RSC Republican Study Committee

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Legislative Bulletin……………………………………...May 7, 2009

Contents:

H.R. 1728, the Mortgage Reform and Anti-Predatory Lending Act (sponsored by *Rep. Miller*, *D-NC*), is being considered on May 7, 2009, subject to a structured rule (H.Res. 406) that waives all points of order against consideration of the bill except for clause 10 of Rule XXI (PAYGO), making in order the 14 amendments listed below. All amendments are debatable for 10 minutes, except for the first Frank amendment (the Manager's amendment) which is debatable for 30 minutes. General debate on the bill was completed yesterday under a separate rule.

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AMENDMENTS MADE IN ORDER UNDER THE RULE

1. ***Frank (D-MA).*** Manager's Amendment. Among other things, the amendment requires the Secretary of Housing and Urban Development to conduct a study "to determine prudent statutory and regulatory requirements sufficient to provide for the widespread use of shared appreciation mortgages to strengthen local housing markets, provide new opportunities for affordable homeownership, and enable homeowners at-risk of foreclosure to refinance or modify their mortgages."

   The amendment adds a requirement to the GAO report required in section 218 of the bill, requiring an analysis by the Comptroller General of whether the credit risk retention provisions have significantly reduced risks to the larger credit market of the repackaging and selling of securitized loans on a secondary market.

   The amendment requires the Secretary of Housing and Urban Development to establish and maintain a database of information on foreclosures and defaults on mortgage loans for one- to four-unit residential properties and to make such information publicly available.

2. ***Frank (D-MA)***. The amendment strikes the section of the bill that prohibits Legal Assistance for Foreclosure-Related Issues funds ($35 million a year in the underlying bill) from going to "any organization which has been **indicted** for a violation under

Federal law relating to an election for Federal office" or that employs such a person [emphasis added]. ACORN is an example of such an organization. This provision of the bill was offered by Representative Bachmann (R-MN) as an amendment during the markup and accepted by Democrats. For more background on this issue, see here.

The Frank amendment would replace this language in the underlying bill with weaker language that would apply if such an organization had been convicted (or employs an individual that had been convicted). This would shield ACORN in the near-term from the funding prohibition.

3. **Bachus (R-AL).** The amendment requires 10 percent of the grants for housing counseling assistance funds (in the underlying bill) to be used for the Neighborhood Reinvestment Corporation to provide notice to borrowers who are delinquent with respect to payments due under such loans to make such borrowers aware of the dangers of fraudulent activities associated with foreclosure.

4. ***Perlmutter (D-CO).*** The amendment requires the notice to vacate, in the case of a single-family residence that the borrower rented in violation of the mortgage contract, be given 30 days advance by the purchaser to the tenant (instead of the 90 days in the underlying bill).

5. **Hensarling (R-TX).** The amendment would prevent the assignees or securitizers of a residential mortgage from being subject to the liability provisions of the bill.

6. ***Moore (D-KS).*** The amendment requires, for any consideration of a consumer's income history in making a determination required under the bill, the determination be based on either tax returns or another method prescribed by the federal banking agencies.

7. **Price (R-GA).** The amendment would prohibit Titles I, II, and III of the bill from taking effect until 90 days after the Federal Reserve has provided written certification to the House Committee on Financial Services, as well as the Senate Committee on Banking, Housing, and Urban Affairs, that these titles of the bill will not reduce the availability of, or increase the price of, credit for qualified mortgages.

   See the RSC Legislative Bulletin for a summary Titles I, II, and III of H.R. 1728.

8. ***McNerney (D-CA).*** The amendment requires the Secretary of Housing and Urban Development to give priority consideration to entities serving areas with the highest home foreclosure rates in distributing funds under the grants for the housing counseling assistance program created by the underlying bill.

9. **McHenry (R-NC).** The amendment strikes Title III (High-Cost Mortgages) from the bill. For a summary of Title III of the bill, see the RSC Legislative Bulletin on H.R. 1728.

10. ***Dahlkemper (D-PA).*** The amendment requires that the "advantages of prepayment" be explained to consumers in the mortgage information booklet.

11. **Brown-Waite (R-FL).** The amendment expands the scope of the GAO report (required by section 218 of the bill) by requiring it to examine the effect of the legislation on "consumers, small businesses, homebuyers, and mortgage lending" (instead of just "homebuyers and mortgage lending" in the underlying legislation).

12. ***Titus (D-NV).*** The amendment inserts "in writing, the receipt and understanding of which shall be acknowledged by the signature of the mortgage originator and the consumer" be included in the "duty of care" standard in Title I of the bill.

13. **Diaz-Balart (R-FL).** The amendment requires the Secretary of Housing and Urban Development, in consultation with the Secretary of the Treasury, to conduct a study on the effect of residential mortgage loan foreclosures of the presence in residential structures subject to such mortgage loans of drywall that was imported from China (between 2004 and 2007), and the availability of property insurance for residential structures in which such drywall is present. The amendment requires a report to be issued to the Congress within 180 days of enactment.

14. ***Weiner (D-NY).*** The amendment requires the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation to take actions "to ensure the availability of affordable mortgage credit for condominium and cooperative housing, consistent with appropriate levels of credit risk" when determining fee schedules, occupancy and pre-sale guidelines for condominium and cooperative housing mortgages.