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H.R. 384 — TARP Reform and Accountability Act of 2009

FLOOR SITUATION

H.R. 384 is expected to be considered on the floor on Wednesday, January 14, under a structured rule. It is possible that general debate will be completed on Wednesday with amendment debate and consideration on Thursday, although this has not yet been determined. A complete summary of all amendments made in order under the rule will be distributed by the House Republican Conference when they are made available. This legislation was introduced by Representative Barney Frank (D-MA) on January 9, 2009.

SUMMARY

H.R. 384 would set new conditions and requirements on the Department of Treasury's use of funds authorized through the Emergency Economic Stabilization Act (EESA). The bill would also expand Treasury's authority to distribute Troubled Asset Relief (TARP) funds. In addition, the legislation adds new TARP reporting and oversight mandates. H.R. 384 **would not** authorize the release of the second $350 billion of TARP funds. However, passage of H.R. 384 may facilitate the discharge of the final tranche by establishing guidelines for spending the next $350 billion for those Members concerned with how the first tranche was spent.

Below is a short summary of each title of the bill, followed by additional background. A complete, detailed summary of the bill is provided below. Please note that this summary reflects legislation contained in a Manager's Amendment that will be offered by Rep. Frank prior to consideration of the bill.

<u>Title I—Modifications to TARP and TARP Oversight</u>: Increases reporting requirements on institutions receiving TARP assistance, mandating that they make quarterly public reports on the use of funds. This section also stipulates that banks receiving TARP must come to an agreement with banking agencies on the use of funds. Bank regulators are directed to examine a TARP recipient's use of the funds on at least an annual basis to determine compliance. In addition, Title I further limits executive compensation within institutions receiving funds, gives Treasury the authority to appoint observers to attend all corporate board meetings of TARP recipients, and directs the Secretary to make TARP funds available to community banks, including S-corps and mutuals.

<u>Title II—Foreclosure Relief</u>: Requires the Secretary to develop a plan to mitigate foreclosures on residential properties and requires at least $40 billion and no more than $100 billion of the second tranche of TARP funding be devoted to foreclosure mitigation. Title II offers a number of potential program alternatives for Treasury to employ in carrying out the plan. The foreclosure mitigation plan must be developed by March 15, 2009, and implemented by April 1, 2009.

<u>Title III—Auto Industry Financing and Restructuring</u>: Codifies Treasury's authority to use TARP funds to provide direct assistance to automobile manufacturers (which Treasury did in December, 2008). This title also contains a number of provisions from the House-passed auto bailout (H.R. 7321), including the creation of a "Car Czar," long-term restructuring plan requirements for

companies accepting TARP funds, and a loan term of seven years. Unlike H.R. 7321, in the 100th Congress, this legislation would explicitly allow TARP funds to be used to assist the auto manufacturer's financing divisions, such as GMAC.

Title IV—Clarification of Authority: Grants Treasury explicit authority to support consumer loans, including auto and student loans. In addition, this title grants Treasury the authority to use TARP funds to support municipal bonds sold by state and local governments and establish facilities to support commercial real estate loans.

Title V—Hope for Homeowners Program Improvements: Removes the 3% upfront insurance premium that lenders are currently required to pay before refinancing into a Federal Housing Administration (FHA)-insured Hope for Homeowners (H4H) mortgage. This section also raises the level that a lender must write-down the principal of a loan to refinance into a FHA-insured loan from a 90% loan-to-value ratio to 93%. In addition, Title V reduces the 1.5% annual premium requirement for mortgages refinanced under the H4H program to a range between 0.55% and 0.75%. These changes will make it cheaper for lenders to refinance into FHA-insured H4H mortgage, while increasing the debt liability insured by the federal government.

Title VI—Home Buyer Stimulus: Requires the Secretary to develop and establish a new program to stimulate demand for home purchases by offering mortgages with affordable interest rates. The Secretary would be required to carry out the Home Buyer Stimulus Program by purchasing mortgages and mortgage backed securities.

Title VII—FDIC Provisions: Permanently increases federal deposit insurance coverage for banks and credit unions from $100,000 to $250,000. The Emergency Economic Stabilization Act temporarily increased FDIC coverage to $250,000, however that provision is set to expire on December 31, 2009.

