paired 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.)

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1464, 4501 of this title.

§ 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 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) BOARD.—The term ''Board'' means the Federal Housing Finance Board established under section 1422a of this title.

(2)(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 Board.

(3) The term ''State'' includes the District of Columbia, Guam, Puerto Rico, and the Virgin Islands of the United States.

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

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

(6) 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 Board 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.

(7) 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.

(8) 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.

(9) SAVINGS ASSOCIATION.—The term ''savings association'' has the meaning given to such term in section 1813 of this title.

(10) CHAIRPERSON.—The term ''Chairperson'' means the Chairperson of the Board.

(11) SECRETARY.—The term ''Secretary'' means the Secretary of Housing and Urban Development.

(12) INSURED DEPOSITORY INSTITUTION.—The term ''insured depository institution'' means—

(A) an insured depository institution (as defined in section 1813 of this title), and

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

AMENDMENTS

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''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 248, 461, 1424, 1735f–7a of this title; title 18 section 20.

§ 1422a. Federal Housing Finance Board

(a) Establishment

(1) In general

There is established the Federal Housing Finance Board, which shall succeed to the authority of the Federal Home Loan Bank Board with respect to the Federal Home Loan Banks.

(2) Status

The Board shall be an independent agency in the executive branch of the Government.

(3) Duties

(A) Safety and soundness

The primary duty of the Board shall be to ensure that the Federal Home Loan Banks operate in a financially safe and sound manner.

(B) Other duties

To the extent consistent with subparagraph (A), the duties of the Board shall also be—

(i) to supervise the Federal Home Loan Banks;

(ii) to ensure that the Federal Home Loan Banks carry out their housing finance mission; and

(iii) to ensure that the Federal Home Loan Banks remain adequately capitalized and able to raise funds in the capital markets.

(b) Management

(1) In general

The management of the Board shall be vested in a Board of Directors consisting of 5 directors as follows:

(A) The Secretary who shall serve without additional compensation.

(B) Four citizens of the United States, appointed by the President, by and with the advice and consent of the Senate, each of whom shall hold office for a term of 7 years.

(2) Provisions relating to appointed directors

(A) In general

The directors appointed pursuant to paragraph (1)(B) shall be from among persons with extensive experience or training in housing finance or with a commitment to providing specialized housing credit. An appointed director shall not hold any other appointed office during his or her term as director. Not more than 3 directors shall be members of the same political party. Not more than 1 appointed director shall be from any single district of the Federal Home Loan Bank System. Nominations pursuant to this subparagraph shall be referred in the Senate to the Committee on Banking, Housing, and Urban Affairs.

(B) Consumer representative

At least 1 director shall be chosen from an organization with more than a 2-year history of representing consumer or community interests on banking services, credit needs, housing, or financial consumer protections.

(C) Limitations on conflicts of interest

No director may—

(i) serve as a director or officer of any Federal Home Loan Bank or any member of any Bank; or

(ii) hold shares of, or any other financial interest in, any member of any such Bank.

(D) Clarification of status

(i) In general

The directors appointed pursuant to paragraph (1)(B) shall serve on a full-time basis after December 31, 1993.

(ii) Rule of construction

Clause (i) shall not be construed as implying that any other position may be filled or held on a less than full-time basis.

(3) Initial terms

Notwithstanding paragraph (2), of the directors first appointed—

(A) one shall be appointed for a term of 1 year;

(B) one shall be appointed for a term of 3 years; and

(C) one shall be appointed for a term of 5 years.

(c) Chairperson; transitional provisions

(1) In general

The President shall designate 1 of the appointed directors to be the Chairperson of the Board. The Chairperson shall designate another director to serve as Acting Chairperson during the absence or disability of the Chairperson.

(2) Transitional provision

Beginning on August 9, 1989, until such time that at least 2 directors are appointed and con-

firmed pursuant to subsection (b) of this section, the Secretary shall act for all purposes and with the full powers of the Board of Directors. The Secretary may utilize the services of employees from the Department of Housing and Urban Development to perform services for the Board of Directors during such transition period.

(d) Vacancies

(1) In general

Any vacancy on the Board of Directors shall be filled in the manner in which the original appointment was made. Any director appointed to fill a vacancy occurring before the expiration of the term for which such director's predecessor was appointed shall be appointed only for the remainder of such term. Each director may continue to serve until a successor has been appointed and qualified.

(2) The Secretary

In the event of a vacancy in the office of Secretary or during the absence or disability of the Secretary, the Acting Secretary shall act as a director in place of the Secretary.

(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.)

AMENDMENTS

1992—Subsec. (a)(3). Pub. L. 102–550, § 1391, amended par. (3) generally. Prior to amendment, par. (3) read as follows: "The duties of the Board shall be—

"(A) to supervise the Federal Home Loan Banks,

"(B) to ensure that the Federal Home Loan Banks carry out their housing finance mission,

"(C) to ensure the Federal Home Loan Banks remain adequately capitalized and able to raise funds in the capital markets, and

"(D) to ensure the Federal Home Loan Banks operate in a safe and sound manner."

Subsec. (b)(2)(D). Pub. L. 102–550, § 1608, added subpar. (D).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 1608 of Pub. L. 102–550 effective as if included in the Federal Deposit Insurance Corporation Improvement Act of 1991, Pub. L. 102–242, as of Dec. 19, 1991, see section 1609(a) of Pub. L. 102–550, set out as a note under section 191 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1422, 1427 of this title.

§ 1422b. Powers and duties

(a) General powers

The Board shall have the following powers:

(1) To supervise the Federal Home Loan Banks and to promulgate and enforce such regulations and orders as are necessary from time to time to carry out the provisions of this chapter.

(2) To suspend or remove for cause a director, officer, employee, or agent of any Federal Home Loan Bank or joint office. The cause of such suspension or removal shall be communicated in writing to such director, officer, employee, or agent and to such Bank or joint office. Notwithstanding any other provision of this chapter, no officer, employee, or agent of a Bank or joint office shall be a Federal officer or employee under any definition of either term in title 5.

(3) To determine necessary expenditures of the Board under this chapter and the manner in which such expenditures shall be incurred, allowed, and paid.

(4) To use the United States mails in the same manner and under the same conditions as a department or agency of the United States.

(b) Staff

(1) Board staff

Subject to title IV of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Board may employ, direct, and fix the compensation and number of employees, attorneys, and agents of the Federal Housing Finance Board, except that in no event shall the Board delegate any function to any employee, administrative unit of any Bank, or joint office of the Federal Home Loan Bank System. The prohibition contained in the preceding sentence shall not apply to the delegation of ministerial functions including issuing consolidated obligations pursuant to section 1431(b) of this title. In directing and fixing such compensation, the Board shall consult with and maintain comparability with the compensation at the Federal bank regulatory agencies. Such compensation shall be paid without regard to the provisions of other laws applicable to officers or employees of the United States, except the Chairperson and other Directors shall be compensated as prescribed in sections 5314 and 5315 of title 5, respectively.

(2) Abolition of joint offices

The joint or collective offices of the Federal Home Loan Bank System, except for the Office of Finance, are hereby abolished.

(c) Receipts of Board

Receipts of the Board derived from assessments levied upon the Federal Home Loan Banks and from other sources (other than receipts from the sale of consolidated Federal Home Loan Bank bonds and debentures issued under section 1431 of this title) shall be deposited in the Treasury of the United States. Salaries of the directors and other employees of the Board and all other expenses thereof may be paid from such assessments or other sources and shall not be construed to be Government Funds or appropriated monies, or subject to apportionment for the purposes of chapter 15 of title 31, or any other authority.

(d) Annual report

The Board shall make an annual report to the Congress.

(July 22, 1932, ch. 522, § 2B, as added Pub. L. 101–73, title VII, § 702(a), Aug. 9, 1989, 103 Stat. 414.)

REFERENCES IN TEXT

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989, referred to in subsec. (b)(1), is Pub. L. 101–73, Aug. 9, 1989, 103 Stat. 183. Title IV of the

Act is set out as a note under section 1437 of this title. For complete classification of this Act to the Code, see Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 5373.

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

As soon as practicable the Board 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 Board, 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 Board shall establish, in each district, a Federal Home Loan Bank at such city as may be designated by the Board. Its title shall include the name of the city at which it is established.

(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.)

AMENDMENTS

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.

CROSS REFERENCES

Financial control of Federal Home Loan Banks, see section 9101 et seq. of Title 31, Money and Finance.

§ 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, 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; and

(C) makes such home mortgage loans as, in the judgment of the Board, are long-term loans (except that in the case of a savings bank, this subparagraph applies only if, in the judgment of the Board, 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 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.

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 Board for the 10 percent asset requirement (described in the preceding sentence) within one year after the commencement of its operations.

(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 Board.

(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 Board 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.)

REFERENCES IN TEXT

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, 371a, 371b, 371b–1, 374, 374a, 463 to 466, 505, and 506 of this title.

AMENDMENTS

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1426, 1431 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 payable on deposits, shares or withdrawable accounts by members, insured institutions and other nonmember financial institutions.

§ 1426. Capital stock

(a) Par value of shares

The capital stock of each Federal Home Loan Bank shall be divided into shares of a par value of $100 each. The minimum capital stock shall be issued at par. Stock issued thereafter shall be issued at such price not less than par as may be fixed by the Board.

(b) Minimum subscriptions; retirement of oversubscriptions; limitations; cancellation of oversubscriptions; aggregate unpaid loan principal; reports and information

(1) The original stock subscription of each institution eligible to become a member under section 1424 of this title shall be an amount equal to 1 per centum of the subscriber's aggregate unpaid loan principal, but not less than $500. The bank shall annually, as of the close of the calendar year, adjust, at such time and in such manner and upon such terms and conditions as the Board may by regulations or otherwise prescribe, the amount of stock held by each member so that such member shall have invested in the stock of the Federal Home Loan Bank at least an amount calculated in the manner provided in the next preceding sentence (but not less than $500). If the bank finds that the investment of any member in stock is greater than that required under this subsection it may, unless prohibited by said Board or by the provisions of paragraph (2) of this subsection, in its discretion and upon application of such member retire the stock of such member in excess of the amount so required. Said Board, in its discretion, may, by regulations or otherwise, provide for adjustments in amounts of stock to be issued or retired in order that stock may be issued or retired only in entire shares.

(2) Notwithstanding any other provision of this subsection, no action shall be taken by any bank with respect to any member pursuant to any of the foregoing provisions of this subsection if the effect of such action would be to cause the aggregate outstanding advances, within the meaning of the last sentence of subsection (c) of section 1430 of this title or within the meaning of regulations of the Board defining such term for the purposes of this sentence, made by such bank to such member to exceed twenty times the amounts paid in by such member for outstanding capital stock held by such member.

(3) Except as provided in subsection (i)[1] of this section, upon retirement of stock of any member the bank shall pay such member for the stock retired an amount equal to the par value of such stock, or, at the election of the bank, the whole or any part of the payment which would otherwise be so made shall be credited upon the indebtedness of the member to the bank. In either such event, stock equal in par value to the amount of the payment or credit, or both, as the case may be, shall be canceled.

(4) For the purposes of this subsection, the term ''aggregate unpaid loan principal'' means the aggregate unpaid principal of a subscriber's or member's home mortgage loans, home-purchase contracts, and similar obligations.

(5) The Board, by regulations or otherwise, may require each member to submit such reports and information as said Board, in its discretion, may determine to be necessary or appropriate for the purposes of this subsection.

(c) Payments for stock

Stock subscriptions other than by the United States shall be paid for in cash, and shall be paid

[1] So in original. Probably should be subsection ''(e)''.

for at the time of application therefor, or, at the election of the subscriber, in installments, but not less than one-fourth of the total amount payable shall be paid at the time of filing application, and a further sum of not less than one-fourth of such total shall have been paid at the end of each succeeding period of four months.

(d) Transfer or hypothecation of stock

Stock subscribed for otherwise than by the United States, and the right to the proceeds thereof, shall not be transferred or hypothecated except as hereinafter provided and the certificates therefor shall so state.

(e) Withdrawal or removal of members; surrender and cancellation of stock; prepayment penalties

Any member other than a Federal savings and loan association may withdraw from membership in a Federal Home Loan Bank six months after filing with the Board written notice of intention so to do, and the Board may, after hearing, remove any member from membership, if, in the opinion of the Board, such member (i) has failed to comply with any provision of this chapter or regulation of the Board made pursuant thereto; (ii) is insolvent: *Provided*, That any member of a bank which is a building and loan association, savings and loan association, cooperative bank, or homestead association shall be deemed insolvent if the assets of such member are less than its obligations to its creditors and others, including the holders of its withdrawable accounts; or (iii) has a management or home-financing policy of a character inconsistent with sound and economical home financing or with the purposes of this chapter. 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. Upon the liquidation of such indebtedness such member shall be entitled to the return of its collateral, and, upon surrender and cancellation of such capital stock, the member shall receive a sum equal to its cash paid subscriptions for the capital stock surrendered, except that if at any time the Board finds that the paid-in capital of a Federal Home Loan Bank is or is likely to be impaired as a result of losses in or depreciation of the assets held, the Federal Home Loan Bank shall on the order of the Board withhold from the amount to be paid in retirement of the stock a pro rata share of the amount of such impairment as determined by the Board.

(f) Disposal of stock

A Federal Home Loan Bank may, with the approval of the Board, permit the disposal of stock to another member, or to an institution eligible to become a member, but only to enable such an institution to become a member.

(g) Dividends

All stock of any Federal Home Loan Bank shall share in dividend distributions without preference.

(h) Acquisition of membership after expiration of period of withdrawal

Notwithstanding any other provision of this chapter, an institution which withdraws from membership may acquire membership in any Federal Home Loan Bank only after the expiration of a period of 10 years thereafter, except where such withdrawal is a consequence of a transfer of membership on a non-interrupted basis between banks or in connection with obtaining a charter as a Federal savings association (as defined in section 1813 of this title).

(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.)

AMENDMENTS

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 nonmember 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 require 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 per centum 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

Section 7 of Pub. L. 87–210 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].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1430 of this title.

§ 1427. Directors

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

The management of each Federal home loan bank shall be vested in a board of fourteen directors, eight of whom shall be elected by the members as hereinafter provided in this section and six of whom shall be appointed by the Board referred to in section 1422a of this title, all of whom shall be citizens of the United States and bona fide residents of the district in which such bank is located: *Provided*, That in any district which includes five or more States the Board may by regulation increase the elective directors to a number not exceeding thirteen and may increase the appointive directors to a number not exceeding three-fourths the number of elective directors: *Provided further*, That if at any time the number of elective directors in the case of any district is not at least equal to the number of States in such district the Board shall exercise the authority conferred by the next preceding proviso so as to increase such elective directors to a number at least equal to the number of States in such district. At least 2 of the Federal Home Loan Bank directors who are appointed by the Board shall be representatives chosen from organizations with more than a 2-year history of representing consumer or community interests on banking services, credit needs, housing, or financial consumer protections. No Federal Home Loan Bank director who is appointed pursuant to this subsection may, during such Bank director's term of office, serve as an officer of any Federal Home Loan Bank or a director or officer of any member of a Bank, or hold shares, or any other financial interest in, any member of a Bank.

(b) Elective directorships; qualifications; nominations and election

Each elective directorship shall be designated by the Board 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 re-

quired 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 Board, 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.

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

The number of elective directorships designated as representing the members located in each separate State in a bank district shall be determined by the Board in the approximate ratio of the percentage of the required stock, as determined pursuant to regulation of the Board, 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, if at any time the number of elective 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 Board shall add to the board of directors of the bank of the district in which such State is located such number of elective directorships, and shall so designate the directorship or directorships thus added, that the number of elective directorships designated as representing the members located in such State will equal said total number. Any elective directorship so added shall exist only until the expiration of its first term. The Board 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 Board 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 elective directorship shall be two years and the term of each appointive directorship shall be four years. 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 an elective director of a Federal home loan bank in any elective directorship or elective directorships and has served for all or part of each of said terms, such person shall not be eligible for election to an elective 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 Board 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 Board in its 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 Board, 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 Board, 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.

(f) Vacancies

(1) In general

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

(2) Appointed Bank directors

In the event of a vacancy in any appointive Bank directorship, such vacancy shall be filled through appointment by the Board for the un-

expired 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.

(3) Elected Bank directors

In the event of a vacancy in any elective 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 elective 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) Chairman and vice chairman

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.

(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 Board shall appoint a director or directors to fill the place or places for which such nominations are required, and the Board 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 elective directors, in accordance with the provisions of this section.

(i) Compensation and expenses of director

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.

(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.

(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.)

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.

AMENDMENTS

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 immediately 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

Section 2 of Pub. L. 87–211 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

Section 3 of act May 28, 1935, 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 Board 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 Board, 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 Board 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 Board 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 Board 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.)

AMENDMENTS

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 with the approval of the Board. Such Federal Home Loan Bank may at its discretion deny any such application, or, subject to the approval of the Board, 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.)

AMENDMENTS

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

(a) Authorization to make secured 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. 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:

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

(2) 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).

(3) Deposits of a Federal Home Loan Bank.

(4) 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. The aggregate amount of outstanding advances secured by such other real estate related collateral shall not exceed 30 percent of such member's capital.

(5) Paragraphs (1) through (4) 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 and the Board 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 Board.

(b) Appraisals and other investigations; acceptance of home mortgages as collateral security only by formal Board resolution

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 Board has specifically approved by formal resolution such acceptance.

(c) Notes of borrowing members; interest rate; limitations on loans; 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 Board 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. 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[1] exceed twenty times the value of the security required to be deposited under subsection (e) of section 1426[2] of this title.

(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 and the approval of the Board. 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. Subject to the approval of the Board, 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 there-

[1] So in original. The text following ''it'' probably should not appear. See 1989 Amendment note below.

[2] See References in Text note below.

in, together with an appropriate assignment of security therefor.

(e) Qualified thrift lender status

(1) In general

A member that is not a qualified thrift lender may only receive an advance if it holds stock in its Federal Home Loan Bank at the time it receives that advance in an amount equal to at least—

(A) 5 percent of that member's total advances, divided by

(B) such member's actual thrift investment percentage.

Such members that are not qualified thrift lenders may only apply for advances under this section for the purpose of obtaining funds for housing finance.

(2) Priority

The Board, by regulation, shall establish a priority for advances to members that are qualified thrift lenders. The aggregate amount of the advances by the Federal Home Loan Bank System to members that are not qualified thrift lenders shall not exceed 30 percent of the total advances of the Federal Home Loan Bank System.

(3) Minimum stock purchase requirement for membership

Each member of a Federal Home Loan Bank shall, at a minimum, purchase and maintain stock in its Federal Home Loan Bank in the amount that would be required under section 1426(b) of this title if at least 30 percent of such member's assets were home mortgage loans.

(4) Exceptions

Paragraphs (1) and (2) of this subsection do not apply to—

(A) a savings bank as defined in section 1813 of this title; or

(B) a Federal savings association in existence as a Federal savings association on August 9, 1989—

(i) that was chartered as a savings bank or cooperative bank prior to October 15, 1982; or

(ii) that acquired its principal assets from an institution which was chartered prior to October 15, 1982, as a savings bank or cooperative bank under State law.

(5) Definitions

As used in this subsection—

(A) Savings association

The term ''savings association'' has the same meaning as in section 1467a(a)(1)(A) of this title.

(B) Qualified thrift lender

The term ''qualified thrift lender'' has the same meaning as in section 1467a(m) of this title.

(C) Actual thrift investment percentage

The term ''actual thrift investment percentage'' has the same meaning as in section 1467a(m) of this title.

(e)[3] 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) Community support requirements

(1) In general

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

(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) of this section, 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) of this section and provide technical assist-

[3] So in original. Probably should be ''(f)''.

ance 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 Board, each Bank shall establish an Affordable 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's 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; or

(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.

(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.

(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 Federal Housing Finance Board for a temporary suspension of such payments.

(B) Financial instability

In determining the financial instability of a Bank, the Federal Housing Finance Board 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 Board shall review the application and any supporting financial data and issue a written decision approving or disapproving such application. The Board's decision shall be accompanied by specific findings and reasons for its action.

(D) Monitoring suspension

If the Board 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 Board 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 Federal Housing Finance Board 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 Board. 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 Affordable Housing Reserve Fund. Under regulations established by the Board, 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 Federal Housing Finance Board 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) of this section 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 Board 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 Board 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 Board under paragraph (11) shall be included as part of the report required by this paragraph.

(C) 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.

(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 in-

come equals 50 percent of the income for the area (as determined by the Secretary of Housing and Urban Development) with adjustment for family size.

(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.)

References in Text

Subsection (e) of section 1426 of this title, referred to in subsec. (c), was repealed and subsec. (i) of section 1426 redesignated (e) by Pub. L. 101–73, title VII, § 706(1), Aug. 9, 1989, 103 Stat. 416.

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.

Amendments

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, § 719(b)(5), probably should have struck out all of the text 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.

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.

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.''

CROSS REFERENCES

National Housing Act, applicability to, see section 1733 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1426, 1430b, 1431, 1733, 2705 of this title; title 42 section 1591a.

§ 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 advances 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 Board, 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.)

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

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''.

CROSS REFERENCES

National Housing Act, applicability to, see section 1733 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1733, 2705 of this title.

§ 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 Board, 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 Board 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 Board 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 the Board 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 Board 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 Board 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 under this section, the Board 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 the Board may prescribe.

(d) Additional or substituted collateral on adjustment of equities

The Board 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 Board 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 Board may, subject to such rules and regulations, including definitions of terms used in this paragraph, as the Board 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 Board 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 Board 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 Board 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 Board 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 Board is authorized and empowered to permit,,[1] to require,[1] Federal Home Loan Banks, upon such terms and conditions as the Board 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

[1] So in original. See 1989 Amendment note below.

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 Board 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 Board 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) of this section) 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 Board, 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 Board 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 General Accounting 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 SAIF

(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 Savings Association 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 Savings Association 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.

(July 22, 1932, ch. 522, § 11, 47 Stat. 733; June 27, 1934, ch. 847, § 503, 48 Stat. 1261; June 27, 1950, ch.

[2] See References in Text note below.

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.)

AMENDMENT OF SUBSECTION (k)

Pub. L. 104–208, div. A, title II, §2704(c), (d)(11)(A), Sept. 30, 1996, 110 Stat. 3009–487, 3009–489, provided that, effective Jan. 1, 1999, if no insured depository institution is a savings association on that date, subsection (k) of this section is amended as follows:

(1) in the subsection heading, by striking ''SAIF'' and inserting ''the Deposit Insurance Fund''; and

(2) by striking ''Savings Association Insurance Fund'' each place such term appears and inserting ''Deposit Insurance Fund''.

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

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

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 section 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 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, 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1422b, 1430, 1438, 2705 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 Board may prescribe, make and file with the Board at the earliest practicable date after the establishment of such bank, an organization certificate which shall contain such information as the Board may require. Upon the making and filing of such organization certificate with the Board, 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 designated by the Board 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, 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; 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, subject to the approval of the Board; 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 its Board[1] 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[2] subject to the approval of the Board. The president of a Federal Home Loan Bank may also be a member of the Board[1] of directors thereof, but no other officer, employee, attorney, or agent of such bank, who receives compensation, may be a member of the Board[1] 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 Board, one or more Federal home loans[3] 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.)

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

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.

CROSS REFERENCES

Punishment for use of words ''Federal Home Loan Bank'', see section 709 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1427 of this title.

§ 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, munici-

[1] So in original. Probably should not be capitalized.

[2] So in original. Probably should be ''employed''.

[3] So in original.

pality, or local taxing authority; except that in[1] 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.

(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.

CROSS REFERENCES

United States obligations and evidences of ownership as subject to Federal taxation, see section 3124(b) of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1441, 1441b of this title.

§ 1434. Depositaries of public money; financial agents

When designated for that purpose by the Secretary of the Treasury, each Federal Home Loan Bank shall be a depositary 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 depositary 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 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.)

AMENDMENTS

1989—Pub. L. 101–73 substituted ''Board'' for ''board''.

[1] So in original. Word ''in'' probably should not appear.

§ 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 Board shall require from time to time. 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''. The reserves of each Federal Home Loan Bank shall be invested, subject to such regulations, restrictions, and limitations as may be prescribed by the Board, 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) of this section or any other provision of this chapter, if the Board determines that severe financial conditions exist threatening the stability of member institutions, the Board may suspend temporarily the requirements of subsection (a) of this section 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 Board 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) of this section) to zero,

the Board 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) of this section.

(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 Board 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.)

AMENDMENTS

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

Section 724(b) of Pub. L. 101–73 provided that: ''The amendment made by subsection (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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1430, 1438, 1441, 1441b 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 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, 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 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 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 Director of the Office of Thrift Supervision and, with respect to regulations and orders relating to the scope of deposit insurance coverage, pursuant to subsection (c).

''(b) 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 referred to in subsection (a) of this section 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.

''(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 entitled 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 Finance Board, the Office of Thrift Supervision, 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 Director of the Office of Thrift Supervision, the Chairperson of the Federal Deposit Insurance Corporation, or the Chairperson of the Federal Housing Finance Board pursuant to paragraph (3); or

''(B) determined by the Director of the Office of Thrift Supervision, the Chairperson of the Federal Deposit Insurance Corporation, or the Chairperson of the Federal Housing Finance Board, 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 Director of the Office of Thrift Supervision, the Chairperson of the Federal Deposit Insurance Corporation, and the Chairperson of the Federal Housing Finance Board 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 Director of the Office of Thrift Supervision, the Chairperson of the Federal Deposit Insurance Corporation, or the Chairperson of the Federal Housing Finance Board, 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 Insurance 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 de-

scribed 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 competitive 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 [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 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 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 [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) of the Federal Home Loan Bank Act [12 U.S.C. 1422(4)]).

''(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, provided that: ''Not later than 6 months after 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 appropriate new guidelines which—

''(1) prevent the dumping of assets over which it has direct or indirect control; and

''(2) the Board shall promulgate at the end of such period.''

[Section 411 of Pub. L. 100–86 ceases 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, 57 F.R. 10763], with such termination not to be construed to affect or limit any authority of Federal Home Loan Bank Board or 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, 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 depositaries 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 association as a depositary 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 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 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 Associa-

tion), 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 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 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. Administrative expenses

(a) Repealed. Pub. L. 101–73, title VII, § 712, Aug. 9, 1989, 103 Stat. 419

(b) Assessments for administrative expenses

(1) In general

The Board may impose a semiannual assessment on the Federal Home Loan Banks, the aggregate amount of which is sufficient to provide for the payment of the Board's estimated expenses for the period for which such assessment is made.

(2) Deficiencies

If, at any time, amounts available from any assessment for any semiannual period are insufficient to cover the expenses of the Board incurred in carrying out the provisions of this chapter during such period, the Board may make an immediate assessment against the Banks to cover the amount of the deficiency for such semiannual period.

(3) Surpluses

If, at the end of any semiannual period for which an assessment is made, any amount remains from such assessment, such amount will be deducted from the assessment on the Banks by the Board for the following semiannual period.

(4) Transition provision

On or after the effective date of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Board may levy a one-time special assessment on the Banks pursuant to this subsection for the Board's estimated expenses for the transitional period following enactment of such Act, if such assessment is made before the Board's first semiannual assessment under paragraph (1).

(c) Quarters and facilities; advances of funds; obligations of United States; legal investments; approval of plans and designs; custody, management, and control; receipts; expense exclusions; property defined; budget preparation program; audit; zoning regulations; delegation of functions; limitation on obligations

(1) The Director of the Office of Thrift Supervision, utilizing the services of the Administrator of General Services (hereinafter referred

to as the ''Administrator''), and subject to any limitation hereon which may hereafter be imposed in appropriation Acts, is hereby authorized—

(A) to acquire, in the name of the United States, real property in the District of Columbia, for the purposes set forth in this subsection;

(B) to construct, develop, furnish, and equip such buildings thereon and such facilities as in its judgment may be appropriate to provide, to such extent as the Director of the Office of Thrift Supervision may deem advisable, suitable and adequate quarters and facilities for the Director of the Office of Thrift Supervision and the agencies under its administration or supervision;

(C) to enlarge, remodel, or reconstruct any of the same; and

(D) to make or enter into contracts for any of the foregoing.

(2) The Director of the Office of Thrift Supervision may require of the respective banks, and they shall make to the Director of the Office of Thrift Supervision, such advances of funds for the purposes set out in paragraph (1) as in the sole judgment of the Director of the Office of Thrift Supervision may from time to time be advisable. Such advances shall be in addition to the assessments authorized in subsection (b) of this section and shall be apportioned by the Director of the Office of Thrift Supervision among the banks in proportion to the total assets of the respective banks, determined in such manner and as of such times as the Director of the Office of Thrift Supervision may prescribe. Each such advance shall bear interest at the rate of 4½ per centum per annum from the date of the advance and shall be repaid by the Director of the Office of Thrift Supervision in such installments and over such period, not longer than twenty-five years from the making of the advance, as the Director of the Office of Thrift Supervision may determine. Payments of interest and principal upon such advances shall be made from receipts of the Director of the Office of Thrift Supervision or from other sources which may from time to time be available to the Director of the Office of Thrift Supervision. The obligation of the Director of the Office of Thrift Supervision to make any such payment shall not be regarded as an obligation of the United States. To such extent as the Director of the Office of Thrift Supervision may prescribe any such obligation shall be regarded as a legal investment for the purposes of subsections (g) and (h) of section 1431 of this title and for the purposes of section 1436 of this title.

(3) The plans and designs for such buildings and facilities and for any such enlargement, remodeling, or reconstruction shall, to such extent as the chairperson of[1] the Director of the Office of Thrift Supervision may request, be subject to his approval.

(4) Upon the making of arrangements mutually agreeable to the Director of the Office of Thrift Supervision and the Administrator, which arrangements may be modified from time to time by mutual agreement between them and may include but shall not be limited to the making of payments by the Director of the Office of Thrift Supervision and such agencies to the Administrator and by the Administrator to the Director of the Office of Thrift Supervision, the custody, management, and control of such buildings and facilities and of such real property shall be vested in the Administrator in accordance therewith. Until the making of such arrangements such custody, management, and control, including the assignment and allotment and the reassignment and reallotment of building and other space, shall be vested in the Director of the Office of Thrift Supervision.

(5) Any proceeds (including advances) received by the Director of the Office of Thrift Supervision in connection with this subsection, and any proceeds from the sale or other disposition of real or other property acquired by the Director of the Office of Thrift Supervision under this subsection, shall be considered as receipts of the Director of the Office of Thrift Supervision, and obligations and expenditures of the Director of the Office of Thrift Supervision and such agencies in connection with this subsection shall not be considered as administrative expenses. As used in this subsection, the term ''property'' shall include interests in property.

(6) With respect to its functions under this subsection the Director of the Office of Thrift Supervision shall (A) annually prepare and submit a budget program as provided in chapter 91 of title 31 with regard to wholly owned Government corporations, and for purposes of this sentence, the terms ''wholly owned Government corporations'' and ''Government corporations,'' wherever used in such chapter, shall include the Director of the Office of Thrift Supervision, and (B) maintain an integral set of accounts which shall be audited by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions as provided in such title, and no other settlement or adjustment shall be required with respect to transactions under this subsection or with respect to claims, demands, or accounts by or against any person arising thereunder. The first budget program shall be for the first full fiscal year beginning on or after the date of the enactment of this subsection. Except as otherwise provided in this subsection or by the Director of the Office of Thrift Supervision, the provisions of this subsection and the functions thereby or thereunder subsisting shall be applicable and exercisable notwithstanding and without regard to the Act of June 20, 1938 [D.C. Code, § 5–413 et seq.], except that the proviso of section 16 thereof [D.C. Code, § 5–432] shall apply to any building constructed under this subsection, and section 129 of title 40, or any other provision of law relating to the construction, alteration, repair, or furnishing of public or other buildings or structures or the obtaining of sites therefor, but any person or body in whom any such function is vested may provide for delegation or redelegation of the exercise of such function.

