Order Code RL33879

CRS Report for Congress

Housing Issues in the 110th Congress

Updated June 5, 2008

Libby Perl, Maggie McCarty, and Bruce E. Foote
Domestic Social Policy Division

Eugene Boyd, Darryl E. Getter, Oscar R. Gonzales, Francis X. McCarthy
Edward Vincent Murphy, and N. Eric Weiss
Government and Finance Division

David H. Carpenter
American Law Division

Meredith Peterson
Knowledge Services Group

Prepared for Members and
Committees of Congress

Congressional
Research
Service

Housing Issues in the 110th Congress

Summary

A number of housing-related issues have become prominent in the 110th Congress. Possibly the most visible issue is the prevalence of subprime loans and growing mortgage default and foreclosure rates. Congress has responded with numerous legislative proposals to assist borrowers. Among the bills that have been considered is H.R. 3221, the American Housing Rescue and Foreclosure Prevention Act (as passed by the House) and the Foreclosure Prevention Act of 2008 (as passed by the Senate). The House and Senate versions take different approaches to addressing changes in the mortgage market. Another bill, H.R. 5818, the Neighborhood Stabilization Act, was passed by the House on May 8, 2008. The bill would distribute grants and loans totaling $15 billion to states and local communities to purchase and resell or rent foreclosed properties.

Concern over subprime loans and mortgage foreclosures has also entered the debate over reform of the government-sponsored enterprises (GSEs) — Fannie Mae and Freddie Mac — and Federal Home Loan Banks (FHLBs), although efforts to reform the GSEs and FHLBs began prior to the prominence of the debate over subprime loans. On May 22, 2007, the House passed H.R. 1427, which would create a new regulator for the GSEs and would use profits from the GSEs to create an affordable housing fund, the funds from which would be transferred to a National Affordable Housing Trust Fund, if enacted. (The House passed a bill that would create a National Affordable Housing Trust Fund, H.R. 2895, on October 10, 2007.) On May 8, 2008, H.R. 1427 was incorporated into the House version of H.R. 3221.

Another issue being considered in the 110th Congress involves potential revisions to the Federal Housing Administration (FHA) loan insurance program. Both the House and Senate have passed FHA reform bills, H.R. 1852, the Expanding Homeownership Act, and S. 2338, the FHA Modernization Act. Both bills would make changes to FHA, including raising single-family mortgage limits and modifying the insurance premium pricing structure. However, H.R. 1852 would authorize the transfer of some FHA funds into an affordable housing fund; S. 2338 would not. On May 8, 2008, H.R. 1852 was incorporated into the House version of H.R. 3221.

Additional legislation in the 110th Congress includes Section 8 voucher reform legislation in both the House (H.R. 1851) and Senate (S. 2684); the House passed H.R. 1851 on July 12, 2007. Legislation also includes a bill to reauthorize the HOPE VI program (H.R. 3524), which has been approved by the House, and a bill to reauthorize the McKinney-Vento Homeless Assistance Act (S. 1518), which has been approved by the Senate Banking Committee. The House has considered legislation that would preserve assisted housing, including the Mark-to-Market Extension and Enhancement Act (H.R. 3965), which has been approved by the House Financial Services Committee, and the Section 515 Rural Housing Property Transfer Improvement Act (H.R. 3873), which was approved by the House on January 24, 2008. A version of a bill that would make changes to the Section 202 Housing for the Elderly program (H.R. 2930) was passed by the House on December 5, 2007, and on March 7, 2008, a similar bill was introduced in the Senate (S. 2736).

Key Policy Staff

Area of Expertise	Name	Telephone and E-Mail
Assisted rental housing, including Section 8, public and assisted housing, HOME	Maggie McCarty	7-2163 mmccarty@crs.loc.gov
Community and economic development, including Community Development Block Grants, Brownfields, empowerment zones	Eugene Boyd and Oscar R. Gonzales	7-8689 eboyd@crs.loc.gov 7-0764 ogonzales@crs.loc.gov
Consumer law and mortgage lending, housing law, including fair housing, consumer issues of bankruptcy	David H. Carpenter	7-9118 dcarpenter@crs.loc.gov
Emergency management policy, including post-disaster FEMA temporary housing issues.	Francis X. McCarthy	7-9533 fmccarthy@crs.loc.gov
Fannie Mae, Freddie Mac, and SBA disaster loans	N. Eric Weiss	7-6209 eweiss@crs.loc.gov
Homeownership, including FHA, predatory lending, rural housing, RESPA	Bruce E. Foote	7-7805 bfoote@crs.loc.gov
Housing finance issues, including mortgage underwriting and FHA lending criteria	Darryl E. Getter	7-2834 dgetter@crs.loc.gov
Housing for special populations, including the elderly, disabled, homeless, HOPWA	Libby Perl	7-7806 eperl@crs.loc.gov
Housing tax policy, including the Low-Income Housing Tax Credit, mortgage revenue bonds, and other incentives for rental housing and owner-occupied housing	Mark Patrick Keightley	7-1049 mkeightley@crs.loc.gov
Non-traditional mortgages, including lending oversight by the OCC, OTS, FDIC, and Federal Reserve, and Federal Home Loan Banks	Edward Vincent Murphy	7-4972 tmurphy@crs.loc.gov

Contents

Status of Mortgage-Related Legislation in the 110th Congress 1
Enacted Legislation 1
Legislation Passed by the House or Senate 1
Legislation Approved by House or Senate Committees 2

The Current Housing Market: Subprime Lending and the Rise in Foreclosures . . 4
Subprime Lending 4
Exotic Mortgages, Resets, and Rising Foreclosures 5
The Role of Securitization 5
Price Declines, Unsold Inventories, and Falling Construction Starts . . 6

Initiatives That Would Change the Lending and Homebuying Process 7
Regulating Participants in the Lending Process 7
Lenders 7
Mortgage Brokers 8
Appraiser Objectivity 9
Suitability 9
Borrower Counseling 10
Disclosure Requirements 10
The Truth in Lending Act 11
The Home Ownership and Equity Protection Act 12
Real Estate Settlement Procedures Act 13
Home Mortgage Disclosure Act 14
Predatory Lending and Fraud 15

Efforts to Assist Troubled Borrowers 16
Borrower Counseling and Workouts 16
Refinancing Loans by Expanding the Authority of GSEs and FHA 17
Assisting Communities with Foreclosed Properties 18
Grants and Loans to Assist States and Communities 18
Expanding the Use of Mortgage Revenue Bonds 19
Issues in Bankruptcy 19
Taxing Debt Forgiveness 20

Reforming Federally Sponsored Financing Institutions 20
GSE Regulation 20
Fannie Mae, Freddie Mac, and Federal Home Loan Bank Regulation 20
Affordable Housing Fund 22
FHA Reform 24
The Expanding American Homeownership Act (H.R. 1852) 25
The FHA Modernization Act (S. 2338) 26

Housing After the 2005 Hurricanes 28
Rebuilding 28
FEMA Assistance 28
The Road Home 29

Mississippi Waiver 29
Rebuilding Public Housing 29
Ongoing Housing Assistance 30
Manufactured Housing 30
Rental Assistance 30
Legislative Initiatives 31
H.R. 1227 and S. 1668 31
Disaster Housing Strategy 31

Housing Assistance 32
The HUD Budget 33
The Position of HUD Secretary 33
Federally Assisted Housing Funding and Reform 34
Section 8 Voucher Reform 34
Public Housing Operating Funds 35
HOPE VI Reauthorization 37
Assisted Housing Preservation 38
Previous Legislative Efforts to Preserve Affordable Housing 39
The Mark-to-Market Program 39
Section 202 Housing for the Elderly Program Preservation 40
Other Preservation Legislation 41
Low Income Housing Tax Credits 41
Homelessness 43

CRS Reports on Housing 45

Housing Issues in the 110th Congress

Status of Mortgage-Related Legislation in the 110th Congress

The 110th Congress has seen a good deal of legislative activity surrounding the growing number of mortgage defaults and foreclosures. The issues surrounding this growth are discussed in subsequent sections of this report; however, this section summarizes the status of bills related to the current turmoil in the mortgage market. Legislation in this section has either been enacted, has been passed by the House or the Senate, or been approved by full committee in either the House or the Senate. The information regarding the bills discussed in this section is current as of the date of this report and will be updated as legislative activities warrant.

Enacted Legislation

On December 20, 2007, the President signed the Mortgage Forgiveness Debt Relief Act of 2007 (P.L. 110-142) that excludes from taxable income mortgage debt that was forgiven or canceled by a lender prior to January 1, 2010. (For more information about this issue, see the section of this report entitled "Taxing Debt Forgiveness.") Another legislative provision that has been enacted in the 110th Congress was part of the FY2008 Consolidated Appropriations Act (P.L. 110-161), in which $180 million was appropriated to the Neighborhood Reinvestment Corporation for foreclosure mitigation activities. (For more information about this issue, see the section of this report entitled "Borrower Counseling and Workouts.") A third bill, the Economic Stimulus Act of 2008 (P.L. 110-185), enacted February 13, 2008, temporarily increased conforming loan limits of the Government Sponsored Enterprises (GSEs) and maximum mortgage limits for Federal Housing Administration (FHA) insured loans, giving homeowners in high-cost areas the ability to refinance loans under more favorable terms. (For more information about these provisions, see the section of this report entitled "Refinancing Loans by Expanding the Authority of GSEs and FHA.")

Legislation Passed by the House or Senate

On November 15, 2007, the House passed H.R. 3915, the Mortgage Reform and Anti-Predatory Lending Act of 2007. The bill would create a licensing system for residential mortgage originators, establish minimum standards for mortgage loans, redefine high-cost mortgages, and enhance mortgage disclosure requirements under the Real Estate Settlement Procedures Act (RESPA). (For more information about these issues, see the section of this report entitled "Initiatives That Would Change the Lending and Homebuying Process.")

On April 10, 2008, the Senate passed a foreclosure prevention measure as an amendment to H.R. 3221, a House-passed energy bill. The Senate's version of the bill is entitled the Foreclosure Prevention Act of 2008. The Senate amendment would provide $4 billion through the Community Development Block Grant program to allow state and local governments to purchase and rehabilitate foreclosed homes. (For more information on this proposal, see the section of this report entitled "Assisting Communities with Foreclosed Properties.") The measure also includes FHA reform provisions, foreclosure protection provisions for servicemembers, and additional funding for housing counseling. In addition, the bill contains tax-related provisions, one of which pertains to business net operating losses, and others that concern purchasers of foreclosed homes and homeowners who do not itemize their deductions.

On May 8, 2008, the House passed H.R. 5818, the Neighborhood Stabilization Act of 2008. The bill would provide $15 billion in loans and grants to allow states and local governments to purchase and resell or rent foreclosed properties. Funds would be distributed by taking account of the number of foreclosures in a state and the number of subprime loans more than 90 days delinquent, adjusted by median home price. (For more information on this issue, see the section of this report entitled "Assisting Communities with Foreclosed Properties.")

Also on May 8, 2008, the House passed its version of H.R. 3221, entitled the American Housing Rescue and Foreclosure Prevention Act, as a series of three amendments to the Senate-passed version (discussed above). The amendments contain many provisions already passed by the House or approved by committees. The first amendment addressed expansion of the FHA loan program (H.R. 5830), GSE reform (H.R. 1427, discussed later in this report), FHA modernization (H.R. 1852, discussed later in this report), and loan modification protection for servicers (H.R. 5579). The second amendment included housing tax provisions (H.R. 5720, discussed later in this report) and foreclosure protections for servicemembers (H.R. 4883). The third amendment clarified that the provisions of H.R. 3221, as well as provisions of the National Bank Act and the Home Owner's Loan Act, would not preempt state laws regulating the foreclosure of residential real property or the treatment of foreclosed property.

Legislation Approved by House or Senate Committees

On April 3, 2008, the Senate Judiciary Committee approved S. 2136, the Helping Families Save Their Homes in Bankruptcy Act of 2007, which would allow judges to modify the terms of mortgages during bankruptcy proceedings. (For more information on this provision, see the section of this report entitled "Issues in Bankruptcy.")

H.R. 4883, ordered reported on April 30, 2008, by the House Veterans' Affairs Committee, would amend the Servicemembers Civil Relief Act to provide for a limitation on the sale, foreclosure, or seizure of property owned by a servicemember during the one-year period following the servicemember's period of military service. A similar provision was included in the Senate-passed housing measure, H.R. 3221.