BACKGROUND

On October 3, 2008, the President signed the Emergency Economic Stabilization Act (EESA), which established the Troubled Asset Relief Program (TARP). The $700 billion program authorized the Department of Treasury to purchase "troubled assets" from financial and lending institutions in an effort to provide stability and restore confidence and liquidity to the financial markets. Upon receiving the authority, Treasury quickly changed gears and announced the Capital Purchase Program as the primary focus of the first $250 billion. The nine largest banks in the country were given $125 billion and the rest of the industry currently has the ability to seek TARP funds to support their capital. The authority of Treasury to use capital injections was clarified on the House Floor prior to passage during a colloquy between Representative Moran and Chairman Frank. In addition to the capital purchases made under the program, TARP funds have also been used to create a facility to support the issuance of asset-backed securities and give loans to the domestic auto industry and continue the bailouts of AIG and Citigroup.

Since its passage, TARP, as implemented by Treasury, has been sharply criticized for a lack of transparency and accountability regarding Treasury's disbursement of TARP funds. According to a December Government Accountability Office (GAO) report, "Treasury has yet to address a number of critical issues, including determining how it will ensure that Capital Purchase Program is achieving its intended goals and monitoring compliance with limitations on executive compensation and dividend payments. The lack of transparency has made it increasingly difficult for lawmakers and the public to follow distributed TARP funds and assess the impact on lending. It has also made it difficult to assess the amount, if any, of taxpayer funds that may be recouped in the future.

TARP advocates stated that the program would be well regulated, transparent, and likely cost taxpayers far less than $700 billion. In a letter sent to House Minority Leader John Boehner, Office of Management and Budget (OMB) Director Jim Nussle stated that, "The $700 billion figure is substantial, of course, but the size of the problem in our financial markets requires a commitment of this size. For several reasons, however, the impact on the taxpayer will be considerably less than $700 billion." In a September 30, 2008, President Bush reiterated the argument that the total cost of the program would be far less than $700 billion, stating, "both the nonpartisan Congressional Budget Office and the Office of Management and Budget expect that the legislation considered would ultimately cost the taxpayer far less than the $700 billion. Because the government would be purchasing troubled assets and selling them once the market recovers, it is likely that many of the assets would go up in value over time."

Due to the variety of changes in the use of TARP funds, combined with a lack of consistent and adequate oversight, GAO noted that it has become difficult to track exactly what institutions have done with the assistance received through the TARP program. Sparse transparency requirements, and insufficient oversight by Treasury, have combined to make it undeterminable whether "the legislation considered would ultimately cost the taxpayer far less than the $700 billion" as the President stated in September.

The first $250 billion of TARP funding was immediately authorized for use by Treasury after the passage of EESA. The next $100 billion was given at the request of the President. As of January 2009, Treasury had committed $354 billion in TARP funds to a myriad of companies and financial institutions, including $250 billion for the Capital Purchase Program, $40 billion to buy stock from AIG, $20 billion to Citigroup, and $19.4 billion in loans to auto manufactures, of which $4.4 billion is anticipated to come out of the second $350 billion tranche. According to the Republican Staff at the Financial Services Committee, Treasury has yet to dispense approximately $62 billion of the funds allocated to the Capital Purchase Program, which was intended to allow lenders to free up credit for consumers.

Despite one of the program's stated goals of adding liquidity to financial markets, lending has not significantly increased. While Treasury has committed $250 billion to purchasing preferred stock through Capital Purchase Program in order to "build capital to increase the flow of financing to U.S. businesses and consumers and to support the U.S. economy," banks and other lending institutions have generally continued to hold back credit. In addition, the infusion of $350 billion into the market has done very little to reduce residential foreclosures. This has led many lawmakers, as well as the general public, to question the effectiveness of TARP and prompted a debate about whether an additional $350 billion in taxpayer dollars should be reconditioned or even released at all.

