

sion”, meaning div. A of Pub. L. 110-343, Oct. 3, 2008, 122 Stat. 3765, known as the Emergency Economic Stabilization Act of 2008, to reflect the probable intent of Congress. For complete classification of division A to the Code, see Short Title note set out under section 5201 of this title and Tables.

§ 5229. Judicial review and related matters

(a) Judicial review

(1) Standard

Actions by the Secretary pursuant to the authority of this chapter shall be subject to chapter 7 of title 5, including that such final actions shall be held unlawful and set aside if found to be arbitrary, capricious, an abuse of discretion, or not in accordance with law.

(2) Limitations on equitable relief

(A) Injunction

No injunction or other form of equitable relief shall be issued against the Secretary for actions pursuant to section¹ 5211, 5212, 5216, and 5219 of this title, other than to remedy a violation of the Constitution.

(B) Temporary restraining order

Any request for a temporary restraining order against the Secretary for actions pursuant to this chapter shall be considered and granted or denied by the court within 3 days of the date of the request.

(C) Preliminary injunction

Any request for a preliminary injunction against the Secretary for actions pursuant to this chapter shall be considered and granted or denied by the court on an expedited basis consistent with the provisions of rule 65(b)(3) of the Federal Rules of Civil Procedure, or any successor thereto.

(D) Permanent injunction

Any request for a permanent injunction against the Secretary for actions pursuant to this chapter shall be considered and granted or denied by the court on an expedited basis. Whenever possible, the court shall consolidate trial on the merits with any hearing on a request for a preliminary injunction, consistent with the provisions of rule 65(a)(2) of the Federal Rules of Civil Procedure, or any successor thereto.

(3) Limitation on actions by participating companies

No action or claims may be brought against the Secretary by any person that divests its assets with respect to its participation in a program under this chapter, except as provided in paragraph (1), other than as expressly provided in a written contract with the Secretary.

(4) Stays

Any injunction or other form of equitable relief issued against the Secretary for actions pursuant to section¹ 5211, 5212, 5216, and 5219 of this title, shall be automatically stayed. The stay shall be lifted unless the Secretary seeks a stay from a higher court within 3 calendar

days after the date on which the relief is issued.

(b) Related matters

(1) Treatment of homeowners' rights

The terms of any residential mortgage loan that is part of any purchase by the Secretary under this chapter shall remain subject to all claims and defenses that would otherwise apply, notwithstanding the exercise of authority by the Secretary under this chapter.

(2) Savings clause

Any exercise of the authority of the Secretary pursuant to this chapter shall not impair the claims or defenses that would otherwise apply with respect to persons other than the Secretary. Except as established in any contract, a servicer of pooled residential mortgages owes any² duty to determine whether the net present value of the payments on the loan, as modified, is likely to be greater than the anticipated net recovery that would result from foreclosure to all investors and holders of beneficial interests in such investment, but not to any individual or groups of investors or beneficial interest holders, and shall be deemed to act in the best interests of all such investors or holders of beneficial interests if the servicer agrees to or implements a modification or workout plan when the servicer takes reasonable loss mitigation actions, including partial payments.

(Pub. L. 110-343, div. A, title I, § 119, Oct. 3, 2008, 122 Stat. 3787.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act” and was translated as reading “this division”, meaning div. A of Pub. L. 110-343, Oct. 3, 2008, 122 Stat. 3765, known as the Emergency Economic Stabilization Act of 2008, to reflect the probable intent of Congress. For complete classification of division A to the Code, see Short Title note set out under section 5201 of this title and Tables.

The Federal Rules of Civil Procedure, referred to in subsec. (a)(2)(C), (D), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

§ 5230. Termination of authority

(a) Termination

The authorities provided under sections 5211(a), excluding section 5211(a)(3), and 5212 of this title shall terminate on December 31, 2009.

(b) Extension upon certification

The Secretary, upon submission of a written certification to Congress, may extend the authority provided under this chapter to expire not later than 2 years from October 3, 2008. Such certification shall include a justification of why the extension is necessary to assist American families and stabilize financial markets, as well as the expected cost to the taxpayers for such an extension. Notwithstanding the foregoing, the Secretary may further extend the authority provided under this chapter to expire on December 31, 2017, provided that (1) any such extension

¹ So in original. Probably should be “sections”.

² So in original. Probably should be “a”.

shall apply only with respect to current program participants in the Housing Finance Agency Innovation Fund for the Hardest Hit Housing Markets, and (2) funds obligated following such extension shall not exceed \$2,000,000,000.

