

Subsec. (l). Pub. L. 105-276, §593(d)(5), redesignated subsec. (l) as (k).

Pub. L. 105-276, §593(c), added subsec. (l).

1996—Subsec. (d)(3). Pub. L. 104-120, §6(c), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “be secured by a dwelling that is designed principally for a 1-family residence and is occupied by the mortgagor;”.

Subsec. (g). Pub. L. 104-120, §6(a), (b), substituted “2000” for “1996” and “50,000” for “30,000”.

Pub. L. 104-99 substituted “1996” for “1995” and “30,000” for “25,000”.

1992—Subsec. (g). Pub. L. 102-389 and Pub. L. 102-550, §503(c)(2), amended subsec. (g) identically, substituting “for 1-family residences in the area in which the dwelling subject to the mortgage under this section is located” for “for a 1-family residence”.

Subsec. (j). Pub. L. 102-550, §520, inserted at end “Section 1647(b) of title 15 and any implementing regulations issued by the Board of Governors of the Federal Reserve System shall not apply to a mortgage insured under this section.”

1990—Subsec. (d)(7)(A). Pub. L. 101-625, §334(c), added subpar. (A) and struck out former subpar. (A) which read as follows: “the foreclosure sale; or”.

Subsec. (d)(9), (10). Pub. L. 101-625, §334(b), added pars. (9) and (10).

Subsec. (e)(2). Pub. L. 101-625, §334(d)(1), substituted “statement informing the homeowner that the liability of the homeowner under the mortgage is limited and” for “statement” and struck out “and” at end.

Subsec. (e)(4). Pub. L. 101-625, §334(d)(2), (3), added par. (4).

Subsec. (g). Pub. L. 101-508, §2106, substituted “September 30, 1995” for “September 30, 1991” and “may not exceed 25,000” for “may not exceed 2,500”.

1988—Subsec. (b)(3). Pub. L. 100-628, §1066(a), made technical amendment to reference to section 3802(2) of this title to correct reference to corresponding provision of original act.

Subsec. (d)(3). Pub. L. 100-628, §1066(b), struck out “and that has a value not to exceed the maximum dollar amount established by the Secretary under section 1709(b)(2) of this title for a 1-family residence” after “by the mortgagor”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-569, title II, §201(c)(2), Dec. 27, 2000, 114 Stat. 2951, provided that: “The provisions of section 255(l) of the National Housing Act [former 12 U.S.C. 1715z-20(l)] (as added by paragraph (1) of this subsection) shall apply only to mortgages closed on or after April 1, 2001.”

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-276, title V, §593(f), Oct. 21, 1998, 112 Stat. 2655, provided that: “This section [amending this section and enacting provisions set out as a note below] shall take effect on, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998].”

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.

REGULATIONS

Pub. L. 106-569, title II, §201(a)(2), Dec. 27, 2000, 114 Stat. 2949, provided that: “The Secretary shall issue any final regulations necessary to implement the amendments made by paragraph (1) of this subsection [amending this section], which shall take effect not later than the expiration of the 180-day period beginning on the date of the enactment of this Act [Dec. 27,

2000]. The regulations shall be issued after notice and opportunity for public comment in accordance with the procedure under section 553 of title 5, United States Code, applicable to substantive rules (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).”

Pub. L. 100-242, title IV, §417(b), Feb. 5, 1988, 101 Stat. 1912, directed Secretary of Housing and Urban Development, not later than 6 months after Feb. 5, 1988, to consult with lenders, insurers, and organizations and individuals with expertise in home equity conversion in developing proposed regulations implementing this section and not later than 9 months after Feb. 5, 1988, to issue proposed regulations implementing this section.

IMPLEMENTATION OF 1998 AMENDMENT

Pub. L. 105-276, title V, §593(e)(2), Oct. 21, 1998, 112 Stat. 2655, provided that:

“(A) NOTICE.—The Secretary of Housing and Urban Development shall, by interim notice, implement the amendments made by paragraph (1) [amending this section] in an expeditious manner, as determined by the Secretary. Such notice shall not be effective after the date of the effectiveness of the final regulations issued under subparagraph (B) of this paragraph.

“(B) REGULATIONS.—The Secretary shall, not later than the expiration of the 90-day period beginning on the date of the enactment of this Act [Oct. 21, 1998], issue final regulations to implement the amendments made by paragraph (1). Such regulations shall be issued only after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2) and (b)(3)(B) of such section).”

§ 1715z-21. Delegation of insuring authority to direct endorsement mortgagees

(a) Authority

The Secretary may delegate, to one or more mortgagees approved by the Secretary under the direct endorsement program, the authority of the Secretary under this chapter to insure mortgages involving property upon which there is located a dwelling designed principally for occupancy by 1 to 4 families.