As a result of criticisms of the program, Republican and Democrat Members have expressed reluctance to release the final $350 billion tranche of TARP. H.R. 384 is intended to set tighter restrictions on the use of TARP funds in order to pave the way for the release of the second $350 billion, which was formally requested by President Bush, at the behest of President-elect Barack Obama, on January 12, 2009. Under EESA, Congress has 15 days to vote on a joint resolution of disapproval that would stop the second $350 billion from being released. The resolution could be vetoed by the President. Congress would then need a 2/3 majority to override the veto and stop the release of the $350 billion. However, press reports have indicated that the incoming Administration does not want to be forced to use a veto in the first weeks of the Administration to access the funds. Congressional leaders, such as Financial Services Chairman Barney Frank, have stated that a disapproval resolution would likely pass if restrictions on the next tranche—like those contained in H.R. 384—are not agreed to but the Senate appears unlikely to take up any similar legislation. According to press reports, it's the hope of the incoming Administration that H.R. 384 (or some other TARP agreement) would create an avenue for Members that have been critical of TARP to support the release of the next $350 billion and vote against a disapproval resolution.

Although both the Bush and Obama Administrations have called for a release of the second tranche, many Members of Congress continue to question the need for releasing the second $350 billion, even if the conditions included in H.R. 384 are applied. Even Treasury, when pushing for the initial TARP package, admitted that they had no plan to determine if the entire $700 billion would be necessary to shore up financial markets. According to a Treasury spokeswoman quoted in Forbes Magazine, the $700 billion figure was "not based on any particular data point. We just wanted to choose a really large number." Given the questionable effectiveness of the first $350 billion, many Members may question whether it is necessary, beneficial or responsible to release $350 billion more to Treasury, especially under a more stable financial system.

Furthermore, the legislation may prove to be nothing more than a template for a future an agreement between Congressional Democrats and the Obama Administration. Press reports have indicated that the Senate is unlikely to take up the legislation. Indeed, Rep. Frank has even stated that he does not consider legislation to be necessary and would allow the incoming Administration to take sole control of the final tranche if certain assurances were made. According to Rep. Frank, "If they (the Obama Administration) give us their absolute word that they will abide by the bill, that will be enough. I'm willing to accept their word."

While the legislation does include many conditions on TARP spending, and transparency improvements that Republicans may support, many Members may be concerned that H.R. 384 is designed to grease the wheels for a release of the final $350 billion tranche of taxpayer money to a Treasury Department that has yet to take office, let alone explain its intentions to Congress.

DETAILED SUMMARY

Title I—Modifications to TARP and TARP Oversight

Reporting, Monitoring and Accountability: Requires any institution that receives TARP assistance to make public reports on their use of the assistance at least quarterly. The bill would also grant the Secretary the authority to establish additional reporting requirements and requires the Secretary, in consultation with appropriate federal banking institutions, to establish a mechanism to ensure that institutions comply with all the terms under the Act.

Use and Accountability for Use of Funds: H.R. 384 would require insured depository institutions that are new recipients of TARP funds to come to an agreement with the appropriate federal banking agency on the manner in which funds are to be used and establish benchmarks that the institution must meet in order to "strengthen the soundness of the financial system and the availability of credit to the economy." The bill would require the appropriate federal banking agency to review the use of TARP funds by each institution that received assistance and review the institutions' compliance with the Act's requirements. Also includes renter protection mandate requiring new owner of foreclosed property must provide 90 day eviction notice and other tenant protections.

Use of TARP Funds for Mergers or Acquisitions: Prohibits financial institutions that have received TARP assistance from merging with or acquiring any insured depository institution unless the Secretary and the appropriate banking agency determine that the action will reduce the risk to taxpayers or that the transaction could have been accomplished without TARP assistance.

No Impediment to Withdrawal: Authorizes the Secretary to allow insured depository institutions to repay TARP assistance funds regardless of whether the institution has replaced such funds from another source.

Executive Compensation: Requires the Secretary to impose new executive compensation requirements on any institutions holding outstanding TARP funds. Specifically, the bill would require Treasury to:

- Prohibit compensation or bonuses that provide incentives for executives to "take unnecessary and excessive risks that threaten the value of such institution during the period that any assistance under this title is outstanding."
- Create a mechanism for institutions to recover any bonus or incentive compensation paid to a senior executive based on statements of earnings, gains, or other criteria that are found to be materially inaccurate.
- Prohibit any institution from making any "golden parachute" payment to a senior executive while TARP assistance is outstanding.
- Prohibit any institution with TARP assistance from paying a bonus or incentive compensation to the 25 most highly compensated employees.
- Prohibit any compensation plan that would encourage the manipulation of an institutions reported earnings in order to increase compensation to any employee.

