3) The partition transaction effected pursuant to the foregoing paragraph constitutes a reorganization within the meaning of section 368(a)(1)(E) of title 26; and for the purposes of such title 26, no gain or loss is recognized by the previously existing body corporate by reason of the partition, and the basis and holding period of the assets of the corporation immediately following such partition are the same as the basis and holding period of such assets immediately prior to such partition.

(b) Purchase and sale of insured and conventional mortgages; transactions in loans and advances of credit

(1) For the purposes set forth in section 1716 of this title and subject to the limitations and restrictions of this subchapter, each of the bodies corporate named in subsection (a)(2) is authorized pursuant to commitments or otherwise, to purchase, service, sell, or otherwise deal in any mortgages which are insured under this chapter or title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.], or which are insured or guaranteed under the Servicemen’s Readjustment Act of 1944 or chapter 37 of title 38; and to purchase, service, sell, or otherwise deal in any loans made or guaranteed under part B of title VI of the Public Health Service Act [42 U.S.C. 291–1 et seq.], and the corporation is authorized to lend on the security of any such mortgages and to purchase, sell, or otherwise deal in any securities guaranteed by the Association under section 1721(g) of this title: Provided, That (1) the Association may not purchase any mortgage at a price exceeding 100 per centum of the unpaid principal amount thereof at the time of purchase, with adjustments for interest and any comparable items; (2) the Association may not purchase any mortgage, except a mortgage insured under title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.], if it is offered by, or covers property held by, a State, territorial, or municipal instrumentality; and (3) the Association may not purchase any mortgage under section 1720 of this title, except a mortgage insured under section 1715k of this title or subchapter VIII or section 1709(k) of this title, or under subchapter IX–A of title 1, with respect to a new community approved under section 1749cc–1 of this title, or insured under section 1715e of this title and covering property located in an urban renewal area, or a mortgage covering property located in Alaska, Guam, or Hawaii, if the original principal obligation thereof exceeds or exceeded $55,000 in the case of property upon which is located a dwelling designed principally for a one-family residence; or $60,000 in the case of a two- or three-family residence; or $68,750 in the case of a property upon which is located a property containing more than four dwelling units; or less than $38,000 per dwelling unit (or such higher amount not in excess of $45,000 per dwelling unit as the Secretary may by regulation specify in any geographical area where the Secretary finds that cost levels so require) for that part of the property attributable to dwelling use. Notwithstanding the provisions of clause (3) of the preceding sentence, the Association may purchase a mortgage under section 1720 of this title with an original principal obligation which exceeds the otherwise applicable maximum amount per dwelling unit if the mortgage is insured under section 1713(c)(3), 1715e(b)(2), 1715k(d)(3)(B)(iii), 1715l(d)(3)(ii), 1715d(4)(ii), 1715c(2), 1715y(e)(3), or 1715e–1 of this title. For the purposes of this subchapter, the terms “mortgages” and “home mortgages” shall be inclusive of any mortgages or other loans insured under any of the provisions of this chapter or title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.].

(2) For the purposes set forth in section 1716(a) of this title, the corporation is authorized, pur-
suant to commitments or otherwise, to purchase, service, sell, lend on the security of, or otherwise deal in mortgages which are not insured or guaranteed as provided in paragraph (1) (such mortgages referred to hereinafter as “conventional mortgages”). No such purchase of a conventional mortgage secured by a property comprising one- to four-family dwelling units shall be made if the outstanding principal balance of the mortgage at the time of purchase exceeds 80 per centum of the value of the property securing the mortgage, unless (A) the seller retains a participation of not less than 10 per centum in the mortgage; (B) for such period and under such circumstances as the corporation may require, the seller agrees to repurchase or replace the mortgage upon demand of the corporation in the event that the mortgage is in default; or (C) that portion of the unpaid principal balance of the mortgage which is in excess of such 80 per centum is guaranteed or insured by a qualified insurer as determined by the corporation. The corporation shall not issue a commitment to purchase a conventional mortgage prior to the date the mortgage is originated, if such mortgage is eligible for purchase under the preceding sentence only by reason of compliance with the requirements of clause (A) of such sentence. The corporation may purchase a conventional mortgage which was originated more than one year prior to the purchase date only if the seller is the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the National Credit Union Administration, or any other seller currently engaged in mortgage lending or investing activities. For the purpose of this section, the term “conventional mortgages” shall include a mortgage, lien, or other security interest on the stock or membership certificate issued to a tenant-stockholder or resident-member of a cooperative housing corporation, as defined in section 216 of title 26, and on the proprietary lease, occupancy agreement, or right of tenancy in the dwelling unit of the tenant-stockholder or resident-member in such cooperative housing corporation. The corporation shall establish limitations governing the maximum original principal obligation of conventional mortgages that are purchased by it; in any case in which the corporation purchases a participation interest in such a mortgage, the limitation shall be calculated with respect to the total original principal obligation of the mortgage and not merely with respect to the interest purchased by the corporation. Such limitations shall not exceed $417,000 for a mortgage secured by a single-family residence, $533,850 for a mortgage secured by a 2-family residence, $645,300 for a mortgage secured by a 3-family residence, and $801,950 for a mortgage secured by a 4-family residence, except that such maximum limitations shall be adjusted effective January 1 of each year beginning after the effective date of the Federal Housing Finance Regulatory Reform Act of 2008, subject to the limitations in this paragraph. Each adjustment shall be made by adding to each such amount (as it may have been previously adjusted) a percentage thereof equal to the percentage increase, during the most recent 12-month or 4-quarter period ending before the time of determining such annual adjustment, in the housing price index maintained by the Director of the Federal Housing Finance Agency (pursuant to section 4542 of this title). If the change in such house price index during the most recent 12-month or 4-quarter period ending before the time of determining such annual adjustment is a decrease, then no adjustment shall be made for the next year, and the next adjustment shall take into account prior declines in the house price index, so that any adjustment shall reflect the net change in the house price index since the last adjustment. Declines in the house price index shall be accumulated and then reduce increases until subsequent increases exceed prior declines. The foregoing limitations may be increased by not to exceed 50 per centum with respect to properties located in Alaska, Guam, Hawaii, and the Virgin Islands. Such foregoing limitations shall also be increased, with respect to properties of a particular size located in any area for which 115 percent of the median house price for such size residence exceeds the foregoing limitation for such size residence, to the lesser of 150 percent of such limitation for such size residence or the amount that is equal to 115 percent of the median house price in such area for such size residence.

(3) The corporation is authorized to purchase, service, sell, lend on the security of, and otherwise deal in loans or advances of credit for the purchase and installation of home improvements, including energy conserving improvements or residential energy conservation measures described in section 210(11) of the National Energy Conservation Policy Act [42 U.S.C. 8211(11)] and financed by a public utility in accordance with the requirements of title II of such Act [42 U.S.C. 8211 et seq.]. To be eligible for purchase, any such loan or advance of credit (other than a loan or advance made with respect to energy conserving improvements or solar energy systems or residential energy conservation measures not insured under subchapter I of this chapter) shall be secured by a lien against the property to be improved.

(4) The corporation is authorized to purchase, service, sell, lend on the security of, and otherwise deal in loans or advances of credit secured by mortgages or other liens against manufactured homes.

(5)(A) The corporation is authorized to purchase, service, sell, lend on the security of, and otherwise deal in (i) conventional mortgages that are secured by a subordinate lien against a one- to four-family residence that is the principal residence of the mortgagor; and (ii) conventional mortgages that are secured by a subordinated lien against a property comprising five or more family dwelling units. If the corporation, pursuant to paragraphs (1) through (4), shall have purchased, serviced, sold, or otherwise dealt with any other outstanding mortgage secured by the same residence, the aggregate original amount of such other mortgage and the mortgage authorized to be purchased, serviced, sold, or otherwise dealt with under this paragraph shall not exceed the applicable limitation determined under paragraph (2).

(B) The corporation shall establish limitations governing the maximum original principal obli-
gation of conventional mortgages described in subparagraph (A). In any case in which the corporation purchases a participation interest in such a mortgage, the limitation shall be calculated with respect to the total original principal obligation of such mortgage described in subparagraph (A) and not merely with respect to the interest purchased by the corporation. Such limitations shall not exceed (i) with respect to mortgages described in subparagraph (A)(i), 50 per centum of the single-family residence mortgage limitation determined under paragraph (2); and (ii) with respect to mortgages described in subparagraph (A)(ii), the applicable limitation determined under paragraph (2).

(c) Administration of trusts; obligations of departments and agencies of the United States; exemption of interest income from taxation; authorization of appropriations for differential reimbursements

(1) Notwithstanding any other provision of this chapter or of any other law, the Association is authorized under section 1721 of this title to acquire, hold and manage, dispose of, and otherwise deal in any mortgages or other obligations, or for the substitution of cash for such proceeds, of any sale of beneficial interests or participations. Collections from obligations subject to the trust shall be dealt with, as provided in the instrument creating the trust.

The Association shall be named and shall act as trustee of any such trusts and, for the purposes thereof, the title to such obligations shall be deemed to have passed to the Association in trust. The trust instrument may provide for the substitution or withdrawal of such obligations, or for the substitution of cash for obligations. The trust or trusts shall be exempt from all taxation. The trust instrument may also contain other appropriate provisions in keeping with the purposes of this subsection. The Association shall be named and shall act as trustee of any such trusts and, for the purposes thereof, the title to such obligations shall be deemed to have passed to the Association in trust. The trust instrument shall provide that

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or participations to the extent they are based upon such obligations or collections. Such proceeds shall be dealt with as otherwise provided by law for sales or repayment of such obligations. The effect of both past and future sales of any issue of beneficial interests or participations shall be the same, to the extent of the principal of such issue, as the direct sale with recourse of the obligations subject to the trust. Any trustor creating a trust or trusts hereunder is authorized to purchase, through the facilities of the trustee, outstanding beneficial interests or participations to the extent of the amount of the trustee's responsibility to the trustee on beneficial interests or participations outstanding, and to pay the trustee's proper share of the costs and expenses incurred by the Association as trustee pursuant to the trust instrument.

(3) When any trustor guarantees to the trustee the timely payment of obligations the trustor subjects to a trust pursuant to this subsection, and it becomes necessary for such trustor to meet his responsibilities under such guaranty, the trustee is authorized to fulfill such guaranty.

(4) Beneficial interests or participations shall not be issued for the account of any trustor in an aggregate principal amount greater than is authorized with respect to such trustor in an appropriation Act. Any such authorization shall remain available only for the fiscal year for which it is granted and for the succeeding fiscal year.

(5) The Association, as trustee, is authorized to sell beneficial interests or participations under this subsection, notwithstanding that there may be an insufficiency in aggregate receipts from obligations subject to the related trust to provide for the payment by the trustee (on a timely basis out of current receipts or otherwise) of all interest or principal on such interests or participations (after provision for all costs and expenses incurred by the trustee, fairly prorated among trustors). There are authorized to be appropriated without fiscal year limitation such sums as may be necessary to enable any trustor to pay the trustee such insufficiency as the trustee may require on account of outstanding beneficial interests or participations authorized to be issued pursuant to paragraph (4) of this subsection. Such trustor shall make timely payments to the trustee from such appropriations, subject to and in accord with the trust instrument. In the event that the insufficiency required by the trustee is on account of principal maturities of outstanding beneficial interests or participations authorized to be issued pursuant to paragraph (4) of this subsection, or pursuant hereto, the trustee is authorized to elect to issue additional beneficial interests or participations for refinancing purposes in lieu of requiring any trustor or trustees to make payments to the trustee from appropriated funds or other sources. Each such issue of beneficial interests or participations shall be in an amount determined by the trustee but not in excess of the aggregate amount which the trustee would otherwise require the trustor or trustees to pay from appropriated funds or other sources, and may be issued without regard to the provisions of paragraph (4) of this subsection. All refinancing issues of beneficial interests or participations shall be deemed to have been issued pursuant to the authority contained in the appropriation Act or Acts under which the beneficial interests or participations were originally issued.

(6) Beneficial interests or participations issued pursuant to this subsection. All refinancing issues of beneficial interests or participations shall be deemed to have been issued pursuant to the authority contained in the appropriation Act or Acts under which the beneficial interests or participations were originally issued.

References to text:
Section 1720 of this title, referred to in subsecs. (a)(2)(A) and (b)(1), was repealed by Pub. L. 98-181, title I (title IV, §483(a)), Nov. 30, 1983, 97 Stat. 1240.

The Servicemen's Readjustment Act of 1944, referred to in subsec. (b)(1), is act June 22, 1944, ch. 268, 58 Stat. 284, as amended, which was classified generally to chapter 11C (§§693 to 697g) of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which was repealed by section 14(87) of Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 2173, the first section of which enacted Title 38, Veterans' Benefits. For distribution of sections 693 to 697g of former Title 38 to Title 38, Veterans' Benefits, see Table preceding section 101 of Title 38, Veterans' Benefits.

The Public Health Service Act, referred to in subsec. (b)(1), is act July 1, 1944, ch. 373, 58 Stat. 622, as amended. Part B of title VI of the Public Health Service Act is classified generally to part B (§291j-1 et seq.) of subchapter IV of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.


The National Energy Conservation Policy Act, referred to in subsec. (b)(3), is Pub. L. 95–619, Nov. 9, 1978, 92 Stat. 3208, as amended. Title II of the National Energy Conservation Policy Act is classified principally to subchapter II (§621 et seq.) of chapter 91 of Title 42, The Public Health and Welfare. Section 210 of the Act (42 U.S.C. 6211) was omitted from the Code pursuant to section 6229 of Title 42 which terminated authority under that section on June 30, 1989. For complete classification of this Act to the Code, see Short Title note set out under section 8201 of Title 42 and Tables.

The Servicemen's Readjustment Act of 1944, referred to in subsec. (b)(5), is act June 22, 1944, ch. 268, 58 Stat. 284, as amended, which was classified generally to chapter 11C (§§693 to 697g) of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which was repealed by section 14(87) of Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 2173, the first section of which enacted Title 38, Veterans' Benefits. For distribution of sections 693 to 697g of former Title 38 to Title 38, Veterans' Benefits, see Table preceding section 101 of Title 38, Veterans' Benefits.

