

title where the owner has the right to prepay the mortgage covering the assisted project without the Secretary's approval, the Secretary shall give a priority for additional assistance under section 1437f of title 42 and section 201 of the Housing and Community Development Amendments of 1978 to tenants and applicants to become tenants of the project, if—

“(1) funds to provide such additional assistance are available; and

“(2) the Secretary determines that making such additional assistance available to the project is necessary to prevent the owner from prepaying the mortgage.”

Subsecs. (c), (d). Pub. L. 101-625, § 602(c), redesignated subsec. (d) as (c) and struck out former subsec. (c) which read as follows: “Any owner of a multifamily rental housing project referred to in subsection (b) of this section who receives additional assistance under section 1437f of title 42 under the priority established in subsection (b) of this section shall—

“(1) fully utilize the assistance which is available;

“(2) grant a priority to applicants to become tenants who have the lowest incomes; and

“(3) maintain the low-income character of the project for a period at least equal to the remaining term of the project mortgage to the extent that assistance is provided.”

1989—Subsec. (a). Pub. L. 101-235 inserted “or permit a termination of an insurance contract pursuant to section 1715t of this title” after second reference to “project”.

1988—Subsec. (a)(1). Pub. L. 100-242 struck out “or that the needs of lower income families in such project can more efficiently and effectively be met through other Federal housing assistance taking into account the remaining time the project could meet such needs” after “families in the area”.

#### **§ 1715z-16. Adjustable rate single family mortgages**

##### **(a) One- to four-family dwellings; maximum term of mortgage; adjustments in effective rate of interest**

The Secretary may insure under any provision of this subchapter a mortgage involving property upon which there is located a dwelling designed principally for occupancy by one to four families, where the mortgage provides for periodic adjustments by the mortgagee in the effective rate of interest charged. Such interest rate adjustments may be accomplished through adjustments in the monthly payment amount, the outstanding principal balance, or the mortgage term, or a combination of these factors, except that in no case may any extension of a mortgage term result in a total term in excess of 40 years. Adjustments in the effective rate of interest shall correspond to a specified national interest rate index approved in regulations by the Secretary, information on which is readily accessible to mortgagors from generally available published sources. Adjustments in the effective rate of interest shall (1) be made on an annual basis; (2) be limited, with respect to any single interest rate increase, to no more than 1 percent on the outstanding loan balance; and (3) be limited to a maximum increase of 5 percentage points above the initial contract interest rate over the term of the mortgage.

##### **(b) Written explanation of mortgage features**

The Secretary shall require that the mortgagee make available to the mortgagor, at the time of loan application, a written explanation of the features of an adjustable rate mortgage

consistent with the disclosure requirements applicable to variable rate mortgages secured by a principal dwelling under the Truth in Lending Act [15 U.S.C. 1601 et seq.].

##### **(c) Number of mortgages and loans**

The aggregate number of mortgages and loans insured under this section in any fiscal year may not exceed 30 percent of the aggregate number of mortgages and loans insured by the Secretary under this subchapter during the preceding fiscal year.

##### **(d) Adjustable rate mortgage with initial fixed rate of interest**

(1) The Secretary may insure under this subsection a mortgage that meets the requirements of subsection (a), except that the effective rate of interest—

(A) shall be fixed for a period of not less than the first 3 years of the mortgage term;

(B) shall be adjusted by the mortgagee initially upon the expiration of such period and annually thereafter; and

(C) in the case of the initial interest rate adjustment, is subject to the 1 percent limitation only if the interest rate remained fixed for 3 or fewer years.

(2) The disclosure required under subsection (b) shall be required for a mortgage insured under this subsection.

(June 27, 1934, ch. 847, title II, § 251, as added Pub. L. 98-181, title I [title IV, § 443], Nov. 30, 1983, 97 Stat. 1225; amended Pub. L. 100-242, title IV, § 415(a), Feb. 5, 1988, 101 Stat. 1907; Pub. L. 107-73, title II, § 206, Nov. 26, 2001, 115 Stat. 674; Pub. L. 108-186, title III, § 301(a), Dec. 16, 2003, 117 Stat. 2692.)

#### **Editorial Notes**

#### **REFERENCES IN TEXT**

The Truth in Lending Act, referred to in subsec. (b), is title I of Pub. L. 90-321, May 29, 1968, 82 Stat. 146, which is classified generally to subchapter I (§ 1601 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

#### **AMENDMENTS**

2003—Subsec. (d)(1)(C). Pub. L. 108-186 substituted “3” for “five”

2001—Subsec. (b). Pub. L. 107-73, § 206(1), substituted “require that the mortgagee make available to the mortgagor, at the time of loan application, a written explanation of the features of an adjustable rate mortgage consistent with the disclosure requirements applicable to variable rate mortgages secured by a principal dwelling under the Truth in Lending Act” for “issue regulations requiring that the mortgagee make available to the mortgagor, at the time of loan application, a written explanation of the features of the adjustable rate mortgage, including a hypothetical payment schedule that displays the maximum potential increases in monthly payments to the mortgagor over the first 5 years of the mortgage term”.

