

(July 22, 1932, ch. 522, §15, 47 Stat. 736; Pub. L. 101-73, title VII, §701(b)(1), (3)(A), Aug. 9, 1989, 103 Stat. 412; Pub. L. 110-289, div. A, title II, §1204(7), July 30, 2008, 122 Stat. 2786.)

AMENDMENTS

2008—Pub. L. 110-289 inserted “or the Director” after “the Board”.

1989—Pub. L. 101-73 substituted “Board” for “board”.

§ 1436. Reserves and dividends; emergency suspensions of requirements

(a) Accumulation and maintenance of reserves; payment of dividends

Each Federal Home Loan Bank may carry to a reserve account from time-to-time such portion of its net earnings as may be determined by its board of directors. Each Federal Home Loan Bank shall establish such additional reserves and/or make such charge-offs on account of depreciation or impairment of its assets as the Director shall require from time to time. No dividends shall be paid except out of previously retained earnings or current net earnings remaining after reductions for all reserves, chargeoffs, purchases of capital certificates of the Financing Corporation, and payments relating to the Funding Corporation required under this chapter have been provided for, other than chargeoffs or expenses incurred by a Bank in connection with the purchase of capital stock of the Financing Corporation under section 1441 of this title or payments relating to the Funding Corporation Principal Fund under section 1441b(e) of this title. The reserves of each Federal Home Loan Bank shall be invested, subject to such regulations, restrictions, and limitations as may be prescribed by the Director, in direct obligations of the United States, in obligations, participations, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association, in mortgages, obligations, or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 1454 or section 1455 of this title, and in such securities as fiduciary and trust funds may be invested in under the laws of the State in which the Federal Home Loan Bank is located.

(b) Assistance to member institutions in event of severe financial conditions

Notwithstanding subsection (a) or any other provision of this chapter, if the Director determines that severe financial conditions exist threatening the stability of member institutions, the Director may suspend temporarily the requirements of subsection (a) that a portion of net earnings be set aside semiannually by each Federal Home Loan Bank to a reserve account and permit each Federal Home Loan Bank to declare and pay dividends out of undivided profits.

(c) Exception in case of losses in connection with Financing Corporation stock

(1) In general

Notwithstanding subsection (a) of this section, if—

(A) a Federal Home Loan Bank incurs a chargeoff or an expense in connection with such bank’s investment in the stock of the

Financing Corporation under section 1441 of this title;

(B) the Director determines there is an extraordinary need for the member institutions of the bank to receive dividends; and

(C) the bank has reduced all reserves (other than the reserve account required by the first 2 sentences of subsection (a)) to zero,

the Director may authorize such bank to declare and pay dividends out of undivided profits (as such term is defined in section 1441(d)(7) of this title) or the reserve account required by the first 2 sentences of subsection (a).

(2) Requirements of section 1441 of this title not affected

Notwithstanding any payment of dividends by any Federal Home Loan Bank pursuant to an authorization by the Director under paragraph (1), the applicable provisions of section 1441 of this title shall continue to apply with respect to such bank, and to such bank’s investment in the Financing Corporation, in the same manner and to the same extent as if such payment had not been made.

(July 22, 1932, ch. 522, §16, 47 Stat. 736; Aug. 2, 1954, ch. 649, title II, §204(a), 68 Stat. 622; Pub. L. 88-560, title VII, §701(d)(2), Sept. 2, 1964, 78 Stat. 800; Pub. L. 90-448, title VIII, §807(l), Aug. 1, 1968, 82 Stat. 545; Pub. L. 93-383, title VIII, §805(c)(3), Aug. 22, 1974, 88 Stat. 727; Pub. L. 97-320, title I, §124, Oct. 15, 1982, 96 Stat. 1485; Pub. L. 100-86, title III, §306(a), Aug. 10, 1987, 101 Stat. 600; Pub. L. 101-73, title VII, §§701(b)(1), (3)(A), 724(a), Aug. 9, 1989, 103 Stat. 412, 428; Pub. L. 106-102, title VI, §606(g), Nov. 12, 1999, 113 Stat. 1455; Pub. L. 110-289, div. A, title II, §1204(8), July 30, 2008, 122 Stat. 2786.)

AMENDMENTS

2008—Pub. L. 110-289 substituted “the Director” for “the Board” wherever appearing.