The National Energy Conservation Policy Act, referred to in subsec. (b)(6), was repealed and a new section 4542 was added by Pub. L. 110–235, div. A, title I, §§1122, 1124(d), July 30, 2008, 122 Stat. 2693. The new section 4542 does not relate to obtaining the approval of the Secretary.

AMENDMENTS

2008—Subsec. (b)(2). Pub. L. 110–289 inserted last sentence and substituted seventh through ninth sentences of former seventh and eighth sentences which read as follows: "Such limitations shall not exceed $43,750 for a mortgage secured by a single-family residence, $200,000 for a mortgage secured by a two-family residence, and $145,000 for a mortgage secured by a three-family residence, and $180,000 for a mortgage secured by a four-family residence, except that such maximum limitations shall be adjusted effective January 1 of each year beginning with 1981. Each such adjustment shall be calculated with respect to the total original principal obligation of the mortgage and not merely with respect to the interest purchased by the corporation" for "The corporation shall establish limitations governing the maximum original principal obligation of conventional mortgages that are purchased by it; in any case in which the corporation purchases a conventional mortgage secured by a property comprising one- to four-family dwelling units' for "No such purchase of a conventional mortgage secured by a property comprising one- to four-family dwelling units' for "No such purchase of a conventional mortgage", in sixth sentence substituted "The corporation shall establish limitations governing the maximum original principal obligation of conventional mortgages that are purchased by it; in any case in which the corporation purchases a participation interest in such a mortgage, the limitations shall be calculated with respect to the total original principal obligation of the mortgage and not merely with respect to the interest purchased by the corporation", in seventh sentence substituted "The corporation shall establish limitations governing the maximum principal obligation of conventional mortgages purchased by it", and in penultimate sentence inserted provision that the limitations set forth in section 1713(c)(3) of this title may be increased by the corporation (taking into account construction costs) to not to exceed 250 per centum of such dollar amounts in any geographical area for which the Secretary of Housing and Urban Development determines under such section that cost levels require any increase in the dollar amount limitations under such section.

1998—Subsec. (b)(2). Pub. L. 105–276 substituted "$145,000 for a mortgage secured by a three-family residence, and $180,000 for a mortgage secured by a four-family residence, except that such maximum limitations shall be adjusted effective January 1 of each year beginning with 1981. Each such adjustment shall be calculated with respect to the total original principal obligation of the mortgage and not merely with respect to the interest purchased by the corporation", for "The corporation shall establish limitations governing the maximum original principal obligation of conventional mortgages purchased by it", and in penultimate sentence inserted provision that the limitations set forth in section 1713(c)(3) of this title may be increased by the corporation (taking into account construction costs) to not to exceed 250 per centum of such dollar amounts in any geographical area for which the Secretary of Housing and Urban Development determines under such section that cost levels require any increase in the dollar amount limitations under such section.


Education, and Welfare” and “Secretary of Education” for “Commissioner of Education”.

1961—Subsec. (b)(2). Pub. L. 97–110 substituted provisions authorizing the Corporation to purchase a conventional mortgage which was originated more than one year prior to the purchase date only if the seller is the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the National Credit Union Administration, or any other seller currently engaged in mortgage lending or investing activities for provisions which had empowered the Corporation to purchase a conventional mortgage which was originated more than one year prior to the purchase date only if the seller was currently engaged in mortgage lending or investing activities and if, as a result thereof, the cumulative aggregate of the principal balances of all conventional mortgages purchased by the Corporation which were originated more than one year prior to the date of purchase did not exceed 20 per centum of the cumulative aggregate of the principal balances of all conventional mortgages purchased by the Corporation.

1980—Subsec. (b)(1). Pub. L. 96–399, §309, struck out “(1)” before “the mortgage” and cl. (2) relating to requirement respecting assistance under contracts authorized by section 1437f of title 42 for at least 20 per centum of the original principal obligation of conventional mortgages, and maximum for the maximum principal obligation of conventional such mortgages, for provisions establishing limitations for provisions which had empowered the Corporation to purchase a conventional mortgage which was originated more than one year prior to the purchase date only if the seller was currently engaged in mortgage lending or investing activities and if, as a result thereof, the cumulative aggregate of the principal balances of all conventional mortgages purchased by the Corporation which were originated more than one year prior to the date of purchase did not exceed 20 per centum of the cumulative aggregate of the principal balances of all conventional mortgages purchased by the Corporation.


1974—Subsec. (a)(2). Pub. L. 93–383, §806(a)(1), substituted “September 1, 1968” for “the effective date established pursuant to section 808 of the Housing and Urban Development Act of 1968”.


1972—Subsec. (a)(2). Pub. L. 92–295, §806(a)(1), substituted “$3,000 (or such higher amount not in excess of $38,000 as the Secretary may by regulation specify in any geographical area where he finds that cost levels so require)” for “$22,000”.


1969—Subsec. (b). Pub. L. 91–152 substituted “$22,000” or “the otherwise applicable maximum amount” for “$17,500” wherever appearing.

1968—Subsec. (a)(1). Pub. L. 90–448, §802(c)(1), (2), designated existing provisions as par. (1), inserted “is insured under section 1715k(d) of this title”, and added par. (1).
additional beneficial interests or participations for re-
financing purposes in lieu of requiring any trustee or
trustors to make payments to the trustee from appro-
priations or other sources, limiting each such 1919 split
of beneficial interests or participations, and directing that
all refinancing issues be deemed to have been is-
sued pursuant to the authority contained in the appro-
Priation Act or Acts under which the beneficial inter-
ests or participations were originally issued.

"in the Department of Housing and Urban Develop-
ment" for "a constituent agency of the Housing and
Home Finance Agency".

Subsec. (b). Pub. L. 90–19, §1(a)(2), (3), substituted
"Secretary of Housing and Urban Development" and
"Secretary" for "Federal Housing Commissioner" and
"Commissioner", respectively.

1966—Subsec. (b). Pub. L. 89–754 inserted "or under
subchapter IX–A with respect to a new community ap-
proved under section 1749cc–1 of this title".

Subsec. (c). Pub. L. 89–429 designated existing provi-
sions as par. (1), gave the name "trusts", for the pur-
pose of the entire subsection, to trusts, receiverships,
conservatorships, liquidating or other agencies, or
other fiduciary and representative undertakings which
the Association is authorized to administer, expanded
times the capital and surplus.

(c). 1961—Subsec. (b). Pub. L. 87–70 substituted "author-
ized, pursuant to commitments or otherwise, to pur-
chase, lend (under section 1719 of this title) the secu-
rities of, service, sell, or otherwise deal in any mortgages
which are insured" for "authorized to make commit-
tments to purchase and to purchase, service, or sell, any
residential or home mortgage (or participations there-
in) which are insured", and "section 1715k of this title
or subchapter VIII" for "section 1715k or 1748b of this
title", permitted the purchase of mortgages insured
under section 1715e of this title and covering property
located in an urban renewal area, and defined term
"mortgage".

1959—Subsec. (b). Pub. L. 85–372 included within cl. (3)
mortgages insured under section 1715k of this title, in-
creased the limitation on the original principal obliga-
tion from $15,000 to $17,500, and established a limitation of
not more than $20,000 with respect to mortgages pur-
chased under section 1719 of this title.

of title 38 after "Servicemen's Readjustment Act of
1944, as amended".

1956—Subsec. (b). Act Aug. 7, 1956, substituted "(2)"
for "(2)" and "(2)" for "(2)"; "if" for "(i)"; and "(3) the
Association may not purchase any mortgage, except a mortgage
insured under section 1748b of this title or a mortgage
covering property located in Alaska, Guam, or Hawaii,
"if" for "or (ii)", and added pars. (2) to (5).

Department of Health, Education, and Welfare, but only
with respect to loans made by the Commissioner of
Education for construction of academic facilities, and
loans to help finance student loan programs" for "the
Office of Education of the Department of Health, Edu-
cation, and Welfare, but only with respect to loans for
construction of academic facilities".

803, 804, and 100(h)(a), defined "home mortgages", re-
moved mortgages offered by or covering property held
by a federal instrumentality from the list of prohibited
purchases, inserted parenthetical material which, in
the case of family dwelling units having four or more
bedrooms, placed an additional amount of $2,500 to the
$17,500 per unit limit on purchasable mortgages, in-
serted proviso exempting below-market mortgages
from the $17,500 per unit limit on purchasable mort-
gages if local tax abatement were granted sufficient to
keep rentals at the level where they would be if the mort-
gage amount did not exceed $17,500 per dwelling
unit, and authorized the Association to purchase loans
insured under subchapter III of chapter 8A of Title 42 in
its secondary market operations.

1953—Act Mar. 28, 1953, inserted "and VI" in cl. (2).
1952—Act Mar. 28, 1952, increased purchasing power of
the Association from $2,750,000,000 to $3,856,000,000 but
limited purchases of mortgages other than defense or
disaster mortgages to $2,750,000,000.

1950—Act Apr. 20, 1950, substituted "$2,750,000,000" for
"$2,500,000,000".

1949—Joint Res. Oct. 25, 1949, substituted "$2,500,000,000" for "$1,500,000,000" in first sentence.
Act July 19, 1949, increased authorization to
$1,500,000,000 which would be based on the outstanding
amount of mortgage purchases and commitments in
place of the former complicated formula.

1948—Act July 1, 1948, amended section generally to
make it applicable to the Association instead of to the
former national associations, and increased the
borrowing capacity from twenty times to forty
times the capital and surplus.

1941—Act Mar. 28, 1941, inserted "and VI" in cl. (2).
Provisions of last sentence and proviso.

Effective Date of 2008 Amendment
2008, 122 Stat. 2692, provided that: "The amendments
made by paragraphs (1) and (2) of this subsection
amending this section shall take effect upon the expira-
tion of the date described in section 201(a) of the Eco-

Amendment by title V of Pub. L. 105–276 effective and
applicable beginning upon Oct. 1, 1999, except as other-
wise provided, with provision that Secretary may im-
plement amendment before such date, except to extent
that such amendment provides otherwise, and with sav-
ings provision, see section 503 of Pub. L. 105–276, set out
at $1720 of this title for
"any mortgage under section 1720 of this title" for
"any mortgage" and deleted proviso reading "Provided,
That with respect to mortgages purchased under sec-
tion 1719 of this title the principal obligation shall not
exceed $20,000".
as a note under section 1437 of Title 42, The Public
Health and Welfare.

**Effective Date of 1978 Amendment**
Amendment by section 101(c)(3) of Pub. L. 95–557 ef-
fective Oct. 1, 1978, see section 104 of Pub. L. 95–557, set
out as a note under section 1709 of this title.

**Effective Date of 1968 Amendment**
For effective date of amendment by title VIII of Pub.
L. 90–448, see section 808 of Pub. L. 90–448, set out as an
Effective Date note under section 1716b of this title.

**Effective Date of 1958 Amendment**
For effective date of amendment by Pub. L. 85–857,
see section 2 of Pub. L. 85–857, set out as an Effective
Date note preceding Part I of Title 38, Veterans’ Bene-
fits.

**Transfer of Functions**
For retransfer of functions described in section 2 of
Reorg. Plan No. 22 of 1959, set out below, from Home
and Home Finance Administrator to Federal National
Mortgage Association, see section 1723d of this title.

**Proposal by Federal National Mortgage Assoca-
tion Respecting Authority To Implement Section 339(a)(1),
(b)(1) of Pub. L. 96–399, Approval, Etc.**
94 Stat. 1657, provided that when Federal National
Mortgage Association submits its proposal to Secretary
of Housing and Urban Development to implement au-
thority granted by amendment of this section, Sec-
retary of Housing and Urban Development shall, within
75 days, approve such proposal or transmit to Congress
a report explaining why such proposal has not been ap-
proved.

**Waiver of Certain Limitations Applicable to the
Purchase of Mortgages by the Government Na-
tional Mortgage Association Until October 1, 1974**
Pub. L. 92–213, §3, Dec. 22, 1971, 85 Stat. 775, as amend-
87 Stat. 422, provided that when the Secretary of
Housing and Urban Development determined that such
action was necessary to avoid excessive discounts on fed-
erally insured or guaranteed mortgages, the Govern-
ment National Mortgage Association could, until Oct.
1, 1974, issue commitments to purchase mortgages with
original principal obligations not more than 50 per cen-
tum in excess of the limitations imposed by clause (3)
of the proviso to the first sentence of section 323(b)(1)
of the National Housing Act [subsec. (b)(1) of this sec-
tion], and it could purchase the mortgages so commit-
ted to be purchased.

**Exception to Limitation on Principal Amount of
Participations in Government Mortgage Liquida-
tion Trust and Small Business Administration
Trust Sold During Fiscal 1966**
Pub. L. 89–429, §9, May 24, 1966, 80 Stat. 168, author-
ized Federal National Mortgage Association during fis-
cal year 1966 to sell (1) additional participations in Gov-
ernment Mortgage Liquidation Trust, and (2) participa-
tions in a trust to be established by Small Business Ad-
munistration, each without regard to the provisions of
subsec. (c)(4) of this section.

**Trust Agreements With Administrator of
Veterans’ Affairs**
Pub. L. 89–429, §6(a), May 24, 1966, 80 Stat. 167, pro-
vided that: “Nothing in this Act [enacting section 1717a
of this title and section 745 of Title 29, Education,
amending this section and sections 1720, 1749, and 1757
of this title, section 1988 of Title 7, Agriculture, and
section 743 of Title 20, and enacting material set out as
notes under this section] shall be construed to repeal or
modify the provisions of section 183B(e) [now 3720(e)] of
Title 38, United States Code, respecting the authority of
the Administrator of Veterans’ Affairs [now Secretary of
Veterans Affairs].”

**Admission of Alaska and Hawaii to Statehood**
Alaska was admitted into the Union on Jan. 3, 1959,
on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73
Stat. c16, and Hawaii was admitted into the Union on
Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959,
24 F.R. 8688, 73 Stat. c74. For Alaska Statehood Law, see
note preceding section 21 of Title 48, Territories and
Insular Possessions. For Hawaii Statehood Law, see
Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4, set out as a note
preceding section 491 of Title 48.

