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Public Law 110–289
110th Congress

An Act

July 30, 2008
[H.R. 3221]

To provide needed housing reform and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Housing and Economic Recovery Act of 2008.
42 USC 4501 note.

SECTION. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Housing and Economic Recovery Act of 2008".

(b) TABLE OF CONTENT.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

DIVISION A—HOUSING FINANCE REFORM

Sec. 1001. Short title.
Sec. 1002. Definitions.

TITLE I—REFORM OF REGULATION OF ENTERPRISES

Subtitle A—Improvement of Safety and Soundness Supervision

Sec. 1101. Establishment of the Federal Housing Finance Agency.
Sec. 1102. Duties and authorities of the Director.
Sec. 1103. Federal Housing Finance Oversight Board.
Sec. 1104. Authority to require reports by regulated entities.
Sec. 1105. Examiners and accountants; authority to contract for reviews of regulated entities; ombudsman.
Sec. 1106. Assessments.
Sec. 1107. Regulations and orders.
Sec. 1108. Prudential management and operations standards.
Sec. 1109. Review of and authority over enterprise assets and liabilities.
Sec. 1110. Risk-based capital requirements.
Sec. 1111. Minimum capital levels.
Sec. 1112. Registration under the securities laws.
Sec. 1113. Prohibition and withholding of executive compensation.
Sec. 1114. Limit on golden parachutes.
Sec. 1115. Reporting of fraudulent loans.
Sec. 1116. Inclusion of minorities and women; diversity in Agency workforce.
Sec. 1117. Temporary authority for purchase of obligations of regulated entities by Secretary of Treasury.
Sec. 1118. Consultation between the Director of the Federal Housing Finance Agency and the Board of Governors of the Federal Reserve System to ensure financial market stability .

Subtitle B—Improvement of Mission Supervision

Sec. 1121. Transfer of program approval and housing goal oversight.
Sec. 1122. Assumption by the Director of certain other HUD responsibilities.
Sec. 1123. Review of enterprise products.
Sec. 1124. Conforming loan limits.
Sec. 1125. Annual housing report.
Sec. 1126. Public use database.
Sec. 1127. Reporting of mortgage data.
Sec. 1128. Revision of housing goals.
Sec. 1129. Duty to serve underserved markets.
Sec. 1130. Monitoring and enforcing compliance with housing goals.

[122 Stat. 2655–2745 omitted (91 pages)]

"(ii) any immediate or mediate good faith transferee of such transferee.

"(D) RIGHTS UNDER THIS PARAGRAPH.—The rights under this paragraph of the conservator or receiver described under subparagraph (A) shall be superior to any rights of a trustee or any other party (other than any party which is a Federal agency) under title 11, United States Code.

"(16) ATTACHMENT OF ASSETS AND OTHER INJUNCTIVE RELIEF.—Subject to paragraph (17), any court of competent jurisdiction may, at the request of the conservator or receiver, issue an order in accordance with rule 65 of the Federal Rules of Civil Procedure, including an order placing the assets of any person designated by the conservator or receiver under the control of the court, and appointing a trustee to hold such assets.

Applicability.

"(17) STANDARDS OF PROOF.—Rule 65 of the Federal Rules of Civil Procedure shall apply with respect to any proceeding under paragraph (16) without regard to the requirement of such rule that the applicant show that the injury, loss, or damage is irreparable and immediate.

"(18) TREATMENT OF CLAIMS ARISING FROM BREACH OF CONTRACTS EXECUTED BY THE CONSERVATOR OR RECEIVER.—

"(A) IN GENERAL.—Notwithstanding any other provision of this subsection, any final and unappealable judgment for monetary damages entered against the conservator or receiver for the breach of an agreement executed or approved in writing by the conservator or receiver after the date of its appointment, shall be paid as an administrative expense of the conservator or receiver.

"(B) NO LIMITATION OF POWER.—Nothing in this paragraph shall be construed to limit the power of the conservator or receiver to exercise any rights under contract or law, including to terminate, breach, cancel, or otherwise discontinue such agreement.

"(19) GENERAL EXCEPTIONS.—

"(A) LIMITATIONS.—The rights of the conservator or receiver appointed under this section shall be subject to the limitations on the powers of a receiver under sections 402 through 407 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4402 through 4407).

