

SUBCHAPTER I—SUPERVISION AND REGULATION OF ENTERPRISES

PART A—FINANCIAL SAFETY AND SOUNDNESS REGULATOR

§ 4511. Establishment of the Federal Housing Finance Agency**(a) Establishment**

There is established the Federal Housing Finance Agency, which shall be an independent agency of the Federal Government.

(b) General supervisory and regulatory authority**(1) In general**

Each regulated entity shall, to the extent provided in this chapter, be subject to the supervision and regulation of the Agency.

(2) Authority over Fannie Mae, Freddie Mac, the Federal Home Loan Banks, and the Office of Finance

The Director shall have general regulatory authority over each regulated entity and the Office of Finance, and shall exercise such general regulatory authority, including such duties and authorities set forth under section 4513 of this title, to ensure that the purposes of this Act, the authorizing statutes, and any other applicable law are carried out.

(c) Savings provision

The authority of the Director to take actions under subchapters II and III shall not in any way limit the general supervisory and regulatory authority granted to the Director under subsection (b).

(Pub. L. 102-550, title XIII, §1311, as added Pub. L. 110-289, div. A, title I, §1101, July 30, 2008, 122 Stat. 2661.)

Editorial Notes**REFERENCES IN TEXT**

This chapter, referred to in subsec. (b)(1), was in the original “this title”, meaning title XIII of Pub. L. 102-550, Oct. 28, 1992, 106 Stat. 3941, which is classified principally to this chapter. For complete classification of title XIII to the Code, see Short Title note set out under section 4501 of this title and Tables.

This Act, referred to in subsec. (b)(2), is Pub. L. 102-550, Oct. 28, 1992, 106 Stat. 3672, known as the Housing and Community Development Act of 1992. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 5301 of Title 42, The Public Health and Welfare, and Tables.

PRIOR PROVISIONS

A prior section 4511, Pub. L. 102-550, title XIII, §1311, Oct. 28, 1992, 106 Stat. 3944, related to establishment of the Office of Federal Housing Enterprise Oversight, prior to repeal by Pub. L. 110-289, div. A, title I, §1101, July 30, 2008, 122 Stat. 2661.

Statutory Notes and Related Subsidiaries**TRANSFER AND RIGHTS OF CERTAIN HUD EMPLOYEES**

Pub. L. 110-289, div. A, title I, §1133, July 30, 2008, 122 Stat. 2728, provided that:

“(a) TRANSFER.—Each employee of the Department of Housing and Urban Development whose position responsibilities primarily involve the establishment and enforcement of the housing goals under subpart B of

part 2 of subtitle A of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4561 et seq.) shall be transferred to the Federal Housing Finance Agency for employment, not later than the effective date of the Federal Housing Finance Regulatory Reform Act of 2008 [div. A (§§1001-1605) of Pub. L. 110-289, approved July 30, 2008], and such transfer shall be deemed a transfer of function for purposes of section 3503 of title 5, United States Code.

“(b) GUARANTEED POSITIONS.—

“(1) IN GENERAL.—Each employee transferred under subsection (a) shall be guaranteed a position with the same status, tenure, grade, and pay as that held on the day immediately preceding the transfer.

“(2) NO INVOLUNTARY SEPARATION OR REDUCTION.—An employee transferred under subsection (a) holding a permanent position on the day immediately preceding the transfer may not be involuntarily separated or reduced in grade or compensation during the 12-month period beginning on the date of transfer, except for cause, or, in the case of a temporary employee, separated in accordance with the terms of the appointment of the employee.

“(c) APPOINTMENT AUTHORITY FOR EXCEPTED AND SENIOR EXECUTIVE SERVICE EMPLOYEES.—

“(1) IN GENERAL.—In the case of an employee occupying a position in the excepted service or the Senior Executive Service, any appointment authority established under law or by regulations of the Office of Personnel Management for filling such position shall be transferred, subject to paragraph (2).

“(2) DECLINE OF TRANSFER.—The Director may decline a transfer of authority under paragraph (1) to the extent that such authority relates to—

“(A) a position excepted from the competitive service because of its confidential, policymaking, policy-determining, or policy-advocating character; or

“(B) a noncareer position in the Senior Executive Service (within the meaning of section 3132(a)(7) of title 5, United States Code).

“(d) REORGANIZATION.—If the Director determines, after the end of the 1-year period beginning on the effective date of the Federal Housing Finance Regulatory Reform Act of 2008 [div. A (§§1001-1605) of Pub. L. 110-289, approved July 30, 2008], that a reorganization of the combined workforce is required, that reorganization shall be deemed a major reorganization for purposes of affording affected employee retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code.

“(e) EMPLOYEE BENEFIT PROGRAMS.—

“(1) IN GENERAL.—Any employee described under subsection (a) accepting employment with the Agency as a result of a transfer under subsection (a) may retain, for 12 months after the date on which such transfer occurs, membership in any employee benefit program of the Agency or the Department of Housing and Urban Development, as applicable, including insurance, to which such employee belongs on such effective date, 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 Federal Housing Finance Agency.

“(2) COST DIFFERENTIAL.—

“(A) IN GENERAL.—The difference in the costs between the benefits which would have been provided by the Department of Housing and Urban Development and those provided by this section shall be paid by the Director.

“(B) HEALTH INSURANCE.—If any employee elects to give up membership in a health insurance program or the health insurance program is not continued by the Director, the employee shall be permitted to select an alternate Federal health insurance program not later than 30 days after the date of such election or notice, without regard to any other regularly scheduled open season.”

[For definitions of terms used in section 1133 of Pub. L. 110-289, set out above, see section 1002(b) of Pub. L. 110-289, set out below.]

TRANSFER OF FUNCTIONS, PERSONNEL, AND PROPERTY OF OFHEO AND THE FEDERAL HOUSING FINANCE BOARD

Pub. L. 110-289, div. A, title III, July 30, 2008, 122 Stat. 2794-2799, provided that:

“SUBTITLE A—OFHEO

“SEC. 1301. ABOLISHMENT OF OFHEO.

“(a) IN GENERAL.—Effective at the end of the 1-year period beginning on the date of enactment of this Act [July 30, 2008], the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development and the positions of the Director and Deputy Director of such Office are abolished.

“(b) DISPOSITION OF AFFAIRS.—During the 1-year period beginning on the date of enactment of this Act [July 30, 2008], the Director of the Office of Federal Housing Enterprise Oversight, solely for the purpose of winding up the affairs of the Office of Federal Housing Enterprise Oversight—

“(1) shall manage the employees of such Office 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 under section 1303; and

“(2) may take any other action necessary for the purpose of winding up the affairs of the Office.

“(c) STATUS OF EMPLOYEES BEFORE TRANSFER.—The amendments made by title I [title I (§§1101-1163) of div. A of Pub. L. 110-289, see Tables for classification] and the abolishment of the Office of Federal Housing Enterprise Oversight under subsection (a) of this section may not be construed to affect the status of any employee of such Office as an employee 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 under section 1303.

“(d) USE OF PROPERTY AND SERVICES.—

“(1) PROPERTY.—The Director may use the property of the Office of Federal Housing Enterprise Oversight to perform functions which have been transferred to the Director for such time as is reasonable to facilitate the orderly transfer of functions transferred under any other provision of this Act [see Tables for classification] or any amendment made by this Act to any other provision of law.

“(2) AGENCY SERVICES.—Any agency, department, or other instrumentality of the United States, and any successor to any such agency, department, or instrumentality, which was providing supporting services to the Office of Federal Housing Enterprise Oversight before the expiration of the period under subsection (a) in connection with functions that are transferred to the Director 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.

“(e) CONTINUATION OF SERVICES.—The Director may use the services of employees and other personnel of the Office of Federal Housing Enterprise Oversight, on a reimbursable basis, to perform functions which have been transferred to the Director for such time as is reasonable to facilitate the orderly transfer of functions 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.

“(f) SAVINGS PROVISIONS.—

“(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 Director of the Office of Federal Housing Enterprise Oversight, or any other person, which—

“(A) arises under—

“(i) the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 [12 U.S.C. 4501 et seq.];

“(ii) the Federal National Mortgage Association Charter Act [12 U.S.C. 1716 et seq.];

“(iii) the Federal Home Loan Mortgage Corporation Act [12 U.S.C. 1451 et seq.]; or

“(iv) any other provision of law applicable with respect to such Office; and

“(B) existed on the day before the date of abolishment under subsection (a).

“(2) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Director of the Office of Federal Housing Enterprise Oversight in connection with functions that are transferred to the Director of the Federal Housing Finance Agency shall abate by reason of the enactment of this Act [see Tables for classification], except that the Director of the Federal Housing Finance Agency shall be substituted for the Director of the Office of Federal Housing Enterprise Oversight as a party to any such action or proceeding.

“SEC. 1302. CONTINUATION AND COORDINATION OF CERTAIN ACTIONS.

“(a) IN GENERAL.—All regulations, orders, and determinations described in subsection (b) shall remain in effect according to the terms of such regulations, orders, and determinations, and shall be enforceable by or against the Director or the Secretary of Housing and Urban Development, as the case may be, until modified, terminated, set aside, or superseded in accordance with applicable law by the Director or the Secretary, as the case may be, any court of competent jurisdiction, or operation of law.

“(b) APPLICABILITY.—A regulation, order, or determination is described in this subsection if it—

“(1) was issued, made, prescribed, or allowed to become effective by—

“(A) the Office of Federal Housing Enterprise Oversight;

“(B) the Secretary of Housing and Urban Development, and relates to the authority of the Secretary under—

“(i) the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 [12 U.S.C. 4501 et seq.];

“(ii) the Federal National Mortgage Association Charter Act [12 U.S.C. 1716 et seq.], with respect to the Federal National Mortgage Association; or

“(iii) the Federal Home Loan Mortgage Corporation Act [12 U.S.C. 1451 et seq.], with respect to the Federal Home Loan Mortgage Corporation; or

“(C) a court of competent jurisdiction, and relates to functions transferred by this Act [see Tables for classification]; and

“(2) is in effect on the effective date of the abolishment under section 1301(a).

“SEC. 1303. TRANSFER AND RIGHTS OF EMPLOYEES OF OFHEO.

“(a) TRANSFER.—Each employee of the Office of Federal Housing Enterprise Oversight shall be transferred to the Agency for employment, not later than the effective date of the abolishment under section 1301(a), and such transfer shall be deemed a transfer of function for purposes of section 3503 of title 5, United States Code.

“(b) GUARANTEED POSITIONS.—

“(1) IN GENERAL.—Each employee transferred under subsection (a) shall be guaranteed a position with the same status, tenure, grade, and pay as that held on the day immediately preceding the transfer.

“(2) NO INVOLUNTARY SEPARATION OR REDUCTION.—An employee transferred under subsection (a) holding a permanent position on the day immediately preceding the transfer may not be involuntarily separated or reduced in grade or compensation during the 12-month period beginning on the date of transfer, except for cause, or, in the case of a temporary employee, separated in accordance with the terms of the appointment of the employee.

“(c) APPOINTMENT AUTHORITY FOR EXCEPTED AND SENIOR EXECUTIVE SERVICE EMPLOYEES.—

“(1) IN GENERAL.—In the case of an employee occupying a position in the excepted service or the Senior

Executive Service, any appointment authority established under law or by regulations of the Office of Personnel Management for filling such position shall be transferred, subject to paragraph (2).

“(2) DECLINE OF TRANSFER.—The Director may decline a transfer of authority under paragraph (1) to the extent that such authority relates to—

“(A) a position excepted from the competitive service because of its confidential, policymaking, policy-determining, or policy-advocating character; or

“(B) a noncareer position in the Senior Executive Service (within the meaning of section 3132(a)(7) of title 5, United States Code).

“(d) REORGANIZATION.—If the Director determines, after the end of the 1-year period beginning on the effective date of the abolishment under section 1301(a), that a reorganization of the combined workforce is required, that reorganization shall be deemed a major reorganization for purposes of affording affected employee retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code.

“(e) EMPLOYEE BENEFIT PROGRAMS.—

“(1) IN GENERAL.—Any employee of the Office of Federal Housing Enterprise Oversight accepting employment with the Agency as a result of a transfer under subsection (a) may retain, for 12 months after the date on which such transfer occurs, membership in any employee benefit program of the Agency or the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development, as applicable, including insurance, to which such employee belongs on the date of the abolishment under section 1301(a), 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 Federal Housing Finance Agency.

“(2) COST DIFFERENTIAL.—

“(A) IN GENERAL.—The difference in the costs between the benefits which would have been provided by the Office of Federal Housing Enterprise Oversight and those provided by this section shall be paid by the Director.

“(B) HEALTH INSURANCE.—If any employee elects to give up membership in a health insurance program or the health insurance program is not continued by the Director, the employee shall be permitted to select an alternate Federal health insurance program not later than 30 days after the date of such election or notice, without regard to any other regularly scheduled open season.

“SEC. 1304. TRANSFER OF PROPERTY AND FACILITIES.

“Upon the effective date of its abolishment under section 1301(a), all property of the Office of Federal Housing Enterprise Oversight shall transfer to the Agency.

“SUBTITLE B—FEDERAL HOUSING FINANCE BOARD

“SEC. 1311. ABOLISHMENT OF THE FEDERAL HOUSING FINANCE BOARD.

“(a) IN GENERAL.—Effective at the end of the 1-year period beginning on the date of enactment of this Act [July 30, 2008], the Federal Housing Finance Board (in this subtitle referred to as the ‘Board’) is abolished.

“(b) DISPOSITION OF AFFAIRS.—During the 1-year period beginning on the date of enactment of this Act [July 30, 2008], the Board, solely for the purpose of winding up the affairs of the Board—

“(1) shall 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 under section 1313; and

“(2) may take any other action necessary for the purpose of winding up the affairs of the Board.

“(c) STATUS OF EMPLOYEES BEFORE TRANSFER.—The amendments made by titles I and II [titles I

(§§ 1101–1163) and II (§§ 1201–1218) of div. A of Pub. L. 110–289, see Tables for classification] and the abolishment of the Board under subsection (a) may not be construed to affect the status of any employee of the Board as an employee 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 under section 1313.

“(d) USE OF PROPERTY AND SERVICES.—

“(1) PROPERTY.—The Director may use the property of the Board to perform functions which have been transferred to the Director, for such time as is reasonable to facilitate the orderly transfer of functions transferred under any other provision of this Act [see Tables for classification] or any amendment made by this Act to any other provision of law.

“(2) AGENCY SERVICES.—Any agency, department, or other instrumentality of the United States, and any successor to any such agency, department, or instrumentality, which was providing supporting services to the Board before the expiration of the 1-year period under subsection (a) in connection with functions that are transferred to the Director 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.

“(e) CONTINUATION OF SERVICES.—The Director may use the services of employees and other personnel of the Board, on a reimbursable basis, to perform functions which have been transferred to the Director for such time as is reasonable to facilitate the orderly transfer of functions 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.

“(f) SAVINGS PROVISIONS.—

“(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, a member of the Board, or any other person, which—

“(A) arises under the Federal Home Loan Bank Act [12 U.S.C. 1421 et seq.], or any other provision of law applicable with respect to the Board; and

“(B) existed on the day before the effective date of the abolishment under subsection (a).

“(2) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Board in connection with functions that are transferred under this Act [see Tables for classification] to the Director shall abate by reason of the enactment of this Act, except that the Director shall be substituted for the Board or any member thereof as a party to any such action or proceeding.

“SEC. 1312. CONTINUATION AND COORDINATION OF CERTAIN ACTIONS.

“(a) IN GENERAL.—All regulations, orders, determinations, and resolutions described under subsection (b) shall remain in effect according to the terms of such regulations, orders, determinations, and resolutions, and shall be enforceable by or against the Director until modified, terminated, set aside, or superseded in accordance with applicable law by the Director, any court of competent jurisdiction, or operation of law.

“(b) APPLICABILITY.—A regulation, order, determination, or resolution is described under this subsection if it—

“(1) was issued, made, prescribed, or allowed to become effective by—

“(A) the Board; or

“(B) a court of competent jurisdiction, and relates to functions transferred by this Act [see Tables for classification]; and

“(2) is in effect on the effective date of the abolishment under section 1311(a).

“SEC. 1313. TRANSFER AND RIGHTS OF EMPLOYEES OF THE FEDERAL HOUSING FINANCE BOARD.

“(a) TRANSFER.—Each employee of the Board shall be transferred to the Agency for employment, not later

than the effective date of the abolishment under section 1311(a), and such transfer shall be deemed a transfer of function for purposes of section 3503 of title 5, United States Code.

“(b) GUARANTEED POSITIONS.—

“(1) IN GENERAL.—Each employee transferred under subsection (a) shall be guaranteed a position with the same status, tenure, grade, and pay as that held on the day immediately preceding the transfer.

“(2) NO INVOLUNTARY SEPARATION OR REDUCTION.—An employee holding a permanent position on the day immediately preceding the transfer may not be involuntarily separated or reduced in grade or compensation during the 12-month period beginning on the date of transfer, except for cause, or, if the employee is a temporary employee, separated in accordance with the terms of the appointment of the employee.

“(c) APPOINTMENT AUTHORITY FOR EXCEPTED EMPLOYEES.—

“(1) IN GENERAL.—In the case of an employee occupying a position in the excepted service, any appointment authority established under law or by regulations of the Office of Personnel Management for filling such position shall be transferred, subject to paragraph (2).

“(2) DECLINE OF TRANSFER.—The Director may decline a transfer of authority under paragraph (1), to the extent that such authority relates to a position excepted from the competitive service because of its confidential, policymaking, policy-determining, or policy-advocating character.

“(d) REORGANIZATION.—If the Director determines, after the end of the 1-year period beginning on the effective date of the abolishment under section 1311(a), that a reorganization of the combined workforce is required, that reorganization shall be deemed a major reorganization for purposes of affording affected employee retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code.

“(e) EMPLOYEE BENEFIT PROGRAMS.—

“(1) IN GENERAL.—Any employee of the Board accepting employment with the Agency as a result of a transfer under subsection (a) may retain, for 12 months after the date on which such transfer occurs, membership in any employee benefit program of the Agency or the Board, as applicable, including insurance, to which such employee belongs on the effective date of the abolishment under section 1311(a) 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.

“(2) COST DIFFERENTIAL.—

“(A) IN GENERAL.—The difference in the costs between the benefits which would have been provided by the Board and those provided by this section shall be paid by the Director.

“(B) HEALTH INSURANCE.—If any employee elects to give up membership in a health insurance program or the health insurance program is not continued by the Director, the employee shall be permitted to select an alternate Federal health insurance program not later than 30 days after the date of such election or notice, without regard to any other regularly scheduled open season.

“SEC. 1314. TRANSFER OF PROPERTY AND FACILITIES.

“Upon the effective date of the abolishment under section 1311(a), all property of the Board shall transfer to the Agency.”

[For definitions of terms used in title III of Pub. L. 110-289, set out above, see section 1002(b) of Pub. L. 110-289, set out below.]

DEFINITIONS

Pub. L. 110-289, div. A, §1002(b), July 30, 2008, 122 Stat. 2661, provided that: ‘As used in this Act [see Tables for classification], unless otherwise specified—

“(1) the term ‘Agency’ means the Federal Housing Finance Agency;

“(2) the term ‘Director’ means the Director of the Agency; and

“(3) the terms ‘enterprise’, ‘regulated entity’, and ‘authorizing statutes’ have the same meanings as in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 [12 U.S.C. 4502], as amended by this Act.”

§ 4512. Director

(a) Establishment of position

There is established the position of the Director of the Agency, who shall be the head of the Agency.

(b) Appointment; term

(1) Appointment

The Director shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States, have a demonstrated understanding of financial management or oversight, and have a demonstrated understanding of capital markets, including the mortgage securities markets and housing finance.

(2) Term

The Director shall be appointed for a term of 5 years, unless removed before the end of such term for cause by the President.

(3) Vacancy

A vacancy in the position of Director that occurs before the expiration of the term for which a Director was appointed shall be filled in the manner established under paragraph (1), and the Director appointed to fill such vacancy shall be appointed only for the remainder of such term.

(4) Service after end of term

An individual may serve as the Director after the expiration of the term for which appointed until a successor has been appointed.

(5) Transitional provision

Notwithstanding paragraphs (1) and (2), during the period beginning on the effective date of the Federal Housing Finance Regulatory Reform Act of 2008, and ending on the date on which the Director is appointed and confirmed, the person serving as the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development on that effective date shall act for all purposes as, and with the full powers of, the Director.

(c) Deputy Director of the Division of Enterprise Regulation

(1) In general

The Agency shall have a Deputy Director of the Division of Enterprise Regulation, who shall be designated by the Director from among individuals who are citizens of the United States, have a demonstrated understanding of financial management or oversight, and have a demonstrated understanding of mortgage securities markets and housing finance.

(2) Functions

The Deputy Director of the Division of Enterprise Regulation shall have such functions,