The House Committee on Ways and Means reported H.R. 5720, the Housing Assistance Tax Act of 2008 on April 24, 2008. Among other provisions, the bill would provide a refundable tax credit of up to $7,500 for first-time home buyers and would authorize use of mortgage revenue bond proceeds to refinance certain subprime residential mortgage loans. On May 8, 2008, the bill was incorporated by amendment into the House version of H.R. 3221, the American Housing Rescue and Foreclosure Prevention Act (discussed earlier in this section). (For more information about mortgage revenue bonds, see the section of this report entitled "Expanding the Use of Mortgage Revenue Bonds.")

On May 1, 2008, the House Financial Services Committee approved H.R. 5579, the Emergency Mortgage Loan Modification Act of 2008, which would encourage loan servicers to engage in loss mitigation efforts by shielding them from liability from investors. On May 8, 2008, the bill was incorporated by amendment into the House version of H.R. 3221, the American Housing Rescue and Foreclosure Prevention Act (discussed earlier in this section).

On May 5, 2008, the House Financial Services Committee reported H.R. 5830, the FHA Housing Stabilization and Homeownership Retention Act of 2008, which would provide authority for an additional $300 billion in FHA loan guarantees. FHA would use the expanded authority to insure refinanced mortgages for borrowers facing foreclosure; in order to refinance these mortgages, the lender must agree to write down the principal on the current mortgage and to structure a payment plan that is affordable to the borrower. On May 8, 2008, the bill was incorporated by amendment into the House version of H.R. 3221, the American Housing Rescue and Foreclosure Prevention Act (discussed earlier in this section). (For more information on this issue, see the section of this report entitled "Refinancing Loans by Expanding the Authority of GSEs and FHA.")

On May 20, 2008, the Senate Banking Committee approved a bill entitled the Federal Housing Finance Regulatory Reform Act of 2008. As of the date of this report, the bill does not yet have a number. The bill includes provisions to reform the Government Sponsored Enterprises (GSEs). (For more information about GSE Reform, see the section of this report entitled "Reforming Federally Sponsored Financing Institutions.") In addition, the bill would increase the GSE conforming loan limit in high-cost areas up to 132% of the national limit, under which the current limit of $417,000 would be $550,000. The GSEs would be able to purchase mortgages within the higher limits, but would have to sell them to other investors rather than including them in their own portfolios. The bill would also create a Housing Trust Fund to help finance housing for low-income families. The trust fund would be created with funds from Fannie Mae and Freddie Mac. In the first year after the bill's enactment, 100% of the Housing Trust Fund would support a new program through FHA, called the HOPE for Homeowners program, which would allow FHA to insure the refinanced mortgages of homeowners at risk of foreclosure.

The Current Housing Market: Subprime Lending and the Rise in Foreclosures

The housing market experienced significant stress in 2007 and 2008. Borrowers found it difficult to meet their mortgage obligations, and late payments and foreclosures increased. The biggest increases in mortgage defaults have occurred among subprime borrowers — those borrowers with significant indicators of heightened risk of default, such as blemished credit history or high debt-to-income ratio. Subprime borrowers may have relied upon the low interest rates and rapid house price appreciation that occurred between 2001-2005 to continue but now face significant risk of foreclosure as housing markets slow. Changes in mortgage contracts and the method of funding mortgages, such as interest-only and adjustable rate mortgages, could have contributed to housing market stress. Troubles in the housing market are not relegated to subprime borrowers, however. Falling prices and slowing home sales affect all home owners. Declining construction starts affect local employment. These troubles in the current housing market, combined with changes in mortgage contracts, have led some economists to forecast even higher default rates in coming months.

Subprime Lending. Since the early 1990s, lenders have developed better methods for estimating the risks posed by borrowers with blemished credit profiles, with the result that lenders now offer home loans to consumers who earlier would have been denied mortgage credit. These loans are often referred to as subprime loans. Typically, loans to subprime borrowers have higher interest rates and fees than loans to prime borrowers because subprime borrowers have historically experienced higher default rates. Delinquency and foreclosure rates for subprime loans rose rapidly during the second half of 2006 and the first half of 2007. On April 11, 2007, the Joint Economic Committee issued a special report on rising foreclosures. The report predicted that subprime foreclosures would continue to rise, and recommended immediate action to minimize any costs that foreclosures can impose on surrounding communities.[1] (For more information about subprime loans, see CRS Report RL33930, *Subprime Mortgages: Primer on Current Lending and Foreclosure Issues*, by Edward Vincent Murphy.)

Although the primary causes of foreclosure are traditionally personal financial setbacks (job loss or medical calamity), the recent rise in subprime foreclosures may be partly due to imprudent underwriting standards during the housing boom that occurred between approximately 2001 and 2005. House prices rose rapidly in certain markets, which may have encouraged some borrowers in hot markets to assume more debt than was prudent. Rapidly rising prices encourage excess debt because, once in the home, the borrower earns the house price appreciation, which can then be used to refinance the house on more favorable terms. In order to take advantage of anticipated appreciation, some subprime borrowers turned to mortgage products with low introductory payments, but which risked higher future payments.

---

[1] U.S. Congress Joint Economic Committee, *Sheltering Neighborhoods from the Foreclosure Storm*, April 11, 2007, available at [http://jec.senate.gov/Documents/Reports/subprime11apr2007.pdf].

Exotic Mortgages, Resets, and Rising Foreclosures. Slowing housing markets may frustrate the plans of borrowers who used nontraditional mortgages, sometimes referred to as exotic mortgages, to finance their homes. One form of alternative mortgage has an interest-only (I/O) introductory period for two, three, five, or more years. The borrower pays no principal during the introductory period, but then payments increase when the I/O period expires because the remainder of the borrower's payments must pay off the principal over a shorter period of time. For example, a 2/28 mortgage has an I/O introductory payment for two years but then resets to a higher payment for the remaining 28 years of the loan. Another form of alternative mortgage, the adjustable rate mortgage (ARM), employs a variable interest rate, which adjusts to changes in a market interest rate. One of the simplest ARMs offers an initial low rate, called a teaser, at the beginning of the loan and then resets after an introductory period. The teaser rate may apply for one year or for as little as one month. (For more information about alternative mortgage terms, see CRS Report RL33775, *Alternative Mortgages: Causes and Policy Implications of Troubled Mortgage Resets in the Subprime and Alt-A Markets*, by Edward Vincent Murphy.)

These I/O loans, ARMs, and hybrids of the two result in fluctuating monthly house payments for borrowers. Because of the increased use of 2/28 hybrid ARMs during 2005 and 2006, tens of billions of dollars of subprime loans will reset their payments each month until fall of 2008. If borrowers with resetting mortgages had planned to depend on continued house price appreciation to sustain their homes, then the recent housing slowdown could result in sharply rising foreclosure rates.

Foreclosure rates are rising, especially among subprime borrowers. Some of the geographic distribution of mortgage defaults can be explained by the performance of local economies. The rise in the national foreclosure rate, however, is difficult to explain because the national unemployment rate remains relatively low. Late payments, as measured by a Mortgage Bankers Association survey, are rising among borrowers with ARMs, whether subprime or not. Subprime borrowers with fixed rate mortgages, however, are not experiencing higher rates of late payment. This heightened risk among ARMs is cause for concern because most of the subprime 2/28s that must reset between now and the fall of 2008 are hybrid ARMs. In addition to the subprime ARMs that reset in 2008, there will be increasing jumbo mortgage[2] resets in 2009. The increase in unsustainable loans during relatively strong national economic conditions raises the question of how the loans were qualified by the lenders in the first place. (For more information about foreclosures, see CRS Report RL34232, *Understanding Mortgage Foreclosure: Recent Events, the Process, and Costs*, by Darryl E. Getter.)

The Role of Securitization. Many loans, especially subprime and jumbo loans, were financed outside of traditional banking channels in a process called securitization. In securitization, a lender sells loans quickly, rather than keeping them on the lender's books. Many similar loans are then pooled together in trusts, or special purpose vehicles (SPVs). Pieces of the funds flowing through the trusts,

---

[2] Jumbo loans are too large to be eligible for purchase by Fannie Mae or Freddie Mac. This cap, called the conforming loan limit, is currently $417,000.

called tranches, are sold to investors. Although securitization may have helped increase the supply of funds available for mortgages and thus held down interest rates for borrowers, it may also have facilitated the rise of non-bank lenders operating without federal supervision of their underwriting standards. The disproportionate rise in defaults among loans originated and securitized outside federal supervision has caused some to call for greater scrutiny of the process. (For more information about securitization, see CRS Report RS22722, *Securitization and Federal Regulation of Mortgages for Safety and Soundness,* by Edward Vincent Murphy.)

One concern is that securitization may have separated the up-front returns of mortgage originators from the long-term risk of securities holders. If the securitization process does not have adequate controls, mortgage originators could have the incentive to encourage borrowers to take on too much debt because the mortgage originator might not suffer losses if the borrower defaults in the future. The securitization community argues that investors are sophisticated market analysts who include contract clauses in securitization transactions to prevent mortgage originators from passing on this risk.

One proposal to address concerns raised by securitization would make secondary market investors liable for deceptive or predatory marketing by primary lenders. Some believe that extension of liability to the secondary market, referred to as assignee liability, would prevent secondary market investors from purposefully remaining ignorant of the marketing strategies of primary lenders. In this view, if secondary market investors were held liable, they would tighten underwriting standards and more closely monitor the practices of their lending partners. Others argue that extension of liability could create too much uncertainty for rating agencies to evaluate risks and lead to a shutdown of the secondary market.

Price Declines, Unsold Inventories, and Falling Construction Starts. After increasing at a rapid rate during 2001-2005, house prices slowed significantly during 2006-2007, even though the national unemployment rate has not significantly increased. One important sign of inconsistencies in a housing market is a price decline in an area with a relatively strong local economy. Although not true in every case, local job growth and income growth generally lead to increases in demand for housing and result in higher prices because housing supply responds relatively slowly. The current market is unusual because price declines were reported in cities such as Washington, DC, Phoenix, Miami, and several California cities, despite relatively strong local employment conditions. Areas with relatively poor local job markets, such as Michigan and Ohio, are also experiencing house price declines.

The inventory of unsold homes is rising, as is the home owner vacancy rate. One indicator of the strength of a local housing market is the length of time it takes to sell a house. If houses are selling more slowly than the rate at which people are offering them for sale, then the inventory of unsold homes grows. According to the National Association of Realtors, at the beginning of 2005, the month's supply of homes on the market was 3.8;[3] a month's supply is calculated by taking the number

---

[3] Robert Freedman, *2006 Economic Outlook*, National Association of Realtors, January 1, (continued...)

of homes currently offered for sale and dividing by the current number of sales per month. It is meant to represent the amount of time that would be required to sell the houses that are on the market. A balanced market has a month's supply between 5.0 and 6.0 according to the National Association of Realtors. By October 2007, the month's supply had peaked at 10.5, and was at 9.9 in March 2008.[4] The existence of a glut of unsold homes is also evidenced by rising vacancy rates. Homeowner vacancy rates measure the percentage of the homeowner inventory that is vacant and for sale. According to the Census Bureau, homeowner vacancy rates in the first quarter of 2008 were at 2.9%, the highest level they had reached since the survey began in 1956.[5]

The slowing housing market is hurting builders and construction workers. As the supply of unsold homes has increased, builders have begun canceling options to acquire land for new construction and have offered reduced-price upgrades and other discounts on existing homes. The result has been even further downward pressure on prices and a slowdown in new construction. For example, the National Association of Home Builders confidence index fell more than 50% from 2005 to 2007. The index measures home builders' expectations of home sales for the next six months.

Initiatives That Would Change the Lending and Homebuying Process

Some Members of Congress have responded to the troubles in the current housing market by introducing legislation that would modify the lending and home purchase process in an effort to prevent similar events from occurring in the future. Some of these proposals would regulate the behavior of lenders, mortgage brokers, and other participants in the lending process. Other legislation would either expand the amount of information required to be disclosed to borrowers or increase the availability of borrower counseling. Some legislation would attempt to prevent fraudulent practices, sometimes referred to as predatory lending. Provisions that are included in some of these bills are summarized in the following sections. However, the discussion does not include an exhaustive list of legislation that has been introduced.