**Reorganization Plan No. 22 of 1950**
Prepared by the President and transmitted to the Sen-
ate and the House of Representatives in Congress as-
sembled, May 9, 1950, pursuant to the provisions of the
Reorganization Act of 1949, approved June 20, 1949
[see 5 U.S.C. 901 et seq.].

**FEDERAL NATIONAL MORTGAGE ASSOCIATION**

**SECTION 1. TRANSFER OF ASSOCIATION AND ITS
FUNCTIONS**
The Federal National Mortgage Association, together
with its functions, is hereby transferred from the Re-
construction Finance Corporation to the Housing and
Home Finance Agency and shall be administered sub-
ject to the direction and control of the Housing and
Home Finance Administrator.

**SEC. 2. TRANSFERS TO THE HOUSING ADMINISTRATOR**
There are hereby transferred from the Reconstruction
Finance Corporation to the Housing and Home Fi-
nance Administrator—
(1) the notes of the Federal National Mortgage Asso-
ciation payable to the Reconstruction Finance Cor-
poration;
(2) the capital stock of the Federal National Mort-
gage Association;
(3) the function of the Reconstruction Finance Cor-
poration of making payments on its notes issued to the
Secretary of the Treasury in an amount equal to (a) the
unpaid principal of, and accrued interest on, the notes
of the Federal National Mortgage Association trans-
ferred under (1) above, (b) any funds of the Recon-
struction Finance Corporation transferred under the pro-
visions of section 5 hereof, and (c) the book value of any
office furniture and equipment of the Reconstruction Fi-
nance Corporation transferred under the provisions of
section 5 hereof, and (d) the par value of the capital
stock of the Federal National Mortgage Association plus
the amount of its surplus paid in by the Recon-
struction Finance Corporation;
(4) the function of issuing notes or other obligations
to the Secretary of the Treasury, which may be pur-
chased by the Secretary, under section 7 of the Recon-
struction Finance Corporation Act, as amended [15
U.S.C. 666], in an amount not in excess of that nec-
essary to finance at any one time the outstanding bal-
ances of the investments, loans, and purchases held by
the Federal National Mortgage Association, taking
into consideration other balance-sheet items;
(5) except as otherwise provided in this reorganiza-
tion plan, all other functions of the Reconstruction Fi-
nance Corporation (including functions of the Board of
Directors of such Corporation and functions of the
Chairman of the Board of Directors of such Corpora-
tion) with respect to the Federal National Mortgage
Association; and
(6) all functions of the Federal Housing Commissioner
with respect to the Federal National Mortgage Association.
SEC. 3. BOARD OF DIRECTORS AND OFFICERS

Functions with respect to serving, including eligibility to serve, as members of the Board of Directors of the Federal National Mortgage Association and as officers of such Association are hereby transferred from the members of the Board of Directors of, and from the officers and employees of, the Reconstruction Finance Corporation to the officers and employees of the Housing and Home Finance Agency (including those of the constituent agencies of the Housing and Home Finance Agency.)

SEC. 4. PERFORMANCE OF FUNCTIONS OF ADMINISTRATOR

The Housing and Home Finance Administrator may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Housing and Home Finance Agency of any function transferred to such Administrator by the provisions of this reorganization plan.

SEC. 5. TRANSFER OF RECORDS, PROPERTY, PERSONNEL, AND FUNDS

There are hereby transferred with the functions transferred by this reorganization plan, respectively, all of the assets, liabilities, contracts, property, records, and unexpended balances of authorizations, allocations and other funds, available or to be made available, of the Federal National Mortgage Association, and so much of the assets, liabilities, contracts, property, records, personnel, and unexpended balances of authorizations, allocations, and other funds, available or to be made available, of the Reconstruction Finance Corporation and relating to functions transferred by the provisions of this reorganization plan, as the Director of the Bureau of the Budget shall determine to be necessary for the administration of such functions, excluding, however, (1) the members of the Board of Directors of the Federal National Mortgage Association and as officers of such Association are hereby transferred from the members of the Board of Directors of, and from the officers and employees of, the Reconstruction Finance Corporation to the officers and employees of the Housing and Home Finance Agency (including those of the constituent agencies of the Housing and Home Finance Agency.)

SEC. 6. EFFECTIVE DATE

The provisions of this reorganization plan shall take effect 60 days after they would take effect under section 6(a) of the Reorganization Act of 1949 in the absence of this section [eff. date July 9, 1950, in operation Sept. 7, 1960].

(Housing and Home Finance Agency lapsed and functions were transferred to Secretary of Housing and Urban Development, see section 6(c) of Pub. L. 89-174, Sept. 9, 1965, 79 Stat. 670, set out as a note under 42 U.S.C. 5351.)

§ 1717a. Prohibition against sale of obligations by Federal departments and agencies after June 30, 1966, without compliance with requirements of section 1717(c) of this title or without approval by Secretary of the Treasury; exemption

After June 30, 1966, no department or agency listed in section 1717(c)(2) of this title may sell any obligation held by it except as provided in section 1717(c) of this title, or as approved by the Secretary of the Treasury, except that this prohibition shall not apply to the Government National Mortgage Association.


CODIFICATION

Section was enacted as a part of the Participation Sales Act of 1966, and not as a part of the National Housing Act, which comprises this chapter or the Federal National Mortgage Association Charter Act which comprises this subchapter.

AMENDMENTS


EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90–448, see section 808 of Pub. L. 90–448, set out as an Effective Date note under section 1716b of this title.

§ 1718. Capitalization of Federal National Mortgage Association

(a) Common stock; preferred stock; transferability of shares

The corporation shall have common stock, without par value, which shall be vested with all voting rights, each share being entitled to one vote with rights of cumulative voting at all elections of directors. The corporation may eliminate such rights of cumulative voting by a resolution adopted by its board of directors and approved by the holders of a majority of the shares of common stock voting in person or by proxy at the annual meeting, or other special meeting, at which such resolution is considered. The corporation may have preferred stock on such terms and conditions as the board of directors shall prescribe. The free transferability of the stock at all times to any person, firm, corporation, or other entity shall not be restricted except that, as to the corporation, it shall be transferable only on the books of the corporation. The corporation may issue shares of common stock in return for appropriate payments into capital or capital and surplus.

(b) Fees and charges; annual transfer of earnings to general surplus account

(1) The corporation may impose charges or fees, which may be regarded as elements of pricing, with the objective that all costs and expenses of the operations of the corporation should be within its income derived from such operations and that such operations should be fully self-supporting.

(2) All earnings from the operations of the corporation shall annually be transferred to the general surplus account of the corporation. At any time, funds of the general surplus account may, in the discretion of the board of directors, be transferred to reserves.

(c) Capital distributions from general surplus account; minimum capitalization levels

(1) Except as provided in paragraph (2), the corporation may make such capital distributions (as such term is defined in section 4502 of this title) as may be declared by the board of directors. All capital distributions shall be charged against the general surplus account of the corporation.

(2) The corporation may not make any capital distribution that would decrease the total capital of the corporation (as such term is defined

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90–448, see section 808 of Pub. L. 90–448, set out as an Effective Date note under section 1716b of this title.
in section 4502 of this title) to an amount less than the risk-based capital level for the corporation established under section 4611 of this title or that would decrease the core capital of the corporation (as such term is defined in section 4502 of this title) to an amount less than the minimum capital level for the corporation established under section 4612 of this title, without prior written approval of the distribution by the Director of the Federal Housing Finance Agency.

(d) Institutions eligible to purchase stock

Notwithstanding any other provision of law, any institution, including a national bank or State member bank of the Federal Reserve System or any member of the Federal Deposit Insurance Corporation, trust company, or other banking organization, organized under any law of the United States, including the laws relating to the District of Columbia, shall be authorized to purchase shares of common stock of the corporation and to hold or dispose of such stock, subject to the provisions of this subchapter.


AMENDMENTS


1992—Subsec. (a). Pub. L. 102–550, §1381(d)(1), inserted at end “The corporation may issue shares of common stock in return for appropriate payments into capital or capital and surplus.”

Subsecs. (b), (c). Pub. L. 102–550, §1381(d)(2), added subsec. (b) and (c) and struck out former subsec. (b) which related to accumulation of surplus, fees and charges, and transfer of surplus funds to reserves and former subsec. (c) which related to issuance of common stock for capital contributions and payment of dividends.

Subsecs. (d), (f). Pub. L. 102–550, §1381(d)(3), (4), redesignated subsec. (f) as (d), struck out “to make payments to the corporation of the nonrefundable capital contributions referred to in subsection (b) of this section to receive stock of the corporation evidencing such capital contributions,” after “shall be authorized,” and substituted “shares of common stock of the corporation” for “additional shares of such stock.”

Subsec. (a). Pub. L. 100–242 inserted after first sentence “The corporation may eliminate such rights of cumulative voting by a resolution adopted by its board of directors and approved by the holders of a majority of the shares of common stock voting in person or by proxy at the annual meeting, or other special meeting, at which such resolution is considered.”

1982—Subsec. (a). Pub. L. 97–320, §707(a)(1), inserted provision that the corporation may have preferred stock on such terms and conditions as the board of directors shall prescribe.

Pub. L. 97–320, §707(a)(2), struck out “common” before “stock at all times”.

1974—Subsec. (a). Pub. L. 93–383, §806(g), struck out provisions relating to issuance, par value, retirement, etc., of nonvoting preferred stock.

Subsec. (c). Pub. L. 93–383, §806(h), substituted provisions relating to purchases subsequent to Sept. 1, 1968, for provisions relating to purchases subsequent to the effective date established under section 808 of the Housing and Urban Development Act of 1968, and struck out provisions relating to retirement of all outstanding preferred stock.

Subsec. (d). Pub. L. 93–383, §806(i), struck out subsec. (d) authorizing issuance of preferred stock to Secretary of the Treasury.

Subsec. (e). Pub. L. 93–383, §806(j), struck out subsec. (e) relating to exchange of preferred stock delivered to Secretary of the Treasury pursuant to subsec. (d) of this section.

1970—Subsec. (b). Pub. L. 91–609 substituted “may accumulate” and “private sources” for “shall accumulate” and “private and other sources”, respectively, struck out “nor less than 1 per centum” after “2 per centum”, and inserted “with the approval of the Secretary of Housing and Urban Development” after “as determined from time to time by the corporation”.

1968—Subsec. (a). Pub. L. 90–448, §802(1), (a)(1), changed common stock of the Association from nonvoting common stock with a par value of $100 to common stock, without par value, vested with all voting rights and each share entitled to one vote with rights of cumulative voting at all elections of directors, provided that the free transferability of the common stock shall not be restricted except that, as to the corporation, it shall be transferable only on the books of the corporation, struck out provisions which permitted retirement of the preferred stock only out of funds of the capital surplus and the general surplus accounts of the Association, and which prohibited retirements of common stock if, as a consequence, the amount thereof remaining outstanding would be less than $100,000,000, and substituted provisions requiring retirement of preferred stock to be made as rapidly as possible subsequent to the effective date of section 808 of the Housing and Urban Development Act of 1968, for provisions which required retirement as rapidly as the Association shall deem feasible, and “corporation” for “Association” in six places.

Subsec. (b). Pub. L. 90–448, §802(j), (a)(1), substituted “corporation” for “Association” in six places, and “fees, which may be regarded as elements of pricing, with” for “fees for its services with”, and struck out sentence which stated this subsection shall be subject to the exceptions set forth in section 1722 of this title.

Subsec. (c). Pub. L. 90–448, §802(k), (a)(1), substituted “corporation” for “Association” in five places, and the aggregate amount of cash dividends paid on account of any share of such stock shall not exceed any rate which may be determined from time to time by the Secretary of Housing and Urban Development to be a fair rate of return after consideration of the current earnings and capital condition of the corporation” for “the general surplus account of the Association shall not be reduced through the payment of dividends applicable to such common stock which exceed in the aggregate 5 per centum of the par value of the outstanding common stock of the Association”, inserted provisions authorizing the corporation to issue additional shares in return for appropriate payments into capital or capital and surplus, directing the corporation to use such services of its mortgages to own a minimum amount of common stock of the corporation, and pre-
scribing the minimum amount, and struck out provi-
sions which related to issuance of common stock only
in denominations of $100 or multiples thereof.
Subsec. (d). Pub. L. 90–448, § 202(b), substituted
"corporation" for "Association" in six places, and
"corporation's" for "Association's".
Subsec. (g). Pub. L. 90–448, § 202(n), repealed subsec.
which directed Secretary of Housing and Urban
Development to transmit recommendations for eventual
transfer of operations to private shareholders.
1967—Subsec. (a). Pub. L. 90–19, § 1(j), substituted
"Secretary of the 'Treasury's" for "Secretary's" in last
sentence.
Subsec. (g). Pub. L. 90–19, § 1(l), substituted "Sec-
retary of Housing and Urban Development" for "Hous-
ing and Home Finance Administrator".
1966—Subsec. (d). Pub. L. 89–566, § 2(a), raised from
$115,000,000 to $225,000,000 the amount of the par value of
the preferred stock of the Association which the Sec-
retary of the Treasury is authorized and directed to ac-
cept in addition to the original $21,000,000.
Subsec. (e). Pub. L. 89–566, § 2(b), substituted
"$225,000,000" for "$115,000,000" in second sentence.
1965—Subsec. (b). Pub. L. 89–117 inserted "other"
sources to private sources as the areas from which the
Association shall accumulate funds for its capital sur-
plus account.
1961—Subsec. (b). Pub. L. 87–70, § 603(b), directed the
Association to require each borrower to make pay-
ments equal to not more than one-half of one per-
tum of the amount lent to the borrower under section
1719 of this title.
Subsec. (c). Pub. L. 87–70, § 603(c), required issuance of
stock to borrowers and inserted "adjusted by reason of
any payments into surplus required by the Associa-
tion".
1960—Subsec. (b). Pub. L. 85–104, § 201, substituted provi-
sions which fixed capital contributions payments at
maximum of 2 percent and minimum of 1 percent of un-
paid principal amounts of mortgages purchased or to be
purchased under section 1719 of this title, for former
provisions which provided for capital contributions
payments equal to 2 percent of the unpaid principal
amounts of mortgages purchased by the Association or
equal to such greater or lesser percentage but not less
than 1 percent, as the Association might determine.
Subsec. (d). Pub. L. 85–104, § 202(a), substituted
"$115,000,000" for "$50,000,000" in second sentence.
Subsec. (e). Pub. L. 85–104, § 202(b), substituted
"$150,000,000" for "$50,000,000" in second sentence.
1956—Subsec. (b). Act Aug. 7, 1956, substituted provi-
sions which required mortgage sellers to make contrib-
tions equal to not more than 2 percent of the unpaid
principal amounts of mortgages or greater or lesser
percentage as the Association may determine, but not
less than 1 percent, for former provisions that contribu-
tions equal 3 percent of the unpaid amount of the mort-
gages or such greater percentage as from time to time
the Association may determine.
1954—Act Aug. 2, 1954, amended section generally to
substitute provisions relating to capitalization (for-
merly covered in section 1716 of this title) and to gen-
eral financial arrangements and operations for provi-
sions relating merely to use and investment of moneys
invested in mortgages or in operating facilities
(such provisions now being covered by section 1722b of
this title), and the maintenance of necessary reserves.
1948—Act July 1, 1948, made section applicable to the
Association instead of to any of the national mortgage
associations.
1938—Act Feb. 3, 1938, inserted "or in bonds or other
obligations" and inserted "and may purchase in the open
market notes, bonds, debentures, or such other obliga-
tions issued under section 1717 of this title".

