

Editorial Notes**PRIOR PROVISIONS**

A prior section 1378 of Pub. L. 102-550 was renumbered section 1379A and is classified to section 4638 of this title.

§ 4637. Notice after separation from service

The resignation, termination of employment or participation, or separation of an entity-affiliated party shall not affect the jurisdiction and authority of the Director to issue any notice and proceed under this subchapter against any such entity-affiliated party, if such notice is served before the end of the 6-year period beginning on the date such entity-affiliated party ceases to be associated with the regulated entity.

(Pub. L. 102-550, title XIII, §1379, formerly §1377, Oct. 28, 1992, 106 Stat. 3992; renumbered §1379 and amended Pub. L. 110-289, div. A, title I, §§1153(a)(1), 1156(b)(1), 1157, July 30, 2008, 122 Stat. 2770, 2777.)

Editorial Notes**PRIOR PROVISIONS**

A prior section 1379 of Pub. L. 102-550 was renumbered section 1379B and is classified to section 4639 of this title.

AMENDMENTS

2008—Pub. L. 110-289, §1157(4), which directed the substitution of “regulated entity.” for “enterprise.” could not be executed because of the prior amendment by Pub. L. 110-289, §1156(b)(1). See below.

Pub. L. 110-289, §1157(3), which directed the substitution of “entity-affiliated party” for “director or officer” wherever appearing, was executed by making the substitution for “director or executive officer” in two places, to reflect the probable intent of Congress.

Pub. L. 110-289, §1157(2), which directed the substitution of “an entity-affiliated party” for “a director or executive officer of an enterprise”, was executed by making the substitution for “a director or executive officer of a regulated entity”, to reflect the probable intent of Congress and the prior amendment by Pub. L. 110-289, §1156(b)(1). See below.

Pub. L. 110-289, §1157(1), substituted “6-year” for “2-year”.

Pub. L. 110-289, §1156(b)(1), substituted “a regulated entity” for “an enterprise” and “the regulated entity” for “the enterprise”.

§ 4638. Private rights of action

This chapter shall not create any private right of action on behalf of any person against a regulated entity, or any director or executive officer of a regulated entity, or impair any existing private right of action under other applicable law.

(Pub. L. 102-550, title XIII, §1379A, formerly §1378, Oct. 28, 1992, 106 Stat. 3993; renumbered §1379A and amended Pub. L. 110-289, div. A, title I, §§1153(a)(1), 1156(b)(2), July 30, 2008, 122 Stat. 2770, 2777.)

Editorial Notes**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 chap-

ter. 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 1379A of Pub. L. 102-550 was renumbered section 1379C and is classified to section 4640 of this title.

AMENDMENTS

2008—Pub. L. 110-289, §1156(b)(2), which directed substitution of “a regulated entity” for “an enterprise”, was executed by making the substitution in two places to reflect the probable intent of Congress.

§ 4639. Public disclosure of final orders and agreements**(a) In general**

The Director shall make available to the public—

(1) any written agreement or other written statement for which a violation may be redressed by the Director or any modification to or termination thereof, unless the Director, in the Director’s discretion, determines that public disclosure would be contrary to the public interest;

(2) any order that is issued with respect to any administrative enforcement proceeding initiated by the Director under this subchapter and that has become final in accordance with sections 4633 and 4634 of this title; and

(3) any modification to or termination of any final order made public pursuant to this subsection.

(b) Hearings

All hearings on the record with respect to any notice of charges issued by the Director shall be open to the public, unless the Director, in the Director’s discretion, determines that holding an open hearing would be contrary to the public interest.

(c) Delay of public disclosure under exceptional circumstances

If the Director makes a determination in writing that the public disclosure of any final order pursuant to subsection (a) would seriously threaten the financial health or security of the regulated entity, the Director may delay the public disclosure of such order for a reasonable time.

(d) Documents filed under seal in public enforcement hearings

The Director may file any document or part thereof under seal in any hearing commenced by the Director if the Director determines in writing that disclosure thereof would be contrary to the public interest.

(e) Retention of documents

The Director shall keep and maintain a record, for not less than 6 years, of all documents described in subsection (a) and all enforcement agreements and other supervisory actions and supporting documents issued with respect to or in connection with any enforcement proceeding initiated by the Director under this subchapter or any other law.

