

DOCUMENT RESUME

06851 - [B2207217]

[Termination of Mortgage Insurance Premium Payments on Department of Defense-Owned Housing]. CED-78-147; CED-78-146; B-133102. August 3, 1978. 2 pp. + 4 enclosures (8 pp.).

Report to Sen. William Proxmire, Chairman, Senate Committee on Banking, Housing and Urban Affairs; Rep. Henry S. Reuss, Chairman, House Committee on Banking, Finance and Urban Affairs; by Elmer B. Staats, Comptroller General.

Issue Area: Domestic Housing and Community Development:

Minimizing Mortgage Insurance Losses (2108).

Contact: Community and Economic Development Div.

Budget Function: Commerce and Transportation; Mortgage Credit and Thrift Insurance (401); National Defense: Defense-related Activities (054).

Organization Concerned: Department of Housing and Urban Development; Department of Defense.

Congressional Relevance: House Committee on Banking, Finance and Urban Affairs; Senate Committee on Banking, Housing and Urban Affairs. Rep. Henry S. Reuss; Sen. William Proxmire.

Authority: National Housing Act, as amended (P.L. 81-211; 12 U.S.C. 1748b). Housing Amendments of 1955 (P.L. 84-345; 69 Stat. 648). (P.L. 86-372; 73 Stat. 682). P.L. 84-348. S. Rept. 86-4. H. Rept. 86-86. S. 57 (86th Cong.).

On December 12, 1977, GAO reported to the Secretary of Housing and Urban Development (HUD) that the practice of requiring the Department of Defense (DOD) to pay mortgage-insurance premiums on family housing properties owned by DOD and insured by HUD was no longer necessary. The Secretary of Defense has guaranteed payment of outstanding mortgages on these properties, and the Congress has provided annual appropriations to repay the mortgages. In addition, the DOD's insurance premium payments for these properties have resulted in an insurance reserve balance of \$76.5 million which exceeds the \$2.1 million in reserves that HUD considers necessary to protect against default. In reply, the Secretary of HUD concurred with the recommendation but believed that she lacked authority to waive collection of a premium. Considering the Secretary's position, only legislation can resolve the matter. The Congress should amend the National Housing Act to permit the Secretary of HUD to terminate the mortgage-insurance premium payments on DOD-owned housing mortgages. (RRS)

7217



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-133102

AUGUST 3, 1978

The Honorable William Proxmire, Chairman
Committee on Banking, Housing and
Urban Affairs
United States Senate

Dear Mr. Chairman:

On December 12, 1977, we reported to the Secretary of Housing and Urban Development (see enclosure 1) that the practice of requiring the Department of Defense to pay mortgage insurance premiums on Wherry and Capehart family housing properties owned by Defense and insured by the Department of Housing and Urban Development was, in our opinion, no longer necessary, especially since (1) the Secretary of Defense has guaranteed payment of outstanding mortgages on these properties and (2) the Congress has provided annual appropriations to repay the mortgages. Also, the Department of Defense's insurance premium payments for Defense-owned Wherry and Capehart properties have resulted in an insurance reserve balance in the Armed Services Housing Mortgage Insurance Fund of \$76.5 million, which far exceeds the \$2.1 million in reserves that the Department of Housing and Urban Development considers necessary to insure itself against default. We recommended that the Secretary of Housing and Urban Development terminate the required payment of these premiums.

In reply (see enclosure 2), Secretary Harris concurred generally with our recommendation but believed she lacked the statutory authority under section 803(c) of the National Housing Act to waive collection of a premium. Section 803(c) does provide Secretary Harris the authority to reduce payment of premiums; this has been done in the past on Defense-owned Wherry and Capehart properties.

