

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1422b, 1426 of this title.

§ 4501. Congressional findings

The Congress finds that—

(1) the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (referred to in this section collectively as the “enterprises”), and the Federal Home Loan Banks (referred to in this section as the “Banks”), have important public missions that are reflected in the statutes and charter Acts establishing the Banks and the enterprises;

(2) because the continued ability of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation to accomplish their public missions is important to providing housing in the United States and the health of the Nation’s economy, more effective Federal regulation is needed to reduce the risk of failure of the enterprises;

(3) considering the current operating procedures of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Home Loan Banks, the enterprises and the Banks currently pose low financial risk of insolvency;

(4) neither the enterprises nor the Banks, nor any securities or obligations issued by the enterprises or the Banks, are backed by the full faith and credit of the United States;

(5) an entity regulating the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation should have sufficient autonomy from the enterprises and special interest groups;

(6) an entity regulating such enterprises should have the authority to establish capital standards, require financial disclosure, prescribe adequate standards for books and records and other internal controls, conduct examinations when necessary, and enforce compliance with the standards and rules that it establishes;

(7) the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation have an affirmative obligation to facilitate the financing of affordable housing for low- and moderate-income families in a manner consistent with their overall public purposes, while maintaining a strong financial condition and a reasonable economic return; and

(8) the Federal Home Loan Bank Act [12 U.S.C. 1421 et seq.] should be amended to emphasize that providing for financial safety and soundness of the Federal Home Loan Banks is the primary mission of the Federal Housing Finance Board.

(Pub. L. 102–550, title XIII, § 1302, Oct. 28, 1992, 106 Stat. 3941.)

REFERENCES IN TEXT

The Federal Home Loan Bank Act, referred to in par. (8), is act July 22, 1932, ch. 522, 47 Stat. 725, as amended, which is classified generally to chapter 11 (§ 1421 et seq.) of this title. For complete classification of this Act to the Code, see section 1421 of this title and Tables.

SHORT TITLE

Section 1301 of title XIII of Pub. L. 102–550 provided that: “This title [enacting this chapter, amending sections 1422a, 1430, 1430b, 1451 to 1456, 1716 to 1719, 1723, 1723a, and 1723c of this title, sections 3132 and 5313 of Title 5, Government Organization and Employees, section 1905 of Title 18, Crimes and Criminal Procedure, and section 3534 of Title 42, The Public Health and Welfare, enacting provisions set out as notes under sections 1451, 1452, 1723, and 4562 of this title, and amending provisions set out as a note under section 1451 of this title] may be cited as the ‘Federal Housing Enterprises Financial Safety and Soundness Act of 1992.’”

§ 4502. Definitions

For purposes of this chapter:

(1) Affiliate

Except as provided by the Director, the term “affiliate” means any entity that controls, is controlled by, or is under common control with, an enterprise.

(2) Capital distribution**(A) In general**

The term “capital distribution” means—

(i) any dividend or other distribution in cash or in kind made with respect to any shares of, or other ownership interest in, an enterprise, except a dividend consisting only of shares of the enterprise;

(ii) any payment made by an enterprise to repurchase, redeem, retire, or otherwise acquire any of its shares, including any extension of credit made to finance an acquisition by the enterprise of such shares; and

(iii) any transaction that the Director determines by regulation to be, in substance, the distribution of capital.

(B) Exception

Any payment made by an enterprise to repurchase its shares for the purpose of fulfilling an obligation of the enterprise under an employee stock ownership plan that is qualified under section 401 of title 26 or any substantially equivalent plan, as determined by the Director, shall not be considered a capital distribution.

(3) Compensation

The term “compensation” means any payment of money or the provision of any other thing of current or potential value in connection with employment.

(4) Core capital

The term “core capital” means, with respect to an enterprise, the sum of the following (as determined in accordance with generally accepted accounting principles):

(A) The par or stated value of outstanding common stock.

(B) The par or stated value of outstanding perpetual, noncumulative preferred stock.

(C) Paid-in capital.

(D) Retained earnings.

The core capital of an enterprise shall not include any amounts that the enterprise could be required to pay, at the option of investors, to retire capital instruments.

(5) Director

The term “Director” means the Director of the Office of Federal Housing Enterprise Over-

sight of the Department of Housing and Urban Development.

(6) Enterprise

The term “enterprise” means—

(A) the Federal National Mortgage Association and any affiliate thereof; and

(B) the Federal Home Loan Mortgage Corporation and any affiliate thereof.

(7) Executive officer

The term “executive officer” means, with respect to an enterprise, the chairman of the board of directors, chief executive officer, chief financial officer, president, vice chairman, any executive vice president, and any senior vice president in charge of a principal business unit, division, or function.

(8) Low-income

The term “low-income” means—

(A) in the case of owner-occupied units, income not in excess of 80 percent of area median income; and

(B) in the case of rental units, income not in excess of 80 percent of area median income, with adjustments for smaller and larger families, as determined by the Secretary.

(9) Median income

The term “median income” means, with respect to an area, the unadjusted median family income for the area, as determined and published annually by the Secretary.

(10) Moderate-income

The term “moderate-income” means—

(A) in the case of owner-occupied units, income not in excess of area median income; and

(B) in the case of rental units, income not in excess of area median income, with adjustments for smaller and larger families, as determined by the Secretary.

(11) Mortgage purchases

The term “mortgage purchases” includes mortgages purchased for portfolio or securitization.

(12) Multifamily housing

The term “multifamily housing” means a residence consisting of more than 4 dwelling units.