**Effective Date of 1968 Amendment**

For effective date of amendment by title VIII of Pub.
L. 90–448, see section 808 of Pub. L. 90–448, set out as an
Effective Date note under section 1716b of this title.

**SPECIAL ASSISTANCE FUNDS OF ASSOCIATION FOR
FINANCING LOW-COST HOMES**

provided that the Congress found that the sharp decline
in new home construction over the past year threat-
ened to undercut the present high level of prosperity
and employment as such declines had in the past; that
the substantial reduction which had taken place had its
greatest impact on families of modest income who were
seeking to achieve the goal of homeownership; that
this decline in homebuilding was due primarily to the
shortage of mortgage financing on terms which mod-
erate income families could afford; and that national
policy objectives in the field of housing and commu-
development were thereby being thwarted. The Con-
gress therefore expressed its intent that the special as-
istance funds made available to the Federal National
Mortgage Association for the financing of new low-
cost homes by the Act of September 10, 1966 (Public Law
89–556) [amending sections 1718, 1719, and 1720 of
this title], should be released immediately to halt the con-

## § 1719. Secondary market operations

**a) Purchase and sale of mortgages; secondary market operations; advance of funds or origi-
nation of loans; settlement or extinguishment of borrower's rights**

1. To carry out the purposes set forth in para-
graph (a) of section 1716 of this title, the oper-
ations of the corporation under this section shall be confined, so far as practicable, to mort-
gages which are deemed by the corporation to be of such quality, type, and class as to meet,
generally, the purchase standards imposed by pri-
vate institutional mortgage investors. In the in-
terest of assuring sound operation, the prices to
be paid by the corporation for mortgages pur-
chased in its secondary market operations under
this section, should be established, from time to
time, within the range of market prices for the
particular class of mortgages involved, as deter-
ned by the corporation. The volume of the cor-
poration’s purchases and sales, and the estab-
lishment of the purchase prices, sale prices, and
charges or fees, in its secondary market oper-
ations under this section, should be determined
by the corporation from time to time, and such
determinations should be consistent with the
objectives that such purchases and sales should
be effected only at such prices and on such
terms as will reasonably prevent excessive use

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1. See References in Text note below.
of the corporation’s facilities, and that the operations of the corporation under this section should be within its income derived from such operations and that such operations should be fully self-supporting. Nothing in this subchapter shall prohibit the corporation from purchasing and making commitments to purchase, any mortgage with respect to which the Secretary of Housing and Urban Development has entered into a contract with the corporation to make interest subsidy payments under section 1715z–8 of this title.

(2) The volume of the corporation’s lending activities and the establishment of its loan ratios, interest rates, maturities, and charges or fees, in its secondary market operations under this section, should be determined by the corporation from time to time; and such determinations, in conjunction with determinations made under paragraph (1), should be consistent with the objectives that the lending activities should be conducted on such terms as will reasonably prevent excessive use of the corporation’s facilities, and that the operations of the corporation under this section should be within its income derived from such operations and that such operations should be fully self-supporting. The corporation shall not be permitted to use its lending authority (A) to advance funds to a mortgage seller on an interim basis, using mortgage loans as collateral, pending the sale of the mortgages in the secondary market; or (B) to originate mortgage loans. Notwithstanding any Federal, State, or other law to the contrary, the corporation is empowered, in connection with any loan under this section, whether before or after any default, to provide by contract with the borrower for the settlement or extinguishment, upon default, of any redemption, equitable, legal, or other right, title, or interest of the borrower in any mortgage or mortgages that constitute the security for the loan; and with respect to any such loan, in the event of default and pursuant otherwise to the terms of the contract, the mortgages that constitute such security shall become the absolute property of the corporation.

(b) Obligations of the Corporation

For the purposes of this section, the corporation is authorized to issue, upon the approval of the Secretary of the Treasury, and have outstanding at any one time obligations having such maturities and bearing such rate or rates of interest as may be determined by the corporation with the approval of the Secretary of the Treasury, to be redeemable at the option of the corporation before maturity in such manner as may be stipulated in such obligations. The corporation shall insert appropriate language in all of its obligations issued under this subsection clearly indicating that such obligations, together with the interest thereon, are not guaranteed by the United States and do not constitute a debt or obligation of the United States or any agency or instrumentality thereof other than the corporation. The corporation is authorized to purchase in the open market any of its obligations outstanding under this subsection at any time and at any price.

(c) Purchase of obligations by Treasury; conditions and restrictions

The Secretary of the Treasury is authorized in the Secretary’s discretion to purchase any obligations issued pursuant to subsection (b) of this section, as now or hereafter in force, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under chapter 31 of title 31, and the purposes for which securities may be issued under chapter 31 of title 31 are extended to include such purchases. The Secretary of the Treasury shall not at any time purchase any obligations under this subsection if such purchase would increase the aggregate principal amount of the Secretary’s then outstanding holdings of such obligations under this subsection to an amount greater than $2,250,000,000. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the making of such purchase. The Secretary of the Treasury may, at any time, sell, upon such terms and conditions and at such price or prices as the Secretary shall determine, any of the obligations acquired by the Secretary under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

(d) Mortgage-backed securities; issuance; maturities; rates of interest; exempt securities; adequacy of mortgages to permit principal and interest payments; statement in securities

To provide a greater degree of liquidity to the mortgage investment market and an additional means of financing its operations under this section, the corporation is authorized to set aside any mortgages held by it under this section, and, upon approval of the Secretary of the Treasury, to issue and sell securities based upon the mortgages so set aside. Securities issued under this subsection may be in the form of debt obligations or trust certificates of beneficial interest, or both. Securities issued under this subsection shall have such maturities and bear such rate or rates of interest as may be determined by the corporation with the approval of the Secretary of the Treasury. Securities issued by the corporation under this subsection shall, to the same extent as securities which are direct obligations of or obligations guaranteed as to principal and interest by the United States, be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission. Mortgages set aside pursuant to this subsection shall at all times be adequate to enable the corporation to make timely principal and interest payments on the securities issued and sold pursuant to this subsection. The corporation shall insert appropriate language in all of the securities issued under this subsection clearly indicating that such se-
securities, together with the interest thereon, are not guaranteed by the United States and do not constitute a debt or obligation of the United States or any agency or instrumentality thereof other than the corporation.

(e) Subordinated or convertible obligations; issuance; maturities; rate of interest; redemption; exempt securities; debt or obligation of United States; purchases in open market

For the purposes of this section, the corporation is authorized to issue, upon the approval of the Secretary of the Treasury, obligations which are subordinated to any or all other obligations of the corporation, including subsequent obligations. The obligations issued under this subsection shall have such maturities and bear such rate or rates of interest as may be determined by the corporation with the approval of the Secretary of the Treasury and may be made redeemable at the option of the corporation before maturity in such manner as may be stipulated in such obligations. Any of such obligations may be made convertible into shares of common stock in such manner, at such price or prices, and at such time or times as may be stipulated therein. Obligations issued by the corporation under this subsection shall, to the same extent as securities which are direct obligations of or obligations guaranteed as to principal or interest by the United States, be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission. The corporation shall insert appropriate language in all of its obligations issued under this subsection clearly indicating that such obligations, together with the interest thereon, are not guaranteed by the United States and do not constitute a debt or obligation of the United States or of any agency or instrumentality thereof other than the corporation. The corporation is authorized to purchase in the open market any of its obligations outstanding under this subsection at any time and at any price.

(f) Prohibition on assessment or collection of fee or charge by United States

Except for fees paid pursuant to section 1723a(g) of this title and assessments pursuant to section 4516 of this title, no fee or charge may be assessed or collected by the United States or any agency or instrumentality thereof other than the corporation.

(g) Temporary authority of Treasury to purchase obligations and securities; conditions

(1) Authority to purchase

(A) General authority

In addition to the authority under subsection (c) of this section, the Secretary of the Treasury is authorized to purchase any obligations and other securities issued by the corporation under any section of this chapter, on such terms and conditions as the Secretary may determine and in such amounts as the Secretary may determine. Nothing in this subsection requires the corporation to issue obligations or securities to the Secretary without mutual agreement between the Secretary and the corporation. Nothing in this subsection permits or authorizes the Secretary, without the agreement of the corporation, to engage in open market purchases of the common securities of the corporation.

(B) Emergency determination required

In connection with any use of this authority, the Secretary must determine that such actions are necessary to—

(i) provide stability to the financial markets;
(ii) prevent disruptions in the availability of mortgage finance; and
(iii) protect the taxpayer.

(C) Considerations

To protect the taxpayers, the Secretary of the Treasury shall take into consideration the following in connection with exercising the authority contained in this paragraph:

(i) The need for preferences or priorities regarding payments to the Government.
(ii) Limits on maturity or disposition of obligations or securities to be purchased.
(iii) The corporation’s plan for the orderly resumption of private market funding or capital market access.
(iv) The probability of the corporation fulfilling the terms of any such obligation or other security, including repayment.
(v) The need to maintain the corporation’s status as a private shareholder-owned company.
(vi) Restrictions on the use of corporation resources, including limitations on the payment of dividends and executive compensation and any such other terms and conditions as appropriate for those purposes.

(D) Reports to Congress

Upon exercise of this authority, the Secretary shall report to the Committees on the Budget, Financial Services, and Ways and Means of the House of Representatives and the Committees on the Budget, Finance, and Banking, Housing, and Urban Affairs of the Senate as to the necessity for the purchase and the determinations made by the Secretary under subparagraph (B) and with respect to the considerations required under subparagraph (C), and the size, terms, and probability of repayment or fulfillment of other terms of such purchase.

(2) Rights; sale of obligations and securities

(A) Exercise of rights

The Secretary of the Treasury may, at any time, exercise any rights received in connection with such purchases.

(B) Sale of obligation and securities

The Secretary of the Treasury may, at any time, subject to the terms of the security or
otherwise upon terms and conditions and at prices determined by the Secretary, sell any obligation or security acquired by the Secretary under this subsection.

(C) Deficit reduction

The Secretary of the Treasury shall deposit in the General Fund of the Treasury any amounts received by the Secretary from the sale of any obligation acquired by the Secretary under this subsection, where such amounts shall be—

(i) dedicated for the sole purpose of deficit reduction; and

(ii) prohibited from use as an offset for other spending increases or revenue reductions.

(D) Application of sunset to purchased obligations or securities

The authority of the Secretary of the Treasury to hold, exercise any rights received in connection with, or sell, any obligations or securities purchased is not subject to the provisions of paragraph (4).

(3) Funding

For the purpose of the authorities granted in this subsection, the Secretary of the Treasury may use the proceeds of the sale of any securities issued under chapter 31 of Title 31, and the proceeds for which such securities may be issued under chapter 31 of Title 31 are extended to include such purchases and the exercise of any rights in connection with such purchases. Any funds expended for the purchase of, or modifications to, obligations and securities, or the exercise of any rights received in connection with such purchases under this subsection shall be deemed appropriated at the time of such purchase, modification, or exercise.

(4) Termination of authority

The authority under this subsection (g), with the exception of paragraphs (2) and (3) of this subsection, shall expire December 31, 2009.

(5) Authority of the Director with respect to executive compensation

The Director shall have the power to approve, disapprove, or modify the executive compensation of the corporation, as defined under Regulation S-K of this title.

(3) Funding

For the purpose of the authorities granted in this subsection, the Secretary of the Treasury may use the proceeds of the sale of any securities issued under chapter 31 of Title 31, and the proceeds for which such securities may be issued under chapter 31 of Title 31 are extended to include such purchases and the exercise of any rights in connection with such purchases. Any funds expended for the purchase of, or modifications to, obligations and securities, or the exercise of any rights received in connection with such purchases under this subsection shall be deemed appropriated at the time of such purchase, modification, or exercise.

(4) Termination of authority

The authority under this subsection (g), with the exception of paragraphs (2) and (3) of this subsection, shall expire December 31, 2009.

(5) Authority of the Director with respect to executive compensation

The Director shall have the power to approve, disapprove, or modify the executive compensation of the corporation, as defined under Regulation S-K of this title.
tors. Any such loan shall mature in not more than twelve months and the term of any extension or renewal shall not exceed twelve months.


1974—Subsec. (e). Pub. L. 93–383 struck out provision that the total principal amount of subordinated obligations which could be outstanding at any one time could not exceed two times the sum of (1) the capital of the corporation represented by its outstanding common stock and (2) its surplus and undistributed earnings at such time.

