

ing goals under sections 4562, 4563, and 4564 of this title for any fiscal year, as determined by the Secretary.”

Subsecs. (c), (d). Pub. L. 110-289, §1129(a)(5), added subsecs. (c) and (d).

1997—Subsec. (a). Pub. L. 105-65, §517(c)(3), designated existing provisions as subsec. (a) and inserted heading.

Subsec. (a)(5). Pub. L. 105-65, §517(c)(1), (2), (4), added par. (5).

Subsec. (b). Pub. L. 105-65, §517(c)(4), added subsec. (b).

## **§ 4566. Monitoring and enforcing compliance with housing goals**

### **(a) In general**

#### **(1) Authority**

The Director shall monitor and enforce compliance with the housing goals established under this subpart and with the duty under section 4565(a) of this title of each enterprise with respect to underserved markets, as provided in this section.

#### **(2) Guidelines**

The Director shall establish guidelines to measure the extent of compliance with the housing goals, which, except as provided in paragraph (5), may assign full credit, partial credit, or no credit toward achievement of the housing goals to different categories of mortgage purchase activities of the enterprises, based on such criteria as the Director deems appropriate.

#### **(3) Extent of compliance**

In determining compliance with the housing goals established under this subpart, the Director—

(A) shall consider any single mortgage purchased by an enterprise as contributing to the achievement of each housing goal for which such mortgage purchase qualifies; and

(B) may take into consideration the number of housing units financed by any mortgage on housing purchased by an enterprise.

#### **(4) Enforcement of duty to provide mortgage credit to underserved markets**

The duty under section 4565(a) of this title of each enterprise to serve underserved markets (as determined in accordance with section 4565(c) of this title) shall be enforceable under this section to the same extent and under the same provisions that the housing goals established under this subpart are enforceable. Such duty shall be enforceable only under this section, except that such duty shall not be subject to subsection (c)(7) of this section and shall not be enforceable under any other provision of this chapter (including subpart 3 of this part) or under any provision of the Federal National Mortgage Association Charter Act [12 U.S.C. 1716 et seq.] or the Federal Home Loan Mortgage Corporation Act [12 U.S.C. 1451 et seq.].

#### **(5) Additional credit**

The Director may assign additional credit toward achievement, under this section, of the housing goals for mortgage purchase activities of the enterprises that comply with the requirements of such goals and support housing that includes a licensed childcare center. The

availability of additional credit under this paragraph shall not be used to increase any housing goal, subgoal, or target established under this subpart.

### **(b) Notice and preliminary determination of failure to meet goals**

#### **(1) Notice**

If the Director preliminarily determines that an enterprise has failed, or that there is a substantial probability that an enterprise will fail, to meet any housing goal under this subpart, the Director shall provide written notice to the enterprise of such a preliminary determination, the reasons for such determination, and the information on which the Director based the determination.

#### **(2) Response period**

##### **(A) In general**

During the 30-day period beginning on the date on which an enterprise is provided notice under paragraph (1), the enterprise may submit to the Director any written information that the enterprise considers appropriate for consideration by the Director in finally determining whether such failure has occurred or whether the achievement of such goal was or is feasible.

##### **(B) Extended period**

The Director may extend the period under subparagraph (A) for good cause for not more than 30 additional days.

##### **(C) Shortened period**

The Director may shorten the period under subparagraph (A) for good cause.

##### **(D) Failure to respond**

The failure of an enterprise to provide information during the 30-day period under this paragraph (as extended or shortened) shall waive any right of the enterprise to comment on the proposed determination or action of the Director.

### **(3) Consideration of information and final determination**

#### **(A) In general**

After the expiration of the response period under paragraph (2), or upon receipt of information provided during such period by the enterprise, whichever occurs earlier, the Director shall issue a final determination on—

(i) whether the enterprise has failed, or there is a substantial probability that the enterprise will fail, to meet the housing goal; and

(ii) whether (taking into consideration market and economic conditions and the financial condition of the enterprise) the achievement of the housing goal was or is feasible.

#### **(B) Considerations**

In making a final determination under subparagraph (A), the Director shall take into consideration any relevant information submitted by the enterprise during the response period.

#### **(C) Notice**

The Director shall provide written notice, including a response to any information sub-

mitted during the response period, to the enterprise, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives, of—

(i) each final determination under this paragraph that an enterprise has failed, or that there is a substantial probability that the enterprise will fail, to meet a housing goal;

(ii) each final determination that the achievement of a housing goal was or is feasible; and

(iii) the reasons for each such final determination.