Regulating Participants in the Lending Process

Lenders. The mortgage lending market does not have a unified regulatory system. Banks that make mortgage loans are regulated by one of several federal regulatory agencies such as the Office of the Comptroller of the Currency, the Federal

---

[3] (...continued)
2006, available at [http://www.realtor.org/rmomag.nsf/pages/feature2jan06].

[4] National Association of Realtors, Existing Home Sales, April 2008, available at [http://www.realtor.org/research/research/ehsdata].

[5] See U.S. Census Bureau, Housing Vacancies and Homeownership, Historical Tables, available at [http://www.census.gov/hhes/www/housing/hvs/historic/histtab2.html].

Deposit Insurance Corporation, or the Federal Reserve System. Similarly, savings and loans and credit unions have their own federal regulators, the Office of Thrift Supervision and the National Credit Union Administration respectively. However, there is no federal regulatory system for mortgage lenders that are not banks, savings and loans, or credit unions. Instead, these institutions are licensed at the state level, where they are subject to state regulation. Since the recent increase in subprime loans and foreclosures, questions have been raised about the adequacy of state regulation over non-bank mortgage lenders. Treasury Secretary Henry Paulson has recommended that a Mortgage Origination Commission be created to evaluate state licensing and regulatory systems.[6] In addition, legislation has been introduced in the 110th Congress that would create new requirements for lenders. Some of the provisions that would regulate lenders include the following:

- requiring that loan originators be registered through the state and that if a state registration system does not exist, requiring the establishment of a national licensing system (H.R. 3915, H.R. 5857, and S. 2595);
- establishing a certification system specifically for subprime mortgage lenders (H.R. 2061);
- establishing a federal duty of care for mortgage originators (S. 2452 and H.R. 3915);
- requiring lenders to take into account a borrower's ability to repay (H.R. 3081, H.R. 3915, and S. 2114); and
- prohibiting brokers from "steering" borrowers to loans that are more expensive than loans for which they qualify (H.R. 3081, H.R. 3813, S. 1299, and S. 2452).

Mortgage Brokers. Mortgage brokers help match borrowers with mortgage lenders. Some have argued that brokers have a conflict of interest because, although they are agents of mortgage lenders, many borrowers rely on the advice of mortgage brokers when choosing a mortgage. In many cases, borrowers think that brokers are working for them and in their best interests. In order to reduce any conflict of interest, some critics suggest additional regulation of mortgage brokers. Mortgage brokers argue that, as members of the community in which they operate, they rely on their reputations for business and therefore do not require additional regulation. Nonetheless, legislation has been introduced containing provisions that would regulate mortgage brokers. These include the following:

---

[6] U.S. Department of the Treasury, *Blueprint for a Modernized Financial Regulatory Structure*, March 2008, p. 78, available at [http://www.treas.gov/press/releases/reports/Blueprint.pdf].

- requiring mortgage brokers to be licensed by either state or federal law (H.R. 3915) or registered through a national registry (S. 2114);
- creating a fiduciary or agency relationship between brokers and borrowers (H.R. 3018, H.R. 3296, S. 1299, and S. 2452);
- verifying a borrower's ability to repay a loan (H.R. 3081, S. 1299, and S. 2452); and
- prohibiting brokers from "steering" borrowers to loans that are more expensive than loans for which they qualify (H.R. 3081, H.R. 3296, S. 1299, and S. 2452).

Appraiser Objectivity. Another area where a potential conflict of interest could occur is in the appraisal of property in order to determine a home's value. Appraisers are supposed to be objective. However, the desire for repeat business from lenders may result in some appraisers feeling pressure to assess a house at a high enough value to ensure that a borrower will qualify for the proposed loan. Currently, the Appraisal Subcommittee of the Federal Financial Institutions Examinations Council (FFIEC) helps set minimum standards for state licensing of appraisers. Among the legislative proposals that would regulate appraisals are the following:

- establishing federal standards for appraisers and appraisal management firms (H.R. 3915);
- establishing as an unfair and deceptive trade practice the attempt to influence an appraiser (H.R. 3915 and S. 2860) and imposing penalties against parties that attempt to exercise influence over an appraisal (H.R. 1723, H.R. 1852, H.R. 2061, H.R. 3915, and S. 2860);
- imposing a duty of care on appraisers (S. 2452);
- enacting new appraisal standards that apply to subprime loans, including the requirement that a qualified appraiser conduct a physical inspection of the premises, that a second appraisal must take place under certain circumstances, and that borrowers receive a free copy of the appraisal (H.R. 5857); and
- amending the Truth in Lending Act and Financial Institutions Reform, Recovery, and Enforcement Act to ensure proper appraisal practices (H.R. 3837).

Suitability. The term "suitability" in the mortgage lending context refers to whether the terms of a loan are suitable for a particular borrower on the basis of income, monthly mortgage payments, and other financial characteristics. A loan might be considered unsuitable if a borrower is unable to support the monthly mortgage payments on his or her income. Mortgage originators, including brokers and lenders, could be made liable for defaults if underwriting standards are unsuitable for the borrower's circumstances. One advantage of this approach is that originators have direct contact with borrowers and generally have the potential to obtain a great deal of information about each borrower's circumstances (as compared to mortgage-backed securities investors or financial regulators). Originator liability could ensure that mortgage brokers and lenders retain a stake in the long-term performance of their loans even if the loans are sold or securitized. A disadvantage of this approach is that suitability is difficult to define, is subject to significant uncertainty and litigation risk, and is determined only after events occur that trigger defaults. Legislation has been introduced in the 110th Congress that would require lenders to ensure that borrowers have adequate income and an ability to repay their mortgage loans (H.R. 3915 and S. 2452).

Borrower Counseling. Through its Housing Counseling program, HUD provides competitive grants to local housing counseling agencies, national intermediaries, and state housing finance agencies to fund assistance to homebuyers, homeowners, renters, and homeless persons. Examples of housing counseling assistance include pre-purchase counseling for first-time homebuyers, foreclosure prevention counseling for homeowners, and eviction prevention assistance for renters. Legislation has been introduced in the 110th Congress that would increase the availability of borrower counseling beyond what is provided in HUD's existing program in order to improve borrowers' understanding of loan terms prior to entering into mortgage loans, among other things. These provisions include the following:

- creating an Office of Housing Counseling within HUD to coordinate counseling for home buyers and renters (H.R. 3221 as passed by the House, H.R. 3915, and H.R. 5857);
- awarding grants to states to establish State Homeownership Protection Centers (S. 1386); and
- requiring lenders to notify borrowers about homeownership counseling services (S. 1386 and S. 2452), and requiring borrowers to participate in counseling in certain circumstances (H.R. 3894).

Disclosure Requirements

The mortgage lending industry has multiple laws that regulate the information that must be disclosed to consumers. These include the Truth in Lending Act (TILA), the Home Ownership and Equity Protection Act (HOEPA), and the Real Estate Settlement Procedures Act (RESPA). Another law, the Home Mortgage Disclosure Act (HMDA) regulates the information that lenders are required to collect from loan applicants; the information is then made available to the public. The current increase in subprime and exotic mortgages has resulted in proposals to increase disclosure requirements as a means of ensuring that borrowers understand the terms of their loan transactions.

A Federal Trade Commission (FTC) study tested 819 mortgage consumers to document their understanding of current mortgage cost disclosures and loan terms, as well as their ability to avoid deceptive lending practices.[7] The authors found that borrowers (both prime and subprime) did not understand important mortgage costs after viewing mortgage cost disclosures. Some borrowers had difficulty identifying the annual percentage rate (APR) of the loan and loan amounts. Many borrowers did not understand why the interest rate and APR of a loan would differ.[8] In addition, borrowers had the most trouble understanding loan terms for the more complicated mortgage products such as those with optional credit insurance, interest-only payments, balloon payments, and prepayment penalties. Borrowers were unable to determine whether balloon payments, prepayment penalties or up-front loan charges were part of the loan. Survey results also indicated that some consumers may still need borrower counseling and education to understand terminology used in the mortgage lending and settlement industry.

The Truth in Lending Act. The Truth-In-Lending Act (TILA) of 1968 requires lenders to disclose the cost of credit and repayment terms of mortgage loans before borrowers enter into any transactions.[9] Among the items that must be disclosed pursuant to TILA are an itemization of the amount financed, the annual percentage rate of the loan, the total finance charge, details of a variable interest rate, and a payment schedule. TILA also gives borrowers the right to rescind the loan transaction within three days from the date of signing the mortgage documents. A number of bills in the 110th Congress would make changes to TILA. These include the following:

- ensuring that lenders disclose additional information about loan terms to borrowers (S. 2296, S. 2636, S. 2734, and S. 2791), disclose information about adjustable rate mortgages and interest rate resets (H.R. 3705, H.R. 3915, H.R. 5857, S. 2636, S. 2734, and S. 2791) and negative amortization (H.R. 3894), disclose maximum possible payments if interest rates are variable (H.R. 5857), and that mortgage brokers disclose to borrowers the risk, benefits, and characteristics of loans (H.R. 3296);

- requiring disclosures regarding mortgage brokers and mortgage broker fees (S. 2114), or limiting points, finance charges, and fees (H.R. 3081);

---

[7] See James M. Lacko and Janis K. Pappalardo, *Improving Consumer Mortgage Disclosures: An Empirical Assessment of Current and Prototype Disclosure Forms*, Bureau of Economics Staff Report, Federal Trade Commission, June 2007, [http://www.ftc.gov/os/2007/06/P025505MortgageDisclosureReport.pdf].

[8] The APR is the annual cost of a loan, which includes the interest cost of the principal loan amount, insurance, and other fees expressed as a percentage. The mortgage interest rate only includes the interest cost of the principal loan amount expressed as a percentage.

[9] TILA is contained in Title I of the Consumer Credit Protection Act, P.L. 90-301, 81 Stat. 146, as amended by 15 U.S.C. § 1601 et seq. Regulations are at 12 C.F.R. § 226.

- requiring creditors, assignees, or mortgage servicers to provide periodic statements to borrowers disclosing the principal balance of the loan, the interest rate, the date of interest rate reset, if any, and prepayment or late payment penalties (H.R. 5857); and

- requiring, in certain circumstances, escrow accounts to be established for borrowers in order to ensure sufficient funds for property taxes and insurance (H.R. 3535, H.R. 3837, H.R. 3915, and H.R. 5857).

The Home Ownership and Equity Protection Act. The 1994 Home Ownership Equity Protection Act (HOEPA) was enacted as an amendment to TILA.[10] Borrowers of HOEPA loans must be provided with certain disclosures three days before the loan is closed, in addition to the three-day right of rescission generally required by TILA. This gives consumers a total of six days to decide whether to enter into the transaction. HOEPA applies to mortgages that are secured by a borrower's primary residence but exempts certain loans from its coverage, most notably residential mortgage transactions, which are basically loans provided for the purchase or initial construction of the homes securing the loans.[11] HOEPA's protections apply where (1) the non-exempt loan's "APR exceeds by more than 10 percentage points the yield on Treasury securities with comparable periods ... of maturity ..." or (2) "the total points and fees payable by [a borrower] at or before closing exceed the greater of 8 percent of the total [non-exempt] loan amount" or $561.[12] (For more information about HOEPA, see CRS Report RL34259, *A Predatory Lending Primer: The Home Ownership and Equity Protection Act*, by David H. Carpenter.)

In light of the recent increase in subprime mortgage lending, proposals to add to HOEPA's protections have been advanced. Among the proposed provisions are those

- including home purchase loans in the definition of "high cost mortgages" covered by HOEPA (H.R. 3915 and S. 2452);

- reducing, in some cases, the fee thresholds that trigger HOEPA protections (H.R. 3915 and S. 2452); and

- making lenders subject to state laws that provide greater protections than HOEPA (H.R. 1996).

---

[10] HOEPA is implemented through Regulation Z, 12 C.F.R. Part 226, sections 31, 32, and 34.

[11] These types of loans are often referred to as purchase money mortgages. Because of the exemption of "residential mortgage transactions," HOEPA's coverage is basically limited to certain secondary mortgages and refinances.

[12] The $561 figure is for 2008. The Federal Reserve Board adjusts this number annually based upon changes to the Consumer Price Index.

Real Estate Settlement Procedures Act. The Real Estate Settlement Procedures Act (RESPA) was enacted in 1974 to effect certain changes in the settlement process for residential real estate.[13] The law requires lenders to provide to borrowers estimates of settlement costs, referred to as a good faith estimate (GFE); a list of the *actual* closing costs must be provided to borrowers at the time of closing. Examples of settlement costs included in the GFE are loan origination fees or points, credit report fees, property appraisal fees, mortgage insurance fees, title insurance fees, home and flood insurance fees, recording fees, attorney fees, and escrow account deposits. Additionally, servicers are required to provide borrowers with certain notices each time a federally related mortgage loan is sold, transferred, or assigned to a new holder.

