



Legislative Bulletin.....May 17, 2007

Contents:

H.R. 1427—Amendments to the Federal Housing Finance Reform Act

H.R. 1427, the Federal Housing Finance Reform Act (sponsored by Rep. Barney Frank, D-MA), is scheduled to be considered on the House floor today, May 17, 2007, subject to a modified open rule (H.Res. 404), making in order only the following 36 amendments pre-filed in the *Congressional Record* by close of business on Wednesday, May 16, 2007, each debatable under the five-minute rule by title of the bill (not section). Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole. The rule allows one motion to recommit with or without instructions.

The rule waives all points of order except those regarding PAYGO and earmarks, deems the previous question as ordered, and allows the Chair to postpone consideration of the legislation at any time during its consideration.

Passage of the rule will self-execute (i.e. automatically pass) an amendment adding Section 185 back to the bill, which had been inadvertently dropped. Section 185 would set the effective date for Title I (the Fannie Mae/Freddie Mac/Affordable Housing Fund) at six months after the bill's enactment. Some conservatives have expressed concerns over a delayed implementation of the bill's new regulator.

Note: The summaries are based on RSC staff's review of *actual amendment text*. For a summary of the underlying bill, see a separate RSC document released yesterday.

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1. Neugebauer (R-TX). Makes the required assessment of the GSEs for the Affordable Housing Fund the option of:

- 1.2 cents for each hundred dollars of the average total mortgage portfolio of the enterprise during the preceding year (this is the same as the requirement in the underlying bill);
- the number of basis points for each dollar of the average total mortgage portfolio of the enterprise during the preceding year, which when applied to such average portfolios of both enterprises (Fannie and Freddie), results in an aggregate allocation by the enterprises for the year of \$520 million; or

- a lesser amount, as determined by the regulator, if the regulator determines for such year that allocation of the lesser of the two amounts above poses a safety or soundness concern to the enterprise.

In other words, this amendment is seeking to provide funding options for the Affordable Housing Fund less than those in the underlying bill.

2. Johnson, Eddie Bernice (D-TX). Adds the following eligible activity under the Affordable Housing Fund: “a program of financial literacy and education to promote an understanding of consumer, economic, and personal finance issues and concepts, including saving for retirement, managing credit, long-term care, and estate planning and education on predatory lending, identity theft, and financial abuse schemes,” as approved by the regulator.

3. Boozman (R-AR). Ensures that anyone receiving assistance through the Affordable Housing Fund is in the country legally, as determined by the regulator.

4. Bean (D-IL). Changes one of the factors for the regulator to consider when crafting standards for GSE portfolio holdings (as consistent with the mission and sound operation of the GSEs):

- **from** “any potential risks posed by the nature of the portfolio holdings”
- **to** “any potential risks posed to the enterprises by the nature of the portfolio holdings” (emphasis added).

5. Green, Al (D-TX). Changes the first-year allocations of the Affordable Housing Fund grants from 75% to Louisiana disaster relief and 25% to Mississippi disaster relief to:

- 45% for Louisiana disaster relief; and
- 18.333% for each of Mississippi, Alabama, and Texas disaster relief.

6. Terry (R-NE). Allows the board of directors of the appropriate FHLB to set as two the minimum number of elective directorships designated as representing the members located in each separate state in a bank district. The current minimum is one.

7. Donnelly (D-IN). Stipulates that the entities providing the required financial counseling under the Affordable Housing Fund “shall not discriminate against any particular form of housing.”

8. Price (R-GA)/ Capito (R-WV)/ Campbell (R-CA)/ Pearce (R-NM). Prevents illegal immigrants from owning or renting housing built by funds from the Affordable Housing Fund by requiring adult occupants of such housing to establish their legal residency through the use of secure forms of identification (a Social Security card plus photo ID, a driver’s license or ID card compliant with the REAL ID Act, a passport, or a Homeland Security Department ID card).

9. Price (R-GA). Requires that the director of a GSE study and certify to Congress that its contributions to the Affordable Housing Fund would not contribute to its financial instability, impair its safety and soundness, cause its undercapitalization, prevent it from successfully completing a capital restoration plan, or result in increased costs to borrowers under residential mortgages before it can make any payment to the trust fund.

10. Sessions (R-TX). Requires the regulator to provide information to mortgage originators about any added mortgage costs to consumers associated with the new Affordable Housing Fund. Originators would then have to furnish this written information to homebuyers at or before closing to qualify their mortgages for purchase, service, holding, lending on the security of, or selling by, the GSEs. All of the costs associated with the new regulatory requirement created by this amendment would be paid for with funds from the Affordable Housing Fund. The amendment sponsor's office writes that, "the purpose is to provide transparency to the purchasers of conforming mortgages about any added costs created by this new, multi-billion dollar Affordable Housing Fund."