**(c) Cease and desist, civil money penalties, and remedies including housing plans**

**(1) Requirement**

If the Director finds, pursuant to subsection (b), that there is a substantial probability that an enterprise will fail, or has actually failed, to meet any housing goal under this subpart, and that the achievement of the housing goal was or is feasible, the Director may require that the enterprise submit a housing plan under this subsection. If the Director makes such a finding and the enterprise refuses to submit such a plan, submits an unacceptable plan, or fails to comply with the plan, the Director may issue a cease and desist order in accordance with section 4581 of this title and impose civil money penalties in accordance with section 4585 of this title.

**(2) Housing plan**

If the Director requires a housing plan under this subsection, such a plan shall be—

(A) a feasible plan describing the specific actions the enterprise will take—

(i) to achieve the goal for the next calendar year; and

(ii) if the Director determines that there is a substantial probability that the enterprise will fail to meet a goal in the current year, to make such improvements and changes in its operations as are reasonable in the remainder of such year; and

(B) sufficiently specific to enable the Director to monitor compliance periodically.

**(3) Deadline for submission**

The Director shall establish a deadline for an enterprise to submit a housing plan to the Director, which may not be more than 45 days after the enterprise is provided notice. The Director may extend the deadline to the extent that the Director determines necessary. Any extension of the deadline shall be in writing and for a time certain.

**(4) Approval**

The Director shall review each submission by an enterprise, including a housing plan submitted under this subsection, and, not later than 30 days after submission, approve or disapprove the plan or other action. The Director may extend the period for approval or disapproval for a single additional 30-day period if the Director determines it necessary. The Director shall approve any plan that the Director determines is likely to succeed, and

conforms with the Federal National Mortgage Association Charter Act [12 U.S.C. 1716 et seq.] or the Federal Home Loan Mortgage Corporation Act [12 U.S.C. 1451 et seq.] (as applicable), this chapter, and any other applicable provision of law.

**(5) Notice of approval and disapproval**

The Director shall provide written notice to any enterprise submitting a housing plan of the approval or disapproval of the plan (which shall include the reasons for any disapproval of the plan) and of any extension of the period for approval or disapproval.

**(6) Resubmission**

If the initial housing plan submitted by an enterprise under this section is disapproved, the enterprise shall submit an amended plan acceptable to the Director not later than 15 days after such disapproval, or such longer period that the Director determines is in the public interest.

**(7) Cease and desist orders; civil money penalties**

Solely with respect to the housing goals established under sections 4562(a) and 4563(a)(1) of this title, if the Director requires an enterprise to submit a housing plan under this subsection and the enterprise refuses to submit such a plan, submits an unacceptable plan, or fails to comply with the plan, the Director may issue a cease and desist order in accordance with section 4581 of this title, impose civil money penalties in accordance with section 4585 of this title, exercise other appropriate enforcement authority or seek other appropriate actions.

(Pub. L. 102-550, title XIII, §1336, Oct. 28, 1992, 106 Stat. 3962; Pub. L. 110-289, div. A, title I, §§1122(a)(1), 1128(c)(2), 1129(b), (c), 1130(a), July 30, 2008, 122 Stat. 2689, 2702, 2705, 2706.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(4) and (c)(4), 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.

The Federal National Mortgage Association Charter Act, referred to in subsecs. (a)(4) and (c)(4), is title III of act June 27, 1934, ch. 847, 48 Stat. 1252, which is classified generally to subchapter III (§1716 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1716 of this title and Tables.

The Federal Home Loan Mortgage Corporation Act, referred to in subsecs. (a)(4) and (c)(4), is title III of Pub. L. 91-351, July 24, 1970, 84 Stat. 451, which is classified generally to chapter 11A (§1451 et seq.) of this title. For complete classification of this Act to the Code, see Short Title and Statement of Purpose note set out under section 1451 of this title and Tables.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-289, §1122(a)(1), substituted “Director” for “Secretary” wherever appearing in pars. (1) to (3).

Subsec. (a)(1). Pub. L. 110-289, §1129(b)(1), inserted “and with the duty under section 4565(a) of this title of each enterprise with respect to underserved markets,” before “as provided in this section”.

Pub. L. 110-289, §1128(c)(2), substituted “this subpart” for “sections 4562, 4563, and 4564 of this title,”.

Subsec. (a)(2). Pub. L. 110-289, §1129(c)(1), inserted “, except as provided in paragraph (5),” before “may assign”.