1970—Subsec. (a)(1). Pub. L. 91–351 inserted proviso that nothing in this subchapter shall prohibit the corporation from purchasing mortgages in its secondary market operations be issued at prices which are sufficient to facilitate advance planning of home construction but sufficiently below the price then offered by the Association for immediate purchase to prevent excessive sales to the Association pursuant to such commitments.

1966—Subsec. (a)(1). Pub. L. 90–484, §802(p), (a), substituted “corporation” for “Association” in six places, and “corporation’s” for “Association’s” in two places, and struck out provisions which prohibited the Association from purchasing any mortgage insured or guaranteed prior to Aug. 2, 1964.

1964—Subsec. (a)(2). Pub. L. 90–488, §802(e), substituted “corporation” for “Association” in five places, and “corporation’s” for “Association’s”, in three places.

1963—Subsec. (b). Pub. L. 90–488, §802(q), (a), substituted “corporation” for “Association” in seven places, and “corporation’s” for “Association’s”, and inserted provisions permitting the Secretary to establish a greater ratio than fifteen times for the aggregate amount of obligations outstanding.

1962—Subsec. (c). Pub. L. 90–488, §802(r), struck out provisions which prohibited the Secretary of the Treasury from purchasing obligations under this subsection if all of the preferred stock of the Association held by him has been retired.


A prior subsec. (d) was repealed by Pub. L. 88–560.


1956—Subsec. (a)(1). Pub. L. 89–754 struck out requirement that Association’s advance commitments to purchase mortgages in its secondary market operations be issued at prices which are sufficient to facilitate advance planning of home construction but sufficiently below the price then offered by the Association for immediate purchase to prevent excessive sales to the Association pursuant to such commitments.

1954—Subsec. (a)(2). Pub. L. 88–560, §703, substituted “90 per centum” for “80 per centum”.

1952—Subsec. (b). Pub. L. 88–560, §704, repealed provisions which prohibited the Association from purchasing participation in its operations under this section.

1951—Subsec. (a). Pub. L. 87–70, 1951(c), designated existing provisions as par. (1) and added par. (2).

1948—Subsec. (b). Pub. L. 87–70, §603(e), inserted “or obligations, participations, or other instruments which are lawful investments” for “or obligations which are lawful investments”.

1946—Subsec. (d). Pub. L. 88–560, §704, repealed provisions which prohibited the Association from purchasing participations in its operations under this section.

1944—Subsec. (b). Pub. L. 87–70, 1944(d), designated existing provisions as par. (1) and added par. (2).

1942—Subsec. (b). Pub. L. 87–70, §603(e), inserted “or other security holdings” after “mortgages”.


1934—Subsec. (b). Pub. L. 78–372, §306(a), substituted “and obligations of the United States or guaranteed thereby, or obligations which are lawful investments for fiduciary, trust, or public funds” for “and bonds or other obligations of, or bonds or other obligations guaranteed as to principal and interest by, the United States”. 1937—Subsec. (c). Pub. L. 85–104 substituted “$2,250,000,000” for “$1,350,000,000”.

1936—Subsec. (e). Pub. L. 79–1036 substituted “in second sentence ‘within the range of market prices’’ for ‘at the market prices’’; and inserted sentence that advance commitments to purchase mortgages in secondary market operations shall be issued only at prices which are sufficient to facilitate advance planning of home construction but sufficiently below the price then offered by Association for immediate purchase to prevent excessive sales to the Association pursuant to such commitments.

1934—Act Aug. 7, 1956, §§203, 204(a), substituted in second sentence “within the range of market prices” for “at the market prices”; and inserted sentence that advance commitments to purchase mortgages in secondary market operations shall be issued only at prices which are sufficient to facilitate advance planning of home construction but sufficiently below the price then offered by Association for immediate purchase to prevent excessive sales to the Association pursuant to such commitments.

1933—Act July 1, 1948, amended section generally to provide for exemption from taxation for the Association.

EFFECTIVE DATE OF 2010 AMENDMENT
Amendment by Pub. L. 111–203 effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111–203, set out as an Effective Date note under section 3501 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT
For effective date of amendment by title VIII of Pub. L. 90–488, see section 808 of Pub. L. 90–488, set out as an Effective Date note under section 1716b of this title.


§ 1721. Management and liquidation functions of Government National Mortgage Association

(a) Separate accountability of assets and liabilities

To carry out the purposes set forth in paragraph (c) of section 1716 of this title, the Association is authorized and directed, as of the close of the cutoff date determined by the Association pursuant to section 1718(d) of this title, to establish separate accountability for all of its assets and liabilities (exclusive of capital, surplus, surplus reserves, and undistributed earnings) to be evidenced by preferred stock as provided in section 1718(d) of this title, but inclusive of all rights and obligations under any outstanding contracts), and to maintain such separate accountability for the management and orderly liquidation of such assets and liabilities as provided in this section.

(b) Issuance of obligations to expedite substitution of private financing

For the purposes of this section and to assure that, to the maximum extent, and as rapidly as possible, private financing will be substituted for Treasury borrowings otherwise required to carry mortgages held under the aforesaid separate accountability, the Association is authorized to issue, upon the approval of the Secretary of the Treasury, and have outstanding at any one time obligations having such maturities and bearing such rate or rates of interest as may be determined by the Association with the approval of the Secretary of the Treasury, to be redeemable at the option of the Association before maturity in such manner as may be stipulated in such obligations; but in no event shall any such obligations be issued if, at the time of such proposed issuance, and as a consequence thereof, the resulting aggregate amount of its outstanding obligations under this subsection would exceed the amount of the Association’s ownership under the aforesaid separate accountability, free from any liens or encumbrances, of cash, mortgages, and obligations of the United States or guaranteed thereby, or obligations, participations, or other instruments which are lawful investments for fiduciary, trust or public funds. The proceeds of any private financing effected under this subsection shall be paid to the Secretary of the Treasury in reduction of the indebtedness of the Association to the Secretary of the Treasury under the aforesaid separate accountability. The Association shall insert appropriate language in all of its obligations issued under this subsection clearly indicating that such obligations, together with the interest thereon, are not guaranteed by the United States and do not constitute a debt or obligation of the United States or of any agency or instrumentality thereof other than the Association. The Association is authorized to purchase in the open market any of its obligations outstanding under this subsection at any time and at any price.

(c) Cutoff date as controlling purchases; total amount of mortgages and commitments

No mortgage shall be purchased by the Association in its operations under this section except pursuant to and in accordance with the terms of a contract or commitment to purchase the same made prior to the cutoff date provided for in section 1718(d) of this title, which contract or commitment became a part of the aforesaid separate accountability, and the total amount of mortgages and commitments held by the Association under this section shall not, in any event, exceed $3,350,000,000. Provided, That such maximum amount shall be progressively reduced by the amount of cash realizations on account of principal of mortgages held under the aforesaid separate accountability and by cancellation of any commitments to purchase mortgages thereafter, as reflected by the books of the Association, with the objective that the entire aforesaid maximum amount shall be eliminated with the orderly liquidation of all mortgages held under the aforesaid separate accountability: And provided further, That nothing in this subsection shall preclude the Association from granting such usual and customary increases in the amounts of outstanding commitments (resulting from increased costs or otherwise) as have theretofore been covered by like increases in commitments granted by the agencies of the Federal Government insuring or guaranteeing the mortgages. There shall be excluded from the total amounts set forth in this subsection the amounts of any mortgages which, subsequent to May 31, 1954, are transferred by law to the Association and held under the aforesaid separate accountability.

(d) Issuance of obligations sufficient to carry out functions; character; purpose

The Association may issue to the Secretary of the Treasury its obligations in an amount outstanding at any one time sufficient to enable the Association to carry out its functions under this section, such obligations to mature not more than five years from their respective dates of issue, to be redeemable at the option of the Association before maturity in such manner as may be stipulated in such obligations. Each such obligation shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the issuance of the obligation of the Association. The Secretary of the Treasury is authorized to purchase any obligations of the Association to be issued under this section, and

See References in Text note below.
for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under chapter 31 of title 31 are extended to include any purchases of the Association’s obligations hereunder.

(e) Acquisition of mortgages offered by Secretary of Housing and Urban Development

Notwithstanding any other provision of law, the Association is authorized, under the aforesaid separate accountability, to make commitments to purchase, and to purchase, service, or sell any obligations or mortgages purchased by it under chapter or of any other law, an amount equal to the net decrease for the preceding fiscal year in the aggregate principal amount of all mortgages owned by the Association under this section shall, as of July 1 of each of the years 1961 through 1964, be transferred to and merged with the authority provided under section 1720(a)\(^1\) of this title, and the amount of such authority as specified in section 1720(c)\(^1\) of this title shall be increased by any amounts so transferred.

(f) Transfer of funds

Notwithstanding any of the provisions of this chapter or of any other law, an amount equal to the net decrease for the preceding fiscal year in the aggregate principal amount of all mortgages owned by the Association under this section shall, as of July 1 of each of the years 1961 through 1964, be transferred to and merged with the authority provided under section 1720(a)\(^1\) of this title, and the amount of such authority as specified in section 1720(c)\(^1\) of this title shall be increased by any amounts so transferred.

(g) Guarantee of principal and interest on trust certificates and other securities; fees and charges; subrogation; contract for extinguishment of right, title, or interest in mortgages; protection of interests; full faith and credit; commitments limited; limitation on fees or charges

(1) The Association is authorized, upon such terms and conditions as it may deem appropriate, to guarantee the timely payment of principal and interest on such trust certificates or other securities as shall (i) be issued by the corporation under section 1719(d) of this title, or by any other issuer approved for the purposes of this subsection by the Association, and (ii) be backed by a trust or pool composed of mortgages which are insured under this chapter, or which are insured or guaranteed under the Servicemen’s Readjustment Act of 1944, title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.], or chapter 37 of title 38, or which are guaranteed under title XIII of the Public Health Service Act [42 U.S.C. 300e et seq.]; or guaranteed under section 1715z-13a of this title. The Association shall collect from the issuer a reasonable fee for any guaranty under this subsection and shall make such charges as it may determine to be reasonable for the analysis of any trust or other security arrangement proposed by the issuer. In the event the issuer is unable to make any payment of principal of or interest on any security guaranteed under this subsection, the Association shall make such payment as and when due in cash, and thereupon shall be subrogated fully to the rights satisfied by such payment. In any case in which (I) Federal law requires the reduction of the interest rate on any mortgage backing a security guaranteed under this subsection, (II) the mortgagor under the mortgage is a person in the military service, and (III) the issuer of such security fails to receive from the mortgagor the full amount of interest payment due, the Association may make payments of interest on the security in amounts not exceeding the difference between the amount payable under the interest rate on the mortgage and the amount of interest actually paid by the mortgagor. The Association is hereby empowered, in connection with any guaranty under this subsection, whether before or after any default, to provide by contract with the issuer for the extinguishment, upon default by the issuer, of any redemption, equitable, legal, or other right, title, or interest of the issuer in any mortgage or mortgages constituting the trust or pool against which the guaranteed securities are issued; and with respect to any issue of guaranteed securities, in the event of default and pursuant otherwise to the terms of the contract, the mortgages that constitute such trust or pool shall become the absolute property of the Association subject only to the unsatisfied rights of the holders of the securities based on and backed by such trust or pool. No State or local law, and no Federal law (except Federal law enacted expressly in limitation of this subsection after October 8, 1980), shall preclude or limit the exercise by the Association of (A) its power to contract with the issuer on the terms stated in the preceding sentence, (B) its rights to enforce any such contract with the issuer, or (C) its ownership rights, as provided in the preceding sentence, in the mortgages constituting the trust or pool against which the guaranteed securities are issued. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guaranty under this subsection. There shall be excluded from the total amounts set forth in subsection (c) the amounts of any mortgages acquired by the Association as a result of its operations under this subsection.

(2) Notwithstanding any other provision of law and subject only to the absence of qualified requests for guarantees, to the authority provided in this subsection, and to the extent of or in such amounts as any funding limitation approved in appropriation Acts, the Association shall enter into commitments to issue guarantees under this subsection in an aggregate amount of $110,000,000,000 during fiscal year 1996. There are authorized to be appropriated to cover the costs (as such term is defined in section 661a of title 2) of guarantees issued under this chapter by the Association such sums as may be necessary for fiscal year 1996.

(3)(A) No fee or charge in excess of 6 basis points may be assessed or collected by the United States (including any executive department, agency, or independent establishment of the United States) on or with regard to any guaranty of the timely payment of principal or interest on securities or notes based on or

\(^1\)So in original. The semicolon probably should be a comma.
backed by mortgages that are secured by 1- to 4-family dwellings and (i) insured by the Federal Housing Administration under subchapter II of this chapter; or (ii) insured or guaranteed under the Servicemen’s Readjustment Act of 1944, chapter 37 of title 38, or title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.).

(B) The fees charged for the guaranty of securities or on notes based on or backed by mortgages not referred to in subparagraph (A), as authorized by other provisions of law, shall be set by the Association at a level not more than necessary to create reserves sufficient to meet anticipated claims based upon actuarial analysis, and for no other purpose.

(C) Fees or charges for the issuance of commitments or miscellaneous administrative fees of the Association shall not be on a competitive auction basis and shall remain at the level set for such fees or charges as of September 1, 1985, except that such fees or charges may be increased if reasonably related to the cost of administering the program, and for no other purpose.

(D) Not less than 90 days before increasing any fee or charge under subparagraph (B) or (C), the Secretary shall submit to the Congress a certification that such increase is solely for the purpose specified in such subparagraph.

(E)(i) Notwithstanding subparagraphs (A) through (D), fees charged for the guarantee of, or commitment to guarantee, multiclass securities backed by a trust or pool of securities or notes guaranteed by the Association under this subsection, and other related fees shall be charged by the Association in an amount the Association deems appropriate. The Association shall take such action as may be necessary to reasonably assure that such portion of the benefit, resulting from the Association’s multiclass securities program, as the Association determines is appropriate accrues to mortgagors who execute eligible mortgages after August 10, 1993.

(ii) The Association shall provide for the initial implementation of the program for which fees are charged under the first sentence of clause (i) by notice published in the Federal Register. The notice shall be effective upon publication and shall provide an opportunity for public comment. Not later than 12 months after publication of the notice, the Association shall issue regulations for such program based on the notice, comments received, and the experience of the Association in carrying out the program during such period.