(f) Disclosures to Congress

This section may not be construed to authorize the withholding, or to prohibit the disclo-

sure, of any information to the Congress or any committee or subcommittee thereof.

(Pub. L. 102-550, title XIII, §1379B, formerly §1379, Oct. 28, 1992, 106 Stat. 3993; renumbered §1379B and amended Pub. L. 110-289, div. A, title I, §§1153(a)(1), 1156(b)(3), July 30, 2008, 122 Stat. 2770, 2777.)

Editorial Notes

PRIOR PROVISIONS

A prior section 1379B of Pub. L. 102-550 was renumbered section 1379D and is classified to section 4641 of this title.

AMENDMENTS

2008—Subsec. (c). Pub. L. 110-289, §1156(b)(3), substituted “regulated entity” for “enterprise”.

§ 4640. Notice of service

Any service required or authorized to be made by the Director under this subchapter may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Director may by regulation or otherwise provide.

(Pub. L. 102-550, title XIII, §1379C, formerly §1379A, Oct. 28, 1992, 106 Stat. 3993; renumbered §1379C, Pub. L. 110-289, div. A, title I, §1153(a)(1), July 30, 2008, 122 Stat. 2770.)

§ 4641. Subpoena authority

(a) In general

In the course of or in connection with any proceeding, examination, or investigation under this chapter, the Director or any designated representative thereof, including any person designated to conduct any hearing under this subchapter shall have the authority—

- (1) to administer oaths and affirmations;
- (2) to take and preserve testimony under oath;
- (3) to issue subpoenas and subpoenas duces tecum; and
- (4) to revoke, quash, or modify subpoenas and subpoenas duces tecum.

(b) Witnesses and documents

The attendance of witnesses and the production of documents provided for in this section may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place where such proceeding is being conducted.

(c) Enforcement

(1) In general

The Director, or any party to proceedings under this subchapter, may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district of the United States in any territory in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any subpoena or subpoena duces tecum issued pursuant to this section.

(2) Power of court

The courts described under paragraph (1) shall have the jurisdiction and power to order

and require compliance with any subpoena issued under paragraph (1).

(d) Fees and expenses

Witnesses subpoenaed under this section shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Any court having jurisdiction of any proceeding instituted under this section by an regulated entity enterprise-affiliated party¹ may allow to any such party such reasonable expenses and attorneys fees as the court deems just and proper. Such expenses and fees shall be paid by the regulated entity or from its assets.

(e) Penalties

A person shall be guilty of a misdemeanor, and upon conviction, shall be subject to a fine of not more than \$1,000 or to imprisonment for a term of not more than 1 year, or both, if that person willfully fails or refuses, in disobedience of a subpoena issued under subsection (c), to—

- (1) attend court;
- (2) testify in court;
- (3) answer any lawful inquiry; or
- (4) produce books, papers, correspondence, contracts, agreements, or such other records as requested in the subpoena.

(Pub. L. 102-550, title XIII, §1379D, formerly §1379B, Oct. 28, 1992, 106 Stat. 3994; renumbered §1379D and amended Pub. L. 110-289, div. A, title I, §§1153(a)(1), 1156(b)(4), 1158, July 30, 2008, 122 Stat. 2770, 2777, 2778.)

Editorial Notes

REFERENCES IN TEXT

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

CODIFICATION

Pub. L. 110-289, §1158, which directed amendment of section “1379B of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4641)”, was executed to this section, which is section 1379D, formerly section 1379B, of the Act, to reflect the probable intent of Congress and the renumbering by Pub. L. 110-289, §1153(a)(1). See 2008 Amendment notes below.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-289, §1158(a)(1)(A), in introductory provisions, struck out “administrative” after “with any”, inserted “, examination, or investigation” after “proceeding”, substituted “chapter” for “subchapter”, and inserted “or any designated representative thereof, including any person designated to conduct any hearing under this subchapter” after “Director”. See Codification note above.

Subsec. (a)(4). Pub. L. 110-289, §1158(a)(1)(B), struck out “issued by the Director” before period at end. See Codification note above.

Subsec. (b). Pub. L. 110-289, §1158(a)(2), inserted “or in any territory or other place subject to the jurisdiction of the United States” after “State”. See Codification note above.

Subsec. (c). Pub. L. 110-289, §1158(a)(3), added subsec. (c) and struck out former subsec. (c). Prior to amendment, text read as follows: “The Director may request

¹ So in original.