Consumers generally find the real estate settlement process confusing, and lenders find it cumbersome. Although RESPA requires lenders to provide consumers with estimates of settlement costs, no federal or state law requires the lenders to deliver settlement costs in the amounts stated in the estimates. As a result, consumers often receive unexpected fees at closing, and these unexpected fees can sometimes be hundreds and even thousands of dollars more than expected. Changes to both current GFE disclosure forms as well as the information disclosed within them could arguably lead to less confusion about loan and settlement costs. HUD has proposed changes to RESPA designed to enhance the ability of homebuyers to understand mortgage terms and associated costs as well as enhance their ability to shop for the best deals. (For more information about HUD's proposed changes, see CRS Report RL34442, *HUD Proposes Administrative Modifications to the Real Estate Settlement Procedures Act*, by Darryl E. Getter.)

In addition to changes proposed by HUD, legislation has been introduced in the 110th Congress that would make changes to RESPA. Some of the provisions in proposed bills include the following:

- requiring additional disclosures about loan characteristics such as variable interest rate adjustments, the monthly payment, and the existence of a balloon payment (H.R. 3725 and H.R. 3915);
- shielding borrowers, in certain circumstances, from liability for fees that were not disclosed on a settlement statement given to the borrower within three days of application for the loan (S. 2343);
- requiring the disclosure of additional information when a mortgage is assigned, transferred or sold to a new mortgage holder (S. 2452); and

---

[13] The HUD regulation administering RESPA was issued on June 4, 1976. The regulation is referred to as Regulation X and is found in the Code of Federal Regulations at 24 C.F.R. Part 3500. The only major revision to Regulation X occurred on November 2, 1992.

- proscribing force-placed insurance[14] unless there is a reasonable basis to believe the borrower has not maintained required property insurance (H.R. 3837 and H.R. 3915).

Home Mortgage Disclosure Act. The Home Mortgage Disclosure Act (HMDA), was enacted in 1975 (P.L. 94-200) to help regulators determine where it was necessary to further investigate redlining or geographical discrimination.[15] HMDA requires covered institutions[16] to report home mortgage originations by geographic area, financial institution type, borrower race, sex, income, and whether the loan is for home purchase or refinance. In 1989, Congress expanded HMDA to include the race, sex, and borrower income of those applicants that were rejected for loans.[17] In 2002, Congress expanded HMDA again to include the annual percentage rate and to require lenders to identify loans subject to HOEPA requirements; the law requiring loan rate or pricing information was implemented in 2004.[18]

Currently, HMDA does not require lenders to report every variable used to evaluate applicants. Because the collected data are released to the public, there is concern about protecting the privacy of individuals. However, HMDA requirements have been criticized for not including more variables that could be used to help verify or rule out discrimination, such as borrower credit history information. Some borrowers pay more for their loans relative to others because they exhibit higher levels of credit risk. Having credit history information would be necessary to determine if observed pricing differentials reflect differences in financial risk or discrimination. Other useful variables include borrower characteristics such as total assets and debts as well as loan characteristics, such as the loan-to-value ratio. Suggested additions to the information required to be disclosed to HMDA include discount points, origination fees, financing of lump sum insurance premium payments, balloon payments, prepayment penalties, loan-to-value ratios, debt-to-income ratios, housing payment-to-income ratios, and credit score information (H.R. 1289).

---

[14] Force-placed insurance is insurance coverage obtained by a servicer to protect the mortgagee's interest in the property.

[15] HMDA is implemented by the Federal Reserve Board Regulation C (12 C.F.R. Part 203).

[16] Covered institutions or those required to report HMDA data include banks, savings and loans, credit unions, and mortgage and consumer finance companies depending upon the size of their assets and percentage of business related to housing-lending activity. Although most home-secured mortgage loans are reported under HMDA, there are some exceptions. Home equity loans taken out for purposes other than those related to the home, such as home improvements, are not reported under HMDA. Also, lenders that do not have offices in metropolitan statistical areas are not required to report HMDA data. See the FDIC website at [http://www.fdic.gov/news/news/press/2005/pr3005a.html].

[17] P.L. 101-73, 103 Stat 183. Sections 1211(d) and 1212.

[18] P.L. 107-155, 116 Stat 81.

Predatory Lending and Fraud

As discussed earlier in this report, the subprime mortgage market has made it possible for borrowers with poor credit, low income, or little savings to qualify for mortgage loans. "Predatory lending" is a term that is sometimes used interchangeably with "subprime lending," but although prime loans also may be predatory, the majority of predatory loans are confined to the subprime mortgage market. Commentators have had a difficult time coming up with an explicit definition of "predatory lending." A Joint Report issued by HUD and the Department of Treasury offered this definition: "In a predatory lending situation, the party that initiates the loan often provides misinformation, manipulates the borrower through aggressive sales tactics, and/or takes unfair advantage of the borrower's lack of information about the loan terms and their consequences. The results are loans with onerous terms and conditions that the borrower often cannot repay, leading to foreclosure or bankruptcy."[19]

Drawing the line between valid subprime lending and predatory lending has proven to be a difficult task.[20] Determining at what point higher rates and fees and more onerous loan terms become predatory is a fundamental factor in adopting appropriate legislation to curb these practices. If restrictions on lending practices go too far, the availability of credit for those with damaged credit profiles could dry up, leaving them without the option of homeownership. On the other hand, if the restrictions are too loose, then borrowers may be stripped of the equity in their homes by unscrupulous lending practices. The unnecessary loss of equity caused by points, fees, or rates that make a loan more expensive than what a borrower should qualify for considering the borrower's financial and other relevant characteristics is detrimental to borrowers. It can be especially harmful to low-income, subprime borrowers who have little savings other than the equity in their home. (For more information about predatory lending, see CRS Report RL34259, *A Predatory Lending Primer: The Home Ownership and Equity Protection Act*, by David H. Carpenter.)

The 110th Congress has begun to examine the practices of predatory lending and proposed legislation with the following provisions:

- ensuring that certain refinances provide a net tangible benefit to the borrower (H.R. 3915 and S. 2452);
- imposing civil and criminal penalties for committing fraud in the extension of credit (S. 1222), or imposing civil penalties for committing unfair and deceptive acts and practices (H.R. 2061 and H.R. 3915);

---

[19] National Predatory Lending Task Force, Curbing Predatory Home Mortgage Lending: A Joint Report, by the United States Department of Housing and Urban Development and the United States Department of the Treasury, 17 (June 2000); available at [http://www.hud user.org/Publications/pdf/treasrpt.pdf].

[20] Ibid.

- amending the Community Reinvestment Act (CRA) so that loans resulting from practices such as predatory lending would not count toward determining whether an institution is meeting the credit needs of the entire community under CRA (H.R. 1289); and

- authorizing the appropriation of funds to assist the Department of Justice and Federal Bureau of Investigation to prevent, investigate, and prosecute mortgage fraud.

Efforts to Assist Troubled Borrowers

In addition to initiatives to modify the homebuying process for future buyers, efforts have also been made to assist borrowers who are currently at risk of losing their homes. Congress is considering legislation — and administrative agencies have taken action — aimed at encouraging borrower workouts and improving the availability of refinancing options.

Borrower Counseling and Workouts

One of the ways in which Congress has proposed to assist troubled borrowers is through assistance for housing counseling organizations. Much of the focus of housing counseling for troubled borrowers involves working with lenders to arrive at payment plans or other options to make up arrearages — often referred to as borrower workouts — or helping borrowers refinance into loans with better terms. The FY2008 Consolidated Appropriations Act (P.L. 110-161) provided $180 million to the Neighborhood Reinvestment Corporation (NRC) for mortgage foreclosure mitigation activities and $50 million for HUD's housing counseling program. Additionally, legislation has been introduced that would provide more funds for borrower counseling through the NRC (H.R. 3221 as passed by the Senate and by the House, H.R. 5830, H.R. 5855, S. 2636, and S. 2791).[21]

One vehicle for encouraging borrower workouts is the "HOPE Now Alliance," an arrangement among lenders, servicers, and investors brokered by the Administration. The program sets voluntary guidelines under which some borrowers whose mortgage payments are set to rise may get temporary relief. The plan would provide a five-year freeze on mortgage interest rates for certain subprime mortgage borrowers. The plan is designed to buy time for both homeowners and lenders so that borrowers can refinance into more affordable fixed-rate loans in order to limit the number of mortgages going into default and reduce the number of homes for sale in an already saturated market.[22]

---

[21] Securitization of loans may present an obstacle to borrower workouts in some cases. For more information on this issue, see CRS Report RL34386, *Could Securitization Obstruct Voluntary Loan Modifications and Payment Freezes?*, by Edward Vincent Murphy.

[22] For more information about the Hope Now Alliance, see the program's web page, available at [http://www.hopenow.com/].

To qualify, at least six conditions must be met: (1) borrowers must reside in the residences covered by the mortgage, (2) borrowers must be current with their mortgage payments, (3) the loans must have been taken out between January 1, 2005 and July 31, 2007, (4) the loans must have an adjustable interest rate that will reset between January 1, 2008 and July 31, 2010, (5) payments would increase by more than 10% after the scheduled reset; and (6) borrowers must have credit scores below 660 and less than 10% higher than their scores at the time of origination.

(For more information on HOPE NOW, see CRS Report RL34372, *The HOPE NOW Alliance/American Securitization Forum (ASF) Plan to Freeze Certain Mortgage Interest Rates,* by David H. Carpenter and Edward Vincent Murphy.)

Refinancing Loans by Expanding the Authority of GSEs and FHA

Some overextended borrowers, or those facing interest rate resets, have had difficulty refinancing their loans on better terms, in part because of a lack of liquidity in the private market. Fannie Mae and Freddie Mac (known as government sponsored enterprises, or GSEs) purchase mortgages from lenders so that the lenders have funds available to make additional loans. The law limits both the total value of loans that the GSEs may purchase as well as the dollar value of individual mortgages that are available for purchase. The latter limit is referred to as the conforming loan limit. Proposals have been made to increase the purchasing power of the GSEs and to raise conforming loan limits.

In addition to the need for liquidity, another issue is protection for lenders. The Federal Housing Administration (FHA) loan insurance program insures lenders against loss from loan defaults by borrowers. Through FHA insurance, lenders make loans that otherwise may not be available to borrowers. Under current law, like that for the GSEs, FHA is limited in the total value of loans that it may insure as well as the dollar value of individual mortgages that may be insured. Proposals have been made to increase the number and principal value of loans that FHA may insure in order to help borrowers refinance their mortgages.

The Economic Stimulus Act of 2008 (P.L. 110-185), which was enacted on February 13, 2008, includes provisions that temporarily increase the size of loans that Fannie Mae and Freddie Mac can purchase and that FHA can insure. The stimulus bill increases the GSE conforming loan limit for mortgages originated between July 1, 2007, and December 31, 2008, to a maximum of $729,750 in high-cost areas. This means that Fannie Mae and Freddie Mac can purchase mortgages in these areas above the current conforming loan limit of $417,000 up to the new limit. In addition, FHA is able to insure mortgages in high-cost areas up to this same $729,750 limit. The authority for FHA to insure these mortgages expires December 31, 2008. Outside of the limits set by the stimulus bill, the FHA limit ranges from $200,160 to $362,790 in high-cost areas. (For more information about these provisions, see CRS Report RS22799, *The Recovery Rebates and Economic Stimulus for the American People of 2008 Act and Jumbo Mortgages*, by N. Eric Weiss.)

In September 2007, the Administration announced a new, temporary program through which the Federal Housing Administration (FHA) will insure refinanced mortgages of troubled borrowers; the program is called FHASecure. The program applies to borrowers with non-FHA-insured, adjustable rate mortgages who had been able to make timely payments prior to their interest rate resets. These borrowers may be eligible to refinance their loans with FHA insured mortgages (if they are able to find FHA lenders to extend credit), as long as they can meet certain criteria, such as having sufficient income to support payments on the new loans.[23] The program will only accept loan applications signed no later than December 31, 2008.