(iii) The Association shall consult with persons or entities in such manner as the Association deems appropriate to ensure the efficient commencement and operation of the multiclass securities program.

(iv) No State or local law, and no Federal law (except Federal law enacted expressly in limitation of this clause after August 10, 1993) shall preclude or limit the exercise by the Association of its power to contract with persons or entities, and its rights to enforce such contracts, for the purpose of ensuring the efficient commencement and continued operation of the multiclass securities program.

(1) The Servicemen’s Readjustment Act of 1944, referred to in subsec. (g)(1), (3)(A), is act July 1, 1944, ch. 268, 58 Stat. 884, as amended, which was classified generally to chapter 11C of Title 38, Veterans’ Benefits. For complete classification of this Act to the Code, see Tables preceding section 101 of Title 38.

The Public Health Service Act, referred to in subsec. (g)(1), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Title XIII of the Public Health Service Act, is title XIII of act July 1, 1944, ch. 373, as added by act Dec. 29, 1973, Pub. L. 93-222, § 2, 87 Stat. 914, which is classified generally to subchapter XI of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Tables preceding section 101 of Title 42 and Tables.

Amendments

“mortgages which are insured under this chapter” and inserted “, title V of the Housing Act of 1949,” after “1949.”

Subsec. (g)(3)(A). Pub. L. 107–326 repealed Pub. L. 105–244, §972(a), as redesignated by Act Aug. 7, 1996, substituted “The Association shall assess and collect a fee in an amount equal to nine basis points” for “No fee or charge in excess of 6 basis points may be collected under this chapter” as amended by Act Aug. 7, 1996.


Subsec. (g)(3)(A). Pub. L. 107–326 inserted before period at end of first sentence “; or guaranteed under section 1715z–13a of this title”.

Subsec. (g)(4). Pub. L. 104–330 inserted before period at end of first sentence “; or guaranteed under section 1715z–13a of this title”.


ds. Prior to amendment, par. (2) read as follows: “Notwithstanding any other provision of law and subject only to the absence of qualified requests for guarantees, to the authority provided in this subsection, and to the extent of or in such amounts as any funding limitation approved in appropriation Acts, the Association shall enter into commitments to issue guarantees provided in this subsection, and to any funding limitation approved in appropriation Acts, the Association shall enter into commitments for each of the fiscal years 1984 and 1985 to issue guarantees under this subsection for each such fiscal year in an aggregate amount of $86,250,000,000”.

1998—Subsec. (g)(2). Pub. L. 105–181 substituted “Notwithstanding any other provision of law and subject only to the absence of qualified requests for guarantees, to the authority provided in this subsection, and to any funding limitation approved in appropriation Acts, the Association shall enter into commitments for each of the fiscal years 1984 and 1985 to issue guarantees under this subsection for each such fiscal year in an aggregate amount of $68,250,000,000” for “During fiscal year 1982, the Association may not enter into commitments to issue guarantees under this subsection in an aggregate amount of excess of $39,342,000,000”.


1996—Subsec. (g)(1). Pub. L. 104–330 inserted before period at end of first sentence “; or guaranteed under section 1715z–13a of this title”.

1988—Subsec. (g)(2). Pub. L. 100–509 substituted “$68,250,000,000” for “$88,000,000,000”.


1983—Subsec. (g)(2). Pub. L. 98–181 substituted “Notwithstanding any other provision of law and subject only to the absence of qualified requests for guarantees, to the authority provided in this subsection, and to any funding limitation approved in appropriation Acts, the Association shall enter into commitments for each of the fiscal years 1984 and 1985 to issue guarantees under this subsection for each such fiscal year in an aggregate amount of $68,250,000,000” for “During fiscal year 1982, the Association may not enter into commitments to issue guarantees under this subsection in an aggregate amount of excess of $39,342,000,000”.


1967—Subsec. (e). Pub. L. 90–19 substituted “Secretary of Housing and Urban Development” for “Housing and Home Finance Agency or its Administrator”.


1959—Subsec. (b). Pub. L. 86–372, §306(a), substituted “and obligations of the United States or guaranteed thereby, or obligations which are lawful investments for fiduciary, trust, or public funds” for “and bonds or other obligations of, or bonds or other obligations guaranty, or other obligations which are lawful investments”.

1956—Subsec. (c). Act Aug. 7, 1956, §209(a), struck out “and subsection (e) of this section” after “set forth in this subsection” in last sentence.

1955—Act Aug. 2, 1954, amended section generally by substituting new provisions and subdividing section into subsecs. (a) to (e).

1949—Act July 1, 1948, amended section generally to provide for liquidation of Association.

**Effective Date of 1998 Amendment**


**Effective Date of 1996 Amendment**

Amendment by Pub. L. 104–120 to be construed to have become effective Oct. 1, 1995, see section 13(a) of Pub. L. 104–120, set out as an Effective and Termination Dates of 1996 Amendments note under section 1437d of Title 42, The Public Health and Welfare.

"SEC. 2. GOVERNMENT NATIONAL MORTGAGE ASSOCIATION GUARANTEES OF MORTGAGE-BACKED SECURITIES.

"The applicable limitation on new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act [12 U.S.C. 1721] during fiscal year 1986 is increased by an additional $60,684,750,000 of principal.

"SEC. 3. ADMINISTRATIVE PROVISION.

"(a) The Secretary of Housing and Urban Development (hereinafter referred to as the ‘Secretary’) shall estimate the rates at which the authority to make commitments to insure mortgages and loans under the National Housing Act [12 U.S.C. 1701 et seq.], and the authority to make commitments to issue guarantees under section 306(g) of that Act [12 U.S.C. 1721(g)], are likely to be used for the remainder of any fiscal year. The Secretary shall make these estimates at such times as the Secretary deems appropriate, but not less frequently than monthly.

"(b) If an estimate under subsection (a) indicates that either limitation on authority to make commitments for a fiscal year referred to in subsection (a) will be reached before the end of that fiscal year, or in any event whenever 75 per centum of either authority to make commitments has been utilized, the Secretary shall promptly so notify the Committee on Appropriations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Appropriations and the Committee on Banking, Finance and Urban Affairs [now Committee on Financial Services] of the House of Representatives."

"SPECIAL ASSISTANCE FUNCTIONS FUND; TRANSFER OF FUNDS.

"Pub. L. 98–371, title I, July 18, 1984, 98 Stat. 1218, directed Secretary to transfer all assets acquired and liabilities incurred pursuant to section 1723e of this title to management and liquidating functions fund established pursuant to this section, and that on Oct. 1, 1984, each outstanding obligation issued by Secretary of Housing and Urban Development to Secretary of the Treasury pursuant to section 1723(d) of this title, together with any promise to repay principal and unpaid interest which had accrued on each obligation, and any other term or condition specified by each such obligation, was canceled."

"EMERGENCY MORTGAGE PURCHASE ASSISTANCE; TRANSFER OF FUNDS.

"For transfer of all assets acquired and liabilities incurred pursuant to section 1723e of this title to management and liquidating functions fund established by this section, with provision for cancellation of obligations, see title I [part] of Pub. L. 98–371, set out as a note under section 1723e of this title."

"ADMINISTRATIVE EXPENSES IN CONNECTION WITH THE SALE OF CERTAIN MORTGAGES TO THE FEDERAL NATIONAL MORTGAGE ASSOCIATION.

§ 1722. Benefits and burdens incident to administration of functions and operations under sections 1720 and 1721

All of the benefits and burdens incident to the administration of the functions and operations of the Association under sections 1720 and 1721, respectively, of this title, after allowance for related obligations of the Association, its prorated expenses, and the like, including amounts required for the establishment of such reserves as the Secretary of Housing and Urban Development shall deem appropriate, shall inure solely to the Secretary of the Treasury, and such related earnings or other amounts as become available shall be paid annually by the Association to the Secretary of the Treasury for covering into miscellaneous receipts.


References in Text

Section 1720 of this title, referred to in text, was repealed by Pub. L. 98–181, title I [title IV, § 483(a)], Nov. 8, 1983, 97 Stat. 1240.

Prior Provisions

A prior section 307 of act June 27, 1934, ch. 847, title III, 48 Stat. 1255; amended Feb. 3, 1938, ch. 13, §§ 8, 52 Stat. 24, related to exemption from taxation, prior to the general amendment of this subchapter by act July 1, 1946, ch. 784, § 1, 62 Stat. 1296, and was subsequently covered by section 1719 of this title until the general amendment of this subchapter by act Aug. 2, 1954. See section 1723a(c) of this title.

Amendments

1968—Pub. L. 90–448 repealed subsecs. (a) and (b) which related to separate accountability and to functions of the Association under sections 1720 and 1721 of this title, redesignated subsec. (c) as the entire section, and substituted “Secretary of Housing and Urban Development” for “board of directors of the Association”.

Effective Date of 1968 Amendment

For effective date of amendment by title VIII of Pub. L. 90–448, see section 808 of Pub. L. 90–448, set out as an Effective Date note under section 1716b of this title.

§ 1723. Management

(a) Government National Mortgage Association

All the powers and duties of the Government National Mortgage Association shall be vested in the Secretary of Housing and Urban Development and the Association shall be administered under the direction of the Secretary. Within the limitations of law, the Secretary shall determine the general policies which shall govern the operations of the Association, and shall have power to adopt, amend, and repeal bylaws governing the performance of the powers and duties granted to or imposed upon it by law. There is hereby established in the Department of Housing and Urban Development the position of President, Government National Mortgage Association, who shall be appointed by the President, and by with the advice and consent of the Senate. The Secretary shall select and effect the appointment of qualified persons to fill the offices of vice president, and such other offices as may be provided for in the bylaws. Persons appointed under the preceding sentence shall perform such executive functions, powers, and duties as may be prescribed by the bylaws or by the Secretary, and such persons shall be executive officers of the Association and shall discharge all such executive functions, powers, and duties.

(b) Federal National Mortgage Association

The Federal National Mortgage Association shall have a board of directors, which shall consist of 13 persons, or such other number that the Director determines appropriate, who shall be elected annually by the common stockholders. Except to the extent that action under section 4638a of this title temporarily results in a lesser number, the board shall at all times have as members at least one person from the building industry, at least one person from the mortgage lending industry, at least one person from the real estate industry, and at least one person from an organization that has represented consumer or community interests for not less than 2 years or one person who has demonstrated a career commitment to the provision of housing for low-income households. Each member of the board of directors shall be elected for a term ending on the date of the next annual meeting of the stockholders. Any seat on the board which becomes vacant after the annual election of the directors shall be filled by the board, but only for the unexpired portion of the term. Within the limitations of law and regulation, the board shall determine the general policies which shall govern the operations of the corporation, and shall have power to adopt, amend, and repeal bylaws governing the performance of the powers and duties granted to or imposed upon it by law. The board of directors shall select and effect the appointment of qualified persons to fill the offices of president and vice president, and such other offices as may be provided for in the bylaws. Any member of the board who is a full-time officer or employee of the Federal Government shall not, as such member, receive compensation for his services.

PRIOR PROVISIONS
A prior section 308 of act June 27, 1934, ch. 847, title III, 48 Stat. 1255, related to deposits of public mon-
ey, prior to the general amendment of this subchapter by act July 1, 1948, ch. 784, §1, 62 Stat. 1206.
Prior provisions on the subject of this section were contained in section 1716 of this title.

AMENDMENTS
2008—Subsec. (b). Pub. L. 110–289, §1162(a)(1), in first sentence, substituted “13 persons, or such other number that the Director determines appropriate, who” for “eighteen persons, five of whom shall be appointed an-
nually by the President of the United States, and the remainder of whom”, in second sentence, struck out “appointed by the President” after “as members”, in third sentence, struck out “appointed or” after “direc-
tors shall be” and “, except that any such appointed member may be removed from office by the President for good cause” after “the stockholders”, in fourth sen-
tence, struck out “elective” after “Any”, and struck out fifth sentence which read as follows: “Any appoint-
itive seat which becomes vacant shall be filled by ap-
pointment of the President, but only for the unexpired portion of the term.”
Pub. L. 110–289, §1153(b)(2), in second sentence, sub-
stituted “Except to the extent that action under section 4659a of this title temporarily results in a lesser number, the” for “The”.
1992—Subsec. (b). Pub. L. 102–550, in second sentence, struck out “and” after “mortgage lending industry,” and inserted “,” and at least one person from an organ-
ization that has represented consumer or community in-
terest for not less than 2 years or one person who has demonstrated a career commitment to the provision of
housing for low-income households” and in third sen-
tence, substituted “any such appointed member” for
“any such member”.
1984—Subsec. (b). Pub. L. 98–440 substituted “, which shall consist of eighteen persons, five of whom” for
“which shall consist of fifteen persons, one-third of
whom”.
1976—Subsec. (a). Pub. L. 94–375 substituted provision establishing, in the Department of Housing and Urban Development, the position of president of the Govern-
ment National Mortgage Association, to be filled by the President, by and with the consent of the Senate, for provision that the Secretary appoint the president of
the Association.
1968—Subsec. (a). Pub. L. 90–448, §802(y)(1)–(6), des-
ignated existing provisions as subsec. (a), inserted pro-
visions directing that the powers and duties of the Gov-
ernment National Mortgage Association shall be vested in the Secretary of Housing and Urban Development and that the Association shall be administered under the direction of the Secretary, and empowering the Secretary to adopt, amend, and repeal bylaws, and struck out provisions which related to the Board of Di-
(b).
1967—Pub. L. 90–99 substituted “Secretary of Housing and Urban Development” for “Housing and Home Fin-
ance Administrator”, and “the Secretary” for “said Administrator”, wherever appearing.
1966—Pub. L. 89–754 struck out subsec. (a) designa-
tion.
1965—Pub. L. 89–174 struck out next to last sentence which provided that the basic rate of compensation of the position of president of the Association shall be the
same as the basic rate of compensation established for the heads of the constituent agencies of the Housing and Home Finance Agency.