(13) New program

The term “new program” means any program for the purchasing, servicing, selling, lending on the security of, or otherwise dealing in, conventional mortgages that—

(A) is significantly different from programs that have been approved under this Act or that were approved or engaged in by an enterprise before October 28, 1992; or

(B) represents an expansion, in terms of the dollar volume or number of mortgages or securities involved, of programs above limits expressly contained in any prior approval.

(14) Office

The term “Office” means the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development.

(15) Secretary

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

(16) Single family housing

The term “single family housing” means a residence consisting of 1 to 4 dwelling units.

(17) State

The term “State” means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(18) Total capital

The term “total capital” means, with respect to an enterprise, the sum of the following:

(A) The core capital of the enterprise;¹

(B) A general allowance for foreclosure losses, which—

(i) shall include an allowance for portfolio mortgage losses, an allowance for nonreimbursable foreclosure costs on government claims, and an allowance for liabilities reflected on the balance sheet for the enterprise for estimated foreclosure losses on mortgage-backed securities; and

(ii) shall not include any reserves of the enterprise made or held against specific assets.

(C) Any other amounts from sources of funds available to absorb losses incurred by the enterprise, that the Director by regulation determines are appropriate to include in determining total capital.

(19) Very low-income

The term “very low-income” means—

(A) in the case of owner-occupied units, income not in excess of 60 percent of area median income; and

(B) in the case of rental units, income not in excess of 60 percent of area median income, with adjustments for smaller and larger families, as determined by the Secretary.

(Pub. L. 102-550, title XIII, § 1303, Oct. 28, 1992, 106 Stat. 3942.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, meaning title XIII of Pub. L. 102-550, Oct. 28, 1992, 106 Stat. 3941, which is classified principally to this chapter. For complete classification of title XIII to the Code, see Short Title note set out under section 4501 of this title and Tables.

This Act, referred to in par. (13)(A), is Pub. L. 102-550, Oct. 28, 1992, 106 Stat. 3672, known as the Housing and Community Development Act of 1992. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 5301 of Title 42, The Public Health and Welfare, and Tables.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

¹ So in original. The semicolon probably should be a period.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1452, 1454, 1717, 1718, 1723a of this title.

§ 4503. Protection of taxpayers against liability

This chapter may not be construed as obligating the Federal Government, either directly or indirectly, to provide any funds to the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or the Federal Home Loan Banks, or to honor, reimburse, or otherwise guarantee any obligation or liability of the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or the Federal Home Loan Banks. This chapter may not be construed as implying that any such enterprise or Bank, or any obligations or securities of such an enterprise or Bank, are backed by the full faith and credit of the United States.

(Pub. L. 102-550, title XIII, § 1304, Oct. 28, 1992, 106 Stat. 3944.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “This title and the amendments made by this title”, meaning title XIII of Pub. L. 102-550, Oct. 28, 1992, 106 Stat. 3941, which is classified principally to this chapter. For complete classification of title XIII to the Code, see Short Title note set out under section 4501 of this title and Tables.

SUBCHAPTER I—SUPERVISION AND
REGULATION OF ENTERPRISES

PART A—FINANCIAL SAFETY AND SOUNDNESS
REGULATOR

§ 4511. Establishment of Office of Federal Housing Enterprise Oversight

There is hereby established an office within the Department of Housing and Urban Development, which shall be known as the Office of Federal Housing Enterprise Oversight.

(Pub. L. 102-550, title XIII, § 1311, Oct. 28, 1992, 106 Stat. 3944.)

§ 4512. Director

(a) Appointment

The Office shall be under the management of a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States, have a demonstrated understanding of financial management or oversight, and have a demonstrated understanding of mortgage security markets and housing finance. An individual may not be appointed as Director if the individual has served as an executive officer or director of an enterprise at any time during the 3-year period ending upon the nomination of such individual for appointment as Director.

(b) Term

The Director shall be appointed for a term of 5 years.

(c) Vacancy

A vacancy in the position of Director shall be filled in the manner in which the original ap-

pointment was made under subsection (a) of this section.

(d) Service after end of term

A Director may serve after the expiration of the term for which the Director was appointed until a successor Director has been appointed.

(e) Deputy Director

(1) In general

The Office shall have a Deputy Director who shall be appointed by the Director from among individuals who are citizens of the United States, have a demonstrated understanding of financial management or oversight, and have a demonstrated understanding of mortgage security markets and housing finance. An individual may not be appointed as Deputy Director if the individual has served as an executive officer or director of an enterprise at any time during the 3-year period ending upon the appointment of such individual as Deputy Director.

(2) Functions

The Deputy Director shall have such functions, powers, and duties as the Director shall prescribe. In the event of the death, resignation, sickness, or absence of the Director, the Deputy Director shall serve as acting Director until the return of the Director or the appointment of a successor pursuant to subsection (c) of this section.

(Pub. L. 102-550, title XIII, § 1312, Oct. 28, 1992, 106 Stat. 3945.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4515, 4526, 4603 of this title.

§ 4513. Duty and authority of Director

(a) Duty

The duty of the Director shall be to ensure that the enterprises are adequately capitalized and operating safely, in accordance with this chapter.

(b) Authority exclusive of Secretary

The Director is authorized, without the review or approval of the Secretary, to make such determinations, take such actions, and perform such functions as the Director determines necessary regarding—

(1) the issuance of regulations to carry out this part, subchapter II of this chapter, and subchapter III of this chapter (including the establishment of capital standards pursuant to subchapter II of this chapter);

(2) examinations of the enterprises under section 4517 of this title;

(3) determining the capital levels of the enterprises and classification of the enterprises within capital classifications established under subchapter II of this chapter;

(4) decisions to appoint conservators for the enterprises;

(5) administrative and enforcement actions under subchapter II of this chapter, actions taken under subchapter III of this chapter with respect to enforcement of subchapter II of this chapter, and other matters relating to safety and soundness;