Retroactive Application of Executive Compensation Requirements: Grants the Secretary the authority to retroactively apply the expanded executive compensation limits included in this Act to any institution that has received funds through TARP since the program was created.

Board Observer: Gives the Secretary the authority to require an appointed observer to attend the meetings of the board of directors of any institution that has received TARP assistance.

Repeal of De Minimis Exception: Removes a de minimis exception included in EESA that exempted institutions with assets under $300 million that accepted TARP funds from golden parachute limitations.

New Lending Attributed to TARP Investments and Assistance: Requires assisted institutions to report any increases in new lending that are attributable to TARP assistance. If an institution cannot accurately quantify the number of new loans that are attributable to TARP funds, the institution must report the total number of new lending in a given reporting period. The Secretary would be responsible for determining the form, content, and manner of the required reports.

Warrants: Requires any institutions receiving TARP assistance after the passage of the act to provide the Treasury with warrants for non-voting, common or preferred stock equal to 15% of the financing received. Warrants are notes that guarantee the holder may purchase stock at a certain set price.

Availability of TARP Funds to Smaller Community Institutions: Directs the Secretary to promptly make TARP funds available to "smaller community financial institutions." The bill requires Treasury to provide TARP assistance to institutions that have submitted applications that have not been acted upon (C-corporations) and non-stock institutions for which no application deadline has been established (S-corporations).

Inclusion of Woman and Minorities: Requires the Secretary to establish an Office of Minority and Women Inclusion. The Secretary, through the Office of Minority and Women Inclusion, would be required to develop and implement standards with each institution receiving TARP assistance to ensure, to the maximum extent possible, the inclusion of woman and minorities in all businesses activities of the Secretary and the assisted institution. This requirement would apply to all contracts between the Secretary and the assisted institution.

Analysis of Use of Assistance: Requires the Secretary to regularly analyze information regarding TARP funds by institutions that have received assistance to ensure that TARP is meeting its goals. To carry out this provision, the Secretary would require the federal banking agencies to report detailed information on the use of TARP funds by assisted institutions on a quarterly basis at a minimum. If the Secretary determines that the goals of TARP are not being met, the Secretary would work with federal banking agencies to provide recommendations to the recipient institution and adjust future uses of TARP funds accordingly.

Investment of TARP Funds in Credit Unions: Includes TARP funds received by a credit union when determining the net worth of the institution.

Increase in the Size and Authority of Financial Oversight Board: Expands the Financial Stability and Oversight Board (FSOB) to include the Chairman of the FDIC and two additional, non-governmental employees appointed by the President, with the advice and consent of the Senate. The board would be given the power to overturn a policy determination made by the Secretary by a two-thirds vote. The FSOB was established in order to review assistance handed out under TARP and ensure that the program remained effective. The FSOB is made up of the Fed Chairman, Treasury Secretary, Securities and Exchange Commission (SEC) Chairman, Director of the Federal Housing Financing Agency (FHFA), and the Secretary of Housing and Urban Development (HUD).

Clarification: States that "any provision of capital to, purchase of equity in, or assistance provided to any institution under this title shall be considered to be a purchase of troubled assets for purposes of this title." This provision vastly expands the definition of the term "troubled assets" to clarify Treasury's ability to purchase equity, supply capital, and other wise provide financial assistance.

Title II—Foreclosure Relief

TARP Foreclosure Mitigation Plan and Implementation: Requires the Secretary to develop a comprehensive plan to mitigate foreclosures on residential properties—which include 1 to 4 family residences—by March 15, 2009. The bill would prohibit Treasury from using any TARP funds after March 15 if a plan has not been developed and approved by the FSOB. The legislation requires the Secretary to commit at least $40 and no more than $100 billion of TARP funds to the residential foreclosure mitigation plan. Of the funds committed to foreclosure mitigation, the bill would require at least $20 billion be dedicated to FDIC Chairwoman Sheila Bair's Systemic Loan Modification Program (detailed further below). The Secretary would be required to commit at least $40 billion required by this provision no later than seven days after enactment. If less than the $40 billion minimum has yet to be committed to the plan, the Secretary must certify the specific reasons that the funds have not been committed.

