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Major Provisions in H. R. 3221, the Housing and Economic Recovery Act of 2008

By Eugene Lowe

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President George W. Bush signed H.R. 3221, the Housing and Recovery Act of 2008, into law on July 30. The House passed the bill on July 23, by a vote of 272 - 152, and the Senate passed it on July 26 by a vote of 72 - 13. A version of H.R. 3221 had been passed in a bipartisan compromise in the Senate in April following the Easter congressional recess. The Senate then sent the bill to the House, which added a number of bills it had already passed as amendments to the legislation. The legislation then went back to the House and continued in this ping-pong fashion between the two chambers until it was eventually passed. Along the way, the White House threatened to veto the bill primarily because of the \$3.9 billion CDBG neighborhood stabilization assistance program to local governments and states. But it became necessary to shore up Fannie Mae and Freddie Mac when the two GSEs (government sponsored enterprises) began to have financial troubles. Moreover, the administration long had the goal to modernize the Federal Housing Administration (FHA). With these two needs being met in the bill, the White House relented and gave up its veto threat.

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Historic Legislation

The Housing and Economic Recovery Act of 2008 is the most comprehensive legislation enacted in several decades; there are many benefits to help the housing market and homeowners. Local governments will have a major role in the \$3.9 billion CDBG neighborhood stabilization assistance program. This program will allow communities to buy foreclosed homes at a discount and rehabilitate them for resale in order to stabilize neighborhoods. Local governments will also play a role in the newly created permanent affordable housing trust fund. The funds of the trust fund, however, will be allocated to the states. This trust fund will provide money for the construction, maintenance and preservation of affordable rental housing for low and very low-income individuals and families.

The summary below outlines the major provisions of the Housing and Economic Recovery Act of 2008. In addition to support for the GSEs, CDBG neighborhood stabilization, and the permanent housing trust fund, the summary outlines provisions on increased regulation of Fannie and Freddie, the Hope for Homeowners FHA program, Veterans Administration help for soldiers facing foreclosure, changes and new tax provisions that would help provide more credit to homebuyers, and other important aspects of the bill.

Federal Housing Administration (FHA) Housing Stabilization

- The bill provides \$300 billion in loan guarantees through a program called "Hope for Homeowners" that will help at least 400,000 families facing foreclosure keep their homes.
- The expansion of the FHA loan guarantee is a three-year program, and will start October 1, 2008 and end on September 30, 2011.

Fannie Mae and Freddie Mac (GSEs) Strengthened

- The bill creates a strong regulator for the government-sponsored enterprises - Fannie Mae and Freddie Mac and the Federal Home Loan Banks. The bill establishes the Federal Housing Finance Agency (FHFA) to regulate the GSEs.
- The new regulator will have the authority to raise capital standards for the GSEs, set strict prudential standards, including internal controls, audits, and enforce the standards as well as take corrective action.
- Single family loans limits for the GSEs will be allowed up to 115 percent of the local area median home price, and be increased in high cost areas from \$417, 000 to \$625,000. These limits will begin in 2009, and replace the current maximum loan limit of \$729,750 in high cost areas, which is temporary until the end of 2008.

Housing Trust Fund

- A Permanent Housing Trust Fund is created, which has as its goal the production, preservation, rehabilitation and operation of 1.5 million homes in ten years.
- Funded from annual contributions (and not subject to the annual appropriations process) made by Fannie Mae and Freddie Mac, the Housing Trust Fund will begin distributing money for housing in 2010.
- Twenty-five percent of the funds will go to the Treasury as an offset to scoring problems.
- The remaining 75 percent will be divided between the Housing Trust Fund (65 percent) and a newly created Capital Magnet Fund (35 percent). The Capital Magnet Fund will operate through the Community Development Financial Institutions (CDFI) Fund at the Department of Treasury and be used by non-profits awarded a competitive grant to develop, preserve, purchase, and rehabilitate affordable housing for low-income families.
- Funds for the Housing Trust Fund will not be immediately available. The funds will be phased in beginning in FY10. One hundred percent of the funds will be kept in reserve in FY09, 50 percent in FY10, and 25 percent in FY11 to cover defaults that might result from mortgages financed through the Hope for Homeowners program.
- At least 90 percent of the funds of the Housing Trust Fund must be used for rental housing, and at least 75 percent of the funds for rental housing must benefit extremely low-income households and all funds must benefit very low-income households.
- The Housing Trust Fund will be administered by HUD, which will allocate grants to the states for distribution to state housing finance agencies, housing and community development entities and others.
- The HUD Secretary has to develop distribution to the states within 12 months of the enactment of the bill.

