

borrower to which the information relates to be reasonably inferred by either direct or indirect means.

(Pub. L. 102-550, title XIII, §1324, as added Pub. L. 110-289, div. A, title I, §1125(b), July 30, 2008, 122 Stat. 2693.)

Editorial Notes

PRIOR PROVISIONS

A prior section 4544, Pub. L. 102-550, title XIII, §1324, Oct. 28, 1992, 106 Stat. 3954, related to annual housing report, prior to repeal by Pub. L. 110-289, div. A, title I, §1125(a), July 30, 2008, 122 Stat. 2693.

§ 4545. Fair housing

The Secretary of Housing and Urban Development shall—

(1) by regulation, prohibit each enterprise from discriminating in any manner in the purchase of any mortgage because of race, color, religion, sex, handicap, familial status, age, or national origin, including any consideration of the age or location of the dwelling or the age of the neighborhood or census tract where the dwelling is located in a manner that has a discriminatory effect;

(2) by regulation, require each enterprise to submit data to the Secretary to assist the Secretary in investigating whether a mortgage lender with which the enterprise does business has failed to comply with the Fair Housing Act [42 U.S.C. 3601 et seq.];

(3) by regulation, require each enterprise to submit data to the Secretary to assist in investigating whether a mortgage lender with which the enterprise does business has failed to comply with the Equal Credit Opportunity Act [15 U.S.C. 1691 et seq.], and shall submit any such information received to the appropriate Federal agencies, as provided in section 704 of the Equal Credit Opportunity Act [15 U.S.C. 1691c], for appropriate action;

(4) obtain information from other regulatory and enforcement agencies of the Federal Government and State and local governments regarding violations by lenders of the Fair Housing Act and the Equal Credit Opportunity Act and make such information available to the enterprises;

(5) direct the enterprises to undertake various remedial actions, including suspension, probation, reprimand, or settlement, against lenders that have been found to have engaged in discriminatory lending practices in violation of the Fair Housing Act or the Equal Credit Opportunity Act, pursuant to a final adjudication on the record, and after opportunity for an administrative hearing, in accordance with subchapter II of chapter 5 of title 5; and

(6) periodically review and comment on the underwriting and appraisal guidelines of each enterprise to ensure that such guidelines are consistent with the Fair Housing Act and this section.

(Pub. L. 102-550, title XIII, §1325, Oct. 28, 1992, 106 Stat. 3955; Pub. L. 110-289, div. A, title I, §1122(b), July 30, 2008, 122 Stat. 2689.)

Editorial Notes

REFERENCES IN TEXT

The Fair Housing Act, referred to in pars. (2) and (4) to (6), is title VIII of Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 81, which is classified principally to subchapter I (§3601 et seq.) of chapter 45 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 3601 of Title 42 and Tables.

The Equal Credit Opportunity Act, referred to in pars. (3) to (5), is title VII of Pub. L. 90-321, as added by Pub. L. 93-495, title V, §503, Oct. 28, 1974, 88 Stat. 1521, which is classified generally to subchapter IV (§1691 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

AMENDMENTS

2008—Pub. L. 110-289 inserted “of Housing and Urban Development” after “The Secretary” in introductory provisions.

§ 4546. Prohibition of public disclosure of proprietary information

(a) In general

Subject to subsection (d), the Director may, by regulation or order, provide that certain information shall be treated as proprietary information and not subject to disclosure under section 4543 of this title, section 1723a(n)(3) of this title, or section 1456(f)(3) of this title.

(b) Protection of information on housing activities

The Director shall not provide public access to, or disclose to the public, any information required to be submitted by an enterprise under section 1723a(n) of this title or section 1456(f) of this title that the Director determines is proprietary.

(c) Nondisclosure pending consideration

This section may not be construed to authorize the disclosure of information to, or examination of data by, the public or a representative of any person or agency pending the issuance of a final decision under this section.

(d) Mortgage information

Subject to privacy considerations, as described in section 304(j) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(j)), the Director shall, by regulation or order, provide that certain information relating to single family mortgage data of the enterprises shall be disclosed to the public, in order to make available to the public—

(1) the same data from the enterprises that is required of insured depository institutions under the Home Mortgage Disclosure Act of 1975 [12 U.S.C. 2801 et seq.]; and

(2) information collected by the Director under section 4544(b)(6) of this title.