Specific Elements of the Plan: Requires the foreclosure mitigation plan to comply with certain requirements. The plan must "prevent and mitigate foreclosures specifically on owner-occupied residential properties." In addition, the plan must leverage private capital to the maximum extent possible and consistent with the purpose of mitigating residential foreclosures. The plan would be authorized target geographic areas with high foreclosure rates. The plan would consist of the Systemic Loan Modification Program—which would offer federal guarantees for qualifying loan modifications, possibly through the FDIC—as well as one or more of the following program alternatives:

- A program to reduce Hope for Homeowners (H4H) Program costs, either by covering H4H fees or directly purchasing H4H mortgages, or both. This program would be in addition to the H4H alterations that are made later in the legislation.
- A program that would allow the Secretary to make direct mortgage loans to owners of residential properties in order to reduce outstanding second lien debt for the purpose of facilitating loan modifications.
- A program under which the Secretary could make direct payments to mortgage servicers to modify mortgages to meet requirements that the Secretary may establish.
- A program that would allow the Secretary to directly purchase troubled loans for the purpose of modifying or refinancing the loan.
- A program to allow a new qualified buyer to be substituted on a foreclosed property or a delinquent mortgage without seeking new financing.

<u>Systemic Foreclosure Prevention and Loan Modification Program</u>: Defines the Systemic Loan Modification Program, which would be established by the Secretary in consultation with HUD and the FDIC and could be utilized as an element of the foreclosure mitigation plan required by the bill. The program would compensate lenders for modifying loans and provide federal guarantees for certain losses incurred if a modified loan re-defaults. Servicers and lenders participating in the program would be required to review all loans and modify all loans which pass a net present value test where proceeds from modified loan exceeds cost of foreclosure. Loss sharing guarantees would only extend to loans where modification lowers monthly payment by at least 10%.

<u>Servicer Safe Harbors</u>: Protects mortgage servicers that enter into loan modifications or workout plans from legal liability—despite any investment contract between the servicer and an investor—if the modified loan is in default, the home is occupied by the mortgagor, and the servicer believes that the funds recovered from a loan modification would be greater than those received through foreclosure. The sunset for safe harbor protections is January 1, 2012.

Many investors that hold interest in pools of residential mortgage loans will be forced to write off huge losses on their books if the mortgage servicer modifies the conditions of the loans. Currently, these investors have recourse to sue the servicer if the terms of the loan are changed. This provision would give these servicers a safe harbor to modify loans without being held liable to investors who are forced to write off losses as a result of the modifications.

<u>Foreclosure Prevention for Affordable Housing</u>: Requires the Secretary to implement a plan to encourage servicers of any mortgages, mortgage back securities, and other residential assets that are acquired by the Secretary with TARP funds to take advantage of foreclosure mitigation assistance through the Hope for Homeowners (H4H) program. The Secretary would be authorized to use loan guarantees and credit enhancements to facilitate loan modifications. This provisions also requires the Secretary to cooperate with any government entities that hold troubled assets to identify opportunities for the acquisition of troubled assets that will improve the loan modification process. In addition, the Secretary is required to consent to reasonable requests by homeowners for loss mitigation measure including term extensions, rate reductions, principal write-downs, and increases in the proportion of loans in a trust that are allowed to be modified.

<u>Report by Congressional Oversight Panel</u>: Requires the Congressional Oversight Panel to issue a report regarding the actions taken by the Secretary to mitigate foreclosures and their effectiveness.

Title III—Auto Industry Financing and Restructuring

Direct Loan Provisions: Explicitly codifies Treasury's authority to use TARP funds to provide assistance to automobile manufacturers (which Treasury did in December, 2008). The bill would include several provisions from the House-passed auto bailout bill (H.R. 7321), which was approved by a vote of 237-170 on December 10, 2009. The bill would establish one or more Car Czar(s) to oversee the auto company's long-term restructuring plans and impose restructuring requirements. Unlike H.R. 7321, this legislation would also allow TARP funds to be used to assist the auto manufacturer's financing divisions, such as GMAC.

Presidential Designee: Requires the President to designate one or more officers ("Car Czar") from the Executive Branch to oversee the restructuring of the auto manufacturing industry in a manner that, among other things, "results in a viable and competitive domestic automobile market" and "preserves and promotes the jobs of American workers" employed by the auto industry.

