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### 12 U.S. Code § 1430 - Advances to members

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## 12 U.S. Code § 1430 - Advances to members

U.S. Code      Notes

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**(a) IN GENERAL**

**(1) ALL 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.

**(2) PURPOSES OF ADVANCES**

A long-term advance may only be made for the purposes of—

**(A)** providing funds to any member for residential housing finance; and

**(B)** providing funds to any community financial institution for small businesses, small farms, small agri-businesses, and community development activities.

**(3) COLLATERAL**

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:

**(A)** Fully disbursed, whole first mortgages on improved residential property (not more than 90 days delinquent), or securities

representing a whole interest in such mortgages.

**(B)** 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).

**(C)** Cash or deposits of a Federal Home Loan Bank.

**(D)** 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.

**(E)** Secured loans for small business, agriculture, or community development activities or securities representing a whole interest in such secured loans, in the case of any community financial institution.

#### **(4) ADDITIONAL BANK AUTHORITY**

Subparagraphs (A) through (E) of paragraph (3) 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 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 Federal home loan bank.

#### **(5) REVIEW OF CERTAIN COLLATERAL STANDARDS**

The Director may review the collateral standards applicable to each Federal home loan bank for the classes of collateral described in subparagraphs (D) and (E) of paragraph (3), and may, if necessary for safety and soundness purposes, require an increase in the collateral standards for any or all of those classes of collateral.

#### **(6) DEFINITIONS**

For purposes of this subsection, the terms “small business”, “agriculture”, “small farm”, “small agri-business”, and “community development activities” shall have the meanings given those terms by regulation of the Director.

**(b) APPRAISALS AND OTHER INVESTIGATIONS; ACCEPTANCE OF HOME MORTGAGES AS COLLATERAL SECURITY ONLY BY APPROVAL OF DIRECTOR**

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 Director has specifically approved such acceptance.

**(c) NOTES OF BORROWING MEMBERS; INTEREST RATE; 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 Federal home loan bank 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.

**(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. 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. 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 therein, together with an appropriate assignment of security therefor.

**(e) 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) <sup>[1]</sup> COMMUNITY SUPPORT REQUIREMENTS**

**(1) IN GENERAL**

Before the end of the 2-year period beginning on August 9, 1989, the Director 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), 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) and provide technical assistance 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 Director, 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<sup>[2]</sup> 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;
- (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; or
- (C)** during the 2-year period beginning on July 30, 2008, use such percentage as the Director may by regulation establish of any subsidized advances set aside to finance homeownership under subparagraph (A) to refinance loans that are secured by a first mortgage on a primary residence of any family having an income at or below 80 percent of the median income for the area.

### **(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 Director for a temporary suspension of such payments.

##### **(B) Financial instability**

In determining the financial instability of a Bank, the Director 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 Director shall review the application and any supporting financial data and issue a written decision approving or disapproving such application. The Board's<sup>2</sup> decision shall be accompanied by specific findings and reasons for its action.

### **(D) Monitoring suspension**

If the Director 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 Director 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 Director 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 Director. 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 Director, 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 Director 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) 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 Director 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 Director 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 Director under paragraph (11) shall be included as part of the report required by this paragraph.

**(C)** Reports.—

The Director shall annually report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the collateral pledged to the Banks, including an analysis of collateral by type and by Bank district.

**(D)** Submission to congress.—

The Director shall submit the reports under subparagraphs (A) and (C) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, not later than 180 days after July 30, 2008.

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

**(k) PUBLIC USE DATABASE**

**(1) DATA**

Each Federal Home Loan Bank shall provide to the Director, in a form determined by the Director, census tract level data relating to mortgages purchased, if any, including—

**(A)** data consistent with that reported under section 4543 of this title;

**(B)** data elements required to be reported under the Home Mortgage Disclosure Act of 1975 [12 U.S.C. 2801 et seq.]; and

**(C)** any other data elements that the Director considers appropriate.

**(2) PUBLIC USE DATABASE**

**(A) In general**

The Director shall make available to the public, in a form that is useful to the public (including forms accessible electronically), and to the extent practicable, the data provided to the Director under paragraph (1).

**(B) Proprietary information**

Notwithstanding subparagraph (A), the Director may not provide public access to, or disclose to the public, any information required to be submitted under this subsection that the Director determines is proprietary or that would provide personally identifiable information and that is not otherwise publicly accessible through other forms, unless the Director determines that it is in the public interest to provide such information.

(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; Pub. L. 106-102, title VI, §§ 604(a)-(c), 606(f)(2), Nov. 12, 1999, 113 Stat. 1451, 1452, 1455; Pub. L. 110-289, div. A, title II, §§ 1204(5), (8)-(10), (12), 1211(b), 1212, 1218, July 30, 2008, 122 Stat. 2786, 2790, 2793.)

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