There is a basis for Secretary Harris' position. However, a more expansive view of the Secretary's authority may also be possible. Although the statute and accompanying 1959 committee reports do not specifically mention

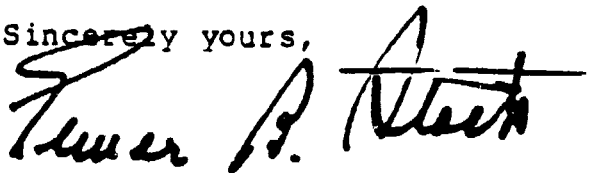
termination, neither do they limit the amount of possible premium reduction--say, to zero. (See enclosure 3 for the applicable statute and committee report references.)

House and Senate committee reports in 1959 recognized that premiums reflect risk. Since 1959 circumstances have changed whereby the insurance reserve balance of \$76.5 million more than covers the \$2.1 million in reserves the Department of Housing and Urban Development considers necessary to insure itself against Defense's default on outstanding mortgages. The need for premium payments based on risk, therefore, does not seem to exist.

Considering the Secretary's position, it appears that only legislation can resolve this matter. Therefore, we recommend that the Congress amend section 803(c) of the National Housing Act (12 U.S.C.1748b(c)) specifically to permit the Secretary of Housing and Urban Development to terminate the mortgage insurance premium payments on Department of Defense-owned Wherry and Capehart housing mortgages. (Suggested language to amend the section is included in enclosure 4.)

We are sending this same letter to the Chairman, House Committee on Banking, Finance and Urban Affairs. Copies are being sent to the House Committees on Appropriations and Government Operations; Senate Committee on Governmental Affairs; Subcommittee on HUD-Independent Agencies, Senate Committee on Appropriations; the Director, Office of Management and Budget; and the Secretaries of Defense and Housing and Urban Development.

Sincerely yours,



Comptroller General
of the United States

Enclosures - 4



UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

COMMUNITY AND ECONOMIC
DEVELOPMENT DIVISION

IN REPLY
REFER TO:

B-133102

12 DEC 1977

The Honorable Patricia R. Harris
Secretary of Housing and Urban
Development

Dear Mrs. Harris:

We have reviewed the Department of Housing and Urban Development's (HUD's) practice of requiring the Department of Defense (DOD) to pay mortgage insurance premiums on Wherry and Capehart family housing properties owned by DOD and insured by HUD. In our opinion, it is no longer necessary for HUD to require DOD to insure HUD against DOD's default, especially since (1) DOD has guaranteed the payment of these mortgages and (2) the Congress has provided annual appropriations to repay the mortgages. Also, DOD's insurance premium payments have resulted in an insurance reserve balance in the Armed Services Housing Mortgage Insurance Fund (ASHMIF) of \$76.5 million which far exceeds the \$2.1 million in reserves that HUD considers necessary to insure itself against default. We recommend, therefore, that you terminate the required payment of these premiums which will amount to \$900,000 in fiscal year 1979.

Public Law 81-211, dated August 8, 1949, amended the National Housing Act by adding the Military Housing Insurance Program, known as Wherry housing. The program was to increase the supply of rental housing available to military and DOD civilian personnel assigned to military installations where the permanence of the installation could not be definitely stated.

As part of the program the Commissioner, Federal Housing Administration (FHA), was authorized to insure mortgages on rental housing projects built and operated

CED-79-14
(990591)

by private sponsors for the use of military or DOD civilian personnel. The Commissioner could charge an insurance premium of not less than one-half of 1 percent and not more than 1 and one-half percent per year on mortgages insured. This program produced about 84,000 housing units.

The Housing Amendments of 1955, established by Public Law 84-345, dated August 11, 1955, replaced the Wherry program with the Armed Service Housing Mortgage Insurance Fund generally known as the Capehart housing program. The Wherry program was also included in the new insurance fund. Under the Capehart program private contractors built the housing, private lenders financed it, and FHA insured the mortgage. Unlike Wherry housing, which was privately owned and operated, the Departments of the Army, Navy, and Air Force took title to the Capehart housing upon completion, assumed the mortgage, and paid FHA an insurance premium of one-fourth of 1 percent each year. This program produced almost 115,000 housing units.

