

Overview

The bill is divided into three Divisions designated A, B and C and each has several Titles. The major subjects covered include:

- **Higher Loan Limits** — Raises the GSE, FHA and VA single-family loan limits on a permanent basis;
- **GSE Regulatory Reform** — Increases regulation of Fannie Mae, Freddie Mac and the Federal Home Loan Banks (the GSEs) by creating a new regulator and regulatory requirements;
- **GSE Stabilization** — Establishes several new powers and authorities to stabilize the GSEs in the event of financial crisis;
- **Affordable Housing Trust Fund** — Creates, from assessments on the GSEs' businesses, a fund to help prevent foreclosures and facilitate affordable housing;
- **Redevelopment of Abandoned and Foreclosed Homes** — Authorizes \$4 billion in block grant funds for states to purchase and redevelop foreclosed properties;
- **FHA Rescue Plan** — Authorizes a new FHA "Hope for Homeowners" program to refinance existing borrowers into fixed-rate FHA mortgage products;
- **FHA Modernization** — Modernizes FHA programs;
- **Licensing** — Encourages a nationwide licensing and registry system for loan originators by setting minimum qualifications and assigning responsibility for establishing requirements for those states not enacting licensing laws to HUD;
- **Active Service Members** — Extends stays of foreclosure and legal proceedings from 90 days to nine months, and extends the six percent mortgage rate cap for one year after active duty;
- **Veterans Matters** — Provides home improvement benefits for the disabled;
- **Counseling** — Authorizes funds for the Neighborhood Reinvestment Corporation (NRC) for foreclosure mitigation activities;
- **Truth in Lending Act (TILA)** — Adds new mortgage disclosure requirements under TILA;
- **Public Housing Authorities** — Reduces regulatory requirements for smaller PHAs;
- **Tax Incentives** — Establishes a range of tax incentives, including a first-time homebuyer tax credit, and expands the Low-Income Housing Tax Credit (LIHTC);
- **Real Estate Investment Trusts (REITs)** — Loosens certain restrictions on REITs; and
- **Public Debt Limit** — Increases the federal debt limit to \$10.615 trillion.

Focus on Higher Loan Limits

- **GSE Single-Family Loan Limits:** Sets the GSE loan limit for single-family, one-unit properties at the greater of \$417,000 (with increased limits for other single-family properties up to four units) or 115 percent of the local area median home price, as determined by HUD, up to a cap of 150 percent of the GSE limit of \$417,000 for a one-unit property or \$625,500. By January 1, the new GSE regulator will set the GSE loan limit annually based on home prices. The new GSE loan limits will go into effect after the limits in the Economic Stimulus Act expire on December 31, 2008.
- **FHA Single-Family Loan Limit:** Increases the loan limit for FHA mortgage insurance under Section 203(b) of the National Housing Act for single-family, one-unit properties (with increased limits for other single-family properties up to four units) to the lesser of 115 percent of the local area median home price, as determined by HUD (but no lower than a floor of 65 percent of \$417,000) or 150 percent of the GSE limit of \$417,000 or \$625,500. The mortgage amount also cannot exceed 100 percent of the property's appraised value. Note on FHA single-family loan limit: This new FHA loan limit will not go into effect until after the limits in the Economic Stimulus Act expire on December 31, 2008.
- **HECM Loan Limit:** Set at GSE loan limit, currently \$417,000.
- **FHA Repair / Improvement Loan Limit:** Raises the limit from \$17,500 to \$25,090.
- **FHA Manufactured Housing Limit:** Raises limit from \$48,600 to \$69,678, with future adjustments based upon the rate of inflation.
- **FHA Rescue Loan Limit:** Sets limit for loans under rescue plan authorized under "Hope for Homeowners" program, at 132 percent of the 2007 conforming loan limit (\$417,000) or \$550,440.
- **VA Loan Limit:** Beginning at enactment and ending on December 31, 2008, the "maximum guarantee amount" (for loans above \$144,000) shall be 25 percent of the higher of: 1) the GSE loan limit (\$417,000), or 2) 125 percent of the area median home price for a single-family, one-unit property, not to exceed 175 percent of the GSE loan limit (\$729,750). After December 31, 2008, the VA's guarantee for loans above \$144,000 is 25 percent of the new GSE loan limit base or the limits for high cost areas as described above.