(7) No obligation shall be incurred and no expenditure, except in liquidation of obligation, shall be made pursuant to the first two subparagraphs of paragraph (1) of this subsection if the

[1] So in original. Words ''the chairperson of'' probably should not appear.

total amount of all obligations incurred pursuant thereto would thereupon exceed $13,200,000, or such greater amount as may be provided in an appropriation Act or other law.

(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.)

REFERENCES IN TEXT

The effective date of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and enactment of such Act, referred to in subsec. (b)(4), probably mean the date of enactment of Pub. L. 101–73, which was approved Aug. 9, 1989.

Date of the enactment of this subsection and fiscal year in which this subsection is enacted, referred to in subsec. (c)(6), mean Nov. 3, 1966, the date of enactment of Pub. L. 89–754, and fiscal year 1967, respectively.

Act of June 20, 1938, referred to in subsec. (c)(6), is act June 20, 1938, ch. 534, 52 Stat. 797, as amended, which appears in sections 5–413 to 5–418 and 5–423 to 5–432 of Title 5, Building Restrictions and Regulations, of the District of Columbia Code.

CODIFICATION

In subsec. (c)(6), ''chapter 91 of title 31'' and ''such chapter'' substituted for ''title I of the Government Corporation Control Act [31 U.S.C. 846 et seq.]'' and ''such title'', 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

1995—Subsec. (c)(6)(B). Pub. L. 104–66 struck out ''annually'' after ''shall be audited'', substituted ''no other settlement'' for ''no other audit, settlement,'', and struck out '', and the first audit shall be for the remainder of the fiscal year in which this subsection is enacted'' after ''enactment of this subsection''.

1989—Subsec. (a). Pub. L. 101–73, § 712, struck out subsec. (a) which authorized appropriation of $300,000 for all necessary expenses of the board, together with expenses preliminary to organization and establishment of the banks created hereunder, until the end of the fiscal year 1933.

Subsec. (b). Pub. L. 101–73, § 711, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''The board shall have power to levy semiannually upon the Federal Home Loan Banks, and they shall pay, on such equitable basis as the board shall determine, an assessment sufficient in its judgment to provide for the payment of its estimated expenses for the half year succeeding the levying of each such assessment, beginning with the second half of the calendar year 1933. All expenses of the board incurred in carrying out the provisions of this chapter, as determined by it, beginning July 1, 1933, shall be paid from the proceeds of such assessments, and if any deficiency shall occur in such fund at any time between such semiannual assessments the board shall have power to make an immediate assessment against the banks to cover such deficiency on the same basis as the original assessment. If any surplus shall remain from any assessment after the expiration of the semiannual period for which it was levied, such surplus may be deducted from the next following assessment. Such assessments may include such amounts as the board may deem advisable for carrying out the provisions of subsection (c) of this section.''

Subsec. (c). Pub. L. 101–73, § 701(b)(3)(B), which directed the amendment of subsec. (c) by striking out ''Federal Home Loan Bank Board'' and ''board'' each place such terms appear and inserting ''Director of the Office of Thrift Supervision'', was executed by substituting ''Director of the Office of Thrift Supervision'' for ''board'' wherever such term appeared. The term ''Federal Home Loan Bank Board'' did not appear in subsec. (c).

Subsec. (c)(3). Pub. L. 101–73, § 701(b)(2), substituted ''chairperson'' for ''chairman''.

1966—Subsec. (b). Pub. L. 89–754, § 1016(b)(1), provided that assessments may include such amounts as the board may deem advisable for carrying out provisions of subsec. (c).

Subsec. (c). Pub. L. 89–754, § 1016(b)(2), added subsec. (c).

CROSS REFERENCES

Deposit of funds with Treasurer of the United States and a special deposit account and availability for expenditure, see section 1439a 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 1439[1] 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. 4981, 61 Stat. 954; Aug. 11, 1955, ch. 783, title I, § 109(a)(3), 69 Stat. 640.)

[1] See References in Text note below.

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 121 of this title.

§ 1440. Examinations and audits

The Board 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 Board shall prescribe and shall furnish periodically statements based upon the reports of the banks to the Board. For the purposes of this chapter, examiners appointed by the Board 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 Board and the Banks, to determine the extent to which the Board 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.)

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

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''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 section 246.

§ 1441. Financing Corporation

(a) Establishment

Notwithstanding any other provision of law, the Federal Housing Finance Board 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 Federal Housing Finance Board 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 Chairperson of the Federal Housing Finance Board 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 Federal Housing Finance Board, 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 Federal Housing Finance Board by multiplying the total administrative expenses for any period by the percentage arrived at by dividing—

(i) the aggregate amount the Federal Housing Finance Board required such bank to invest in the Financing Corporation (as of the time of such determination) under paragraphs (4) and (5) of subsection (d) of this section (as computed without regard to paragraph (3) or (6) of such subsection); by

(ii) the aggregate amount the Federal Housing Finance Board 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) of this section);

(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) of this section).

(8) Regulation by Federal Housing Finance Board

The Directorate shall be subject to such regulations, orders, and directions as the Federal Housing Finance Board 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 Federal Housing Finance Board 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) of this section.

(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 section 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 Federal Housing Finance Board 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 Federal Housing Finance Board and shall be transferable only among the Federal Home Loan Banks in the manner and to the extent prescribed by the Federal Housing Finance Board 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 Federal Housing Finance Board 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 Federal Housing Finance Board (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 Federal Housing Finance 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 Federal Housing Finance Board 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 Federal Housing Finance Board 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 Federal Housing Finance Board 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 Federal Housing Finance Board 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 Federal Housing Finance Board 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 Federal Housing Finance Board 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 Federal Housing Finance Board 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 Federal Housing Finance Board) 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) of this section 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 Federal Housing Finance 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.

(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 Federal Housing Finance 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 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 Board 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 7 of the

[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.

Federal Deposit Insurance Act [12 U.S.C. 1817]), 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 ⅕ 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 [12 U.S.C. 1817(b)(2)(A)] shall apply for purposes of this paragraph.

(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 11A of the Federal Deposit Insurance Act [12 U.S.C. 1821a]) from receiverships, the remaining amount of funds necessary for the Financing Corporation to make interest payments.

(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 Federal Housing Finance Board, 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) of this section, 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,[2] 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) Federal Housing Finance Board authority to conclude the affairs of Financing Corporation

Effective on the date of the dissolution of the Financing Corporation under paragraph (1), the Federal Housing Finance Board may exercise, on behalf of the Financing Corporation, any power of the Financing Corporation which the Federal Housing Finance Board determines to be necessary to settle and conclude the affairs of the Financing Corporation.

(j) Regulations

The Federal Housing Finance Board 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) of this section 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 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813][3]

(4) Deposit terms

(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 [12 U.S.C. 1811 et seq.] (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 [12 U.S.C. 1815(d)(3)]).

(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.

(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.)

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.

The Federal Deposit Insurance Act, referred to in subsec. (k)(4)(A), is act Sept. 21, 1950, ch. 967, § 2, 64 Stat. 873, as amended, 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.

Section 2710 of the Deposit Insurance Funds Act of 1996, referred to in subsec. (k)(4)(B), is section 2710 of div. A of Pub. L. 104–208, which is set out as a note under section 1821 of this title.

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

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.''

[2] See References in Text note below.

[3] So in original. Probably should be followed by a period.

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 preenactment 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 AND TERMINATION DATES OF 1996 AMENDMENT

Section 2703(c) of Pub. L. 104–208 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

Section 1618 of Pub. L. 102–550 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 [12 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

Section 318 of Pub. L. 102–233 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.

PROHIBITION ON DEPOSIT SHIFTING

Section 2703(d) of Pub. L. 104–208 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 institutions 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

Section 416 of Pub. L. 100–86 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.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1430, 1436, 1441b, 1821a of this title.

§ 1441a. Thrift Depositor Protection Oversight Board and Resolution Trust Corporation

(a) Thrift Depositor Protection Oversight Board established

(1) In general

There is hereby established the Thrift Depositor Protection Oversight Board as an instrumentality of the United States with the powers and authorities herein provided.

(2) Status

The Thrift Depositor Protection Oversight Board shall oversee and monitor the operations of the Resolution Trust Corporation (hereinafter referred to in this section as the ''Corporation'') and shall be accountable for the duties assigned to the Thrift Depositor Protection Oversight Board by this chapter. The Thrift Depositor Protection Oversight Board shall be an ''agency'' of the United States for purposes of subchapter II of chapter 5 and chapter 7 of title 5.

(3) Membership

(A) In general

The Thrift Depositor Protection Oversight Board shall consist of 7 members—

(i) the Secretary of the Treasury;

(ii) the Chairman of the Board of Governors of the Federal Reserve System;

(iii) the Director of the Office of Thrift Supervision;

(iv) the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation;

(v) the chief executive officer of the Corporation; and

(vi) two independent members appointed by the President, with the advice and consent of the Senate. Such nominations shall be referred to the Committee on Banking, Housing, and Urban Affairs of the Senate.

(B) Political affiliation

The independent members shall not be members of the same political party. No independent member of the Thrift Depositor Protection Oversight Board shall hold any other appointed office during his or her term as a member.

(C) Chairperson

The Chairperson of the Thrift Depositor Protection Oversight Board shall be the Secretary of the Treasury.

(D) Term of office

The term of each member (other than the independent members) of the Thrift Depositor Protection Oversight Board shall expire when such member has fulfilled all of his or her responsibilities under this section and section 1441b of this title. The term of each independent member shall be 3 years.

(E) Quorum required

A quorum shall consist of 4 members of the Thrift Depositor Protection Oversight Board and all decisions of the Board shall require an affirmative vote of at least a majority of the members voting.

(4) Compensation and expenses

(A) Expenses

Members of the Thrift Depositor Protection Oversight Board shall receive allowances in accordance with subchapter I of chapter 57 of title 5 for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Thrift Depositor Protection Oversight Board, as set forth in the bylaws issued by the Thrift Depositor Protection Oversight Board.

(B) No additional compensation for United States officers or employees

Members of the Thrift Depositor Protection Oversight Board (other than independent members) shall receive no additional pay by reason of service on such Board.

(C) Compensation for independent members

The independent members of the Thrift Depositor Protection Oversight Board shall be paid at a rate equal to the daily equivalent of the rate of basic pay for level II of the Executive Schedule for each day (including travel time) during which such member is engaged in the actual performance of duties of the Thrift Depositor Protection Oversight Board.

(5) Powers

The Thrift Depositor Protection Oversight Board shall be a body corporate that shall have the power to—

(A) adopt, alter, and use a corporate seal;

(B) provide for a principal or executive officer and such other officers and employees as may be necessary to perform the functions of the Thrift Depositor Protection Oversight Board, define their duties, and require surety bonds or make other provisions against losses occasioned by acts of such persons;

(C) fix the compensation and number of, and appoint, employees for any position established by the Thrift Depositor Protection Oversight Board;

(D) set and adjust rates of basic pay for employees of the Thrift Depositor Protection Oversight Board without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5;

(E) provide additional compensation and benefits to employees of the Thrift Depositor Protection Oversight Board if the same type of compensation or benefits are then being provided by any other Federal bank regulatory agency or, if not then being pro-

vided, could be provided by such an agency under applicable provisions of law, rule, or regulation; in setting and adjusting the total amount of compensation and benefits for employees of the Thrift Depositor Protection Oversight Board, the Thrift Depositor Protection Oversight Board shall consult with and seek to maintain comparability with the other Federal bank regulatory agencies, except that the Thrift Depositor Protection Oversight Board shall not in any event exceed the compensation and benefits provided by the Federal Deposit Insurance Corporation with respect to any comparable position;

(F) with the consent of any executive agency, department, or independent agency utilize the information, services, staff, and facilities of such department or agency, on a reimbursable (or other) basis, in carrying out this section;

(G) prescribe bylaws that are consistent with law to provide for the manner in which—

(i) its officers and employees are selected, and

(ii) its general operations are to be conducted;

(H) enter into contracts and modify or consent to the modification of any contract or agreement;

(I) indemnify, from funds made available to it by the Corporation, the members, officers, and employees of the Thrift Depositor Protection Oversight Board on such terms as the Thrift Depositor Protection Oversight Board deems proper against any liability under any civil suit pursuant to any statute or pursuant to common law with respect to any claim arising out of or resulting from any act or omission by such person within the scope of such person's employment in connection with any transaction entered into involving the disposition of assets (or any interests in any assets or any obligations backed by any assets) by the Corporation, and the indemnification authorized by this provision shall be in addition to and not in lieu of any immunities or other protections that may be available to such person under applicable law, and this provision does not affect any such immunities or other protections;

(J) sue and be sued in courts of competent jurisdiction; and

(K) exercise any and all powers established under this section and such incidental powers as are necessary to carry out its powers, duties, and functions under this chapter.

(6) Thrift Depositor Protection Oversight Board duties and authorities

The Thrift Depositor Protection Oversight Board shall have the following duties and authorities with respect to the Corporation:

(A) To review overall strategies, policies, and goals established by the Corporation for its activities, which shall include such items as the Thrift Depositor Protection Oversight Board deems likely to have a material effect upon the financial condition of the Corporation, the results of its operations, or its cash flows, and such items as the Thrift Depositor Protection Oversight Board deems to involve substantial issues of public policy. After consultation with the Corporation, the Thrift Depositor Protection Oversight Board may require the modification of any such overall strategies, policies, and goals and their implementation. Overall strategies, policies, and goals shall include such items as—

(i) overall strategies, policies, and goals for case resolutions, the management and disposition of assets, the use of private contractors;

(ii) the use of notes, guarantees, or other obligations by the Corporation;

(iii) financial goals, plans, and budgets; and

(iv) restructuring agreements described in subsection (b)(10)(B) of this section.

(B) To approve prior to implementation financial plans, budgets, and periodic financing requests developed by the Corporation.

(C) To review all rules, regulations, standards, principles, procedures, guidelines, and statements that may be adopted or announced by the Corporation. The provisions of this subparagraph shall not apply to internal administrative policies and procedures (including such matters as personnel practices, divisions and organization of staffing, delegations of authority, and practices respecting day-to-day administration of the Corporation's affairs) and determinations or actions described in paragraph (8)[1]

(D) To review the overall performance of the Corporation on a periodic basis, including its work, management activities, and internal controls, and the performance of the Corporation relative to approved budget plans.

(E) To require from the Corporation any reports, documents, and records it deems necessary to carry out its oversight responsibilities.

(F) To establish a national advisory board and regional advisory boards.

(G) To authorize the use of proceeds from any funds provided by the Treasury to the Corporation and from any financing by the Resolution Funding Corporation established pursuant to section 1441b of this title consistent with the approved budget and financial plans of the Corporation and to oversee the collection of funds by the Resolution Funding Corporation.

(H) To evaluate audits by the Inspector General and other congressionally required audits.

(I) To have general oversight over the Resolution Funding Corporation as provided under section 1441b of this title.

(J) To authorize, as appropriate, the Corporation's sale of capital certificates to the Resolution Funding Corporation.

(K) To establish the rate of basic pay, benefits, and other compensation for the chief executive officer of the Corporation.

[1] So in original. Probably should be followed by a period.

(7) Transition policies

Until such time as the Thrift Depositor Protection Oversight Board and the Corporation (consistent with paragraph (6) and subsection (b)(11) of this section) adopt strategies, policies, goals, regulations, rules, operating principles, procedures, or guidelines, the Corporation may carry out its duties in accordance with the strategies, policies, goals, regulations, rules, operating principles, procedures, or guidelines of the Federal Deposit Insurance Corporation, notwithstanding the provisions of section 553 of title 5.

(8) Limitation on authority

The Corporation shall have the authority, without any prior review, approval, or disapproval by the Thrift Depositor Protection Oversight Board, to make such determinations and take such actions as it deems appropriate with respect to case-specific matters involving (i) individual case resolutions, (ii) asset liquidations, or (iii) day-to-day operations of the Corporation. The preceding sentence in no way limits the authority of the Thrift Depositor Protection Oversight Board to review overall strategies, policies, and goals established by the Corporation.

(9) Delegation

Except with respect to the meetings required by paragraph (10), nothing in this section shall preclude a member of the Thrift Depositor Protection Oversight Board who is a public official from delegating his or her authority to an employee or officer of such member's agency or organization, if such employee or officer has been appointed by the President with the advice and consent of the Senate. For purposes of the preceding sentence, the Chairman of the Board of Governors of the Federal Reserve System may delegate his or her authority to another member of the Board of Governors.

(10) Open meetings

Not less than 6 times each year, the Thrift Depositor Protection Oversight Board shall conduct open meetings to review overall strategies, policies, and goals established by the Corporation and to consider such other matters as pertain to its functions under this chapter. The Thrift Depositor Protection Oversight Board shall maintain a transcript of the board's open meetings.

(11) Power to remove; jurisdiction

Notwithstanding any other provision of law, any civil action, suit, or proceeding to which the Thrift Depositor Protection Oversight Board 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. The Thrift Depositor Protection Oversight Board may, without bond or security, remove any such action, suit, or proceeding from a State court to a United States district court or to the United States District Court for the District of Columbia.

(12) Administrative expenses

The administrative expenses of the Thrift Depositor Protection Oversight Board shall be paid by the Corporation, upon request of the Thrift Depositor Protection Oversight Board.

(13) Standards, policies, procedures, guidelines, and statements

The Thrift Depositor Protection Oversight Board may issue rules, regulations, standards, policies, procedures, guidelines, and statements as the Thrift Depositor Protection Oversight Board considers necessary or appropriate to carry out its authorities and duties under this chapter which shall be promulgated pursuant to subchapter II of chapter 5 of title 5.

(14) Strategic plan for Corporation operations

(A) In general

The chief executive officer of the Corporation is authorized to implement the strategic plan for conducting the Corporation's functions and activities submitted by the former Oversight Board to the Congress, dated December 31, 1989.

(B) Provisions of plan

The strategic plan and implementing policies and procedures required under this paragraph shall at a minimum contain the following:

(i) Factors the Corporation shall consider in deciding the order in which failed institutions or categories of failed institutions will be resolved.

(ii) Standards the Corporation shall use to select the appropriate resolution action for a failed institution.

(iii) With respect to assisted acquisitions, factors the Corporation shall consider in deciding whether non-performing assets of the failed institution will be transferred to the acquiring institution rather than retained by the Corporation for management and disposal.

(iv) Plans for the disposition of assets.

(v) Management objectives by which the Corporation's progress in carrying out its duties under this section can be measured.

(vi) A plan for the organizational structure and staffing of the Corporation, including an assessment of the extent to which the Corporation will perform asset management functions and other duties through contracts with public and private entities.

(vii) Consideration of whether incentives should be included in asset management contracts to promote active and efficient asset management.

(viii) Standards for adequate competition and fair and consistent treatment of offerors.

(ix) Standards that prohibit discrimination on the basis of race, sex, or ethnic group in the solicitation and consideration of offers.

(x) Procedures for the active solicitation of offers from minorities and women.

(xi) Procedures requiring that unsuccessful offerors be notified in writing of the decision within 30 days after the offer has been rejected.

(xii) Procedures for establishing the market value of assets based upon stand-

ard market analysis, valuation, and appraisal practices.

(xiii) Procedures requiring the timely evaluation of purchase offers for an institution.

(xiv) Procedures for bulk sales and auction marketing of assets.

(xv) Guidelines for determining if the value of an asset has decreased so that no reasonable recovery is anticipated. In such cases, the Corporation may consider potential public uses of such asset including providing housing for lower income families (including the homeless), day care centers for the children of low- and moderate-income families, or such other public purpose designated by the Secretary of Housing and Urban Development.

(xvi) Guidelines for the conveyance of assets to units of general local government, States, and public agencies designated by a unit of general local government or a State, for use in connection with urban homesteading programs approved by the Secretary of Housing and Urban Development under section 1706e of this title.

(xvii) Policies and procedures for avoiding political favoritism and undue influence in contracts and decisions made by the Thrift Depositor Protection Oversight Board and the Corporation.

(15) Reports on any modification to any strategy, policy, or goal

If, pursuant to paragraph (6)(A), the Thrift Depositor Protection Oversight Board requires the Corporation to modify any overall strategy, policy, or goal, such board shall submit, before the end of the 30-day period beginning on the date on which the board first notifies the Corporation of such requirement, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives an explanation of the grounds which the board determined justified the review and the reasons why the modification is necessary to satisfy any such ground.

(16) Termination

The Thrift Depositor Protection Oversight Board shall terminate not later than 60 days after the Thrift Depositor Protection Oversight Board fulfills all of its responsibilities under this chapter.

(b) Resolution Trust Corporation established

(1) Establishment

(A) In general

There is hereby established a Corporation to be known as the Resolution Trust Corporation which shall be an instrumentality of the United States.

(B) Status

The Corporation shall be deemed to be an agency of the United States for purposes of subchapter II of chapter 5 and chapter 7 of title 5 when it is acting as a corporation. The Corporation, when it is acting as a conservator or receiver of an insured depository institution, shall be deemed to be an agency of the United States to the same extent as the Federal Deposit Insurance Corporation when it is acting as a conservator or receiver of an insured depository institution.

(C) Management by chief executive officer

The Corporation shall be managed by or under the direction of its chief executive officer.

(2) Government corporation

Notwithstanding the fact that no Government funds may be invested in the Corporation, the Corporation shall be treated, for purposes of sections 9105,[2] 9107, and 9108 of title 31, as a mixed-ownership Government corporation which has capital of the Government.

(3) Duties

The duties of the Corporation shall be to carry out a program, under the general oversight of the Thrift Depositor Protection Oversight Board, including:

(A) To manage and resolve all cases involving depository institutions—

(i) the accounts of which were insured by the Federal Savings and Loan Insurance Corporation before August 9, 1989; and

(ii) for which a conservator or receiver is appointed after December 31, 1988, and before such date as is determined by the Chairperson of the Thrift Depositor Protection Oversight Board, but not earlier than January 1, 1995, and not later than July 1, 1995 (including any institution described in paragraph (6)).

(B) To develop and establish overall strategies, policies, and goals for the Corporation, subject to review by the Thrift Depositor Protection Oversight Board pursuant to subsection (a)(6)(A) of this section.

(C) To conduct the operations of the Corporation in a manner which—

(i) maximizes the net present value return from the sale or other disposition of institutions described in subparagraph (A) or the assets of such institutions;

(ii) minimizes the impact of such transactions on local real estate and financial markets;

(iii) makes efficient use of funds obtained from the Funding Corporation or from the Treasury;

(iv) minimizes the amount of any loss realized in the resolution of cases; and

(v) maximizes the preservation of the availability and affordability of residential real property for low- and moderate-income individuals.

(D) To perform any other function authorized under this section.

(4) Conservatorship, receivership, and assistance powers

(A) In general

Except as provided in paragraph (5) and in addition to any other provision of this section, the Corporation shall have the same

[2] See References in Text note below.

powers and rights to carry out its duties with respect to institutions described in paragraph (3)(A) as the Federal Deposit Insurance Corporation has under sections 1821, 1822, and 1823 of this title with respect to insured depository institutions (as defined in section 1813 of this title).

(B) Manner of application of least-cost resolution

For purposes of applying section 1823(c)(4) of this title to the Corporation under subparagraph (A), the Corporation shall be treated as the affected deposit insurance fund.

(C) Appeals

The Corporation shall implement and maintain a program, in a manner acceptable to the Thrift Depositor Protection Oversight Board, to provide an appeals process for business and commercial borrowers to appeal decisions by the Corporation (when acting as a conservator) which would have the effect of terminating or otherwise adversely affecting credit or loan agreements, lines of credit, and similar arrangements with such borrowers who have not defaulted on their obligations.

(5) Limitation on paragraph (4) powers

The Corporation—

(A) may not obligate the Federal Deposit Insurance Corporation or any funds of the Federal Deposit Insurance Corporation; and

(B) in connection with providing assistance to an institution under this subsection, shall be subject to the limitations contained in section 1823(c)(4) of this title.

(6) Continuation of RTC receivership or conservatorship

(A) In general

If the Corporation is appointed as conservator or receiver for any insured depository institution described in paragraph (3)(A) before such date as is determined by the Chairperson of the Thrift Depositor Protection Oversight Board under paragraph (3)(A)(ii), and a conservator or receiver is appointed for such institution on or after such date, the Corporation may be appointed as conservator or receiver for such institution on or after such date as is determined by the Chairperson of the Thrift Depositor Protection Oversight Board under paragraph (3)(A)(ii).

(B) SAIF-insured banks

Notwithstanding any other provision of Federal or State law, if the Federal Deposit Insurance Corporation is appointed as conservator or receiver for any Savings Association Insurance Fund member that has converted to a bank charter and otherwise meets the criteria in paragraph (3)(A) or (6)(A), the Federal Deposit Insurance Corporation may tender such appointment to the Corporation, and the Corporation shall accept such appointment, if the Corporation is authorized to accept such appointment under this section.

(7) Obligations and guarantees

The Corporation's authority to issue obligations and guarantees shall be subject to general supervision by the Thrift Depositor Protection Oversight Board under subsection (a) of this section and shall be consistent with subsection (j) of this section.

(8) Staff

(A) In general

Except for the chief executive officer of the Corporation, the Corporation itself shall have no employees.

(B) Utilization of personnel of other agencies

(i) FDIC

The Corporation shall use employees (selected by the Corporation) of the Federal Deposit Insurance Corporation and the Federal Deposit Insurance Corporation shall provide such personnel to the Corporation for its use. Notwithstanding the foregoing, the Federal Deposit Insurance Corporation need not provide to the Corporation any employee of the Federal Deposit Insurance Corporation who was employed by the Federal Deposit Insurance Corporation on December 12, 1991, and who had not theretofore been provided to the Corporation by the Federal Deposit Insurance Corporation. In addition to persons otherwise employed by the Federal Deposit Insurance Corporation, the Federal Deposit Insurance Corporation shall employ, and shall provide to the Corporation, such persons as the Corporation may request from time to time. Federal Deposit Insurance Corporation employees provided to the Corporation shall be subject to the direction and control of the Corporation and any of them may be returned to the Federal Deposit Insurance Corporation at any time by the Corporation in the discretion of the Corporation. The Corporation shall reimburse the Federal Deposit Insurance Corporation for the actual costs incurred in providing such employees. Any permanent employee of the Federal Deposit Insurance Corporation who was performing services on behalf of the Corporation immediately prior to December 12, 1991, shall continue to be provided to the Corporation after December 12, 1991, unless the Corporation determines the services of any such employee to be unnecessary, in which case such employee shall be returned to a similar position performing services on behalf of the Federal Deposit Insurance Corporation. In any ensuing reduction-in-force or reorganization within the Federal Deposit Insurance Corporation, any such employee shall compete with the same rights as any other Federal Deposit Insurance Corporation employee. The Corporation may use administrative services of the Federal Deposit Insurance Corporation and, if it does so, shall reimburse the Federal Deposit Insurance Corporation for the actual costs of providing such services.

(ii) Other agencies

With the agreement of any executive department or agency, the Corporation may utilize the personnel of any such executive department or agency on a reimbursable basis to cover actual and reasonable expenses.

(C) Chief executive officer

There is established the office of chief executive officer of the Corporation. The chief executive officer of the Corporation shall be appointed by the President, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President.

(D) Powers of the chief executive officer

The chief executive officer may exercise all of the powers of the Corporation and act for and on behalf of the Corporation, and may delegate such authority, as deemed appropriate by the chief executive officer, including the power to subdelegate authority, to persons designated by the chief executive officer who are employees of the Federal Deposit Insurance Corporation utilized by the Corporation or who provide services for the Corporation.

(E) Deputy chief executive officer

(i) In general

There is hereby established the position of deputy chief executive officer of the Corporation.

(ii) Appointment

The deputy chief executive officer of the Corporation shall—

(I) be appointed by the Chairperson of the Thrift Depositor Protection Oversight Board, with the recommendation of the chief executive officer; and

(II) be an employee of the Federal Deposit Insurance Corporation in accordance with subparagraph (B)(i).

(iii) Duties

The deputy chief executive officer shall perform such duties as the chief executive officer may require.

(F) Acting chief executive officer

In the event of a vacancy in the position of chief executive officer or during the absence or disability of the chief executive officer, the deputy chief executive officer shall perform the duties of the position as the acting chief executive officer.

(G) General counsel

There is established the Office of General Counsel of the Corporation. The chief executive officer, with the concurrence of the Chairperson of the Thrift Depositor Protection Oversight Board, may appoint the general counsel, who shall be an employee of the Federal Deposit Insurance Corporation, in accordance with subparagraph (B)(i). The general counsel shall perform such duties as the chief executive officer may require.

(9) Corporate powers

The Corporation shall have the following powers:

(A) To adopt, alter, and use a corporate seal.

(B) To enter into contracts and modify, or consent to the modification of, any contract or agreement to which the Corporation is a party or in which the Corporation has an interest under this section.

(C) To make advance, progress, or other payments.

(D) To acquire, hold, lease, mortgage, maintain, or dispose of, at public or private sale, real and personal property, using any legally available private sector methods including without limitation, securitization of debt or equity, limited partnerships, mortgage investment conduits, and real estate investment trusts, and otherwise exercise all the usual incidents of ownership of property necessary and convenient to the operations of the Corporation.

(E) To sue and be sued in its corporate capacity in any court of competent jurisdiction.

(F) To deposit any securities or funds held by the Corporation in any facility or depositary described in section 1823(b) of this title under the terms and conditions applicable to the Federal Deposit Insurance Corporation under such section 1823(b) and pay fees thereof and receive interest thereon.

(G) To take warrants, voting and nonvoting equity, or other participation interests in institutions or assets or properties of institutions described in paragraph (3)(A) and paragraph (10)(A)(iv).

(H) To use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(I) To prescribe bylaws that shall be consistent with law.

(J) To make loans and, with respect to eligible residential properties, develop risk sharing structures and other credit enhancements to assist in the provision of property ownership, rental, and cooperative housing opportunities for lower- and moderate-income families.

(K) To prepare reports and provide such reports, documents, and records to the Thrift Depositor Protection Oversight Board as required by this section.

(L) To issue capital certificates to the Resolution Funding Corporation consistent with the provisions of section 1441b of this title in the following manner:

(i) Authorization to issue

The Corporation is hereby authorized to issue to the Resolution Funding Corporation nonvoting capital certificates.

(ii) Requirement relating to the amount of certificates

The amount of certificates issued by the Corporation under clause (i) shall be equal to the aggregate amount of funds provided by the Resolution Funding Corporation to the Corporation under section 1441b of this title.

(iii) Certificates may be issued only to the Resolution Funding Corporation

Capital certificates issued under clause (i) may be issued only to the Resolution Funding Corporation in the manner and to the extent provided in section 1441b of this title and this section.

(iv) No dividends

The Corporation shall not pay dividends on any capital certificates issued under this section.

(M) To exercise any other power established under this section and such incidental powers as are necessary to carry out its duties and functions under this section. The Corporation may indemnify the directors, officers and employees of the Corporation on such terms as the Corporation deems proper against any liability under any civil suit pursuant to any statute or pursuant to common law with respect to any claim arising out of or resulting from any act or omission by such person within the scope of such person's employment in connection with any transaction entered into involving the disposition of assets (or any interests in any assets or any obligations backed by any assets) by the Corporation. For purposes of this subparagraph, the terms ''officers'' and ''employees'' include officers and employees of the Federal Deposit Insurance Corporation or of other agencies who perform services for the Corporation. The indemnification authorized by this subparagraph shall be in addition to and not in lieu of any immunities or other protections that may be available to such person under applicable law, and this provision does not affect any such immunities or other protections.

(10) Special powers

(A) In general

In addition to the powers of the Corporation described in paragraph (9), the Corporation shall have the following powers:

(i) Contracts

The Corporation may enter into contracts with any person, corporation, or entity, including State housing finance authorities (as such term is defined in section 1301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [12 U.S.C. 1441a–1]) and insured depository institutions, which the Corporation determines to be necessary or appropriate to carry out its responsibilities under this section. Such contracts shall be subject to the procedures adopted pursuant to paragraph (11).