Neighborhood Stabilization

- The bill provides \$3.9 billion in emergency assistance (CDBG) funds to communities hardest hit by the foreclosure and subprime crisis to purchase foreclosed homes, at a discount, and rehabilitate or redevelop the homes to stabilize neighborhoods and stem the significant losses in home values of neighboring homes.

- HUD will develop formula no later than 60 days after enactment.
- HUD will distribute \$3.9 billion 30 days after the development of the formula.
- Criteria for the formula include the number and percentage of home foreclosures, the number and percentage of homes financed by a subprime mortgage related loans, and the number and percentage of homes in default or delinquency in each state or locality. Each state will not receive less than 0.5 percent of the funds (\$19.5 million).
- Funds must be used to assist individuals and families with incomes not exceeding 120 percent of area median income.
- Not less than 25 percent of the funds must be used for the purchase of abandoned or foreclosed properties that will be used to house individuals or families with incomes not exceeding 50 percent of area median income. The HUD Secretary is to ensure as much that it is practicable that the sale, rental, or redevelopment of abandoned and foreclosed homes and residential properties remain affordable to these families.
- Funds are to be used to purchase and redevelop abandoned and foreclosed homes and residential properties.
- Funds can also be used to establish financing mechanisms for the redevelopment of foreclosed homes, including such mechanisms as soft seconds, loan loss reserves, and shared-equity loans for low-and moderate-income buyers.
- The funds are to be used to purchase properties at a discount from the current market appraised value of the property.
- Improvements to increase energy efficiency or conservation or to provide a renewable energy source or sources for the homes or properties will be eligible.
- Funds may also be used to establish land banks and to demolish blighted structures.
- Funds must be used within 18 months after they are received.
- Local governments and states may reinvest program income for five years, and after that time all profits must be returned to the Treasury.
- Except for the provisions of the legislation, in general community development block grant rules would apply to the funds. The HUD Secretary, however, does have the authority to alter any CDBG requirements in order to expedite the use of the funds, except those areas for fair housing, nondiscrimination, labor standards and the environment.

Housing Counseling

- Provides \$180 million for pre-foreclosure counseling.
- Provides \$30 million in grants for legal counseling to assist homeowners in foreclosure.

Preventing Future Abuses, Crises

- Establishes a nationwide loan originator licensing and registration system that will set minimum standards for loan originator licensing, substantially improving the oversight of mortgage brokers and bank loan officers.
- Establishes improved mortgage disclosure requirements that will help ensure that mortgage borrowers

Modernizing the Federal Housing Administration (FHA)

- Families and seniors will not have to seek subprime lenders because of expanded loan opportunities through FHA reform.
- FHA loan limits are raised to allow loans up to 115 percent of the local area median home price.

Tax Provisions

- Provides \$11 billion in mortgage revenue bonds; this would be for 2008 only.
- Increases the Low Income Housing Tax Credit allocations (20 cents per capita for 2008 and 2009).
- Provides a temporary tax credit for first time homebuyers of up to 10 percent, capped at \$7,500 (must be paid back over 15 years) for individuals below \$75,000 and for joint returns below \$150,000.

Support for Fannie Mae and Freddie Mac

- Gives authority to increase the existing line of credit to Freddie and Fannie for the next 18 months.
- Treasury can also buy stock in Freddie and Fannie to provide confidence in the GSEs and stabilize housing finance markets.
- The Congressional Budget Office says that the chance is significant ("probably better than 50 percent") that the new Treasury authority will not be used. If it were used, the federal budget cost of the proposal would be \$25 billion over FY09 and FY10. The Treasury Secretary would have to make an emergency designation to use the authority.
- In order to use the authority, the Treasury Secretary would have to certify that the action is necessary to provide stability to financial markets, prevent disruptions in the availability of mortgage finance, protect the taxpayers, and facilitate an orderly restoration of private markets.
- The oversight of the GSEs is strengthened even more by requiring the Federal Reserve and Treasury to consult with the new regulator – the Federal Housing Finance Agency – on the safety and soundness of the GSEs and the use of the new standby authority.

Other Key Provisions

- Increases Veterans Administration Home Loan limit.
- Helps returning soldiers avoid foreclosure and stay in their homes.
- Requires the Department of Defense to establish a financial counseling program for veterans and active service members.
- Provides a moving benefit to servicemen and women who are forced to move out because their rental housing was foreclosed on.
- Exempts public housing authorities with less than 550 units/vouchers from annual plan requirements.

- Authorizes a \$30 million increase in homelessness grant for education costs in FY2009 to fund activities for children and families (owners and renters) displaced by foreclosure.

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