DIVISION A — Housing Finance Reform

TITLE I — Reform of Regulation of Enterprises (Division A, Title I)

- **Regulator:** Establishes the Federal Housing Finance Agency (FHFA) as the new regulator for Fannie Mae, Freddie Mac and the Federal Home Loan Banks (FHLBanks) replacing the Office of Federal Housing Enterprise Oversight (OFHEO), the Department of Housing and Urban Development (HUD) (except for Fair Housing regulation) and the Federal Housing Finance Board (FHFB).
- **Raises GSE Loan Limit:** As described above.
- **Portfolio Caps:** Provides FHFA greater discretion to impose restrictions on the amount and type of mortgages the GSEs' retain in their own portfolios.
- **Mission Oversight / Product Approval:** Requires Fannie Mae and Freddie Mac to obtain prior approval before offering any new product except for products related to either their automated loan underwriting systems; or modifications to mortgage terms, conditions or underwriting criteria. Requires FHFA to seek input from the public prior to making a decision. Authorizes FHFA to review existing activities of the GSEs.
- **Capital Requirements:** Expands FHFA's authority to set GSE capital requirements. Also provides FHFA additional options to deal with a financially troubled GSE, including shutting it down and replacing it with another entity.
- **Affordable Housing Requirements:** Retools existing goals to address housing needs of low- and very low-income families. Goals are annual and set as a percentage of the regulated entity's single-family and multi-family business lines. Revisions to the current goals framework include separate goals for purchase money and refinance transactions, and procedures for adjusting goals under unique circumstances. The FHFA also has stronger enforcement powers for noncompliance, including cease and desist powers. Requires FHFA to assess and report to Congress on whether disparities exist between interest rates on loans to minorities and non-minorities. Disparities will also be referred to the appropriate regulatory agency. In addition to Fannie Mae and Freddie Mac, affordable housing goals also apply to the FHLBanks' mortgage purchase programs. Creates a new duty for the enterprises to lead the industry in developing loan products and flexible underwriting guidelines for:
 - + **Manufactured housing;**
 - + **Affordable housing preservation; and**
 - + **Rural markets.**

- **GSE Backstop Provisions:** Gives the Secretary of the Treasury authority to increase the existing lines of credit of Fannie Mae, Freddie Mac, and the FHLBanks. Treasury has standby authority to buy Fannie Mae, Freddie Mac or FHLBank stock to provide confidence in the GSEs and stabilize housing finance markets. Prior to exercising these authorities, Treasury must determine that an emergency exists and action is necessary to stabilize markets, maintain liquidity and protect the taxpayers. Provides additional oversight by requiring the Federal Reserve and Treasury to consult with FHFA on issues concerning the safety and soundness of the GSEs and use of the standby authority. These provisions expire on December 31, 2009.
- **Workforce Diversity:** Requires GSEs to establish procedures for promoting diversity in their business activities. FHFA must seek demographic diversity among staffing at all levels commensurate with the U.S. population.

Affordable Housing Trust Fund (Division A, Title I, Subtitle B)

- **GSE Contributions:** Requires Fannie Mae and Freddie Mac to set aside an amount equal to 4.2 basis points for each dollar of “total new business purchases” and transfer 65 percent to the Secretary of HUD to fund an Affordable Housing Trust Fund. In the first year, the fund will subsidize the Hope for Homeowners program. Thereafter, funds will be allocated to states using a needs-based formula in order to provide affordable housing for extremely low- and very low-income households. The remaining 35 percent will be transferred to a “Capital Magnets Fund” maintained by the Treasury Department to attract investments in affordable housing and related neighborhood revitalization.

TITLE II — Federal Home Loan Banks (Division A, Title II)

- **Oversight:** Requires FHFA to consider the unique differences between the FHLBank System and Fannie Mae / Freddie Mac when taking supervisory action. Permits FHFA to reduce the number of FHLBanks below the current restriction of eight. Requires FHFA to conduct two studies: 1) The benefits and risks of authorizing FHLBanks to securitize mortgages; 2) The extent to which collateral for FHLBank advances complies with the interagency guidance on nontraditional mortgage products.
- **Structure:** Establishes procedures for election of both member and independent FHLBank directors. Permits mergers between FHLBanks with FHFA’s approval. Raises the total assets requirement to be considered a Community Financial Institution from \$500 million to \$1 billion. Permits Community Development Financial Institutions to be FHLBank members.