In addition, legislative proposals that would increase the involvement of the GSEs and FHA in the refinancing of mortgages have been introduced. Features of these bills include (1) increasing the total value of the loans that FHA may guarantee in order to encourage lenders to refinance mortgages (H.R. 3221 as passed by the House, H.R. 5830, and the unnumbered bill passed by the Senate Banking Committee on May 20, 2008) and (2) making permanent the provisions in the Economic Stimulus Act of 2008 to increase the FHA loan limits (H.R. 3221 as passed by the Senate and the House, H.R. 5958, and S. 1805) and the limit on loan values that the GSEs may purchase or conforming loan limits (H.R. 3221 as passed by the House and H.R. 5958); P.L. 110-185 temporarily increased these limits.

Assisting Communities with Foreclosed Properties

Grants and Loans to Assist States and Communities. In some communities, high numbers of foreclosures have resulted in numerous vacant properties, leaving some neighborhoods subject to falling property values, crime, and deterioration. Several large cities, including Baltimore and Cleveland, have sued lenders, alleging damages such as reduced property tax revenue, the increased costs for police and fire personnel, and the costs associated with maintaining lots and rehabilitating foreclosed and abandoned properties.[24] The U.S. Conference of Mayors, at its winter meeting in January 2008, called on Congress to appropriate additional Community Development Block Grant (CDBG) funds to help cities cope with the costs arising from increased foreclosures.[25]

Bills have been introduced in the 110th Congress that would provide funds to states and local communities to purchase and rehabilitate foreclosed properties. Some proposals would direct grants through the CDBG program, although they would not use the CDBG formula (H.R. 3221 as passed by the Senate, S. 2636, and S. 2791). Instead, these proposals would use factors such as the number of foreclosures in a state or local community, the number of subprime loans, the number

---

[23] For HUD guidance on FHASecure, see the FHA website at [http://www.fha.gov/reference/ml2007/07-11ml.doc].

[24] See, for example, Grethen Morgenson, "Baltimore is Suing Bank Over Foreclosure Crisis," *New York Times*, January 8, 2008, p. A12.

[25] U.S. Conference of Mayors Press Release, "Mayors Urge Congress and Lenders to Implement Recommendations to Help Mitigate Economic Distress of Mortgage Foreclosures," January 24, 2008, available at [http://usmayors.org/76thWinterMeeting/release_012408d.pdf].

of mortgages in default, and the number of abandoned homes. Another approach would distribute funds for grants and loans to communities independent of an existing program like CDBG, but would similarly use the number of foreclosures as a factor in determining how funds would be distributed (H.R. 5818).

Expanding the Use of Mortgage Revenue Bonds. Mortgage revenue bonds are issued by states and local governments, and the proceeds are used to assist first-time homebuyers.[26] The proceeds of the bond issuance are exempt from federal taxes as long as they meet certain requirements: (1) at least 95% of the proceeds must be used to finance the residences of homebuyers who have not owned a principal residence during the past three years; (2) the homebuyer's family income cannot exceed 115% of the applicable median family income, though this limitation is adjusted in certain cases (e.g., it is increased up to 140% if the residence is in an area with high housing costs); and (3) the residence's purchase price generally cannot exceed 90% of the average purchase price of single-family residences sold in the area during the past year.

Proposals have been introduced in the 110th Congress that would expand the reach of mortgage revenue bonds in order to address the growing number of homeowners facing foreclosures. Proposed changes include allowing mortgage revenue bonds to be used to refinance mortgages that were originally financed by qualified subprime loans (H.R. 3221 as passed by the Senate, H.R. 5720 (which was incorporated into H.R. 3221 as passed by the House), and S. 2636). In these proposals, a qualified subprime loan would be considered any adjustable rate single-family residential mortgage originated between December 31, 2001 and January 1, 2008 that the bond issuer determines would be reasonably likely to cause financial hardship to the borrower if not refinanced. This proposed change would mean that borrowers need not meet the first-time homebuyer requirement. Another proposed change would increase the volume cap on the amount of mortgage revenue bonds that may be issued by each state. Funds under the increased cap could be used for both mortgage revenue bonds and for exempt facility bonds — used to finance rental projects in which a portion of units must be occupied by low-income renters. (For more information about legislative proposals regarding mortgage revenue bonds, see CRS Report RS22841, *Mortgage Revenue Bonds: Analysis of Section 101 of the Foreclosure Prevention Act of 2008*, by Pamela J. Jackson and Erika Lunder.)

Issues in Bankruptcy

Several legislative proposals have been made to amend bankruptcy law to help borrowers keep their homes after filing for bankruptcy. Under current law, a bankruptcy court does not have the authority to modify the debt that is secured by a debtor's primary residence.[27] Section 1322(b)(2) of the Bankruptcy Code states in relevant part, "the plan may ... modify the rights of holders of secured claims, other than a claim secured only by a security interest in real property that is the debtor's primary residence." By virtue of this provision, a court may modify the debt of a

---

[26] Mortgage revenue bonds are also used to multifamily housing. They are governed by the Internal Revenue Code, 26 U.S.C. §143.

[27] 11 U.S.C. §1322(b)(2).

mortgage secured by a debtor's vacation home, for instance, but may not modify the debt on a mortgage secured by the same debtor's primary residence.

At least five bills seeking to amend § 1322 of the Bankruptcy Code have been introduced in the 110th Congress. These bills are H.R. 3609 (the Emergency Home Ownership and Mortgage Equity Protection Act); S. 2133 and H.R. 3778 (the Home Owners' Mortgage and Equity Savings Act, or HOMES Act); S. 2136 (the Helping Families Save Their Homes in Bankruptcy Act of 2007); and S. 2636 (the Foreclosure Prevention Act of 2008). Each of these bills would allow for the modification in bankruptcy of debts secured by the debtor's primary residence under certain circumstances. These proposals could make it easier for some debtors to protect their homes from creditors in bankruptcy. (For more information about these bills see CRS Report RL34301, *The Primary Residence Exception: Legislative Proposals in the 110th Congress to Amend Section 1322(b)(2) of the Bankruptcy Code*, by David H. Carpenter.)

Taxing Debt Forgiveness

As lenders and borrowers work to resolve indebtedness issues, some transactions are resulting in cancellation of debt. Mortgage debt cancellation can occur when lenders restructure loans, reducing principal balances, or sell properties — either in advance, or as a result, of foreclosure proceedings. If a lender forgives or cancels debt, current tax law may treat it as cancellation of debt (COD) income, which is subject to tax.

On October 4, 2007, the House passed the Mortgage Debt Forgiveness Relief Act of 2007 (H.R. 3648) by a vote of 386 to 27. As passed by the House, the act would have permanently excluded discharged, or canceled, qualified residential debt from income. The Senate modified H.R. 3648 by proposing a temporary three-year exclusion of COD income. The Senate passed H.R. 3648 on December 14, 2007; the House passed the modified version of H.R. 3648 on December 18, 2007. The bill was signed into law (P.L. 110-142) on December 20, 2007, with the temporary exclusion of COD income rather than a permanent exclusion. (For more information on this issue, see CRS Report RL34212, *Analysis of the Proposed Tax Exclusion for Canceled Mortgage Debt Income*, by Pamela J. Jackson and Erika Lunder.)

Reforming Federally Sponsored Financing Institutions

GSE Regulation

Fannie Mae, Freddie Mac, and Federal Home Loan Bank Regulation. Fannie Mae and Freddie Mac are federally chartered, privately owned corporations charged with supporting the secondary mortgage market. They are not allowed to lend directly to homeowners, but by purchasing mortgages from the original lenders, they free up funds to be lent for more mortgages. After Fannie Mae and Freddie Mac purchase mortgages, they either package and sell them to investors or keep them in their own portfolios. To finance their portfolios, they sell bonds and other debt to investors.

This buying and selling of existing mortgages has created a secondary mortgage market that has improved the efficiency of mortgage lending and lowered the interest rate that homeowners pay. Many economists and other analysts believe that because of their ties to the federal government, Fannie Mae and Freddie Mac (also known as government-sponsored enterprises, or GSEs) can borrow at lower interest rates than they could otherwise and that some of this advantage accrues to stockholders and employees. Regulation of Fannie Mae and Freddie Mac is split between two parts of HUD. The independent Office of Federal Housing Enterprise Oversight (OFHEO) is the safety and soundness regulator, whereas HUD's Financial Institutions Regulation Division establishes and monitors affordable housing lending goals.

The Federal Home Loan Bank System consists of 12 regional banks (the Banks) that collectively comprise the third housing GSE. Started in 1932 as lenders to the savings and loan associations that were the primary lenders for home mortgages, the Banks have undergone major changes, particularly since the cleanup of the savings and loan association failures of the 1980s. As a result, membership in the Banks has changed, today encompassing more commercial banks than savings associations and including credit unions, insurance companies, and some associated housing providers. Purposes of lending — although still primarily housing-related — now include agricultural and small business lending. The changes also have resulted in special mission set-asides for low- and moderate-income housing, special programs for community development, and a continuing responsibility for paying debt raised to fund deposit insurance payouts in the 1980s. For both mission and safety and soundness, the five-member Federal Housing Finance Board (FHFB) regulates the System. (For information on the FHLBs, see CRS Report RL32815, *Federal Home Loan Bank System: Policy Issues*, by Edward Vincent Murphy.)

On May 24, 2007, the House passed H.R. 1427, the Federal Housing Finance Reform Act of 2007. The bill would change the regulation of the GSEs, consolidate oversight, and create the Federal Housing Finance Agency (FHFA) as an independent regulator with authority similar to that of bank regulators. H.R. 1427 would give the Federal Housing Finance Agency explicit authority to adjust the enterprises' risk-based capital and, in specific circumstances, to limit the size of their portfolios for limited periods of time. The bill would also create an affordable housing fund (see discussion below). On May 8, 2008, many portions of H.R. 1427 were added as an amendment to the American Housing Rescue and Foreclosure Prevention Act (the House version of H.R. 3221), which was passed by the House on that same day.

On April 12, 2007, Senator Chuck Hagel introduced S. 1100, The Housing Enterprise Regulatory Reform Act of 2007. S. 1100, like H.R. 1427, would abolish OFHEO and establish an independent agency to oversee the GSEs, with enhanced safety and soundness, disclosure, and enforcement tools. S. 1100 differs from H.R. 1427 on provisions to enable the new agency to monitor and control the GSEs' investment portfolios, and S. 1100 does not include an affordable housing fund. On November 16, 2007, Senator Jack Reed introduced S. 2391, the Government-Sponsored Enterprise Mission Improvement Act. The bill does not include the same regulation and oversight provisions as S. 1100, but it would define new affordable housing goals for the GSEs, establish a duty to serve underserved markets, and establish an affordable housing fund. Neither H.R. 1427, S. 1100, nor S. 2391 have been considered in the Senate.

Another proposal to reform the GSEs was included in an unnumbered bill approved by the Senate Banking Committee on May 20, 2008, entitled the Federal Housing Finance Regulatory Reform Act of 2008. Like H.R. 1427 and S. 1100, this bill would abolish OFHEO and establish an independent agency to oversee the GSEs, with enhanced safety and soundness, disclosure, and enforcement tools. The measure as approved by the Banking Committee would require the director of the new regulator to establish criteria regarding the enterprises' portfolios, to ensure (1) that the GSEs held sufficient capital against possible portfolio losses and (2) that the portfolios were consistent with the housing mission and safety and soundness of the enterprises. The measure would permit the director to temporarily increase the minimum capital level for an enterprise. The measure would also provide for an increase of the conforming loan limit in high-cost areas up to 132% of the national limit, which with the current limit of $417,000 would equal $550,000. Although the GSEs would be allowed to purchase such mortgages, they would have to securitize and sell them to other investors, rather than hold them in their own portfolios. In addition, the bill would create a Housing Trust Fund (see the discussion below for more information).

(For more information about GSE reforms in H.R. 1427, S. 1100, H.R. 3221, and the unnumbered bill passed by the Senate Banking Committee, see CRS Report RL33940, *H.R. 1427 and S. 1100: Reforming the Regulation of Government-Sponsored Enterprises*, by Mark Jickling, Edward Vincent Murphy, and N. Eric Weiss.)

Affordable Housing Fund. As noted earlier, H.R. 1427 would create an affordable housing fund, which would be funded by contributions from Fannie Mae and Freddie Mac on the basis of a percentage of their total mortgage portfolios (essentially, mortgages retained in portfolio plus those guaranteed and sold regardless of the form, such as mortgage backed securities). The primary purpose of the fund in H.R. 1427 would be to increase housing opportunities for extremely low- and very low-income homeowners and renters. Specifically, the funds could be used for the production, preservation, and rehabilitation of rental and homeownership housing, as well as for related infrastructure costs.

