

**Editorial Notes****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**

1968—Pub. L. 90-448 substituted “the Government National Mortgage Association” for “secondary market operations carried on by the Federal National Mortgage Association”.

**Statutory Notes and Related Subsidiaries****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 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.

(June 27, 1934, ch. 847, title III, § 303, 48 Stat. 1254; Feb. 3, 1938, ch. 13, § 7, 52 Stat. 24; July 1, 1948, ch. 784, § 1, 62 Stat. 1206; Aug. 2, 1954, ch. 649, title II, § 201, 68 Stat. 613; Aug. 7, 1956, ch. 1029, title II, § 202, 70 Stat. 1096; Pub. L. 85-10, § 1(a), (b), Mar. 27, 1957, 71 Stat. 7; Pub. L. 85-104, title II, § 201, 202, July 12, 1957, 71 Stat. 298; Pub. L. 87-70, title VI, § 603(b), (c), June 30, 1961, 75 Stat. 176; Pub. L. 89-117, title X, § 1004(b), Aug. 10, 1965, 79 Stat. 501; Pub. L. 89-566, § 2, Sept. 10, 1966, 80 Stat. 738; Pub. L. 90-19, § 1(j)(2), (l), May 25, 1967, 81 Stat. 18; Pub. L. 90-448, title VIII, § 802 (i)-(n), (s), Aug. 1, 1968, 82 Stat. 537, 538; Pub. L. 91-609, title IX, § 902, Dec. 31, 1970, 84 Stat. 1808; Pub. L. 93-383, title VIII, § 806(g)-(i), Aug. 22, 1974, 88 Stat. 727, 728; Pub. L. 97-320, title VII, § 707(a), Oct. 15, 1982, 96 Stat. 1540; Pub. L. 100-242, title IV, § 442, Feb. 5, 1988, 101 Stat. 1921; Pub. L. 102-550, title XIII, § 1381(d), Oct. 28, 1992, 106 Stat. 3995; Pub. L. 110-289, div. A, title I, § 1161(b)(1), July 30, 2008, 122 Stat. 2779.)

**Editorial Notes****AMENDMENTS**

2008—Subsec. (c)(2). Pub. L. 110-289 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”.

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 subsecs. (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,".

1988—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(i), 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(i), (s)(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), (s)(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), (s)(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 require each services of its mortgages to own a minimum amount of common stock of the corporation, and prescribing the minimum amount, and struck out provisions which related to issuance of common stock only in denominations of \$100 or multiples thereof.

Subsec. (d). Pub. L. 90-448, § 802(l), (s), substituted "corporation" for "Association" in six places, and "corporation's" for "Association's", and inserted provisions prohibiting issuance of preferred stock subsequent to the effective date established pursuant to section 808 of the Housing and Urban Development Act of 1968.

Subsec. (e). Pub. L. 90-448, § 802(s), substituted "corporation" for "Association" in four places, and "corporation's" for "Association's".

Subsec. (f). Pub. L. 90-448, § 802(m), (s)(1), substituted "corporation" for "Association" in two places and inserted provisions authorizing purchase of additional shares of stock of the corporation.

Subsec. (g). Pub. L. 90-448, § 802(n), repealed subsec. (g) 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)(2), substituted "Secretary of the Treasury's" for "Secretary's" in last sentence.

Subsec. (g). Pub. L. 90-19, § 1(l), substituted "Secretary of Housing and Urban Development" for "Housing 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 Secretary of the Treasury is authorized and directed to accept 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 surplus account.

1961—Subsec. (b). Pub. L. 87-70, § 603(b), directed the Association to require each borrower to make payments, equal to not more than one-half of one per centum 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 Association)".

1957—Subsec. (b). Pub. L. 85-104, § 201, substituted provisions which fixed capital contributions payments at maximum of 2 percent and minimum of 1 percent of unpaid 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.

Pub. L. 85-10, § 1(a), inserted sentence directing Secretary of the Treasury to accept additional \$50,000,000 of preferred stock issued by Association.

Subsec. (e). Pub. L. 85-104, § 202(b), substituted "\$115,000,000" for "\$50,000,000" in second sentence.

Pub. L. 85-10, § 1(b), inserted "the first sentence of" before "subsection (d)" in first sentence, and inserted sentence providing that Association stock delivered to Treasury pursuant to second sentence of subsec. (d) of this section be in exchange for Association notes of \$50,000,000.

1956—Subsec. (b). Act Aug. 7, 1956, substituted provisions which required mortgage sellers to make contributions equal to not more than 2 percent of the unpaid principal amount of mortgages or greater or lesser

percentage as the Association may determine, but not less than 1 percent, for former provisions that contributions equal 3 percent of the unpaid amount of the mortgages 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 (formerly covered in section 1716 of this title) and to general financial arrangements and operations for provisions relating merely to use and investment of moneys not invested in mortgages or in operating facilities (such provisions now being covered by section 1723b 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 obligations issued under section 1717 of this title”.

#### Statutory Notes and Related Subsidiaries

##### 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

Pub. L. 89-754, title X, §1006, Nov. 3, 1966, 80 Stat. 1285, provided that the Congress found that the sharp decline in new home construction over the past year threatened 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 moderate income families could afford; and that national policy objectives in the field of housing and community development were thereby being thwarted. The Congress therefore expressed its intent that the special assistance 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 continuing decline in the construction of new homes for families of moderate incomes.

#### § 1719. Secondary market operations

##### (a) Purchase and sale of mortgages; secondary market operations; advance of funds or origination of loans; settlement or extinguishment of borrower's rights

(1) To carry out the purposes set forth in paragraph (a)<sup>1</sup> of section 1716 of this title, the operations of the corporation under this section shall be confined, so far as practicable, to mortgages which are deemed by the corporation to be of such quality, type, and class as to meet, generally, the purchase standards imposed by private institutional mortgage investors. In the interest of assuring sound operation, the prices to be paid by the corporation for mortgages purchased 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 determined by the corporation. The volume of the corporation's purchases and sales, and the estab-

lishment of the purchase prices, sale prices, 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 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 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 guar-

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