

SEC. 203. [12 U.S.C. 1709] (a) The Secretary is authorized, upon application by the mortgagee, to insure as hereinafter provided any mortgage offered to him which is eligible for insurance as hereinafter provided, and, upon such terms as the Secretary may prescribe, to make commitments for the insuring of such mortgages prior to the date of their execution or disbursement thereon.

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

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

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

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(A)<sup>1</sup> not to exceed the lesser of—

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

(ii) 87 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a residence of the applicable size; except that the dollar amount limitation in effect for any area under this subparagraph may not be less than the greater of the dollar amount limitation in effect under this section for the area on the date of the enactment of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act for Fiscal Year 1999<sup>2</sup> or 48 percent of the dollar limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a residence of the applicable size; and

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

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

(ii) in the case of—

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

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

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<sup>1</sup> Indented so in law.

<sup>2</sup> Probably intended to refer to the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999, Public Law 106-74, approved October 20, 1999.

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

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

For purposes of the preceding sentence, the term “area” means a metropolitan statistical area as established by the Office of Management and Budget; and the median 1-family house price for an area shall be equal to the median 1-family house price of the county within the area that has the highest such median price. For purposes of this paragraph, the term “average closing cost” means, with respect to a State, the average, for mortgages executed for properties that are located within the State, of the total amounts (as determined by the Secretary) of initial service charges, appraisal, inspection, and other fees (as the Secretary shall approve) that are paid in connection with such mortgages. Notwithstanding any other provision of this section, in any case where the dwelling is not approved for mortgage insurance prior to the beginning of construction, such mortgage shall not exceed 90 per centum of the entire appraised value of the property as of the date the mortgage is accepted for insurance, unless (i) the dwelling was completed more than one year prior to the application for mortgage insurance, or (ii) the dwelling was approved for guaranty, insurance, or a direct loan under chapter 37 of title 38, United States Code, prior to the beginning of construction, or (iii) the dwelling is covered by a consumer protection or warranty plan acceptable to the Secretary and satisfies all requirements which would have been applicable if such dwelling had been approved for mortgage insurance prior to the beginning of construction. As used herein, the term “veteran” means any person who served on active duty in the armed forces of the United States for a period of not less than 90 days (or as certified by the Secretary of Defense as having performed extra-hazardous service), and who was discharged or released therefrom under conditions other than dishonorable, except that persons enlisting in the armed forces after September 7, 1980, or entering active duty after October 16, 1981, shall have their eligibility determined in accordance with section 3103A(d) of title 38, United States Code.<sup>3</sup>

Notwithstanding any other provision of this paragraph, the amount which may be insured under this section may be increased by up to 20 percent if such increase is necessary to account for the increased cost of the residence due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) therein.

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<sup>3</sup> Section 402(b)(1) of the Department of Veterans Affairs Physician and Dentist Recruitment and Retention Act of 1991, Pub. L. 102–40, approved May 7, 1991, redesignated section 3130A of title 38, United States Code, as section 5303A. Section 402(d)(2) of such Act provides as follows:

“(2) Any reference in a provision of law other than title 38, United States Code, to a section redesignated by subsection (b) shall be deemed to refer to the section as so redesignated”.

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

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

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

(5) Bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee.

(6) Provide, in a manner satisfactory to the Secretary, for the application of the mortgagor's periodic payments (exclusive of the amount allocated to interest and to the premium charge which is required for mortgage insurance as hereinafter provided) to amortization of the principal of the mortgage.

(7) Contain such terms and provisions with respect to insurance, repairs, alterations, payment of taxes, default reserves, delinquency charges, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters as the Secretary may in his discretion prescribe.

**[(8) [Repealed.]]**

(9) Be executed by a mortgagor who shall have paid on account of the property (except with respect to a mortgage executed by a mortgagor who is a veteran) at least 3 per centum, or such larger amount as the Secretary may determine, of the Secretary's estimate of the cost of acquisition (excluding the mortgage insurance premium paid at the time the mortgage is insured) in cash or its equivalent: *Provided*, That with respect to a mortgage executed by a mortgagor who is sixty years of age or older as of the date the mortgage is endorsed for insurance or with respect to a mortgage meeting the requirements of subsection (i) of this section, or with respect to a mortgage covering a single-family home being purchased under the low-income housing demonstration project assisted pursuant to section 207 of the Housing Act of 1961, or with respect to a mortgage covering a housing unit in connection with a homeownership program under the Homeownership and Opportunity Through HOPE Act, the mortgagor's payment required by this subsection may be paid by a corporation or person other than the mortgagor under such terms and conditions as the Secretary may prescribe: *Provided further*, That for purposes of this paragraph, the Secretary shall consider as cash or its equivalent any amounts borrowed from a family member (as such term is defined in section 201), subject only to the requirements that, in any case in which the repayment of such borrowed amounts is secured by a lien against the

property, such lien shall be subordinate to the mortgage and the sum of the principal obligation of the mortgage and the obligation secured by such lien may not exceed 100 percent of the appraised value of the property plus any initial service charges, appraisal, inspection, and other fees in connection with the mortgage.