In the first year of the Affordable Housing Fund, money would be allocated to areas affected by the 2005 hurricanes. In years two through five, H.R. 1427 would distribute the funds to the states and recognized Indian tribes using a formula to be developed by HUD. The states would develop plans to further distribute the funds to for-profit, not-for-profit, and faith-based organizations. The bill would end the requirement for Fannie Mae and Freddie Mac to contribute money to the fund after five years.

The House bill contains a provision that would transfer the affordable housing funds to a National Affordable Housing Trust Fund, if such a trust fund is enacted (see discussion below).

S. 2391 would create two GSE affordable housing programs with contributions from Freddie Mac and Fannie Mae. The first, which would be called the Affordable Housing Block Grant Program, would distribute 65% of GSE contributions by formula to the states. The states, in turn, could use the funds to increase and preserve rental housing for very low- and extremely low-income households, as well as to promote homeownership among these households. In 2008, all of the resources in the Affordable Housing Block Grant Program would be used to assist borrowers facing foreclosure. Money would be distributed by the Secretary of HUD to states and tribally designated housing entities based on a formula. The bill would require the Secretary to develop a formula to distribute funds that would be based on (1) population, (2) the 90-day delinquency rate, and (3) the ratio of foreclosures to owner-occupied households in the state.

The remaining 35% of GSE contributions would be directed to a second affordable housing program, the Capital Magnet Fund, that would be within the existing Community Development Financial Institutions (CDFIs) Fund in the Department of the Treasury. The CDFI Fund promotes economic and community development through assistance to community development financial institutions, which typically provide loans and financial services in under-served neighborhoods. The new Capital Magnet Fund would award competitive grants with the purpose of attracting private capital and supporting investment in housing for low-income, very low-income, and extremely low-income households, as well as economic development activities and community service facilities. Grantees, including community development financial institutions and private nonprofit organizations, could use funds to capitalize a revolving loan fund, an affordable housing fund, or a fund to support economic development activities, to provide loan loss reserves, and for risk-sharing loans.

Like the House bill, S. 2391 provides that, if a National Affordable Housing Trust Fund were to be enacted, funds from both the National Affordable Housing Block Grant Program and the Capital Magnet Fund would be transferred to the Trust Fund.

On May 20, 2008, the Affordable Housing Block Grant Program provisions of S. 2391 were included in the unnumbered bill passed by the Senate Banking Committee. The bill would rename the program the Housing Trust Fund, and in the first three years after its enactment, a portion of the funds would cover costs of the HOPE for Homeowners program, which would expand the role of FHA in helping homeowners having trouble making their mortgage payments. In FY2009, 100% of funds would go to HOPE for Homeowners, in FY2010, the amount would be reduced to 50% of funds, and in 2011, 25% of funds.

National Affordable Housing Trust Fund. The affordable housing fund portions of both H.R. 1427 and S. 2391 include a provision requiring that the affordable housing funds be transferred to a National Affordable Housing Trust Fund upon enactment of such a trust fund. A National Affordable Housing Trust Fund would provide a dedicated source of revenue to support affordable housing. A coalition of low-income housing organizations, led by the National Low Income Housing Coalition (NLIHC), has advocated establishment of such a trust fund for several years. Legislation to create a National Affordable Housing Trust Fund using a portion of Federal Housing Administration (FHA) receipts as the dedicated source of revenue was introduced, but not enacted, in the 106th, 107th, and 108th Congresses. Because FHA receipts are currently deposited in the U.S. Treasury, diverting them to a housing trust fund would count as new spending. In the 109th and 110th Congresses, the NLIHC advocated including an affordable housing fund provision funded by non-federal resources in GSE reform legislation.

The most recent National Affordable Housing Trust Fund bill was introduced on June 27, 2007, by House Financial Services Committee Chairman Barney Frank and several bipartisan cosponsors. The National Affordable Housing Trust Fund Act of 2007 (H.R. 2895) proposes to use affordable housing funds created by the GSE and FHA reform bills (discussed below) to provide formula grants to states and localities and competitive grants to Indian Tribes. The funds could be subgranted to for-profit and non-profit organizations for the creation, rehabilitation, or financial support of rental housing as well as downpayment and closing cost assistance for first-time homebuyers. The bill would require that all funds be used to benefit families at or below 80% of local area median income, and that 75% of all funds be used to benefit families at the higher of 30% of local area median income or the poverty line. The bill was approved by the House Financial Services Committee on July 31, 2007, and was passed by the House on October 10, 2007.

On December 19, 2007, Senator John Kerry introduced legislation to create a National Affordable Housing Trust Fund (S. 2523). The Senate bill is largely the same as the House bill.

FHA Reform

The Federal Housing Administration (FHA), an agency within HUD, oversees a variety of mortgage insurance programs that insure lenders against loss from loan defaults by borrowers. Through FHA insurance, lenders make loans that otherwise may not be available to borrowers and enable borrowers to obtain loans for home purchase and home improvement, as well as for the purchase, repair, or construction of apartments, hospitals, and nursing homes. The programs are administered through two program accounts: the Mutual Mortgage Insurance/Cooperative Management Housing Insurance fund account (MMI/CMHI) and the General Insurance/Special Risk Insurance fund account (GI/SRI). The MMI/CMHI fund provides insurance for home mortgages. The GI/SRI fund provides insurance for more risky home mortgages, for multifamily rental housing, and for an assortment of special-purpose loans such as hospitals and nursing homes. (For more information on FHA, see CRS Report RS20530, *FHA Loan Insurance Program: An Overview*, by Bruce E. Foote and Meredith Peterson.)

In 1934, FHA was established to provide consumers with an alternative during a lending crisis. Since then, FHA has insured more than 34 million properties. In recent years, however, its market share has been dropping. In 1991, FHA loans accounted for about 11% of the market; by 2004, that share had dropped to about

3%.[28] The mortgages insured through the FHA program are also judged to have become increasingly risky.[29] Default rates and the amounts of insurance claims have grown even as participation in the program has declined, raising the need to both increase participation in the program and improve its financial stability by ensuring that participants are credit-worthy in order to maintain the viability of FHA.[30]

The Expanding American Homeownership Act (H.R. 1852). On September 18, 2007, the House passed H.R. 1852, the Expanding Homeownership Equity Act. On May 8, 2008, the bill was added as an amendment to H.R. 3221, the American Housing Rescue and Foreclosure Prevention Act, which passed the House that same day. The bill aims to make FHA loans more marketable by increasing the loan amount insured under the program, making it easier for low-income borrowers to get FHA loans without down payments, and pricing mortgage insurance premiums according to borrower risk.

FHA mortgage limits are set on an area-by-area basis, and under current law, loans on one-family homes are limited to the lesser of 95% of the median home price for an area, or 87% of the conforming loan limit for Freddie Mac and Fannie Mae. As passed by the House, H.R. 1852 would limit FHA loans to the lesser of 125% of the area median or 175% of the Freddie Mac conforming loan limit. In addition, H.R. 1852 would give HUD authority to raise these resulting loan limit amounts by up to $100,000 by area and/or by unit size if market conditions warrant. The bill would also increase the maximum loan term from 35 to 40 years, and allow first-time home buyers to be exempt from the 3% down payment requirement.

Under current law, HUD may collect from borrowers an up-front FHA mortgage insurance premium of up to 2.25% of the loan amount.[31] HUD may also collect an annual premium of up to 0.55% of the loan balance for the full term of the loan from borrowers making downpayments of less that 5%. HUD may collect an annual insurance premium of 0.50% of the loan balance from borrowers making downpayments of 5% or more, but borrowers making downpayments in excess of 10% only have to pay this annual insurance for the first 11 years of the mortgage.

For zero or low downpayment borrowers, H.R. 1852 would allow FHA to increase its up-front premium to 3% and would increase the annual premium to 0.75%. HUD would be directed to establish underwriting standards to provide mortgage insurance for borrowers with FICO credit scores of less than 560, and such borrowers would pay an up-front mortgage insurance premium of up to 3% of the

---

[28] Alan Greenspan and James Kennedy, *Estimates of Home Mortgage Originations, Repayments, and Debt on One-to-Four-Family Residences*, Federal Reserve Board. September 2005, available at [http://www.federalreserve.gov/Pubs/feds/2005/200541/200541pap.pdf].

[29] Senate Appropriations Committee, report to accompany H.R. 5576, the Transportation, Treasury, Housing and Urban Development Appropriations Act 2007, 109th Cong., 2nd sess., S.Rept. 109-293, July 26, 2006.

[30] Ibid.

[31] Administratively, HUD has set the insurance premium at 1.5% of the loan amount.

mortgage amount. For loans insured after October 1, 2007, HUD would have the flexibility to charge up front and annual insurance premiums based upon the risk that the low downpayment and high risk borrowers posed to the FHA insurance fund. (For more information about this issue, see CRS Report RS22662, *H.R. 1852 and Revisiting the FHA Premium Pricing Structure: Proposed Legislation in the 110th Congress*, by Darryl E. Getter.)

H.R. 1852 would allow FHA to set mortgage insurance premiums on the basis of the risk that the borrower poses to the FHA insurance fund. The bill would then permit FHA to reduce the insurance premiums for borrowers who establish a record of timely mortgage payments. HUD would have the *discretion* to reduce the insurance premiums to high-risk borrowers who make timely payments for three years. HUD would be *required* to reduce the insurance premiums to high-risk borrowers who make timely payments for five years.

Under present law, HUD may insure no more than 275,000 home equity conversion mortgages (HECMs), a limit that HUD has already reached. The maximum mortgage limit for HECMs is set on an area-by-area basis. H.R. 1852 would amend the National Housing Act to remove the limit on the number of HECMs that may be insured and provide that the national mortgage limit for HECMs would be 100% of the Freddie Mac limit. The bill would also permit HECMs to be used for the purchase of a one- to four-family home by an elderly borrower who would occupy one of the units as a principal residence. HECMs could also be used to purchase shares in cooperatives. Limits would be placed on the amount of origination fees that may be charged to HECM borrowers. (For more information on HECMs, see CRS Report RL33843, *Reverse Mortgages: Background and Issues*, by Bruce E. Foote.)

In addition to the provisions noted above, H.R. 1852 would require HUD to include the rate of default and foreclosure on zero and no downpayment mortgages in its annual reports to Congress. The report would also include actions taken by HUD with respect to loss mitigation on its single-family housing programs. Borrowers would be able to use FHA insured home loans to purchase single-family homes to be used as child care facilities, and the maximum loan could be increased by up to 25%. The National Housing Act would be amended to permit FHA-insured loans to borrowers who wanted to refinance out of high cost privately-insured mortgages. Borrowers in default or at risk of default would be able to refinance into FHA-insured loans. For each fiscal year, the net increase in the negative credit subsidy for the mortgage insurance programs under Title II of the National Housing Act would be appropriated for several purposes. For FY2008 through FY2012, up to $100 million would be appropriated for increased funding for housing counseling; up to $25 million would be appropriated for improving technology, procedures and salaries; and the remainder would be appropriated for an Affordable Housing Fund (discussed previously).

The FHA Modernization Act (S. 2338). On December 14, 2007, the Senate passed S. 2338, the FHA Modernization Act. The bill would increase the FHA loan limit to 100% of the conforming loan limit for Freddie Mac. Currently the loan limit on one-family homes is the lesser of 95% of the median home price for an area or 87% of the conforming loan limit for Freddie Mac and Fannie Mae. The bill would require borrowers to contribute 1.5% in cash or its equivalent towards the purchase of the home. The required funds could come from relatives of the borrower, but borrowers could not use funds from either sellers or third parties reimbursed by sellers. According to the Senate Banking Committee's report, both HUD and the Government Accountability Office have found that loans with seller-funded down payments "have led to significant losses for the FHA fund."[32] Another provision of S. 2338 would place a 12-month moratorium on the implementation of risk-based premiums for FHA-insured mortgages.

The Senate bill would make changes to the Home Equity Conversion Mortgage (HECM) program that are similar to those proposed in the House bill. Like H.R. 1852, the Senate bill would remove the limit on the number of HECMs that may be insured through the FHA program. In addition, the mortgage limit for HECMs would be set at 100% of the Freddie Mac limit. The Senate bill would also permit HECMs to be used for housing cooperatives. Under S. 2338, HECMs could be used for the purchase of one- to four-unit properties as long as the borrower occupied one of the units as a principle residence. Origination fees on HECMs would be limited to 1.5% of the value of the home.

