

Pub. L. 95-557 substituted “September 30, 1979” for “October 31, 1978”.

Pub. L. 95-406 substituted “October 31, 1978” for “September 30, 1978”.

1977—Pub. L. 95-128 substituted “September 30, 1978” for “September 30, 1977”, struck out “on an experimental basis” after “may insure”, substituted provision respecting limitation of principal obligation for prior provision respecting limitation of outstanding aggregate principal amount of mortgages authorized, and made any State law interest limitation inapplicable to graduated mortgage provisions.

1976—Pub. L. 94-375 substituted “September 30, 1977” for “June 30, 1976”.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 371 of Pub. L. 97-35, set out as an Effective Date note under section 3701 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-630 effective Nov. 10, 1978, see section 1505 of Pub. L. 95-630, set out as a note under section 27 of this title.

SHORT TITLE OF 1979 AMENDMENT

For short title of section 311 of Pub. L. 96-153, which amended this section, as the “Homeownership Opportunity Act of 1979”, see section 311(a) of Pub. L. 96-153, set out as a note under section 1701 of this title.

§ 1715z-11. Sale to cooperatives of multifamily housing projects acquired by Secretary; acceptance of purchase money mortgage for sale or insurance of mortgage; principal amount of mortgage; expenditures for repairs, etc., prior to sale

In any case which the Secretary sells a multifamily housing project acquired as the result of a default on a mortgage which was insured under this chapter to a cooperative which will operate it on a nonprofit basis and restrict permanent occupancy of its dwellings to members, or to a nonprofit corporation which operates as a consumer cooperative as defined by the Secretary, the Secretary may accept a purchase money mortgage, or upon application of the mortgagee, insure a mortgage under this section upon such terms and conditions as the Secretary determines are reasonable and appropriate, in a principal amount equal to the value of the property at the time of purchase, which value shall be based upon a mortgage amount on which the debt service can be met from the income of property when operated on a nonprofit basis after payment of all operating expenses, taxes, and required reserves; except that the Secretary may add to the mortgage amount an amount not greater than the amount of prepaid expenses and costs involved in achieving cooperative ownership, or make such other provisions for payment of such expenses and costs as the Secretary deems reasonable and appropriate. Prior to such disposition of a project, funds may be expended by the Secretary for necessary repairs and improvements.

(June 27, 1934, ch. 847, title II, §246, as added Pub. L. 93-383, title III, §315, Aug. 22, 1974, 88 Stat. 684; amended Pub. L. 95-557, title III, §322, Oct. 31, 1978, 92 Stat. 2102.)

AMENDMENTS

1978—Pub. L. 95-557 inserted “or to a nonprofit corporation which operates as a consumer cooperative as

defined by the Secretary” after “dwellings to members” and “or upon application of the mortgagee, insure a mortgage under this section upon such terms and conditions as the Secretary determines are reasonable and appropriate” after “purchase money mortgage” and substituted “the value of the property at the time of purchase, which value shall be based upon a mortgage amount on which the debt service can be met from the income of property when operated on a nonprofit basis after payment of all operating expenses, taxes, and required reserves; except that the Secretary may add to the mortgage amount an amount not greater than the amount of prepaid expenses and costs involved in achieving cooperative ownership, or make such other provision for payment of such expenses and costs as the Secretary deems reasonable and appropriate” for “the sum of (1) the appraised value of the property at the time of purchase, which value shall be based upon a mortgage amount on which the debt service can be met from the income of the property when operated on a nonprofit basis and after payment of all operating expenses, taxes and required reserves, and (2) the amount of prepaid expenses and costs involved in achieving cooperative ownership”.

§ 1715z-11a. Disposition of HUD-owned properties

(a) Flexible authority for multifamily projects

During fiscal year 1997 and fiscal years thereafter, the Secretary may manage and dispose of multifamily properties owned by the Secretary, including, for fiscal years 1997, 1998, 1999, 2000, and thereafter, the provision of grants and loans from the General Insurance Fund (12 U.S.C. 1735c) for the necessary costs of rehabilitation, demolition, or construction on the properties (which shall be eligible whether vacant or occupied), and multifamily mortgages held by the Secretary on such terms and conditions as the Secretary may determine, notwithstanding any other provision of law. A grant provided under this subsection during fiscal years 2006 through 2010 shall be available only to the extent that appropriations are made in advance for such purposes and shall not be derived from the General Insurance Fund.