(ii) Utilization of private sector

In carrying out the Corporation's duties under this section, the Corporation and the Federal Deposit Insurance Corporation shall utilize the services of private persons, including real estate and loan portfolio asset management, property management, auction marketing, and brokerage services, if such services are available in the private sector and the Corporation determines utilization of such services are practicable and efficient.

(iii) Mergers and consolidations

The Corporation may require a merger or consolidation of an institution or institutions over which the Corporation has jurisdiction, if such merger or consolidation is consistent with section 1823(c)(4) of this title.

(iv) Organization of savings associations

The Corporation may organize 1 or more Federal savings associations—

(I) which shall be chartered by the Director of the Office of Thrift Supervision,

(II) the deposits of which, if any, shall be insured by the Federal Deposit Insurance Corporation through the Savings Association Insurance Fund, and

(III) which shall operate in accordance with subsection (e) of this section.

(v) Organization of bridge banks

The Corporation may organize 1 or more bridge banks pursuant to subsection (i) of section 1821 of this title with respect to any institution described in paragraph (3)(A) which becomes a bank. Such bridge bank shall be subject to subsection (e) of this section.

(B) Review of prior cases

The Corporation shall—

(i) review and analyze all insolvent institution cases resolved by the Federal Savings and Loan Insurance Corporation between January 1, 1988, and August 9, 1989, and actively review all means by which it can reduce costs under existing Federal Savings and Loan Insurance Corporation agreements relating to such cases, including restructuring such agreements;

(ii) evaluate the costs under existing Federal Savings and Loan Insurance Corporation agreements with regard to the following—

(I) capital loss coverage,

(II) yield maintenance guarantees,

(III) forbearances,

(IV) tax consequences, and

(V) any other relevant cost consideration;

(iii) review the bidding procedures used in resolving such cases in order to determine whether the bidding and negotiating processes were sufficiently competitive; and

(iv) report to the Thrift Depositor Protection Oversight Board and the Congress pursuant to subsection (k) of this section.

(C) Provisions applicable to review of prior cases

(i) In general

The Corporation shall exercise any and all legal rights to modify, renegotiate, or restructure such agreements where savings would be realized by such actions. The cost or income of any modification shall be a li-

ability or an asset of the Corporation or the FSLIC Resolution Fund as determined by the Thrift Depositor Protection Oversight Board. Nothing in this paragraph shall be construed as granting the Corporation any legal rights to modify, renegotiate, or restructure agreements between the Federal Savings and Loan Insurance Corporation and any other party, which did not exist prior to August 9, 1989.

(ii) Additional provisions

The Corporation, in modifying, renegotiating, or restructuring the insolvent institution cases resolved by the Federal Savings and Loan Insurance Corporation between January 1, 1988, and August 9, 1989, shall carry out its responsibilities under section 519(a) of the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1991 (104 Stat. 1386) and shall, consistent with achieving the greatest overall financial savings to the Federal Government, pursue all legal means by which the Corporation can reduce both the direct outlays and the tax benefits associated with such cases, including, but not limited to, restructuring to eliminate tax-free interest payments and renegotiating to capture a larger portion of the tax benefits for the Corporation.

(11) Regulations, policies, and procedures

(A) Strategies, policies, and goals

The Corporation shall adopt the rules, regulations, standards, procedures, guidelines, and statements necessary to implement the strategic plan submitted by the former Oversight Board to Congress dated December 31, 1989. The Corporation may establish overall strategies, policies, and goals for its activities and may issue such rules, regulations, standards, principles, procedures, guidelines, and statements as the Corporation considers necessary or appropriate to carry out its duties.

(B) Review, etc.

Such overall strategies, policies, and goals, and such rules, regulations, standards, principles, procedures, guidelines, and statements—

(i) shall be provided by the Corporation to the Thrift Depositor Protection Oversight Board promptly or prior to publication or announcement to the extent practicable;

(ii) shall be subject to the review of the Thrift Depositor Protection Oversight Board as provided in subsection (a)(6)(A) of this section (with respect to overall strategies, policies, and goals); and

(iii) shall be promulgated pursuant to subchapter II of chapter 5 of title 5.

(C) Preparation and maintenance of records relating to solicitation and acceptance of offers

The Corporation shall—

(i) document decisions made in the solicitation and selection process and the reasons for the decisions; and

(ii) maintain such documentation in the offices of the Corporation, as well as any other documentation relating to the solicitation and selection process.

(D) Distressed areas

(i) In general

In developing its implementing policies, the Corporation shall take the action described in clause (ii) to avoid adverse economic impact for those real estate markets that are distressed.

(ii) Valuation and disposition

The Corporation shall establish an appraisal or other valuation method for determining the market value of real property. With respect to a real property asset with a market value in excess of a certain dollar limit (such limit to be determined by the chief executive officer of the Corporation), consideration shall be given to the volume of assets above such limit and the potential impact of sales in such distressed areas. The Corporation shall not sell a real property asset located in a distressed area without obtaining at least the minimum disposition price, unless a determination has been made that such a transaction furthers the objectives set forth in paragraph (3)(C).

(iii) Exception

The provisions of this subparagraph shall not apply to any property as long as such property is subject to the requirements of subsection (c) of this section.

(E) Definitions

For the purposes of this subsection—

(i) The term ''minimum disposition price'' means 95 percent of the market value established by the Corporation. The chief executive officer, in the chief executive officer's discretion, may change the percentage set forth in this definition from time to time if the chief executive officer determines that such change does not adversely impact the objectives set forth in paragraph (3)(C).

(ii) The term ''sell a real property asset'' means to convey all title and interest in a piece of tangible real property in which the Corporation has a fee simple or equivalent interest. The term ''real property'' does not include loans secured by real property, joint ventures, participation interests, options, or other similar interests. In addition, the term ''sell'' does not include hypothecation of assets, issuance of asset backed securities, issuance of joint ventures, or participation interests, or other similar activities.

(iii) The term ''distressed area'' means the geographic areas in those political subdivisions designated from time to time by the chief executive officer as having depressed real estate markets. Until the chief executive officer designates otherwise, such distressed areas shall be the States of Arkansas, Colorado, Louisiana, New Mexico, Oklahoma, and Texas.

(iv) The term ''market value'' means the most probable price which a property should bring in a competitive and open market if—

(I) all conditions requisite to a fair sale are present,

(II) the buyer and seller are acting prudently and are knowledgeable, and

(III) the price is not affected by any undue stimulus.

(F) Real Estate Asset Division

The Corporation shall establish a Real Estate Asset Division to assist and advise the Corporation with respect to the management, sale, or other disposition of real property assets of institutions described in paragraph (3)(A). The Real Estate Asset Division shall have such duties as the Corporation establishes, including the publication of an inventory of real property assets of institutions subject to the jurisdiction of the Corporation. Such inventory shall be published before January 1, 1990 and updated semiannually thereafter and shall identify properties with natural, cultural, recreational, or scientific values of special significance.

(G) Advisory personnel

The Corporation shall maintain an executive-level position and dedicated staff to assist and advise the Corporation and other agencies in pursuing cases, civil claims, and administrative enforcement actions against institution-affiliated parties of insured depository institutions under the jurisdiction of the Corporation. These personnel shall have such duties as the Corporation establishes, including the duty to compile and publish a report to the Congress on the coordinated pursuit of claims by all Federal financial institution regulatory agencies, including the Department of Justice and the Securities and Exchange Commission. The report shall be published before December 31, 1990 and updated semiannually after such date.

(12) Periodic financing requests

The Corporation shall provide the Thrift Depositor Protection Oversight Board with periodic financing requests which shall detail—

(A) anticipated funding requirements for operations, case resolution, and asset liquidation,

(B) anticipated payments on previously issued notes, guarantees, other obligations, and related activities, and

(C) any proposed use of notes, guarantees or other obligations.

Such financing requests shall be submitted on a quarterly basis or such other period as the Thrift Depositor Protection Oversight Board determines necessary. Following approval by the Thrift Depositor Protection Oversight Board, such requests shall form the basis for expending funds provided by the Treasury, for transferring funds from the Resolution Funding Corporation to the Corporation and the issuance of capital certificates by the Corporation in exchange therefor.

(13) Goal for participation of small business concerns

The Corporation shall have an annual goal that presents the maximum practicable opportunity for small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and qualified HUBZone small business concerns (as defined in section 632(p) of title 15) to participate in the performance of contracts awarded by the Corporation.

(14) Extension of statute of limitations

(A) Tort actions for which the prior limitation has run

(i) In general

In the case of any tort claim—

(I) which is described in clause (ii); and

(II) for which the applicable statute of limitations under section 1821(d)(14)(A)(ii) of this title has expired before December 17, 1993;

the statute of limitations which shall apply to an action brought on such claim by the Corporation in the Corporation's capacity as conservator or receiver of an institution described in paragraph (3)(A) shall be the period determined under subparagraph (C).

(ii) Claims described

A tort claim referred to in clause (i)(I) with respect to an institution described in paragraph (3)(A) is a claim arising from fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the institution.

(B) Tort actions for which the prior limitation has not run

(i) In general

Notwithstanding section 1821(d)(14)(A) of this title, in the case of any tort claim—

(I) which is described in clause (ii); and

(II) for which the applicable statute of limitations under section 1821(d)(14)(A)(ii) of this title has not expired as of December 17, 1993;

the statute of limitations which shall apply to an action brought on such claim by the Corporation in the Corporation's capacity as conservator or receiver of an institution described in paragraph (3)(A) shall be the period determined under subparagraph (C).

(ii) Claims described

A tort claim referred to in clause (i)(I) with respect to an institution described in paragraph (3)(A) is a claim arising from gross negligence or conduct that demonstrates a greater disregard of a duty of care than gross negligence, including intentional tortious conduct relating to the institution.

(C) Determination of period

The period determined under this subparagraph for any claim to which subparagraph (A) or (B) applies shall be the longer of—

(i) the period beginning on the date the claim accrues (as determined pursuant to section 1821(d)(14)(B) of this title) and ending on December 31, 1995 or ending on the date of the termination of the Corporation pursuant to subsection (m)(1) of this section, whichever is later; or

(ii) the period applicable under State law for such claim.

(D) Scope of application

Subparagraphs (A) and (B) shall not apply to any action which is brought after the date of the termination of the Corporation under subsection (m)(1) of this section.

(E) Revival of expired State causes of action

In the case of any tort claim described in subparagraph (A)(ii) for which the statute of limitation applicable under State law with respect to such claim has expired not more than 5 years before the appointment of the Corporation as conservator or receiver, the Corporation may bring an action as conservator or receiver on such claim without regard to the expiration of the statute of limitation applicable under State law.

(15) Purchase rights of tenants

(A) Notice

Except as provided in subparagraph (C), the Corporation may make available for sale a 1- to 4-family residence (including a manufactured home) to which the Corporation acquires title only after the Corporation has provided the household residing in the property notice (in writing and mailed to the property) of the availability of such property and the preference afforded such household under subparagraph (B).

(B) Preference

In selling such a property, the Corporation shall give preference to any bona fide offer made by the household residing in the property, if—

(i) such offer is substantially similar in amount to other offers made within such period (or expected by the Corporation to be made within such period);

(ii) such offer is made during the period beginning upon the Corporation making such property available and of a reasonable duration, as determined by the Corporation based on the normal period for sale of such properties; and

(iii) the household making the offer complies with any other requirements applicable to purchasers of such property, including any downpayment and credit requirements.

(C) Exceptions

Subparagraphs (A) and (B) shall not apply to—

(i) any residence transferred in connection with the transfer of substantially all of the assets of an insured depository institution for which the Corporation has been appointed conservator or receiver;

(ii) any eligible single family property (as such term is defined in subsection (c)(9) of this section); or

(iii) any residence for which the household occupying the residence was the mortgagor under a mortgage on such residence and to which the Corporation acquired title pursuant to default on such mortgage.

(16) Preference for sales for homeless families

Subject to paragraph (15), in selling any real property (other than eligible residential property and eligible condominium property, as such terms are defined in subsection (c)(9) of this section) to which the Corporation acquires title, the Corporation shall give preference, among offers to purchase the property that will result in the same net present value proceeds, to any offer that would provide for the property to be used, during the remaining useful life of the property, to provide housing or shelter for homeless persons (as such term is defined in section 103 of the Stewart B. McKinney Homeless Assistance Act [42 U.S.C. 11302]) or homeless families.

(17) Preferences for sales of certain commercial real properties

(A) Authority

In selling any eligible commercial real properties of the Corporation, the Corporation shall give preference, among offers to purchase the property that will result in the same net present value proceeds, to any offer—

(i) that is made by a public agency or nonprofit organization; and

(ii) under which the purchaser agrees that the property shall be used, during the remaining useful life of the property, for offices and administrative purposes of the purchaser to carry out a program to acquire residential properties to provide (I) homeownership and rental housing opportunities for very-low-, low-, and moderate-income families, or (II) housing or shelter for homeless persons (as such term is defined in section 103 of the Stewart B. McKinney Homeless Assistance Act [42 U.S.C. 11302]) or homeless families.

(B) Definitions

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

(i) Eligible commercial real property

The term ''eligible commercial real property'' means any property (I) to which the Corporation acquires title, and (II) that the Corporation, in the discretion of the Corporation, determines is suitable for use for the location of offices or other administrative functions involved with carrying out a program referred to in subparagraph (A)(ii).

(ii) Nonprofit organization and public agency

The terms ''nonprofit organization'' and ''public agency'' have the same meanings as in subsection (c)(9) of this section.

(c) Disposition of eligible residential properties

(1) Purpose

The purpose of this subsection is to provide homeownership and rental housing opportuni-

ties for very low-income, lower-income, and moderate-income families.

(2) Rules governing disposition of eligible single family properties

(A) Notice to clearinghouses

Within a reasonable period of time after acquiring title to an eligible single family property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property, including but not limited to location, condition, and information relating to the estimated fair market value of the property. Each clearinghouse shall make such information available, upon request, to other public agencies, other nonprofit organizations, and qualifying households. The Corporation shall allow public agencies, nonprofit organizations, and qualifying households reasonable access to eligible single family property for purposes of inspection.

(B) Offers to sell single family properties to nonprofit organizations, public agencies, and qualifying households

Except as provided in the last sentence of this subparagraph[3] for the 3-month and one week period following the date on which the Corporation makes an eligible single family property available for sale, the Corporation shall offer to sell the property to (i) qualifying households (including qualifying households with members who are veterans), or (ii) public agencies or nonprofit organizations that agree to (I) make the property available for occupancy by and maintain it as affordable for lower-income families (including lower-income families with members who are veterans) for the remaining useful life of such property, or (II) make the property available for purchase by any such family who, except as provided in subparagraph (D), agrees to occupy the property as a principal residence for at least 12 months and who certifies in writing that the family intends to occupy the property for at least 12 months. The restrictions described in subclause (I) of the preceding sentence shall be contained in the deed or other recorded instrument. If upon the expiration of such 3-month and one week period, no qualifying household, public agency, or nonprofit organization has made a bona fide offer to purchase the property, the Corporation may offer to sell the property to any purchaser. The Corporation shall actively market eligible single family properties for sale to lower-income families and to lower-income families with members who are veterans. To the extent or in such amounts as are provided in appropriations Acts for additional costs and losses to the Corporation resulting from this sentence taking effect, for purposes of this subsection the period referred to in the first and third sentences shall be considered to be the 180-day period following the date on which the Corporation first makes an eligible single family property available for sale.

(C) Recapture of profits from resale

Except as provided in subparagraph (D), if any eligible single family property sold (i) to a qualifying household, or (ii) to a lower-income family pursuant to subparagraph (B)(ii)(II), paragraph (12)(C)(i), or paragraph (13)(B), is resold by the qualifying household or lower-income family during the 1-year period beginning upon initial acquisition by the household or lower-income family, the Corporation shall recapture 75 percent of the amount of any proceeds from the resale that exceed the sum of (I) the original sale price for the acquisition of the property by the qualifying household or lower-income family; (II) the costs of any improvements to the property made after the date of the acquisition, and (III) any closing costs in connection with the acquisition.

(D) Exceptions to recapture requirement

(i) Relocation

The Corporation (or its successor) may in its discretion waive the applicability (I) to any qualifying household of the requirement under subparagraph (C) and the requirements relating to residency of a qualifying household under paragraphs (9)(L)(ii) and (iii), and (II) to any lower-income family of the requirement under subparagraph (C) and the residency requirements under subparagraph (B)(ii)(II). The Corporation may grant any such a waiver only for good cause shown, including any necessary relocation of the qualifying household or lower-income family.

(ii) Other recapture provisions

The requirement under subparagraph (C) shall not apply to any eligible single family property for which, upon resale by the qualifying household or lower-income family during the 1-year period beginning upon initial acquisition by the household or family, a portion of the sale proceeds or any subsidy provided in connection with the acquisition of the property by the household or family is required to be recaptured or repaid under any other Federal, State, or local law (including section 143(m) of title 26) or regulation or under any sale agreement.

(E) Exception to avoid displacement of existing residents

Notwithstanding the first sentence of subparagraph (B), during the 180-day period following the date on which the Corporation makes an eligible single family property available for sale, the Corporation may sell the property to the household residing in the property, but only if (i) such household was residing in the property at the time notice regarding the property was provided to clearinghouses under subparagraph (A), (ii) such sale is necessary to avoid the displacement of, and unnecessary hardship to, the resident household, (iii) the resident household intends to occupy the property as a

[3] So in original. Probably should be followed by a comma.

principal residence for at least 12 months, and (iv) and the resident household certifies in writing that the household intends to occupy the property for at least 12 months.

(3) Rules governing disposition of eligible multifamily housing properties

Except as provided under paragraph (6)(D), the Corporation shall dispose of eligible multifamily housing property as follows:

(A) Notice to clearinghouses

Within a reasonable period of time after acquiring title to an eligible multifamily housing property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property, including but not limited to location, number of units (identified by number of bedrooms), and information relating to the estimated fair market value of the property. The clearinghouses shall make such information available, upon request, to qualifying multifamily purchasers. The Corporation shall allow qualifying multifamily purchasers reasonable access to an eligible multifamily housing property for purposes of inspection.

(B) Expression of serious interest

Qualifying multifamily purchasers may give written notice of serious interest in a property during a period ending 90 days after the time the Corporation provides notice under subparagraph (A). Such notice of serious interest shall be in such form and include such information as the Corporation may prescribe.

(C) Notice of readiness for sale

Upon the expiration of the period referred to in subparagraph (B) for a property, the Corporation shall provide written notice to any qualifying multifamily purchaser that has expressed serious interest in the property. Such notice shall specify the minimum terms and conditions for sale of the property.

(D) Offers to purchase

A qualifying multifamily purchaser receiving notice in accordance with subparagraph (C) shall have 45 days (from the date notice is received) to make a bona fide offer to purchase a property. The Corporation shall accept an offer that complies with the terms and conditions established by the Corporation. If, before the expiration of such 45-day period, any offer to purchase a property initially accepted by the Corporation is subsequently rejected or fails (for any reason), the Corporation shall accept another offer to purchase the property made during such period that complies with the terms and conditions established by the Corporation (if such another offer is made). The preceding sentence may not be construed to require a qualifying multifamily purchaser whose offer is accepted during the 45-day period to purchase the property before the expiration of the period.

(E) Lower-income occupancy requirements

(i) Single property purchases

With respect to any purchase of a single eligible multifamily housing property by a qualifying multifamily purchaser under subparagraph (D)—

(I) not less than 35 percent of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for lower-income and very low-income families during the remaining useful life of the property in which the units are located; and

(II) not less than 20 percent of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for very low-income families (including very low-income families taken into account for purposes of subclause (I)) during the remaining useful life of the property in which the units are located.

(ii) Aggregation requirements for multi-property purchases

With respect to any purchase under subparagraph (D) by a qualifying multifamily purchaser involving more than one eligible multifamily housing property as a part of the same negotiation—

(I) the provisions of clause (i) shall apply in the aggregate to the properties so purchased; except that

(II) to the extent or in such amounts as are provided in appropriations Acts for additional costs and losses to the Corporation resulting from this subclause taking effect, not less than (a) 40 percent of the aggregate number of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for lower-income and very low-income families during the remaining useful life of the property in which the units are located, (b) 20 percent of the aggregate number of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for very low-income families (including very low-income families taken into account for purposes of subdivision (a) of this subclause) during the remaining useful life of the property in which the units are located, and (c) not less than 10 percent of the dwelling units in each separate property purchased shall be made available for occupancy by and maintained as affordable for lower-income families during the remaining useful life of the property in which the units are located.

The requirements of this subparagraph shall be contained in the deed or other recorded instrument.

(F) Sale of multifamily properties to other purchasers

(i) If, upon the expiration of the period referred to in subparagraph (B), no qualifying multifamily purchaser has expressed serious interest in a property, the Corporation may

offer to sell the property, individually or in combination with other properties, to any purchaser.

(ii) The Corporation may not sell in combination with other properties any property which a qualifying multifamily purchaser has expressed serious interest in purchasing individually.

(iii) If, upon the expiration of the period referred to in subparagraph (D), no qualifying multifamily purchaser has made an offer to purchase the property, the Corporation may sell the property, individually or in combination with other properties, to any purchaser.

(G) Extension of restricted offer periods

Notwithstanding subparagraph (F), the Corporation may provide notice to clearinghouses regarding, and offer for sale under the provisions of subparagraphs (A) through (D), any eligible multifamily housing property—

(i) in which no qualifying multifamily purchaser has expressed serious interest during the period referred to in subparagraph (B), or

(ii) for which no qualifying multifamily purchaser has made a bona fide offer before the expiration of the period referred to in subparagraph (D),

except that the Corporation may, in the discretion of the Corporation, alter the duration of the periods referred to in subparagraphs (B) and (D) in offering any property for sale under this subparagraph.

(H) Exemptions

(i) Continued occupancy of current residents

No purchaser of an eligible multifamily housing property may terminate the occupancy of any person residing in the property on the date of purchase for purposes of meeting the lower-income occupancy requirement applicable to the property under subparagraph (E). The purchaser shall be in compliance with this paragraph if each newly vacant dwelling unit is reserved for lower-income occupancy until the lower-income occupancy requirement is met.

(ii) Financial infeasibility

The Secretary of Housing and Urban Development or the State housing finance agency for the State in which the property is located may temporarily reduce the lower-income occupancy requirements applicable to any property under subparagraph (E), if the Secretary or the applicable State housing finance agency determines that an owner's compliance with such requirements is no longer financially feasible. The owner of the property shall make a good-faith effort to return lower-income occupancy to the level required by subparagraph (E), and the Secretary of Housing and Urban Development or the State housing finance agency, as appropriate, shall review the reduction annually to determine whether financial infeasibility continues to exist.

(4) Rent limitations

(A) In general

With respect to properties under subparagraph (B), rents charged to tenants for units made available for occupancy by very-low income families shall not exceed 30 percent of the adjusted income of a family whose income equals 50 percent of the median income for the area, as determined by the Secretary, with adjustment for family size. Rents charged to tenants for units made available for occupancy by lower-income families other than very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.

(B) Applicability

The rent limitations under this paragraph shall apply to any eligible single-family property sold pursuant to paragraph (2)(B)(ii)(I) and to any multifamily housing property sold pursuant to paragraph (3).

(5) Preference for sales

When selling any eligible multifamily housing property or combinations of eligible residential properties, the Corporation shall give preference, among substantially similar offers, to the offer that would reserve the highest percentage of dwelling units for occupancy or purchase by very low-income families and lower-income families and would retain such affordability for the longest term.

(6) Financing of sale

(A) Assistance by Corporation

(i) Sale price

The Corporation shall establish a market value for each eligible multifamily housing property. The Corporation shall sell eligible multifamily housing property at the net realizable market value. The Corporation may agree to sell eligible multifamily housing property at a price below the net realizable market value to the extent necessary to facilitate an expedited sale of such property and enable a public agency or nonprofit organization to comply with the lower-income occupancy requirements applicable to such property under paragraph (3). The Corporation may sell eligible single family property or eligible condominium property to qualifying households, nonprofit organizations, and public agencies without regard to any minimum sale price.

(ii) Purchase loan

The Corporation may provide a loan at market interest rates to the purchaser of eligible residential property for all or a portion of the purchase price, which loan shall be secured by a first or second mortgage on the property. The Corporation may provide such a loan at below market interest rates to the extent necessary to

facilitate an expedited sale of eligible residential property and permit (I) a lower-income family to purchase an eligible single family property under paragraph (2); or (II) a public agency or nonprofit organization to comply with the lower-income occupancy requirements applicable to the purchase of an eligible residential property under paragraph (2) or (3). The Corporation shall provide such loan in a form which would permit its sale or transfer to a subsequent holder. In providing financing for combinations of eligible multifamily housing properties under this subsection, the Corporation may hold a participating share, including a subordinate participation. The Corporation shall periodically provide, to a wide range of minority- and women-owned businesses engaged in providing affordable housing and to nonprofit organizations, more than 50 percent of the control of which is held by 1 or more minority individuals, that are engaged in providing affordable housing, information that is sufficient to inform such businesses and organizations of the availability and terms of financing under this clause; such information may be provided directly, by notices published in periodicals and other publications that regularly provide information to such businesses or organizations, and through persons and organizations that regularly provide information or services to such businesses or organizations. For purposes of this clause, the terms ''women-owned business'' and ''minority-owned business'' have the meanings given such terms in subsection (r) of this section, and the term ''minority'' has the meaning given such term in section 1204(c)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(B) Assistance by HUD

The Secretary shall take such action as may be necessary to expedite the processing of applications for assistance under section 202 of the Housing Act of 1959 [12 U.S.C. 1701q], the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], title IV of the Stewart B. McKinney Homeless Assistance Act [42 U.S.C. 11361 et seq.], section 810[4] of the Housing and Community Development Act of 1974 [12 U.S.C. 1706e], and the National Housing Act [12 U.S.C. 1701 et seq.] to enable any organization or individual to purchase eligible residential property.

(C) Assistance by FmHA

The Secretary of Agriculture shall take such actions as may be necessary to expedite the processing of applications for assistance under title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.] to enable any organization or individual to purchase eligible residential property.

(D) Exception to disposition rules

Notwithstanding the requirements under subparagraphs (A), (B), (C), (D), (F), and (G) of paragraph (3), the Corporation may provide for the disposition of eligible multifamily housing properties as necessary to facilitate purchase of such properties for use in connection with the section 202 of the Housing Act of 1959 [12 U.S.C. 1701q].

(E) Urban homesteading acquisition

(i) In providing for bulk acquisition of eligible single family properties by the Secretary under section 810(*l*)[4] of the Housing and Community Development Act of 1974 [12 U.S.C. 1706e(*l*)] and by participating jurisdictions for inclusion in affordable housing activities assisted under title II of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12721 et seq.], the Corporation shall agree to an amount to be paid for acquisition of such properties. The acquisition price shall include discounts for bulk purchase and for holding of the property such that the acquisition price for each property shall not exceed 50 percent of the fair market value of the property, as valued individually.

(ii) To the extent necessary to facilitate sale of properties to the Secretary and participating jurisdictions, the requirements of paragraphs (2), (5), and (6)(A) of this subsection shall not apply to such transactions and property involved in such transactions.

(iii) To facilitate acquisitions by the Secretary and participating jurisdictions, the Corporation shall provide the Secretary and participating jurisdictions with an inventory of eligible single family properties, not less than 4 times each year.

(7) Contracting rules

Contracts entered into under this subsection shall not be subject to the requirements of subsection (b)(10)(A) of this section.

(8) Use of secondary market agencies

(A) In general

In the disposition of eligible residential properties, the Corporation shall, in consultation with the Secretary, explore opportunities to work with secondary market entities to provide housing for lower- and moderate-income families.

(B) Credit enhancement

(i) In general

With respect to such Corporation properties, the Secretary may, consistent with statutory authorities, work through the Federal Housing Administration, the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and other secondary market entities to develop risk sharing structures, mortgage insurance, and other credit enhancements to assist in the provision of property ownership, rental, and cooperative housing opportunities for lower- and moderate-income families.

(ii) Certain tax-exempt bonds

The Corporation may provide credit enhancements with respect to tax-exempt

[4] See References in Text note below.

bonds issued on behalf of nonprofit organizations pursuant to section 103, and subpart A of part IV of subchapter B of chapter 1, of title 26, with respect to the disposition of eligible residential properties for the purposes described in clause (i).

(C) Report

In the annual report submitted by the Secretary to the Congress, the Secretary shall include a detailed description of his activities under this paragraph, including recommendations for such additional authorization as he deems necessary to implement the provisions of this subsection.

(9) Definitions

For purposes of this subsection—

(A) Adjusted income and income

The terms ''adjusted income'' and ''income'' shall have the meaning given such terms in section 3(b) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)].

(B) Clearinghouses

The term ''clearinghouses'' means—

(i) the State housing finance agency for the State in which an eligible residential property is located,

(ii) the Office of Community Investment (or other comparable division) within the Federal Housing Finance Board, and

(iii) any national nonprofit organizations[5] (including any nonprofit entity established by the corporation established under title IX of the Housing and Community Development Act of 1968 [42 U.S.C. 3931 et seq.]) that the Corporation determines has the capacity to act as a clearinghouse for information.

(C) Corporation

The term ''Corporation'' means the Resolution Trust Corporation.

(D) Eligible condominium property

The term ''eligible condominium property'' means a condominium unit, as such term is defined in section 3603 of title 15—

(i) to which the Corporation acquires title in its corporate capacity, its capacity as conservator, or its capacity as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship or receivership, which subsidiary has as its principal business the ownership of real property); and

(ii) that has an appraised value that does not exceed—

(I) $67,500 in the case of a 1-family residence, $76,000 in the case of a 2-family residence, $92,000 in the case of a 3-family residence, and $107,000 in the case of a 4-family residence; or

(II) only to the extent or in such amounts as are provided in appropriation Acts for additional costs and losses to the Corporation resulting from this subclause taking effect, the amount provided in section 203(b)(2)(A) of the National Housing Act [12 U.S.C. 1709(b)(2)(A)], except that such amount shall not exceed $101,250 in the case of a 1-family residence, $114,000 in the case of a 2-family residence, $138,000 in the case of a 3-family residence, and $160,500 in the case of a 4-family residence.

(E) Eligible multifamily housing property

(i) Basic definition

The term ''eligible multifamily housing property'' means a property consisting of more than 4 dwelling units—

(I) to which the Corporation acquires title either in its corporate capacity or as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under receivership, which subsidiary has as its principal business the ownership of real property), but not in its capacity as an operating conservator; and

(II) that has an appraised value that does not exceed, for such part of the property as may be attributable to dwelling use (excluding exterior land improvements), $29,500 per family unit without a bedroom, $33,816 per family unit with 1 bedroom, $41,120 per family unit with 2 bedrooms, $53,195 per family unit with 3 bedrooms, and $58,392 per family unit with 4 or more bedrooms.

(ii) Expanded definition

Notwithstanding clause (i), to the extent or in such amounts as are provided in appropriations Acts for additional costs and losses to the Corporation resulting from this clause taking effect, the term ''eligible multifamily housing property'' shall mean a property consisting of more than 4 dwelling units—

(I) to which the Corporation acquires title in its corporate capacity, its capacity as conservator, or its capacity as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship or receivership, which subsidiary has as its principal business the ownership of real property); and

(II) that has an appraised value that does not exceed, for such part of the property as may be attributable to dwelling use (excluding exterior land improvements), $29,500 per family unit without a bedroom, $33,816 per family unit with 1 bedroom, $41,120 per family unit with 2 bedrooms, $53,195 per family unit with 3 bedrooms, and $58,392 per family unit with 4 or more bedrooms.

(F) Eligible residential property

The term ''eligible residential property'' includes eligible single family properties and eligible multifamily housing properties.

(G) Eligible single family property

The term ''eligible single family property'' means a 1- to 4-family residence (including a manufactured home)—

[5] So in original. Probably should be ''organization''.