1999—Subsec. (a). Pub. L. 106-102, in third sentence substituted “previously retained earnings or current net earnings” for “net earnings” and struck out “, and then only with the approval of the Federal Housing Finance Board” after “section 1441b(e) of this title” and struck out fourth sentence which read as follows: “Beginning on January 1, 1992, the preceding sentence shall be applied by substituting ‘previously retained earnings or current net earnings’ for ‘net earnings’.”

1989—Subsec. (a). Pub. L. 101-73, §724(a)(1), substituted “Each Federal Home Loan Bank may carry to a reserve account from time-to-time such portion of its net earnings as may be determined by its board of directors.” for “Each Federal Home Loan Bank shall carry to a reserve account semiannually 20 per centum of its net earnings until said reserve account shall show a credit balance equal to 100 per centum of the paid-in capital of such bank. After said reserve has reached 100 per centum of the paid-in capital of said bank, 5 per centum of its net earnings shall be added thereto semiannually. Whenever said reserve shall have been impaired below 100 per centum of the paid-in capital it shall be restored before any dividends are paid.”

Pub. L. 101-73, §724(a)(2), substituted “No dividends shall be paid except out of net earnings remaining after reductions for all reserves, chargeoffs, purchases of capital certificates of the Financing Corporation, and payments relating to the Funding Corporation required under this chapter have been provided for, other than chargeoffs or expenses incurred by a Bank in connection with the purchase of capital stock of the Financ-

ing Corporation under section 1441 of this title or payments relating to the Funding Corporation Principal Fund under section 1441b(e) of this title, and then only with the approval of the Federal Housing Finance Board. Beginning on January 1, 1992, the preceding sentence shall be applied by substituting 'previously retained earnings or current net earnings' for 'net earnings' for "No dividends shall be paid except out of net earnings remaining after all reserves and charge-offs required under this chapter have been provided for, and then only with the approval of the board."

Pub. L. 101-73, §701(b)(1), (3)(A), substituted "Board" for "board" wherever appearing.

1987—Subsec. (c). Pub. L. 100-86 added subsec. (c).

1982—Pub. L. 97-320 designated existing provisions as subsec. (a) and added subsec. (b).

1974—Pub. L. 93-383 inserted reference to mortgages, obligations, or other securities sold by the Federal Home Loan Mortgage Corporation pursuant to section 1454 or section 1455 of this title.

1968—Pub. L. 90-448 authorized investments in obligations, participations, or other instruments issued by the Government National Mortgage Association.

1964—Pub. L. 88-560 substituted "in obligations, participations, or other instruments of or issued by the Federal National Mortgage Association" for "in obligations of the Federal National Mortgage Association".

1954—Act Aug. 2, 1954, inserted reference to obligations of Federal National Mortgage Association in last sentence.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-73, title VII, §724(b), Aug. 9, 1989, 103 Stat. 429, provided that: "The amendment made by subsection (a)(1) [amending this section] shall take effect on January 1, 1992."

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by title VIII of Pub. L. 90-448, see section 808 of Pub. L. 90-448, set out as an Effective Date note under section 1716b of this title.

§ 1437. Repealed. Pub. L. 101-73, title VII, § 703(a), Aug. 9, 1989, 103 Stat. 415

Section, acts July 22, 1932, ch. 522, §17, 47 Stat. 736; 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954; Aug. 11, 1955, ch. 783, title I, §109(a)(3), 69 Stat. 640; June 29, 1977, Pub. L. 95-56, 91 Stat. 252; Aug. 4, 1977, Pub. L. 95-90, §§1, 2, 91 Stat. 564; Oct. 15, 1982, Pub. L. 97-320, title I, §127, 96 Stat. 1486; Jan. 12, 1983, Pub. L. 97-457, §8, 96 Stat. 2507; Nov. 30, 1983, Pub. L. 98-181, title I [title VII, §702(b)], 97 Stat. 1267, set forth powers and duties, etc., of Federal Home Loan Bank Board.

TRANSFER OF FUNCTIONS, PERSONNEL, AND PROPERTY OF FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION AND FEDERAL HOME LOAN BANK BOARD

Pub. L. 101-73, title IV, §§401-406, Aug. 9, 1989, 103 Stat. 354-363, as amended by Pub. L. 102-233, title III, §313, Dec. 12, 1991, 105 Stat. 1770; Pub. L. 111-203, title III, §367(5), July 21, 2010, 124 Stat. 1556, provided that:

"SEC. 401. FSLIC AND FEDERAL HOME LOAN BANK BOARD ABOLISHED.

