UNITED STATES CODE

§ 1709. Insurance of mortgages

(a) Authorization

The Secretary is authorized, upon application by the mortgagee, to insure as hereinafter provided any mortgage offered to him which is eligible for insurance as hereinafter provided, and, upon such terms as the Secretary may prescribe, to make commitments for the insuring of such mortgages prior to the date of their execution or disbursement thereon.

(b) Eligibility for insurance; mortgage limits

To be eligible for insurance under this section a mortgage shall comply with the following:

(1) Have been made to, and be held by, a mortgagee approved by the Secretary as responsible and able to service the mortgage properly.

(2) Involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount—

(A) not to exceed the lesser of—

(i) in the case of a 1-family residence, 95 percent of the median 1-family house price in the area, as determined by the Secretary; in the case of a 2-family residence, 107 percent of such median price; in the case of a 3-family residence, 130 percent of such median price; or in the case of a 4-family residence, 150 percent of such median price; or

(ii) 87 percent of the dollar amount limitation determined under section 1454 (a)(2) of this title for a residence of the applicable size; except that the dollar amount limitation in effect for any area under this subparagraph may not be less than the greater of the dollar amount limitation in effect under this section for the area on October 21, 1998, or 48 percent of the dollar limitation determined under section 1454 (a)(2) of this title for a residence of the applicable size; and

(B) not to exceed an amount equal to the sum of—

(i) the amount of the mortgage insurance premium paid at the time the mortgage is insured; and

(ii) in the case of—

(I) a mortgage for a property with an appraised value equal to or less than $50,000, 98.75 percent of the appraised value of the property;

(II) a mortgage for a property with an appraised value in excess of $50,000 but not in excess of $125,000, 97.65 percent of the appraised value of the property;

(III) a mortgage for a property with an appraised value in excess of $125,000, 97.15 percent of the appraised value of the property; or

(IV) notwithstanding subclauses (II) and (III), a mortgage for a property with an appraised value in excess of $50,000 that is located in an area of the State for which the average closing cost exceeds 2.10 percent of the average, for the State, of the sale price of properties located in the State for which mortgages have been executed, 97.75 percent of the appraised value of the property.

For purposes of the preceding sentence, the term “area” means a metropolitan statistical area as established by the Office of Management and Budget; and the median 1-family house price for an area shall be equal to the median 1-family house price of the county within the area that has the highest such median price. For purposes of this paragraph, the term “average closing cost” means, with respect to a State, the average, for mortgages executed for properties that are located within the State, of the total amounts (as determined by the Secretary) of initial service charges, appraisal, inspection, and other fees (as the Secretary shall approve) that are paid in connection with such mortgages. Notwithstanding any other provision of this section, in any case where the dwelling is not approved for mortgage insurance prior to the beginning of construction, such mortgage shall not exceed 90 per centum of the entire appraised value of the property as of the date the mortgage is accepted for insurance, unless (i) the dwelling was completed more than one year prior to the application for mortgage insurance, or (ii) the dwelling was approved for guaranty, insurance, or a direct loan under chapter 37 of title 38 prior to the beginning of construction, or (iii) the dwelling is covered by a consumer protection or warranty plan acceptable to the Secretary and satisfies all requirements which would have been applicable if such dwelling had been approved for mortgage insurance prior to the beginning of construction. As used herein, the term “veteran” means any person who served on active duty in the armed forces of the United States for a period of not less than ninety days (or is certified by the Secretary of Defense as having performed extra-hazardous service), and who was discharged or released therefrom under conditions other than dishonorable, except that persons enlisting in the armed forces after September 7, 1980, or entering active duty after October 16, 1981, shall have their eligibility determined in accordance with section 5303A (d) of title 38. Notwithstanding any other provision of this paragraph, the amount which may be insured under this section may be increased by up to 20 percent if such increase is necessary to account for the increased cost of the residence due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 1703 (a) of this title) therein.

Notwithstanding any other provision of this paragraph, the Secretary may not insure, or enter into a commitment to insure, a mortgage under this section that is executed by a first-time homebuyer and that involves a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 97 percent of the appraised value of the property unless the mortgagor has completed a program of counseling with respect to the responsibilities and financial management involved in homeownership that is approved by the Secretary; except that the Secretary may, in the discretion of the Secretary, waive the applicability of this requirement.

(3) Have a maturity satisfactory to the Secretary, but not to exceed, in any event, thirty-five years (or thirty years if such mortgage is not approved for insurance prior to construction) from the date of the beginning of amortization of the mortgage.

(4) Contain complete amortization provisions satisfactory to the Secretary requiring periodic payments by the mortgagor not in excess of his reasonable ability to pay as determined by the Secretary.

(5) Bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee.
(6) Provide, in a manner satisfactory to the Secretary, for the application of the mortgagor's periodic payments (exclusive of the amount allocated to interest and to the premium charge which is required for mortgage insurance as hereinafter provided) to amortization of the principal of the mortgage.
(7) Contain such terms and provisions with respect to insurance, repairs, alterations, payment of taxes, default, reserves, delinquency charges, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters as the Secretary may in his discretion prescribe.
(8) Repealed. Pub. L. 100–242, title IV, § 406(b)(2), Feb. 5, 1988, 101 Stat. 1900.
(9) Be executed by a mortgagor who shall have paid on account of the property (except with respect to a mortgage executed by a mortgagor who is a veteran) at least 3 per centum, or such larger amount as the Secretary may determine, of the Secretary's estimate of the cost of acquisition (excluding the mortgage insurance premium paid at the time the mortgage is insured) in cash or its equivalent: Provided, That with respect to a mortgage executed by a mortgagor who is sixty years of age or older as of the date the mortgage is endorsed for insurance or with respect to a mortgage meeting the requirements of subsection (i) of this section, or with respect to a mortgage covering a single-family home being purchased under the low-income housing demonstration project assisted pursuant to section 1436 [1] of title 42, or with respect to a mortgage covering a housing unit in connection with a homeownership program under the Homeownership and Opportunity Through HOPE Act, the mortgagor's payment required by this subsection may be paid by a corporation or person other than the mortgagor under such terms and conditions as the Secretary may prescribe: Provided further, That for purposes of this paragraph, the Secretary shall consider as cash or its equivalent any amounts borrowed from a family member (as such term is defined in section 1707 of this title), subject only to the requirements that, in any case in which the repayment of such borrowed amounts is secured by a lien against the property, such lien shall be subordinate to the mortgage and the sum of the principal obligation of the mortgage and the obligation secured by such lien may not exceed 100 percent of the appraised value of the property plus any initial service charges, appraisal, inspection, and other fees in connection with the mortgage.

(c) Premium charges

(1) The Secretary is authorized to fix premium charges for the insurance of mortgages under the separate sections of this subchapter but in the case of any mortgage such charge shall be not less than an amount equivalent to one-fourth of 1 per centum per annum nor more than an amount equivalent to 1 per centum per annum of the amount of the principal obligation of the mortgage outstanding at any time, without taking into account delinquent payments or prepayments: Provided, That premium charges fixed for insurance (1) under section 1715z–10, 1715z–12, 1715z–16, 1715z–17, or 1715z–18 of this title, or any other financing mechanism providing alternative methods for repayment of a mortgage that is determined by the Secretary to involve additional risk, or (2) under subsections [2] (n) of this section are not required to be the same as the premium charges for mortgages insured under the other provisions of this section, but in no case shall premium charges under subsection (n) of this section exceed 1 per centum per annum: Provided, That any reduced premium charge so fixed and computed may, in the