EFFECTIVE DATE OF 1992 AMENDMENT
Pub. L. 102–550, title XIII, §1381(h)(2), Oct. 28, 1992, provided that: “The amendments made by paragraph (1) [amending this section] shall apply to the first annual appointment by the President of members

to the board of directors of the Federal National Mort-
gage Association that occurs after the date of the en-
actment of this Act [Oct. 28, 1992].”

EFFECTIVE DATE OF 1968 AMENDMENT
For effective date of amendment by title VIII of Pub.
L. 90–448, see section 808 of Pub. L. 90–448, set out as an Effective Date note under section 1716b of this title.

EFFECTIVE DATE OF 1965 AMENDMENT
For effective date of amendment by Pub. L. 89–174, see section 11(a) of Pub. L. 89–174, set out as an Effective Date note under section 3332 of Title 42, The Public
Health and Welfare.

TRANSITIONAL PROVISION
made by paragraph (1) [amending this section] shall not apply to any appointed position of the board of direc-
tors of the Federal National Mortgage Association
until the expiration of the annual term for such posi-
tion during which the effective date under section 1163
(set out as an Effective Date of 2008 Amendment note
under section 3332 of Title 5, Government Organization
and Employees) occurs.”

POWERS AND DUTIES OF POSITION OF GNMA PRESIDENT
TO REMAIN IN EFFECT UNTIL POSITION FILLED
Pub. L. 94–375, §17(e), Aug. 3, 1976, 90 Stat. 1777, pro-
vided that notwithstanding the amendment of subsec.
(a) of this section, rights, powers, and duties of position
of President, Government National Mortgage Associa-
tion, as in effect on Aug. 2, 1976, remain in effect until
the newly established position has been filled in ac-
cordance with the terms of this Act.

§1723a. General powers of Government National
Mortgage Association and Federal National
Mortgage Association

(a) Seal, and other matters incident to operation
Each of the bodies corporate named in section
1717(a)(2) of this title shall have power to adopt, alter, and use a corporate seal, which shall be
judicially noticed; to enter into and perform
contracts, leases, cooperative agreements, or other transactions, on such terms as it may
deem appropriate, with any agency or instru-
mentality of the United States, or with any State, Territory, or possession, or the Common-
wealth of Puerto Rico, or with any political sub-
division thereof, or with any person, firm, associa-
tion, or corporation; to execute, in accord-
ance with its bylaws, all instruments necessary or appropria-
te in the exercise of any of its pow-
ners; in its corporate name, to sue and to be sued, and to complain and to defend, in any court of
competent jurisdiction, State or Federal, but no
attachment, injunction, or other similar proc-
есс, mesne or final, shall be issued against the property of the Association or against the Associa-
tion with respect to its property; to conduct
its business without regard to any qualification or similar statute in any State of the United
States, including the District of Columbia, the
Commonwealth of Puerto Rico, and the Terri-
tories and possessions of the United States; to
lease, purchase, or acquire any property, real,
personal, or mixed, or any interest therein, to
hold, rent, maintain, modernize, renovate, improve, use, and operate such property, and to
sell, for cash or credit, lease, or otherwise dis-
pose of the same, at such time and in such man-
ner as and to the extent that it may deem neces-
sary or appropriate; to prescribe, repeal, and
amend or modify, rules, regulations, or require-
ments governing the manner in which its gen-
eral business may be conducted; to accept gifts
or donations of services, or of property, real,
personal, or mixed, tangible, or intangible, in
aid of any of its purposes; and to do all things as
are necessary or incidental to the proper man-
agement of its affairs and the proper conduct of
its business.

(b) Determination with respect to obligations
and expenditures

Except as may be otherwise provided in this
subsection, in chapter 91 of title 31, or in other
laws specifically applicable to Government cor-
porations, the Association shall determine the
necessity for and the character and amount of
its obligations and expenditures and the manner
in which they shall be incurred, allowed, paid,
and accounted for.

(c) Exemption from taxation

(1) The Association, including its franchise,
capital, reserves, surplus, mortgages or other se-
curity holdings, and income shall be exempt
from all taxation now or hereafter imposed by
the United States, by any territory, dependency,
or possession thereof, or by any State, county,
municipality, or local taxing authority, except
that any real property of the Association shall
be subject to State, territorial, county, munici-
pal, or local taxation to the same extent accord-
ing to its value as other real property is taxed.

(2) The corporation, including its franchise,
capital, reserves, surplus, mortgages or other se-
curity holdings, and income, shall be exempt
from all taxation now or hereafter imposed by
any State, territory, possession, Common-
wealth, or dependency of the United States, or
by the District of Columbia, or by any county,
municipality, or local taxing authority, except
that any real property of the corporation shall
be subject to State, territorial, county, munici-
pal, or local taxation to the same extent as
other real property is taxed.

(d) Appointment and compensation of personnel;
use of services of other agencies

(1) Subject to the provisions of section 1723(a)
of this title, the Secretary of Housing and Urban
Development shall have power to select and ap-
point or employ such officers, attorneys, em-
ployees, and agents of the Association, to vest
them with such powers and duties, and to fix
and to cause the Association to pay such com-
ensation to them for their services, as he may
determine, subject to the civil service and clas-
sification laws. With the consent of any Govern-
ment corporation or Federal Reserve bank, or of
a board, commission, independent establish-
ment, or executive department of the Govern-
ment, the Association may avail itself on a
reimbursable basis of the use of information,
services, facilities, officers, and employees
thereof, including any field service thereof, in
carrying out the provisions of services, or of property, real,

(2) The board of directors of the corporation
shall have the power to select and appoint or
employ such officers, attorneys, employees, and
agents, to vest them with such powers and du-
ties, and to fix and to cause the corporation to
pay such compensation to them for their serv-
cices, as the board of directors determines rea-
sonable and comparable with compensation for
employment in other similar businesses (includ-
ing other publicly held financial institutions or
major financial services companies) involving
similar duties and responsibilities, except that a
significant portion of potential compensation of
all executive officers (as such term is defined in
paragraph (3)(C)) of the corporation shall be
based on the performance of the corporation;
and any such action shall be without regard to
the Federal civil service and classification laws.

Appointments, promotions, and separations so
made shall be based on merit and efficiency, and
no political tests or qualifications shall be per-
mitted or given consideration. Each officer and
employee of the corporation who is employed by
the corporation prior to January 31, 1972, and
who on the day previous to the beginning of
such employment will have been subject to the
civil service retirement law (subch. III of ch. 83
of title 5) shall, so long as the employment of
such officer or employee by the corporation con-

(3)(A) Not later than June 30, 1993, and annu-
ally thereafter, the corporation shall submit a
report to the Committee on Banking, Finance and Urban Affairs of the House of Representa-
tives and the Committee on Banking, Housing, and Urban Affairs of the Senate on (i) the com-
parability of the compensation policies of the corporation with the compensation policies of
other similar businesses, (ii) in the aggregate, the percentage of total cash compensation and
payments under employee benefit plans (which shall be defined in a manner consistent with the
corporation’s proxy statement for the annual meeting of shareholders for the preceding year)
during the preceding year that was based on the corporation’s performance, and (iii) the com-
parability of the corporation’s financial performance with the performance of other similar
businesses. The report shall include a copy of the corporation’s proxy statement for the an-
nual meeting of shareholders for the preceding year.

(B) Notwithstanding the first sentence of para-
graph (2), after October 28, 1992, the corporation may not enter into any agreement or contract
to provide any payment of money or other thing
of current or potential value in connection with
the termination of employment of any executive
officer of the corporation, unless such agree-
ment or contract is approved in advance by the
Director, for matters being reviewed under section
1717(a)(2) of this title, for its own account or as fiduciary, and such banks
shall be reimbursed for such services in such
manner as may be agreed upon; and each of such
bodies corporate may itself act in such capac-
ties, for its own account or as fiduciary, and for
the account of others.

(g) Depositaries, custodians, and fiscal agents

The Federal Reserve banks are authorized and
directed to act as depositaries, custodians, and
fiscal agents for each of the bodies corporate
named in section 1717(a)(2) of this title, for its
own account or as fiduciary, and such banks
shall be reimbursed for such services in such
manner as may be agreed upon; and each of such
corporate. In any such suit, the plaintiff may re-
cover any actual damages flowing from such vio-
lation, and, in addition, shall be entitled to
punitive damages (regardless of the existence or
nonexistence of actual damages) of not exceed-
ing $100 for each day during which such viola-
tion is committed or repeated.

(f) Preparation of forms of obligations and cer-
tificates

In order that the Association may be supplied
with such forms of obligations or certificates as
it may need for issuance under this subchapter,
the Secretary of the Treasury is authorized,
on request of the Association, to prepare such
forms as shall be suitable and approved by the
Association, to be held in the Treasury subject
to delivery, upon order of the Association. The
engraved plates, dies, bed pieces, and other ma-
terial executed in connection therewith shall re-
main in the custody of the Secretary of the
Treasury. The Association shall reimburse the
Secretary of the Treasury for any expenses in-
curred in the preparation, custody, and delivery
of such forms.

(h) Audit; access to books, etc.; report of audit

(1) The programs, activities, receipts, expendi-
tures, and financial transactions of the corpo-
ration shall be subject to audit by the Comptroller
General of the United States under such rules
and regulations as may be prescribed by the
Comptroller General. The representatives of the
Government Accountability Office shall have ac-
cess to such books, accounts, financial records,
reports, files, and such other papers, things, or
property belonging to or in use by the corpora-
tion and necessary to facilitate the audit, and
they shall be afforded full facilities for verifying
transactions with the balances or securities held
by depositaries, fiscal agents, and custodians. A
report on each such audit shall be made by the
Comptroller General to the Congress. The cor-
poration shall reimburse the Government Ac-
countability Office for the full cost of any such
audit as billed therefor by the Comptroller Gen-
eral.

(2) To carry out this subsection, the represent-
atives of the Government Accountability Office
shall have access, upon request to the corpora-
tion or any auditor for an audit of the corpora-
tion under subsection (1), to any books, ac-
counts, financial records, reports, files, or other
papers, things, or property belonging to or in
use by the corporation and used in any such
audit and to any papers, records, files, and re-
ports of the auditor used in such an audit.
(k) Financial reports; submission to Director; contents

(1) The corporation shall submit to the Director of the Federal Housing Finance Agency annual and quarterly reports of the financial condition and operations of the corporation which shall be in such form, contain such information, and be submitted on such dates as the Director shall require.

(2) Each such annual report shall include—
   (A) financial statements prepared in accordance with generally accepted accounting principles;
   (B) any supplemental information or alternative presentation that the Director may require; and
   (C) an assessment (as of the end of the corporation’s most recent fiscal year), signed by the chief executive officer and chief accounting or financial officer of the corporation, of—
      (i) the effectiveness of the internal control structure and procedures of the corporation; and
      (ii) the compliance of the corporation with designated safety and soundness laws.

(3) The corporation shall also submit to the Director any other reports required by the Director pursuant to section 1314 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 [12 U.S.C. 4514].

(4) Each report of financial condition shall contain a declaration by the president, vice president, treasurer, or any other officer designated by the board of directors of the corporation to make such declaration, that the report is true and correct to the best of such officer’s knowledge and belief.

(l) Independent audits of financial statements

(1) The corporation shall have an annual independent audit made of its financial statements by an independent public accountant in accordance with generally accepted auditing standards.

(2) In conducting an audit under this subsection, the independent public accountant shall determine and report on whether the financial statements of the corporation (A) are presented fairly in accordance with generally accepted accounting principles, and (B) to the extent determined necessary by the Director, comply with any disclosure requirements imposed under subsection (k)(2)(B).

(m) Mortgage data collection and reporting requirements

(1) The corporation shall collect, maintain, and provide to the Director of the Federal Housing Finance Agency, in a form determined by the Director, data relating to its mortgages on housing consisting of 1 to 4 dwelling units. Such data shall include—
   (A) the income, census tract location, race, and gender of mortgagors under such mortgages;
   (B) the loan-to-value ratios of purchased mortgages at the time of origination;
   (C) whether a particular mortgage purchased is newly originated or seasoned;
   (D) the number of units in the housing subject to the mortgage and whether the units are owner-occupied; and
   (E) any other characteristics that the Secretary considers appropriate, to the extent practicable.

(2) The corporation shall collect, maintain, and provide to the Director of the Federal Housing Finance Agency, in a form determined by the Director, data relating to its mortgages on housing consisting of more than 4 dwelling units. Such data shall include—
   (A) census tract location of the housing;
   (B) income levels and characteristics of tenants of the housing (to the extent practicable);
   (C) rent levels for units in the housing;
   (D) mortgage characteristics (such as the number of units financed per mortgage and the amount of loans);
   (E) mortgagor characteristics (such as nonprofit, for-profit, limited equity cooperatives);
   (F) use of funds (such as new construction, rehabilitation, refinancing);
   (G) type of originating institution; and
   (H) any other information that the Secretary considers appropriate, to the extent practicable.

(3)(A) Except as provided in subparagraph (B), this subsection shall apply only to mortgages purchased by the corporation after December 31, 1992.

(3) This subsection shall apply to any mortgage purchased by the corporation after the date determined under subparagraph (A) if the mortgage was originated before such date, but only to the extent that the data referred in paragraph (1) or (2), as applicable, is available to the corporation.

(n) Report on housing activities; contents; public disclosure

(1) The corporation shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Director of the Federal Housing Finance Agency a report on its activities under subpart B of part 2 of subtitle A of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 [12 U.S.C. 4561 et seq.].

(2) The report under this subsection shall—
   (A) include, in aggregate form and by appropriate category, statements of the dollar volume and number of mortgages on owner-occupied and rental properties purchased which relate to each of the annual housing goals established under such subpart;
   (B) include, in aggregate form and by appropriate category, statements of the number of families served by the corporation, the income class, race, and gender of homebuyers served, the income class of tenants of rental housing (to the extent such information is available), the characteristics of the census tracts, and the geographic distribution of the housing financed;
   (C) include a statement of the extent to which the mortgages purchased by the corporation have been used in conjunction with public subsidy programs under Federal law;
   (D) include statements of the proportion of mortgages on housing consisting of 1 to 4 dwelling units purchased by the corporation
that have been made to first-time homebuyers, as soon as providing such data is practicable, and identifying any special programs (or revisions to conventional practices) facilitating homeownership opportunities for first-time homebuyers.