11. Blunt (R-MO). Makes any grant under the Affordable Housing Fund (to a grantee or a recipient of a grantee), or any successor fund, subject to disclosure on the Blunt-Coburn database created in the Federal Funding Accountability and Transparency Act of 2006 (31 U.S.C. 6101 note). To read the RSC legislative Bulletin on this Act, see S. 2590 here: http://www.house.gov/hensarling/rsc/doc/LB_091306_suspensions.doc.

12. Bachus (R-AL)/ Biggert (R-IL). Strikes the Affordable Housing Fund and all related requirements and references.

13. Davis (D-CA). Provides that the increased confirming loan limits for high-cost areas would be considered as the Freddie Mac conforming loan limit limitation for the purposes of current law (38 U.S.C. 3703(a)(1)) on home loan guarantees for veterans. The maximum amount of loan guaranty is in part a function of a formula involving the Freddie Mac conforming loan limit limitation.

14. McHenry (R-NC). Requires the regulator to review the GAO report (in the underlying bill) on the effects that the Affordable Housing Fund would have on the availability and affordability of credit for homebuyers, and the extent to which the costs are passed onto the homebuyers, and suspend the assessment requirements on a GSE if the regulator determines that such assessment leads to increased mortgage costs for consumers.

15. Kanjorski (D-PA). Sets the number of people on the Board of Enterprise for each of the two GSEs at between seven and fifteen people (as opposed to thirteen in the underlying bill), and retains the presidential appointee status of the board members (as under current law, but as stricken in the underlying legislation).

16. Feeney (R-FL). Provides that the Affordable Housing Fund, after 2007, could only provide housing assistance for supported rental housing for disabled homeless veterans. Strikes the formula requirement for grant distribution under the Affordable Housing Fund and replaces it with a requirement for distribution based on the formula used for HUD's Continuum of Care competition.

17. Garrett (R-NJ). Sets new GSE portfolio guidelines. The regulator would have to require the GSEs to hold, in their retained portfolios, only mortgages and mortgage-backed securities that exclusively support affordable housing, and particularly mortgages extended to households having incomes below the median income for the area in which the property subject to the mortgage is located. The GSEs could purchase and retain mortgage-related assets only to the extent that the regulator determines such actions are necessary for the GSE to maintain a sound secondary

mortgage market in a manner that cannot be achieved otherwise and are consistent with the public interest.

18. Garrett (R-NJ). Prohibits the funds of the GSEs and FHLBs from being used for lobbying.

19. Doolittle (R-CA). Prohibits the GSEs from obtaining primary residential mortgages being granted to any person who does not have a valid Social Security number. The amendment sponsor's office writes: "Banks and other lending institutions are currently allowed to grant mortgages to anyone possessing a Social Security number or an Individual Taxpayer Identification Number (ITIN). Presently, ITINs are granted to individuals who do not qualify for a Social Security number, many of whom are illegal immigrants. Therefore, the privilege of homeownership is being granted to those who willingly violate our laws to the detriment of our society. Providing mortgages to those here illegally is not only risky financially, but it also undermines the efforts we are taking to eliminate incentives for illegal behavior."

20. McCaul (R-TX). Requires that any successor fund to the Affordable Housing Fund have the same political activity restrictions as the original Affordable Housing Fund.

21. Hinojosa (D-TX). Allows the regulator to waive, at the request of a state, the financial counseling requirements under the Affordable Housing Fund, if the travel time or distance involved in providing counseling with respect to the state or areas within a state is excessive on an in-person basis or the cost of such travel is prohibitive; and if the state provides alternative forms of counseling for the waived areas, which may include interactive telephone counseling, on-line counseling, interactive video counseling, and interactive home study counseling.

22. Kanjorski (D-PA). Allows the Federal Housing Enterprise Board to recommend individuals as "independent" directors for FHLBs who are identified by the Board's own process or included on a list of individuals recommended by the board of directors of the FHLB involved. The number of individuals on any such list submitted by an FHLB's board of directors would have to be at least double the number of independent directorships to be filled.

23. Garrett (R-NJ). Note: this amendment is misidentified in the *Congressional Record* as number 22. The amendment would require the regulator to prohibit each GSE from treating the costs of making the required allocations to the Affordable Housing Fund as a regular business expense of the enterprise; and from redirecting such costs, through increased charges or fees, or decreased premiums, or in any other manner, to the originators of mortgages purchased or securitized by the enterprise.

24. Garrett (R-NJ). Amendment in the Nature of a Substitute. This amendment is the exact same text as the committee-reported version of H.R. 1427. It would be used at the end of amendment debate to replace the bill as amended by any perfecting amendments on the House floor with the bill as reported from committee (plus the committee-omitted Section 185 on the effective date for Title I). That is, this amendment, if passed at the end of amendment consideration, would wipe out any other amendments previously adopted to the bill on the floor.

