

RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991¹

[As Amended Through P.L. 102-233, Enacted December 12, 1991]

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TITLE III—REFORM OF THE RTC

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SEC. 317. [12 U.S.C. 1441a nt.] SAVINGS PROVISIONS.

(a) SAVINGS PROVISIONS.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—This title² shall not affect the validity of any right, duty, or obligation of the United States, the Corporation, the Oversight Board, or any other person, that—

(A) arises under or pursuant to the Federal Home Loan Bank Act, or any other provision of law applicable with respect to the Oversight Board; and

(B) existed on the day before the effective date of the Resolution Trust Corporation Thrift Depositor Protection Reform Act of 1991.

(2) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Oversight Board, with respect to any function of the Oversight Board, shall abate by reason of the enactment of this Act, except that the Thrift Depositor Protection Oversight Board shall continue as party to any such action or proceeding, notwithstanding the change of name of the Oversight Board.

(b) CONTINUATION OF ORDERS, RESOLUTIONS, DETERMINATIONS, AND REGULATIONS.—All orders, resolutions, determinations, and regulations that—

(1) have been issued, made, prescribed, or allowed to become effective by the Oversight Board (including orders, resolutions, determinations, and regulations which relate to the conduct of conservatorships and receiverships), or by a court of competent jurisdiction, in the performance of functions under the Federal Home Loan Bank Act; and

(2) are in effect on the effective date of the Resolution Trust Corporation Thrift Depositor Protection Reform Act of 1991,

¹ Note: The Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 largely amended other provisions of law.

² Title III, among other amendments, redesignated the Oversight Board as the Thrift Depositor Protection Oversight Board (see section 302(a), 105 Stat. 1767). Such Board was subsequently abolished under section 14 of the Homeowners Protection Act of 1998 (12 U.S.C. 1441a note). The Board's authority and duties were transferred to the Secretary of the Treasury. The Resolution Trust Corporation has been abolished (see section 21A(m) of the Federal Home Loan Bank Act).

shall continue in effect according to the terms of such orders, resolutions, determinations, and regulations, and shall be enforceable by or against the Thrift Depositor Protection Oversight Board, or the Resolution Trust Corporation, by any court of competent jurisdiction, or by operation of law, notwithstanding the change of name of the Oversight Board.

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TITLE VI—RESOLUTION TRUST CORPORATION AFFORDABLE HOUSING PROGRAM

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SEC. 618. [12 U.S.C. 1831n nt.] RISK-WEIGHTING OF HOUSING LOANS FOR PURPOSES OF CAPITAL REQUIREMENTS.

(a) SINGLE FAMILY HOUSING LOANS.—

(1) 50 PERCENT RISK-WEIGHTED CLASSIFICATION.—

(a)¹ IN GENERAL.—To provide consistent regulatory treatment of loans made for the construction of single family housing, not later than the expiration of the 120-day period beginning on the date of this Act each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to provide that any single family residence construction loan described under subparagraph (B) shall be considered as a loan within the 50 percent risk-weighted category.

(B) REQUIREMENTS.—Subparagraph (A) shall apply to any construction loan—

(i) made for the construction of a residence consisting of 1 to 4 dwelling units;

(ii) under which the lender has acquired from the lender originating the mortgage loan for purchase of the residence, before the making of the construction loan—

(I) documentation demonstrating that the buyer of the residence intends to purchase the residence and has the ability to obtain a mortgage loan sufficient to purchase the residence; and

(II) any other documentation from the mortgage lender that the appropriate Federal banking agency may consider appropriate to provide assurance of the buyer's intent to purchase the property (including written commitments and letters of intent);

(iii) under which the borrower requires the buyer of the residence to make a nonrefundable deposit to the borrower in an amount (as determined by the appropriate Federal banking agency) of not less than 1 percent of the principal amount of mortgage loan ob-

¹ So in original. This subparagraph probably should be designated as "(A)".

tained by the borrower for purchase of the residence, for use in defraying costs relating to any cancellation of the purchase contract of the buyer; and

(iv) that meets any other underwriting characteristics that the appropriate Federal banking agency may establish, consistent with the purposes of the minimum acceptable capital requirements to maintain the safety and soundness of financial institutions.

(2) 100 PERCENT RISK-WEIGHTED CLASSIFICATION.—Not later than the expiration of the 120-day period beginning on the date of this Act each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to provide that—

(A) any single family residence construction loan for a residence for which the purchase contract is canceled shall be considered as a loan within the 100 percent risk-weighted category; and

(B) the lender of any single family residence construction loan shall promptly notify the appropriate Federal banking agency of any such cancellation.

(b) MULTIFAMILY HOUSING LOANS.—

(1) 50 PERCENT RISK-WEIGHTED CLASSIFICATION.—

(A) IN GENERAL.—To provide consistent regulatory treatment of loans made for the purchase of multifamily rental and homeowner properties, not later than the expiration of the 120-day period beginning on the date of this Act each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to provide that any multifamily housing loan described under subparagraph (B) and any security collateralized by such a loan shall be considered as a loan or security within the 50 percent risk-weighted category.

(B) REQUIREMENTS.—Subparagraph (A) shall apply to any loan—

(i) secured by a first lien on a residence consisting of more than 4 dwelling units;

(ii) under which—

(I) the rate of interest does not change over the term of the loan, (b) the principal obligation does not exceed 80 percent of the appraised value of the property, and (c) the ratio of annual net operating income generated by the property (before payment of any debt service on the loan) to annual debt service on the loan is not less than 120 percent; or

(II) the rate of interest changes over the term of the loan, (b) the principal obligation does not exceed 75 percent of the appraised value of the property, and (c) the ratio of annual net operating income generated by the property (before payment of any debt service on the loan) to annual debt service on the loan is not less than 115 percent;

(iii) under which—

(I) amortization of principal and interest occurs over a period of not more than 30 years;
(II) the minimum maturity for repayment of principal is not less than 7 years; and
(III) timely payment of all principal and interest, in accordance with the terms of the loan, occurs for a period of not less than 1 year; and
(iv) that meets any other underwriting characteristics that the appropriate Federal banking agency may establish, consistent with the purposes of the minimum acceptable capital requirements to maintain the safety and soundness of financial institutions.

(2) SALE PURSUANT TO PRO RATA LOSS SHARING ARRANGEMENTS.—Not later than the expiration of the 120-day period beginning on the date of this Act, each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to provide that any loan fully secured by a first lien on a multifamily housing property that is sold subject to a pro rata loss sharing arrangement by an institution subject to the jurisdiction of the agency shall be treated as sold to the extent that loss is incurred by the purchaser of the loan. For purposes of this paragraph, the term “pro rata loss sharing arrangement” means an agreement providing that the purchaser of a loan shares in any loss incurred on the loan with the selling institution on a pro rata basis.

(3) SALE PURSUANT TO OTHER ARRANGEMENTS FOR LOSS.—Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to take into account other loss sharing arrangements, in connection with the sale by an institution subject to the jurisdiction of the agency of any loan that is fully secured by a first lien on multifamily housing property, for purposes of determining the extent to which such loans shall be treated as sold. For purposes of this paragraph, the term “other loss sharing arrangement” means an agreement providing that the purchaser of a loan shares in any loss incurred on the loan with the selling institution on other than a pro rata basis.

(c) APPROPRIATE FEDERAL BANKING AGENCY.—For purposes of this section, the term “Federal banking agency” means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Director of the Office of Thrift Supervision.