

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act” and was translated as reading “this division”, meaning div. A of Pub. L. 110-343, Oct. 3, 2008, 122 Stat. 3765, known as the Emergency Economic Stabilization Act of 2008, to reflect the probable intent of Congress. For complete classification of division A to the Code, see Short Title note set out under section 5201 of this title and Tables.

AMENDMENTS

2010—Subsec. (f). Pub. L. 111-203 added subsec. (f).

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111-203, set out as an Effective Date note under section 5301 of this title.

§ 5217. Contracting procedures**(a) Streamlined process**

For purposes of this chapter, the Secretary may waive specific provisions of the Federal Acquisition Regulation upon a determination that urgent and compelling circumstances make compliance with such provisions contrary to the public interest. Any such determination, and the justification for such determination, shall be submitted to the Committees on Oversight and Government Reform and Financial Services of the House of Representatives and the Committees on Homeland Security and Governmental Affairs and Banking, Housing, and Urban Affairs of the Senate within 7 days.

(b) Additional contracting requirements

In any solicitation or contract where the Secretary has, pursuant to subsection (a), waived any provision of the Federal Acquisition Regulation pertaining to minority contracting, the Secretary shall develop and implement standards and procedures to ensure, to the maximum extent practicable, the inclusion and utilization of minorities (as such term is defined in section 1204(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note)) and women, and minority- and women-owned businesses (as such terms are defined in section 1441a(r)(4)¹ of this title), and individuals with disabilities and businesses owned by individuals with disabilities (for purposes of this subsection the term “individual with disability” has the same meaning as the term “handicapped individual” as that term is defined in section 632(f) of title 15), in that solicitation or contract, including contracts to asset managers, servicers, property managers, and other service providers or expert consultants.

(c) Eligibility of FDIC

Notwithstanding subsections (a) and (b), the Corporation—

(1) shall be eligible for, and shall be considered in, the selection of asset managers for residential mortgage loans and residential mortgage-backed securities; and

(2) shall be reimbursed by the Secretary for any services provided.

(Pub. L. 110-343, div. A, title I, § 107, Oct. 3, 2008, 122 Stat. 3773; Pub. L. 111-5, div. A, title XVI, § 1608, Feb. 17, 2009, 123 Stat. 304.)

¹ See References in Text note below.

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Section 1204(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, referred to in subsec. (b), is section 1204(c) of Pub. L. 101-73, which is set out as a note under section 1811 of this title.

Section 1441a(r)(4) of this title, referred to in subsec. (b), was repealed by Pub. L. 111-203, title III, § 364(b), July 21, 2010, 124 Stat. 1555.

AMENDMENTS

2009—Subsec. (b). Pub. L. 111-5 inserted “and individuals with disabilities and businesses owned by individuals with disabilities (for purposes of this subsection the term ‘individual with disability’ has the same meaning as the term ‘handicapped individual’ as that term is defined in section 632(f) of title 15),” after “section 1441a(r)(4) of this title,”.

§ 5218. Conflicts of interest**(a) Standards required**

The Secretary shall issue regulations or guidelines necessary to address and manage or to prohibit conflicts of interest that may arise in connection with the administration and execution of the authorities provided under this chapter, including—

(1) conflicts arising in the selection or hiring of contractors or advisors, including asset managers;

(2) the purchase of troubled assets;

(3) the management of the troubled assets held;

(4) post-employment restrictions on employees; and

(5) any other potential conflict of interest, as the Secretary deems necessary or appropriate in the public interest.

(b) Timing

Regulations or guidelines required by this section shall be issued as soon as practicable after October 3, 2008.

(Pub. L. 110-343, div. A, title I, § 108, Oct. 3, 2008, 122 Stat. 3774.)

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This chapter, referred to in subsec. (a), was in the original “this Act” and was translated as reading “this division”, meaning div. A of Pub. L. 110-343, Oct. 3, 2008, 122 Stat. 3765, known as the Emergency Economic Stabilization Act of 2008, to reflect the probable intent of Congress. For complete classification of division A to the Code, see Short Title note set out under section 5201 of this title and Tables.

§ 5219. Foreclosure mitigation efforts**(a) Residential mortgage loan servicing standards****(1) In general**

To the extent that the Secretary acquires mortgages, mortgage backed¹ securities, and other assets secured by residential real estate,

¹ So in original. Probably should be “mortgage-backed”.

including multifamily housing, the Secretary shall implement a plan that seeks to maximize assistance for homeowners and use the authority of the Secretary to encourage the servicers of the underlying mortgages, considering net present value to the taxpayer, to take advantage of the HOPE for Homeowners Program under section 1715z-23 of this title or other available programs to minimize foreclosures. In addition, the Secretary may use loan guarantees and credit enhancements to facilitate loan modifications to prevent avoidable foreclosures and to remediate lead and asbestos hazards in residential properties.