TITLE III — Transfer of Functions, Personnel and Property of OFHEO and FHFB (Division A, Title III)

- **Abolition of OFHEO and FHFB:** Abolishes the Office of Federal Housing Enterprise Oversight (OFHEO) and the Federal Housing Finance Board (FHFB) and transfers their functions and employees to Federal Housing Finance Agency (FHFA) along with certain employees of HUD.

TITLE IV — Hope for Homeowners (Division A, Title IV)

- **The Plan:** Establishes a new FHA program, the Hope for Homeowners program, with an additional \$300 billion in FHA mortgage insurance authority. Under the program, principal balance and interest rate for eligible borrowers is reduced through refinancing into new, affordable FHA-insured loans based on current property values. Loans will be eligible for securitization with Ginnie Mae.
- **Reps and Warrants:** Requires insurance benefits not be paid if a mortgage violates the representations and warranties the program's governing body (Board) will require or if the borrower of the new loan fails to make the first payment on the FHA loan.
- **Eligibility:** Mandates mortgages eligible for refinance be originated on or before January 1, 2008. Borrowers must have debt-to-income ratios greater than 31 percent (or a higher ratio set by the Board) as of March 1, 2008. Borrowers must certify they did not intentionally default on the original mortgage or other debts or furnish false information (five year jail time for false statements) to obtain the FHA loan. Borrower not eligible if convicted of fraud or previously defaulted on government loan. Borrower's income must be fully documented through two most recent tax returns and meet other standards established by the program's governing board or HUD. Eligible borrower may only have one primary residence.
- **New Loan Requirements:** Requires 30-year fixed-rate loan not exceeding 90 percent of the property's current value. Principal amount cannot exceed 132 percent of the 2007 Freddie Mac loan limits, or \$550,440. Board establishes reasonable limitation on origination fees. Prohibits junior liens for five years.
- **Write-Down:** Requires participating noteholders agree to a reduction in principal to achieve the 90 percent loan-to-value requirement. Also, requires waiver of prepayment penalties and fees related to default or delinquency.
- **Premiums:** Requires noteholder to pay the three percent upfront premium from the

proceeds of the refinance. Borrower pays 1.5 percent premium annually.

- **Shared Appreciation:** Requires borrower to share future equity with FHA when the property is sold or the loan is refinanced. Homeowner's share of newly created equity will be phased-in over five years. After five years, homeowner and government each will share in 50 percent of the equity. Program's governing board establishes standards for sharing future appreciation owed to HUD with subordinate lienholders.
- **Sunset:** Program runs from October 1, 2008 through September 30, 2011.
- **Servicer Liability:** Amends the Truth in Lending Act (TILA) to create a fiduciary duty for mortgage servicers to "maximize the net present value of the pooled mortgages in an investment to all investors and parties having a direct or indirect interest." The duty does not supersede servicing contracts to the contrary. Also would deem servicers to act in the best interests of all investors if the servicer implements a refinance or modifies a loan, meeting certain conditions such as being in default, through the Hope for Homeowners plan.

TITLE V — S.A.F.E. MORTGAGE LICENSING ACT (Division A, Title V)

- **Nationwide Licensing and Registry System:** Encourages states, through the Conference of State Bank Supervisors (CSBS) and American Association of Residential Mortgage Regulators (AARMR) to establish a Nationwide Mortgage Licensing System and Registry for residential loan originators. Registry is to accomplish several objectives including establishing means by which residential mortgage loan originators would, "to the greatest extent possible, be required to act in the best interests of the consumer." "States" includes all U.S. states, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands and the Northern Mariana Islands.
- **Coverage:** Covers all persons who take residential mortgage loan applications and offer or negotiate mortgage terms except administrative, clerical personnel or those who only perform real estate brokerage activities or who are only involved in extensions of credit relating to time shares.
- **Standards:** Establishes minimum standards for licensing and registration as State-licensed loan originators including that they must: never have had an originator license previously revoked; pled guilty or been convicted of a felony during the seven year period prior to licensing or at any time if such felony involved fraud, dishonesty, breach of trust or money laundering; demonstrate financial responsibility, character and general fitness; complete pre-licensing educational requirements; pass a written test; and meet either net worth or a surety bond requirement, or pay into a State fund.
- **Default Licensing and Registration Law:** Requires HUD to establish a backup licensing

and registry system for the licensing and registration of loan originators for any state that fails to establish a state system within one year from enactment or two years for states where legislatures meet biennially.