Bridge Financing: Requires the Car Czar(s) to authorize and direct the disbursement of bridge loans to the three auto manufacturers who submitted restructuring plans to Congress on December 2, 2008.

Restructuring Progress Assessment: Requires the Car Czar(s) to establish measures by February 1, 2009, for assessing the progress each eligible auto manufacturer has made toward restructuring.

Long-Term Restructuring Plans: Requires each eligible manufacturer to submit a long-term restructuring plan to the Car Czar(s) no later than March 31, 2009. The plan that is submitted by each auto manufacturer must be negotiated and agreed upon by the automobile manufacturer and other interested parties, including employees of the manufacturer, trade unions, creditors, suppliers, auto dealers, and shareholders.

The restructuring plan must result in the repayment of all government financing; the ability to comply with applicable fuel efficiency and emissions requirements; the achievement of profitability, including repayment of financial assistance provided by this bill; efforts to rationalize costs, capitalization, and capacity with respect to manufacturing workforce, suppliers, and dealerships; proposals to restructure existing debt; and a product mix and cost structure that is competitive in the United States. Upon plan approval, the Car Czar(s) is authorized to provide long-term financial assistance to the auto manufacturers. If a plan is not approved by the Car Czar(s), Treasury would call the loan or cancel the commitment within 30 days, unless a new restructuring plan is approved within that period.

Terms and Conditions for Loans: Loans made under this act are for a minimum of seven years or such a period as the Car Czar(s) determines. As a condition of the loan, each auto manufacturer agrees to allow the Car Czar(s) to examine their financial records and other data that may be relevant to the financial assistance. In addition, any company receiving assistance would be required to inform the Car Czar(s) of any asset sale or other transaction that exceeds $100 million. The Car Czar(s) would be authorized to accelerate the repayment of the loan if any restructuring conditions have been breached.

Taxpayer Protection: Requires auto firms receiving assistance under this legislation to provide warrants for the purchase of non-voting stock equal to 20% of the value of the loan. With common stock purchases limited to 20% of all outstanding common stock, any remainder will be preferred stock. In addition, the Car Czar(s) will establish specific standards regarding executive compensation (including golden parachutes) and corporate governance for firms receiving assistance. No dividends will be paid out during the duration of government assistance. Additionally, while a loan is outstanding, the automobile manufacturer may not own or lease private passenger aircraft.

Oversight: The bill requires the Comptroller General to continually oversee the activities and performance of the Car Czar(s). The Comptroller General will report to Congress every 60 days on such oversight. The bill expands the duties of the Special Inspector General for TARP to include oversight and investigations of the President Designee for the auto manufacturing industry.

Title IV—Clarification of Authority

Consumer Loans: Grants Treasury the authority to establish facilities to support the availability of consumer loans, including loans for auto and student loans. The support may include the purchase of asset-back securities. This provision confirms Treasury's authority to establish the Term Asset-Backed Securities Loan Facility (TALF), which was established on November 25, 2008, to support the issuance of asset-backed securities (ABS) collateralized by student loans, auto loans, credit card loans, and loans guaranteed by the Small Business Administration.

Municipal Securities: Grants Treasury the authority to use TARP funds to support state and local governments—and insurers of their bonds. Support may include the direct purchase of state and local bonds. Municipalities that fund projects and programs through bond sales have had a difficult time selling bonds and obtaining financing during the financial decline.

Commercial Real Estate Loans: Grants Treasury the authority to establish facilities to support commercial real estate loans.

Small Business Loans: Grants Treasury the authority to establish facilities to support small business loans including farms loans, loans to minority and disadvantaged businesses, debtor-in-possession financing, dealer floor plan financing, and any other small business loans.

Commercial Loans: Grants Treasury the authority to establish facilities to support commercial loans.

Automotive Fleet Purchase Loans: Grants Treasury the authority to establish facilities to support the availability of automobile fleet loans, including loans for the automobile rental industry.

Title V—Hope for Homeowners Program Improvements

Changes to the Hope for Homeowners Program: Removes the 3% upfront insurance premium that lenders are currently required to pay before refinancing into an FHA-insured Hope for Homeowners (H4H) mortgage. The premium requirement was initially included in the program as a taxpayer protection which ensured that some payment was made before a mortgage is federally insured.