discretion of the Secretary, also be made applicable in such manner as the Secretary shall prescribe to each insured mortgage outstanding under the section or sections involved at the time the reduced premium charge is fixed. Such premium charges shall be payable by the mortgagee, either in cash, or in debentures issued by the Secretary under this subchapter at par plus accrued interest, in such manner as may be prescribed by the Secretary: Provided, That debentures presented in payment of premium charges shall represent obligations of the particular insurance fund or account to which such premium charges are to be credited: Provided further, That the Secretary may require the payment of one or more such premium charges at the time the mortgage is insured, at such discount rate as he may prescribe not in excess of the interest rate specified in the mortgage. If the Secretary finds upon the presentation of a mortgage for insurance and the tender of the initial premium charge or charges so required that the mortgage complies with the provisions of this section, such mortgage may be accepted for insurance by endorsement or otherwise as the Secretary may prescribe; but no mortgage shall be accepted for insurance under this section unless the Secretary finds that the project with respect to which the mortgage is executed is economically sound. In the event that the principal obligation of any mortgage accepted for insurance is paid in full prior to the maturity date, the Secretary is further authorized in his discretion to require the payment by the mortgagee of an adjusted premium charge in such amount as the Secretary determines to be equitable, but not in excess of the aggregate amount of the premium charges that the mortgagee would otherwise have been required to pay if the mortgage had continued to be insured under this section until such maturity date; and in the event that the principal obligation is paid in full as herein set forth the Secretary is authorized to refund to the mortgagee for the account of the mortgagor all, or such portion as he shall determine to be equitable, of the current unearned premium charges theretofore paid: Provided, That with respect to mortgages (1) for which the Secretary requires, at the time the mortgage is insured, the payment of a single premium charge to cover the total premium obligation for the insurance of the mortgage, and (2) on which the principal obligation is paid before the number of years on which the premium with respect to a particular mortgage was based, or the property is sold subject to the mortgage or is sold and the mortgage is assumed prior to such time, the Secretary shall provide for refunds, where appropriate, of a portion of the premium paid and shall provide for appropriate allocation of the premium cost among the mortgagors over the term of the mortgage, in accordance with procedures established by the Secretary which take into account sound financial and actuarial considerations.

(2) Notwithstanding any other provision of this section, each mortgage secured by a 1- to 4-family dwelling that is an obligation of the Mutual Mortgage Insurance Fund or of the General Insurance Fund pursuant to subsection (v) of this section and each mortgage that is insured under subsection (k) of this section or section 1715y (c) of this title,,[3] shall be subject to the following requirements:

(A) The Secretary shall establish and collect, at the time of insurance, a single premium payment in an amount not exceeding 2.25 percent of the amount of the original insured principal obligation of the mortgage. In the case of a mortgage for which the mortgagor is a first-time homebuyer who completes a program of counseling with respect to the responsibilities and financial management involved in homeownership that is approved by the Secretary, the premium payment under

this subparagraph shall not exceed 2.0 percent of the amount of the original insured principal obligation of the mortgage. Upon payment in full of the principal obligation of a mortgage prior to the maturity date of the mortgage, the Secretary shall refund all of the unearned premium charges paid on the mortgage pursuant to this subparagraph, provided that the mortgagor refinances the unpaid principal obligation under this subchapter.

(B) In addition to the premium under subparagraph (A), the Secretary shall establish and collect annual premium payments in an amount not exceeding 0.50 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments) for the following periods:

(i) For any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), for the first 11 years of the mortgage term.

(ii) For any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is greater than or equal to 90 percent of such value, for the first 30 years of the mortgage term; except that notwithstanding the matter preceding clause (i), for any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is greater than 95 percent of such value, the annual premium collected during the 30-year period under this clause shall be in an amount not exceeding 0.55 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments).

(d) Increase in maximum amount of mortgage

Notwithstanding any provision of this subchapter governing maximum mortgage amounts for insuring a mortgage secured by a one- to four-family dwelling, the maximum amount of the mortgage determined under any such provision may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured.

(e) Contract of insurance as evidence of eligibility

Any contract of insurance heretofore or hereafter executed by the Secretary under this subchapter shall be conclusive evidence of the eligibility of the loan or mortgage for insurance, and the validity of any contract of insurance so executed shall be incontestable in the hands of an approved financial institution or approved mortgagee from the date of the execution of such contract, except for fraud or misrepresentation on the part of such approved financial institution or approved mortgagee.

(f) Disclosure of other mortgage products

(1) In general

In conjunction with any loan insured under this section, an original lender shall provide to each prospective borrower a disclosure notice that provides a 1-page analysis of mortgage products offered by that lender and for which the borrower would qualify.

(2) Notice

The notice required under paragraph (1) shall include—

(A) a generic analysis comparing the note rate (and associated interest payments), insurance premiums, and other costs and fees that would be due over the life of the loan for a loan insured by the Secretary under subsection (b) of this section with the note rates, insurance premiums (if applicable), and other costs and fees that would be expected to be due if the mortgagor obtained instead other mortgage products offered by the lender and for which the borrower would qualify with a similar loan-to-value ratio in connection with a conventional mortgage (as that term is used in section 1454 (a)(2) of this title or section 1717 (b)(2) of this title, as applicable), assuming prevailing interest rates; and

(B) a statement regarding when the requirement of the mortgagor to pay the mortgage insurance premiums for a mortgage insured under this section would terminate, or a statement that the requirement shall terminate only if the mortgage is refinanced, paid off, or otherwise terminated.

(g) Limitation on use of single family mortgage insurance by investors

(1) The Secretary may insure a mortgage under this subchapter that is secured by a 1- to 4-family dwelling, or approve a substitute mortgagor with respect to any such mortgage, only if the mortgagor is to occupy the dwelling as his or her principal residence or as a secondary residence, as determined by the Secretary. In making this determination with respect to the occupancy of secondary residences, the Secretary may not insure mortgages with respect to such residences unless the Secretary determines that it is necessary to avoid undue hardship to the mortgagor. In no event may a secondary residence under this subsection include a vacation home, as determined by the Secretary.

(2) The occupancy requirement established in paragraph (1) shall not apply to any mortgagor (or co-mortgagor, as appropriate) that is—

(A) a public entity, as provided in section 1715d or 1715z–12 of this title, or any other State or local government or an agency thereof;

(B) a private nonprofit or public entity, as provided in section 1715l (h) or 1715z (j) of this title, or other private nonprofit organization that is exempt from taxation under section 501 (c)(3) of title 26 and intends to sell or lease the mortgaged property to low or moderate-income persons, as determined by the Secretary;

(C) an Indian tribe, as provided in section 1715z–13 of this title;

(D) a serviceperson who is unable to meet such requirement because of his or her duty assignment, as provided in section 1715g of this title or subsection (b)(4) or (f) of section 1715m of this title;

(E) a mortgagor or co-mortgagor under subsection (k) of this section; or

(F) a mortgagor that, pursuant to section 1715n (a)(7) of this title, is refinancing an existing mortgage insured under this chapter for not more than the outstanding balance of the existing mortgage, if the amount of the monthly payment due under the refinancing mortgage is less than the amount due under the existing mortgage for the month in which the refinancing mortgage is executed.

(3) For purposes of this subsection, the term “substitute mortgagor” means a person who, upon the release by a mortgagee of a previous mortgagor from personal liability on the mortgage note, assumes such liability and agrees to pay the mortgage debt.

(h) Disaster housing

Notwithstanding any other provision of this section, the Secretary is authorized to insure any mortgage which involves a principal obligation not in excess of the applicable maximum dollar

limit under subsection (b) of this section and not in excess of 100 per centum of the appraised value of a property upon which there is located a dwelling designed principally for a single-family residence, where the mortgagor establishes (to the satisfaction of the Secretary) that his home which he occupied as an owner or as a tenant was destroyed or damaged to such an extent that reconstruction is required as a result of a flood, fire, hurricane, earthquake, storm, or other catastrophe which the President, pursuant to sections 5122 (2) and 5170 of title 42, has determined to be a major disaster.