Subsec. (d). Pub. L. 107-73, § 206(2), added subsec. (d).

1988—Subsec. (c). Pub. L. 100-242 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “The aggregate number of mortgages and loans insured under this section, section 1715z-10(c) of this title, and section 1715z-17 of this title in any fiscal year may not exceed 10 percent of the aggregate number of

mortgages and loans insured by the Secretary under this subchapter during the preceding fiscal year.”

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-186, title III, §301(b), Dec. 16, 2003, 117 Stat. 2692, provided that: “The amendment made by subsection (a) [amending this section] shall apply to mortgages executed on or after the date of the enactment of this title [Dec. 16, 2003].”

#### § 1715z-17. Shared appreciation mortgages for single family housing

##### (a) One- to four-family dwellings; requirements

Notwithstanding any provision of this subchapter that is inconsistent with this section, the Secretary may insure, under any provision of this subchapter providing for insurance of mortgages on properties upon which there is located a dwelling designed principally for occupancy by one to four families, a mortgage secured by a first lien on such a property or on the stock allocated to a dwelling unit in a residential cooperative housing corporation, which—

(1) provides for the mortgagee to share in a predetermined percentage of the property's or stock's net appreciated value;

(2) bears interest at a rate which meets criteria prescribed by the Secretary;

(3) provides for amortization over a period of not to exceed 30 years, but the actual term of the mortgage (excluding any refinancing) may be not less than 10 nor more than 30 years, and contains such provisions relating to refinancing of the principal balance of the mortgage and any contingent deferred interest as the Secretary may provide; and

(4) meets such other conditions as the Secretary may require by regulation.

##### (b) Payment of mortgagee's share of net appreciated value; “net appreciated value” defined

The mortgagee's share of a property's or stock's net appreciated value shall be payable upon sale or transfer (as defined by the Secretary) of the property or stock or payment in full of the mortgage, whichever occurs first. For purposes of this section, the term “net appreciated value” means the amount by which the sales price of the property or stock (less the mortgagor's selling costs) exceeds the value of the property or stock at the time the commitment to insure is issued (with adjustments for capital improvements stipulated in the loan contract). If there has been no sale or transfer at the time the mortgagee's share of net appreciated value becomes payable, the sales price for purposes of this section shall be determined by means of an appraisal conducted in accordance with procedures approved by the Secretary and provided for in the mortgage.

##### (c) Entitlement of mortgagee upon default

In the event of a default, the mortgagee shall be entitled to receive the benefits of insurance in accordance with section 1710(a) of this title, but such insurance benefits shall not include the mortgagee's share of net appreciated value. The term “original principal obligation of the mortgage” as used in section 1710 of this title shall not include the mortgagee's share of net appreciated value.

##### (d) Inapplicability of State constitution, statute, etc., limiting or prohibiting increases in outstanding loan balance

Mortgages insured pursuant to this section which contain provisions for sharing appreciation or which otherwise require or permit increases in the outstanding loan balance which are authorized under this section or under applicable regulations shall not be subject to any State constitution, statute, court decree, common law, rule, or public policy limiting or prohibiting increases in the outstanding loan balance after execution of the mortgage.

##### (e) Encouraged use of insurance by low and moderate income families

In carrying out the provisions of this section, the Secretary shall encourage the use of insurance under this section by low and moderate income tenants who would otherwise be displaced by the conversion of their rental housing to condominium or cooperative ownership.

##### (f) Consumer protections and disclosure requirements

The Secretary shall prescribe adequate consumer protections and disclosure requirements with respect to mortgages insured under this section, and may prescribe such other terms and conditions as may be appropriate to carry out the provisions of this section.

##### (g) Number of mortgages and loans

The aggregate number of mortgages and loans insured under this section and section 1715z-10(c)<sup>1</sup> of this title in any fiscal year may not exceed 10 percent of the aggregate number of mortgages and loans insured by the Secretary under this subchapter during the preceding fiscal year.

(June 27, 1934, ch. 847, title II, §252, as added Pub. L. 98-181, title I [title IV, §444], Nov. 30, 1983, 97 Stat. 1225; amended Pub. L. 100-242, title IV, §415(b)(2), Feb. 5, 1988, 101 Stat. 1907.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 1715z-10(c) of this title, referred to in subsec. (g), was repealed by Pub. L. 110-289, div. B, title I, §2120(a)(7), July 30, 2008, 122 Stat. 2835.

##### AMENDMENTS

1988—Subsec. (g). Pub. L. 100-242 struck out reference to section 1715z-16 of this title.

#### § 1715z-18. Shared appreciation mortgages for multifamily housing

##### (a) Five or more family units; requirements

Notwithstanding any provision of this subchapter that is inconsistent with this section, the Secretary may insure, under any provision of this subchapter providing for insurance of mortgages on properties including 5 or more family units, a mortgage secured by a first lien on the property that (1) provides for the mortgagee to share in a predetermined percentage of the property's net appreciated value; and (2) meets such other conditions, including limita-

<sup>1</sup> See References in Text note below.