

“(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and resolutions, and shall be enforceable by or against the Director until modified, terminated, set aside, or superseded in accordance with applicable law by the Director, any court of competent jurisdiction, or operation of law.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 ef-

fective 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, powers, and duties with respect to the oversight of the enterprises as the Director shall prescribe.

(d) Deputy Director of the Division of Federal Home Loan Bank Regulation**(1) In general**

The Agency shall have a Deputy Director of the Division of Federal Home Loan Bank 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 the Federal Home Loan Bank System and housing finance.

(2) Functions

The Deputy Director of the Division of Federal Home Loan Bank Regulation shall have such functions, powers, and duties with respect to the oversight of the Federal Home Loan Banks as the Director shall prescribe.

(e) Deputy Director for Housing Mission and Goals**(1) In general**

The Agency shall have a Deputy Director for Housing Mission and Goals, who shall be des-

ignated by the Director from among individuals who are citizens of the United States, and have a demonstrated understanding of the housing markets and housing finance.

(2) Functions

The Deputy Director for Housing Mission and Goals shall have such functions, powers, and duties with respect to the oversight of the housing mission and goals of the enterprises, and with respect to oversight of the housing finance and community and economic development mission of the Federal Home Loan Banks, as the Director shall prescribe.

(3) Considerations

In exercising such functions, powers, and duties, the Deputy Director for Housing Mission and Goals shall consider the differences between the enterprises and the Federal Home Loan Banks, including those described in section 4513(d) of this title.

(f) Acting Director

In the event of the death, resignation, sickness, or absence of the Director, the President shall designate either the Deputy Director of the Division of Enterprise Regulation, the Deputy Director of the Division of Federal Home Loan Bank Regulation, or the Deputy Director for Housing Mission and Goals, to serve as acting Director until the return of the Director, or the appointment of a successor pursuant to subsection (b).

(g) Limitations

The Director and each of the Deputy Directors may not—

(1) have any direct or indirect financial interest in any regulated entity or entity-affiliated party;

(2) hold any office, position, or employment in any regulated entity or entity-affiliated party; or

(3) have served as an executive officer or director of any regulated entity or entity-affiliated party at any time during the 3-year period preceding the date of appointment or designation of such individual as Director or Deputy Director, as applicable.

(Pub. L. 102-550, title XIII, §1312, as added Pub. L. 110-289, div. A, title I, §1101, July 30, 2008, 122 Stat. 2662.)

Editorial Notes**REFERENCES IN TEXT**

The effective date of the Federal Housing Finance Regulatory Reform Act of 2008, referred to in subsec. (b)(5), probably means the date of enactment of Pub. L. 110-289, which was approved July 30, 2008.

CONSTITUTIONALITY

For information regarding the constitutionality of provisions of subsection (b)(2) of this section, see the Table of Laws Held Unconstitutional in Whole or in Part by the Supreme Court on the Constitution Annotated website, constitution.congress.gov.

PRIOR PROVISIONS

A prior section 4512, Pub. L. 102-550, title XIII, §1312, Oct. 28, 1992, 106 Stat. 3945, related to the Director and Deputy Director of the Office of Federal Housing Enter-

prise Oversight, prior to repeal by Pub. L. 110-289, div. A, title I, §1101, July 30, 2008, 122 Stat. 2661.

§ 4513. Duties and authorities of Director

(a) Duties

(1) Principal duties

The principal duties of the Director shall be—

(A) to oversee the prudential operations of each regulated entity; and

(B) to ensure that—

(i) each regulated entity operates in a safe and sound manner, including maintenance of adequate capital and internal controls;

(ii) the operations and activities of each regulated entity foster liquid, efficient, competitive, and resilient national housing finance markets (including activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities);

(iii) each regulated entity complies with this chapter and the rules, regulations, guidelines, and orders issued under this chapter and the authorizing statutes;

(iv) each regulated entity carries out its statutory mission only through activities that are authorized under and consistent with this chapter and the authorizing statutes; and

(v) the activities of each regulated entity and the manner in which such regulated entity is operated are consistent with the public interest.

(2) Scope of authority

The authority of the Director shall include the authority—

(A) to review and, if warranted based on the principal duties described in paragraph (1), reject any acquisition or transfer of a controlling interest in a regulated entity; and

(B) to exercise such incidental powers as may be necessary or appropriate to fulfill the duties and responsibilities of the Director in the supervision and regulation of each regulated entity.

(3) Coordination with the Chairman of the Board of Governors of the Federal Reserve System

(A) Consultation

The Director shall consult with, and consider the views of, the Chairman of the Board of Governors of the Federal Reserve System, with respect to the risks posed by the regulated entities to the financial system, prior to issuing any proposed or final regulations, orders, and guidelines with respect to the exercise of the additional authority provided in this Act regarding prudential management and operations standards, safe and sound operations of, and capital requirements and portfolio standards applicable to the regulated entities (as such term is defined in section 4502 of this title). The Director also shall consult with the

Chairman regarding any decision to place a regulated entity into conservatorship or receivership.

(B) Information sharing

To facilitate the consultative process, the Director shall share information with the Board of Governors of the Federal Reserve System on a regular, periodic basis as determined by the Director and the Board regarding the capital, asset and liabilities, financial condition, and risk management practices of the regulated entities as well as any information related to financial market stability.

(C) Termination of consultation requirement

The requirement of the Director to consult with the Board of Governors of the Federal Reserve System under this paragraph shall expire at the conclusion of December 31, 2009.

(b) Delegation of authority

The Director may delegate to officers and employees of the Agency any of the functions, powers, or duties of the Director, as the Director considers appropriate.

(c) Litigation authority

(1) In general

In enforcing any provision of this chapter, any regulation or order prescribed under this chapter, or any other provision of law, rule, regulation, or order, or in any other action, suit, or proceeding to which the Director is a party or in which the Director is interested, and in the administration of conservatorships and receiverships, the Director may act in the Director's own name and through the Director's own attorneys.

(2) Subject to suit

Except as otherwise provided by law, the Director shall be subject to suit (other than suits on claims for money damages) by a regulated entity with respect to any matter under this chapter or any other applicable provision of law, rule, order, or regulation under this chapter, in the United States district court for the judicial district in which the regulated entity has its principal place of business, or in the United States District Court for the District of Columbia, and the Director may be served with process in the manner prescribed by the Federal Rules of Civil Procedure.

(f) ¹ Recognition of distinctions between the enterprises and the Federal Home Loan Banks

Prior to promulgating any regulation or taking any other formal or informal agency action of general applicability and future effect relating to the Federal Home Loan Banks (other than any regulation, advisory document, or examination guidance of the Federal Housing Finance Board that the Director reissues after the authority of the Director over the Federal Home Loan Banks takes effect), including the issuance of an advisory document or examination guidance, the Director shall consider the differences between the Federal Home Loan Banks and the enterprises with respect to—

¹ So in original. No subsecs. (d) and (e) have been enacted.