(b) Transfer of unoccupied and substandard housing to local governments and community development corporations

(1) Transfer authority

Notwithstanding the authority under subsection (a) of this section and the last sentence of section 1710(g) of this title, the Secretary of Housing and Urban Development shall transfer ownership of any qualified HUD property, subject to the requirements of this section, to a unit of general local government having jurisdiction for the area in which the property is located or to a community development corporation which operates within such a unit of general local government in accordance with this subsection, but only to the extent that units of general local government and community development corporations consent to transfer and the Secretary determines that such transfer is practicable.

(2) Qualified HUD properties

For purposes of this subsection, the term “qualified HUD property” means any property for which, as of the date that notification of the property is first made under paragraph

(3)(B), not less than 6 months have elapsed since the later of the date that the property was acquired by the Secretary or the date that the property was determined to be unoccupied or substandard, that is owned by the Secretary and is—

(A) an unoccupied multifamily housing project;

(B) a substandard multifamily housing project; or

(C) an unoccupied single family property that—

(i) has been determined by the Secretary not to be an eligible asset under section 1710(h) of this title; or

(ii) is an eligible asset under such section 1710(h) of this title, but—

(I) is not subject to a specific sale agreement under such section; and

(II) has been determined by the Secretary to be inappropriate for continued inclusion in the program under such section 1710(h) of this title pursuant to paragraph (10) of such section.

(3) Timing

The Secretary shall establish procedures that provide for—

(A) time deadlines for transfers under this subsection;

(B) notification to units of general local government and community development corporations of qualified HUD properties in their jurisdictions;

(C) such units and corporations to express interest in the transfer under this subsection of such properties;

(D) a right of first refusal for transfer of qualified HUD properties to units of general local government and community development corporations, under which—

(i) the Secretary shall establish a period during which the Secretary may not transfer such properties except to such units and corporations;

(ii) the Secretary shall offer qualified HUD properties that are single family properties for purchase by units of general local government at a cost of \$1 for each property, but only to the extent that the costs to the Federal Government of disposal at such price do not exceed the costs to the Federal Government of disposing of property subject to the procedures for single family property established by the Secretary pursuant to the authority under the last sentence of section 1710(g) of this title;

(iii) the Secretary may accept an offer to purchase a property made by a community development corporation only if the offer provides for purchase on a cost recovery basis; and

(iv) the Secretary shall accept an offer to purchase such a property that is made during such period by such a unit or corporation and that complies with the requirements of this paragraph; and

(E) a written explanation, to any unit of general local government or community development corporation making an offer to

purchase a qualified HUD property under this subsection that is not accepted, of the reason that such offer was not acceptable.

(4) Other disposition

With respect to any qualified HUD property, if the Secretary does not receive an acceptable offer to purchase the property pursuant to the procedure established under paragraph (3), the Secretary shall dispose of the property to the unit of general local government in which property is located or to community development corporations located in such unit of general local government on a negotiated, competitive bid, or other basis, on such terms as the Secretary deems appropriate.

(5) Satisfaction of indebtedness

Before transferring ownership of any qualified HUD property pursuant to this subsection, the Secretary shall satisfy any indebtedness incurred in connection with the property to be transferred, by canceling the indebtedness.

(6) Determination of status of properties

To ensure compliance with the requirements of this subsection, the Secretary shall take the following actions:

(A) Upon enactment

Upon the enactment of this subsection [December 21, 2000], the Secretary shall promptly assess each residential property owned by the Secretary to determine whether such property is a qualified HUD property.

(B) Upon acquisition

Upon acquiring any residential property, the Secretary shall promptly determine whether the property is a qualified HUD property.

(C) Updates

The Secretary shall periodically reassess the residential properties owned by the Secretary to determine whether any such properties have become qualified HUD properties.

(7) Tenant leases

This subsection shall not affect the terms or the enforceability of any contract or lease entered into with respect to any residential property before the date that such property becomes a qualified HUD property.

(8) Use of property

Property transferred under this subsection shall be used only for appropriate neighborhood revitalization efforts, including homeownership, rental units, commercial space, and parks, consistent with local zoning regulations, local building codes, and subdivision regulations and restrictions of record.

(9) Inapplicability to properties made available for homeless

Notwithstanding any other provision of this subsection, this subsection shall not apply to any properties that the Secretary determines are to be made available for use by the homeless pursuant to subpart E of part 291 of title 24, Code of Federal Regulations, during the period that the properties are so available.

(10) Protection of existing contracts

This subsection may not be construed to alter, affect, or annul any legally binding obligations entered into with respect to a qualified HUD property before the property becomes a qualified HUD property.

(11) Definitions

For purposes of this subsection, the following definitions shall apply:

(A) Community development corporation

The term “community development corporation” means a nonprofit organization whose primary purpose is to promote community development by providing housing opportunities for low-income families.