"(B) MORTGAGES HELD IN TRUST.—

"(i) IN GENERAL.—Any mortgage, pool of mortgages, or interest in a pool of mortgages held in trust, custodial, or agency capacity by a regulated entity for the benefit of any person other than the regulated entity shall not be available to satisfy the claims of creditors generally, except that nothing in this clause shall be construed to expand or otherwise affect the authority of any regulated entity.

"(ii) HOLDING OF MORTGAGES.—Any mortgage, pool of mortgages, or interest in a pool of mortgages described in clause (i) shall be held by the conservator or receiver appointed under this section for the beneficial owners of such mortgage, pool of mortgages, or interest in accordance with the terms of the agreement

[122 Stat. 2747–2828 omitted (82 pages)]

(R) in paragraph (11), by inserting "or a Federal savings association, as the case may be," after "national bank" each place such term appears;

(S) in paragraph (12)—

(i) by inserting "or the Director of the Office of Thrift Supervision, as appropriate," after "Comptroller of the Currency" each place such term appears; and

(ii) by inserting "or Federal savings associations, as appropriate" after "national banks"; and

(T) in paragraph (13), by striking "single bank" and inserting "single depository institution".

(b) OTHER CONFORMING AMENDMENTS.—

(1) FEDERAL DEPOSIT INSURANCE ACT.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(A) in section 3 (12 U.S.C. 1813), by striking subsection (i) and inserting the following:

"(i) NEW DEPOSITORY INSTITUTION AND BRIDGE DEPOSITORY INSTITUTION DEFINED.—

"(1) NEW DEPOSITORY INSTITUTION.—The term 'new depository institution' means a new national bank or Federal savings association, other than a bridge depository institution, organized by the Corporation in accordance with section 11(m).

"(2) BRIDGE DEPOSITORY INSTITUTION.—The term 'bridge depository institution' means a new national bank or Federal savings association organized by the Corporation in accordance with section 11(n).";

(B) in section 10(d)(5)(B) (12 U.S.C. 1820(d)(5)(B)), by striking "bridge bank" and inserting "bridge depository institution";

(C) in section 12 (12 U.S.C. 1822), by striking "new bank" each place such term appears and inserting "new depository institution";and

(D) in section 38(j)(2) (12 U.S.C. 1831o(j)(2)), by striking "bridge bank" and inserting "bridge depository institution".

(2) FEDERAL CREDIT UNION ACT.—Section 207(c)(10)(C)(i) of the Federal Credit Union Act (12 U.S.C. 1787(c)(10)(C)(i)) is amended by striking "bridge bank" and inserting "bridge depository institution".

(3) TITLE 11, UNITED STATES CODE.—Section 783 of title 11, United States Code, is amended by striking "bridge bank" and inserting "bridge depository institution".

(4) TITLE 26, UNITED STATES CODE.—Section 414(l)(2)(G) of the Internal Revenue Code of 1986, is amended by striking "bridge bank" and inserting "bridge depository institution".

(c) REPEAL OF DEPOSIT LIMITATION.—Section 11(n)(1)(B)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(n)(1)(B)(i)) is amended by striking ", except that" and all that follows through "another insured depository institution".

(d) FEDERAL RESERVE BANK LENDING TO BRIDGE DEPOSITORY INSTITUTIONS.—Section 11(n)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1821(n)(5)) is amended by adding at the end the following new subparagraph:

"(D) CAPITAL LEVELS.—A bridge depository institution shall not be considered an undercapitalized depository institution or a critically undercapitalized depository institution for purposes of section 10B(b) of the Federal Reserve Act.".

[122 Stat. 2830–2912 omitted (83 pages)]

Act of 2005 is amended by striking the percentage contained therein and inserting "100 percent". No other provision of law which would change such percentage shall have any force and effect. 26 USC 6655 note.

(b) MODIFICATION OF ADJUSTMENT FOR 2013.—The percentage under subparagraph (C) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 in effect on the date of the enactment of this Act is increased by 16.75 percentage points. 26 USC 6655 note.

Approved July 30, 2008.

LEGISLATIVE HISTORY—H.R. 3221:

CONGRESSIONAL RECORD:
Vol. 153 (2007): Aug. 4, considered and passed House.
Vol. 154 (2008): Apr. 3, 4, 7–10, considered and passed Senate, amended.
May 8, House concurred in Senate amendment with amendments.
June 19, 20, 23–26, July 7–11, Senate considered and concurred in House amendments with an amendment.
July 23, House concurred in Senate amendment with an amendment.
July 25, 26, Senate considered and concurred in House amendment.