(Pub. L. 102-550, title XIII, §1326, Oct. 28, 1992, 106 Stat. 3955; Pub. L. 110-289, div. A, title I, §§1122(a)(1), 1127, July 30, 2008, 122 Stat. 2689, 2695.)

Editorial Notes

REFERENCES IN TEXT

The Home Mortgage Disclosure Act of 1975, referred to in subsec. (d)(1), is title III of Pub. L. 94-200, Dec. 31,

1975, 89 Stat. 1125, which is classified principally to chapter 29 (§2801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2801 of this title and Tables.

AMENDMENTS

2008—Pub. L. 110-289, §1122(a)(1), substituted “Director” for “Secretary” wherever appearing in subsecs. (a) and (b).

Subsec. (a). Pub. L. 110-289, §1127(1), substituted “Subject to subsection (d), the Director” for “The Director”.

Subsec. (d). Pub. L. 110-289, §1127(2), added subsec. (d).

§ 4547. Enterprise guarantee fees

(a) Definitions

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

(1) Guarantee fee

The term “guarantee fee”—

(A) means a fee described in subsection (b); and

(B) includes—

(i) the guaranty fee charged by the Federal National Mortgage Association with respect to mortgage-backed securities; and

(ii) the management and guarantee fee charged by the Federal Home Loan Mortgage Corporation with respect to participation certificates.

(2) Average fees

The term “average fees” means the average contractual fee rate of single-family guaranty arrangements by an enterprise entered into during 2011, plus the recognition of any up-front cash payments over an estimated average life, expressed in terms of basis points. Such definition shall be interpreted in a manner consistent with the annual report on guarantee fees by the Federal Housing Finance Agency.

(b) Increase

(1) In general

(A) Phased increase required

Subject to subsection (c), the Director shall require each enterprise to charge a guarantee fee in connection with any guarantee of the timely payment of principal and interest on securities, notes, and other obligations based on or backed by mortgages on residential real properties designed principally for occupancy of from 1 to 4 families, consummated after December 23, 2011.

(B) Amount

The amount of the increase required under this section shall be determined by the Director to appropriately reflect the risk of loss, as well¹ the cost of capital allocated to similar assets held by other fully private regulated financial institutions, but such amount shall be not less than an average increase of 10 basis points for each origination year or book year above the average fees imposed in 2011 for such guarantees. The Director shall prohibit an enterprise from offsetting the cost of the fee to mortgage origina-

tors, borrowers, and investors by decreasing other charges, fees, or premiums, or in any other manner.

(2) Authority to limit offer of guarantee

The Director shall prohibit an enterprise from consummating any offer for a guarantee to a lender for mortgage-backed securities, if—

(A) the guarantee is inconsistent with the requirements of this section; or

(B) the risk of loss is allowed to increase, through lowering of the underwriting standards or other means, for the primary purpose of meeting the requirements of this section.

(3) Deposit in Treasury

Amounts received from fee increases imposed under this section shall be deposited directly into the United States Treasury, and shall be available only to the extent provided in subsequent appropriations Acts. The fees charged pursuant to this section shall not be considered a reimbursement to the Federal Government for the costs or subsidy provided to an enterprise.

(c) Phase-in

(1) In general

The Director may provide for compliance with subsection (b) by allowing each enterprise to increase the guarantee fee charged by the enterprise gradually over the 2-year period beginning on December 23, 2011, in a manner sufficient to comply with this section. In determining a schedule for such increases, the Director shall—

(A) provide for uniform pricing among lenders;

(B) provide for adjustments in pricing based on risk levels; and

(C) take into consideration conditions in financial markets.

(2) Rule of construction

Nothing in this subsection shall be interpreted to undermine the minimum increase required by subsection (b).

(d) Information collection and annual analysis

The Director shall require each enterprise to provide to the Director, as part of its annual report submitted to Congress—

(1) a description of—

(A) changes made to up-front fees and annual fees as part of the guarantee fees negotiated with lenders;

(B) changes to the riskiness of the new borrowers compared to previous origination years or book years; and

(C) any adjustments required to improve for future origination years or book years, in order to be in complete compliance with subsection (b); and

(2) an assessment of how the changes in the guarantee fees described in paragraph (1) met the requirements of subsection (b).

(e) Enforcement

(1) Required adjustments

Based on the information from subsection (d) and any other information the Director

¹ So in original. Probably should be followed by “as”.