(B) Cost recovery basis

The term “cost recovery basis” means, with respect to any sale of a residential property by the Secretary, that the purchase price paid by the purchaser is equal to or greater than the sum of: (i) the appraised value of the property, as determined in accordance with such requirements as the Secretary shall establish; and (ii) the costs incurred by the Secretary in connection with such property during the period beginning on the date on which the Secretary acquires title to the property and ending on the date on which the sale is consummated.

(C) Multifamily housing project

The term “multifamily housing project” has the meaning given the term in section 1701z-11 of this title.

(D) Residential property

The term “residential property” means a property that is a multifamily housing project or a single family property.

(E) Secretary

The term “Secretary” means the Secretary of Housing and Urban Development.

(F) Severe physical problems

The term “severe physical problems” means, with respect to a dwelling unit, that the unit—

(i) lacks hot or cold piped water, a flush toilet, or both a bathtub and a shower in the unit, for the exclusive use of that unit;

(ii) on not less than three separate occasions during the preceding winter months, was uncomfortably cold for a period of more than 6 consecutive hours due to a malfunction of the heating system for the unit;

(iii) has no functioning electrical service, exposed wiring, any room in which there is not a functioning electrical outlet, or has experienced three or more blown fuses or tripped circuit breakers during the preceding 90-day period;

(iv) is accessible through a public hallway in which there are no working light fixtures, loose or missing steps or railings, and no elevator; or

(v) has severe maintenance problems, including water leaks involving the roof, windows, doors, basement, or pipes or

plumbing fixtures, holes or open cracks in walls or ceilings, severe paint peeling or broken plaster, and signs of rodent infestation.

(G) Single family property

The term “single family property” means a 1- to 4-family residence.

(H) Substandard

The term “substandard” means, with respect to a multifamily housing project, that 25 percent or more of the dwelling units in the project have severe physical problems.

(I) Unit of general local government

The term “unit of general local government” has the meaning given such term in section 5302(a) of title 42.

(J) Unoccupied

The term “unoccupied” means, with respect to a residential property, that the unit of general local government having jurisdiction over the area in which the project is located has certified in writing that the property is not inhabited.

(12) Regulations**(A) Interim**

Not later than 30 days after December 21, 2000, the Secretary shall issue such interim regulations as are necessary to carry out this subsection.

(B) Final

Not later than 60 days after December 21, 2000, the Secretary shall issue such final regulations as are necessary to carry out this subsection.

(Pub. L. 104-204, title II, §204, Sept. 26, 1996, 110 Stat. 2894; Pub. L. 105-65, title II, §213, Oct. 27, 1997, 111 Stat. 1366; Pub. L. 105-276, title II, §206, Oct. 21, 1998, 112 Stat. 2484; Pub. L. 106-74, title V, §537, Oct. 20, 1999, 113 Stat. 1122; Pub. L. 106-377, §1(a)(1) [title II, §204], Oct. 27, 2000, 114 Stat. 1441, 1441A-24; Pub. L. 106-554, §1(a)(7) [title I, §141], Dec. 21, 2000, 114 Stat. 2763, 2763A-614; Pub. L. 109-171, title II, §2003(a), Feb. 8, 2006, 120 Stat. 9.)

CODIFICATION

Section was enacted as part of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109-171 inserted at end “A grant provided under this subsection during fiscal years 2006 through 2010 shall be available only to the extent that appropriations are made in advance for such purposes and shall not be derived from the General Insurance Fund.”

2000—Pub. L. 106-554 substituted “Disposition of HUD-owned properties” for “Flexible authority” in section catchline, designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

Pub. L. 106-377 substituted “2000, and thereafter” for “and 2000”.

1999—Pub. L. 106-74 substituted “1999, and 2000” for “and 1999” and “, demolition, or construction on the properties (which shall be eligible whether vacant or occupied)” for “or demolition”.

1998—Pub. L. 105-276 substituted “fiscal years 1997, 1998, and 1999” for “fiscal years 1997 and 1998”.

1997—Pub. L. 105-65 inserted “, including, for fiscal years 1997 and 1998, the provision of grants and loans from the General Insurance Fund (12 U.S.C. 1735c) for the necessary costs of rehabilitation or demolition,” after “owned by the Secretary”.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-171 not applicable to any transaction that formally commences within one year prior to Feb. 8, 2006, see section 2003(c) of Pub. L. 109-171, set out as a note under section 1701z-11 of this title.