In order to preserve and fully use existing Wherry housing, section 404 of Public Law 84-348 authorized the Secretary of Defense to acquire Wherry housing projects wherever Capehart housing was being built or where the Wherry units were needed as DOD-owned housing. The law permitted the FHA Commissioner to charge an insurance premium of less than one-half of 1 percent on DOD acquired Wherry projects. DOD acquired 78,571 Wherry units.

DOD has requested on several occasions that the Secretary of HUD no longer require mortgage insurance premiums on the Capehart and acquired Wherry units for two reasons. First, DOD has guaranteed the mortgage payments on the Wherry and Capehart housing projects. According to DOD, these guarantees remove any risk of loss to ASHMIF on properties held by the military departments. Also, the Congress has provided annual appropriations to repay the mortgages. Second, HUD has accumulated sufficient reserves to offset estimated losses to ASHMIF. As of September 30, 1976, insurance reserves in the fund attributable to Wherry/Capehart housing were \$76.5 million. HUD's estimated reserve requirements for the fund as of June 30, 1976, were \$2.1 million, leaving excess reserves of \$74.4 million. The Congress appropriates funds annually for payments of these insurance premiums, which will amount to \$900,000 in fiscal year 1979.

HUD has cited two reasons why DOD should continue paying the Capehart/Wherry mortgage insurance premiums. First, HUD has maintained that while ASHMIF has excess reserves, the Servicemen's Mortgage Insurance Fund, an inservice loan program which requires DOD to pay mortgage insurance premiums, has a reserve requirement deficit of about \$29.9 million. Consequently, the premiums from ASHMIF are needed to help offset this deficit. Second, if HUD no longer required that DOD pay the Capehart/Wherry insurance premiums, HUD would need to increase the premium rate for the Servicemen's Mortgage Insurance Fund to help offset the deficit.

We disagree with HUD's reasons. HUD has excess reserves of \$74.4 million accumulated from the Capehart/Wherry programs which are more than sufficient to (1) offset the \$29.9 million reserve requirement deficit in the Servicemen's Mortgage Insurance Fund and (2) negate any increase in the Servicemen's insurance premiums if HUD did not require further premiums from the Capehart/Wherry program.

RECOMMENDATION

Because the large reserves in the Armed Services Housing Mortgage Insurance Fund can cover any losses from both the Capehart/Wherry program and the Servicemen's inservice program and, most importantly, because DOD has guaranteed the Fund against risk of loss, further mortgage insurance premiums on DOD-acquired Wherry and DOD-owned Capehart housing are no longer necessary. We recommend, therefore, that you terminate the requirement that such premium payments be made.

As you know, Section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions taken on our recommendations to the House Committee on Government Operations and the Senate Committee on Governmental Affairs not later than 60 days after the date of the report and the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

Copies of this report are being sent to the House Committees on Armed Services; Appropriations; Government Operations; and Banking, Finance and Urban Affairs; Senate Committees on Armed Services; Governmental Affairs; Banking, Housing, and

B-133102

Urban Affairs; and Appropriations, Subcommittees on Defense and HUD-Independent Agencies; Acting Director, Office of Management and Budget; and the Secretaries of Defense; the Army; the Navy; and the Air Force.

We would appreciate being advised of any actions taken on the matters discussed in this letter.

Sincerely yours,

A handwritten signature in cursive script that reads "Henry Eschwege".

Henry Eschwege
Director

MAR 13 1978

Honorable Abraham A. Ribicoff
Chairman, Committee on
Governmental Affairs
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

This is in response to GAO Report No. CED-78-14 (990591) dated December 12, 1977, concerning the Department of Housing and Urban Development's (HUD) practice of requiring the Department of Defense (DOD) to pay mortgage insurance premiums on Wherry and Capehart family housing properties insured by HUD.

I have reviewed the report and its sole recommendation that HUD terminate the requirement that DOD make mortgage insurance premium payments on DOD-acquired Wherry and DOD-owned Capehart housing.