(i) Single-family housing in outlying areas

The Secretary is authorized to insure under this section any mortgage meeting the requirements of subsection (b) of this section, except as modified by this subsection, which involves a principal obligation not in excess of 75 per centum of the limit on the principal obligation applicable to a one-family residence under subsection (b) of this section and not in excess of 97 per centum (or, in any case where the dwelling is not approved for mortgage insurance prior to the beginning of construction, unless the construction of the dwelling was completed more than one year prior to the application for mortgage insurance or the dwelling was approved for guaranty, insurance, or direct loan under chapter 37 of title 38 prior to the beginning of construction, 90 per centum) of the appraised value of a property located in an area where the Secretary finds it is not practicable to obtain conformity with many of the requirements essential to the insurance of mortgages on housing in built-up urban areas, upon which there is located a dwelling designed principally for a single-family residence: Provided, That the Secretary finds that the property with respect to which the mortgage is executed is an acceptable risk, giving consideration to the need for providing adequate housing for families of low and moderate income particularly in suburban and outlying areas or small communities: Provided further, That under the foregoing provisions of this subsection the Secretary is authorized to insure any mortgage issued with respect to a farm home on a plot of land two and one-half or more acres in size adjacent to an all-weather public road.

(j) Real estate loans by national banks

Loans secured by mortgages insured under this section shall not be taken into account in determining the amount of real estate loans which a national bank may make in relation to its capital and surplus or its time and savings deposits.

(k) Rehabilitation of one- to four-family structures; definitions; eligibility; refinancing and extension; General Insurance Fund

(1) The Secretary may, in order to assist in the rehabilitation of one- to four-family structures used primarily for residential purposes, insure and make commitments to insure rehabilitation loans (including advances made during rehabilitation) made by financial institutions on and after 180 days following October 31, 1978. Such commitments to insure and such insurance shall be made upon such terms and conditions which the Secretary may prescribe and which are consistent with the provisions of subsections (b), (c), (e), (i), and (j) of this section, except as modified by the provisions of this subsection.

(2) For the purpose of this subsection—

(A) the term “rehabilitation loan” means a loan, advance of credit, or purchase of an obligation representing a loan or advance of credit, made for the purpose of financing—

(i) the rehabilitation of an existing one- to four-unit structure which will be used primarily for residential purposes;

(ii) the rehabilitation of such a structure and the refinancing of the outstanding indebtedness on such structure and the real property on which the structure is located; or

(iii) the rehabilitation of such a structure and the purchase of the structure and the real property on which it is located; and

(B) the term "rehabilitation" means the improvement (including improvements designed to meet cost-effective energy conservation standards prescribed by the Secretary) or repair of a structure, or facilities in connection with a structure, and may include the provision of such sanitary or other facilities as are required by applicable codes, a community development plan, or a statewide property insurance plan to be provided by the owner or tenant of the project. The term "rehabilitation" may also include measures to evaluate and reduce lead-based paint hazards, as such terms are defined in section 4851b of title 42.

(3) To be eligible for insurance under this subsection, a rehabilitation loan shall—

(A) involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount which does not exceed, when added to any outstanding indebtedness of the borrower which is secured by the structure and the property on which it is located, the amount specified in subsection (b)(2) of this section; except that, in determining the amount of the principal obligation for purposes of this subsection, the Secretary shall establish as the appraised value of the property an amount not to exceed the sum of the estimated cost of rehabilitation and the Secretary's estimate of the value of the property before rehabilitation;

(B) bear interest at such rate as may be agreed upon by the borrower and the financial institution;

(C) be an acceptable risk, as determined by the Secretary; and

(D) comply with such other terms, conditions, and restrictions as the Secretary may prescribe.

(4) Any rehabilitation loan insured under this subsection may be refinanced and extended in accordance with such terms and conditions as the Secretary may prescribe, but in no event for an additional amount or term which exceeds the maximum provided for in this subsection.

(5) All funds received and all disbursements made pursuant to the authority established by this subsection shall be credited or charged, as appropriate, to the General Insurance Fund, and insurance benefits shall be paid in cash out of such Fund or in debentures executed in the name of such Fund. Insurance benefits paid with respect to loans secured by a first mortgage and insured under this subsection shall be paid in accordance with section 1710 of this title, except that all references in section 1710 of this title to the Mutual Mortgage Insurance Fund shall be construed as referring to the General Insurance Fund. Insurance benefits paid with respect to loans secured by a mortgage other than a first mortgage and insured under this subsection shall be paid in accordance with paragraphs (6) and (7) of section 1715k (h) of this title, except that reference to "this subsection" in such paragraphs shall be construed as referring to this subsection.

(l) Repealed. Pub. L. 90–448, title I, § 103(b), Aug. 1, 1968, 82 Stat. 486

(m) Repealed. Pub. L. 100–242, title IV, § 406(c), Feb. 5, 1988, 101 Stat. 1902

(n) Cooperative housing projects; definitions

(1) The Secretary is authorized to insure under this section any mortgage meeting the requirements of subsection (b) of this section, except as modified by this subsection. To be eligible, the mortgage shall involve a dwelling unit in a cooperative housing project which is covered by a blanket mortgage insured under this chapter or the construction of which was completed more than a year prior to the application for the mortgage insurance. The mortgage amount as determined under the other provisions of subsection (b) of this section shall be reduced by an amount equal to the portion of the unpaid balance of the blanket mortgage covering the project which is attributable (as of the date the mortgage is accepted for insurance) to such unit.

(2) For the purposes of this subsection—

(A) The terms "home mortgage" and "mortgage" include a first lien given (in accordance with the laws of the State where the property is located and accompanied by such security and other undertakings as may be required under regulations of the Secretary) to secure a loan made to finance the purchase of stock or membership in a cooperative ownership housing corporation the permanent occupancy of the dwelling units of which is restricted to members of such corporation, where the purchase of such stock or membership will entitle the purchaser to the permanent occupancy of one of such units.

(B) The terms "appraised value of the property", "value of the property", and "value" include the appraised value of a dwelling unit in a cooperative housing project of the type described in subparagraph (A) where the purchase of the stock or membership involved will entitle the purchaser to the permanent occupancy of that unit; and the term "property" includes a dwelling unit in such a cooperative project.

(C) The term "mortgagor" includes a person or persons giving a first lien (of the type described in subparagraph (A)) to secure a loan to finance the purchase of stock or membership in a cooperative housing corporation.

(o) Insurance of mortgages on owner occupied homes in communities subject to adverse economic conditions resulting from Indian claims to ownership of land; obligation of Special Risk Insurance Fund

(1) Notwithstanding any other provision of this section or any other section of this subchapter, the Secretary is authorized to insure, and to commit to insure, under subsection (b) of this section as modified by this subsection a mortgage which meets both the requirements of this subsection and such criteria as the Secretary by regulation may prescribe to further the purpose of this subsection, in any community where the Secretary determines that—

(A) temporary adverse economic conditions exist throughout the community as a direct and primary result of outstanding claims to ownership of land in the community by an American Indian tribe, band, or Nation;

(B) such ownership claims are reasonably likely to be settled, by court action or otherwise;

(C) as a direct result of the community's temporarily impaired economic condition, owner occupants of homes in the community have been involuntarily unemployed or underemployed and have thus incurred substantial reductions in income which significantly impair their ability to continue timely payment of their mortgages;

(D) as a result, widespread mortgage foreclosures and distress sales of homes are likely in the community; and

(E) fifty or more individual homeowners were joined as parties defendant or were members of a defendant class prior to December 31, 1976, in litigation involving claims to ownership of land in the community by an American Indian tribe, band, or Nation.

(2) A mortgage shall be eligible for insurance under subsection (b) of this section as modified by this subsection without regard to limitations in this subchapter relating to a mortgagor's reasonable ability to pay, economic soundness, marketability of title, or any other statutory restriction which the Secretary determines is contrary to the purpose of this subsection, but only if the mortgagor is an owner of a home in a community specified in paragraph (1) who, as a direct result of the community's temporarily impaired economic condition, has been involuntarily unemployed or underemployed and has thus incurred a substantial reduction in income which significantly impairs the owner's ability to continue timely payment of the mortgage. The Secretary is authorized to encourage or afford directly to or on behalf of mortgagors whose mortgages are insured under subsection (b) of this section as modified by this subsection forebearance, assignment of mortgages to the Secretary, or such other relief as the Secretary deems appropriate and consistent with the purpose of this subsection. The Secretary, in connection with any mortgage insured under subsection (b) of this section as modified by this subsection, shall have all statutory powers, authority, and responsibilities which the Secretary has with respect to other mortgages insured under subsection (b) of this section, except that the Secretary may modify such powers, authority, or responsibilities where the Secretary deems such action to be necessary because of the special nature of the mortgage involved. Notwithstanding section 1708 of this title, the insurance of a mortgage under subsection (b) of this section as modified by this subsection shall be the obligation of the Special Risk Insurance Fund created pursuant to section 1715z–3 of this title.

(p) Insurance of mortgages in communities subject to temporary adverse economic conditions as a result of claims to ownership of land in the community by an American Indian Tribe, band, or nation; eligibility, authorities, etc.

(1) Notwithstanding any other provision of this section or any other section of this subchapter, the Secretary is authorized to insure, and to commit to insure, under subsection (b) of this section as modified by this subsection a mortgage which meets both the requirements of this subsection and such criteria as the Secretary by regulation shall prescribe to further the purpose of this subsection, in any community where the Secretary determines that—

(A) temporary adverse economic conditions exist throughout the community as a direct and primary result of outstanding claims to ownership of land in the community by an American Indian tribe, band, or nation;

(B) such ownership claims are reasonably likely to be settled, by court action or otherwise; and

(C) fifty or more individual homeowners were joined as parties defendant or were members of a defendant class prior to April 1, 1980, in litigation involving claims to ownership of land in the community by an American Indian tribe, band, group, or nation pursuant to a dispute involving the Articles of Confederation, Trade and Intercourse Act of 1790, or any similar State or Federal law.

(2) A mortgage shall be eligible for insurance under subsection (b) of this section as modified by this subsection without regard to limitations in this subchapter relating to

marketability of title, or any other statutory restriction which the Secretary determines is contrary to the purpose of this subsection, but only if the mortgagor is an owner of a home in a community specified in paragraph (1). The Secretary, in connection with any mortgage insured under subsection (b) of this section as modified by this subsection, shall have all statutory powers, authority, and responsibilities which the Secretary has with respect to other mortgages insured under subsection (b) of this section, except that the Secretary may modify such powers, authority, or responsibilities where the Secretary deems such action to be necessary because of the special nature of the mortgage involved. Notwithstanding section 1708 of this title, the insurance of a mortgage under subsection (b) of this section as modified by this subsection shall be the obligation of the Special Risk Insurance Fund created pursuant to section 1715z–3 of this title.

(q) Insurance of mortgages secured by property on certain lands leased by Seneca Nation of New York Indians

(1) Notwithstanding any other provision of this section or any other section of this subchapter, the Secretary shall insure and commit to insure, under subsection (b) of this section as modified by this subsection, any mortgage secured by property located on land that—

(A) is within the Allegany Reservation of the Seneca Nation of New York Indians; and

(B) is subject to a lease entered into for a term of 99 years pursuant to the Act of February 19, 1875 (Chapter 90; 18 Stat. 330) and the Act of September 30, 1890 (Chapter 1132; 26 Stat. 558).

(2) A mortgage shall be eligible for insurance under subsection (b) of this section as modified by this subsection without regard to limitations in this subchapter relating to marketability of title or any other statutory restriction that the Secretary determines is contrary to the purpose of this subsection.

(3) The Secretary, in connection with any mortgage insured under subsection (b) of this section as modified by this subsection, shall have all statutory powers, authority, and responsibilities that the Secretary has with respect to other mortgages insured under subsection (b) of this section, except that the Secretary may modify such powers, authority, or responsibilities if the Secretary determines such action to be necessary because of the special nature of the mortgage involved.

(4) Notwithstanding section 1708 of this title, the insurance of a mortgage under subsection (b) of this section as modified by this subsection shall be the obligation of the Special Risk Insurance Fund created in section 1715z–3 of this title.

(r) Actions to reduce losses under single family mortgage insurance program

The Secretary shall take appropriate actions to reduce losses under the single-family mortgage insurance programs carried out under this subchapter. Such actions shall include—

(1) an annual review by the Secretary of the rate of early serious defaults and claims, in accordance with section 1735f–11 of this title;

(2) requiring that at least one person acquiring ownership of a one- to four-family residential property encumbered by a mortgage insured under this subchapter be determined to be creditworthy under standards prescribed by the Secretary, whether or not such person assumes personal liability under the mortgage (except that acquisitions by devise or descent shall not be subject to this requirement);

(3) in any case where personal liability under a mortgage is assumed, requiring that the original mortgagor be advised of the procedures by which he or she may be released from liability; and

(4) providing counseling, either directly or through third parties, to delinquent mortgagors whose mortgages are insured under this section, using the Fund to pay for such counseling.

In any case where the homeowner does not request a release from liability, the purchaser and the homeowner shall have joint and several liability for any default for a period of 5 years following the date of the assumption. After the close of such 5-year period, only the purchaser shall be liable for any default on the mortgage unless the mortgage is in default at the time of the expiration of the 5-year period.

(s) Suspension or revocation of approval of mortgagee; notice and statement of reasons

Whenever the Secretary has taken any discretionary action to suspend or revoke the approval of any mortgagee to participate in any mortgage insurance program under this subchapter, the Secretary shall provide prompt notice of the action and a statement of the reasons for the action to—

(1) the Secretary of Veterans Affairs;

(2) the chief executive officer of the Federal National Mortgage Association;

(3) the chief executive officer of the Federal Home Loan Mortgage Corporation;

(4) the Administrator of the Farmers Home Administration;

(5) if the mortgagee is a national bank, or a subsidiary or affiliate of such a bank, the Comptroller of the Currency;

(6) if the mortgagee is a State bank that is a member of the Federal Reserve System or a subsidiary or affiliate of such a bank, or a bank holding company or a subsidiary or affiliate of such a company, the Board of Governors of the Federal Reserve System;

(7) if the mortgagee is a State bank that is not a member of the Federal Reserve System or is a subsidiary or affiliate of such a bank, the Board of Directors of the Federal Deposit Insurance Corporation; and

(8) if the mortgagee is a Federal or State savings association or a subsidiary or affiliate of a savings association, the Director of the Office of Thrift Supervision.

(t) Disclosure regarding interest due upon mortgage prepayment

(1) Each mortgagee (or servicer) with respect to a mortgage under this section shall provide each mortgagor of such mortgagee (or servicer) written notice, not less than annually, containing a statement of the amount outstanding for prepayment of the principal amount of the mortgage and describing any requirements the mortgagor must fulfill to prevent the accrual of any interest on such principal amount after the date of any prepayment. This paragraph shall apply to any insured mortgage outstanding on or after the expiration of the 90-day period beginning on the date of effectiveness of final regulations implementing this paragraph.

(2) Each mortgagee (or servicer) with respect to a mortgage under this section shall, at or before closing with respect to any such mortgage, provide the mortgagor with written notice (in such form as the Secretary shall prescribe, by regulation, before the expiration of the 90-day period beginning upon November 28, 1990) describing any requirements the mortgagor must fulfill upon prepayment of the principal amount of the mortgage to prevent the accrual of any interest on the principal amount after the date of such prepayment. This paragraph shall apply to any mortgage executed after the expiration of the period under paragraph (1).

(u) Accountability of mortgage lenders

(1) No mortgagee may make or hold mortgages insured under this section if the customary lending practices of the mortgagee, as determined by the Secretary pursuant to section 1735f–17 of this title, provide for a variation in mortgage charge rates that exceeds 2 percent for insured mortgages made by the mortgagee on dwellings located within an area. The Secretary shall ensure that any permissible variations in the mortgage charge rates of any mortgagee are based only on actual variations in fees or costs to the mortgagee to make the loan.

(2) For purposes of this subsection—

(A) the term "area" shall have the meaning given the term under subsection (b)(2) of this section;

(B) the term "mortgage charges" includes the interest rate, discount points, loan origination fee, and any other amount charged to a mortgagor with respect to an insured mortgage; and

(C) the term "mortgage charge rate" means the amount of mortgage charges for an insured mortgage expressed as a percentage of the initial principal amount of the mortgage.

(v) Use of FHA insurance with assistance under 42 U.S.C. 1437f

Notwithstanding section 1708 of this title, the insurance of a mortgage under this section in connection with the assistance provided under section 1437f (y) of title 42 shall be the obligation of the General Insurance Fund created pursuant to section 1735c [4] of this title. The provisions of subsections (a) through (h),[4] (j), and (k) [4] of section 1710 of this title shall apply to such mortgages, except that (1) all references in section 1710 of this title to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund, and (2) any excess amounts described in section 1710 (f)(1) of this title shall be retained by the Secretary and credited to the General Insurance Fund.

(w) Annual report

The Secretary of Housing and Urban Development shall submit to the Congress an annual report on the single family mortgage insurance program under this section. Each report shall set forth—

(1) an analysis of the income groups served by the single family insurance program, including—

(A) the percentage of borrowers whose incomes do not exceed 100 percent of the median income for the area;

(B) the percentage of borrowers whose incomes do not exceed 80 percent of the median income for the area; and

(C) the percentage of borrowers whose incomes do not exceed 60 percent of the median income for the area;

(2) an analysis of the percentage of minority borrowers annually assisted by the program; the percentage of central city borrowers assisted and the percentage of rural borrowers assisted by the program;

(3) the extent to which the Secretary in carrying out the program has employed methods to ensure that needs of low and moderate income families, underserved areas, and historically disadvantaged groups are served by the program; and

(4) the current impediments to having the program serve low and moderate income borrowers; borrowers from central city areas; borrowers from rural areas; and minority borrowers.

The report required under this subsection shall include the report required under section 1735f–18 (c) of this title and the report required under section 1711 (g) of this title.

(x) Management deficiencies report

(1) In general

Not later than 60 days after October 21, 1998, and annually thereafter, the Secretary shall submit to Congress a report on the plan of the Secretary to address each material weakness, reportable condition, and noncompliance with an applicable law or regulation (as defined by the Director of the Office of Management and Budget) identified in the most recent audited financial statement of the Federal Housing Administration submitted under section 3515 of title 31.

(2) Contents of annual report

Each report submitted under paragraph (1) shall include—

(A) an estimate of the resources, including staff, information systems, and contract assistance, required to address each material weakness, reportable condition, and noncompliance with an applicable law or regulation described in paragraph (1), and the costs associated with those resources;

(B) an estimated timetable for addressing each material weakness, reportable condition, and noncompliance with an applicable law or regulation described in paragraph (1); and

(C) the progress of the Secretary in implementing the plan of the Secretary included in the report submitted under paragraph (1) for the preceding year, except that this subparagraph does not apply to the initial report submitted under paragraph (1).

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[1] See References in Text note below.

[2] So in original. Probably should be “subsection”.

[3] So in original.

[4] See References in Text note below.

§ 1710. Payment of insurance

(a) In general

(1) Authorized claims procedures

The Secretary may, in accordance with this subsection and terms and conditions prescribed by the Secretary, pay insurance benefits to a mortgagee for any mortgage insured under section 1709 of this title through any of the following methods:

(A) Assignment of mortgage

The Secretary may pay insurance benefits whenever a mortgage has been in a monetary default for not less than 3 full monthly installments or whenever the mortgagee is entitled to foreclosure for a nonmonetary default. Insurance benefits shall be paid pursuant to this subparagraph only upon the assignment, transfer, and delivery to the Secretary of—

(i) all rights and interests arising under the mortgage;
(ii) all claims of the mortgagee against the mortgagor or others arising out of the mortgage transaction;
(iii) title evidence satisfactory to the Secretary; and
(iv) such records relating to the mortgage transaction as the Secretary may require.

(B) Conveyance of title to property

The Secretary may pay insurance benefits if the mortgagee has acquired title to the mortgaged property through foreclosure or has otherwise acquired such property from the mortgagor after a default upon—

(i) the prompt conveyance to the Secretary of title to the property which meets the standards of the Secretary in force at the time the mortgage was insured and which is evidenced in the manner provided by such standards; and
(ii) the assignment to the Secretary of all claims of the mortgagee against the mortgagor or others, arising out of mortgage transaction or foreclosure proceedings, except such claims as may have been released with the consent of the Secretary.

The Secretary may permit the mortgagee to tender to the Secretary a satisfactory conveyance of title and transfer of possession directly from the mortgagor or other appropriate grantor, and may pay to the mortgagee the insurance benefits to which it would otherwise be entitled if such conveyance had been made to the mortgagee and from the mortgagee to the Secretary.

(C) Claim without conveyance of title

The Secretary may pay insurance benefits upon sale of the mortgaged property at foreclosure where such sale is for at least the fair market value of the property (with appropriate adjustments), as determined by the Secretary, and upon assignment to the Secretary of all claims referred to in clause (ii) of subparagraph (B).

(D) Preforeclosure sale

The Secretary may pay insurance benefits upon the sale of the mortgaged property by the mortgagor after default and the assignment to the Secretary of all claims referred to in clause (ii) of subparagraph (B), if—

(i) the sale of the mortgaged property has been approved by the Secretary;
(ii) the mortgagee receives an amount at least equal to the fair market value of the property (with appropriate adjustments), as determined by the Secretary; and
(iii) the mortgagor has received an appropriate disclosure, as determined by the Secretary.

(2) Payment for loss mitigation

The Secretary may pay insurance benefits to the mortgagee to recompense the mortgagee for all or part of any costs of the mortgagee for taking loss mitigation actions that provide an alternative to foreclosure of a mortgage that is in default (including but not limited to actions such as special forbearance, loan modification, and deeds in lieu of foreclosure, but not including assignment of mortgages to the Secretary under paragraph (1)(A)). No actions taken under this paragraph, nor any failure to act under this paragraph, by the Secretary or by a mortgagee shall be subject to judicial review.

(3) Determination of claims procedure

The Secretary shall publish guidelines for determining which of the procedures for payment of insurance under paragraph (1) are available to a mortgagee when it claims insurance benefits. At least one of the procedures for payment of insurance benefits specified in paragraph (1)(A) or (1)(B) shall be available to a mortgagee with respect to a mortgage, but the same procedure shall not be required to be available for all of the mortgages held by a mortgagee.

(4) Servicing of assigned mortgages

If a mortgage is assigned to the Secretary under paragraph (1)(A), the Secretary may permit the assigning mortgagee or its servicer to continue to service the mortgage for reasonable compensation and on terms and conditions determined by the Secretary. Neither the Secretary nor any servicer of the mortgage shall be required to forbear from collection of amounts due under the mortgage or otherwise pursue loss mitigation measures.

(5) Calculation of insurance benefits

Insurance benefits shall be paid in accordance with section 1735d of this title and shall be equal to the original principal obligation of the mortgage (with such additions and deductions as the Secretary determines are appropriate) which was unpaid upon the date of—

(A) assignment of the mortgage to the Secretary;

(B) the institution of foreclosure proceedings;

(C) the acquisition of the property after default other than by foreclosure; or

(D) sale of the mortgaged property by the mortgagor.

(6) Forbearance and recasting after default

The mortgagee may, upon such terms and conditions as the Secretary may prescribe—

(A) extend the time for the curing of the default and the time for commencing foreclosure proceedings or for otherwise acquiring title to the mortgaged property, to such time as the mortgagee determines is necessary and desirable to enable the mortgagor to complete the mortgage payments, including an extension of time beyond the stated maturity of the mortgage, and in the event of a subsequent foreclosure or acquisition of the property by other means the Secretary may include in the amount of insurance benefits an amount equal to any unpaid mortgage interest; or

(B) provide for a modification of the terms of the mortgage for the purpose of recasting, over the remaining term of the mortgage or over such longer period pursuant to guidelines as may be prescribed by the Secretary, the total unpaid amount then due, with the modification to become effective currently or to become effective upon the termination of an agreed-upon extension of the period for curing the default; and the principal amount of the mortgage, as modified, shall be considered the “original principal obligation of the mortgage” for purposes of paragraph (5).

(7) Termination of premium obligation

The obligation of the mortgagee to pay the premium charges for insurance shall cease upon fulfillment of the appropriate requirements under which the Secretary may pay insurance benefits, as described in paragraph (1). The Secretary may also terminate the mortgagee’s obligation to pay mortgage insurance premiums upon receipt of an application filed by the mortgagee for insurance benefits under paragraph (1), or in the event the contract of insurance is terminated pursuant to section 1715t of this title.

(8) Effect on payment of insurance benefits under section 1715u
Nothing in this section shall limit the authority of the Secretary to pay insurance benefits under section 1715u of this title.

(9) Treatment of mortgage assignment program
Notwithstanding any other provision of law, or the Amended Stipulation entered as a consent decree on November 8, 1979, in Ferrell v. Cuomo, No. 73 C 334 (N.D. Ill.), or any other order intended to require the Secretary to operate the program of mortgage assignment and forbearance that was operated by the Secretary pursuant to the Amended Stipulation and under the authority of section 1715u of this title, prior to its amendment by section 407(b) of The Balanced Budget Downpayment Act, I (Public Law 104–99; 110 Stat. 45), no mortgage assigned under this section may be included in any mortgage foreclosure avoidance program that is the same or substantially equivalent to such a program of mortgage assignment and forbearance.

(b) Consent to release of mortgagor or property
The Secretary may at any time, under such terms and conditions as he may prescribe, consent to the release of the mortgagor from his liability under the mortgage or the credit instrument secured thereby, or consent to the release of parts of the mortgaged property from the lien of the mortgage.

(c) Debentures; form and amounts
Debentures issued under this section—

(1) shall be in such form and amounts;

(2) shall be subject to such terms and conditions;

(3) shall include such provisions for redemption, if any, as may be prescribed by the Secretary of Housing and Urban Development, with the approval of the Secretary of the Treasury; and

(4) may be in book entry or certificated registered form, or such other form as the Secretary of Housing and Urban Development may prescribe in regulations.

(d) Debentures; issuance; negotiability; terms; tax exemptions
The debentures issued under this section to any mortagee [1] with respect to mortgages insured under section 1709 of this title shall be issued in the name of the Mutual Mortgage Insurance Fund as obligor and shall be negotiable, and, if in book entry form, transferable, in the manner described by the Secretary in regulations. All such debentures shall be dated as of the date foreclosure proceedings were instituted, or the property was otherwise acquired by the mortgagee after default: Provided, That debentures issued pursuant to claims for insurance filed on or after September 2, 1964 shall be dated as of the date of default or as of such later date as the Secretary, in his discretion, may establish by regulation. The debentures shall bear interest from such date at a rate established by the Secretary pursuant to section 1715o of this title, payable semiannually on the 1st day of January and the 1st day of July of each year, and shall mature twenty years after the date thereof. Such debentures as are issued in exchange for property covered by mortgages insured under section 1709 or section 1713 of this title prior to February 3, 1938 shall be subject only to such Federal, State, and local taxes as the mortgages in exchange for which they are issued would be subject to in the hands of the holder of the debentures and shall be a liability of the Mutual Mortgage Insurance Fund, but such debentures shall be fully and unconditionally guaranteed as to principal and interest by the United States; but any mortgagee entitled to receive any such debentures may elect to receive in lieu thereof a cash adjustment and debentures issued as hereinafter provided and bearing the current rate of interest. Such debentures as are issued

in exchange for property covered by the mortgages insured after February 3, 1938, shall be exempt, both as to principal and interest, from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority; and such debentures shall be paid out of the Mutual Mortgage Insurance Fund, which shall be primarily liable therefor, and they shall be fully and unconditionally guaranteed as to principal and interest by the United States, and, in the case of debentures issued in certificated registered form, such guaranty shall be expressed on the face of the debentures. In the event that the Mutual Mortgage Insurance Fund fails to pay upon demand, when due, the principal of or interest on any debentures issued under this section, the Secretary of the Treasury shall pay to the holders the amount thereof which is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, and thereupon to the extent of the amount so paid the Secretary of the Treasury shall succeed to all the rights of the holders of such debentures.

(e) Certificate of claim

(1) Subject to paragraph (2), the certificate of claim issued by the Secretary to any mortgagee shall be for an amount which the Secretary determines to be sufficient, when added to the face value of the debentures issued and the cash adjustment paid to the mortgagee, to equal the amount which the mortgagee would have received if, at the time of the conveyance to the Secretary of the property covered by the mortgage, the mortgagor had redeemed the property and paid in full all obligations under the mortgage and a reasonable amount for necessary expenses incurred by the mortgagee in connection with the foreclosure proceedings, or the acquisition of the mortgaged property otherwise, and the conveyance thereof to the Secretary. Each such certificate of claim shall provide that there shall accrue to the holder of such certificate with respect to the face amount of such certificate, an increment at the rate of 3 per centum per annum which shall not be compounded. The amount to which the holder of any such certificate shall be entitled shall be determined as provided in subsection (f) of this section.

(2) A certificate of claim shall not be issued and the provisions of paragraph (1) of this subsection shall not be applicable in the case of a mortgage accepted for insurance pursuant to a commitment issued on or after September 2, 1964.

(f) Division of excess proceeds; settlement of certificates of claims and refunds to mortgagors

(1) If, after deducting (in such manner and amount as the Secretary shall determine to be equitable and in accordance with sound accounting practice) the expenses incurred by the Secretary, the net amount realized from any property conveyed to the Secretary under this section and the claims assigned therewith exceed the face value of the debentures issued and the cash paid in exchange for such property plus all interest paid on such debentures, such excess shall be divided as follows:

(i) If such excess is greater than the total amount payable under the certificate of claim issued in connection with such property, the Secretary shall pay to the holder of such certificate the full amount so payable, and any excess remaining thereafter shall be paid to the mortgagor of such property if the mortgage was insured under section 1709 of this title: Provided, That on and after September 2, 1964, any excess remaining after payment to the holder of the full amount of the certificate of claim, together with the accrued interest increment thereon, shall be retained by the Secretary and credited to the applicable insurance fund; and

(ii) If such excess is equal to or less than the total amount payable under such certificate of claim, the Secretary shall pay to the holder of such certificate the full amount of such excess.

(2) Notwithstanding any other provisions of this section, the Secretary is authorized, with respect to mortgages insured pursuant to commitments for insurance issued after August 11, 1955, and, with the consent of the mortgagee or mortgagor, as the case may be, with respect to mortgages insured pursuant to commitments issued prior to such date, to effect the settlement of certificates of claim and refunds to mortgagors at any time after the sale or transfer of title to the property conveyed to the Secretary under this section and without awaiting the final liquidation of such property for the purpose of determining the net amount to be realized therefrom: Provided, That the settlement authority created by the Housing Amendments of 1955 shall be terminated with respect to any certificates of claim outstanding as of September 2, 1964.

(3) With the consent of the holder thereof, the Secretary is authorized, without awaiting the final liquidation of the Secretary's interest in the property, to settle any certificate of claim issued pursuant to subsection (e) of this section, with respect to which settlement had not been effected prior to September 2, 1964, by making payment in cash to the holder thereof of such amount not exceeding the face amount of the certificate of claim, together with the accrued interest thereon, as the Secretary may consider appropriate: Provided, That in any case where the certificate of claim is settled in accordance with the provisions of this paragraph, any amounts realized after September 2, 1964, in the liquidation of the Secretary's interest in the property, shall be retained by the Secretary and credited to the applicable insurance fund.

(g) Handling and disposal of property; settlement of claims

Notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, the Secretary shall have power to deal with, complete, rent, renovate, modernize, insure, or sell for cash or credit, in his discretion, any properties conveyed to him in exchange for debentures and certificates of claim as provided in this section; and notwithstanding any other provision of law, the Secretary shall also have power to pursue to final collection, by way of compromise or otherwise, all claims against mortgagors assigned by mortgagees to the Secretary as provided in this section: Provided, That section 5 of title 41 shall not be construed to apply to any contract for hazard insurance, or to any purchase or contract for services or supplies on account of such property if the amount thereof does not exceed $1,000. The Secretary shall, by regulation, carry out a program of sales of such properties and shall develop and implement appropriate credit terms and standards to be used in carrying out the program. The power to convey and to execute in the name of the Secretary deeds of conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real or personal property or any interest therein heretofore or hereafter acquired by the Secretary pursuant to the provisions of this chapter, may be exercised by an officer appointed by him, without the execution of any express delegation of power or power of attorney: Provided, That nothing in this subsection shall be construed to prevent the Secretary from delegating such power by order or by power of attorney, in his discretion, to any officer, agent, or employee he may appoint: And provided further, That a conveyance or transfer of title to real or personal property or an interest therein to the Secretary of Housing and Urban Development, his successors and assigns, without identifying the Secretary therein, shall be deemed a proper conveyance or transfer to the same extent and of like effect as if the Secretary were personally

named in such conveyance or transfer. The Secretary may sell real and personal property acquired by the Secretary pursuant to the provisions of this chapter on such terms and conditions as the Secretary may prescribe.

(h) Disposition of assets in revitalization areas

(1) In general

The purpose of this subsection is to require the Secretary to carry out a program under which eligible assets (as such term is defined in paragraph (2)) shall be made available for sale in a manner that promotes the revitalization, through expanded homeownership opportunities, of revitalization areas. Notwithstanding the authority under the last sentence of subsection (g) of this section, the Secretary shall dispose of all eligible assets under the program and shall establish the program in accordance with the requirements under this subsection.

(2) Eligible assets

For purposes of this subsection, the term "eligible asset" means any of the following categories of assets of the Secretary, unless the Secretary determines at any time that the asset property is economically or otherwise infeasible to rehabilitate or that the best use of the asset property is as open space (including park land):

(A) Properties

Any property that—

(i) is designed as a dwelling for occupancy by 1 to 4 families;

(ii) is located in a revitalization area;

(iii) was previously subject to a mortgage insured under the provisions of this chapter; and

(iv) is owned by the Secretary pursuant to the payment of insurance benefits under this chapter.

(B) Mortgages

Any mortgage that—

(i) is an interest in a property that meets the requirements of clauses (i) and (ii) of subparagraph (A);

(ii) was previously insured under the provisions of this chapter except for mortgages insured under or made pursuant to sections 1715z, 1715z–12, or 1715z–20 of this title; and

(iii) is held by the Secretary pursuant to the payment of insurance benefits under this chapter.

For purposes of this subsection, an asset under this subparagraph shall be considered to be located in a revitalization area, or in the asset control area of a preferred purchaser, if the property described in clause (i) is located in such area.

(3) Revitalization areas

The Secretary shall designate areas as revitalization areas for purposes of this subsection. Before designation of an area as a revitalization area, the Secretary shall consult with affected units of general local government, States, and Indian tribes and interested nonprofit organizations. The Secretary may designate as revitalization areas only areas that meet one of the following requirements:

(A) Very-low income area

The median household income for the area is less than 60 percent of the median household income for—

(i) in the case of any area located within a metropolitan area, such metropolitan area; or

(ii) in the case of any area not located within a metropolitan area, the State in which the area is located.

(B) High concentration of eligible assets

A high rate of default or foreclosure for single family mortgages insured under this chapter has resulted, or may result, in the area—

(i) having a disproportionately high concentration of eligible assets, in comparison with the concentration of such assets in surrounding areas; or

(ii) being detrimentally impacted by eligible assets in the vicinity of the area.

(C) Low home ownership rate

The rate for home ownership of single family homes in the area is substantially below the rate for homeownership in the metropolitan area.

(4) Preference for sale to preferred purchasers

The Secretary shall provide a preference, among prospective purchasers of eligible assets, for sale of such assets to any purchaser who—

(A) is—

(i) the unit of general local government, State, or Indian tribe having jurisdiction with respect to the area in which are located the eligible assets to be sold; or

(ii) a nonprofit organization;

(B) in making a purchase under the program under this subsection—

(i) establishes an asset control area, which shall be an area that consists of part or all of a revitalization area; and

(ii) purchases all assets of the Secretary in the category or categories of eligible assets set forth in the sale agreement required under paragraph (7) that, at any time during the period which shall be set forth in the sale agreement—

(I) are or become eligible for purchase under this subsection; and

(II) are located in the asset control area of the purchaser; and

(C) has the capacity to carry out the purchase of the category or categories of eligible assets set forth in the sale agreement under the program under this subsection and under the provisions of this paragraph.

(5) Agreements required for purchase

(A) Preferred purchasers

Under the program under this subsection, the Secretary may sell an eligible asset as provided in paragraph (4) to a preferred purchaser only pursuant to a binding agreement by the preferred purchaser that the eligible asset will be used in conjunction with a home ownership plan that provides as follows:

(i) The plan has as its primary purpose the expansion of home ownership in, and the revitalization of, the asset control area, established pursuant to paragraph (4)(B)(i) by the purchaser, in which the eligible asset is located.

(ii) Under the plan, the preferred purchaser has established, and agreed to meet, specific performance goals for increasing the rate of home ownership for eligible assets in the asset control area that are under the purchaser's control. The plan shall provide that the Secretary may waive or modify such goals or deadlines only upon a determination by the Secretary that a good

faith effort has been made in complying with the goals through the homeownership plan and that exceptional neighborhood conditions prevented attainment of the goal.

(iii) Under the plan, the preferred purchaser has established rehabilitation standards that meet or exceed the standards for housing quality established under subparagraph (B)(iii) by the Secretary, and has agreed that each asset property for an eligible asset purchased will be rehabilitated in accordance with such standards.

(B) Non-preferred purchasers

Under the program under this subsection, the Secretary may sell an eligible asset to a purchaser who is not a preferred purchaser only pursuant to a binding agreement by the purchaser that complies with the following requirements:

(i) The purchaser has agreed to meet specific performance goals established by the Secretary for home ownership of the asset properties for the eligible assets purchased by the purchaser, except that the Secretary may, by including a provision in the sale agreement required under paragraph (7), provide for a lower rate of home ownership in sales involving exceptional circumstances.

(ii) The purchaser has agreed that each asset property for an eligible asset purchased will be rehabilitated to comply with minimum standards for housing quality established by the Secretary for purposes of the program under this subsection.

(6) Discount for preferred purchasers

(A) In general

For the purpose of providing a public purpose discount for the bulk sales of eligible assets made under the program under this subsection by preferred purchasers, each eligible asset sold through the program under this subsection to a preferred purchaser shall be sold at a price that is discounted from the value of the asset, as based on the appraised value of the asset property (as such term is defined in paragraph (8)).

(B) Appraisals

The Secretary shall require that each appraisal of an eligible asset under this paragraph is based upon—

(i) the market value of the asset property in its “as is” physical condition, which shall take into consideration age and condition of major mechanical and structural systems; and

(ii) the value of the property appraised for home ownership.

(C) Discounts

The Secretary, in the sole discretion of the Secretary, shall establish the discount under this paragraph for an eligible asset. In determining the discount, the Secretary may consider the condition of the asset property, the extent of resources available to the preferred purchaser, the comprehensive revitalization plan undertaken by such purchaser, the financial safety and soundness of the Mutual Mortgage Insurance Fund, and any other circumstances the Secretary considers appropriate [2]

(7) Sale agreement

The Secretary may sell an eligible asset under this subsection only pursuant to a sale agreement entered into under this paragraph with the purchaser, which shall include the following provisions:

(A) Assets

The sale agreement shall identify the category or categories of eligible assets to be purchased and, based on the purchaser's capacity to manage and dispose of assets, the maximum number of assets owned by the Secretary at the time the sale agreement is executed that shall be sold to the purchaser.

