

and very low-income families, including the size of the multifamily markets for housing of a smaller or limited size;

(D) the ability of the enterprise to lead the market in making multifamily mortgage credit available, especially for multifamily housing described in paragraphs (1) and (2);

(E) the availability of public subsidies; and
(F) the need to maintain the sound financial condition of the enterprise.

(b) Units financed by housing finance agency bonds

The Director shall give full credit toward the achievement of the multifamily special affordable housing goal under this section (for purposes of section 4566 of this title) to dwelling units in multifamily housing that otherwise qualifies under such goal and that is financed by tax-exempt or taxable bonds issued by a State or local housing finance agency, if such bonds, in whole or in part—

(1) are secured by a guarantee of the enterprise; or

(2) are purchased by the enterprise, except that the Director may give less than full credit for purchases of investment grade bonds, to the extent that such purchases do not provide a new market or add liquidity to an existing market.

(c) Measurement of performance

The Director shall monitor the performance of each enterprise in meeting the goals established under this section and shall evaluate such performance (for purposes of section 4566 of this title) based on whether the rent levels are affordable. A rent level shall be considered to be affordable for purposes of this subsection for low-income families if it does not exceed 30 percent of the maximum income level of such income category, with appropriate adjustments for unit size as measured by the number of bedrooms.

(d) Determination of compliance

The Director shall determine, for each year that the housing goal under this section is in effect pursuant to section 4561(a) of this title, whether each enterprise has complied with such goal and the additional requirements under subsection (a)(2).

(Pub. L. 102-550, title XIII, §1333, as added Pub. L. 110-289, div. A, title I, §1128(b), July 30, 2008, 122 Stat. 2700.)

Editorial Notes

PRIOR PROVISIONS

A prior section 4563, Pub. L. 102-550, title XIII, §1333, Oct. 28, 1992, 106 Stat. 3958, related to special affordable housing goal, prior to repeal by Pub. L. 110-289, div. A, title I, §1128(a), July 30, 2008, 122 Stat. 2696.

§ 4564. Discretionary adjustment of housing goals

(a) Authority

An enterprise may petition the Director in writing at any time during a year to reduce the level of any goal or subgoal for such year established pursuant to this subpart.

(b) Standard for reduction

The Director may reduce the level for a goal or subgoal pursuant to such a petition only if—

(1) market and economic conditions or the financial condition of the enterprise require such action; or

(2) efforts to meet the goal or subgoal would result in the constraint of liquidity, over-investment in certain market segments, or other consequences contrary to the intent of this subpart, or section 1716(3) of this title or section 301(b)(3) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 note), as applicable.

(c) Determination

The Director shall, promptly upon receipt of a petition regarding a reduction, seek public comment on the reduction for a period of 30 days. The Director shall make a determination regarding any proposed reduction within 30 days after the expiration of such public comment period. The Director may extend such determination period for a single additional 15-day period, but only if the Director requests additional information from the enterprise.

(Pub. L. 102-550, title XIII, §1334, as added Pub. L. 110-289, div. A, title I, §1128(b), July 30, 2008, 122 Stat. 2701.)

Editorial Notes

REFERENCES IN TEXT

Section 301(b)(3) of the Federal Home Loan Mortgage Corporation Act, referred to in subsec. (b)(2), is section 301(b)(3) of Pub. L. 91-351, which is set out as a Short Title and Statement of Purpose note under section 1451 of this title.

PRIOR PROVISIONS

A prior section 4564, Pub. L. 102-550, title XIII, §1334, Oct. 28, 1992, 106 Stat. 3960, related to central cities, rural areas, and other underserved areas housing goal, prior to repeal by Pub. L. 110-289, div. A, title I, §1128(a), July 30, 2008, 122 Stat. 2696.

§ 4565. Duty to serve underserved markets and other requirements

(a) Duty to serve underserved markets

(1)¹ Duty

To increase the liquidity of mortgage investments and improve the distribution of investment capital available for mortgage financing for underserved markets, each enterprise shall provide leadership to the market in developing loan products and flexible underwriting guidelines to facilitate a secondary market for mortgages for very low-, low-, and moderate-income families with respect to the following underserved markets:

(A) Manufactured housing

The enterprise shall develop loan products and flexible underwriting guidelines to facilitate a secondary market for mortgages on manufactured homes for very low-, low-, and moderate-income families.

(B) Affordable housing preservation

The enterprise shall develop loan products and flexible underwriting guidelines to facilitate a secondary market to preserve housing affordable to very low-, low-, and

¹ So in original. No par. (2) has been enacted.

moderate-income families, including housing projects subsidized under ²

(i) the project-based and tenant-based rental assistance programs under section 1437f of title 42;

(ii) the program under section 1715z-1 of this title;

(iii) the below-market interest rate mortgage program under section 1715l(d)(4) of this title;

(iv) the supportive housing for the elderly program under section 1701q of this title;

(v) the supportive housing program for persons with disabilities under section 8013 of title 42;

(vi) the programs under title IV of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11360 et seq.], but only permanent supportive housing projects subsidized under such programs;

(vii) the rural rental housing program under section 1485 of title 42;

(viii) the low-income housing tax credit under section 42 of title 26; and

(ix) comparable state³ and local affordable housing programs.

(C) Rural markets

The enterprise shall develop loan products and flexible underwriting guidelines to facilitate a secondary market for mortgages on housing for very low-, and low-, and moderate-income families in rural areas.

(b) In general

To meet the housing goals established under this subpart and to carry out the duty under subsection (a) of this section, each enterprise shall—

(1) design programs and products that facilitate the use of assistance provided by the Federal Government and State and local governments;

(2) develop relationships with nonprofit and for-profit organizations that develop and finance housing and with State and local governments, including housing finance agencies;

(3) take affirmative steps to—

(A) assist primary lenders to make housing credit available in areas with concentrations of low-income and minority families, and

(B) assist insured depository institutions to meet their obligations under the Community Reinvestment Act of 1977 [12 U.S.C. 2901 et seq.],

which shall include developing appropriate and prudent underwriting standards, business practices, repurchase requirements, pricing, fees, and procedures; and

(4) develop the institutional capacity to help finance low- and moderate-income housing, including housing for first-time homebuyers.

(c) Additional categories

The Director may submit recommendations to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Sen-

ate for the establishment of additional categories under subsection (a), provided that the Director makes a preliminary determination that any such category is important to the mission of the enterprises, that the category is an underserved market, and that the establishment of such category is warranted.

(d) Evaluation and reporting of compliance

(1) In general

The Director shall, by regulation, establish effective for 2010 and thereafter a manner for evaluating whether, and the extent to which, the enterprises have complied with the duty under subsection (a) to serve underserved markets and for rating the extent of such compliance. Using such method, the Director shall, for 2010 and each year thereafter, evaluate such compliance and rate the performance of each enterprise as to extent of compliance. The Director shall include such evaluation and rating for each enterprise for a year in the report for that year submitted pursuant to section 4521(a) of this title.

(2) Separate evaluations

In determining whether an enterprise has complied with the duty referred to in paragraph (1), the Director shall separately evaluate whether the enterprise has complied with such duty with respect to each of the underserved markets identified in subsection (a), taking into consideration ²

(A) the development of loan products, more flexible underwriting guidelines, and other innovative approaches to providing financing to each of such underserved markets;

(B) the extent of outreach to qualified loan sellers and other market participants in each of such underserved markets;

(C) the volume of loans purchased in each of such underserved markets relative to the market opportunities available to the enterprise, except that the Director shall not establish specific quantitative targets nor evaluate the enterprises based solely on the volume of loans purchased; and

(D) the amount of investments and grants in projects which assist in meeting the needs of such underserved markets.

(3) Manufactured housing market

In determining whether an enterprise has complied with the duty under subparagraph (A) of subsection (a)(1), the Director may consider loans secured by both real and personal property.

(4) Prohibition of consideration of affordable housing fund grants for meeting duty to serve

In determining whether an enterprise has complied with the duty referred to in paragraph (1), the Director may not consider any affordable housing fund grant amounts used under section 4567 of this title for eligible activities under subsection (g) of such section.

(Pub. L. 102-550, title XIII, §1335, Oct. 28, 1992, 106 Stat. 3961; Pub. L. 105-65, title V, §517(c), Oct. 27, 1997, 111 Stat. 1403; Pub. L. 110-289, div. A, title I, §§1128(c)(1), 1129(a), July 30, 2008, 122 Stat. 2701, 2703.)

² So in original.

³ So in original. Probably should be capitalized.

Editorial Notes

REFERENCES IN TEXT

The McKinney-Vento Homeless Assistance Act, referred to in subsec. (a)(1)(B)(vi), is Pub. L. 100-77, July 22, 1987, 101 Stat. 482. Title IV of the Act is classified principally to subchapter IV (§11360 et seq.) of chapter 119 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of Title 42 and Tables.

The Community Reinvestment Act of 1977, referred to in subsec. (b)(3)(B), is title VIII of Pub. L. 95-128, Oct. 12, 1977, 91 Stat. 1147, 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.

AMENDMENTS

2008—Pub. L. 110-289, §1129(a)(1), inserted “Duty to serve underserved markets and” before “other” in section catchline.

Subsec. (a). Pub. L. 110-289, §1129(a)(4), added subsec. (a). Former subsec. (a) redesignated (b).

Pub. L. 110-289, §1129(a)(3)(A)–(D), inserted “and to carry out the duty under subsection (a) of this section” before “, each enterprise shall” in introductory provisions and struck out par. (5) which read as follows: “assist in maintaining the affordability of assisted units in eligible multifamily housing projects with expiring contracts, as defined under the Multifamily Assisted Housing Reform and Affordability Act of 1997.”

Pub. L. 110-289, §1128(c)(1), substituted “housing goals established under this subpart” for “low- and moderate-income housing goal under section 4562 of this title, the special affordable housing goal under section 4563 of this title, and the central cities, rural areas, and other underserved areas housing goal under section 4564 of this title” in introductory provisions.

Subsec. (b). Pub. L. 110-289, §1129(a)(3)(E), redesignated subsec. (a) as (b).

Pub. L. 110-289, §1129(a)(2), struck out subsec. (b). Text read as follows: “Actions taken under subsection (a)(5) of this section shall constitute part of the contribution of each entity in meeting its affordable housing goals under sections 4562, 4563, and 4564 of this title for any fiscal year, as determined by the Secretary.”

Subsecs. (c), (d). Pub. L. 110-289, §1129(a)(5), added subsecs. (c) and (d).

1997—Subsec. (a). Pub. L. 105-65, §517(c)(3), designated existing provisions as subsec. (a) and inserted heading.

Subsec. (a)(5). Pub. L. 105-65, §517(c)(1), (2), (4), added par. (5).

Subsec. (b). Pub. L. 105-65, §517(c)(4), added subsec. (b).

§ 4566. Monitoring and enforcing compliance with housing goals**(a) In general****(1) Authority**

The Director shall monitor and enforce compliance with the housing goals established under this subpart and with the duty under section 4565(a) of this title of each enterprise with respect to underserved markets, as provided in this section.

(2) Guidelines

The Director shall establish guidelines to measure the extent of compliance with the housing goals, which, except as provided in paragraph (5), may assign full credit, partial credit, or no credit toward achievement of the housing goals to different categories of mortgage purchase activities of the enterprises, based on such criteria as the Director deems appropriate.

(3) Extent of compliance

In determining compliance with the housing goals established under this subpart, the Director—

(A) shall consider any single mortgage purchased by an enterprise as contributing to the achievement of each housing goal for which such mortgage purchase qualifies; and

(B) may take into consideration the number of housing units financed by any mortgage on housing purchased by an enterprise.

(4) Enforcement of duty to provide mortgage credit to underserved markets

The duty under section 4565(a) of this title of each enterprise to serve underserved markets (as determined in accordance with section 4565(c) of this title) shall be enforceable under this section to the same extent and under the same provisions that the housing goals established under this subpart are enforceable. Such duty shall be enforceable only under this section, except that such duty shall not be subject to subsection (c)(7) of this section and shall not be enforceable under any other provision of this chapter (including subpart 3 of this part) or under any provision of the Federal National Mortgage Association Charter Act [12 U.S.C. 1716 et seq.] or the Federal Home Loan Mortgage Corporation Act [12 U.S.C. 1451 et seq.].

(5) Additional credit

The Director may assign additional credit toward achievement, under this section, of the housing goals for mortgage purchase activities of the enterprises that comply with the requirements of such goals and support housing that includes a licensed childcare center. The availability of additional credit under this paragraph shall not be used to increase any housing goal, subgoal, or target established under this subpart.

(b) Notice and preliminary determination of failure to meet goals**(1) Notice**

If the Director preliminarily determines that an enterprise has failed, or that there is a substantial probability that an enterprise will fail, to meet any housing goal under this subpart, the Director shall provide written notice to the enterprise of such a preliminary determination, the reasons for such determination, and the information on which the Director based the determination.

(2) Response period**(A) In general**

During the 30-day period beginning on the date on which an enterprise is provided notice under paragraph (1), the enterprise may submit to the Director any written information that the enterprise considers appropriate for consideration by the Director in finally determining whether such failure has occurred or whether the achievement of such goal was or is feasible.

(B) Extended period

The Director may extend the period under subparagraph (A) for good cause for not more than 30 additional days.