The bill also raises the level that a lender must write-down the principal of a loan to refinance into a FHA-insured mortgage from a 90% loan-to-value ratio to 93%. This change will make it cheaper for lenders to refinance into FHA-insured loans, while increasing the debt liability that the governemnt must insure.

In addition, the legislation reduces the 1.5% annual premium requirement for mortgages refinanced under the H4H program to a range between 0.55% and 0.75%. This would potentially make H4H refinancing more attractive while diminishing the amount of premiums being paid to the on the FHA-insure mortgages.

This Title would also authorize payments directly to servicers that participate in successful refinancing under the H4H program, thus reducing the government's share of profits when a refinanced home appreciates.

Title VI—Home Buyer Stimulus

Home Buyer Stimulus Program: Requires the Secretary to establish and implement a Home Buyer Stimulus Program in order to "stimulate demand for home purchases and reduce unsold inventories of residential properties, which shall include ensuring the availability of below-market interest rates on mortgages made for the purchase, by qualified home buyers, of one to four family residential properties." The program would have to be established within 60 days of enactment. Assistance under this title can be targeted to geographic areas with high foreclosure rates.

The Secretary would be required to carry out the Home Buyer Stimulus Program by purchasing obligations and other securities issued by federal banking agencies.

In addition, the bill would require the Secretary, in consultation with HUD, to make the affordable and below-market interest rates ensured by this provision available in connection with the H4H program.

Title VII—FDIC Provisions

Permanent Increase in Deposit Insurance: Permanently increases federal deposit insurance coverage for banks and credit unions from $100,000 to $250,000. The EESA temporarily increased FDIC coverage to $250,000, however, that provision is set to expire on December 31, 2009.

Extension of Restoration Period: Extends the period for a required FDIC Restoration Plan (which could increase the rates banks pay for deposit insurance) from five years to eight years.

Borrowing Authority: Increases the FDIC's borrowing authority from $30 billion to $100 billion and allows the FDIC to request the authority to borrow funds in excess of $100 billion with the approval of the Secretary.

Title VIII—Effect of Foreclosure on Preexisting Tenancies

Effect of Foreclosure on Preexisting Tenancies: Allows any bona fide tenant in a residential property that has changed ownership as a result of a foreclosure to remain in the preexisting tenancy for at least 90 days after the new owner gives the tenant a notice to vacate. If the tenant is under a preexisting lease, the tenant would also be allowed to stay under that lease, unless the new owner will occupy the unit as a primary residence, in which case the tenant would be given 90 days to vacate.

Effect of Foreclosure on Section 8 Tenancies: Stipulates that in the case of Section 8 subsidized property that has changed ownership due to a foreclosure, the new owner shall take over the lease between the previous owner and the tenant, as well as the housing assistance payments contract between the prior owner and the public housing agency.

Title IX—Reports on the Guarantee of Certain Citigroup Assets

Reports Added: Requires the Secretary to issue a report to the Committee on Financial Services in the House, the Committee on Banking in the Senate, and the Comptroller General regarding the authority with which a the Treasury made a November 23, 2008, agreement to guarantee $300 billion in loans on Citigroup's books. The bill also requires that the GAO issue a follow-up report within 60 days of the Secretary's.

COST

The Congressional Budget Office (CBO) estimates that provisions of H.R. 384 regarding the Hope for Homeowners program would result in increased participation in the program and up to 25,000 new guaranteed loans could be refinanced as a result of the legislation. CBO estimates that the subsidy cost of new loan guarantees would increase direct spending by $675 million over the FY 2009—FY 2019 period.

CBO also estimates that permanently raising the dollar amount of deposits insured by the FDIC and NCUA from $100,000 to $250,000 would increase liabilities and outlays significantly over the next five years. However, CBO estimates that depository institutions would pay higher FDIC premiums to cover newly insured deposits. According to CBO, the higher deposit premiums would eventually surpass the cost of increased liabilities. As a result, CBO estimates that raising the amount of deposits insured by the FDIC would increase direct spending by $14.1 billion over the FY 2009—FY 2013 period (because of higher losses and slower collections) but would reduce direct spending by $14.6 billion over the FY 2009—FY 2019 period (due to institutions paying higher premiums).

STAFF CONTACT

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