The Senate bill would also establish a five-year pilot program that would allow lenders to use an automated process to underwrite FHA-insured loans to borrowers without sufficient credit histories. This process would allow lenders to take account of payment histories that are not always included in credit reports. According to the Senate Banking Committee's report, borrowers with low credit scores may have a history of on-time payments for items such as rent or utilities, for example, but these payments are not necessarily included in credit reports (S.Rept. 110-227).

Another provision in the Senate bill would increase the loan limits on the Title I Manufactured Housing Loan Insurance program. Under current law, the FHA loan limit on manufactured homes is $48,000; S. 2338 would increase the loan limit to more than $69,000. Future increases in the manufactured loan limit would be made annually and would be based on an index that HUD would be directed to develop. The bill would also prohibit the charging of kickbacks and unearned fees in transactions involving manufactured housing.

Additional provisions in S. 2338 would direct HUD and FHA, in consultation with the lending industry, to develop and implement a plan to improve FHA's loss mitigation process. The bill would also establish a three-year pre-purchase counseling demonstration program. The demonstration program would test alternative forms of pre-purchase counseling, including telephone counseling, in-person counseling, web-based counseling, and counseling classes.

---

[32] See S.Rept. 110-227.

Housing After the 2005 Hurricanes

Hurricane Katrina, and to a lesser extent, Hurricanes Rita and Wilma, which struck Gulf Coast states in the fall of 2005, had enormous effects on the housing stock in that region. Studies estimate that the hurricanes and the related flooding damaged 1.2 million housing units in Louisiana, Mississippi, Florida, Texas, and Alabama. The level of damage wrought by the storms was unprecedented and has resulted in a large federal commitment of resources and a revisiting of the way that the government responds to large-scale disasters.

Rebuilding

The re-building of housing in the Gulf Coast has been a slow process. Questions about insurance payouts, future flood maps, the integrity of levees after repairs, and the character of new communities have all contributed to the pace of recovery. The federal government — through the Federal Emergency Management Agency (FEMA) as well as many other federal agencies, including HUD — has invested tens of billions of dollars in resources to aid in the recovery and rebuilding process, but those funds have also not always been used as quickly as desired, in some cases because of local planning issues, in other cases because of the complexity of federal program rules.

FEMA Assistance. On October 4, 2006, the Post-Katrina Emergency Management Reform Act was enacted as part of the FY2007 Department of Homeland Security Appropriations Act (P.L. 109-295).[33] The act made significant revisions to FEMA's structure and mission in response to perceived weaknesses following the 2005 hurricanes. Although components of the act could contribute to post-disaster rebuilding after *future* disasters (these components include lifting the cap on home repairs,[34] providing FEMA the authority to construct semi-permanent or permanent housing,[35] and establishing a pilot program for the use and repair of rental units for temporary housing[36]), the legislation was not retroactive and did not address the *immediate* needs along the Gulf Coast. To address some of the recovery needs, the House passed H.R. 3247, the Hurricanes Katrina and Rita Recovery Facilitation Act of 2007. However, its provisions for retroactivity apply only to public infrastructure repairs. The Senate Homeland Security and Governmental Affairs Committee subsequently amended H.R. 3247 to make the pilot program for the repair of rental units, as well as a case management[37] provision from the Post-Katrina Act, retroactive to the hurricane disasters of 2005. The Senate Committee ordered the bill to be reported on April 10, 2008.

---

[33] For more information, see CRS Report RL33729, *Federal Emergency Management Policy Changes After Hurricane Katrina: A Summary of Statutory Provisions*.

[34] P.L. 109-295, Sec. 686, 120 Stat. 1448.

[35] P.L. 109-295, Sec. 685, 120 Stat. 1447.

[36] P.L. 109-295, Sec. 689i, 120 Stat. 1454.

[37] P.L. 109-295, New Sec. 426 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 120 Stat. 1453.

The Road Home. Louisiana's state-run program to repair and restore the housing stock is called the "Road Home" program; it has been funded primarily through $13.4 billion in emergency Community Development Block Grant (CDBG) funds provided by Congress.[38] The Road Home program, and particularly its Homeowners Assistance Program, is intended to help homeowners repair or replace their homes. The program sets a threshold for eligibility and provides varying degrees of assistance to homeowners depending on the program option they select. Those options include staying in their home, relocating to another home in Louisiana, or selling their home. The amount of compensation provided to homeowners depends on the option they select.

Mississippi Waiver. Mississippi has also received a substantial amount of CDBG funding, approximately $5.5 billion, for their disaster recovery efforts. From that total, $3.4 billion was allocated to repair or replace some of the large number of homes that were damaged or destroyed by Hurricane Katrina. Not all homeowners could meet the criteria developed by the state, so Mississippi officials requested a waiver from HUD to use $600 million on the port of Gulfport, MS. HUD granted the waiver in late January;[39] it has been a controversial decision because of concerns about outstanding housing problems in the area.[40]

Rebuilding Public Housing. Some Members of Congress, as well as low-income housing and tenants' rights advocates, have questioned HUD's plans to demolish public housing units in New Orleans that were damaged by the 2005 hurricanes. In June 2006, a group of tenants filed a class action suit claiming that tenants rights are not being protected and seeking an injunction to block the demolition of housing units by the Housing Authority of New Orleans (HANO); however, a judge ruled that HANO could continue with demolition while the lawsuit is pending. In mid-September 2007, HANO announced that HUD had approved the agency's plan to demolish 4,500 of the agency's over 7,000 public housing units, with plans to rebuild 7,000 units: 3,300 public housing units, 1,800 units for voucher holders, and the rest market-rate houisng.[41] The demolitions were initially delayed awaiting action by the New Orleans City Council, but all four have now been approved and the demolition has begun.[42]

---

[38] See CRS Report RL34410, *The Louisiana Road Home Program: Federal Aid for State Disaster Housing Assistance Programs*, by Natalie Love.

[39] HUD approved the waiver in a letter sent by then-Secretary Alphonso Jackson to Governor Haley Barbour. The letter was not made public, however the approval was reported in the news media. See, for example, Mike Stuckey, "Feds OK Mississippi's Katrina Grant Diversion," MSNBC, January 28, 2008, available at [http://www.nbc6.net/msnbcnews/15138281/detail.html].

[40] See House Financial Services Committee Press Release, "Frank and Waters Call on HUD to Deny Waiver to Re-Program CDBG for Mississippi Port," October 17, 2007.

[41] Gwen Filosa, "HANO Gets OK to Raze 4,500; Those with Vouchers Will Keep Benefits," Times-Picayune (New Orleans), September 22, 2007.

[42] Katy Reckdahl, "Nagin OKs Demolition of Lafitte Housing Complex," The Times-Picayune (New Orleans), March 25, 2008.

Ongoing Housing Assistance

Families who remain displaced following the 2005 hurricanes are generally receiving one of two types of assistance: (1) manufactured housing or trailers (referred to by FEMA as *direct assistance*) or (2) rental assistance (referred to by FEMA as *financial assistance*).

Manufactured Housing. Although FEMA has traditionally used manufactured housing as a last resort in providing temporary housing (when home repairs and available rental units are not sufficient), in the case of Hurricane Katrina that last resort became the prime option. FEMA purchased over 144,000 manufactured housing units at a cost of more than $2.7 billion.[43] In a House hearing in July of 2007, the House Government Reform and Oversight Committee heard testimony regarding high levels of formaldehyde in the trailers and mobile homes that FEMA had purchased and used as temporary housing.[44] Although FEMA has been working to move disaster victims out of the trailers by providing alternative housing options, as of April 23, 2008, more than 27,000 households were still in trailers. The great majority of those households — over 22,000 — are living in trailers parked on private sites (generally in the yards and driveways of homeowners) awaiting the repair or replacement of their original homes.[45]

Rental Assistance. FEMA began providing short-term rental assistance to disaster victims shortly after the 2005 hurricanes. After six months, in February 2006, FEMA began to convert the short-term assistance to longer-term rental assistance (up to 18 months).[46] On April 26, 2007, the President announced that HUD would assume administration of the program beginning September 1, 2007, and that assistance would be extended through March 1, 2009.[47] Prior to that announcement, HUD had only been tasked with providing assistance to families that were displaced from HUD-assisted housing or were homeless before the storm.

After an initial delay, HUD assumed administration of FEMA's rental assistance program on December 1, 2007, renaming it the Disaster Housing

---

[43] Testimony of DHS Deputy Inspector General Matt Jadacki, in U.S. Congress, House Committee on Appropriations, Subcommittee on Homeland Sccurity, 110th Congress, 1st sess. March 14, 2007; [http://www.dhs.gov/xoig/assets/testimony/OIGtm_MJ_031407.pdf].

[44] U.S. Congress, House Committee on Oversight and Government Reform, 110th Cong., 1st Sess. March 14, 2007, at [http://oversight.house.gov/story.asp?id=1413].

[45] U.S. Department of Homeland Security, Federal Emergency Management Agency, Gulf Coast Recovery Office, Individual Assistance, Global Report, Executive Summary, at [http://www.fema.gov/pdf/hazard/hurricane/2005katrina/gulf_wide_iag.pdf].

[46] See HUD News Release, "Housing Assistance Extended for Gulf Coast Hurricane Victims for Another 18 Months," April 26, 2007, available at [http://www.hud.gov/news/release.cfm?content=pr07-051.cfm], and HUD News Release, "Fact Sheet: Providing Continued Assistance for Gulf Coast Hurricane Victims," available at [http://www.hud.gov/news/releases/pr07-051.cfm].

[47] FEMA Press Release HQ-07-042, "Fact Sheet: Providing Continued Assistance For Gulf Coast Hurricane Victims," April 26, 2007.

Assistance Program (DHAP). The program initially served the 28,000 households that were being aided by FEMA rental assistance, with HUD and FEMA transitioning those families out of trailers and into rental assistance.[48]

Under a FEMA and HUD joint agreement, beginning in March 2008, families receiving rental assistance as well as those living in trailers are required to pay a portion of the cost of their housing.[49] The amount they are required to contribute will increase each month, with an exemption made for elderly and disabled families. The assistance is scheduled to end on March 1, 2009.[50]

In his FY2009 budget request, the President requested funding for permanent rental vouchers for elderly, disabled, and formerly homeless families who are facing the expiration of their DHAP voucher. (For more information, see CRS Report RL33173, *Hurricane Katrina: Questions Regarding the Section 8 Voucher Program*, by Maggie McCarty.)

Legislative Initiatives

H.R. 1227 and S. 1668. On March 21, 2007, the House approved the Gulf Coast Hurricane Housing Recovery Act of 2007 (H.R. 1227). The bill contains a wide range of provisions, including those that would make modifications to, and increase reporting on, assistance provided in earlier supplemental appropriations acts. The bill would also clarify the treatment of certain federally assisted properties. On June 20, 2007, the Gulf Coast Housing Recovery Act of 2007 (S. 1668) was introduced in the Senate. The bill contains many of the same provisions as H.R. 1227; it was referred to the Senate Banking Committee, which held a hearing on September 25, 2007.

Disaster Housing Strategy. P.L. 109-295 directed FEMA to develop a Disaster Housing Strategy in conjunction with HUD, the U.S. Department of Agriculture, and other federal entities, as well as the Red Cross and state, local, and tribal governments. The law directs FEMA to develop a broad strategy assessing current resources and policies "concerning the cooperative effort to provide housing assistance during a major disaster."[51] Congress requested that the strategy be delivered within 270 days after enactment — July 6, 2007. As of April 2008, it has not been completed. FEMA Administrator David Paulison testified that the draft of the strategy still needed to be reviewed at several levels, including by FEMA's

---

[48] See HUD New Release, "Rental Payments Continue for Remaining Katrina/Rita Households in Rental Housing: FEMA-HUD Disaster Housing Assistance Program (DHAP) Launched December 1, 2007," December 4, 2007, available at [http://www.hud.gov/news/release.cfm?content=pr07-176.cfm].

[49] According to HUD Notice PIH-2008-21 (HA), issued April 16, 2008, families transitioning from trailers and other temporary housing will not be required to make rental payments, although families that transitioned from FEMA's rental assistance program will be required to make rental payments.