25. Doolittle (R-CA). Adds as a purpose of the Affordable Housing Fund: “to increase the investment in public infrastructure activities in counties determined to be economically disadvantaged by virtue of receiving payments under the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 500 note).” Adds as an eligible activity under the Affordable Housing Fund: “public infrastructure activities, including activities to benefit the public safety, law enforcement, public education, and public lands, carried out [by government agencies] only in counties which are determined to be economically disadvantaged by virtue of receiving payments under the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 500 note).” States with such disadvantaged counties would have to use **ALL** of their Affordable Housing Fund grants after 2007 for the activities described above.

26. Blumenauer (D-OR). Directs the GSEs, in establishing requirements with respect to quality, type, class, and other purchase standards for mortgages on one- to four-family residences, to:

- consider the location efficiency and energy efficiency of the residence;
- treat any savings resulting from location efficiency or energy efficiency as an equivalent reduction in recurrent monthly expenses of the mortgagor; and
- increase any limit on the amount of debt under the mortgage allowable for the mortgagor that is based on mortgagor income to account for the present value of location efficiency savings and for the present value of energy efficiency savings.

Location efficiency means the difference between the average monthly transportation expenses predicted for the family of the mortgagor residing in the residence subject to the mortgage and the average monthly transportation expenses, for families of the same size and income as the family of the mortgagor, residing in the lower quintile of homes in the same metropolitan area or in the nation as a whole.

27. Roskam (R-IL). Provides that, for any year that immediately follows a fiscal year in which the federal government has an actual on-budget (excluding Social Security) deficit and an actual off-budget (i.e. Social Security) surplus, the amount of money required to be allocated to the Affordable Housing Fund by the GSEs could not exceed the amount allocated to the Fund in the preceding year. In other words, this amendment seeks to freeze what GSEs must contribute to the Affordable Housing Fund when the federal government is not fiscally disciplined.

28. Hensarling (R-TX). Prohibits non-profits *or their affiliates* that engaged—within the previous year—in federal election activity, voter registration activity, or electioneering communication (as defined under campaign finance law) or in any lobbying activity above a *de minimis* amount (as defined by the Internal Revenue Code, including the *de minimis* exception under current law) from receiving grants from the Affordable Housing Fund. An affiliate is defined as an entity who either controls or is controlled by another entity, and “control” is judged to be present when there is: (1) overlapping board members, executives, or staff; (2) shared resources such as office space, staff members, supplies, marketing materials, and public forms of communication (including the Internet); (3) common funding where one entity either receives or contributes more than 20% of its funding from another entity; or (4) other factors that the regulator may set forth in regulation.

29. Hensarling (R-TX). Requires the new regulator to suspend GSE contributions to the Affordable Housing Fund for the three reasons listed in the underlying bill (contributing to their

financial instability, under-capitalization, or jeopardizing their capital restoration plan), **as well as** if such contributions lead to an increase in the cost of mortgage rates to homebuyers.

30. Hensarling (R-TX). Strikes the budgetary placeholder language for the Affordable Housing Fund, which would allow money from the Fund to be later transferred to an as-yet-uncreated, off-budget housing trust fund.

31. Baker (R-LA). Reduces the size of the Federal Housing Enterprise Board from five members to three members, strikes the requirement that two of the board members be Presidentially appointed experts, strikes the four-year term limit for board members, and strikes the requirement that the board not have more than three members of the same political party.

32. Hensarling (R-TX). Strikes the high-cost area increases for the conforming loan limits in the underlying bill.

33. Miller, Gary (R-CA). Strikes the requirement that the high-cost area conforming loan limitation increases be applied only with respect to mortgages on which are based securities issued and sold by the GSE.

34. Brady (R-TX). Changes the first-year allocations of the Affordable Housing Fund grants from 75% to Louisiana disaster relief and 25% to Mississippi disaster relief to:

- 70% for Louisiana disaster relief; and
- 20% for Mississippi disaster relief; and
- 10% for Texas disaster relief.

35. King (R-IA). Prohibits homeownership assistance under the Affordable Housing Fund from going to any individual who has not furnished ID as required under the REAL ID Act and has not furnished documentary evidence of lawful immigration status. The amendment explicitly states that Matricula Consular cards and other forms of ID not allowed under the REAL ID would not qualify as acceptable ID for the Affordable Housing Fund.

36. King (R-IA). Strikes the section directing the FHFA to take affirmative steps to seek diversity in its workforce and replaces it with the following new section: “The Agency shall return to the basis of American values and shall limit its criteria for hiring to an evaluation of the lawful presence of the applicant and strictly to the merits of the applicants. In an effort to return to a color-blind society, the Agency shall strictly adhere to the Equal Protection clause of the Constitution of the United States and to the statutory protections in title VII of the Civil Rights Act of 1965. The Agency shall not hire, promote, or demote based upon the criteria in such title VII. The Agency shall not deny any person equal protection of the laws in contravention of the Fourteenth Amendment to the Constitution of the United States.”

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