(2) Waiver of certain provisions in connection with loan modifications

The Secretary shall not be required to apply executive compensation restrictions under section 5221 of this title, or to receive warrants or debt instruments under section 5223 of this title, solely in connection with any loan modification under this section.

(b) Coordination

The Secretary shall coordinate with the Corporation, the Board (with respect to any mortgage or mortgage-backed securities or pool of securities held, owned, or controlled by or on behalf of a Federal reserve bank, as provided in section 5220(a)(1)(C) of this title), the Federal Housing Finance Agency, the Secretary of Housing and Urban Development, and other Federal Government entities that hold troubled assets to attempt to identify opportunities for the acquisition of classes of troubled assets that will improve the ability of the Secretary to improve the loan modification and restructuring process and, where permissible, to permit bona fide tenants who are current on their rent to remain in their homes under the terms of the lease. In the case of a mortgage on a residential rental property, the plan required under this section shall include protecting Federal, State, and local rental subsidies and protections, and ensuring any modification takes into account the need for operating funds to maintain decent and safe conditions at the property.

(c) Consent to reasonable loan modification requests

Upon any request arising under existing investment contracts, the Secretary shall consent, where appropriate, and considering net present value to the taxpayer, to reasonable requests for loss mitigation measures, including term extensions, rate reductions, principal write downs, increases in the proportion of loans within a trust or other structure allowed to be modified, or removal of other limitation on modifications.

(Pub. L. 110-343, div. A, title I, § 109, Oct. 3, 2008, 122 Stat. 3774; Pub. L. 111-5, div. B, title VII, § 7002, Feb. 17, 2009, 123 Stat. 521; Pub. L. 115-174, title III, § 305, May 24, 2018, 132 Stat. 1339.)

AMENDMENTS

2018—Subsec. (a)(1). Pub. L. 115-174 inserted before period at end “and to remediate lead and asbestos hazards in residential properties”.

2009—Subsec. (a). Pub. L. 111-5 designated existing provisions as par. (1), inserted par. (1) heading, and added par. (2).

§ 5219a. Home Affordable Modification Program guidelines

(a) Net present value input data

The Secretary of the Treasury (in this section referred to as the “Secretary”) shall revise the supplemental directives and other guidelines for the Home Affordable Modification Program of the Making Home Affordable initiative of the Secretary of the Treasury, authorized under the Emergency Economic Stabilization Act of 2008 (Public Law 110-343) [12 U.S.C. 5201 et seq.], to require each mortgage servicer participating in such program to provide each borrower under a mortgage whose request for a mortgage modification under the Program is denied with all borrower-related and mortgage-related input data used in any net present value (NPV) analyses performed in connection with the subject mortgage. Such input data shall be provided to the borrower at the time of such denial.

(b) Web-based site for NPV calculator and application

(1) NPV calculator

In carrying out the Home Affordable Modification Program, the Secretary shall establish and maintain a site on the World Wide Web that provides a calculator for net present value analyses of a mortgage, based on the Secretary’s methodology for calculating such value, that mortgagors can use to enter information regarding their own mortgages and that provides a determination after entering such information regarding a mortgage of whether such mortgage would be accepted or rejected for modification under the Program, using such methodology.

(2) Disclosure

Such Web site shall also prominently disclose that each mortgage servicer participating in such Program may use a method for calculating net present value of a mortgage that is different than the method used by such calculator.

(3) Application

The Secretary shall make a reasonable effort to include on such World Wide Web site a method for homeowners to apply for a mortgage modification under the Home Affordable Modification Program.

(c) Public availability of NPV methodology, computer model, and variables

The Secretary shall make publicly available, including by posting on a World Wide Web site of the Secretary—

(1) the Secretary’s methodology and computer model, including all formulae used in such computer model, used for calculating net present value of a mortgage that is used by the calculator established pursuant to subsection (b); and

(2) all non-proprietary variables used in such net present value analysis.

(Pub. L. 111-203, title XIV, § 1482, July 21, 2010, 124 Stat. 2203.)

REFERENCES IN TEXT

The Emergency Economic Stabilization Act of 2008, referred to in subsec. (a), is div. A of Pub. L. 110-343,