(Pub. L. 110-343, div. A, title I, § 120, Oct. 3, 2008, 122 Stat. 3788; Pub. L. 114-113, div. O, title VII, § 709(a), Dec. 18, 2015, 129 Stat. 3030.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original “this Act” and was translated as reading “this division”, meaning div. A of Pub. L. 110-343, Oct. 3, 2008, 122 Stat. 3765, known as the Emergency Economic Stabilization Act of 2008, to reflect the probable intent of Congress. For complete classification of division A to the Code, see Short Title note set out under section 5201 of this title and Tables.

AMENDMENTS

2015—Subsec. (b). Pub. L. 114-113 inserted at end “Notwithstanding the foregoing, the Secretary may further extend the authority provided under this chapter to expire on December 31, 2017, provided that (1) any such extension shall apply only with respect to current program participants in the Housing Finance Agency Innovation Fund for the Hardest Hit Housing Markets, and (2) funds obligated following such extension shall not exceed \$2,000,000,000.”

Statutory Notes and Related Subsidiaries

TERMINATION OF THE MAKING HOME AFFORDABLE INITIATIVE

Pub. L. 114-113, div. O, title VII, § 709(b), Dec. 18, 2015, 129 Stat. 3030, provided that:

“(1) IN GENERAL.—The Making Home Affordable initiative of the Secretary of the Treasury, as authorized under the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.), shall terminate on December 31, 2016.

“(2) APPLICABILITY.—Paragraph (1) shall not apply to any loan modification application made under the Home Affordable Modification Program under the Making Home Affordable initiative of the Secretary of the Treasury, as authorized under the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.), before December 31, 2016.”

§ 5231. Special Inspector General for the Troubled Asset Relief Program

(a) Office of Inspector General

There is hereby established the Office of the Special Inspector General for the Troubled Asset Relief Program.

(b) Appointment of Inspector General; removal

(1) The head of the Office of the Special Inspector General for the Troubled Asset Relief Program is the Special Inspector General for the Troubled Asset Relief Program (in this section referred to as the “Special Inspector General”), who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The appointment of the Special Inspector General shall be made on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.

(3) The nomination of an individual as Special Inspector General shall be made as soon as practicable after the establishment of any program under sections 5211 and 5212 of this title.

(4) The Special Inspector General shall be removable from office in accordance with the provisions of section 403(b) of title 5.

(5) For purposes of section 7324 of title 5, the Special Inspector General shall not be considered an employee who determines policies to be pursued by the United States in the nationwide administration of Federal law.

(6) The annual rate of basic pay of the Special Inspector General shall be the annual rate of basic pay for an Inspector General under section 403(e) of title 5.

(c) Duties

(1) It shall be the duty of the Special Inspector General to conduct, supervise, and coordinate audits and investigations of the purchase, management, and sale of assets by the Secretary of the Treasury under any program established by the Secretary under section 5211 of this title, and the management by the Secretary of any program established under section 5212 of this title, including by collecting and summarizing the following information:

(A) A description of the categories of troubled assets purchased or otherwise procured by the Secretary.

(B) A listing of the troubled assets purchased in each such category described under subparagraph (A).

(C) An explanation of the reasons the Secretary deemed it necessary to purchase each such troubled asset.

(D) A listing of each financial institution that such troubled assets were purchased from.

(E) A listing of and detailed biographical information on each person or entity hired to manage such troubled assets.

(F) A current estimate of the total amount of troubled assets purchased pursuant to any program established under section 5211 of this title, the amount of troubled assets on the books of the Treasury, the amount of troubled assets sold, and the profit and loss incurred on each sale or disposition of each such troubled asset.

(G) A listing of the insurance contracts issued under section 5212 of this title.

(2) The Special Inspector General shall establish, maintain, and oversee such systems, procedures, and controls as the Special Inspector General considers appropriate to discharge the duty under paragraph (1).

(3) In addition to the duties specified in paragraphs (1) and (2), the Inspector General shall also have the duties and responsibilities of inspectors general under chapter 4 of title 5.

(4)(A) Except as provided under subparagraph (B) and in addition to the duties specified in paragraphs (1), (2), and (3), the Special Inspector General shall have the authority to conduct, supervise, and coordinate an audit or investigation of any action taken under this subchapter as the Special Inspector General determines appropriate.

(B) Subparagraph (A) shall not apply to any action taken under section 5225, 5226, 5227, or 5233 of this title.

(d) Powers and authorities

(1) In carrying out the duties specified in subsection (c), the Special Inspector General shall