(i) to which the Corporation acquires title in its corporate capacity, its capacity as conservator, or its capacity as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship or receivership, which subsidiary has as its principal business the ownership of real property); and

(ii) that has an appraised value that does not exceed—

(I) $67,500 in the case of a 1-family residence, $76,000 in the case of a 2-family residence, $92,000 in the case of a 3-family residence, and $107,000 in the case of a 4-family residence; or

(II) only to the extent or in such amounts as are provided in appropriation Acts for additional costs and losses to the Corporation resulting from this subclause taking effect, the amount provided in section 203(b)(2)(A) of the National Housing Act [12 U.S.C. 1709(b)(2)(A)], except that such amount shall not exceed $101,250 in the case of a 1-family residence, $114,000 in the case of a 2-family residence, $138,000 in the case of a 3-family residence, and $160,500 in the case of a 4-family residence.

(H) Lower-income families

The term ''lower-income families'' means families and individuals whose incomes do not exceed 80 percent of the median income of the area involved, as determined by the Secretary, with adjustment for family size.

(I) Net realizable market value

The term ''net realizable market value'' means a price below the market value that takes into account (i) any reductions in holding costs resulting from the expedited sale of a property, including but not limited to foregone real estate taxes, insurance, maintenance costs, security costs, and loss of use of funds, and (ii) the avoidance, where applicable, of fees paid to real estate brokers, auctioneers, or other individuals or organizations involved in the sale of property owned by the Corporation.

(J) Nonprofit organization

The term ''nonprofit organization'' means a private organization (including a limited equity cooperative)—

(i) no part of the net earnings of which inures to the benefit of any member, shareholder, founder, contributor, or individual; and

(ii) that is approved by the Corporation as to financial responsibility.

(K) Public agency

The term ''public agency''—

(i) means any Federal, State, local, or other governmental entity; and

(ii) includes any public housing agency.

(L) Qualifying household

The term ''qualifying household'' means a household (i) who intends to occupy eligible single family property as a principle[6] residence; and (ii) who agrees to occupy the property as a principal residence for at least 12 months (except as provided in paragraph (2)(D)); (iii) who certifies in writing that the household intends to occupy the property as a principal residence for at least 12 months (except as provided in paragraph (2)(D)); and (iv) whose income does not exceed 115 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.

(M) Qualifying multifamily purchaser

The term ''qualifying multifamily purchaser'' means (i) a public agency, (ii) a nonprofit organization, or (iii) a for-profit entity which makes a commitment (for itself or any related entity) to satisfy the lower-income occupancy requirements specified under paragraph (3)(E) for any eligible multifamily property for which an offer to purchase is made during or after the periods specified under paragraph (3).

(N) Rural area

The term ''rural area'' has the meaning given such term in section 520 of the Housing Act of 1949 [42 U.S.C. 1490].

(O) Secretary

The term ''Secretary'' means the Secretary of the[7] Housing and Urban Development.

(P) State housing finance agency

The term ''State housing finance agency'' means the public agency, authority, corporation, or other instrumentality of a State that has the authority to provide residential mortgage loan financing throughout such State.

(Q) Very low-income families

The term ''very-low income families'' means families and individuals whose incomes do not exceed 50 percent of the median income of the area involved, as determined by the Secretary, with adjustment for family size.

(10) Exemption for certain transactions with insured depository institutions

The provisions of this subsection shall not apply with respect to any eligible residential property after the date the Corporation enters into a contract to sell such property to an insured depository institution (as defined in section 1813 of this title), including any sale in connection with a transfer of all or substantially all of the assets of a closed savings association (including such property) to an insured depository institution.

(11) Third party rights

(A) In general

The provisions of this subsection, or any failure by the Corporation to comply with such provisions, may not be used by any person to attack or defeat any title to property once it is conveyed by the Corporation.

(B) Lower-income occupancy

The lower-income occupancy requirements applicable under paragraphs (2), (3), (12)(C),

[6] So in original. Probably should be ''principal''.

[7] So in original. The word ''the'' probably should not appear.

(13)(B), and (14)(C) shall be judicially enforceable against purchasers of property under this subsection or their successors in interest by affected very low- and lower-income families, State housing finance agencies, and any agency, corporation, or authority of the United States Government. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

(C) Clearinghouse

A clearinghouse shall not be subject to suit for its failure to comply with the requirements of this subsection.

(D) Corporation

The Corporation shall not be liable to any depositor, creditor, or shareholder of any insured depository institution for which the Corporation has been appointed receiver or conservator, or of any subsidiary corporation of a depository institution under conservatorship or receivership, or any claimant against such an institution or subsidiary, because the disposition of assets of the institution or the subsidiary under this subsection affects the amount of return from the assets.

(12) Transfer of certain eligible residential properties to State housing agencies for disposition

Notwithstanding paragraphs (2), (3), (5), and (6), the Corporation may transfer eligible residential properties to the State housing finance agency or any other State housing agency for the State in which the property is located, or to any local housing agency in whose jurisdiction the property is located. Transfers of eligible residential properties under this paragraph may be conducted by direct sale, consignment sale, or any other method the Corporation considers appropriate and shall be subject to the following requirements:

(A) Individual or bulk transfer

The Corporation may transfer such properties individually or in bulk, as agreed to by the Corporation and the State housing finance agency or State or local housing agency.

(B) Acquisition price and discount

The acquisition price paid by the State housing finance agency or State or local housing agency to the Corporation for properties transferred under this paragraph shall be an amount agreed to by the Corporation and the transferee agency.

(C) Lower-income use

Any State housing finance agency or State or local housing agency acquiring properties under this paragraph shall offer to sell or transfer the properties only as follows:

(i) Eligible single family properties

For eligible single family properties—

(I) to purchasers described under clauses (i) and (ii) of paragraph (2)(B);

(II) if the purchaser is a purchaser described under paragraph (2)(B)(ii)(I), subject to the rent limitations under paragraph (4)(A);

(III) subject to the requirement in the second sentence of paragraph (2)(B); and

(IV) subject to recapture by the Corporation of excess proceeds from resale of the properties under subparagraphs (C) and (D) of paragraph (2).

(ii) Eligible multifamily housing properties

For eligible multifamily housing properties—

(I) to qualifying multifamily purchasers;

(II) subject to the lower-income occupancy requirements under paragraph (3)(E);

(III) subject to the provisions of paragraph (3)(H);

(IV) subject to a preference, among financially acceptable offers, to the offer that would reserve the highest percentage of dwelling units for occupancy or purchase by very low-income families and lower-income families and would retain such affordability for the longest term; and

(V) subject to the rent limitations under paragraph (4)(A).

(D) Affordability

The State housing finance agency or State or local housing agency shall endeavor to make the properties transferred under this paragraph more affordable to lower-income families based upon the extent to which the acquisition price of a property under subparagraph (B) is less than the market value of the property.

(13) Exception for sales to nonprofit organizations and public agencies

(A) Suspension of offer periods

With respect to any eligible residential property, the Corporation may (in the discretion of the Corporation) suspend any of the requirements of subparagraphs (A) and (B) of paragraph (2) and subparagraphs (A) through (D) of paragraph (3), as applicable, but only to the extent that for the duration of the suspension the Corporation negotiates the sale of the property to a nonprofit organization or public agency. If the property is not sold pursuant to such negotiations, the requirements of any provisions suspended shall apply upon the termination of the suspension. Any time period referred to in such paragraphs shall toll for the duration of any suspension under this subparagraph.

(B) Use restrictions

(i) Eligible single family property

Any eligible single family property sold under this paragraph shall be (I) made available for occupancy by and maintained as affordable for lower-income families for the remaining useful life of the property, or made available for purchase by such families, (II) subject to the rent limitations under paragraph (4)(A), (III) subject to the requirements relating to residency

of a qualifying household under paragraph (9)(L) and to residency of a lower-income family under paragraph (2)(B)(ii), and (IV) subject to recapture by the Corporation of excess proceeds from resale of the property under subparagraphs (C) and (D) of paragraph (2).

(ii) Eligible multifamily housing property

Any eligible multifamily housing property sold under this paragraph shall comply with the lower-income occupancy requirements under paragraph (3)(E) and shall be subject to the rent limitations under paragraph (4)(A).

(14) Rules governing disposition of eligible condominium property

(A) Notice to clearinghouses

Within a reasonable period of time after acquiring title to an eligible condominium property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property. Each clearinghouse shall make such information available, upon request, to purchasers described in clauses (i) through (iv) of subparagraph (B). The Corporation shall allow such purchasers reasonable access to an eligible condominium property for purposes of inspection.

(B) Offers to sell

For the 180-day period following the date on which the Corporation makes an eligible condominium property available for sale, the Corporation may offer to sell the property, at the discretion of the Corporation, to 1 or more of the following purchasers:

(i) Qualifying households.
(ii) Nonprofit organizations.
(iii) Public agencies.
(iv) For-profit entities.

(C) Lower-income occupancy requirements

(i) In general

Except as provided in clause (ii), any nonprofit organization, public agency, or for-profit entity that purchases an eligible condominium property shall (I) make the property available for occupancy by and maintain it as affordable for lower-income families for the remaining useful life of the property, or (II) make the property available for purchase by any such family who, except as provided in subparagraph (E), agrees to occupy the property as a principal residence for at least 12 months and who certifies in writing that the family intends to occupy the property for at least 12 months. The restriction described in subclause (I) of the preceding sentence shall be contained in the deed or other recorded instrument.

(ii) Multiple-unit purchases

If any nonprofit organization, public agency, or for-profit entity purchases more than 1 eligible condominium property as a part of the same negotiation or purchase, the Corporation may (in the discretion of the Corporation) waive the requirement under clause (i) and provide instead that not less than 35 percent of all eligible condominium properties purchased shall be (I) made available for occupancy by and maintained as affordable for lower-income families for the remaining useful life of the property, or (II) made available for purchase by any such family who, except as provided in subparagraph (E), agrees to occupy the property as a principal residence for at least 12 months and who certifies in writing that the family intends to occupy the property for at least 12 months. The restriction described[8] subclause (I) of the preceding sentence shall be contained in the deed or other recorded instrument.

(iii) Sale to other purchasers

If, upon the expiration of the 180-day period referred to in subparagraph (B), no purchaser described in clauses (i) through (iv) of subparagraph (B) has made a bona fide offer to purchase the property, the Corporation may offer to sell the property to any other purchaser.

(D) Recapture of profits from resale

Except as provided in subparagraph (E), if any eligible condominium property sold (i) to a qualifying household, or (ii) to a lower-income family pursuant to subparagraph (C)(i)(II) or (C)(ii)(II), is resold by the qualifying household or lower-income family during the 1-year period beginning upon initial acquisition by the household or family, the Corporation shall recapture 75 percent of the amount of any proceeds from the resale that exceed the sum of (I) the original sale price for the acquisition of the property by the qualifying household or lower-income family, (II) the costs of any improvements to the property made after the date of the acquisition, and (III) any closing costs in connection with the acquisition.

(E) Exception to recapture requirement

The Corporation (or its successor) may in its discretion waive the applicability to any qualifying household or lower-income family of the requirement under subparagraph (D) and the requirements relating to residency of a qualifying household or lower-income family (under paragraph (9)(L) and subparagraph (C) of this paragraph, respectively). The Corporation may grant any such a[9] waiver only for good cause shown, including any necessary relocation of the qualifying household or lower-income family.

(F) Limitations on multiple unit purchases

The Corporation may not sell or offer to sell as part of the same negotiation or purchase any eligible condominium properties that are not located in the same condominium project (as such term is defined in section 3603 of title 15). The preceding sentence may not be construed to require all eligible condominium properties offered or sold as

[8] So in original. Probably should be ''described in''.
[9] So in original. The word ''a'' probably should not appear.

part of the same negotiation or purchase to be located in the same structure.

(G) Rent limitations

Rents charged to tenants of eligible condominium properties made available for occupancy by very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 50 percent of the median income for the area, as determined by the Secretary, with adjustment for family size. Rents charged to tenants of eligible condominium properties made available for occupancy by lower-income families other than very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.

(15) Reports to Congress

(A) In general

The Corporation shall submit to the Congress semiannual reports under this paragraph regarding the disposition of eligible residential properties under this subsection during the most recently concluded reporting period. The first report under this paragraph shall be submitted not later than the expiration of the 4-month period beginning upon the conclusion of the first reporting period under subparagraph (B). Subsequent reports shall be submitted not less than every 6 months after such expiration.

(B) Reporting periods

For purposes of this paragraph, the term ''reporting period'' means the 6-month period for which a report under this paragraph is made, except that the first reporting period shall be the period beginning on August 9, 1989, and ending on December 12, 1991. Each successive reporting period shall begin upon the conclusion of the preceding reporting period.

(C) Information regarding properties sold

Each report under this paragraph shall contain information regarding each eligible residential property sold by the Corporation during the applicable reporting period, as follows:

(i) A description of the property, the location of the property, and the number of dwelling units in the property.

(ii) The appraised value of the property.

(iii) The sale price of the property.

(iv) For eligible single family properties—

(I) the income and race of the purchaser of the property, if the property is sold to an occupying household or is sold for resale to an occupying household; and

(II) whether the property is reserved for residency by very low- or lower-income families, if the property is sold for use as rental property.

(v) For eligible multifamily housing properties, the number and percentage of dwelling units in the property reserved for occupancy by very low- and lower-income families.

(vi) The number of eligible single family properties sold after the expiration of the offer period for such properties referred to in paragraph (2)(B).

(vii) The number of eligible multifamily housing properties sold after the expiration of the periods for such properties referred to in subparagraphs (B) and (D) of paragraph (3).

(D) Number of properties within windows

Each report under this paragraph shall contain the following information:

(i) The number of eligible single family properties for which the offer period referred to in paragraph (2)(B) had not expired before the conclusion of the applicable reporting period (or had not yet commenced).

(ii) The number of eligible multifamily housing properties for which the 90-day period referred to in paragraph (3)(B) had not expired before the conclusion of the applicable reporting period (or had not yet commenced).

(16) Notice to clearinghouses regarding ineligible properties

(A) In general

Within a reasonable period of time after acquiring title to an ineligible residential property, the Corporation shall, to the extent practicable, provide written notice to clearinghouses.

(B) Content

For ineligible single family properties, such notice shall contain the same information about such properties that the notice required under paragraph (2)(A) contains with respect to eligible single family properties. For ineligible multifamily housing properties, such notice shall contain the same information about such properties that the notice required under paragraph (3)(A) contains with respect to eligible multifamily housing properties. For ineligible condominium properties, such notice shall contain the same information about such properties that the notice required under paragraph (14)(A) contains with respect to eligible condominium properties.

(C) Availability

The clearinghouses shall make such information available, upon request, to other public agencies, other nonprofit organizations, qualifying households, qualifying multifamily purchasers, and other purchasers, as appropriate.

(D) Definitions

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

(i) Ineligible condominium property

The term ''ineligible condominium property'' means a condominium unit, as such term is defined in section 3603 of title 15—

(I) to which the Corporation acquires title in its corporate capacity, its capac-

ity as conservator, or its capacity as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship or receivership, which subsidiary corporation has as its principal business the ownership of real property);

(II) that has an appraised value that does not exceed the applicable dollar amount limitation for the property under paragraph (9)(D)(ii)(II); and

(III) that is not an eligible condominium property.

(ii) Ineligible multifamily housing property

The term ''ineligible multifamily housing property'' means a property consisting of more than 4 dwelling units—

(I) to which the Corporation acquires title in its capacity as conservator (including its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship, which subsidiary corporation has as its principal business the ownership of real property);

(II) that has an appraised value that does not exceed, for such part of the property as may be attributable to dwelling use (excluding exterior land improvements), the dollar amount limitations under paragraph (9)(E)(i)(II); and

(III) that is not an eligible multifamily housing property.

(iii) Ineligible single family property

The term ''ineligible single family property'' means a 1- to 4-family residence (including a manufactured home)—

(I) to which the Corporation acquires title in its corporate capacity, its capacity as conservator, or its capacity as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship or receivership, which subsidiary corporation has as its principal business the ownership of real property);

(II) that has an appraised value that does not exceed the applicable dollar amount limitation for the property under paragraph (9)(G)(ii)(II); and

(III) that is not an eligible single family property.

(iv) Ineligible residential property

The term ''ineligible residential property'' includes ineligible single family properties, ineligible multifamily housing properties, and ineligible condominium properties.

(17) Unified affordable housing program

(A) In general

Not later than 4 months after December 17, 1993, the Corporation shall enter into an agreement, as described in section 1831q(n)(3) of this title, with the Federal Deposit Insurance Corporation that sets out a plan for the orderly unification of the Corporation's activities, authorities, and responsibilities under this subsection with the authorities, activities, and responsibilities of the Federal Deposit Insurance Corporation pursuant to section 1831q of this title in a manner that best achieves an effective and comprehensive affordable housing program management structure. The agreement shall be entered into after consultation with the Affordable Housing Advisory Board under section 14(b) of the Resolution Trust Corporation Completion Act.

(B) Authority and implementation

The Corporation shall have the authority to carry out the provisions of the agreement entered into pursuant to subparagraph (A) and shall implement such agreement as soon as practicable, but in no event later than 8 months after December 17, 1993.

(C) Transfer of authority

Effective upon October 1, 1995, any remaining authority and responsibilities of the Corporation under this subsection shall be carried out by the Federal Deposit Insurance Corporation.

(d) National and regional advisory boards

(1) National advisory board

(A) Establishment

The Thrift Depositor Protection Oversight Board shall establish a national advisory board to provide information to the Thrift Depositor Protection Oversight Board, and to advise that Board on policies and programs for the sale or other disposition of real property assets of institutions which are described in subsection (b)(3)(A) of this section.

(B) Membership

The national advisory board shall consist of—

(i) a chairperson appointed by the Thrift Depositor Protection Oversight Board; and

(ii) the chairpersons of any regional advisory boards established pursuant to paragraph (3).

(C) Meetings

The national advisory board shall meet 4 times a year, or more frequently if requested by the Corporation.

(2) [Reserved]

(3) Regional advisory boards

(A) Establishment

The Thrift Depositor Protection Oversight Board shall establish not less than 6 regional advisory boards to advise the Corporation on the policies and programs for the sale or other disposition of real property assets of institutions described in subsection (b)(3)(A) of this section. Such regional advisory boards shall be established in any region where the Thrift Depositor Protection Oversight Board determines that there exists a significant portfolio of real property assets of institutions which are described in subsection (b)(3)(A) of this section.

(B) Membership

(i) Appointment

Each regional advisory board shall consist of 5 members. Each member shall be

appointed by the Thrift Depositor Protection Oversight Board and shall serve at the pleasure of the Thrift Depositor Protection Oversight Board. The members shall be selected from those residents of the region who will represent the views of low- and moderate-income consumers and small businesses, or who have knowledge and experience regarding business, financial, and real estate matters.

(ii) Terms

Each member of a regional advisory board shall serve a term not to exceed 2 years, except that the Thrift Depositor Protection Oversight Board may provide for classes of members so that the terms of not more than 3 members of any such board shall expire in any 1 year.

(C) Meetings

Each regional advisory board shall meet 4 times a year, or more frequently if requested by the Corporation. A regional advisory board shall conduct its meetings in its region.

(4) Prohibition on compensation

Members of the national and regional advisory boards shall serve without compensation, except that such members shall be entitled to receive allowances in accordance with subchapter I of chapter 57 of title 5 for necessary expenses of travel, lodging, and subsistence incurred in attending official meetings and other activities of the boards.

(5) Treatment as advisory committee and termination of national and regional advisory boards

(A) Federal Advisory Committee Act

The national and regional advisory boards shall be subject to the provisions of the Federal Advisory Committee Act.

(B) Termination

Notwithstanding the provisions of the Federal Advisory Committee Act, the national advisory board and any regional advisory board established pursuant to this subsection which is in existence on the date on which the Corporation terminates shall also terminate on such date.

(e) Institutions organized by Corporation

(1) Limitations on certain activities

All insured depository institutions (as defined in section 1813 of this title) organized by the Corporation under this section shall, during the period such institutions are within the control of the Corporation, be subject to such limitations, restrictions, and conditions as determined by the Corporation with respect to the following activities:

(A) Growth of assets.
(B) Lending and borrowing activities.
(C) Asset acquisitions.
(D) Use of brokered deposits.
(E) Payment of deposit rates.
(F) Setting policy or credit standards.
(G) Capital standards.

(2) Applicability of other provisions of law

Except as otherwise provided, all insured depository institutions (defined in section 1813 of this title) organized by the Corporation shall—

(A) be subject to all laws and rules otherwise applicable to them as insured depository institutions, and

(B) shall[10] be subject to the supervision of the appropriate Federal banking agency (as that term is defined in section 1813 of this title).

(f) Limitation on certain Corporation activities

(1) Certain sales prohibited

The Corporation shall prescribe regulations to prohibit the sale of assets of a failed institution by the Corporation to any person who—

(A)(i) has defaulted, or was a member of a partnership or an officer or director of a corporation which has defaulted, on 1 or more obligations the aggregate amount of which exceed $1,000,000 to such failed institution;

(ii) has been found to have engaged in fraudulent activity in connection with any obligation referred to in clause (i); and

(iii) proposes to purchase any such asset in whole or in part through the use of the proceeds of a loan or advance of credit from the Corporation or from any institution subject to the jurisdiction of the Corporation pursuant to paragraph (3)(A);

(B) participated, as an officer or director of such failed institution or of any affiliate of such institution, in a material way in transactions that resulted in a substantial loss to such failed institution;

(C) has been removed from, or prohibited from participating in the affairs of, such failed institution pursuant to any final enforcement action by an appropriate Federal banking agency; or

(D) has demonstrated a pattern or practice of defalcation regarding obligations to such failed institution.

(2) Settlement of claims; definitions

(A) Settlement of claims

Nothing in this subsection shall prohibit the Corporation from selling or otherwise transferring any asset to any person if the sale or transfer of the asset resolves or settles, or is part of the resolution or settlement, of obligations owed by the person to the failed institution or the Corporation.

(B) Definitions

For purposes of paragraph (1)—

(i) Default

The term ''default'' means a failure to comply with the terms of a loan or other obligation to such an extent that the property securing the obligation is foreclosed upon.

(ii) Affiliate

The term ''affiliate'' has the meaning given to such term in section 1841(k) of this title.

(g) Exemption from State and local taxation

The Corporation and the Thrift Depositor Protection Oversight Board, the capital, reserves, surpluses, and assets of the Corporation and the

[10] So in original. The word ''shall'' probably should not appear.

Thrift Depositor Protection Oversight Board, and the income derived from such capital, reserves, surpluses, or assets shall be exempt from State, municipal, and local taxation except taxes on real estate held by the Corporation, according to its value as other similar property held by other persons is taxed.

(h) Guarantees of FSLIC

(1) Assumption by Corporation

On August 9, 1989, the Corporation shall, by operation of law (and without further action by the Corporation, the Thrift Depositor Protection Oversight Board, the Federal Housing Finance Board, the Federal Savings and Loan Insurance Corporation, or any court), assume all rights and obligations of the Federal Savings and Loan Insurance Corporation with respect to any guarantee issued by the Federal Savings and Loan Insurance Corporation during the period beginning on January 1, 1989, and ending on August 9, 1989, in connection with any loan to any savings association by any Federal Reserve bank or Federal Home Loan Bank (hereinafter in this subsection referred to as a ''lender'').

(2) Payment by Corporation

Any obligation assumed by the Corporation for any guarantee described in paragraph (1) to any lender shall be paid by the Corporation before the end of the 1-year period beginning on August 9, 1989. Payment shall be made from funds or assets available to the Corporation.

(3) Priority of claims of lenders

Any claim by a lender with respect to any obligation assumed by the Corporation for a guarantee described in paragraph (1) shall have priority over all other secured or unsecured obligations of the Corporation.

(4) Treasury backup

If the resources of the Corporation are insufficient to pay all the obligations assumed by the Corporation under paragraph (1) within the 1-year period, the Secretary of the Treasury shall pay the amount of any such deficiency. There are hereby appropriated to the Secretary for fiscal year 1989 and each fiscal year thereafter, such sums as may be necessary to pay such deficiency.

(i) Funding

(1) Borrowing

(A) In general

The Corporation, upon approval of the Thrift Depositor Protection Oversight Board, is authorized to borrow from the Treasury. The Secretary of the Treasury is authorized and directed to loan to the Corporation, on such terms as may be fixed by the Secretary of the Treasury, an amount not exceeding in the aggregate $5,000,000,000 outstanding at any one time.

(B) Interest rate

Each such loan shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

(2) Interim funding

The Secretary of the Treasury shall provide the sum of $30,000,000,000 to the Corporation to carry out the purposes of this section.

(3) Additional interim funding

In addition to amounts provided under paragraph (2), the Secretary of the Treasury shall provide to the Corporation such sums as may be necessary, not to exceed $25 billion, to carry out the purposes of this section.

(4) Conditions on availability of final funding in excess of $10,000,000,000

(A) Certification required

Of the funds appropriated under paragraph (3) which are provided after April 1, 1993, any amount in excess of $10,000,000,000 shall not be available to the Corporation before the date on which the Secretary of the Treasury certifies to the Congress that, since December 17, 1993, the Corporation has taken such action as may be necessary to comply with the requirements of subsection (w) of this section or that, as of the date of the certification, the Corporation is continuing to make adequate progress toward full compliance with such requirements.

(B) Appearance upon request

The Secretary of the Treasury shall appear before the Committee on Banking, Finance and Urban Affairs of the House of Representatives or the Committee on Banking, Housing, and Urban Affairs of the Senate, upon the request of the chairman of the committee, to report on any certification made to the Congress under subparagraph (A).

(5) Return to Treasury

If the aggregate amount of funds transferred to the Corporation pursuant to this subsection exceeds the amount needed to carry out the purposes of this section or to meet the requirements of section 1821(a)(6)(F) of this title, such excess amount shall be deposited in the general fund of the Treasury.

(6) Funds only for depositors

Notwithstanding any provision of law other than section 1823(c)(4)(G) of this title, funds appropriated under this section shall not be used in any manner to benefit any shareholder of—

(A) any insured depository institution for which the Corporation has been appointed conservator or receiver, in connection with any type of resolution by the Corporation;

(B) any other insured depository institution in default or in danger of default, in connection with any type of resolution by the Corporation; or

(C) any insured depository institution, in connection with the provision of assistance under section 1821 or 1823 of this title with respect to such institution, except that this subparagraph shall not prohibit assistance to any insured depository institution that is not in default, or that is not in danger of default, that is acquiring (as defined in section 1823(f)(8)(B) of this title) another insured depository institution.

(j) Maximum amount limitations on outstanding obligations

(1) In general

Notwithstanding any other provision of this section, the amount which is equal to—

(A) the sum of—

(i) the total amount of contributions received from the Resolution Funding Corporation; and

(ii) the total amount of outstanding obligations of the Corporation; minus

(B) the sum of—

(i) the amount of cash held by the Corporation; and

(ii) the amount which is equal to 85 percent of the Corporation's estimate of the fair market value of other assets held by the Corporation,

may not exceed $50,000,000,000.

(2) "Outstanding obligation" defined

For purposes of this subsection (other than paragraph (3)), the term ''outstanding obligation'' includes—

(A) any obligation or other liability assumed by the Corporation from the Federal Savings and Loan Insurance Corporation under this section or pursuant to any provision of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989;

(B) any guarantee issued by the Corporation;

(C) the total of the outstanding amounts borrowed from the Secretary of the Treasury pursuant to subsection (i) of this section; and

(D) any other obligation for which the Corporation has a direct or contingent liability to pay any amount.

(3) Full faith and credit

The full faith and credit of the United States is pledged to the payment of any obligation issued by the Corporation, with respect to both principal and interest, if—

(A) the principal amount of such obligation is stated in the obligation; and

(B) the term to maturity or the date of maturity of such obligation is stated in the obligation.

(4) Estimates of costs of contingent liabilities required

(A) In general

The Corporation shall—

(i) estimate the cost to such Corporation of any contingent liability of the Corporation; and

(ii) at least once each calendar quarter, make such adjustment as is appropriate in the estimate of such cost.

(B) Inclusion in financial statements and outstanding obligations

The estimated amount of the cost to the Corporation of any contingent liability of the Corporation (taking into account the most recent adjustment to such estimate pursuant to paragraph (A)(ii)) shall be—

(i) treated as an outstanding obligation of the Corporation for purposes of this subsection; and

(ii) included in any financial statement of the Corporation.

(k) Reporting and disclosure obligations

(1) Audits

(A) Annual audit

Notwithstanding section 9105 of title 31, the Comptroller General shall audit annually the financial statements of the Corporation in accordance with generally accepted Government auditing standards. The audited statements shall be transmitted to the Congress by the Thrift Depositor Protection Oversight Board not later than 180 days after the end of the Corporation's fiscal year to which those statements apply.

(B) Access to books and records

All books, records, accounts, reports, files, and property belonging to or used by the Corporation, or the Thrift Depositor Protection Oversight Board shall be made available to the Comptroller General.

(2) Public disclosure of transactions

(A) Disclosure required

Except as otherwise provided in this subsection, the Corporation shall make available to the public—

(i) any agreement entered into by the Corporation relating to a transaction for which the Corporation provides assistance pursuant to section 1823(c) of this title, not later than 30 days after the first meeting of the Thrift Depositor Protection Oversight Board after such agreement is entered into; and

(ii) all agreements relating to cases reviewed by the Corporation pursuant to subsection (b)(11)(B) of this section.

(B) Exception for disclosures against the public interest

(i) In general

The Thrift Depositor Protection Oversight Board may withhold from public disclosure any document or part of a document if the Thrift Depositor Protection Oversight Board determines, by a unanimous affirmative vote of the members of the Board, that disclosure would be contrary to the public interest.

(ii) Report of determination

A written report shall be made of any determination by the Thrift Depositor Protection Oversight Board to withhold any part of a document from public disclosure pursuant to clause (i). Such report shall contain a full explanation of the specific reasons for such determination.

(iii) Publication and submission of report

The report prepared pursuant to clause (ii) shall be—

(I) published in the Federal Register; and

(II) transmitted 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.

(C) "Agreement" defined

For purposes of this subsection, the term ''agreement'' includes—

(i) all documents which effectuate the terms and conditions of the assisted transaction;

(ii) a comparison, which the Corporation shall prepare of—

(I) the estimated cost of the transaction, with

(II) the estimated cost of liquidating the insured institution; and

(iii) a description of any economic or statistical assumptions on which such estimates are based.

(3) Disclosure to Congress of transactions

(A) Prospective transactions

The Corporation shall make available 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 any agreement entered into by the Corporation relating to a transaction for which the Corporation provides assistance pursuant to section 1823(c) of this title not later than 25 days after the first meeting of the Thrift Depositor Protection Oversight Board after such agreement is entered into. The foregoing requirement is in addition to the Corporation's obligation to make such agreements publicly available pursuant to paragraph (2).

(B) Prior transactions

The Corporation shall submit a report to the Thrift Depositor Protection Oversight Board and the Congress containing the results and conclusions of the review of the 1988 transactions conducted pursuant to subsection (b)(10)(B) of this section and such recommendations for legislative action as the Corporation may determine to be appropriate.

(4) Annual reports

(A) In general

The Thrift Depositor Protection Oversight Board and the Corporation shall annually submit a full report of their respective operations, activities, budgets, receipts, and expenditures for the preceding 12-month period.

(B) Contents

The report required under subparagraph (A) shall include—

(i) audited statements and such information as is necessary to make known the financial condition and operations of the Corporation in accordance with generally accepted accounting principles;

(ii) the Corporation's financial operating plans and forecasts (including budgets, estimates of actual and future spending, and estimates of actual and future cash obligations) taking into account the Corporation's financial commitments, guarantees, and other contingent liabilities;

(iii) the number of minority and women investors participating in the bidding process for assisted acquisitions and the disposition of assets and the number of successful bids by such investors;

(iv) a list of the properties sold to State housing finance authorities (as such term is defined in section 1301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [12 U.S.C. 1441a–1]), the individual purchase prices of such properties, and an estimate of the premium paid by such authorities for such properties; and

(v) descriptions of the operations and activities of the national and regional advisory boards established under subsection (d) of this section and financial statements detailing the expenses of such boards.

(C) Submission to Congress and the President

The Corporation 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 such report is made but not later than June 30 of the year following such calendar year.

(5) Additional reports

(A) Reports required

In addition to the annual report required under paragraph (4), the Thrift Depositor Protection Oversight Board and the Corporation shall submit to Congress not later than April 30 and October 31 of each calendar year, a semiannual report on the activities and efforts of the Corporation, the Federal Deposit Insurance Corporation, and the Thrift Depositor Protection Oversight Board for the 6-month period ending on the last day of the month prior to the month in which such report is required to be submitted.

(B) Contents of report

Each semiannual report required under subparagraph (A) shall include the following information with respect to the Corporation's assets and liabilities and to the assets and liabilities of institutions described in subsection (b)(3)(A) of this section:

(i) A statement of the total book value of all assets held or managed by the Corporation at the beginning and end of the reporting period.

(ii) A statement of the total book value of such assets which are under contract to be managed by private persons and entities at the beginning and end of the reporting period.

(iii) The number of employees of the Corporation, the Federal Deposit Insurance Corporation, and the Thrift Depositor Protection Oversight Board at the beginning and end of the reporting period.

(iv) The total amounts expended on employee wages, salaries, and overhead, during such period which are attributable to—

(I) contracting with, supervising, or reviewing the performance of private contractors, or

(II) managing or disposing of such assets.

(v) A statement of the total amount expended on private contractors for the management of such assets.

(vi) A statement of the efforts of the Corporation to maximize the efficient utilization of the resources of the private sector during the reporting period and in future reporting periods and a description of the policies and procedures adopted to ensure adequate competition and fair and consistent treatment of qualified third parties seeking to provide services to the Corporation or the Federal Deposit Insurance Corporation.

(vii) The total book value and total proceeds from such assets disposed of during the reporting period.

(viii) Summary data on discounts from book value at which such assets were sold or otherwise disposed of during the reporting period.

(ix) A list of all of the areas that carried a distressed area designation during the reporting period (including a justification for removal of areas from or addition of areas to the list of distressed areas).

(x) An evaluation of market conditions in distressed areas and a description of any changes in conditions during the reporting period.

(xi) Any change adopted by the Thrift Depositor Protection Oversight Board in a minimum disposition price and the reasons for such change.

(xii) The valuation method or methods adopted by the Thrift Depositor Protection Oversight Board or the Corporation to value assets and the reasons for selecting such methods.

(xiii) A complete description of all actions taken by the Corporation pursuant to subsections (a), (b), and (c) of section 1216 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [12 U.S.C. 1833e(a), (b), (c)] with respect to the employment of and contracting with minorities, women, and businesses owned or controlled by minorities or women and any other activity of the Corporation pursuant to the outreach program of the Corporation for minorities and women. Such description shall specify the steps taken by the Corporation, in its corporate capacity and its capacity as conservator or receiver, to implement the minority and women outreach programs required by section 1216(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [12 U.S.C. 1833e(c)] and shall set forth information and data showing—

(I) the extent to which and means by which contract solicitations have been directed to minorities, women, and businesses owned or controlled by minorities or women by the Corporation and by the Federal Deposit Insurance Corporation on behalf of the Corporation;

(II) the extent to which prime contracts and subcontracts have been awarded to minorities, women, and businesses owned or controlled by minorities or women, including data with respect to the number of such contracts, the dollar amounts thereof, and the percentage of Corporation contracting activity represented thereby (including contracting activity by the Federal Deposit Insurance Corporation on behalf of the Corporation);

(III) contracting and outreach activity with respect to joint ventures and other business arrangements in which minorities, women, or businesses owned or controlled by minorities or women have a participation or interest; and

(IV) the extent to which the Corporation's minority and women contracting outreach programs have been successful in maximizing opportunities through the outreach policies established by the Corporation for participation of minorities, women, and businesses owned or controlled by minorities or women in the Corporation's contracting activities.

(C) Supplemental unaudited financial statements

In addition to the annual report required under paragraph (4), the Thrift Depositor Protection Oversight Board and the Corporation shall submit to the Congress, not later than September 30 of each calendar year, an unaudited financial statement for the 6-month period ending on June 30 of such year.

(6) Appearances before Congressional committees

(A)[11] Semiannual appearance required

Not later than 30 days after submission of the semiannual reports required by paragraph (5), the Thrift Depositor Protection Oversight Board shall appear before 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 to—

(i) report on the progress made during such period in resolving cases involving institutions described in subsection (b)(3)(A) of this section;

(ii) provide an estimate of the short-term and long-term cost to the United States Government of obligations issued or incurred during such period;

(iii) report on the progress made during such period in selling assets of institutions described in subsection (b)(3)(A) of this section and the impact such sales are having on the local markets in which such assets are located;

(iv) describe the costs incurred by the Corporation in issuing obligations, managing and selling assets acquired by the Corporation;

(v) provide an estimate of the income of the Corporation from assets acquired by the Corporation;

(vi) provide an assessment of any potential source of additional funds for the Corporation; and

[11] So in original. No subpar. (B) has been enacted.

(vii) provide an estimate of the remaining exposure of the United States Government in connection with institutions described in subsection (b)(3)(A) of this section which, in the Thrift Depositor Protection Oversight Board's estimation, will require assistance or liquidation after the end of such period.

(7) Quarterly reports

Not later than May 31, August 31, November 30, and the last day of February of each year, the Corporation shall submit a report 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 containing the following information for the preceding calendar quarter:

(A) Asset sales

The report shall contain the following information with respect to assets of institutions described in subsection (b)(3)(A) of this section which were disposed of by the Corporation during the quarter covered by the report:

(i) The total amount of the actual sales of assets during the quarter.

(ii) The value of the assets as determined on the basis of the amount at which each such asset was accounted for on the books of the institution.

(iii) The fair market value of the assets as estimated by the Corporation for purposes of securing amounts borrowed from the Federal Financing Bank by the Corporation.

(iv) The net recovery on asset sales during the quarter.

(v) A subtotal of the value of the assets disposed of during the quarter in each of the following categories:

(I) Cash and securities.

(II) Mortgage loans for 1- to 4-family dwellings.

(III) Construction and land loans.

(IV) Other mortgage loans.

(V) Consumer loans.

(VI) Commercial loans.

(VII) Real estate owned assets.

(VIII) Other assets.

(B) Auction sales

The report shall contain information regarding auction sales of RTC assets, including the following information:

(i) The date and location of each auction sale during the quarter.

(ii) The total value of the sales of assets sold during an auction during the quarter.

(iii) The total value of assets sold at each auction, as determined on the basis of the amount at which each such asset was accounted for on the books of the institution.

(iv) The total fair market value of assets sold at each auction, as estimated by the Corporation.

(v) The total actual selling price of assets sold during each auction held during the quarter.

(vi) The net recovery or loss on assets sold during an auction during the quarter, by category listed in subclauses (I) through (VII) of clause (vii).

(vii) A subtotal of the value of the assets sold during an auction during the quarter in each of the following categories:

(I) Cash and securities.

(II) Mortgage loans for 1- to 4-family dwellings.

(III) Construction and land loans.

(IV) Other mortgage loans.

(V) Consumer loans.

(VI) Commercial loans.

(VII) Real estate owned assets.

(VIII) Other assets.

(C) Federal Financing Bank loan status

The report shall contain the following information with respect to loans from the Federal Financing Bank to the Corporation:

(i) The total amount of loans outstanding at the beginning of the quarter.

(ii) The total amount of loans originated during the quarter.

(iii) The total amount of loans repaid during the quarter.

(iv) The total amount of loans outstanding at the end of the quarter.

(D) Seller financing

The report shall contain information regarding the Corporation's use of seller financing to encourage the sales of assets during the quarter, including the following:

(i) A total of the amount of funds used for seller financing purposes during the quarter.

(ii) The number of applications received by the Corporation which requested seller financing.

(iii) A breakdown of the type of assets sold, according to the categories listed in subclauses (I) through (VIII) of subparagraph (B)(vii).

(iv) Projections of the total amount of seller financing which will be needed during the succeeding 2 quarters.

(8) Operating plans

(A) In general

Before the beginning of each calendar quarter, the Thrift Depositor Protection Oversight Board shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a detailed financial operating plan covering the remaining quarters of the Corporation's fiscal year in which that quarter occurs.

(B) Contents

At a minimum, a detailed financial operating plan shall include—

(i) estimates of the aggregate assets of institutions that are projected to be resolved in each quarter,

(ii) the estimated aggregate cost of resolutions in each quarter,

(iii) the estimated aggregate asset sales and principal collections in each quarter, and

(iv) the Corporation's summary pro forma financial statement at the end of each quarter.

(9) Reports on severely troubled institutions

The Director of the Office of Thrift Supervision shall deliver on a quarterly basis to the Thrift Depositor Protection Oversight Board a list of savings associations for which the Director has determined grounds exist, or are likely to exist in the current fiscal year of the Corporation and in the next following fiscal year of the Corporation, for the appointment of a conservator or receiver under the Home Owners' Loan Act [12 U.S.C. 1461 et seq.]. The Thrift Depositor Protection Oversight Board shall report the aggregate number and assets of such savings associations to Congress within 60 days after June 30 and December 31 of each calendar year.

(10) Budget reports

(A) In general

Before the end of each calendar quarter, the Thrift Depositor Protection Oversight Board and the Corporation shall submit a report 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 containing the complete annual budget, as approved by the Thrift Depositor Protection Oversight Board.

(B) Activities relating to phasing out RTC operations

Beginning with the report due in the 1st quarter of 1994, the report shall include information on the Corporation's activities to phase down its operations and reduce the number of employees and the amount of office space and other overhead as the Corporation completes its duties under this section and approaches termination.

(11) Employee reports

The Corporation shall submit semiannual reports 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 containing the following information:

(A) The total number of employees of the Thrift Depositor Protection Oversight Board and the total number of individuals performing services directly on behalf of the Corporation.

(B) The total number of individuals performing services for the Corporation as employees of the Federal Deposit Insurance Corporation or any other agency, including the General Accounting Office and the number from each such agency.

(C) The total number of individuals employed in each job classification and employment status, including employment on a temporary basis or for an agreed upon period of time.

***(l)* Power to remove; jurisdiction**

(1) In general

Notwithstanding any other provision of law, any civil action, suit, or proceeding to which the 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.

(2) Corporation as party

The Corporation shall be substituted as a party in any civil action, suit, or proceeding to which its predecessor in interest was a party with respect to institutions which are subject to the management agreement dated February 7, 1989, among the Federal Savings and Loan Insurance Corporation, the Federal Home Loan Bank Board and the Federal Deposit Insurance Corporation.

(3) Removal and remand

(A) In general

The Corporation, in any capacity and without bond or security, may remove any action, suit, or proceeding from a State court to the United States district court with jurisdiction over the place where the action, suit, or proceeding is pending, to the United States district court[12] for the District of Columbia, or to the United States district court with jurisdiction over the principal place of business of any institution for which the Corporation has been appointed conservator or receiver if the action, suit, or proceeding is brought against the institution or the Corporation as conservator or receiver of such institution. The removal of any such suit or proceeding shall be instituted—

(i) not later than 90 days after the date the Corporation is substituted as a party, or

(ii) not later than 30 days after service on the Corporation, if the Corporation is named as a party in any capacity and if such suit is filed after August 9, 1989.

(B) Substitution

The Corporation shall be deemed substituted in any action, suit, or proceeding for a party upon the filing of a copy of the order appointing the Corporation as conservator or receiver for that party or the filing of such other pleading informing the court that the Corporation has been appointed conservator or receiver for such party.

(C) Appeal

The Corporation may appeal any order of remand entered by a United States district court.

(m) Termination

(1) In general

The Corporation shall terminate not later than December 31, 1995. If at the time of its termination, the Corporation is acting as a conservator or receiver, the Federal Deposit Insurance Corporation shall succeed the Corporation as conservator or receiver.

(2) Case resolutions transferred

Simultaneous with the termination of the Corporation as provided in paragraph (1), all

[12] So in original. Probably should be ''District Court''.

assets and liabilities of the Corporation shall be transferred to the FSLIC Resolution Fund. Thereafter, if there are no liabilities of the Corporation outstanding, the FSLIC Resolution Fund shall transfer any net proceeds from the sale of assets to the Resolution Funding Corporation.

(3) Transfer of personnel and systems

In connection with the assumption by the Federal Deposit Insurance Corporation of conservatorship and receivership functions with respect to institutions described in subsection (b)(3)(A) of this section and the termination of the Corporation pursuant to paragraph (1)—

(A) any management, resolution, or asset-disposition system of the Corporation which the Secretary of the Treasury determines, after considering the recommendations of the interagency transition task force under section 6(c) of the Resolution Trust Corporation Completion Act, has been of benefit to the operations of the Corporation (including any personal property of the Corporation which is used in operating any such system) shall, notwithstanding paragraph (2), be transferred to and used by the Federal Deposit Insurance Corporation in a manner which preserves the integrity of the system for so long as such system is efficient and cost-effective; and

(B) any personnel of the Corporation involved with any such system who are otherwise eligible to be transferred to the Federal Deposit Insurance Corporation shall be transferred to the Federal Deposit Insurance Corporation for continued employment, subject to section 404(9) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and other applicable provisions of this section, with respect to such system.

(n) Conflict of interest

(1) In general

(A) The Thrift Depositor Protection Oversight Board and the Corporation shall each be an ''agency'' for purposes of title 18. Any individual who, pursuant to a contract or any other arrangement, performs functions or activities of the Thrift Depositor Protection Oversight Board or the Corporation, under the direct supervision of an officer or employee of the Thrift Depositor Protection Oversight Board or the Corporation, shall be deemed to be an employee of the Thrift Depositor Protection Oversight Board or the Corporation for the purposes of title 18 and this chapter.

(B) Any individual who, pursuant to a contract or any other agreement, acts for or on behalf of the Corporation shall be deemed to be a public official for the purposes of section 201 of title 18.

(2) Establishment of rules

The Thrift Depositor Protection Oversight Board and the Corporation shall, not later than 180 days after August 9, 1989, promulgate rules and regulations governing conflict of interest, ethical responsibilities, and post-employment restrictions applicable to members, officers, and employees of the Thrift Depositor Protection Oversight Board and the Corporation that shall be no less stringent than those applicable to the Federal Deposit Insurance Corporation.

(3) Use of confidential information

The Thrift Depositor Protection Oversight Board and the Corporation shall, not later than 180 days after August 9, 1989, promulgate rules and regulations applicable to independent contractors governing conflicts of interest, ethical responsibilities, and the use of confidential information consistent with the goals and purposes of titles 18 and 41.

(4) Post employment

The chief executive officer of the Corporation shall be prohibited for a period of 1 year after leaving the Corporation from holding any office, position, or employment with, or receiving remuneration from, a company (other than the Corporation) which, during the time the chief executive was employed by the Corporation, participated in any case resolution or contract with the Corporation for which such person was either responsible or in which such person was personally and substantially involved except that the chief executive officer may hold any office, position, or employment so long as the chief executive officer does not, during the 1-year period, provide advice with respect to, participate in decisions relating to, or otherwise provide assistance to such entity on the enumerated matters or receive remuneration with respect thereto from such company.

(5) Other agency employees

Officers and employees of the Thrift Depositor Protection Oversight Board and the Corporation who are also subject to the ethical rules of another agency or Government Corporation[13] shall file with the Corporation a copy of any financial disclosure statement required by such other agency or corporation.

(6) Disapproval of contractors

(A) In general

The Thrift Depositor Protection Oversight Board shall prescribe regulations establishing procedures for ensuring that any individual who is performing, directly or indirectly, any function or service on behalf of the Corporation meets minimum standards of competence, experience, integrity, and fitness.

(B) Prohibition from service on behalf of Corporation

The procedures established under subparagraph (A) shall provide that the Corporation shall prohibit any person who does not meet the minimum standards of competence, experience, integrity, and fitness from—

(i) entering into any contract with the Corporation; or

(ii) being employed by the Corporation or any person performing any service for or on behalf of the Corporation.

(C) Information required to be submitted

The procedures established under subparagraph (A) shall require that any offer sub-

[13] So in original. Probably should not be capitalized.

mitted to the Corporation by any person under this section and any employment application submitted to the Corporation by any person shall include—

(i) a list and description of any instance during the preceding 5 years in which the person or company under such person's control defaulted on a material obligation to an insured depository institution; and

(ii) such other information as the Board may prescribe by regulation.

(D) Subsequent submissions

No offer submitted to the Corporation may be accepted unless the offeror agrees that no person will be employed, directly or indirectly, by the offeror under any contract with the Corporation unless all applicable information described in subparagraph (C) with respect to any such person is submitted to the Corporation and the Corporation does not disapprove of the direct or indirect employment of such person. Any decision made by the Corporation pursuant to this paragraph shall be in its sole discretion and shall not be subject to review.

(E) Prohibition required in certain cases

The standards established under subparagraph (A) shall require the Corporation to prohibit any person who has—

(i) been convicted of any felony,

(ii) been removed from, or prohibited from participating in the affairs of, any insured depository institution pursuant to any final enforcement action by any appropriate Federal banking agency,

(iii) demonstrated a pattern or practice of defalcation regarding obligations to insure depository institutions, or

(iv) caused a substantial loss to Federal deposit insurance funds,

from service on behalf of the Corporation.

(7) Abrogation of contracts

The Thrift Depositor Protection Oversight Board or the Corporation may rescind any contract with a person who—

(A) fails to disclose a material fact to the Thrift Depositor Protection Oversight Board or the Corporation,

(B) would be prohibited under paragraph (6) from providing services to, receiving fees from, or contracting with the Corporation or the Thrift Depositor Protection Oversight Board, or

(C) has been subject to a final enforcement action by any Federal bank regulatory agency.

(8) Priority of Thrift Depositor Protection Oversight Board rules

To the extent that the rules established under this subsection conflict with rules of other agencies or Government corporations, officers, directors, employees, and independent contractors of the Corporation or the Thrift Depositor Protection Oversight Board, who are also subject to the conflict of interest or ethical rules of another agency or Government corporation, shall be governed by the rules and regulations established by the Thrift Depositor Protection Oversight Board under this subsection when acting for or on behalf of the Corporation.

(9) Definitions

For the purposes of this subsection—

(A) The term ''company'' has the same meaning as in section 1841(b) of this title.

(B) The term ''control'' has the same meaning given such term under regulations promulgated by the Federal Home Loan Bank Board with respect to savings and loan holding companies as in effect on the day before August 9, 1989.

(C) The term ''Corporation'' includes the Resolution Trust Corporation, the national advisory board, and the regional advisory boards.

(*o*) Status of employees

(1) Liability

A member, officer, or employee of the Corporation or of the Thrift Depositor Protection Oversight Board has no liability under the Securities Act of 1933 [15 U.S.C. 77a et seq.] with respect to any claim arising out of or resulting from any act or omission by such person within the scope of such person's employment in connection with any transaction involving the disposition of assets (or any interests in any assets or any obligations backed by any assets) by the Corporation. This subsection shall not be construed to limit personal liability for criminal acts or omissions, willful or malicious misconduct, acts or omissions for private gain, or any other acts or omissions outside the scope of such person's employment.

(2) Definition

For purposes of this subsection, the term ''employee of the Corporation or of the Thrift Depositor Protection Oversight Board'' includes any officer or employee of the Federal Deposit Insurance Corporation who performs services for the Corporation.

(3) Effect on other law

This subsection does not affect—

(A) any other immunities and protections that may be available under applicable law with respect to such transactions, or

(B) any other right or remedy against the Corporation, against the United States under applicable law, or against any person other than a person described in paragraph (1) participating in such transactions.

This subsection shall not be construed to limit or alter in any way the immunities that are available under applicable law for Federal officials and employees not described in this subsection.

(p) Management enhancement goals

(1) Action to achieve specific goals

The Corporation, upon March 23, 1991, shall take action to assure achievement of the management goals specified in this paragraph, as follows:

(A) Managing conservatorships

The Corporation shall standardize procedures with respect to its (i) auditing of

conservatorships, (ii) ensuring and monitoring of compliance with Corporation policies and procedures by conservatorship managing agents, and (iii) ensuring and monitoring of conservatorship managing agent performance. These procedures shall be developed and implemented not later than September 30, 1991.

(B) Pace of resolutions

The Corporation shall take all reasonable and necessary steps to reduce the length of time institutions remain in conservatorship, with the goal that no institution shall be in conservatorship for more than 9 months.

(C) Information resources management program

The Corporation shall develop and incorporate within its strategic plan for information resources management, (i) a translation of program goals into the communication and computer hardware and software, and staff needed to accomplish such goals, (ii) a systems architecture to ensure that all systems will work together, and (iii) an identification of Corporation information and systems needs at all operational levels.

(D) Securities portfolio management system

The Corporation shall develop within its information architecture framework, a centralized system for the management of its portfolio of securities. This system shall be developed and implemented not later than September 30, 1991.

(E) Tracking REO assets

The Corporation shall develop, within its information architecture, an effective system to track and inventory real-estate-owned assets. This system shall be developed and implemented not later than September 30, 1991.

(F) Asset valuation

The Corporation shall develop a process for the quarterly valuation or updating of valuations of the assets it holds in its capacity as receiver (or as a result of such capacity). Such process shall incorporate, to the extent practical, Corporation disposition experience. In addition, the necessary information systems shall be developed to track and manage these valuations.

(G) Standardization of due diligence and market format

The Corporation shall develop a program for performing due diligence on one- to four-family mortgages and for marketing such loans on a pooled basis.

(H) Contracting

The Corporation, in order to identify the need for any changes in its contracting process which would enhance the independence, integrity, consistency and effectiveness of that process, shall consult on a regular basis with other agencies and organizations that have large scale contracting and procurement systems, and shall review on a regular basis its organizational structure and relationships. The Corporation shall develop and have in widespread use the following:

(i) A manual setting forth comprehensive policies and procedures.

(ii) A revised and expanded directive that clearly and definitively describes the roles and responsibilities of all those involved in the contracting process.

(iii) A revised and expanded directive that sets forth in detail the standard procedures to be followed in evaluating contractor proposals.

(iv) A set of standardized solicitation and contract documents for use by all Corporation officers.

(v) A series of standardized contracting training modules for use by Corporation personnel and private contractors.

(2) Report

The Corporation shall, not later than September 30, 1991, file with the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, a report on the progress being made toward full compliance by the agency with this subsection, as well as a timetable for completing those items not yet completed.

(q) RTC, Thrift Depositor Protection Oversight Board, and RTC contractor employee protection remedy

(1) Prohibition against discrimination

The Corporation, the Thrift Depositor Protection Oversight Board, and any person who is performing, directly or indirectly, any function or service on behalf of the Corporation or the Thrift Depositor Protection Oversight Board may not discharge or otherwise discriminate against any employee (including any employee of the Federal Deposit Insurance Corporation on assignment to the Corporation under this section or any personnel referred to in subparagraphs (C) and (F) of subsection (a)(5) of this section) with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Corporation, the Thrift Depositor Protection Oversight Board, the Attorney General, or any appropriate Federal banking agency (as defined in section 1813q of this title) regarding—

(A) a possible violation of any law or regulation; or

(B) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

by the Corporation, the Thrift Depositor Protection Oversight Board, or such person or any director, officer, or employee of the Corporation, the Thrift Depositor Protection Oversight Board, or the person.

(2) Enforcement

Any employee or former employee who believes that such employee has been discharged or discriminated against in violation of paragraph (1) may file a civil action in the appro-

priate United States district court before the end of the 2-year period beginning on the date of such discharge or discrimination.

(3) Remedies

If the district court determines that a violation has occurred, the court may order the Corporation or the person which committed the violation to—

(A) reinstate the employee to the employee's former position;

(B) pay compensatory damages; or

(C) take other appropriate actions to remedy any past discrimination.

(4) Limitation

The protections of this section shall not apply to any employee who—

(A) deliberately causes or participates in the alleged violation of law or regulation; or

(B) knowingly or recklessly provides substantially false information to the Corporation, the Attorney General, or any appropriate Federal banking agency.

(5) Burdens of proof

The legal burdens of proof that prevail under subchapter III of chapter 12 of title 5 shall govern adjudication of protected activities under this subsection.

(r) Review and evaluation procedure for contracts

(1) In general

In the review and evaluation of proposals, the Corporation shall provide additional incentives to minority- or women-owned businesses by awarding any such business an additional 10 percent of the total technical points and an additional 5 percent of the total cost preference points achievable in the technical and cost rating process applicable with respect to such proposals.

(2) Certain joint ventures included

Paragraph (1) shall apply to any proposal submitted by a joint venture in which a minority- or woman-owned business has participation of not less than 25 percent.

(3) Authority to adjust technical and cost preference points

The Corporation may adjust the technical and cost preference points applicable in evaluating proposals to the extent necessary to ensure the maximum participation level possible for minority- or women-owned businesses.

(4) Definitions

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

(A) Minority-owned business

The term ''minority-owned business'' means a business—

(i) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and

(ii) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

(B) Women-owned business

The term ''women's business'' means a business—

(i) more than 50 percent of the ownership or control of which is held by 1 or more women;

(ii) more than 50 percent of the net profit or loss of which accrues to 1 or more women; and

(iii) a significant percentage of senior management positions of which are held by women.

(s) Acquisition of branch facilities in minority neighborhoods

(1) In general

In the case of any savings association for which the Corporation has been appointed conservator or receiver, the Corporation may make available any branch of such association which is located in any predominantly minority neighborhood to any minority depository institution or women's depository institution on the following terms:

(A) The branch may be made available on a rent-free lease basis for not less than 5 years.

(B) Of all expenses incurred in maintaining the operation of the facilities in which such branch is located, the institution shall be liable only for the payment of applicable real property taxes, real property insurance, and utilities.

(C) The lease may provide an option to purchase the branch during the term of the lease.

(2) Definitions

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

(A) Minority depository institution

The term ''minority[14] institution'' means a depository institution (as defined in section 1813(c) of this title)—

(i) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and

(ii) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

(B) Women's depository institution

The term ''women's depository institution'' means a depository institution (as defined in section 1813(c) of this title)—

(i) more than 50 percent of the ownership or control of which is held by 1 or more women;

(ii) more than 50 percent of the net profit or loss of which accrues to 1 or more women; and

(iii) a significant percentage of senior management positions of which are held by women.

(C) Minority

The term ''minority'' has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery[15] and Enforcement Act of 1989.

[14] So in original. Probably should be followed by ''depository''.

[15] So in original. Probably should be followed by a comma.

(t) Assistance under circumstances for acquisition of majority-owned institutions

(1) In general

In addition to the assistance provided pursuant to the the[16] minority capital assistance program established under subsection (u)(1) of this section, the Corporation may provide assistance for minority-owned depository institutions and minority investors for the acquisition of any savings association for which the Corporation has been appointed conservator or receiver and which, before such appointment, was not a minority-owned association, if the Corporation has not received acceptable bids for the acquisition of such association without offering such assistance.

(2) Additional assets

In connection with the acquisition of any savings association for which the Corporation provides assistance under paragraph (1), the Corporation may transfer assets of other savings associations for which the Corporation has been appointed conservator or receiver.

(3) Definitions

For purposes of this subsection—

(A) Minority

The term ''minority'' has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery[15] and Enforcement Act of 1989.

(B) Acquisition

The term ''acquisition'' means any transaction in which a savings association is acquired (as defined in section 1823(f)(8)(B) of this title).

(u) Minority interim capital assistance program

(1) In general

The minority interim capital assistance program administered by the Corporation pursuant to the policy statement entitled the ''Interim Statement of Policy Regarding Resolutions of Minority-Owned Depository Institutions'' adopted by the Corporation on January 30, 1990[15] is hereby established by law.

(2) Assistance under circumstances for acquisition of majority-owned institutions

In addition to the assistance provided pursuant to the program established under paragraph (1), the Corporation shall provide assistance under such program for minority-owned depository institutions and minority investors for the acquisition of any savings association for which the Corporation has been appointed conservator or receiver and which, before such appointment, was not a minority-owned association, if the Corporation has not received acceptable bids for the acquisition of such association without offering such assistance.

(3) Extension of interim financing period

The period for repayment of capital assistance provided under the minority interim capital assistance program shall be not less than 2 years.

(4) Interest rate

The rate of interest imposed by the Corporation in connection with any interim financing provided under the minority interim capital assistance program may not exceed the average cost of funds to the Corporation as of the time such rate is established.

(5) Definitions

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

(A) Minority

The term ''minority'' has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery[17] and Enforcement Act of 1989.

(B) Acquisition

The term ''acquisition'' means any transaction in which a savings association is acquired (as defined in section 1823(f)(8)(B) of this title).

(v) Continuation of obligation to provide services

No person obligated to provide services to an insured depository institution at the time the Resolution Trust Corporation is appointed conservator or receiver for the institution shall fail to provide those services to any person to whom the right to receive those services was transferred by the Resolution Trust Corporation after August 9, 1989, unless the refusal is based on the transferee's failure to comply with any material term or condition of the original obligation. This subsection does not limit any authority of the Resolution Trust Corporation as conservator or receiver under section 1821(e) of this title.

(w) RTC management reforms

(1) Comprehensive business plan

The Corporation shall establish and maintain a comprehensive business plan covering the operations of the Corporation, including the disposition of assets, for the remainder of the Corporation's existence.

(2) Marketing real property on an individual basis

The Corporation shall—

(A) market any undivided or controlling interest in real property, whether held directly or indirectly by an institution described in subsection (b)(3)(A) of this section, on an individual basis, including sales by auction, for no fewer than 120 days before such assets may be made available for sale or other disposition on a portfolio basis or otherwise included in a multiasset sales initiative, except that this subparagraph does not apply to assets that are—

(i) sold simultaneously with a resolution in which a buyer purchases a significant proportion of the assets and assumes a significant proportion of the liabilities, or acts as agent of the Corporation for purposes of paying insured deposits, of an institution described in subsection (b)(3)(A) of this section; or

(ii) transferred to a new institution organized pursuant to section 1821(d)(2)(F) of this title; and

[16] So in original.

[17] So in original. Probably should be followed by a comma.

(B) prescribe regulations—

(i) to require that the sale or other disposition of any asset consisting of real property on a portfolio basis or in connection with any multiasset sales initiative after the end of the 120-day period described in subparagraph (A) be justified in writing; and

(ii) to carry out the requirements of subparagraph (A).

(3) Disposition of real estate related assets

(A) Procedures for disposition of real estate related assets

The Corporation shall not sell real property or any nonperforming real estate loan which the Corporation has acquired as receiver or conservator, unless—

(i) the Corporation has assigned responsibility for the management and disposition of such asset to a qualified person or entity to—

(I) analyze each asset on an asset-by-asset basis and consider alternative disposition strategies for such asset;

(II) develop a written management and disposition plan; and

(III) implement that plan for a reasonable period of time; or

(ii) the Corporation has made a determination in writing that a bulk transaction would maximize net recovery to the Corporation, while providing opportunity for broad participation by qualified bidders, including minority- and women-owned businesses.

(B) Definitions

In defining any term for purposes of subparagraph (A), the Corporation may, by regulation, define—

(i) the term ''asset'' so as to include properties or loans which are legally separate and distinct properties or loans, but which have sufficiently common characteristics such that they may be logically treated as a single asset; and

(ii) the term ''qualified person or entity'' so as to include any employee of the Thrift Depositor Protection Oversight Board or any employee assigned to the Corporation under subsection (b)(8) of this section.

(C) Exceptions

This paragraph shall not apply to—

(i) assets that are—

(I) sold simultaneously with a resolution in which a buyer purchases a significant proportion of the assets and assumes a significant proportion of the liabilities (or acts as agent of the Corporation for purposes of paying insured deposits) of an institution described in subsection (b)(3)(A) of this section; or

(II) transferred to a new institution organized pursuant to section 1821(d)(2)(F) of this title;

(ii) nonperforming real estate loans with a book value of not more than $1,000,000;

(iii) real property with a book value of not more than $400,000; or

(iv) real property with a book value of more than $400,000 or nonperforming real estate loans with a book value of more than $1,000,000 for which the Corporation determines, in writing, that a disposition not in conformity with the requirements of subparagraph (A) will bring a greater return to the Corporation.