§ 1715z-12. Single-family mortgage insurance on Hawaiian home lands

(a) One- to four-family residence; eligibility

The Secretary, subject to such conditions as the Secretary may prescribe, may insure under any provision of this subchapter that authorizes such insurance, a mortgage covering a property upon which there is located a one- to four-family residence, without regard to any limitation in this chapter relating to marketability of title or any other limitation in this chapter that the Secretary determines is contrary to promoting the availability of such insurance on Hawaiian home lands, if—

(1) the mortgage is executed by a native Hawaiian on property located within Hawaiian home lands covered under a homestead lease issued under section 207(a) of the Hawaiian Homes Commission Act, 1920, or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled “An Act to provide for the admission of the State of Hawaii into the Union”, approved March 18, 1959 (73 Stat. 5);

(2) the property will be used as the principal residence of the mortgagor; and

(3) the Department of Hawaiian Home Lands of the State of Hawaii (A) is a comortgagor; (B) guarantees to reimburse the Secretary for any mortgage insurance claim paid in connection with a property on Hawaiian home lands; or (C) offers other security acceptable to the Secretary.

(b) Construction advances

Notwithstanding any other provision of this chapter, the Secretary may, with respect to mortgages eligible for insurance under subsection (a) of this section, insure and make commitments to insure advances made during construction if the Secretary determines that the proposed construction is otherwise acceptable and that no feasible financing alternative is available.

(c) Insurance of mortgage as obligation of General Insurance Fund

Notwithstanding any other provision of this chapter, the insurance of a mortgage using the authority contained in this section shall be the obligation of the General Insurance Fund established in section 1735c of this title. The mortgagee shall be eligible to receive the benefits of insurance as provided in section 1710 of this title with respect to mortgages insured pursuant to this section, except that (1) all references in section 1710 of this title to the Mutual Mortgage In-

urance Fund or the Fund shall be construed to refer to the General Insurance Fund; and (2) all references in section 1710 of this title to section 1709 of this title shall be construed to refer to the section under which the mortgage is insured.

(d) “Native Hawaiian” and “Hawaiian home lands” defined

For purposes of this section:

(1) Native Hawaiian

The term “native Hawaiian” means any descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands before January 1, 1778, or, in the case of an individual who is awarded an interest in a lease of Hawaiian home lands through transfer or succession, such lower percentage as may be established for such transfer or succession under section 208 or 209 of the Hawaiian Homes Commission Act of 1920 (42 Stat. 111), or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled “An Act to provide for the admission of the State of Hawaii into the Union”, approved March 18, 1959 (73 Stat. 5).

(2) Hawaiian home lands

The term “Hawaiian home lands” means all lands given the status of Hawaiian home lands under section 204 of the Hawaiian Homes Commission Act of 1920 (42 Stat. 110), or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled “An Act to provide for the admission of the State of Hawaii into the Union”, approved March 18, 1959 (73 Stat. 5).

(e) Certification of eligibility for existing lessees

Possession of a lease of Hawaiian home lands issued under section 207(a) of the Hawaiian Homes Commission Act of 1920 (42 Stat. 110), shall be sufficient to certify eligibility to receive a mortgage under this section.

(June 27, 1934, ch. 847, title II, §247, as added Pub. L. 98-181, title IV, §421, Nov. 30, 1983, 97 Stat. 1213; amended Pub. L. 100-202, §101(f) [title I, §101], Dec. 22, 1987, 101 Stat. 1329-187, 1329-191; Pub. L. 100-242, title IV, §§413(a), (b), 429(h), Feb. 5, 1988, 101 Stat. 1906, 1919; Pub. L. 100-628, title X, §1065, Nov. 7, 1988, 102 Stat. 3275; Pub. L. 107-73, title II, §215, Nov. 26, 2001, 115 Stat. 677.)

REFERENCES IN TEXT

The Hawaiian Homes Commission Act, 1920, referred to in subsec. (a)(1), is act July 9, 1921, ch. 42, 42 Stat. 108, as amended. The Hawaiian Homes Commission Act of 1920, referred to in subsecs. (d) and (e), probably means the Hawaiian Homes Commission Act, 1920. Sections 204, 207, 208, and 209 of that Act were classified to sections 698, 701, 702, and 703 of Title 48, Territories and Insular Possessions, and were omitted from the Code.

Section 4 of the Act entitled “An Act to provide for the admission of the State of Hawaii into the Union”, approved Mar. 18, 1959 (73 Stat. 5), referred to in subsecs. (a)(1) and (d), is section 4 of Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 5, which is set out as a note preceding section 491 of Title 48.

AMENDMENTS

2001—Subsec. (d)(1), (2). Pub. L. 107-73, §215(1), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows: