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-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS

-HEAD-

CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS

-MISC1-

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AMENDMENTS

2006 - Pub. L. 109-233, title I, Secs. 103(f)(4), 104(c), June 15, 2006, 120 Stat. 401, 402, substituted "DIRECT HOUSING LOANS FOR NATIVE AMERICAN VETERANS" for "NATIVE AMERICAN VETERAN HOUSING LOAN PILOT PROGRAM" in item for subchapter V, "Direct housing loans to Native American veterans; program authority" for "Pilot program" in item 3761, "Direct housing loans to Native American veterans; program administration" for "Direct housing loans to Native American veterans" in item 3762, and "Qualified non-Native American veterans" for "Definitions" in item 3764 and added item 3765.

2002 - Pub. L. 107-330, title III, Sec. 303(b), Dec. 6, 2002, 116 Stat. 2826, added item 3707A.

2001 - Pub. L. 107-95, Sec. 5(g)(2), Dec. 21, 2001, 115 Stat. 918, struck out item 3735 "Housing assistance for homeless veterans", item for subchapter VI "LOAN GUARANTEE FOR MULTIFAMILY TRANSITIONAL HOUSING FOR HOMELESS VETERANS", and items 3771 "Definitions", 3772 "General authority", 3773 "Requirements", 3774 "Default", and 3775 "Audit".

1998 - Pub. L. 105-368, title VI, Secs. 601(b), 602(e)(3)(C), Nov. 11, 1998, 112 Stat. 3345, 3347, added item 3722, struck out items 3723 "Direct loan revolving fund", 3724 "Loan Guaranty Revolving Fund", and 3725 "Guaranty and Indemnity Fund", substituted "Veterans Housing Benefit Program Fund and housing programs" for "Loan Guaranty Revolving Fund and the Guaranty and Indemnity Fund" in item 3734, substituted "Native American Veteran Housing Loan Program Account" for "Housing loan program account" in item 3763, and added item for subchapter VI and items 3771 to 3775.

1996 - Pub. L. 104-110, title II, Sec. 201(a)(2), Feb. 13, 1996, 110 Stat. 770, added item 3736.

Pub. L. 104-106, div. B, title XXVIII, Sec. 2822(b)(2), Feb. 10, 1996, 110 Stat. 557, added item 3708.

1992 - Pub. L. 102-547, Secs. 3(a)(2), 8(c), Oct. 28, 1992, 106 Stat. 3635, 3640, added item 3707, item for subchapter V, and items 3761 to 3764.

1991 - Pub. L. 102-83, Sec. 5(b)(1), Aug. 6, 1991, 105 Stat. 406, renumbered items 1801 to 1851 as 3701 to 3751, respectively.

Pub. L. 102-54, Sec. 9(b), June 13, 1991, 105 Stat. 273, added item 1835.

1989 - Pub. L. 101-237, title III, Secs. 302(a)(3)(B), (b)(2), 313(b)(1), Dec. 18, 1989, 103 Stat. 2070, 2071, 2077, substituted "Secretary" for "Administrator" in items 1820, 1844, and 1850, "Loan Guaranty Revolving Fund" for "Loan guaranty revolving fund" in item 1824, and "Guaranty and Indemnity Fund" for "Waiver of discharge requirements for hospitalized persons" in item 1825, and added item 1834.

1988 - Pub. L. 100-322, title IV, Sec. 415(e), May 20, 1988, 102

Stat. 552, in item 1803 substituted "guaranty and insurance" for "guaranty", struck out item 1807 "Service after July 25, 1947, and prior to June 27, 1950", reenacted items 1810 and 1811 without change, redesignated item 1819 "Loans to purchase manufactured homes and lots" as item 1812, item 1817 "Release from liability under guaranty" as item 1813, and item 1817A "Assumptions; release from liability" as item 1814, struck out item 1815 "Insurance of loans" and item 1818 "Service after January 31, 1955, and prior to August 5, 1964, or after May 7, 1975", redesignated item 1816 "Procedure on default" as item 1832, struck out former item 1832 "Furnishing information to real estate professionals to facilitate the disposition of properties", and added item 1833.

1987 - Pub. L. 100-198, Sec. 10(a)(3), Dec. 21, 1987, 101 Stat. 1323, added item 1817A.

1986 - Pub. L. 99-576, title IV, Secs. 407(b), 408(b), Oct. 28, 1986, 100 Stat. 3283, added items 1831 and 1832.

1984 - Pub. L. 98-369, div. B, title V, Sec. 2512(b)(2), July 18, 1984, 98 Stat. 1120, added item 1830.

1982 - Pub. L. 97-306, title IV, Sec. 406(c)(3), Oct. 14, 1982, 96 Stat. 1445, substituted "Loans to purchase manufactured homes and lots" for "Loans to purchase mobile homes and mobile home lots" in item 1819.

Pub. L. 97-253, title IV, Sec. 406(a)(2), Sept. 8, 1982, 96 Stat. 805, added item 1829.

1981 - Pub. L. 97-72, title III, Sec. 302(b)(1), (3), Nov. 3, 1981, 95 Stat. 1059, substituted "HOUSING AND SMALL BUSINESS LOANS" for "HOME, CONDOMINIUM, AND MOBILE HOME LOANS" in chapter heading and, in analysis of subchapters and sections, added item for subchapter IV and for sections 1841 to 1851.

1979 - Pub. L. 96-128, title IV, Sec. 401(b), Nov. 28, 1979, 93 Stat. 987, added item 1828.

1978 - Pub. L. 95-476, title I, Sec. 106(b), Oct. 18, 1978, 92 Stat. 1500, substituted "Service after January 31, 1955, and prior to August 5, 1964, or after May 7, 1975" for "Veterans who serve after January 31, 1955" in item 1818.

1976 - Pub. L. 94-324, Sec. 2(b), June 30, 1976, 90 Stat. 720, added item 1807.

1974 - Pub. L. 93-569, Secs. 7(b), (c), Dec. 31, 1974, 88 Stat. 1866, substituted "HOME, CONDOMINIUM, AND MOBILE HOME LOANS" for "HOME, FARM, AND BUSINESS LOANS" in chapter heading, and struck out items 1812 "Purchase of farms and farm equipment", 1813 "Purchase of business property", 1814 "Loans to refinance delinquent indebtedness", and 1822 "Recovery of damages", from chapter analysis.

1970 - Pub. L. 91-506, Sec. 7, Oct. 23, 1970, 84 Stat. 1114, added item 1819.

1968 - Pub. L. 90-301, Sec. 5(b), May 7, 1968, 82 Stat. 116, added item 1827.

1966 - Pub. L. 89-358, Sec. 5(b), (f)(2), Mar. 3, 1966, 80 Stat. 26, 27, added items 1818 and 1826.

1960 - Pub. L. 86-665, Secs. 6(b), 7(b), July 14, 1960, 74 Stat. 532, 533, added items 1806 and 1824 and renumbered former item 1824 as 1825.

MAXIMUM INTEREST RATES FOR MORTGAGE INSURANCE PROGRAM

Consultation of Secretary of Housing and Urban Development with Administrator of Veterans' Affairs regarding interest rate considered necessary to meet mortgage market for guaranteed or insured home loans to veterans under this chapter, in determining rate for mortgage insurance program under section 1709(b)(5) of Title 12, see section 1709-1 of Title 12, Banks and Banking.

STATE CONSTITUTIONAL AND LEGAL LIMITS UPON INTEREST CHARGEABLE ON
LOAN OR MORTGAGE

Any loan or mortgage secured by a one- to four-family dwelling and insured, guaranteed, or made under this chapter not to be covered by any State constitutional and legal limit upon amount of interest charged, taken, etc., see section 1709-1a of Title 12, Banks and Banking.

-End-

-CITE-

38 USC SUBCHAPTER I - GENERAL

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS

PART III - READJUSTMENT AND RELATED BENEFITS

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SUBCHAPTER I - GENERAL

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38 USC Sec. 3701

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS

PART III - READJUSTMENT AND RELATED BENEFITS

CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS

SUBCHAPTER I - GENERAL

-HEAD-

Sec. 3701. Definitions

-STATUTE-

(a) For the purpose of this chapter, the term "housing loan" means a loan for any of the purposes specified by sections 3710(a) and 3712(a)(1) of this title.

(b) For the purposes of housing loans under this chapter -

(1) The term "World War II" (A) means the period beginning on September 16, 1940, and ending on July 25, 1947, and (B) includes, in the case of any veteran who enlisted or reenlisted in a Regular component of the Armed Forces after October 6, 1945, and before October 7, 1946, the period of the first such enlistment or reenlistment.

(2) The term "veteran" includes the surviving spouse of any veteran (including a person who died in the active military, naval, or air service) who died from a service-connected disability, but only if such surviving spouse is not eligible for benefits under this chapter on the basis of the spouse's own active duty. The active duty or service in the Selected Reserve of the deceased spouse shall be deemed to have been active duty or service in the Selected Reserve by such surviving spouse for the purposes of this chapter.

(3) The term "veteran" also includes, for purposes of home

loans, the spouse of any member of the Armed Forces serving on active duty who is listed, pursuant to section 556 of title 37, United States Code, and regulations issued thereunder, by the Secretary concerned in one or more of the following categories and has been so listed for a total of more than ninety days: (A) missing in action, (B) captured in line of duty by a hostile force, or (C) forcibly detained or interned in line of duty by a foreign government or power. The active duty of the member shall be deemed to have been active duty by such spouse for the purposes of this chapter. The loan eligibility of such spouse under this paragraph shall be limited to one loan guaranteed or made for the acquisition of a home, and entitlement to such loan shall terminate automatically, if not used, upon receipt by such spouse of official notice that the member is no longer listed in one of the categories specified in the first sentence of this paragraph.

(4) The term "veteran" also includes an individual serving on active duty.

(5)(A) The term "veteran" also includes an individual who is not otherwise eligible for the benefits of this chapter and (i) who has completed a total service of at least 6 years in the Selected Reserve and, following the completion of such service, was discharged from service with an honorable discharge, was placed on the retired list, was transferred to the Standby Reserve or an element of the Ready Reserve other than the Selected Reserve after service in the Selected Reserve characterized by the Secretary concerned as honorable service, or continues serving in the Selected Reserve, or (ii) who was discharged or released from the Selected Reserve before completing 6 years of service because of a service-connected disability.

(B) The term "Selected Reserve" means the Selected Reserve of the Ready Reserve of any of the reserve components (including the Army National Guard of the United States and the Air National Guard of the United States) of the Armed Forces, as required to be maintained under section 10143(a) of title 10.

(c) Benefits shall not be afforded under this chapter to any individual on account of service as a commissioned officer of the National Oceanic and Atmospheric Administration (or predecessor entity), or of the Regular or Reserve Corps of the Public Health Service, unless such service would have qualified such individual for benefits under title III of the Servicemen's Readjustment Act of 1944.

-SOURCE-

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1203, Sec. 1801; Pub. L. 91-584, Sec. 5(a), Dec. 24, 1970, 84 Stat. 1576; Pub. L. 94-324, Sec. 7(1), (2), June 30, 1976, 90 Stat. 721; Pub. L. 97-72, title III, Sec. 303(a), Nov. 3, 1981, 95 Stat. 1059; Pub. L. 97-295, Sec. 4(62), Oct. 12, 1982, 96 Stat. 1309; Pub. L. 100-322, title IV, Sec. 415(c)(1), May 20, 1988, 102 Stat. 551; Pub. L. 101-237, title III, Sec. 313(a), Dec. 18, 1989, 103 Stat. 2077; renumbered Sec. 3701 and amended Pub. L. 102-83, Sec. 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-547, Sec. 2(a)(1), Oct. 28, 1992, 106 Stat. 3633; Pub. L. 103-446, title IX, Sec. 901, Nov. 2, 1994, 108 Stat. 4675; Pub. L. 104-106, div. A, title XV, Sec. 1501(e)(2)(B), Feb. 10, 1996, 110 Stat. 501.)

-REFTEXT-

REFERENCES IN TEXT

The Servicemen's Readjustment Act of 1944, referred to in subsec. (c), is act June 22, 1944, ch. 268, 58 Stat. 284, as amended. Title III of the Servicemen's Readjustment Act of 1944 was classified generally to subchapter II (Sec. 694 et seq.) of chapter 11C of former Title 38, Pensions, Bonuses, and Veterans' Relief, which was repealed and the provisions thereof reenacted as this chapter by Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1105.

-MISC1-

AMENDMENTS

1996 - Subsec. (b)(5)(B). Pub. L. 104-106 substituted "section 10143(a) of title 10" for "section 268(b) of title 10".

1994 - Subsec. (b)(2). Pub. L. 103-446, Sec. 901(b), inserted "or service in the Selected Reserve" after "duty" in two places and substituted "deceased spouse shall" for "spouse shall".

Subsec. (b)(5)(A). Pub. L. 103-446, Sec. 901(a), inserted "(i)" before "who has" and substituted ", or" and cl. (ii) for the period at end.

1992 - Subsec. (b)(5). Pub. L. 102-547 added par. (5).

1991 - Pub. L. 102-83, Sec. 5(a), renumbered section 1801 of this title as this section.

Subsec. (a). Pub. L. 102-83, Sec. 5(c)(1), substituted "3710(a) and 3712(a)(1)" for "1810(a) and 1812(a)(1)".

1989 - Subsec. (b)(4). Pub. L. 101-237 added par. (4).

1988 - Subsec. (a). Pub. L. 100-322 substituted "1812(a)(1)" for "1819(a)(1)".

1982 - Subsec. (b)(3). Pub. L. 97-295 substituted "member shall be deemed" for "spouse shall be deemed", and "member is no longer listed" for "spouse is no longer listed".

1981 - Subsec. (a). Pub. L. 97-72, Sec. 303(a)(2), added subsec. (a). Former subsec. (a) redesignated (b).

Subsec. (b). Pub. L. 97-72, Sec. 303(a)(1), (3), redesignated subsec. (a) as (b) and substituted "For the purposes of housing loans under this chapter" for "For the purposes of this chapter". Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 97-72, Sec. 303(a)(1), (4), redesignated subsec. (b) as (c) and substituted "National Oceanic and Atmospheric Administration (or predecessor entity)" for "Coast and Geodetic Survey".

1976 - Subsec. (a)(2). Pub. L. 94-324, Sec. 7(1), substituted "surviving spouse", "the spouse's own", and "the spouse" for "widow", "her own", and "her husband", respectively, wherever appearing.

Subsec. (a)(3). Pub. L. 94-324, Sec. 7(2), substituted "spouse" and "the spouse" for "wife" and "her husband", respectively, wherever appearing.

1970 - Subsec. (a)(3). Pub. L. 91-584 added par. (3).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103-337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104-106, set out as a note under section 113 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-72 effective at end of 180-day period beginning on Nov. 3, 1981, see section 305 of Pub. L. 97-72, set out as an Effective Date note under section 3741 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 9 of Pub. L. 94-324 provided that:

"(a) Except as provided in subsection (b), the provisions of this Act [see Tables for classification] shall become effective on the date of enactment [June 30, 1976].

"(b) Sections 2 [enacting section 1807 of this title] and 3 [amending section 1811 [now 3711] of this title] shall become effective on October 1, 1976. Section 5 [amending section 1819 [now 3712] of this title] shall become effective on July 1, 1976."

-End-

-CITE-

38 USC Sec. 3702

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS

PART III - READJUSTMENT AND RELATED BENEFITS

CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS

SUBCHAPTER I - GENERAL

-HEAD-

Sec. 3702. Basic entitlement

-STATUTE-

(a)(1) The veterans described in paragraph (2) of this subsection are eligible for the housing loan benefits of this chapter. In the case of any veteran who served on active duty during two or more of the periods specified in paragraph (2) for which eligibility for the housing loan benefits under this chapter may be granted, entitlement derived from service during the most recent such period (A) shall cancel any unused entitlement derived from service during any earlier such period, and (B) shall be reduced by the amount by which entitlement from service during any earlier such period has been used to obtain a direct, guaranteed, or insured housing loan -

(i) on real property which the veteran owns at the time of application; or

(ii) as to which the Secretary has incurred actual liability or loss, unless in the event of loss or the incurrence and payment of such liability by the Secretary the resulting indebtedness of the veteran to the United States has been paid in full.

(2) The veterans referred to in the first sentence of paragraph (1) of this subsection are the following:

(A) Each veteran who served on active duty at any time during World War II, the Korean conflict, or the Vietnam era and whose total service was for 90 days or more.

(B) Each veteran who after September 15, 1940, was discharged or released from a period of active duty for a service-connected disability.

(C) Each veteran, other than a veteran described in clause (A) or (B) of this paragraph, who -

(i) served after July 25, 1947, for a period of more than 180 days and was discharged or released therefrom under conditions other than dishonorable; or

(ii) has served more than 180 days in active duty status and continues on active duty without a break therein.

(D) Each veteran who served on active duty for 90 days or more at any time during the Persian Gulf War, other than a veteran ineligible for benefits under this title by reason of section 5303A(b) of this title.

(E) Each veteran described in section 3701(b)(5) of this title.

(F) Each veteran who was discharged or released from a period of active duty of 90 days or more by reason of a sole survivorship discharge (as that term is defined in section 1174(i) of title 10).

(3) Any unused entitlement of World War II or Korean conflict veterans which expired under provisions of law in effect before October 23, 1970, is hereby restored and shall not expire until used.

(4) A veteran's entitlement under this chapter shall not be reduced by any entitlement used by the veteran's spouse which was based upon the provisions of paragraph (3) of section 3701(b) of this title.

(b) In computing the aggregate amount of guaranty or insurance housing loan entitlement available to a veteran under this chapter, the Secretary may exclude the amount of guaranty or insurance housing loan entitlement used for any guaranteed, insured, or direct loan under the following circumstances:

(1)(A) The property which secured the loan has been disposed of by the veteran or has been destroyed by fire or other natural hazard; and

(B) the loan has been repaid in full, or the Secretary has been released from liability as to the loan, or if the Secretary has suffered a loss on such loan, the loss has been paid in full.

(2) A veteran-transferee has agreed to assume the outstanding balance on the loan and consented to the use of the veteran-transferee's entitlement, to the extent that the entitlement of the veteran-transferor had been used originally, in place of the veteran-transferor's for the guaranteed, insured, or direct loan, and the veteran-transferee otherwise meets the requirements of this chapter.

(3)(A) The loan has been repaid in full; and

(B) the loan for which the veteran seeks to use entitlement under this chapter is secured by the same property which secured the loan referred to in subparagraph (A) of this paragraph.

(4) In a case not covered by paragraph (1) or (2) -

(A) the loan has been repaid in full and, if the Secretary has suffered a loss on the loan, the loss has been paid in full; or

(B) the Secretary has been released from liability as to the loan and, if the Secretary has suffered a loss on the loan, the loss has been paid in full.

The Secretary may, in any case involving circumstances the Secretary deems appropriate, waive one or more of the conditions prescribed in paragraph (1). The authority of the Secretary under this subsection to exclude an amount of guaranty or insurance housing loan entitlement previously used by a veteran may be exercised only once for that veteran under the authority of paragraph (4).

(c) An honorable discharge shall be deemed to be a certificate of eligibility to apply for a guaranteed loan. Any veteran who does not have a discharge certificate, or who received a discharge other than honorable, may apply to the Secretary for a certificate of eligibility. Upon making a loan guaranteed or insured under this chapter, the lender shall forthwith transmit to the Secretary a

report thereon in such detail as the Secretary may, from time to time, prescribe. Where the loan is guaranteed, the Secretary shall provide the lender with a loan guaranty certificate or other evidence of the guaranty. The Secretary shall also endorse on the veteran's discharge, or eligibility certificate, the amount and type of guaranty used, and the amount, if any, remaining. Nothing in this chapter shall preclude the assignment of any guaranteed loan or the security therefor.

(d) Housing loans will be automatically guaranteed under this chapter only if made (1) by any Federal land bank, national bank, State bank, private bank, building and loan association, insurance company, credit union, or mortgage and loan company, that is subject to examination and supervision by an agency of the United States or of any State, or (2) by any State, or (3) by any lender approved by the Secretary pursuant to standards established by the Secretary. Any housing loan proposed to be made to a veteran pursuant to this chapter by any lender not of a class specified in the preceding sentence may be guaranteed by the Secretary if the Secretary finds that it is in accord otherwise with the provisions of this chapter.

(e) The Secretary may at any time upon thirty days' notice require housing loans to be made by any lender or class of lenders to be submitted to the Secretary for prior approval. No guaranty or insurance liability shall exist with respect to any such loan unless evidence of guaranty or insurance is issued by the Secretary.

(f) Any housing loan at least 20 percent of which is guaranteed under this chapter may be made by any national bank or Federal savings and loan association, or by any bank, trust company, building and loan association, or insurance company, organized or authorized to do business in the District of Columbia. Any such loan may be so made without regard to the limitations and restrictions of any other law relating to -

- (1) ratio of amount of loan to the value of the property;
- (2) maturity of loan;
- (3) requirement for mortgage or other security;
- (4) dignity of lien; or
- (5) percentage of assets which may be invested in real estate loans.

-SOURCE-

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1203, Sec. 1802; Pub. L. 86-73, Sec. 1, June 30, 1959, 73 Stat. 156; Pub. L. 87-84, Sec. 1(b), July 6, 1961, 75 Stat. 201; Pub. L. 90-19, Sec. 25(1), May 25, 1967, 81 Stat. 28; Pub. L. 90-77, title IV, Sec. 403(a), Aug. 31, 1967, 81 Stat. 190; Pub. L. 91-506, Sec. 2(a), Oct. 23, 1970, 84 Stat. 1108; Pub. L. 91-584, Sec. 5(b), Dec. 24, 1970, 84 Stat. 1576; Pub. L. 93-569, Sec. 2(a), (b), Dec. 31, 1974, 88 Stat. 1863; Pub. L. 94-324, Sec. 7(3)-(5), June 30, 1976, 90 Stat. 721; Pub. L. 95-476, title I, Sec. 102, Oct. 18, 1978, 92 Stat. 1497; Pub. L. 97-72, title III, Sec. 303(b), Nov. 3, 1981, 95 Stat. 1060; Pub. L. 97-295, Sec. 4(61), Oct. 12, 1982, 96 Stat. 1309; Pub. L. 98-223, title II, Sec. 204, Mar. 2, 1984, 98 Stat. 42; Pub. L. 100-322, title IV, Sec. 415(a)(1), (2), May 20, 1988, 102 Stat. 549, 550; Pub. L. 101-237, title III, Secs. 310, 313(b)(1), Dec. 18, 1989, 103 Stat. 2075, 2077; Pub. L. 102-25, title III, Sec. 341, Apr. 6, 1991, 105 Stat. 92; Pub. L. 102-40, title IV, Sec. 402(d)(1), May 7, 1991, 105 Stat. 239; renumbered Sec. 3702 and amended Pub. L. 102-83, Sec. 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-547, Sec. 2(a)(2), Oct. 28, 1992, 106 Stat. 3633; Pub. L. 103-446, title IX, Sec. 902, title XII, Sec. 1201(f)(4), Nov. 2, 1994, 108

Stat. 4676, 4687; Pub. L. 105-368, title VI, Sec. 603(a), Nov. 11, 1998, 112 Stat. 3348; Pub. L. 106-117, title VII, Sec. 711, Nov. 30, 1999, 113 Stat. 1584; Pub. L. 107-103, title IV, Sec. 405(a), Dec. 27, 2001, 115 Stat. 993; Pub. L. 108-183, title IV, Sec. 403, Dec. 16, 2003, 117 Stat. 2664; Pub. L. 110-317, Sec. 6(a), Aug. 29, 2008, 122 Stat. 3528.)

-MISC1-

AMENDMENTS

2008 - Subsec. (a)(2)(F). Pub. L. 110-317 added subpar. (F).

2003 - Subsec. (a)(2)(E). Pub. L. 108-183 substituted "Each" for "For the period beginning on October 28, 1992, and ending on September 30, 2009, each".

2001 - Subsec. (a)(2)(E). Pub. L. 107-103 substituted "September 30, 2009" for "September 30, 2007".

1999 - Subsec. (a)(2)(E). Pub. L. 106-117 substituted "September 30, 2007" for "September 30, 2003".

1998 - Subsec. (a)(2)(E). Pub. L. 105-368 substituted "September 30, 2003" for "October 27, 1999".

1994 - Subsec. (a)(2)(E). Pub. L. 103-446, Sec. 1201(f)(4), substituted "For the period beginning on October 28, 1992, and ending on October 27, 1999," for "For the 7-year period beginning on the date of enactment of this subparagraph,".

Subsec. (b). Pub. L. 103-446, Sec. 902(1), (6), (7), in introductory provisions, substituted "loan under the following circumstances:" for "loan, if - ", and in concluding provisions, substituted "paragraph (1)" for "clause (1) of the preceding sentence" and inserted at end "The authority of the Secretary under this subsection to exclude an amount of guaranty or insurance housing loan entitlement previously used by a veteran may be exercised only once for that veteran under the authority of paragraph (4)."

Subsec. (b)(1). Pub. L. 103-446, Sec. 902(2), substituted "The property" for "the property" in subpar. (A) and a period for the semicolon at end of subpar. (B).

Subsec. (b)(2). Pub. L. 103-446, Sec. 902(3), substituted "A veteran-transferee" for "a veteran-transferee" and a period for "; or" at end.

Subsec. (b)(3)(A). Pub. L. 103-446, Sec. 902(4), substituted "The loan" for "the loan".

Subsec. (b)(4). Pub. L. 103-446, Sec. 902(5), added par. (4).

1992 - Subsec. (a)(2)(E). Pub. L. 102-547 added subpar. (E).

1991 - Pub. L. 102-83, Sec. 5(a), renumbered section 1802 of this title as this section.

Subsec. (a)(2)(D). Pub. L. 102-40 substituted "5303A(b)" for "3103A(b)".

Pub. L. 102-25 added subpar. (D).

Subsec. (a)(4). Pub. L. 102-83, Sec. 5(c)(1), substituted "3701(b)" for "1801(b)".

1989 - Subsecs. (a)(1)(ii), (b). Pub. L. 101-237, Sec. 313(b)(1), substituted "Secretary" for "Administrator" wherever appearing.

Subsec. (b)(3). Pub. L. 101-237, Sec. 310, added par. (3).

Subsecs. (c) to (e). Pub. L. 101-237, Sec. 313(b)(1), substituted "Secretary" for "Administrator" wherever appearing.

1988 - Subsec. (a)(1). Pub. L. 100-322, Sec. 415(a)(1)(A)-(E), designated existing provisions as par. (1), substituted "The veterans described in paragraph (2) of this subsection are eligible for the housing loan benefits of this chapter" for "Each veteran who served on active duty at any time during World War II, the Korean conflict, or the Vietnam era and whose total service was for

ninety days or more, or who was discharged or released from a period of active duty, any part of which occurred during World War II, the Korean conflict, or the Vietnam era, for a service-connected disability, shall be eligible for the housing loan benefits of this chapter", substituted "in paragraph (2)" for "in the preceding sentence, or in section 1818 of this title," and redesignated former cls. (1) and (2) as cls. (A) and (B), respectively, and former cls. (A) and (B) as subcls. (i) and (ii), respectively.

Subsec. (a)(2), (3). Pub. L. 100-322, Sec. 415(a)(1)(F), added pars. (2) and (3).

Subsec. (a)(4). Pub. L. 100-322, Sec. 415(a)(2), redesignated subsec. (g) as (a)(4) and substituted "1801(b)" for "1801(a)".

Subsec. (g). Pub. L. 100-322, Sec. 415(a)(2)(B), redesignated subsec. (g) as (a)(4).

1984 - Subsec. (b)(2). Pub. L. 98-223 substituted "a" for "an immediate".

1982 - Subsec. (f). Pub. L. 97-295 substituted "percent" for "per centum".

1981 - Subsec. (a). Pub. L. 97-72, Sec. 303(b)(1), (2), substituted "the housing loan benefits" for "the benefits" in two places and "insured housing loan" for "insured loan".

Subsec. (b). Pub. L. 97-72, Sec. 303(b)(3), substituted "insurance housing loan entitlement" for "insurance entitlement" in two places.

Subsec. (d). Pub. L. 97-72, Sec. 303(b)(4), (5), substituted "Housing loans will be automatically guaranteed" for "Loans will be automatically guaranteed" and "Any housing loan proposed" for "Any loan proposed".

Subsec. (e). Pub. L. 97-72, Sec. 303(b)(6), substituted "require housing loans" for "require loans".

Subsec. (f). Pub. L. 97-72, Sec. 303(b)(7), substituted "Any housing loan at least" for "Any loan at least".

1978 - Subsec. (a). Pub. L. 95-476, Sec. 102(a), inserted provisions entitling Vietnam era veterans to the benefits of this chapter and including such veterans in the cancellation of unused entitlement derived from earlier service and the reduction of current entitlement provisions of this subsection.

Subsec. (b). Pub. L. 95-476, Sec. 102(b), redesignated cl. (1) as (1)(A), cl. (2) as (B), cl. (3) as (2), and struck out reference to cl. (2) in provision authorizing the Administrator to waive certain conditions prescribed in this subsection.

1976 - Subsec. (b). Pub. L. 94-324, Sec. 7(3), substituted "the Administrator deems" for "he deems" and "the veteran-transferee's entitlement" for "his entitlement".

Subsec. (c). Pub. L. 94-324, Sec. 7(4), substituted "The Administrator" for "He".

Subsec. (d). Pub. L. 94-324, Sec. 7(4), substituted "the Administrator" for "him" and "he".

Subsec. (e). Pub. L. 94-324, Sec. 7(5), substituted "the Administrator" for "him" in first sentence.

Subsec. (g). Pub. L. 94-324, Sec. 7(5), substituted "the veteran's spouse" for "his wife".

1974 - Subsec. (b). Pub. L. 93-569, Sec. 2(a), expanded provisions so as to permit restoration of a veteran's entitlement to a guaranteed, insured, or direct loan provided any prior loan has been paid in full, and the property has been disposed of by the veteran, or any immediate veteran-transferee has agreed to the use of his veteran's entitlement.

Subsec. (d)(3). Pub. L. 93-569, Sec. 2(b), substituted provisions relating to any lender approved by Administrator pursuant to

standards established by him, for provisions relating to approval of mortgagees by Secretary of Housing and Urban Development and designated by him as certified agent.

1970 - Subsec. (b). Pub. L. 91-506 struck out loan eligibility expiration dates for World War II and Korean conflict veterans.

Subsec. (g). Pub. L. 91-584 added subsec. (g).

1967 - Subsec. (b). Pub. L. 90-77 extended loan program for certain World War II veterans from July 26, 1967 to July 26, 1970.

Subsec. (d). Pub. L. 90-19 substituted "mortgagee approved by the Secretary of Housing and Urban Development and designated by him" for "Federal Housing Administration approved mortgagee designated by the Federal Housing Commissioner".

1961 - Subsec. (b). Pub. L. 87-84 substituted in last sentence "by a World War II veteran at any time before July 26, 1967, and by a Korean conflict veteran at any time before February 1, 1975" for "at any time before February 1, 1965".

1959 - Subsec. (d)(3). Pub. L. 86-73 added cl. (3).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-317 applicable with respect to any sole survivorship discharge granted after Sept. 11, 2001, see section 10 of Pub. L. 110-317, set out as a note under section 2108 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-368 effective Oct. 1, 1998, see section 602(f) of Pub. L. 105-368, set out as a note under section 2106 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-72 effective at end of 180-day period beginning on Nov. 3, 1981, see section 305 of Pub. L. 97-72, set out as an Effective Date note under section 3741 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 108 of title I of Pub. L. 95-476 provided that:

"(a) Except as provided in subsection (b) of this section, the amendments made by this title [see Tables for classification] shall take effect on October 1, 1978.

"(b) The amendment made by clause (1) of section 104 of this title [amending section 1810 [now 3710] shall take effect on July 1, 1979, except with respect to the authority to prescribe regulations for the implementation of such amendment, which shall be effective on the date of the enactment of this Act [Oct. 18, 1978]."

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-324 effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as a note under section 3701 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 10 of Pub. L. 93-569 provided that: "The provisions of this Act [see Tables for classification] shall become effective on the date of enactment [Dec. 31, 1974] except that the amendments made by sections 2(a)(3) [amending section 1802 [now 3702] of this title] and 2(b) [amending section 1802 [now 3702] of this title] and section 3(2) [amending section 1810 [now 3710] of this title] and 3(4) [amending section 1810 [now 3710] of this title] shall become effective ninety days after such date of enactment [Dec. 31, 1974]."

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-77 effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as a note under section 101 of this title.

ANNUAL REPORTS ON VETERANS RECEIVING GUARANTEED MORTGAGE LOANS AS RESULT OF AMENDMENTS BY PUB. L. 102-547

Section 2(c) of Pub. L. 102-547 directed Secretary of Veterans Affairs to transmit report on selected reserve veterans receiving guaranteed mortgage loans to Committees on Veterans' Affairs of Senate and House of Representatives no later than Dec. 31, 1994, and annually thereafter, prior to repeal by Pub. L. 104-110, title II, Sec. 201(b), Feb. 13, 1996, 110 Stat. 770.

REFERENCES IN OTHER LAWS

Section 415(c)(7) of Pub. L. 100-322 provided that: "Any reference, in effect on the date of the enactment of this Act [May 20, 1988], in any law, rule, or regulation to any of the sections, or parts thereof, which are redesignated or transferred by this section [sections 1802(a), (g), 1815, 1816(a) to (c), 1816(d) to (f), 1817, 1817A, 1819, and 1832 of this title were redesignated as sections 1802(a)(1), (4), 1803(a)(2), 1832(a) to (c), 1833(a) to (c), 1813, 1814, 1812, and 1833(d) [now 3702(a)(1), (4), 3703(a)(2), 3732(a) to (c), 3733(a) to (c), 3713, 3714, 3712, and 3733(d)], respectively, of this title] shall be construed to refer to the section, or part thereof, as redesignated or transferred by this section."

TECHNICAL NATURE OF 1986 AMENDMENTS

Section 415(f) of Pub. L. 100-322 provided that: "The status of any veteran with respect to benefits under chapter 37 of title 38, United States Code, shall not be affected by the amendments made by, or other provisions of, this section [see Tables for classification]."

-End-

-CITE-

38 USC Sec. 3703

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER I - GENERAL

-HEAD-

Sec. 3703. Basic provisions relating to loan guaranty and insurance

-STATUTE-

(a)(1)(A) Any loan to a veteran eligible for benefits under this chapter, if made for any of the purposes specified in section 3710 of this title and in compliance with the provisions of this chapter, is automatically guaranteed by the United States in an amount not to exceed the lesser of -

(i)(I) in the case of any loan of not more than \$45,000, 50 percent of the loan;

(II) in the case of any loan of more than \$45,000, but not more than \$56,250, \$22,500;

(III) except as provided in subclause (IV) of this clause, in the case of any loan of more than \$56,250, the lesser of \$36,000 or 40 percent of the loan; or

(IV) in the case of any loan of more than \$144,000 for a purpose specified in clause (1), (2), (3), (5), (6), or (8) of section 3710(a) of this title, the lesser of the maximum guaranty amount (as defined in subparagraph (C)) or 25 percent of the loan; or

(ii) the maximum amount of guaranty entitlement available to the veteran as specified in subparagraph (B) of this paragraph.

(B) The maximum amount of guaranty entitlement available to a veteran for purposes specified in section 3710 of this title shall be \$36,000, or in the case of a loan described in subparagraph (A)(i)(IV) of this paragraph, the maximum guaranty amount (as defined in subparagraph (C)), reduced by the amount of entitlement previously used by the veteran under this chapter and not restored as a result of the exclusion in section 3702(b) of this title.

(C) In this paragraph, the term "maximum guaranty amount" means the dollar amount that is equal to 25 percent of the Freddie Mac conforming loan limit limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) for a single-family residence, as adjusted for the year involved.

(2)(A) Any housing loan which might be guaranteed under the provisions of this chapter, when made or purchased by any financial institution subject to examination and supervision by any agency of the United States or of any State may, in lieu of such guaranty, be insured by the Secretary under an agreement whereby the Secretary will reimburse any such institution for losses incurred on such loan up to 15 per centum of the aggregate of loans so made or purchased by it.

(B) Loans insured under this section shall be made on such other terms, conditions, and restrictions as the Secretary may prescribe within the limitations set forth in this chapter.

(b) The liability of the United States under any guaranty, within the limitations of this chapter, shall decrease or increase pro rata with any decrease or increase of the amount of the unpaid portion of the obligation.

(c)(1) Loans guaranteed or insured under this chapter shall be payable upon such terms and conditions as may be agreed upon by the parties thereto, subject to the provisions of this chapter and regulations of the Secretary issued pursuant to this chapter, and shall bear interest not in excess of such rate as the Secretary may from time to time find the loan market demands, except that in establishing the rate of interest that shall be applicable to such loans, the Secretary shall consult with the Secretary of Housing and Urban Development regarding the rate of interest applicable to home loans insured under section 203(b) of the National Housing Act (12 U.S.C. 1709(b)). In establishing rates of interest under this paragraph for one or more of the purposes described in clauses (4) and (7) of section 3710(a) of this title, the Secretary may establish a rate or rates higher than the rate specified for other purposes under such section, but any such rate may not exceed such rate as the Secretary may from time to time find the loan market demands for loans for such purposes.

(2) The provisions of the Servicemen's Readjustment Act of 1944 which were in effect before April 1, 1958, with respect to the interest chargeable on loans made or guaranteed under such Act

shall, notwithstanding the provisions of paragraph (1) of this subsection, continue to be applicable -

- (A) to any loan made or guaranteed before April 1, 1958; and
- (B) to any loan with respect to which a commitment to guarantee was entered into by the Secretary before April 1, 1958.

(3) This section shall not be construed to prohibit a veteran from paying to a lender any reasonable discount required by such lender, when the proceeds from the loan are to be used -

- (A) to refinance indebtedness pursuant to clause (5), (8), or (9)(B)(i) of section 3710(a) of this title or section 3712(a)(1)(F) of this title;
- (B) to repair, alter, or improve a farm residence or other dwelling pursuant to clauses (4) and (7) of section 3710(a) of this title;
- (C) to construct a dwelling or farm residence on land already owned or to be acquired by the veteran except where the land is directly or indirectly acquired from a builder or developer who has contracted to construct such dwelling for the veteran;
- (D) to purchase a dwelling from a class of sellers which the Secretary determines are legally precluded under all circumstances from paying such a discount if the best interest of the veteran would be so served; or
- (E) to refinance indebtedness and purchase a manufactured-home lot pursuant to section 3710(a)(9)(B)(ii) or 3712(a)(1)(G) of this title, but only with respect to that portion of the loan used to refinance such indebtedness.

(4)(A) In guaranteeing or insuring loans under this chapter, the Secretary may elect whether to require that such loans bear interest at a rate that is -

- (i) agreed upon by the veteran and the mortgagee; or
- (ii) established under paragraph (1).

The Secretary may, from time to time, change the election under this subparagraph.

(B) Any veteran, under a loan described in subparagraph (A)(i), may pay reasonable discount points in connection with the loan. Except in the case of a loan for the purpose specified in section 3710(a)(8), 3710(b)(7), or 3712(a)(1)(F) of this title, discount points may not be financed as part of the principal amount of a loan guaranteed or insured under this chapter.

(C) Not later than 10 days after an election under subparagraph (A), the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a notification of the election, together with an explanation of the reasons therefor.

(d)(1) The maturity of any housing loan at the time of origination shall not be more than thirty years and thirty-two days.

(2)(A) Any loan for a term of more than five years shall be amortized in accordance with established procedure.

(B) The Secretary may guarantee loans with provisions for various rates of amortization corresponding to anticipated variations in family income. With respect to any loan guaranteed under this subparagraph -

- (i) the initial principal amount of the loan may not exceed the reasonable value of the property as of the time the loan is made; and
- (ii) the principal amount of the loan thereafter (including the amount of all interest to be deferred and added to principal) may

not at any time be scheduled to exceed the projected value of the property.

(C) For the purposes of subparagraph (B) of this paragraph, the projected value of the property shall be calculated by the Secretary by increasing the reasonable value of the property as of the time the loan is made at a rate not in excess of 2.5 percent per year, but in no event may the projected value of the property for the purposes of such subparagraph exceed 115 percent of such reasonable value. A loan made for a purpose other than the acquisition of a single-family dwelling unit may not be guaranteed under such subparagraph.

(3) Any real estate housing loan (other than for repairs, alterations, or improvements) shall be secured by a first lien on the realty. In determining whether a loan for the purchase or construction of a home is so secured, the Secretary may disregard a superior lien created by a duly recorded covenant running with the realty in favor of a private entity to secure an obligation to such entity for the homeowner's share of the costs of the management, operation, or maintenance of property, services or programs within and for the benefit of the development or community in which the veteran's realty is located, if the Secretary determines that the interests of the veteran borrower and of the Government will not be prejudiced by the operation of such covenant. In respect to any such superior lien to be created after June 6, 1969, the Secretary's determination must have been made prior to the recordation of the covenant.

(e)(1) Except as provided in paragraph (2) of this subsection, an individual who pays a fee under section 3729 of this title, or who is exempted under section 3729(c) of this title from paying such fee, with respect to a housing loan guaranteed or insured under this chapter that is closed after December 31, 1989, shall have no liability to the Secretary with respect to the loan for any loss resulting from any default of such individual except in the case of fraud, misrepresentation, or bad faith by such individual in obtaining the loan or in connection with the loan default.

(2) The exemption from liability provided by paragraph (1) of this subsection shall not apply to -

(A) an individual from whom a fee is collected (or who is exempted from such fee) under section 3729(b)(2)(I) of this title; or

(B) a loan made for any purpose specified in section 3712 of this title.

(f) The application for or obtaining of a loan made, insured, or guaranteed under this chapter shall not be subject to reporting requirements applicable to requests for, or receipts of, Federal contracts, grants, loans, loan guarantees, loan insurance, or cooperative agreements except to the extent that such requirements are provided for in, or by the Secretary pursuant to, this title.

-SOURCE-

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1205, 1212, Sec. 1803; Pub. L. 86-73, Sec. 2, June 30, 1959, 73 Stat. 156; Pub. L. 86-665, Sec. 1, July 14, 1960, 74 Stat. 531; Pub. L. 87-84, Sec. 1(a), July 6, 1961, 75 Stat. 201; Pub. L. 89-358, Sec. 5(d), Mar. 3, 1966, 80 Stat. 26; Pub. L. 90-77, title IV, Sec. 403(b), Aug. 31, 1967, 81 Stat. 190; Pub. L. 91-22, Sec. 4, June 6, 1969, 83 Stat. 32; Pub. L. 91-506, Sec. 2(b), (c), Oct. 23, 1970, 84 Stat. 1108; Pub. L. 93-75, July 26, 1973, 87 Stat. 176; Pub. L. 93-569, Secs. 2(c), 8(1)-(5), Dec. 31, 1974, 88 Stat. 1863, 1866; Pub. L. 94-324, Sec.

7(6), (16), June 30, 1976, 90 Stat. 721; Pub. L. 95-476, title I, Sec. 103, Oct. 18, 1978, 92 Stat. 1498; Pub. L. 96-385, title IV, Sec. 401(c)(1), Oct. 7, 1980, 94 Stat. 1533; Pub. L. 97-66, title V, Sec. 501(a), Oct. 17, 1981, 95 Stat. 1031; Pub. L. 97-72, title III, Sec. 303(c), (e), Nov. 3, 1981, 95 Stat. 1060; Pub. L. 97-295, Sec. 4(61), (63), Oct. 12, 1982, 96 Stat. 1309; Pub. L. 97-306, title IV, Sec. 406(b), Oct. 14, 1982, 96 Stat. 1444; Pub. L. 98-223, title II, Sec. 205(c), Mar. 2, 1984, 98 Stat. 43; Pub. L. 100-198, Sec. 3(a)(1), Dec. 21, 1987, 101 Stat. 1315; Pub. L. 100-253, Sec. 3(a), Feb. 29, 1988, 102 Stat. 20; Pub. L. 100-322, title IV, Sec. 415(a)(3), (c)(2), (d)(1), May 20, 1988, 102 Stat. 550-552; Pub. L. 101-237, title III, Secs. 304(a), 306(a), 313(b)(1), (6), Dec. 18, 1989, 103 Stat. 2073, 2074, 2077; Pub. L. 102-54, Secs. 4(b), 6, June 13, 1991, 105 Stat. 268; renumbered Sec. 3703 and amended Pub. L. 102-83, Sec. 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-547, Sec. 10(a), Oct. 28, 1992, 106 Stat. 3643; Pub. L. 103-78, Sec. 6, Aug. 13, 1993, 107 Stat. 769; Pub. L. 103-353, Sec. 7, Oct. 13, 1994, 108 Stat. 3175; Pub. L. 104-110, title I, Sec. 101(d), Feb. 13, 1996, 110 Stat. 768; Pub. L. 105-368, title VI, Sec. 602(e)(1)(A), Nov. 11, 1998, 112 Stat. 3346; Pub. L. 107-103, title IV, Sec. 401, Dec. 27, 2001, 115 Stat. 993; Pub. L. 107-330, title III, Sec. 308(f)(1), Dec. 6, 2002, 116 Stat. 2828; Pub. L. 108-454, title IV, Sec. 403, Dec. 10, 2004, 118 Stat. 3616; Pub. L. 110-389, title V, Sec. 504(a), Oct. 10, 2008, 122 Stat. 4176; Pub. L. 111-22, div. A, title I, Sec. 102(a), May 20, 2009, 123 Stat. 1636.)

-REFTEXT-

REFERENCES IN TEXT

The Servicemen's Readjustment Act of 1944, referred to in subsec. (c)(2), is act June 22, 1944, ch. 268, 58 Stat. 284, as amended, which was classified generally to chapter 11C (Secs. 693 to 697g) of former Title 38, Pensions, Bonuses, and Veterans' Relief, which was repealed upon the enactment of Title 38, Veterans' Benefits, by Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1105. For distribution of sections 693 to 697g of former Title 38 in this title, see Table preceding section 101 of this title.

-MISC1-

AMENDMENTS

2009 - Subsec. (d)(1). Pub. L. 111-22 inserted "at the time of origination" after "loan".

2008 - Subsec. (a)(1)(A)(i)(IV). Pub. L. 110-389 inserted "(5)," after "(3),".

2004 - Subsec. (a)(1)(A)(i)(IV), (B). Pub. L. 108-454, Sec. 403(a), substituted "the maximum guaranty amount (as defined in subparagraph (C))" for "\$60,000".

Subsec. (a)(1)(C). Pub. L. 108-454, Sec. 403(b), added subpar. (C).

2002 - Subsec. (e)(2)(A). Pub. L. 107-330 substituted "3729(b)(2)(I)" for "3729(b)".

2001 - Subsec. (a)(1)(A)(i)(IV), (B). Pub. L. 107-103 substituted "\$60,000" for "\$50,750".

1998 - Subsec. (e)(1). Pub. L. 105-368 substituted "3729(c)" for "3729(c)(1)".

1996 - Subsec. (c)(4)(D). Pub. L. 104-110 struck out subpar. (D) which read as follows: "This paragraph shall expire on December 31, 1995."

1994 - Subsec. (a)(1)(A)(i)(IV), (B). Pub. L. 103-353 substituted "\$50,750" for "\$46,000".

1993 - Subsec. (c)(4)(B). Pub. L. 103-78 in second sentence substituted "Except in the case of a loan for the purpose specified in section 3710(a)(8), 3710(b)(7), or 3712(a)(1)(F) of this title, discount" for "Discount".

1992 - Subsec. (c)(1). Pub. L. 102-547, Sec. 10(a)(1), in first sentence substituted "applicable to" for "the Secretary of Housing and Urban Development considers necessary to meet the mortgage market for" and struck out ", and, to the maximum extent practicable, carry out a coordinated policy on interest rates on loans insured under such section 203(b) and on loans guaranteed or insured under this chapter" after "(12 U.S.C. 1709(b))".

Subsec. (c)(4). Pub. L. 102-547, Sec. 10(a)(2), added par. (4).

1991 - Pub. L. 102-83, Sec. 5(a), renumbered section 1803 of this title as this section.

Subsec. (a)(1)(A). Pub. L. 102-83, Sec. 5(c)(1), substituted "3710" for "1810" in introductory provisions.

Subsec. (a)(1)(A)(i)(III). Pub. L. 102-54, Sec. 6(1), inserted "except as provided in subclause (IV) of this clause," after "(III)" and struck out "but not more than \$144,000," after "\$56,250,".

Subsec. (a)(1)(A)(i)(IV). Pub. L. 102-83, Sec. 5(c)(1), substituted "3710(a)" for "1810(a)".

Pub. L. 102-54, Sec. 6(2), substituted "(6), or (8)" for "or (6)".

Subsec. (a)(1)(B). Pub. L. 102-83, Sec. 5(c)(1), substituted "3710" for "1810" and "3702(b)" for "1802(b)".

Subsec. (c)(1). Pub. L. 102-83, Sec. 5(c)(1), substituted "3710(a)" for "1810(a)".

Subsec. (c)(3). Pub. L. 102-83, Sec. 5(c)(1), substituted "3710(a)" for "1810(a)" and "3712(a)(1)(F)" for "1812(a)(1)(F)" in subpar. (A), "3710(a)" for "1810(a)" in subpar. (B), and "3710(a)(9)(B)(ii) or 3712(a)(1)(G)" for "1810(a)(9)(B)(ii) or 1812(a)(1)(G)" in subpar. (E).

Subsec. (e)(1). Pub. L. 102-83, Sec. 5(c)(1), substituted "3729" for "1829" and "3729(c)(1)" for "1829(c)(1)".

Subsec. (e)(2). Pub. L. 102-83, Sec. 5(c)(1), substituted "3729(b)" for "1829(b)" in subpar. (A) and "3712" for "1812" in subpar. (B).

Subsec. (f). Pub. L. 102-54, Sec. 4(b), added subsec. (f).

1989 - Subsec. (a)(1)(A)(i). Pub. L. 101-237, Sec. 306(a)(1), added subcls. (II) to (IV) and struck out former subcl. (II) which read as follows: "in the case of any loan of more than \$45,000, the lesser of \$36,000 or 40 percent of the loan, except that the amount of such guaranty for any such loan shall not be less than \$22,500; or".

Subsec. (a)(1)(B). Pub. L. 101-237, Sec. 306(a)(2), inserted ", or in the case of a loan described in subparagraph (A)(i)(IV) of this paragraph, \$46,000," after "\$36,000".

Subsec. (a)(2). Pub. L. 101-237, Sec. 313(b)(1), substituted "Secretary" for "Administrator" wherever appearing.

Subsec. (c)(1). Pub. L. 101-237, Sec. 313(b)(6), substituted "Secretary of Housing and Urban Development considers" for "Secretary considers".

Pub. L. 101-237, Sec. 313(b)(1), substituted "Secretary" for "Administrator" wherever appearing.

Subsec. (c)(2)(B), (3)(D). Pub. L. 101-237, Sec. 313(b)(1), substituted "Secretary" for "Administrator".

Subsec. (d)(2)(B), (C), (3). Pub. L. 101-237, Sec. 313(b)(1), substituted "Secretary" and "Secretary's" for "Administrator" and "Administrator's", respectively, wherever appearing.

Subsec. (e). Pub. L. 101-237, Sec. 304(a), added subsec. (e).

1988 - Pub. L. 100-322, Sec. 415(a)(3)(B), inserted "and insurance" in section catchline.

Subsec. (a)(1). Pub. L. 100-322, Sec. 415(d)(1), inserted "as specified in subparagraph (B) of this paragraph" before period at end of cl. (A)(ii) and substituted "for purposes specified in section 1810 of this title" for "under section 1810 of this chapter" in cl. (B).

Pub. L. 100-253 amended par. (1) generally. Prior to amendment, par. (1) read as follows: "Any loan to a veteran eligible for benefits under this chapter, if made for any of the purposes specified in section 1810 of this title and in compliance with the provisions of this chapter, is automatically guaranteed by the United States in an amount not to exceed -

"(A) in the case of any loan of not more than \$45,000, 50 percent of the loan; or

"(B) in the case of any loan of more than \$45,000, 40 percent of the loan or \$36,000, whichever is less, except that the amount of such guaranty for any such loan shall not be less than \$22,500;

reduced by the amount of entitlement previously used by the veteran under this chapter and not restored as a result of the exclusion in section 1802(b) of this title."

Subsec. (a)(2). Pub. L. 100-322, Sec. 415(a)(3)(A)(ii), (iii), (B)(ii), redesignated subsecs. (a) and (b) of section 1815 of this title as subpars. (A) and (B), respectively, of par. (2) of subsec. (a) of this section and struck out former par. (2) which read as follows: "Any unused entitlement of World War II or Korean conflict veterans which expired under provisions of law in effect before October 23, 1970, is hereby restored and shall not expire until used."

Subsec. (c)(3)(A). Pub. L. 100-322, Sec. 415(c)(2)(A), substituted "1812(a)(1)(F)" for "1819(a)(1)(F)".

Subsec. (c)(3)(E). Pub. L. 100-322, Sec. 415(c)(2)(B), substituted "1812(a)(1)(G)" for "1819(a)(1)(G)".

1987 - Subsec. (a)(1). Pub. L. 100-198 amended par. (1) generally. Prior to amendment, par. (1) read as follows: "Any loan to a veteran eligible for benefits under this chapter, if made for any of the purposes, and in compliance with the provisions, specified in this chapter is automatically guaranteed by the United States in an amount not more than 60 percent of the loan if the loan is made for any of the purposes specified in section 1810 of this title."

1984 - Subsec. (c)(3)(A). Pub. L. 98-223, Sec. 205(c)(1), substituted ", (8), or (9)(B)(i)" for "or (8)".

Subsec. (c)(3)(E). Pub. L. 98-223, Sec. 205(c)(2), inserted "1810(a)(9)(B)(ii) or" after "section".

1982 - Subsec. (a)(1). Pub. L. 97-295, Sec. 4(61), substituted "percent" for "per centum".

Subsec. (a)(2). Pub. L. 97-295, Sec. 4(63)(A), substituted "before October 23, 1970," for "prior to the date of enactment of the Veterans' Housing Act of 1970".

Subsec. (c)(1). Pub. L. 97-295, Sec. 4(63)(B), inserted "(12 U.S.C. 1709(b))" after "the National Housing Act".

Subsec. (c)(3). Pub. L. 97-306, Sec. 406(b)(1), substituted "used - " for "used:". Notwithstanding that Pub. L. 97-306 directed amendment be made in provisions preceding cl. (1), amendment was executed in provisions preceding cl. (A) as the probable intent of Congress in view of the absence of a cl. (1) in subsec. (c)(3).

Subsec. (c)(3)(E). Pub. L. 97-306, Sec. 406(b)(2)-(4), added cl. (E).

Subsec. (d)(3). Pub. L. 97-295, Sec. 4(63)(C), substituted "June

6, 1969" for "the effective date of this amendment".

1981 - Subsec. (a)(2)(A) [formerly Sec. 1815(a)]. Pub. L. 97-72, Sec. 303(e), substituted "Any housing loan" for "Any loan". See 1988 Amendment note above.

Subsec. (d)(1). Pub. L. 97-72, Sec. 303(c)(1), substituted "any housing loan" for "any loan".

Subsec. (d)(2). Pub. L. 97-66 designated existing provisions as subpar. (A) and added subpars. (B) and (C).

Subsec. (d)(3). Pub. L. 97-72, Sec. 303(c)(2), substituted "Any real estate housing loan" for "Any real estate loan".

1980 - Subsec. (c)(3)(A). Pub. L. 96-385 substituted "clause (5) or (8) of section 1810(a) of this title or section 1819(a)(1)(F) of this title" for "section 1810(a)(5)".

1978 - Subsec. (a)(1). Pub. L. 95-476, Sec. 103(a), substituted provision extending loan guarantees under this section to veterans eligible for benefits under this chapter for provision limiting such guarantees to World War II or Korean conflict veterans.

Subsec. (c)(1). Pub. L. 95-476, Sec. 103(b)(1), inserted provision authorizing the Administrator in establishing rates of interest under this paragraph for purposes of cls. (4) to (7) of section 1810(a) of this title to establish rates higher than the rate specified for other purposes under such section but not in excess of the rate the Administrator may find the loan market demands for loans for such purposes.

Subsec. (c)(3)(B). Pub. L. 95-476, Sec. 103(b)(2), substituted "clauses (4) and (7) of section 1810(a) of this title" for "section 1810(a)(4)".

1976 - Subsec. (a)(2)(A) [formerly Sec. 1815(a)]. Pub. L. 94-324, Sec. 7(16), substituted "the Administrator will" for "he will". See 1988 Amendment note above.

Subsec. (d)(3). Pub. L. 94-324, Sec. 7(6), substituted "the Administrator determines" for "he determines".

1974 - Subsec. (a)(1). Pub. L. 93-569, Sec. 8(1), struck out "and not more than 50 per centum of the loan if the loan is for any of the purposes specified in section 1812, 1813, or 1814 of this title" after "section 1810 of this title".

Subsec. (a)(2)(B) [formerly Sec. 1815(b)]. Pub. L. 93-569, Sec. 8(5), struck out provision authorizing the Administrator to fix maximum interest rate payable on non-real-estate loans at not in excess of 3 percent discount rate or an equivalent straight interest rate on unamortized loans.

Pub. L. 93-569, Sec. 8(2), struck out provision that, except as provided in sections 1810, 1811, and 1819, the aggregate amount guaranteed should not be more than \$2,000 in the case of non-real-estate loans, nor \$4,000 in the case of real-estate loans or a prorated portion thereof in a combination loan.

Subsec. (c)(3). Pub. L. 93-569, Sec. 2(c), added par. (3).

Subsec. (d)(1). Pub. L. 93-569, Sec. 8(3), substituted provision that the maturity of any loan shall not be more than thirty years and thirty-two days for provisions that non-real-estate loans shall not be more than ten years except as provided in section 1819, that the maturity of a real estate loan be not more than thirty years, and a loan on farm realty be not more than forty years.

Subsec. (d)(3). Pub. L. 93-569, Sec. 8(4), struck out provision that any non-real-estate loan should be secured by personalty to the extent legal and practicable.

1973 - Subsec. (c)(1). Pub. L. 93-75 substituted provisions requiring the Administrator to consult with the Secretary of Housing and Urban Development regarding the establishment of the rate of interest the Secretary considers necessary to meet the mortgage market for home loans insured under section 203(b) of the

National Housing Act, and to carry out a coordinated policy on interest rates on loans insured under such section 203(b) and on loans guaranteed or insured under this chapter, for former provision limiting rate of interest to rate in effect under section 203(b)(5) of the National Housing Act.

1970 - Subsec. (a). Pub. L. 91-506, Sec. 2(b), struck out loan eligibility expiration dates for World War II and Korean conflict veterans and inserted provision restoring expired entitlements of World War II and Korean conflict veterans and providing that such entitlements shall not expire until used.

Subsec. (b). Pub. L. 91-506, Sec. 2(c)(1), substituted "1810, 1811, and 1819" for "1810 and 1811".

Subsec. (d)(1). Pub. L. 91-506, Sec. 2(c)(2), limited maturity of non-real-estate loan to not more than ten years except as provided in section 1819 of this title.

1969 - Subsec. (d)(3). Pub. L. 91-22 authorized the Administrator, in determining whether a Government loan is secured by a first lien on realty, to disregard a superior lien created by a duly recorded covenant which secures a veteran homeowner's share of the costs of managing, operating or maintaining property, services or programs common to the community in which the veteran's home is located, provided the interests of the Government and the veteran borrower are not prejudiced.

1967 - Subsec. (a)(3)(A). Pub. L. 90-77 extended in cls. (i) and (ii) loan program for certain World War II veterans from July 25, 1967 to July 25, 1970.

1966 - Subsec. (c)(1). Pub. L. 89-358 struck out provision for approval of rate of interest by the Secretary of the Treasury and substituted provision for a rate not in excess of that in effect under section 203(b)(5) of the National Housing Act, section 1709(b)(5) of Title 12, for former limitation of 5 1/4 per centum per annum.

1961 - Subsec. (a). Pub. L. 87-84 substituted "to a World War II or Korean conflict veteran, if made within the applicable period prescribed in paragraph (3) of this subsection" for "made to a World War II veteran, if made before July 26, 1962 (or, in the case of a veteran described in section 1801(a)(1)(B) of this title, before the expiration of fifteen years after World War II is deemed to have ended with respect to him), or to a Korean conflict veteran, if made before February 1, 1965," in par. (1), and "is received by the Administrator before the date of the expiration of the veteran's entitlement, the loan" for "to a World War II veteran, whose entitlement would otherwise expire on July 25, 1962, has been received by the Administrator before July 26, 1962, such loan" in par. (2), and added par. (3).

1960 - Subsec. (a). Pub. L. 86-665 substituted "1962" for "1960" in three places, "fifteen" for "thirteen" years, and "after such date" for "before July 26, 1961".

1959 - Subsec. (c)(1). Pub. L. 86-73 struck out requirement that the interest rate on a Veterans' Administration guarantee for direct loan be at least one-half of one percent below the prevailing rate on FHA-insured sales housing loans and increased the interest rate ceiling from 4 3/4 to 5 1/4 percent.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-330, title III, Sec. 308(f)(2), Dec. 6, 2002, 116 Stat. 2828, provided that: "The amendment made by paragraph (1) [amending this section] shall take effect as if included in the enactment of section 402 of the Veterans Benefits and Health Care Improvement Act of 2000 (Public Law 106-419; 114 Stat. 1861)."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-368 effective Oct. 1, 1998, see section 602(f) of Pub. L. 105-368, set out as a note under section 2106 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-353 effective with respect to reemployments initiated on or after the first day after the 60-day period beginning Oct. 13, 1994, with transition rules, see section 8 of Pub. L. 103-353, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 306(b) of Pub. L. 101-237 provided that: "The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 18, 1989] and shall apply only with respect to loans closed after such date."

EFFECTIVE DATE OF 1988 AMENDMENT

Section 3(c) of Pub. L. 100-253 provided that: "The amendments made by this section [amending this section and section 1819 [now 3712] of this title] shall apply to loans which are closed on or after February 1, 1988, except that they shall not apply to any loan for which a guaranty commitment is made on or before December 31, 1987."

EFFECTIVE DATE OF 1987 AMENDMENT

Section 3(d) of Pub. L. 100-198 provided that: "The amendments made by this section [amending this section and sections 1810, 1811, and 1819 [now 3710, 3711, and 3712] of this title] shall apply to loans which are closed on or after February 1, 1988, except that they shall not apply to any loan for which a guaranty commitment is made on or before December 31, 1987."

EFFECTIVE DATE OF 1981 AMENDMENTS

Amendment by Pub. L. 97-72 effective at end of 180-day period beginning on Nov. 3, 1981, see section 305 of Pub. L. 97-72, set out as an Effective Date note under section 3741 of this title.

Amendment by Pub. L. 97-66 effective Oct. 17, 1981, see section 701(b)(1) of Pub. L. 97-66, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-385 effective Oct. 7, 1980, see section 601(d) of Pub. L. 96-385, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-476 effective Oct. 1, 1978, see section 108(a) of Pub. L. 95-476, set out as a note under section 3702 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-324 effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as a note under section 3701 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-569 effective Dec. 31, 1974, see section 10 of Pub. L. 93-569, set out as a note under section 3702 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-77 effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as a note under section 101 of this title.

IMPLEMENTATION OF AMENDMENT BY PUB. L. 111-22

Pub. L. 111-22, div. A, title I, Sec. 102(b), May 20, 2009, 123 Stat. 1636, provided that: "The Secretary of Veterans Affairs may implement the amendments made by this section [amending this section] through notice, procedure notice, or administrative notice."

TEMPORARY INCREASE IN MAXIMUM LOAN GUARANTY AMOUNT FOR CERTAIN HOUSING LOANS GUARANTEED BY SECRETARY OF VETERANS AFFAIRS

Pub. L. 110-389, title V, Sec. 501, Oct. 10, 2008, 122 Stat. 4175, provided that: "Notwithstanding subparagraph (C) of section 3703(a)(1) of title 38, United States Code, for purposes of any loan described in subparagraph (A)(i)(IV) of such section that is originated during the period beginning on the date of the enactment of this Act [Oct. 10, 2008] and ending on December 31, 2011, the term 'maximum guaranty amount' shall mean an amount equal to 25 percent of the higher of -

"(1) the limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) for the calendar year in which the loan is originated for a single-family residence; or

"(2) 125 percent of the area median price for a single-family residence, but in no case to exceed 175 percent of the limitation determined under such section 305(a)(2) for the calendar year in which the loan is originated for a single-family residence."

RATIFICATION OF ACTIONS DURING PERIOD OF EXPIRED AUTHORITY

Any action taken by Secretary of Veterans Affairs before Feb. 13, 1996, under provision of law amended by title I of Pub. L. 104-110 that was taken during period beginning on date on which authority of Secretary under such provision of law expired and ending on Feb. 13, 1996, considered to have same force and effect as if such amendment had been in effect at time of that action, see section 103 of Pub. L. 104-110, set out as a note under section 1710 of this title.

ANNUAL REPORTS ON GUARANTEE AND INSURANCE OF LOANS BEARING NEGOTIATED INTEREST RATES AND POINTS

Section 10(b) of Pub. L. 102-547, as amended by Pub. L. 103-446, title XII, Sec. 1202(d), Nov. 2, 1994, 108 Stat. 4689, directed Secretary of Veterans Affairs to transmit report on guarantee and insurance of loans bearing negotiated interest rates and points to Committees on Veterans' Affairs of Senate and House of Representatives no later than Dec. 31, 1993, and annually thereafter, prior to repeal by Pub. L. 104-110, title II, Sec. 201(b), Feb. 13, 1996, 110 Stat. 770.

EXPIRATION OF LOAN BENEFIT ENTITLEMENT OF CERTAIN WORLD WAR II VETERANS

Section 403(c) of Pub. L. 90-77 provided that the World War II loan benefit entitlement of any veteran whose period of entitlement as computed under former subsec. (a)(3)(A) of this section extended beyond July 25, 1967, was not to be deemed to expire earlier than ninety days after the effective date of section 403 of Pub. L. 90-

77 [see section 405(a) of Pub. L. 90-77, set out as an Effective Date of 1967 Amendment note under section 101 of this title].

-End-

-CITE-

38 USC Sec. 3704

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER I - GENERAL

-HEAD-

Sec. 3704. Restrictions on loans

-STATUTE-

(a) No loan for the purchase or construction of residential property shall be financed through the assistance of this chapter unless the property meets or exceeds minimum requirements for planning, construction, and general acceptability prescribed by the Secretary; however, this subsection shall not apply to a loan for the purchase of residential property on which construction is fully completed more than one year before such loan is made.

(b) Subject to notice and opportunity for a hearing, the Secretary may refuse to appraise any dwelling or housing project owned, sponsored, or to be constructed by any person identified with housing previously sold to veterans under this chapter as to which substantial deficiencies have been discovered, or as to which there has been a failure or indicated inability to discharge contractual liabilities to veterans, or as to which it is ascertained that the type of contract of sale or the methods or practices pursued in relation to the marketing of such properties were unfair or unduly prejudicial to veteran purchasers. The Secretary may also refuse to appraise any dwelling or housing project owned, sponsored, or to be constructed by any person refused the benefits of participation under the National Housing Act pursuant to a determination of the Secretary of Housing and Urban Development.

(c)(1) Except as provided in paragraph (2) of this subsection, no loan for the purchase or construction of residential property shall be financed through the assistance of this chapter unless the veteran applicant, at the time that the veteran applies for the loan, and also at the time that the loan is closed, certifies in such form as the Secretary may require, that the veteran intends to occupy the property as the veteran's home. Except as provided in paragraph (2) of this subsection, no loan for the repair, alteration, or improvement of residential property shall be financed through the assistance of the provisions of this chapter unless the veteran applicant, at the time that the veteran applies to the lender for the loan, and also at the time that the loan is closed, certifies, in such form as may be required by the Secretary, that the veteran occupies the property as the veteran's home. Notwithstanding the foregoing provisions of this subsection, in the case of a loan automatically guaranteed under this chapter, the veteran shall be required to make the certification only at the time the loan is closed. For the purposes of this chapter the requirement that the veteran recipient of a guaranteed or direct

home loan must occupy or intend to occupy the property as the veteran's home means that the veteran as of the date of the veteran's certification actually lives in the property personally as the veteran's residence or actually intends upon completion of the loan and acquisition of the dwelling unit to move into the property personally within a reasonable time and to utilize such property as the veteran's residence. Notwithstanding the foregoing requirements of this subsection, the provisions for certification by the veteran at the time the veteran applies for the loan and at the time the loan is closed shall be considered to be satisfied if the Secretary finds that (1) in the case of a loan for repair, alteration, or improvement the veteran in fact did occupy the property at such times, or (2) in the case of a loan for construction or purchase the veteran intended to occupy the property as the veteran's home at such times and the veteran did in fact so occupy it when, or within a reasonable time after, the loan was closed.

(2) In any case in which a veteran is in active duty status as a member of the Armed Forces and is unable to occupy a property because of such status, the occupancy requirements of -

- (A) paragraph (1) of this subsection;
- (B) paragraphs (1) through (5) and paragraph (7) of section 3710(a) of this title;
- (C) section 3712(a)(5)(A)(i) of this title; and
- (D) section 3712(e)(5) of this title;

shall be considered to be satisfied if the spouse of the veteran occupies the property as the spouse's home and the spouse makes the certification required by paragraph (1) of this subsection.

(d) Subject to notice and opportunity for a hearing, whenever the Secretary finds with respect to guaranteed or insured loans that any lender or holder has failed to maintain adequate loan accounting records, or to demonstrate proper ability to service loans adequately or to exercise proper credit judgment or has willfully or negligently engaged in practices otherwise detrimental to the interest of veterans or of the Government, the Secretary may refuse either temporarily or permanently to guarantee or insure any loans made by such lender or holder and may bar such lender or holder from acquiring loans guaranteed or insured under this chapter; however, the Secretary shall not refuse to pay a guaranty or insurance claim on loans theretofore entered into in good faith between a veteran and such lender. The Secretary may also refuse either temporarily or permanently to guarantee or insure any loans made by a lender or holder refused the benefits of participation under the National Housing Act pursuant to a determination of the Secretary of Housing and Urban Development.

(e) Any housing loan which is financed through the assistance of this chapter and to which section 3714 of this chapter applies shall include a provision that the loan is immediately due and payable upon transfer of the property securing such loan to any transferee unless the acceptability of the assumption of the loan is established pursuant to such section 3714.

(f) A loan for the purchase or construction of new residential property, the construction of which began after the energy efficiency standards under section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709), as amended by section 101(c) of the Energy Policy Act of 1992, take effect, may not be financed through the assistance of this chapter unless the new residential property is constructed in compliance with such standards.

-SOURCE-

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1206, Sec. 1804; Pub. L. 86-73, Sec. 3, June 30, 1959, 73 Stat. 156; Pub. L. 86-665, Sec. 5, July 14, 1960, 74 Stat. 532; Pub. L. 89-117, title II, Sec. 217(b), Aug. 10, 1965, 79 Stat. 473; Pub. L. 90-19, Sec. 25(2), May 25, 1967, 81 Stat. 28; Pub. L. 91-506, Sec. 2(d), Oct. 23, 1970, 84 Stat. 1108; Pub. L. 93-569, Sec. 2(d), (e), Dec. 31, 1974, 88 Stat. 1863, 1864; Pub. L. 94-324, Sec. 7(7), (8), June 30, 1976, 90 Stat. 721; Pub. L. 97-295, Sec. 4(64), Oct. 12, 1982, 96 Stat. 1309; Pub. L. 100-198, Secs. 8(a)(1), 10(b), Dec. 21, 1987, 101 Stat. 1319, 1323; Pub. L. 100-322, title IV, Sec. 415(c)(3), May 20, 1988, 102 Stat. 551; Pub. L. 101-237, title III, Sec. 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered Sec. 3704 and amended Pub. L. 102-83, Sec. 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-486, title I, Sec. 101(c)(2), Oct. 24, 1992, 106 Stat. 2787; Pub. L. 103-446, title IX, Sec. 903, Nov. 2, 1994, 108 Stat. 4676.)

-REFTEXT-

REFERENCES IN TEXT

The National Housing Act, referred to in subsecs. (b) and (d), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended, which is classified principally to chapter 13 (Sec. 1701 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

-MISC1-

AMENDMENTS

1994 - Subsecs. (e) to (g). Pub. L. 103-446 redesignated subsecs. (f) and (g) as (e) and (f), respectively, and struck out former subsec. (e) which read as follows: "No loan for the purchase or construction of new residential property (other than property served by a water and sewerage system approved by the Secretary of Housing and Urban Development pursuant to title X of the National Housing Act (12 U.S.C. 1749aa et seq.)) shall be financed through the assistance of this chapter, except pursuant to a commitment made prior to August 10, 1965, if such property is not served by a public or adequate community water and sewerage system and is located in an area where the appropriate local officials certify that the establishment of such systems is economically feasible. For purposes of this subsection, the economic feasibility of establishing public or adequate community water and sewerage systems shall be determined without regard to whether such establishment is authorized by law or is subject to approval by one or more local governments or public bodies."

1992 - Subsec. (g). Pub. L. 102-486 added subsec. (g).

1991 - Pub. L. 102-83, Sec. 5(a), renumbered section 1804 of this title as this section.

Subsec. (c)(2). Pub. L. 102-83, Sec. 5(c)(1), substituted "3710(a)" for "1810(a)" in subpar. (B), "3712(a)(5)(A)(i)" for "1812(a)(5)(A)(i)" in subpar. (C), and "3712(e)(5)" for "1812(e)(5)" in subpar. (D).

Subsec. (f). Pub. L. 102-83, Sec. 5(c)(1), substituted "3714" for "1814" in two places.

1989 - Subsecs. (a) to (c)(1), (d). Pub. L. 101-237 substituted "Secretary" for "Administrator" wherever appearing.

1988 - Subsec. (c)(2)(C). Pub. L. 100-322, Sec. 415(c)(3)(A), substituted "1812(a)(5)(A)(i)" for "1819(a)(5)(A)(i)".

Subsec. (c)(2)(D). Pub. L. 100-322, Sec. 415(c)(3)(b), substituted "1812(e)(5)" for "1819(e)(5)".

Subsec. (f). Pub. L. 100-322, Sec. 415(c)(3)(C), substituted

"section 1814" for "section 1817A" in two places.

1987 - Subsec. (c). Pub. L. 100-198, Sec. 8(a), designated existing provision as par. (1), substituted "Except as provided in paragraph (2) of this subsection, no" for "No" in first and second sentences, and added par. (2).

Subsec. (f). Pub. L. 100-198, Sec. 10(b), added subsec. (f).

1982 - Subsec. (e). Pub. L. 97-295 inserted "(12 U.S.C. 1749aa et seq.)" after "the National Housing Act", and substituted "August 10, 1965" for "the date of the enactment of the Housing and Urban Development Act of 1965".

1976 - Subsec. (c). Pub. L. 94-324, Sec. 7(7), substituted "the veteran" for "he" in six places and "the veteran's" for "his" wherever appearing.

Subsec. (d). Pub. L. 94-324, Sec. 7(8), substituted "the Administrator may" for "he may".

1974 - Subsec. (b). Pub. L. 93-569, Sec. 2(e), struck out "under section 512 of that Act" after "determination of the Secretary of Housing and Urban Development".

Subsec. (c). Pub. L. 93-569, Sec. 2(d), inserted provision that, the foregoing provisions notwithstanding, in the case of an automatically guaranteed loan, the veteran is required to make certification only at the time of loan closing.

Subsec. (d). Pub. L. 93-569, Sec. 2(e), struck out "under section 512 of that Act" after "determination of the Secretary of Housing and Urban Development".

1970 - Subsec. (b). Pub. L. 91-506 substituted "Subject to notice and opportunity for a hearing, the" for "The".

Subsec. (d). Pub. L. 91-506 substituted "Subject to notice and opportunity for a hearing, whenever" for "Whenever".

1967 - Subsecs. (b), (d), (e). Pub. L. 90-19 substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner".

1965 - Subsec. (e). Pub. L. 89-117 added subsec. (e).

1960 - Subsec. (c). Pub. L. 86-665 inserted sentence respecting satisfaction of provisions for certification by the veteran at the time he applies for the loan and at the time the loan is closed.

1959 - Subsec. (b). Pub. L. 86-73, Sec. 3(a), authorized the Administrator to refuse to appraise any property if the builder or sponsor of the property had been barred by the Federal Housing Commissioner from participation in the FHA insurance program.

Subsec. (d). Pub. L. 86-73, Sec. 3(b), authorized the Administrator to refuse to guarantee or insure loans if the lender or holder of the loans has been barred by the Federal Housing Commissioner from participation in the FHA insurance program.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 8(c) of Pub. L. 100-198 provided that: "The amendments made by this section [amending this section and sections 1810 and 1819 [now 3710 and 3712] of this title] shall apply with respect to loans made more than 30 days after the date of the enactment of this Act [Dec. 21, 1987]."

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-324 effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as a note under section 3701 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-569 effective Dec. 31, 1974, see section 10 of Pub. L. 93-569, set out as a note under section 3702 of this title.

-End-

-CITE-

38 USC Sec. 3705

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER I - GENERAL

-HEAD-

Sec. 3705. Warranties

-STATUTE-

(a) The Secretary shall require that in connection with any property upon which there is located a dwelling designed principally for not more than a four-family residence and which is appraised for guaranty or insurance before the beginning of construction, the seller or builder, and such other person as may be required by the Secretary to become warrantor, shall deliver to the purchaser or owner of such property a warranty that the dwelling is constructed in substantial conformity with the plans and specifications (including any amendments thereof, or changes and variations therein, which have been approved in writing by the Secretary) on which the Secretary based the Secretary's valuation of the dwelling. The Secretary shall deliver to the builder, seller, or other warrantor the Secretary's written approval (which shall be conclusive evidence of such appraisal) of any amendment of, or change or variation in, such plans and specifications which the Secretary deems to be a substantial amendment thereof, or change or variation therein, and shall file a copy of such written approval with such plans and specifications. Such warranty shall apply only with respect to such instances of substantial nonconformity to such approved plans and specifications (including any amendments thereof, or changes or variations therein, which have been approved in writing, as provided in this section, by the Secretary) as to which the purchaser or home owner has given written notice to the warrantor within one year from the date of conveyance of title to, or initial occupancy of, the dwelling, whichever first occurs. Such warranty shall be in addition to, and not in derogation of, all other rights and privileges which such purchaser or owner may have under any other law or instrument. The provisions of this section shall apply to any such property covered by a mortgage insured or guaranteed by the Secretary on and after October 1, 1954, unless such mortgage is insured or guaranteed pursuant to a commitment therefor made before October 1, 1954.

(b) The Secretary shall permit copies of the plans and specifications (including written approvals of any amendments thereof, or changes or variations therein, as provided in this section) for dwellings in connection with which warranties are required by subsection (a) of this section to be made available in their appropriate local offices for inspection or for copying by any purchaser, home owner, or warrantor during such hours or periods of time as the Secretary may determine to be reasonable.

-SOURCE-

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1206, Sec. 1805; Pub. L.

94-324, Sec. 7(9), June 30, 1976, 90 Stat. 721; Pub. L. 101-237, title III, Sec. 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; Pub. L. 102-54, Sec. 15(a)(1), June 13, 1991, 105 Stat. 288; renumbered Sec. 3705, Pub. L. 102-83, Sec. 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103-446, title XII, Sec. 1202(a)(2), Nov. 2, 1994, 108 Stat. 4689.)

-MISC1-

AMENDMENTS

1994 - Subsec. (a). Pub. L. 103-446 made technical correction to directory language of Pub. L. 102-54, Sec. 15(a)(1)(A). See 1991 Amendment note below.

1991 - Pub. L. 102-83, Sec. 5(a), renumbered section 1805 of this title as this section.

Subsec. (a). Pub. L. 102-54, Sec. 15(a)(1)(B), substituted "appraisal" for "approval" in second sentence.

Pub. L. 102-54, Sec. 15(a)(1)(A), as amended by Pub. L. 103-446, substituted "appraised" for "approved" before "for guaranty" in first sentence.

1989 - Pub. L. 101-237 substituted "Secretary" and "Secretary's" for "Administrator" and "Administrator's", respectively, wherever appearing.

1976 - Subsec. (a). Pub. L. 94-324 substituted "the Administrator's" for "his" wherever appearing.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 1202(a) of Pub. L. 103-446 provided that the amendment made by that section is effective June 13, 1991, and as if included in the enactment of Pub. L. 102-54.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-324 effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as a note under section 3701 of this title.

-End-

-CITE-

38 USC Sec. 3706

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER I - GENERAL

-HEAD-

Sec. 3706. Escrow of deposits and downpayments

-STATUTE-

(a) Any deposit or downpayment made by an eligible veteran in connection with the purchase of proposed or newly constructed and previously unoccupied residential property in a project on which the Secretary has issued a Certificate of Reasonable Value, which purchase is to be financed with a loan guaranteed, insured, or made under the provisions of this chapter, shall be deposited forthwith by the seller, or the agent of the seller, receiving such deposit or payment, in a trust account to safeguard such deposit or payment

from the claims of creditors of the seller. The failure of the seller or the seller's agent to create such trust account and to maintain it until the deposit or payment has been disbursed for the benefit of the veteran purchaser at settlement or, if the transaction does not materialize, is otherwise disposed of in accordance with the terms of the contract, may constitute an unfair marketing practice within the meaning of section 3704(b) of this title.

(b) If an eligible veteran contracts for the construction of a property in a project on which the Secretary has issued a Certificate of Reasonable Value and such construction is to be financed with the assistance of a construction loan to be guaranteed, insured, or made under the provisions of this chapter, it may be considered an unfair marketing practice under section 3704(b) of this title if any deposit or downpayment of the veteran is not maintained in a special trust account by the recipient until it is either (1) applied on behalf of the veteran to the cost of the land or to the cost of construction or (2), if the transaction does not materialize, is otherwise disposed of in accordance with the terms of the contract.

-SOURCE-

(Added Pub. L. 86-665, Sec. 6(a), July 14, 1960, 74 Stat. 532, Sec. 1806; amended Pub. L. 94-324, Sec. 7(10), June 30, 1976, 90 Stat. 721; Pub. L. 101-237, title III, Sec. 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered Sec. 3706 and amended Pub. L. 102-83, Sec. 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103-446, title XII, Sec. 1201(e)(13), Nov. 2, 1994, 108 Stat. 4685.)

-MISC1-

AMENDMENTS

1994 - Pub. L. 103-446, which directed the substitution of "of this title" for "of this chapter" the second and third places appearing, was executed by making the substitution the second and fourth places appearing to reflect the probable intent of Congress.

1991 - Pub. L. 102-83, Sec. 5(a), renumbered section 1806 of this title as this section.

Pub. L. 102-83, Sec. 5(c)(1), substituted "3704(b)" for "1804(b)" in subsecs. (a) and (b).

1989 - Pub. L. 101-237 substituted "Secretary" for "Administrator" wherever appearing.

1976 - Subsec. (a). Pub. L. 94-324 substituted "the seller's" for "his".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-324 effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as a note under section 3701 of this title.

-End-

-CITE-

38 USC Sec. 3707

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS

SUBCHAPTER I - GENERAL

-HEAD-

Sec. 3707. Adjustable rate mortgages

-STATUTE-

(a) The Secretary shall carry out a demonstration project under this section during fiscal years 1993 through 2012 for the purpose of guaranteeing loans in a manner similar to the manner in which the Secretary of Housing and Urban Development insures adjustable rate mortgages under section 251 of the National Housing Act.

(b) Interest rate adjustment provisions of a mortgage guaranteed under this section shall -

(1) correspond to a specified national interest rate index approved by the Secretary, information on which is readily accessible to mortgagors from generally available published sources;

(2) be made by adjusting the monthly payment on an annual basis;

(3) be limited, with respect to any single annual interest rate adjustment, to a maximum increase or decrease of 1 percentage point; and

(4) be limited, over the term of the mortgage, to a maximum increase of 5 percentage points above the initial contract interest rate.

(c) The Secretary shall promulgate underwriting standards for loans guaranteed under this section, taking into account -

(1) the status of the interest rate index referred to in subsection (b)(1) and available at the time an underwriting decision is made, regardless of the actual initial rate offered by the lender;

(2) the maximum and likely amounts of increases in mortgage payments that the loans would require;

(3) the underwriting standards applicable to adjustable rate mortgages insured under title II of the National Housing Act; and

(4) such other factors as the Secretary finds appropriate.

(d) The Secretary shall require that the mortgagee make available to the mortgagor, at the time of loan application, a written explanation of the features of the adjustable rate mortgage, including a hypothetical payment schedule that displays the maximum potential increases in monthly payments to the mortgagor over the first five years of the mortgage term.

-SOURCE-

(Added Pub. L. 102-547, Sec. 3(a)(1), Oct. 28, 1992, 106 Stat. 3634; amended Pub. L. 103-78, Sec. 7, Aug. 13, 1993, 107 Stat. 769; Pub. L. 108-454, title IV, Sec. 404, Dec. 10, 2004, 118 Stat. 3616; Pub. L. 110-389, title V, Sec. 505(a), Oct. 10, 2008, 122 Stat. 4176.)

-REFTEXT-

REFERENCES IN TEXT

The National Housing Act, referred to in subsecs. (a) and (c)(3), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended. Title II of the Act is classified generally to subchapter II (Sec. 1707 et seq.) of chapter 13 of Title 12, Banks and Banking. Section 251 of the Act is classified to section 1715z-16 of Title 12. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

-MISC1-

AMENDMENTS

2008 - Subsec. (a). Pub. L. 110-389 substituted "2012" for "2008".

2004 - Subsec. (a). Pub. L. 108-454 substituted "during fiscal years 1993 through 2008" for "during fiscal years 1993, 1994, and 1995".

1993 - Subsec. (b)(2). Pub. L. 103-78 struck out before semicolon at end "on the anniversary of the date on which the loan was closed".

ANNUAL REPORTS ON ADJUSTABLE RATE MORTGAGES GUARANTEED UNDER THIS SECTION

Section 3(b) of Pub. L. 102-547 directed Secretary of Veterans Affairs to transmit adjustable rate mortgage report to Committees on Veterans' Affairs of Senate and House of Representatives no later than Dec. 31, 1993, containing description of project carried out under this section and thereafter to transmit annual reports to such committees with respect to default rates and other information concerning loans guaranteed under this section prior to repeal by Pub. L. 104-110, title II, Sec. 201(b), Feb. 13, 1996, 110 Stat. 770.

-End-

-CITE-

38 USC Sec. 3707A

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER I - GENERAL

-HEAD-

Sec. 3707A. Hybrid adjustable rate mortgages

-STATUTE-

(a) The Secretary shall carry out a demonstration project under this section during fiscal years 2004 through 2012 for the purpose of guaranteeing loans in a manner similar to the manner in which the Secretary of Housing and Urban Development insures adjustable rate mortgages under section 251 of the National Housing Act in accordance with the provisions of this section with respect to hybrid adjustable rate mortgages described in subsection (b).

(b) Adjustable rate mortgages that are guaranteed under this section shall be adjustable rate mortgages (commonly referred to as "hybrid adjustable rate mortgages") having interest rate adjustment provisions that -

(1) specify an initial rate of interest that is fixed for a period of not less than the first three years of the mortgage term;

(2) provide for an initial adjustment in the rate of interest by the mortgagee at the end of the period described in paragraph (1); and

(3) comply in such initial adjustment, and any subsequent adjustment, with subsection (c).

(c) Interest rate adjustment provisions of a mortgage guaranteed under this section shall -

(1) correspond to a specified national interest rate index approved by the Secretary, information on which is readily accessible to mortgagors from generally available published sources;

(2) be made by adjusting the monthly payment on an annual basis;

(3) in the case of the initial contract interest rate adjustment -

(A) if the initial contract interest rate remained fixed for less than 5 years, be limited to a maximum increase or decrease of 1 percentage point; or

(B) if the initial contract interest rate remained fixed for 5 years or more, be limited to a maximum increase or decrease of such percentage point or points as the Secretary may prescribe;

(4) in the case of any single annual interest rate adjustment after the initial contract interest rate adjustment, be limited to a maximum increase or decrease of such percentage points as the Secretary may prescribe; and

(5) be limited, over the term of the mortgage, to a maximum increase of such number of percentage points as the Secretary shall prescribe for purposes of this section.

(d) The Secretary shall promulgate underwriting standards for loans guaranteed under this section, taking into account -

(1) the status of the interest rate index referred to in subsection (c)(1) and available at the time an underwriting decision is made, regardless of the actual initial rate offered by the lender;

(2) the maximum and likely amounts of increases in mortgage payments that the loans would require;

(3) the underwriting standards applicable to adjustable rate mortgages insured under title II of the National Housing Act; and

(4) such other factors as the Secretary finds appropriate.

(e) The Secretary shall require that the mortgagee make available to the mortgagor, at the time of loan application, a written explanation of the features of the adjustable rate mortgage, including a hypothetical payment schedule that displays the maximum potential increases in monthly payments to the mortgagor over the first five years of the mortgage term.

-SOURCE-

(Added Pub. L. 107-330, title III, Sec. 303(a), Dec. 6, 2002, 116 Stat. 2825; amended Pub. L. 108-454, title IV, Sec. 405(a), (b), Dec. 10, 2004, 118 Stat. 3616; Pub. L. 109-233, title I, Sec. 102, June 15, 2006, 120 Stat. 399; Pub. L. 110-389, title V, Sec. 505(b), Oct. 10, 2008, 122 Stat. 4176.)

-REFTEXT-

REFERENCES IN TEXT

The National Housing Act, referred to in subsecs. (a) and (d)(3), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended. Title II of the Act is classified generally to subchapter II (Sec. 1707 et seq.) of chapter 13 of Title 12, Banks and Banking. Section 251 of the Act is classified to section 1715z-16 of Title 12. For complete classification of this Act to the Code, see section 1701 of Title

12 and Tables.

-MISC1-

AMENDMENTS

2008 - Subsec. (a). Pub. L. 110-389 substituted "2012" for "2008".

2006 - Subsec. (c)(4). Pub. L. 109-233 substituted "such percentage points as the Secretary may prescribe" for "1 percentage point".

2004 - Subsec. (a). Pub. L. 108-454, Sec. 405(a), substituted "during fiscal years 2004 through 2008" for "during fiscal years 2004 and 2005".

Subsec. (c)(3). Pub. L. 108-454, Sec. 405(b)(2), added par. (3) and struck out former par. (3) which read as follows: "be limited, with respect to any single annual interest rate adjustment, to a maximum increase or decrease of 1 percentage point; and".

Subsec. (c)(4). Pub. L. 108-454, Sec. 405(b)(2), added par. (4). Former par. (4) redesignated (5).

Subsec. (c)(5). Pub. L. 108-454, Sec. 405(b)(1), (3), redesignated par. (4) as (5) and substituted "such number of percentage points as the Secretary shall prescribe for purposes of this section" for "5 percentage points above the initial contract interest rate".

NO EFFECT ON GUARANTEE OF LOANS UNDER HYBRID ADJUSTABLE RATE MORTGAGE GUARANTEE DEMONSTRATION PROJECT

Pub. L. 108-454, title IV, Sec. 405(c), Dec. 10, 2004, 118 Stat. 3616, provided that: "The amendments made by this section [amending this section] shall not be construed to affect the force or validity of any guarantee of a loan made by the Secretary of Veterans Affairs under the demonstration project for the guarantee of hybrid adjustable rate mortgages under section 3707A of title 38, United States Code, as in effect on the day before the date of the enactment of this Act [Dec. 10, 2004]."

-End-

-CITE-

38 USC Sec. 3708

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER I - GENERAL

-HEAD-

Sec. 3708. Authority to buy down interest rates: pilot program

-STATUTE-

(a) In order to enable the purchase of housing in areas where the supply of suitable military housing is inadequate, the Secretary may conduct a pilot program under which the Secretary may make periodic or lump sum assistance payments on behalf of an eligible veteran for the purpose of buying down the interest rate on a loan to that veteran that is guaranteed under this chapter for a purpose described in paragraph (1), (6), or (10) of section 3710(a) of this title.

(b) An individual is an eligible veteran for the purposes of this section if -

- (1) the individual is a veteran, as defined in section 3701(b)(4) of this title;
- (2) the individual submits an application for a loan guaranteed under this chapter within one year of an assignment of the individual to duty at a military installation in the United States designated by the Secretary of Defense as a housing shortage area;
- (3) at the time the loan referred to in subsection (a) is made, the individual is an enlisted member, warrant officer, or an officer (other than a warrant officer) at a pay grade of O-3 or below;
- (4) the individual has not previously used any of the individual's entitlement to housing loan benefits under this chapter; and
- (5) the individual receives comprehensive prepurchase counseling from the Secretary (or the designee of the Secretary) before making application for a loan guaranteed under this chapter.

(c) Loans with respect to which the Secretary may exercise the buy down authority under subsection (a) shall -

- (1) provide for a buy down period of not more than three years in duration;
- (2) specify the maximum and likely amounts of increases in mortgage payments that the loans would require; and
- (3) be subject to such other terms and conditions as the Secretary may prescribe by regulation.

(d) The Secretary shall promulgate underwriting standards for loans for which the interest rate assistance payments may be made under subsection (a). Such standards shall be based on the interest rate for the second year of the loan.

(e) The Secretary or lender shall provide comprehensive prepurchase counseling to eligible veterans explaining the features of interest rate buy downs under subsection (a), including a hypothetical payment schedule that displays the increases in monthly payments to the mortgagor over the first five years of the mortgage term. For the purposes of this subsection, the Secretary may assign personnel to military installations referred to in subsection (b)(2).

(f) There is authorized to be appropriated \$3,000,000 annually to carry out this section.

(g) The Secretary may not guarantee a loan under this chapter after September 30, 1998, on which the Secretary is obligated to make payments under this section.

-SOURCE-

(Added Pub. L. 104-106, div. B, title XXVIII, Sec. 2822(b)(1), Feb. 10, 1996, 110 Stat. 556.)

-MISC1-

AUTHORITY OF SECRETARY OF DEFENSE

Section 2822(c) of Pub. L. 104-106 provided that:

"(1) Reimbursement for buy down costs. - The Secretary of Defense shall reimburse the Secretary of Veterans Affairs for amounts paid by the Secretary of Veterans Affairs to mortgagees under section 3708 of title 38, United States Code, as added by subsection (b).

"(2) Designation of housing shortage areas. - For purposes of

section 3708 of title 38, United States Code, the Secretary of Defense may designate as a housing shortage area a military installation in the United States at which the Secretary determines there is a shortage of suitable housing to meet the military family needs of members of the Armed Forces and the dependents of such members.

"(3) Report. - Not later than March 30, 1998, the Secretary shall submit to Congress a report regarding the effectiveness of the authority provided in section 3708 of title 38, United States Code, in ensuring that members of the Armed Forces and their dependents have access to suitable housing. The report shall include the recommendations of the Secretary regarding whether the authority provided in this subsection should be extended beyond the date specified in paragraph (5).

"(4) Earmark. - Of the amount provided in section 2405(a)(11)(B) [110 Stat. 538], \$10,000,000 for fiscal year 1996 shall be available to carry out this subsection.

"(5) Sunset. - This subsection shall not apply with respect to housing loans guaranteed after September 30, 1998, for which assistance payments are paid under section 3708 of title 38, United States Code."

-End-

-CITE-

38 USC SUBCHAPTER II - LOANS

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER II - LOANS

-HEAD-

SUBCHAPTER II - LOANS

-End-

-CITE-

38 USC Sec. 3710

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER II - LOANS

-HEAD-

Sec. 3710. Purchase or construction of homes

-STATUTE-

(a) Except as provided in section 3704(c)(2) of this title, any loan to a veteran, if made pursuant to the provisions of this chapter, is automatically guaranteed if such loan is for one or more of the following purposes:

(1) To purchase or construct a dwelling to be owned and occupied by the veteran as a home.

(2) To purchase a farm on which there is a farm residence to be

owned and occupied by the veteran as the veteran's home.

(3) To construct on land owned by the veteran a farm residence to be occupied by the veteran as the veteran's home.

(4) To repair, alter, or improve a farm residence or other dwelling owned by the veteran and occupied by the veteran as the veteran's home.

(5) To refinance existing mortgage loans or other liens which are secured of record on a dwelling or farm residence owned and occupied by the veteran as the veteran's home.

(6) To purchase a one-family residential unit in a condominium housing development or project, if such development or project is approved by the Secretary under criteria which the Secretary shall prescribe in regulations.

(7) To improve a dwelling or farm residence owned by the veteran and occupied by the veteran as the veteran's home through energy efficiency improvements, as provided in subsection (d).

(8) To refinance in accordance with subsection (e) of this section an existing loan guaranteed, insured, or made under this chapter.

(9)(A)(i) To purchase a manufactured home to be permanently affixed to a lot that is owned by the veteran.

(ii) To purchase a manufactured home and a lot to which the home will be permanently affixed.

(B)(i) To refinance, in accordance with the terms and conditions applicable under the provisions of subsection (e) of this section (other than paragraph (1)(E) of such subsection) to the guaranty of a loan for the purpose specified in clause (8) of this subsection, an existing loan guaranteed, insured, or made under this chapter that is secured by a manufactured home permanently affixed to a lot that is owned by the veteran.

(ii) To refinance, in accordance with section 3712(a)(5) of this title, an existing loan that was made for the purchase of, and that is secured by, a manufactured home that is permanently affixed to a lot and to purchase the lot to which the manufactured home is affixed.

(10) To purchase a dwelling to be owned and occupied by the veteran as a home and make energy efficiency improvements, as provided in subsection (d).

(11) To refinance in accordance with subsection (e) an existing loan guaranteed, insured, or made under this chapter, and to improve the dwelling securing such loan through energy efficiency improvements, as provided in subsection (d).

(12) With respect to a loan guaranteed after the date of the enactment of this paragraph and before the date that is five years after that date, to purchase stock or membership in a cooperative housing corporation for the purpose of entitling the veteran to occupy for dwelling purposes a single family residential unit in a development, project, or structure owned or leased by such corporation, in accordance with subsection (h).

If there is an indebtedness which is secured by a lien against land owned by the veteran, the proceeds of a loan guaranteed under this section or made under section 3711 of this title for construction of a dwelling or farm residence on such land may be used also to liquidate such lien, but only if the reasonable value of the land is equal to or greater than the amount of the lien.

(b) No loan may be guaranteed under this section or made under section 3711 of this title unless -

(1) the proceeds of such loan will be used to pay for the property purchased, constructed, or improved;

(2) the contemplated terms of payment required in any mortgage

to be given in part payment of the purchase price or the construction cost bear a proper relation to the veteran's present and anticipated income and expenses;

(3) the veteran is a satisfactory credit risk, as determined in accordance with the credit underwriting standards established pursuant to subsection (g) of this section;

(4) the nature and condition of the property is such as to be suitable for dwelling purposes;

(5) except in the case of a loan described in clause (7) or (8) of this subsection, the loan to be paid by the veteran for such property or for the cost of construction, repairs, or alterations, does not exceed the reasonable value thereof as determined pursuant to section 3731 of this title;

(6) if the loan is for repair, alteration, or improvement of property, such repair, alteration, or improvement substantially protects or improves the basic livability or utility of such property;

(7) in the case of a loan (other than a loan made for a purpose specified in subsection (a)(8) of this section) that is made to refinance -

(A) a construction loan,

(B) an installment land sales contract, or

(C) a loan assumed by the veteran that provides for a lower interest rate than the loan being refinanced,

the amount of the loan to be guaranteed or made does not exceed the lesser of -

(i) the reasonable value of the dwelling or farm residence securing the loan, as determined pursuant to section 3731 of this title; or

(ii) the sum of the outstanding balance on the loan to be refinanced and the closing costs (including discounts) actually paid by the veteran, as specified by the Secretary in regulations; and

(8) in the case of a loan to refinance a loan (other than a loan or installment sales contract described in clause (7) of this subsection or a loan made for a purpose specified in subsection (a)(8) of this section), the amount of the loan to be guaranteed or made does not exceed 100 percent of the reasonable value of the dwelling or farm residence securing the loan, as determined pursuant to section 3731 of this title.

[(c) Repealed. Pub. L. 100-198, Sec. 3(a)(2), Dec. 21, 1987, 101 Stat. 1315.]

(d)(1) The Secretary shall carry out a program to demonstrate the feasibility of guaranteeing loans for the acquisition of an existing dwelling and the cost of making energy efficiency improvements to the dwelling or for energy efficiency improvements to a dwelling owned and occupied by a veteran. A loan may be guaranteed under this subsection only if it meets the requirements of this chapter, except as those requirements are modified by this subsection.

(2) The cost of energy efficiency measures that may be financed by a loan guaranteed under this section may not exceed the greater of -

(A) the cost of the energy efficiency improvements, up to \$3,000; or

(B) \$6,000, if the increase in the monthly payment for principal and interest does not exceed the likely reduction in monthly utility costs resulting from the energy efficiency

improvements.

(3) Notwithstanding the provisions of section 3703(a)(1)(A) of this title, any loan guaranteed under this subsection shall be guaranteed in an amount equal to the sum of -

(A) the guaranty that would be provided under those provisions for the dwelling without the energy efficiency improvements; and

(B) an amount that bears the same relation to the cost of the energy efficiency improvements as the guaranty referred to in subparagraph (A) bears to the amount of the loan minus the cost of such improvements.

(4) The amount of the veteran's entitlement, calculated in accordance with section 3703(a)(1)(B) of this title, shall not be affected by the amount of the guaranty referred to in paragraph (3)(B).

(5) The Secretary shall take appropriate actions to notify eligible veterans, participating lenders, and interested realtors of the availability of loan guarantees under this subsection and the procedures and requirements that apply to the obtaining of such guarantees.

(6) For the purposes of this subsection:

(A) The term "energy efficiency improvement" includes a solar heating system, a solar heating and cooling system, or a combined solar heating and cooling system, and the application of a residential energy conservation measure.

(B) The term "solar heating" has the meaning given such term in section 3(1) of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5502(1)) and, in addition, includes a passive system based on conductive, convective, or radiant energy transfer.

(C) The terms "solar heating and cooling" and "combined solar heating and cooling" have the meaning given such terms in section 3(2) of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5502(2)) and, in addition, include a passive system based on conductive, convective, or radiant energy transfer.

(D) The term "passive system" includes window and skylight glazing, thermal floors, walls, and roofs, movable insulation panels (when in conjunction with glazing), portions of a residential structure that serve as solar furnaces so as to add heat to the structure, double-pane window insulation, and such other energy-related components as are determined by the Secretary to enhance the natural transfer of energy for the purpose of heating or heating and cooling a residence.

(E) The term "residential energy conservation measure" means -

(i) caulking and weatherstripping of all exterior doors and windows;

(ii) furnace efficiency modifications limited to -

(I) replacement burners, boilers, or furnaces designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

(II) devices for modifying flue openings which will increase the efficiency of the heating system, and

(III) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

(iii) clock thermostats;

(iv) ceiling, attic, wall, and floor insulation;

(v) water heater insulation;

(vi) storm windows and doors;

(vii) heat pumps; and
(viii) such other energy conservation measures as the Secretary may identify for the purposes of this subparagraph.

(e)(1) For a loan to be guaranteed for the purpose specified in subsection (a)(8) or for the purpose specified in subsection (a)(11) of this section -

(A) the interest rate of the loan must be less than the interest rate of the loan being refinanced or, in a case in which the loan is a fixed rate loan and the loan being refinanced is an adjustable rate loan, the loan bears interest at a rate that is agreed upon by the veteran and the mortgagee;

(B) the loan must be secured by the same dwelling or farm residence as was the loan being refinanced;

(C) the amount of the loan may not exceed -

(i) an amount equal to the sum of the balance of the loan being refinanced and such closing costs (including any discount permitted pursuant to section 3703(c)(3)(A) of this title) as may be authorized by the Secretary (under regulations which the Secretary shall prescribe) to be included in the loan; or

(ii) in the case of a loan for the purpose specified in subsection (a)(11), an amount equal to the sum of the amount referred to with respect to the loan under clause (i) and the amount specified under subsection (d)(2);

(D) notwithstanding section 3703(a)(1) of this title, the amount of the guaranty of the loan may not exceed the greater of
(i) the original guaranty amount of the loan being refinanced, or
(ii) 25 percent of the loan;

(E) the term of the loan may not exceed the original term of the loan being refinanced by more than 10 years; and

(F) the veteran must own the dwelling or farm residence securing the loan and -

(i) must occupy such dwelling or residence as such veteran's home;

(ii) must have previously occupied such dwelling or residence as such veteran's home and must certify, in such form as the Secretary shall require, that the veteran has previously so occupied such dwelling or residence; or

(iii) in any case in which a veteran is in active duty status as a member of the Armed Forces and is unable to occupy such residence or dwelling as a home because of such status, the spouse of the veteran must occupy, or must have previously occupied, such dwelling or residence as such spouse's home and must certify such occupancy in such form as the Secretary shall require.

(2) A loan to a veteran may be guaranteed by the Secretary under this chapter for the purpose specified in clause (8) of subsection (a) of this section without regard to the amount of outstanding guaranty entitlement available for use by such veteran, and the amount of such veteran's guaranty entitlement shall not be charged as a result of any guaranty provided for such purpose. For purposes of section 3702(b) of this title, such loan shall be deemed to have been obtained with the guaranty entitlement used to obtain the loan being refinanced.

(3) If a veteran is deceased and if such veteran's surviving spouse was a co-obligor under an existing loan guaranteed, insured, or made under this chapter, such surviving spouse shall, only for the purpose specified in subsection (a)(8) of this section, be deemed to be a veteran eligible for benefits under this chapter.

(f)(1) For a loan to be guaranteed for the purpose specified in subclause (A)(ii) or (B)(ii) of subsection (a)(9) of this section, the purchase of (or the refinancing of a loan secured by) the manufactured home and the lot for that home shall be considered as one loan and must comply with such criteria as may be prescribed by the Secretary in regulations.

(2) A loan may not be guaranteed for the purposes of subsection (a)(9) of this section unless the manufactured home purchased, upon being permanently affixed to the lot, is considered to be real property under the laws of the State where the lot is located.

(g)(1) For the purposes of this subsection, the term "veteran", when used with respect to a loan guaranteed or to be guaranteed under this chapter, includes the veteran's spouse if the spouse is jointly liable with the veteran under the loan.

(2) For the purpose of determining whether a veteran meets the standards referred to in subsection (b)(3) of this section and section 3712(e)(2) of this title, the Secretary shall prescribe regulations which establish -

(A) credit underwriting standards to be used in evaluating loans to be guaranteed under this chapter; and

(B) standards to be used by lenders in obtaining credit information and processing loans to be guaranteed under this chapter.

(3) In the regulations prescribed under paragraph (2) of this subsection, the Secretary shall establish standards that include -

(A) debt-to-income ratios to apply in the case of the veteran applying for the loan;

(B) criteria for evaluating the reliability and stability of the income of the veteran applying for the loan; and

(C) procedures for ascertaining the monthly income required by the veteran to meet the anticipated loan payment terms.

If the procedures described in clause (C) of this paragraph include standards for evaluating residual income, the Secretary shall, in establishing such standards, give appropriate consideration to State statistics (in States as to which the Secretary determines that such statistics are reliable) pertinent to residual income and the cost of living in the State in question rather than in a larger region.

(4)(A) Any lender making a loan under this chapter shall certify, in such form as the Secretary shall prescribe, that the lender has complied with the credit information and loan processing standards established under paragraph (2)(B) of this subsection, and that, to the best of the lender's knowledge and belief, the loan meets the underwriting standards established under paragraph (2)(A) of this subsection.

(B) Any lender who knowingly and willfully makes a false certification under subparagraph (A) of this paragraph shall be liable to the United States Government for a civil penalty equal to two times the amount of the Secretary's loss on the loan involved or to another appropriate amount, not to exceed \$10,000, whichever is greater. All determinations necessary to carry out this subparagraph shall be made by the Secretary.

(5) Pursuant to regulations prescribed to carry out this paragraph, the Secretary may, in extraordinary situations, waive the application of the credit underwriting standards established under paragraph (2) of this subsection when the Secretary determines, considering the totality of circumstances, that the veteran is a satisfactory credit risk.

(h)(1) A loan may not be guaranteed under subsection (a)(12)

unless -

(A) the development, project, or structure of the cooperative housing corporation complies with such criteria as the Secretary prescribes in regulations; and

(B) the dwelling unit that the purchase of stock or membership in the development, project, or structure of the cooperative housing corporation entitles the purchaser to occupy is a single family residential unit.

(2) In this subsection, the term "cooperative housing corporation" has the meaning given such term in section 216(b)(1) of the Internal Revenue Code of 1986.

(3) When applying the term "value of the property" to a loan guaranteed under subsection (a)(12), such term means the appraised value of the stock or membership entitling the purchaser to the permanent occupancy of the dwelling unit in the development, project, or structure of the cooperative housing corporation.

-SOURCE-

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1207, Sec. 1810; Pub. L. 90-301, Secs. 1(a), 2(a), May 7, 1968, 82 Stat. 113; Pub. L. 91-506, Sec. 3, Oct. 23, 1970, 84 Stat. 1108; Pub. L. 93-569, Sec. 3, Dec. 31, 1974, 88 Stat. 1864; Pub. L. 94-324, Sec. 7(11), June 30, 1976, 90 Stat. 721; Pub. L. 95-476, title I, Secs. 104, 105(a), Oct. 18, 1978, 92 Stat. 1498, 1499; Pub. L. 96-385, title IV, Secs. 401(a), 402(a), Oct. 7, 1980, 94 Stat. 1532, 1533; Pub. L. 98-223, title II, Sec. 205(a), Mar. 2, 1984, 98 Stat. 42; Pub. L. 99-576, title IV, Sec. 402(a), (b), Oct. 28, 1986, 100 Stat. 3280; Pub. L. 100-198, Secs. 3(a)(2), 7(a), (c), 8(a)(2), 11(b), 13, Dec. 21, 1987, 101 Stat. 1315, 1318-1320, 1325; Pub. L. 100-322, title IV, Sec. 415(c)(4), May 20, 1988, 102 Stat. 551; Pub. L. 101-237, title III, Secs. 309, 313(b)(1), Dec. 18, 1989, 103 Stat. 2075, 2077; renumbered Sec. 3710 and amended Pub. L. 102-83, Secs. 4(a)(2)(A)(iv), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 403, 406; Pub. L. 102-547, Secs. 6(1), 9(a), (b), Oct. 28, 1992, 106 Stat. 3636, 3641, 3642; Pub. L. 103-446, title IX, Secs. 904(a), (b), 905, Nov. 2, 1994, 108 Stat. 4676, 4677; Pub. L. 104-110, title I, Sec. 101(e), Feb. 13, 1996, 110 Stat. 768; Pub. L. 109-461, title V, Sec. 501, Dec. 22, 2006, 120 Stat. 3431; Pub. L. 110-389, title V, Sec. 504(b), Oct. 10, 2008, 122 Stat. 4176.)

-REFTEXT-

REFERENCES IN TEXT

The date of the enactment of this paragraph, referred to in subsec. (a)(12), is the date of enactment of Pub. L. 109-461, which was approved Dec. 22, 2006.

Section 216(b)(1) of the Internal Revenue Code of 1986, referred to in subsec. (h)(2), is classified to section 216(b)(1) of Title 26, Internal Revenue Code.

-COD-

CODIFICATION

Another section 11(b) of Pub. L. 100-198 amended section 1831 [now 3731] of this title.

-MISC1-

AMENDMENTS

2008 - Subsec. (b)(8). Pub. L. 110-389 substituted "100 percent" for "90 percent".

2006 - Subsec. (a)(12). Pub. L. 109-461, Sec. 501(a), added par.

(12).

Subsec. (h). Pub. L. 109-461, Sec. 501(b), added subsec. (h).

1996 - Subsec. (d)(7). Pub. L. 104-110 struck out par. (7) which read as follows: "A loan may not be guaranteed under this subsection after December 31, 1995."

1994 - Subsec. (a)(11). Pub. L. 103-446, Sec. 904(a), added par. (11).

Subsec. (e)(1). Pub. L. 103-446, Sec. 904(b)(1), inserted "or for the purpose specified in subsection (a)(11)" after "subsection (a)(8)" in introductory provisions.

Subsec. (e)(1)(A). Pub. L. 103-446, Sec. 905, inserted before semicolon at end "or, in a case in which the loan is a fixed rate loan and the loan being refinanced is an adjustable rate loan, the loan bears interest at a rate that is agreed upon by the veteran and the mortgagee".

Subsec. (e)(1)(C). Pub. L. 103-446, Sec. 904(b)(2), substituted "may not exceed - " and cls. (i) and (ii) for "may not exceed an amount equal to the sum of the balance of the loan being refinanced and such closing costs (including any discount permitted pursuant to section 3703(c)(3)(A) of this title) as may be authorized by the Secretary, under regulations which the Secretary shall prescribe, to be included in such loan;".

1992 - Subsec. (a)(7). Pub. L. 102-547, Sec. 9(b)(1), amended par. (7) generally. Prior to amendment, par. (7) read as follows: "To improve a dwelling or farm residence owned by the veteran and occupied by the veteran as the veteran's home through the installation of a solar heating system, a solar heating and cooling system, or a combined solar heating and cooling system or through the application of a residential energy conservation measure."

Subsec. (a)(10). Pub. L. 102-547, Sec. 9(b)(2), added par. (10).

Subsec. (d). Pub. L. 102-547, Sec. 9(a), amended subsec. (d) generally. Prior to amendment, subsec. (d) defined terms "solar heating", "solar heating and cooling", "combined solar heating and cooling", "passive system", and "residential energy conservation measure" for purposes of subsec. (a)(7).

Subsec. (e)(1)(D). Pub. L. 102-547, Sec. 6(1), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: "the amount of the guaranty of the loan may not exceed the original guaranty amount of the loan being refinanced;".

1991 - Pub. L. 102-83, Sec. 5(a), renumbered section 1810 of this title as this section.

Subsec. (a). Pub. L. 102-83, Sec. 5(c)(1), substituted "3704(c)(2)" for "1804(c)(2)" in introductory provisions, "3712(a)(5)" for "1812(a)(5)" in par. (9)(B)(ii), and "3711" for "1811" in concluding provisions.

Subsec. (b). Pub. L. 102-83, Sec. 5(c)(1), substituted "3711" for "1811" in introductory provisions and "3731" for "1831" in pars. (5), (7)(i), and (8).

Subsec. (e)(1)(C). Pub. L. 102-83, Sec. 5(c)(1), substituted "3703(c)(3)(A)" for "1803(c)(3)(A)".

Subsec. (e)(2). Pub. L. 102-83, Sec. 5(c)(1), substituted "3702(b)" for "1802(b)".

Pub. L. 102-83, Sec. 4(a)(2)(A)(iv), substituted "Secretary" for "Veterans' Administration".

Subsec. (g)(2). Pub. L. 102-83, Sec. 5(c)(1), substituted "3712(e)(2)" for "1812(e)(2)".

1989 - Subsec. (a)(6). Pub. L. 101-237, Sec. 313(b)(1), substituted "Secretary" for "Administrator" wherever appearing.

Subsec. (b)(5) to (8). Pub. L. 101-237, Sec. 309(b), inserted "except in the case of a loan described in clause (7) or (8) of this subsection," before "the loan to be paid" in cl. (5), struck

out "and," at end of cl. (5), substituted semicolon for period at end of cl. (6), and added cls. (7) and (8).

Subsecs. (d) to (g). Pub. L. 101-237, Sec. 313(b)(1), substituted "Secretary" and "Secretary's" for "Administrator" and "Administrator's", respectively, wherever appearing.

Subsec. (h). Pub. L. 101-237, Sec. 309(a), struck out subsec. (h) which read as follows: "The amount of a loan guaranteed for the purpose specified in subsection (a)(5) of this section may not exceed the amount equal to 90 percent of the appraised value of the dwelling or farm residence which will secure the loan, as determined by the Administrator."

1988 - Subsec. (a)(9)(B)(ii). Pub. L. 100-322, Sec. 415(c)(4)(A), substituted "section 1812(a)(5)" for "section 1819(a)(5)".

Subsec. (g)(2). Pub. L. 100-322, Sec. 415(c)(4)(B), substituted "section 1812(e)(2)" for "section 1819(e)(2)".

1987 - Subsec. (a). Pub. L. 100-198, Sec. 8(a)(2), substituted "Except as provided in section 1804(c)(2) of this title, any" for "Any".

Subsec. (b). Pub. L. 100-198, Sec. 11(b), substituted "pursuant to section 1831 of this title" for "by the Administrator" in cl. (5) and struck out last sentence which read as follows: "After the reasonable value of any property, construction, repairs, or alterations is determined under paragraph (5), the Administrator shall, as soon as possible thereafter, notify the veteran concerned of such determination."

Subsec. (c). Pub. L. 100-198, Sec. 3(a)(2), struck out subsec. (c) which read as follows: "The amount of guaranty entitlement available to a veteran under this section shall not be more than \$27,500 less such entitlement as may have been used previously under this section and other sections of this chapter."

Subsec. (e)(1)(B). Pub. L. 100-198, Sec. 7(a)(1), struck out "and such dwelling or residence must be owned and occupied by the veteran as such veteran's home" after "refinanced".

Subsec. (e)(1)(D). Pub. L. 100-198, Sec. 7(a)(2), struck out "and" at end.

Subsec. (e)(1)(E). Pub. L. 100-198, Sec. 7(a)(3), substituted "by more than 10 years; and" for period at end.

Subsec. (e)(1)(F). Pub. L. 100-198, Sec. 7(a)(4), added cl. (F).

Subsec. (g)(3). Pub. L. 100-198, Sec. 13, inserted at end "If the procedures described in clause (C) of this paragraph include standards for evaluating residual income, the Administrator shall, in establishing such standards, give appropriate consideration to State statistics (in States as to which the Administrator determines that such statistics are reliable) pertinent to residual income and the cost of living in the State in question rather than in a larger region."

Subsec. (h). Pub. L. 100-198, Sec. 7(c), added subsec. (h).

1986 - Subsec. (b)(3). Pub. L. 99-576, Sec. 402(a), inserted ", as determined in accordance with the credit underwriting standards established pursuant to subsection (g) of this section".

Subsec. (g). Pub. L. 99-576, Sec. 402(b), added subsec. (g).

1984 - Subsec. (a)(9). Pub. L. 98-223, Sec. 205(a)(1), added par. (9).

Subsec. (f). Pub. L. 98-223, Sec. 205(a)(2), added subsec. (f).

1980 - Subsec. (a)(8). Pub. L. 96-385, Sec. 401(a)(1), added par. (8).

Subsec. (c). Pub. L. 96-385, Sec. 402(a), substituted "\$27,500" for "\$25,000".

Subsec. (e). Pub. L. 96-385, Sec. 401(a)(2), added subsec. (e).

1978 - Subsec. (a)(6). Pub. L. 95-476, Sec. 104(1), struck out requirement that the purchased residential unit be in a new

condominium development, struck out provision that such unit could be in a structure built and sold as a condominium, and inserted provision that the criteria prescribed by the Administrator be prescribed through regulations.

Subsec. (a)(7). Pub. L. 95-476, Sec. 104(2), added par. (7).

Subsec. (c). Pub. L. 95-476, Sec. 105(a), substituted "\$25,000" for "\$17,500".

Subsec. (d). Pub. L. 95-476, Sec. 104(3), added subsec. (d).

1976 - Subsec. (a). Pub. L. 94-324 substituted "the veteran", "the veteran's" and "the Administrator" for "him", "his" and "he", respectively, wherever appearing.

1974 - Subsec. (a)(5). Pub. L. 93-569, Sec. 3(1), struck out "Nothing in this chapter shall preclude a veteran from paying to a lender any discount required by such lender in connection with such refinancing."

Subsec. (a)(6). Pub. L. 93-569, Sec. 3(2), added par. (6).

Subsec. (c). Pub. L. 93-569, Sec. 3(3), substituted "\$17,500" for "\$12,500".

Subsec. (d). Pub. L. 93-569, Sec. 3(4), struck out subsec. (d) relating to guaranty of loans for purchase of a one-family residential unit in a condominium housing project or development as to which Secretary of Housing and Urban Development has issued, under section 234 of the National Housing Act, evidence of insurance.

1970 - Subsec. (a). Pub. L. 91-506, Sec. 3(1), added par. (5) permitting a veteran to use his loan guaranty eligibility to refinance existing mortgage loans or other liens on dwellings on farm residences he occupies and provided that veterans using loan guarantees for such refinancing may pay points demanded by a lender.

Subsec. (d). Pub. L. 91-506, Sec. 3(2), added subsec. (d).

1968 - Subsec. (b). Pub. L. 90-301, Sec. 2(a), substituted "loan to be paid" for "price paid or to be paid" in par. (5) of first sentence and inserted sentence at end relating to notification of veteran concerned of determination of reasonable value of any property, construction, repairs, or alterations.

Subsec. (c). Pub. L. 90-301, Sec. 1(a), increased limitation on amount of guaranty entitlement from \$7,500 to \$12,500.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 3(a)(2) of Pub. L. 100-198 applicable to loans closed on or after Feb. 1, 1988, but not applicable to any loan for which a guaranty commitment is made on or before Dec. 31, 1987, see section 3(d) of Pub. L. 100-198, set out as a note under section 3703 of this title.

Section 7(d) of Pub. L. 100-198 provided that:

"(1) The amendments made by subsections (a) and (b) of this section [amending this section and section 1819 [now 3712] of this title] shall apply to loans made more than 30 days after the date of the enactment of this Act [Dec. 21, 1987].

"(2) The amendment made by subsection (c) of this section [amending this section] shall apply to loans for which commitments are made more than 60 days after the date of the enactment of this Act."

Amendment by section 8(a)(2) of Pub. L. 100-198 applicable with respect to loans made more than 30 days after Dec. 21, 1987, see section 8(c) of Pub. L. 100-198, set out as a note under section 3704 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by sections 401(a) and 402(a) of Pub. L. 96-385

effective Oct. 7, 1980, and Oct. 1, 1980, respectively, see section 601(b), (d) of Pub. L. 96-385, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by sections 104(2), (3) and 105(a) of Pub. L. 95-476 effective Oct. 1, 1978, and amendment by section 104(1) of Pub. L. 95-476 effective July 1, 1979, except with respect to the authority to prescribe regulations for the implementation of such amendment, which is effective Oct. 18, 1978, see section 108(a), (b) of Pub. L. 95-476, set out as a note under section 3702 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-324 effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as a note under section 3701 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-569 effective Dec. 31, 1974, except that amendment by section 3(2), (4) of Pub. L. 93-569 effective ninety days after Dec. 31, 1974, see section 10 of Pub. L. 93-569, set out as a note under section 3702 of this title.

RATIFICATION OF ACTIONS DURING PERIOD OF EXPIRED AUTHORITY

Any action taken by Secretary of Veterans Affairs before Feb. 13, 1996, under provision of law amended by title I of Pub. L. 104-110 that was taken during period beginning on date on which authority of Secretary under such provision of law expired and ending on Feb. 13, 1996, considered to have same force and effect as if such amendment had been in effect at time of that action, see section 103 of Pub. L. 104-110, set out as a note under section 1710 of this title.

REPORTS ON ENERGY EFFICIENT MORTGAGES GUARANTEED UNDER THIS SECTION

Section 9(c) of Pub. L. 102-547 directed Secretary of Veterans Affairs to transmit report on energy efficient mortgages to Committees on Veterans' Affairs of Senate and House of Representatives not later than 1 year after date on which Secretary first exercises authority to guarantee loans under section 3710(d) of this title and for each of the 3 years thereafter, prior to repeal by Pub. L. 104-110, title II, Sec. 201(b), Feb. 13, 1996, 110 Stat. 770.

-End-

-CITE-

38 USC Sec. 3711

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER II - LOANS

-HEAD-

Sec. 3711. Direct loans to veterans

-STATUTE-

(a) The Congress finds that housing credit for purposes specified

in section 3710 or 3712 of this title is not and has not been generally available to veterans living in rural areas, or in small cities and towns not near large metropolitan areas. It is therefore the purpose of this section to provide housing credit for veterans living in such rural areas and such small cities and towns.

(b) Whenever the Secretary finds that private capital is not generally available in any rural area or small city or town for the financing of loans guaranteed for purposes specified in section 3710 or 3712 of this title, the Secretary shall designate such rural area or small city or town as a "housing credit shortage area". The Secretary shall, with respect to any such area, make, or enter into commitments to make, to any veteran eligible under this title, a loan for any or all of the purposes described in section 3710(a) or 3712 of this title (other than the refinancing of a loan under section 3710(a)(8) or 3712(a)(1)(F)).

(c) No loan may be made under this section to a veteran unless the veteran shows to the satisfaction of the Secretary that -

(1) the veteran is unable to obtain from a private lender in such housing credit shortage area, at an interest rate not in excess of the rate authorized for guaranteed home loans or manufactured home loans, as appropriate, a loan for such purpose for which the veteran is qualified under section 3710 or 3712 of this title, as appropriate; and

(2) the veteran is unable to obtain a loan for such purpose from the Secretary of Agriculture under title III of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) or title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.).

(d)(1) Loans made under this section shall bear interest at a rate determined by the Secretary, not to exceed the rate authorized for guaranteed home loans, or manufactured home loans, as appropriate, and shall be subject to such requirements or limitations prescribed for loans guaranteed under this title as may be applicable.

(2)(A) Except for any loan made under this chapter for the purposes described in section 3712 of this title, the original principal amount of any loan made under this section shall not exceed an amount which bears the same ratio to \$33,000 as the amount of guaranty to which the veteran is entitled under section 3710 of this title at the time the loan is made bears to \$36,000; and the guaranty entitlement of any veteran who heretofore or hereafter has been granted a loan under this section shall be charged with an amount which bears the same ratio to \$36,000 as the amount of the loan bears to \$33,000.

(B) The original principal amount of any loan made under this section for the purposes described in section 3712 of this title shall not exceed the amount that bears the same ratio to \$33,000 as the amount of guaranty to which the veteran is entitled under such section at the time the loan is made bears to \$20,000. The amount of the guaranty entitlement for purposes specified in section 3710 of this title of any veteran who is granted a loan under this section, or who before October 18, 1978, was granted a loan under this section, shall be charged with the amount that bears the same ratio to \$20,000 as the amount of the loan bears to \$33,000.

(3) No veteran may obtain loans under this section aggregating more than \$33,000.

(e) Loans made under this section shall be repaid in monthly installments, except that in the case of any such loan made for any of the purposes described in paragraphs (2), (3), or (4) of section 3710(a) of this title, the Secretary may provide that such loan

shall be repaid in quarterly, semiannual, or annual installments.

(f) In connection with any loan under this section, the Secretary may make advances in cash to pay taxes and assessments on the real estate, to provide for repairs, alterations, and improvements, and to meet the incidental expenses of the transaction. The Secretary shall determine the expenses incident to origination of loans made under this section, which expenses, or a reasonable flat allowance in lieu thereof, shall be paid by the veteran in addition to the loan closing costs.

(g) The Secretary may sell, and shall offer for sale, to any person or entity approved for such purpose by the Secretary, any loan made under this section at a price which the Secretary determines to be reasonable under the conditions prevailing in the mortgage market when the agreement to sell the loan is made; and shall guarantee any loan thus sold subject to the same conditions, terms, and limitations which would be applicable were the loan guaranteed for purposes specified in section 3710 or 3712 of this title, as appropriate.

(h) The Secretary may exempt dwellings constructed through assistance provided by this section from the minimum land planning and subdivision requirements prescribed pursuant to subsection (a) of section 3704 of this title, and with respect to such dwellings may prescribe special minimum land planning and subdivision requirements which shall be in keeping with the general housing facilities in the locality but shall require that such dwellings meet minimum requirements of structural soundness and general acceptability.

(i) The Secretary is authorized, without regard to the provisions of subsections (a), (b), and (c) of this section, to make or enter into a commitment to make a loan to any veteran to assist the veteran in acquiring a specially adapted housing unit authorized under chapter 21 of this title, if the veteran is determined to be eligible for the benefits of such chapter 21, and is eligible for loan guaranty benefits under this chapter.

(j)(1) If any builder or sponsor proposes to construct one or more dwellings in a housing credit shortage area, or in any area for a veteran who is determined to be eligible for assistance in acquiring a specially adapted housing unit under chapter 21 of this title, the Secretary may enter into commitment with such builder or sponsor, under which funds available for loans under this section will be reserved for a period not in excess of three months, or such longer period as the Secretary may authorize to meet the needs in any particular case, for the purpose of making loans to veterans to purchase such dwellings. Such commitment may not be assigned or transferred except with the written approval of the Secretary. The Secretary shall not enter into any such commitment unless such builder or sponsor pays a nonrefundable commitment fee to the Secretary in an amount determined by the Secretary, not to exceed 2 percent of the funds reserved for such builder or sponsor.

(2) Whenever the Secretary finds that a dwelling with respect to which funds are being reserved under this subsection has been sold, or contracted to be sold, to a veteran eligible for a direct loan under this section, the Secretary shall enter into a commitment to make the veteran a loan for the purchase of such dwelling. With respect to any loan made to an eligible veteran under this subsection, the Secretary may make advances during the construction of the dwelling, up to a maximum in advances of (A) the cost of the land plus (B) 80 percent of the value of the construction in place.

(k) Without regard to any other provision of this chapter, the Secretary may take or cause to be taken such action as in the Secretary's judgment may be necessary or appropriate for or in

connection with the custody, management, protection, and realization or sale of investments under this section, may determine the Secretary's necessary expenses and expenditures, and the manner in which the same shall be incurred, allowed and paid, may make such rules, regulations, and orders as the Secretary may deem necessary or appropriate for carrying out the Secretary's functions under this section and, except as otherwise expressly provided in this chapter, may employ, utilize, compensate, and, to the extent not inconsistent with the Secretary's basic responsibilities under this chapter, delegate any of the Secretary's functions under this section to such persons and such corporate or other agencies, including agencies of the United States, as the Secretary may designate.

-SOURCE-

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1208, Sec. 1811; Pub. L. 86-665, Sec. 2, July 14, 1960, 74 Stat. 531; Pub. L. 87-84, Sec. 2, July 6, 1961, 75 Stat. 201; Pub. L. 88-402, Aug. 4, 1964, 78 Stat. 380; Pub. L. 89-358, Sec. 5(e), Mar. 3, 1966, 80 Stat. 26; Pub. L. 90-77, title IV, Sec. 404, Aug. 31, 1967, 81 Stat. 190; Pub. L. 90-301, Sec. 1(b), May 7, 1968, 82 Stat. 113; Pub. L. 91-22, Sec. 3, June 6, 1969, 83 Stat. 32; Pub. L. 91-506, Sec. 4, Oct. 23, 1970, 84 Stat. 1109; Pub. L. 92-66, Aug. 5, 1971, 85 Stat. 173; Pub. L. 93-569, Sec. 4, Dec. 31, 1974, 88 Stat. 1864; Pub. L. 94-324, Secs. 3, 7(12)-(15), June 30, 1976, 90 Stat. 720, 721; Pub. L. 95-476, title I, Sec. 105(b), Oct. 18, 1978, 92 Stat. 1499; Pub. L. 96-385, title IV, Secs. 401(c)(2), 402(b), Oct. 7, 1980, 94 Stat. 1533; Pub. L. 97-295, Sec. 4(65), Oct. 12, 1982, 96 Stat. 1309; Pub. L. 97-306, title IV, Sec. 406(c)(1), Oct. 14, 1982, 96 Stat. 1445; Pub. L. 100-198, Sec. 3(c), Dec. 21, 1987, 101 Stat. 1316; Pub. L. 100-322, title IV, Sec. 415(c)(5), (d)(2) May 20, 1988, 102 Stat. 551, 552; Pub. L. 101-237, title III, Sec. 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered Sec. 3711 and amended Pub. L. 102-83, Sec. 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 105-368, title VI, Sec. 602(e)(1)(B), Nov. 11, 1998, 112 Stat. 3346.)

-REFTEXT-

REFERENCES IN TEXT

Title III of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), referred to in subsec. (c)(2), probably means title III of Pub. L. 87-128, Aug. 8, 1961, 75 Stat. 307, as amended, known as the Consolidated Farm and Rural Development Act, which is classified principally to chapter 50 (Sec. 1921 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1921 of Title 7 and Tables.

The Housing Act of 1949, referred to in subsec. (c)(2), is act July 15, 1949, ch. 338, 63 Stat. 413, as amended. Title V of the Housing Act of 1949 is classified generally to subchapter III (Sec. 1471 et seq.) of chapter 8A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of Title 42 and Tables.

-MISC1-

AMENDMENTS

1998 - Subsec. (k). Pub. L. 105-368 struck out "and section 3723 of this title" after "functions under this section" in two places.

1991 - Pub. L. 102-83, Sec. 5(a), renumbered section 1811 of this title as this section.

Subsec. (a). Pub. L. 102-83, Sec. 5(c)(1), substituted "3710 or

3712" for "1810 or 1812".

Subsec. (b). Pub. L. 102-83, Sec. 5(c)(1), substituted "3710 or 3712" for "1810 or 1812", "3710(a) or 3712" for "1810(a) or 1812", and "3710(a)(8) or 3712(a)(1)(F)" for "1810(a)(8) or 1812(a)(1)(F)".

Subsec. (c)(1). Pub. L. 102-83, Sec. 5(c)(1), substituted "3710 or 3712" for "1810 or 1812".

Subsec. (d)(2). Pub. L. 102-83, Sec. 5(c)(1), substituted "3712" for "1812" and "3710" for "1810" in subpars. (A) and (B).

Subsec. (e). Pub. L. 102-83, Sec. 5(c)(1), substituted "3710(a)" for "1810(a)".

Subsec. (g). Pub. L. 102-83, Sec. 5(c)(1), substituted "3710 or 3712" for "1810 or 1812".

Subsec. (h). Pub. L. 102-83, Sec. 5(c)(1), substituted "3704" for "1804".

Subsec. (k). Pub. L. 102-83, Sec. 5(c)(1), substituted "3723" for "1823" in two places.

1989 - Subsecs. (b) to (d)(1), (e) to (k). Pub. L. 101-237 substituted "Secretary" and "Secretary's" for "Administrator" and "Administrator's", respectively, wherever appearing.

1988 - Subsec. (a). Pub. L. 100-322, Sec. 415(c)(5)(A), (d)(2)(A), substituted "for purposes specified in section 1810 or 1812" for "under section 1810 or 1819".

Subsec. (b). Pub. L. 100-322, Sec. 415(c)(5), (d)(2)(A), substituted "for purposes specified in section 1810 or 1812" for "under section 1810 or 1819", "section 1810(a) or 1812" for "section 1810(a) or 1819", and "section 1812(a)(1)(F)" for "section 1819(a)(1)(F)".

Subsecs. (c)(1), (d)(2)(A). Pub. L. 100-322, Sec. 415(c)(5)(A), substituted "1812" for "1819".

Subsec. (d)(2)(B). Pub. L. 100-322, Sec. 415(c)(5)(A), (d)(2)(B), substituted "1812" for "1819" and "for purposes specified in section 1810" for "under section 1810(c)".

Subsec. (g). Pub. L. 100-322, Sec. 415(c)(5)(A), (d)(2)(A), substituted "for purposes specified in section 1810 or 1812" for "under section 1810 or 1819".

1987 - Subsec. (d)(2)(A). Pub. L. 100-198 substituted "\$36,000" for "\$27,500" in two places.

1982 - Subsec. (c)(1). Pub. L. 97-306, Sec. 406(c)(1), substituted "manufactured home" for "mobile home".

Subsec. (c)(2). Pub. L. 97-295, Sec. 4(65)(A), substituted "title III of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) or title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.)" for "sections 1000-1029 of title 7 or under sections 1471-1483 of title 42".

Subsec. (d)(1). Pub. L. 97-306, Sec. 406(c)(1), substituted "manufactured home" for "mobile home".

Subsec. (d)(2)(B). Pub. L. 97-295, Sec. 4(65)(B), substituted "October 18, 1978," for "the date of the enactment of the Veterans' Housing Benefits Act of 1978".

Subsec. (j). Pub. L. 97-295, Sec. 4(65)(C), substituted "percent" for "per centum" wherever appearing.

1980 - Subsec. (b). Pub. L. 96-385, Sec. 401(c)(2), inserted "(other than the refinancing of a loan under section 1810(a)(8) or 1819(a)(1)(F))" after "section 1810(a) or 1819 of this title".

Subsec. (d)(2). Pub. L. 96-385, Sec. 402(b), substituted in two places "\$27,500" for "\$25,000" in subpar. (A) and "\$20,000" for "\$17,500" in two places in subpar. (B).

1978 - Subsec. (d)(2)(A). Pub. L. 95-476, Sec. 105(b)(1), substituted "\$25,000" for "\$17,500" in two places.

Subsec. (d)(2)(B). Pub. L. 95-476, Sec. 105(b)(2), substituted

formula for determining maximum amount of original principal of any loan made under this section for purposes of section 1819 of this title for provision that such original amount was not to exceed amount specified by Administrator pursuant to section 1819(d) of this title and inserted provision relating to amount of guaranty entitlement under section 1810(c) of this title.

1976 - Subsec. (b). Pub. L. 94-324, Sec. 7(12), substituted "the Administrator shall" for "he shall" and "The Administrator" for "He".

Subsec. (c). Pub. L. 94-324, Sec. 7(13), substituted "the veteran" for "he" wherever appearing.

Subsec. (d)(2)(A). Pub. L. 94-324, Sec. 3(1), substituted "\$33,000" for "\$21,000" wherever appearing and struck out provision authorizing Administrator to increase limitations specified upon finding that cost levels so required.

Subsec. (d)(3). Pub. L. 94-324, Sec. 3(2), increased aggregate amount of loans that a veteran is eligible to receive under this section from \$21,000 to \$33,000 and struck out provision authorizing Administrator to increase specific limitations upon such loans.

Subsec. (g). Pub. L. 94-324, Sec. 7(14), substituted "the Administrator" for "him" and "he" wherever appearing.

Subsec. (k). Pub. L. 94-324, Sec. 7(15), substituted "the Administrator's" for "his" wherever appearing and "as the Administrator" for "as he" wherever appearing.

1974 - Subsec. (d)(2)(A). Pub. L. 93-569 substituted "\$17,500" for "\$12,500" wherever appearing.

1971 - Subsec. (g). Pub. L. 92-66 substituted provisions authorizing Administrator to sell loans at a price which he determines to be reasonable under prevailing conditions in the mortgage market when agreement to sell loan is made, for provisions authorizing Administrator to sell loans at a price which he determines to be reasonable but not less than 98 per centum of unpaid principal balance, plus full amount of accrued interest, and if loans are offered to an investor in a package or block of two or more loans at not less than 98 per centum of aggregate unpaid principal balance of loans included in such package or block, plus full amount of accrued interest.

1970 - Subsec. (a). Pub. L. 91-506, Sec. 4(1), substituted "1810 or 1819" for "1810".

Subsec. (b). Pub. L. 91-506, Sec. 4(1), (2), substituted "1810 or 1819" for "1810" and provided that the Administrator make, or enter into commitments to make, to any eligible veteran, a loan for any of the purposes described in section 1819 dealing with loans to purchase mobile homes and lots as well as section 1810(a) dealing with the purchase or construction of homes.

Subsecs. (c)(1), (d)(1). Pub. L. 91-506, Sec. 4(3), (4), inserted reference to mobile home loans.

Subsec. (d)(2)(A). Pub. L. 91-506, Sec. 4(5), redesignated subsec. (d)(2) as subsec. (d)(2)(A) and substituted "Except for any loan made under this chapter for the purposes described in section 1819 of this title, the" for "The".

Subsec. (d)(2)(B). Pub. L. 91-506, Sec. 4(6), inserted provision limiting the original principal amount of any loan made under this section for the purchase of mobile homes and mobile home lots under section 1819 of this title to the amount specified by the Administrator pursuant to subsec. (d) of section 1819.

Subsec. (g). Pub. L. 91-506, Sec. 4(7), substituted "1810 or 1819 of this title, as appropriate" for "1810 of this title".

Subsec. (h). Pub. L. 91-506, Sec. 4(8), substituted provisions permitting Administrator to exempt dwellings constructed through

assistance provided by this section from the minimum land planning and subdivision requirements of this title so long as such dwellings meet minimum requirements of structural soundness and general acceptability for provisions establishing a direct loan expiration date by reference to those for guaranteed loans.

Subsec. (i). Pub. L. 91-506, Sec. 4(8), substituted provisions authorizing, Administrator to make or enter into a commitment to make, loans to assist disabled veterans in acquiring specially adapted housing if they are eligible for provisions authorizing Administrator to reserve funds available for loans to enable veterans to purchase dwellings in a housing credit shortage area provided the builder pays a nonrefundable commitment fee, not to exceed 2 percent of the funds reserved, authorizing the Administrator to make advances during construction of the dwelling, authorizing the Administrator to permit a private lender to purchase such loan, and permitting the Administrator to exempt dwellings constructed through assistance provided by this subsec. from the minimum land planning and subdivision requirements of this title so long as such dwellings meet minimum requirements of structural soundness and general acceptability.

Subsec. (j). Pub. L. 91-506, Sec. 4(8), substituted provisions authorizing Administrator to reserve funds available for loans to enable veterans to purchase housing in a housing credit shortage area, or in any area for a disabled veteran eligible for specially adapted housing, provided the builder pays a nonrefundable commitment fee, not to exceed 2 percent of the funds reserved and authorizing the Administrator to make advances during construction of the dwelling for provisions authorizing the Administrator to process loan applications notwithstanding the assistance of the Voluntary Home Mortgage Credit Committee in trying to place such loans with private lenders, authorizing the Administrator to complete the processing of such loan applications unless he is notified by such Committee that it was able to place any such loan with a private lender, and defining "working days".

1969 - Subsec. (d)(2), (3). Pub. L. 91-22 substituted "\$21,000" for "\$17,500" wherever appearing.

1968 - Subsec. (d)(2). Pub. L. 90-301 substituted "\$12,500" for "\$7,500" in two places.

1967 - Subsec. (d)(2). Pub. L. 90-77, Sec. 404(a), authorized an increase in amount of direct loan limits from \$17,500 to \$25,000 where Administrator finds cost levels so require.

Subsec. (d)(3). Pub. L. 90-77, Sec. 404(b), authorized an increase in aggregate amount of direct loans to \$25,000 where Administrator finds cost levels so require.

1966 - Subsec. (d)(2), (3), Pub. L. 89-358 substituted "\$17,500" for "\$15,000" wherever appearing.

1964 - Subsec. (g). Pub. L. 88-402 substituted provisions authorizing Administrator to sell loans at a price which he determines to be reasonable but not less than 98 per centum of unpaid principal balance, plus full amount of accrued interest, and if loans are offered to an investor in a package or block of two or more loans at not less than 98 per centum of aggregate unpaid principal balance of loans included in such package or block, plus full amount of accrued interest, for provisions which permitted Administrator to sell loans only at a price not less than par.

1961 - Subsec. (d)(2), (3). Pub. L. 87-84, Sec. 2(a), substituted "\$15,000" for "\$13,500" wherever appearing.

Subsec. (h). Pub. L. 87-84, Sec. 2(b), substituted "to any veteran after the expiration of his entitlement pursuant to section 1803(a)(3) of this title except pursuant to a commitment issued by the Administrator before such entitlement expires" for "after July

25, 1962, except pursuant to commitments issued by the Administrator before that date."

1960 - Subsec. (h). Pub. L. 86-665 substituted "1962" for "1960".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-368 effective Oct. 1, 1998, see section 602(f) of Pub. L. 105-368, set out as a note under section 2106 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 3(c) of Pub. L. 100-198 applicable to loans closed on or after Feb. 1, 1988, but not applicable to any loan for which a guaranty commitment is made on or before Dec. 31, 1987, see section 3(d) of Pub. L. 100-198, set out as a note under section 3703 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by sections 401(c)(2) and 402(b) of Pub. L. 96-385 effective Oct. 7, 1980, and Oct. 1, 1980, respectively, see section 601(b), (d) of Pub. L. 96-385, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-476 effective Oct. 1, 1978, see section 108(a) of Pub. L. 95-476, set out as a note under section 3702 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by sections 3 and 7(12)-(15) of Pub. L. 94-324 effective Oct. 1, 1976, and June 30, 1976, respectively, see section 9(a), (b) of Pub. L. 94-324, set out as a note under section 3701 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-569 effective Dec. 31, 1974, see section 10 of Pub. L. 93-569, set out as a note under section 3702 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-77 effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as a note under section 101 of this title.

-End-

-CITE-

38 USC Sec. 3712

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER II - LOANS

-HEAD-

Sec. 3712. Loans to purchase manufactured homes and lots

-STATUTE-

(a)(1) Notwithstanding any other provision of this chapter, any loan to a veteran eligible for the housing loan benefits of this chapter, if made pursuant to the provisions of this section, may be guaranteed if such loan is for one of the following purposes:

- (A) To purchase a lot on which to place a manufactured home already owned by the veteran.
- (B) To purchase a single-wide manufactured home.
- (C) To purchase a single-wide manufactured home and a lot on which to place such home.
- (D) To purchase a double-wide manufactured home.
- (E) To purchase a double-wide manufactured home and a lot on which to place such home.
- (F) To refinance in accordance with paragraph (4) of this subsection an existing loan guaranteed, insured, or made under this section.
- (G) To refinance in accordance with paragraph (5) of this subsection an existing loan that was made for the purchase of, and that is secured by, a manufactured home and to purchase a lot on which such manufactured home is or will be placed.

(2) A loan for any of the purposes described in paragraph (1) of this subsection (other than the refinancing under clause (F) of such paragraph of an existing loan) may include an amount determined by the Secretary to be appropriate to cover the cost of necessary preparation of a lot already owned or to be acquired by the veteran, including the costs of installing utility connections and sanitary facilities, of paving, and of constructing a suitable pad for the manufactured home.

(3) Any loan made for the purposes described in clause (C), (E), or (G) of paragraph (1) of this subsection shall be considered as part of one loan. The transaction may be evidenced by a single loan instrument or by separate loan instruments for (A) that portion of the loan which finances the purchase of the manufactured home, and (B) that portion of the loan which finances the purchase of the lot and the necessary preparation of such lot.

(4)(A) For a loan to be guaranteed for the purpose specified in clause (F) of paragraph (1) of this subsection -

- (i) the interest rate of the loan must be less than the interest rate of the loan being refinanced;
- (ii) the loan must be secured by the same manufactured home or manufactured-home lot, or manufactured home and manufactured-home lot, as was the loan being refinanced;
- (iii) the amount of the loan may not exceed an amount equal to the sum of the balance of the loan being refinanced and such closing costs (including any discount permitted pursuant to section 3703(c)(3)(A) of this title) as may be authorized by the Secretary, under regulations which the Secretary shall prescribe, to be included in such loan;
- (iv) notwithstanding section 3703(a)(1) of this title, the amount of the guaranty of the loan may not exceed the greater of (I) the original guaranty amount of the loan being refinanced, or (II) 25 percent of the loan;
- (v) the term of the loan may not exceed the original term of the loan being refinanced;
- (vi) the veteran must own the manufactured home, or the manufactured-home lot, or the manufactured home and the manufactured-home lot, securing the loan and -
 - (I) must occupy the home, a manufactured home on the lot, or the home and the lot, securing the loan;
 - (II) must have previously occupied the home, a manufactured home on the lot, or the home and the lot, securing the loan as

the veteran's home and must certify, in such form as the Secretary shall require, that the veteran has previously so occupied the home (or such a home on the lot); or

(III) in any case in which a veteran is in active duty status as a member of the Armed Forces and is unable to occupy the home, a manufactured home on the lot, or the home and the lot, as a home because of such status, the spouse of the veteran must occupy, or must have previously occupied, the manufactured home on the lot, or the home and the lot, as such spouse's home and must certify such occupancy in such form as the Secretary shall require.

(B) A loan to a veteran may be guaranteed by the Secretary under this chapter for the purpose specified in clause (F) of paragraph (1) of this subsection without regard to the amount of outstanding guaranty entitlement available for use by such veteran, and the amount of such veteran's guaranty entitlement shall not be charged as a result of any guaranty provided for such purpose. For purposes of section 3702(b) of this title, such loan shall be deemed to have been obtained with the guaranty entitlement used to obtain the loan being refinanced.

(C) If a veteran is deceased and if such veteran's surviving spouse was a co-obligor under an existing loan previously guaranteed, insured, or made for purposes specified in this section, such surviving spouse shall, only for the purpose specified in clause (F) of paragraph (1) of this subsection, be deemed to be a veteran eligible for benefits under this chapter.

(5)(A) For a loan to be guaranteed for the purpose specified in paragraph (1)(G) of this subsection or section 3710(a)(9)(B)(ii) of this title -

(i) the loan must be secured by the same manufactured home as was the loan being refinanced and such manufactured home must be owned and occupied by the veteran (except as provided in section 3704(c)(2) of this title) as such veteran's home; and

(ii) the amount of the loan may not exceed an amount equal to the sum of -

(I) the purchase price of the lot,

(II) the amount (if any) determined by the Secretary to be appropriate under paragraph (2) of this subsection to cover the cost of necessary preparation of such lot,

(III) the balance of the loan being refinanced, and

(IV) such closing costs (including any discount permitted pursuant to section 3703(c)(3)(E) of this title) as may be authorized by the Secretary, under regulations which the Secretary shall prescribe, to be included in such loan.

(B) When a loan is made to a veteran for the purpose specified in paragraph (1)(G) of this subsection or section 3710(a)(9)(B)(ii) of this title, and the loan being refinanced was guaranteed, insured, or made under this section, the portion of the loan made for the purpose of refinancing such loan may be guaranteed by the Secretary under this chapter without regard to the amount of outstanding guaranty entitlement available for use by such veteran, and the amount of such veteran's guaranty entitlement shall not be charged as a result of any guaranty provided for such portion of such loan. For the purposes of section 3702(b) of this title, such portion of such loan shall be deemed to have been obtained with the guaranty entitlement used to obtain the loan being refinanced.

(b)(1) Use of entitlement for purposes specified in this section for the purchase of a manufactured home unit shall preclude the use of remaining entitlement for the purchase of an additional

manufactured home unit until the unit which secured the loan has been disposed of by the veteran or has been destroyed by fire or other natural hazard.

(2) The Secretary shall restore entitlement to all housing loan benefits under this chapter for the veteran when the conditions prescribed in section 3702(b) of this title have been met.

(c)(1) Loans for any of the purposes authorized by subsection (a) of this section shall be submitted to the Secretary for approval prior to the closing of the loan, except that the Secretary may exempt any lender of a class listed in section 3702(d) of this title from compliance with such prior approval requirement if the Secretary determines that the experience of such lender or class of lenders in manufactured home financing warrants such exemption.

(2) Upon determining that a loan submitted for prior approval is eligible for guaranty for purposes specified in this section, the Secretary shall issue a commitment to guarantee such loan and shall thereafter guarantee the loan when made if such loan qualifies therefor in all respects.

(3)(A) The Secretary's guaranty may not exceed the lesser of (i) the lesser of \$20,000 or 40 percent of the loan, or (ii) the maximum amount of the guaranty entitlement available to the veteran as specified in paragraph (4) of this subsection.

(B) A claim under the Secretary's guaranty shall, at the election of the holder of a loan, be made by the filing of an accounting with the Secretary -

- (i) within a reasonable time after the receipt by such holder of an appraisal by the Secretary of the value of the security for the loan; or
- (ii) after liquidation of the security for the loan.

(C) If the holder of a loan applies for payment of a claim under clause (i) of subparagraph (B) of this paragraph, the amount of such claim payable by the Secretary shall be the lesser of -

- (i) the amount equal to the excess, if any, of the total indebtedness over the amount of the appraisal referred to in such clause; or
- (ii) the amount equal to the guaranty under this section.

(D) If the holder of a loan files for payment of a claim under clause (ii) of subparagraph (B) of this paragraph, the amount of such claim payable by the Secretary shall be the lesser of -

- (i) the amount equal to the excess, if any, of the total indebtedness over the greater of the value of the property securing the loan, as determined by the Secretary, or the amount of the liquidation or resale proceeds; or
- (ii) the amount equal to the guaranty under this section.

(E) In any accounting filed pursuant to subparagraph (B)(ii) of this paragraph, the Secretary shall permit to be included therein accrued unpaid interest from the date of the first uncured default to such cutoff date as the Secretary may establish, and the Secretary shall allow the holder of the loan to charge against the liquidation or resale proceeds accrued interest from the cutoff date established to such further date as the Secretary may determine and such costs and expenses as the Secretary determines to be reasonable and proper.

(F) The liability of the United States under the guaranty provided for by this paragraph shall decrease or increase pro rata with any decrease or increase of the amount of the unpaid portion of the obligation.

(4) The maximum amount of guaranty entitlement available to a

veteran for purposes specified in this section shall be \$20,000 reduced by the amount of any such entitlement previously used by the veteran. Use of entitlement for purposes specified in section 3710 or 3711 of this title shall reduce entitlement available for use for purposes specified in this section to the same extent that entitlement available for purposes specified in such section 3710 is reduced below \$20,000.

(5) The amount of any loan guaranteed for purposes specified in this section shall not exceed an amount equal to 95 percent of the purchase price of the property securing the loan.

(d)(1) The maturity of any loan guaranteed for purposes specified in this section shall not be more than -

(A) fifteen years and thirty-two days, in the case of a loan for the purchase of a lot;

(B) twenty years and thirty-two days, in the case of a loan for the purchase of -

(i) a single-wide manufactured home; or

(ii) a single-wide manufactured home and a lot;

(C) twenty-three years and thirty-two days, in the case of a loan for the purchase of a double-wide manufactured home; or

(D) twenty-five years and thirty-two days, in the case of a loan for the purchase of a double-wide manufactured home and a lot.

(2) Nothing in paragraph (1) of this subsection shall preclude the Secretary, under regulations which the Secretary shall prescribe, from consenting to necessary advances for the protection of the security or the holder's lien, to a reasonable extension of the term of such loan, or to a reasonable reamortization of such loan.

(e) No loan shall be guaranteed for purposes specified in this section unless -

(1) the loan is repayable in approximately equal monthly installments;

(2) the terms of repayment bear a proper relationship to the veteran's present and anticipated income and expenses, and the veteran is a satisfactory credit risk, as determined in accordance with the regulations prescribed under section 3710(g) of this title and taking into account the purpose of this program to make available lower cost housing to low and lower income veterans, especially those who have been recently discharged or released from active military, naval, or air service, who may not have previously established credit ratings;

(3) the loan is secured by a first lien on the manufactured home purchased with the proceeds of the loan and on any lot acquired or improved with the proceeds of the loan;

(4) the amount of the loan to be paid by the veteran is not in excess of the amount determined to be reasonable, based upon -

(A) with respect to any portion of the loan to purchase a new manufactured home, such cost factors as the Secretary considers proper to take into account;

(B) with respect to any portion of the loan to purchase a used manufactured home, the reasonable value of the property, as determined by the Secretary;

(C) with respect to any portion of the loan to purchase a lot, the reasonable value of such lot, as determined by the Secretary; and

(D) with respect to any portion of the loan to cover the cost of necessary site preparation, an appropriate amount, as determined by the Secretary;

(5) the veteran certifies, in such form as the Secretary shall prescribe, that the veteran will personally occupy the property as the veteran's home; except that the requirement of this clause shall not apply (A) in the case of a guaranteed loan that is for the purpose described in paragraph (1)(F) of subsection (a), or (B) in the case described in section 3704(c)(2);

(6) the manufactured home is or will be placed on a site which meets specifications which the Secretary shall establish by regulation; and

(7) the interest rate to be charged on the loan does not exceed the permissible rate established by the Secretary.

(f) The Secretary shall establish such rate of interest for manufactured home loans and manufactured home lot loans as the Secretary determines to be necessary in order to assure a reasonable supply of manufactured home loan financing for veterans for purposes specified in this section.

(g) The Secretary shall promulgate such regulations as the Secretary determines to be necessary or appropriate in order to fully implement the provisions of this section, and such regulations may specify which provisions in other sections of this chapter the Secretary determines should be applicable to loans guaranteed or made for purposes specified in this section. The Secretary shall have such powers and responsibilities in respect to matters arising under this section as the Secretary has in respect to loans made or guaranteed or under other sections of this chapter.

(h)(1) No loan for the purchase of a manufactured home shall be guaranteed for purposes specified in this section unless the manufactured home and lot, if any, meet or exceed standards for planning, construction, and general acceptability as prescribed by the Secretary and no loan for the purchase of a lot on which to place a manufactured home owned by a veteran shall be guaranteed for purposes specified in this section unless the lot meets such standards prescribed for manufactured home lots. Such standards shall be designed to encourage the maintenance and development of sites for manufactured homes which will be attractive residential areas and which will be free from, and not substantially contribute to, adverse scenic or environmental conditions.

(2) Any manufactured housing unit properly displaying a certification of conformity to all applicable Federal manufactured home construction and safety standards pursuant to section 616 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5415) shall be deemed to meet the standards required by paragraph (1).

(i) The Secretary shall require the manufacturer to become a warrantor of any new manufactured home which is approved for purchase with financing through the assistance of this chapter and to furnish to the purchaser a written warranty in such form as the Secretary shall require. Such warranty shall include (1) a specific statement that the manufactured home meets the standards prescribed by the Secretary pursuant to the provisions of subsection (h) of this section; and (2) a provision that the warrantor's liability to the purchaser or owner is limited under the warranty to instances of substantial nonconformity to such standards which become evident within one year from date of purchase and as to which the purchaser or owner gives written notice to the warrantor not later than ten days after the end of the warranty period. The warranty prescribed herein shall be in addition to, and not in derogation of, all other rights and privileges which such purchaser or owner may have under

any other law or instrument and shall so provide in the warranty document.

(j) Subject to notice and opportunity for a hearing, the Secretary is authorized to deny guaranteed or direct loan financing in the case of -

(1) manufactured homes constructed by a manufacturer who fails or is unable to discharge the manufacturer's obligations under the warranty;

(2) manufactured homes which are determined by the Secretary not to conform to the standards provided for in subsection (h); or

(3) a manufacturer of manufactured homes who has engaged in procedures or practices determined by the Secretary to be unfair or prejudicial to veterans or the Government.

(k) Subject to notice and opportunity for a hearing, the Secretary may refuse to approve as acceptable any site in a manufactured home park or subdivision owned or operated by any person whose rental or sale methods, procedures, requirements, or practices are determined by the Secretary to be unfair or prejudicial to veterans renting or purchasing such sites. The Secretary may also refuse to guarantee or make direct loans for veterans to purchase manufactured homes offered for sale by any dealer if substantial deficiencies have been discovered in such homes, or if the Secretary determines that there has been a failure or indicated inability of the dealer to discharge contractual liabilities to veterans, or that the type of contract of sale or methods, procedures, or practices pursued by the dealer in the marketing of such properties have been unfair or prejudicial to veteran purchasers.

(l) The provisions of sections 3704(d) and 3721 of this title shall be fully applicable to lenders making guaranteed manufactured home loans and manufactured home lot loans and holders of such loans.

-SOURCE-

(Added Pub. L. 91-506, Sec. 5, Oct. 23, 1970, 84 Stat. 1110, Sec. 1819; amended Pub. L. 93-569, Sec. 5, Dec. 31, 1974, 88 Stat. 1864; Pub. L. 94-324, Secs. 5, 7(20)-(23), June 30, 1976, 90 Stat. 720, 722; Pub. L. 95-476, title I, Sec. 107, Oct. 18, 1978, 92 Stat. 1500; Pub. L. 96-385, title IV, Secs. 401(b), 402(c), Oct. 7, 1980, 94 Stat. 1532, 1533; Pub. L. 97-66, title V, Sec. 503, Oct. 17, 1981, 95 Stat. 1032; Pub. L. 97-72, title III, Sec. 303(h), (i), Nov. 3, 1981, 95 Stat. 1060; Pub. L. 97-295, Sec. 4(66), Oct. 12, 1982, 96 Stat. 1310; Pub. L. 97-306, title IV, Sec. 406(a), (c)(2), Oct. 14, 1982, 96 Stat. 1444, 1445; Pub. L. 98-223, title II, Sec. 205(b), Mar. 2, 1984, 98 Stat. 43; Pub. L. 99-576, title IV, Sec. 402(c)(2), Oct. 28, 1986, 100 Stat. 3281; Pub. L. 100-198, Secs. 3(b), 7(b), 8(b), Dec. 21, 1987, 101 Stat. 1315, 1318, 1320; Pub. L. 100-253, Sec. 3(b), Feb. 29, 1988, 102 Stat. 20; renumbered Sec. 1812 and amended Pub. L. 100-322, title IV, Sec. 415(b)(4), May 20, 1988, 102 Stat. 551; Pub. L. 101-237, title III, Sec. 313(b)(1), (7), Dec. 18, 1989, 103 Stat. 2077; Pub. L. 101-508, title VIII, Sec. 8031(a), Nov. 5, 1990, 104 Stat. 1388-348; Pub. L. 102-54, Sec. 14(c)(8), June 13, 1991, 105 Stat. 285; renumbered Sec. 3712 and amended Pub. L. 102-83, Secs. 4(a)(2)(A)(v), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 403, 406; Pub. L. 102-547, Sec. 6(2), Oct. 28, 1992, 106 Stat. 3636; Pub. L. 103-446, title IX, Sec. 906, title XII, Sec. 1201(e)(14), Nov. 2, 1994, 108 Stat. 4677, 4685; Pub. L. 104-66, title I, Sec. 1141(b), Dec. 21, 1995, 109 Stat. 726.)

AMENDMENTS

1995 - Subsecs. (l), (m). Pub. L. 104-66 redesignated subsec. (m) as (l) and struck out former subsec. (l) which read as follows:

"The Secretary's annual report to Congress shall include a report on operations under this section, including experience with compliance with the warranty required by subsection (i) and the experience regarding defaults and foreclosures."

1994 - Subsec. (c)(3)(D). Pub. L. 103-446, Sec. 1201(e)(14)(A)(i), inserted "of" after "subparagraph (B)" in introductory provisions.

Subsec. (c)(3)(E). Pub. L. 103-446, Sec. 1201(e)(14)(A)(ii), substituted "subparagraph (B)(ii) of this paragraph" for "subparagraph (B)(ii) of this subsection".

Subsec. (h)(2). Pub. L. 103-446, Sec. 906(a), amended par. (2) generally. Prior to amendment, par. (2) required the Secretary to inspect the manufacturing process of manufacturers of manufactured homes sold to veterans and provided for the delegation of that function to the Secretary of Housing and Urban Development.

Subsec. (j). Pub. L. 103-446, Sec. 906(b), substituted "in the case of - " and pars. (1) to (3) for "in the case of manufactured homes constructed by any manufacturer who refuses to permit the inspections provided for in subsection (h) of this section; or in the case of manufactured homes which are determined by the Secretary not to conform to the aforesaid standards; or where the manufacturer of manufactured homes fails or is unable to discharge the manufacturer's obligations under the warranty."

Subsec. (l). Pub. L. 103-446, Sec. 906(c), struck out "the results of inspections required by subsection (h) of this section," after "including" and "of this section" after "subsection (i)".

Subsec. (m). Pub. L. 103-446, Sec. 1201(e)(14)(B), substituted "sections 3704(d) and 3721 of this title" for "section 3704(d) and section 3721 of this chapter".

1992 - Subsec. (a)(4)(A)(iv). Pub. L. 102-547 amended cl. (iv) generally. Prior to amendment, cl. (iv) read as follows: "the amount of the guaranty of the loan may not exceed the original guaranty amount of the loan being refinanced;"

1991 - Pub. L. 102-83, Sec. 5(a), renumbered section 1812 of this title as this section.

Subsec. (a)(4)(A)(iii). Pub. L. 102-83, Sec. 5(c)(1), substituted "3703(c)(3)(A)" for "1803(c)(3)(A)".

Subsec. (a)(4)(B). Pub. L. 102-83, Sec. 5(c)(1), substituted "3702(b)" for "1802(b)".

Pub. L. 102-83, Sec. 4(a)(2)(A)(v), substituted "Secretary" for "Veterans' Administration".

Subsec. (a)(5)(A). Pub. L. 102-83, Sec. 5(c)(1), substituted "3710(a)(9)(B)(ii)" for "1810(a)(9)(B)(ii)" in introductory provisions, "3704(c)(2)" for "1804(c)(2)" in cl. (i), and "3703(c)(3)(E)" for "1803(c)(3)(E)" in cl. (ii)(IV).

Subsec. (a)(5)(B). Pub. L. 102-83, Sec. 5(c)(1), substituted "3710(a)(9)(B)(ii)" for "1810(a)(9)(B)(ii)" and "3702(b)" for "1802(b)".

Pub. L. 102-83, Sec. 4(a)(2)(A)(v), substituted "Secretary" for "Veterans' Administration".

Subsec. (b)(2). Pub. L. 102-83, Sec. 5(c)(1), substituted "3702(b)" for "1802(b)".

Subsec. (c)(1). Pub. L. 102-83, Sec. 5(c)(1), substituted "3702(d)" for "1802(d)".

Subsec. (c)(4). Pub. L. 102-83, Sec. 5(c)(1), substituted "3710 or 3711" for "1810 or 1811" and "3710" for "1810".

Subsec. (c)(5). Pub. L. 102-54, Sec. 14(c)(8)(A), substituted "for purposes specified in this section" for "under this section".

Subsec. (e)(2). Pub. L. 102-83, Sec. 5(c)(1), substituted "3710(g)" for "1810(g)".

Subsec. (e)(5). Pub. L. 102-83, Sec. 5(c)(1), substituted "3704(c)(2)" for "1804(c)(2)".

Subsec. (l). Pub. L. 102-54, Sec. 14(c)(8)(B), struck out ", beginning 12 months following October 23, 1970," after "shall".

Subsec. (m). Pub. L. 102-83, Sec. 5(c)(1), substituted "3704(d)" for "1804(d)" and "3721" for "1821".

1990 - Subsec. (c)(3). Pub. L. 101-508 amended par. (3) generally. Prior to amendment, par. (3) read as follows: "The Secretary's guaranty may not exceed the lesser of (A) the lesser of \$20,000 or 40 percent of the loan, or (B) the maximum amount of guaranty entitlement available to the veteran as specified in paragraph (4) of this subsection. Payment of a claim under such guaranty shall be made only after liquidation of the security for the loan and the filing of an accounting with the Secretary. In any such accounting the Secretary shall permit to be included therein accrued unpaid interest from the date of the first uncured default to such cutoff date as the Secretary may establish, and the Secretary shall allow the holder of the loan to charge against the liquidation or resale proceeds, accrued interest from the cutoff date established to such further date as the Secretary may determine and such costs and expenses as the Secretary determines to be reasonable and proper. The liability of the United States under the guaranty provided for by this section shall decrease or increase pro rata with any decrease or increase of the amount of the unpaid portion of the obligation."

1989 - Subsecs. (a) to (h)(2)(A). Pub. L. 101-237, Sec. 313(b)(1), substituted "Secretary" and "Secretary's" for "Administrator" and "Administrator's", respectively, wherever appearing.

Subsec. (h)(2)(B). Pub. L. 101-237, Sec. 313(b)(7), substituted "Secretary of Housing and Urban Development pursuant" for "Secretary pursuant" and substituted "Secretary of Veterans Affairs" for "Administrator" wherever appearing.

Subsecs. (i) to (l). Pub. L. 101-237, Sec. 313(b)(1), substituted "Secretary" and "Secretary's" for "Administrator" and "Administrator's", respectively, wherever appearing.

1988 - Pub. L. 100-322, Sec. 415(b)(4)(C), renumbered section 1819 of this title as this section.

Subsecs. (a)(4)(C), (b)(1), (c)(2). Pub. L. 100-322, Sec. 415(b)(4)(A), substituted "for purposes specified in this section" for "under this section".

Subsec. (c)(3). Pub. L. 100-322, Sec. 415(b)(4)(B)(i), inserted "as specified in paragraph (4) of this subsection" before period at end.

Pub. L. 100-253, Sec. 3(b)(1), substituted "the lesser of (A) the lesser of \$20,000 or 40 percent of the loan, or (B) the maximum amount of guaranty entitlement available to the veteran" for "40 percent of the loan, or \$20,000, whichever is less, reduced by the amount of entitlement previously used by the veteran under this chapter and not restored as a result of the exclusion in section 1802(b) of this title".

Subsec. (c)(4). Pub. L. 100-322, Sec. 415(b)(4)(A), (B)(ii), (iii), substituted "for purposes specified in this section" for "under this section" in two places, "for purposes specified in section 1810" for "under section 1810", and "for purposes specified in such section 1810" for "under such section 1810".

Pub. L. 100-253, Sec. 3(b)(2), substituted "maximum amount of

guaranty entitlement available to a veteran under this section shall be \$20,000 reduced by the amount of any such entitlement previously used by the veteran" for "amount of any loan guaranteed under this section shall not exceed an amount equal to 95 percent of the purchase price of the property securing such loan".

Subsec. (c)(5). Pub. L. 100-253, Sec. 3(b)(3), added par. (5).

Subsecs. (d)(1), (e) to (g), (h)(1). Pub. L. 100-322, Sec. 415(b)(4)(A), substituted "for purposes specified in this section" for "under this section".

1987 - Subsec. (a)(4)(A)(ii). Pub. L. 100-198, Sec. 7(b)(1), struck out "and such manufactured home (or a manufactured home on such lot) must be owned and occupied by the veteran as such veteran's home" before semicolon at end.

Subsec. (a)(4)(A)(vi). Pub. L. 100-198, Sec. 7(b)(2)-(4), added cl. (vi).

Subsec. (a)(5)(A)(i). Pub. L. 100-198, Sec. 8(b)(1), inserted "(except as provided in section 1804(c)(2) of this title)" after "by the veteran".

Subsec. (c)(3). Pub. L. 100-198, Sec. 3(b)(1), amended first sentence generally. Prior to amendment, first sentence read as follows: "The Administrator's guaranty may not exceed the lesser of 50 per centum of the loan amount or the maximum loan guaranty entitlement available, not to exceed \$20,000."

Subsec. (c)(4). Pub. L. 100-198, Sec. 3(b)(2), amended first sentence generally. Prior to amendment, first sentence read as follows: "The amount of guaranty entitlement available to a veteran under this section shall not be more than \$20,000, less the amount of any such entitlement as may have been used under this section."

Subsec. (e)(5). Pub. L. 100-198, Sec. 8(b)(2), inserted before semicolon at end "; except that the requirement of this clause shall not apply (A) in the case of a guaranteed loan that is for the purpose described in paragraph (1)(F) of subsection (a), or (B) in the case described in section 1804(c)(2)".

1986 - Subsec. (e)(2). Pub. L. 99-576 inserted "as determined in accordance with the regulations prescribed under section 1810(g) of this title and" after "credit risk".

1984 - Subsec. (a)(5). Pub. L. 98-223 inserted "or section 1810(a)(9)(B)(ii) of this title" after "paragraph (1)(G) of this subsection" in two places.

1982 - Pub. L. 97-306, Sec. 406(c)(2)(C), substituted "Loans to purchase manufactured homes and lots" for "Loans to purchase mobile homes and mobile home lots" in section catchline.

Subsec. (a)(1)(A) to (E). Pub. L. 97-306, Sec. 406(c)(2)(A), substituted "manufactured" for "mobile" wherever appearing.

Subsec. (a)(1)(G). Pub. L. 97-306, Sec. 406(a)(1), added cl. (G).

Subsec. (a)(2). Pub. L. 97-306, Sec. 406(a)(2), (c)(2)(A), inserted "(other than the refinancing under clause (F) of such paragraph of an existing loan)" after "subsection" and substituted "manufactured" for "mobile".

Subsec. (a)(3). Pub. L. 97-306, Sec. 406(a)(3), (c)(2)(A), substituted "(C), (E), or (G)" for "(C) or (E)", and "manufactured" for "mobile".

Subsec. (a)(4)(A)(ii). Pub. L. 97-306, Sec. 406(c)(2)(A), (B), substituted "manufactured" for "mobile", wherever appearing and "manufactured-home" for "mobile-home" wherever appearing.

Subsec. (a)(5). Pub. L. 97-306, Sec. 406(a)(4), added par. (5).

Subsecs. (b)(1), (c)(1), (d)(1)(B), (C), (D), (e)(3), (4)(A), (B), (6), (f), (h) to (k). Pub. L. 97-306, Sec. 406(c)(2)(A), substituted "manufactured" for "mobile" wherever appearing.

Subsec. (l). Pub. L. 97-295 substituted "October 23, 1970" for "the date of enactment of the Veterans' Housing Act of 1970".

Subsec. (m). Pub. L. 97-306, Sec. 406(c)(2)(A), substituted "manufactured" for "mobile" wherever appearing.

1981 - Subsec. (a)(1). Pub. L. 97-72, Sec. 303(h), substituted "housing loan benefits" for "benefits".

Subsec. (b)(2). Pub. L. 97-72, Sec. 303(i), substituted "housing loan benefits" for "loan guaranty benefits".

Subsec. (d)(1). Pub. L. 97-66 increased from 15 years, 32 days to 20 years, 32 days the allowable maturity of a loan for purchase of a single-wide mobile home or a single-wide mobile home and a lot, from 20 years, 32 days to 23 years, 32 days the allowable maturity of a loan for purchase of a double-wide mobile home, and from 20 years, 32 days to 25 years, 32 days the allowable maturity of a loan for purchase of a double-wide mobile home and a lot.

1980 - Subsec. (a)(1)(F). Pub. L. 96-385, Sec. 401(b)(1), added cl. (F).

Subsec. (a)(4). Pub. L. 96-385, Sec. 401(b)(2), added par. (4).

Subsec. (c)(3), (4). Pub. L. 96-385, Sec. 402(c), substituted "\$20,000" for "\$17,500" once in par. (3) and twice in par. (4).

1978 - Subsec. (a). Pub. L. 95-476, Sec. 107(a), substituted provisions that loans to eligible veterans could be guaranteed if such loans were for certain approved purposes, that such loans for any approved purpose could include an amount determined by the Administrator to be appropriate to cover the cost of necessary lot preparation, and that any loan under cls. (C) or (E) of par. (1) were to be considered one loan, evidenced either by a single instrument or separate instruments for the portions of the loan financing the purchase of the mobile home and the purchase and preparation of the lot for provision that any eligible veteran who had maximum entitlement available for use would be eligible for either the mobile home loan guaranty benefit or the mobile home lot loan guaranty benefit or both but that use of either would preclude use of any home loan guaranty entitlement under any other section until the loan guaranteed under this section had been paid in full.

Subsec. (b)(1). Pub. L. 95-476, Sec. 107(a), substituted provision that use of benefit entitlement under this section for purchase of a mobile home unit would preclude use of any remainder of entitlement for purchase of an additional mobile home unit until the first unit had been disposed of or destroyed by natural hazard for provision that a loan to purchase a mobile home under this section could include amounts to finance purchase of lot and necessary preparation of lot.

Subsec. (b)(2). Pub. L. 95-476, Sec. 107(a), substituted provision authorizing Administrator to restore full benefit entitlement to a veteran under this chapter when conditions prescribed in section 1802(b) of this title had been met for provision authorizing loans to purchase and prepare a mobile home lot when veteran already owned such a mobile home.

Subsec. (c)(1). Pub. L. 95-476, Sec. 107(b)(1), struck out provisions relating to eligible purposes of mobile home loans under this section.

Subsec. (c)(3). Pub. L. 95-476, Sec. 107(b)(2), substituted provision limiting liability of Administrator under loan guaranty to a maximum of lesser of 50 per centum of loan amount or maximum loan guaranty entitlement available, not to exceed \$17,500, for provision limiting Administrator's guaranty to a maximum of 50 per centum of loan amount.

Subsec. (c)(4). Pub. L. 95-476, Sec. 107(b)(3), added par. (4).

Subsec. (d). Pub. L. 95-476, Sec. 107(c), struck out provisions establishing maximum loan amounts for guaranteed mobile home loans and increased maturity for single-wide mobile home loans and lot-only loans from 12 years and 32 days to 15 years and 32 days.

Subsec. (e)(4). Pub. L. 95-476, Sec. 107(d), substituted provisions authorizing Administrator to determine reasonable maximum loan amounts for purchase of new or used mobile homes and purchase and preparation of mobile home lots for provision requiring, as a condition to guaranty, that loans not exceed certain maximum loan amounts for such purchases or preparation.

Subsec. (g). Pub. L. 95-476, Sec. 107(e), redesignated subsec. (h) as (g). Former subsec. (g), limiting to a single time the restoration of loan guaranty entitlement for any veteran for the purchase of a mobile home, was struck out.

Subsec. (h)(1). Pub. L. 95-476, Sec. 107(e), (f), redesignated subsec. (i) as (h)(1) and struck out provision authorizing the Administrator to inspect the mobile home manufacturing process periodically as well as on-site inspections of existing mobile home units to assure compliance with certain standards of planning, construction, and general acceptability. Former subsec. (h) redesignated (g).

Subsec. (h)(2). Pub. L. 95-476, Sec. 107(f), added par. (2).

Subsec. (i). Pub. L. 95-476, Sec. 107(e), (g)(1), redesignated subsec. (j) as (i) and substituted "subsection (h)" for "subsection (i)". Former subsec. (i) redesignated (h).

Subsec. (j). Pub. L. 95-476, Sec. 107(e), (g)(1), redesignated subsec. (k) as (j) and substituted "subsection (h)" for "subsection (i)". Former subsec. (j) redesignated (i).

Subsec. (k). Pub. L. 95-476, Sec. 107(e), redesignated subsec. (l) as (k). Former subsec. (k) redesignated (j).

Subsec. (l). Pub. L. 95-476, Sec. 107(e), (g), redesignated subsec. (m) as (l) and substituted "subsection (h)" and "subsection (i)" for "subsection (i)" and "subsection (j)", respectively. Former subsec. (l) redesignated (k).

Subsecs. (m), (n). Pub. L. 95-476, Sec. 107(e), redesignated subsec. (n) as (m). Former subsec. (m) redesignated (l).

1976 - Subsec. (c)(1). Pub. L. 94-324, Sec. 7(20), substituted "the Administrator determines" for "he determines".

Subsec. (c)(3). Pub. L. 94-324, Secs. 5, 7(20), increased amount of Administrator's guaranty from 30 per centum of the loan to 50 per centum of the loan and substituted "the Administrator" for "he" wherever appearing.

Subsec. (d)(1). Pub. L. 94-324, Sec. 7(21), substituted "the Administrator's" for "his".

Subsec. (d)(3). Pub. L. 94-324, Sec. 7(21), substituted "the Administrator shall" for "he shall".

Subsec. (e)(4). Pub. L. 94-324, Sec. 7(22), substituted "subsection" for "subparagraph".

Subsec. (e)(5). Pub. L. 94-324, Sec. 7(22), substituted "the veteran will" for "he will" and "the veteran's" for "his".

Subsec. (f). Pub. L. 94-324, Sec. 7(23), substituted "the Administrator determines" for "he determines".

Subsec. (h). Pub. L. 94-324, Sec. 7(23), substituted "the Administrator determines" for "he determines" in two places and "the Administrator has" for "he has".

Subsec. (k). Pub. L. 94-324, Sec. 7(23), substituted "the manufacturer's obligations" for "his obligations".

Subsec. (l). Pub. L. 94-324, Sec. 7(23), substituted "the Administrator determines" for "he determines".

1974 - Subsec. (a). Pub. L. 93-569, Sec. 5(1), inserted "or the mobile home lot loan guaranty benefit, or both," after "loan guaranty benefit" wherever appearing, and struck out "mobile home" before "loan guaranteed under this section".

Subsec. (b)(1). Pub. L. 93-569, Sec. 5(2), designated existing provisions as subsec. (b)(1) and redesignated cls. (1) and (2) as

(A) and (B), respectively.

Subsec. (b)(2). Pub. L. 93-569, Sec. 5(2), added par. (2).

Subsec. (c)(1). Pub. L. 93-569, Sec. 5(3), (4), redesignated cls.

(1) and (2) as (A) and (B), respectively, and in cl. (A) as so redesignated, inserted provision relating to purchase of a lot on which to place a mobile home previously purchased by the veteran, whether or not such mobile home was purchased with a loan guaranteed, insured or made by another Federal agency, and substituted "or for the purchase of a used mobile home which meets or exceeds minimum requirements for construction, design, and general acceptability prescribed by the Administrator," for "or for the purchase of a used mobile home which is the security for a prior loan guaranteed or made under this section or for a loan guaranteed, insured or made by another Federal agency."

Subsec. (d)(1). Pub. L. 93-569, Sec. 5(5), substituted ", whether or not the mobile home was financed with assistance under this section, and in the case of necessary site preparation, the loan amount for such purposes may not exceed the reasonable value of such lot" for "financed through the assistance of this section and in the case of necessary site preparation, the loan amount shall not be increased by an amount in excess of the reasonable value of such lot".

Subsec. (d)(2)(A). Pub. L. 93-569, Sec. 5(6), substituted "\$12,500" for "\$10,000," and "single wide mobile home only" for "mobile home only,".

Subsec. (d)(2)(B). Pub. L. 93-569, Sec. 5(6), increased from \$15,000 to \$20,000, and from fifteen years and thirty-two days to twenty years and thirty-two days the amount and period of the loan, struck out the \$10,000 maximum allowable amount for the mobile home, and restricted the amount of the loan to the purchase of a double-wide mobile home instead of a mobile home and undeveloped lot.

Subsec. (d)(2)(C). Pub. L. 93-569, Sec. 5(6), substituted "\$20,000" for "\$17,500," "\$12,500" for "\$10,000," "single-wide mobile home" for "mobile home" and "an undeveloped lot" for "a suitably developed lot," and inserted provision including such amount as is appropriate to cover cost of site preparation.

Subsec. (d)(2)(D) to (H). Pub. L. 93-569, Sec. 5(6), added subpars. (D) to (H).

Subsec. (e)(3). Pub. L. 93-569, Sec. 5(7), inserted "purchased with the proceeds of the loan and on" after "mobile home".

Subsec. (f). Pub. L. 93-569, Sec. 5(8), inserted "and mobile home lot loans" after "loans".

Subsec. (i). Pub. L. 93-569, Sec. 5(9), inserted provision prohibiting the guarantee of a loan for the purchase of a lot on which to place a mobile home unless the lot meets prescribed standards.

Subsec. (n). Pub. L. 93-569, Sec. 5(10), inserted "and mobile home lot loans" after "mobile home loans".

Subsec. (o). Pub. L. 93-569, Sec. 5(11), struck out subsec. (o) which prohibited the making or guaranteeing of loans on and after July 1, 1975, except upon prior commitment.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 8031(b) of Pub. L. 101-508 provided that: "The amendment made by this section [amending this section] shall apply to claims filed with the Secretary of Veterans Affairs on or after the date of the enactment of this Act [Nov. 5, 1990]."

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-253 applicable to loans closed on or

after Feb. 1, 1988, except for loans for which guaranty commitment was made on or before Dec. 31, 1987, see section 3(c) of Pub. L. 100-253, set out as a note under section 3703 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 3(b) of Pub. L. 100-198 applicable to loans closed on or after Feb. 1, 1988, but not applicable to any loan for which a guaranty commitment is made on or before Dec. 31, 1987, see section 3(d) of Pub. L. 100-198, set out as a note under section 3703 of this title.

Amendment by section 7(b) of Pub. L. 100-198 applicable to loans made more than 30 days after Dec. 21, 1987, see section 7(d) of Pub. L. 100-198, set out as a note under section 3710 of this title.

Amendment by section 8(b) of Pub. L. 100-198 applicable with respect to loans made more than 30 days after Dec. 21, 1987, see section 8(c) of Pub. L. 100-198, set out as a note under section 3704 of this title.

EFFECTIVE DATE OF 1981 AMENDMENTS

Amendment by Pub. L. 97-72 effective at end of 180-day period beginning on Nov. 3, 1981, see section 305 of Pub. L. 97-72, set out as an Effective Date note under section 3741 of this title.

Amendment by Pub. L. 97-66 effective Oct. 17, 1981, see section 701(b)(1) of Pub. L. 97-66, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by sections 401(b) and 402(c) of Pub. L. 96-385 effective Oct. 7, 1980, and Oct. 1, 1980, respectively, see section 601(b), (d) of Pub. L. 96-385, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-476 effective Oct. 1, 1978, see section 108(a) of Pub. L. 95-476, set out as a note under section 3702 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by sections 5 and 7(20)-(23) of Pub. L. 94-324 effective July 1, 1976, and June 30, 1976, respectively, see section 9(a), (b) of Pub. L. 94-324, set out as a note under section 3701 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-569 effective Dec. 31, 1974, see section 10 of Pub. L. 93-569, set out as a note under section 3702 of this title.

EFFECTIVE DATE

Section 8 of Pub. L. 91-506 provided that: "Section 5 of this Act [enacting this section] shall become effective sixty days following the date of enactment [Oct. 23, 1970]."

-End-

-CITE-

38 USC Sec. 3713

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER II - LOANS

-HEAD-

Sec. 3713. Release from liability under guaranty

-STATUTE-

(a) Whenever any veteran disposes of residential property securing a guaranteed, insured, or direct housing loan obtained by the veteran, the Secretary, upon application made by such veteran and by the transferee incident to such disposal, shall issue to such veteran in connection with such disposal a release relieving the veteran of all further liability to the Secretary on account of such loan (including liability for any loss resulting from any default of the transferee or any subsequent purchaser of such property) if the Secretary has determined, after such investigation as the Secretary may deem appropriate, that (1) the loan is current, and (2) the purchaser of such property from such veteran (A) is obligated by contract to purchase such property and to assume full liability for the repayment of the balance of the loan remaining unpaid, and has assumed by contract all of the obligations of the veteran under the terms of the instruments creating and securing the loan, and (B) qualifies from a credit standpoint, to the same extent as if the transferee were a veteran eligible for purposes specified in section 3710 of this title, for a guaranteed or insured or direct loan in an amount equal to the unpaid balance of the obligation for which the transferee has assumed liability.

(b) If any veteran disposes of residential property securing a guaranteed, insured, or direct housing loan obtained by the veteran under this chapter without receiving a release from liability with respect to such loan under subsection (a), and a default subsequently occurs which results in liability of the veteran to the Secretary on account of the loan, the Secretary may relieve the veteran of such liability if the Secretary determines, after such investigation as the Secretary deems appropriate, that the property was disposed of by the veteran in such a manner, and subject to such conditions, that the Secretary would have issued the veteran a release from liability under subsection (a) with respect to the loan if the veteran had made application therefor incident to such disposal. Failure of a transferee to assume by contract all of the liabilities of the original veteran-borrower shall bar such release of liability only in cases in which no acceptable transferee, either immediate or remote, is legally liable to the Secretary for the indebtedness of the original veteran-borrower arising from termination of the loan. The failure of a veteran to qualify for release from liability under this subsection does not preclude relief from being granted under section 5302(b) of this title, if the veteran is eligible for relief under that section.

(c) This section shall apply only to loans for which commitments are made before March 1, 1988.

-SOURCE-

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1212, Sec. 1817; Pub. L. 92-328, title II, Sec. 204, June 30, 1972, 86 Stat. 397; Pub. L. 94-324, Sec. 7(18), (19), June 30, 1976, 90 Stat. 722; Pub. L. 97-72, title III, Sec. 303(f), Nov. 3, 1981, 95 Stat. 1060; Pub. L. 100-198, Sec. 10(a)(2), Dec. 21, 1987, 101 Stat. 1323; renumbered Sec.

1813 and amended Pub. L. 100-322, title IV, Sec. 415(b)(2), May 20, 1988, 102 Stat. 550; Pub. L. 101-237, title III, Sec. 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; Pub. L. 102-40, title IV, Sec. 402(d)(1), May 7, 1991, 105 Stat. 239; renumbered Sec. 3713 and amended Pub. L. 102-83, Sec. 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103-446, title XII, Sec. 1201(e)(15), Nov. 2, 1994, 108 Stat. 4686.)

-MISC1-

AMENDMENTS

1994 - Subsec. (b). Pub. L. 103-446 before period at end substituted "section 5302(b) of this title, if the veteran is eligible for relief under that section" for "subsection 5302(b) of this title, if eligible thereunder".

1991 - Pub. L. 102-83, Sec. 5(a), renumbered section 1813 of this title as this section.

Subsec. (a). Pub. L. 102-83, Sec. 5(c)(1), substituted "3710" for "1810".

Subsec. (b). Pub. L. 102-40 substituted "5302(b)" for "3102(b)".

1989 - Subsecs. (a), (b). Pub. L. 101-237 substituted "Secretary" for "Administrator" wherever appearing.

1988 - Pub. L. 100-322, Sec. 415(b)(2)(B), renumbered section 1817 of this title as this section.

Subsec. (a). Pub. L. 100-322, Sec. 415(b)(2)(A), substituted "for purposes specified in section 1810" for "under section 1810".

1987 - Subsec. (c). Pub. L. 100-198 added subsec. (c).

1981 - Subsec. (a). Pub. L. 97-72, Sec. 303(f)(1), substituted "direct housing loan" for "direct loan".

Subsec. (b). Pub. L. 97-72, Sec. 303(f)(2), substituted "or direct housing loan obtained" for "or direct loan obtained".

1976 - Subsec. (a). Pub. L. 94-324, Sec. 7(18), substituted "the veteran" for "him" in two places, "the Administrator may deem" for "he may deem", "the transferee were a veteran" for "he were a veteran", "the transferee has assumed" for "he has assumed", and "is obligated" for "has obligated himself".

Subsec. (b). Pub. L. 94-324, Sec. 7(19), substituted "obtained by the veteran" for "obtained by him", "the Administrator determines" for "he determines", and "the Administrator deems" for "he deems".

1972 - Pub. L. 92-328 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-72 effective at end of 180-day period beginning on Nov. 3, 1981, see section 305 of Pub. L. 97-72, set out as an Effective Date note under section 3741 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-324 effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as a note under section 3701 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 301(c) of Pub. L. 92-328 provided that: "Sections 201 through 206 of this Act [amending this section and sections 210, 1820 [now 3720], 3102 [now 5302], and 3503 [now 6103] of this title, and enacting provisions set out as a note under section 5302 of this title] shall take effect upon the date of enactment of this Act [June 30, 1972]."

-End-

-CITE-

38 USC Sec. 3714

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER II - LOANS

-HEAD-

Sec. 3714. Assumptions; release from liability

-STATUTE-

(a)(1) Except as provided in subsection (f) of this section, if a veteran or any other person disposes of residential property securing a loan guaranteed, insured, or made under this chapter and the veteran or other person notifies the holder of the loan in writing before the property is disposed of, the veteran or other person, as the case may be, shall be relieved of all further liability to the Secretary with respect to the loan (including liability for any loss resulting from any default of the purchaser or any subsequent owner of the property) and the application for assumption shall be approved if the holder determines that -

(A) the loan is current; and

(B) the purchaser of the property from such veteran or other person -

(i) is obligated by contract to purchase such property and to assume full liability for the repayment of the balance of the loan remaining unpaid and has assumed by contract all of the obligations of the veteran under the terms of the instruments creating and securing the loan; and

(ii) qualifies from a credit standpoint, to the same extent as if the purchaser were a veteran eligible under section 3710 of this title, for a guaranteed or insured or direct loan in an amount equal to the unpaid balance of the obligation for which the purchaser is to assume liability.

(2) For the purposes of paragraph (1), paragraph (3), and paragraph (4)(C)(ii) of this subsection, the Secretary shall be considered to be the holder of the loan if the actual holder is not an approved lender described in section 3702.

(3) If the holder of the loan determines that the loan is not current or that the purchaser of the property does not meet the requirements of paragraph (1)(B) of this subsection, the holder shall -

(A) notify the transferor and the Secretary of such determination; and

(B) notify the transferor that the transferor may appeal the determination to the Secretary.

(4)(A) Upon the appeal of the transferor after a determination described in paragraph (3) is made, the Secretary shall, in a timely manner, review and make a determination (or a redetermination in any case in which the Secretary made the determination described in such paragraph) with respect to whether the loan is current and whether the purchaser of the property meets the requirements of paragraph (1)(B) of this subsection. The Secretary shall transmit, in writing, a notice of the nature of

such determination to the transferor and the holder and shall inform them of the action that shall or may be taken under subparagraph (B) of this paragraph as a result of the determination of the Secretary.

(B)(i) If the Secretary determines under subparagraph (A) of this paragraph that the loan is current and that the purchaser meets the requirements of paragraph (1)(B) of this subsection, the holder shall approve the assumption of the loan, and the transferor shall be relieved of all liability to the Secretary with respect to such loan.

(ii) If the Secretary determines under subparagraph (A) of this paragraph that the purchaser does not meet the requirements of paragraph (1)(B) of this subsection, the Secretary may direct the holder to approve the assumption of the loan if -

(I) the Secretary determines that the transferor of the property is unable to make payments on the loan and has made reasonable efforts to find a buyer who meets the requirements of paragraph (1)(B) of this subsection and that, as a result, the proposed transfer is in the best interests of the Department and the transferor;

(II) the transferor has requested, within 15 days after receiving the notice referred to in subparagraph (A) of this paragraph, that the Secretary approve the assumption; and

(III) the transferor will, upon assumption of the loan by the purchaser, be secondarily liable on the loan.

(C) If -

(i) the loan is not approved for assumption under subparagraph (B) of this paragraph or paragraph (1) of this subsection; or

(ii) no appeal is made by the transferor under subparagraph (A) of this paragraph within 30 days after the holder informs the transferor of its determination under paragraph (3) of this subsection,

the holder may demand immediate, full payment of the principal, and all interest earned thereon, of such loan if the transferor disposes of the property.

(b) If a person disposes of residential property described in subsection (a)(1) of this section and the person fails to notify the holder of the loan before the property is disposed of, the holder, upon learning of such action by the person, may demand immediate and full payment of the principal, interest, and all other amounts owing under the terms of the loan.

(c)(1) In any case in which the holder of a loan described in subsection (a)(1) of this section has knowledge of a person's disposing of residential property securing the loan, the holder shall notify the Secretary of such action.

(2) If the holder fails to notify the Secretary in such a case, the holder shall be liable to the Secretary for any damage sustained by the Secretary as a result of the holder's failure, as determined at the time the Secretary is required to make payments in accordance with any insurance or guaranty provided by the Secretary with respect to the loan concerned.

(d) With respect to a loan guaranteed, insured, or made under this chapter, the Secretary shall provide, by regulation, that at least one instrument evidencing either the loan or the mortgage or deed of trust therefor, shall conspicuously contain, in such form as the Secretary shall specify, a notice in substantially the following form: "This loan is not assumable without the approval of the Department of Veterans Affairs or its authorized agent".

(e) The Secretary shall establish in regulations a reasonable

amount as the maximum amount that a lender may charge for processing an application for a creditworthiness determination and assumption of a loan pursuant to this section. Such regulations shall establish requirements for the timely processing of applications for acceptance of assumptions.

(f)(1) This section shall apply -

(A) in the case of loans other than loans to finance the purchase of real property described in section 3733(a)(1) of this title, only to loans for which commitments are made on or after March 1, 1988; and

(B) in the case of loans to finance the purchase of such property, only to loans which are closed after January 1, 1989.

(2) This section shall not apply to a loan which the Secretary has sold without recourse.

-SOURCE-

(Added Pub. L. 100-198, Sec. 10(a)(1), Dec. 21, 1987, 101 Stat. 1321, Sec. 1817A; renumbered Sec. 1814, Pub. L. 100-322, title IV, Sec. 415(b)(2)(B), May 20, 1988, 102 Stat. 551; amended Pub. L. 100-689, title III, Sec. 302, Nov. 18, 1988, 102 Stat. 4176; Pub. L. 101-237, title III, Sec. 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered Sec. 3714 and amended Pub. L. 102-83, Secs. 4(a)(2)(B)(iv), (3), (4), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 403, 404, 406; Pub. L. 105-368, title X, Sec. 1005(b)(10), Nov. 11, 1998, 112 Stat. 3365; Pub. L. 107-103, title IV, Sec. 403, Dec. 27, 2001, 115 Stat. 993.)

-MISC1-

AMENDMENTS

2001 - Subsec. (d). Pub. L. 107-103 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "The Secretary shall provide that the mortgage or deed of trust and any other instrument evidencing the loan entered into by a person with respect to a loan guaranteed, insured, or made under this chapter shall contain provisions, in such form as the Secretary shall specify, implementing the requirements of this section, and shall bear in conspicuous position in capital letters on the first page of the document in type at least 2 and 1/2 times larger than the regular type on such page the following: 'This loan is not assumable without the approval of the Department of Veterans Affairs or its authorized agent.'"

1998 - Subsec. (f)(1)(B). Pub. L. 105-368 substituted "after January 1, 1989" for "more than 45 days after the date of the enactment of the Veterans' Benefits and Programs Improvement Act of 1988".

1991 - Pub. L. 102-83, Sec. 5(a), renumbered section 1814 of this title as this section.

Subsec. (a)(1)(B)(ii). Pub. L. 102-83, Sec. 5(c)(1), substituted "3710" for "1810".

Subsec. (a)(2). Pub. L. 102-83, Sec. 5(c)(1), substituted "3702" for "1802".

Subsec. (a)(4)(B)(ii)(I). Pub. L. 102-83, Sec. 4(a)(3), (4), substituted "Department" for "Veterans' Administration".

Subsec. (d). Pub. L. 102-83, Sec. 4(a)(2)(B)(iv), substituted "Department of Veterans Affairs" for "Veterans' Administration".

Subsec. (f)(1)(A). Pub. L. 102-83, Sec. 5(c)(1), substituted "3733(a)(1)" for "1833(a)(1)".

1989 - Subsecs. (a), (c) to (f). Pub. L. 101-237, Sec. 313(b)(1), substituted "Secretary" for "Administrator" wherever appearing.

1988 - Pub. L. 100-322, Sec. 415(b)(2)(B), renumbered section 1817A of this title as this section.

Subsec. (a)(1). Pub. L. 100-689, Sec. 302(1), substituted "Except as provided in subsection (f) of this section, if" for "If" and "loan guaranteed, insured, or made" for "guaranteed, insured, or direct housing loan obtained by a veteran".

Subsec. (f). Pub. L. 100-689, Sec. 302(2), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: "This section shall apply only to loans for which commitments are made on or after March 1, 1988."

-End-

-CITE-

38 USC Secs. 3715 to 3719

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER II - LOANS

-HEAD-

[Secs. 3715 to 3719. Vacant]

-COD-

CODIFICATION

Prior to renumbering of sections 1801 to 1851 of this chapter as sections 3701 to 3751 by Pub. L. 102-83, Sec. 5(a), Aug. 6, 1991, 105 Stat. 406, sections 1815 to 1817A and 1819 of this chapter were renumbered and section 1818 of this chapter was repealed.

Section 1815 was renumbered section 1803(a)(2) of this title.

Section 1816 was renumbered sections 1832 and 1833 of this title.

Section 1817 was renumbered section 1813 of this title.

Section 1817A was renumbered section 1814 of this title.

Section 1818, added Pub. L. 89-358, Sec. 5(a), Mar. 3, 1966, 80 Stat. 25; amended Pub. L. 91-506, Sec. 2(e), Oct. 23, 1970, 84 Stat. 1108; Pub. L. 93-569, Sec. 8(6), (7), Dec. 31, 1974, 88 Stat. 1866, 1867; Pub. L. 94-324, Sec. 4, June 30, 1976, 90 Stat. 720; Pub. L. 95-476, title I, Sec. 106(a), Oct. 18, 1978, 92 Stat. 1499; Pub. L. 97-72, title III, Sec. 303(g), Nov. 3, 1981, 95 Stat. 1060; Pub. L. 97-295, Sec. 4(66), Oct. 12, 1982, 96 Stat. 1310, which related to service after Jan. 31, 1955, and prior to Aug. 5, 1964, or after May 7, 1975, was repealed by Pub. L. 100-322, title IV, Sec. 415(b)(3), May 20, 1988, 102 Stat. 551.

Section 1819 was renumbered section 1812 of this title.

-End-

-CITE-

38 USC SUBCHAPTER III - ADMINISTRATIVE PROVISIONS

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER III - ADMINISTRATIVE PROVISIONS

-HEAD-

SUBCHAPTER III - ADMINISTRATIVE PROVISIONS

-End-

-CITE-

38 USC Sec. 3720

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER III - ADMINISTRATIVE PROVISIONS

-HEAD-

Sec. 3720. Powers of Secretary

-STATUTE-

(a) Notwithstanding the provisions of any other law, with respect to matters arising by reason of this chapter, the Secretary may -

(1) sue and be sued in the Secretary's official capacity in any court of competent jurisdiction, State or Federal, but nothing in this clause shall be construed as authorizing garnishment or attachment against the Secretary, the Department of Veterans Affairs, or any of its employees;

(2) subject to specific limitations in this chapter, consent to the modification, with respect to rate of interest, time of payment of principal or interest or any portion thereof, security or other provisions of any note, contract, mortgage or other instrument securing a loan which has been guaranteed, insured, made or acquired under this chapter;

(3) pay, or compromise, any claim on, or arising because of, any such guaranty or insurance;

(4) pay, compromise, waive or release any right, title, claim, lien or demand, however acquired, including any equity or any right of redemption;

(5) purchase at any sale, public or private, upon such terms and for such prices as the Secretary determines to be reasonable, and take title to, property, real, personal or mixed; and similarly sell, at public or private sale, exchange, assign, convey, or otherwise dispose of any such property; and

(6) complete, administer, operate, obtain and pay for insurance on, and maintain, renovate, repair, modernize, lease, or otherwise deal with any property acquired or held pursuant to this chapter. The acquisition of any such property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction of, on, or over such property (including power to tax) or impair the rights under the State or local law of any persons on such property. Without regard to section 3302(b) of title 31 or any other provision of law not expressly in limitation of this paragraph, the Secretary may permit brokers utilized by the Secretary in connection with such properties to deduct from rental collections amounts covering authorized fees, costs, and expenses incurred in connection with the management, repair, sale, or lease of any such properties and remit the net balances to the Secretary.

(b) The powers granted by this section may be exercised by the Secretary without regard to any other provision of law not enacted

expressly in limitation of this section, which otherwise would govern the expenditure of public funds, except that division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41 shall apply to any contract for services or supplies on account of any property acquired pursuant to this section.

(c) The financial transactions of the Secretary incident to, or arising out of, the guaranty or insurance of loans pursuant to this chapter, and the acquisition, management, and disposition of property, real, personal, or mixed, incident to such activities and pursuant to this section, shall be final and conclusive upon all officers of the Government.

(d) The right to redeem provided for by section 2410(c) of title 28 shall not arise in any case in which the subordinate lien or interest of the United States derives from a guaranteed or insured loan.

[(e) Repealed. Pub. L. 105-368, title VI, Sec. 602(c)(1), Nov. 11, 1998, 112 Stat. 3346.]

(f) Whenever loss, destruction, or damage to any residential property securing loans guaranteed, insured, made, or acquired by the Secretary under this chapter occurs as the result of a major disaster as determined by the President under the Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Secretary shall (1) provide counseling and such other service to the owner of such property as may be feasible and shall inform such owner concerning the disaster assistance available from other Federal agencies and from State or local agencies, and (2) pursuant to subsection (a)(2) of this section, extend on an individual case basis such forbearance or indulgence to such owner as the Secretary determines to be warranted by the facts of the case and the circumstances of such owner.

(g) The Secretary shall, at the request of the Secretary of Housing and Urban Development and without reimbursement, certify to such Secretary whether an applicant for assistance under any law administered by the Department of Housing and Urban Development is a veteran.

(h)(1) The Secretary may, upon such terms and conditions as the Secretary considers appropriate, issue or approve the issuance of, and guarantee the timely payment of principal and interest on, certificates or other securities evidencing an interest in a pool of mortgage loans made in connection with the sale of properties acquired under this chapter.

(2) The Secretary may not under this subsection guarantee the payment of principal and interest on certificates or other securities issued or approved after December 31, 2011.

-SOURCE-

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1213, Sec. 1820; Pub. L. 88-151, Sec. 1, Oct. 17, 1963, 77 Stat. 271; Pub. L. 88-560, title VII, Sec. 701(e)(1), Sept. 2, 1964, 78 Stat. 800; Pub. L. 89-625, Oct. 4, 1966, 80 Stat. 874; Pub. L. 89-769, Sec. 3(c), Nov. 6, 1966, 80 Stat. 1316; Pub. L. 90-448, title VIII, Sec. 807(h), Aug. 1, 1968, 82 Stat. 545; Pub. L. 91-606, title II, Sec. 233, Dec. 31, 1970, 84 Stat. 1753; Pub. L. 92-328, title II, Sec. 205, June 30, 1972, 86 Stat. 397; Pub. L. 93-288, title VII, Sec. 702(l), formerly title VI, Sec. 602(l), May 22, 1974, 88 Stat. 164, renumbered title VII, Sec. 702(l), Pub. L. 103-337, div. C, title XXXIV, Sec. 3411(a)(1), (2), Oct. 5, 1994, 108 Stat. 3100; Pub. L. 94-324, Sec. 7(24)-(26), June 30, 1976, 90 Stat. 722; Pub. L. 95-117, title IV, Sec. 403(a), Oct. 3, 1977, 91 Stat. 1066; Pub. L. 97-258, Sec. 3(k)(3), Sept. 13, 1982, 96 Stat. 1065; Pub. L. 97-

295, Sec. 4(67), Oct. 12, 1982, 96 Stat. 1310; Pub. L. 98-160, title VII, Sec. 702(14), Nov. 21, 1983, 97 Stat. 1009; Pub. L. 99-576, title IV, Sec. 404, Oct. 28, 1986, 100 Stat. 3281; Pub. L. 100-707, title I, Sec. 109(n), Nov. 23, 1988, 102 Stat. 4709; Pub. L. 101-237, title III, Sec. 313(b)(1), (2), Dec. 18, 1989, 103 Stat. 2077; Pub. L. 102-54, Sec. 4(a), June 13, 1991, 105 Stat. 268; renumbered Sec. 3720 and amended Pub. L. 102-83, Sec. 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-291, Sec. 5(a), May 20, 1992, 106 Stat. 179; Pub. L. 102-547, Sec. 4, Oct. 28, 1992, 106 Stat. 3636; Pub. L. 104-110, title I, Sec. 101(f), Feb. 13, 1996, 110 Stat. 768; Pub. L. 104-275, title II, Sec. 201, Oct. 9, 1996, 110 Stat. 3330; Pub. L. 105-33, title VIII, Sec. 8011, Aug. 5, 1997, 111 Stat. 664; Pub. L. 105-368, title VI, Secs. 602(c)(1), 604(a), Nov. 11, 1998, 112 Stat. 3346, 3348; Pub. L. 106-419, title IV, Sec. 402(a), Nov. 1, 2000, 114 Stat. 1861; Pub. L. 107-103, title IV, Sec. 405(b), Dec. 27, 2001, 115 Stat. 994; Pub. L. 111-350, Sec. 5(j)(3), Jan. 4, 2011, 124 Stat. 3850.)

-REFTEXT-

REFERENCES IN TEXT

The Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), referred to in subsec. (f), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, as amended, known as the Robert T. Stafford Disaster Relief and Emergency Assistance Act, which is classified principally to chapter 68 (Sec. 5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

-MISC1-

AMENDMENTS

2011 - Subsec. (b). Pub. L. 111-350 substituted "division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41" for "title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.)".

2001 - Subsec. (h)(2). Pub. L. 107-103 substituted "December 31, 2011" for "December 31, 2008".

2000 - Subsec. (h)(2). Pub. L. 106-419 substituted "December 31, 2008" for "December 31, 2002".

1998 - Subsec. (b). Pub. L. 105-368, Sec. 604(a), substituted ", except that title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) shall apply to any contract for services or supplies on account of any property acquired pursuant to this section." for "; however, section 3709 of the Revised Statutes (41 U.S.C. 5) shall apply to any contract for services or supplies on account of any property acquired pursuant to this section if the amount of such contract exceeds the amount prescribed in clause (1) of the first sentence of such section."

Subsec. (e). Pub. L. 105-368, Sec. 602(c)(1), struck out subsec. (e), which authorized Secretary to set aside first mortgage loans and installment sales contracts owned or held by Secretary under this chapter as basis for sale of participation certificates, authorized agreements, including trust agreements, for this purpose, and set forth provisions relating to allocation, deposit, and set aside of proceeds.

1997 - Subsec. (h)(2). Pub. L. 105-33 substituted "December 31, 2002" for "December 31, 1997".

1996 - Subsec. (h)(2). Pub. L. 104-275 substituted "December 31, 1997" for "December 31, 1996".

Pub. L. 104-110 substituted "December 31, 1996" for "December 31,

1995".

1992 - Subsec. (h). Pub. L. 102-547 substituted "December 31, 1995" for "December 31, 1992" in par. (2).

Pub. L. 102-291 added subsec. (h).

1991 - Pub. L. 102-83, Sec. 5(a), renumbered section 1820 of this title as this section.

Subsec. (e)(2). Pub. L. 102-83, Sec. 5(c)(1), substituted "3723 and 3724" for "1823 and 1824" in two places.

Subsec. (g). Pub. L. 102-54 added subsec. (g).

1989 - Subsecs. (a) to (c), (e), (f). Pub. L. 101-237 substituted "Secretary", "Secretary's", and "Department of Veterans Affairs" for "Administrator", "Administrator's", and "Veterans' Administration", respectively, wherever appearing.

1988 - Subsec. (f). Pub. L. 100-707 substituted "and Emergency Assistance Act" for "Act of 1974".

1986 - Subsec. (b). Pub. L. 99-576 substituted "the amount prescribed in clause (1) of the first sentence of such section" for "\$1,000".

1983 - Subsec. (a)(6). Pub. L. 98-160 struck out comma after "title 31".

Subsec. (b). Pub. L. 98-160 substituted "section 3709 of the Revised Statutes (41 U.S.C. 5)" for "section 5 of title 41".

1982 - Subsec. (a)(6). Pub. L. 97-258 substituted "section 3302(b) of title 31" for "section 3617, Revised Statutes (31 U.S.C. 484)".

Subsec. (f). Pub. L. 97-295 inserted "(42 U.S.C. 5121 et seq.)" after "the Disaster Relief Act of 1974".

1977 - Subsec. (a)(1). Pub. L. 95-117 inserted prohibition relating to garnishment or attachment against the Administrator, etc.

1976 - Subsec. (a)(1). Pub. L. 94-324, Sec. 7(24), substituted "the Administrator's" for "his".

Subsec. (a)(5). Pub. L. 94-324, Sec. 7(24), substituted "the Administrator" for "he".

Subsec. (a)(6). Pub. L. 94-324, Sec. 7(25), substituted "utilized by the Administrator" for "utilized by him".

Subsec. (e)(1). Pub. L. 94-324, Sec. 7(26), substituted "the Administrator determines" for "he determines", "by the Administrator" for "by him", "the Administrator shall periodically" for "he shall periodically", "set aside by the Administrator" for "set aside by him", "the Administrator's commitment" for "his commitment", and "to pay the Administrator's" for "to pay his".

Subsec. (e)(2). Pub. L. 94-324, Sec. 7(26), substituted "as the Administrator determines" for "as he determines".

1974 - Subsec. (f). Pub. L. 93-288 substituted "Disaster Relief Act of 1974" for "Disaster Assistance Act of 1970."

1972 - Subsec. (a)(4). Pub. L. 92-328 struck out provisions relating to the authority to waive or release claims, including partial or total waiver of payment, following default and loss of property.

1970 - Subsec. (a)(2). Pub. L. 91-606, Sec. 233(1), substituted "a loan which has been guaranteed, insured, made or acquired under this chapter" for "a loan which has been guaranteed or insured under this chapter".

Subsec. (f). Pub. L. 91-606, Sec. 233(2), directed the Administrator in major disaster areas to provide the owner of property lost, destroyed, or damaged as the result of a major disaster with counseling and other services, to inform him of disaster assistance available from other Federal, state, or local agencies and to extend such forbearance on an individual case basis as he determines to be warranted by the facts of the case.

1968 - Subsec. (e)(1). Pub. L. 90-448 substituted "Government National Mortgage Association" for "Federal National Mortgage Association" wherever appearing.

1966 - Subsec. (a)(6). Pub. L. 89-625 authorized brokers utilized by Administrator in connection with properties acquired or held pursuant to this chapter to deduct from rental collections amounts covering authorized fees, costs, and expenses incurred in connection with management, repair, sale, or lease of properties and to remit the net balances to Administrator.

Subsec. (f). Pub. L. 89-769 added subsec. (f).

1964 - Subsec. (e). Pub. L. 88-560 added subsec. (e).

1963 - Subsec. (a)(4). Pub. L. 88-151 provided for waiver of indebtedness to the United States in certain cases arising out of default on loans guaranteed or made by the Veterans' Administration.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 602(c)(1) of Pub. L. 105-368 effective Oct. 1, 1998, see section 602(f) of Pub. L. 105-368, set out as a note under section 2106 of this title.

Pub. L. 105-368, title VI, Sec. 604(b), Nov. 11, 1998, 112 Stat. 3348, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to contracts entered into under section 3720 of title 38, United States Code, after the end of the 60-day period beginning on the date of the enactment of this Act [Nov. 11, 1998]."

EFFECTIVE DATE OF 1977 AMENDMENT

Section 403(b) of Pub. L. 95-117 provided that: "The amendment made by subsection (a) of this section [amending this section] shall be effective on the date of enactment of this Act [Oct. 3, 1977]."

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-324 effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as a note under section 3701 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-288 effective Apr. 1, 1974, see section 605 of Pub. L. 93-288, formerly set out as an Effective Date note under section 5121 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-328 effective June 30, 1972, see section 301(c) of Pub. L. 92-328, set out as a note under section 3713 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-606 effective Dec. 31, 1970, see section 304 of Pub. L. 91-606, set out as a note under section 165 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-448 effective from and after a date, no more than 120 days following Aug. 1, 1968, as established by the Secretary of Housing and Urban Development, see section 808 of Pub. L. 90-448, set out as an Effective Date note under section 1716b of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-769 applicable with respect to any major disaster occurring after Oct. 3, 1964, see section 14 of Pub. L. 89-769.

RATIFICATION OF ACTIONS DURING PERIOD OF EXPIRED AUTHORITY

Any action taken by Secretary of Veterans Affairs before Feb. 13, 1996, under provision of law amended by title I of Pub. L. 104-110 that was taken during period beginning on date on which authority of Secretary under such provision of law expired and ending on Feb. 13, 1996, considered to have same force and effect as if such amendment had been in effect at time of that action, see section 103 of Pub. L. 104-110, set out as a note under section 1710 of this title.

PROPERTY MANAGEMENT

Pub. L. 100-198, Sec. 9, Dec. 21, 1987, 101 Stat. 1320, as amended by Pub. L. 102-40, title IV, Sec. 402(d)(2), May 7, 1991, 105 Stat. 239; Pub. L. 102-83, Sec. 6(i), Aug. 6, 1991, 105 Stat. 408, provided for programs under which the Secretary could (1) convey to nonprofit entities or to States or political subdivisions of States real property or improvements to real property acquired by the Secretary as the result of a default of a loan made under this chapter to use the properties to provide shelter for homeless veterans and their families, or (2) convey such properties to entities for use in job training programs for property rehabilitation and later sale to homeless veterans. Authority to carry out the programs terminated on Oct. 1, 1990.

HOUSING SOLAR ENERGY AND WEATHERIZATION STUDY; REPORT NOT LATER THAN MARCH 1, 1978

Pub. L. 95-202, title III, Sec. 311, Nov. 23, 1977, 91 Stat. 1449, directed Administrator of Veterans' Affairs, in consultation with Secretary of Energy and Secretary of Housing and Urban Development, to conduct a study to determine the most effective methods of using the programs carried out under, or amending provisions of, this chapter in order to aid and encourage present and prospective veteran homeowners to install solar heating and cooling in their homes and to apply residential energy conservation measures and that a report on such study be submitted to Congress not later than Mar. 1, 1978.

WAIVER OF INDEBTEDNESS; REPORT TO CONGRESS

Section 2 of Pub. L. 88-151 provided that: "The Administrator of Veterans' Affairs shall submit to the Committee on Labor and Public Welfare of the Senate and the Committee on Veterans' Affairs of the House of Representatives, not later than December 31 of each year, a written report concerning each case in which a waiver of indebtedness has been made under the authority of the amendment made by the first section of this Act [amending subsec. (a)(4) of this section]. Such report shall include, together with such other information as the Administrator deems appropriate, the name and address of each person with respect to which a waiver of indebtedness has been made and the total amount of such waiver."

ADMINISTRATION OF TRUSTS BY FEDERAL NATIONAL MORTGAGE ASSOCIATION

Provision for participation sales and administration of trusts by Federal National Mortgage Association not to be construed as a repeal or modification of the provisions of subsection (e) of this section respecting the authority of the Administrator of Veterans' Affairs, see section 6(a) of Pub. L. 89-429, set out as a note under section 1717 of Title 12, Banks and Banking.

-End-

-CITE-

38 USC Sec. 3721

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER III - ADMINISTRATIVE PROVISIONS

-HEAD-

Sec. 3721. Incontestability

-STATUTE-

Any evidence of guaranty or insurance issued by the Secretary shall be conclusive evidence of the eligibility of the loan for guaranty or insurance under the provisions of this chapter and of the amount of such guaranty or insurance. Nothing in this section shall preclude the Secretary from establishing, as against the original lender, defenses based on fraud or material misrepresentation. The Secretary shall not, by reason of anything contained in this section, be barred from establishing, by regulations in force at the date of such issuance or disbursement, whichever is the earlier, partial defenses to the amount payable on the guaranty or insurance.

-SOURCE-

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1213, Sec. 1821; Pub. L. 101-237, title III, Sec. 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered Sec. 3721, Pub. L. 102-83, Sec. 5(a), Aug. 6, 1991, 105 Stat. 406.)

-MISC1-

AMENDMENTS

1991 - Pub. L. 102-83 renumbered section 1821 of this title as this section.

1989 - Pub. L. 101-237 substituted "Secretary" for "Administrator" wherever appearing.

-End-

-CITE-

38 USC Sec. 3722

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER III - ADMINISTRATIVE PROVISIONS

-HEAD-

Sec. 3722. Veterans Housing Benefit Program Fund

-STATUTE-

(a) There is hereby established in the Treasury of the United States a fund known as the Veterans Housing Benefit Program Fund (hereinafter in this section referred to as the "Fund").

(b) The Fund shall be available to the Secretary, without fiscal year limitation, for all housing loan operations under this chapter, other than administrative expenses, consistent with the Federal Credit Reform Act of 1990.

(c) There shall be deposited into the Fund the following, which shall constitute the assets of the Fund:

(1) Any amount appropriated to the Fund.

(2) Amounts paid into the Fund under section 3729 of this title or any other provision of law or regulation established by the Secretary imposing fees on persons or other entities participating in the housing loan programs under this chapter.

(3) All other amounts received by the Secretary on or after October 1, 1998, incident to housing loan operations under this chapter, including -

(A) collections of principal and interest on housing loans made by the Secretary under this chapter;

(B) proceeds from the sale, rental, use, or other disposition of property acquired under this chapter;

(C) proceeds from the sale of loans pursuant to sections 3720(h) and 3733(a)(3) of this title; and

(D) penalties collected pursuant to section 3710(g)(4)(B) of this title.

(d) Amounts deposited into the Fund under paragraphs (2) and (3) of subsection (c) shall be deposited in the appropriate financing or liquidating account of the Fund.

(e) For purposes of this section, the term "housing loan" shall not include a loan made pursuant to subchapter V of this chapter.

-SOURCE-

(Added Pub. L. 105-368, title VI, Sec. 602(a)(2), Nov. 11, 1998, 112 Stat. 3345; amended Pub. L. 107-14, Sec. 8(a)(16), June 5, 2001, 115 Stat. 35.)

-REFTEXT-

REFERENCES IN TEXT

The Federal Credit Reform Act of 1990, referred to in subsec. (b), is title V of Pub. L. 93-344, as added by Pub. L. 101-508, title XIII, Sec. 13201(a), Nov. 5, 1990, 104 Stat. 1388-609, which is classified generally to subchapter III (Sec. 661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

-MISC1-

PRIOR PROVISIONS

Prior to renumbering of sections 1801 to 1851 of this chapter as sections 3701 to 3751 by Pub. L. 102-83, Sec. 5(a), Aug. 6, 1991, 105 Stat. 406, section 1822 of this chapter, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1214; Pub. L. 89-358, Sec. 5(c), Mar. 3, 1966, 88 Stat. 26; Pub. L. 89-623, Sec. 1, Oct. 4, 1966, 80 Stat. 873; Pub. L. 90-301, Sec. 2(b), May 7, 1968, 82 Stat. 113, which provided for bringing of an action in district court, by veteran or Attorney General, against one who knowingly participated in sale of property to a veteran for consideration in excess of reasonable value of property, was repealed by Pub. L. 93-569, Secs. 7(a), 10, Dec. 31, 1974, 88 Stat. 1866, 1867, effective Dec. 31, 1974.

AMENDMENTS

2001 - Subsec. (a). Pub. L. 107-14 substituted "hereinafter" for "hereafter".

EFFECTIVE DATE

Section effective Oct. 1, 1998, see section 602(f) of Pub. L. 105-368, set out as an Effective Date of 1998 Amendment note under section 2106 of this title.

TRANSFERS OF AMOUNTS INTO VETERANS HOUSING BENEFIT PROGRAM FUND

Pub. L. 105-368, title VI, Sec. 602(b), Nov. 11, 1998, 112 Stat. 3346, provided that: "All amounts in the following funds are hereby transferred to the Veterans Housing Benefit Program Fund:

"(1) The Direct Loan Revolving Fund, as such fund was continued under section 3723 of title 38, United States Code (as such section was in effect on the day before the effective date of this title [Nov. 11, 1998]).

"(2) The Department of Veterans Affairs Loan Guaranty Revolving Fund, as established by section 3724 of such title (as such section was in effect on the day before the effective date of this title).

"(3) The Guaranty and Indemnity Fund, as established by section 3725 of such title (as such section was in effect on the day before the effective date of this title)."

-End-

-CITE-

38 USC Secs. 3723 to 3725 01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER III - ADMINISTRATIVE PROVISIONS

-HEAD-

Secs. 3723 to 3725. Repealed.

-MISC1-

[Secs. 3723 to 3725. Repealed. Pub. L. 105-368, title VI, Sec. 602(a)(1), Nov. 11, 1998, 112 Stat. 3345].

Section 3723, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1214, Sec. 1823; Pub. L. 86-73, Sec. 4, June 30, 1959, 73 Stat. 156; Pub. L. 86-665, Sec. 4, July 14, 1960, 74 Stat. 532; Pub. L. 87-84, Sec. 3, July 6, 1961, 75 Stat. 202; Pub. L. 88-274, Feb. 29, 1964, 78 Stat. 147; Pub. L. 88-560, title VII, Sec. 701(e)(2), Sept. 2, 1964, 78 Stat. 801; Pub. L. 94-324, Secs. 6, 7(27), June 30, 1976, 90 Stat. 721, 722; Pub. L. 97-295, Sec. 4(68), Oct. 12, 1982, 96 Stat. 1310; Pub. L. 97-452, Sec. 2(e)(2), Jan. 12, 1983, 96 Stat. 2479; Pub. L. 99-576, title IV, Sec. 405, Oct. 28, 1986, 100 Stat. 3281; Pub. L. 101-237, title III, Sec. 313(b)(1), (8), (9), Dec. 18, 1989, 103 Stat. 2077, 2078; renumbered Sec. 3723 and amended Pub. L. 102-83, Sec. 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406, related to direct loan revolving fund. See section 3722 of this title.

Section 3724, added Pub. L. 86-665, Sec. 7(a), July 14, 1960, 74 Stat. 532, Sec. 1824; amended Pub. L. 94-324, Sec. 7(28), June 30, 1976, 90 Stat. 722; Pub. L. 97-72, title III, Sec. 303(j), Nov. 3,

1981, 95 Stat. 1060; Pub. L. 98-369, div. B, title V, Sec. 2511(b), July 18, 1984, 98 Stat. 1117; Pub. L. 99-322, Sec. 2(a), May 23, 1986, 100 Stat. 494; Pub. L. 100-689, title III, Sec. 303, Nov. 18, 1988, 102 Stat. 4177; Pub. L. 101-237, title III, Secs. 302(a)(2), (3)(A), (c), 313(b)(1), (2), Dec. 18, 1989, 103 Stat. 2070, 2071, 2077; renumbered Sec. 3724 and amended Pub. L. 102-83, Sec. 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406, related to Loan Guaranty Revolving Fund. See section 3722 of this title.

Section 3725, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1215, Sec. 1824; renumbered Sec. 1825, Pub. L. 86-665, Sec. 7(a), July 14, 1960, 74 Stat. 532; amended Pub. L. 94-324, Sec. 7(29), June 30, 1976, 90 Stat. 722; Pub. L. 101-237, title III, Sec. 302(a)(1), Dec. 18, 1989, 103 Stat. 2069; Pub. L. 102-54, Sec. 15(a)(2), June 13, 1991, 105 Stat. 289; renumbered Sec. 3725 and amended Pub. L. 102-83, Sec. 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-547, Sec. 2(b)(2), Oct. 28, 1992, 106 Stat. 3634, related to Guaranty and Indemnity Fund. See section 3722 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1998, see section 602(f) of Pub. L. 105-368, set out as an Effective Date of 1998 Amendment note under section 2106 of this title.

-End-

-CITE-

38 USC Sec. 3726

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER III - ADMINISTRATIVE PROVISIONS

-HEAD-

Sec. 3726. Withholding of payments, benefits, etc.

-STATUTE-

(a) No officer, employee, department, or agency of the United States shall set off against, or otherwise withhold from, any veteran or the surviving spouse of any veteran any payments (other than benefit payments under any law administered by the Department of Veterans Affairs) which such veteran or surviving spouse would otherwise be entitled to receive because of any liability to the Secretary allegedly arising out of any loan made to, assumed by, or guaranteed or insured on account of, such veteran or surviving spouse under this chapter, unless the Secretary provides such veteran or surviving spouse with notice by certified mail with return receipt requested of the authority of the Secretary to waive the payment of indebtedness under section 5302(b) of this title.

(b) If the Secretary does not waive the entire amount of the liability, the Secretary shall then determine whether the veteran or surviving spouse should be released from liability under section 3713(b) of this title.

(c) If the Secretary determines that the veteran or surviving spouse should not be released from liability, the Secretary shall notify the veteran or surviving spouse of that determination and provide a notice of the procedure for appealing that determination, unless the Secretary has previously made such determination and

notified the veteran or surviving spouse of the procedure for appealing the determination.

-SOURCE-

(Added Pub. L. 89-358, Sec. 5(f)(1), Mar. 3, 1966, 80 Stat. 26, Sec. 1826; amended Pub. L. 94-324, Sec. 7(30), June 30, 1976, 90 Stat. 722; Pub. L. 97-66, title V, Sec. 504, Oct. 17, 1981, 95 Stat. 1033; Pub. L. 101-237, title III, Sec. 313(b)(1), (2), Dec. 18, 1989, 103 Stat. 2077; renumbered Sec. 3726, Pub. L. 102-83, Sec. 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 105-33, title VIII, Sec. 8033(a), Aug. 5, 1997, 111 Stat. 669.)

-MISC1-

AMENDMENTS

1997 - Pub. L. 105-33 designated existing provisions as subsec. (a), substituted "unless the Secretary provides such veteran or surviving spouse with notice by certified mail with return receipt requested of the authority of the Secretary to waive the payment of indebtedness under section 5302(b) of this title." for "unless (1) there is first received the consent in writing of such veteran or surviving spouse, as the case may be, or (2) such liability and the amount thereof was determined by a court of competent jurisdiction in a proceeding to which such veteran or surviving spouse was a party.", and added subsecs. (b) and (c).

1991 - Pub. L. 102-83 renumbered section 1826 of this title as this section.

1989 - Pub. L. 101-237 substituted "Secretary" and "Department of Veterans Affairs" for "Administrator" and "Veterans' Administration", respectively.

1981 - Pub. L. 97-66 struck out subsec. (a) which provided that the Administrator could not, unless the Administrator had first obtained the consent in writing of an individual, set off against, or otherwise withhold from, such individual any benefits payable to such individual under any law administered by the Veterans' Administration because of liability allegedly arising out of any loan made to, assumed by, or guaranteed or insured on account of, such individual under this chapter, and struck out designation "(b)" before "No officer, employee, department, or agency of the United States".

1976 - Subsec. (a). Pub. L. 94-324 substituted "the Administrator" for "he".

Subsec. (b). Pub. L. 94-324 substituted "surviving spouse" for "widow" wherever appearing.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 8033(c) of Pub. L. 105-33 provided that: "The amendments made by this section [amending this section and section 5302 of this title] shall apply with respect to any indebtedness to the United States arising pursuant to chapter 37 of title 38, United States Code, before, on, or after the date of enactment of this Act [Aug. 5, 1997]."

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-66 effective Oct. 17, 1980, see section 701(b)(3) of Pub. L. 97-66, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-324 effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as a note under section 3701 of

this title.

-End-

-CITE-

38 USC Sec. 3727

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER III - ADMINISTRATIVE PROVISIONS

-HEAD-

Sec. 3727. Expenditures to correct or compensate for structural defects in mortgaged homes

-STATUTE-

(a) The Secretary is authorized, with respect to any property improved by a one- to four-family dwelling inspected during construction by the Department of Veterans Affairs or the Federal Housing Administration which the Secretary finds to have structural defects seriously affecting the livability of the property, to make expenditures for (1) correcting such defects, (2) paying the claims of the owner of the property arising from such defects, or (3) acquiring title to the property; except that such authority of the Secretary shall exist only (A) if the owner requests assistance under this section not later than four years (or such shorter time as the Secretary may prescribe) after the mortgage loan was made, guaranteed, or insured, and (B) if the property is encumbered by a mortgage which is made, guaranteed, or insured under this chapter after May 7, 1968.

(b) The Secretary shall by regulation prescribe the terms and conditions under which expenditures and payments may be made under the provisions of this section, and the Secretary's decisions regarding such expenditures or payments, and the terms and conditions under which the same are approved or disapproved, shall be final and conclusive, and shall not be subject to judicial review.

(c) The Secretary is authorized to make expenditures for the purposes of this section from the fund established pursuant to section 3722 of this title.

-SOURCE-

(Added Pub. L. 90-301, Sec. 5(a), May 7, 1968, 82 Stat. 116, Sec. 1827; amended Pub. L. 94-324, Sec. 7(31), June 30, 1976, 90 Stat. 722; Pub. L. 101-237, title III, Sec. 313(b)(1), (2), Dec. 18, 1989, 103 Stat. 2077; renumbered Sec. 3727 and amended Pub. L. 102-83, Sec. 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 105-368, title VI, Sec. 602(e)(1)(C), title X, Sec. 1005(b)(11), Nov. 11, 1998, 112 Stat. 3346, 3365.)

-MISC1-

AMENDMENTS

1998 - Subsec. (a). Pub. L. 105-368, Sec. 1005(b)(11), substituted "May 7, 1968" for "the date of enactment of this section".

Subsec. (c). Pub. L. 105-368, Sec. 602(e)(1)(C), substituted

"fund established pursuant to section 3722 of this title" for "funds established pursuant to sections 3723 and 3724 of this title, as applicable".

1991 - Pub. L. 102-83, Sec. 5(a), renumbered section 1827 of this title as this section.

Subsec. (c). Pub. L. 102-83, Sec. 5(c)(1), substituted "3723 and 3724" for "1823 and 1824".

1989 - Pub. L. 101-237 substituted "Secretary", "Secretary's", and "Department of Veterans Affairs" for "Administrator", "Administrator's", and "Veterans' Administration", respectively, wherever appearing.

1976 - Subsec. (a). Pub. L. 94-324 substituted "the Administrator finds" for "he finds".

Subsec. (b). Pub. L. 94-324 substituted "the Administrator's" for "his".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 602 of Pub. L. 105-368 effective Oct. 1, 1998, see section 602(f) of Pub. L. 105-368, set out as a note under section 2106 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-324 effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as a note under section 3701 of this title.

-End-

-CITE-

38 USC Sec. 3728

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER III - ADMINISTRATIVE PROVISIONS

-HEAD-

Sec. 3728. Exemption from State anti-usury provisions

-STATUTE-

If, under any law of the United States, loans and mortgages insured under title I or title II of the National Housing Act are exempt from the application of the provisions of any State constitution or law (1) limiting the rate or amount of interest, discount points, or other charges which may be charged, taken, received, or reserved by lenders, (2) restricting the manner of calculating such interest (including prohibition of the charging of interest on interest), or (3) requiring a minimum amortization of principal, then loans guaranteed or insured under this chapter are also exempt from the application of such provisions.

-SOURCE-

(Added Pub. L. 96-128, title IV, Sec. 401(a), Nov. 28, 1979, 93 Stat. 986, Sec. 1828; amended Pub. L. 97-66, title V, Sec. 501(b), Oct. 17, 1981, 95 Stat. 1032; renumbered Sec. 3728, Pub. L. 102-83, Sec. 5(a), Aug. 6, 1991, 105 Stat. 406.)

-REFTEXT-

REFERENCES IN TEXT

The National Housing Act, referred to in text, is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended. Titles I and II of the Act are classified generally to subchapters I (Sec. 1702 et seq.) and II (Sec. 1707 et seq.), respectively, of chapter 13 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

-MISC1-

AMENDMENTS

1991 - Pub. L. 102-83 renumbered section 1828 of this title as this section.

1981 - Pub. L. 97-66 designated as cl. (1) existing provisions relating to the limiting of rates or amounts of interest, discount points, or other charges which may be charged, taken, received, or reserved by lenders, and added cls. (2) and (3).

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-66 effective Oct. 17, 1981, see section 701(b)(1) of Pub. L. 97-66, set out as a note under section 1114 of this title.

EFFECTIVE DATE

Section effective Nov. 28, 1979, see section 601(b) of Pub. L. 96-128, set out as an Effective Date of 1979 Amendment note under section 1114 of this title.

-End-

-CITE-

38 USC Sec. 3729

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER III - ADMINISTRATIVE PROVISIONS

-HEAD-

Sec. 3729. Loan fee

-STATUTE-

(a) Requirement of Fee. - (1) Except as provided in subsection (c), a fee shall be collected from each person obtaining a housing loan guaranteed, insured, or made under this chapter, and each person assuming a loan to which section 3714 of this title applies. No such loan may be guaranteed, insured, made, or assumed until the fee payable under this section has been remitted to the Secretary.

(2) The fee may be included in the loan and paid from the proceeds thereof.

(b) Determination of Fee. - (1) The amount of the fee shall be determined from the loan fee table in paragraph (2). The fee is expressed as a percentage of the total amount of the loan guaranteed, insured, or made, or, in the case of a loan assumption, the unpaid principal balance of the loan on the date of the transfer of the property.

(2) The loan fee table referred to in paragraph (1) is as follows:

LOAN FEE TABLE

Type of loan	Active duty veteran	Reservist obligor	Other
(A)(i) Initial loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710(a) other than with 5-down or 10-down (closed before January 1, 2004)	2.00	2.75	NA
(A)(ii) Initial loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710(a) other than with 5-down or 10-down (closed on or after January 1, 2004, and before October 1, 2004)	2.20	2.40	NA
(A)(iii) Initial loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710(a) other than with 5-down or 10-down (closed on or after October 1, 2004, and before October 1, 2016)	2.15	2.40	NA
(A)(iv) Initial loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710(a) other than with 5-down or 10-down (closed on or after October 1, 2016)	1.40	1.65	NA
(B)(i) Subsequent loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other subsequent loan described in section 3710(a) (closed before October 1, 2016)	3.30	3.30	NA

(B)(ii) Subsequent loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other subsequent loan described in section 3710(a) (closed on or after October 1, 2016)	1.25	1.25	NA
(C)(i) Loan described in section 3710(a) to purchase or construct a dwelling with 5-down (closed before October 1, 2016)	1.50	1.75	NA
(C)(ii) Loan described in section 3710(a) to purchase or construct a dwelling with 5-down (closed on or after October 1, 2016)	0.75	1.00	NA
(D)(i) Initial loan described in section 3710(a) to purchase or construct a dwelling with 10-down (closed before October 1, 2016)	1.25	1.50	NA
(D)(ii) Initial loan described in section 3710(a) to purchase or construct a dwelling with 10-down (closed on or after October 1, 2016)	0.50	0.75	NA
(E) Interest rate reduction refinancing loan	0.50	0.50	NA
(F) Direct loan under section 3711	1.00	1.00	NA
(G) Manufactured home loan under section 3712 (other than an interest rate reduction refinancing loan)	1.00	1.00	NA
(H) Loan to Native American veteran under section 3762 (other than an interest rate reduction refinancing loan)	1.25	1.25	NA
(I) Loan assumption under section 3714	0.50	0.50	0.50
(J) Loan under section 3733(a)	2.25	2.25	2.25

(3) Any reference to a section in the "Type of loan" column in the loan fee table in paragraph (2) refers to a section of this title.

(4) For the purposes of paragraph (2):

(A) The term "active duty veteran" means any veteran eligible for the benefits of this chapter other than a Reservist.

(B) The term "Reservist" means a veteran described in section

3701(b)(5)(A) of this title who is eligible under section 3702(a)(2)(E) of this title.

(C) The term "other obligor" means a person who is not a veteran, as defined in section 101 of this title or other provision of this chapter.

(D) The term "initial loan" means a loan to a veteran guaranteed under section 3710 or made under section 3711 of this title if the veteran has never obtained a loan guaranteed under section 3710 or made under section 3711 of this title.

(E) The term "subsequent loan" means a loan to a veteran, other than an interest rate reduction refinancing loan, guaranteed under section 3710 or made under section 3711 of this title if the veteran has previously obtained a loan guaranteed under section 3710 or made under section 3711 of this title.

(F) The term "interest rate reduction refinancing loan" means a loan described in section 3710(a)(8), 3710(a)(9)(B)(i), 3710(a)(11), 3712(a)(1)(F), or 3762(h) of this title.

(G) The term "0-down" means a downpayment, if any, of less than 5 percent of the total purchase price or construction cost of the dwelling.

(H) The term "5-down" means a downpayment of at least 5 percent or more, but less than 10 percent, of the total purchase price or construction cost of the dwelling.

(I) The term "10-down" means a downpayment of 10 percent or more of the total purchase price or construction cost of the dwelling.

(c) Waiver of Fee. - (1) A fee may not be collected under this section from a veteran who is receiving compensation (or who, but for the receipt of retirement pay or active service pay, would be entitled to receive compensation) or from a surviving spouse of any veteran (including a person who died in the active military, naval, or air service) who died from a service-connected disability.

(2) A veteran who is rated eligible to receive compensation as a result of a pre-discharge disability examination and rating shall be treated as receiving compensation for purposes of this subsection as of the date on which the veteran is rated eligible to receive compensation as a result of the pre-discharge disability examination and rating without regard to whether an effective date of the award of compensation is established as of that date.

-SOURCE-

(Added Pub. L. 97-253, title IV, Sec. 406(a)(1), Sept. 8, 1982, 96 Stat. 805, Sec. 1829; amended Pub. L. 98-369, div. B, title V, Sec. 2511(a), July 18, 1984, 98 Stat. 1117; Pub. L. 100-198, Secs. 2, 10(c), Dec. 21, 1987, 101 Stat. 1315, 1323; Pub. L. 100-203, title VII, Sec. 7002, Dec. 22, 1987, 101 Stat. 1330-279; Pub. L. 100-322, title IV, Sec. 415(c)(6), May 20, 1988, 102 Stat. 551; Pub. L. 101-237, title III, Secs. 303(a), 313(b)(1), Dec. 18, 1989, 103 Stat. 2071, 2077; Pub. L. 101-239, title V, Sec. 5001, Dec. 19, 1989, 103 Stat. 2136; Pub. L. 101-508, title VIII, Sec. 8032, Nov. 5, 1990, 104 Stat. 1388-348; Pub. L. 102-54, Sec. 15(a)(3), (4), June 13, 1991, 105 Stat. 289; renumbered Sec. 3729 and amended Pub. L. 102-83, Sec. 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-547, Secs. 2(b)(1), 5, Oct. 28, 1992, 106 Stat. 3633, 3636; Pub. L. 103-66, title XII, Sec. 12007, Aug. 10, 1993, 107 Stat. 414; Pub. L. 103-446, title IX, Sec. 904(c), Nov. 2, 1994, 108 Stat. 4677; Pub. L. 104-275, title II, Sec. 202(b), Oct. 9, 1996, 110 Stat. 3330; Pub. L. 105-33, title VIII, Secs. 8012, 8032, Aug. 5, 1997, 111 Stat. 664, 669; Pub. L. 105-368, title VI, Secs. 602(e)(1)(D), 603(b), Nov. 11, 1998, 112 Stat. 3346, 3348; Pub. L.

106-419, title IV, Sec. 402(b), Nov. 1, 2000, 114 Stat. 1861; Pub. L. 107-14, Sec. 8(b)(4), June 5, 2001, 115 Stat. 36; Pub. L. 107-103, title IV, Secs. 405(c), 406, Dec. 27, 2001, 115 Stat. 994; Pub. L. 108-183, title IV, Sec. 405, Dec. 16, 2003, 117 Stat. 2665; Pub. L. 108-454, title IV, Sec. 406, Dec. 10, 2004, 118 Stat. 3617; Pub. L. 111-275, title II, Sec. 204, Oct. 13, 2010, 124 Stat. 2874; Pub. L. 112-26, Sec. 3(a), Aug. 3, 2011, 125 Stat. 269; Pub. L. 112-37, Sec. 15, Oct. 5, 2011, 125 Stat. 398; Pub. L. 112-56, title II, Sec. 265(a), Nov. 21, 2011, 125 Stat. 732.)

-MISC1-

AMENDMENTS

2011 - Subsec. (b)(2). Pub. L. 112-37 substituted "November 18, 2011" for "October 1, 2011" wherever appearing in table.

Subsec. (b)(2)(A)(iii), (iv). Pub. L. 112-56, Sec. 265(a)(1), substituted "October 1, 2016" for "November 18, 2011".

Subsec. (b)(2)(B)(i). Pub. L. 112-56, Sec. 265(a)(2)(A), substituted "October 1, 2016" for "November 18, 2011".

Pub. L. 112-26, Sec. 3(a)(1), substituted "October 1, 2011" for "January 1, 2004" and substituted "3.30" for "3.00" in two places.

Subsec. (b)(2)(B)(ii). Pub. L. 112-56, Sec. 265(a)(2)(B)-(D), redesignated cl. (iv) as (ii), substituted "October 1, 2016" for "October 1, 2013", and struck out former cl. (ii) which listed loan fees of 2.80 percent in the first two table columns for a subsequent loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other subsequent loan described in section 3710(a) (closed on or after Nov. 18, 2011, and before Oct. 1, 2012).

Pub. L. 112-26, Sec. 3(a)(2), substituted "October 1, 2011, and before October 1, 2012" for "January 1, 2004, and before October 1, 2011" and substituted "2.80" for "3.30" in two places.

Subsec. (b)(2)(B)(iii). Pub. L. 112-56, Sec. 265(a)(2)(B), struck out cl. (iii) which listed loan fees of 2.15 percent in the first two table columns for a subsequent loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other subsequent loan described in section 3710(a) (closed on or after Oct. 1, 2012, and before Oct. 1, 2013).

Pub. L. 112-26, Sec. 3(a)(3), substituted "October 1, 2012" for "October 1, 2011".

Subsec. (b)(2)(B)(iv). Pub. L. 112-56, Sec. 265(a)(2)(C), redesignated cl. (iv) as (ii).

Subsec. (b)(2)(C), (D). Pub. L. 112-56, Sec. 265(a)(3), (4), substituted "October 1, 2016" for "November 18, 2011" wherever appearing.

2010 - Subsec. (c)(1). Pub. L. 111-275 inserted "or active service pay" after "retirement pay".

2004 - Subsec. (c). Pub. L. 108-454 designated existing provisions as par. (1) and added par. (2).

2003 - Subsec. (b)(2). Pub. L. 108-183 amended par. (2) generally, revising table by adding cls. (iii) and (iv) of subpars. (A) and (B) and changing dates in subpars. (A) and (B).

2001 - Pub. L. 107-14 made technical amendment to Pub. L. 106-419. See 2000 Amendment note below.

Subsec. (b)(2). Pub. L. 107-103, Sec. 405(c), substituted "October 1, 2011" for "October 1, 2008" wherever appearing in table.

Subsec. (b)(4)(B). Pub. L. 107-103, Sec. 406, inserted "who is eligible under section 3702(a)(2)(E) of this title" before period.

2000 - Pub. L. 106-419, as amended by Pub. L. 107-14, amended text generally, substituting present provisions for provisions

which established loan fee, set fee as 1.25 percent of total loan amount, with exceptions, provided that amount of fee may be included in loan amount and paid from proceeds thereof, provided for increased loan fee percentage for loans closed during specified period, provided for fees on subsequent loans and assumed loans, and provided that fees may not be collected from veterans receiving compensation or from surviving spouses of any veterans who died from service-connected disability.

1998 - Subsec. (a)(1). Pub. L. 105-368, Sec. 602(e)(1)(D)(ii), substituted "(c)" for "(c)(1)".

Subsec. (a)(4). Pub. L. 105-368, Sec. 603(b), designated existing provisions as subpar. (A), substituted "during the period specified in subparagraph (B)" for "after September 30, 1993, and before October 1, 2002," and added subpar. (B).

Subsec. (c). Pub. L. 105-368, Sec. 603(e)(1)(D)(i), struck out "(1)" before "A fee may not" and struck out pars. (2) and (3) which read as follows:

"(2) There shall be credited to the Guaranty and Indemnity Fund (in addition to the amount required to be credited to such Fund under clause (A) or (B) of paragraph (2) of section 3725(c) of this title or paragraph (3) of that section), on behalf of a veteran or surviving spouse described in paragraph (1) of this subsection, an amount equal to the fee that, except for paragraph (1) of this subsection, would be collected from such veteran or surviving spouse.

"(3) Credits to the Guaranty and Indemnity Fund under paragraph (2) of this subsection with respect to loans guaranteed, insured, or made under this chapter that are closed during fiscal year 1990 shall be made in October 1990."

1997 - Subsec. (a)(2)(A). Pub. L. 105-33, Sec. 8032(1)(A), struck out "or 3733(a)" after "section 3711".

Subsec. (a)(2)(F). Pub. L. 105-33, Sec. 8032(1)(B)-(D), added subpar. (F).

Subsec. (a)(4). Pub. L. 105-33, Secs. 8012(1), 8032(2), substituted "October 1, 2002" for "October 1, 1998" and "(E), or (F)" for "or (E)".

Subsec. (a)(5)(C). Pub. L. 105-33, Sec. 8012(2), substituted "October 1, 2002" for "October 1, 1998".

1996 - Subsec. (a)(2)(E). Pub. L. 104-275 substituted "3712(a)(1)(F), or 3762(h)" for "or 3712(a)(1)(F)".

1994 - Subsec. (a)(2)(E). Pub. L. 103-446 inserted "3710(a)(11)," after "3710(a)(9)(B)(i),".

1993 - Subsec. (a)(2). Pub. L. 103-66, Sec. 12007(c), substituted "paragraphs (4) and (5)" for "paragraph (6)" in introductory provisions.

Subsecs. (a)(4) to (6). Pub. L. 103-66, Sec. 12007(a), (b), added pars. (4) and (5) and struck out par. (6) which read as follows:

"With respect to each loan closed during the period beginning on November 1, 1990, and ending on September 30, 1991, each amount specified in paragraph (2) of this subsection shall be increased by 0.625 percent of the total loan amount."

1992 - Subsec. (a)(2)(A). Pub. L. 102-547, Sec. 5(1), inserted "(other than section 3712(a)(1)(F))" after "section 3712".

Subsec. (a)(2)(D). Pub. L. 102-547, Sec. 2(b)(1), added subpar. (D).

Subsec. (a)(2)(E). Pub. L. 102-547, Sec. 5(2), added subpar. (E).

1991 - Pub. L. 102-83, Sec. 5(a), renumbered section 1829 of this title as this section.

Subsec. (a)(1). Pub. L. 102-83, Sec. 5(c)(1), substituted "3733(a)" for "1833(a)".

Subsec. (a)(2). Pub. L. 102-83, Sec. 5(c)(1), substituted "3711

or 3733(a)" for "1811 or 1833(a)" and "3712" for "1812" in subpar. (A) and "3712(a)" for "1812(a)" in subpars. (B) and (C).

Subsec. (a)(3) to (5). Pub. L. 102-54, Sec. 15(a)(3), redesignated par. (5) as (3) and struck out former pars. (3) and (4) which read as follows:

"(3) Except as provided in paragraph (4) of this subsection, there shall be credited to the Guaranty and Indemnity Fund (in addition to the amount required to be credited to such Fund under section 1825(c)(2)(A) or (B) of this title), on behalf of a veteran who has made a downpayment described in paragraph (2)(C) of this subsection, an amount equal to 0.25 percent of the total loan amount for the fiscal year in which the loan is closed and for the following fiscal year.

"(4) Credits to the Guaranty and Indemnity Fund under paragraph (3) of this subsection with respect to loans guaranteed or insured under this chapter that are closed during fiscal year 1990 shall be made in October 1990 and October 1991."

Subsec. (b). Pub. L. 102-83, Sec. 5(c)(1), substituted "3714" for "1814".

Subsec. (c)(2). Pub. L. 102-83, Sec. 5(c)(1), substituted "3725(c)" for "1825(c)".

Pub. L. 102-54, Sec. 15(a)(4), substituted "clause (A) or (B) of paragraph (2) of section 1825(c) of this title or paragraph (3) of that section" for "section 1825(c)(2)(A) or (B) of this title and subsection (a)(3) of this section".

1990 - Subsec. (a)(2). Pub. L. 101-508, Sec. 8032(1), substituted "Except as provided in paragraph (6) of this subsection, the amount" for "The amount".

Subsec. (a)(6). Pub. L. 101-508, Sec. 8032(2), added par. (6).

1989 - Pub. L. 101-237, Sec. 303(a), amended section generally. Prior to amendment, section read as follows:

"(a) Except as provided in subsection (b) of this section, a fee shall be collected from each veteran obtaining a housing loan guaranteed, made, or insured under this chapter, and from each person obtaining a loan from the Secretary to finance the purchase of real property from the Secretary, and no such loan may be guaranteed, made, or insured under this chapter until the fee payable with respect to such loan has been remitted to the Secretary. The amount of the fee shall be one percent of the total loan amount. The amount of the fee may be included in the loan and paid from the proceeds thereof.

"(b) A fee may not be collected under this section from a veteran who is receiving compensation (or who but for the receipt of retirement pay would be entitled to receive compensation) or from a surviving spouse of any veteran (including a person who died in the active military, naval, or air service) who died from a service-connected disability.

"(c) A fee may not be collected under this section with respect to any loan closed after September 30, 1990.

"(d) Except as provided in subsection (b) of this section, a fee shall be collected from a person assuming a loan to which section 1814 of this chapter applies. The amount of the fee shall be equal to one-half of one percent of the balance of such loan on the date of the transfer of the property."

Subsec. (a). Pub. L. 101-237, Sec. 313(b)(1), substituted "Secretary" for "Administrator" wherever appearing.

Subsec. (c). Pub. L. 101-239 substituted "September 30, 1990" for "September 30, 1989".

1988 - Subsec. (d). Pub. L. 100-322 substituted "section 1814" for "section 1817A".

1987 - Subsec. (b). Pub. L. 100-198, Sec. 2(b), substituted "of

any veteran (including a person who died in the active military, naval, or air service) who died from a service-connected disability" for "described in section 1801(b)(2) of this title".

Subsec. (c). Pub. L. 100-198, Sec. 2(a), and Pub. L. 100-203, amended subsec. identically, substituting "September 30, 1989" for "September 30, 1987".

Subsec. (d). Pub. L. 100-198, Sec. 10(c), added subsec. (d).

1984 - Subsec. (a). Pub. L. 98-369, Sec. 2511(a)(1), inserted "and from each person obtaining a loan from the Administrator to finance the purchase of real property from the Administrator," after "under this chapter," struck out "one-half of" before "one percent of the total loan amount", and struck out "to the veteran" after "in the loan".

Subsecs. (c), (d). Pub. L. 98-367, Sec. 2511(a)(2), (3), redesignated subsec. (d) as (c) and substituted "September 30, 1987" for "September 30, 1985". Former subsec. (c), which related to deposit of fees collected under this section into Treasury as miscellaneous receipts, was struck out.

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112-56, title II, Sec. 265(b), Nov. 21, 2011, 125 Stat. 733, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on the later of -

"(1) November 18, 2011; or

"(2) the date of the enactment of this Act [Nov. 21, 2011]."

Pub. L. 112-26, Sec. 3(b), Aug. 3, 2011, 125 Stat. 269, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on the later of October 1, 2011, or the date of the enactment of this Act [Aug. 3, 2011]."

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-183, title IV, Sec. 405, Dec. 16, 2003, 117 Stat. 2665, provided that the amendment made by section 405 is effective Jan. 1, 2004.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-14, Sec. 8(b), June 5, 2001, 115 Stat. 36, provided that the amendment made by section 8(b) is effective Nov. 1, 2000, and as if included in the Veterans Benefits and Health Care Improvement Act of 2000, Pub. L. 106-419, as enacted.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-368 effective Oct. 1, 1998, see section 602(f) of Pub. L. 105-368, set out as a note under section 2106 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 303(b) of Pub. L. 101-237 provided that: "The amendments made by this section [amending this section] shall take effect on January 1, 1990."

EFFECTIVE DATE OF 1984 AMENDMENT

Section 2511(c) of Pub. L. 98-369 provided that:

"(1) The amendments made by subsection (a)(1) [amending this section] shall apply with respect to loans closed after the end of the 30-day period beginning on the date of the enactment of this Act [July 18, 1984].

"(2) The amendments made by subsections (a)(2) and (b) [amending this section and section 1824 [now 3724] of this title] shall apply with respect to loans closed on or after the date of the enactment of this Act [July 18, 1984]."

"(3) The amendment made by subsection (a)(3) [amending this section] shall take effect on the date of the enactment of this Act [July 18, 1984]."

EFFECTIVE DATE

Section 406(b) of Pub. L. 97-253, as amended by Pub. L. 102-83, Sec. 5(c)(2), Aug. 6, 1991, 105 Stat. 406, provided that: "Section 1829 [now 3729] of title 38, United States Code, as added by subsection (a), shall apply only to loans closed after September 30, 1982."

TEMPORARY INCREASE IN CERTAIN HOUSING LOAN FEES

Pub. L. 109-233, title I, Sec. 101(f), June 15, 2006, 120 Stat. 399, provided that: "For a subsequent loan described in subsection (a) of section 3710 of title 38, United States Code, to purchase or construct a dwelling with 0-down or any other subsequent loan described in that subsection, other than a loan with 5-down or 10-down, that is closed during fiscal year 2007, the Secretary of Veterans Affairs shall apply section 3729(b)(2) of such title by substituting '3.35' for '3.30'."

FEE FOR LOAN ASSUMPTION

Pub. L. 107-330, title III, Sec. 307, Dec. 6, 2002, 116 Stat. 2827, provided that:

"(a) In General. - For the period described in subsection (b), the Secretary of Veterans Affairs shall apply section 3729(b)(2)(I) of title 38, United States Code, by substituting '1.00' for '0.50' each place it appears.

"(b) Period Described. - The period referred to in subsection (a) is the period that begins on the date that is 7 days after the date of the enactment of this Act [Dec. 6, 2002] and ends on September 30, 2003."

RATIFICATION OF ACTIONS BY SECRETARY OF VETERANS AFFAIRS AND BY SECRETARY OF THE TREASURY BETWEEN OCT. 1, 1990, AND JUNE 13, 1991

Section 15(b) of Pub. L. 102-54, as amended by Pub. L. 102-83, Sec. 5(c)(2), Aug. 6, 1991, 105 Stat. 406, provided that:

"(1) Any action of the Secretary of Veterans Affairs or the Secretary of the Treasury -

"(A) that was taken during the period beginning on October 1, 1990, and ending on the date of the enactment of this Act [June 13, 1991]; and

"(B) that would have been an action carried out under section 3725(c)(3) [formerly 1825(c)(3)] of title 38, United States Code, if the amendment made by paragraph (2) of subsection (a) of this section had been made before October 1, 1990, is hereby ratified.

"(2) Any failure to act by the Secretary of Veterans Affairs or the Secretary of the Treasury during such period under section 3729(a)(3) [formerly 1829(a)(3)] of such title is hereby ratified."

RATIFICATION OF ACTIONS OF SECRETARY OF VETERANS AFFAIRS DURING TRANSITION PERIODS

For provisions ratifying any actions of the Secretary of Veterans Affairs in carrying out this section during the period beginning Dec. 1, 1989, and ending Dec. 18, 1989, see section 604 of Pub. L. 101-237, set out as a note under section 1720B of this title.

For provisions ratifying any actions of the Secretary of Veterans Affairs in carrying out this section during the period beginning Oct. 1, 1989, and ending Oct. 6, 1989, see section 3(b) of Pub. L. 101-110, set out as a note under section 1720B of this title.

RULE FOR CONSTRUCTION OF DUPLICATE PROVISIONS

For rule relating to construction of provisions of Pub. L. 100-203 and Pub. L. 100-198 making duplicate amendments to this section, see section 7004(b) of Pub. L. 100-203, set out as a note under section 3733 of this title.

EXTENSION OF TIME FOR COLLECTION OF FEES

Section 303(c) of Pub. L. 101-237 directed Secretary of Veterans Affairs to collect fees under this section through Dec. 31, 1989.

Pub. L. 101-110, Sec. 2, Oct. 6, 1989, 103 Stat. 682, authorized collection of fees under this section with respect to loans closed before Dec. 1, 1989.

Pub. L. 100-136, Sec. 1(b), Oct. 16, 1987, 101 Stat. 813, authorized collection of fees under this section with respect to loans closed through Nov. 15, 1987.

HOME LOAN ORIGATION FEE

Pub. L. 99-576, title IV, Sec. 409, Oct. 28, 1986, 100 Stat. 3283, provided that: "It is the sense of the Congress that the Veterans' Administration loan origination fee should not be increased above its present level of one percent of the amount of the loan guaranteed."

-End-

-CITE-

38 USC Sec. 3730

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER III - ADMINISTRATIVE PROVISIONS

-HEAD-

Sec. 3730. Use of attorneys in court

-STATUTE-

(a) The Secretary shall authorize attorneys employed by the Department of Veterans Affairs to exercise the right of the United States to bring suit in court to foreclose a loan made or acquired by the Secretary under this chapter and to recover possession of any property acquired by the Secretary under this chapter. The Secretary may acquire the services of attorneys, other than those who are employees of the Department of Veterans Affairs, to exercise that right. The activities of attorneys in bringing suit under this section shall be subject to the direction and supervision of the Attorney General and to such terms and conditions as the Attorney General may prescribe.

(b) Nothing in this section derogates from the authority of the Attorney General under sections 516 and 519 of title 28 to direct and supervise all litigation to which the United States or an agency or officer of the United States is a party.

-SOURCE-

(Added Pub. L. 98-369, div. B, title V, Sec. 2512(b)(1), July 18, 1984, 98 Stat. 1120, Sec. 1830; amended Pub. L. 99-576, title IV, Sec. 406, Oct. 28, 1986, 100 Stat. 3282; Pub. L. 101-237, title

III, Sec. 313(b)(1), (2), Dec. 18, 1989, 103 Stat. 2077; renumbered Sec. 3730, Pub. L. 102-83, Sec. 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 105-368, title X, Sec. 1005(b)(12), Nov. 11, 1998, 112 Stat. 3365.)

-MISC1-

AMENDMENTS

1998 - Subsec. (a). Pub. L. 105-368 substituted "The Secretary shall" for "Within 180 days after the date of the enactment of this section, the Secretary shall take appropriate steps to".

1991 - Pub. L. 102-83 renumbered section 1830 of this title as this section.

1989 - Subsec. (a). Pub. L. 101-237 substituted "Secretary" and "Department of Veterans Affairs" for "Administrator" and "Veterans' Administration", respectively, wherever appearing.

1986 - Subsec. (a). Pub. L. 99-576 substituted "The" for "With the concurrence of the Attorney General of the United States, the" in second sentence.

EFFECTIVE DATE

Section 2512(c)(3) of Pub. L. 98-369 provided that: "The amendments made by subsection (b) [enacting this section] shall take effect on the date of the enactment of this Act [July 18, 1984]."

-End-

-CITE-

38 USC Sec. 3731

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER III - ADMINISTRATIVE PROVISIONS

-HEAD-

Sec. 3731. Appraisals

-STATUTE-

(a) The Secretary shall -

(1) subject to subsection (b)(2) and in consultation with appropriate representatives of institutions which are regularly engaged in making housing loans, prescribe uniform qualifications for appraisers, including the successful completion of a written test, submission of a sample appraisal, certification of an appropriate number of years of experience as an appraiser, and submission of recommendations from other appraisers;

(2) use such qualifications in determining whether to approve an appraiser to make appraisals of the reasonable value of any property, construction, repairs, or alterations for the purposes of this chapter; and

(3) in consultation with local representatives of institutions described in clause (1) of this subsection, develop and maintain lists of appraisers who are approved under clause (2) of this subsection to make appraisals for the purposes of this chapter.

(b)(1) The Secretary shall select appraisers from a list required

by subsection (a)(3) of this section on a rotating basis to make appraisals for the purposes of this chapter.

(2) If uniform qualifications become applicable for appraisers who perform appraisals for or in connection with the Federal Government, the qualifications required by subsection (a)(1) of this section may be more stringent than such uniform qualifications, but the Secretary may use no written test in determining the qualifications of appraisers other than the test prescribed to implement such uniform qualifications.

(c) Except as provided in subsection (f) of this section, the appraiser shall forward an appraisal report to the Secretary for review. Upon receipt of such report, the Secretary shall determine the reasonable value of the property, construction, repairs, or alterations for purposes of this chapter, and notify the veteran of such determination. Upon request, the Secretary shall furnish a copy of the appraisal made of property for the purposes of this chapter to the lender proposing to make the loan which is to be secured by such property and is to be guaranteed under this chapter.

(d) If a lender (other than a lender authorized under subsection (f) of this section to determine reasonable value) -

(1) has proposed to make a loan to be guaranteed under this chapter,

(2) has been furnished a certificate of reasonable value of any property or of any construction, repairs, or alterations of property which is to be the security for such loan, and

(3) within a reasonable period prescribed by the Secretary, has furnished to the Secretary an additional appraisal of the reasonable value of such property, construction, repairs, or alterations which was made by an appraiser selected by the lender from the list required by subsection (a)(3) of this section,

the Secretary shall consider both the initial appraisal and the additional appraisal and shall, if appropriate, issue a revised certificate of reasonable value of such property, construction, repairs, or alterations.

(e)(1) In no case may a veteran be required to pay all or any portion of the cost of the additional appraisal described in subsection (d)(3) of this section.

(2) If a veteran, within a reasonable period prescribed by the Secretary, has furnished to the Secretary an additional appraisal of the reasonable value of such property, construction, repairs, or alterations which was made by an appraiser selected by the veteran from the list required by subsection (a)(3) of this section, the Secretary shall consider such appraisal, along with other appraisals furnished to the Secretary, and shall, if appropriate, issue a revised certificate of reasonable value of such property, construction, repairs, or alterations.

(f)(1) Subject to the provisions of paragraphs (2) and (3) of this subsection, the Secretary may, in accordance with standards and procedures established in regulations prescribed by the Secretary, authorize a lender to determine the reasonable value of property for the purposes of this chapter if the lender is authorized to make loans which are automatically guaranteed under section 3702(d) of this title. In such a case, the appraiser selected by the Secretary pursuant to subsection (b) of this section shall submit the appraisal report directly to the lender for review, and the lender shall, as soon as possible thereafter, furnish a copy of the appraisal to the veteran who is applying for the loan concerned and to the Secretary.

(2) In exercising the authority provided in paragraph (1) of this

subsection, the Secretary shall assign a sufficient number of personnel to carry out an appraisal-review system to monitor, on at least a random-sampling basis, the making of appraisals by appraisers and the effectiveness and the efficiency of the determination of reasonable value of property by lenders.

[(3) Repealed. Pub. L. 104-110, title I, Sec. 101(g), Feb. 13, 1996, 110 Stat. 768.]

(4) Not later than April 30 of each year following a year in which the Secretary authorizes lenders to determine reasonable value of property under this subsection, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report relating to the exercise of that authority during the year in which the authority was exercised.

(5) A report submitted pursuant to paragraph (4) of this subsection shall include, for the period covered by each report -

(A) the number and value of loans made by lenders exercising the authority of this subsection;

(B) the number and value of such loans reviewed by the appraisal-review monitors referred to in paragraph (2) of this subsection;

(C) the number and value of loans made under this subsection of which the Secretary received notification of default;

(D) the amount of guaranty paid by the Secretary to such lenders by reason of defaults on loans as to which reasonable value was determined under this subsection; and

(E) such recommendations as the Secretary considers appropriate to improve the exercise of the authority provided for in this subsection and to protect the interests of the United States.

-SOURCE-

(Added Pub. L. 99-576, title IV, Sec. 407(a), Oct. 28, 1986, 100 Stat. 3282, Sec. 1831; amended Pub. L. 100-198, Sec. 11(a), (b), Dec. 21, 1987, 101 Stat. 1324; Pub. L. 101-237, title III, Sec. 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; Pub. L. 102-54, Sec. 3(b), (c), June 13, 1991, 105 Stat. 267; renumbered Sec. 3731 and amended Pub. L. 102-83, Sec. 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-547, Sec. 7, Oct. 28, 1992, 106 Stat. 3636; Pub. L. 104-110, title I, Sec. 101(g), Feb. 13, 1996, 110 Stat. 768.)

-COD-

CODIFICATION

Another section 11(b) of Pub. L. 100-198 amended section 1810 [now 3710] of this title.

-MISC1-

AMENDMENTS

1996 - Subsec. (f)(3). Pub. L. 104-110 struck out par. (3) which read as follows: "The authority provided in this subsection shall terminate on December 31, 1995."

1992 - Subsec. (f)(3). Pub. L. 102-547 substituted "1995" for "1992".

1991 - Pub. L. 102-83, Sec. 5(a), renumbered section 1831 of this title as this section.

Subsec. (f)(1). Pub. L. 102-83, Sec. 5(c)(1), substituted "3702(d)" for "1802(d)".

Subsec. (f)(3). Pub. L. 102-54, Sec. 3(b), substituted "December 31, 1992" for "October 1, 1990".

Subsec. (f)(4), (5). Pub. L. 102-54, Sec. 3(c), added pars. (4) and (5).

1989 - Pub. L. 101-237 substituted "Secretary" for

"Administrator" wherever appearing.

1987 - Subsec. (a)(1). Pub. L. 100-198, Sec. 11(a)(1), inserted "subject to subsection (b)(2) and" at beginning and ", including the successful completion of a written test, submission of a sample appraisal, certification of an appropriate number of years of experience as an appraiser, and submission of recommendations from other appraisers" before semicolon at end.

Subsec. (b). Pub. L. 100-198, Sec. 11(a)(2), designated existing provisions as par. (1) and added par. (2).

Subsec. (c). Pub. L. 100-198, Sec. 11(b)(1), substituted "Except as provided in subsection (f) of this section, the appraiser shall forward an appraisal report to the Administrator for review. Upon receipt of such report, the Administrator shall determine the reasonable value of the property, construction, repairs, or alterations for purposes of this chapter, and notify the veteran of such determination. Upon request, the Administrator shall" for "The Administrator shall, upon request,".

Subsec. (d). Pub. L. 100-198, Sec. 11(b)(2), which directed insertion of "(other than a lender authorized under subsection (f) of this section to determine reasonable value)" after "lender" was executed by making the insertion after "lender" the first place it appears in subsec. (d), as the probable intent of Congress, notwithstanding appearance of "lender" in subsec. (d)(3).

Subsec. (f). Pub. L. 100-198, Sec. 11(b)(3), added subsec. (f).

RATIFICATION OF ACTIONS DURING PERIOD OF EXPIRED AUTHORITY

Any action taken by Secretary of Veterans Affairs before Feb. 13, 1996, under provision of law amended by title I of Pub. L. 104-110 that was taken during period beginning on date on which authority of Secretary under such provision of law expired and ending on Feb. 13, 1996, considered to have same force and effect as if such amendment had been in effect at time of that action, see section 103 of Pub. L. 104-110, set out as a note under section 1710 of this title.

-End-

-CITE-

38 USC Sec. 3732

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER III - ADMINISTRATIVE PROVISIONS

-HEAD-

Sec. 3732. Procedure on default

-STATUTE-

(a)(1) In the event of default in the payment of any loan guaranteed under this chapter, the holder of the obligation shall notify the Secretary of such default. Upon receipt of such notice, the Secretary may, subject to subsection (c) of this section, pay to such holder the guaranty not in excess of the pro rata portion of the amount originally guaranteed. Except as provided in section 3703(e) of this title, if the Secretary makes such a payment, the Secretary shall be subrogated to the rights of the holder of the obligation to the extent of the amount paid on the guaranty.

(2)(A) Before suit or foreclosure the holder of the obligation shall notify the Secretary of the default, and within thirty days thereafter the Secretary may, at the Secretary's option, pay the holder of the obligation the unpaid balance of the obligation plus accrued interest and receive an assignment of the loan and security. Nothing in this section shall preclude any forbearance for the benefit of the veteran as may be agreed upon by the parties to the loan and approved by the Secretary.

(B) In the event that a housing loan guaranteed under this chapter is modified under the authority provided under section 1322(b) of title 11, the Secretary may pay the holder of the obligation the unpaid principal balance of the obligation due, plus accrued interest, as of the date of the filing of the petition under title 11, but only upon the assignment, transfer, and delivery to the Secretary (in a form and manner satisfactory to the Secretary) of all rights, interest, claims, evidence, and records with respect to the housing loan.

(3) The Secretary may establish the date, not later than the date of judgment and decree of foreclosure or sale, upon which accrual of interest or charges shall cease.

(4)(A) Upon receiving a notice pursuant to paragraph (1) of this subsection, the Secretary shall -

(i) provide the veteran with information and, to the extent feasible, counseling regarding -

(I) alternatives to foreclosure, as appropriate in light of the veteran's particular circumstances, including possible methods of curing the default, conveyance of the property to the Secretary by means of a deed in lieu of foreclosure, and the actions authorized by paragraph (2) of this subsection; and

(II) what the Department of Veterans Affairs' and the veteran's liabilities would be with respect to the loan in the event of foreclosure; and

(ii) advise the veteran regarding the availability of such counseling;

except with respect to loans made by a lender which the Secretary has determined has a demonstrated record of consistently providing timely and accurate information to veterans with respect to such matters.

(B) The Secretary shall, to the extent of the availability of appropriations, ensure that sufficient personnel are available to administer subparagraph (A) of this paragraph effectively and efficiently.

(5) In the event of default in the payment of any loan guaranteed or insured under this chapter in which a partial payment has been tendered by the veteran concerned and refused by the holder, the holder of the obligation shall notify the Secretary as soon as such payment has been refused. The Secretary may require that any such notification include a statement of the circumstances of the default, the amount tendered, the amount of the indebtedness on the date of the tender, and the reasons for the holder's refusal.

(b) With respect to any loan made under section 3711 which has not been sold as provided in subsection (g) of such section, if the Secretary finds, after there has been a default in the payment of any installment of principal or interest owing on such loan, that the default was due to the fact that the veteran who is obligated under the loan has become unemployed as the result of the closing (in whole or in part) of a Federal installation, the Secretary shall (1) extend the time for curing the default to such time as the Secretary determines is necessary and desirable to enable such

veteran to complete payments on such loan, including an extension of time beyond the stated maturity thereof, or (2) modify the terms of such loan for the purpose of changing the amortization provisions thereof by recasting, over the remaining term of the loan, or over such longer period as the Secretary may determine, the total unpaid amount then due with the modification to become effective currently or upon the termination of an agreed-upon extension of the period for curing the default.

(c)(1) For purposes of this subsection -

(A) The term "defaulted loan" means a loan that is guaranteed under this chapter, that was made for a purpose described in section 3710(a) of this title, and that is in default.

(B) The term "liquidation sale" means a judicial sale or other disposition of real property to liquidate a defaulted loan that is secured by such property.

(C) The term "net value", with respect to real property, means the amount equal to (i) the fair market value of the property, minus (ii) the total of the amounts which the Secretary estimates the Secretary would incur (if the Secretary were to acquire and dispose of the property) for property taxes, assessments, liens, property maintenance, property improvement, administration, resale (including losses sustained on the resale of the property), and other costs resulting from the acquisition and disposition of the property, excluding any amount attributed to the cost to the Government of borrowing funds.

(D) Except as provided in subparagraph (D) of paragraph (10) of this subsection, the term "total indebtedness", with respect to a defaulted loan, means the amount equal to the total of (i) the unpaid principal of the loan, (ii) the interest on the loan as of the date applicable under paragraph (10) of this subsection, and (iii) such reasonably necessary and proper charges (as specified in the loan instrument and permitted by regulations prescribed by the Secretary to implement this subsection) associated with liquidation of the loan, including advances for taxes, insurance, and maintenance or repair of the real property securing the loan.

(2)(A) Except as provided in subparagraph (B) of this paragraph, this subsection applies to any case in which the holder of a defaulted loan undertakes to liquidate the loan by means of a liquidation sale.

(B) This subsection does not apply to a case in which the Secretary proceeds under subsection (a)(2) of this section.

(3)(A) Before carrying out a liquidation sale of real property securing a defaulted loan, the holder of the loan shall notify the Secretary of the proposed sale. Such notice shall be provided in accordance with regulations prescribed by the Secretary to implement this subsection.

(B) After receiving a notice described in subparagraph (A) of this paragraph, the Secretary shall determine the net value of the property securing the loan and the amount of the total indebtedness under the loan and shall notify the holder of the loan of the determination of such net value.

(4) A case referred to in paragraphs (5), (6), and (7) of this subsection as being described in this paragraph is a case in which the net value of the property securing a defaulted loan exceeds the amount of the total indebtedness under the loan minus the amount guaranteed under this chapter.

(5) In a case described in paragraph (4) of this subsection, if the holder of the defaulted loan acquires the property securing the loan at a liquidation sale for an amount that does not exceed the lesser of the net value of the property or the total indebtedness

under the loan -

(A) the holder shall have the option to convey the property to the United States in return for payment by the Secretary of an amount equal to the lesser of such net value or total indebtedness; and

(B) the liability of the United States under the loan guaranty under this chapter shall be limited to the amount of such total indebtedness minus the net value of the property.

(6) In a case described in paragraph (4) of this subsection, if the holder of the defaulted loan does not acquire the property securing the loan at the liquidation sale, the liability of the United States under the loan guaranty under this chapter shall be limited to the amount equal to (A) the amount of such total indebtedness, minus (B) the amount realized by the holder incident to the sale or the net value of the property, whichever is greater.

(7) In a case described in paragraph (4) of this subsection, if the holder of the defaulted loan acquires the property securing the loan at the liquidation sale for an amount that exceeds the lesser of the total indebtedness under the loan or the net value and -

(A)(i) the amount was the minimum amount for which, under applicable State law, the property was permitted to be sold at the liquidation sale, the holder shall have the option to convey the property to the United States in return for payment by the Secretary of an amount equal to the lesser of the amount for which the holder acquired the property or the total indebtedness under the loan; or

(ii) there was no minimum amount for which the property had to be sold at the liquidation sale under applicable State law, the holder shall have the option to convey the property to the United States in return for payment by the Secretary of an amount equal to the lesser of such net value or total indebtedness; and

(B) the liability of the United States under the loan guaranty under this chapter is as provided in paragraph (6) of this subsection.

(8) If the net value of the property securing a defaulted loan is not greater than the amount of the total indebtedness under the loan minus the amount guaranteed under this chapter -

(A) the Secretary may not accept conveyance of the property from the holder of the loan; and

(B) the liability of the United States under the loan guaranty shall be limited to the amount of the total indebtedness under the loan minus the amount realized by the holder of the loan incident to the sale at a liquidation sale of the property.

(9) In no event may the liability of the United States under a guaranteed loan exceed the amount guaranteed with respect to that loan under section 3703(b) of this title. All determinations under this subsection of net value and total indebtedness shall be made by the Secretary.

(10)(A) Except as provided in subparagraphs (B) and (C) of this paragraph, the date referred to in paragraph (1)(D)(ii) of this subsection shall be the date of the liquidation sale of the property securing the loan (or such earlier date following the expiration of a reasonable period of time for such sale to occur as the Secretary may specify pursuant to regulations prescribed by the Secretary to implement this subsection).

(B)(i) Subject to division (ii) of this subparagraph, in any case in which there is a substantial delay in such sale caused by the holder of the loan exercising forbearance at the request of the

Secretary, the date referred to in paragraph (1)(D)(ii) of this subsection shall be such date, on or after the date on which forbearance was requested and prior to the date of such sale, as the Secretary specifies pursuant to regulations which the Secretary shall prescribe to implement this paragraph.

(ii) The Secretary may specify a date under subdivision (i) of this subparagraph only if, based on the use of a date so specified for the purposes of such paragraph (1)(D)(ii), the Secretary is authorized, under paragraph (5)(A) or (7)(A) of this subsection, to accept conveyance of the property.

(C) In any case in which there is an excessive delay in such liquidation sale caused -

(i) by the Department of Veterans Affairs (including any delay caused by its failure to provide bidding instructions in a timely fashion); or

(ii) by a voluntary case commenced under title 11, United States Code (relating to bankruptcy);

the date referred to in paragraph (1)(D)(ii) of this subsection shall be a date, earlier than the date of such liquidation sale, which the Secretary specifies pursuant to regulations which the Secretary shall prescribe to implement this paragraph.

(D) For the purpose of determining the liability of the United States under a loan guaranty under paragraphs (5)(B), (6), (7)(B), and (8)(B), the amount of the total indebtedness with respect to such loan guaranty shall include, in any case in which there was an excessive delay caused by the Department of Veterans Affairs in the liquidation sale of the property securing such loan, any interest which had accrued as of the date of such sale and which would not be included, except for this subparagraph, in the calculation of such total indebtedness as a result of the specification of an earlier date under subparagraph (C)(i) of this paragraph.

(11) This subsection shall apply to loans closed before October 1, 2012.

-SOURCE-

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1212, Sec. 1816(a)-(c); Pub. L. 89-117, title I, Sec. 107(f), Aug. 10, 1965, 79 Stat. 460; Pub. L. 94-324, Sec. 7(17), June 30, 1976, 90 Stat. 722; Pub. L. 98-369, div. B, title V, Sec. 2512(a), July 18, 1984, 98 Stat. 1117; Pub. L. 100-198, Secs. 4(a), 5(a), Dec. 21, 1987, 101 Stat. 1316; renumbered Sec. 1832 and amended Pub. L. 100-322, title IV, Sec. 415(b)(1)(A)-(C), (5), May 20, 1988, 102 Stat. 550, 551; Pub. L. 101-237, title III, Secs. 304(b), 307-308(b)(1), 313(b)(1), (2), Dec. 18, 1989, 103 Stat. 2073-2075, 2077; Pub. L. 102-54, Secs. 1, 3(a), 14(g)(1), June 13, 1991, 105 Stat. 267, 288; renumbered Sec. 3732 and amended Pub. L. 102-83, Sec. 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103-66, title XII, Sec. 12006(a), Aug. 10, 1993, 107 Stat. 414; Pub. L. 103-446, title IX, Sec. 907, Nov. 2, 1994, 108 Stat. 4677; Pub. L. 105-33, title VIII, Sec. 8013, Aug. 5, 1997, 111 Stat. 664; Pub. L. 106-419, title IV, Sec. 402(c), Nov. 1, 2000, 114 Stat. 1863; Pub. L. 107-103, title IV, Sec. 405(d), Dec. 27, 2001, 115 Stat. 994; Pub. L. 108-183, title IV, Sec. 406, Dec. 16, 2003, 117 Stat. 2666; Pub. L. 109-233, title V, Sec. 503(9), June 15, 2006, 120 Stat. 416; Pub. L. 111-275, title VIII, Sec. 802(a), Oct. 13, 2010, 124 Stat. 2888.)

-MISC1-

AMENDMENTS

2010 - Subsec. (a)(2). Pub. L. 111-275 designated existing

provisions as subpar. (A) and added subpar. (B).

2006 - Subsec. (c)(10)(D). Pub. L. 109-233 substituted "paragraphs (5)(B), (6), (7)(B), and (8)(B)" for "clause (B) of paragraphs (5), (6), (7), and (8) of this subsection".

2003 - Subsec. (c)(11). Pub. L. 108-183 substituted "October 1, 2012" for "October 1, 2011".

2001 - Subsec. (c)(11). Pub. L. 107-103 substituted "October 1, 2011" for "October 1, 2008".

2000 - Subsec. (c)(11). Pub. L. 106-419 substituted "October 1, 2008" for "October 1, 2002".

1997 - Subsec. (c)(11). Pub. L. 105-33 substituted "October 1, 2002" for "October 1, 1998".

1994 - Subsec. (c)(6). Pub. L. 103-446, Sec. 907(b), struck out "either" after "defaulted loan", substituted "sale," for "sale or acquires the property at such sale for an amount that exceeds the lesser of the net value of the property or the total indebtedness under the loan - ", struck out text of subpar. (A) and subpar. (B) designation before "the liability", and redesignated cls. (i) and (ii) as cls. (A) and (B), respectively. Prior to amendment, subpar. (A) read as follows: "the Secretary may not accept conveyance of the property except as provided in paragraph (7) of this subsection; and".

Subsec. (c)(7). Pub. L. 103-446, Sec. 907(a)(1), struck out "that was the minimum amount for which, under applicable State law, the property was permitted to be sold at the liquidation sale - " after "net value and" in introductory provisions.

Subsec. (c)(7)(A). Pub. L. 103-446, Sec. 907(a)(2), substituted "(i) the amount was the minimum amount for which, under applicable State law, the property was permitted to be sold at the liquidation sale, the holder shall have the option to convey the property to the United States in return for payment by the Secretary of an amount equal to" for "the Secretary may accept conveyance of the property to the United States for a price not exceeding" and "loan; or" for "loan; and" and added cl. (ii).

Subsec. (c)(7)(B). Pub. L. 103-446, Sec. 907(a)(3), substituted "paragraph (6)" for "paragraph (6)(B)".

1993 - Subsec. (c)(1)(C). Pub. L. 103-66, Sec. 12006(a)(1), inserted "(including losses sustained on the resale of the property)" after "resale".

Subsec. (c)(11). Pub. L. 103-66, Sec. 12006(a)(2), substituted "shall apply to loans closed before October 1, 1998" for "shall cease to have effect on December 31, 1992".

1991 - Pub. L. 102-83, Sec. 5(a), renumbered section 1832 of this title as this section.

Subsec. (a)(1). Pub. L. 102-83, Sec. 5(c)(1), substituted "3703(e)" for "1803(e)".

Subsec. (a)(4)(C). Pub. L. 102-54, Sec. 1, struck out subpar. (C) which read as follows: "The authority to carry out this paragraph shall terminate on March 1, 1991."

Subsec. (b). Pub. L. 102-83, Sec. 5(c)(1), substituted "3711" for "1811".

Subsec. (c)(1)(A). Pub. L. 102-83, Sec. 5(c)(1), substituted "3710(a)" for "1810(a)".

Subsec. (c)(9). Pub. L. 102-83, Sec. 5(c)(1), substituted "3703(b)" for "1803(b)".

Subsec. (c)(11). Pub. L. 102-54, Sec. 3(a), substituted "December 31, 1992" for "October 1, 1991".

1989 - Subsec. (a). Pub. L. 101-237, Sec. 313(b)(1), (2), substituted "Secretary", "Secretary's", and "Department of Veterans Affairs' " for "Administrator", "Administrator's", and "Veterans' Administration's", respectively, wherever appearing.

Pub. L. 101-237, Sec. 304(b), substituted "Except as provided in section 1803(e) of this title, if" for "If" in last sentence of par. (1).

Subsec. (a)(5). Pub. L. 101-237, Sec. 307, added par. (5).

Subsecs. (b), (c). Pub. L. 101-237, Sec. 313(b)(1), (2), substituted "Secretary" and "Department of Veterans Affairs" for "Administrator" and "Veterans' Administration", respectively, wherever appearing.

Subsec. (c)(1)(C)(ii). Pub. L. 101-237, Sec. 308(a), inserted ", excluding any amount attributed to the cost to the Government of borrowing funds" before period at end.

Subsec. (c)(11). Pub. L. 101-237, Sec. 308(b)(1), substituted "October 1, 1991" for "October 1, 1989".

1988 - Pub. L. 100-322, Sec. 415(b)(1)(C), (5)(A), redesignated section catchline of section 1816 of this title as section catchline of this section and struck out former catchline which read as follows: "Furnishing information to real estate professionals to facilitate the disposition of properties".

Subsec. (a). Pub. L. 100-322, Sec. 415(b)(1)(A), (C), redesignated subsec. (a) of section 1816 of this title as subsec. (a) of this section, and in par. (4)(A)(i)(I) substituted "paragraph (2) of this subsection" for "section 1816(a)(2) of this title".

Subsec. (b). Pub. L. 100-322, Sec. 415(b)(1)(C), redesignated subsec. (b) of section 1816 of this title as subsec. (b) of this section.

Subsec. (c). Pub. L. 100-322, Sec. 415(b)(1)(B), (C), redesignated subsec. (c) of section 1816 of this title as subsec. (c) of this section, in par. (10)(A) inserted "(or such earlier date following the expiration of a reasonable period of time for such sale to occur as the Administrator may specify pursuant to regulations prescribed by the Administrator to implement this subsection)" before period at end, and in par. (10)(B)(ii) inserted "(5)(A) or" after "under paragraph".

1987 - Subsec. (a)(4). Pub. L. 100-198, Sec. 4(a), added par. (4).

Subsec. (c)(1)(D). Pub. L. 100-198, Sec. 5(a)(1)-(3), substituted "Except as provided in subparagraph (D) of paragraph (10) of this subsection, the" for "The" at beginning, "applicable under paragraph (10) of this subsection, and" for "of the liquidation sale of the property securing the loan (or such earlier date following the expiration of a reasonable period of time for such sale to occur as the Administrator may specify pursuant to regulations prescribed by the Administrator to implement this subsection), and" in cl. (ii), and "regulations prescribed by the Administrator to implement this subsection" for "such regulations" in cl. (iii).

Subsec. (c)(10), (11). Pub. L. 100-198, Sec. 5(a)(4), added pars. (10) and (11).

1984 - Subsec. (a)(1). Pub. L. 98-369, Sec. 2512(a)(1)(A)-(C), designated existing first sentence as par. (1), substituted "Administrator of such default. Upon receipt of such notice, the Administrator may, subject to subsection (c) of this section," for "Administrator who shall thereupon", and substituted "guaranteed. If the Administrator makes a payment, the Administrator shall" for "guaranteed, and shall".

Subsec. (a)(2). Pub. L. 98-369, Sec. 2512(a)(1)(A), designated existing second and third sentences as par. (2).

Subsec. (a)(3). Pub. L. 98-369, Sec. 2512(a)(1)(A), designated existing fourth sentence as par. (3).

Subsec. (c). Pub. L. 98-369, Sec. 2512(a)(2), added subsec. (c).

1976 - Subsec. (a). Pub. L. 94-324 substituted "the Administrator's" for "his".

Subsec. (b). Pub. L. 94-324 substituted "the Administrator" for "he" wherever appearing.

1965 - Pub. L. 89-117 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-275, title VIII, Sec. 802(b), Oct. 13, 2010, 124 Stat. 2889, provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to a housing loan guaranteed after the date of the enactment of this Act [Oct. 13, 2010]."

EFFECTIVE DATE OF 1993 AMENDMENT

Section 12006(b) of Pub. L. 103-66 provided that: "The amendments made by this section [amending this section] shall become effective October 1, 1993."

EFFECTIVE DATE OF 1989 AMENDMENT

Section 308(b)(2) of Pub. L. 101-237 provided that: "The amendment made by paragraph (1) [amending this section] shall take effect as of October 1, 1989."

EFFECTIVE DATE OF 1987 AMENDMENTS

Section 4(b) of Pub. L. 100-198 provided that: "The amendment made by subsection (a) [amending this section] shall take effect on March 1, 1988."

Section 5(c) of Pub. L. 100-198 provided that: "The amendments made by subsection (a) [amending this section] shall apply to defaults which occur more than 60 days after the date of the enactment of this Act [Dec. 21, 1987]."

EFFECTIVE DATE OF 1984 AMENDMENTS

Section 1(a) of Pub. L. 100-136 provided that: "Notwithstanding section 2512(c) of the Deficit Reduction Act of 1984 (Public Law 98-369) [set out below], the provisions of section 1816(c) [now 3732(c)] of title 38, United States Code, shall continue in effect through November 15, 1987."

Section 2512(c)(1) of Pub. L. 98-369 provided that: "The amendments made by subsection (a) [amending subsec. (a) and adding subsecs. (c) and (d) of section 1816 [now 3732(a), (c) and 3733(a)] of this title] shall take effect on October 1, 1984."

Section 2512(c)(2) of Pub. L. 98-369, which provided that subsecs. (c) and (d) of section 1816 (now 3732(a), (c) and 3733(a)) of this title would cease to be effective on Oct. 1, 1987, was repealed by Pub. L. 100-198, Sec. 5(b), Dec. 21, 1987, 101 Stat. 1317.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-324 effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as a note under section 3701 of this title.

"NET VALUE" DEFINED WITH RESPECT TO LOANS CLOSED BEFORE OCTOBER 1, 1993

Pub. L. 102-389, title I, Oct. 6, 1992, 106 Stat. 1574, provided in part: "That notwithstanding the provisions of 38 U.S.C. 3732(c)(1)(C) and (c)(11) or any other law, with respect to any loan guaranteed for any purpose specified in 38 U.S.C. 3710 which was closed before October 1, 1993, the term 'net value' for

purposes of paragraphs (4) through (10) of 38 U.S.C. 3732[(c)] shall mean 'the amount equal to (i) the fair market value of the property, minus (ii) the total of the amounts which the Secretary estimates the Secretary would incur (if the Secretary were to acquire and dispose of the property) for property taxes, assessments, liens, property maintenance, property improvement, administration, resale (including losses sustained on the resale of the property), and other costs resulting from the acquisition and disposition of the property, excluding any amount attributed to the cost of the Government of borrowing funds'."

-End-

-CITE-

38 USC Sec. 3733

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER III - ADMINISTRATIVE PROVISIONS

-HEAD-

Sec. 3733. Property management

-STATUTE-

(a)(1) Of the number of purchases made during any fiscal year of real property acquired by the Secretary as the result of a default on a loan guaranteed under this chapter for a purpose described in section 3710(a) of this title, not more than 65 percent, nor less than 50 percent, of such purchases may be financed by a loan made by the Secretary. The maximum percentage stated in the preceding sentence may be increased to 80 percent for any fiscal year if the Secretary determines that such an increase is necessary in order to maintain the effective functioning of the loan guaranty program.

(2) After September 30, 1990, the percentage limitations described in paragraph (1) of this subsection shall have no effect.

(3) The Secretary may, beginning on October 1, 1990, sell any note evidencing a loan referred to in paragraph (1) -

(A) with recourse; or

(B) without recourse, but only if the amount received is equal to an amount which is not less than the unpaid balance of such loan.

(4)(A) Except as provided in subparagraph (B), the amount of a loan made by the Secretary to finance the purchase of real property from the Secretary described in paragraph (1) may not exceed an amount equal to 95 percent of the purchase price of such real property.

(B)(i) The Secretary may waive the provisions of subparagraph (A) in the case of any loan described in paragraph (5).

(ii) A loan described in subparagraph (A) may, to the extent the Secretary determines to be necessary in order to market competitively the property involved, exceed 95 percent of the purchase price.

(5) The Secretary may include, as part of a loan to finance a purchase of real property from the Secretary described in paragraph (1), an amount to be used only for the purpose of rehabilitating such property. Such amount may not exceed the amount necessary to

rehabilitate the property to a habitable state, and payments shall be made available periodically as such rehabilitation is completed.

(6) The Secretary shall make a loan to finance the sale of real property described in paragraph (1) at an interest rate that is lower than the prevailing mortgage market interest rate in areas where, and to the extent, the Secretary determines, in light of prevailing conditions in the real estate market involved, that such lower interest rate is necessary in order to market the property competitively and is in the interest of the long-term stability and solvency of the Veterans Housing Benefit Program Fund established by section 3722(a) of this title.

(7) During the period that begins on December 16, 2003, and ends on September 30, 2013, the Secretary shall carry out the provisions of this subsection as if -

(A) the references in the first sentence of paragraph (1) to "65 percent" and "may be financed" were references to "85 percent" and "shall be financed", respectively;

(B) the second sentence of paragraph (1) were repealed; and

(C) the reference in paragraph (2) to "September 30, 1990," were a reference to "September 30, 2013,".

(b) The Secretary may not make a loan to finance a purchase of property acquired by the Secretary as a result of a default on a loan guaranteed under this chapter unless the purchaser meets the credit underwriting standards established under section 3710(g)(2)(A) of this title.

(c)(1) The Secretary shall identify and compile information on common factors which the Secretary finds contribute to foreclosures on loans guaranteed under this chapter.

(2) The Secretary shall include a summary of the information compiled, and the Secretary's findings, under paragraph (1) in the annual report submitted to the Congress under section 529 of this title. As part of such summary and findings, the Secretary shall provide a separate analysis of the factors which contribute to foreclosures of loans which have been assumed.

(d)(1) The Secretary shall furnish to real estate brokers and other real estate sales professionals information on the availability of real property for disposition under this chapter and the procedures used by the Department of Veterans Affairs to dispose of such property.

(2) For the purpose of facilitating the most expeditious sale, at the highest possible price, of real property acquired by the Secretary as the result of a default on a loan guaranteed, insured, or made under this chapter, the Secretary shall list all such property with real estate brokers under such arrangements as the Secretary determines to be most appropriate and cost effective.

-SOURCE-

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1212, Secs. 1816(d)-(f), 1832; Pub. L. 98-369, div. B, title V, Sec. 2512(a)(2), July 18, 1984, 98 Stat. 1117; Pub. L. 99-576, title IV, Secs. 402(c)(1), 403, 408(a), Oct. 28, 1986, 100 Stat. 3281, 3283; Pub. L. 100-136, Sec. 2, Oct. 16, 1987, 101 Stat. 813; Pub. L. 100-198, Secs. 6(a)(1), (b)(1), 14, Dec. 21, 1987, 101 Stat. 1317, 1318, 1325; Pub. L. 100-203, title VII, Secs. 7001, 7003(a), Dec. 22, 1987, 101 Stat. 1330-278, 1330-279; Pub. L. 100-253, Sec. 2, Feb. 29, 1988, 102 Stat. 20; renumbered Sec. 1833 and amended Pub. L. 100-322, title IV, Sec. 415(b)(1)(D), (5)(B), (C), May 20, 1988, 102 Stat. 550, 551; Pub. L. 100-689, title III, Sec. 301, Nov. 18, 1988, 102 Stat. 4176; Pub. L. 101-237, title III, Secs. 305(a), 313(b)(1), (2), Dec. 18, 1989, 103 Stat. 2073, 2077; Pub. L. 101-239, title V,

Secs. 5002, 5003(a), Dec. 19, 1989, 103 Stat. 2136; Pub. L. 102-54, Secs. 2, 14(g)(1), 15(a)(5), June 13, 1991, 105 Stat. 267, 288, 289; renumbered Sec. 3733 and amended Pub. L. 102-83, Secs. 2(c)(3), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 402, 406; Pub. L. 102-291, Sec. 5(b), May 20, 1992, 106 Stat. 180; Pub. L. 105-368, title VI, Sec. 602(c)(2), (e)(1)(E), Nov. 11, 1998, 112 Stat. 3346; Pub. L. 108-183, title IV, Sec. 404, Dec. 16, 2003, 117 Stat. 2664; Pub. L. 109-233, title V, Sec. 503(10), June 15, 2006, 120 Stat. 416; Pub. L. 111-275, title X, Sec. 1001(j), Oct. 13, 2010, 124 Stat. 2897.)

-MISC1-

AMENDMENTS

2010 - Subsec. (a)(7). Pub. L. 111-275 inserted comma after "2003" in introductory provisions.

2006 - Subsec. (a)(7). Pub. L. 109-233, which directed the substitution of "December 16, 2003" for "the date of the enactment of the Veterans Benefits Act of 2003", was executed by making the substitution for "the date of the enactment of the Veterans' Benefits Act of 2003" to reflect the probable intent of Congress.

2003 - Subsec. (a)(4)(A). Pub. L. 108-183, Sec. 404(b)(1)(A), (2), struck out "of this paragraph" after "subparagraph (B)" and "of this subsection" after "paragraph (1)".

Subsec. (a)(4)(B)(i). Pub. L. 108-183, Sec. 404(b)(1)(B), (2), struck out "of this paragraph" after "subparagraph (A)" and "of this subsection" after "paragraph (5)".

Subsec. (a)(4)(B)(ii). Pub. L. 108-183, Sec. 404(b)(2), struck out "of this paragraph" after "subparagraph (A)".

Subsec. (a)(5), (6). Pub. L. 108-183, Sec. 404(b)(1)(A), struck out "of this subsection" after "paragraph (1)".

Subsec. (a)(7). Pub. L. 108-183, Sec. 404(a), added par. (7).

Subsec. (c)(2). Pub. L. 108-183, Sec. 404(b)(1)(A), struck out "of this subsection" after "paragraph (1)".

1998 - Subsec. (a)(6). Pub. L. 105-368, Sec. 602(e)(1)(E), substituted "Veterans Housing Benefit Program Fund established by section 3722(a)" for "Department of Veterans Affairs Loan Guaranty Revolving Fund established by section 3724(a)".

Subsec. (e). Pub. L. 105-368, Sec. 602(c)(2), struck out subsec. (e) which read as follows: "Notwithstanding any other provision of law, the amount received from the sale of any note evidencing a loan secured by real property described in subsection (a)(1) of this section, and the amount received from the sale of securities under section 3720(h) of this title, shall be credited, without any reduction and for the fiscal year in which the amount is received, as offsetting collections of -

"(1) the revolving fund for which a fee under section 3729 of this title was collected (or was exempted from being collected) at the time of the original guaranty of the loan that was secured by the same property; or

"(2) in any case in which there was no requirement of (or exemption from) a fee at the time of the original guaranty of the loan that was secured by the same property, the Loan Guaranty Revolving Fund; and

the total so credited to any revolving fund for a fiscal year shall offset outlays attributed to such revolving fund during such fiscal year."

1992 - Subsec. (e). Pub. L. 102-291 inserted ", and the amount received from the sale of securities under section 3720(h) of this title,".

1991 - Pub. L. 102-83, Sec. 5(a), renumbered section 1833 of this

title as this section.

Subsec. (a)(1). Pub. L. 102-83, Sec. 5(c)(1), substituted "3710(a)" for "1810(a)".

Subsec. (a)(2). Pub. L. 102-54, Sec. 2(a), added par. (2) and struck out former par. (2) which read as follows: "In carrying out paragraph (1) of this subsection, the Secretary, to the maximum extent consistent with that paragraph and with maintaining the effective functioning of the loan guaranty program under this chapter, shall minimize the number of loans made by the Secretary to finance purchases of real property from the Secretary described in that paragraph."

Subsec. (a)(3). Pub. L. 102-54, Sec. 2(a), added par. (3) and struck out former par. (3) which authorized sales before Oct. 1, 1990, of notes for loans under subsec. (a)(1) and required Secretary to make reports of such sales to Committees on Veterans' Affairs of Senate and House of Representatives.

Subsec. (a)(6). Pub. L. 102-83, Sec. 5(c)(1), substituted "3724(a)" for "1824(a)".

Pub. L. 102-54, Sec. 3(b), redesignated par. (7) as (6) and struck out former par. (6) which read as follows: "This subsection shall cease to have effect on December 31, 1990."

Subsec. (a)(7). Pub. L. 102-54, Sec. 3(b)(2), redesignated par. (7) as (6).

Subsec. (b). Pub. L. 102-83, Sec. 5(c)(1), substituted "3710(g)(2)(A)" for "1810(g)(2)(A)".

Subsec. (c)(2). Pub. L. 102-83, Sec. 2(c)(3), substituted "section 529" for "section 214".

Subsec. (d). Pub. L. 102-54, Sec. 14(g)(1), made a technical amendment to Pub. L. 100-322, Sec. 415(b)(5)(C). See 1988 Amendment note below.

Subsec. (e). Pub. L. 102-83, Sec. 5(c)(1), substituted "3729" for "1829" in par. (1).

Pub. L. 102-54, Sec. 15(a)(5), struck out subsec. (e) as added by Pub. L. 101-239, Sec. 5003(a), which was identical to subsec. (e) added by Pub. L. 101-237, Sec. 305(a)(3). See 1989 Amendment note below.

1989 - Subsec. (a). Pub. L. 101-237 Sec. 313(b)(1), (2), substituted "Secretary" and "Department of Veterans Affairs" for "Administrator" and "Veterans' Administration", respectively, wherever appearing.

Subsec. (a)(3). Pub. L. 101-239, Sec. 5002, substituted "October 1, 1990" for "October 1, 1989" wherever appearing.

Pub. L. 101-237, Sec. 305(a)(1), which directed the amendment of subpar. (A) by substituting "Subject to subparagraph (C) of this paragraph," for "Before October 1, 1990," the amendment of subparagraph (B) by striking out "occurring before October 1, 1990," after "of this paragraph", and the amendment of subpar. (C) by substituting "October 1, 1989" for "October 1, 1990" in introductory provisions, did not become effective, see section 305(b)(1) of Pub. L. 101-237, set out as an Effective Date of 1989 Amendments note below.

Subsec. (a)(6). Pub. L. 101-237, Sec. 305(a)(2), substituted "December 31" for "October 1".

Subsecs. (b) to (d). Pub. L. 101-237, Sec. 313(b)(1), (2), substituted "Secretary", "Secretary's", and "Department of Veterans Affairs" for "Administrator", "Administrator's", and "Veterans' Administration", respectively, wherever appearing.

Subsec. (e). Pub. L. 101-237, Sec. 305(a)(3), and Pub. L. 101-239, Sec. 5003(a), amended section identically adding identical subsecs. (e).

1988 - Pub. L. 100-322, Sec. 415(b)(1)(D), added section

catchline.

Subsec. (a). Pub. L. 100-322, Sec. 415(b)(1)(D), redesignated subsec. (d) of section 1816 of this title as subsec. (a) of this section.

Subsec. (a)(4)(B) [formerly Sec. 1816(d)(4)(B)]. Pub. L. 100-253 designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (a)(7). Pub. L. 100-689 added par. (7).

Subsecs. (b), (c). Pub. L. 100-322, Sec. 415(b)(1)(D), redesignated subsecs. (e) and (f) of section 1816 of this title as subsecs. (b) and (c), respectively, of this section.

Subsec. (d). Pub. L. 100-322, Sec. 415(b)(5)(B), (C), as amended by Pub. L. 102-54, Sec. 14(g)(1), redesignated subsecs. (a) and (b) of section 1832 of this title as pars. (1) and (2), respectively, of subsec. (d) of this section.

1987 - Subsec. (a)(1) [formerly Sec. 1816(d)(1)]. Pub. L. 100-198, Sec. 6(a)(1), and Pub. L. 100-203, Sec. 7003(a), amended par. (1) identically, substituting "not more than 65 percent, nor less than 50 percent" for "not more than 75 percent, nor less than 60 percent". See 1988 Amendment note above.

Subsec. (a)(3) [formerly Sec. 1816(d)(3)]. Pub. L. 100-203, Sec. 7001, added subpars. (A) and (B), redesignated existing provisions as subpar. (C), substituted "Beginning on October 1, 1989, the Administrator may sell any note evidencing" for "The Administrator may sell any note securing", and redesignated cls. (A) and (B) as (i) and (ii), respectively. See 1988 Amendment note above.

Pub. L. 100-136 amended par. (3) generally. Prior to amendment, par. (3) read as follows: "Notes securing such loans may be sold with recourse only to the extent that the Administrator determines that selling such notes with recourse is necessary in order to maintain the effective functioning of the loan guaranty program under this chapter." See 1988 Amendment note above.

Subsec. (a)(4) to (6) [formerly Sec. 1816(d)(4) to (6)]. Pub. L. 100-198, Sec. 6(b)(1), added pars. (4) to (6). See 1988 Amendment note above.

Subsec. (d) [formerly Sec. 1832]. Pub. L. 100-198, Sec. 14, designated existing provisions as subsec. (a) and added subsec. (b). See 1988 Amendment note above.

1986 - Subsec. (b) [formerly Sec. 1816(e)]. Pub. L. 99-576, Sec. 402(c)(1), added subsec. (e). See 1988 Amendment note above.

Subsec. (c) [formerly Sec. 1816(f)]. Pub. L. 99-576, Sec. 403, added subsec. (f). See 1988 Amendment note above.

Subsec. (d) [formerly Sec. 1832]. Pub. L. 99-576, Sec. 408(a), enacted section. See 1988 Amendment note above.

1984 - Subsec. (a) [formerly Sec. 1816(d)]. Pub. L. 98-369, Sec. 2512(a)(2), added subsec. (d). See 1988 Amendment note above.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-368 effective Oct. 1, 1998, see section 602(f) of Pub. L. 105-368, set out as a note under section 2106 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 14(g)(1) of Pub. L. 102-54 provided that the amendment made by that section is effective as of May 20, 1988.

EFFECTIVE DATE OF 1989 AMENDMENTS

Section 5003(b) of Pub. L. 101-239 provided that: "Subsection (e) of section 1833 [now 3733] of title 38, United States Code, as added by subsection (a), shall apply with respect to amounts referred to in such subsection (e) received on or after October 1, 1989."

Section 305(b)(1) of Pub. L. 101-237, as amended by Pub. L. 102-83, Sec. 5(c)(2), Aug. 6, 1991, 105 Stat. 406, provided that: "If, before the date and time of the enactment of this Act [Dec. 18, 1989], no provision of law has been enacted amending section 1833 [now 3733] of title 38, United States Code, by adding a new subsection (e) with a text substantively identical to the text of the new subsection (e) added to such section 1833 [now 3733] by subsection (a)(3) of this section, the provisions of subsection (a)(1) of this section amending subsection (a)(3) of such section 1833 [now 3733] shall not take effect."

Section 305(b)(2) of Pub. L. 101-237, as amended by Pub. L. 102-83, Sec. 5(c)(2), Aug. 6, 1991, 105 Stat. 406, provided that: "Subsection (e) of section 1833 [now 3733] of such title 38, as added by subsection (a)(3), shall apply with respect to amounts referred to in such subsection (e) received after September 30, 1989."

EFFECTIVE DATE OF 1987 AMENDMENTS

Section 7003(b) of Pub. L. 100-203 provided that: "The amendment made by subsection (a) [amending this section] shall take effect as of October 1, 1987."

Section 6(a)(2) of Pub. L. 100-198 provided that: "The amendment made by paragraph (1) [amending this section] shall take effect as of October 1, 1987."

Section 6(b)(2) of Pub. L. 100-198 provided that: "The amendment made by this subsection [amending this section] shall apply to loans made more than 30 days after the date of the enactment of this Act [Dec. 21, 1987]."

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective Oct. 1, 1984, see section 2512(c) of Pub. L. 98-369, as amended, set out as a note under section 3732 of this title.

RULE FOR CONSTRUCTION OF DUPLICATE PROVISIONS

Section 7004(b) of title VII of Pub. L. 100-203 provided that: "In applying the provisions of this title [title VII of Pub. L. 100-203] and the provisions of the Veterans' Home Loan Program Improvements and Property Rehabilitation Act of 1987 [Pub. L. 100-198] which make the same amendments as the provisions of this title [amending sections 1816 [now 3733] and 1829 [now 3729] of this title] -

"(1) the identical provisions of title 38, United States Code, amended by the provisions of this title and the provisions of such Act shall be treated as having been amended only once; and

"(2) in executing to title 38, United States Code, the amendments made by this title and by such Act, such amendments shall be executed so as to appear only once in the law."

REPORT TO CONGRESS

Section 6(c) of Pub. L. 100-198 directed Administrator of Veterans' Affairs, by Mar. 1, 1990, to transmit to Congress a report of activities carried out, through Dec. 31, 1989, under paragraphs (4) and (5) of section 1816(d) of this title [which became pars. (4) and (5) of subsec. (a) of this section].

-End-

-CITE-

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER III - ADMINISTRATIVE PROVISIONS

-HEAD-

Sec. 3734. Annual submission of information on the Veterans Housing Benefit Program Fund and housing programs

-STATUTE-

(a) In the documents providing detailed information on the budget for the Department of Veterans Affairs that the Secretary submits to the Congress in conjunction with the President's budget submission for each fiscal year pursuant to section 1105 of title 31, the Secretary shall include -

(1) a description of the operations of the Veterans Housing Benefit Program Fund during the fiscal year preceding the fiscal year in which such budget is submitted; and

(2) the needs of such fund, if any, for appropriations for -
(A) the fiscal year in which the budget is submitted; and
(B) the fiscal year for which the budget is submitted.

(b) The matters submitted under subsection (a) of this section shall include, with respect to the fund referred to in subsection

(a), the following:

(1) Information and financial data on the operations of the fund during the fiscal year before the fiscal year in which such matters are submitted and estimated financial data and related information on the operation of the fund for -

(A) the fiscal year of the submission; and
(B) the fiscal year following the fiscal year of the submission.

(2) Estimates of the amount of revenues derived by the fund in the fiscal year preceding the fiscal year of the submission, in the fiscal year of the submission, and in the fiscal year following the fiscal year of the submission from each of the following sources:

(A) Fees collected under section 3729(a) of this title for each category of loan guaranteed, insured, or made under this chapter or collected under section 3729(b) of this title for assumed loans.
(B) Investment income.
(C) Sales of foreclosed properties.
(D) Loan asset sales.
(E) Each additional source of revenue.

(3) Information, for each fiscal year referred to in paragraph (2) of this subsection, regarding the types of dispositions made and anticipated to be made of defaults on loans guaranteed, insured, or made under this chapter, including the cost to the fund, and the numbers, of such types of dispositions.

(c) The information submitted under subsection (a) shall include a statement that summarizes the financial activity of each of the housing programs operated under this chapter. The statement shall be presented in a form that is simple, concise, and readily understandable, and shall not include references to financing

accounts, liquidating accounts, or program accounts.

-SOURCE-

(Added Pub. L. 101-237, title III, Sec. 302(b)(1), Dec. 18, 1989, 103 Stat. 2070, Sec. 1834; renumbered Sec. 3734 and amended Pub. L. 102-83, Sec. 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 105-368, title VI, Sec. 602(d), (e)(1)(F), (3)(A), Nov. 11, 1998, 112 Stat. 3346, 3347; Pub. L. 107-14, Sec. 8(a)(9), June 5, 2001, 115 Stat. 35; Pub. L. 107-330, title III, Sec. 308(g)(12), Dec. 6, 2002, 116 Stat. 2829.)

-MISC1-

AMENDMENTS

2002 - Subsec. (b)(2)(B) to (F). Pub. L. 107-330 redesignated subpars. (C) to (F) as (B) to (E), respectively, and struck out former subpar. (B) which read as follows: "Federal Government payments under section 3729(a)(3) of this title."

2001 - Subsec. (a). Pub. L. 107-14, Sec. 8(a)(9)(A), struck out "United States Code," after "section 1105 of title 31," in introductory provisions.

Subsec. (a)(2). Pub. L. 107-14, Sec. 8(a)(9)(B), substituted "appropriations for" for "appropriations in".

1998 - Pub. L. 105-368, Sec. 602(e)(3)(A), substituted "Veterans Housing Benefit Program Fund and housing programs" for "Loan Guaranty Revolving Fund and the Guaranty and Indemnity Fund" in section catchline.

Subsec. (a)(1). Pub. L. 105-368, Sec. 602(e)(1)(F)(i)(I), substituted "Veterans Housing Benefit Program Fund" for "Loan Guaranty Revolving Fund and the Guaranty and Indemnity Fund".

Subsec. (a)(2). Pub. L. 105-368, Sec. 602(e)(1)(F)(i)(II), substituted "fund," for "funds," in introductory provisions.

Subsec. (b). Pub. L. 105-368, Sec. 602(e)(1)(F)(ii), substituted "the fund" for "each fund" in introductory provisions.

Subsec. (b)(2)(B) to (G). Pub. L. 105-368, Sec. 602(e)(1)(F)(iii), redesignated subpars. (C) to (G) as (B) to (F), respectively, in subpar. (B), substituted "section 3729(a)(3)" for "subsections (a)(3) and (c)(2) of section 3729", and struck out former subpar. (B) which read as follows: "Federal Government contributions made under clauses (A) and (B) of section 3725(c)(2) of this title."

Subsec. (c). Pub. L. 105-368, Sec. 602(d), added subsec. (c).

1991 - Pub. L. 102-83, Sec. 5(a), renumbered section 1834 of this title as this section.

Subsec. (b)(2). Pub. L. 102-83, Sec. 5(c)(1), substituted "3729(a)" for "1829(a)" and "3729(b)" for "1829(b)" in subpar. (A), "3725(c)(2)" for "1825(c)(2)" in subpar. (B), and "3729" for "1829" in subpar. (C).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-368 effective Oct. 1, 1998, see section 602(f) of Pub. L. 105-368, set out as a note under section 2106 of this title.

-End-

-CITE-

38 USC Sec. 3735

01/03/2012 (112-90)

-EXPCITE-
TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER III - ADMINISTRATIVE PROVISIONS

-HEAD-
[Sec. 3735. Renumbered Sec. 2041]
-STATUTE-

-End-

-CITE-
38 USC Sec. 3736 01/03/2012 (112-90)

-EXPCITE-
TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER III - ADMINISTRATIVE PROVISIONS

-HEAD-
Sec. 3736. Reporting requirements

-STATUTE-
The annual report required by section 529 of this title shall include a discussion of the activities under this chapter. Beginning with the report submitted at the close of fiscal year 1996, and every second year thereafter, this discussion shall include information regarding the following:
(1) Loans made to veterans whose only qualifying service was in the Selected Reserve.
(2) Interest rates and discount points which were negotiated between the lender and the veteran pursuant to section 3703(c)(4)(A)(i) of this title.
(3) The determination of reasonable value by lenders pursuant to section 3731(f) of this title.
(4) Loans that include funds for energy efficiency improvements pursuant to section 3710(a)(10) of this title.
(5) Direct loans to Native American veterans made pursuant to subchapter V of this chapter.

-SOURCE-
(Added Pub. L. 104-110, title II, Sec. 201(a)(1), Feb. 13, 1996, 110 Stat. 770.)

-End-

-CITE-
38 USC SUBCHAPTER IV - SMALL BUSINESS LOANS 01/03/2012 (112-90)

-EXPCITE-
TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER IV - SMALL BUSINESS LOANS

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SUBCHAPTER IV - SMALL BUSINESS LOANS

-End-

-CITE-

38 USC Sec. 3741

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
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Sec. 3741. Definitions

-STATUTE-

For the purposes of this subchapter -

(1) The term "disabled veteran" means (A) a veteran who is entitled to compensation under laws administered by the Secretary for a disability rated at 30 percent or more, or (B) a veteran whose discharge or release from active duty was for a disability incurred or aggravated in line of duty.

(2) The term "veteran of the Vietnam era" means a person (A) who served on active duty for a period of more than 180 days, any part of which occurred during the Vietnam era, and who was discharged or released therefrom with other than a dishonorable discharge, or (B) who was discharged or released from active duty for a service-connected disability if any part of such active duty was performed during the Vietnam era.

-SOURCE-

(Added Pub. L. 97-72, title III, Sec. 302(a), Nov. 3, 1981, 95 Stat. 1055, Sec. 1841; amended Pub. L. 99-576, title VII, Sec. 702(9), Oct. 28, 1986, 100 Stat. 3302; renumbered Sec. 3741 and amended Pub. L. 102-83, Secs. 4(a)(1), 5(a), Aug. 6, 1991, 105 Stat. 403, 406.)

-MISC1-

AMENDMENTS

1991 - Pub. L. 102-83, Sec. 5(a), renumbered section 1841 of this title as this section.

Par. (1). Pub. L. 102-83, Sec. 4(a)(1), substituted "administered by the Secretary" for "administered by the Veterans' Administration".

1986 - Pub. L. 99-576 substituted "percent" for "per centum" in par. (1) and "180" for "one hundred and eighty" in par. (2).

EFFECTIVE DATE

Section 305 of title III of Pub. L. 97-72 provided that: "The amendments made by this title [see Tables for classification] shall take effect at the end of the one-hundred-and-eighty-day period beginning on the date of the enactment of this Act [Nov. 3, 1981], except that the authority of the Administrator of Veterans' Affairs to promulgate regulations under subchapter IV of chapter 37 of title 38, United States Code (as added by section 302), shall take effect on such date of enactment."

SHORT TITLE

For short title of title III of Pub. L. 97-72, which enacted this subchapter, as the "Veterans' Small Business Loan Act of 1981", see section 301 of Pub. L. 97-72, set out as a Short Title of 1981 Amendments note under section 101 of this title.

AUTHORIZATION OF APPROPRIATIONS

Section 304 of Pub. L. 97-72 authorized to be appropriated a total of \$750,000 for fiscal years 1982 through 1986 for use by Administrator of Veterans' Affairs for expenses incidental to establishment of small business loan program authorized by subchapter IV of this chapter.

-End-

-CITE-

38 USC Sec. 3742

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER IV - SMALL BUSINESS LOANS

-HEAD-

Sec. 3742. Small business loan program

-STATUTE-

(a)(1) Subject to subsection (b) of this section, the Secretary may provide financial assistance to veterans' small business concerns for the purpose of (A) financing plant construction, conversion, or expansion (including the acquisition of land), (B) financing the acquisition of equipment, facilities, machinery, supplies, or materials, or (C) supplying such concerns with working capital.

(2) Subject to paragraph (3)(A) of this subsection, financial assistance under this section may be provided in the form of (A) loan guaranties, or (B) direct loans.

(3) The Secretary shall specify in regulations the criteria to be met for a business concern to qualify as a veterans' small business concern for the purposes of this subchapter. Such regulations shall include requirements -

(A) that at least 51 percent of a business concern must be owned by individuals who are veterans of the Vietnam era or disabled veterans in order for such concern to qualify for a loan guaranty and that at least 51 percent of a business concern must be owned by disabled veterans in order for such concern to qualify for a direct loan; and

(B) that the management and daily business operations of the concern must be directed by one or more of the veterans whose ownership interest is part of the majority ownership for the purposes of meeting the requirement in clause (A) of this paragraph.

(b) The availability of financial assistance under subsection (a) of this section is subject to the following limitations:

(1) The Secretary may not make a direct loan under this section unless the veterans' small business concern applying for the loan

shows to the satisfaction of the Secretary that the concern is unable to obtain a loan guaranteed by the Department under this section or made or guaranteed by the Small Business Administration.

(2) The Secretary may not guarantee a loan under this section if the loan bears a rate of interest in excess of the maximum rate of interest prescribed under section 3745 of this title.

(3) The Secretary may not make or guarantee a loan under this section for an amount in excess of \$200,000.

(4) The original liability of the Secretary on any loan guaranteed under this section may not exceed 90 percent of the amount of the loan, and such liability shall decrease or increase pro rata with any decrease or increase of the amount of the unpaid portion of the loan, but such liability may not exceed the amount of the original guaranty.

(c) Each loan made or guaranteed under this subchapter shall be of such sound value, taking into account the creditworthiness of the veterans' small business concern (and the individual owners) applying for such loan, or so secured as reasonably to assure payment.

(d)(1) Except as provided in paragraph (2) of this subsection, the Secretary may not make or guarantee a loan under this subchapter to a veterans' small business concern in which an ownership interest is held by a veteran who also has an ownership interest in another small business concern if such ownership interest was considered in qualifying that other concern for an outstanding loan made or guaranteed under this subchapter or the Small Business Act (15 U.S.C. 631 et seq.).

(2) Paragraph (1) of this subsection shall not apply if 51 percent or more of the business concern seeking a direct or guaranteed loan under this subchapter is owned by veterans of the Vietnam era or disabled veterans without including the ownership interest of the veteran whose ownership interest in another small business concern was previously considered in qualifying that other concern for an outstanding guaranteed or direct business loan under this subchapter or the Small Business Act (15 U.S.C. 631 et seq.).

(e)(1) In order to protect the interest of the United States, upon application by a veterans' small business concern which is the recipient of a loan guaranteed under this subchapter, the Secretary (subject to the provisions of this subsection) may undertake the veterans' small business concern's obligation to make payments under such loan or, if the loan was a direct loan made by the Secretary, may suspend such obligation. While such payments are being made by the Secretary pursuant to the undertaking of such obligation or while such obligation is suspended, no such payment with respect to the loan may be required from the concern.

(2) The Secretary may undertake or suspend a veterans' small business concern's obligation under this subsection only if -

(A) such undertaking or suspension of the obligation is, in the judgment of the Secretary, necessary to protect the interest of the United States;

(B) with the undertaking or suspension of the obligation, the small business concern would, in the judgment of the Secretary, become or remain a viable small business entity; and

(C) the small business concern executes an agreement in writing satisfactory to the Secretary as provided by paragraph (4) of this subsection.

(3) The period of time for which the Secretary undertakes or suspends the obligation on a loan under this subsection may not

exceed five years. The Secretary may extend the maturity of any loan on which the Secretary undertakes or suspends the obligation under this subsection for a corresponding period of time.

(4)(A) Before the Secretary may undertake or suspend a veterans' small business concern's obligation under this subsection, the Secretary shall require the small business concern to execute an agreement to repay the aggregate amount of the payments which were required under the loan during the period for which the obligation was undertaken or suspended -

(i) by periodic payments not less in amount or less frequently falling due than those which were due under the loan during such period,

(ii) pursuant to a repayment schedule agreed upon by the Secretary and the small business concern, or

(iii) by a combination of the method of payments described in clauses (i) and (ii) of this subparagraph.

(B) In addition to requiring the small business concern to execute the agreement described in subparagraph (A) of this paragraph, the Secretary shall, before the undertaking or suspension of the obligation, take such action and require the small business concern to take such action as the Secretary considers appropriate in the circumstances, including the provision of such security as the Secretary considers necessary or appropriate, to assure that the rights and interest of the United States and any lender will be safeguarded adequately during and after the period in which such obligation is so undertaken or suspended.

-SOURCE-

(Added Pub. L. 97-72, title III, Sec. 302(a), Nov. 3, 1981, 95 Stat. 1055, Sec. 1842; amended Pub. L. 99-576, title VII, Sec. 702(10), Oct. 28, 1986, 100 Stat. 3302; Pub. L. 101-237, title III, Sec. 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered Sec. 3742 and amended Pub. L. 102-83, Secs. 4(a)(3), (4), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404, 406.)

-REFTEXT-

REFERENCES IN TEXT

The Small Business Act, referred to in subsec. (d), is Pub. L. 85-536, Sec. 2(1 et seq.), July 18, 1958, 72 Stat. 384, which is classified generally to chapter 14A (Sec. 631 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 631 of Title 15 and Tables.

-MISC1-

AMENDMENTS

1991 - Pub. L. 102-83, Sec. 5(a), renumbered section 1842 of this title as this section.

Subsec. (b)(1). Pub. L. 102-83, Sec. 4(a)(3), (4), substituted "Department" for "Veterans' Administration".

Subsec. (b)(2). Pub. L. 102-83, Sec. 5(c)(1), substituted "3745" for "1845".

1989 - Subsecs. (a), (b), (d), (e). Pub. L. 101-237 substituted "Secretary" for "Administrator" wherever appearing.

1986 - Subsecs. (a)(3)(A), (b)(4), (d)(2). Pub. L. 99-576 substituted "percent" for "per centum" wherever appearing.

-End-

-CITE-

38 USC Sec. 3743

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER IV - SMALL BUSINESS LOANS

-HEAD-

Sec. 3743. Liability on loans

-STATUTE-

Each individual who has an ownership interest in a veterans' small business concern that is provided a direct loan under this subchapter, or that obtains a loan guaranteed under this subchapter, shall execute a note or other document evidencing the direct or guaranteed business loan, and such individuals shall be jointly and severally liable to the United States for the amount of such direct loan or, in the case of a guaranteed loan, for any amount paid by the Secretary on account of such loan.

-SOURCE-

(Added Pub. L. 97-72, title III, Sec. 302(a), Nov. 3, 1981, 95 Stat. 1057, Sec. 1843; amended Pub. L. 101-237, title III, Sec. 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered Sec. 3743, Pub. L. 102-83, Sec. 5(a), Aug. 6, 1991, 105 Stat. 406.)

-MISC1-

AMENDMENTS

1991 - Pub. L. 102-83 renumbered section 1843 of this title as this section.

1989 - Pub. L. 101-237 substituted "Secretary" for "Administrator".

-End-

-CITE-

38 USC Sec. 3744

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER IV - SMALL BUSINESS LOANS

-HEAD-

Sec. 3744. Approval of loans by the Secretary

-STATUTE-

(a) Except as provided in subsection (b) of this section, a loan may not be guaranteed under this subchapter unless, before the closing of the loan, it is submitted to the Secretary for approval and the Secretary grants approval.

(b) The Secretary may exempt any lender of a class of lenders

listed in section 3702(d) of this title from the prior approval requirement in subsection (a) of this section if the Secretary determines that the experience of such lender or class of lenders warrants such exemption.

(c) The Secretary may at any time upon thirty days' notice require loans to be made by any lender or class of lenders under this subchapter to be submitted to the Secretary for prior approval. No guaranty shall exist with respect to any such loan unless evidence of the guaranty is issued by the Secretary.

-SOURCE-

(Added Pub. L. 97-72, title III, Sec. 302(a), Nov. 3, 1981, 95 Stat. 1057, Sec. 1844; amended Pub. L. 101-237, title III, Sec. 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered Sec. 3744 and amended Pub. L. 102-83, Sec. 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406.)

-MISC1-

AMENDMENTS

1991 - Pub. L. 102-83, Sec. 5(a), renumbered section 1844 of this title as this section.

Subsec. (b). Pub. L. 102-83, Sec. 5(c)(1), substituted "3702(d)" for "1802(d)".

1989 - Pub. L. 101-237 substituted "Secretary" for "Administrator" in section catchline and wherever appearing in text.

-End-

-CITE-

38 USC Sec. 3745

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER IV - SMALL BUSINESS LOANS

-HEAD-

Sec. 3745. Interest on loans

-STATUTE-

(a) Loans guaranteed under this subchapter shall bear interest not in excess of such rate as the Secretary may from time to time find the loan market demands. In establishing the rate of interest that shall be applicable to such loans, the Secretary shall consult with the Administrator of the Small Business Administration.

(b) The rate of interest on any direct loan made by the Secretary under this subchapter may not exceed the maximum rate in effect under subsection (a) of this section at the time the direct loan is made.

-SOURCE-

(Added Pub. L. 97-72, title III, Sec. 302(a), Nov. 3, 1981, 95 Stat. 1058, Sec. 1845; amended Pub. L. 101-237, title III, Sec. 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered Sec. 3745 and amended Pub. L. 102-83, Secs. 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404-406; Pub. L. 103-446, title XII, Sec. 1201(a)(3),

Nov. 2, 1994, 108 Stat. 4682.)

-MISC1-

AMENDMENTS

1994 - Subsec. (a). Pub. L. 103-446 substituted "Administrator" for "Secretary" before "of the Small Business Administration".

1991 - Pub. L. 102-83, Sec. 5(a), renumbered section 1845 of this title as this section.

Subsec. (a). Pub. L. 102-83, Sec. 4(b)(1), (2)(E), substituted "Secretary" for "Administrator" before "of the Small Business Administration".

1989 - Pub. L. 101-237 substituted "Secretary" for "Administrator" wherever appearing other than third place it appears in subsec. (a).

-End-

-CITE-

38 USC Sec. 3746

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER IV - SMALL BUSINESS LOANS

-HEAD-

Sec. 3746. Maturity of loans

-STATUTE-

The maturity of a loan made or guaranteed under this subchapter that is used in whole or in part for the construction, conversion, or expansion of facilities or for acquisition of real property may not exceed twenty years plus such additional reasonable time as the Secretary may determine, at the time the loan is made, is required to complete the construction, acquisition, or expansion of such facilities. The maturity of any other loan made or guaranteed under this subchapter may not exceed ten years.

-SOURCE-

(Added Pub. L. 97-72, title III, Sec. 302(a), Nov. 3, 1981, 95 Stat. 1058, Sec. 1846; amended Pub. L. 101-237, title III, Sec. 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered Sec. 3746, Pub. L. 102-83, Sec. 5(a), Aug. 6, 1991, 105 Stat. 406.)

-MISC1-

AMENDMENTS

1991 - Pub. L. 102-83 renumbered section 1846 of this title as this section.

1989 - Pub. L. 101-237 substituted "Secretary" for "Administrator".

-End-

-CITE-

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER IV - SMALL BUSINESS LOANS

-HEAD-

Sec. 3747. Eligible financial institutions

-STATUTE-

The Secretary may not guarantee under this subchapter a loan made by an entity not subject to examination and supervision by an agency of the United States or of a State.

-SOURCE-

(Added Pub. L. 97-72, title III, Sec. 302(a), Nov. 3, 1981, 95 Stat. 1058, Sec. 1847; amended Pub. L. 101-237, title III, Sec. 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered Sec. 3747, Pub. L. 102-83, Sec. 5(a), Aug. 6, 1991, 105 Stat. 406.)

-MISC1-

AMENDMENTS

1991 - Pub. L. 102-83 renumbered section 1847 of this title as this section.

1989 - Pub. L. 101-237 substituted "Secretary" for "Administrator".

-End-

-CITE-

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER IV - SMALL BUSINESS LOANS

-HEAD-

Sec. 3748. Preference for disabled veterans

-STATUTE-

In the extension of financial assistance under this subchapter, the Secretary shall give preference, first, to veterans' small business concerns in which disabled veterans who have successfully completed a vocational rehabilitation program for self-employment in a small business enterprise under chapter 31 of this title have a significant ownership interest, and, second, to veterans' small business concerns in which other disabled veterans have a significant ownership interest.

-SOURCE-

(Added Pub. L. 97-72, title III, Sec. 302(a), Nov. 3, 1981, 95 Stat. 1058, Sec. 1848; amended Pub. L. 101-237, title III, Sec. 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered Sec. 3748, Pub. L. 102-83, Sec. 5(a), Aug. 6, 1991, 105 Stat. 406.)

-MISC1-

AMENDMENTS

1991 - Pub. L. 102-83 renumbered section 1848 of this title as this section.

1989 - Pub. L. 101-237 substituted "Secretary" for "Administrator".

-End-

-CITE-

38 USC Sec. 3749

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS

PART III - READJUSTMENT AND RELATED BENEFITS

CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS

SUBCHAPTER IV - SMALL BUSINESS LOANS

-HEAD-

Sec. 3749. Revolving fund

-STATUTE-

(a) There is established in the Treasury a revolving fund to be known as the "Department of Veterans Affairs Small Business Loan Revolving Fund" (hereinafter in this section referred to as the "fund").

(b) Amounts in the fund shall be available to the Secretary without fiscal year limitation for all loan guaranty and direct loan operations under this subchapter other than administrative expenses and may not be used for any other purpose.

(c)(1) There is authorized to be appropriated to the fund a total of \$25,000,000.

(2) There shall be deposited into the fund all amounts received by the Secretary derived from loan operations under this subchapter, including all collection of principal and interest and the proceeds from the use of property held or of property sold.

(d) The Secretary shall determine annually whether there has developed in the fund a surplus which, in the Secretary's judgment, is more than necessary to meet the needs of the fund. Any such surplus shall immediately be transferred into the general fund of the Treasury.

(e) Not later than two years after the termination of the authority of the Secretary to make new commitments for financial assistance under this subchapter, the Secretary shall transfer into the general fund of the Treasury all amounts in the fund except those that the Secretary determines may be required for the liquidation of obligations under this subchapter. All amounts received thereafter derived from loan operations under this subchapter, except so much thereof as the Secretary may determine to be necessary for liquidating outstanding obligations under this subchapter, shall also be so deposited.

-SOURCE-

(Added Pub. L. 97-72, title III, Sec. 302(a), Nov. 3, 1981, 95 Stat. 1058, Sec. 1849; amended Pub. L. 99-576, title VII, Sec. 702(11), Oct. 28, 1986, 100 Stat. 3302; Pub. L. 101-237, title III, Sec. 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered Sec. 3749

and amended Pub. L. 102-83, Secs. 4(a)(2)(B)(v), 5(a), Aug. 6, 1991, 105 Stat. 403, 406.)

-MISC1-

AMENDMENTS

1991 - Pub. L. 102-83, Sec. 5(a), renumbered section 1849 of this title as this section.

Subsec. (a). Pub. L. 102-83, Sec. 4(a)(2)(B)(v), substituted "Department of Veterans Affairs" for "Veterans' Administration".

1989 - Subsecs. (b) to (e). Pub. L. 101-237 substituted "Secretary" and "Secretary's" for "Administrator" and "Administrator's", respectively, wherever appearing.

1986 - Subsec. (c)(1). Pub. L. 99-576 substituted "There" for "Effective for fiscal year 1982 and fiscal years thereafter, there".

-End-

-CITE-

38 USC Sec. 3750

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS

PART III - READJUSTMENT AND RELATED BENEFITS

CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS

SUBCHAPTER IV - SMALL BUSINESS LOANS

-HEAD-

Sec. 3750. Incorporation of other provisions by the Secretary

-STATUTE-

The Secretary may provide that the provisions of sections of other subchapters of this chapter that are not otherwise applicable to loans made or guaranteed under this subchapter shall be applicable to loans made or guaranteed under this subchapter. The Secretary shall exercise authority under the preceding sentence by regulations prescribed after publication in the Federal Register and a period of not less than thirty days for public comment.

-SOURCE-

(Added Pub. L. 97-72, title III, Sec. 302(a), Nov. 3, 1981, 95 Stat. 1059, Sec. 1850; amended Pub. L. 101-237, title III, Sec. 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered Sec. 3750, Pub. L. 102-83, Sec. 5(a), Aug. 6, 1991, 105 Stat. 406.)

-MISC1-

AMENDMENTS

1991 - Pub. L. 102-83 renumbered section 1850 of this title as this section.

1989 - Pub. L. 101-237 substituted "Secretary" for "Administrator" in section catchline and wherever appearing in text.

-End-

-CITE-

38 USC Sec. 3751

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER IV - SMALL BUSINESS LOANS

-HEAD-

Sec. 3751. Termination of program

-STATUTE-

The Secretary may not make commitments for financial assistance under this subchapter after September 30, 1986.

-SOURCE-

(Added Pub. L. 97-72, title III, Sec. 302(a), Nov. 3, 1981, 95 Stat. 1059, Sec. 1851; amended Pub. L. 101-237, title III, Sec. 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered Sec. 3751, Pub. L. 102-83, Sec. 5(a), Aug. 6, 1991, 105 Stat. 406.)

-MISC1-

AMENDMENTS

1991 - Pub. L. 102-83 renumbered section 1851 of this title as this section.

1989 - Pub. L. 101-237 substituted "Secretary" for "Administrator".

-End-

-CITE-

38 USC SUBCHAPTER V - DIRECT HOUSING LOANS FOR NATIVE AMERICAN VETERANS

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER V - DIRECT HOUSING LOANS FOR NATIVE AMERICAN VETERANS

-HEAD-

SUBCHAPTER V - DIRECT HOUSING LOANS FOR NATIVE AMERICAN VETERANS

-MISC1-

AMENDMENTS

2006 - Pub. L. 109-233, title I, Sec. 103(f)(1), June 15, 2006, 120 Stat. 400, substituted "DIRECT HOUSING LOANS FOR NATIVE AMERICAN VETERANS" for "NATIVE AMERICAN VETERAN HOUSING LOAN PILOT PROGRAM" in subchapter heading.

-End-

-CITE-

38 USC Sec. 3761

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER V - DIRECT HOUSING LOANS FOR NATIVE AMERICAN VETERANS

-HEAD-

Sec. 3761. Direct housing loans to Native American veterans;
program authority

-STATUTE-

(a) The Secretary shall make direct housing loans to Native American veterans. The purpose of such loans is to permit such veterans to purchase, construct, or improve dwellings on trust land. The Secretary shall make such loans in accordance with the provisions of this subchapter.

(b) The Secretary shall, to the extent practicable, make direct housing loans to Native American veterans who are located in a variety of geographic areas and in areas experiencing a variety of economic circumstances.

-SOURCE-

(Added Pub. L. 102-547, Sec. 8(a), Oct. 28, 1992, 106 Stat. 3636; amended Pub. L. 105-114, title II, Sec. 201(a), Nov. 21, 1997, 111 Stat. 2282; Pub. L. 107-103, title IV, Sec. 402(a), Dec. 27, 2001, 115 Stat. 993; Pub. L. 108-454, title IV, Sec. 407, Dec. 10, 2004, 118 Stat. 3617; Pub. L. 109-233, title I, Sec. 103(a), (f)(2), June 15, 2006, 120 Stat. 399, 400.)

-MISC1-

AMENDMENTS

2006 - Pub. L. 109-233, Sec. 103(f)(2), amended section catchline generally, substituting "Direct housing loans to Native American veterans; program authority" for "Pilot program".

Subsec. (a). Pub. L. 109-233, Sec. 103(a)(1), struck out "establish and implement a pilot program under which the Secretary may" before "make direct housing loans" and substituted "shall make such loans" for "shall establish and implement the pilot program".

Subsec. (b). Pub. L. 109-233, Sec. 103(a)(2), substituted "The" for "In carrying out the pilot program under this subchapter, the".

Subsec. (c). Pub. L. 109-233, Sec. 103(a)(3), struck out subsec. (c) which read as follows: "No loans may be made under this subchapter after December 31, 2008."

2004 - Subsec. (c). Pub. L. 108-454 substituted "December 31, 2008" for "December 31, 2005".

2001 - Subsec. (c). Pub. L. 107-103 substituted "December 31, 2005" for "December 31, 2001".

1997 - Subsec. (c). Pub. L. 105-114 substituted "December 31, 2001" for "September 30, 1997".

CONSULTATION WITH ADVISORY COMMITTEE ON NATIVE-AMERICAN VETERANS

Pub. L. 102-547, Sec. 8(b), Oct. 28, 1992, 106 Stat. 3640, which required the Secretary of Veterans Affairs to consider the views and recommendations, if any, of the Advisory Committee on Native-American Veterans in carrying out the direct housing loan pilot program, was repealed by Pub. L. 109-233, title I, Sec. 103(c)(2), June 15, 2006, 120 Stat. 400.

ANNUAL REPORTS ON PILOT PROGRAM

Pub. L. 102-547, Sec. 8(d), Oct. 28, 1992, 106 Stat. 3640,

directed Secretary of Veterans Affairs to transmit report relating to implementation of Native American veterans direct housing loan pilot program established under this subchapter to Committees on Veterans' Affairs of Senate and House of Representatives not later than Feb. 1 of each of years 1994 through 1998, prior to repeal by Pub. L. 104-110, title II, Sec. 201(b), Feb. 13, 1996, 110 Stat. 770.

AUTHORIZATION OF APPROPRIATIONS FOR NATIVE AMERICAN VETERAN HOUSING LOANS

Pub. L. 102-547, Sec. 8(e), Oct. 28, 1992, 106 Stat. 3640, provided that: "New direct loan obligations for Native American veteran housing loans under subchapter V of chapter 37 of title 38, United States Code (as added by subsection (a)), may be incurred only to the extent that appropriations of budget authority to cover the anticipated cost, as defined in section 502 of the Congressional Budget Act of 1974 [2 U.S.C. 661a], for such loans are made in advance. There is authorized to be appropriated for such purpose \$5,000,000 for fiscal year 1993, which amount shall remain available without fiscal year limitation."

-End-

-CITE-

38 USC Sec. 3762

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
SUBCHAPTER V - DIRECT HOUSING LOANS FOR NATIVE AMERICAN VETERANS

-HEAD-

Sec. 3762. Direct housing loans to Native American veterans;
program administration

-STATUTE-

(a) The Secretary may make a direct housing loan to a Native American veteran under this subchapter if -

(1)(A) the Secretary has entered into a memorandum of understanding with respect to such loans with the tribal organization that has jurisdiction over the veteran; or

(B) the tribal organization that has jurisdiction over the veteran has entered into a memorandum of understanding with any department or agency of the United States with respect to direct housing loans to Native Americans that the Secretary determines substantially complies with the requirements of subsection (b);
and

(2) the memorandum is in effect when the loan is made.

(b)(1) Subject to paragraph (2), the Secretary shall ensure that each memorandum of understanding that the Secretary enters into with a tribal organization shall provide for the following:

(A) That each Native American veteran who is under the jurisdiction of the tribal organization and to whom the Secretary makes a direct loan under this subchapter -

(i) holds, possesses, or purchases using the proceeds of the loan a meaningful interest in a lot or dwelling (or both) that is located on trust land; and

(ii) will purchase, construct, or improve (as the case may be) a dwelling on the lot using the proceeds of the loan.

(B) That each such Native American veteran will convey to the Secretary by an appropriate instrument the interest referred to in subparagraph (A) as security for a direct housing loan under this subchapter.

(C) That the tribal organization and each such Native American veteran will permit the Secretary to enter upon the trust land of that organization or veteran for the purposes of carrying out such actions as the Secretary determines are necessary -

(i) to evaluate the advisability of the loan; and

(ii) to monitor any purchase, construction, or improvements carried out using the proceeds of the loan.

(D) That the tribal organization has established standards and procedures that apply to the foreclosure of the interest conveyed by a Native American veteran pursuant to subparagraph (B), including -

(i) procedures for foreclosing the interest; and

(ii) procedures for the resale of the lot or the dwelling (or both) purchased, constructed, or improved using the proceeds of the loan.

(E) That the tribal organization agrees to such other terms and conditions with respect to the making of direct loans to Native American veterans under the jurisdiction of the tribal organization as the Secretary may require in order to ensure that loans under this subchapter are made in a responsible and prudent manner.

(2) The Secretary may not enter into a memorandum of understanding with a tribal organization under this subsection unless the Secretary determines that the memorandum provides for such standards and procedures as are necessary for the reasonable protection of the financial interests of the United States.

(c)(1)(A) Except as provided in subparagraph (B), the principal amount of any direct housing loan made to a Native American veteran under this section may not exceed \$80,000.

(B)(i) Subject to clause (ii), the Secretary may make loans exceeding the amount specified in subparagraph (A) in a geographic area if the Secretary determines that housing costs in the area are significantly higher than average housing costs nationwide. The amount of such increase shall be the amount that the Secretary determines is necessary in order to make direct housing loans under this subchapter to Native American veterans who are located in a variety of geographic areas and in geographic areas experiencing a variety of economic conditions.

(ii) The amount of a loan made by the Secretary under this subchapter may not exceed the maximum loan amount authorized for loans guaranteed under section 3703(a)(1)(C) of this title.

(2) Loans made under this section shall bear interest at a rate determined by the Secretary, which rate may not exceed the appropriate rate authorized for guaranteed loans under section 3703(c)(1) or section 3712(f) of this title, and shall be subject to such requirements or limitations prescribed for loans guaranteed under this title as the Secretary may prescribe.

(3) Notwithstanding section 3704(a) of this title, the Secretary shall establish minimum requirements for planning, construction, improvement, and general acceptability relating to any direct loan made under this section.

(d)(1) The Secretary shall establish credit underwriting standards to be used in evaluating loans made under this subchapter. In establishing such standards, the Secretary shall take into account the purpose of this program to make available housing to Native American veterans living on trust lands.

(2) The Secretary shall determine the reasonable value of the interest in property that will serve as security for a loan made under this section and shall establish procedures for appraisals upon which the Secretary may base such determinations. The procedures shall incorporate generally the relevant requirements of section 3731 of this title, unless the Secretary determines that such requirements are impracticable to implement in a geographic area, on particular trust lands, or under circumstances specified by the Secretary.

(e) Loans made under this section shall be repaid in monthly installments.

(f) In connection with any loan under this section, the Secretary may make advances in cash to provide for repairs, alterations, and improvements and to meet incidental expenses of the loan transaction. The Secretary shall determine the amount of any expenses incident to the origination of loans made under this section, which expenses, or a reasonable flat allowance in lieu thereof, shall be paid by the veteran in addition to the loan closing costs.

(g) Without regard to any provision of this chapter (other than a provision of this section), the Secretary may -

(1) take any action that the Secretary determines to be necessary with respect to the custody, management, protection, and realization or sale of investments under this section;

(2) determine any necessary expenses and expenditures and the manner in which such expenses and expenditures shall be incurred, allowed, and paid;

(3) make such rules, regulations, and orders as the Secretary considers necessary for carrying out the Secretary's functions under this section; and

(4) in a manner consistent with the provisions of this chapter and with the Secretary's functions under this subchapter, employ, utilize, and compensate any persons, organizations, or departments or agencies (including departments and agencies of the United States) designated by the Secretary to carry out such functions.

(h)(1) The Secretary may make direct loans to Native American veterans in order to enable such veterans to refinance existing loans made under this section.

(2)(A) The Secretary may not make a loan under this subsection unless the loan meets the requirements set forth in subparagraphs (B), (C), and (E) of paragraph (1) of section 3710(e) of this title.

(B) The Secretary may not make a loan under this subsection unless the loan will bear an interest rate at least one percentage point less than the interest rate borne by the loan being refinanced.

(C) Paragraphs (2) and (3) of such section 3710(e) shall apply to any loan made under this subsection, except that for the purposes of this subsection the reference to subsection (a)(8) of section 3710 of this title in such paragraphs (2) and (3) shall be deemed to be a reference to this subsection.

(i)(1) The Secretary shall, in consultation with tribal organizations (including the National Congress of American Indians and the National American Indian Housing Council), carry out an

outreach program to inform and educate Native American veterans of the availability of direct housing loans for Native American veterans who live on trust lands.

(2) Activities under the outreach program shall include the following:

(A) Attending conferences and conventions conducted by the National Congress of American Indians in order to work with the National Congress in providing information and training to tribal organizations and Native American veterans regarding the availability of housing benefits under this subchapter and in assisting such organizations and veterans with respect to such housing benefits.

(B) Attending conferences and conventions conducted by the National American Indian Housing Council in order to work with the Housing Council in providing information and training to tribal organizations and tribal housing entities regarding the availability of such benefits.

(C) Attending conferences and conventions conducted by the Department of Hawaiian Homelands in order to work with the Department of Hawaiian Homelands in providing information and training to tribal housing entities in Hawaii regarding the availability of such benefits.

(D) Producing and disseminating information to tribal governments, tribal veterans service organizations, and tribal organizations regarding the availability of such benefits.

(E) Assisting tribal organizations and Native American veterans with respect to such benefits.

(F) Outstationing loan guarantee specialists in tribal facilities on a part-time basis if requested by the tribal government.

(j) The Secretary shall include as part of the annual benefits report of the Veterans Benefits Administration information concerning the cost and number of loans provided under this subchapter for the fiscal year covered by the report.

-SOURCE-

(Added Pub. L. 102-547, Sec. 8(a), Oct. 28, 1992, 106 Stat. 3637; amended Pub. L. 104-275, title II, Sec. 202(a), Oct. 9, 1996, 110 Stat. 3330; Pub. L. 105-114, title II, Sec. 201(b), (c), Nov. 21, 1997, 111 Stat. 2282, 2283; Pub. L. 107-103, title IV, Sec. 402(b), (c), Dec. 27, 2001, 115 Stat. 993; Pub. L. 109-233, title I, Sec. 103(b), (c)(1), (d), (e), (f)(3), June 15, 2006, 120 Stat. 400, 401.)

-MISC1-

AMENDMENTS

2006 - Pub. L. 109-233, Sec. 103(f)(3), amended section catchline generally, substituting "Direct housing loans to Native American veterans; program administration" for "Direct housing loans to Native American veterans".

Subsec. (a). Pub. L. 109-233, Sec. 103(c)(1)(A), inserted "under this subchapter" after "to a Native American veteran" in introductory provisions.

Subsec. (b)(1)(E). Pub. L. 109-233, Sec. 103(c)(1)(B), substituted "loans under this subchapter are made" for "the pilot program established under this subchapter is implemented".

Subsec. (c)(1)(A). Pub. L. 109-233, Sec. 103(e), inserted "veteran" after "Native American".

Subsec. (c)(1)(B). Pub. L. 109-233, Sec. 103(c)(1)(C), (d),

designated existing provisions as cl. (i), substituted "Subject to clause (ii), the" for "The" after cl. (i) designation, substituted "make direct housing loans under this subchapter" for "carry out the pilot program under this subchapter in a manner that demonstrates the advisability of making direct housing loans", and added cl. (ii).

Subsec. (i)(1). Pub. L. 109-233, Sec. 103(c)(1)(D)(i), struck out "the pilot program provided for under this subchapter and" after "educate Native American veterans of".

Subsec. (i)(2)(A), (E). Pub. L. 109-233, Sec. 103(c)(1)(D)(ii), (iii), substituted "under this subchapter and in assisting such organizations and veterans with respect to such housing benefits" for "under the pilot program and in assisting such organizations and veterans in participating in the pilot program" in subpar. (A) and "with respect to such benefits" for "in participating in the pilot program" in subpar. (E).

Subsec. (j). Pub. L. 109-233, Sec. 103(b), amended subsec. (j) generally. Prior to amendment, subsec. (j) related to the Secretary's transmittal to the Committees on Veterans' Affairs of the Senate and House of Representatives of an annual report relating to the implementation of the Native American veteran housing loan pilot program.

2001 - Subsec. (a)(1). Pub. L. 107-103, Sec. 402(b), designated existing provisions as subpar. (A), substituted "; or" for "; and", and added subpar. (B).

Subsec. (j). Pub. L. 107-103, Sec. 402(c), substituted "2006" for "2002" in introductory provisions.

1997 - Subsec. (i). Pub. L. 105-114, Sec. 201(b), designated existing provisions as par. (1), inserted ", in consultation with tribal organizations (including the National Congress of American Indians and the National American Indian Housing Council)," after "the Secretary shall", struck out "tribal organizations and" after "educate", and added par. (2).

Subsec. (j). Pub. L. 105-114, Sec. 201(c), added subsec. (j).

1996 - Subsecs. (h), (i). Pub. L. 104-275 added subsec. (h) and redesignated former subsec. (h) as (i).

-End-

-CITE-

38 USC Sec. 3763

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS

PART III - READJUSTMENT AND RELATED BENEFITS

CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS

SUBCHAPTER V - DIRECT HOUSING LOANS FOR NATIVE AMERICAN VETERANS

-HEAD-

Sec. 3763. Native American Veteran Housing Loan Program Account

-STATUTE-

(a) There is hereby established in the Treasury of the United States an account known as the "Native American Veteran Housing Loan Program Account" (hereinafter in this subchapter referred to as the "Account").

(b) The Account shall be available to the Secretary to carry out all operations relating to the making of direct housing loans to Native American veterans under this subchapter, including any

administrative expenses relating to the making of such loans.
Amounts in the Account shall be available without fiscal year
limitation.

-SOURCE-

(Added Pub. L. 102-547, Sec. 8(a), Oct. 28, 1992, 106 Stat. 3639;
amended Pub. L. 105-368, title VI, Sec. 602(e)(3)(B), Nov. 11,
1998, 112 Stat. 3347; Pub. L. 107-14, Sec. 8(a)(16), June 5, 2001,
115 Stat. 35.)

-MISC1-

AMENDMENTS

2001 - Subsec. (a). Pub. L. 107-14 substituted "hereinafter" for
"hereafter".

1998 - Pub. L. 105-368 substituted "Native American Veteran
Housing Loan Program Account" for "Housing loan program account" in
section catchline.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-368 effective Oct. 1, 1998, see section
602(f) of Pub. L. 105-368, set out as a note under section 2106 of
this title.

-End-

-CITE-

38 USC Sec. 3764

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS

PART III - READJUSTMENT AND RELATED BENEFITS

CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS

SUBCHAPTER V - DIRECT HOUSING LOANS FOR NATIVE AMERICAN VETERANS

-HEAD-

Sec. 3764. Qualified non-Native American veterans

-STATUTE-

(a) Treatment of Non-Native American Veterans. - Subject to the
succeeding provisions of this section, for purposes of this
subchapter -

(1) a qualified non-Native American veteran is deemed to be a
Native American veteran; and

(2) for purposes of applicability to a non-Native American
veteran, any reference in this subchapter to the jurisdiction of
a tribal organization over a Native American veteran is deemed to
be a reference to jurisdiction of a tribal organization over the
Native American spouse of the qualified non-Native American
veteran.

(b) Use of Loan. - In making direct loans under this subchapter
to a qualified non-Native American veteran by reason of eligibility
under subsection (a), the Secretary shall ensure that the tribal
organization permits, and the qualified non-Native American veteran
actually holds, possesses, or purchases, using the proceeds of the
loan, jointly with the Native American spouse of the qualified non-
Native American veteran, a meaningful interest in the lot,
dwelling, or both, that is located on trust land.

(c) Restrictions Imposed by Tribal Organizations. - Nothing in subsection (b) shall be construed as precluding a tribal organization from imposing reasonable restrictions on the right of the qualified non-Native American veteran to convey, assign, or otherwise dispose of such interest in the lot or dwelling, or both, if such restrictions are designed to ensure the continuation in trust status of the lot or dwelling, or both. Such requirements may include the termination of the interest of the qualified non-Native American veteran in the lot or dwelling, or both, upon the dissolution of the marriage of the qualified non-Native American veteran to the Native American spouse.

-SOURCE-

(Added Pub. L. 109-233, title I, Sec. 104(a)(2), June 15, 2006, 120 Stat. 401.)

-MISC1-

PRIOR PROVISIONS

A prior section 3764 was renumbered section 3765 of this title.

-End-

-CITE-

38 USC Sec. 3765

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS

PART III - READJUSTMENT AND RELATED BENEFITS

CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS

SUBCHAPTER V - DIRECT HOUSING LOANS FOR NATIVE AMERICAN VETERANS

-HEAD-

Sec. 3765. Definitions

-STATUTE-

For the purposes of this subchapter -

(1) The term "trust land" means any land that -

(A) is held in trust by the United States for Native Americans;

(B) is subject to restrictions on alienation imposed by the United States on Indian lands (including native Hawaiian homelands);

(C) is owned by a Regional Corporation or a Village Corporation, as such terms are defined in section 3(g) and 3(j) of the Alaska Native Claims Settlement Act, respectively (43 U.S.C. 1602(g), (j)); or

(D) is on any island in the Pacific Ocean if such land is, by cultural tradition, communally-owned land, as determined by the Secretary.

(2) The term "Native American veteran" means any veteran who is a Native American.

(3) The term "Native American" means -

(A) an Indian, as defined in section 4(d) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(d));

(B) a native Hawaiian, as that term is defined in section 201(a)(7) of the Hawaiian Homes Commission Act, 1920 (Public

Law 67-34; 42 Stat. 108);

(C) an Alaska Native, within the meaning provided for the term "Native" in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)); and

(D) a Pacific Islander, within the meaning of the Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.).

(4) The term "tribal organization" shall have the meaning given such term in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)) and shall include the Department of Hawaiian Homelands, in the case of native Hawaiians, and such other organizations as the Secretary may prescribe.

(5) The term "qualified non-Native American veteran" means a veteran who -

(A) is the spouse of a Native American, but

(B) is not a Native American.

-SOURCE-

(Added Pub. L. 102-547, Sec. 8(a), Oct. 28, 1992, 106 Stat. 3639, Sec. 3764; renumbered Sec. 3765 and amended Pub. L. 109-233, title I, Sec. 104(a)(1), (b), June 15, 2006, 120 Stat. 401, 402.)

-REFTEXT-

REFERENCES IN TEXT

Section 201(a)(7) of the Hawaiian Homes Commission Act, 1920, referred to in par. (3)(B), was classified to section 692 of Title 48, Territories and Insular Possessions, and was omitted from the Code.

The Native American Programs Act of 1974, referred to in par. (3)(D), is title VIII of Pub. L. 88-452, as added by Pub. L. 93-644, Sec. 11, Jan. 4, 1975, 88 Stat. 2324, which is classified generally to subchapter VIII (Sec. 2991 et seq.) of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 2991 of Title 42 and Tables.

-MISC1-

AMENDMENTS

2006 - Pub. L. 109-233, Sec. 104(a)(1), renumbered section 3764 of this title as this section.

Par. (5). Pub. L. 109-233, Sec. 104(b), added par. (5).

-End-

-CITE-

38 USC [SUBCHAPTER VI - TRANSFERRED]

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
[SUBCHAPTER VI - TRANSFERRED]

-HEAD-

[SUBCHAPTER VI - TRANSFERRED]

-COD-

CODIFICATION

Former subchapter VI of this chapter, other than section 3771, was transferred to subchapter VI of chapter 20 of this title and inserted after section 2043 of this title, and sections 3772 to 3775 were renumbered sections 2051 to 2054 of this title, respectively, by Pub. L. 107-95, Sec. 5(d)(1), Dec. 21, 2001, 115 Stat. 918.

-End-

-CITE-

38 USC Sec. 3771

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
[SUBCHAPTER VI - TRANSFERRED]

-HEAD-

Sec. 3771. Repealed.

-MISC1-

[Sec. 3771. Repealed. Pub. L. 107-95, Sec. 5(d)(3), Dec. 21, 2001, 115 Stat. 918].

Section, added Pub. L. 105-368, title VI, Sec. 601(a), Nov. 11, 1998, 112 Stat. 3342; amended Pub. L. 106-400, Sec. 2, Oct. 30, 2000, 114 Stat. 1675, defined terms "veteran", "homeless veteran", and "homeless individual", for purposes of this subchapter.

-End-

-CITE-

38 USC Secs. 3772 to 3775

01/03/2012 (112-90)

-EXPCITE-

TITLE 38 - VETERANS' BENEFITS
PART III - READJUSTMENT AND RELATED BENEFITS
CHAPTER 37 - HOUSING AND SMALL BUSINESS LOANS
[SUBCHAPTER VI - TRANSFERRED]

-HEAD-

[Secs. 3772 to 3775. Renumbered Secs. 2051 to 2054]

-STATUTE-

-End-