

(ii) selection shall be based upon specific criteria, including a prioritization of funding based upon—

- (I) the ability to use such funds to generate additional investments;
- (II) affordable housing need (taking into account the distinct needs of different regions of the country); and
- (III) ability to obligate amounts and undertake activities so funded in a timely manner.

(Pub. L. 102-550, title XIII, §1339, as added Pub. L. 110-289, div. A, title I, §1131(b), July 30, 2008, 122 Stat. 2723.)

#### SUBPART 3—ENFORCEMENT

### § 4581. Cease and desist proceedings

#### (a) Grounds for issuance

The Director may issue and serve a notice of charges under this section upon an enterprise if the Director determines that—

- (1) the enterprise has failed to submit a report under section 4547<sup>1</sup> of this title, following a notice of such failure, an opportunity for comment by the enterprise, and a final determination by the Director;
- (2) the enterprise has failed to submit the information required under subsection (m) or (n) of section 1723a of this title, or subsection (e) or (f) of section 1456 of this title;
- (3) solely with respect to the housing goals established under sections 4562(a) and 4563(a)(1) of this title, the enterprise has failed to submit a housing plan that complies with section 4566(c) of this title within the applicable period; or
- (4) solely with respect to the housing goals established under sections 4562(a) and 4563(a)(1) of this title, the enterprise has failed to comply with a housing plan under section 4566(c) of this title.

#### (b) Procedure

##### (1) Notice of charges

Each notice of charges issued under this section shall contain a statement of the facts constituting the alleged conduct and shall fix a time and place at which a hearing will be held to determine on the record whether an order to cease and desist from such conduct should issue.

##### (2) Issuance of order

If the Director finds on the record made at a hearing described in paragraph (1) that any conduct specified in the notice of charges has been established (or the enterprise consents pursuant to section 4582(a)(4) of this title), the Director may issue and serve upon the enterprise an order requiring the enterprise to—

- (A) submit a report under section 4547<sup>1</sup> of this title;
- (B) solely with respect to the housing goals established under sections 4562(a) and 4563(a)(1) of this title, submit a housing plan in compliance with section 4566(c) of this title;

(C) solely with respect to the housing goals established under sections 4562(a) and 4563(a)(1) of this title, comply with the housing plan in compliance with section 4566(c) of this title; or

(D) provide the information required under subsection (m) or (n) of section 1723a of this title, or subsection (e) or (f) of section 1456 of this title.

#### (c) Effective date

An order under this section shall become effective upon the expiration of the 30-day period beginning on the date of service of the order upon the enterprise (except in the case of an order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided in the order, except to the extent that the order is stayed, modified, terminated, or set aside by action of the Director or otherwise, as provided in this subpart.

(Pub. L. 102-550, title XIII, §1341, as added Pub. L. 110-289, div. A, title I, §1130(c)(2), July 30, 2008, 122 Stat. 2708.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 4547 of this title, referred to in subsecs. (a)(1) and (b)(2)(A), was repealed by Pub. L. 110-289, div. A, title I, §1104(b), July 30, 2008, 122 Stat. 2667.

##### PRIOR PROVISIONS

A prior section 4581, Pub. L. 102-550, title XIII, §1341, Oct. 28, 1992, 106 Stat. 3964, related to cease-and-desist proceedings, prior to repeal by Pub. L. 110-289, div. A, title I, §1130(c)(1), July 30, 2008, 122 Stat. 2708.

### § 4582. Hearings

#### (a) Requirements

##### (1) Venue and record

Any hearing under section 4581 or 4585 of this title shall be held on the record and in the District of Columbia.

##### (2) Timing

Any such hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after service of the notice of charges under section 4581(b)(1) of this title or determination to impose a penalty under section 4585(c)(1) of this title, unless an earlier or a later date is set by the hearing officer at the request of the enterprise served.

##### (3) Procedure

Any such hearing shall be conducted in accordance with chapter 5 of title 5.

##### (4) Failure to appear

If the enterprise served fails to appear at the hearing through a duly authorized representative, such enterprise shall be deemed to have consented to the issuance of the cease-and-desist order or the imposition of the penalty for which the hearing is held.

#### (b) Issuance of order

##### (1) In general

After any such hearing, and within 90 days after the enterprise has been notified that the

<sup>1</sup> See References in Text note below.

case has been submitted to the Director for final decision, the Director shall render the decision (which shall include findings of fact upon which the decision is predicated) and shall issue and serve upon the enterprise an order or orders consistent with the provisions of this subpart.

**(2) Modification**

Judicial review of any such order shall be exclusively as provided in section 4583 of this title. Unless such a petition for review is timely filed as provided in section 4583 of this title, and thereafter until the record in the proceeding has been filed as so provided, the Director may at any time, modify, terminate, or set aside any such order, upon such notice and in such manner as the Director considers proper. Upon such filing of the record, the Director may modify, terminate, or set aside any such order with permission of the court.

(Pub. L. 102-550, title XIII, §1342, Oct. 28, 1992, 106 Stat. 3965; Pub. L. 110-289, div. A, title I, §1130(e)(3)(A), July 30, 2008, 122 Stat. 2711.)

**Editorial Notes**

AMENDMENTS

2008—Subsec. (b). Pub. L. 110-289 substituted “Director” for “Secretary” wherever appearing.

**§ 4583. Judicial review**

**(a) Commencement**

An enterprise that is a party to a proceeding under section 4581 or 4585 of this title may obtain review of any final order issued under such section by filing in the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the date of service of such order, a written petition praying that the order of the Director be modified, terminated, or set aside. The clerk of the court shall transmit a copy of the petition to the Director.

**(b) Filing of record**

Upon receiving a copy of a petition, the Director shall file in the court the record in the proceeding, as provided in section 2112 of title 28.

**(c) Jurisdiction**

Upon the filing of a petition, such court shall have jurisdiction, which upon the filing of the record by the Director shall (except as provided in the last sentence of section 4582(b)(2) of this title) be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Director.

**(d) Review**

Review of such proceedings shall be governed by chapter 7 of title 5.

**(e) Order to pay penalty**

Such court shall have the authority in any such review to order payment of any penalty imposed by the Director under this subpart.

**(f) No automatic stay**

The commencement of proceedings for judicial review under this section shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Director.

(Pub. L. 102-550, title XIII, §1343, Oct. 28, 1992, 106 Stat. 3966; Pub. L. 110-289, div. A, title I, §1130(e)(3)(B), July 30, 2008, 122 Stat. 2711.)

**Editorial Notes**

AMENDMENTS

2008—Pub. L. 110-289 substituted “Director” for “Secretary” wherever appearing.

**§ 4584. Enforcement and jurisdiction**

**(a) Enforcement**

The Director may bring a civil action in the United States District Court for the District of Columbia for the enforcement of any effective notice or order issued under section 4581 or 4585 of this title. Such court shall have jurisdiction and power to order and require compliance herewith.

**(b) Limitation on jurisdiction**

Except as otherwise provided in this subpart, no court shall have jurisdiction to affect, by injunction or otherwise, the issuance or enforcement of any notice or order under section 4581 or 4585 of this title, or to review, modify, suspend, terminate, or set aside any such notice or order.

(Pub. L. 102-550, title XIII, §1344, Oct. 28, 1992, 106 Stat. 3966; Pub. L. 110-289, div. A, title I, §1130(e)(1), July 30, 2008, 122 Stat. 2711.)

**Editorial Notes**

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-289, which directed substitution of “The Director may bring a civil action” for “The Secretary may request the Attorney General of the United States to bring a civil action”, was executed by making the substitution for “The Secretary may request the Attorney General of the United States to bring an action” to reflect the probable intent of Congress.

**§ 4585. Civil money penalties**

**(a) Authority**

The Director may impose a civil money penalty, in accordance with the provisions of this section, on any enterprise that has failed to—

(1) submit a report under section 4547<sup>1</sup> of this title, following a notice of such failure, an opportunity for comment by the enterprise, and a final determination by the Director;

(2) submit the information required under subsection (m) or (n) of section 1723a of this title or subsection (e) or (f) of section 1456 of this title;

(3) solely with respect to the housing goals established under sections 4562(a) and 4563(a)(1) of this title, submit a housing plan or perform its responsibilities under a remedial order issued pursuant to section 4566(c) of this title within the required period; or

(4) solely with respect to the housing goals established under sections 4562(a) and 4563(a)(1) of this title, comply with a housing plan for the enterprise under section 4566(c) of this title.

**(b) Amount of penalty**

The amount of a penalty under this section, as determined by the Director, may not exceed—

<sup>1</sup> See References in Text note below.