(B) Revitalization area and asset control area

The sale agreement shall identify—

(i) the boundaries of the specific revitalization areas (or portions thereof) in which are located the eligible assets that are covered by the agreement; and

(ii) in the case of a preferred purchaser, the asset control area established pursuant to paragraph (4)(B)(i) that is covered by the agreement.

(C) Financing

The sale agreement shall identify the sources of financing for the purchase of the eligible assets.

(D) Binding agreements

The sale agreement shall contain binding agreements by the purchaser sufficient to comply with—

(i) in the case of a preferred purchaser, the requirements under paragraph (5)(A), which agreements shall provide that the eligible assets purchased will be used in conjunction with a home ownership plan meeting the requirements of such paragraph, and shall set forth the terms of the homeownership plan, including—

(I) the goals of the plan for the eligible assets purchased and for the asset control area subject to the plan;

(II) the revitalization areas (or portions thereof) in which the homeownership plan is operating or will operate;

(III) the specific use or disposition of the eligible assets under the plan; and

(IV) any activities to be conducted and services to be provided under the plan; or

(ii) in the case of a purchaser who is not a preferred purchaser, the requirements under paragraph (5)(B).

(E) Purchase price and discount

The sale agreement shall establish the purchase price of the eligible assets, which in the case of a preferred purchaser shall provide for a discount in accordance with paragraph (6).

(F) Housing quality

The sale agreement shall provide for compliance of the eligible assets purchased with the rehabilitation standards established under paragraph (5)(A)(iii) or the minimum standards for housing quality established under paragraph (5)(B)(ii), as applicable, and shall specify such standards.

(G) Performance goals and sanctions

The sale agreement shall set forth the specific performance goals applicable to the purchaser, in accordance with paragraph (5), shall set forth any sanctions for failure

to meet such goals and deadlines, and shall require the purchaser to certify compliance with such goals.

(H) Period covered

The sale agreement shall establish—

(i) in the case of a preferred purchaser, the time period referred to in paragraph (4)(B)(ii); and

(ii) in the case of a purchaser who is not a preferred purchaser, the time period for purchase of eligible assets that may be covered by the purchase.

(I) Other terms

The agreement shall contain such other terms and conditions as may be necessary to require that eligible assets purchased under the agreement are used in accordance with the program under this subsection.

(8) Definitions

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

(A) Asset control area

The term “asset control area” means the area established by a preferred purchaser pursuant to paragraph (4)(B)(i).

(B) Asset property

The term “asset property” means—

(i) with respect to an eligible asset that is a property, such property; and

(ii) with respect to an eligible asset that is a mortgage, the property that is subject to the mortgage.

(C) Eligible asset

The term “eligible asset” means an asset described in paragraph (2).

(D) Nonprofit organization

The term “nonprofit organization” means a private organization that—

(i) is organized under State or local laws;

(ii) has no part of its net earnings inuring to the benefit of any member, shareholder, founder, contributor, or individual; and

(iii) complies with standards of financial responsibility that the Secretary may require.

(E) Preferred purchaser

The term “preferred purchaser” means a purchaser described in paragraph (4).

(F) Unit of general local government

The term “unit of general local government” means any city, town, township, county, parish, village, or other general purpose political subdivision of a State, and any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive officer to act on behalf of the jurisdiction with regard to the provisions of this subsection.

(G) State

The term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive officer to act on behalf of the State with regard to provisions of this subjection.[3]

(H) Indian tribe

The term “Indian tribe” has the same meaning as in section 1715z–13 (i)(I) [4] of this title.

(9) Secretary’s discretion

The Secretary shall have the authority to implement and administer the program under this subsection in such manner as the Secretary may determine. The Secretary may, in the sole discretion of the Secretary, enter into contracts to provide for the proper administration of the program with such public or nonprofit entities as the Secretary determines are qualified.

(10) Regulations

The Secretary shall issue regulations to implement the program under this subsection through rulemaking in accordance with the procedures established under section 553 of title 5 regarding substantive rules. Such regulations shall take effect not later than the expiration of the 2-year period beginning on October 21, 1998.

(i) Mortgagor’s or mortgagee’s interest in property or claim conveyed

No mortgagee or mortgagor shall have, and no certificate of claim shall be construed to give to any mortgagee or mortgagor, any right or interest in any property conveyed to the Secretary or in any claim assigned to him; nor shall the Secretary owe any duty to any mortgagee or mortgagor with respect to the handling or disposal of any such property or the collection of any such claim.

(j) Foreclosure; payment and cessation of obligation

In the event that any mortgagee under a mortgage insured under section 1709 of this title (other than a mortgagee receiving insurance benefits under clause (1)(A) of the second sentence of subsection (a) of this section) forecloses on the mortgaged property but does not convey such property to the Secretary in accordance with this section, and the Secretary is given written notice thereof, or in the event that the mortgagor pays the obligation under the mortgage in full prior to the maturity thereof, and the mortgagee pays any adjusted premium charge required under the provisions of section 1709 (c) of this title, and the Secretary is given written notice by the mortgagee of the payment of such obligation, the obligation to pay any subsequent premium charge for insurance shall cease, and all rights of the mortgagee and the mortgagor under this section shall terminate as of the date of such notice.

(k) Repealed. Pub. L. 105–276, title VI, § 601(c), Oct. 21, 1998, 112 Stat. 2673

(l) Nullification of right of redemption of single family mortgagors

(1) Whenever the Secretary or a contract mortgagee (pursuant to its contract with the Secretary) forecloses on a Secretary-held single family mortgage in any Federal or State court or pursuant to a power of sale in a mortgage, the purchaser at the foreclosure sale shall be entitled to receive a conveyance of title to, and possession of, the property, subject to the interests senior to the interests of the Secretary or the contract mortgagee, as the case may be. Notwithstanding any State law to the contrary, there shall be no right of redemption (including in all instances any right to possession based upon any right of redemption) in the mortgagor or any other person subsequent to the foreclosure sale in connection with a Secretary-held single family mortgage. The appropriate State official or the trustee, as the case may be, shall execute and deliver a deed or other appropriate instrument conveying title to the purchaser at the foreclosure sale, consistent with applicable procedures in the jurisdiction and without regard to any such right of redemption.

(2) The following actions shall be taken in order to verify title in the purchaser at the foreclosure sale:

(A) In the case of a judicial foreclosure in any Federal or State court, there shall be included in the petition and in the judgment of foreclosure a statement that the foreclosure is in accordance with this subsection and that there is no right of redemption in the mortgagor or any other person.

(B) In the case of a foreclosure pursuant to a power of sale provision in the mortgage, the statement required in subparagraph (A) shall be included in the advertisement of the sale and either in the recitals of the deed or other appropriate instrument conveying title to the purchaser at the foreclosure sale or in an affidavit or addendum to the deed.

(3) For purposes of this subsection:

(A) The term "contract mortgagee" means a person or entity under a contract with the Secretary that provides for the assignment of a single-family mortgage from the Secretary to the person or entity for the purpose of pursuing foreclosure.

(B) the [5] term "mortgage" means a deed of trust, mortgage, deed to secure debt, security agreement, or any other form of instrument under which any interest in property, real, personal, or mixed, or any interest in property, including leaseholds, life estates, reversionary interests, and any other estates under applicable State law, is conveyed in trust, mortgaged, encumbered, pledged, or otherwise rendered subject to a lien, for the purpose of securing the payment of money or the performance of an obligation.

(C) The term "Secretary-held single family mortgage" means a single-family mortgage held by the Secretary or by a contract mortgagee at the time of initiation of foreclosure that—

(i) was formerly insured by the Secretary under any section of this subchapter; or

(ii) was taken by the Secretary as a purchase money mortgage in connection with the sale or other transfer of Secretary-owned property under any section of this subchapter.

(D) the term "single-family mortgage" means a mortgage that covers property on which is located a 1-to-4 family residence.

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[1] So in original. Probably should be "mortgagee".

[2] So in original. There probably should be a period.

[3] So in original. Probably should be "subsection."

[4] So in original. Probably should be section "1715z–13(i)(1)".

[5] So in original. Probably should be capitalized.