

new grants or loans to be made after Oct. 1, 1991, under this section, see section 12839(a)(5), (b)(1) of Title 42, The Public Health and Welfare.

§ 1706f. Prohibition against kickbacks and unearned fees

(a) In general

Except as provided in subsection (b), the provisions of sections 2602, 2607, 2614, 2615, 2616, and 2617 of this title shall apply to each sale of a manufactured home financed with an FHA-insured loan or extension of credit, as well as to services rendered in connection with such transactions.

(b) Authority of the Secretary

The Secretary is authorized to determine the manner and extent to which the provisions of sections 2602, 2607, 2614, 2615, 2616, and 2617 of this title may reasonably be applied to the transactions described in subsection (a), and to grant such exemptions as may be necessary to achieve the purposes of this section.

(c) Definitions

For purposes of this section—

(1) the term “federally related mortgage loan” as used in sections 2602, 2607, 2614, 2615, 2616, and 2617 of this title shall include an FHA-insured loan or extension of credit made to a borrower for the purpose of purchasing a manufactured home that the borrower intends to occupy as a personal residence; and

(2) the term “real estate settlement service”, as used in sections 2602, 2607, 2614, 2615, 2616, and 2617 of this title shall include any service rendered in connection with a loan or extension of credit insured by the Federal Housing Administration for the purchase of a manufactured home.

(d) Unfair and deceptive practices

In connection with the purchase of a manufactured home financed with a loan or extension of credit insured by the Federal Housing Administration under this subchapter, the Secretary shall prohibit acts or practices in connection with loans or extensions of credit that the Secretary finds to be unfair, deceptive, or otherwise not in the interests of the borrower.

(June 27, 1934, ch. 847, title I, §10, as added Pub. L. 110-289, div. B, title I, §2149, July 30, 2008, 122 Stat. 2847.)

SUBCHAPTER II—MORTGAGE INSURANCE

§ 1707. Definitions

As used in section 1709 of this title—

(a) The term “mortgage” means (A) a first mortgage on real estate, in fee simple, (B) a first mortgage on a leasehold on real estate (i) under a lease for not less than ninety-nine years which is renewable, or (ii) under a lease having a period of not less than ten years to run beyond the maturity date of the mortgage, or (C) a first mortgage given to secure the unpaid purchase price of a fee interest in, or long-term leasehold interest in, real estate consisting of a one-family unit in a multifamily project, including a project in which the dwelling units are attached, or are manufactured housing units, semi-de-

tached, or detached, and an undivided interest in the common areas and facilities which serve the project; and the term “first mortgage” means such classes of first liens as are commonly given to secure advances on, or the unpaid purchase price of, real estate, under the laws of the State, in which the real estate is located, together with the credit instruments, if any, secured thereby.

(b) The term “mortgagee” includes the original lender under a mortgage, and his successors and assigns approved by the Secretary; and the term “mortgagor” includes the original borrower under a mortgage and his successors and assigns.

(c) The term “maturity date” means the date on which the mortgage indebtedness would be extinguished if paid in accordance with periodic payments provided for in the mortgage.

(d) The term “State” includes the several States, and Puerto Rico, the District of Columbia, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, and the Virgin Islands.

(e) The term “family member” means, with respect to a mortgagor under such section, a child, parent, or grandparent of the mortgagor (or the mortgagor’s spouse). In determining whether any of the relationships referred to in the preceding sentence exist, a legally adopted son or daughter of an individual (and a child who is a member of an individual’s household, if placed with such individual by an authorized placement agency for legal adoption by such individual), and a foster child of an individual, shall be treated as a child of such individual by blood.

(f) The term “child” means, with respect to a mortgagor under such section, a son, stepson, daughter, or stepdaughter of such mortgagor.

(g) The term “real estate” means land and all natural resources and structures permanently affixed to the land, including residential buildings and stationary manufactured housing. The Secretary may not require, for treatment of any land or other property as real estate for purposes of this subchapter, that such land or property be treated as real estate for purposes of State taxation.

(June 27, 1934, ch. 847, title II, §201, 48 Stat. 1247; Feb. 3, 1938, ch. 13, §3, 52 Stat. 9; Mar. 28, 1941, ch. 31, §4(a), 55 Stat. 61; Apr. 20, 1950, ch. 94, title I, §122, 64 Stat. 59; July 14, 1952, ch. 723, §10(a)(2), 66 Stat. 603; Pub. L. 86-70, §10(a), June 25, 1959, 73 Stat. 142; Pub. L. 86-624, §6, July 12, 1960, 74 Stat. 411; Pub. L. 90-19, §1(a)(3), May 25, 1967, 81 Stat. 17; Pub. L. 91-152, title IV, §403(c)(1), Dec. 24, 1969, 83 Stat. 395; Pub. L. 96-399, title III, §306, Oct. 8, 1980, 94 Stat. 1640; Pub. L. 98-181, title I [title IV, §407(b)], Nov. 30, 1983, 97 Stat. 1211; Pub. L. 104-204, title IV, §425(b), Sept. 26, 1996, 110 Stat. 2928; Pub. L. 110-289, div. B, title I, §§2117(b), (c), 2120(c), July 30, 2008, 122 Stat. 2833, 2835.)

Editorial Notes

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-289, §2117(b), inserted “(A)” before “a first mortgage”, substituted “(B) a first mortgage on a leasehold on real estate (i)” for “or on a leasehold (1)” and “, or (ii)” for “or (2)”, and in-

serted “, or (C) a first mortgage given to secure the unpaid purchase price of a fee interest in, or long-term leasehold interest in, real estate consisting of a one-family unit in a multifamily project, including a project in which the dwelling units are attached, or are manufactured housing units, semi-detached, or detached, and an undivided interest in the common areas and facilities which serve the project” before semicolon.