(b) Considerations

In determining whether to delegate authority to a mortgagee under this section, the Secretary shall consider the experience and performance of the mortgagee compared to the default rate of all insured mortgages in comparable markets, and such other factors as the Secretary determines appropriate to minimize risk of loss to the insurance funds under this chapter.

(c) Enforcement of insurance requirements

(1) In general

If the Secretary determines that a mortgage insured by a mortgagee pursuant to delegation of authority under this section was not originated in accordance with the requirements established by the Secretary, and the Secretary pays an insurance claim with respect to the mortgage within a reasonable period specified by the Secretary, the Secretary may require the mortgagee approved under this section to indemnify the Secretary for the loss.

(2) Fraud or misrepresentation

If fraud or misrepresentation was involved in connection with the origination, the Secretary may require the mortgagee approved under this section to indemnify the Secretary for the loss regardless of when an insurance claim is paid.

(d) Termination of mortgagee's authority

If a mortgagee to which the Secretary has made a delegation under this section violates the requirements and procedures established by the Secretary or the Secretary determines that other good cause exists, the Secretary may cancel a delegation of authority under this section to the mortgagee by giving notice to the mortgagee. Such a cancellation shall be effective upon receipt of the notice by the mortgagee or at a later date specified by the Secretary. A decision by the Secretary to cancel a delegation shall be final and conclusive and shall not be subject to judicial review.

(e) Requirements and procedures

Before approving a delegation under this section, the Secretary shall issue regulations establishing appropriate requirements and procedures, including requirements and procedures governing the indemnification of the Secretary by the mortgagee.

(June 27, 1934, ch. 847, title II, §256, as added Pub. L. 104-204, title IV, §427, Sept. 26, 1996, 110 Stat. 2928.)

§ 1715z-22. Multifamily mortgage credit programs**(a) In general**

The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") shall carry out programs through the Federal Housing Administration to provide new forms of Federal credit enhancement for multifamily loans. In carrying out the programs, the Secretary shall include an evaluation of the effectiveness of entering into partnerships or other contractual arrangements including reinsurance and risk-sharing agreements with State or local housing finance agencies, the Federal Housing Finance Board, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, qualified financial institutions, and other State or local mortgage insurance companies or bank lending consortia.

(b) Risk-sharing program**(1) In general**

The Secretary shall carry out a program in conjunction with qualified participating entities to provide Federal credit enhancement for loans for affordable multifamily housing through a system of risk-sharing agreements with such entities.

(2) Program requirements**(A) In general**

In carrying out the program under this subsection, the Secretary shall enter into risk-sharing agreements with qualified participating entities.

(B) Mortgage insurance and reinsurance

Agreements under subparagraph (A) may provide for (i) mortgage insurance through the Federal Housing Administration of loans for affordable multifamily housing originated by or through, or purchased by, qualified participating entities, and (ii) reinsurance, including reinsurance of pools of loans,

on affordable multifamily housing. In entering into risk-sharing agreements under this subsection covering mortgages, the Secretary may give preference to mortgages that are not already in the portfolios of qualified participating entities.

(C) Risk apportionment

Agreements entered into under this subsection between the Secretary and a qualified participating entity shall specify the percentage of loss that each of the parties to the agreement will assume in the event of default of the insured or reinsured multifamily mortgage. Such agreements shall specify that the qualified participating entity and the Secretary shall share any loss in accordance with the risk-sharing agreement.

(D) Reimbursement capacity

Agreements entered into under this subsection between the Secretary and a qualified participating entity shall provide evidence acceptable to the Secretary of the capacity of such entity to fulfill any reimbursement obligations made pursuant to this subsection. Evidence of such capacity which may be considered by the Secretary may include—

- (i) a pledge of the full faith and credit of a qualified participating entity to fulfill any obligations entered into by the entity;
- (ii) reserves pledged or otherwise restricted by the qualified participating entity in an amount equal to an agreed upon percentage of the loss assumed by the entity under subparagraph (C);
- (iii) funds pledged through a State or local guarantee fund; or
- (iv) any other form of evidence mutually agreed upon by the Secretary and the qualified participating entity.

(E) Underwriting standards

The Secretary shall allow any qualified participating entity to use its own underwriting standards and loan terms and conditions for purposes of underwriting loans to be insured under this subsection, except as provided in this section, without further review by the Secretary, except that the Secretary may impose additional underwriting criteria and loan terms and conditions for contractual agreements where the Secretary retains more than 50 percent of the risk of loss. Any financing permitted on property insured under this subsection other than the first mortgage shall be expressly subordinate to the insured mortgage.

(F) Authority of Secretary

The Secretary, upon request of a qualified participating entity, may insure or reinsure and make commitments to insure or reinsure under this section any mortgage, advance, loan, or pool of mortgages otherwise eligible under this section, pursuant to a risk-sharing agreement providing that the qualified participating entity will carry out (under a delegation or otherwise, and with or without compensation, but subject to audit, exception, or review requirements) such