(D) Coordination with paragraph (2)

No provision of this paragraph shall supersede the requirements of paragraph (2).

(4) Division of minorities and women programs

(A) In general

The Corporation shall maintain a division of minorities and women programs.

(B) Vice president

The head of the division shall be a vice president of the Corporation and a member of the executive committee of the Corporation.

(5) Chief financial officer

(A) In general

The chief executive officer of the Corporation shall appoint a chief financial officer for the Corporation.

(B) Authority

The chief financial officer of the Corporation shall—

(i) have no operating responsibilities with respect to the Corporation other than as chief financial officer;

(ii) report directly to the chief executive officer of the Corporation; and

(iii) have such authority and duties of chief financial officers of agencies under section 902 of title 31 as the Thrift Depositor Protection Oversight Board determines to be appropriate with respect to the Corporation.

(6) Basic ordering agreements

(A) Revision of procedures

The Corporation shall revise the procedure for reviewing and qualifying applicants for eligibility for future contracts in a specified service area (commonly referred to as ''basic ordering agreements'' or ''task ordering agreements'') in such manner as may be necessary to ensure that small businesses, minorities, and women are not inadvertently excluded from eligibility for such contracts.

(B) Review of lists

To ensure the maximum participation level possible of minority- and women-owned businesses, the Corporation shall—

(i) review all lists of contractors determined to be eligible for future contracts in a specified service area and other contracting mechanisms; and

(ii) prescribe appropriate regulations and procedures.

(7) Improvement of contracting systems and contractor oversight

The Corporation shall—

(A) maintain such procedures and uniform standards for—

(i) entering into contracts between the Corporation and private contractors; and

(ii) overseeing the performance of contractors and subcontractors under such contracts and compliance by contractors and subcontractors with the terms of contracts and applicable regulations, orders, policies, and guidelines of the Corporation,

as may be appropriate in carrying out the Corporation's operations in as efficient and economical a manner as may be practicable;

(B) commit sufficient resources, including personnel, to contract oversight and the enforcement of all laws, regulations, orders, policies, and standards applicable to contracts with the Corporation; and

(C) maintain uniform procurement guidelines for basic goods and administrative services to prevent the acquisition of such goods and services at widely different prices.

(8) Audit committee

(A) Establishment

The Thrift Depositor Protection Oversight Board shall establish and maintain an audit committee.

(B) Duties

The audit committee shall have the following duties:

(i) Monitor the internal controls of the Corporation.

(ii) Monitor the audit findings and recommendations of the inspector general of the Corporation and the Comptroller General of the United States and the Corporation's response to the findings and recommendations.

(iii) Maintain a close working relationship with the inspector general of the Corporation and the Comptroller General of the United States.

(iv) Regularly report the findings and any recommendation of the audit committee to the Corporation and the Thrift Depositor Protection Oversight Board.

(v) Monitor the financial operations of the Corporation and report any incipient problem identified by the audit committee to the Corporation and the Thrift Depositor Protection Oversight Board.

(C) Federal Advisory Committee Act not applicable

The audit committee is not an advisory committee within the meaning of section 3(2) of the Federal Advisory Committee Act.

(9) Corrective responses to audit problems

The Corporation shall—

(A) respond to problems identified by auditors of the Corporation's financial and asset-disposition operations, including problems identified in audit reports by the inspector general of the Corporation, the Comptroller General of the United States, and the audit committee; or

(B) certify to the Thrift Depositor Protection Oversight Board that no action is necessary or appropriate.

(10) Assistant general counsel for professional liability

(A) Appointment

The Corporation shall appoint, within the division of legal services of the Corporation, an assistant general counsel for professional liability.

(B) Duties

The assistant general counsel for professional liability shall—

(i) direct the investigation, evaluation, and prosecution of all professional liability claims involving the Corporation; and

(ii) supervise all legal, investigative, and other personnel and contractors involved in the litigation of such claims.

(C) Semiannual reports to the Congress

The assistant general counsel for professional liability shall submit to the Congress a comprehensive litigation report, not later than—

(i) April 30 of each year for the 6-month period ending on March 31 of that year; and

(ii) October 31 of each year for the 6-month period ending on September 30 of that year.

(D) Contents of reports

The semiannual reports required under subparagraph (C) shall each address the activities of the counsel for professional liability under subparagraph (B) and all civil actions—

(i) in which the Corporation is a party, which are filed against—

(I) directors or officers of depository institutions described in subsection (b)(3)(A) of this section; or

(II) attorneys, accountants, appraisers, or other licensed professionals who performed professional services for such depository institutions; and

(ii) which are initiated or pending during the period covered by the report.

(11) Management information system

The Corporation shall maintain an effective management information system capable of providing complete and current information to the extent the provision of such information is appropriate and cost-effective.

(12) Internal controls against fraud, waste, and abuse

The Corporation shall maintain effective internal controls designed to prevent fraud, waste, and abuse, identify any such activity should it occur, and promptly correct any such activity.

(13) Failure to appoint certain officers of the Corporation

The failure to fill any position established under this section or any vacancy in any such position, shall be treated as a failure to comply with the requirements of this subsection for purposes of subsection (i)(4) of this section.

(14) Reports

(A) Disclosure of expenditures

The Corporation shall include in the annual report submitted pursuant to sub-

section (k)(4) of this section an itemization of the expenditures of the Corporation during the year for which funds provided pursuant to subsection (i)(3) of this section were used.

(B) Public disclosure of salaries

The Corporation shall include in the annual report submitted pursuant to subsection (k)(4) of this section a disclosure of the salaries and other compensation paid during the year covered by the report to directors and senior executive officers at any depository institution for which the Corporation has been appointed conservator or receiver.

(15) Minority- and women-owned businesses contract parity guidelines

The Corporation shall establish guidelines for achieving the goal of a reasonably even distribution of contracts awarded to the various subgroups of the class of minority- and women-owned businesses and minority- and women-owned law firms whose total number of certified contractors comprise not less than 5 percent of all minority- and women-owned certified contractors. The guidelines may reflect the regional and local geographic distributions of minority subgroups. The distribution of contracts should not be accomplished at the expense of any eligible minority- or women-owned business or law firm in any subgroup that falls below the 5 percent threshold in any region or locality.

(16) Contract sanctions for failure to comply with subcontract and joint venture requirements

The Corporation shall prescribe regulations which provide sanctions, including contract penalties and suspensions, for violations by contractors of requirements relating to subcontractors and joint ventures.

(17) Minority preference in acquisition of institutions in predominantly minority neighborhoods

(A) In general

In considering offers to acquire any insured depository institution, or any branch of an insured depository institution, located in a predominantly minority neighborhood (as defined in regulations prescribed under subsection (s) of this section), the Corporation shall give preference to an offer from any minority individual, minority-owned business, or a minority depository institution, over any other offer that results in the same cost to the Corporation, as determined under section 1823(c)(4) of this title.

(B) Capital assistance

(i) Eligibility

In order to effectuate the purposes of this paragraph, any minority individual, minority-owned business, or a minority depository institution shall be eligible for capital assistance under the minority interim capital assistance program established under subsection (u)(1) of this section and subject to the provisions of subsection (u)(3) of this section, to the extent that such assistance is consistent with the application of section 1823(c)(4) of this title.

(ii) Terms and conditions

Subsection (u)(4) of this section shall not apply to capital assistance provided under this subparagraph.

(C) Performing assets

In the case of an acquisition of any depository institution or branch described in subparagraph (A) by any minority individual, minority-owned business, or a minority depository institution, the Corporation may provide, in connection with such acquisition and in addition to performing assets of the depository institution or branch, other performing assets under the control of the Corporation in an amount (as determined on the basis of the Corporation's estimate of the fair market value of the assets) not greater than the amount of net liabilities carried on the books of the institution or branch, including deposits, which are assumed in connection with the acquisition.

(D) First priority for disposition of assets

In the case of an acquisition of any depository institution or branch described in subparagraph (A) by any minority individual, minority-owned business, or a minority depository institution, the disposition of the performing assets of the depository institution or branch to such individual, business, or minority depository institution shall have a first priority over the disposition by the Corporation of such assets for any other purpose.

(E) Definitions

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

(i) Acquire

The term ''acquire'' has the same meaning as in section 1823(f)(8)(B) of this title.

(ii) Minority

The term ''minority'' has the same meaning as in section 1204(c)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(iii) Minority depository institution

The term ''minority depository institution'' has the same meaning as in subsection (s)(2) of this section.

(iv) Minority-owned business

The term ''minority-owned business'' has the same meaning as in subsection (r)(4) of this section.

(18) Subcontracts with minority- and women-owned businesses

(A) Goals and procedures

(i) Reasonable goals

The Corporation shall establish reasonable goals for contractors for services with the Corporation to subcontract with minority- and women-owned businesses and law firms.

(ii) Procedures

The Corporation may not enter into any contract for the provision of services to the Corporation, including legal services, under which the contractor would receive fees or other compensation in an amount equal to or greater than $500,000, unless the Corporation requires the contractor to subcontract with minority- or women-owned businesses, including law firms, and to pay fees or other compensation to such businesses in an amount commensurate with the percentage of services provided by the business.

(iii) Exceptions

The Corporation may exclude a contract from the requirements of clause (ii) if the Chief Executive Officer of the Corporation determines in writing that imposing such a subcontracting requirement would—

(I) substantially increase the cost of contract performance; or

(II) undermine the ability of the contractor to perform its obligations under the contract.

(B) Limited waiver authority

(i) In general

The Corporation may grant a waiver from the application of this paragraph to any contractor with respect to a contract described in subparagraph (A)(ii), if the contractor certifies to the Corporation that it has determined that no eligible minority- or women-owned business is available to enter into a subcontract (with respect to such contract) and provides an explanation of the basis for such determination.

(ii) Waiver procedures

Any determination to grant a waiver under clause (i) shall be made in writing by the Chief Executive Officer of the Corporation.

(C) Report

Each quarterly report submitted by the Corporation pursuant to subsection (k)(7) of this section shall contain a description of each exception granted under subparagraph (A)(iii) and each waiver granted under subparagraph (B) during the quarter covered by the report.

(D) Definitions

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

(i) Minority

The term ''minority'' has the same meaning as in section 1204(c)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(ii) Minority- and women-owned business

The terms ''minority-owned business'' and ''women-owned business'' have the same meanings as in subsection (r)(4) of this section.

(19) Contracting procedures

(A) Procedures

In awarding any contract subject to the competitive bidding process, the Corporation shall apply competitive bidding procedures that are no less stringent than those in effect on December 17, 1993.

(B) Cost to taxpayer

Nothing in this chapter, or any other provision of law, shall supersede the Corporation's primary duty of minimizing costs to the taxpayer and maximizing the total return to the Government.

(20) Management of legal services

To improve the management of legal services, the Corporation—

(A) shall utilize staff counsel when such utilization would provide the same level of quality in legal services as the use of outside counsel at the same or a lower estimated cost; and

(B) may only employ outside counsel—

(i) if the use of outside counsel would provide the most practicable, efficient, and cost-effective resolution to the action; and

(ii) under a negotiated fee, contingent fee, or competitively bid fee agreement.

(21) Client responsiveness units

The Corporation shall ensure that every regional office of the Corporation contains a client responsiveness unit responsible to the Corporation's ombudsman.

(x) Limitation on excessive compensation and cash awards

(1) Establishment of performance appraisal system required

The Corporation shall be treated as an agency for purposes of sections 4302 and 4304 of title 5.

(2) Procedures for payment of cash awards

(A) In general

Sections 4502, 4503, and 4505a of title 5 shall apply with respect to the Corporation.

(B) Limitation on amount of cash awards

For purposes of determining the amount of any performance-based cash award payable to any employee of the Corporation under section 4505a of title 5, the amount of basic pay of the employee which may be taken into account under such section shall not exceed the amount which is equal to the annual rate of basic pay payable for level I of the Executive Schedule.

(3) All other cash awards and bonuses prohibited

Except as provided in paragraph (2), no cash award or bonus may be made to any employee of the Corporation.

(4) Limitations on cash awards and bonuses

No employee shall receive any cash award or bonus if such employee has given notice of an intent to resign to take a position in the private sector before the payment of such cash award or bonus or accepts employment in the private sector not later than 60 days after receipt of such award or bonus.

(5) Limitation on excessive compensation

Except as provided in paragraphs (6) and (7), no employee may receive a total amount of al-

lowances, benefits, basic pay, and other compensation, including bonuses and other awards, in excess of the total amount of allowances, benefits, basic pay, and other compensation, including bonuses and other awards, which are provided to the chief executive officer of the Corporation.

(6) No reduction in rate of pay

The annual rate of basic pay and benefits, including any regional pay differential, payable to any employee who was an employee as of December 17, 1993, for any year ending after December 17, 1993, shall not be reduced, by reason of paragraph (5), below the annual rate of basic pay and benefits, including any regional pay differential, paid to such employee, by reason of such employment, as of December 17, 1993.

(7) Employees serving in acting or temporary capacity

In the case of any employee who, as of December 17, 1993, is serving in an acting capacity or is otherwise temporarily employed at a higher grade than such employee's regular grade or position of employment—

(A) the annual rate of basic pay and benefits, including any regional pay differential, payable to such employee in such capacity or at such higher grade shall not be reduced by reason of paragraph (5) so long as such employee continues to serve in such capacity or at such higher grade; and

(B) after such employee ceases to serve in such capacity or at such higher grade, paragraph (6) shall be applied with respect to such employee by taking into account only the annual rate of basic pay and benefits, including any regional pay differential, payable to such employee in such employee's regular grade or position of employment.

(8) Definitions

(A) Allowances

For purposes of paragraph (5), the term ''allowances'' does not include any allowance for travel and subsistence expenses incurred by an employee while away from home or designated post of duty on official business.

(B) Employee

For purposes of this subsection and sections 4302, 4502, 4503, and 4505a of title 5 (as applicable with respect to this subsection), the term ''employee'' includes any officer or employee assigned to the Corporation under subsection (b)(8) of this section and any officer or employee of the Thrift Depositor Protection Oversight Board.

(y) Authority to execute contracts

(1) Authorized persons

A person may execute a contract on behalf of the Corporation for the provision of goods or services only if—

(A) that person—

(i) is a warranted contracting officer appointed by the Corporation, or is a managing agent of a savings association under the conservatorship of the Corporation; and

(ii) provides appropriate certification or other identification, as required by the Corporation in accordance with paragraph (2);

(B) the notice described in paragraph (4) is included in the written contract; and

(C) that person has appropriate authority to execute the contract on behalf of the Corporation in accordance with the notice published by the Corporation in accordance with paragraph (5).

(2) Presentation of identification

Prior to executing any contract described in paragraph (1) with any person, a warranted contracting officer or managing agent shall present to that person—

(A) a valid certificate of appointment (or such other identification as may be required by the Corporation) that is signed by the appropriate officer of the Corporation; or

(B) a copy of such certificate, authenticated by the Corporation.

(3) Treatment of unauthorized contracts

A contract described in paragraph (1) that fails to meet the requirements of this section—

(A) shall be null and void; and

(B) shall not be enforced against the Corporation or its agents by any court.

(4) Inclusion of notice in contract terms

Each written contract described in paragraph (1) shall contain a clear and conspicuous statement (in boldface type) in immediate proximity to the space reserved for the signatures of the contracting parties as follows:

''Only warranted contracting officers appointed by the Resolution Trust Corporation or managing agents of associations under the conservatorship of the Resolution Trust Corporation have the authority to execute contracts on behalf of the Resolution Trust Corporation. Such persons have certain limits on their contracting authority. The nature and extent of their contracting authority levels are published in the Federal Register.

''A warranted contracting officer or a managing agent must present identification in the form of a signed certificate of appointment (or an authenticated copy of such certificate) or other identification, as required by the Corporation, prior to executing any contract on behalf of the Resolution Trust Corporation.

''Any contract that is not executed by a warranted contracting officer or the managing agent of a savings association under the conservatorship of the Resolution Trust Corporation, acting in conformity with his or her contracting authority, shall be null and void, and will not be enforceable by any court.''

(5) Notice of requirements

Not later than 30 days after December 17, 1993, the Corporation shall publish notice in the Federal Register of—

(A) the requirements for appointment by the Corporation as a warranted contracting officer; and

(B) the nature and extent of the contracting authority to be exercised by any war-

ranted contracting officer or managing agent.

(6) Exception

This section does not apply to—

(A) any contract between the Corporation and any other person governing the purchase or assumption by that person of—

(i) the ownership of a savings association under the conservatorship of the Corporation; or

(ii) the assets or liabilities of a savings association under the conservatorship or receivership of the Corporation; or

(B) any contract executed by the Inspector General of the Corporation (or any designee thereof) for the provision of goods or services to the Office of the Inspector General of the Corporation.

(7) Execution of contracts

For purposes of this subsection, the execution of a contract includes all modifications to such contract.

(8) Effective date

The requirements of this subsection shall apply to all contracts described in paragraph (1) executed on or after the date which is 45 days after December 17, 1993.

(z) Additional contracting requirements

(1) In general

No person shall execute, on behalf of the Corporation, any contract, or modification to a contract, for goods or services exceeding $100,000 in value unless the person executing the contract or modification states in writing that—

(A) the contract or modification is for a fixed price, the person has received a written cost estimate for the contract or modification, or a cost estimate cannot be obtained as a practical matter with an explanation of why such a cost estimate cannot be obtained as a practical matter;

(B) the person has received the written statement described in paragraph (2); and

(C) the person is satisfied that the contract or modification to be executed has been approved by a person legally authorized to do so pursuant to a written delegation of authority.

(2) Written delegation of authority

A person who authorizes a contract, or a modification to a contract, involving the Corporation for goods or services exceeding $100,000 in value shall state, in writing, that he or she has been delegated the authority, pursuant to a written delegation of authority, to authorize that contract or modification.

(3) Effect of failure to comply

The failure of any person executing a contract, or a modification of a contract, on behalf of the Corporation, or authorizing such a contract or modification of a contract, to comply with the requirements of this subsection shall not void, or serve as grounds to void or rescind, any otherwise properly executed contract.

(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, §§ 1611(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.)

AMENDMENT OF SUBSECTION (b)

Pub. L. 104–208, div. A, title II, § 2704(c), (d)(11)(B)–(D), Sept. 30, 1996, 110 Stat. 3009–487, 3009–489, provided that, effective Jan. 1, 1999, if no insured depository institution is a savings association on that date, this section is amended as follows:

(1) in paragraph (4)(B), by striking ''affected deposit insurance fund'' and inserting ''Deposit Insurance Fund'';

(2) in paragraph (6)(B)—

(A) in the subparagraph heading, by striking ''SAIF-insured banks'' and inserting ''Charter conversions''; and

(B) by striking ''Savings Association Insurance Fund member'' and inserting ''savings association''; and

(3) in paragraph (10)(A)(iv)(II), by striking ''Savings Association Insurance Fund'' and inserting ''Deposit Insurance Fund''.

REFERENCES IN TEXT

Level II of the Executive Schedule, referred to in subsec. (a)(4)(C), is set out in section 5313 of Title 5, Government Organization and Employees.

Section 9105 of title 31, referred to in subsec. (b)(2), 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.

August 9, 1989, referred to in subsec. (b)(10)(C)(ii), was in the original ''the date of enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989'', and was translated as meaning the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. L. 101–73, to reflect the probable intent of Congress.

Section 519(a) of the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1991, referred to in subsec. (b)(10)(C)(ii), is section 519(a) of Pub. L. 101–507, 104 Stat. 1386, which is not classified to the Code.

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989, referred to in subsecs. (c)(6)(A)(ii), (j)(2)(A), (m)(3)(B), (s)(2)(C), (t)(3)(A), (u)(5)(A), and (w)(17)(E)(ii), (18)(D)(i), is Pub. L. 101–73, Aug. 9, 1989, 103 Stat. 183. Section 404(9) of the Act is set out in a note under section 1437 of this title. Section 1204(c)(3) of the Act is set out as a note under section 1811 of this title. For complete classification of this Act to the Code, see Short Title of 1989 Amendment note set out under section 1811 of this title and Tables.

The United States Housing Act of 1937, referred to in subsec. (c)(6)(B) is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§1437 et seq.) 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 1437 of Title 42 and Tables.

The Stewart B. McKinney Homeless Assistance Act, referred to in subsec. (c)(6)(B), is Pub. L. 100–77, July 22, 1987, 101 Stat. 482, as amended. Title IV of the Act is classified principally to subchapter IV (§11361 et seq.) of chapter 119 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of Title 42 and Tables.

Section 810 of the Housing and Community Development Act of 1974, referred to in subsec. (c)(6)(B), (E)(i), is section 810 of Pub. L. 93–383, which was classified to section 1706e of this title, and was repealed by Pub. L. 101–625, title II, §289(b), Nov. 28, 1990, 104 Stat. 4128.

The National Housing Act, referred to in subsec. (c)(6)(B), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended, which is classified principally to chapter 13 (§1701 et seq.) of this title. For complete classification of this Act to the Code, see section 1701 of this title and Tables.

The Housing Act of 1949, referred to in subsec. (c)(6)(C), is act July 15, 1949, ch. 338, 63 Stat. 413, as amended. Title V of the Housing Act of 1949 is classified generally to subchapter III (§1471 et seq.) of chapter 8A 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 1441 of Title 42 and Tables.

The Cranston-Gonzalez National Affordable Housing Act, referred to in subsec. (c)(6)(E)(i), is Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4079. Title II of the Act, known as the HOME Investment Partnerships Act, is classified principally to subchapter II (§12721 et seq.) of chapter 130 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of Title 42 and Tables.

The Housing and Community Development Act of 1968, referred to in subsec. (c)(9)(B)(iii), probably means the Housing and Urban Development Act of 1968, Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 476, as amended. Title IX of the Act is classified principally to chapter 49 (§3931 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title of 1968 Amendments note set out under section 1701 of this title and Tables.

Section 14(b) of the Resolution Trust Corporation Completion Act, referred to in subsec. (c)(17)(A), is section 14(b) of Pub. L. 103–204, which is set out as a note under section 1831q of this title.

The Federal Advisory Committee Act, referred to in subsecs. (d)(5) and (w)(8)(C), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The Home Owners' Loan Act, referred to in subsec. (k)(9), is act June 13, 1933, ch. 64, 48 Stat. 128, as amended, which is classified generally to chapter 12 (§1461 et seq.) of this title. For complete classification of this Act to the Code, see section 1461 of this title and Tables.

Section 6(c) of the Resolution Trust Corporation Completion Act, referred to in subsec. (m)(3)(A), is section 6(c) of Pub. L. 103–204, which is set out below.

The Securities Act of 1933, referred to in subsec. (*o*)(1), 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.

Level I of the Executive Schedule, referred to in subsec. (x)(2)(B), is set out in section 5312 of Title 5, Government Organization and Employees.

AMENDMENTS

1997—Subsec. (b)(13). Pub. L. 105–135 substituted ''small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and qualified HUBZone small business concerns (as defined in section 632(p) of title 15)'' for ''small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals''.

1995—Subsec. (k)(9). Pub. L. 104–66 substituted ''June 30 and December 31 of each calendar year'' for ''the end of each calendar quarter''.

1994—Subsec. (a)(11). Pub. L. 103–325, §602(b)(1), substituted ''a United States district court'' for ''a United States District Court''.

Subsec. (b)(11)(B)(iii). Pub. L. 103–325, §602(b)(2), struck out comma after ''chapter 5''.

Subsec. (b)(11)(E)(iv)(II). Pub. L. 103–325, §602(b)(3), substituted ''knowledgeable'' for ''knowledgable''.

Subsec. (b)(11)(G). Pub. L. 103–325, §602(b)(4), inserted heading.

Subsec. (b)(14)(C)(i). Pub. L. 103–211 added cl. (i) and struck out former cl. (i) which read as follows: ''the 5-year period beginning on the date the claim accrues (as determined pursuant to section 1821(d)(14)(B) of this title); or''.

Subsec. (b)(14)(E). Pub. L. 103–328 added subpar. (E).

Subsec. (r)(4). Pub. L. 103–325, §602(b)(5), substituted ''subsection, the following definitions shall apply:'' for ''subsection—''.

Subsec. (s)(2). Pub. L. 103–325, §602(b)(6), substituted ''subsection, the following definitions shall apply:'' for ''subsection—''.

Subsec. (u)(5). Pub. L. 103–325, §602(b)(7), substituted ''subsection, the following definitions shall apply:'' for ''subsection—''.

1993—Subsec. (a)(6)(K). Pub. L. 103–204, §5(b)(2), added subpar. (K).

Subsec. (b)(3)(A)(ii). Pub. L. 103–204, §27(a)(1), substituted ''such date as is determined by the Chairperson of the Thrift Depositor Protection Oversight Board, but not earlier than January 1, 1995, and not later than July 1, 1995'' for ''October 1, 1993''.

Subsec. (b)(4)(C). Pub. L. 103–204, §3(b), added subpar. (C).

Subsec. (b)(6). Pub. L. 103–204, §§27(a)(2), 36, substituted ''such date as is determined by the Chairperson of the Thrift Depositor Protection Oversight Board under paragraph (3)(A)(ii)'' for ''October 1, 1993'' in two places, designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

Subsec. (b)(8)(E), (F). Pub. L. 103–204, §24, added subpars. (E) and (F).

Subsec. (b)(8)(G). Pub. L. 103–204, §29, added subpar. (G).

Subsec. (b)(14) to (17). Pub. L. 103–204, §§4(a), 15(a), 16(a), 17(a), added pars. (14) to (17).

Subsec. (c)(6)(A)(ii). Pub. L. 103–204, §14(d)(1), inserted at end ''The Corporation shall periodically provide, to a wide range of minority- and women-owned businesses engaged in providing affordable housing and to nonprofit organizations, more than 50 percent of the control of which is held by 1 or more minority individuals, that are engaged in providing affordable housing, information that is sufficient to inform such businesses and organizations of the availability and terms of financing under this clause; such information may be provided di-

rectly, by notices published in periodicals and other publications that regularly provide information to such businesses or organizations, and through persons and organizations that regularly provide information or services to such businesses or organizations. For purposes of this clause, the terms 'women-owned business' and 'minority-owned business' have the meanings given such terms in subsection (r) of this section, and the term 'minority' has the meaning given such term in section 1204(c)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.''

Subsec. (c)(9)(D)(ii). Pub. L. 103–204, §12(1), added cl. (ii) and struck out former cl. (ii) which read as follows: ''that has an appraised value that does not exceed $67,500 in the case of a 1-family residence, $76,000 in the case of a 2-family residence, $92,000 in the case of a 3-family residence, and $107,000 in the case of a 4-family residence.''

Subsec. (c)(9)(G). Pub. L. 103–204, §12(2), realigned margin of subcl. (I) and redesignated it as cl. (i) and substituted cl. (ii) for subcl. (II) which read as follows: ''that has an appraised value that does not exceed $67,500 in the case of a 1-family residence, $76,000 in the case of a 2-family residence, $92,000 in the case of a 3-family residence, and $107,000 in the case of a 4-family residence.''

Subsec. (c)(11)(D). Pub. L. 103–204, §14(f)(1), added subpar. (D).

Subsec. (c)(16), (17). Pub. L. 103–204, §14(a)(1), (e)(1), added pars. (16) and (17).

Subsec. (d)(2). Pub. L. 103–204, §14(c)(2), amended par. (2) generally, substituting ''(2) [Reserved]'' for former par. (2) which read as follows: ''NATIONAL HOUSING ADVISORY BOARD.—

''(A) ESTABLISHMENT.—The Thrift Depositor Protection Oversight Board shall establish a National Housing Advisory Board to advise the Thrift Depositor Protection Oversight Board on policies and programs related to the provision of affordable housing.

''(B) MEMBERSHIP.—The National Housing Advisory Board shall consist of—

''(i) the Secretary of Housing and Urban Development; and

''(ii) the chairpersons of any regional advisory boards established pursuant to paragraph (3).

''(C) MEETINGS.—The National Housing Advisory Board shall meet 4 times a year, or more frequently if requested by the Thrift Depositor Protection Oversight Board.''

Subsec. (i)(3) to (6). Pub. L. 103–204, §2, struck out ''until April 1, 1992'' after ''this section'' in par. (3) and added pars. (4) to (6).

Subsec. (m)(1). Pub. L. 103–204, §7(b), substituted ''December 31, 1995'' for ''December 31, 1996''.

Subsec. (m)(3). Pub. L. 103–204, §7(a), added par. (3).

Subsec. (q)(1). Pub. L. 103–204, §21(b)(1), substituted ''regarding—

''(A) a possible violation of any law or regulation; or

''(B) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

by the Corporation, the Thrift Depositor Protection Oversight Board, or such person or any director, officer, or employee of the Corporation, the Thrift Depositor Protection Oversight Board, or the person.'' for ''regarding any possible violation of any law or regulation by the Corporation, the Thrift Depositor Protection Oversight Board, or such person or any director, officer, or employee of the Corporation, the Thrift Depositor Protection Oversight Board, or the person.''

Subsec. (q)(5). Pub. L. 103–204, §21(b)(2), added par. (5).

Subsec. (w). Pub. L. 103–204, §3(a), added subsec. (w).

Subsec. (x). Pub. L. 103–204, §5(a), added subsec. (x).

Subsec. (y). Pub. L. 103–204, §30, added subsec. (y).

Subsec. (z). Pub. L. 103–204, §31, added subsec. (z).

1992—Pub. L. 102–550, §1613(a)(6), inserted ''Thrift Depositor Protection'' before ''Oversight Board'' in section catchline.

Subsec. (a)(2). Pub. L. 102–550, §1613(b)(2), struck out second period after ''by this chapter.''

Pub. L. 102–550, §1613(b)(1), made technical amendment to directory language of Pub. L. 102–233, §303(2). See 1991 Amendment note below.

Subsec. (a)(6). Pub. L. 102–550, §1613(a)(4), substituted ''Thrift Depositor Protection Oversight'' for ''Oversight'' in heading.

Subsec. (a)(6)(C). Pub. L. 102–550, §1613(c)(1), substituted ''paragraph (8)'' for ''paragraph (8) of this subsection:

''*Provided*, That if the Thrift Depositor Protection Oversight Board requires the modification of any overall strategies, policies and goals, it shall, within 30 days of the date at which it directs the RTC make such modification, provide the House and Senate Banking Committees with an explanation that identifies which ground justifies the review and giving reasons why the modification is necessary to satisfy these grounds.''

Subsec. (a)(8). Pub. L. 102–550, §1613(f)(1), struck out ''In general'' before ''The Corporation shall''.

Subsec. (a)(10). Pub. L. 102–550, §1613(d)(1), substituted ''Open'' for ''Quarterly'' in heading, ''6'' for ''4'' in text, and inserted at end: ''The Thrift Depositor Protection Oversight Board shall maintain a transcript of the board's open meetings.''

Subsec. (a)(15), (16). Pub. L. 102–550, §1613(c)(2), added par. (15) and redesignated former par. (15) as (16).

Subsec. (b)(8)(A). Pub. L. 102–550, §1613(e), substituted ''Except for the chief executive officer of the Corporation,'' for ''Except for its chief executive officer,''.

Subsec. (b)(8)(B)(i). Pub. L. 102–550, §1612, made technical amendment to first reference to December 12, 1991, to correct reference to corresponding provisions of original act.

Pub. L. 102–378, which directed that subsec. (b)(9)(B)(i) of this section, as amended by section 201 of Pub. L. 102–233, be amended by striking out the last three sentences, was executed to subsec. (b)(8)(B)(i) of this section, to reflect the probable intent of Congress and the intervening redesignation of par. (9) as (8) by section 310 of Pub. L. 102–233 (see 1991 Amendment note below). Prior to amendment, last three sentences read as follows: ''Any employee or officer in the executive service of the Federal Deposit Insurance Corporation who was performing services on behalf of the Corporation at level E–4 or above immediately prior to December 12, 1991, shall continue to be assigned to perform substantially similar services on behalf of the Corporation after December 12, 1991, unless the Corporation—

''(I) determines that the services of any such employees are unnecessary, or

''(II) reassigns or substantially alters the responsibilities or duties of any such employees.

If an action described in subclause (I) or (II) occurs, any such employee with at least 20 years of service, as defined by chapter 83 or chapter 84 of title 5, shall be entitled to an annuity under section 8336(d) or section 8414(b)(1) of title 5, notwithstanding the fact that such employee has not attained the age of 50 years or has declined another position with the Federal Deposit Insurance Corporation, and the annuity of such employee shall not be reduced because of the age of such employee. The Federal Deposit Insurance Corporation shall reimburse the appropriate retirement insurance fund for any increased costs it incurs as a result of the annuities authorized pursuant to this clause.''

Subsec. (b)(9)(G). Pub. L. 102–550, §1613(h)(1)(A), substituted ''(10)(A)(iv)'' for ''(11)(A)(iv)''.

Subsec. (b)(9)(I). Pub. L. 102–550, §1613(h)(1)(B), struck out ''through its Board of Directors'' after ''prescribe''.

Subsec. (b)(10)(A). Pub. L. 102–550, §1613(h)(2), substituted ''(9)'' for ''(10)'' in introductory provisions and ''(11)'' for ''(12)'' in cl. (i).

Subsec. (b)(11)(E)(i). Pub. L. 102–550, §1613(h)(3), substituted ''the chief executive officer's'' for ''its''.

Subsec. (c)(3)(E). Pub. L. 102–550, §1616(a), in cl. (i)(I), substituted ''property in which the units are located; and'' for ''building property structure in which the units are located: *Provided*, That'', in cl. (i)(II), struck out ''shall be made available for occupancy'' after

''units purchased'', inserted ''(including very low-income families taken into account for purposes of subclause (I))'' after ''very low-income families'', and substituted ''property'' for ''building or structure'', and in cl. (ii)(II), substituted ''property'' for ''building property structure'' after ''useful life of the'' in two places, and inserted ''(including very low-income families taken into account for purposes of subdivision (a) of this subclause)'' after ''very low-income families'' in subdiv. (b).

Subsec. (c)(7). Pub. L. 102–550, §1613(h)(4), substituted ''(b)(10)(A)'' for ''(b)(11)(A)''.

Subsec. (c)(8)(B). Pub. L. 102–550, §1616(b), repealed Pub. L. 102–233, §611. See 1991 Amendment note below.

Subsec. (c)(8)(B)(ii). Pub. L. 102–550, §1615(a)(2), substituted ''subchapter B'' for ''subchapter A''.

Subsec. (c)(9)(D)(ii). Pub. L. 102–550, §503(c)(3), substituted ''$67,500 in the case of a 1-family residence, $76,000 in the case of a 2-family residence, $92,000 in the case of a 3-family residence, and $107,000 in the case of a 4-family residence'' for ''the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (without regard to any increase of such amount for high cost areas)''.

Subsec. (c)(9)(E)(i)(II), (ii)(II). Pub. L. 102–550, §509(i), substituted '', for such part of the property as may be attributable to dwelling use (excluding exterior land improvements), $29,500 per family unit without a bedroom, $33,816 per family unit with 1 bedroom, $41,120 per family unit with 2 bedrooms, $53,195 per family unit with 3 bedrooms, and $58,392 per family unit with 4 or more bedrooms'' for ''the applicable dollar amount set forth in section 221(d)(3)(ii) of the National Housing Act for elevator-type structures (without regard to any increase of such amount for high-cost areas)''.

Subsec. (c)(9)(G)(ii). Pub. L. 102–550, §503(c)(3), substituted ''$67,500 in the case of a 1-family residence, $76,000 in the case of a 2-family residence, $92,000 in the case of a 3-family residence, and $107,000 in the case of a 4-family residence'' for ''the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (without regard to any increase of such amount for high-cost areas)''.

Subsec. (c)(10). Pub. L. 102–550, §1613(d)(2), struck out at end ''The Thrift Depositor Protection Oversight Board shall maintain a transcript of its open meetings.'' See note for subsec. (a)(10) above and 1991 Amendment note below.

Subsec. (d)(1)(B)(ii). Pub. L. 102–550, §1613(h)(5), substituted ''paragraph (3)'' for ''paragraph (2)''.

Subsec. (i)(3). Pub. L. 102–550, §1611(a), inserted comma after ''necessary'' and after ''billion''.

Subsec. (k). Pub. L. 102–550, §1613(a)(1), repealed Pub. L. 102–233, §302(c). See 1991 Amendment note below.

Subsec. (k)(3)(B). Pub. L. 102–550, §1613(h)(6), substituted ''subsection (b)(10)(B)'' for ''subsection (b)(11)(B)''.

Subsec. (k)(6)(A)(vii). Pub. L. 102–550, §1613(a)(2), inserted ''Thrift Depositor Protection'' before ''Oversight Board's''.

Subsec. (k)(7). Pub. L. 102–550, §1611(d)(1), substituted ''preceding calendar quarter'' for ''quarter ending on the last day of the month ending before the month in which such report is required to be submitted''.

Subsec. (k)(10)(A). Pub. L. 102–550, §1611(d)(2), which directed amendment of section ''21A(k)(10) of the Federal Home Loan Bank Board'', by inserting ''Thrift Depositor Protection'' before ''Oversight Board'' wherever appearing, was probably intended as an amendment to subsec. (k)(10) of this section, which is section 21A of the Federal Home Loan Bank Act, but was not executed in view of similar amendment by Pub. L. 102–233, §302(b). See 1991 Amendment note below for subsec. (k).

Subsec. (k)(11)(A). Pub. L. 102–550, §1611(d)(3)(A), which directed amendment by inserting ''Thrift Depositor Protection'' before ''Oversight Board'', as not executed in view of similar amendment by Pub. L. 102–233, §302(b). See 1991 Amendment note below for subsec. (k).

Subsec. (k)(11)(B). Pub. L. 102–550, §1611(d)(3)(B), substituted ''employees'' for ''an employee'' and ''General'' for ''Government''.

Subsec. (*l*)(3)(B). Pub. L. 102–550, §1613(g), substituted ''for that party or the filing'' for ''for that party of the filing''.

Subsec. (n)(8). Pub. L. 102–550, §1613(a)(5), inserted ''Thrift Depositor Protection'' before ''Oversight Board'' in heading.

Subsec. (*o*)(2). Pub. L. 102–550, §1613(f)(2), substituted ''includes any officer or employee of the Federal Deposit'' for ''includes—any officer or employee of the Federal Deposit''.

Subsec. (q). Pub. L. 102–550, §1614(a)(7)(B), redesignated subsec. (q), relating to continuation of obligation to provide services, as (v).

Pub. L. 102–550, §1614(a)(7)(A), amended directory language of Pub. L. 102–242, §471. See 1991 Amendment note below.

Pub. L. 102–550, §1614(a)(5)(E), transferred and inserted subsec. (q), relating to employee protection remedies, after subsec. (p), effective Dec. 19, 1991.

Pub. L. 102–550, §1613(a)(8), inserted ''Thrift Depositor Protection'' before ''Oversight Board'' in heading of subsec. (q) relating to employee protection remedies.

Pub. L. 102–550, §§1613(a)(3), 1614(b)(4), which directed identical amendment of subsec. (q), relating to employee protection remedies, by inserting ''Thrift Depositor Protection'' before ''Oversight Board'', was not executed in view of similar amendment by Pub. L. 102–233, §302(b). See 1991 Amendment note below.

Subsec. (r). Pub. L. 102–550, §1614(a)(5)(A), redesignated subsec. (t) as (r).

Pub. L. 102–550, §1614(a)(1), amended Pub. L. 102–233, §401, transferring and inserting subsec. (r) [formerly (t)] after subsec. (p) effective Dec. 12, 1991. See 1991 Amendment note below.

Subsec. (s). Pub. L. 102–550, §1614(a)(5)(B), redesignated subsec. (u) as (s).

Subsec. (t). Pub. L. 102–550, §1614(a)(5)(C), redesignated subsec. (v) as (t). Former subsec. (t) redesignated (r).

Pub. L. 102–550, §1614(a)(1), amended directory language of Pub. L. 102–233, §401. See 1991 Amendment note below.

Subsec. (t)(1). Pub. L. 102–550, §1614(b)(1), substituted ''the minority capital assistance program established under subsection (u)(1) of this section'' for ''minority interim capital assistance program established by the Oversight Board by regulation pursuant to the strategic plan under subsection (a) of this section''.

Subsec. (t)(3)(B). Pub. L. 102–550, §1614(b)(3), substituted ''section 1823(f)(8)(B)'' for ''section 1823(c)(8)''.

Subsec. (u). Pub. L. 102–550, §1614(a)(5)(D), redesignated subsec. (w) as (u). Former subsec. (u) redesignated (s).

Pub. L. 102–550, §1614(a)(2), made technical correction to directory language of Pub. L. 102–233, §402(a). See 1991 Amendment note below.

Subsec. (u)(1). Pub. L. 102–550, §1614(b)(2), substituted ''administered by the Corporation pursuant to the policy statement entitled the 'Interim Statement of Policy Regarding Resolutions of Minority-Owned Depository Institutions' adopted by the Corporation on January 30, 1990'' for ''established by the Oversight Board by regulation pursuant to the strategic plan under subsection (a) of this section''.

Subsec. (u)(5)(B). Pub. L. 102–550, §1614(b)(3), substituted ''section 1823(f)(8)(B)'' for ''section 1823(c)(8)''.

Subsec. (v). Pub. L. 102–550, §1614(a)(7)(B), redesignated subsec. (q), relating to continuation of obligation to provide services, as (v). Former subsec. (v) redesignated (t).

Pub. L. 102–550, §1614(a)(3), made technical correction to directory language of Pub. L. 102–233, §403. See 1991 Amendment note below.

Subsec. (w). Pub. L. 102–550, §1614(a)(5)(D), redesignated subsec. (w) as (u).

Pub. L. 102–550, §1614(a)(4), made technical correction to directory language of Pub. L. 102–233, §404. See 1991 Amendment note below.

1991—Subsec. (a). Pub. L. 102–233, §302(b), substituted ''Thrift Depositor Protection Oversight Board'' for ''Oversight Board'' wherever appearing.

Subsec. (a)(2). Pub. L. 102–233, § 303(2), as amended by Pub. L. 102–550, § 1613(b)(1), inserted before period at end of first sentence ''and shall be accountable for the duties assigned to the Thrift Depositor Protection Oversight Board by this chapter.''

Pub. L. 102–233, § 303(1), substituted ''monitor the operations of'' for ''be accountable for'' in first sentence.

Subsec. (a)(3)(A). Pub. L. 102–233, § 304(1), in introductory provisions, substituted ''7'' for ''5'', added cls. (iii) through (v), redesignated former cl. (iv) as (vi), and struck out former cl. (iii) which directed that Secretary of Housing and Urban Development be member of Board.

Subsec. (a)(3)(E). Pub. L. 102–233, § 304(2), substituted ''4'' for ''3''.

Subsec. (a)(5)(I) to (K). Pub. L. 102–18, § 104(b), added subpar. (I) and redesignated former subpars. (I) and (J) as (J) and (K), respectively.

Subsec. (a)(6)(A). Pub. L. 102–233, § 305(1), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''To develop and establish overall strategies, policies, and goals for the Corporation's activities in consultation with the Corporation, including such items as—

''(i) general policies and procedures for case resolutions, the management and disposition of assets, the use of private contractors, and the use of notes, guarantees or other obligations by the Corporation;

''(ii) overall financial goals, plans, and budgets; and

''(iii) restructuring agreements described in subsection (b)(11)(B) of this section.''

Subsec. (a)(6)(B). Pub. L. 102–233, § 305(2), inserted ''financial plans, budgets, and'' after ''implementation''.

Subsec. (a)(6)(C). Pub. L. 102–233, § 305(3), amended subpar. (C) generally and inserted closing provision relating to explanation to Congress of review and modification. Prior to amendment, subpar. (C) read as follows: ''To review all rules, regulations, principles, procedures, and guidelines that may be adopted or announced by the Corporation. After consultation with the Corporation, the Oversight Board may require the modification of any such rules, regulations, principles, procedures, or guidelines except that the rules, regulations, principles, procedures, and guidelines relating to the Corporation's powers and activities as a conservator or receiver shall be consistent with the Federal Deposit Insurance Act. The provisions of this subparagraph shall not apply to internal administrative policies and procedures, and determinations or actions described in paragraph (8) of this subsection.''

Subsec. (a)(7). Pub. L. 102–233, § 314(1)(A), substituted ''(b)(11)'' for ''(b)(12)''.

Subsec. (a)(8). Pub. L. 102–233, § 314(1)(B), struck out designation ''(A)'' and subpar. (B) which set forth limitation on authority of Oversight Board over activities, powers, or functions of Federal Deposit Insurance Corporation.

Subsec. (a)(8)(A). Pub. L. 102–233, § 306, substituted ''involving (i)'' for ''(i) involving'' and ''review overall strategies, policies, and goals established by the Corporation'' for ''provide general policies and procedures''.

Subsec. (a)(10). Pub. L. 102–233, § 314(1)(C), substituted ''review overall strategies, policies, and goals established by'' for ''establish and review the general policy of'' and ''matters as pertain to'' for ''standards, policies, and procedures necessary to carry out''.

Subsec. (a)(14)(A). Pub. L. 102–233, § 308, amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''The Oversight Board shall, subject to paragraph (6), develop a strategic plan for conducting the Corporation's functions and activities. The Oversight Board shall submit the strategic plan to the Congress not later than December 31, 1989.''

Subsec. (b). Pub. L. 102–233, § 302(b), substituted ''Thrift Depositor Protection Oversight Board'' for ''Oversight Board'' wherever appearing.

Subsec. (b)(1)(C). Pub. L. 102–233, § 309(a), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''Immediately upon August 9, 1989, the Federal Deposit Insurance Corporation shall be authorized to and shall perform all responsibilities of the Corporation, and shall continue to do so unless removed pursuant to subsection (m) of this section.''

Subsec. (b)(3). Pub. L. 102–233, § 314(2)(A), struck out ''and through the Federal Deposit Insurance Corporation (or any replacement authorized pursuant to subsection (m) of this section)'' before '', including:''.

Subsec. (b)(3)(A)(ii). Pub. L. 102–233, § 103(a), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''for which a conservator or receiver—

''(I) had been appointed at any time during the period beginning on January 1, 1989, and ending on August 9, 1989 (including any institution described in paragraph (6)); or

''(II) is appointed within the 3-year period beginning on August 9, 1989.''

Subsec. (b)(3)(B). Pub. L. 102–233, § 309(b), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''To manage the Federal Asset Disposition Association, subject to the provisions of subsection (f) of this section.''

Subsec. (b)(4). Pub. L. 102–242, § 141(a)(3), designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

Subsec. (b)(6). Pub. L. 102–233, § 103(b), amended par. (6) generally. Prior to amendment, par. (6) read as follows: ''As of August 9, 1989, the Corporation shall succeed the Federal Savings and Loan Insurance Corporation as conservator or receiver with respect to any institution for which the Federal Savings and Loan Insurance Corporation was appointed conservator or receiver during the period beginning on January 1, 1989 and ending on August 9, 1989.''

Subsec. (b)(8). Pub. L. 102–233, § 310, redesignated par. (9) as (8) and struck out former par. (8) which related to Board of Directors of Corporation.

Subsec. (b)(8)(A). Pub. L. 102–233, § 311(1), substituted provision directing that Corporation have no employees except for its chief executive officer for provision directing that Corporation have no employees unless Oversight Board exercises subsec. (m) authority.

Subsec. (b)(8)(B)(i). Pub. L. 102–233, § 201(1), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: ''The Federal Deposit Insurance Corporation, when acting as the exclusive manager of the Corporation, shall (subject to subsection (a)(6) of this section) receive reimbursement from the Corporation for all services performed for the Corporation. Such reimbursement may not exceed the actual and reasonable cost incurred by the Federal Deposit Insurance Corporation in performing such services.''

Subsec. (b)(8)(C). Pub. L. 102–233, § 201(2), added subpar. (C).

Subsec. (b)(8)(D). Pub. L. 102–233, § 311(2), added subpar. (D).

Subsec. (b)(9). Pub. L. 102–233, § 310, redesignated par. (10) as (9). Former par. (9) redesignated (8).

Subsec. (b)(9)(B), (C). Pub. L. 102–233, § 314(2)(B)(i), redesignated subpars. (C) and (D) as (B) and (C), respectively, and struck out former subpar. (B) which related to Corporation's power to provide for certain officers and employees, define their duties, and require surety bonds against losses occasioned by their acts.

Subsec. (b)(9)(D). Pub. L. 102–233, § 314(2)(B)(i), redesignated subpar. (E) as (D). Former subpar. (D) redesignated (C).

Pub. L. 102–233, § 309(c), inserted ''using any legally available private sector methods including without limitation, securitization of debt or equity, limited partnerships, mortgage investment conduits, and real estate investment trusts,'' after ''real and personal property,''.

Subsec. (b)(9)(E) to (I). Pub. L. 102–233, § 314(2)(B)(i), redesignated subpars. (F) to (J) as (E) to (I), respectively. Former subpar. (E) redesignated (D).

Subsec. (b)(9)(J). Pub. L. 102–233, § 314(2)(B)(i), redesignated subpar. (K) as (J). Former subpar. (J) redesignated (I).

Pub. L. 102–233, § 501(a)(1), amended generally subpar (J) [par. (10)(K) prior to redesignation, see above]. Prior

to amendment, subpar. read as follows: ''To make loans.''

Subsec. (b)(9)(K), (L). Pub. L. 102–233, §314(2)(B)(i), redesignated subpars. (L) and (M) as (K) and (L), respectively. Former subpars. (K) and (L) redesignated (J) and (K), respectively.

Subsec. (b)(9)(M). Pub. L. 102–233, §314(2)(B), redesignated subpar. (N) as (M) and struck out ''on behalf of the Federal Deposit Insurance Corporation, acting as exclusive manager'' before period at end of penultimate sentence. Former subpar. (M) redesignated (L).

Subsec. (b)(9)(N). Pub. L. 102–233, §314(2)(B)(i), redesignated subpar. (N) as (M).

Subsec. (b)(10). Pub. L. 102–233, §310, redesignated par. (11) as (10). Former par. (10) redesignated (9).

Subsec. (b)(10)(N). Pub. L. 102–18, §104(a), inserted at end ''The Corporation may indemnify the directors, officers and employees of the Corporation on such terms as the Corporation deems proper against any liability under any civil suit pursuant to any statute or pursuant to common law with respect to any claim arising out of or resulting from any act or omission by such person within the scope of such person's employment in connection with any transaction entered into involving the disposition of assets (or any interests in any assets or any obligations backed by any assets) by the Corporation. For purposes of this subparagraph, the terms 'officers' and 'employees' include officers and employees of the Federal Deposit Insurance Corporation or of other agencies who perform services for the Corporation on behalf of the Federal Deposit Insurance Corporation, acting as exclusive manager. The indemnification authorized by this subparagraph shall be in addition to and not in lieu of any immunities or other protections that may be available to such person under applicable law, and this provision does not affect any such immunities or other protections.''

Subsec. (b)(11). Pub. L. 102–233, §310, redesignated par. (12) as (11). Former par. (11) redesignated (10).

Subsec. (b)(11)(A). Pub. L. 102–233, §314(2)(C)(i), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''Subject to the review of the Oversight Board, the Corporation shall adopt the rules, regulations, standards, policies, procedures, guidelines, and statements necessary to implement the strategic plan established by the Oversight Board under subsection (a)(14) of this section. The Corporation may issue such rules, regulations, standards, policies, procedures, guidelines, and statements as the Corporation considers necessary or appropriate to carry out this section.''

Subsec. (b)(11)(B). Pub. L. 102–233, §314(2)(C)(ii), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''Such rules, regulations, standards, policies, procedures, guidelines, and statements—

''(i) shall be provided by the Corporation to the Oversight Board promptly or prior to publication or announcement to the extent practicable;

''(ii) shall be subject to the review of the Oversight Board as provided in subsection (a)(6)(C) of this section; and

''(iii) shall be promulgated pursuant to subchapter II of chapter 5 of title 5.''

Pub. L. 102–18, §105, designated subpar. (B) concluding provisions as subpar. (C)(i).

Subsec. (b)(11)(C). Pub. L. 102–18, §105, designated subpar. (B) concluding provisions as subpar. (C)(i), added headings for subpar. (C) and cl. (i), and added cl. (ii).

Subsec. (b)(11)(D), (E). Pub. L. 102–233, §314(2)(C)(iii), substituted ''chief executive officer'' for ''Board of Directors'' wherever appearing.

Subsec. (b)(12). Pub. L. 102–233, §310, redesignated par. (13) as (12). Former par. (12) redesignated (11).

Subsec. (b)(13). Pub. L. 102–233, §310, redesignated par. (14) as (13). Former par. (13) redesignated (12).

Subsec. (b)(14). Pub. L. 102–233, §405, amended par. (14) generally, substituting present provisions for provisions which related to fiscal year 1989 funding.

Pub. L. 102–233, §310, redesignated par. (14) as (13).

Subsec. (c)(2)(B). Pub. L. 102–233, §604(a)(2), substituted ''by any such family who, except as provided in subparagraph (D), agrees to occupy the property as a principal residence for at least 12 months and who certifies in writing that the family intends to occupy the property for at least 12 months'' for ''by such families'' at end of first sentence.

Pub. L. 102–233, §603, inserted reference to qualifying households with members who are veterans and inserted references to lower-income families with members who are veterans in two places.

Pub. L. 102–233, §602, substituted ''Except as provided in the last sentence of this subparagraph for'' for ''For'' in first sentence and inserted sentence at end.

Pub. L. 102–139 substituted ''3-month and one week'' for ''3-month'' wherever appearing.

Subsec. (c)(2)(C), (D). Pub. L. 102–233, §604(b), added subpars. (C) and (D).

Subsec. (c)(2)(E). Pub. L. 102–233, §605, added subpar. (E).

Subsec. (c)(3)(B). Pub. L. 102–233, §606(1), struck out before period at end of first sentence '', or until the Corporation determines that a property is ready for sale, whichever occurs first''.

Subsec. (c)(3)(C). Pub. L. 102–233, §606(2), substituted ''the expiration of the period referred to in subparagraph (B) for a property,'' for ''determining that a property is ready for sale''.

Subsec. (c)(3)(D). Pub. L. 102–233, §606(3), inserted two sentences at end relating to rejection or failure of offer which had been initially accepted by Corporation and construction of provision requiring acceptance of another offer under such circumstances.

Subsec. (c)(3)(E). Pub. L. 102–233, §607, amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: ''Not less than 35 percent of all dwelling units purchased by a qualifying multifamily purchaser under subparagraph (D) shall be made available for occupancy by and maintained as affordable for lower-income families during the remaining useful life of the property in which the units are located, provided that not less than 20 percent of all units shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of such property. If a single entity purchases more than 1 eligible property as part of the same negotiation, the requirements of this subparagraph shall apply in the aggregate to the properties so purchased. The requirements of this subparagraph shall be contained in the deed or other recorded instrument.''

Subsec. (c)(3)(G), (H). Pub. L. 102–233, §608, added subpar. (G) and redesignated former subpar. (G) as (H).

Subsec. (c)(6)(A)(i). Pub. L. 102–233, §609, amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: ''The Corporation shall establish a market value for each eligible residential property. The Corporation shall sell eligible residential property at the net realizable market value. The Corporation may agree to sell an eligible single family property at a price below the net realizable market value to the extent necessary to facilitate an expedited sale of the property and enable a lower-income family to purchase the property. The Corporation may agree to sell eligible residential property at a price below the net realizable market value to the extent necessary to facilitate an expedited sale of such property and enable a public agency or nonprofit organization to comply with the lower-income occupancy requirements applicable to such property under paragraphs (2) and (3).''

Pub. L. 102–18, §§202, 203, temporarily amended cl. (i) to read as follows: ''The Corporation may sell eligible single family property to qualifying households, nonprofit organizations, and public agencies without regard to any minimum purchase price.'' See Effective and Termination Dates of 1991 Amendments note below.

Subsec. (c)(6)(A)(ii). Pub. L. 102–233, §610, inserted sentence at end which authorized Corporation to hold participating share in providing financing for combinations of multifamily housing properties.

Subsec. (c)(8)(B). Pub. L. 102–233, §611, which made an amendment identical to Pub. L. 102–233, §501(a)(2) [see below], was repealed by Pub. L. 102–550, §1616(b).

Pub. L. 102–233, § 501(a)(2), designated existing provisions as cl. (i), inserted heading, and added cl. (ii).

Subsec. (c)(9)(A). Pub. L. 102–233, § 617(1), added subpar. (A) and struck out former subpar. (A) which defined ''adjusted income''.

Subsec. (c)(9)(C). Pub. L. 102–233, § 601(1), added subpar. (C) and struck out former subpar. (C) which defined ''Corporation'' as Resolution Trust Corporation, with certain qualifications.

Pub. L. 102–18, §§ 201(a), 203, temporarily amended subpar. (C) by striking period at end and inserting '', except that for purposes of subsection (c)(2) of this section only, the term means the Resolution Trust Corporation acting in any capacity.'' See Effective and Termination Dates of 1991 Amendments note below.

Subsec. (c)(9)(D). Pub. L. 102–233, § 617(2), (3), added subpar. (D) and redesignated former subpar. (D), as added by Pub. L. 102–233, § 601(1), as (E).

Pub. L. 102–233, § 601(1), added subpar. (D) and struck out former subpar. (D) which defined ''eligible multifamily housing property'' as property consisting of more than 4 units to which Corporation acquires title and that has appraised value not exceeding amount set forth in section 221(d)(3)(ii) of National Housing Act.

Subsec. (c)(9)(E). Pub. L. 102–233, § 617(2), redesignated subpar. (D), as added by Pub. L. 102–233, § 601(1), as (E). Former subpar. (E) redesignated (F).

Subsec. (c)(9)(F). Pub. L. 102–233, § 617(2), redesignated subpar. (E) as (F). Former subpar. (F), as added by Pub. L. 102–233, § 601(2), redesignated (G).

Pub. L. 102–233, § 601(2), added subpar. (F) and struck out former subpar. (F) which defined ''eligible single family property'' as 1- to 4-family residence to which Corporation acquires title and that has appraised value not exceeding amount set forth in first sentence of section 203(b)(2) of National Housing Act.

Subsec. (c)(9)(G). Pub. L. 102–233, § 617(2), redesignated subpar. (F), as added by Pub. L. 102–233, § 601(2), as (G). Former subpar. (G) redesignated (H).

Subsec. (c)(9)(H) to (K). Pub. L. 102–233, § 617(2), redesignated subpars. (G) to (J) as (H) to (K), respectively. Former subpar. (K) redesignated (L).

Subsec. (c)(9)(L). Pub. L. 102–233, § 617(2), redesignated subpar. (K) as (L). Former subpar. (L) redesignated (M).

Pub. L. 102–233, § 604(a)(1), added cls. (ii) and (iii), redesignated former cl. (ii) as (iv), and substituted ''whose income'' for ''whose adjusted income''.

Subsec. (c)(9)(M) to (Q). Pub. L. 102–233, § 617(2), redesignated subpars. (L) to (P) as (M) to (Q), respectively.

Subsec. (c)(10). Pub. L. 102–233, § 307(2), inserted at end ''The Thrift Depositor Protection Oversight Board shall maintain a transcript of its open meetings.''

Pub. L. 102–233, § 307(1), which directed substitution of ''6'' for ''4'', could not be executed because ''4'' does not appear.

Pub. L. 102–18, §§ 201(b), 203, as affected by Pub. L. 102–233, § 612, amended par. (10) generally. Prior to amendment, par. (10) read as follows: ''The provisions of this subsection shall not apply whenever the Corporation as receiver contracts to sell all or substantially all of the assets of a closed savings association to an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act).'' See Effective and Termination Dates of 1991 Amendments note below.

Subsec. (c)(11)(B). Pub. L. 102–233, § 615(b), substituted ''applicable under paragraphs (2), (3), (12)(C), (13)(B), and (14)(C)'' for ''specified under paragraphs (2) and (3)''.

Subsec. (c)(12) to (15). Pub. L. 102–233, §§ 613–615(a), 616, added pars. (12) to (15).

Subsec. (d). Pub. L. 102–233, § 302(b), substituted ''Thrift Depositor Protection Oversight Board'' for ''Oversight Board'' wherever appearing.

Subsec. (d)(2) to (5). Pub. L. 102–233, § 312, added par. (2) and redesignated former pars. (2) to (4) as (3) to (5), respectively.

Subsecs. (g), (h). Pub. L. 102–233, § 302(b), substituted ''Thrift Depositor Protection Oversight Board'' for ''Oversight Board'' wherever appearing.

Subsec. (i). Pub. L. 102–233, § 302(b), substituted ''Thrift Depositor Protection Oversight Board'' for ''Oversight Board'' in par. (1)(A).

Pub. L. 102–233, § 101, added par. (3).

Pub. L. 102–18, § 101, substituted ''Funding'' for ''Borrowing'' in heading, designated existing provisions as par. (1) and inserted heading, redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), and added par. (2).

Subsec. (k). Pub. L. 102–233, § 302(c), which excepted par. (7) from general amendment substituting ''Thrift Depositor Protection Oversight Board'' for ''Oversight Board'' wherever appearing, was repealed by Pub. L. 102–550, § 1613(a)(1).

Pub. L. 102–233, § 302(b), substituted ''Thrift Depositor Protection Oversight Board'' for ''Oversight Board'' wherever appearing.

Subsec. (k)(1)(A). Pub. L. 102–18, § 102(a)(1), substituted ''Notwithstanding section 9105 of title 31, the'' for ''The'' and ''. The audited statements shall be transmitted to the Congress by the Oversight Board not later than 180 days after the end of the Corporation's fiscal year to which those statements apply.'' for ''unless the Comptroller General notifies the Oversight Board not later than 180 days before the close of a fiscal year that the Comptroller General will not perform such audit for that fiscal year. In the event of such notification, the Oversight Board shall contract with an independent certified public accountant to perform the annual audit of the Corporation's financial statement in accordance with generally accepted Government auditing standards.''

Subsec. (k)(1)(B). Pub. L. 102–18, § 102(a)(2), struck out '', or by an independent certified public accountant retained to audit the Corporations financial statement,'' after ''Board''.

Subsec. (k)(4)(B)(v). Pub. L. 102–233, § 106(b), added cl. (v).

Subsec. (k)(5)(B)(xiii). Pub. L. 102–18, § 401, added cl. (xiii).

Subsec. (k)(5)(C). Pub. L. 102–233, § 106(e)(1), added subpar. (C).

Subsec. (k)(7). Pub. L. 102–233, § 106(a), amended par. (7) generally, substituting provisions requiring Corporation to submit quarterly reports to congressional committees for provisions requiring that Oversight Board and Corporation appear before congressional committees before Jan. 31, 1990.

Subsec. (k)(8), (9). Pub. L. 102–18, § 102(a)(3), added pars. (8) and (9).

Subsec. (k)(10), (11). Pub. L. 102–233, § 106(c), (d), added pars. (10) and (11).

Subsec. (*l*)(3). Pub. L. 102–233, § 316, amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''The 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, or if the action, suit, or proceeding arises out of the actions of the Corporation with respect to an institution for which a conservator or a receiver has been appointed, the United States district court for the district where the institution's principal business is located. The removal of any action, suit, or proceeding shall be instituted—

''(A) not later than 90 days after the date the Corporation is substituted as a party, or

''(B) not later than 30 days after the date suit is filed against the Corporation, if such suit is filed after August 9, 1989.

The Corporation may appeal any order of remand entered by a United States district court.''