Subsec. (d). Pub. L. 110-289, §2120(c), substituted “the Commonwealth of the Northern Mariana Islands” for “the Trust Territory of the Pacific Islands”.

Subsec. (g). Pub. L. 110-289, §2117(c), added subsec. (g). 1996—Subsecs. (e), (f). Pub. L. 104-204 added subsecs. (e) and (f).

1983—Subsec. (d). Pub. L. 98-181 inserted “American Samoa,” after “Pacific Islands.”.

1980—Subsec. (a). Pub. L. 96-399 substituted “ten years to run beyond the maturity date of the mortgage” for “fifty years to run from the date the mortgage was executed”.

1969—Subsec. (d). Pub. L. 91-152 inserted “the Trust Territory of the Pacific Islands” after “Guam”.

1967—Subsec. (b). Pub. L. 90-19 substituted “Secretary” for “Commissioner”.

1960—Subsec. (d). Pub. L. 86-624 struck out “Hawaii,” before “Puerto Rico”.

1959—Subsec. (d). Pub. L. 86-70 struck out “Alaska,” before “Hawaii”.

1952—Subsec. (d). Act July 14, 1952, inserted “Guam,” after “District of Columbia”.

1950—Act Apr. 20, 1950, substituted “Commissioner” for “Administrator”.

1941—Subsec. (a). Act Mar. 28, 1941, §4(a)(1), struck out “district, or Territory”.

Subsec. (d). Act Mar. 28, 1941, §4(a)(2), added subsec. (d).

1938—Subsec. (a)(2). Act Feb. 3, 1938, struck out “upon which there is located a dwelling for not more than four families which is used in whole or in part for residential purposes, irrespective of whether such dwelling has a party wall or is otherwise physically connected with another dwelling” after “executed”.

Subsec. (c). Act Feb. 3, 1938, added subsec. (c).

Statutory Notes and Related Subsidiaries

IMPROVEMENT OF FINANCING FOR MULTIFAMILY HOUSING

Pub. L. 102-550, title V, subtitle C, Oct. 28, 1992, 106 Stat. 3794, which related to improvement of financing for multifamily housing and was formerly set out as a note under this section, was transferred or omitted as follows:

Section 541 of Pub. L. 102-550 was transferred and is set out as a note under section 1701 of this title;

Section 542 of Pub. L. 102-550 was transferred to section 1715z-22 of this title;

Section 543 of Pub. L. 102-550, as amended by Pub. L. 111-203, title III, §371, July 21, 2010, 124 Stat. 1565, was omitted from the Code;

Section 544 of Pub. L. 102-550 was transferred to section 1715z-22a of this title.

§ 1708. Federal Housing Administration operations

(a) Mutual Mortgage Insurance Fund

(1) Establishment

Subject to the provisions of the Federal Credit Reform Act of 1990 [2 U.S.C. 661 et seq.], there is hereby created a Mutual Mortgage Insurance Fund (in this subchapter referred to as the “Fund”), which shall be used by the Secretary to carry out the provisions of this subchapter with respect to mortgages insured under section 1709 of this title. The Secretary may enter into commitments to guarantee, such insured mortgages.

(2) Limit on loan guarantees

The authority of the Secretary to enter into commitments to guarantee such insured mortgages shall be effective for any fiscal year only to the extent that the aggregate original principal loan amount under such mortgages, any part of which is guaranteed, does not exceed the amount specified in appropriations Acts for such fiscal year.

(3) Fiduciary responsibility

The Secretary has a responsibility to ensure that the Mutual Mortgage Insurance Fund remains financially sound.

(4) Annual independent actuarial study

The Secretary shall provide for an independent actuarial study of the Fund to be conducted annually, which shall analyze the financial position of the Fund. The Secretary shall submit a report annually to the Congress describing the results of such study and assessing the financial status of the Fund. The report shall recommend adjustments to underwriting standards, program participation, or premiums, if necessary, to ensure that the Fund remains financially sound. The report shall also include an evaluation of the quality control procedures and accuracy of information utilized in the process of underwriting loans guaranteed by the Fund. Such evaluation shall include a review of the risk characteristics of loans based not only on borrower information and performance, but on risks associated with loans originated or funded by various entities or financial institutions.

(5) Quarterly reports

During each fiscal year, the Secretary shall submit a report to the Congress for each calendar quarter, which shall specify for mortgages that are obligations of the Fund—

(A) the cumulative volume of loan guarantee commitments that have been made during such fiscal year through the end of the quarter for which the report is submitted;

(B) the types of loans insured, categorized by risk;

(C) any significant changes between actual and projected claim and prepayment activity;

(D) projected versus actual loss rates; and

(E) updated projections of the annual subsidy rates to ensure that increases in risk to the Fund are identified and mitigated by adjustments to underwriting standards, program participation, or premiums, and the financial soundness of the Fund is maintained.

The first quarterly report under this paragraph shall be submitted on the last day of the first quarter of fiscal year 2008, or on the last day of the first full calendar quarter following July 30, 2008, whichever is later.

(6) Adjustment of premiums

If, pursuant to the independent actuarial study of the Fund required under paragraph (4), the Secretary determines that the Fund is not meeting the operational goals established under paragraph (7) or there is a substantial