- **Federal Regulators:** Requires federal banking regulators to jointly establish a registry of loan originators for federally regulated bank and thrift institutions and their subsidiaries. Fingerprints and personal experience information on these originators is to be furnished to the Nationwide Mortgage Licensing System and Registry.
- **Annual Report on Licensing and Registration:** Requires HUD to report annually on the effectiveness of licensing and registration provisions.
- **RESPA Legislative Recommendations:** Requires HUD to make recommendations to Congress six months after enactment on appropriate legislative reforms to RESPA to promote more transparent disclosures, allowing consumers to better shop and compare loan terms and settlement costs.

TITLE VI — MISCELLANEOUS (Division A, Title VI)

- **Studies:** Mandates that FHFA conduct an annual study and report to Congress on Fannie Mae and Freddie Mac mortgage guarantee fees (G Fees). Study will analyze topics such as how the G Fee is calculated across product types and the extent to which it differs by volume and originator characteristics. The study will also identify G Fee revenues earned and costs incurred from guaranteeing mortgages. FHFA also must study and report to Congress on ways to improve the overall default risk evaluation of residential mortgages, including processes or technologies to provide standardized risk measures.
- **Conversion of HUD Contracts:** Converts Section 8 and Rental Assistance Payment contracts to project-based Section 8 contracts, allowing multifamily housing owners to get higher rents while protecting tenants from paying higher rents or being displaced.
- **Bridge Depository Institution:** Provides a generic name for the temporary financial institution created by the FDIC to administer the deposits and liabilities of a failed bank or savings association.
- **Senate Support for Local Foreclosure Requirements:** Includes a “Sense of the Senate” provision voicing support for local government requirements for holders of foreclosed properties to maintain them.

DIVISION B — Foreclosure Prevention

TITLE I — FHA Modernization Act of 2008 (Division B, Title I) SUBTITLE A — Building American Homeownership (Division B, Title I)

- **FHA Loan Limits:** Raises the limits as described above.
- **Cash Investment Assistance and Prohibition of Seller-Funded Down payment Assistance:** Requires at least 3.5 percent cash or its equivalent investment by mortgagor. Prohibits seller-funded down payment assistance but allows other down payment sources such as Community Development Block Grants (CDBG) and HOME assistance. Permits amounts borrowed from a family member to be treated as cash or cash equivalent as long as any lien for repayment is subordinate and the total liens do not exceed 100 percent of the value of the property plus appraisal, inspection and other fees. The down payment assistance limitation applies where the mortgagee has issued credit approval for the borrower on or after October 1, 2008. The October 1, 2008 effective date is intended to protect homebuyers and homeowners refinancing from a sudden change in program requirements.
- **Home Equity Conversion Mortgages (HECMs):** Limits HECM loans to the GSE loan limit, currently \$417,000 for a one-unit single-family property. Also limits origination fees to two percent of the maximum claim amount up to \$200,000 plus one percent of any maximum claim amount exceeding \$200,000 to a total cap of \$6,000 (adjusted in increments of \$500 annually based on the Consumer Price Index).
- **HECM Restrictions:** Prohibits HECM lenders from being associated with any other “financial or insurance activity” unless they prove to HUD they maintain appropriate firewalls to ensure originators do not have an incentive to sell other products. Also prohibits lender or any other party from conditioning the HECM on purchase of other financial or insurance products, except hazard and other peril insurance and title insurance or other products that are customary and normal as determined by HUD.
- **Energy Efficient Mortgage Program:** Increases the limits on cost-effective energy efficiency improvements and adds a percentage limitation on energy efficient mortgages insured each year.
- **Pilot Program for Alternative Credit:** Requires HUD to establish a pilot program to provide an automated process for providing alternative credit rating information for borrowers and potential borrowers who have insufficient credit histories to determine their creditworthiness.
- **Modernization Funds:** Authorizes \$25 million from negative credit subsidy to improve technology, processes and program performance, eliminating fraud and providing appropriate

staffing in connection with FHA programs.