Subsec. (m). Pub. L. 102–233, § 314(3), redesignated subsec. (*o*) as (m) and struck out former subsec. (m) which authorized removal of Federal Deposit Insurance Corporation as manager of Corporation in extraordinary circumstances.

Subsec. (n). Pub. L. 102–233, §§ 302(b), 314(3), redesignated subsec. (p) as (n), substituted ''Thrift Depositor Protection Oversight Board'' for ''Oversight Board'' wherever appearing, and struck out former subsec. (n) which related to operation of Corporation after exercise of powers under subsec. (m).

Subsec. (n)(5). Pub. L. 102–233, § 314(4), substituted ''Officers'' for ''Directors, officers,''.

Subsec. (*o*). Pub. L. 102–233, §314(5)(B), amended par. (2) by striking ''.—'', which appeared before ''For purposes of this subsection'' in the original, striking out subpar. (A) which read ''any employee of the Office of the Comptroller of the Currency or of the Office of Thrift Supervision who serves as a deputy or assistant to a member of the Board of Directors of the Corporation; and'', striking out subpar. (B) designation before ''any officer or employee of the Federal Deposit'', and striking out ''on behalf of the Federal Deposit Insurance Corporation, acting as exclusive manager'' after ''performs services for the Corporation''.

Pub. L. 102–233, §314(5)(A), struck out ''director,'' before ''member, officer'' in par. (1).

Pub. L. 102–233, §314(3), redesignated subsec. (q) as (*o*). Former subsec. (*o*) redesignated (m).

Pub. L. 102–233, §302(b), substituted ''Thrift Depositor Protection Oversight Board'' for ''Oversight Board'' wherever appearing.

Pub. L. 102–233, §105, inserted '', if there are no liabilities of the Corporation outstanding,'' after ''Thereafter'' in par. (2).

Subsec. (p). Pub. L. 102–233, §314(3), redesignated subsec. (r) as (p). Former subsec. (p) redesignated (n).

Subsec. (q). Pub. L. 102–242, §471, as amended by Pub. L. 102–550, §1614(a)(7)(A), added subsec. (q) relating to continuation of obligation to provide services.

Pub. L. 102–242, §251(c)(1), added subsec. (q) relating to employee protection remedies.

Pub. L. 102–233, §302(b), substituted ''Thrift Depositor Protection Oversight Board'' for ''Oversight Board'' wherever appearing in subsec. (q), as added by Pub. L. 102–242, §251(c)(1). See Effective and Termination Dates of 1991 Amendments note below.

Pub. L. 102–233, §314(3), redesignated subsec. (q) relating to status of employees as (*o*).

Pub. L. 102–18, §103(a), added subsec. (q) relating to status of employees.

Subsec. (r). Pub. L. 102–233, §314(3), redesignated subsec. (r) as (p).

Pub. L. 102–18, §301, added subsec. (r).

Subsec. (t). Pub. L. 102–233, §401, as amended by Pub. L. 102–550, §1614(a)(1), added subsec. (t).

Subsec. (u). Pub. L. 102–233, §402(a), as amended by Pub. L. 102–550, §1614(a)(2), added subsec. (u).

Subsec. (v). Pub. L. 102–233, §403, as amended by Pub. L. 102–550, §1614(a)(3), added subsec. (v).

Pub. L. 102–233, §302(b), substituted ''Thrift Depositor Protection Oversight Board'' for ''Oversight Board''.

Subsec. (w). Pub. L. 102–233, §404, as amended by Pub. L. 102–550, §1614(a)(4), added subsec. (w).

Pub. L. 102–233, §302(b), substituted ''Thrift Depositor Protection Oversight Board'' for ''Oversight Board''.

1990—Subsec. (b)(12)(G). Pub. L. 101–647, §2540, added subpar. (G).

Subsec. (c)(3). Pub. L. 101–625, §804(d)(2), inserted introductory provisions.

Subsec. (c)(6)(D). Pub. L. 101–625, §804(d)(1), added subpar. (D).

Subsec. (c)(6)(E). Pub. L. 101–625, §914(c), added subpar. (E).

Subsec. (f). Pub. L. 101–647, §2526(c), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: ''Before the end of the 180-day period beginning on August 9, 1989, the Corporation shall liquidate the Federal Asset Disposition Association.''

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.

Section 302(a) of Pub. L. 102–233 provided that: ''The Oversight Board, as established by section 21A(a)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(1)), is redesignated the Thrift Depositor Protection Oversight Board.''

[Section 302(a) of Pub. L. 102–233, set out above, effective Feb. 1, 1992, see section 318 of Pub. L. 102–233, set out as an Effective Date of 1991 Amendment note under section 1441 of this title.]

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–135 effective Oct. 1, 1997, see section 3 of Pub. L. 105–135 set out as a note under section 631 of Title 15, Commerce and Trade.

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, set out as a note under section 1821 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 14(c)(2) of Pub. L. 103–204 provided that the amendment made by that section is effective upon expiration of 90-day period beginning on December 17, 1993.

EFFECTIVE DATE OF 1992 AMENDMENTS

Section 1614(a)(5)(E) of Pub. L. 102–550 provided that the amendment made by that section is effective as of Dec. 19, 1991.

Section 1614(a)(7) of Pub. L. 102–550 provided that the amendments made by that section are effective as of Dec. 19, 1991.

Amendments by sections 1611 to 1616 of Pub. L. 102–550 effective, except as otherwise specifically provided (see above), 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.

Amendment by Pub. L. 102–378 applicable with respect to any action described in former subsec. (b)(8)(B)(i)(I) or (II) of this section occurring on or after Oct. 2, 1992, see section 9(b)(12) of Pub. L. 102–378, set out as a note under section 6303 of Title 5, Government Organization and Employees.

EFFECTIVE AND TERMINATION DATES OF 1991 AMENDMENTS

Section 251(c)(2) of Pub. L. 102–242 provided that: ''Subsection (q) of section 21A of the Federal Home Loan Bank Act [12 U.S.C. 1441a(q), relating to employee protection remedies] (as added under the amendment made by paragraph (1)) shall be treated as having taken effect on August 9, 1989, and for purposes of any cause of action arising under such subsection (as so effective) before the date of the enactment of this Act [Dec. 19, 1991], the 2-year period referred to in section 21A(q)(2) of such Act shall be deemed to begin on such date of enactment.''

Section 106(e)(2) of Pub. L. 102–233, as amended by Pub. L. 102–550, title XVI, §1611(d)(4), Oct. 28, 1992, 106 Stat. 4091, provided that: ''The amendment made by this subsection [amending this section] shall apply with respect to supplemental unaudited financial statements required to be submitted after the end of the 90-day period beginning on the date of the enactment of this Act [Dec. 12, 1991].''

Amendment by sections 302(b), (c), 303 to 312, 314, and 316 of Pub. L. 102–233 effective Feb. 1, 1992, see section 318 of Pub. L. 102–233, set out as an Effective Date of 1991 Amendment note under section 1441 of this title.

Section 612 of Pub. L. 102–233 provided that: ''Notwithstanding section 203 of the Resolution Trust Corporation Funding Act of 1991 [Pub. L. 102–18, set out below], the amendment made by section 201(b) of such Act [amending this section] shall apply on and after the date of the enactment of this Act [Dec. 12, 1991].''

Section 619 of title VI of Pub. L. 102–233 provided that: ''The amendments made by this title [amending this section and enacting provisions set out above and as a note under section 1831n of this title] shall not apply to any eligible residential property or eligible condominium property of the Resolution Trust Corporation, that is subject to an agreement for sale en-

tered into by the Corporation before the date of the enactment of this Act [Dec. 12, 1991].''

Section 523(b) of Pub. L. 102–139 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to eligible single family properties acquired by the Resolution Trust Corporation on or after the date of enactment of this Act [Oct. 28, 1991].''

Section 203 of Pub. L. 102–18 provided that: ''The amendments made by sections 201 and 202 of this Act to section 21A of the Federal Home Loan Bank Act [this section] shall be effective only during the period beginning on the date of the enactment of this Act [Mar. 23, 1991] and ending at the end of fiscal year 1991, and section 21A shall apply after the end of such period as if such amendments had not been made.'' [See, however, section 612 of Pub. L. 102–233, above.]

SAVINGS PROVISION

Section 317 of title III of Pub. L. 102–233 provided that:

''(a) SAVINGS PROVISIONS.—

''(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—This title [see Short Title of 1991 Amendment note set out under section 1421 of this title] shall not affect the validity of any right, duty, or obligation of the United States, the Corporation, the Oversight Board, or any other person, that—

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

''(B) existed on the day before the effective date of the Resolution Trust Corporation Thrift Depositor Protection Reform Act of 1991 [Feb. 1, 1992].

''(2) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Oversight Board, with respect to any function of the Oversight Board, shall abate by reason of the enactment of this Act [see Short Title of 1991 Amendment note set out under section 1421 of this title], except that the Thrift Depositor Protection Oversight Board shall continue as party to any such action or proceeding, notwithstanding the change of name of the Oversight Board.

''(b) CONTINUATION OF ORDERS, RESOLUTIONS, DETERMINATIONS, AND REGULATIONS.—All orders, resolutions, determinations, and regulations that—

''(1) have been issued, made, prescribed, or allowed to become effective by the Oversight 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 under the Federal Home Loan Bank Act [12 U.S.C. 1421 et seq.]; and

''(2) are in effect on the effective date of the Resolution Trust Corporation Thrift Depositor Protection Reform Act of 1991 [Feb. 1, 1992],

shall continue in effect according to the terms of such orders, resolutions, determinations, and regulations, and shall be enforceable by or against the Thrift Depositor Protection Oversight Board, or the Resolution Trust Corporation, by any court of competent jurisdiction, or by operation of law, notwithstanding the change of name of the Oversight Board.''

CONSTRUCTION OF 1991 AMENDMENT

Section 1614(a)(6) of Pub. L. 102–550 provided that: ''For purposes of applying paragraph (13) of section 21A(b) of the Federal Home Loan Bank Act [12 U.S.C. 1441a(b)(13)], the amendment made by section 405 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 [Pub. L. 102–233, amending this section], shall be considered to have been executed before the redesignation of such paragraph by section 310 of such Act.''

Section 1615(a)(1) of Pub. L. 102–550 provided that: ''For purposes of applying paragraph (9) of section 21A(b) of the Federal Home Loan Bank Act [12 U.S.C. 1441a(b)(9)], the amendment made by section 501(a)(1) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 [Pub. L. 102–233, amending this section] shall be considered to have been executed before the redesignation of subparagraph (K) of such paragraph by section 314(2)(B) of such Act and the redesignation of such paragraph by section 310 of such Act.''

ELECTION OF APPLICATION OF LAWS BY EMPLOYEES OF RESOLUTION TRUST CORPORATION AND THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

Pub. L. 103–424, § 11, Oct. 29, 1994, 108 Stat. 4366, provided that:

''(a) ELECTION OF PROVISIONS OF TITLE 5, UNITED STATES CODE.—If an individual who believes he has been discharged or discriminated against in violation of section 21a(q)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(q)(1)) seeks an administrative corrective action or judicial remedy for such violation under the provisions of chapters 12 and 23 of title 5, United States Code, the provisions of section 21a(q) of such Act shall not apply to such alleged violation.

''(b) ELECTION OF PROVISIONS OF FEDERAL HOME LOAN BANK ACT.—If an individual files a civil action under section 21a(q)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(q)(2)), the provisions of chapters 12 and 23 of title 5, United States Code, shall not apply to any alleged violation of section 21a(q)(1) of such Act.''

GAO STUDY OF PROGRESS OF IMPLEMENTATION OF REFORMS

Section 3(c) of Pub. L. 103–204 provided that:

''(1) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study of the manner in which the reforms required pursuant to the amendment made by subsection (a) [amending this section] are being implemented by the Resolution Trust Corporation and the progress being made by the Corporation toward the achievement of full compliance with such requirements.

''(2) INTERIM REPORT TO CONGRESS.—Not later than 6 months after the date of enactment of this Act [Dec. 17, 1993], the Comptroller General of the United States shall submit an interim report to the Congress containing the preliminary findings of the Comptroller General in connection with the study required under paragraph (1).

''(3) FINAL REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress containing—

''(A) the findings of the Comptroller General in connection with the study required under paragraph (1); and

''(B) such recommendations for legislative and administrative action as the Comptroller General may determine to be appropriate.

''(4) DISCLOSURE OF PERFORMING ASSET TRANSFERS.—

''(A) REPORT REQUIRED.—The Comptroller General of the United States shall submit an annual report to the Congress on transfers of performing assets by the Corporation, categorized by institution, to any acquirer during the year covered by the report.

''(B) CONTENTS.—Each report submitted under subparagraph (A) shall contain—

''(i) the number and a description of asset transfers during the year covered by the report;

''(ii) the number of assets provided in connection with each transaction during such year; and

''(iii) a report of an audit by the Comptroller General of the determination of the Corporation of the fair market value of transferred assets at the time of transfer.''

RTC NOTICE TO GSA

Section 3(e) of Pub. L. 103–204 provided that:

''(1) IN GENERAL.—Within a reasonable period of time after acquiring an undivided or controlling interest in

any commercial office property in its capacity as conservator or receiver, the Corporation shall notify the Administrator of General Services of such acquisition.

''(2) CONTENTS OF NOTICE.—The notice required under paragraph (1) shall contain basic information about the property, including—

''(A) the location and condition of the property;

''(B) information relating to the estimated fair market value of the property; and

''(C) the Corporation's schedule, or estimate of the schedule, for marketing and disposing of the property.

''(3) COMPETITIVE BIDDING.—The Administrator of General Services, in compliance with regulations of the Resolution Trust Corporation, may bid on property described in the notice required under paragraph (1) that is otherwise subject to competitive bidding.''

FDIC–RTC TRANSITION TASK FORCE

Section 6 of Pub. L. 103–204 provided that:

''(a) ESTABLISHMENT REQUIRED.—The Federal Deposit Insurance Corporation and the Resolution Trust Corporation shall establish an interagency transition task force. The task force shall facilitate the transfer of the assets, personnel, and operations of the Resolution Trust Corporation to the Federal Deposit Insurance Corporation or the FSLIC Resolution Fund, as the case may be, in a coordinated manner.

''(b) MEMBERS.—

''(1) IN GENERAL.—The transition task force shall consist of such number of officers and employees of the Federal Deposit Insurance Corporation and the Resolution Trust Corporation as the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation and the chief executive officer of the Resolution Trust Corporation may jointly determine to be appropriate.

''(2) APPOINTMENT.—The Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation and the chief executive officer of the Resolution Trust Corporation shall appoint the members of the transition task force.

''(3) NO ADDITIONAL PAY.—Members of the transition task force shall receive no additional pay, allowances, or benefits by reason of their service on the task force.

''(c) DUTIES.—The transition task force shall have the following duties:

''(1) Examine the operations of the Federal Deposit Insurance Corporation and the Resolution Trust Corporation to identify, evaluate, and resolve differences in the operations of the corporations to facilitate an orderly merger of such operations.

''(2) Recommend which of the management, resolution, or asset disposition systems of the Resolution Trust Corporation should be preserved for use by the Federal Deposit Insurance Corporation.

''(3) Recommend procedures to be followed by the Federal Deposit Insurance Corporation and the Resolution Trust Corporation in connection with the transition which will promote—

''(A) coordination between the corporations before the termination of the Resolution Trust Corporation; and

''(B) an orderly transfer of assets, personnel, and operations.

''(4) Evaluate the management enhancement goals applicable to the Resolution Trust Corporation under section 21A(p) of the Federal Home Loan Bank Act [12 U.S.C. 1441a(p)] and recommend which of such goals should apply to the Federal Deposit Insurance Corporation.

''(5) Evaluate the management reforms applicable to the Resolution Trust Corporation under section 21A(w) of the Federal Home Loan Bank Act and recommend which of such reforms should apply to the Federal Deposit Insurance Corporation.

''(d) REPORTS TO BANKING COMMITTEES.—

''(1) REPORTS REQUIRED.—The transition task force shall submit a report to the Committee on Banking, Finance and Urban Affairs [now Committee on Banking and Financial Services] of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate not later than January 1, 1995, and a second report not later than July 1, 1995, on the progress made by the transition task force in meeting the requirements of this section.

''(2) CONTENTS OF REPORT.—The reports required to be submitted under paragraph (1) shall contain the findings and recommendations made by the transition task force in carrying out the duties of the task force under subsection (c) and such recommendations for legislative and administrative action as the task force may determine to be appropriate.

''(e) FOLLOWUP REPORT BY FDIC.—Not later than January 1, 1996, the Federal Deposit Insurance Corporation shall submit a report to the Committee on Banking, Finance and Urban Affairs [now Committee on Banking and Financial Services] of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing—

''(1) a description of the recommendations of the transition task force which have been adopted by the Corporation;

''(2) a description of the recommendations of the transition task force which have not been adopted by the Corporation;

''(3) a detailed explanation of the reasons why the Corporation did not adopt each recommendation described in paragraph (2); and

''(4) a description of the actions taken by the Corporation to comply with section 21A(m)(3) of the Federal Home Loan Bank Act [12 U.S.C. 1441a(m)(3)].''

TERMINATION OF NATIONAL HOUSING ADVISORY BOARD

Section 14(c)(1) of Pub. L. 103–204 provided that: ''The National Housing Advisory Board under section 21A(d)(2) of the Federal Home Loan Bank Act [12 U.S.C. 1441a(d)(2)] shall terminate upon the expiration of the 90-day period beginning on the date of the enactment of this Act [Dec. 17, 1993].''

REPORTING REQUIREMENTS

Section 35 of Pub. L. 103–204 provided that: ''The Resolution Trust Corporation shall provide semi-annual reports to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs [now Committee on Banking and Financial Services] of the House of Representatives. Such reports shall—

''(1) detail procedures for expediting the registration and contracting for selecting auctioneers for asset sales with anticipated gross proceeds of not more than $1,500,000;

''(2) list by name and geographic area the number of auction contractors which have been registered and qualified to perform services for the Resolution Trust Corporation; and

''(3) list by name, address of home office, location of assets disposed, and gross proceeds realized, the number of auction contractors which have been awarded contracts.''

FIRST REQUIRED PLAN

Section 102(b) of Pub. L. 102–18 provided that: ''The first plan described in section 21A(k)(8) of the Federal Home Loan Bank Act [12 U.S.C. 1441a(k)(8)], as amended by subsection (a), is due not later than 30 days after the date of enactment of this Act [Mar. 23, 1991].''

TIMELINESS OF REPORTS

Section 102(c) of Pub. L. 102–18, as amended by Pub. L. 102–233, title III, §§302(a), 315(d), Dec. 12, 1991, 105 Stat. 1767, 1772, provided that:

''(1) IN GENERAL.—At any time when an agency is delinquent in providing information to Congress or any of its committees as required by paragraph (1), (4), (5), (6), (8), or (9) of section 21A(k) of the Federal Home Loan

Bank Act [12 U.S.C. 1441a(k)] or by subsection (b) of this section [set out above], the President of the Thrift Depositor Protection Oversight Board, and the head of any agency responsible for such delinquency shall, within 15 days of such delinquency, in testimony before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs [now Committee on Banking and Financial Services] of the House of Representatives—

''(A) explain the causes of such delinquency; and

''(B) describe what steps are being taken to correct it and prevent its recurrence.

Testimony shall not be required pursuant to the preceding sentence before either Committee if the Chairman and Ranking Member of such Committee agree that such testimony is not necessary. For purposes of this paragraph, the term 'head of an agency' means the chief executive officer of the Resolution Trust Corporation with respect to reports to be filed by such Corporation, the Director of the Office of Thrift Supervision with respect to reports to be filed by such Office, and the Comptroller General with respect to audits to be conducted by the General Accounting Office.

''(2) TRANSITION RULE.—Any information described in paragraph (1) of this subsection that is delinquent on the date of enactment of this Act [Mar. 23, 1991] shall be provided to the appropriate committees of Congress not later than 30 days following enactment of this Act. Failure to provide such information as required by this paragraph shall be considered as a delinquency under the provisions of paragraph (1).''

GAO EXAMINATION OF CERTAIN FSLIC RESOLUTIONS

Section 501(f) of Pub. L. 101–73 provided that: ''Notwithstanding any other provision of this Act [see Tables for classification], the Comptroller General of the United States shall examine and monitor all insolvent institution cases resolved by the Federal Savings and Loan Insurance Corporation from January 1, 1988, through the date of the enactment of this Act [Aug. 9, 1989], and not later than April 30, 1990, shall report to Congress with an estimate of the costs of the agreements entered into by the Corporation pursuant to such resolutions. Not less than annually thereafter, the last report being due on April 30, 1992, the Comptroller General shall provide Congress with revisions to such estimates, to take into account any new information that he obtains with regard to such agreements.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1422, 1441b, 1464, 1701q, 1821, 1821a, 1831*o*, 1831q of this title; title 5 section 5373; title 10 section 2677; title 15 section 2227; title 26 sections 501, 597; title 31 section 5328; title 42 sections 1439, 1487, 8013.

§ 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1441a, 1821 of this title.

§ 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) of this section 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1441a–1 of this title.

§ 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 receivership 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 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, sanctuary, 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.)

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.

§ 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 Federal Housing Finance Board 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) of this section (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) of this section.

(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 Federal Housing Finance Board (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 Federal Housing Finance Board 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 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 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.

(7) Additional sources

If each Federal Home Loan Bank has exhausted the amount applicable with respect to the Bank under paragraph (3) after purchases under paragraphs (4), (5), and (6), the amounts necessary to provide additional funding for the Funding Corporation Principal Fund shall be obtained from the following sources:

(A) Assessments

The Funding Corporation, with the approval of the Board of Directors of the Federal Deposit Insurance Corporation, shall assess against each Savings Association Insurance Fund member an assessment (in the same manner as assessments are assessed against such members by the Federal Deposit Insurance Corporation pursuant to section 1817 of this title) except that—

(i) the maximum amount of the aggregate amount assessed shall be the amount of additional funds necessary to fund the Funding Corporation Principal Fund;

(ii) the sum of—

(I) the amount assessed under this subparagraph; and

(II) the amount assessed by the Financing Corporation under section 1441 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;

(iii) the Financing Corporation shall have first priority to make the assessment; and

(iv) the amount of the applicable assessment determined under such section 1817 of this title shall be reduced by the sum described in clause (ii) of this subparagraph.

(B) Receivership proceeds

To the extent the amounts available pursuant to subparagraph (A) are insufficient to fund the Funding Corporation Principal Fund, the Federal Deposit Insurance Corporation shall transfer amounts to the Funding Corporation from the liquidating dividends and payments made on claims received by the FSLIC Resolution Fund from receiverships.

(8) Transfer to RTC

The Funding Corporation shall transfer to the Resolution Trust Corporation $1,200,000,000 in fiscal year 1989.

(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

To the extent the amounts available pursuant to subparagraphs (A) and (B) are insufficient to cover the amount of interest payments, the Federal Home Loan Banks shall pay to the Funding Corporation each calendar year the aggregate amount of $300,000,000 minus the amounts required in such year for Financing Corporation principal payments (pursuant to section 1441 of this title) and the amounts required in such year by the Funding Corporation pursuant to subsection (e) of this section. Each Bank's individual share of any amounts required to be paid by the Banks under this subparagraph shall be determined as follows:

(i) Amounts up to 20 percent of net earnings

Each Federal Home Loan Bank shall pay an equal percentage of its net earnings for the year for which such amount is required to be paid, up to a maximum of 20 percent of net earnings.

(ii) Amounts in excess of 20 percent of net earnings

If the aggregate amount required to be paid by the Federal Home Loan Banks under this subparagraph for any year exceeds 20 percent of the aggregate net earnings of the Banks for such year, each Bank shall pay 20 percent of its net earnings for

such year as provided in clause (i), and each Bank's individual share of the excess of the required amount over 20 percent of the aggregate net earnings of the Banks for such year shall be determined by dividing—

(I) the average month-end level in the prior year of advances outstanding by such Bank to Savings Associations Insurance Fund members; by

(II) the average month-end level in the prior year of advances outstanding by all such Banks to Savings Associations Insurance Fund members.

(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 78*o* 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) of this section, the Funding Corporation shall invest amounts received pursuant to subsection (e) of this section in, and hold in a separate account to be known as the Funding Corporation Principal Fund, noninterest 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) of this section, 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 Cor-

[1] See References in Text note below.

poration 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:

(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) of this section; 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) of this section.

(4) Funding Corporation Principal Fund

The term ''Funding Corporation Principal Fund'' means the separate account established under subsection (g)(2) of this section.

(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) of this section.

(7) Thrift Depositor Protection Oversight Board

The term ''Thrift Depositor Protection Oversight Board'' means—

(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 Board of Governors of the Federal Reserve System; and

(iii) the Secretary of Housing and Urban Development.

(8) Savings Association Insurance Fund member

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.

(9) Secretary

The term ''Secretary'' means the Secretary of the Treasury.

(10) 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.

(*l*) 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.)

AMENDMENT OF SECTION

Pub. L. 104–208, div. A, title II, § 2704(c), (d)(5), (11)(E), (F), Sept. 30, 1996, 110 Stat. 3009–487 to 3009–489, provided that, effective Jan. 1, 1999, if no insured depository institution is a savings association on that date, this section is amended as follows:

(1) In subsection (e)—

(A) in paragraph (5), by inserting ''as of the date of funding'' after ''Savings Association Insurance Fund members'' each place such term appears;

(B) by striking paragraph (7); and

(C) by redesignating paragraph (8) as paragraph (7);

(2) In subsection (f)(2)(C)(ii)—

(A) in subclause (I), by striking ''to Savings Associations Insurance Fund members'' and inserting ''to insured depository institutions, and their successors, which were Savings Association Insurance Fund members on September 1, 1995''; and

(B) in subclause (II), by striking ''to Savings Associations Insurance Fund members'' and inserting ''to insured depository institutions, and their successors, which were Savings Association Insurance Fund members on September 1, 1995''; and

(3) In subsection (k)—

(i) by striking paragraph (8); and

(ii) by redesignating paragraphs (9) and (10) as paragraphs (8) and (9), respectively.

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

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 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, 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1422, 1430, 1436, 1441, 1441a, 1821a of this title; title 26 section 501.

§ 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 Board 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 Board 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 Board or any Federal Home Loan Bank the financial reports filed by members of any Bank to enable the Board 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 Board 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 Board 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.)

AMENDMENTS

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. Omitted

CODIFICATION

Section, act July 22, 1932, ch. 522, § 22A, as added Aug. 10, 1987, Pub. L. 100–86, title IV, § 407(d), 101 Stat. 617, which provided for informal review of certain supervisory decisions, was omitted from the Code pursuant to section 416 of Pub. L. 100–86, set out as a note under section 1441 of this title, which provided that this section 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, 57 F.R. 10763], with such termination not to be construed to affect or limit any authority of Federal Home Loan Bank Board or 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.

§ 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 Board of Directors of the Federal Housing Finance Board may provide.

(July 22, 1932, ch. 522, § 23, 47 Stat. 739; Pub. L. 101–73, title VII, § 717, Aug. 9, 1989, 103 Stat. 422.)

AMENDMENTS

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.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1441, 1441b of this title.

§ 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 Board 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.)

AMENDMENTS

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 Board 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.)

AMENDMENTS

1989—Pub. L. 101–73 substituted ''Board'' for ''board''.

§ 1446. Liquidation or reorganization; acquisition of assets by other banks; assumption of liabilities

Whenever the Board 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 Board 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 Board, acquire assets of any such liquidated or reorganized bank and assume liabilities thereof, in whole or in part.

(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.)

AMENDMENTS

1989—Pub. L. 101–73 substituted ''Board'' for ''board'' wherever appearing.

§ 1447. Housing Opportunity Hotline program

(a) Establishment

The Federal Home Loan Banks shall, individually or (at the discretion of the Federal Housing Finance Board) on a consolidated basis, establish and provide a service substantially similar (in the determination of the Board) to the ''Housing Opportunity Hotline'' program established in October 1992, by the Federal Home Loan Bank of Dallas.

(b) Purpose

The service or services established under this section shall provide information regarding the availability for purchase of single family properties that are owned or held by Federal agencies and are located in the Federal Home Loan Bank district for such Bank. Such agencies shall provide to the Federal Home Loan Banks the information necessary to provide such service or services.

(c) Required information

The service or services established under this section shall use the information obtained from Federal agencies to provide information regarding the size, location, price, and other characteristics of such single family properties, the eligibility requirements for purchasers of such properties, the terms for such sales, and the terms of any available seller financing, and shall identify properties that are affordable to low- and moderate-income families.

(d) Toll-free telephone number

The service or services established under this section shall establish and maintain a toll-free telephone line for providing the information made available under the service or services.

(e) Definitions

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

(1) Federal agencies

The term ''Federal agencies'' means—

(A) the Farmers Home Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the General Services Administration, the Department of Housing and Urban Development, and the Department of Veterans Affairs;

(B) the Resolution Trust Corporation, subject to the discretion of such Corporation; and

(C) the Federal Deposit Insurance Corporation, subject to the discretion of such Corporation.

(2) Single family property

The term ''single family property'' means a 1- to 4-family residence, including a manufactured home.

(July 22, 1932, ch. 522, § 27, as added Pub. L. 103–204, § 18, Dec. 17, 1993, 107 Stat. 2401.)

PRIOR PROVISIONS

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.
(a) Creation; Board of Directors; policies; principal office; membership; term; vacancies.
(b) Capital distributions; limitation.
(c) Powers of the Corporation.
(d) Investment of funds; designation as depositary, custodian, or agent for Corporation of any Federal Reserve bank, Federal home loan bank, or any bank designated as depositary of public money.
(e) Exemption from Federal, State, and local taxation; exception; applicability of other provisions.
(f) Actions by and against the Corporation; jurisdiction; removal of actions; attachment or execution issued against the Corporation.
(g) Mortgages, obligations, or other securities sold by Corporation deemed lawful investments for security purposes.
(h) Report on comparability of compensation policies and financial performance of Corporation and payments earned by executive officers; prohibition on payments to terminated executive officers.
1453. Capitalization of Federal Home Loan Mortgage Corporation.
(a) Common stock; issuance.
(b) Par value.
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.
(a) Authority for purchase and sale; residential mortgages; conventional mortgages; terms and conditions of sale or other disposition; lending activities.
(b) Authority of other institutions to enter into, perform, and carry out transactions.
(c) Prior approval of Secretary for new programs.
1455. Obligations and securities of the Corporation.
(a) Authority to issue; terms and conditions; validity.
(b) Prohibitions and restrictions; creation of liens and charges; rank and priority; causes of action to enforce; jurisdiction; service of process.
(c) Purchase of obligations; funds, maximum amount of purchases, etc.
(d) Validity of provisions; validity of restrictions, prohibitions, liens, or charges.
(e) Authority to purchase, hold, or invest by person, trust, or organization.
(f) Preferred stock.
(g) Securities exempt from regulation.
(h) Securities backed by mortgages not purchased by Corporation.
(i) Prohibition on assessment or collection of fee or charge by United States.
(j) Notes, debentures, or substantially identical types of unsecured obligations; issuance, maturities, interest rates, etc.
(k) Securities in form of debt obligations or trust certificates of beneficial interest; issuance, maturities, interest rates, etc.
1456. Immunity of Corporation; audits and reporting requirements; data collection; Housing Advisory Council.
(a) Rights and remedies of Corporation; State qualifications or similar statutes.
(b) Government audits; procedure; access to records, etc.; reimbursement of costs.
(c) Financial reports; submission to Director; contents.
(d) Independent audits of financial statements.
(e) Mortgage data collection and reporting requirements.
(f) Report on housing activities; contents; public disclosure.
(g) Affordable Housing Advisory Council.
1457. Prohibited activities; penalties for violations by organizations, officers and members of organizations, and individuals.
1458. Territorial applicability.
1459. Separability.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 4541, 4562, 4564, 4566, 4603, 4631, 4636 of this title.

§ 1451. Definitions

As used in this chapter—