

Farm Credit Administration shall find that the financial structure of such corporation is sound and unimpaired and by him approved, nor shall any loan be made upon the capital stock of such corporation until the management of such company shall be made known to and approved by the Governor, and the Governor shall have the right at any time to declare the indebtedness to the Government that may be created hereunder due whenever in his judgment the financial structure of the corporation shall become so impaired or the management become so unsatisfactory as to jeopardize the interests of the Government.

(Mar. 3, 1932, ch. 70, §2, 47 Stat. 60; Ex. Ord. No. 6084, Mar. 27, 1933.)

TRANSFER OF FUNCTIONS

Establishment of Farm Credit Administration as an independent agency, composition of Farm Credit Administration, appointment of Governor of Farm Credit Administration, and duties thereof, including duty to perform functions, etc., of Farm Credit Administration, see section 2241 et seq. of this title.

“Governor of the Farm Credit Administration” and “Governor” substituted for “Secretary of Agriculture” and “Secretary”, respectively, and other changes were effected by Ex. Ord. No. 6084, which is set out preceding section 2241 of this title.

§ 1403. Minimum paid-in capital stock required to warrant loans

No loan or advance shall be made to any individual upon the capital stock of or to create or increase the capital stock of any corporation, unless the paid-in capital stock of such corporation shall be at least \$10,000.

(Mar. 3, 1932, ch. 70, §3, 47 Stat. 60.)

§ 1404. Authorization of appropriations; revolving fund

To carry out the provisions of this chapter, including all expenses incurred thereunder, there are authorized to be appropriated, out of the unexpended balances of appropriations made to carry out the provisions of Public Resolution Numbered 112, Seventy-first Congress (46 Stat. 1032), as amended by the Interior Department Appropriation Act for the fiscal year ending June 30, 1932, and as amended by Public Resolution Numbered 120 (46 Stat. 1167), and out of the collections from loans made under Public Resolution Numbered 112, as so amended, a sum not exceeding \$10,000,000, which sum shall be paid into a revolving fund. Not to exceed 2 per centum of such fund may be used for expenses of administration. All moneys received from time to time upon the repayment of any advance or loan made pursuant to this chapter, together with the interest, shall be paid into the revolving fund and shall thereafter be available for the purposes and in the manner hereinbefore provided.

(Mar. 3, 1932, ch. 70, §4, 47 Stat. 60.)

CHAPTER 11—FEDERAL HOME LOAN BANKS

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§ 1421. Short title

This chapter may be cited as the “Federal Home Loan Bank Act.”

(July 22, 1932, ch. 522, §1, 47 Stat. 725.)

SHORT TITLE OF 1999 AMENDMENT

Pub. L. 106-102, title VI, §601, Nov. 12, 1999, 113 Stat. 1450, provided that: “This title [amending sections 250, 1422, 1422b, 1424, 1426, 1427, 1429, 1430, 1432, 1436, 1438, 1441b, 1464, and 1467a of this title, repealing sections 1442a and 1447 of this title, and enacting provisions set out as a note under section 1441b of this title] may be cited as the ‘Federal Home Loan Bank System Modernization Act of 1999.’”

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103-204, §1(a), Dec. 17, 1993, 107 Stat. 2369, provided that: "This Act [enacting section 1447 of this title and section 8C of the Inspector General Act of 1978, Pub. L. 95-452, set out in the Appendix to Title 5, Government Organization and Employees, amending sections 1441a, 1811, 1813, 1815, 1817, 1818, 1821, 1822, 1824, 1831j, and 1831q of this title, sections 5314 and 5315 of Title 5, and sections 8D to 8G and 11 of the Inspector General Act of 1978, Pub. L. 95-452, set out in the Appendix to Title 5, enacting provisions set out as notes under sections 1441a, 1811, 1817, 1821, 1822, 1827, and 1831q of this title and section 3 of the Inspector General Act of 1978, Pub. L. 95-452, set out in the Appendix to Title 5, and amending provisions set out as notes under section 396f of Title 16, Conservation, and section 1611 of Title 43, Public Lands] may be cited as the 'Resolution Trust Corporation Completion Act'."

SHORT TITLE OF 1991 AMENDMENTS

Pub. L. 102-233, §1, Dec. 12, 1991, 105 Stat. 1761, provided that: "This Act [enacting section 2907 of this title, amending sections 1441, 1441a, 1441b, 1786, 1818, 1821, 1821a, 1833b, 1833e, 3345, and 3348 of this title, sections 5313 and 5314 of Title 5, Government Organization and Employees, and section 11 of the Inspector General Act of 1978, Pub. L. 95-452, set out in the Appendix to Title 5, enacting provisions set out as notes under this section and sections 1441, 1441a, and 1831n of this title, and amending provisions set out as notes under sections 1437 and 1441a of this title] may be cited as the 'Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991'."

Pub. L. 102-233, title III, §301, Dec. 12, 1991, 105 Stat. 1767, provided that: "This title [amending sections 1441, 1441a, 1441b, 1786, 1818, 1821, 1833b, and 1833e of this title, sections 5313 and 5314 of Title 5, Government Organization and Employees, and section 11 of the Inspector General Act of 1978, Pub. L. 95-452, set out in the Appendix to Title 5, enacting provisions set out as notes under sections 1441 and 1441a of this title, and amending provisions set out as notes under sections 1437 and 1441a of this title] may be cited as the 'Resolution Trust Corporation Thrift Depositor Protection Reform Act of 1991'."

Pub. L. 102-18, §1, Mar. 23, 1991, 105 Stat. 58, provided that: "This Act [amending sections 1441a and 1812 of this title and enacting provisions set out as notes under section 1441a of this title] may be cited as the 'Resolution Trust Corporation Funding Act of 1991'."

§ 1422. Definitions

As used in this chapter—

(1)(A) **BANK.**—The term "Federal Home Loan Bank" or "Bank" means a bank established under the authority of this chapter.

(B) **BANK SYSTEM.**—The term "Federal Home Loan Bank System" means the Federal Home Loan Banks under the supervision of the Director.

(2) **STATE.**—The term "State", in addition to the States of the United States, includes the District of Columbia, Guam, Puerto Rico, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(3) The term "member" means any institution which has subscribed for the stock of a Federal Home Loan Bank.

(4) The term "home mortgage loan" means a loan made by a member upon the security of a home mortgage.

(5) The term "home mortgage" means a mortgage upon real estate, in fee simple, or on a leasehold (1) under a lease for not less than ninety-nine years which is renewable or (2)

under a lease having a period of not less than fifty years to run from the date the mortgage was executed, upon which is located, or which comprises or includes, one or more homes or other dwelling units, all of which may be defined by the Director and shall include, in addition to first mortgages, such classes of first liens as are commonly given to secure advances on real estate by institutions authorized under this chapter to become members, under the laws of the State in which the real estate is located, together with the credit instruments, if any, secured thereby.

(6) The term "unpaid principal," when used in respect of a loan secured by a home mortgage means the principal thereof less the sum of (1) payments made on such principal, and (2) in cases where shares or stock are pledged as security for the loan, the payments made on such shares or stock plus earnings or dividends apportioned or credited thereon.

(7) An "amortized" or "installment" home mortgage loan shall, for the purposes of this chapter, be a home mortgage loan to be repaid or liquidated in not less than eight years by means of regular weekly, monthly, or quarterly payments made directly in reduction of the debt or upon stock or shares pledged as collateral for the repayment of such loan.

(8) **SAVINGS ASSOCIATION.**—The term "savings association" has the meaning given to such term in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813].

(9) **INSURED DEPOSITORY INSTITUTION.**—The term "insured depository institution" means—

(A) an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813]), and

(B) except as used in sections 1441a¹ and 1441b of this title, an insured credit union (as defined in section 1752 of this title).

(10) **COMMUNITY FINANCIAL INSTITUTION.**—

(A) **IN GENERAL.**—The term "community financial institution" means a member—

(i) the deposits of which are insured under the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.]; and

(ii) that has, as of the date of the transaction at issue, less than \$1,000,000,000 in average total assets, based on an average of total assets over the 3 years preceding that date.

(B) **ADJUSTMENTS.**—The \$1,000,000,000 limit referred to in subparagraph (A)(ii) shall be adjusted annually by the Director, based on the annual percentage increase, if any, in the Consumer Price Index for all urban consumers, as published by the Department of Labor.

(11) **DIRECTOR.**—The term "Director" means the Director of the Federal Housing Finance Agency.

(12) **AGENCY.**—The term "Agency" means the Federal Housing Finance Agency, established under section 4511 of this title.

(July 22, 1932, ch. 522, §2, 47 Stat. 725; June 27, 1934, ch. 847, §507, 48 Stat. 1264; May 28, 1935, ch.

¹ See References in Text note below.

150, §1, 49 Stat. 293; July 14, 1952, ch. 723, §10(c), 66 Stat. 604; Pub. L. 86-70, §9(a), June 25, 1959, 73 Stat. 142; Pub. L. 86-624, §5(a), July 12, 1960, 74 Stat. 411; Pub. L. 87-779, §2(a), Oct. 9, 1962, 76 Stat. 779; Pub. L. 101-73, title VII, §§701(a), 710(b)(1), Aug. 9, 1989, 103 Stat. 411, 418; Pub. L. 106-102, title VI, §602, Nov. 12, 1999, 113 Stat. 1450; Pub. L. 110-289, div. A, title II, §§1203, 1204(8), (10), 1211(a), July 30, 2008, 122 Stat. 2785, 2786, 2790.)

REFERENCES IN TEXT

Section 1441a of this title, referred to in par. (9)(B), was repealed by Pub. L. 111-203, title III, §364(b), July 21, 2010, 124 Stat. 1555.

The Federal Deposit Insurance Act, referred to in par. (10)(A)(i), is act Sept. 21, 1950, ch. 967, §2, 64 Stat. 873, which is classified generally to chapter 16 (§1811 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of this title and Tables.

AMENDMENTS

2008—Par. (1). Pub. L. 110-289, §1203(1), (2), redesignated par. (2) as (1) and struck out former par. (1). Prior to amendment, text read as follows: “The terms ‘Finance Board’ and ‘Board’ mean the Federal Housing Finance Board established under section 1422a of this title.”

Par. (1)(B). Pub. L. 110-289, §1204(8), substituted “the Director” for “the Board”.

Pars. (2) to (4). Pub. L. 110-289, §1203(2), redesignated pars. (3) to (5) as (2) to (4), respectively. Former par. (2) redesignated (1).

Par. (5). Pub. L. 110-289, §1204(8), substituted “the Director” for “the Board”.

Pub. L. 110-289, §1203(2), redesignated par. (6) as (5). Former par. (5) redesignated (4).

Pars. (6) to (9). Pub. L. 110-289, §1203(2), (3), redesignated pars. (7) to (9) and (12) as (6) to (9), respectively. Former par. (6) redesignated (5).

Par. (10). Pub. L. 110-289, §1203(1), (3), redesignated par. (13) as (10) and struck out former par. (10). Prior to amendment, text read as follows: “The term ‘Chairperson’ means the Chairperson of the Board.”

Par. (10)(A)(ii). Pub. L. 110-289, §1211(a), substituted “\$1,000,000,000” for “\$500,000,000”.

Par. (10)(B). Pub. L. 110-289, §1211(a), substituted “\$1,000,000,000” for “\$500,000,000”.

Pub. L. 110-289, §1204(10), substituted “the Director” for “the Finance Board”.

Pars. (11) to (13). Pub. L. 110-289, §1203(1), (3), (4), added pars. (11) and (12), redesignated former pars. (12) and (13) as (9) and (10), respectively, and struck out former par. (11). Prior to amendment, text read as follows: “The term ‘Secretary’ means the Secretary of Housing and Urban Development.”

1999—Par. (1). Pub. L. 106-102, §602(1), substituted “terms ‘Finance Board’ and ‘Board’ mean” for “term ‘Board’ means”.

Par. (3). Pub. L. 106-102, §602(2), added par. (3) and struck out former par. (3) which read as follows: “The term ‘State’ includes the District of Columbia, Guam, Puerto Rico, and the Virgin Islands of the United States.”

Par. (13). Pub. L. 106-102, §602(3), added par. (13).

1989—Pars. (1), (2). Pub. L. 101-73, §701(a)(1), added pars. (1) and (2) and struck out former pars. (1) and (2) which defined “board” and “Federal Home Loan Bank”.

Par. (4). Pub. L. 101-73, §701(a)(2), which directed amendment of par. (4) by striking out “(except when used in reference to the member of the Board)” after “‘member’”, was executed by striking out “(except when used in reference to a member of the board)” as the probable intent of Congress.

Par. (5). Pub. L. 101-73, §710(b)(1), struck out “or a nonmember borrower” after “member”.

Pars. (9) to (12). Pub. L. 101-73, §701(a)(3), added pars. (9) to (12) and struck out former par. (9) which read as follows: “The term ‘nonmember borrower’ includes an institution authorized to secure advances from a Federal Home Loan Bank under the provisions of subsection (e) of section 1426 of this title.”

1962—Subsec. (6). Pub. L. 87-779 substituted “upon which is located, or which comprises or includes, one or more homes or other dwelling units, all of which may be defined by the Board” for “upon which there is located a dwelling for not more than four families”.

1960—Subsec. (3). Pub. L. 86-624 struck out reference to Territory of Hawaii.

1959—Subsec. (3). Pub. L. 86-70 substituted “Territory of Hawaii” for “Territories of Alaska and Hawaii”.

1952—Subsec. (3). Act July 14, 1952, inserted “Guam,”.

1935—Subsec. (6). Act May 28, 1935, substituted “four families” for “three families”.

1934—Subsec. (6). Act June 27, 1934, struck out “first” before “mortgage” and inserted “or (2) under a lease having a period of not less than fifty years to run from the date the mortgage was executed”.

§§ 1422a, 1422b. Repealed. Pub. L. 110-289, div. A, title II, § 1204(1), July 30, 2008, 122 Stat. 2785

Section 1422a, act July 22, 1932, ch. 522, §2A, as added Pub. L. 101-73, title VII, §702(a), Aug. 9, 1989, 103 Stat. 413; amended Pub. L. 102-550, title XIII, §1391, title XVI, §1608, Oct. 28, 1992, 106 Stat. 4009, 4089, established the Federal Housing Finance Board.

Section 1422b, act July 22, 1932, ch. 522, §2B, as added Pub. L. 101-73, title VII, §702(a), Aug. 9, 1989, 103 Stat. 414; amended Pub. L. 106-102, title VI, §606(e)(1), Nov. 12, 1999, 113 Stat. 1454, related to powers and duties of the Federal Housing Finance Board.

§ 1423. Federal Home Loan Bank districts; number and boundaries; establishment of Federal Home Loan Banks; names

(a) In general

As soon as practicable the Director shall divide the continental United States, Puerto Rico, the Virgin Islands, Guam, and the Territories of Alaska and Hawaii into not less than eight nor more than twelve districts. Such districts shall be apportioned with due regard to the convenience and customary course of business of the institutions eligible to and likely to subscribe for stock of a Federal Home Loan Bank to be formed under this chapter, but no such district shall contain a fractional part of any State. The districts thus created may be readjusted and new districts may from time to time be created by the Director, not to exceed twelve in all. Such districts shall be known as Federal Home Loan Bank districts and may be designated by number. As soon as practicable the Director shall establish, in each district, a Federal Home Loan Bank at such city as may be designated by the Director. Its title shall include the name of the city at which it is established.

(b) Authority to reduce districts

Notwithstanding subsection (a), the number of districts may be reduced to a number less than 8—

(1) pursuant to a voluntary merger between Banks, as approved pursuant to section 1446(b) of this title; or

(2) pursuant to a decision by the Director to liquidate a Bank pursuant to section 4617 of this title.

(July 22, 1932, ch. 522, §3, 47 Stat. 726; July 14, 1952, ch. 723, §10(c), 66 Stat. 604; 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(8), 1210, July 30, 2008, 122 Stat. 2786, 2790.)

AMENDMENTS

2008—Pub. L. 110-289, § 1210, designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

Pub. L. 110-289, § 1204(8), substituted “the Director” for “the Board” wherever appearing.

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

1952—Act July 14, 1952, inserted “Guam,” after “Virgin Islands,”.

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

§ 1424. Eligibility for membership

(a) Criteria for eligibility

(1) In general

Any building and loan association, savings and loan association, cooperative bank, homestead association, insurance company, savings bank, community development financial institution, or any insured depository institution (as defined in section 1422 of this title), shall be eligible to become a member of a Federal Home Loan Bank if such institution—

(A) is duly organized under the laws of any State or of the United States;

(B) is subject to inspection and regulation under the banking laws, or under similar laws, of the State or of the United States or, in the case of a community development financial institution, is certified as a community development financial institution under the Community Development Banking and Financial Institutions Act of 1994 [12 U.S.C. 4701 et seq.];¹ and

(C) makes such home mortgage loans as, in the judgment of the Director, are long-term loans (except that in the case of a savings bank, this subparagraph applies only if, in the judgment of the Director, its time deposits, as defined in section 461 of this title, warrant its making such loans).

(2) Qualified thrift lender

An insured depository institution that is not a member on January 1, 1989, may become a member of a Federal Home Loan Bank only if—

(A) the insured depository institution (other than a community financial institution) has at least 10 percent of its total assets in residential mortgage loans;

(B) the insured depository institution’s financial condition is such that advances may be safely made to such institution; and

(C) the character of its management and its home-financing policy are consistent with sound and economical home financing.

¹ So in original.

(3) Certain institutions

An insured depository institution commencing its initial business operations after January 1, 1989, may become a member of a Federal Home Loan Bank if it complies with regulations and orders prescribed by the Director for the 10 percent asset requirement (described in the² paragraph (2)) within one year after the commencement of its operations.

(4) Limited exemption for community financial institutions

A community financial institution that otherwise meets the requirements of paragraph (2) may become a member without regard to the percentage of its total assets that is represented by residential mortgage loans, as described in subparagraph (A) of paragraph (2).

(5) Certain privately insured credit unions

(A) In general

Subject to the requirements of subparagraph (B), a credit union shall be treated as an insured depository institution for purposes of determining the eligibility of such credit union for membership in a Federal home loan bank under paragraphs (1), (2), and (3).

(B) Certification by appropriate supervisor

(i) In general

For purposes of this paragraph and subject to clause (ii), a credit union which lacks Federal deposit insurance and which has applied for membership in a Federal home loan bank may be treated as meeting all the eligibility requirements for Federal deposit insurance only if the appropriate supervisor of the State in which the credit union is chartered has determined that the credit union meets all the eligibility requirements for Federal deposit insurance as of the date of the application for membership.

(ii) Certification deemed valid

If, in the case of any credit union to which clause (i) applies, the appropriate supervisor of the State in which such credit union is chartered fails to make a determination pursuant to such clause by the end of the 6-month period beginning on the date of the application, the credit union shall be deemed to have met the requirements of clause (i).

(C) Security interests of Federal home loan bank not avoidable

Notwithstanding any provision of State law authorizing a conservator or liquidating agent of a credit union to repudiate contracts, no such provision shall apply with respect to—

(i) any extension of credit from any Federal home loan bank to any credit union which is a member of any such bank pursuant to this paragraph; or

(ii) any security interest in the assets of such credit union securing any such extension of credit.

² So in original. The word “the” probably should not appear.

(D) Protection for certain Federal home loan bank advances

Notwithstanding any State law to the contrary, if a Bank makes an advance under section 1430 of this title to a State-chartered credit union that is not federally insured—

- (i) the Bank's interest in any collateral securing such advance has the same priority and is afforded the same standing and rights that the security interest would have had if the advance had been made to a federally insured credit union; and
- (ii) the Bank has the same right to access such collateral that the Bank would have had if the advance had been made to a federally insured credit union.

(b) Location requirement

An institution eligible to become a member under this section may become a member only of, or secure advances from, the Federal Home Loan Bank of the district in which is located the institution's principal place of business, or of the bank of a district adjoining such district, if demanded by convenience and then only with the approval of the Director.

(c) Inspection and regulation requirements

Notwithstanding the provisions of clause (2) of subsection (a) of this section requiring inspection and regulation under law as a condition with respect to eligibility for membership, any building and loan association which would be eligible to become a member of a Federal Home Loan Bank except for the fact that it is not subject to inspection and regulation under the banking laws or similar laws of the State in which such association is organized shall, upon subjecting itself to such inspection and regulation as the Director shall prescribe, be eligible to become a member.

(July 22, 1932, ch. 522, § 4, 47 Stat. 726; June 13, 1933, ch. 64, § 3, 48 Stat. 129; Pub. L. 101-73, title VII, §§ 701(b)(1), (3)(A), 704(a), 710(b)(1), Aug. 9, 1989, 103 Stat. 412, 415, 418; Pub. L. 106-102, title VI, § 605, Nov. 12, 1999, 113 Stat. 1452; Pub. L. 110-289, div. A, title II, §§ 1204(8), 1206, July 30, 2008, 122 Stat. 2786, 2787; Pub. L. 114-94, div. G, title LXXXII, § 82001(a), Dec. 4, 2015, 129 Stat. 1795.)

REFERENCES IN TEXT

The Community Development Banking and Financial Institutions Act of 1994, referred to in subsec. (a)(1)(B), is subtitle A (§§ 101-121) of title I of Pub. L. 103-325, Sept. 23, 1994, 108 Stat. 2163, which is classified principally to subchapter I (§ 4701 et seq.) of chapter 47 of this title. For complete classification of subtitle A to the Code, see Short Title note set out under section 4701 of this title and Tables.

Section 461 of this title, referred to in subsec. (a)(1)(C), was in the original "section 19 of the Federal Reserve Act". Definition provisions of section 19 are classified to section 461 of this title. Other provisions of section 19 are classified to sections 142, 371b, 371b-1, 374, 374a, 463 to 466, 505, and 506 of this title.

AMENDMENTS

2015—Subsec. (a)(5). Pub. L. 114-94 added par. (5).

2008—Subsec. (a)(1). Pub. L. 110-289, § 1206(1), which directed insertion of "community development financial institution," after "savings bank," was executed by making the insertion after "savings bank," the first time appearing.

Subsec. (a)(1)(B). Pub. L. 110-289, § 1206(2), which directed insertion of "or, in the case of a community development financial institution, is certified as a community development financial institution under the Community Development Banking and Financial Institutions Act of 1994," after "United States," was executed by making the insertion after "United States" to reflect the probable intent of Congress.

Subsecs. (a)(1)(C), (3), (b), (c). Pub. L. 110-289, § 1204(8), substituted "the Director" for "the Board" wherever appearing.

1999—Subsec. (a)(2) to (4). Pub. L. 106-102 inserted "(other than a community financial institution)" after "institution" in par. (2)(A), designated concluding provisions of par. (2) as par. (3), inserted heading and substituted "paragraph (2)" for "preceding sentence", and added par. (4).

1989—Subsec. (a). Pub. L. 101-73, § 704(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "Any building and loan association, savings and loan association, cooperative bank, homestead association, insurance company, or savings bank shall be eligible to become a member of, or a nonmember borrower of, a Federal Home Loan Bank if such institution (1) is duly organized under the laws of any State or of the United States; (2) is subject to inspection and regulation under the banking laws, or under similar laws, of the State or of the United States; and (3) makes such home mortgage loans as in the judgment of the board, are long-term loans (and in the case of a savings bank if, in the judgment of the board, its time deposits, as defined in section 461 of this title, warrant its making such loans). No institution shall be eligible to become a member of, or a nonmember borrower of, a Federal Home Loan Bank if, in the judgment of the board, its financial condition is such that advances may not safely be made to such institution or the character of its management or its home-financing policy is inconsistent with sound and economical home financing, or with the purposes of this chapter."

Subsec. (b). Pub. L. 101-73, § 710(b)(1), struck out "or a nonmember borrower" after "eligible to become a member".

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

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

1933—Subsec. (d). Act June 13, 1933, struck out subsec. (d) which provided for direct loans to homeowners. See chapter 12 (§ 1461 et seq.) of this title.

§§ 1425 to 1425b. Repealed. Pub. L. 101-73, title VII, §§ 705, 716, 720, Aug. 9, 1989, 103 Stat. 416, 421, 423

Section 1425, acts July 22, 1932, ch. 522, § 5, 47 Stat. 727; Dec. 24, 1969, Pub. L. 91-152, title IV, § 416(a), 83 Stat. 401, related to limitation on lawful contract rate of interest receivable by members and nonmember borrowers, and applicability to home mortgage loans on single-family dwellings.

Section 1425a, act July 22, 1932, ch. 522, § 5A, as added June 27, 1950, ch. 369, § 1, 64 Stat. 256; amended Aug. 11, 1955, ch. 783, title I, § 109(a)(3), 69 Stat. 640; Sept. 21, 1968, Pub. L. 90-505, § 4, 82 Stat. 856; Mar. 31, 1980, Pub. L. 96-221, title I, § 104(b), title IV, § 405, 94 Stat. 139, 158; Oct. 8, 1980, Pub. L. 96-399, title III, § 325(a), 94 Stat. 1648; Oct. 15, 1982, Pub. L. 97-320, title III, § 332, 96 Stat. 1504; Oct. 17, 1984, Pub. L. 98-479, title II, § 207, 98 Stat. 2235, related to liquidity requirements for savings and loan associations and other members.

Section 1425b, act July 22, 1932, ch. 522, § 5B, as added Sept. 21, 1966, Pub. L. 89-597, § 4, 80 Stat. 824; amended Sept. 21, 1968, Pub. L. 90-505, § 2(c), 82 Stat. 856; Dec. 23, 1969, Pub. L. 91-151, § 2(b), 83 Stat. 372; Oct. 29, 1974, Pub. L. 93-501, title I, § 103, title III, § 303, 88 Stat. 1558, 1560; Nov. 5, 1979, Pub. L. 96-104, title II, § 203, 93 Stat. 793; Dec. 28, 1979, Pub. L. 96-161, title II, § 210, 93 Stat. 1239; Mar. 31, 1980, Pub. L. 96-221, title II, § 207(b)(7)-(9), title V, § 529, 94 Stat. 144, 168, related to rate of interest pay-

able on deposits, shares or withdrawable accounts by members, insured institutions and other nonmember financial institutions.

§ 1426. Capital structure of Federal home loan banks

(a) Regulations

(1) Capital standards

Not later than 18 months after November 12, 1999, the Director shall issue regulations prescribing uniform capital standards applicable to each Federal home loan bank, which shall require each such bank to meet—

(A) the leverage requirement specified in paragraph (2); and

(B) the risk-based capital requirements, in accordance with paragraph (3).

(2) Leverage requirement

(A) In general

The leverage requirement shall require each Federal home loan bank to maintain a minimum amount of total capital based on the total assets of the bank and shall be 5 percent.

(B) Treatment of stock and retained earnings

In determining compliance with the minimum leverage ratio established under subparagraph (A), the paid-in value of the outstanding Class B stock and the amount of retained earnings shall be multiplied by 1.5, and such higher amounts shall be deemed to be capital for purposes of meeting the 5 percent minimum leverage ratio, except that a Federal home loan bank's total capital (determined without taking into account any such multiplier) shall not be less than 4 percent of the total assets of the bank.

(3) Risk-based capital standards

(A) Risk-based capital standards

The Director shall, by regulation, establish risk-based capital standards for the Federal Home Loan Banks to ensure that the Federal Home Loan Banks operate in a safe and sound manner, with sufficient permanent capital and reserves to support the risks that arise in the operations and management of the Federal Home Loans Banks.

(B) Consideration of other risk-based standards

In establishing the risk-based standard under subparagraph (A), the Director shall take due consideration of any risk-based capital test established pursuant to section 1361 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4611) for the enterprises (as defined in that Act [12 U.S.C. 4501 et seq.]), with such modifications as the Director determines to be appropriate to reflect differences in operations between the Federal home loan banks and those enterprises.

(4) Other regulatory requirements

The regulations issued by the Director under paragraph (1) shall—

(A) permit each Federal home loan bank to issue, with such rights, terms, and pref-

erences, not inconsistent with this chapter and the regulations issued hereunder, as the board of directors of that bank may approve, any 1 or more of—

(i) Class A stock, which shall be redeemable in cash and at par 6 months following submission by a member of a written notice of its intent to redeem such shares; and

(ii) Class B stock, which shall be redeemable in cash and at par 5 years following submission by a member of a written notice of its intent to redeem such shares;

(B) provide that the stock of a Federal home loan bank may be issued to and held by only members of the bank, and that a bank may not issue any stock other than as provided in this section;

(C) prescribe the manner in which stock of a Federal home loan bank may be sold, transferred, redeemed, or repurchased; and

(D) provide the manner of disposition of outstanding stock held by, and the liquidation of any claims of the Federal home loan bank against, an institution that ceases to be a member of the bank, through merger or otherwise, or that provides notice of intention to withdraw from membership in the bank.

(5) Definitions of capital

For purposes of determining compliance with the capital standards established under this subsection—

(A) permanent capital of a Federal home loan bank shall include—

(i) the amounts paid for the Class B stock; and

(ii) the retained earnings of the bank (as determined in accordance with generally accepted accounting principles); and

(B) total capital of a Federal home loan bank shall include—

(i) permanent capital;

(ii) the amounts paid for the Class A stock;

(iii) consistent with generally accepted accounting principles, and subject to the regulation of the Director, a general allowance for losses, which may not include any reserves or allowances made or held against specific assets; and

(iv) any other amounts from sources available to absorb losses incurred by the bank that the Director determines by regulation to be appropriate to include in determining total capital.

(6) Transition period

Notwithstanding any other provision of this chapter, the requirements relating to purchase and retention of capital stock of a Federal home loan bank by any member thereof in effect on the day before November 12, 1999, shall continue in effect with respect to each Federal home loan bank until the regulations required by this subsection have taken effect and the capital structure plan required by subsection (b) has been approved by the Director and implemented by such bank.

(b) Capital structure plan**(1) Approval of plans**

Not later than 270 days after the date of publication by the Director of final regulations in accordance with subsection (a), the board of directors of each Federal home loan bank shall submit for approval by the Director a plan establishing and implementing a capital structure for such bank that—

(A) the board of directors determines is best suited for the condition and operation of the bank and the interests of the members of the bank;

(B) meets the requirements of subsection (c); and

(C) meets the minimum capital standards and requirements established under subsection (a) and other regulations prescribed by the Director.

(2) Approval of modifications

The board of directors of a Federal home loan bank shall submit to the Director for approval any modifications that the bank proposes to make to an approved capital structure plan.

(c) Contents of plan

The capital structure plan of each Federal home loan bank shall contain provisions addressing each of the following:

(1) Minimum investment**(A) In general**

Each capital structure plan of a Federal home loan bank shall require each member of the bank to maintain a minimum investment in the stock of the bank, the amount of which shall be determined in a manner to be prescribed by the board of directors of each bank and to be included as part of the plan.

(B) Investment alternatives**(i) In general**

In establishing the minimum investment required for each member under subparagraph (A), a Federal home loan bank may, in its discretion, include any 1 or more of the requirements referred to in clause (ii), or any other provisions approved by the Director.

(ii) Authorized requirements

A requirement is referred to in this clause if it is a requirement for—

(I) a stock purchase based on a percentage of the total assets of a member; or

(II) a stock purchase based on a percentage of the outstanding advances from the bank to the member.

(C) Minimum amount

Each capital structure plan of a Federal home loan bank shall require that the minimum stock investment established for members shall be set at a level that is sufficient for the bank to meet the minimum capital requirements established by the Director under subsection (a).

(D) Adjustments to minimum required investment

The capital structure plan of each Federal home loan bank shall impose a continuing obligation on the board of directors of the bank to review and adjust the minimum investment required of each member of that bank, as necessary to ensure that the bank remains in compliance with applicable minimum capital levels established by the Director, and shall require each member to comply promptly with any adjustments to the required minimum investment.

(2) Transition rule**(A) In general**

The capital structure plan of each Federal home loan bank shall specify the date on which it shall take effect, and may provide for a transition period of not longer than 3 years to allow the bank to come into compliance with the capital requirements prescribed under subsection (a), and to allow any institution that was a member of the bank on November 12, 1999, to come into compliance with the minimum investment required pursuant to the plan.

(B) Interim purchase requirements

The capital structure plan of a Federal home loan bank may allow any member referred to in subparagraph (A) that would be required by the terms of the capital structure plan to increase its investment in the stock of the bank to do so in periodic installments during the transition period.

(3) Disposition of shares

The capital structure plan of a Federal home loan bank shall provide for the manner of disposition of any stock held by a member of that bank that terminates its membership or that provides notice of its intention to withdraw from membership in that bank.

(4) Classes of stock**(A) In general**

The capital structure plan of a Federal home loan bank shall afford each member of that bank the option of maintaining its required investment in the bank through the purchase of any combination of classes of stock authorized by the board of directors of the bank and approved by the Director in accordance with its regulations.

(B) Rights requirement

A Federal home loan bank shall include in its capital structure plan provisions establishing terms, rights, and preferences, including minimum investment, dividends, voting, and liquidation preferences of each class of stock issued by the bank, consistent with regulations of the Director and market requirements.

(C) Reduced minimum investment

The capital structure plan of a Federal home loan bank may provide for a reduced minimum stock investment for any member of that bank that elects to purchase Class B¹

¹ So in original. Probably should be "Class B stock".

in a manner that is consistent with meeting the minimum capital requirements of the bank, as established by the Director.

(D) Liquidation of claims

The capital structure plan of a Federal home loan bank shall provide for the liquidation in an orderly manner, as determined by the bank, of any claim of that bank against a member, including claims for any applicable prepayment fees or penalties resulting from prepayment of advances prior to stated maturity.

(5) Limited transferability of stock

The capital structure plan of a Federal home loan bank shall—

(A) provide that any stock issued by that bank shall be available only to and held only by members of that bank and tradable only between that bank and its members; and

(B) establish standards, criteria, and requirements for the issuance, purchase, transfer, retirement, and redemption of stock issued by that bank.

(6) Bank review of plan

Before filing a capital structure plan with the Director, each Federal home loan bank shall conduct a review of the plan by—

(A) an independent certified public accountant, to ensure, to the extent possible, that implementation of the plan would not result in any write-down of the redeemable bank stock investment of its members; and

(B) at least one major credit rating agency, to determine, to the extent possible, whether implementation of the plan would have any material effect on the credit ratings of the bank.

(d) Termination of membership

(1) Voluntary withdrawal

Any member may withdraw from a Federal home loan bank if the member provides written notice to the bank of its intent to do so and if, on the date of withdrawal, there is in effect a certification by the Director that the withdrawal will not cause the Federal Home Loan Bank System to fail to meet its obligation under section 1411b(f)(2)(C) of this title to contribute to the debt service for the obligations issued by the Resolution Funding Corporation. The applicable stock redemption notice periods shall commence upon receipt of the notice by the bank. Upon the expiration of the applicable notice period for each class of redeemable stock, the member may surrender such stock to the bank, and shall be entitled to receive in cash the par value of the stock. During the applicable notice periods, the member shall be entitled to dividends and other membership rights commensurate with continuing stock ownership.

(2) Involuntary withdrawal

(A) In general

The board of directors of a Federal home loan bank may terminate the membership of any institution if, subject to regulations of the Director, it determines that—

(i) the member has failed to comply with a provision of this chapter or any regulation prescribed under this chapter; or

(ii) the member has been determined to be insolvent, or otherwise subject to the appointment of a conservator, receiver, or other legal custodian, by a Federal or State authority with regulatory and supervisory responsibility for the member.

(B) Stock disposition

An institution, the membership of which is terminated in accordance with subparagraph (A)—

(i) shall surrender redeemable stock to the Federal home loan bank, and shall receive in cash the par value of the stock, upon the expiration of the applicable notice period under subsection (a)(4)(A);

(ii) shall receive any dividends declared on its redeemable stock, during the applicable notice period under subsection (a)(4)(A); and

(iii) shall not be entitled to any other rights or privileges accorded to members after the date of the termination.

(C) Commencement of notice period

With respect to an institution, the membership of which is terminated in accordance with subparagraph (A), the applicable notice period under subsection (a)(4) for each class of redeemable stock shall commence on the earlier of—

(i) the date of such termination; or

(ii) the date on which the member has provided notice of its intent to redeem such stock.

(3) Liquidation of indebtedness

Upon the termination of the membership of an institution for any reason, the outstanding indebtedness of the member to the bank shall be liquidated in an orderly manner, as determined by the bank and, upon the extinguishment of all such indebtedness, the bank shall return to the member all collateral pledged to secure the indebtedness.

(e) Redemption of excess stock

(1) In general

A Federal home loan bank, in its sole discretion, may redeem or repurchase, as appropriate, any shares of Class A or Class B stock issued by the bank and held by a member that are in excess of the minimum stock investment required of that member.

(2) Excess stock

Shares of stock held by a member shall not be deemed to be “excess stock” for purposes of this subsection by virtue of a member’s submission of a notice of intent to withdraw from membership or termination of its membership in any other manner.

(3) Priority

A Federal home loan bank may not redeem any excess Class B stock prior to the end of the 5-year notice period, unless the member has no Class A stock outstanding that could be redeemed as excess.

(f) Impairment of capital

If the Director or the board of directors of a Federal home loan bank determines that the

bank has incurred or is likely to incur losses that result in or are expected to result in charges against the capital of the bank, the bank shall not redeem or repurchase any stock of the bank without the prior approval of the Director while such charges are continuing or are expected to continue. In no case may a bank redeem or repurchase any applicable capital stock if, following the redemption, the bank would fail to satisfy any minimum capital requirement.

(g) Rejoining after divestiture of all shares

(1) In general

Except as provided in paragraph (2), and notwithstanding any other provision of this chapter, an institution that divests all shares of stock in a Federal home loan bank may not, after such divestiture, acquire shares of any Federal home loan bank before the end of the 5-year period beginning on the date of the completion of such divestiture, unless the divestiture is a consequence of a transfer of membership on an uninterrupted basis between banks.

(2) Exception for withdrawals from membership before 1998

Any institution that withdrew from membership in any Federal home loan bank before December 31, 1997, may acquire shares of a Federal home loan bank at any time after that date, subject to the approval of the Director and the requirements of this chapter.

(h) Treatment of retained earnings

(1) In general

The holders of the Class B stock of a Federal home loan bank shall own the retained earnings, surplus, undivided profits, and equity reserves, if any, of the bank.

(2) Exception

Except as specifically provided in this section or through the declaration of a dividend or a capital distribution by a Federal home loan bank, or in the event of liquidation of the bank, a member shall have no right to withdraw or otherwise receive distribution of any portion of the retained earnings of the bank.

(3) Limitation

A Federal home loan bank may not make any distribution of its retained earnings unless, following such distribution, the bank would continue to meet all applicable capital requirements.

(July 22, 1932, ch. 522, § 6, 47 Stat. 727; June 27, 1934, ch. 847, § 509, 48 Stat. 1264; May 28, 1935, ch. 150, § 2, 49 Stat. 293; June 27, 1950, ch. 369, § 2, 64 Stat. 257; Aug. 11, 1955, ch. 783, title I, § 109(a)(1), 69 Stat. 640; Pub. L. 87-210, §§ 1, 2, Sept. 8, 1961, 75 Stat. 482, 483; Pub. L. 96-153, title III, § 327, Dec. 21, 1979, 93 Stat. 1121; Pub. L. 97-320, title III, §§ 353, 355, Oct. 15, 1982, 96 Stat. 1507, 1508; Pub. L. 97-457, § 16, Jan. 12, 1983, 96 Stat. 2509; Pub. L. 101-73, title VII, §§ 701(b)(1), (3)(A), 706, 710(b)(2), (3), 715, Aug. 9, 1989, 103 Stat. 412, 416, 418, 421; Pub. L. 106-102, title VI, § 608, Nov. 12, 1999, 113 Stat. 1456; Pub. L. 106-569, title XII, § 1224, Dec. 27, 2000, 114 Stat. 3036; Pub. L. 110-289, div. A, title I, § 1110(b), title II, § 1204(4), (10), July 30, 2008, 122 Stat. 2676, 2786.)

REFERENCES IN TEXT

The Federal Housing Enterprises Financial Safety and Soundness Act of 1992, referred to in subsec. (a)(3)(B), is title XIII of Pub. L. 102-550, Oct. 28, 1992, 106 Stat. 3941, which is classified principally to chapter 46 (§ 4501 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note under section 4501 of this title and Tables.

AMENDMENTS

2008—Pub. L. 110-289, § 1204(10), substituted “the Director” for “the Finance Board” wherever appearing in subsecs. (a)(1), (3)(B), (4) to (6), (b)(1)(C), (2), (c)(1), (4)(A), (C), (6), (d)(1), (f), and (g).

Subsec. (a)(3)(A). Pub. L. 110-289, § 1110(b)(1), added subpar. (A) and struck out former subpar. (A). Prior to amendment, text read as follows: “Each Federal home loan bank shall maintain permanent capital in an amount that is sufficient, as determined in accordance with the regulations of the Finance Board, to meet—

“(i) the credit risk to which the Federal home loan bank is subject; and

“(ii) the market risk, including interest rate risk, to which the Federal home loan bank is subject, based on a stress test established by the Finance Board that rigorously tests for changes in market variables, including changes in interest rates, rate volatility, and changes in the shape of the yield curve.”

Subsec. (a)(3)(B). Pub. L. 110-289, § 1110(b)(2), substituted “(A)” for “(A)(ii)”.

Subsec. (b)(1). Pub. L. 110-289, § 1204(4)(A), (10), substituted “the Director” for “the Finance Board” and “approval by the Director” for “Finance Board approval” in introductory provisions.

Subsecs. (c)(4)(B), (d)(2)(A). Pub. L. 110-289, § 1204(4)(B), substituted “regulations of the Director” for “Finance Board regulations”.

2000—Subsec. (a)(1). Pub. L. 106-569 substituted “18 months” for “1 year” in introductory provisions.

1999—Pub. L. 106-102 amended section generally, substituting present provisions for provisions authorizing banks to issue capital stock and providing for minimum subscriptions, retirement of oversubscriptions, cancellation of oversubscriptions, aggregate unpaid loan principal, reports and information, payments for stock, transfer or hypothecation of stock, withdrawal or removal of members, surrender and cancellation of stock, prepayment penalties, disposal of stock, dividends, and acquisition of membership after expiration of period of withdrawal.

1989—Subsec. (a). Pub. L. 101-73, §§ 701(b)(1), (3)(A), 706(1), redesignated subsec. (b) as (a), substituted “Board” for “board”, and struck out former subsec. (a) which related to minimum amount of capital stock and subscription books.

Subsec. (b). Pub. L. 101-73, §§ 701(b)(1), (3)(A), 706(1), redesignated subsec. (c) as (b) and substituted “Board may” for “Federal Home Loan Bank Board may” in par. (1), and “The Board” for “The Federal Home Loan Bank Board” in par. (5). Former subsec. (b) redesignated (a).

Subsecs. (c), (d). Pub. L. 101-73, § 706(1), redesignated subsecs. (d) and (h) as (c) and (d), respectively. Former subsec. (c) redesignated (b).

Subsec. (e). Pub. L. 101-73, § 710(b)(3), which directed amendment of subsec. (e) by striking out “or deprive any nonmember borrower of the privilege of further advances,” after “remove any member from membership,” was executed by striking “or deprive any nonmember borrower of the privilege of obtaining further advances,” as the probable intent of Congress.

Pub. L. 101-73, § 710(b)(2), struck out “or nonmember borrower” after “such member” wherever appearing.

Pub. L. 101-73, § 706(2), substituted “If any member’s membership in a Federal Home Loan Bank is terminated, the indebtedness of such member to the Federal Home Loan Bank shall be liquidated in an orderly manner (as determined by the Federal Home Loan Bank),

and upon completion of such liquidation, the capital stock in the Federal Home Loan Bank owned by such member shall be surrendered and canceled. Any such liquidation shall be deemed a prepayment of any such indebtedness, and shall be subject to any penalties or other fees applicable to such prepayment." for "In any such case, the indebtedness of such member or non-member borrower to the Federal Home Loan Bank shall be liquidated, and the capital stock in the Federal Home Loan Bank owned by such member shall be surrendered and canceled, except that in the case of a voluntary withdrawal, such liquidation shall be deemed a prepayment of any such indebtedness, and shall be subject to any penalties applicable to such prepayment."

Pub. L. 101-73, §§ 701(b)(1), (3)(A), 706(1), redesignated subsec. (i) as (e), substituted "Board" for "board" wherever appearing, and struck out former subsec. (e) which related to loans to institutions not authorized to subscribe to stock.

Subsec. (f). Pub. L. 101-73, §§ 701(b)(1), (3)(A), 706(1), redesignated subsec. (j) as (f), substituted "Board" for "board", and struck out former subsec. (f) which related to subscription by United States, maximum amounts, and payments.

Subsec. (g). Pub. L. 101-73, § 706(1), redesignated subsec. (k) as (g) and struck out former subsec. (g) which related to retirement of stock of United States.

Subsec. (h). Pub. L. 101-73, § 715, substituted "10" for "five".

Pub. L. 101-73, § 706(3), substituted "charter as a Federal savings association (as defined in section 1813 of this title)" for "charter from the Federal Home Loan Bank Board".

Pub. L. 101-73, § 706(1), redesignated subsec. (m) as (h). Former subsec. (h) redesignated (d).

Subsecs. (i) to (k). Pub. L. 101-73, § 706(1), redesignated former subsecs. (i) to (k) as (e) to (g), respectively.

Subsec. (m). Pub. L. 101-73, § 706(1), redesignated former subsec. (m) as (h).

1983—Subsec. (m). Pub. L. 97-457 substituted "banks or in connection with obtaining a charter from the Federal Home Loan Bank Board" for "Banks" after "between".

1982—Subsec. (c)(2). Pub. L. 97-320, § 353, struck out cl. (i) limitations which had prohibited members from reducing stock to less than the amount held on Sept. 8, 1961, except for a reduction at any time to not less than 2 percent of its aggregate unpaid loan principal as of the beginning of the calendar year in which reduction was made, but not less than \$500, or if reduced to less than 2 percent, such reduction to be in the discretion of the Board; and reenacted cl. (ii) limitations as par. (2), substituting "the Board defining such term" for "said Board defining said term".

Subsec. (i). Pub. L. 97-320, § 355(a), provided for treatment of a liquidation of indebtedness, in the case of a voluntary withdrawal of an institution from membership, as a prepayment of the indebtedness, subject to applicable prepayment penalties.

Subsec. (m). Pub. L. 97-320, § 355(b), added subsec. (m). 1979—Subsec. (c)(2)(ii). Pub. L. 96-153 substituted "twenty" for "twelve".

1961—Subsec. (c). Pub. L. 87-210, § 1, amended subsection generally, and among other changes, authorized the bank to adjust at the end of each calendar year, under Board regulations, the stock held by each member, to retire stock of members in excess of required amounts, prohibited members to reduce stock to less than the amount held on Sept. 8, 1961, except for a reduction at any time to not less than 2 percent of its aggregate unpaid loan principal as of the beginning of the calendar year in which reduction is made, but not less than \$500, or if reduced to less than 2 percent, such reduction to be in the discretion of the Board, provided that no bank shall act so as to cause the aggregate outstanding advances, within the meaning of regulations of the Board defining said term, to exceed 12 times the amounts paid in by members for outstanding capital stock held by such members, defined term "aggregate unpaid loan principal" and authorized the board to re-

quire members to submit reports and information for purposes of this subsection.

Subsec. (l). Pub. L. 87-210, § 2, repealed subsec. (l) which required members to acquire, hold and maintain their stock holding in an amount equal to at least 2 percent of the aggregate of the unpaid principal of such member's home mortgage loans, home-purchase contracts, and similar obligations, but not less than \$500, and provided for the retirement of Government-owned stock.

1955—Subsec. (i). Act Aug. 11, 1955, provided that a Federal savings and loan association may not withdraw voluntarily, inserted proviso clause in item (ii), and inserted provisions authorizing removal of a member institution which has a management or home-financing policy of a character inconsistent with sound and economical home financing or with the purposes of this chapter.

1950—Subsec. (l). Act June 27, 1950, added subsec. (l). 1935—Subsec. (k). Act May 28, 1935, omitted exception clause relating to stock held by the United States.

1934—Subsecs. (c), (e). Act June 27, 1934, substituted "\$500" for "\$1,500".

EFFECTIVE DATE OF 1961 AMENDMENT

Pub. L. 87-210, § 7, Sept. 8, 1961, 75 Stat. 485, provided that: "This Act [amending this section and section 1727 of this title and enacting provisions set out as a note under section 1727 of this title] shall become effective on January 1 next following the date of its enactment [Sept. 8, 1961]."

§ 1426a. Exclusion from certain requirements

(a) In general

The Federal Home Loan Banks shall be exempt from compliance with—

(1) sections 78m(e), 78n(a), and 78n(c) of title 15, and related Commission regulations;

(2) section 78o of title 15, and related Commission regulations, with respect to transactions in the capital stock of a Federal Home Loan Bank;

(3) section 78q-1 of title 15, and related Commission regulations, with respect to the transfer of the securities of a Federal Home Loan Bank; and

(4) the Trust Indenture Act of 1939 [15 U.S.C. 77aaa et seq.].

(b) Member exemption

The members of the Federal Home Loan Bank System shall be exempt from compliance with sections 78m(d), 78m(f), 78m(g), 78n(d), and 78p of title 15, and related Commission regulations, with respect to ownership of or transactions in the capital stock of the Federal Home Loan Banks by such members.

(c) Exempted and Government securities

(1) Capital stock

The capital stock issued by each of the Federal Home Loan Banks under section 1426 of this title are—

(A) exempted securities, within the meaning of section 77c(a)(2) of title 15; and

(B) exempted securities, within the meaning of section 78c(a)(12)(A) of title 15, except to the extent provided in section 78oo of title 15.

(2) Other obligations

The debentures, bonds, and other obligations issued under section 1431 of this title are—

(A) exempted securities, within the meaning of section 77c(a)(2) of title 15;

(B) government securities, within the meaning of section 78c(a)(42) of title 15; and
 (C) government securities, within the meaning of section 80a-2(a)(16) of title 15.

(3) Brokers and dealers

A person (other than a Federal Home Loan Bank effecting transactions for members of the Federal Home Loan Bank System) that effects transactions in the capital stock or other obligations of a Federal Home Loan Bank, for the account of others or for that person's own account, as applicable, is a broker or dealer, as those terms are defined in paragraphs (4) and (5), respectively, of section 78c(a) of title 15, but is excluded from the definition of—

(A) the term “government securities broker” under section 78c(a)(43) of title 15; and

(B) the term “government securities dealer” under section 78c(a)(44) of title 15.

(d) Exemption from reporting requirements

The Federal Home Loan Banks shall be exempt from periodic reporting requirements under the securities laws pertaining to the disclosure of—

(1) related party transactions that occur in the ordinary course of the business of the Banks with members; and

(2) the unregistered sales of equity securities.

(e) Tender offers

Commission rules relating to tender offers shall not apply in connection with transactions in the capital stock of the Federal Home Loan Banks.

(f) Regulations

(1) In general

The Commission shall promulgate such rules and regulations as may be necessary or appropriate in the public interest or in furtherance of this section and the exemptions provided in this section.

(2) Considerations

In issuing regulations under this section, the Commission shall consider the distinctive characteristics of the Federal Home Loan Banks when evaluating—

(A) the accounting treatment with respect to the payment to the Resolution Funding Corporation;

(B) the role of the combined financial statements of the Federal Home Loan Banks;

(C) the accounting classification of redeemable capital stock; and

(D) the accounting treatment related to the joint and several nature of the obligations of the Banks.

(g) Definitions

As used in this section—

(1) the terms “Bank”, “Federal Home Loan Bank”, “member”, and “Federal Home Loan Bank System” have the same meanings as in section 1422 of this title;

(2) the term “Commission” means the Securities and Exchange Commission; and

(3) the term “securities laws” has the same meaning as in section 78c(a)(47) of title 15.

(Pub. L. 110-289, div. A, title II, §1208, July 30, 2008, 122 Stat. 2788.)

REFERENCES IN TEXT

The Trust Indenture Act of 1939, referred to in subsec. (a)(4), is title III of act May 27, 1933, ch. 38, as added Aug. 3, 1939, ch. 411, 53 Stat. 1149, which is classified generally to subchapter III (§77aaa et seq.) of chapter 2A of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 77aaa of Title 15 and Tables.

CODIFICATION

Section was enacted as part of the Housing and Economic Recovery Act of 2008, and also as part of the Federal Housing Finance Regulatory Reform Act of 2008, and not as part of the Federal Home Loan Bank Act which comprises this chapter.

§ 1427. Directors

(a) Number; election; qualifications; conflicts of interest

(1) In general

Subject to paragraphs (2) through (4), the management of each Federal Home Loan Bank shall be vested in a board of 13 directors, or such other number as the Director determines appropriate.

(2) Board makeup

The board of directors of each Bank shall be comprised of—

(A) member directors, who shall comprise at least the majority of the members of the board of directors; and

(B) independent directors, who shall comprise not fewer than $\frac{2}{3}$ of the members of the board of directors.

(3) Selection criteria

(A) In general

Each member of the board of directors shall be—

(i) elected by plurality vote of the members, in accordance with procedures established under this section; and

(ii) a citizen of the United States.

(B) Independent director criteria

(i) In general

Each independent director that is not a public interest director under clause (ii) shall have demonstrated knowledge of, or experience in, financial management, auditing and accounting, risk management practices, derivatives, project development, or organizational management, or such other knowledge or expertise as the Director may provide by regulation.

(ii) Public interest

Not fewer than 2 of the independent directors shall have more than 4 years of experience in representing consumer or community interests on banking services, credit needs, housing, or financial consumer protections.

(iii) Conflicts of interest

No independent director may, during the term of service on the board of directors, serve as an officer of any Federal Home

Loan Bank or as a director, officer, or employee of any member of a Bank, or of any person that receives advances from a Bank.

(4) Definitions

For purposes of this section, the following definitions shall apply:

(A) Independent director

The terms “independent director” and “independent directorship” mean a member of the board of directors of a Federal Home Loan Bank who is a bona fide resident of the district in which the Federal Home Loan Bank is located, or the directorship held by such a person, respectively.

(B) Member director

The terms “member director” and “member directorship” mean a member of the board of directors of a Federal Home Loan Bank who is an officer or director of a member institution that is located in the district in which the Federal Home Loan Bank is located, or the directorship held by such a person, respectively.

(b) Directorships

(1) Member directorships

Each member directorship shall be designated by the Director as representing the members located in a particular State, and shall be filled by a person who is an officer or director of a member located in that State, each of which members shall be entitled to nominate an eligible person for such directorship, and such office shall be filled from such nominees by a plurality of the votes which such members may cast in an election held for the purpose of filling such office, in which election each such member may cast for such office a number of votes equal to the number of shares of stock in such bank required by this chapter to be held by such member at the end of the calendar year next preceding the election, as determined pursuant to regulation of the Director, but not in excess of the average number of shares of stock in such bank required by this chapter to be held at the end of such calendar year by the respective members of such bank located in such State, as so determined. No person who is an officer or director of a member that fails to meet any applicable capital requirement is eligible to hold the office of Federal Home Loan Bank director. As used in this subsection and in subsection (c) of this section, the term “member” means a member of a Federal home loan bank which was a member of such bank at the end of such calendar year.

(2) Independent directorships

(A) Elections

Each independent director—

(i) shall be elected by the members entitled to vote, from among eligible persons nominated, after consultation with the Advisory Council of the Bank, by the board of directors of the Bank; and

(ii) shall be elected by a plurality of the votes of the members of the Bank at large,

with each member having the number of votes for each such directorship as it has under paragraph (1) in an election to fill member directorships.

(B) Criteria

Nominees shall meet all applicable requirements prescribed in this section.

(C) Nomination and election procedures

Procedures for nomination and election of independent directors shall be prescribed by the bylaws of each Federal Home Loan Bank, in a manner consistent with the rules and regulations of the Agency.

(c) Apportionment among States in bank district; designation of State location

The number of member directorships designated as representing the members located in each separate State in a bank district shall be determined by the Director in the approximate ratio of the percentage of the required stock, as determined pursuant to regulation of the Director, of the members located in that State at the end of the calendar year next preceding the date of the election to the total required stock, as so determined, of all members of such bank at the end of such year, except that in the case of each State such number shall not be less than one and shall not be more than six. Notwithstanding any other provision of this section, (A) except as provided in clause (B) of this sentence, if at any time the number of member directorships so designated as representing the members located in any State would not be at least equal to the total number of elective directorships which, on December 31, 1960, were filled by officers or directors of members whose principal places of business were located in such State, the Director shall add to the board of directors of the bank of the district in which such State is located such number of member directorships, and shall so designate the directorship or directorships thus added, that the number of member directorships designated as representing the members located in such State will equal said total number, and (B) clause (A) of this sentence shall not apply to the directorships of any Federal Home Loan Bank resulting from the merger of any 2 or more such Banks. Any member directorship so added shall exist only until the expiration of its first term. The Director shall, with respect to each member of a Federal home loan bank, designate the State in the district of such bank in which such member shall, for the purposes of this subsection and subsection (b) of this section, be deemed to be located, and may from time to time change any such designation, but if the principal place of business of any such member is located in a State of such district it shall be the duty of the Director to designate such State as the State in which such member shall, for said purposes, be deemed to be located. As used in the second sentence of this subsection, the term “total number of elective directorships” means the total number of elective directorships on the board of directors of the bank of the district in which such State was located on December 31, 1960, and the term “members” where used for the second time in such sentence means members of such bank.

(d) Terms; rules and regulations governing nominations and elections

The term of each director shall be 4 years. The board of directors of each Federal home loan bank and the Director shall adjust the terms of members first elected after July 30, 2008, to ensure that the terms of the members of the board of directors are staggered with approximately $\frac{1}{4}$ of the terms expiring each year. If any person, before or after, or partly before and partly after, September 8, 1961, has been elected to each of three consecutive full terms as a director of a Federal home loan bank and has served for all or part of each of said terms, such person shall not be eligible for election to a directorship of such bank for a term which begins earlier than two years after the expiration of the last expiring of said three terms. The Director is authorized to prescribe such rules and regulations as it may deem necessary or appropriate for the nomination and election of directors of Federal home loan banks, including, without limitation on the generality of the foregoing, rules and regulations with respect to the breaking of ties and with respect to the inclusion of more than one directorship on a single ballot and the methods of voting and of determining the results of voting in such cases.

(e) Continuation of existing terms; directorship for the Commonwealth of Puerto Rico

Each term, outstanding on the effective date of the amendment to this section abolishing the division of elective directors into classes, of an elective or appointive directorship then existing shall continue until its original date of expiration, and any elective or appointive directorship in existence on said date shall continue to exist to the same extent as if it had been established by or under this section on or after said date. The Director in its¹ discretion may shorten the next succeeding term of any such elective directorship to one year, and may fill such term by appointment. The term "States" or "State" as used in this section shall mean the States of the Union, the District of Columbia, and the Commonwealth of Puerto Rico. The Director, by regulation or otherwise, may add an additional elective directorship to the board of directors of the bank of any district in which the Commonwealth of Puerto Rico is included at the time such directorship is added and which does not then include five or more States, may fix the commencement and the duration, which shall not exceed two years, of the initial term of any directorship so added, and may fill any such initial term by appointment: *Provided*, That (1) any directorship added pursuant to the foregoing provisions of this sentence shall be designated by the Director, pursuant to subsection (b) of this section, as representing the members located in the Commonwealth of Puerto Rico, (2) such designation of such directorship shall not be changed, and (3) such directorship shall automatically cease to exist if and when the Commonwealth of Puerto Rico ceases to be included in such district.

¹ So in original.

(f) Vacancies**(1) In general**

A Bank director elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor in office.

(2) Election process

In the event of a vacancy in any Bank directorship, such vacancy shall be filled by an affirmative vote of a majority of the remaining Bank directors, regardless of whether such remaining Bank directors constitute a quorum of the Bank's board of directors. A Bank director so elected shall satisfy the requirements for eligibility which were applicable to his predecessor. If any Bank director shall cease to have any qualification set forth in this section, the office held by such person shall immediately become vacant, and such person shall not continue to act as a Bank director.

(g) Chairperson and Vice Chairperson**(1) Election**

The Chairperson and Vice Chairperson of the board of directors of each Federal home loan bank shall be elected by a majority of all the directors of such bank from among the directors of the bank.

(2) Terms

The term of office of the Chairperson and the Vice Chairperson of the board of directors of a Federal home loan bank shall be 2 years.

(3) Acting Chairperson

In the event of a vacancy in the position of Chairperson of the board of directors or during the absence or disability of the Chairperson, the Vice Chairperson shall act as Chairperson.

(4) Procedures

The board of directors of each Federal home loan bank shall establish procedures, in the bylaws of such board, for designating an acting chairperson for any period during which the Chairperson and the Vice Chairperson are not available to carry out the requirements of that position for any reason and removing any person from any such position for good cause.

(h) Appointment where members hold less than \$1,000,000 of capital stock

If at any time when nominations are required members shall hold less than \$1,000,000 of the capital stock of the Federal home loan bank, the Director shall appoint a director or directors to fill the place or places for which such nominations are required, and the Director may, prior to the filing of the certificate mentioned in section 1432 of this title, appoint directors who shall be respectively designated by it as appointive directors and as member directors, in accordance with the provisions of this section.

(i) Directors' compensation**(1) In general**

Each bank may pay its directors reasonable compensation for the time required of them, and their necessary expenses, in the performance of their duties, in accordance with the resolutions adopted by such directors, subject to the approval of the board.

(2) Annual report

The Director shall include, in the annual report submitted to the Congress pursuant to section 4521 of this title, information regarding the compensation and expenses paid by the Federal Home Loan Banks to the directors on the boards of directors of the Banks.

(j) Duties of directors

Such board of directors shall administer the affairs of the bank fairly and impartially and without discrimination in favor of or against any member, and shall, subject to the provisions hereof, extend to each institution authorized to secure advances such advances as may be made safely and reasonably with due regard for the claims and demands of other institutions, and with due regard to the maintenance of adequate credit standing for the Federal Home Loan Bank and its obligations.

(k) Indemnification of directors, officers, and employees

The board of directors of each Bank shall determine the terms and conditions under which such Bank may indemnify its directors, officers, employees or agents.

(l)² Withholding of compensation

Notwithstanding any other provision of this section, a Federal Home Loan Bank shall not transfer, disburse, or pay compensation to any executive officer, or enter into an agreement with such executive officer, without the approval of the Director, for matters being reviewed under section 4518 of this title.

(l)² Transition rule

Any member of the board of directors of a Bank elected or appointed in accordance with this section prior to July 30, 2008, may continue to serve as a member of that board of directors for the remainder of the existing term of service.

(July 22, 1932, ch. 522, § 7, 47 Stat. 730; May 28, 1935, ch. 150, § 3, 49 Stat. 294; Aug. 11, 1955, ch. 783, title I, § 109(a)(2), 69 Stat. 640; Pub. L. 86-349, § 1, 2, Sept. 22, 1959, 73 Stat. 625; Pub. L. 87-211, § 1, Sept. 8, 1961, 75 Stat. 486; Pub. L. 87-676, Sept. 19, 1962, 76 Stat. 559; Pub. L. 93-541, § 3, Dec. 26, 1974, 88 Stat. 1739; Pub. L. 101-73, title VII, §§ 707, 710(b)(4), Aug. 9, 1989, 103 Stat. 417, 418; Pub. L. 106-102, title VI, § 606(a), (b), Nov. 12, 1999, 113 Stat. 1452, 1453; Pub. L. 110-289, div. A, title I, § 1113(b)(3), title II, §§ 1202, 1204(8)-(10), July 30, 2008, 122 Stat. 2678, 2783, 2786.)

REFERENCES IN TEXT

The effective date of the amendment to this section, referred to in subsec. (e), probably means the effective date of Pub. L. 87-211. See Effective Date of 1961 Amendment note below.

CODIFICATION

Section 1202(2) of Pub. L. 110-289, which directed amendment of this section by substituting "member" for "elective" wherever appearing other than in subssecs. (d), (e), and (f), was executed by making the substitution in subsec. (h) but not in subssecs. (b) and (c) to reflect the probable intent of Congress and subsequent amendment by Pub. L. 110-289, § 1202(3)(A), (4)(A). See 2008 Amendment notes below.

² So in original. Two subssecs. (l) have been enacted.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-289, § 1202(1), added subsec. (a) and struck out former subsec. (a) which related to number, appointment and election, qualifications, and conflicts of interest of Federal Home Loan Bank directors.

Subsec. (b). Pub. L. 110-289, § 1202(3), designated existing provisions as par. (1), inserted subsec. (b) and par. (1) headings, substituted "Each member directorship" for "Each elective directorship", and added par. (2).

Pub. L. 110-289, § 1202(2), which directed substitution of "member" for "elective" wherever appearing, was not executed in subsec. (b) because of subsequent amendment by Pub. L. 110-289, § 1202(3)(A). See Amendment and Codification notes above.

Subsec. (b)(1). Pub. L. 110-289, § 1204(8), substituted "the Director" for "the Board" in two places.

Subsec. (c). Pub. L. 110-289, § 1204(8), (9), substituted "the Director" for "the Board" wherever appearing and "The Director" for "The Board".

Pub. L. 110-289, § 1202(4)(B), in second sentence, inserted "(A) except as provided in clause (B) of this sentence," before "if at any time" and ", and (B) clause (A) of this sentence shall not apply to the directorships of any Federal Home Loan Bank resulting from the merger of any 2 or more such Banks" before period at end.

Pub. L. 110-289, § 1202(4)(A), substituted "member" for "elective" wherever appearing before "directorship" or "directorships", except second place appearing in second sentence and each place appearing in fifth sentence.

Pub. L. 110-289, § 1202(2), which directed substitution of "member" for "elective" wherever appearing, was not executed in subsec. (c) because of subsequent amendment by Pub. L. 110-289, § 1202(4)(A). See Amendment and Codification notes above.

Subsec. (d). Pub. L. 110-289, § 1204(9), (10), substituted "the Director" for "the Finance Board" and "The Director" for "The Board".

Pub. L. 110-289, § 1202(5), in first sentence, struck out ", whether elected or appointed," after "each director" and substituted "4 years" for "3 years", in second sentence, struck out "or appointed" after "first elected" and substituted "July 30, 2008" for "November 12, 1999" and "1/4" for "1/3", and in third sentence, substituted "a" for "an elective" after "full terms as" and after "for election to" and struck out "in any elective directorship or elective directorships" after "Federal home loan bank".

Subsec. (e). Pub. L. 110-289, § 1204(8), (9), substituted "The Director" for "The Board" in two places and "the Director" for "the Board".

Subsec. (f)(1). Pub. L. 110-289, § 1202(6)(B), struck out "appointed or" before "elected" in two places.

Subsec. (f)(2), (3). Pub. L. 110-289, § 1202(6)(A), (C), re-designated par. (3) as (2), substituted "Election process" for "Elected bank directors" in heading, struck out "elective" after "in any" and after "If any" in text, and struck out former par. (2). Prior to amendment, text of par. (2) read as follows: "In the event of a vacancy in any appointive Bank directorship, such vacancy shall be filled through appointment by the Board for the unexpired term. If any appointive Bank director shall cease to have the qualifications set forth in subsection (a) of this section, the office held by such person shall immediately become vacant, but such person may continue to act as a Bank director until his or her successor assumes the vacated office or the term of such office expires, whichever occurs first."

Subsec. (h). Pub. L. 110-290, § 1204(8), substituted "the Director" for "the Board" in two places.

Pub. L. 110-289, § 1202(2), substituted "member" for "elective".

Subsec. (i). Pub. L. 110-289, § 1202(7), substituted "Each" for "Subject to paragraph (2), each" in par. (1), added par. (2), and struck out former par. (2) which related to limitations on compensation of members of the board of directors of a Federal home loan bank.

Subsec. (l). Pub. L. 110-289, §1202(8), added subsec. (l) relating to transition rule.

Pub. L. 110-289, §1113(b), added subsec. (l) relating to withholding of compensation.

1999—Subsec. (a). Pub. L. 106-102, §606(a)(1), substituted “, and each of whom shall be either a bona fide resident of the district in which such bank is located or an officer or director of a member of such bank located in that district” for “and bona fide residents of the district in which such bank is located”.

Subsec. (d). Pub. L. 106-102, §606(a)(2), substituted “The term of each director, whether elected or appointed, shall be 3 years. The board of directors of each Federal home loan bank and the Finance Board shall adjust the terms of members first elected or appointed after November 12, 1999, to ensure that the terms of the members of the board of directors are staggered with approximately 1/3 of the terms expiring each year.” for “The term of each elective directorship shall be two years and the term of each appointive directorship shall be four years.”

Subsec. (g). Pub. L. 106-102, §606(a)(3), added subsec. (g) and struck out former subsec. (g) which read as follows: “The Board shall designate one of the directors of each bank to be chairman, and one to be vice chairman, of the board of directors of such bank.”

Subsec. (i). Pub. L. 106-102, §606(b), inserted heading, designated existing provisions as par. (1), inserted heading, substituted “Subject to paragraph (2), each bank may pay its directors” for “Each bank may pay its directors”, and added par. (2).

1989—Subsec. (a). Pub. L. 101-73, §707(1), inserted provisions relating to requirements for at least 2 of the directors and provisions respecting conflicts of interests, and substituted provisions relating to appointment under section 1422a of this title for provisions relating to appointment under section 1437(b) of this title.

Subsec. (b). Pub. L. 101-73, §707(2), inserted after first sentence “No person who is an officer or director of a member that fails to meet any applicable capital requirement is eligible to hold the office of Federal Home Loan Bank director.”

Subsec. (f). Pub. L. 101-73, §707(3), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: “In the event of a vacancy in any appointive or elective directorship, such vacancy shall be filled through appointment by the Board for the unexpired term: *Provided*, That if any director shall cease to have the qualifications set forth in subsection (a) of this section, or if any elective director shall cease to have any qualification set forth in this section, the office held by such director shall immediately become vacant, but such director may continue to act as such director until his successor assumes the vacated office or the term of such office expires, whichever shall first occur.”

Subsec. (j). Pub. L. 101-73, §710(b)(4), struck out “or nonmember borrower” after “against any member”.

Subsec. (k). Pub. L. 101-73, §707(4), added subsec. (k).

1974—Subsec. (a). Pub. L. 93-541 increased number of directors from twelve to fourteen, increased number of appointive directors from four to six, and in proviso relating to districts including five or more States, substituted provisions authorizing increase of appointive directors to a number not exceeding three-fourths the number of elective directors for provisions authorizing increase of appointive directors to a number not exceeding one-half the number of elective directors.

1962—Subsec. (e). Pub. L. 87-676 included Commonwealth of Puerto Rico within term “States” or “State”, and authorized Board to add an additional elective directorship to board of bank of any district in which Commonwealth of Puerto Rico is included at time such directorship is added and which doesn't include five or more States, and to fill such initial term by appointment, provided, that any such added directorship shall be designated as representing members in Commonwealth of Puerto Rico, that such designation shall not be changed, and that such directorship shall cease to exist if and when Commonwealth of Puerto Rico ceases to be included in such district.

1961—Subsec. (a). Pub. L. 87-211 authorized Board to increase appointive directors in any district which includes five or more States to a number not exceeding one-half number of elective directors, directed Board to exercise its authority to increase the elective directors to a number at least equal to number of States in a district whenever number of elective directors in district is not at least equal to number of States in district, and struck out provisions which related to apportionment of additional elective directors, required at least one but not more than three elective directors from any of the States in any district in which number of elective directors is increased, limited number of elective directors in any one district to not more than eleven, and defined term “States”. See subsec. (c) of this section.

Subsec. (b). Pub. L. 87-211 amended subsection generally, substituting provisions relating to designation of elective directorships, nominations for such office, manner of election, and voting power of each member, for provisions which required four directors to be appointed by Board, limited their term of office to four years, and which authorized Board to increase total number of appointive directors to not more than one-half total number of elective directors in cases where number of elective directors has been increased. See subsec. (a) of this section.

Subsec. (c). Pub. L. 87-211 required number of elective directorships designated as representing members located in each separate State in a bank district to be determined by Board in approximate ratio of percentage of required stock of members located in that State at end of calendar year next preceding date of election to total required stock of all members of such bank at end of such year, except that in case of each State such number shall not be less than one and not more than six, directed Board, in cases where number of elective directorships in any State would not be at least equal to total number of elective directorships in such State on Dec. 31, 1960, to add such number of elective directorships so that their number will equal such total number, provided that an elective directorship so added shall exist only until expiration of its first term, authorized designation of State location of each member, defined terms “total number of elective directorships” and “members”, and struck out provisions which related to election of two directors from each of classes A, B, and C and limited their term of office to two years. See subsec. (d) of this section.

Subsec. (d). Pub. L. 87-211 established term of each elective directorship at two years and of each appointive directorship at four years, restricted eligibility for election of persons elected to each of three consecutive full terms and who have served for all or part of each of said terms, empowered Board to prescribe rules and regulations for nomination and election of directors, and struck out provisions which required two directors to be elected by members of bank without regard to classes and limited their term of office to two years.

Subsec. (e). Pub. L. 87-211 amended subsection generally, substituting provisions permitting continuation of terms of elective and appointive directorships, empowering Board to shorten next succeeding term of any elective directorship to one year and to fill such term by appointment, defining terms “States” and “State”, for provisions which required the Board to divide members of each bank into either group A, B, or C, permitted each member to nominate persons for election as directors of class corresponding to group to which member belongs, and limited each member to one vote for each director in its class.

Subsec. (f). Pub. L. 87-211 substituted “In the event of a vacancy in any appointive or elective directorship, such vacancy shall be filled through appointment by the Board for the unexpired term” for “Any director appointed or elected as provided in this section to fill a vacancy shall hold office only until the expiration of the term of his predecessor”, and inserted proviso stating that if any director ceases to have the qualifications set forth in this section his office shall imme-

diately become vacant but permits him to act as such director until his successor assumes the vacated office or the term of his office expires, whichever first occurs.

Subsec. (g). Pub. L. 87-211 reenacted subsec. (g) without change.

Subsec. (h). Pub. L. 87-211 authorized Board, prior to filing of the certificate mentioned in section 1432 of this title, to appoint directors and required Board to designate appointees as either appointive or elective directors, and struck out provisions which permitted directors appointed under this subsection to serve until expiration of the calendar year during which they took office.

1959—Subsec. (a). Pub. L. 86-349, §1, authorized increase of up to 13 in number of elective directors of bank having district which includes five or more States.

Subsec. (b). Pub. L. 86-349, §2, authorized increase in number of appointive directors of up to one-half number of elective directors in district in which number of elective directors were increased pursuant to subsec. (a), and provided for expiration of term of initial incumbent of any office so established.

1955—Subsec. (a). Act Aug. 11, 1955, authorized an increase in number of elective directors of any Federal Home Loan Bank having a district which includes five or more States.

1935—Act May 28, 1935, amended subsecs. (a) to (c) generally, added subsec. (d), and redesignated former subsecs. (d) to (i) as (e) to (j).

EFFECTIVE DATE OF 1961 AMENDMENT

Pub. L. 87-211, §2, Sept. 8, 1961, 75 Stat. 488, provided that: "The amendment made by this Act [amending this section] shall take effect on the second day of the first calendar year which begins after the date of enactment of this Act [Sept. 8, 1961]."

EFFECTIVE DATE OF 1935 AMENDMENT

Act May 28, 1935, ch. 150, §3, 49 Stat. 294, provided that the amendment made by that section is effective Jan. 1, 1936.

§ 1428. Examination of State laws, regulations, and procedures; studies of values, etc.

The Director shall cause to be made from time to time examinations of the laws of the various States of the United States and the regulations and procedure thereunder governing conditions under which institutions of the kinds which may become members or nonmember borrowers under this chapter are permitted to be formed or to do business, or relating to the conveying or recording of land titles, or to homestead and other rights, or to the enforcement of the rights of holders of mortgages on lands securing loans, or otherwise. If any such examination shall indicate, in the opinion of the Director, that under the laws of any such State or the regulations or procedure thereunder there would be inadequate protection to a Federal Home Loan Bank in making or collecting advances under this chapter, the Director may withhold or limit the operation of any Federal Home Loan Bank in such State until satisfactory conditions of law, regulation, or procedure shall be established. In any State where State examination of members or nonmember borrowers is deemed inadequate for the purposes of the Federal Home Loan Banks, the Director shall establish such examination, all or part of the cost of which may be considered as part of the cost of making advances in such State. The banks and/or the Director may make studies of trends of home and other property values, methods of appraisals, and other

subjects such as they may deem useful for the general guidance of their policies and operations and those of institutions authorized to secure advances.

(July 22, 1932, ch. 522, §8, 47 Stat. 731; 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(8), (9), July 30, 2008, 122 Stat. 2786.)

AMENDMENTS

2008—Pub. L. 110-289 substituted "The Director" for "The Board" and "the Director" for "the Board" wherever appearing.

1989—Pub. L. 101-73 substituted "Board" for "board" wherever appearing.

§ 1428a. Repealed. Pub. L. 101-73, title VII, § 718, Aug. 9, 1989, 103 Stat. 422

Section, act July 22, 1932, ch. 522, §8a, as added May 28, 1935, ch. 150, §4, 49 Stat. 294; amended 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954; Dec. 26, 1974, Pub. L. 93-541, §6, 88 Stat. 1739; Oct. 15, 1982, Pub. L. 97-320, title III, §354, 96 Stat. 1508, established Federal Savings and Loan Advisory Council.

§ 1429. Eligibility to secure advances

Any member of a Federal Home Loan Bank shall be entitled to apply in writing for advances. Such application shall be in such form as shall be required by the Federal Home Loan Bank. Such Federal Home Loan Bank may at its discretion deny any such application, or may grant it on such conditions as the Federal Home Loan Bank may prescribe.

(July 22, 1932, ch. 522, §9, 47 Stat. 731; Pub. L. 101-73, title VII, §§701(b)(1), (3)(A), 710(a), Aug. 9, 1989, 103 Stat. 412, 418; Pub. L. 106-102, title VI, §606(f)(1), Nov. 12, 1999, 113 Stat. 1455.)

AMENDMENTS

1999—Pub. L. 106-102 struck out "with the approval of the Board" after "Federal Home Loan Bank" in second sentence and struck out "subject to the approval of the Board," after "deny any such application, or" in third sentence.

1989—Pub. L. 101-73, §710(a), struck out "or nonmember borrower" after "Any member".

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

§ 1430. Advances to members

(a) In general

(1) All advances

Each Federal Home Loan Bank is authorized to make secured advances to its members upon collateral sufficient, in the judgment of the Bank, to fully secure advances obtained from the Bank under this section or section 1431(g) of this title.

(2) Purposes of advances

A long-term advance may only be made for the purposes of—

(A) providing funds to any member for residential housing finance; and

(B) providing funds to any community financial institution for small businesses, small farms, small agri-businesses, and community development activities.

(3) Collateral

A Bank, at the time of origination or renewal of a loan or advance, shall obtain and

maintain a security interest in collateral eligible pursuant to one or more of the following categories:

(A) Fully disbursed, whole first mortgages on improved residential property (not more than 90 days delinquent), or securities representing a whole interest in such mortgages.

(B) Securities issued, insured, or guaranteed by the United States Government or any agency thereof (including without limitation, mortgage-backed securities issued or guaranteed by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Corporation, and the Government National Mortgage Association).

(C) Cash or deposits of a Federal Home Loan Bank.

(D) Other real estate related collateral acceptable to the Bank if such collateral has a readily ascertainable value and the Bank can perfect its interest in the collateral.

(E) Secured loans for small business, agriculture, or community development activities or securities representing a whole interest in such secured loans, in the case of any community financial institution.

(4) Additional bank authority

Subparagraphs (A) through (E) of paragraph (3) shall not affect the ability of any Federal Home Loan Bank to take such steps as it deems necessary to protect its security position with respect to outstanding advances, including requiring deposits of additional collateral security, whether or not such additional security would be eligible to originate an advance. If an advance existing on August 9, 1989, matures and the member does not have sufficient eligible collateral to fully secure a renewal of such advance, a Bank may renew such advance secured by such collateral as the Bank determines is appropriate. A member that has an advance secured by such insufficient eligible collateral must reduce its level of outstanding advances promptly and prudently in accordance with a schedule determined by the Federal home loan bank.

(5) Review of certain collateral standards

The Director may review the collateral standards applicable to each Federal home loan bank for the classes of collateral described in subparagraphs (D) and (E) of paragraph (3), and may, if necessary for safety and soundness purposes, require an increase in the collateral standards for any or all of those classes of collateral.

(6) Definitions

For purposes of this subsection, the terms "small business", "agriculture", "small farm", "small agri-business", and "community development activities" shall have the meanings given those terms by regulation of the Director.

(b) Appraisals and other investigations; acceptance of home mortgages as collateral security only by approval of Director

For the purposes of this section, each Home Loan Bank shall have power to make, or to

cause or require to be made, such appraisals and other investigations as it may deem necessary. No home mortgage otherwise eligible to be accepted as collateral security for an advance by a Home Loan Bank shall be accepted if any director, officer, employee, attorney or agent of the Home Loan Bank or of the borrowing institution is personally liable thereon, unless the Director has specifically approved such acceptance.

(c) Notes of borrowing members; interest rate; lien on stock

Such advances shall be made upon the note or obligation of the member secured as provided in this section, bearing such rate of interest as the Federal home loan bank may approve or determine, and the Federal Home Loan Bank shall have a lien upon and shall hold the stock of such member as further collateral security for all indebtedness of the member to the Federal Home Loan Bank.

(d) Obligation to repay; additional security; sale of advances to other banks

The institution applying for an advance shall enter into a primary and unconditional obligation to pay off all advances, together with interest and any unpaid costs and expenses in connection therewith according to the terms under which they were made, in such form as shall meet the requirements of the bank. The bank shall reserve the right to require at any time, when deemed necessary for its protection, deposits of additional collateral security or substitutions of security by the borrowing institution, and each borrowing institution shall assign additional or substituted security when and as so required. Any Federal Home Loan Bank shall have power to sell to any other Federal Home Loan Bank, with or without recourse, any advance made under the provisions of this chapter, or to allow to such bank a participation therein, and any other Federal Home Loan Bank shall have power to purchase such advance or to accept a participation therein, together with an appropriate assignment of security therefor.

(e) Priority of certain secured interests

Notwithstanding any other provision of law, any security interest granted to a Federal Home Loan Bank by any member of any Federal Home Loan Bank or any affiliate of any such member shall be entitled to priority over the claims and rights of any party (including any receiver, conservator, trustee, or similar party having rights of a lien creditor) other than claims and rights that—

(1) would be entitled to priority under otherwise applicable law; and

(2) are held by actual bona fide purchasers for value or by actual secured parties that are secured by actual perfected security interests.

(g)¹ Community support requirements

(1) In general

Before the end of the 2-year period beginning on August 9, 1989, the Director shall adopt regulations establishing standards of community investment or service for members of Banks to maintain continued access to long-term advances.

¹ So in original. No subsec. (f) has been enacted.

(2) Factors to be included

The regulations promulgated pursuant to paragraph (1) shall take into account factors such as a member's performance under the Community Reinvestment Act of 1977 [12 U.S.C. 2901 et seq.] and the member's record of lending to first-time homebuyers.

(h) Special liquidity advances**(1) In general**

Subject to paragraph (2), the Federal Home Loan Banks may, upon the request of the Director of the Office of Thrift Supervision, make short-term liquidity advances to a savings association that—

(A) is solvent but presents a supervisory concern because of such association's poor financial condition; and

(B) has reasonable and demonstrable prospects of returning to a satisfactory financial condition.

(2) Interest on and security for special liquidity advances

Any loan by a Federal Home Loan Bank pursuant to paragraph (1) shall be subject to all applicable collateral requirements, including the requirements of subsection (a), and shall be at an interest rate no less favorable than those made available for similar short-term liquidity advances to savings associations that do not present such supervisory concern.

(i) Community investment program**(1) In general**

Each Bank shall establish a program to provide funding for members to undertake community-oriented mortgage lending. Each Bank shall designate a community investment officer to implement community lending and affordable housing advance programs of the Banks under this subsection and subsection (j) and provide technical assistance and outreach to promote such programs. Advances under this program shall be priced at the cost of consolidated Federal Home Loan Bank obligations of comparable maturities, taking into account reasonable administrative costs.

(2) Community-oriented mortgage lending

For purposes of this subsection, the term "community-oriented mortgage lending" means providing loans—

(A) to finance home purchases by families whose income does not exceed 115 percent of the median income for the area,

(B) to finance purchase or rehabilitation of housing for occupancy by families whose income does not exceed 115 percent of median income for the area,

(C) to finance commercial and economic development activities that benefit low- and moderate-income families or activities that are located in low- and moderate-income neighborhoods, and

(D) to finance projects that further a combination of the purposes described in subparagraphs (A) through (C).

(j) Affordable housing program**(1) In general**

Pursuant to regulations promulgated by the Director, each Bank shall establish an Afford-

able Housing Program to subsidize the interest rate on advances to members engaged in lending for long term, low- and moderate-income, owner-occupied and affordable rental housing at subsidized interest rates.

(2) Standards

The Board's² regulations shall permit Bank members to use subsidized advances received from the Banks to—

(A) finance homeownership by families with incomes at or below 80 percent of the median income for the area;

(B) finance the purchase, construction, or rehabilitation of rental housing, at least 20 percent of the units of which will be occupied by and affordable for very low-income households for the remaining useful life of such housing or the mortgage term; or

(C) during the 2-year period beginning on July 30, 2008, use such percentage as the Director may by regulation establish of any subsidized advances set aside to finance homeownership under subparagraph (A) to refinance loans that are secured by a first mortgage on a primary residence of any family having an income at or below 80 percent of the median income for the area.

(3) Priorities for making advances

In using advances authorized under paragraph (1), each Bank member shall give priority to qualified projects such as the following:

(A) purchase of homes by families whose income is 80 percent or less of the median income for the area,

(B) purchase or rehabilitation of housing owned or held by the United States Government or any agency or instrumentality of the United States; and

(C) purchase or rehabilitation of housing sponsored by any nonprofit organization, any State or political subdivision of any State, any local housing authority or State housing finance agency.

(4) Report

Each member receiving advances under this program shall report annually to the Bank making such advances concerning the member's use of advances received under this program.

(5) Contribution to program

Each Bank shall annually contribute the percentage of its annual net earnings prescribed in the following subparagraphs to support subsidized advances through the Affordable Housing Program:

(A) In 1990, 1991, 1992, and 1993, 5 percent of the preceding year's net income, or such prorated sums as may be required to assure that the aggregate contribution of all the Banks shall not be less than \$50,000,000 for each such year.

(B) In 1994, 6 percent of the preceding year's net income, or such prorated sum as may be required to assure that the aggregate contribution of the Banks shall not be less than \$75,000,000 for such year.

²So in original. Probably should be "The Director's".

(C) In 1995, and subsequent years, 10 percent of the preceding year's net income, or such prorated sums as may be required to assure that the aggregate contribution of the Banks shall not be less than \$100,000,000 for each such year.

(6) Grounds for suspending contributions

(A) In general

If a Bank finds that the payments required under this paragraph are contributing to the financial instability of such Bank, it may apply to the Director for a temporary suspension of such payments.

(B) Financial instability

In determining the financial instability of a Bank, the Director shall consider such factors as (i) whether the Bank's earnings are severely depressed, (ii) whether there has been a substantial decline in membership capital, and (iii) whether there has been a substantial reduction in advances outstanding.

(C) Review

The Director shall review the application and any supporting financial data and issue a written decision approving or disapproving such application. The Board's² decision shall be accompanied by specific findings and reasons for its action.

(D) Monitoring suspension

If the Director grants a suspension, it shall specify the period of time such suspension shall remain in effect and shall continue to monitor the Bank's financial condition during such suspension.

(E) Limitations on grounds for suspension

The Director shall not suspend payments to the Affordable Housing Program if the Bank's reduction in earnings is a result of (i) a change in the terms for advances to members which is not justified by market conditions, (ii) inordinate operating and administrative expenses, or (iii) mismanagement.

(F) Congressional notification and action

The Director shall notify the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate not less than 60 days before such suspension takes effect. Such suspension shall become effective unless a joint resolution is enacted disapproving such suspension.

(7) Failure to use amounts for affordable housing

If any Bank fails to utilize or commit the full amount provided in this subsection in any year, 90 percent of the amount that has not been utilized or committed in that year shall be deposited by the Bank in an Affordable Housing Reserve Fund administered by the Director. The 10 percent of the unutilized and uncommitted amount retained by a Bank should be fully utilized or committed by that Bank during the following year and any remaining portion must be deposited in the Af-

fordable Housing Reserve Fund. Under regulations established by the Director, funds from the Affordable Housing Reserve Fund may be made available to any Bank to meet additional affordable housing needs in such Bank's district pursuant to this section.

(8) Net earnings

The net earnings of any Federal Home Loan Bank shall be determined for purposes of this paragraph—

(A) after reduction for any payment required under section 1441 or 1441b of this title; and

(B) before declaring any dividend under section 1436 of this title.

(9) Regulations

The Director shall promulgate regulations to implement this subsection. Such regulations shall, at a minimum—

(A) specify activities eligible to receive subsidized advances from the Banks under this program;

(B) specify priorities for the use of such advances;

(C) ensure that advances made under this program will be used only to assist projects for which adequate long-term monitoring is available to guarantee that affordability standards and other requirements of this subsection are satisfied;

(D) ensure that a preponderance of assistance provided under this subsection is ultimately received by low- and moderate-income households;

(E) ensure that subsidies provided by Banks to member institutions under this program are passed on to the ultimate borrower;

(F) establish uniform standards for subsidized advances under this program and subsidized lending by member institutions supported by such advances, including maximum subsidy and risk limitations for different categories of loans made under this subsection; and

(G) coordinate activities under this subsection with other Federal or federally-subsidized affordable housing activities to the maximum extent possible.

(10) Other programs

No provision of this subsection or subsection (i) shall preclude any Bank from establishing additional community investment cash advance programs or contributing additional sums to the Affordable Housing Reserve Fund.

(11) Advisory Council

Each Bank shall appoint an Advisory Council of 7 to 15 persons drawn from community and nonprofit organizations actively involved in providing or promoting low- and moderate-income housing in its district. The Advisory Council shall meet with representatives of the board of directors of the Bank quarterly to advise the Bank on low- and moderate-income housing programs and needs in the district and on the utilization of the advances for these purposes. Each Advisory Council established under this paragraph shall submit to the Di-

rector at least annually its analysis of the low-income housing activity of the Bank by which it is appointed.

(12) Reports to Congress

(A) The Director shall monitor and report annually to the Congress and the Advisory Council for each Bank the support of low-income housing and community development by the Banks and the utilization of advances for these purposes.

(B) The analyses submitted by the Advisory Councils to the Director under paragraph (11) shall be included as part of the report required by this paragraph.

(C) REPORTS.—The Director shall annually report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the collateral pledged to the Banks, including an analysis of collateral by type and by Bank district.

(D) SUBMISSION TO CONGRESS.—The Director shall submit the reports under subparagraphs (A) and (C) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, not later than 180 days after July 30, 2008.

(13) Definitions

For purposes of this subsection—

(A) Low- or moderate-income household

The term “low- or moderate-income household” means any household which has an income of 80 percent or less of the area median.

(B) Very low-income household

The term “very low-income household” means any household that has an income of 50 percent or less of the area median.

(C) Low- or moderate-income neighborhood

The term “low- or moderate-income neighborhood” means any neighborhood in which 51 percent or more of the households are low- or moderate-income households.

(D) Affordable for very-low income households

For purposes of paragraph (2)(B) the term “affordable for very-low income households” means that rents charged to tenants for units made available for occupancy by low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 50 percent of the income for the area (as determined by the Secretary of Housing and Urban Development) with adjustment for family size.

(k) Public use database

(1) Data

Each Federal Home Loan Bank shall provide to the Director, in a form determined by the Director, census tract level data relating to mortgages purchased, if any, including—

(A) data consistent with that reported under section 4543 of this title;

(B) data elements required to be reported under the Home Mortgage Disclosure Act of 1975 [12 U.S.C. 2801 et seq.]; and

(C) any other data elements that the Director considers appropriate.

(2) Public use database

(A) In general

The Director shall make available to the public, in a form that is useful to the public (including forms accessible electronically), and to the extent practicable, the data provided to the Director under paragraph (1).

(B) Proprietary information

Notwithstanding subparagraph (A), the Director may not provide public access to, or disclose to the public, any information required to be submitted under this subsection that the Director determines is proprietary or that would provide personally identifiable information and that is not otherwise publicly accessible through other forms, unless the Director determines that it is in the public interest to provide such information.

(July 22, 1932, ch. 522, §10, 47 Stat. 731; Apr. 27, 1934, ch. 168, §10, 48 Stat. 646; June 27, 1934, ch. 847, §501, 48 Stat. 1261; May 28, 1935, ch. 150, §§5, 6, 49 Stat. 294, 295; Mar. 28, 1941, ch. 31, §7, 55 Stat. 62; Aug. 1, 1947, ch. 431, 61 Stat. 714; Apr. 20, 1950, ch. 94, title V, §501, 64 Stat. 80; Sept. 1, 1951, ch. 378, title II, §208, 65 Stat. 303; Aug. 2, 1954, ch. 649, title V, §502, 68 Stat. 634; Pub. L. 85-857, §13(e), Sept. 2, 1958, 72 Stat. 1264; Pub. L. 87-779, §2(b), Oct. 9, 1962, 76 Stat. 779; Pub. L. 88-560, title IX, §906, Sept. 2, 1964, 78 Stat. 805; Pub. L. 93-449, §4(c), Oct. 18, 1974, 88 Stat. 1367; Pub. L. 95-128, title IV, §406, Oct. 12, 1977, 91 Stat. 1137; Pub. L. 97-320, title III, §352, Oct. 15, 1982, 96 Stat. 1507; Pub. L. 97-457, §15, Jan. 12, 1983, 96 Stat. 2509; Pub. L. 100-86, title I, §105, title III, §306(d), Aug. 10, 1987, 101 Stat. 575, 601; Pub. L. 101-73, title VII, §§701(b)(1), (3)(A), 710(b)(4), (5), (c), 714, 721, Aug. 9, 1989, 103 Stat. 412, 418, 419, 423; Pub. L. 102-550, title XIII, §1392(a), Oct. 28, 1992, 106 Stat. 4009; Pub. L. 106-102, title VI, §§604(a)-(c), 606(f)(2), Nov. 12, 1999, 113 Stat. 1451, 1452, 1455; Pub. L. 110-289, div. A, title II, §§1204(5), (8)-(10), (12), 1211(b), 1212, 1218, July 30, 2008, 122 Stat. 2786, 2790, 2793.)

REFERENCES IN TEXT

The Community Reinvestment Act of 1977, referred to in subsec. (g)(2), is title VIII of Pub. L. 95-128, Oct. 12, 1977, 91 Stat. 1147, as amended, which is classified generally to chapter 30 (§2901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2901 of this title and Tables.

The Home Mortgage Disclosure Act of 1975, referred to in subsec. (k)(1)(B), is title III of Pub. L. 94-200, Dec. 31, 1975, 89 Stat. 1125, which is classified generally to chapter 29 (§2801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2801 of this title and Tables.

AMENDMENTS

2008—Subsec. (a)(2)(B). Pub. L. 110-289, §1211(b)(1), struck out “and” before “small agri-businesses” and inserted “, and community development activities” before period at end.

Subsec. (a)(3)(E). Pub. L. 110-289, §1211(b)(2), inserted “or community development activities” after “agriculture.”

Subsec. (a)(5). Pub. L. 110-289, §1204(9), substituted “The Director” for “The Board”.

Subsec. (a)(6). Pub. L. 110-289, §1211(b)(3), struck out “and” before “small agri-business” and inserted “, and community development activities” before “shall”.

Pub. L. 110-289, §1204(10), substituted “the Director” for “the Finance Board”.

Subsec. (b). Pub. L. 110-289, §1204(5), (8), substituted “approval of Director” for “formal Board resolution” in heading and substituted “the Director” for “the Board” and struck out “by formal resolution” before “such acceptance” in text.

Subsecs. (g)(1), (j)(1). Pub. L. 110-289, §1204(8), substituted “the Director” for “the Board”.

Subsec. (j)(2)(C). Pub. L. 110-289, §1218, added subpar. (C).

Subsec. (j)(6)(A), (B). Pub. L. 110-289, §1204(12), substituted “Director” for “Federal Housing Finance Board”.

Subsec. (j)(6)(C). Pub. L. 110-289, §1204(9), substituted “The Director” for “The Board”.

Subsec. (j)(6)(D). Pub. L. 110-289, §1204(8), substituted “the Director” for “the Board”.

Subsec. (j)(6)(E). Pub. L. 110-289, §1204(9), substituted “The Director” for “The Board”.

Subsec. (j)(6)(F). Pub. L. 110-289, §1204(12), substituted “Director” for “Federal Housing Finance Board”.

Subsec. (j)(7). Pub. L. 110-289, §1204(8), substituted “the Director” for “the Board” in two places.

Subsec. (j)(9). Pub. L. 110-289, §1204(12), substituted “Director” for “Federal Housing Finance Board” in introductory provisions.

Subsec. (j)(11) to (12)(B). Pub. L. 110-289, §1204(8), (9), substituted “the Director” for “the Board” and “The Director” for “The Board” wherever appearing.

Subsec. (j)(12)(C), (D). Pub. L. 110-289, §1212(1), added subpars. (C) and (D) and struck out former subpar. (C) which read as follows: “The Comptroller General of the United States shall audit and evaluate the Affordable Housing Program established by this subsection after such program has been operating for 2 years. The Comptroller General shall report to Congress on the conclusions of the audit and recommend improvements or modifications to the program.”

Subsec. (k). Pub. L. 110-289, §1212(2), added subsec. (k).

1999—Pub. L. 106-102, §604(b), amended section catchline generally.

Subsec. (a). Pub. L. 106-102, §604(a), inserted heading, designated first sentence of introductory provisions as par. (1) and inserted heading, substituted par. (2) for former second sentence of introductory provisions which read as follows: “All long-term advances shall only be made for the purpose of providing funds for residential housing finance.”, designated third sentence of introductory provisions as par. (3), inserted heading, redesignated former pars. (1) to (4) as subpars. (A) to (D), respectively, of par. (3) and realigned margins, in subpar. (C), substituted “Cash or deposits” for “Deposits”, in subpar. (D), struck out at end “The aggregate amount of outstanding advances secured by such other real estate related collateral shall not exceed 30 percent of such member’s capital.”, and added subpar. (E), redesignated former par. (5) as (4), inserted heading, substituted “Subparagraphs (A) through (E) of paragraph (3)” for “Paragraphs (1) through (4)”, struck out “and the Board” after “such collateral as the Bank” and substituted “determined by the Federal home loan bank” for “determined by the Board”, and added pars. (5) and (6).

Subsec. (c). Pub. L. 106-102, §606(f)(2)(A), substituted “Federal home loan bank” for “Board” before “may approve or determine” and struck out at end “At no time shall the aggregate outstanding advances made by any Federal Home Loan Bank to any member exceed twenty times the amounts paid in by such member for outstanding capital stock held by it exceed twenty times the value of the security required to be deposited under subsection (e) of section 1426 of this title.”

Subsec. (d). Pub. L. 106-102, §606(f)(2)(B), struck out “and the approval of the Board” after “requirements of

the bank” in first sentence and substituted “Any” for “Subject to the approval of the Board, any” in third sentence.

Subsec. (e). Pub. L. 106-102, §604(c), struck out subsec. (e) relating to qualified thrift lender status.

1992—Subsec. (e)(2). Pub. L. 102-550 added sentence at end and struck out former second sentence which read as follows: “The aggregate amount of any Bank’s advances to members that are not qualified thrift lenders shall not exceed 30 percent of a Bank’s total advances.”

1989—Subsec. (a). Pub. L. 101-73, §714(a), substituted “upon collateral sufficient, in the judgment of the Bank, to fully secure advances obtained from the Bank under this section or section 1431(g) of this title. All long-term advances shall only be made for the purpose of providing funds for residential housing finance. A Bank, at the time of origination or renewal of a loan or advance, shall obtain and maintain a security interest in collateral eligible pursuant to one or more of the following categories:” and pars. (1) to (5) for “upon such security as the Board may prescribe.”

Subsec. (b). Pub. L. 101-73, §701(b)(1), (3)(A), substituted “Board” for “board”.

Subsec. (c). Pub. L. 101-73, §710(b)(4), (5), struck out “or nonmember borrower” after “obligation of the member”, and “, or made to a nonmember borrower” after “stock held by it”.

Pub. L. 101-73, §701(b)(1), (3)(A), substituted “Board” for “board”.

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

Subsec. (e). Pub. L. 101-73, §714(b), which directed the general amendment of subsec. (e), was executed to the subsec. (e) added by section 105 of Pub. L. 100-86, as the probable intent of Congress. As thus executed, the amendment substituted provisions relating to qualified thrift lender status for provisions relating to reduced eligibility for advances for certain members which were not qualified thrift lenders.

Subsec. (g). Pub. L. 101-73, §710(c), added subsec. (g).

Subsec. (h). Pub. L. 101-73, §714(c), added subsec. (h).

Subsecs. (i), (j). Pub. L. 101-73, §721, added subsecs. (i) and (j).

1987—Subsec. (e). Pub. L. 100-86, §306(d), added subsec. (e) relating to priority of certain secured interests.

Pub. L. 100-86, §105, added subsec. (e) relating to reduced eligibility for advances for certain members which are not qualified thrift lenders.

1982—Subsec. (a). Pub. L. 97-320, §352(1), as amended by Pub. L. 97-457, amended subsec. (a) generally. Prior to amendment subsec. (a) read as follows: “Each Federal Home Loan Bank is authorized to make advances to its members upon the security of home mortgages, or obligations of the United States, or obligations fully guaranteed by the United States, subject to such regulations, restrictions, and limitations as the Board may prescribe. Any such advance shall be subject to the following limitations as to amount:

“(1) If secured by a mortgage insured under the provisions of title I, title II, title VI, title VIII, or title IX of the National Housing Act [12 U.S.C. 1702 et seq., 1707 et seq., 1736 et seq., 1748 et seq., and 1750 et seq., respectively], the advance may be for an amount not in excess of 90 per centum of the unpaid principal of the mortgage loan.

“(2) If secured by a home mortgage given in respect of an amortized home mortgage loan which was for an original term of six years or more, or in cases where shares of stock, which are pledged as security for such loan, mature in a period of six years or more, the advance may be for an amount not in excess of 65 per centum of the unpaid principal of the home mortgage loan; but in no case shall the amount of the advance exceed 60 per centum of the value of the real estate securing the home mortgage loan.

“(3) If secured by a home mortgage given in respect of any other home mortgage loan, the advance shall not be for an amount in excess of 50 per centum of the unpaid principal of the home mortgage loan; but in no case shall the amount of such advance exceed 40

per centum of the value of the real estate securing the home mortgage loan.

“(4) If secured by obligations of the United States, or obligations fully guaranteed by the United States, the advance shall not be for an amount in excess of the face value of such obligations.”

Subsec. (b). Pub. L. 97-320, §352(2), struck out provisions relating to acceptance of home mortgages as collateral security for advances by a Home Loan Bank.

Subsec. (c). Pub. L. 97-320, §352(3), substituted “twenty” for “twelve” wherever appearing.

1977—Subsec. (b). Pub. L. 95-128 substituted prohibition against acceptance of a home mortgage as collateral security for an advance by a Federal Home Loan Bank if, at the time the advance is made, the home mortgage exceeds a sum equal to the dollar limitation under the first proviso of the first sentence of section 1464(c) of this title for each home or other dwelling unit covered by such mortgage for prior prohibition where the home mortgage exceeded a sum equal to \$55,000 (except that with respect to dwellings in Alaska, Guam, and Hawaii the foregoing limitation, might, by regulation of the Board, be increased by not to exceed 50 per centum) for each home or other dwelling unit covered by the mortgage.

1974—Subsec. (b). Pub. L. 93-449 substituted provisions limiting the home mortgage to a sum not to exceed \$55,000, except with respect to dwellings in Alaska, Guam, etc., for provisions limiting the home mortgage to a sum not to exceed \$40,000.

1964—Subsec. (b). Pub. L. 88-560 substituted “thirty” for “twenty-five” in cl. (1) and “\$40,000” for “\$35,000” in cl. (2).

1962—Subsec. (b). Pub. L. 87-779 substituted “exceeds a sum equal to \$35,000 for each home or other dwelling unit covered by such mortgage” for “exceeds \$35,000”.

1958—Subsec. (b). Pub. L. 85-857 inserted “chapter 37 of title 38,” after “Servicemen’s Readjustment Act of 1944, as amended.”

1954—Subsec. (b)(2). Act Aug. 2, 1954, substituted “\$35,000” for “\$20,000”.

1951—Subsec. (a)(1). Act Sept. 1, 1951, inserted a reference to subchapter X of chapter 13 of this title.

1950—Subsec. (a) (1). Act Apr. 20, 1950, §501(1), substituted “subchapters I, II, VI, and VIII of chapter 13 of this title” for “sections 1707-1715b and 1736-1742 of this title”.

Subsec. (b). Act Apr. 20, 1950, §501(2), inserted “unless such home mortgage is insured under the National Housing Act, as amended, or insured or guaranteed under the Servicemen’s Readjustment Act of 1944, as amended” after “Maturity” in first sentence.

1947—Subsec. (b). Act Aug. 1, 1947, increased period collateral security can run from twenty years to twenty-five years.

1941—Subsec. (a)(1). Act Mar. 28, 1941, inserted reference to sections 1736-1742 of this title.

1935—Subsec. (a). Act May 28, 1935, §5, added cl. (4).

Subsec. (b)(1). Act May 28, 1935, §6, substituted “twenty” for “fifteen” and omitted reference to value of real estate in cl. 2.

1934—Subsec. (a). Act June 27, 1934, amended subsec. (a) generally.

Subsec. (b). Act Apr. 27, 1934, inserted “unless the amount,” etc. to end of first sentence.

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-857 effective Jan. 1, 1959, see section 2 of Pub. L. 85-857, set out as an Effective Date note preceding Part 1 of Title 38, Veterans’ Benefits.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (j)(12)(A) of this section relating to requirement to report annually to Congress, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 170 of House Document No. 103-7.

AUTHORIZATION OF APPROPRIATIONS FOR DISBURSEMENT TO FEDERAL HOME LOAN BANKS FOR ADJUSTMENT OF INTEREST CHARGES

Pub. L. 91-351, title I, §101, July 24, 1970, 84 Stat. 450, provided that:

“(a) There is authorized to be appropriated not to exceed \$250,000,000, without fiscal year limitation, to be used by the Federal Home Loan Bank Board for disbursement to Federal home loan banks for the purpose of adjusting the effective interest charged by such banks on short-term and long-term borrowing to promote an orderly flow of funds into residential construction. The disbursement of sums appropriated hereunder shall be made under such terms and conditions as may be prescribed by the Board to assure that such sums are used to assist in the provision of housing for low- and middle-income families, and that such families share fully in the benefits resulting from the disbursement of such sums. No member of a Federal home loan bank shall use funds the interest charges on which have been adjusted pursuant to the provisions of this section to make any loan, if—

“(1) the effective rate of interest on such loan exceeds the effective rate of interest on such funds payable by such member by a percentile amount which is in excess of such amount as the Board determines to be appropriate in furtherance of the purposes of this section; or

“(2) the principal obligation of any such loan which is secured by a mortgage on a residential structure exceeds the dollar limitations on the maximum mortgage amount, in effect on the date the mortgage was originated, which would be applicable if the mortgage was insured by the Secretary of Housing and Urban Development under section 203(b) or 207 of the National Housing Act [section 1709(b) or 1713 of this title].

“(b) Not more than 20 per centum of the sums appropriated pursuant to subsection (a) shall be disbursed in any one Federal home loan bank district.”

§ 1430a. Omitted

CODIFICATION

Section, act July 22, 1932, ch. 522, §10a, as added June 27, 1934, ch. 847, §502, 48 Stat. 1261, provided for advances by Federal Home Loan Banks to finance home repairs, improvements, and alterations until July 1, 1936.

§ 1430b. Advances to nonmember mortgagee; terms and conditions

(a) In general

Each Federal Home Loan Bank is authorized to make advances to nonmember mortgagees approved under title II of the National Housing Act [12 U.S.C. 1707 et seq.]. Such mortgagees must be chartered institutions having succession and subject to the inspection and supervision of some governmental agency, and whose principal activity in the mortgage field must consist of lending their own funds. Such ad-

vances shall not be subject to the other provisions and restrictions of this chapter, but shall be made upon the security of insured mortgages, insured under title II of the National Housing Act. Advances made under the terms of this section shall be at such rates of interest and upon such terms and conditions as shall be determined by the Director, but no advance may be for an amount in excess of 90 per centum of the unpaid principal of the mortgage loan given as security.

(b) Exception

An advance made to a State housing finance agency for the purpose of facilitating mortgage lending that benefits individuals and families that meet the income requirements set forth in section 142(d) or 143(f) of title 26, need not be collateralized by a mortgage insured under title II of the National Housing Act [12 U.S.C. 1707 et seq.] or otherwise, if—

(1) such advance otherwise meets the requirements of this subsection; and

(2) such advance meets the requirements of section 1430(a) of this title, and any real estate collateral for such loan comprises single family or multifamily residential mortgages.

(July 22, 1932, ch. 522, §10b, as added May 25, 1935, ch. 150, §7, 49 Stat. 295; amended Pub. L. 101-73, title VII, §701(b)(1), (3)(A), Aug. 9, 1989, 103 Stat. 412; Pub. L. 102-550, title XIII, §1392(b), Oct. 28, 1992, 106 Stat. 4009; Pub. L. 110-289, div. A, title II, §1204(8), July 30, 2008, 122 Stat. 2786.)

REFERENCES IN TEXT

The National Housing Act, referred to in text, is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended. Title II of the Act is classified generally to subchapter II (§1707 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see section 1701 of this title and Tables.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-289 substituted “the Director” for “the Board”.

1992—Pub. L. 102-550 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1989—Pub. L. 101-73 substituted “Board” for “Federal Home Loan Bank Board”.

§ 1430c. Housing goals

(a) In general

The Director shall establish housing goals with respect to the purchase of mortgages, if any, by the Federal Home Loan Banks. Such goals shall be consistent with the goals established under sections 4561 through 4564 of this title.

(b) Considerations

In establishing the goals required by subsection (a), the Director shall consider the unique mission and ownership structure of the Federal Home Loan Banks.

(c) Transition period

To facilitate an orderly transition, the Director shall establish interim target goals for purposes of this section for each of the 2 calendar years following July 30, 2008.

(d) Monitoring and enforcement of goals

The requirements of section 4566¹ of this title, shall apply to this section, in the same manner and to the same extent as that section applies to the Federal housing enterprises.

(e) Annual report

The Director shall annually report to Congress on the performance of the Banks in meeting the goals established under this section.

(July 22, 1932, ch. 522, §10C, as added Pub. L. 110-289, div. A, title II, §1205, July 30, 2008, 122 Stat. 2786.)

REFERENCES IN TEXT

Section 4566 of this title, referred to in subsec. (d), was in the original “section 1336 of the Federal Housing Enterprises Safety and Soundness Act of 1992”, which was translated as meaning section 1336 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, to reflect the probable intent of Congress.

§ 1431. Powers and duties of banks

(a) Borrowing money; issuing bonds and debentures; general powers

Each Federal Home Loan Bank shall have power, subject to rules and regulations prescribed by the Director, to borrow and give security therefor and to pay interest thereon, to issue debentures, bonds, or other obligations upon such terms and conditions as the Director may approve, and to do all things necessary for carrying out the provisions of this chapter and all things incident thereto.

(b) Issuance of consolidated Federal Home Loan Bank debentures; restrictions

The Office of Finance, as agent for the Banks, may issue consolidated Federal Home Loan Bank debentures which shall be the joint and several obligations of all Federal Home Loan Banks organized and existing under this chapter, in order to provide funds for any such bank or banks, and such debentures shall be issued upon such terms and conditions as such Office may prescribe. No such debentures shall be issued at any time if any of the assets of any Federal Home Loan Bank are pledged to secure any debts or subject to any lien, and neither the Office of Finance nor any Federal Home Loan Bank shall have power to pledge any of the assets of any Federal Home Loan Bank, or voluntarily to permit any lien to attach to the same while any of such debentures so issued are outstanding. The debentures issued under this section and outstanding shall at no time exceed five times the total paid-in capital of all the Federal Home Loan Banks as of the time of the issue of such debentures. It shall be the duty of the Office of Finance not to issue debentures under this section in excess of the notes or obligations of member institutions held and secured under section 1430(a) of this title by all the Federal Home Loan Banks.

(c) Issuance of Federal Home Loan Bank bonds

At any time that no debentures are outstanding under this chapter, or in order to refund all outstanding consolidated debentures issued

¹ See References in Text note below.

under this section, the Office of Finance, as agent for the Banks, may issue consolidated Federal Home Loan Bank bonds which shall be the joint and several obligations of all the Federal Home Loan Banks, and shall be secured and be issued upon such terms and conditions as such Office may prescribe.

(d) Additional or substituted collateral on adjustment of equities

The Director shall have full power to require any Federal Home Loan Bank to deposit additional collateral or to make substitutions of collateral or to adjust equities between the Federal Home Loan Banks.

(e) Acceptance of deposits; restrictions on transaction of banking business; collection and settlement of checks, drafts, etc.; charges; rules and regulations

(1) Each Federal Home Loan Bank shall have power to accept deposits made by members of such bank or by any other Federal Home Loan Bank or other instrumentality of the United States, upon such terms and conditions as the Director may prescribe, but no Federal Home Loan Bank shall transact any banking or other business not incidental to activities authorized by this chapter.

(2)(A) The Director may, subject to such rules and regulations, including definitions of terms used in this paragraph, as the Director shall from time to time prescribe, authorize Federal Home Loan Banks to be drawees of, and to engage in, or be agents or intermediaries for, or otherwise participate or assist in, the collection and settlement of (including presentment, clearing, and payment of, and remitting for), checks, drafts, or any other negotiable or nonnegotiable items or instruments of payment drawn on or issued by members of any Federal Home Loan Bank or by institutions which are eligible to make application to become members pursuant to section 1424 of this title, and to have such incidental powers as the Director shall find necessary for the exercise of any such authorization.

(B) A Federal Home Loan Bank shall make charges, to be determined and regulated by the Director consistent with the principles set forth in section 248a(c) of this title, or utilize the services of, or act as agent for, or be a member of, a Federal Reserve bank, clearinghouse, or any other public or private financial institution or other agency, in the exercise of any powers or functions pursuant to this paragraph.

(C) The Director is authorized, with respect to participation in the collection and settlement of any items by Federal Home Loan Banks, and with respect to the collection and settlement (including payment by the payor institution) of items payable by Federal savings and loan associations and Federal mutual savings banks, to prescribe rules and regulations regarding the rights, powers, responsibilities, duties, and liabilities, including standards relating thereto, of such Federal Home Loan Banks, associations, or banks and other parties to any such items or their collection and settlement. In prescribing such rules and regulations, the Director may adopt or apply, in whole or in part, general banking usage and practices, and, in instances

or respects in which they would otherwise not be applicable, Federal Reserve regulations and operating letters, the Uniform Commercial Code, and clearinghouse rules.

(f) Rediscount of notes held by other banks; purchase of bonds of other banks

The Director is authorized and empowered to permit or to require Federal Home Loan Banks, upon such terms and conditions as the Director may prescribe, to rediscount the discounted notes of members held by other Federal Home Loan Banks, or to make loans to, or make deposits with, such other Federal Home Loan Banks, or to purchase any bonds or debentures issued under this section.

(g) Reserves

Each Federal Home Loan Bank shall at all times have at least an amount equal to the current deposits received from its members invested in (1) obligations of the United States, (2) deposits in banks or trust companies, (3) advances with a maturity of not to exceed five years which are made to members, upon such terms and conditions as the Director may prescribe, and (4) advances with a maturity of not to exceed five years which are made to members whose creditor liabilities (not including advances from the Federal home loan bank) do not exceed 5 per centum of their net assets, and which may be made without the security of home mortgages or other security, upon such terms and conditions as the Director may prescribe.

(h) Investment of surplus funds

Such part of the assets of each Federal Home Loan Bank (except reserves and amounts provided for in subsection (g)) as are not required for advances to members, may be invested, to such extent as the bank may deem desirable and subject to such regulations, restrictions, and limitations as may be prescribed by the Director, in 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, in the stock of the Federal National Mortgage Association, in stock, obligations, or other securities of any small business investment company formed pursuant to section 681 of title 15, for the purpose of aiding members of the Federal Home Loan Bank System, 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.

(i) Treasury purchase of banks' obligations; exercise of authority

The Secretary of the Treasury is authorized in his discretion to purchase any obligations issued pursuant to this section, as heretofore, now, or hereafter in force and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds of the sale of any securities hereafter issued under chapter 31 of title 31, as now or hereafter in force, and

the purposes for which securities may be issued under chapter 31 of title 31, as now or hereafter in force, are extended to include such purchases. The Secretary of the Treasury may, at any time, sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public-debt transactions of the United States. The Secretary of the Treasury shall not at any time purchase any obligations under this paragraph if such purchase would increase the aggregate principal amount of his then outstanding holdings of such obligations under this paragraph to an amount greater than \$4,000,000,000. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon terms and conditions as shall be determined by the Secretary of the Treasury and shall bear such rate of interest as may be determined by the Secretary of the Treasury taking into consideration the current average market yield for the month preceding the month of such purchase on outstanding marketable obligations of the United States.

In addition to obligations authorized to be purchased by the preceding paragraph, the Secretary of the Treasury is authorized to purchase any obligations issued pursuant to this section in amounts not to exceed \$2,000,000,000. The authority provided in this paragraph shall expire August 10, 1975.

Notwithstanding the foregoing, the authority provided in this subsection may be exercised during any calendar quarter beginning after October 28, 1974, only if the Secretary of the Treasury and the Chairperson of the Director¹ certify to the Congress that (1) alternative means cannot be effectively employed to permit members of the Federal Home Loan Bank System to continue to supply reasonable amounts of funds to the mortgage market, and (2) the ability to supply such funds is substantially impaired because of monetary stringency and a high level of interest rates. Any funds borrowed under this subsection shall be repaid by the Home Loan Banks at the earliest practicable date.

(j) Audits

Notwithstanding the provisions of section 9105(a)(1)(B)² of title 31, audits by the Government Accountability Office of the financial transactions of a Federal Home Loan Bank shall not be limited to periods during which Government capital has been invested therein. The provisions of sections 9107(c)(2) and 9108(d)(1) of title 31 shall not apply to any Federal Home Loan Bank.

(k) Bank loans to the Deposit Insurance Fund

(1) Loans authorized

Subject to paragraph (3), the Federal Home Loan Banks may, upon the request of the Federal Deposit Insurance Corporation, make loans to such Corporation for the use of the Deposit Insurance Fund.

(2) Liability of the Fund

Any loan by a Federal Home Loan Bank pursuant to paragraph (1) shall be a direct liability of the Deposit Insurance Fund.

(3) Interest on and security for such loans

Any loan by a Federal Home Loan Bank pursuant to paragraph (1) shall—

- (A) bear a rate of interest not less than such Bank's current marginal cost of funds, taking into account the maturities involved; and
- (B) be adequately secured.

(l) Temporary authority of Treasury to purchase obligations; conditions

(1) Authority to purchase

(A) General authority

In addition to the authority under subsection (i) of this section, the Secretary of the Treasury is authorized to purchase any obligations issued by any Federal Home Loan Bank under any section of this chapter, on such terms and conditions as the Secretary may determine and in such amounts as the Secretary may determine. Nothing in this subsection requires a Federal Home Loan Bank to issue obligations or securities to the Secretary without mutual agreement between the Secretary and the Federal Home Loan Bank. Nothing in this subsection permits or authorizes the Secretary, without the agreement of the Federal Home Loan Bank, to engage in open market purchases of the common securities of any Federal Home Loan Bank.

(B) Emergency determination required

In connection with any use of this authority, the Secretary must determine that such actions are necessary to—

- (i) provide stability to the financial markets;
- (ii) prevent disruptions in the availability of mortgage finance; and
- (iii) protect the taxpayer.

(C) Considerations

To protect the taxpayers, the Secretary of the Treasury shall take into consideration the following in connection with exercising the authority contained in this paragraph:

- (i) The need for preferences or priorities regarding payments to the Government.
- (ii) Limits on maturity or disposition of obligations or securities to be purchased.
- (iii) The Federal Home Loan Bank's plan for the orderly resumption of private market funding or capital market access.
- (iv) The probability of the Federal Home Loan Bank fulfilling the terms of any such obligation or other security, including repayment.
- (v) The need to maintain the Federal Home Loan Bank's status as a private shareholder-owned company.
- (vi) Restrictions on the use of Federal Home Loan Bank resources, including limitations on the payment of dividends and executive compensation and any such other terms and conditions as appropriate for those purposes.

¹ So in original. See 2008 Amendment note below.

² See References in Text note below.

(D) Reports to Congress

Upon exercise of this authority, the Secretary shall report to the Committees on the Budget, Financial Services, and Ways and Means of the House of Representatives and the Committees on the Budget, Finance, and Banking, Housing, and Urban Affairs of the Senate as to the necessity for the purchase and the determinations made by the Secretary under subparagraph (B) and with respect to the considerations required under subparagraph (C), and the size, terms, and probability of repayment or fulfillment of other terms of such purchase.

(2) Rights; sale of obligations and securities**(A) Exercise of rights**

The Secretary of the Treasury may, at any time, exercise any rights received in connection with such purchases.

(B) Sale of obligations

The Secretary of the Treasury may, at any time, subject to the terms of the security or otherwise upon terms and conditions and at prices determined by the Secretary, sell any obligation acquired by the Secretary under this subsection.

(C) Deficit reduction

The Secretary of the Treasury shall deposit in the General Fund of the Treasury any amounts received by the Secretary from the sale of any obligation acquired by the Secretary under this subsection, where such amounts shall be—

- (i) dedicated for the sole purpose of deficit reduction; and
- (ii) prohibited from use as an offset for other spending increases or revenue reductions.

(D) Application of sunset to purchased obligations

The authority of the Secretary of the Treasury to hold, exercise any rights received in connection with, or sell, any obligations purchased is not subject to the provisions of paragraph (4).

(3) Funding

For the purpose of the authorities granted in this subsection, the Secretary of the Treasury may use the proceeds of the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under chapter 31 of title 31 are extended to include such purchases and the exercise of any rights in connection with such purchases. Any funds expended for the purchase of, or modifications to, obligations and securities, or the exercise of any rights received in connection with such purchases under this subsection shall be deemed appropriated at the time of such purchase, modification, or exercise.

(4) Termination of authority

The authority under this subsection (1), with the exception of paragraphs (2) and (3) of this subsection, shall expire December 31, 2009.

(5) Authority of the Director with respect to executive compensation

The Director shall have the power to approve, disapprove, or modify the executive

compensation of the Federal Home Loan Bank, as defined under Regulation S-K, 17 C.F.R. 229.

(July 22, 1932, ch. 522, §11, 47 Stat. 733; June 27, 1934, ch. 847, §503, 48 Stat. 1261; June 27, 1950, ch. 369, §§3, 4, 64 Stat. 257; Aug. 2, 1954, ch. 649, title II, §204(a), 68 Stat. 622; Pub. L. 88-560, title VII, §701(d)(1), Sept. 2, 1964, 78 Stat. 800; Pub. L. 90-448, title VIII, §807(k), Aug. 1, 1968, 82 Stat. 545; Pub. L. 91-151, title I, §3, Dec. 23, 1969, 83 Stat. 374; Pub. L. 91-609, title IX, §914, Dec. 31, 1970, 84 Stat. 1815; Pub. L. 93-383, title VIII, §805(c)(2), Aug. 22, 1974, 88 Stat. 727; Pub. L. 93-495, title I, §112, Oct. 28, 1974, 88 Stat. 1506; Pub. L. 96-153, title III, §324, Dec. 21, 1979, 93 Stat. 1121; Pub. L. 96-221, title III, §311, Mar. 31, 1980, 94 Stat. 149; Pub. L. 97-320, title I, §125(c), Oct. 15, 1982, 96 Stat. 1485; Pub. L. 101-73, title VII, §§701(b)(1)-(3)(A), (c), 709, 710(b)(6), Aug. 9, 1989, 103 Stat. 412, 418; Pub. L. 104-208, div. A, title II, §2704(d)(11)(A), div. D, title II, §208(h)(2), Sept. 30, 1996, 110 Stat. 3009-489, 3009-747; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 109-171, title II, §2102(b), Feb. 8, 2006, 120 Stat. 9; Pub. L. 109-173, §9(d)(1), Feb. 15, 2006, 119 Stat. 3616; Pub. L. 110-289, div. A, title I, §1117(c), title II, §1204(3), (8), (9), July 30, 2008, 122 Stat. 2686, 2786; Pub. L. 111-203, title XIII, §1304(c), July 21, 2010, 124 Stat. 2134.)

REFERENCES IN TEXT

Section 9105 of title 31, referred to in subsec. (j), was amended generally by Pub. L. 101-576, title III, §305, Nov. 15, 1990, 104 Stat. 2853, and, as so amended, subsec. (a) does not contain a par. (1)(B). Prior to the general amendment, subsec. (a)(1)(B) related to audits of mixed-ownership Government corporations during periods in which capital of the United States Government was invested therein.

CODIFICATION

In subsecs. (i) (first par.) and (j), “chapter 31 of title 31” substituted for “the Second Liberty Bond Act”, and “section 9105(a)(1)(B) of title 31” and “sections 9107(c)(2) and 9108(d)(1) of title 31” substituted for “the first sentence of section 202 of the Government Corporation Control Act [31 U.S.C. 857]” and “the first sentence of subsection (d) of section 303 of the Government Corporation Control Act [31 U.S.C. 868(d)]”, respectively, on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

2010—Subsec. (1)(2)(C), (D). Pub. L. 111-203 added subpar. (C) and redesignated former subpar. (C) as (D).

2008—Pub. L. 110-289, §1204(9), substituted “The Director” for “The Board” wherever appearing in subsecs. (d) to (f).

Pub. L. 110-289, §1204(8), substituted “the Director” for “the Board” wherever appearing in subsecs. (a) and (e) to (i).

Subsec. (b). Pub. L. 110-289, §1204(3)(A), substituted “The Office of Finance, as agent for the Banks,” for “The Board” and “such Office” for “the Board” in first sentence and “the Office of Finance” for “the Board” in second and fourth sentences.

Subsec. (c). Pub. L. 110-289, §1204(3)(B), substituted “the Office of Finance, as agent for the Banks,” for “the Board” before “may issue” and “such Office” for “the Board” before “may prescribe”.

Subsec. (f). Pub. L. 110-289, §1204(3)(C), struck out the two commas after “permit” and inserted “or” and struck out the comma after “require”.

Subsec. (l). Pub. L. 110-289, §1117(c), added subsec. (l).

2006—Subsec. (k). Pub. L. 109-173 substituted “the Deposit Insurance Fund” for “SAIF” in heading and “Deposit Insurance Fund” for “Savings Association Insurance Fund” in pars. (1) and (2).

Pub. L. 109-171 repealed Pub. L. 104-208, §2704(d)(11)(A). See 1996 Amendment note below.

2004—Subsec. (j). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office”.

1996—Subsec. (h). Pub. L. 104-208, §208(h)(2), substituted “section 681 of title 15” for “section 681(d) of title 15”.

Subsec. (k). Pub. L. 104-208, §2704(d)(11)(A), which directed the amendment of subsec. (k) by substituting “the Deposit Insurance Fund” for “SAIF” in heading and “Deposit Insurance Fund” for “Savings Association Insurance Fund” in pars. (1) and (2), was repealed by Pub. L. 109-171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

1989—Subsecs. (a) to (d). Pub. L. 101-73, §701(b)(1), (3)(A), substituted “Board” for “board” wherever appearing.

Subsec. (e)(1). Pub. L. 101-73, §709(1), inserted “incidental to activities” after “other business not”.

Pub. L. 101-73, §701(b)(1), (3)(A), substituted “Board” for “board”.

Subsec. (e)(2)(C). Pub. L. 101-73, §701(c)(1), which directed insertion of “Federal Home Loan” before “Banks,” was executed the second time that term appeared, because “Federal Home Loan” already preceded the term “Banks,” the first place it appeared.

Subsec. (f). Pub. L. 101-73, §709(2), which directed amendment of subsec. (f) by striking out “or whenever in the judgment of at least 4 members of the board an emergency exists requiring such action” after “empowered to permit,” was executed by striking out “or whenever in the judgment of at least four members of the board an emergency exists requiring such action”, as the probable intent of Congress. The amendment probably should also have struck out the comma after “empowered to permit” and the words “, to require,” after “such action”.

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

Subsec. (g). Pub. L. 101-73, §710(b)(6), struck out “or nonmember borrowers” after “made to members” wherever appearing.

Subsec. (h). Pub. L. 101-73, §710(b)(6), struck out “or nonmember borrowers” after “advances to members”.

Pub. L. 101-73, §701(b)(1), (3)(A), substituted “Board” for “board”.

Subsec. (i). Pub. L. 101-73, §701(c)(2), inserted “Federal” before “Home Loan Bank System”.

Pub. L. 101-73, §701(b)(1), (2), substituted “Chairperson of the Board” for “Chairman of the Federal Home Loan Bank Board”.

Subsec. (k). Pub. L. 101-73, §709(3), amended subsec. (k) generally. Prior to amendment, subsec. (k) read as follows: “The Federal Home Loan Banks are hereby authorized, as directed by the Board, to make loans to the Federal Savings and Loan Insurance Corporation. All such loans shall be made in accordance with the provisions of section 1725(d) of this title.”

1982—Subsec. (k). Pub. L. 97-320 added subsec. (k).

1980—Subsec. (e). Pub. L. 96-221 designated existing provisions as par. (1) and added par. (2).

1979—Subsec. (h). Pub. L. 96-153 inserted provisions relating to stock, obligations, or other securities of any small business investment company formed pursuant to section 681(d) of title 15, for the purpose of aiding members of the Federal Home Loan Bank System.

1974—Subsec. (h). 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 1455 of this title.

Subsec. (i). Pub. L. 93-495 substituted “obligations under this paragraph” for “obligations under this subsection” wherever appearing in fourth sentence of initial par., in second par. substituted provisions authorizing purchase of obligations issued pursuant to this sec-

tion in amounts not to exceed \$2,000,000,000, for provisions relating to exercise of authority of this subsection by the Secretary of the Treasury, and added third par.

1970—Subsec. (g). Pub. L. 91-609 substituted “five years” for “one year” in items (3) and (4).

1969—Subsec. (i). Pub. L. 91-151 increased the borrowing limit to \$4,000,000,000 and made it a requirement that the rate charged on such borrowing be set at the current market yield on Treasury obligations and added a new paragraph which allows the Secretary to permit members of the Home Loan Bank System to continue to supply funds to the mortgage market during tight market conditions.

1968—Subsec. (h). Pub. L. 90-448 inserted “or the Government National Mortgage Association, in the stock of the Federal National Mortgage Association”.

1964—Subsec. (h). 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—Subsec. (h). Act Aug. 2, 1954, inserted reference to obligations of the Federal National Mortgage Association.

1950—Subsec. (g). Act June 27, 1950, §3, struck out requirement that sums paid in on outstanding capital subscriptions of members from the base for determining the amount of money which the Federal Home Loan Banks shall at all times have invested.

Subsecs. (i), (j). Act June 27, 1950, §4, added subsecs. (i) and (j).

1934—Subsecs. (i), (j). Act June 27, 1934, among other changes, struck out subsecs. (i) and (j).

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.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-173 effective Mar. 31, 2006, see section 9(j) of Pub. L. 109-173, set out as a note under section 24 of this title.

Amendment by Pub. L. 109-171 effective no later than the first day of the first calendar quarter that begins after the end of the 90-day period beginning Feb. 8, 2006, see section 2102(c) of Pub. L. 109-171, set out as a Merger of BIF and SAIF note under section 1821 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 2704(d)(11)(A) of Pub. L. 104-208 effective Jan. 1, 1999, if no insured depository institution is a savings association on that date, see section 2704(c) of Pub. L. 104-208, formerly set out as a note under section 1821 of this title.

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.

§ 1432. Incorporation of banks; corporate powers; housing project loans

(a) The directors of each Federal Home Loan Bank shall, in accordance with such rules and regulations as the Director may prescribe, make and file with the Director at the earliest practicable date after the establishment of such bank, an organization certificate which shall contain such information as the Director may require. Upon the making and filing of such organization certificate with the Director, such bank shall become, as of the date of the execution of its organization certificate, a body corporate, and as such and in its name as des-

igned by the Director it shall have power to adopt, alter, and use a corporate seal; to make contracts; to purchase or lease and hold or dispose of such real estate as may be necessary or convenient for the transaction of its business; to sue and be sued, to complain and to defend, in any court of competent jurisdiction, State or Federal; to select, employ, and fix the compensation of such officers, employees, attorneys, and agents as shall be necessary for the transaction of its business;¹ to define their duties, require bonds of them and fix the penalties thereof, and to dismiss at pleasure such officers, employees, attorneys, and agents; and, by the board of directors of the bank, to prescribe, amend, and repeal by-laws governing the manner in which its affairs may be administered, consistent with applicable laws and regulations, as administered by the Director. No officer, employee, attorney, or agent of a Federal home loan bank who receives compensation, may be a member of the board of directors. Each such bank shall have all such incidental powers, not inconsistent with the provisions of this chapter, as are customary and usual in corporations generally.

(b) Subject to such regulations as may be prescribed by the Director, one or more Federal home loan banks may acquire, hold, or dispose of, in whole or in part, or facilitate such acquisition, holding, or disposition by members of any such bank of, housing project loans, or interests therein, having the benefit of any guaranty under section 2181 of title 22, as now or hereafter in effect, or loans, or interests therein, having the benefit of any guaranty under section 2184 of title 22 or any commitment or agreement with respect to such loans, or interests therein, made pursuant to either of such sections. This authority extends to the acquisition, holding, and disposition of loans, or interests therein, having the benefit of any guaranty under section 2181 or 2182 of title 22 or such sections as hereafter amended or extended, or of any commitment or agreement for any such guaranty.

(July 22, 1932, ch. 522, §12, 47 Stat. 735; Pub. L. 89-754, title X, §1016(a), Nov. 3, 1966, 80 Stat. 1293; Pub. L. 90-448, title XVII, §1717, Aug. 1, 1968, 82 Stat. 609; Pub. L. 91-609, title IX, §907(a), Dec. 31, 1970, 84 Stat. 1811; Pub. L. 101-73, title VII, §701(b)(1), (3)(A), Aug. 9, 1989, 103 Stat. 412; Pub. L. 106-102, title VI, §606(d), Nov. 12, 1999, 113 Stat. 1454; Pub. L. 110-289, div. A, title II, §1204(8), (10), July 30, 2008, 122 Stat. 2786.)

REFERENCES IN TEXT

Section 2184 of title 22, referred to in subsec. (b), which related to housing projects in Latin American countries, was omitted in the general amendment made by section 105 of Pub. L. 91-175, Dec. 30, 1969, 83 Stat. 807. See section 2182 of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-289 substituted “administered by the Director” for “administered by the Finance Board” and “the Director” for “the Board” wherever appearing.

Subsec. (b). Pub. L. 110-289, §1204(8), substituted “the Director” for “the Board”.

1999—Subsec. (a). Pub. L. 106-102, §606(d)(1), struck out “, but, except with the prior approval of the Board, no bank building shall be bought or erected to house any such bank, or leased by such bank under any lease for such purpose which has a term of more than ten years” after “convenient for the transaction of its business”, struck out “subject to the approval of the Board” after “necessary for the transaction of its business”, substituted “and, by the board of directors of the bank, to prescribe, amend, and repeal by-laws governing the manner in which its affairs may be administered, consistent with applicable laws and regulations, as administered by the Finance Board. No officer, employee, attorney, or agent of a Federal home loan bank” for “and, by its Board of directors, to prescribe, amend, and repeal bylaws, rules, and regulations governing the manner in which its affairs may be administered; and the powers granted to it by law may be exercised and enjoyed subject to the approval of the Board. The president of a Federal Home Loan Bank may also be a member of the Board of directors thereof, but no other officer, employee, attorney, or agent of such bank”, and, in penultimate sentence, substituted “board of directors” for “Board of directors” after “may be a member of the”.

Subsec. (b). Pub. L. 106-102, §606(d)(2), substituted “Federal home loan banks” for “Federal home loans banks”.

1989—Subsec. (a). Pub. L. 101-73 substituted “Board” for “board” wherever appearing.

1970—Subsec. (b). Pub. L. 91-609 extended authority to make housing project loans to acquisition, holding, and disposition of loans, or interest therein, having benefit of any guaranty under section 2181 or 2182 of title 22 or such sections as hereafter amended or extended, or of any commitment or agreement for any such guaranty.

1968—Pub. L. 90-448 designated existing provisions as subsec. (a) and added subsec. (b).

1966—Pub. L. 89-754 substituted “but, except with the prior approval of the board, no bank building shall be bought or erected to house any such bank, or leased by such bank under any lease” for “but no bank building shall be bought or erected to house any such bank, nor shall any such bank make any lease” in second sentence.

§ 1433. Exemption from taxation; obligations acceptable as credit on debt of home owner

Any and all notes, debentures, bonds, and other such obligations issued by any bank, and consolidated Federal Home Loan Bank bonds and debentures, shall be exempt both as to principal and interest from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority. The bank, including its franchise, its capital, reserves, and surplus, its advances, and its income, shall be exempt from all taxation now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority; except that in¹ any real property of the bank shall be subject to State, Territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed. The notes, debentures, and bonds issued by any bank, with unearned coupons attached, shall be accepted at par by such bank in payment of or as a credit against the obligation of any home-owner debtor of such bank.

¹ So in original.

¹ So in original. Word “in” probably should not appear.

(July 22, 1932, ch. 522, §13, 47 Stat. 735; May 28, 1935, ch. 150, §8, 49 Stat. 295.)

AMENDMENTS

1935—Act May 28, 1935, inserted “and consolidated Federal Home Loan Bank bonds and debentures” in first sentence.

§ 1434. Depositories of public money; financial agents

When designated for that purpose by the Secretary of the Treasury, each Federal Home Loan Bank shall be a depository of public money, except receipts from customs, under such regulations as may be prescribed by said Secretary; and it may also be employed as a financial agent of the Government; and it shall perform all such reasonable duties as depository of public money and financial agent of the Government as may be required of it.

(July 22, 1932, ch. 522, §14, 47 Stat. 736.)

§ 1435. Obligations as lawful investments; liability of United States for debentures, etc., issued by banks

Obligations of the Federal Home Loan Banks issued with the approval of the Board or the Director under this chapter shall be lawful investments, and may be accepted as security, for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof. The Federal reserve banks are authorized to act as depositaries, custodians, and/or fiscal agents for Federal Home Loan Banks in the general performance of their powers under this chapter. All obligations of Federal Home Loan Banks shall plainly state that such obligations are not obligations of the United States and are not guaranteed by the United States.

(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 chap-

ter 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 Financing 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 sub-

section (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.

“(d) STATUS OF EMPLOYEES BEFORE TRANSFER.—

“(1) EMPLOYEES OF FSLIC.—Any employee of the Federal Savings and Loan Insurance Corporation shall be treated as an employee of the Federal Home Loan Bank Board for purposes of subsection (b)(1)(A)(i).

“(2) RULE OF CONSTRUCTION.—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, and the abolishment of the Federal Savings and Loan Insurance Corporation under section 401 of this title, shall not be construed as affecting the status of employees of such Corporation or of the Federal Home Loan Bank Board as employees of an agency of the United States for purposes of any other provision of law before the effective date of the transfer of any such employee pursuant to section 403.

“(e) CONTINUATION OF SERVICES.—

“(1) IN GENERAL.—The Director of the Office of Thrift Supervision, the Chairman of the Oversight Board of the Resolution Trust Corporation, the Chairperson of the Federal Deposit Insurance Corporation, and the Chairperson of the Federal Housing Finance Board may use the services of employees and other personnel and the property of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation, on a reimbursable basis, to perform functions which have been transferred to such agencies for such time as is reasonable to facilitate the orderly transfer of functions transferred pursuant to any other provision of this Act [see Tables for classification] or any amendment made by this Act to any other provision of law.

“(2) REIMBURSEMENT.—The reimbursement required under paragraph (1) with respect to employees, personnel, and property described in such paragraph shall be made to the FSLIC Resolution Fund and shall be taken into account in determining the amount of any reimbursement required under subsection (b)(2)(D).

“(3) AGENCY SERVICES.—Any agency, department, or other instrumentality of the United States (including any Federal home loan bank), and any successor to any such agency, department, or instrumentality, which was providing supporting services to the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation before the enactment of this Act [Aug. 9, 1989] in connection with functions that are transferred to the Office of Thrift Supervision, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, or the Federal Housing Finance Board shall—

“(A) continue to provide such services, on a reimbursable basis, until the transfer of such functions is complete; and

“(B) consult with any such agency to coordinate and facilitate a prompt and reasonable transition.

“(f) SAVINGS PROVISIONS RELATING TO FSLIC.—

“(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Subsection (a) shall not affect the validity of any right, duty, or obligation of the United States, the Federal Savings and Loan Insurance Corporation, or any other person, which—

“(A) arises under or pursuant to any section of title IV of the National Housing Act [former 12 U.S.C. 1724 et seq.]; and

“(B) existed on the day before the date of the enactment of this Act [Aug. 9, 1989].

“(2) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Federal Savings and Loan Insurance Corporation, or any Federal home loan bank with respect to any function of the Corporation which was delegated to employees of such bank, shall abate by reason of the enactment of this Act [see Tables for classification], except that the appropriate successor to the interests of such Corporation shall be substituted for the Corporation or the Federal home loan bank as a party to any such action or proceeding.

“(g) SAVINGS PROVISIONS RELATING TO FHLBB.—

“(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Subsection (a) shall not affect the validity of any right, duty, or obligation of the United States, the Federal Home Loan Bank Board, or any other person, which—

“(A) arises under or pursuant to the Federal Home Loan Bank Act [12 U.S.C. 1421 et seq.], the Home Owners' Loan Act of 1933 [12 U.S.C. 1461 et seq.], or any other provision of law applicable with respect to such Board (other than title IV of the National Housing Act [former 12 U.S.C. 1724 et seq.]); and

“(B) existed on the day before the date of the enactment of this Act [Aug. 9, 1989].

“(2) CONTINUATION OF SUITS.—

“(A) [sic] IN GENERAL.—No action or other proceeding commenced by or against the Federal Home Loan Bank Board, or any Federal home loan bank with respect to any function of the Board which was delegated to employees of such bank, shall abate by reason of the enactment of this Act [see Tables for classification], except that the appropriate successor to the interests of such Board shall be substituted for the Board or the Federal home loan bank as a party to any such action or proceeding.

“(h) CONTINUATION OF ORDERS, RESOLUTIONS, DETERMINATIONS, AND REGULATIONS.—Subject to section 402, all orders, resolutions, determinations, and regulations, which—

“(1) have been issued, made, prescribed, or allowed to become effective by the Federal Savings and Loan Insurance Corporation or the Federal Home Loan

Bank 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 which are transferred by this Act [see Tables for classification]; and

“(2) are in effect on the date this Act takes effect [Aug. 9, 1989],

shall continue in effect according to the terms of such orders, resolutions, determinations, and regulations and shall be enforceable by or against the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the Federal Housing Finance Board, or the Resolution Trust Corporation, as the case may be, until modified, terminated, set aside, or superseded in accordance with applicable law by the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the Federal Housing Finance Board, or the Resolution Trust Corporation, as the case may be, by any court of competent jurisdiction, or by operation of law.

“(i) IDENTIFICATION OF REGULATIONS WHICH REMAIN IN EFFECT PURSUANT TO THIS SECTION.—Before the end of the 60-day period beginning on the date of the enactment of this Act [Aug. 9, 1989], the Director of the Office of Thrift Supervision and the Chairperson of the Federal Deposit Insurance Corporation shall—

“(1) identify the regulations and orders which relate to the conduct of conservatorships and receiverships in accordance with the allocation of authority between them under this Act [see Tables for classification] and the amendments made by this Act; and

“(2) promptly publish notice of such identification in the Federal Register.

“SEC. 402. CONTINUATION AND COORDINATION OF CERTAIN REGULATIONS.

“(a) REGULATIONS RELATING TO INSURANCE FUNCTIONS.—All regulations and orders of the Federal Savings and Loan Insurance Corporation, or the Federal Home Loan Bank Board (in such Board’s capacity as the board of trustees of such Corporation), which are in effect on the date of the enactment of this Act [Aug. 9, 1989] and relate to—

“(1) the provision, rates, or cancellation of insurance of accounts; or

“(2) the administration of the insurance fund of the Federal Savings and Loan Insurance Corporation, shall remain in effect according to the terms of such regulations and orders and shall be enforceable by the Federal Deposit Insurance Corporation unless determined otherwise by such Corporation after consultation with the Comptroller of the Currency and, with respect to regulations and orders relating to the scope of deposit insurance coverage, pursuant to subsection (c).

“[(b) Repealed. Pub. L. 111-203, title III, §367(5)(B), July 21, 2010, 124 Stat. 1556.]

“(c) PROCEDURE FOR DIFFERENCES IN DEPOSIT INSURANCE COVERAGE BETWEEN FSLIC AND FDIC.—

“(1) TRANSITION RULE.—Until the effective date of regulations prescribed under paragraph (3)(B), any determination of the amount of any insured deposit in any depository institution which becomes an insured depository institution as a result of the amendment made to section 4(a) of the Federal Deposit Insurance Act [12 U.S.C. 1814(a)] by section 205(1) of this Act shall be made in accordance with the regulations and interpretations of the Federal Savings and Loan Insurance Corporation for determining the amount of an insured account which were in effect on the day before the date of the enactment of this Act [Aug. 9, 1989].

“(2) LIMITATION ON EXTENT OF COVERAGE.—During the period beginning on the date of the enactment of this Act and ending on the effective date of regulations prescribed under paragraph (3)(B), the amount of any insured account which is required to be treated as an insured deposit pursuant to paragraph (1) shall not exceed the amount of insurance to which such insured account would otherwise have been enti-

tled pursuant to the regulations and interpretations of the Federal Savings and Loan Insurance Corporation which were in effect on the day before the date of the enactment of this Act.

“(3) UNIFORM TREATMENT OF INSURED DEPOSITS.—The Federal Deposit Insurance Corporation shall—

“(A) review its regulations, principles, and interpretations for deposit insurance coverage and those established by the Federal Savings and Loan Insurance Corporation; and

“(B) on or before the end of the 270-day period beginning on the date of the enactment of this Act, prescribe a uniform set of regulations which shall be applicable to all insured deposits in insured depository institutions (except to the extent any provision of this Act, any amendment made by this Act to the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.], or any other provision of law requires or explicitly permits the Federal Deposit Insurance Corporation to treat insured deposits of Savings Association Insurance Fund members differently than insured deposits of Bank Insurance Fund members).

“(4) FACTORS REQUIRED TO BE CONSIDERED.—In prescribing regulations providing for the uniform treatment of deposit insurance coverage, the Federal Deposit Insurance Corporation shall consider all relevant factors necessary to promote safety and soundness, depositor confidence, and the stability of deposits in insured depository institutions.

“(5) NOTICE; EFFECTIVE DATE.—Regulations prescribed under this subsection shall—

“(A) provide for effective notice to depositors in insured depository institutions of any change in deposit insurance coverage which would result under such regulations; and

“(B) take effect on or before the end of the 90-day period beginning on the date such regulations become final.

“(6) DEFINITIONS.—For purposes of this subsection—

“(A) INSURED ACCOUNT.—The term ‘insured account’ has the meaning given to such term in section 401(c) of the National Housing Act [former 42 U.S.C. 1724(c)] (as in effect before the date of the enactment of this Act [Aug. 9, 1989]).

“(B) INSURED DEPOSITORY INSTITUTION.—The term ‘insured depository institution’ has the meaning given to such term in section 3(c)(2) of the Federal Deposit Insurance Act [12 U.S.C. 1813(c)(2)].

“(d) INTERIM TREATMENT OF CUSTODIAL ACCOUNTS.—

“(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding subsection (a) or any limitation contained in the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.] relating to the amount of deposit insurance available to any 1 borrower, amounts held in custodial accounts in insured depository institutions (as defined in section 3(c)(2) of such Act [12 U.S.C. 1813(c)(2)]) for the payment of principal, interest, tax, and insurance payments for mortgage borrowers, shall be insured under the Federal Deposit Insurance Act in the amount of \$100,000 per mortgage borrower.

“(2) TREATMENT AFTER EFFECTIVE DATE OF NEW REGULATIONS.—After the effective date of the regulations prescribed under subsection (c)—

“(A) the amount of deposit insurance available for custodial accounts shall be determined in accordance with such regulations; and

“(B) paragraph (1) shall cease to apply with respect to such accounts.

“(e) TREATMENT OF REFERENCES IN ADJUSTABLE RATE MORTGAGE INSTRUMENTS.—

“(1) IN GENERAL.—For purposes of adjustable rate mortgage instruments that are in effect as of the date of enactment of this Act [Aug. 9, 1989], any reference in the instrument to the Federal Savings and Loan Insurance Corporation, the Federal Home Loan Bank Board, or institutions insured by the Federal Savings and Loan Insurance Corporation before such date shall be treated as a reference to the Federal Deposit Insurance Corporation, the Federal Housing Fi-

nance Agency, the Comptroller of the Currency, or institutions which are members of the Savings Association Insurance Fund, as appropriate on the basis of the transfer of functions pursuant to this Act [see Tables for classification], unless the context of the reference requires otherwise.

“(2) SUBSTITUTION FOR INDEXES.—If any index used to calculate the applicable interest rate on any adjustable rate mortgage instrument is no longer calculated and made available as a direct or indirect result of the enactment of this Act, any index—

“(A) made available by the Comptroller of the Currency, the Chairperson of the Federal Deposit Insurance Corporation, or the Chairperson of the Federal Housing Finance Agency pursuant to paragraph (3); or

“(B) determined by the Comptroller of the Currency, the Chairperson of the Federal Deposit Insurance Corporation, or the Chairperson of the Federal Housing Finance Agency, pursuant to paragraph (4), to be substantially similar to the index which is no longer calculated or made available, may be substituted by the holder of any such adjustable rate mortgage instrument upon notice to the borrower.

“(3) AGENCY ACTION REQUIRED TO PROVIDE CONTINUED AVAILABILITY OF INDEXES.—Promptly after the enactment of this subsection [Aug. 9, 1989], the Comptroller of the Currency, the Chairperson of the Federal Deposit Insurance Corporation, and the Chairperson of the Federal Housing Finance Agency shall take such action as may be necessary to assure that the indexes prepared by the Federal Savings and Loan Insurance Corporation, the Federal Home Loan Bank Board, and the Federal home loan banks immediately prior to the enactment of this subsection and used to calculate the interest rate on adjustable rate mortgage instruments continue to be available.

“(4) REQUIREMENTS RELATING TO SUBSTITUTE INDEXES.—If any agency can no longer make available an index pursuant to paragraph (3), an index that is substantially similar to such index may be substituted for such index for purposes of paragraph (2) if the Comptroller of the Currency, the Chairperson of the Federal Deposit Insurance Corporation, or the Chairperson of the Federal Housing Finance Agency, as the case may be, determines, after notice and opportunity for comment, that—

“(A) the new index is based upon data substantially similar to that of the original index; and

“(B) the substitution of the new index will result in an interest rate substantially similar to the rate in effect at the time the original index became unavailable.

“SEC. 403. DETERMINATION OF TRANSFERRED FUNCTIONS AND EMPLOYEES.

“(a) ALL FHLBB AND FSLIC EMPLOYEES SHALL BE TRANSFERRED.—All employees of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation shall be identified for transfer under subsection (b) to the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, or the Federal Housing Finance Board.

“(b) FUNCTIONS AND EMPLOYEES TRANSFERRED.—

“(1) IN GENERAL.—The Director of the Office of Thrift Supervision, the Chairperson of the Oversight Board of the Resolution Trust Corporation, the Chairperson of the Federal Deposit Insurance Corporation, the Chairperson of the Federal Housing Finance Board, and the Chairman of the Federal Home Loan Bank Board (as of the day before the date of the enactment of this Act [Aug. 9, 1989]) shall jointly determine the functions or activities of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation, and the number of employees of such Board and Corporation necessary to perform or support such functions or activities, which are transferred from the Federal Home Loan Bank Board and the Federal Savings and Loan Insur-

ance Corporation to the Office of Thrift Supervision, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, or the Federal Housing Finance Board, as the case may be.

“(2) ALLOCATION OF EMPLOYEES.—The Director of the Office of Thrift Supervision, the Chairperson of the Oversight Board of the Resolution Trust Corporation, the Chairperson of the Federal Deposit Insurance Corporation, and the Chairperson of the Federal Housing Finance Board shall allocate the employees of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation consistent with the number determined pursuant to paragraph (1) in a manner which such Director, Chairman, and Chairpersons, in their sole discretion, deem equitable, except that, within work units, the agency preferences of individual employees shall be accommodated as far as possible.

“(c) FEDERAL HOME LOAN BANK PERSONNEL.—Employees of the Federal home loan banks or the joint offices of such banks who, on the day before the date of the enactment of this Act [Aug. 9, 1989], are performing functions or activities on behalf of the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation shall be treated as employees of the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation for purposes of determining, pursuant to subsection (b)(1), the number of employees performing or supporting functions or activities of such Board or Corporation to the extent such functions or activities are transferred to the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, the Resolution Trust Corporation, or the Federal Housing Finance Board.

“(d) FSLIC EMPLOYEES ENGAGED IN CONSERVATORSHIP OR RECEIVERSHIP FUNCTIONS.—Individuals who, on the day before the date of the enactment of this Act [Aug. 9, 1989], are employed by the Federal Savings and Loan Insurance Corporation in such Corporation's capacity as conservator or receiver of any insured depository institution shall be treated as employees of the Federal Savings and Loan Insurance Corporation for purposes of determining, pursuant to subsection (b)(1), the number of employees performing or supporting functions or activities of such Corporation if such conservatorship or receivership is transferred to the Federal Deposit Insurance Corporation or the Resolution Trust Corporation.

“SEC. 404. RIGHTS OF EMPLOYEES OF ABOLISHED AGENCIES.

“All employees identified for transfer under subsection (b) of section 403 (other than individuals described in subsection (c) or (d) of such section) shall be entitled to the following rights:

“(1) Each employee so identified shall be transferred to the appropriate agency or entity for employment no later than 60 days after the date of the enactment of this Act [Aug. 9, 1989] and such transfer shall be deemed a transfer of function for the purpose of section 3503 of title 5, United States Code.

“(2) Each transferred employee shall be guaranteed a position with the same status, tenure, grade, and pay as that held on the day immediately preceding the transfer. Each such employee holding a permanent position shall not be involuntarily separated or reduced in grade or compensation for 1 year after the date of transfer, except for cause or, if the employee is a temporary employee, separated in accordance with the terms of the appointment.

“(3)(A) In the case of employees occupying positions in the excepted service or the Senior Executive Service, any appointment authority established pursuant to law or regulations of the Office of Personnel Management for filling such positions shall be transferred, subject to subparagraph (B).

“(B) An agency or entity may decline a transfer of authority under subparagraph (A) (and the employees appointed pursuant thereto) to the extent that such authority relates to positions excepted from the com-

petitive service because of their confidential, policy-making, policy-determining, or policy-advocating character, and noncareer positions in the Senior Executive Service (within the meaning of section 3132(a)(7) of title 5, United States Code).

“(4) If any agency or entity to which employees are transferred determines, after the end of the 1-year period beginning on the date the transfer of functions to such agency or entity is completed, that a reorganization of the combined work force is required, that reorganization shall be deemed a ‘major reorganization’ for purposes of affording affected employees retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code.

“(5) Any employee accepting employment with any agency or entity (other than the Office of Thrift Supervision) as a result of such transfer may retain for 1 year after the date such transfer occurs membership in any employee benefit program of the Federal Home Loan Bank Board, including insurance, to which such employee belongs on the date of the enactment of this Act [Aug. 9, 1989] if—

“(A) the employee does not elect to give up the benefit or membership in the program; and

“(B) the benefit or program is continued by the Director of the Office of Thrift Supervision.

The difference in the costs between the benefits which would have been provided by such agency or entity and those provided by this section shall be paid by the Director of the Office of Thrift Supervision. If any employee elects to give up membership in a health insurance program or the health insurance program is not continued by the Director of the Office of Thrift Supervision, the employee shall be permitted to select an alternate Federal health insurance program within 30 days of such election or notice, without regard to any other regularly scheduled open season.

“(6) Any employee employed by the Office of Thrift Supervision as a result of the transfer may retain membership in any employee benefit program of the Federal Home Loan Bank Board, including insurance, which such employee has on the date of enactment of this Act, if such employee does not elect to give up such membership and the benefit or program is continued by the Director of the Office of Thrift Supervision. If any employee elects to give up membership in a health insurance program or the health insurance program is not continued by the Director of the Office of Thrift Supervision, such employee shall be permitted to select an alternate Federal health insurance program within 30 days of such election or discontinuance, without regard to any other regularly scheduled open season.

“(7) A transferring employee in the Senior Executive Service shall be placed in a comparable position at the agency or entity to which such employee is transferred.

“(8) Transferring employees shall receive notice of their position assignments not later than 120 days after the effective date of their transfer.

“(9) Upon the termination of the Resolution Trust Corporation pursuant to section 21A(m)(o) of the Federal Home Loan Bank Act [former 12 U.S.C. 1441a(o)], any employee of the Federal Deposit Insurance Corporation assigned to the Resolution Trust Corporation shall be reassigned to a position within the Federal Deposit Insurance Corporation in accordance with the provisions of paragraphs (2) and (4) through (7) of this section, except that the liability for any difference in the costs of benefits described in paragraph (5) shall be a liability of the Resolution Trust Corporation and not the Office of Thrift Supervision.

“SEC. 405. DIVISION OF PROPERTY AND FACILITIES.

“Before the end of the 60-day period beginning on the date of the enactment of this Act [Aug. 9, 1989], the Director of the Office of Thrift Supervision, the Chair-

person of the Oversight Board of the Resolution Trust Corporation, the Chairperson of the Federal Deposit Insurance Corporation, and the Chairperson of the Federal Housing Finance Board shall jointly divide all property of the Federal Savings and Loan Insurance Corporation and the Federal Home Loan Bank Board used to perform functions and activities of the Federal Home Loan Bank Board among the Office of Thrift Supervision, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, and the Federal Housing Finance Board in accordance with the division of responsibilities, functions, and activities effected by this Act [see Tables for classification]. Any disagreement between them in so doing shall be resolved by the Director of the Office of Management and Budget.

“SEC. 406. REPORT.

“Before the end of 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 provide by written report to the Secretary of the Treasury, the Director of the Office of Management and Budget, and the Congress, a final accounting of the finances and operations of the Federal Savings and Loan Insurance Corporation.”

TRANSFERRED EMPLOYEES OF FEDERAL HOME LOAN BANKS AND JOINT OFFICES

Pub. L. 101-73, title VII, §722, Aug. 9, 1989, 103 Stat. 426, provided that:

“(a) IN GENERAL.—Each employee of the Federal Home Loan Banks or joint offices of such Banks performing a function identified for transfer under section 403 of this Act [set out above], including employees who otherwise would be ineligible for employment by the United States because of their citizenship, shall be transferred for employment not later than 60 days after the date of the enactment of this Act [Aug. 9, 1989].

“(b) NOTICE TO EMPLOYEES.—Transferring employees shall receive notice of their position assignments not later than 120 days after the effective date of their transfer.

“(c) GUARANTEED POSITION.—Each transferred employee shall be guaranteed a position with the same status and tenure as that held by such employee on the day immediately preceding the transfer. Each such employee holding a permanent position shall not be involuntarily separated for one year after the date of transfer, except for cause.

“(d) PAY AND BENEFITS.—Each employee transferred under this section shall be entitled to receive, during the one-year period immediately following the transfer, pay and benefits comparable to those received by such employee immediately preceding the transfer. Where necessary or appropriate to further the safety and soundness of the thrift industry, the employing agency may continue the pre-transfer compensation of any transferring employee for up to 2 years beyond the expiration of the period provided for under the preceding sentence. Such pay and benefits shall be subject to the comparability provisions of this Act [see Tables for classification]. Any transferred employee who suffers a reduction of pay or benefits as a result of such comparability provisions shall be compensated for such reduction during the 1 year period following the transfer by assessments from the Federal Home Loan Bank or joint office of such Banks, from which the employee transferred. In any event, this subsection shall only apply to a transferred employee while such employee remains with the agency to which the employee is transferred.

“(e) HEALTH INSURANCE.—If the health insurance program of a transferred employee is not continued by the agency to which the employee is transferred, such employee may elect to participate in the agency’s health insurance program notwithstanding health conditions pre-existing at the time of election or enrollment into an alternate health insurance program of the agency to which he or she is transferred and without regard to any other regularly scheduled open season. Such election shall be made within 30 days of the transfer.

“(f) **EQUITABLE TREATMENT.**—The Director of the Office of Thrift Supervision or the Chairperson of the Federal Housing Finance Board shall take such action as is necessary on a case-by-case basis so that employees transferring under this section receive equitable treatment regarding credit for prior service with a Federal entity or instrumentality, or with a Federal Home Loan Bank or joint office of such Banks, with respect to the transferring employees’ retirement accounts and the transferring employees’ accrued leave or vacation time, in recognition of the transferring employees’ supervisory service.

“(g) **SPECIAL RULE FOR CERTAIN ANNUITANTS.**—An individual who was a reemployed annuitant on July 26, 1989, and who is transferred under this section, shall not be subject to the deduction from pay required by section 8344 or 8468 of title 5, United States Code, during the 1-year period beginning on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [Aug. 9, 1989].”

TRANSITIONAL PROVISIONS

Pub. L. 101-73, title VII, §723, Aug. 9, 1989, 103 Stat. 427, provided that:

“(a) **FEDERAL HOME LOAN BANKS’ SHARE OF ADMINISTRATIVE EXPENSES.**—The Federal Home Loan Banks shall pay to the Director of the Office of Thrift Supervision the amount obtained by multiplying the administrative expenses of the Office of Thrift Supervision incurred in connection with functions of the Banks that are transferred to the Office (less any fees or assessments collected by the Office) by a fraction—

“(1) the numerator of which is the amount of such expenses of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation paid by the Banks during the 1-year period ending on the date of enactment of this Act [Aug. 9, 1989]; and

“(2) the denominator of which is the total expenses of such Board and Corporation during such period.

No payment under this subsection is required after December 31, 1989.

“(b) **COMPENSATION OF SUPERVISORY AND EXAMINATIONS EMPLOYEES.**—The Federal Home Loan Banks shall continue to pay the compensation of employees of the Federal Home Loan Banks or the joint offices of such banks who, on the day before the date of the enactment of this Act [Aug. 9, 1989], are performing supervisory and examination functions until such supervisory and examination functions are transferred under this Act [see Tables for classification]. Thereafter, the obligation of the Federal Home Loan Banks hereunder to pay such applicable compensation shall continue until the later of—

“(1) the date which is 120 days after the date of transfer of such supervisory and examination functions to the Office of Thrift Supervision, or

“(2) March 31, 1990.

Payment of such compensation by the Federal Home Loan Banks shall be in lieu of, and not in addition to, the payment of compensation by the Office of Thrift Supervision.

“(c) **FACILITIES AND SUPPORT SERVICES.**—Until December 31, 1990, the Federal Home Loan Banks, as necessary, shall (with respect to supervisory and examination functions performed by employees transferred from the Federal Home Loan Banks or joint offices of such Banks to the Office of Thrift Supervision), provide the Office of Thrift Supervision facilities and support services comparable to those presently provided for the employees of the Federal Home Loan Banks or joint offices of such Banks performing such supervisory and examination functions, including office space, furniture and equipment, computer, personnel, and other support services. With respect to supervisory and examination functions presently performed by employees of individual Federal Home Loan Banks, each such Bank will only be required to provide such facilities and support services to the extent that the functions continue to be performed in that Bank’s offices.

“(d) **PRINCIPAL SUPERVISORY AGENT.**—Beginning on the date of enactment of this Act [Aug. 9, 1989] until

the Director of the Office of Thrift Supervision shall otherwise provide, the Principal Supervisory Agent for each Federal Home Loan Bank district shall be the senior supervisory official (other than the President of the Federal Home Loan Bank) employed by the Federal Home Loan Bank in such district on the day before the date of the enactment of this Act, and such employees performing supervisory and examination functions shall continue to be responsible for the supervision and examination of savings associations within such district.”

SPECIAL ACCOUNT

Pub. L. 101-73, title VII, §725, Aug. 9, 1989, 103 Stat. 429, provided that: “At the time of dissolution of the Federal Home Loan Bank Board, all such moneys and funds as shall remain in the special deposit account of the Federal Home Loan Bank Board, or other such accounts, shall become the property of the Federal Housing Finance Board.”

IMPROVEMENTS IN SUPERVISORY PROCESS

Pub. L. 100-86, title IV, §407(a)-(c), Aug. 10, 1987, 101 Stat. 616, 617, provided that:

“(a) **ENHANCED FLEXIBILITY IN THE SUPERVISORY PROCESS.**—The Federal Home Loan Bank Board (acting as such under the Federal Home Loan Bank Act [12 U.S.C. 1421 et seq.] and in the Board’s capacity as the board of trustees of the Federal Savings and Loan Insurance Corporation under section 402(a) of the National Housing Act [12 U.S.C. 1725(a)]) shall issue guidelines which provide greater flexibility for supervisory agents, examiners, and other employees and agents of the Board, the Federal Savings and Loan Insurance Corporation, and the Federal home loan banks in applying regulations, standards, and other requirements of the Board or such Corporation with regard to particular situations or particular thrift institutions.

“(b) **PARTICULAR GUIDELINES REQUIRED.**—The guidelines issued under subsection (a) shall contain the following provisions:

“(1) **FLEXIBLE APPROVAL PROCESS FOR RENEGOTIATED LOANS.**—A provision establishing a flexible procedure for obtaining supervisory approval of the terms of loans renegotiated by thrift institutions if a supervisory agreement is in effect between such institution and the principal supervisory agent of the Federal home loan bank district where such institution is located.

“(2) **RECOGNITION OF ADDITIONAL FINANCIAL CAPABILITY OF A BORROWER.**—A provision permitting examiners and other employees and agents of the Board, the Federal Savings and Loan Insurance Corporation, and the Federal home loan banks to take into account, to the extent consistent with the practices of the Federal banking agencies, other financial resources of a borrower (in addition to the financial assets of the borrower which are pledged to secure a loan) in classifying the assets of the thrift institution which holds a loan made to such borrower or with recourse to the borrower.

“(3) **APPRAISAL REVIEW.**—A provision establishing an appraisal review system to avoid overly optimistic or conservative appraisals with the goal of achieving appraisals that are more consistent in reflecting underlying values.

“(4) **1-TO-4 FAMILY RESIDENCES.**—A provision eliminating the scheduled item system except as such system relates to 1-to-4 family residences.

“(c) **DEFINITIONS.**—For purposes of subsections (a) and (b)—

“(1) **THRIFT INSTITUTION.**—The term ‘thrift institution’ means—

“(A) any association (within the meaning given to such term in section 2(d) of the Home Owners’ Loan Act of 1933 [former 12 U.S.C. 1462(d)]);

“(B) any insured institution (within the meaning given to such term in section 401(a) of the National Housing Act [12 U.S.C. 1724(a)]); and

“(C) any member (within the meaning given to such term in section 2(4) [now 2(3)] of the Federal Home Loan Bank Act [12 U.S.C. 1422(3)]).

“(2) BOARD.—The term ‘Board’ means the Federal Home Loan Bank Board.

“(3) FEDERAL BANKING AGENCY.—The term ‘Federal banking agency’ means the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation.”

GUIDELINES RESPECTING ACTION ON APPLICATIONS TO BANK BOARD OR FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Pub. L. 100-86, title IV, §410(a), (c), (d), Aug. 10, 1987, 101 Stat. 620, provided that:

“(a) IN GENERAL.—The Federal Home Loan Bank Board shall promulgate guidelines which provide that with respect to each type of completed application (other than an application under section 408(g) of the National Housing Act [12 U.S.C. 1730a(g)]) by any person for approval by the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation, the application shall be deemed to be approved as of the end of the period prescribed under such guidelines unless the Board or the Federal Savings and Loan Insurance Corporation, as the case may be, approves or disapproves such application before the end of such period.

“(c) REPORT TO CONGRESS.—Before the end of the 60-day period beginning on the date of the enactment of this Act [Aug. 10, 1987], the Federal Home Loan Bank Board shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing the guidelines required to be promulgated under subsection (a).

“(d) EFFECTIVE DATE.—The guidelines required to be promulgated under subsection (a) shall take effect at the end of the 60-day period referred to in subsection (c).”

GUIDELINES FOR ASSET DISPOSITION

Pub. L. 100-86, title IV, §411, Aug. 10, 1987, 101 Stat. 620, which directed Federal Home Loan Bank Board to submit, not later than 6 months after Aug. 10, 1987, to congressional committees a report containing appropriate new guidelines to prevent dumping of assets over which it had direct or indirect control and which the Board was to promulgate at end of such period, ceased to be effective on date that notice of completion of all net new borrowing by Financing Corporation is published in Federal Register (Mar. 30, 1992). See section 416 of Pub. L. 100-86, set out as a Sunset and Savings Provision note under section 1441 of this title.

EXPANSION OF USE OF UNDERUTILIZED MINORITY THRIFT INSTITUTIONS

Pub. L. 100-86, title IV, §412, Aug. 10, 1987, 101 Stat. 620, provided that:

“(a) CONSULTATION ON EXPANDED USE.—The Secretary of the Treasury shall consult with the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation on methods for increasing the use of underutilized minority thrift institutions as depositories or financial agents of Federal agencies.

“(b) DESIGNATION OF MINORITY THRIFT INSTITUTIONS INVOLVED IN CAPITAL RECOVERY PROGRAM AS UNDERUTILIZED THRIFT.—If the Federal Home Loan Bank Board approves any plan submitted under regulations prescribed under section 10 of the Home Owners’ Loan Act of 1933 [12 U.S.C. 1467a] (as added by section 404(a) of this title) or section 416 of the National Housing Act [12 U.S.C. 1730i] (as added by section 404(c) [404(b)] of this title) by any minority institution (as defined in each such section), such minority institution shall be designated by the Board as an underutilized thrift institution for purposes of increasing the use of such as-

sociation as a depository or financial agent of other Federal agencies.

“(c) REPORT TO CONGRESS.—Before the end of the 6-month period beginning on the date of the enactment of this Act [Aug. 10, 1987], the Secretary of the Treasury, the Federal Home Loan Bank Board, and the Federal Savings and Loan Insurance Corporation shall each submit a report to the Congress on actions taken by such Secretary or agency pursuant to subsection (a) or (b).

“(d) THRIFT INSTITUTION DEFINED.—For purposes of this section, the term ‘thrift institution’ has the meaning given to such term in section 407(c)(1) [section 407(c)(1) of Pub. L. 100-86, set out as a note above].”

CONGRESSIONAL OVERSIGHT

Pub. L. 100-86, title IV, §415, Aug. 10, 1987, 101 Stat. 622, provided that:

“(a) BANKING COMMITTEE REVIEW OF PANEL ACTIONS.—The Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate shall monitor and review the actions taken by each review panel established pursuant to the amendment made by section 407(d) of this Act [enacting former section 1442a of this title].

“(b) OTHER CONGRESSIONAL OVERSIGHT.—The Federal Home Loan Bank Board shall submit a report to the Committee on Banking, Finance and Urban Affairs [now Committee on Financial Services] of the House of Representatives, at the end of the 6-month period beginning on the date of the enactment of this title [Aug. 10, 1987], at the end of the 1-year period beginning on such date, and on an annual basis after the end of such 1-year period, containing—

“(1) a description of the Board’s existing manpower and talent;

“(2) an estimate of the Board’s projected manpower and talent needs for the year, including the cost of such projected needs;

“(3) a description and explanation of the goals and objectives, of the Board and all its related entities (including the Federal Asset Disposition Association), for the coming year and the management strategies to be employed by such entities in accomplishing such goals and objectives;

“(4) a summary of the operations, receipts, expenses, and expenditures, of the Board and all its related entities (including the Federal Asset Disposition Association), during the preceding year; and

“(5) a summary of the operations and the aggregate receipts, expenses, and expenditures of any other person not referred to in paragraph (4), including receivers, conservators, accountants, attorneys, and consultants, who is engaged in any activity on behalf of the Board or any other entity which is referred to in such paragraph, to the extent such operations, receipts, expenses, and expenditures are in connection with such activity.

“(c) APPEARANCE.—The Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation shall, before the beginning of each fiscal year, appear before the Committee on Banking, Finance and Urban Affairs [now Committee on Financial Services] of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate to describe and explain each such agency’s plans and proposals with respect to administrative expenses for such fiscal year.

“(d) GUIDELINES FOR EMPLOYMENT OF OUTSIDE ACCOUNTANTS, ATTORNEYS, CONSERVATORS, AND OTHER CONSULTANTS.—Before the end of the 6-month period beginning on the date of the enactment of this Act [Aug. 10, 1987], the Federal Home Loan Bank Board shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing guidelines to improve the management of and control over all outside accountants, attorneys, conservators, consultants, and

other persons whose services are employed by the Board, the Federal Savings and Loan Insurance Corporation, the Federal Asset Disposition Association, the principal supervisory agent for any Federal home loan bank district, or any other entity created, owned, or controlled by the Board in connection with any function for which the Board has direct or indirect regulatory or supervisory responsibility.”

STUDY AND REPORTS CONCERNING DIRECT INVESTMENTS

Pub. L. 100-86, title XII, §1203, Aug. 10, 1987, 101 Stat. 661, provided that:

“(a) **STUDY REQUIRED.**—The Federal Home Loan Bank Board shall conduct a study of the effect of direct investment activities on insured institutions, including comparative analyses of the effect of direct investment activities on—

- “(1) different sized insured institutions;
- “(2) State chartered insured institutions;
- “(3) federally chartered insured institutions; and
- “(4) insured institutions in each of the Supervisory Examinations Rating Classifications.

“(b) **REPORT REQUIRED.**—Not later than 18 months after the date of enactment of this Act [Aug. 10, 1987], the Federal Home Loan Bank Board shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report containing the findings and conclusions of the Board with respect to the study required under subsection (a), including—

- “(1) the findings and conclusions of the Board concerning the losses to the insurance fund and the degree to which such losses were the result of direct investment activities with respect to each of the classes of institutions described in subsection (a); and
- “(2) a comparison of the effects of direct investment activities prior to April 16, 1987, and the effect of such activities on or after April 16, 1987, for each of the classes of institutions described in subsection (a) and the losses to the insurance fund as a result of such activities.

“(c) **PRIOR REPORTS TO CONGRESS ON CHANGES TO DIRECT INVESTMENT REGULATIONS.**—

“(1) **IN GENERAL.**—Not less than 90 days before final approval is given by the Federal Home Loan Bank Board to any regulation which repeals or modifies (or has the effect of repealing or modifying) any regulation limiting direct investment activities, the Board shall submit to the Committee on Banking, Finance and Urban Affairs [now Committee on Financial Services] of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the proposed regulation and the reasons for the proposed regulation, including the effect of such regulation on the insurance fund.

“(2) **PROSPECTIVE APPLICATION OF RULE.**—Paragraph (1) shall not apply with respect to Board Resolution Numbered 87-215 and Board Resolution Numbered 87-215A.

“(d) **DIRECT INVESTMENT ACTIVITY DEFINED.**—For purposes of this section, the term ‘direct investment activities’ means activities which are limited under Board Resolution Numbered 87-215 and Board Resolution Numbered 87-215A.”

§ 1438. Omitted

CODIFICATION

Section, act July 22, 1932, ch. 522, §18, 47 Stat. 737; Pub. L. 89-754, title X, §1016(b), Nov. 3, 1966, 80 Stat. 1293; Pub. L. 101-73, title VII, §§701(b)(2), (b)(3)(B), 711, 712, Aug. 9, 1989, 103 Stat. 412, 419; Pub. L. 104-66, title II, §2191, Dec. 21, 1995, 109 Stat. 732; Pub. L. 106-102, title VI, §606(h), Nov. 12, 1999, 113 Stat. 1455; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 110-289, div. A, title II, §1204(2), July 30, 2008, 122 Stat. 2786; Pub. L. 111-203, title III, §364(a), July 21, 2010, 124 Stat. 1555, was

omitted in view of the repeal of subsecs. (a) to (c) which comprised this section. Subsec. (a), which related to authorization of appropriations for certain expenses of the Federal Home Loan Bank Board, was repealed by Pub. L. 101-73, title VII, §712, Aug. 9, 1989, 103 Stat. 419. Subsec. (b), which related to assessments for administrative expenses of the Federal Housing Finance Board, was repealed by Pub. L. 110-289, div. A, title II, §1204(2), July 30, 2008, 122 Stat. 2786. Subsec. (c), which related to acquisition of property by the Director of the Office of Thrift Supervision, was repealed by Pub. L. 111-203, title III, §364(a), July 21, 2010, 124 Stat. 1555.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-203, title III, §364(a), July 21, 2010, 124 Stat. 1555, provided that, effective 90 days after the transfer date, subsection (c) of this section is repealed. For definition of “transfer date”, see section 5301 of this title.

§ 1438a. Nonadministrative expenses; expenses of studies and investigations

On and after July 12, 1960, expenses of the Board in making studies or investigations specifically directed by law, or requested by the Congress or either House thereof or by a committee of either House, including services authorized by section 3109 of title 5, shall be considered as nonadministrative expenses.

(Pub. L. 86-626, title II, §201, July 12, 1960, 74 Stat. 441.)

CODIFICATION

“Section 3109 of title 5” substituted in text for “section 15 of the Act of August 2, 1946 (5 U.S.C. 55a)” on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

§§ 1439, 1439-1. Repealed. Pub. L. 101-73, title VII, §§ 708, 712, Aug. 9, 1989, 103 Stat. 418, 419

Section 1439, acts July 22, 1932, ch. 522, §19, 47 Stat. 737; May 28, 1935, ch. 150, §9, 49 Stat. 295; July 3, 1948, ch. 825, §2, 62 Stat. 1240, related to appointment, compensation, etc., of officers and employees of Board.

Section 1439-1, act July 22, 1932, ch. 522, §19A, as added Aug. 10, 1987, Pub. L. 100-86, title V, §505(d), 101 Stat. 633, related to apportionment of monies received by Board.

§ 1439a. Deposits in special fund; availability for all purposes of Federal Home Loan Bank Board and Federal Home Loan Bank Administration

All moneys and funds heretofore deposited in the Treasury of the United States under the last sentence of section 1439¹ of this title (including unexpended balances of moneys appropriated therefrom for administrative expenses), and hereafter all moneys and funds which would, except for this provision, be so depositable thereunder, shall be deposited with the Treasurer of the United States in a special deposit account and shall be available, retroactively as well as prospectively, for expenditure for all purposes of the Federal Home Loan Bank Board and the Federal Home Loan Bank Administration, subject to subsections (a) and (b) of section 712a of title 15.

(June 26, 1943, ch. 145, title I, §101, 57 Stat. 186; 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R.

¹ See References in Text note below.

4981, 61 Stat. 954; Aug. 11, 1955, ch. 783, title I, § 109(a)(3), 69 Stat. 640.)

REFERENCES IN TEXT

Section 1439 of this title, referred to in text, was repealed by Pub. L. 101-73, title VII, § 708, Aug. 9, 1989, 103 Stat. 418.

CODIFICATION

Section was enacted as part of the Independent Offices Appropriation Act, 1944, and not as part of the Federal Home Loan Bank Act which comprises this chapter.

CHANGE OF NAME

“Home Loan Bank Board” changed to “Federal Home Loan Bank Board” by act Aug. 11, 1955, ch. 783, § 109(a)(3), which was classified to section 1437(b) of this title prior to the repeal of section 1437 by Pub. L. 101-73, title VII, § 703(a), Aug. 9, 1989, 103 Stat. 415. Previously, “Home Loan Bank Board” had been substituted for “Federal Home Loan Bank Board” by Reorg. Plan No. 3 of 1947.

TRANSFER OF FUNCTIONS

Federal Home Loan Bank Board abolished and functions transferred, see sections 401 to 406 of Pub. L. 101-73, set out as a note under section 1437 of this title.

For transfer of functions to Secretary of the Treasury, see note set out under section 55 of this title.

§ 1440. Examinations and audits

The Director shall from time to time, at least annually, require examinations and reports of condition of all Federal Home Loan Banks in such form as the Director shall prescribe and shall furnish periodically statements based upon the reports of the banks to the Director. For the purposes of this chapter, examiners appointed by the Director shall be subject to the same requirements, responsibilities, and penalties as are applicable to examiners under the National Bank Act [12 U.S.C. 21 et seq.] and the Federal Reserve Act [12 U.S.C. 221 et seq.], and shall have, in the exercise of functions under this chapter, the same powers and privileges as are vested in such examiners by law. In addition to such examinations, the Comptroller General may audit or examine the Director and the Banks, to determine the extent to which the Director and the Banks are fairly and effectively fulfilling the purposes of this chapter.

(July 22, 1932, ch. 522, § 20, 47 Stat. 738; June 27, 1950, ch. 369, § 10, 64 Stat. 259; Aug. 2, 1954, ch. 649, title VIII, § 802(f), 68 Stat. 643; Pub. L. 101-73, title VII, §§ 701(b)(1), (3)(A), 702(b), Aug. 9, 1989, 103 Stat. 412, 415; Pub. L. 110-289, div. A, title II, § 1204(8), (9), July 30, 2008, 122 Stat. 2786.)

REFERENCES IN TEXT

The National Bank Act, referred to in text, is act June 3, 1864, ch. 106, 13 Stat. 99, as amended, which is classified principally to chapter 2 (§ 21 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 38 of this title.

The Federal Reserve Act, referred to in text, is act Dec. 23, 1913, ch. 6, 38 Stat. 251, as amended, which is classified principally to chapter 3 (§ 221 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 226 of this title and Tables.

AMENDMENTS

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

1989—Pub. L. 101-73, § 702(b), inserted provisions relating to audit or examination by the Comptroller General.

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

1954—Act Aug. 2, 1954, struck out second sentence relating to annual report of the board to Congress. See section 1437(b) of this title.

1950—Act June 27, 1950, struck out “twice” before “annually”.

§ 1440a. Sharing of information among Federal Home Loan Banks

(a) Information on financial condition

In order to enable each Federal Home Loan Bank to evaluate the financial condition of one or more of the other Federal Home Loan Banks individually and the Federal Home Loan Bank System (including any risks associated with the issuance or repayment of consolidated Federal Home Loan Bank bonds and debentures or other borrowings and the joint and several liabilities of the Banks incurred due to such borrowings), as well as to comply with any of its obligations under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), the Director shall make available to the Banks such reports, records, or other information as may be available, relating to the condition of any Federal Home Loan Bank.

(b) Sharing of information

(1) In general

The Director shall promulgate regulations to facilitate the sharing of information made available under subsection (a) directly among the Federal Home Loan Banks.

(2) Limitation

Notwithstanding paragraph (1), a Federal Home Loan Bank responding to a request from another Bank or from the Director for information pursuant to this section may request that the Director determine that such information is proprietary and that the public interest requires that such information not be shared.

(c) Limitation

Nothing in this section shall affect the obligations of any Federal Home Loan Bank under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or the regulations issued by the Securities and Exchange Commission thereunder.

(d) No waiver of privilege

The Director shall not be deemed to have waived any privilege applicable to any information concerning a Federal Home Loan Bank by transferring, or permitting the transfer of, that information to any other Federal Home Loan Bank for the purposes set out in subsection (a).

(July 22, 1932, ch. 522, § 20A, as added Pub. L. 110-289, div. A, title II, § 1207, July 30, 2008, 122 Stat. 2787.)

REFERENCES IN TEXT

The Securities Exchange Act of 1934, referred to in subsecs. (a) and (c), is act June 6, 1934, ch. 404, 48 Stat.

881, which is classified principally to chapter 2B (§78a et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 78a of Title 15 and Tables.

§ 1441. Financing Corporation

(a) Establishment

Notwithstanding any other provision of law, the Director shall charter a corporation to be known as the Financing Corporation.

(b) Management of Financing Corporation

(1) Directorate

The Financing Corporation shall be under the management of a directorate composed of 3 members as follows:

(A) The Director of the Office of Finance of the Federal Home Loan Banks (or the head of any successor to such office).

(B) 2 members selected by the Director from among the presidents of the Federal Home Loan Banks.

(2) Terms

Each member appointed under paragraph (1)(B) shall be appointed for a term of 1 year.

(3) Vacancy

If any member leaves the office in which such member was serving when appointed to the Directorate—

(A) such member's service on the Directorate shall terminate on the date such member leaves such office; and

(B) the successor to the office of such member shall serve the remainder of such member's term.

(4) Equal representation of banks

No president of a Federal Home Loan Bank may be appointed to serve an additional term on the Directorate until such time as the presidents of each of the other Federal Home Loan Banks have served as many terms on the Directorate as the president of such bank (before the appointment of such president to such additional term).

(5) Chairperson

The Director shall select the chairperson of the Directorate from among the 3 members of the Directorate.

(6) Staff

(A) No paid employees

The Financing Corporation shall have no paid employees.

(B) Powers

The Directorate may, with the approval of the Director, authorize the officers, employees, or agents of the Federal Home Loan Banks to act for and on behalf of the Financing Corporation in such manner as may be necessary to carry out the functions of the Financing Corporation.

(7) Administrative expenses

(A) In general

All administrative expenses of the Financing Corporation shall be paid by the Federal Home Loan Banks.

(B) Pro rata distribution

The amount each Federal Home Loan Bank shall pay shall be determined by the Director by multiplying the total administrative expenses for any period by the percentage arrived at by dividing—

(i) the aggregate amount the Director required such bank to invest in the Financing Corporation (as of the time of such determination) under paragraphs (4) and (5) of subsection (d) (as computed without regard to paragraph (3) or (6) of such subsection); by

(ii) the aggregate amount the Director required all Federal Home Loan Banks to invest (as of the time of such determination) under such paragraphs.

(C) Administrative expenses defined

For purposes of this paragraph, the term "administrative expenses" does not include—

(i) issuance costs (as such term is defined in subsection (g)(5)(A));

(ii) any interest on (and any redemption premium with respect to) any obligation of the Financing Corporation; or

(iii) custodian fees (as such term is defined in subsection (g)(5)(B)).

(8) Regulation by Director

The Directorate shall be subject to such regulations, orders, and directions as the Director may prescribe.

(9) No compensation from Financing Corporation

Members of the Directorate shall receive no pay, allowances, or benefits from the Financing Corporation by reason of their service on the Directorate.

(c) Powers of Financing Corporation

The Financing Corporation shall have only the following powers, subject to the other provisions of this section and such regulations, orders, and directions as the Director may prescribe:

(1) To issue nonvoting capital stock to the Federal Home Loan Banks.

(2) To invest in any security issued by the Federal Savings and Loan Insurance Corporation under section 1725(b) of this title prior to August 9, 1989, and thereafter to transfer the proceeds of any obligation issued by the Financing Corporation to the FSLIC Resolution Fund.

(3) To issue debentures, bonds, or other obligations and to borrow, to give security for any amount borrowed, and to pay interest on (and any redemption premium with respect to) any such obligation or amount.

(4) To impose assessments in accordance with subsection (f).

(5) To adopt, alter, and use a corporate seal.

(6) To have succession until dissolved.

(7) To enter into contracts.

(8) To sue and be sued in its corporate capacity, and to complain and defend in any action brought by or against the Financing Corporation in any State or Federal court of competent jurisdiction.

(9) To exercise such incidental powers not inconsistent with the provisions of this sec-

tion as are necessary or appropriate to carry out the provisions of this section.

(d) Capitalization of Financing Corporation

(1) Purchase of capital stock by Federal Home Loan Banks

(A) In general

Each Federal Home Loan Bank shall invest in nonvoting capital stock of the Financing Corporation at such times and in such amounts as the Director may prescribe under this subsection.

(B) Par value; transferability

Each share of stock issued by the Financing Corporation to a Federal Home Loan Bank shall have par value in an amount determined by the Director and shall be transferable only among the Federal Home Loan Banks in the manner and to the extent prescribed by the Director at not less than par value.

(2) Aggregate dollar amount limitation on all investments

The aggregate amount of funds invested by all Federal Home Loan Banks in nonvoting capital stock of the Financing Corporation shall not exceed \$3,000,000,000.

(3) Maximum investment amount limitation for each Federal Home Loan Bank

The cumulative amount of funds invested in nonvoting capital stock of the Financing Corporation by each Federal Home Loan Bank shall not exceed the aggregate amount of—

(A) the sum of—

(i) the reserves maintained by such bank on December 31, 1985, pursuant to the requirement contained in the first 2 sentences of section 1436 of this title; and

(ii) the undivided profits (as defined in paragraph (7)) of such bank on such date; and

(B) the sum of—

(i) the amounts added to reserves after December 31, 1985, pursuant to the requirement contained in the first 2 sentences of section 1436 of this title; and

(ii) the undivided profits of such bank accruing after such date.

(4) Pro rata distribution of 1st \$1,000,000,000 invested in Financing Corporation by Home Loan Banks

Of the first \$1,000,000,000 in the aggregate which the Thrift Depositor Protection Oversight Board pursuant to section 1441b of this title or the Director under this section (as the case may be) may require the Federal Home Loan Banks collectively to invest in the stock of the Funding Corporation or invest in the capital stock of the Financing Corporation, respectively, the amount which each Federal Home Loan Bank (or any successor to such Bank) shall invest shall be determined by the Thrift Depositor Protection Oversight Board or the Director (as the case may be) by multiplying the aggregate amount of such payment or investment by all Banks by the percentage appearing in the following table for each such Bank:

Bank	Percentage
Federal Home Loan Bank of Boston	1.8629
Federal Home Loan Bank of New York ...	9.1006
Federal Home Loan Bank of Pittsburgh ...	4.2702
Federal Home Loan Bank of Atlanta	14.4007
Federal Home Loan Bank of Cincinnati ...	8.2653
Federal Home Loan Bank of Indianapolis	5.2863
Federal Home Loan Bank of Chicago	9.6886
Federal Home Loan Bank of Des Moines ..	6.9301
Federal Home Loan Bank of Dallas	8.8181
Federal Home Loan Bank of Topeka	5.2706
Federal Home Loan Bank of San Francisco	19.9644
Federal Home Loan Bank of Seattle	6.1422

(5) Pro rata distribution of amounts required to be invested in excess of \$1,000,000,000

With respect to any amount in excess of the \$1,000,000,000 amount referred to in paragraph (4) which the Director may require the Federal Home Loan Banks to invest in capital stock of the Financing Corporation under this subsection, the amount which each Federal Home Loan Bank (or any successor to such bank) shall invest shall be determined by the Director by multiplying such excess amount by the percentage arrived at by dividing—

(A) the sum of the total assets (as of the most recent December 31) held by all Savings Association Insurance Fund members which are members of such bank; by

(B) the sum of the total assets (as of such date) held by all Savings Association Insurance Fund members which are members of any Federal Home Loan Bank.

(6) Special provisions relating to maximum amount limitations

(A) In general

If the amount any Federal Home Loan Bank is required to invest in capital stock of the Financing Corporation pursuant to a determination by the Director under paragraph (5) (or under subparagraph (B) of this paragraph) exceeds the maximum investment amount applicable with respect to such bank under paragraph (3) at the time of such determination (hereinafter in this paragraph referred to as the "excess amount")—

(i) the Director shall require each remaining Federal Home Loan Bank to invest (in addition to the amount determined under paragraph (5) for such remaining bank and subject to the maximum investment amount applicable with respect to such remaining bank under paragraph (3) at the time of such determination) in such capital stock on behalf of the bank in the amount determined under subparagraph (B);

(ii) the Director shall require the bank to subsequently purchase the excess amount of capital stock from the remaining banks in the manner described in subparagraph (C); and

(iii) the requirements contained in subparagraphs (D) and (E) relating to the use of net earnings shall apply to such bank until the bank has purchased all of the excess amount of capital stock.

(B) Allocation of excess amount among remaining Home Loan Banks

The amount each remaining Federal Home Loan Bank shall be required to invest under

subparagraph (A)(i) is the amount determined by the Director by multiplying the excess amount by the percentage arrived at by dividing—

(i) the amount of capital stock of the Financing Corporation held by such remaining bank at the time of such determination; by

(ii) the aggregate amount of such stock held by all remaining banks at such time.

(C) Purchase procedure

The bank on whose behalf an investment in capital stock is made under subparagraph (A)(i) shall purchase, annually and at the issuance price, from each remaining bank an amount of such stock determined by the Director by multiplying the amount available for such purchases (at the time of such determination) by the percentage determined under subparagraph (B) with respect to such remaining bank until the aggregate amount of such capital stock has been purchased by the bank.

(D) Limitation on dividends

The amount of dividends which may be paid for any year by a bank on whose behalf an investment is made under subparagraph (A)(i) shall not exceed an amount equal to ½ of the net earnings of the bank for the year.

(E) Transfer to account for purchase of stock required

Of the net earnings for any year of a bank on whose behalf an investment is made under subparagraph (A)(i), such amount as is necessary to make the purchases of stock required under subparagraph (A)(ii) shall be placed in a reserve account (established in such manner as the Director shall prescribe by regulations) the balance in which shall be available only for such purchases.

(7) Undivided profits defined

For purposes of paragraph (3), the term “undivided profits” means retained earnings minus the sum of—

(A) that portion required to be added to reserves maintained pursuant to the first two sentences of section 1436 of this title; and

(B) the dollar amounts held by the respective Federal Home Loan Banks in special dividend stabilization reserves on December 31, 1985, as determined under the following table:

Bank	Dollar amount
Federal Home Loan Bank of Boston ...	\$3.2 million
Federal Home Loan Bank of New York	7.7 million
Federal Home Loan Bank of Pittsburgh	5.2 million
Federal Home Loan Bank of Atlanta ..	12.3 million
Federal Home Loan Bank of Cincinnati	5.9 million
Federal Home Loan Bank of Indianapolis	37.4 million
Federal Home Loan Bank of Chicago ..	6.0 million
Federal Home Loan Bank of Des Moines	32.7 million
Federal Home Loan Bank of Dallas	45.0 million
Federal Home Loan Bank of Topeka ..	13.7 million
Federal Home Loan Bank of San Francisco	21.9 million

Federal Home Loan Bank of Seattle ... 33.6 million

(e) Obligations of Financing Corporation

(1) Limitation on amount of outstanding obligations

The aggregate amount of obligations of the Financing Corporation which may be outstanding at any time (as determined by the Director) shall not exceed the lesser of—

(A) an amount equal to the greater of—

(i) 5 times the amount of the nonvoting capital stock of the Financing Corporation which is outstanding at such time; or

(ii) the sum of the face amounts (the amount of principal payable at maturity) of securities described in subsection (g)(2) which are held at such time in the segregated account established pursuant to such subsection; or

(B) \$10,825,000,000.

(2) Termination of borrowing authority

No obligation of the Financing Corporation shall be issued after December 12, 1991.

(3) Limitation on term of obligations

No obligation of the Financing Corporation may be issued which matures—

(A) more than 30 years after the date of issue; or

(B) after December 31, 2026.

(4) Investment of United States funds in obligations

Obligations issued under this section by the Financing Corporation with the approval of the Director shall be lawful investments, and may be accepted as security, for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer of the United States.

(5) Market for obligations

All persons having the power to invest in, sell, underwrite, purchase for their own accounts, accept as security, or otherwise deal in obligations of the Federal Home Loan Banks shall also have the power to do so with respect to obligations of the Financing Corporation.

(6) No full faith and credit of the United States

Obligations of the Financing Corporation and the interest payable on such obligations shall not be obligations of, or guaranteed as to principal or interest by, the Federal Home Loan Banks, the United States, or the FSLIC Resolution Fund and the obligations shall so plainly state.

(7) Tax exempt status

(A) In general

Except as provided in subparagraph (B), obligations of the Financing Corporation shall be exempt from tax both as to principal and interest to the same extent as any obligation of a Federal Home Loan Bank is exempt from tax under section 1433 of this title.

(B) Exception

The Financing Corporation, like the Federal Home Loan Banks, shall be treated as

an agency of the United States for purposes of the first sentence of section 3124(b) of title 31 (relating to determination of tax status of interest on obligations).

(8) Obligations are exempt securities

Notwithstanding paragraph (7),¹ obligations of the Financing Corporation shall be deemed to be exempt securities (within the meaning of laws administered by the Securities and Exchange Commission) to the same extent as securities which are direct obligations of the United States or are guaranteed as to principal or interest by the United States.

(9) Minority participation in public offerings

The Chairperson of the Director² and the Directorate shall ensure that minority owned or controlled commercial banks, investment banking firms, underwriters, and bond counsels throughout the United States have an opportunity to participate to a significant degree in any public offering of obligations issued under this section.

(f) Sources of funds for interest payments; Financing Corporation assessment authority

The Financing Corporation shall obtain funds for anticipated interest payments, issuance costs, and custodial fees on obligations issued hereunder from the following sources:

(1) Preenactment assessments

The Financing Corporation assessments which were assessed on insured institutions pursuant to this section as in effect prior to August 9, 1989.

(2) New assessment authority

In addition to the amounts obtained pursuant to paragraph (1), the Financing Corporation, with the approval of the Board³ of Directors of the Federal Deposit Insurance Corporation, shall assess against each insured depository institution an assessment (in the same manner as assessments are assessed against such institutions by the Federal Deposit Insurance Corporation under section 1817 of this title).

(3) Receivership proceeds

To the extent the amounts available pursuant to paragraphs (1) and (2) are insufficient to cover the amount of interest payments, issuance costs, and custodial fees, and if the funds are not required by the Resolution Funding Corporation to provide funds for the Funding Corporation Principal Fund under section 1441b of this title, the Federal Deposit Insurance Corporation shall transfer to the Financing Corporation, from the liquidating dividends and payments made on claims received by the FSLIC Resolution Fund (established under section 1821a of this title) from receiverships, the remaining amount of funds necessary for the Financing Corporation to make interest payments.

¹ So in original. Probably should refer to paragraph (6) in view of the renumbering of paragraph (7) as (6) by Pub. L. 101-73.

² So in original. See 2008 Amendment note below.

³ See 2008 Amendment note below.

(g) Use and disposition of assets of Financing Corporation not invested in FSLIC

(1) In general

Subject to such regulations, restrictions, and limitations as may be prescribed by the Director, assets of the Financing Corporation, which are not invested in capital certificates or capital stock issued by the Federal Savings and Loan Insurance Corporation under section 1725(b)(1)(A) of this title before August 9, 1989, and after August 9, 1989, in capital certificates issued by the FSLIC Resolution Fund, shall be invested in—

(A) direct obligations of the United States;

(B) obligations, participations, or other instruments of, or issued by, the Federal National Mortgage Association or the Government National Mortgage Association;

(C) mortgages, obligations, or other securities for sale by, or which have been disposed of by, the Federal Home Loan Mortgage Corporation under section 1454 or 1455 of this title; or

(D) any other security in which it is lawful for fiduciary and trust funds to be invested under the laws of any State.

(2) Segregated account for zero coupon instruments held to assure payment of principal

The Financing Corporation shall invest in, and hold in a segregated account, noninterest bearing instruments—

(A) which are securities described in paragraph (1); and

(B) the total of the face amounts (the amount of principal payable at maturity) of which is approximately equal to the aggregate amount of principal on the obligations of the Financing Corporation,

to assure the repayment of principal on obligations of the Financing Corporation. For purposes of the foregoing, the Financing Corporation shall be deemed to hold noninterest bearing instruments that it lends temporarily to primary United States Treasury dealers in order to enhance market liquidity and facilitate deliveries, provided that United States Treasury securities of equal or greater value have been delivered as collateral.

(3) Dollar amount limitation on investment in zero coupon instruments for segregated account

The aggregate amount invested by the Financing Corporation under paragraph (2) shall not exceed \$2,200,000,000 (as determined on the basis of the purchase price).

(4) Exception for payment of issuance costs, interest, and custodian fees

Notwithstanding the requirements of paragraph (1), the assets of the Financing Corporation referred to in paragraph (1) which are not invested under paragraph (2) may be used to pay—

(A) issuance costs;

(B) any interest on (and any redemption premium with respect to) any obligation of the Financing Corporation; and

(C) custodian fees.

(5) Definitions

For purposes of this subsection—

(A) Issuance costs

The term “issuance costs”—

(i) means issuance fees and commissions incurred by the Financing Corporation in connection with the issuance or servicing of any obligation of the Financing Corporation; and

(ii) includes legal and accounting expenses, trustee and fiscal and paying agent charges, costs incurred in connection with preparing and printing offering materials, and advertising expenses, to the extent that any such cost or expense is incurred by the Financing Corporation in connection with issuing any obligation.

(B) Custodian fees

The term “custodian fee” means—

(i) any fee incurred by the Financing Corporation in connection with the transfer of any security to, or the maintenance of any security in, the segregated account established under paragraph (2); and

(ii) any other expense incurred by the Financing Corporation in connection with the establishment or maintenance of such account.

(h) Miscellaneous provisions relating to Financing Corporation**(1) Treatment for certain purposes**

Except as provided in subsection (e)(8)(B), the Financing Corporation shall be treated as a Federal Home Loan Bank for purposes of sections 1433 and 1443 of this title.

(2) Federal Reserve banks as depositaries and fiscal agents

The Federal Reserve banks are authorized to act as depositaries for or fiscal agents or custodians of the Financing Corporation.

(3) Applicability of certain provisions relating to Government corporation

Notwithstanding the fact that no Government funds may be invested in the Financing Corporation, the Financing Corporation shall be treated, for purposes of sections 9105,⁴ 9107, and 9108 of title 31, as a mixed-ownership Government corporation which has capital of the Government.

(i) Termination of Financing Corporation**(1) In general**

The Financing Corporation shall be dissolved, as soon as practicable, after the earlier of—

(A) the maturity and full payment of all obligations issued by the Financing Corporation pursuant to this section; or

(B) December 31, 2026.

(2) Director authority to conclude the affairs of Financing Corporation

Effective on the date of the dissolution of the Financing Corporation under paragraph (1), the Director may exercise, on behalf of the Financing Corporation, any power of the Financing Corporation which the Director determines to be necessary to settle and conclude the affairs of the Financing Corporation.

⁴ See References in Text note below.

(j) Regulations

The Director may prescribe such regulations as may be necessary to carry out the provisions of this section, including regulations defining terms used in this section.

(k) Definitions

For purposes of this section, the following definitions shall apply:

(1) Directorate

The term “Directorate” means the directorate established in the manner provided in subsection (b)(1) to manage the Financing Corporation.

(2) Net earnings

The term “net earnings” means net earnings without reduction for any chargeoffs or expenses incurred by a Bank in connection with the purchase of capital stock of the Financing Corporation or the purchase of stock of the Funding Corporation required by the Thrift Depositor Protection Oversight Board under subsections (e) and (f) of section 1441b of this title.

(3) Insured depository institution

The term “insured depository institution” has the same meaning as in section 1813 of this title⁵

(July 22, 1932, ch. 522, §21, as added Pub. L. 100-86, title III, §302, Aug. 10, 1987, 101 Stat. 585; amended Pub. L. 101-73, title V, §512, title VII, §§701(b)(2), 713, Aug. 9, 1989, 103 Stat. 406, 412, 419; Pub. L. 102-233, title I, §104, title III, §302(b), Dec. 12, 1991, 105 Stat. 1762, 1767; Pub. L. 102-550, title XVI, §1611(c), Oct. 28, 1992, 106 Stat. 4090; Pub. L. 104-208, div. A, title II, §2703(a), Sept. 30, 1996, 110 Stat. 3009-485; Pub. L. 109-173, §9(d)(2), Feb. 15, 2006, 119 Stat. 3616; Pub. L. 110-289, div. A, title II, §1204(6), (8), (12), July 30, 2008, 122 Stat. 2786.)

REFERENCES IN TEXT

Section 1725 of this title, referred to in subsecs. (c)(2), (e)(2)(A), and (g)(1), was repealed by Pub. L. 101-73, title IV, §407, Aug. 9, 1989, 103 Stat. 363.

Section 9105 of title 31, referred to in subsec. (h)(3), was amended generally by Pub. L. 101-576, title III, §305, Nov. 15, 1990, 104 Stat. 2853, and, as so amended, no longer contains provisions relating to mixed-ownership Government corporations having capital of the Government.

PRIOR PROVISIONS

A prior section 1441, act July 22, 1932, ch. 522, §21, 47 Stat. 738, related to unlawful acts and penalties, prior to repeal by act June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948. See sections 433, 493, 657, 659, 660, 709, 1006, 1014, and 2117 of Title 18, Crimes and Criminal Procedure.

AMENDMENTS

2008—Pub. L. 110-289, §1204(12), substituted “Director” for “Federal Housing Finance Board” wherever appearing in subsecs. (a), (b)(1)(B), (6)(B), (7)(B), (8), (c), (d), (e)(1), (4), (9), (g), (i), and (j).

Subsec. (b)(5). Pub. L. 110-289, §1204(6), substituted “Director” for “Chairperson of the Federal Housing Finance Board”.

Subsec. (f)(2). Pub. L. 110-289, §1204(8), which directed amendment of the Federal Home Loan Bank Act (this

⁵ So in original. Probably should be followed by a period.

chapter) by substituting “the Director” for “the Board” wherever appearing, was not executed to subsec. (f)(2) to reflect the probable intent of Congress.

2006—Subsec. (f)(2). Pub. L. 109-173, §9(d)(2)(A), struck out before period at end “, except that—

“(A) the assessments imposed on insured depository institutions with respect to any BIF-assessable deposit shall be assessed at a rate equal to 1/5 of the rate of the assessments imposed on insured depository institutions with respect to any SAIF-assessable deposit; and

“(B) no limitation under clause (i) or (iii) of section 7(b)(2)(A) of the Federal Deposit Insurance Act shall apply for purposes of this paragraph.”

Subsec. (k)(4). Pub. L. 109-173, §9(d)(2)(B), struck out heading and text of par. (4). Text read as follows:

“(A) BIF-ASSESSABLE DEPOSITS.—The term ‘BIF-assessable deposit’ means a deposit that is subject to assessment for purposes of the Bank Insurance Fund under the Federal Deposit Insurance Act (including a deposit that is treated as a deposit insured by the Bank Insurance Fund under section 5(d)(3) of the Federal Deposit Insurance Act).

“(B) SAIF-ASSESSABLE DEPOSIT.—The term ‘SAIF-assessable deposit’ has the meaning given to such term in section 2710 of the Deposit Insurance Funds Act of 1996.”

1996—Subsec. (f)(2). Pub. L. 104-208, §2703(a)(1)(A), in introductory provisions, substituted “In addition to the amounts obtained pursuant to paragraph (1),” for “To the extent the amounts available pursuant to paragraph (1) are insufficient to cover the amount of interest payments, issuance costs, and custodial fees,” “insured depository institution” for “Savings Association Insurance Fund member”, and “against such institutions” for “against such members”.

Subsec. (f)(2)(A) to (C). Pub. L. 104-208, §2703(a)(1)(B), added subpars. (A) and (B) and struck out former subpars. (A) to (C) which read as follows:

“(A) the sum of—
 “(i) the amount assessed under this paragraph; and
 “(ii) the amount assessed by the Funding Corporation under section 1441b of this title;
 shall not exceed the amount authorized to be assessed against Savings Association Insurance Fund members pursuant to section 1817 of this title;

“(B) the Financing Corporation shall have first priority to make the assessment; and

“(C) the amount of the applicable assessment determined under such section 1817 of this title shall be reduced by the sum described in subparagraph (A) of this paragraph.”

Subsec. (k). Pub. L. 104-208, §2703(a)(2)(A), substituted “section, the following definitions shall apply:” for “section—” in introductory provisions.

Subsec. (k)(1). Pub. L. 104-208, §2703(a)(2)(B), (C), redesignated par. (2) as (1) and struck out heading and text of former par. (1). Text read as follows: “The term ‘Savings Association Insurance Fund member’ means a savings association which is a Savings Association Insurance Fund member as defined by section 7(l) of the Federal Deposit Insurance Act.”

Subsec. (k)(2) to (4). Pub. L. 104-208, §2703(a)(2)(C), (D), added pars. (3) and (4) and redesignated former pars. (2) and (3) as (1) and (2), respectively.

1992—Subsec. (e)(2). Pub. L. 102-550 made technical amendment to reference to December 12, 1991, to correct reference to corresponding provisions of original act.

1991—Subsec. (d)(4). Pub. L. 102-233, §302(b), substituted “Thrift Depositor Protection Oversight Board” for “Oversight Board” in two places.

Subsec. (e)(2). Pub. L. 102-233, §104, amended par. (2) generally, substituting provisions setting forth termination date of Financing Corporation borrowing authority for provisions relating to investment of proceeds of obligations of such Corporation.

Subsec. (k)(3). Pub. L. 102-233, §302(b), substituted “Thrift Depositor Protection Oversight Board” for “Oversight Board”.

1989—Subsec. (a). Pub. L. 101-73, §512(2), substituted “Federal Housing Finance Board” for “Board”.

Subsec. (b)(1)(B). Pub. L. 101-73, §512(2), substituted “Federal Housing Finance Board” for “Federal Home Loan Bank Board”.

Subsec. (b)(5). Pub. L. 101-73, §701(b)(2), substituted “Chairperson” for “Chairman”.

Pub. L. 101-73, §512(2), substituted “Federal Housing Finance Board” for “Federal Home Loan Bank Board”.

Subsecs. (b)(6)(B), (7)(B), (8), (c). Pub. L. 101-73, §512(2), substituted “Federal Housing Finance Board” for “Board” wherever appearing.

Subsec. (c)(2). Pub. L. 101-73, §512(3), inserted “prior to August 9, 1989, and thereafter to transfer the proceeds of any obligation issued by the Financing Corporation to the FSLIC Resolution Fund”.

Subsec. (c)(9). Pub. L. 101-73, §512(4), struck out “or section 1725(b) of this title” after “with the provisions of this section”.

Subsec. (d)(1). Pub. L. 101-73, §512(2), substituted “Federal Housing Finance Board” for “Board” wherever appearing.

Subsec. (d)(4). Pub. L. 101-73, §512(5), amended generally the portion of par. (4) appearing before the table. Prior to amendment, such portion read as follows: “With respect to the first \$1,000,000,000 which the Board may require the Federal Home Loan Banks to invest in capital stock of the Financing Corporation under this subsection, the amount which each Federal Home Loan Bank (or any successor to such bank) shall invest shall be determined by the Board by applying to the total amount of such investment by all such banks the percentage appearing in the following table for each such bank:”

Subsec. (d)(5). Pub. L. 101-73, §512(6), substituted “the \$1,000,000,000 amount referred to in paragraph (4) which the Federal Housing Finance Board” for “\$1,000,000,000 which the Board”.

Pub. L. 101-73, §512(2), substituted “by the Federal Housing Finance Board” for “by the Board”.

Subsec. (d)(5)(A), (B). Pub. L. 101-73, §512(1), which directed the amendment of this section by substituting “Savings Association Insurance Fund member” for “insured institution” wherever appearing, was executed by substituting “Savings Association Insurance Fund members” for “insured institutions”, as the probable intent of Congress.

Subsec. (d)(6)(A). Pub. L. 101-73, §512(2), substituted “Federal Housing Finance Board” for “Board” in introductory provisions and in cls. (i) and (ii).

Subsec. (d)(6)(A)(iii). Pub. L. 101-73, §512(7), struck out “available for dividends” after “use of net earnings”.

Subsec. (d)(6)(B), (C). Pub. L. 101-73, §512(2), substituted “Federal Housing Finance Board” for “Board”.

Subsec. (d)(6)(D). Pub. L. 101-73, §512(8), struck out “available for dividends” after “net earnings”.

Subsec. (d)(6)(E). Pub. L. 101-73, §512(9), struck out “available for dividends” after “Of the net earnings”.

Pub. L. 101-73, §512(2), substituted “Federal Housing Finance Board” for “Board”.

Subsec. (d)(6)(F). Pub. L. 101-73, §512(10), struck out subpar. (F) which defined “net earnings available for dividends”.

Subsec. (e)(1). Pub. L. 101-73, §512(2), substituted “Federal Housing Finance Board” for “Board”.

Subsec. (e)(2). Pub. L. 101-73, §512(12)(A), redesignated par. (3) as (2) and struck out former par. (2) which set an annual limit on net new borrowing by the Financing Corporation.

Pub. L. 101-73, §512(11), which directed amendment of par. (2)(A), was executed, as the probable intent of Congress, to the introductory text of par. (2), to par. (2)(A), and to par. (2)(B), as follows: striking out “used to” after “issued by the Financing Corporation” in the introductory text, inserting “used to” before “purchase” and inserting “prior to August 9, 1989, and thereafter transferred to the FSLIC Resolution Fund” before “; or” in subpar. (A), and by inserting “used to” before “refund” in subpar. (B).

Pub. L. 101-73, §512(2), substituted “Federal Housing Finance Board” for “Board”.

Subsec. (e)(3). Pub. L. 101-73, § 512(12)(A), redesignated par. (4) as (3). Former par. (3) redesignated (2).

Subsec. (e)(4). Pub. L. 101-73, § 512(2), (12)(A), redesignated par. (5) as (4) and substituted “Federal Housing Finance Board” for “Board”. Former par. (4) redesignated (3).

Subsec. (e)(5). Pub. L. 101-73, § 512(12)(A), redesignated par. (6) as (5). Former par. (5) redesignated (4).

Subsec. (e)(6). Pub. L. 101-73, § 512(12), redesignated par. (7) as (6) and substituted “FSLIC Resolution Fund” for “Federal Savings and Loan Insurance Corporation”. Former par. (6) redesignated (5).

Subsec. (e)(7), (8). Pub. L. 101-73, § 512(12)(A), redesignated pars. (8) and (9) as (7) and (8), respectively. Former par. (7) redesignated (6).

Subsec. (e)(9), (10). Pub. L. 101-73, §§ 512(2), (12)(A), 701(b)(2), redesignated par. (10) as (9) and substituted “Chairperson” for “Chairman” and “Federal Housing Finance Board” for “Board”. Former par. (9) redesignated (8).

Subsec. (f). Pub. L. 101-73, § 512(13), amended subsec. (f) generally, substituting provisions enumerating various sources from which Financing Corporation shall obtain funds for anticipated interest payments, issuance costs, and custodial fees on obligations issued from preassessment assessments, new assessment authority, and receivership proceeds, for former provisions which had outlined assessment authority of Financing Corporation, setting up supplementary assessment authority, setting limits on total amount assessed, and providing for termination assessments.

Subsec. (g)(1). Pub. L. 101-73, § 512(14), inserted reference to before August 9, 1989, and after August 9, 1989, in capital certificates issued by the FSLIC Resolution Fund.

Pub. L. 101-73, § 512(2), substituted “Federal Housing Finance Board” for “Board”.

Subsec. (g)(2). Pub. L. 101-73, § 512(15), inserted at end “For purposes of the foregoing, the Financing Corporation shall be deemed to hold noninterest bearing instruments that it lends temporarily to primary United States Treasury dealers in order to enhance market liquidity and facilitate deliveries, provided that United States Treasury securities of equal or greater value have been delivered as collateral.”

Subsec. (i). Pub. L. 101-73, § 713, redesignated subsec. (j) as (i) and struck out former subsec. (i) which related to Federal Savings and Loan Insurance Corporation Industry Advisory Committee.

Subsec. (i)(1)(A). Pub. L. 101-73, § 512(16), added subpar. (A) and struck out former subpar. (A) which read as follows: “the date by which all stock purchased by the Financing Corporation in the Federal Savings and Loan Insurance Corporation has been retired; or”.

Subsec. (i)(2). Pub. L. 101-73, § 512(2), substituted “Federal Housing Finance Board” for “Board” wherever appearing.

Subsec. (j). Pub. L. 101-73, § 713, redesignated subsec. (k) as (j). Former subsec. (j) redesignated (i).

Pub. L. 101-73, § 512(2), substituted “Federal Housing Finance Board” for “Board”.

Subsec. (k). Pub. L. 101-73, § 713, redesignated subsec. (l) as (k). Former subsec. (k) redesignated (j).

Subsec. (k)(1). Pub. L. 101-73, § 512(17)(A), substituted definition of “Savings Association Insurance Fund member” for definition of “insured institution”.

Subsec. (k)(2). Pub. L. 101-73, § 512(17)(B), redesignated par. (3) as (2) and struck out former par. (2) which defined “insured member”.

Subsec. (k)(3), (4). Pub. L. 101-73, § 512(10), (17)(B), added par. (4) and redesignated pars. (3) and (4) as (2) and (3), respectively.

Subsec. (l). Pub. L. 101-73, § 713, redesignated subsec. (l) as (k).

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-173 effective Mar. 31, 2006, see section 9(j) of Pub. L. 109-173, set out as a note under section 24 of this title.

EFFECTIVE AND TERMINATION DATES OF 1996 AMENDMENT

Pub. L. 104-208, div. A, title II, § 2703(c), Sept. 30, 1996, 110 Stat. 3009-485, provided that:

“(1) IN GENERAL.—Subsections (a) [amending this section] and (c) [probably should be (b), amending section 1817 of this title] and the amendments made by such subsections shall apply with respect to semiannual periods which begin after December 31, 1996.

“(2) TERMINATION OF CERTAIN ASSESSMENT RATES.—Subparagraph (A) of section 21(f)(2) of the Federal Home Loan Bank Act [subsec. (f)(2) of this section] (as amended by subsection (a)) shall not apply after the earlier of—

“(A) December 31, 1999; or

“(B) the date as of which the last savings association ceases to exist.”

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-550, title XVI, § 1618, Oct. 28, 1992, 106 Stat. 4097, provided that: “Except as otherwise provided by a specific provision of this subtitle [subtitle B (§§ 1611-1618) of title XVI of Pub. L. 102-550, amending this section, sections 1441a, 1441b, 1821, 3345, and 3348 of this title and provisions set out as a note under section 1441a of this title], the amendments made by this subtitle to the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 [Pub. L. 102-233; see Short Title of 1991 Amendment note set out under section 1421 of this title] and the Federal Home Loan Bank Act [2 U.S.C. 1421 et seq.] shall take effect as if such amendments had been included in the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 [Pub. L. 102-233] as of the date of the enactment of such Act [Dec. 12, 1991].”

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102-233, title III, § 318, Dec. 12, 1991, 105 Stat. 1773, provided that: “The effective date of the Resolution Trust Corporation Thrift Depositor Protection Reform Act of 1991 [title III of Pub. L. 102-233, amending this section, sections 1441a, 1441b, 1786, 1818, 1821, 1833b, and 1833e of this title, sections 5313 and 5314 of Title 5, Government Organization and Employees, and section 11 of the Inspector General Act of 1978, Pub. L. 95-452, set out in the Appendix to Title 5, enacting provisions set out as notes under section 1441a of this title, and amending provisions set out as notes under sections 1437 and 1441a of this title] shall be February 1, 1992.”

TRANSFER OF FUNCTIONS

Federal Savings and Loan Insurance Corporation abolished and functions transferred, see sections 401 to 406 of Pub. L. 101-73, set out as a note under section 1437 of this title.

ABOLITION OF THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

Thrift Depositor Protection Oversight Board abolished, see section 14(a)-(d) of Pub. L. 105-216, formerly set out as a note under section 1441a of this title.

PROHIBITION ON DEPOSIT SHIFTING

Pub. L. 104-208, div. A, title II, § 2703(d), Sept. 30, 1996, 110 Stat. 3009-486, provided that:

“(1) IN GENERAL.—Effective as of the date of the enactment of this Act [Sept. 30, 1996] and ending on the date provided in subsection (c)(2) of this section [set out as a note above], the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, and the Director of the Office of Thrift Supervision shall take appropriate actions, including enforcement actions, denial of applications, or imposition of entrance and exit fees as if such transactions qualified as conversion transactions pursuant to section 5(d) of the Federal Deposit Insurance Act [12 U.S.C. 1815(d)], to prevent insured depository institu-

tions and depository institution holding companies from facilitating or encouraging the shifting of deposits from SAIF-assessable deposits to BIF-assessable deposits (as defined in section 21(k) of the Federal Home Loan Bank Act [12 U.S.C. 1441(k)]) for the purpose of evading the assessments imposed on insured depository institutions with respect to SAIF-assessable deposits under section 7(b) of the Federal Deposit Insurance Act [12 U.S.C. 1817(b)] and section 21(f)(2) of the Federal Home Loan Bank Act [12 U.S.C. 1441(f)(2)].

“(2) REGULATIONS.—The Board of Directors of the Federal Deposit Insurance Corporation may issue regulations, including regulations defining terms used in paragraph (1), to prevent the shifting of deposits described in such paragraph.

“(3) RULE OF CONSTRUCTION.—No provision of this subsection shall be construed as prohibiting conduct or activity of any insured depository institution which—

“(A) is undertaken in the ordinary course of business of such depository institution; and

“(B) is not directed towards the depositors of an insured depository institution affiliate (as defined in section 2(k) of the Bank Holding Company Act of 1956 [12 U.S.C. 1841(k)]) of such depository institution.”

STATE COOPERATIVE BANKS DEEMED INSURED INSTITUTIONS UNDER SUBSECTION (f)(4)(F)

Pub. L. 100-202, §101(f) [title III, §301], Dec. 22, 1987, 101 Stat. 1329-187, 1329-211, provided that any cooperative bank established under the law of any State which was directed by the State banking authority to obtain Federal deposit insurance between Jan. 1, 1985, and Jan. 1, 1987, would be deemed to be an insured institution described in 12 U.S.C. 1441(f)(4)(F).

SUNSET AND SAVINGS PROVISION

Pub. L. 100-86, title IV, §416, Aug. 10, 1987, 101 Stat. 623, provided that:

“(a) IN GENERAL.—The following provisions shall cease to be effective on the date that a notice is published in the Federal Register by the Financing Corporation pursuant to subsection (b):

“(1) Paragraphs (2), (3), and (5) of—

“(A) section 9(a) of the Home Owners’ Loan Act of 1933 [12 U.S.C. 1467(a)(2), (3), (5)]; and

“(B) section 415(a) of the National Housing Act [12 U.S.C. 1730h(a)(2), (3), (5)],

(as added by subsections (a) and (b), respectively, of section 402 of this title).

“(2) Section 10 of the Home Owners’ Loan Act of 1933 [12 U.S.C. 1467a] and section 416 of the National Housing Act [12 U.S.C. 1730i] (as added by subsections (a) and (b), respectively, of section 404 of this title).

“(3) Paragraph (6) of section 406(f) of the National Housing Act [12 U.S.C. 1729(f)(6)] (as added by section 405 of this title).

“(4) Section 22A of the Federal Home Loan Bank Act [12 U.S.C. 1442a] (as added by section 407(d) of this title).

“(5) Section 411 of this title [12 U.S.C. 1437 note].

“(b) NOTICE OF COMPLETION OF NET NEW BORROWING BY FINANCING CORPORATION.—When the Financing Corporation established pursuant to section 21 of the Federal Home Loan Bank Act [12 U.S.C. 1441] has completed all net new borrowing under such section, the Financing Corporation shall publish a notice of such fact in the Federal Register. [Notice that the Financing Corporation had completed all net new borrowings and would issue no additional obligations after Dec. 12, 1991, was published Mar. 30, 1992, 57 F.R. 10763.]

“(c) SAVINGS PROVISION.—The termination by subsection (a) of the effectiveness of any provision described in such subsection shall not be construed to affect or limit any authority of the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation to prescribe any regulation or engage in any activity with respect to any association or insured institution under any other provision of law.”

§ 1441a. Repealed. Pub. L. 111-203, title III, § 364(b), July 21, 2010, 124 Stat. 1555

Section, act July 22, 1932, ch. 522, §21A, as added Pub. L. 101-73, title V, §501(a), Aug. 9, 1989, 103 Stat. 363; amended Pub. L. 101-625, title VIII, §804(d), title IX, §914(c), Nov. 28, 1990, 104 Stat. 4323, 4395; Pub. L. 101-647, title XXV, §§2526(c), 2540, Nov. 29, 1990, 104 Stat. 4876, 4885; Pub. L. 102-18, title I, §§101, 102(a), 103(a), 104, 105, title II, §§201, 202, title III, §301, title IV, §401, Mar. 23, 1991, 105 Stat. 58, 60-63, 65; Pub. L. 102-139, title V, §523(a), Oct. 28, 1991, 105 Stat. 781; Pub. L. 102-233, title I, §§101, 103, 105, 106(a)-(e)(1), title II, §201, title III, §§302(b), (c), 303-312, 314, 316, title IV, §§401, 402(a), 403-405, title V, §501, title VI, §§601-611, 613-617, Dec. 12, 1991, 105 Stat. 1761-1765, 1767-1770, 1772-1774, 1776-1789; Pub. L. 102-242, title I, §141(a)(3), title II, §251(c)(1), title IV, §471, Dec. 19, 1991, 105 Stat. 2276, 2333, 2385; Pub. L. 102-378, §5(e), Oct. 2, 1992, 106 Stat. 1358; Pub. L. 102-550, title V, §§503(c)(3), 509(i), title XVI, §§161(a), (d)(1)-(3), 1612, 1613(a)(1)-(6), (8), (b)-(h), 1614(a)(1)-(5), (7), (b), 1615(a)(2), 1616, Oct. 28, 1992, 106 Stat. 3780, 3783, 4090-4096; Pub. L. 103-204, §§2-3(b), 4(a), 5(a), (b)(2), 7, 12, 14(a)(1), (c)(2), (d)(1), (e)(1), (f)(1), 15(a), 16(a), 17(a), 21(b), 24, 27(a), 29-31, 36, Dec. 17, 1993, 107 Stat. 2370-2380, 2382, 2383, 2390, 2391, 2395-2400, 2406, 2408, 2410-2413, 2415; Pub. L. 103-211, title IV, §406, Feb. 12, 1994, 108 Stat. 41; Pub. L. 103-325, title VI, §602(b), Sept. 23, 1994, 108 Stat. 2291; Pub. L. 103-328, title II, §201(b), Sept. 29, 1994, 108 Stat. 2368; Pub. L. 104-66, title II, §2231, Dec. 21, 1995, 109 Stat. 733; Pub. L. 104-208, div. A, title II, §2704(d)(11)(B)-(D), Sept. 30, 1996, 110 Stat. 3009-489; Pub. L. 105-135, title VI, §604(b), Dec. 2, 1997, 111 Stat. 2633; Pub. L. 106-400, §2, Oct. 30, 2000, 114 Stat. 1675; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 109-171, title II, §2102(b), Feb. 8, 2006, 120 Stat. 9; Pub. L. 109-173, §9(d)(3)-(6), Feb. 15, 2006, 119 Stat. 3616, 3617; Pub. L. 110-289, div. A, title II, §1204(8), (12), July 30, 2008, 122 Stat. 2786, related to establishment of Thrift Depositor Protection Oversight Board and Resolution Trust Corporation.

CHANGE OF NAME

Pub. L. 102-233, title III, §302(a), Dec. 12, 1991, 105 Stat. 1767, redesignated the Oversight Board, as established by former subsec. (a)(1) of this section, as the Thrift Depositor Protection Oversight Board.

EFFECTIVE DATE OF REPEAL

Repeal effective on the transfer date, see section 351 of Pub. L. 111-203, set out as an Effective Date of 2010 Amendment note under section 906 of Title 2, The Congress.

SAVINGS PROVISION

Pub. L. 102-233, title III, §317, Dec. 12, 1991, 105 Stat. 1773, provided that the rights and duties, actions and proceedings, and orders and regulations that had attached to the Oversight Board as of Feb. 1, 1992, would not be affected by title III of Pub. L. 102-233 and that the Thrift Depositor Protection Oversight Board would assume the role of the Oversight Board where applicable.

ABOLITION OF THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

Pub. L. 105-216, §14(a)-(d), July 29, 1998, 112 Stat. 908-910, abolished the Thrift Depositor Protection Oversight Board established under former section 1441a of this title, effective at the end of the 3-month period beginning July 29, 1998, provided that, effective July 29, 1998, the Chairperson of the Oversight Board (or the designee of the Chairperson) may exercise on behalf of the Oversight Board any power of the Oversight Board necessary to settle and conclude the affairs of the Oversight Board, included savings provisions, and transferred authority and duties of the Oversight Board under former section 1441a(a)(6)(I) and section 1441b of this title to the Secretary of the Treasury (or the designee of the Secretary).

FDIC-RTC TRANSITION TASK FORCE

Pub. L. 103-204, § 6, Dec. 17, 1993, 107 Stat. 2382, required the Federal Deposit Insurance Corporation (FDIC) and the Resolution Trust Corporation (RTC) to establish an interagency transition task force to facilitate the transfer of the assets, personnel, and operations of the RTC to the FDIC or the FSLIC Resolution Fund, as the case may be, in a coordinated manner; prescribed the composition, appointment, and duties of the task force; required the task force to submit certain reports to certain congressional committees; and required the FDIC to submit a follow up report to certain congressional committees.

§ 1441a-1. Definitions

For purposes of section 1441a-2 of this title:

(1) State housing finance authority

The term “State housing finance authority” means any public agency, authority, or corporation which—

(A) serves as an instrumentality of any State or any political subdivision of any State; and

(B) functions as a source of residential mortgage loan financing in that State.

(2) Nonprofit entity

The term “nonprofit entity” means any not-for-profit corporation chartered under State law that is exempt from Federal taxation under section 501(c) of title 26 and no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual (including any nonprofit entity established by the corporation established under title IX of the Housing and Urban Development Act of 1968 [42 U.S.C. 3931 et seq.]).

(3) Mortgage-related assets

The term “mortgage-related assets” means—

(A) residential mortgage loans secured by 1- to 4-family or multifamily dwellings; and

(B) real property improved with 1- to 4-family or multifamily residential dwellings,

which are located within the jurisdiction of the applicable State housing finance authority or within the geographical area served by the nonprofit entity.

(4) Net income

The term “net income” means income after deduction of all associated expenses calculated in accordance with generally accepted accounting principles.

(Pub. L. 101-73, title XIII, § 1301, Aug. 9, 1989, 103 Stat. 547.)

REFERENCES IN TEXT

The Housing and Urban Development Act of 1968, referred to in par. (2), is Pub. L. 90-448, Aug. 1, 1968, 82 Stat. 476, as amended. Title IX of the Housing and Urban Development Act of 1968 is classified principally to chapter 49 (§3931 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title of 1968 Amendment note set out under section 1701 of this title and Tables.

CODIFICATION

Section was enacted as part of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and not as part of the Federal Home Loan Bank Act which comprises this chapter.

§ 1441a-2. Authorization for State housing finance agencies and nonprofit entities to purchase mortgage-related assets**(a) Authorization**

Notwithstanding any other provision of Federal or State law, a State housing finance authority or nonprofit entity may purchase mortgage-related assets from the Resolution Trust Corporation or from financial institutions with respect to which the Federal Deposit Insurance Corporation is acting as a conservator or receiver (including assets associated with any trust business), and any contract for such purchase shall be effective in accordance with its terms without any further approval, assignment, or consent with respect to that contract.

(b) Investment requirement

Any State housing finance authority or nonprofit entity which purchases mortgage-related assets pursuant to subsection (a) shall invest any net income attributable to the ownership of those assets in financing, refinancing, or rehabilitating low- and moderate-income housing within the jurisdiction of the State housing finance authority or within the geographical area served by the nonprofit entity.

(Pub. L. 101-73, title XIII, § 1302, Aug. 9, 1989, 103 Stat. 548.)

CODIFICATION

Section was enacted as part of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and not as part of the Federal Home Loan Bank Act which comprises this chapter.

DEFINITIONS

The definitions in section 1441a-1 of this title apply to this section.

§ 1441a-3. RTC and FDIC properties**(a) Reports****(1) Submission**

The Resolution Trust Corporation and the Federal Deposit Insurance Corporation shall each submit to the Congress for each year a report identifying and describing any property that is covered property of the corporation concerned as of September 30 of such year. The report shall be submitted on or before March 30 of the following year.

(2) Consultation

In preparing the reports required under this subsection, each corporation concerned may consult with the Secretary of the Interior for purposes of identifying the properties described in paragraph (1).

(b) Limitation on transfer**(1) Notice**

The Resolution Trust Corporation and the Federal Deposit Insurance Corporation may not sell or otherwise transfer any covered property unless the corporation concerned causes to be published in the Federal Register a notice of the availability of the property for purchase or other transfer that identifies the property and describes the location, characteristics, and size of the property.

(2) Expression of serious interest

During the 90-day period beginning on the date that notice under paragraph (1) concerning a covered property is first published, any governmental agency or qualified organization may submit to the corporation concerned a written notice of serious interest for the purchase or other transfer of a particular covered property for which notice has been published. The notice of serious interest shall be in such form and include such information as the corporation concerned may prescribe.

(3) Prohibition of transfer

During the period under paragraph (2), a corporation concerned may not sell or otherwise transfer any covered property for which notice has been published under paragraph (1). Upon the expiration of such period, the corporation concerned may sell or otherwise transfer any covered property for which notice under paragraph (1) has been published if a notice of serious interest under paragraph (2) concerning the property has not been timely submitted.

(4) Offers and permitted transfer

If a notice of serious interest in a covered property is timely submitted pursuant to paragraph (2), the corporation concerned may not sell or otherwise transfer such covered property during the 90-day period beginning upon the expiration of the period under paragraph (2) except to a governmental agency or qualified organization for use primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes, unless all notices of serious interest under paragraph (2) have been withdrawn.

(c) Definitions

For purposes of this section:

(1) Corporation concerned

The term “corporation concerned” means—

- (A) the Federal Deposit Insurance Corporation, with respect to matters relating to the Federal Deposit Insurance Corporation; and
- (B) the Resolution Trust Corporation, with respect to matters relating to the Resolution Trust Corporation.

(2) Covered property

The term “covered property” means any property—

- (A) to which—
 - (i) the Resolution Trust Corporation has acquired title in its corporate or receiver-ship capacity; or
 - (ii) the Federal Deposit Insurance Corporation has acquired title in its corporate capacity or which was acquired by the former Federal Savings and Loan Insurance Corporation in its corporate capacity; and
- (B) that—
 - (i) is located within the John H. Chafee Coastal Barrier Resources System; or
 - (ii) is undeveloped, greater than 50 acres in size, and adjacent to or contiguous with any lands managed by a governmental agency primarily for wildlife refuge, sanc-

tuary, open space, recreational, historical, cultural, or natural resource conservation purposes.

(3) Governmental agency

The term “governmental agency” means any agency or entity of the Federal Government or a State or local government.

(4) Undeveloped

The term “undeveloped” means—

- (A) containing few manmade structures and having geomorphic and ecological processes that are not significantly impeded by any such structures or human activity; and
- (B) having natural, cultural, recreational, or scientific value of special significance.

(Pub. L. 101-591, §10, Nov. 16, 1990, 104 Stat. 2939; Pub. L. 106-167, §3(c)(5), Dec. 9, 1999, 113 Stat. 1804.)

CODIFICATION

Section was enacted as part of the Coastal Barrier Improvement Act of 1990, and not as part of the Federal Home Loan Bank Act which comprises this chapter.

AMENDMENTS

1999—Subsec. (c)(2)(B)(i). Pub. L. 106-167 substituted “John H. Chafee Coastal Barrier Resources System” for “Coastal Barrier Resources System”.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (a)(1) of this section requiring submittal of an annual report to Congress, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and pages 168 and 190 of House Document No. 103-7.

§ 1441b. Resolution Funding Corporation established**(a) Purpose**

The purpose of the Resolution Funding Corporation is to provide funds to the Resolution Trust Corporation to enable the Resolution Trust Corporation to carry out the provisions of this chapter.

(b) Establishment

There is established a corporation to be known as the Resolution Funding Corporation.

(c) Management of Funding Corporation**(1) Directorate**

The Funding Corporation shall be under the management of a Directorate composed of 3 members as follows:

- (A) The director of the Office of Finance of the Federal Home Loan Banks (or the head of any successor office).
- (B) 2 members selected by the Thrift Depositor Protection Oversight Board from among the presidents of the Federal Home Loan Banks.

(2) Terms

Of the 2 members appointed under paragraph (1)(B), 1 shall be appointed for an initial term of 2 years and 1 shall be appointed for an initial term of 3 years. Thereafter, such members shall be appointed for a term of 3 years.

(3) Vacancy

If any member leaves the office in which such member was serving when appointed to the Directorate—

(A) such member's service on the Directorate shall terminate on the date such member leaves such office; and

(B) the successor to the office of such member shall serve the remainder of such member's term.

(4) Equal representation of banks

No president of a Federal Home Loan Bank may be appointed to serve an additional term on the Directorate until such time as the presidents of each of the other Federal Home Loan Banks have served as many terms as the president of such bank.

(5) Chairperson

The Thrift Depositor Protection Oversight Board shall select the chairperson of the Directorate from among the 3 members of the Directorate.

(6) Staff

(A) No paid employees

The Funding Corporation shall have no paid employees.

(B) Powers

The Directorate may, with the approval of the Director authorize the officers, employees, or agents of the Federal Home Loan Banks to act for and on behalf of the Funding Corporation in such manner as may be necessary to carry out the functions of the Funding Corporation.

(7) Administrative expenses

(A) In general

All administrative expenses of the Funding Corporation, including custodian fees, shall be paid by the Federal Home Loan Banks.

(B) Pro rata distribution

The amount each Federal Home Loan Bank shall pay under subparagraph (A) shall be determined by the Thrift Depositor Protection Oversight Board by multiplying the total administrative expenses for any period by the percentage arrived at by dividing—

(i) the aggregate amount the Thrift Depositor Protection Oversight Board required such bank to invest in the Funding Corporation (as of the time of such determination) under paragraphs (4) and (5) of subsection (e) (computed without regard to paragraphs (3) or (6) of such subsection); by

(ii) the aggregate amount the Thrift Depositor Protection Oversight Board required all Federal Home Loan Banks to invest (as of the time of such determination) under such paragraphs.

(8) Regulation by Thrift Depositor Protection Oversight Board

The Directorate of the Funding Corporation shall be subject to such regulations, orders, and directions as the Thrift Depositor Protection Oversight Board may prescribe.

(9) No compensation from Funding Corporation

Members of the Directorate of the Funding Corporation shall receive no pay, allowance,

or benefit from the Funding Corporation for serving on the Directorate.

(d) Powers of Funding Corporation

The Funding Corporation shall have only the powers described in paragraphs (1) through (9), subject to the other provisions of this section and such regulations, orders, and directions as the Thrift Depositor Protection Oversight Board may prescribe:

(1) Issue stock

To issue nonvoting capital stock to the Federal Home Loan Banks.

(2) Purchase capital stock; transfer amounts

To purchase capital certificates issued by the Resolution Trust Corporation under section 1441a of this title, and to transfer amounts to the Resolution Trust Corporation pursuant to subsection (e)(8) of this section.

(3) Issue obligations

To issue debentures, bonds, or other obligations, and to borrow, to give security for any amount borrowed, and to pay interest on (and any redemption premium with respect to) any such obligation or amount.

(4) Impose assessments

To impose assessments in accordance with subsection (e)(7).

(5) Corporate seal

To adopt, alter, and use a corporate seal.

(6) Succession

To have succession until dissolved.

(7) Contracts

To enter into contracts.

(8) Authority to sue

To sue and be sued in its corporate capacity, and to complain and defend in any action brought by or against the Funding Corporation in any State or Federal court of competent jurisdiction.

(9) Incidental powers

To exercise such incidental powers not inconsistent with the provisions of this section and section 1441a of this title as are necessary and appropriate to carry out the provisions of this section.

(e) Capitalization of Funding Corporation, etc.

(1) In general

(A) Amount required

The Thrift Depositor Protection Oversight Board shall ensure that the aggregate of the amounts obtained under this subsection shall be sufficient so that—

(i) the Funding Corporation may transfer the amounts required under paragraph (8); and

(ii) the total of the face amounts (the amount of principal payable at maturity) of noninterest bearing instruments in the Funding Corporation Principal Fund are equal to the aggregate amount of principal on the obligations of the Funding Corporation.

(B) Purchases of stock by Federal Home Loan Banks

Each Federal Home Loan Bank shall purchase stock in the Funding Corporation at

times and in amounts prescribed by the Thrift Depositor Protection Oversight Board.

(2) Par value; transferability

Each share of stock issued by the Funding Corporation to a Federal Home Loan Bank shall have a par value in an amount determined by the Thrift Depositor Protection Oversight Board and shall be transferable at not less than par value only among the Federal Home Loan Banks in the manner and to the extent prescribed by the Thrift Depositor Protection Oversight Board.

(3) Maximum investment amount limitation for each Federal Home Loan Bank

The cumulative amount of funds invested in nonvoting capital stock of the Funding Corporation by each Federal Home Loan Bank under paragraph (1) shall not at any time exceed the sum of the amounts calculated under subparagraphs (A) and (B), as adjusted in subparagraph (C), as follows:

(A) Reserves and undivided profits on December 31, 1988

The sum on December 31, 1988, of—

(i) the reserves maintained by such Bank pursuant to the reserve requirement contained in the first 2 sentences of section 1436 of this title (as in effect on December 31, 1988); and

(ii) the undivided profits of such Bank, minus the amounts invested in the capital stock of the Financing Corporation pursuant to section 1441 of this title.

(B) Subsequent additions to reserves and undivided profits

The amount, calculated until the date on which the Funding Corporation Principal Fund is fully funded, equal to—

(i) the sum of—

(I) the amounts added to reserves by such Bank after December 31, 1988, pursuant to the reserve requirement contained in the first 2 sentences of section 1436 of this title (as in effect on December 31, 1988); and

(II) the quarterly additions to undivided profits of the Bank after December 31, 1988; minus

(ii) the amounts invested by such Bank in the capital stock of the Financing Corporation after December 31, 1988, pursuant to the requirement contained in section 1441 of this title.

(C) Annual adjustment

The amounts in subparagraph (B) shall be adjusted as follows:

(i) Increase in limit

If the aggregate amount for all Federal Home Loan Banks determined under subparagraph (B)(i) is less than \$300,000,000 per year, the limit for each Bank shall be increased by an amount determined by the Thrift Depositor Protection Oversight Board by multiplying the aggregate deficiency by the percentage applicable to such Bank arrived at in the manner described in paragraph (5).

(ii) Decrease in limit

If the aggregate amount for all Federal Home Loan Banks determined under subparagraph (B)(i) is more than \$300,000,000 per year, the limit for each Bank shall be decreased by an amount determined by the Thrift Depositor Protection Oversight Board by multiplying the aggregate excess by the percentage applicable to such Bank arrived at in the manner described in paragraph (5).

(4) Pro rata distribution of first \$1,000,000,000 invested in Funding Corporation by Federal Home Loan Banks

Of the first \$1,000,000,000 of the aggregate that the Director (pursuant to section 1441 of this title) or the Thrift Depositor Protection Oversight Board (under this section) may require the Federal Home Loan Banks collectively to invest in the capital stock of the Financing Corporation or invest in the capital stock of the Funding Corporation, respectively, the amount which each Federal Home Loan Bank (or any successor to the Bank) shall invest shall be determined by the Director or the Thrift Depositor Protection Oversight Board (as the case may be) by multiplying the aggregate amount of such investment by all Banks by the percentage appearing in the following table for each such Bank:

Bank	Percentage
Federal Home Loan Bank of Boston ..	1.8629
Federal Home Loan Bank of New York	9.1006
Federal Home Loan Bank of Pittsburgh	4.2702
Federal Home Loan Bank of Atlanta	14.4007
Federal Home Loan Bank of Cincinnati	8.2653
Federal Home Loan Bank of Indianapolis	5.2863
Federal Home Loan Bank of Chicago	9.6886
Federal Home Loan Bank of Des Moines	6.9301
Federal Home Loan Bank of Dallas ...	8.8181
Federal Home Loan Bank of Topeka	5.2706
Federal Home Loan Bank of San Francisco	19.9644
Federal Home Loan Bank of Seattle	6.1422

(5) Pro rata distribution of amounts required to be invested in excess of \$1,000,000,000

Of any amount which the Thrift Depositor Protection Oversight Board may require the Federal Home Loan Banks to invest in capital stock of the Funding Corporation under this subsection in excess of the \$1,000,000,000 amount referred to in paragraph (4), the amount which each Federal Home Loan Bank (or any successor to such Bank) shall invest shall be determined by the Thrift Depositor Protection Oversight Board by multiplying the excess amount by the percentage arrived at by dividing—

(A) the sum of the total assets (as of the most recent December 31) held by all Savings Association Insurance Fund members as of the date of funding which are members of such Bank; by

(B) the sum of the total assets (as of such date) held by all Savings Association Insur-

ance Fund members as of the date of funding which are members of a Federal Home Loan Bank.

(6) Special provisions relating to maximum amount limitations

(A) In general

If the amount of any Federal Home Loan Bank's allocation under paragraph (5) exceeds the maximum amount applicable with respect to such Bank (in this paragraph referred to as a "deficient Bank") under paragraph (3) at the time of such determination (in this paragraph referred to as the "excess amount")—

(i) the Thrift Depositor Protection Oversight Board shall require each Federal Home Loan Bank that is not allocated an amount under paragraph (5) that exceeds its maximum under paragraph (3) (in this paragraph referred to as a "remaining Bank") to purchase stock in the Funding Corporation (in addition to the amount determined under paragraph (5) for such remaining Bank and subject to the maximum amount applicable with respect to such remaining Bank under paragraph (3) at the time of such determination) on behalf of the deficient Bank the amount determined under subparagraph (B);

(ii) the Thrift Depositor Protection Oversight Board shall require the deficient Bank to subsequently reimburse the remaining Banks out of its net earnings (or reimbursements received from other Banks) in the manner described in subparagraphs (C) and (D); and

(iii) the requirements contained in subparagraph (D) relating to the use of net earnings shall apply to the deficient Bank until such Bank has reimbursed the remaining Banks for all of the excess amount.

(B) Allocation of excess amount among remaining Federal Home Loan Banks

(i) In general

The amount of stock each remaining Federal Home Loan Bank shall be required to purchase under subparagraph (A)(i) is the amount determined by the Thrift Depositor Protection Oversight Board by multiplying the excess amount by the percentage arrived at by dividing—

(I) the cumulative amount of stock in the Funding Corporation purchased under this subsection by such remaining Bank at the time of such determination; by

(II) the aggregate of the cumulative amounts invested under this subsection by all remaining Banks at such time.

(ii) Reallocation

If the allocation under this subparagraph results in a remaining Bank exceeding its maximum amount under paragraph (3), such excess amount shall be reallocated to the other remaining Bank in accordance with this subparagraph.

(C) Reimbursement procedure

(i) In general

A Bank on whose behalf stock is purchased under subparagraph (A)(i) shall make payments annually from amounts, if any, in its reserve account (as described in subparagraph (D)) to each Bank that made payments on its behalf until a full reimbursement has been completed. A full reimbursement shall require repayment of the excess amounts invested by other Banks plus interest which shall accrue at a rate equal to the annual average cost of funds in the most recent year to all Federal Home Loan Banks and which shall begin to accrue 2 years after the investments under subparagraph (A)(i) are made.

(ii) Determination of amounts

The Thrift Depositor Protection Oversight Board shall annually determine the dollar amounts of such reimbursements by distributing the amount available for such reimbursements (at the time of such determination) from the reimbursing Bank to the Banks that made purchases on its behalf according to the shares of the reimbursing Bank's excess amount that the other Banks invested.

(D) Transfer to account for reimbursements required

(i) In general

Of the net earnings for any year of a Bank on whose behalf a purchase is made under subparagraph (A)(i) and any reimbursements received from other Banks, the amount necessary to make the reimbursements required under subparagraph (A)(ii) shall be placed in a reserve account (established in the manner prescribed by the Thrift Depositor Protection Oversight Board), which shall be available only for such reimbursements.

(ii) Limitation

The total amount placed in such reserve account in any year by any Bank shall not exceed an amount equal to 20 percent of the net earnings of such Bank for such year.

(f) Obligations of Funding Corporation

(1) Issuance

The Funding Corporation may issue bonds, notes, debentures, and similar obligations in an aggregate amount not to exceed \$30,000,000,000. No obligation may be issued under this paragraph unless, at the time of issuance, the face amounts (the amount of principal payable at maturity) of noninterest bearing instruments in the Funding Corporation Principal Fund are equal to the aggregate amount of principal on the obligations of the Funding Corporation that will be outstanding following such issuance.

(2) Interest payments

The Funding Corporation shall pay the interest due on such obligations from funds obtained for such interest payments from the following sources:

(A) Earnings on certain assets

Earnings on assets of the Funding Corporation which are not invested in the Funding Corporation Principal Fund shall be used for interest payments on outstanding debt of the Funding Corporation.

(B) Proceeds from Resolution Trust Corporation

To the extent the amounts available pursuant to subparagraph (A) are insufficient to cover the amount of interest payments, the Resolution Trust Corporation shall pay to the Funding Corporation—

(i) the liquidating dividends and payments made on claims received by the Resolution Trust Corporation from receiverships to the extent such proceeds are determined by the Thrift Depositor Protection Oversight Board to be in excess of funds presently necessary for resolution costs; and

(ii) any proceeds from warrants and participations acquired by the Resolution Trust Corporation.

(C) Payments by Federal home loan banks**(i) In general**

To the extent that the amounts available pursuant to subparagraphs (A) and (B) are insufficient to cover the amount of interest payments, each Federal home loan bank shall pay to the Funding Corporation in each calendar year, 20.0 percent of the net earnings of that Bank (after deducting expenses relating to section 1430(j) of this title and operating expenses).

(ii) Annual determination

The Director annually shall determine the extent to which the value of the aggregate amounts paid by the Federal home loan banks exceeds or falls short of the value of an annuity of \$300,000,000 per year that commences on the issuance date and ends on the final scheduled maturity date of the obligations, and shall select appropriate present value factors for making such determinations, in consultation with the Secretary of the Treasury.

(iii) Payment term alterations

The Director shall extend or shorten the term of the payment obligations of a Federal home loan bank under this subparagraph as necessary to ensure that the value of all payments made by the Banks is equivalent to the value of an annuity referred to in clause (ii).

(iv) Term beyond maturity

If the Director extends the term of payment obligations beyond the final scheduled maturity date for the obligations, each Federal home loan bank shall continue to pay 20.0 percent of its net earnings (after deducting expenses relating to section 1430(j) of this title and operating expenses) to the Treasury of the United States until the value of all such payments by the Federal home loan banks is equivalent to the value of an annuity referred to

in clause (ii). In the final year in which the Federal home loan banks are required to make any payment to the Treasury under this subparagraph, if the dollar amount represented by 20.0 percent of the net earnings of the Federal home loan banks exceeds the remaining obligation of the Banks to the Treasury, the Director shall reduce the percentage pro rata to a level sufficient to pay the remaining obligation.

(v) Semiannual reports

The Director shall report semiannually to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the projected date for the completion of contributions required by this section.

(D) Proceeds from sale of assets

To the extent the amounts available pursuant to subparagraphs (A), (B), and (C) are insufficient to cover the amount of interest payments, the FSLIC Resolution Fund shall transfer to the Funding Corporation any net proceeds from the sale of assets received from the Resolution Trust Corporation, which shall be used by the Funding Corporation to pay such interest.

(E) Treasury backup**(i) In general**

To the extent the amounts available pursuant to subparagraphs (A), (B), (C), and (D) are insufficient to cover the amount of interest payments, the Secretary of the Treasury shall pay to the Funding Corporation the additional amount due, which shall be used by the Funding Corporation to pay such interest.

(ii) Liability of Funding Corporation

In each instance where the Secretary is required to make a payment under this subparagraph to the Funding Corporation, the amount of the payment shall become a liability of the Funding Corporation to be repaid to the Secretary upon dissolution of the Funding Corporation (to the extent the Funding Corporation may have any remaining assets).

(iii) Appropriation of funds

There are hereby appropriated to the Secretary, for fiscal year 1989 and each fiscal year thereafter, such sums as may be necessary to carry out clause (i).

(3) Principal payments

On maturity of an obligation issued under this subsection, the obligation shall be repaid by the Funding Corporation from the liquidation of noninterest bearing instruments held in the Funding Corporation Principal Fund.

(4) Proceeds to be transferred to Resolution Trust Corporation

Subject to terms and conditions approved by the Thrift Depositor Protection Oversight Board, the proceeds (less any discount, plus any premium, net of issuance costs) of any obligation issued by the Funding Corporation shall be used to—

(A) purchase the capital certificates issued by the Resolution Trust Corporation under section 1441a of this title; or

(B) refund any previously issued obligation the proceeds of which were transferred in the manner described in subparagraph (A).

(5) Investment of United States funds in obligations

Obligations issued under this section by the Funding Corporation, at the direction of the Thrift Depositor Protection Oversight Board shall be lawful investments, and may be accepted as security, for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer of the United States.

(6) Market for obligations

All persons having the power to invest in, sell, underwrite, purchase for their own accounts, accept as security, or otherwise deal in obligations of the Federal Home Loan Banks shall also have the power to do so with respect to obligations of the Funding Corporation.

(7) Tax exempt status

(A) In general

Except as provided in subparagraph (B), obligations of the Funding Corporation shall be exempt from tax both as to principal and interest to the same extent as any obligation of a Federal Home Loan Bank is exempt from tax under section 1433 of this title.

(B) Exception

The Funding Corporation, like the Federal Home Loan Banks, shall be treated as an agency of the United States for purposes of the first sentence of section 3124(b) of title 31 (relating to determination of tax status of interest on obligations).

(8) Obligations not exempt securities

(A) In general

For purposes of the laws administered by the Securities and Exchange Commission, obligations of the Funding Corporation—

(i) shall not be considered to be securities issued or guaranteed by a person controlled or supervised by, or acting as an instrumentality of, the Government of the United States; and

(ii) shall not be considered to be “exempted securities” within the meaning of section 78c(a)(12)(A)(i) of title 15, except that such obligations shall be considered to be exempted securities for purposes of section 78o of title 15.

(B) Authority of Commission

Notwithstanding subparagraph (A), the Securities and Exchange Commission may, by rule or order, consistent with the public interest and the protection of investors, exempt securities issued by the Funding Corporation from the registration requirements of the Securities Act of 1933 [15 U.S.C. 77a et seq.], subject to such terms and conditions as the Commission may prescribe.

(9) Minority participation in public or negotiated offerings

The Thrift Depositor Protection Oversight Board and the Directorate shall ensure that minority owned or controlled commercial banks, investment banking firms, underwriters, and bond counsels throughout the United States have an opportunity to participate to a significant degree in any public or negotiated offering of obligations issued under this section.

(10) No full faith and credit of the United States

Obligations of the Funding Corporation shall not be obligations of, or guaranteed as to principal by, the Federal Home Loan Bank System, the Federal Home Loan Banks, the United States, or the Resolution Trust Corporation and the obligations shall so plainly state. The Secretary shall pay interest on such obligations as required pursuant to this subsection.

(g) Use and disposition of assets of Funding Corporation not transferred to Resolution Trust Corporation

(1) In general

Subject to regulations, restrictions, and limitations prescribed by the Thrift Depositor Protection Oversight Board, assets of the Funding Corporation which are not required to be invested in capital certificates issued by the Resolution Trust Corporation under section 1441a of this title and are not needed for current interest payments shall be invested in direct obligations of the United States issued by the Secretary.

(2) Separate account for zero coupon instruments held to ensure payment of principal

Except as provided in subsection (e)(8), the Funding Corporation shall invest amounts received pursuant to subsection (e) in, and hold in a separate account to be known as the Funding Corporation Principal Fund, non-interest bearing instruments—

(A) which are direct obligations of the United States issued by the Secretary; and

(B) the total of the face amounts (the amount of principal payable at maturity) of which is approximately equal to the aggregate amount of principal on the obligations of the Funding Corporation.

(h) Miscellaneous provisions

(1) Treatment for certain purposes

Except as provided in subsection (f)(7)(B), the Funding Corporation shall be treated as a Federal Home Loan Bank for purposes of section 1433 of this title (to the extent such section relates to State, municipal, and local taxation) and section 1443 of this title.

(2) Federal Reserve banks as depositaries and fiscal agents

The Federal Reserve banks are authorized to act as depositaries for or fiscal agents or custodians of the Funding Corporation.

(3) Applicability of certain provisions relating to Government corporations

The Funding Corporation shall be treated, for purposes of sections 9105,¹ 9107, and 9108 of title 31, as a mixed-ownership Government corporation which has capital of the Government.

(4) Jurisdiction and power to remove

(A) Federal court jurisdiction

Notwithstanding any other provision of law, any civil action, suit, or proceeding to which the Funding Corporation is a party shall be deemed to arise under the laws of the United States, and the United States district courts shall have original jurisdiction over such action, suit, or proceeding.

(B) Removal

The Funding Corporation may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States District Court for the District of Columbia.

(i) Annual report

(1) In general

The Thrift Depositor Protection Oversight Board shall annually submit a full report of the operations, activities, budget, receipts, and expenditures of the Funding Corporation for the preceding 12-month period.

(2) Contents

The report required under paragraph (1) shall include—

(A) audited statements and any information necessary to make known the financial condition and operations of the Funding Corporation in accordance with generally accepted accounting principles;

(B) the financial operating plans and forecasts (including estimates of actual and future spending, and estimates of actual and future cash obligations) of the Funding Corporation taking into account its financial commitments, guarantees, and other contingent liabilities; and

(C) the results of the annual audit of the financial transactions of the Funding Corporation conducted by the Comptroller General pursuant to section 9105(a) of title 31.

(3) Submission to Congress and President

The Thrift Depositor Protection Oversight Board shall submit each annual report required under this subsection to the Congress and the President as soon as practicable after the end of the calendar year for which the report is made, but not later than June 30 of the year following such calendar year.

(j) Termination of Funding Corporation

(1) In general

The Funding Corporation shall be dissolved, as soon as practicable, after the maturity and full payment of all obligations issued by the Funding Corporation under this section.

(2) Authority of Thrift Depositor Protection Oversight Board to conclude affairs of Funding Corporation

Effective on the date of the dissolution of the Funding Corporation under paragraph (1), the Thrift Depositor Protection Oversight Board may exercise on behalf of the Funding Corporation any power of the Funding Corporation which the Thrift Depositor Protection Oversight Board determines to be necessary to settle and conclude the affairs of the Funding Corporation.

(k) Definitions

For purposes of this section, the following definitions shall apply:

(1) Administrative expenses

The term “administrative expenses” does not include—

(A) any interest on, or any redemption premium with respect to, any obligation of the Funding Corporation; or

(B) issuance costs.

(2) Custodian fee

The term “custodian fee” means—

(A) any fee incurred by the Funding Corporation in connection with the transfer of any security to, or the maintenance of any security in, the segregated account established under subsection (g); and

(B) any other expense incurred by the Funding Corporation in connection with the establishment or maintenance of such account.

(3) Funding Corporation

The term “Funding Corporation” means the Resolution Funding Corporation established in subsection (b).

(4) Funding Corporation Principal Fund

The term “Funding Corporation Principal Fund” means the separate account established under subsection (g)(2).

(5) Issuance costs

The term “issuance costs”—

(A) means issuance fees and commissions incurred by the Funding Corporation in connection with the issuance or servicing of any obligation of the Funding Corporation; and

(B) includes legal and accounting expenses, trustee and fiscal and paying agent charges, costs incurred in connection with preparing and printing offering materials, and advertising expenses, to the extent that any such cost or expense is incurred by the Funding Corporation in connection with issuing any obligation.

(6) Net earnings

The term “net earnings” means net earnings without reduction for chargeoffs or expenses incurred by a Federal Home Loan Bank for the purchase of capital stock of the Financing Corporation or payments relating to the Funding Corporation required by the Thrift Depositor Protection Oversight Board under subsections (e) and (f).

(7) Thrift Depositor Protection Oversight Board

The term “Thrift Depositor Protection Oversight Board” means—

¹ See References in Text note below.

(A) the Thrift Depositor Protection Oversight Board of the Resolution Trust Corporation under section 1441a of this title; and

(B) after the termination of the Resolution Trust Corporation—

- (i) the Secretary of the Treasury;
- (ii) the Chairman of the Board² of Governors of the Federal Reserve System; and
- (iii) the Secretary of Housing and Urban Development.

(8) Secretary

The term “Secretary” means the Secretary of the Treasury.

(9) Undivided profits

The term “undivided profits” means earnings retained after dividends have been paid minus the sum of—

(A) that portion required to be added to reserves maintained pursuant to the first 2 sentences of section 1436 of this title; and

(B) the dollar amounts held by the respective Federal Home Loan Banks in special dividend stabilization reserves on December 31, 1985, as determined by the table set forth in section 1441(d)(7) of this title.

(I) Regulations

The Thrift Depositor Protection Oversight Board may prescribe any regulations necessary to carry out this section.

(July 22, 1932, ch. 522, §21B, as added Pub. L. 101–73, title V, §511(a), Aug. 9, 1989, 103 Stat. 394; amended Pub. L. 102–233, title III, §302(b), Dec. 12, 1991, 105 Stat. 1767; Pub. L. 102–550, title XVI, §1613(a)(7), (9), Oct. 28, 1992, 106 Stat. 4092; Pub. L. 104–208, div. A, title II, §2704(d)(5), (11)(E), (F), Sept. 30, 1996, 110 Stat. 3009–488, 3009–489; Pub. L. 106–102, title VI, §607(a), Nov. 12, 1999, 113 Stat. 1455; Pub. L. 109–171, title II, §2102(b), Feb. 8, 2006, 120 Stat. 9; Pub. L. 109–173, §9(d)(7), (8), Feb. 15, 2006, 119 Stat. 3617; Pub. L. 110–289, div. A, title II, §§1204(8)–(10), (12), 1213, July 30, 2008, 122 Stat. 2786, 2791.)

REFERENCES IN TEXT

The Securities Act of 1933, referred to in subsec. (f)(8)(B), is act May 27, 1933, ch. 38, title I, 48 Stat. 74, as amended, which is classified generally to subchapter I (§77a et seq.) of chapter 2A of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 77a of Title 15 and Tables.

Section 9105 of title 31, referred to in subsec. (h)(3), was amended generally by Pub. L. 101–576, title III, §305, Nov. 15, 1990, 104 Stat. 2853, and, as so amended, no longer contains provisions relating to mixed-ownership Government corporations having capital of the Government.

AMENDMENTS

2008—Subsecs. (c)(6)(B), (e)(4). Pub. L. 110–289, §1204(12), substituted “Director” for “Federal Housing Finance Board” wherever appearing.

Subsec. (f)(2)(C)(ii) to (iv). Pub. L. 110–289, §1204(8)–(10), substituted, in cls. (ii) and (iii), “The Director” for “The Board” and, in cl. (iv), “the Director” for “the Board” before “extends” and “the Director” for “the Finance Board” before “shall reduce”.

Subsec. (f)(2)(C)(v). Pub. L. 110–289, §1213, added cl. (v).

Subsec. (k)(7)(B)(ii). Pub. L. 110–289, §1204(8), which directed amendment of the Federal Home Loan Bank

Act (this chapter) by substituting “the Director” for “the Board” wherever appearing, was not executed to subsec. (k)(7)(B)(ii), to reflect the probable intent of Congress.

2006—Subsec. (e). Pub. L. 109–171 repealed Pub. L. 104–208, §2704(d)(11)(E). See 1996 Amendment note below.

Subsec. (e)(5). Pub. L. 109–173, §9(d)(7)(A), inserted “as of the date of funding” after “Savings Association Insurance Fund members” in subpars. (A) and (B).

Subsec. (e)(7), (8). Pub. L. 109–173, §9(d)(7)(B), struck out pars. (7) and (8) which related to additional sources to fund the Funding Corporation Principal Fund and a transfer of funds to the Resolution Trust Corporation in fiscal year 1989, respectively.

Subsec. (f)(2)(C)(ii)(I), (II). Pub. L. 109–171 repealed Pub. L. 104–208, §2704(d)(5). See 1996 Amendment note below.

Subsec. (k). Pub. L. 109–173, §9(d)(8)(A), in introductory provisions, inserted before colon “, the following definitions shall apply”.

Subsec. (k)(8) to (10). Pub. L. 109–173, §9(d)(8)(B), (C), redesignated pars. (9) and (10) as (8) and (9), respectively, and struck out heading and text of former par. (8). Text read as follows: “The term ‘Savings Association Insurance Fund member’ means a Savings Association Insurance member as such term is defined by section 1817(l) of this title.”

Pub. L. 109–171 repealed Pub. L. 104–208, §2704(d)(11)(F). See 1996 Amendment note below.

1999—Subsec. (f)(2)(C). Pub. L. 106–102 amended subpar. (C) generally, substituting present provisions for provisions requiring Federal Home Loan Banks to pay to the Funding Corporation each calendar year an amount sufficient to cover amount of interest payments made by the Corporation in that year, and provisions relating to determination of each Bank’s individual share of such annual amount.

1996—Subsec. (e). Pub. L. 104–208, §2704(d)(11)(E), which directed the amendment of subsec. (e) by inserting, in par. (5), “as of the date of funding” after “Savings Association Insurance Fund members” in two places and by striking par. (7) and redesignating par. (8) as (7), was repealed by Pub. L. 109–171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

Subsec. (f)(2)(C)(ii)(I), (II). Pub. L. 104–208, §2704(d)(5), which directed the amendment of subcls. (I) and (II) by substituting “to insured depository institutions, and their successors, which were Savings Association Insurance Fund members on September 1, 1995” for “to Savings Associations Insurance Fund members”, was repealed by Pub. L. 109–171. See Effective Date of 1996 Amendment note below.

Subsec. (k)(8) to (10). Pub. L. 104–208, §2704(d)(11)(F), which directed the amendment of subsec. (k) by striking par. (8) and redesignating pars. (9) and (10) as (8) and (9), respectively, was repealed by Pub. L. 109–171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

1992—Subsecs. (c)(8), (j)(2). Pub. L. 102–550, §1613(a)(7), inserted “Thrift Depositor Protection” before “Oversight” in headings.

Subsec. (k)(7). Pub. L. 102–550, §1613(a)(9), substituted “Thrift Depositor Protection Oversight” for “Oversight” in heading.

1991—Pub. L. 102–233 substituted “Thrift Depositor Protection Oversight Board” for “Oversight Board” wherever appearing in text.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–173 effective Mar. 31, 2006, see section 9(j) of Pub. L. 109–173, set out as a note under section 24 of this title.

Amendment by Pub. L. 109–171 effective no later than the first day of the first calendar quarter that begins after the end of the 90-day period beginning Feb. 8, 2006, see section 2102(c) of Pub. L. 109–171, set out as a Merger of BIF and SAIF note under section 1821 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–102, title VI, §607(b), Nov. 12, 1999, 113 Stat. 1456, provided that: “The amendment made by

² See 2008 Amendment note below.

subsection (a) [amending this section] shall become effective on January 1, 2000. Payments made by a Federal home loan bank before that effective date shall be counted toward the total obligation of that Bank under section 21B(f)(2)(C) of the Federal Home Loan Bank Act [12 U.S.C. 1441b(f)(2)(C)], as amended by this section.”

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-208 effective Jan. 1, 1999, if no insured depository institution is a savings association on that date, see section 2704(c) of Pub. L. 104-208, formerly set out as a note under section 1821 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-550 effective as if included in the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, Pub. L. 102-233, as of Dec. 12, 1991, see section 1618 of Pub. L. 102-550, set out as a note under section 1441 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-233 effective Feb. 1, 1992, see section 318 of Pub. L. 102-233, set out as a note under section 1441 of this title.

ABOLITION OF THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

Thrift Depositor Protection Oversight Board abolished, see section 14(a)-(d) of Pub. L. 105-216, formerly set out as a note under section 1441a of this title.

§ 1442. Member financial information

(a) In general

In order to enable the Federal Home Loan Banks to carry out the provisions of this chapter, the Secretary of the Treasury, the Comptroller of the Currency, the Chairman of the Board¹ of Governors of the Federal Reserve System, the Chairperson of the Federal Deposit Insurance Corporation, the Chairperson of the National Credit Union Administration, and the Director of the Office of Thrift Supervision, upon request by any Federal Home Loan Bank—

(1) shall make available in confidence to any Federal Home Loan Bank, such reports, records, or other information as may be available, relating to the condition of any member of any Federal Home Loan Bank or any institution with respect to which any such Bank has had or contemplates having transactions under this chapter; and

(2) may perform through their examiners or other employees or agents, for the confidential use of the Federal Home Loan Bank, examinations of institutions for which such agency is the appropriate Federal banking regulatory agency.

In addition, the Comptroller of the Currency, the Chairman of the Board¹ of Governors of the Federal Reserve System, the Chairperson of the National Credit Union Administration, and the Director of the Office of Thrift Supervision shall make available to the Director or any Federal Home Loan Bank the financial reports filed by members of any Bank to enable the Director or a Bank to compile and publish cost of funds indices or other financial or statistical reports.

(b) Consent by members

Every member of a Federal Home Loan Bank shall, as a condition precedent thereto, be deemed—

(1) to consent to such examinations as the Bank or the Director may require for the purposes of this chapter;

(2) to agree that reports of examinations by local, State, or Federal agencies or institutions may be furnished by such authorities to the Bank or the Director upon request; and

(3) to agree to give the Bank or the Federal agency, upon request, such information as they may need to compile and publish cost of funds indices and to publish other reports or statistical summaries pertaining to the activities of Bank members.

(July 22, 1932, ch. 522, §22, 47 Stat. 739; Pub. L. 101-73, title VII, §719, Aug. 9, 1989, 103 Stat. 422; 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, except in two places in subsec. (a). See note below.

Subsec. (a). Pub. L. 110-289, which directed amendment of the Federal Home Loan Bank Act (this chapter) by substituting “the Director” for “the Board” wherever appearing, was not executed to subsec. (a) in two places where “the Board” appeared before “of Governors of the Federal Reserve System”, to reflect the probable intent of Congress.

1989—Pub. L. 101-73 amended section generally. Prior to amendment, section read as follows:

“(a) In order to enable the board to carry out the provisions of this chapter, the Treasury Department, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal reserve banks are authorized, under such conditions as they may prescribe, to make available to the board in confidence for its use and the use of any Federal Home Loan Bank such reports, records, or other information as may be available, relating to the condition of institutions with respect to which any such Federal Home Loan Bank has had or contemplates having transactions under this chapter or relating to persons whose obligations are offered to or held by any Federal Home Loan Bank, and to make through their examiners or other employees, for the confidential use of the board or any Federal Home Loan Bank, examinations of such institutions.

“(b) Every institution which shall apply for advances under this chapter shall, as a condition precedent thereto, consent to such examination as the bank or the board may require for the purposes of this chapter and/or that reports of examinations by constituted authorities may be furnished by such authorities to the bank or the board upon request therefor.”

§ 1442a. Repealed. Pub. L. 106-102, title VI, § 606(c), Nov. 12, 1999, 113 Stat. 1454

Section, act July 22, 1932, ch. 522, §22A, as added Aug. 10, 1987, Pub. L. 100-86, title IV, §407(d), 101 Stat. 617, related to informal review of certain supervisory decisions.

§ 1443. Forms of bank stock and obligations

Any stock, debentures, bonds, notes, or other obligations issued under the authority of this chapter may be issued in uncertificated form, utilizing a book entry method, or in certificated form under such rules, regulations, or guidelines as the Director¹ may provide.

(July 22, 1932, ch. 522, §23, 47 Stat. 739; Pub. L. 101-73, title VII, §717, Aug. 9, 1989, 103 Stat. 422;

¹ See 2008 Amendment note below.

¹ See 2008 Amendment note below.

Pub. L. 110-289, div. A, title II, § 1204(8), (12), July 30, 2008, 122 Stat. 2786.)

AMENDMENTS

2008—Pub. L. 110-289, which directed amendment of the Federal Home Loan Bank Act (this chapter) by substituting “the Director” for “the Board” and “Director” for “Federal Housing Finance Board” wherever appearing, was executed to this section by substituting “the Director” for “the Board of Directors of the Federal Housing Finance Board”, to reflect the probable intent of Congress.

1989—Pub. L. 101-73 amended section generally. Prior to amendment, section read as follows: “In order that the Federal Home Loan Banks may be supplied with such forms of stock, debentures, and bonds as may be necessary under this chapter, the Secretary of the Treasury is authorized to prepare such forms thereof as shall be suitable and approved by the board, which shall be held in the Treasury subject to delivery, upon order of the board. The engraved plates, dies, and bed pieces executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The board shall reimburse the Secretary of the Treasury for any expense incurred in the preparation, custody, and delivery of such stock, debentures, and bonds.”

§ 1444. Eligibility to membership in banks

(a) Any organization organized under the laws of any State and subject to inspection and regulation under the banking or similar laws of such State shall be eligible to become a member under this chapter if—

(1) it is organized solely for the purpose of supplying credit to its members;

(2) its membership (A) is confined exclusively to building and loan associations, savings and loan associations, cooperative banks, and homestead associations; or (B) is confined exclusively to savings banks; and

(3) of the institutions to which its membership is confined which are organized within the State, its membership includes a majority of such institutions.

(b) In all respects, but subject to such additional rules and regulations as the Director may provide, any such organization shall be a member for the purposes of this chapter.

(July 22, 1932, ch. 522, § 24, 47 Stat. 739; 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(8), July 30, 2008, 122 Stat. 2786.)

AMENDMENTS

2008—Subsec. (b). Pub. L. 110-289 substituted “the Director” for “the Board”.

1989—Subsec. (b). Pub. L. 101-73 substituted “Board” for “board”.

§ 1445. Succession of Federal Home Loan Banks

Each Federal Home Loan Bank shall have succession until dissolved by the Director under this chapter or by further act of Congress.

(July 22, 1932, ch. 522, § 25, 47 Stat. 740; 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(8), July 30, 2008, 122 Stat. 2786.)

AMENDMENTS

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

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

§ 1446. Liquidation or reorganization; acquisition of assets by other banks; assumption of liabilities

(a) In general

Whenever the Director finds that the efficient and economical accomplishment of the purposes of this chapter will be aided by such action, and in accordance with such rules, regulations, and orders as the Director may prescribe, any Federal Home Loan Bank may be liquidated or reorganized, and its stock paid off and retired in whole or in part in connection therewith after paying or making provision for the payment of its liabilities. In the case of any such liquidation or reorganization, any other Federal Home Loan Bank may, with the approval of the Director, acquire assets of any such liquidated or reorganized bank and assume liabilities thereof, in whole or in part. At least 30 days prior to liquidating or reorganizing any Bank under this section, the Director shall notify the Bank of its determination and the facts and circumstances upon which such determination is based. The Bank may contest that determination in a hearing before the Director, in which all issues shall be determined on the record pursuant to section 554 of title 5.

(b) Voluntary mergers authorized

(1) In general

Any Federal Home Loan Bank may, with the approval of the Director and of the boards of directors of the Banks involved, merge with another Bank.

(2) Regulations required

The Director shall promulgate regulations establishing the conditions and procedures for the consideration and approval of any voluntary merger described in paragraph (1), including the procedures for Bank member approval.

(July 22, 1932, ch. 522, § 26, 47 Stat. 740; 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(8), 1209, 1214, July 30, 2008, 122 Stat. 2786, 2789, 2791.)

AMENDMENTS

2008—Pub. L. 110-289, § 1209, designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

Pub. L. 110-289, § 1204(8), substituted “the Director” for “the Board” wherever appearing.

Subsec. (a). Pub. L. 110-289, § 1214, which directed insertion of “At least 30 days prior to liquidating or reorganizing any Bank under this section, the Director shall notify the Bank of its determination and the facts and circumstances upon which such determination is based. The Bank may contest that determination in a hearing before the Director, in which all issues shall be determined on the record pursuant to section 554 of title 5.” at the end of this section, was executed by making the insertion at the end of subsec. (a), to reflect the probable intent of Congress and the amendment by Pub. L. 110-289, § 1209. See above.

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

§ 1447. Repealed. Pub. L. 106-102, title VI, § 606(c), Nov. 12, 1999, 113 Stat. 1454

Section, act July 22, 1932, ch. 522, § 27, as added Pub. L. 103-204, § 18, Dec. 17, 1993, 107 Stat. 2401, related to Housing Opportunity Hotline program.

A prior section 1447, act July 22, 1932, ch. 522, §27, 47 Stat. 740, related to institutions authorized to subscribe for stock of banks, prior to repeal by Pub. L. 101-73, title VII, §704(c), Aug. 9, 1989, 103 Stat. 416.

§ 1448. Effect of partial invalidity of chapter

If any provision of this chapter, or the application thereof to any person or circumstances, is held invalid, the remainder of the chapter, and the application of such provision to other persons or circumstances, shall not be affected thereby.

(July 22, 1932, ch. 522, §28, 47 Stat. 740.)

§ 1449. Reservation of right to amend or repeal chapter

The right to alter, amend, or repeal this chapter is expressly reserved.

(July 22, 1932, ch. 522, §30, 47 Stat. 741.)

CHAPTER 11A—FEDERAL HOME LOAN MORTGAGE CORPORATION

Sec.	
1451.	Definitions.
1452.	Federal Home Loan Mortgage Corporation.
1453.	Capitalization of Federal Home Loan Mortgage Corporation.
1454.	Purchase and sale of mortgages; residential mortgages; conventional mortgages; terms and conditions of sale or other disposition; authority to enter into, perform, and carry out transactions.
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1457.	Prohibited activities; penalties for violations by organizations, officers and members of organizations, and individuals.
1458.	Territorial applicability.
1459.	Separability.

§ 1451. Definitions

As used in this chapter—

(a) The term “Board of Directors” means the Board of Directors of the Corporation.

(b) The term “Corporation” means the Federal Home Loan Mortgage Corporation created by this chapter.

(c) The term “law” includes any law of the United States or of any State (including any rule of law or of equity).

(d) The term “mortgage” includes such classes of liens as are commonly given or are legally effective to secure advances on, or the unpaid purchase price of, real estate under the laws of the State in which the real estate is located or a manufactured home that is personal property under the laws of the State in which the manufactured home is located together with the credit instruments, if any, secured thereby, and includes interests in mortgages.

(e) The term “organization” means any corporation, partnership, association, business trust, or business entity.

(f) The term “prescribe” means to prescribe by regulations or otherwise.

(g) The term “property” includes any property, whether real, personal, mixed, or otherwise, including without limitation on the generality of the foregoing choses in action and mort-

gages, and includes any interest in any of the foregoing.

(h) The term “residential mortgage” means a mortgage which (1) is a mortgage on real estate, in fee simple or under a leasehold having such term as may be prescribed by the Corporation, upon which there is located a structure or structures designed in whole or in part for residential use, or which comprises or includes one or more condominium units or dwelling units (as defined by the Corporation) and (2) has such characteristics and meets such requirements as to amount, term, repayment provisions, number of families, status as a lien on such real estate, and otherwise, as may be prescribed by the Corporation. The term “residential mortgage” also includes a loan or advance of credit insured under title I of the National Housing Act [12 U.S.C. 1702 et seq.] whose original proceeds are applied for in order to finance energy conserving improvements, or the addition of a solar energy system, to residential real estate. The term “residential mortgage” also includes a loan or advance of credit for such purposes, or purchased from any public utility carrying out activities in accordance with the requirements of title II of the National Energy Conservation Policy Act [42 U.S.C. 8211 et seq.] if the residential mortgage to be purchased is a loan or advance of credit the original proceeds of which are applied for in order to finance the purchase and installation of residential energy conservation measures (as defined in section 210(11)¹ of the National Energy Conservation Policy Act) in residential real estate, not having the benefit of such insurance and includes loans made where the lender relies for purposes of repayment primarily on the borrower’s general credit standing and forecast of income, with or without other security. The term “residential mortgage” is also deemed to include a secured loan or advance of credit the proceeds of which are intended to finance the rehabilitation, renovation, modernization, refurbishment, or improvement of properties as to which the Corporation may purchase a “residential mortgage” as defined under the first sentence of this subsection. Such term shall also include other secured loans that are secured by a subordinate lien against a property as to which the Corporation may purchase a residential mortgage as defined under the first sentence of this subsection. A “secured loan or advance of credit” is one in which a security interest is taken in the rehabilitated, renovated, modernized, refurbished, or improved property. Such term shall also include a mortgage, lien, or other security interest on the stock or membership certificate issued to a tenant-stockholder or resident-member by a cooperative housing corporation, as defined in section 216 of title 26, and on the proprietary lease, occupancy agreement, or right of tenancy in the dwelling unit of the tenant-stockholder or resident-member in such cooperative housing corporation. The term “residential mortgage” also includes a loan or advance of credit secured by a mortgage or other lien on a manufactured home that is the principal residence of the borrower, without re-

¹ See References in Text note below.