- **Prepurchase Homeownership Counseling Demonstration:** Requires HUD to establish and conduct a demonstration program to test the effectiveness of alternative forms for pre-purchase homeownership counseling for eligible homebuyers.
- **Multifamily Mortgage Insurance Premiums:** Prevents HUD from increasing multifamily mortgage insurance premiums above the limits as of October 1, 2006 until October 1, 2009. HUD may only increase rates based upon determination that positive credit subsidy will result if no increase and after 30-day notice to the Senate Banking and House Financial Services Committee and ***Federal Register*** notice is published.
- **Risk-Based Premiums:** Prohibits HUD from taking any action to implement or carry out a risk-based premium program for twelve months beginning on October 1, 2008. The October 1, 2008 effective date for the provision is intended to protect borrowers from a sudden change in program requirements and permit a cessation of the current program.

SUBTITLE B — Manufactured Housing Loan Modernization (Division B, Title I)

- **Increased Loan Limits:** Increases loan limits as indicated above.
- **Prohibitions Against Kickbacks and Unearned Fees:** Provides with certain exceptions that provisions of sections 3, 8, 16, 17, 18 and 19 of RESPA apply to the sale of a manufactured home financed with an FHA-insured loan as well as services rendered in connection with such transactions.

TITLE II — Mortgage Foreclosure Protections for Service Members (Division B, Title II)

- **Counseling:** Requires the Secretary of Defense to develop a counseling program to prevent or forestall foreclosures on homes owned by military personnel.
- **Protections:** Extends the stay of foreclosure and other legal proceedings (i.e., evictions) from 90 days to nine months following the termination of a service member's active duty. These protections revert back to 90 days on January 1, 2011.
- **Six Percent Rate:** Extends the six percent mortgage interest rate cap to one year after the termination of active duty. Defines interest as all charges (except bona fide insurance).

TITLE III — Emergency Assistance for the Redevelopment of Abandoned and Foreclosed Homes (Division B, Title III)

- **Appropriations:** Authorizes \$4 billion in block grant funds to be spent for the redevelopment of abandoned and foreclosed homes and residential properties.
- **Allocation:** Allocates funds to states and units of general local government as defined by HUD, according to need, considering: 1) the percentage of foreclosed homes; 2) the percentage of homes financed by a subprime mortgage; and 3) the percentage of loans in default or delinquent. All funds appropriated must help individuals and families whose income does not exceed 120 percent of area median income, with 25 percent of funds appropriated to benefit individuals or families whose incomes do not exceed 50 percent of the area median income.
- **Purchases, Sales and Rehabilitations:** Requires the sale price of residential properties purchased by the government to be at a discount from the current market appraised value, while the sales of residential properties that have been improved under this appropriation, shall be in an amount equal to or less than the cost to acquire and redevelop or rehabilitate the property. Rehabilitations must be for code compliance purposes or to increase energy efficiency. For five years following enactment, any revenue generated from the sale, rental or rehabilitation of the property that exceeds the cost to acquire and develop the property will revert to the state. After five years, such funds go to the U.S. Treasury.

TITLE IV — Housing Counseling Resources (Division B, Title IV)

- **Appropriations:** Authorizes \$100 million for the Neighborhood Reinvestment Corporation (NRC) to be available through December 31, 2008 for foreclosure mitigation activities. Requires eligible recipients of NRC funds to identify and coordinate with non-profit organizations operating national or statewide toll-free foreclosure prevention hotlines.

TITLE V — Mortgage Disclosure Improvement Act (Division B, Title V)

- **Timing:** Amends the Truth in Lending Act (TILA) to expand the mortgage loans subject to early disclosures within three days of application. Also requires disclosure seven days before closing and any correction of an APR three days before closing.
- **Fees:** Requires consumers receive early TILA disclosures before paying any fee, except possibly a fee for a credit report.
- **New Statement in Disclosures:** Requires a new statement in TILA disclosures involving dwelling-secured transactions: “You are not required to complete this agreement merely because you have received these disclosures or signed a loan application.”
- **Additional Disclosure Requirements:** Requires disclosures to better explain adjustable rate products, through examples, including how monthly payments adjust based on interest rate

changes and the maximum payment.

