

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”.