"(a) IN GENERAL.—

"(1) FSLIC.—Effective on the date of the enactment of this Act [Aug. 9, 1989], the Federal Savings and Loan Insurance Corporation established under section 402 of the National Housing Act [former 12 U.S.C. 1725] is abolished.

"(2) FHLBB.—Effective at the end of the 60-day period beginning on the date of the enactment of this Act, the Federal Home Loan Bank Board and the position of Chairman of the Federal Home Loan Bank Board are abolished.

"(b) DISPOSITION OF AFFAIRS.—

"(1) IN GENERAL.—During the 60-day period beginning on the date of the enactment of this Act [Aug.

9, 1989], the Chairman of the Federal Home Loan Bank Board—

"(A) shall, solely for the purpose of winding up the affairs of the Federal Savings and Loan Insurance Corporation and the Federal Home Loan Bank Board—

"(i) manage the employees of the Board and provide for the payment of the compensation and benefits of any such employee which accrue before the effective date of the transfer of such employee pursuant to section 403; and

"(ii) manage any property of the Board and the Corporation until such property is transferred pursuant to section 405; and

"(B) may take any other action necessary for the purpose of winding up the affairs of the Corporation and the Board.

"(2) AVAILABILITY OF FUNDS IN FSLIC RESOLUTION FUND ON A REIMBURSABLE BASIS.—

"(A) AVAILABILITY OF FUNDS.—Notwithstanding any provision of section 11A of the Federal Deposit Insurance Act [12 U.S.C. 1821a] (as added by section 215 of this Act), funds in the FSLIC Resolution Fund shall be available to the Chairman of the Federal Home Loan Bank Board to pay any expense incurred in carrying out the requirements of paragraph (1).

"(B) PAYMENT BY FDIC.—Upon the request of the Chairman of the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation shall pay to the Chairman from the FSLIC Resolution Fund the amounts requested for expenses described in subparagraph (A).

"(C) EXCLUSIVE SOURCE OF FUNDS.—No funds or other property of the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation (other than the FSLIC Resolution Fund) may be used by the Chairman of the Federal Home Loan Bank Board to pay any expense incurred in carrying out any provision of this title [see Tables for classification].

"(D) REIMBURSEMENT BY SUCCESSOR AGENCIES.—Disbursements from the FSLIC Resolution Fund pursuant to subparagraph (A) which are attributable to employees described in paragraph (1)(A)(i) and property described in paragraph (1)(A)(ii) shall be reimbursed by the agency to which any such employee or property is transferred.

"(C) AUTHORITY AND STATUS OF CHAIRMAN OF THE FEDERAL HOME LOAN BANK BOARD.—

"(1) IN GENERAL.—Notwithstanding the repeal of section 17 of the Federal Home Loan Bank Act [12 U.S.C. 1437] by section 703 of this Act, the repeal of section 402(c) of the National Housing Act [12 U.S.C. 1725(c)] by section 407 of this title, the abolishment of the Federal Savings and Loan Insurance Corporation under section 401 of this title, the Chairman of the Federal Home Loan Bank Board shall have any authority vested in the Chairman or the Board before such date of enactment [Aug. 9, 1989] which is necessary for the Chairman to carry out the requirements of this section, paragraphs (1) and (2) of section 403(b), and section 405(a) during the 60-day period beginning on such date.

"(2) OTHER PROVISIONS.—For purposes of paragraph (1), the Chairman of the Federal Home Loan Bank Board shall continue to be—

"(A) treated as an officer of the United States during the 60-day period referred to in such subparagraph; and

"(B) entitled to compensation at the annual rate of basic pay payable for level III of the Executive Schedule [5 U.S.C. 5314].

"(3) NO ADDITIONAL COMPENSATION IF APPOINTED DIRECTOR.—During the 60-day period beginning on the date of the enactment of this Act [Aug. 9, 1989], the Chairman of the Federal Home Loan Bank Board shall not be entitled to any additional compensation by reason of his appointment as Director of the Office of Thrift Supervision.