I concur in the general thrust of the recommendation, but I am of the opinion that I lack the statutory authority under Section 803(c) of the National Housing Act to waive the collection of a premium. Section 803(c) does provide that the Secretary may reduce the payment of premiums and this has been done. Because of the reduced risk provided by the DOD guarantees, the premium has been fixed at 1/6th of one percent. While I am willing to consider a further reduction in this premium, the Department cannot forego the premium entirely.

An identical letter is being sent to Congressman Jack Brooks, Chairman, Committee on Government Operations.

Sincerely yours,

/s/ Patricia Roberts Harris
Patricia Roberts Harris

CC:Chronos 6116, 6128, Montgomery 6116, HI 6106, US 10000, ES 10135,
Wolf 10139, HMA 9108, S 10000, Medina 10110, Prokop 10214, Schartz
10120, Dempsey 3256

APPLICABLE STATUTORY PROVISIONS
AND COMMITTEE REPORT REFERENCES

The pertinent statutory provision, 12 U.S.C. 1748b(c) (1976) states:

"The Secretary (of HUD) is authorized to fix a premium charge for the insurance of mortgages under this subchapter but in the case of any mortgage such charge shall not be less than an amount equivalent to one-half of 1 per centum per annum nor more than an amount equivalent to 1 and one-half per centum per annum of the amount of the principal obligation of the mortgage outstanding at any time, without taking into account delinquent payments or prepayments. Such premium charges shall be payable by the mortgagee ***. The Secretary may reduce the payment of premiums provided for herein. The Secretary is further authorized to reduce the amount of the premium charge below one-half of 1 percentum per annum with respect to any mortgage on property acquired by the Secretary of Defense or his designee if the mortgage is insured pursuant to the provisions of this subchapter as in effect prior to August 11, 1955."
(Emphasis added.)

The next to last sentence quoted above was part of the original amendment to the National Housing Act that established the Capehart's housing program. (See Public Law 84-345, section 401, 69 Stat. 648.) The available committee reports do not mention, let alone explain, why this sentence was included in the legislation. (See 1955 U.S. Code Cong. and AD. News 2902 et seq.) The last sentence, also dealing with premium reduction, was added in 1959 by Public Law 86-372, section 701(d), 73 Stat. 682, so that mortgage insurance premiums on DOD acquired Wherry housing could be reduced in the same manner as premiums on Capehart housing. (See Senate Report No. 41, 86th Congress 1st Session page 45-46 (1959); and House of Representatives Report No. 86, page 36. 1/

1/ Both reports pertain to Senate Bill 57, 86th Congress 1st Session (1959), predecessor legislation to Public Law 86-372, section 701. Senate Bill 57 was successfully vetoed but its language and that of section 701 are identical.

These reports speak of reducing, not eliminating, insurance premiums even though the risk of mortgage default is recognized as minimal because of DOD involvement.

"The present premium of one-half of 1 percent, the minimum now authorized by law, appears unnecessarily high, since the risk of loss is virtually eliminated when the Secretary of Defense acquired the projects and assumes the mortgage or takes the property subject to the mortgage." House of Representatives Report No. 86, above.

"Present law provides that the Commissioner may ask for the same guarantee by the Secretary of Defense on Wherry housing which is acquired by the Secretary. Under such circumstances, the FHA liability is reduced and the bill would permit the Commissioner to reduce the insurance premium on Wherry housing projects which have been acquired by the Secretary." Senate Report No. 41, above.

SUGGESTED REVISION TO SECTION 803(c)OF THE NATIONAL HOUSING ACT

Amend the last two sentences of section 803(c) of the National Housing Act (12 U.S.C. 1748b(c)) to read:

"The Secretary may reduce or eliminate the payment of premiums provided for herein. The Secretary is further authorized to reduce the amount of the premium charge below one-half of 1 percentum per annum or eliminate such premium charge with respect to any mortgage on property acquired by the Secretary of Defense or his designee if the mortgage is insured pursuant to the provisions of this subchapter as in effect prior to August 11 1955."