- **Violations:** Increases money penalties for violations.

TITLE VI — Veterans Housing Matters (Division B, Title VI)

- **Permanently Disabled Veterans:** Authorizes the Secretary of Defense to furnish improvements and structural alterations to residences of permanently disabled service members.

TITLE VII — Small Public Housing Authorities Paperwork Reduction Act (Division B, Title VII)

- **Relief:** Exempts public housing authorities (PHAs) with 550 or fewer combined units and vouchers from the requirement of submitting an annual plan to HUD. Only PHAs that have a passing score under HUD's Section 8 management assessment program are exempt.

TITLE VIII — Housing Preservation (Division B, Title VIII) SUBTITLE A — Preservation under Federal Housing Programs (Division B, Title VIII)

- **Rental Assistance:** Identifies certain recipients as eligible for relief under HUD rental assistance programs.

SUBTITLE B — Coordination of Federal Housing Programs and Tax Incentives for Housing (Division B, Title VIII)

- **Federal Housing Programs and Low Income Housing Tax Credit:** Requires HUD to implement administrative and procedural changes to expedite approval of multifamily housing projects under HUD's jurisdiction involving low-income housing tax credits and existing public housing and assisted housing projects where the Secretary's approval is necessary.

TITLE IX — Miscellaneous (Division B, Title IX)

- **Homeless Assistance:** Increases authorization for the McKinney-Vento Homeless Assistance Act and reserves amounts for grants to state educational agencies for children, youths and their families who have become homeless due to home foreclosure.
- **Increasing Access to Energy Efficient Mortgages:** Requires HUD, not later than 180 days after enactment in conjunction with the Administrator of the Environmental Protection Agency (EPA), to consult with the residential mortgage industry and states to develop recommendations to eliminate the barriers that exist to increasing the availability, use and purchase of energy efficiency mortgages and report to Congress such recommendations.

DIVISION C — Tax-Related Provisions

TITLE I — Housing Tax Incentives (Division C, Title I)

- **First-Time Homebuyer Tax Credit:** Makes a qualifying individual or a couple, who is a first-time homebuyer of a principal residence in the United States from April 9, 2008 through April 1, 2009 eligible for a tax credit not to exceed \$7,500 (to be paid back over 15 years). Credit will begin to phase out if single taxpayer's income exceeds \$75,000 per year or the couple's income exceeds \$150,000.
- **Low-Income Housing Tax Credit (LIHTC):** Repeals the Alternative Minimum Tax limitations on LIHTC and increases the dollar amount of the LIHTC ceiling for each state for calendar years 2008 and 2009 by \$0.20. In addition, the prohibition against using tax credits with Section 8 moderate rehabilitation projects is repealed.
- **State and Local Tax Deduction:** Allows a tax deduction, applicable to non-itemizing homeowners who pay state and local property taxes for the tax year 2008 and forward, of the lesser of the amount allowable as a deduction under state and local taxes or \$500 (\$1,000 in the case of a joint return).
- **Alternative Minimum Tax:** Repeals Alternative Minimum Tax limitations on tax exempt bonds, LIHTC and Rehabilitation Credit.
- **Federal Home Loan Bank Bond Guarantee:** Allows bonds guaranteed by the FHLBanks to be treated as tax-exempt bonds through 2010.
- **Tax Free Mortgage Revenue Bonds:** Increases the state ceiling for each state subject to a calculation written in the statute. The proceeds of the increase in ceiling may be used to refinance a mortgage on a residence which was originally financed through a subprime loan made after December 31, 2001 and before January 1, 2008. In addition, the bill repeals the Alternative Minimum Tax on tax-exempt interest.

TITLE II — Reforms Related to Real Estate Investment Trusts (Division C, Title II)

- **Real Estate Investment Trusts (REIT):** Reforms various REIT rules including rules for foreign currency transactions and allows healthcare facilities, such as nursing homes, to have qualifying income.

TITLE III — Revenue Provisions (Division C, Title III)

- **Changes to Revenue Provisions:** Includes changes to various tax rules and revenue offsets.
- **Increases Debt Limit:** Increases the Public Debt Limit to \$10.6 trillion.