Subsec. (a)(4). Pub. L. 110-289, §1129(b)(2), added par. (4).

Subsec. (a)(5). Pub. L. 110-289, §1129(c)(2), added par. (5).

Subsecs. (b), (c). Pub. L. 110-289, §1130(a), added subsecs. (b) and (c) and struck out former subsecs. (b) and (c) which related to notice and determination of failure to meet housing goals and submission of housing plans, respectively.

#### § 4567. Affordable housing allocations

##### (a) Set aside and allocation of amounts by enterprises

Subject to subsection (b), in each fiscal year—

(1) the Federal Home Loan Mortgage Corporation shall—

(A) set aside an amount equal to 4.2 basis points for each dollar of the unpaid principal balance of its total new business purchases; and

(B) allocate or otherwise transfer—

(i) 65 percent of such amounts to the Secretary of Housing and Urban Development to fund the Housing Trust Fund established under section 4568 of this title; and

(ii) 35 percent of such amounts to fund the Capital Magnet Fund established pursuant to section 4569 of this title; and

(2) the Federal National Mortgage Association shall—

(A) set aside an amount equal to 4.2 basis points for each dollar of unpaid principal balance of its total new business purchases; and

(B) allocate or otherwise transfer—

(i) 65 percent of such amounts to the Secretary of Housing and Urban Development to fund the Housing Trust Fund established under section 4568 of this title; and

(ii) 35 percent of such amounts to fund the Capital Magnet Fund established pursuant to section 4569 of this title.

##### (b) Suspension of contributions

The Director shall temporarily suspend allocations under subsection (a) by an enterprise upon a finding by the Director that such allocations—

(1) are contributing, or would contribute, to the financial instability of the enterprise;

(2) are causing, or would cause, the enterprise to be classified as undercapitalized; or

(3) are preventing, or would prevent, the enterprise from successfully completing a capital restoration plan under section 4622 of this title.

##### (c) Prohibition of pass-through of cost of allocations

The Director shall, by regulation, prohibit each enterprise from redirecting the costs of any allocation required under this section, through increased charges or fees, or decreased premiums, or in any other manner, to the originators of mortgages purchased or securitized by the enterprise.

##### (d) Enforcement of requirements on enterprise

Compliance by the enterprises with the requirements under this section shall be enforce-

able under subpart 3. Any reference in such subpart to this part or to an order, rule, or regulation under this part specifically includes this section and any order, rule, or regulation under this section.

##### (e) Required amount for HOPE reserve fund

Of the aggregate amount allocated under subsection (a), 25 percent shall be deposited into a fund established in the Treasury of the United States by the Secretary of the Treasury for such purpose.

##### (f) Limitation

No funds under this chapter may be used in conjunction with property taken by eminent domain, unless eminent domain is employed only for a public use, except that, for purposes of this section, public use shall not be construed to include economic development that primarily benefits any private entity.

(Pub. L. 102-550, title XIII, §1337, as added Pub. L. 110-289, div. A, title I, §1131(b), July 30, 2008, 122 Stat. 2711.)

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (f), 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.

#### PRIOR PROVISIONS

A prior section 4567, Pub. L. 102-550, title XIII, §1337, Oct. 28, 1992, 106 Stat. 3964, related to reports during transition, prior to repeal by Pub. L. 110-289, div. A, title I, §1131(a), July 30, 2008, 122 Stat. 2711.

#### § 4568. Housing Trust Fund

##### (a) Establishment and purpose

###### (1) In general

The Secretary of Housing and Urban Development (in this section referred to as the “Secretary”) shall establish and manage a Housing Trust Fund, which shall be funded with amounts allocated by the enterprises under section 4567 of this title and any amounts as are or may be appropriated, transferred, or credited to such Housing Trust Fund under any other provisions of law. The purpose of the Housing Trust Fund under this section is to provide grants to States (as such term is defined in section 4502 of this title) for use—

(A) to increase and preserve the supply of rental housing for extremely low- and very low-income families, including homeless families; and

(B) to increase homeownership for extremely low- and very low-income families.

###### (2) Federal assistance

For purposes of the application of Federal civil rights laws, all assistance provided from the Housing Trust Fund shall be considered Federal financial assistance.

##### (b) Allocations for HOPE bond payments

###### (1) In general

Notwithstanding subsection (c), to help address the mortgage crisis, of the amounts allocated pursuant to clauses (i) and (ii) of section