(E) include, in aggregate form and by appropriate category, the data provided to the Director of the Federal Housing Finance Agency under subsection (m)(1)(B);

(F) compare the level of securitization versus portfolio activity;

(G) assess underwriting standards, business practices, repurchase requirements, pricing, fees, and procedures, that affect the purchase of mortgages for low- and moderate-income families, or that may yield disparate results based on the race of the borrower, including revisions thereto to promote affordable housing or fair lending;

(H) describe trends in both the primary and secondary multifamily housing mortgage markets, including a description of the progress made, and any factors impeding progress toward standardization and securitization of mortgage products for multifamily housing;

(I) describe trends in the delinquency and default rates of mortgages secured by housing for low- and moderate-income families that have been purchased by the corporation, including a comparison of such trends with delinquency and default information for mortgage products serving households with incomes above the median level that have been purchased by the corporation, and evaluate the impact of such trends on the standards and levels of risk of mortgage products serving low- and moderate-income families;

(J) describe in the aggregate the seller and servicer network of the corporation, including the volume of mortgages purchased from minority-owned, women-owned, and community-oriented lenders, and any efforts to facilitate relationships with such lenders;

(K) describe the activities undertaken by the corporation with nonprofit and for-profit organizations and with State and local governments and housing finance agencies, including how the corporation’s activities support the objectives of comprehensive housing affordability strategies under section 12705 of title 42; and

(L) include any other information that the Director of the Federal Housing Finance Agency considers appropriate.

(3)(A) The corporation shall make each report under this subsection available to the public at the principal and regional offices of the corporation.

(B) Before making a report under this subsection available to the public, the corporation may exclude from the report information that the Director of the Federal Housing Finance Agency has determined is proprietary information under section 1326 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 [12 U.S.C. 4546].

(o) Affordable Housing Advisory Council

(1) Not later than 4 months after October 28, 1992, the corporation shall appoint an Affordable Housing Advisory Council to advise the corporation regarding possible methods for promoting affordable housing for low- and moderate-income families.

(2) The Affordable Housing Advisory Council shall consist of 15 individuals, who shall include representatives of community-based and other nonprofit and for-profit organizations and State and local government agencies actively engaged in the promotion, development, or financing of housing for low- and moderate-income families.


REFERENCES IN TEXT

Section 806 of the Housing and Community Development Act of 1974, referred to in subsec. (d)(2), is section 806 of Pub. L. 93–383, title VIII, Aug. 22, 1974, 88 Stat. 727. Subsection (k) of section 806 amended this subsec. (d)(2) relative to employment subject to the civil service retirement law. For complete classification of section 806 to the Code, see Tables.


CODIFICATION

Pub. L. 110–289, §1161(b)(2)(C), which directed amendment of par. (3)(B) of this section, was executed to par. (3)(B) of subsec. (n) of this section, to reflect the probable intent of Congress. See 2008 Amendment note below.

PRIOR PROVISIONS

Prior provisions on the subject of subsecs. (a) and (c) to (e) of this section were contained in sections 1716, 1719, and 1721 of this title.

AMENDMENTS


Subsec. (k)(1). Pub. L. 110–289, §1161(b)(1), substituted “Director of the Federal Housing Finance Agency” for “Director of the Office of Federal Housing Enterprise...
Oversight of the Department of Housing and Urban Development:

Subsec. (m)(1), (2). Pub. L. 110–289, §1161(b)(2)(A), substituted “the Director of the Federal Housing Finance Agency” for “to the Secretary, in a form determined by the Secretary” in introductory provisions.

Subsec. (n)(1). Pub. L. 110–289, §1161(b)(2)(B), substituted “the Director of the Federal Housing Finance Agency” for “Secretary”.


1992—Subsec. (d)(2). Pub. L. 102–550, §1381(a)(3)(A)(i), which directed the substitution, in last sentence, of “the basic pay of such persons” for “his basic pay”, was executed by making the substitution in penultimate sentence to reflect the probable intent of Congress, because the words “his basic pay” do not appear in last sentence.

Pub. L. 102–550, §1381(j)(1), (3)(A)(i), in first sentence, substituted “as the board of directors determines reasonable and comparable with compensation for employment in other similar businesses (including other publicly held financial institutions or major financial services companies) involving similar duties and responsibilities, except that a significant portion of potential compensation of all executive officers (as such term is defined in paragraph (3)(C)) of the corporation shall be based on the performance of the corporation” for “as it may determine” and in third sentence “the employment of such officer or employee” for “his employment” in two places.


Subsec. (e). Pub. L. 102–550, §1381(a)(3)(B), substituted “the individual, association, partnership, or corporation” for “he or it”.

Subsecs. (h), (i). Pub. L. 102–550, §1381(k), struck out provisions which related to workers, officers, attorneys, employees, and agents of the Association and which permitted the Association to pay the premiums therefor.

1968—Subsec. (a). Pub. L. 90–448, §802(a), among other changes, expanded scope to include both the Government National Mortgage Association and the Federal Home Loan Mortgage Corporation, substituted “the Secretary of Housing and Urban Development” for “Chairman of the Government National Mortgage Association”, by its board of directors, to adopt, amend, and repeal bylaws.

Subsec. (c). Pub. L. 90–448, §802(aa), designated existing provisions as par. (1), and struck out provisions which required the Association, with respect to its secondary market operations under section 1719 of this title, to pay annually to the Secretary of the Treasury an amount equivalent to the amount of Federal income taxes for which it would be subject if it were not exempt from such taxes with respect to such secondary market operations, and added par. (2).

Subsec. (d). Pub. L. 90–448, §802(b), designated existing provisions as par. (1), substituted “Secretary of Housing and Urban Development” for “Chairman of the Board”, and “agents of the Association” for “agents”, and added par. (2).

Subsec. (e). Pub. L. 90–448, §802(cc), prohibited the use of the name Government National Mortgage Association, authorized injunctions, and permitted recovery of actual damages and punitive damages, and eliminated provisions which made violations of this subsection a misdemeanor punishable by a fine of not more than $100 or imprisonment for not more than 30 days, or both, for each day during which the violation is committed or repeated.

Subsec. (g). Pub. L. 90–448, §802(dd), authorized and directed the Federal Reserve Banks to act for the Government National Mortgage Association, and authorized each of the bodies corporate to act as depository, custodian, and fiscal agent, for its own account or as fiduciary, and for the account of others.


1961—Subsec. (c). Pub. L. 87–70 inserted “or other securities holdings” after “mortgages”.

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.
Moneys of the Association not invested in mortgages or other security holdings or in operating facilities shall be kept in cash on hand or on deposit, or invested in obligations of the United States or guaranteed thereby, or in obligations which are lawful investments for fiduciary, trust, or public funds.

(Effective Date of 1974 Amendment)

Prior Provisions
Prior provisions on the subject of this section were formerly contained in section 1718 of this title.

AMENDMENTS
1964—Pub. L. 88–560 authorized investment of funds in participations and other instruments which are lawful investments.
1961—Pub. L. 87–70 inserted "or other security holdings" after "mortgages".
1959—Pub. L. 86–372 substituted "in obligations of the United States or guaranteed thereby, or in obligations which are lawful investments for fiduciary, trust, or public funds" for "in bonds or other obligations of, or in bonds or other obligations guaranteed as to principal and interest by, the United States".

§ 1723c. Obligations, participations, or other instruments as lawful investments; acceptance as security; exempt securities

All obligations, participations, or other instruments issued by either of the bodies corporate named in section 1717(a)(2) of this title shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority and control of the United States or any officer or officers thereof. All stock, obligations, securities, participations, or other instruments issued pursuant to this subchapter shall, to the same extent as securities which are direct obligations of or obligations guaranteed as to principal or interest by the United States, be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission.

(Effective Date of 1968 Amendment)
For effective date of amendment by title VIII of Pub. L. 90–448, see section 808 of Pub. L. 90–448, set out as an Effective Date note under section 1716b of this title.

AMENDMENTS
1992—Pub. L. 102–550 struck out before period at end "; but all such issuances by the Association and all issuances of stock, and debt obligations convertible into stock, by the corporation shall be made only with the approval of the Secretary of Housing and Urban Development".
1984—Pub. L. 98–140 inserted "by the Association and all issuances of stock, and debt obligations convertible into stock, by the corporation".
1968—Pub. L. 90–448 substituted "either of the bodies corporate named in section 1717(a)(2) of this title" for "the Association," and inserted provisions directing that all stock, obligations, securities, participations, or other instruments issued pursuant to this subchapter be deemed to be exempt securities, and requiring approval of the Secretary for all issuances.
1964—Pub. L. 88–560 inserted "participations, or other instruments" after "obligations".

§ 1723d. Transfer of certain functions to Association

The functions of the Housing and Home Finance Administrator (including the function of making payments to the Secretary of the Treasury) under section 2 of Reorganization Plan Numbered 22 of 1950, together with the notes and
capital stock of the Federal National Mortgage Association held by said Administrator thereunder, are transferred to the Federal National Mortgage Association.


REFERENCES IN TEXT

Reorganization Plan Numbered 22 of 1950, referred to in text, is set out as a note under section 1717 of this title.

CODIFICATION

Section was enacted as part of the Housing Act of 1954, and not as part of the National Housing Act which comprises this chapter or of the Federal National Mortgage Charter Association Act which comprises this subchapter.


SAVINGS PROVISION

For continued application of former sections 1720 and 1723e of this title to any purchase or commitment to purchase any mortgage made pursuant to those sections before Nov. 30, 1983, and the servicing and disposition of any such mortgage, see section 483(b) of Pub. L. 98–181, set out as a note under section 1720 of this title.

EFFECTIVE DATE


EMERGENCY MORTGAGE PURCHASE ASSISTANCE; TRANSFER OF FUNDS

Pub. L. 98–371, title I, July 18, 1984, 98 Stat. 1218, in part directed Secretary to transfer all assets acquired and liabilities incurred pursuant to this section to management and liquidating functions fund established pursuant to section 1721 of this title, and that on Oct. 1, 1984, each outstanding obligation issued by Secretary of Housing and Urban Development to Secretary of the Treasury pursuant to subsec. (c) of this section, together with any promise to repay principal and unpaid interest which had accrued on each obligation, and any other term or condition specified by each such obligation, was canceled.


this subchapter, unless expressly permitted by statute, regulation, or contract approved by the Secretary.

(E) Failure to maintain a minimum net worth in accordance with requirements prescribed by the Association.

(F) Failure to promptly notify the Association in writing of any changes that materially affect the business status of an issuer.

(G) Substitution of the Association of false information in connection with any securities guaranteed, or mortgages pooled, under section 1721(g) of this title.

(H) Hiring, or retaining in employment, an officer, director, principal, or employee whose duties involve, directly or indirectly, programs administered by the Association while such person was under suspension or debarment by the Secretary.

(1) Notification to Attorney General

(1)(G) or paragraph (1)(I), the Secretary shall inform the Attorney General of the United States.

(1)(G) or paragraph (1)(I), the Secretary shall inform the Attorney General of the United States.

(1) Establishment

The Secretary shall establish standards and procedures—

(A) shall provide for the Secretary to make the determination to impose the penalty;

(B) shall provide for the imposition of a penalty only after an issuer or a custodian has been given notice of, and opportunity for, a hearing on the record; and

(C) may provide for review by the Secretary of any determination or order, or interlocutory ruling, arising from a hearing.

(2) Final orders

If no hearing is requested within 15 days of receipt of a notice of opportunity for hearing, the imposition of a penalty shall constitute a final and unappealable determination. If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order. If the Secretary does not review the determination or order within 90 days of the issuance of the determination or order, the determination or order shall be final.

(3) Factors in determining amount of penalty

In determining the amount of a penalty under subsection (a), consideration shall be given to such factors as the gravity of the offense, any history of prior offenses (including offenses occurring before December 15, 1989), ability to pay the penalty, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary may determine by regulations.

(4) Reviewability of imposition of penalty

The Secretary’s determination or order imposing a penalty under subsection (a) shall not be subject to review, except as provided in subsection (d).

(d) Judicial review of agency determination

(1) In general

After exhausting all administrative remedies established by the Secretary under subsection (c)(1), an issuer or a custodian against which the Secretary has imposed a civil money penalty under subsection (a) may obtain a review of the penalty and such ancillary issues as may be addressed in the notice provided under subsection (c)(1)(A) in the appropriate court of appeals of the United States, by filing in such court, within 20 days after the entry of such order or determination, a written petition praying that the Secretary’s order or determination be modified or be set aside in whole or in part.

(2) Objections not raised in hearing

A court shall not consider any objection that was not raised in the hearing conducted pursuant to subsection (c)(1) unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection. If any party demonstrates to the satisfaction of the court that additional evidence, which was not presented at such hearing, is material and that there were reasonable grounds for the failure to present such evidence at the hearing, the court shall remand the matter to the Secretary for consideration of such additional evidence.

(3) Scope of review

The decisions, findings, and determinations of the Secretary shall be reviewed pursuant to section 706 of title 5.

(4) Order to pay penalty

Notwithstanding any other provision of law, the court shall have the power in any such review to order payment of the penalty imposed by the Secretary.

(e) Action to collect penalty

If any issuer or custodian fails to comply with the Secretary’s determination or order imposing a civil money penalty under subsection (a), after the determination or order is no longer subject to review as provided by subsections (c)(1) and (d), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against the issuer or custodian and such other relief as may be available. The monetary judgment may, in the discretion of the court, include any attorneys fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and ap-
propriety of the Secretary’s determination or order imposing the penalty shall not be subject to review.

(f) Settlement by Secretary

The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(g) “Knowingly” defined

The term “knowingly” means having actual knowledge of, or acting with deliberate ignorance of, or reckless disregard for the prohibitions under this section.

(h) Regulations

The Secretary shall issue such regulations as the Secretary deems appropriate to implement this section.

(i) Deposit of penalties

The Secretary shall deposit all civil money penalties collected under this section into monies of the Association pursuant to section 1722 of this title.