[50] Ibid.

[51] P.L. 109-295, § 683, 120 Stat. 1446.

National Advisory Council.[52] A FEMA official more recently testified that the strategy would cover three basic areas: the division of tasks among levels of government, development of a planning process, and federal agency responsibility.[53] (For more information about FEMA housing policy, see CRS Report RL34087, *FEMA Disaster Housing and Hurricane Katrina: Overview, Analysis, and Congressional Options*, by Francis X. McCarthy).

Housing Assistance

The U.S. Housing Act of 1949 (P.L. 81-171) established a national goal of "a decent home and a suitable living environment for every American family." Since the enactment of P.L. 81-171, a number of HUD programs have been established to provide rental housing assistance for low-income individuals and families who struggle to afford housing.[54] Affordable housing remains beyond the reach of many, however. According to the Harvard Joint Center for Housing Studies, in 2005, 8.2 million low-income renter households were severely cost burdened (paying more than 50% of their income toward housing), an increase of over one million from 2001 (and an increase from 18.9% of all renter households to 22.3%).[55] Although moderate-income renters were not immune from severe rent burdens, low-income renters faced the greatest burdens; over 85% of severely cost burdened renters were in the bottom quintile of the income distribution.[56] Further, HUD, in its most recent report on worst case housing needs, found that 5.99 million unassisted, very low-income renters either paid more than half their income in rent or lived in severely substandard housing in 2005.[57] This was an increase from 5.01 million renters in 2001, and from 4.76% of all households to 5.50%.[58] The federal government's role in addressing worst-case housing needs is increasingly in question as deficits grow and pressure to restrain domestic spending mounts.

---

[52] U.S. Senate Committee on Homeland Security and Governmental Affairs, "The New FEMA: Is the Agency Better Prepared for a Catastrophe Now Than It Was in 2005?" April 3, 2008.

[53] Daniel Fowler, "FEMA Deputy Gives a Preview of Disaster Housing Strategy," *CQ Homeland Security*, April 9, 2008, at [http://homeland.cq.com/hs/display.do?docid=2700581&sourcetype=31].

[54] Housing is generally considered affordable if it costs no more than 30% of a family's income.

[55] Joint Center for Housing Studies of Harvard University, *The State of the Nation's Housing 2007*, June 2007, pp. 25, 37 available at [http://www.jchs.harvard.edu/publications/markets/son2007/son2007.pdf].

[56] Ibid., p. 37.

[57] U.S. Department of Housing and Urban Development, *Affordable Housing Needs 2005: Report to Congress*, May 2007, p. 11, available at [http://www.huduser.org/Publications/pdf/AffHsgNeeds.pdf].

[58] Ibid., p. 13.

The HUD Budget

Funding for HUD's assisted housing programs has been affected in recent years both by the efforts of the Administration and Congress to contain discretionary spending and by concerns internal to the HUD budget. In his FY2009 budget, the President has proposed to hold the growth in non-defense discretionary spending to less than 1% in the coming year, and to keep discretionary spending below the rate of inflation.[59] The majority of the HUD budget is discretionary funding, and the President requested large cuts for several programs in FY2009, including Housing for the Elderly and Persons with Disabilities and the Community Development Block Grant. However, the President's FY2008 budget recommended similar cuts to housing programs, and Congress appropriated over $2 billion more than was recommended by the President for FY2008.

Within the HUD budget, the cost of the Section 8 voucher program — which accounts for over a third of the total HUD budget — generally requires increased funding to serve the same number of people each fiscal year. (The program is partially pegged to housing costs, which have risen faster than inflation in recent years.) Since HUD's overall budget has been constrained, any increases in funding for the voucher program have come at the expense of other programs. Another internal HUD budget pressure involves the contribution of the FHA insurance program. FHA collects fees from participants, and excess fees are used by Congress to offset the cost of the HUD budget. FHA's market share has been dropping in recent years, and as a result, the amount of excess fees has been declining. With fewer fees to offset the cost of the HUD budget, the President and Congress have had to find additional dollars in order to keep the overall budget at the same level.

The Position of HUD Secretary

On March 21, 2008, Senators Patty Murray and Christopher Dodd — the respective chairpersons of the Departments of Transportation and HUD Appropriations Subcommittee and the Banking, Housing, and Urban Affairs Committee — sent a letter to President George W. Bush requesting the resignation of the Secretary of HUD, Alphonso Jackson. The letter noted several allegations made against the Secretary and the Department for inappropriate contracting practices. The letter stated that "despite four separate allegations of impropriety, as well as damning testimony by senior staff to the HUD Inspector General regarding Secretary Jackson inappropriately advising senior staff to take political affiliation into account in awarding contracts, the Secretary refused to answer legitimate Congressional inquiries about his conduct and the use of taxpayer funds at the Department." The Senators argued that "the allegations surrounding Secretary Jackson, as well as his rejection of appropriate Congressional oversight of his Department, undermine his ability to effectively address the current housing crisis."[60]

---

[59] *Overview of the President's 2009 Budget*, p. 5, available at [http://www.whitehouse.gov/omb/budget/fy2009/pdf/budget/overview.pdf].

[60] See press release, Senator Christopher Dodd, "Senate Housing Leaders Call for HUD Secretary Jackson's Resignation," March 21, 2008. The letter is at [http://dodd.senate.gov/

Although HUD did not issue a response to this letter, a White House spokesperson stated that the President "continues to have confidence in Secretary Jackson."[61]

On March 31, 2008, Secretary Jackson stated that he was resigning from his post at HUD, effective April 18, 2008, citing a desire to "attend more diligently to personal and family matters."[62] The same day that Secretary Jackson's resignation became effective, President Bush nominated the Administrator of the U.S. Small Business Administration, Steve Preston, to be the new HUD Secretary.[63]

Federally Assisted Housing Funding and Reform

Section 8 Voucher Reform. The Section 8 voucher program provides portable housing subsidies to low-income families that they can use to subsidize the cost of rental housing in the private market. Since 2003, HUD has advocated that the existing Section 8 housing choice voucher program be abolished and replaced with a new program. Part of the Administration's rationale for advocating major program changes was a desire to curb cost growth in the program. However, the effects of earlier program reforms, market changes, and recent funding allocation changes[64] have all worked together to limit growth in the cost of a voucher within the structure of the current program. The other rationale for program reform has to do with reducing administrative complexity in the program and providing the public housing authorities (PHAs) that administer the program with more flexibility. It is generally agreed, by the Administration, low income housing advocates, and PHA industry groups, that the voucher program is too complex and administratively burdensome. However, the Administration, low-income housing advocates, and PHA industry groups do not necessarily agree about the best way to reduce that complexity without compromising the level of assistance provided to low-income tenants.

In the 109th Congress, a bipartisan Section 8 voucher reform bill was approved by the House but not enacted before the end of the Congress (H.R. 5443). A similar bill, the Section 8 Voucher Reform Act of 2007 (H.R. 1851), was introduced in the 110th Congress. The bipartisan bill is sponsored by Chairwoman Maxine Waters of the House Financial Services Committee Subcommittee on Housing and Community Opportunity. The bill would change the way income is calculated for the purposes of eligibility and rent-setting (for the voucher program, as well as public housing and project-based Section 8) and adopt a new method for allocating voucher funds, among other changes. On May 25, 2007, the House Financial Services Committee passed H.R. 1851 with a number of amendments. Among them were provisions to expand the Moving to Work program (renamed the Housing Innovation Program)

---

[60] (...continued)
multimedia/2008/032108_DoddMurraytoPOTUS.pdf].

[61] "2 Senators Want HUD Official Out," *New York Times*, March 22, 2008, p. A11.

[62] HUD Press Release, "Jackson to Step Down as HUD Secretary," March 31, 2008.

[63] White House Press Release, "President Bush Announces Nomination of Steve Preston as Secretary of Housing and Urban Development," April 18, 2008.

[64] For more information, see CRS Report RS22376, *Changes to Section 8 Housing Voucher Renewal Funding, FY2003-FY2006*, by Maggie McCarty.

and authorization of up to 20,000 new incremental vouchers in each of the next five years. On July 12, 2007, the bill was approved by the full House.

On March 3, 2008, S. 2684, the Section 8 Voucher Reform Act of 2008, was introduced in the Senate by Senator Christopher Dodd, Chairman of the Senate Banking Committee. It is similar to H.R. 1851, but it does not contain provisions to expand the Moving to Work demonstration and does include provisions designed to improve coordination with the Low Income Housing Tax Credit program, among other differences. The Housing, Transportation, and Community Development Subcommittee of the Senate Banking Committee held a hearing on S. 2684 on April 16, 2008. (For more information, see CRS Report RL34002, *Section 8 Housing Choice Voucher Program: Issues and Reform Proposals in the 110th Congress*, by Maggie McCarty.)

Public Housing Operating Funds. In January 2007, HUD began using a new formula to distribute public housing operating funds to public housing authorities. Under the new formula, some PHAs' eligibility for funding increased, and others decreased. Those increases and decreases are phased in over two and five years, respectively. However, any funding increases will be reduced and any funding decreases will be further deepened if the appropriations provided by Congress are not sufficient to fund all PHAs at their full eligibility levels.

Operating funds make up the difference between what tenants pay in rent and the cost of running public housing. The amount a PHA receives is based on a set of allowable expenses set by HUD. PHAs calculate their budgets by totaling up the allowable expenses for all of their units and subtracting the amount they receive in tenant rents. HUD then adds together all of the agencies' budgets and compares the total to the amount Congress appropriated for the operating fund that year. Typically, Congress appropriates less than the full amount that PHAs qualify for under the formula, so HUD applies an across-the-board cut to agencies' budgets, called a proration. The 2008 proration is estimated to be 84%, meaning that agencies will receive 84% of their budgets.

The new funding formula for FY2007, established by HUD through regulation with input from PHA industry groups, adopted new allowable expense levels. It also required PHAs to adopt a new form of property management — called asset-based management — by FY2011. Some agencies qualify for a higher budget under the new allowable expense levels and others face reductions, although both increases and decreases will be phased in. Those that face a decrease can transition to asset-based management sooner to help limit their losses. However, the magnitude of gains and losses under the new formula will depend on how much is appropriated for the operating fund and, subsequently, how low a proration HUD will set. (For more information, see CRS Report RS22557, *Public Housing: Fact Sheet on the New Operating Fund Formula*, by Maggie McCarty.)

Asset-Based Management. The new operating fund rule contained a requirement that PHAs convert to a new type of management, called asset-based management, by 2011. Currently, PHAs are able to centrally manage their public housing stock, meaning a PHA can receive funding, budget, and provide services for all of their units in the same way, on a portfolio-wide basis. Under asset-based management, PHAs will receive funding and will be required to budget for their units on a project-by-project basis. PHAs will still maintain central offices; however, under the new funding formula, the central office will not receive funding directly from HUD. Instead, central office funding will come from fees charged by the central office to individual properties for the services the central office provides. As noted earlier, PHAs that are slated to lose funding under the new operating fund rule can convert to asset-based management before the 2011 deadline in order to limit their losses. In order for PHAs to limit their losses in 2009, they must prove that they have converted to asset-based management by the deadline set by HUD.

There has been some controversy surrounding how PHAs demonstrate that they have successfully converted to asset-based management in order to stop their losses. HUD published preliminary guidance in September 2006.[65] PHA industry groups have argued that HUD's guidance is "overly prescriptive" — particularly the guidance related to funding for the central office — and have lobbied for HUD to make modifications.[66] On January 16, 2007, the Chairmen of the Senate Banking and House Financial Services Committees sent a letter to HUD asking the Department to suspend implementation of the conversion to asset-based management until after the authorizing committees have "had the opportunity to look into the issue further."[67] HUD published revised guidance on April 10, 2007,[68] although it did not make all of the changes requested by the industry groups.[69]

H.R. 3521, the Public Housing Asset Management Improvement Act of 2007, would prohibit HUD from publishing a management fee schedule before FY2011 and without first undertaking negotiated rulemaking; it would extend an exemption from asset-based management requirements from agencies with 250 or fewer units to those with 500 or fewer units; and it would prohibit HUD from placing restrictions on PHAs' ability to transfer funds from their capital fund to their operating fund for central office needs. Provisions similar to those in H.R. 3521 — raising the threshold

---

[65] HUD, PIH Notice 2006-35, Operating Fund Program Final Rule: Transition Funding and Guidance on Demonstration of Successful Conversion to Asset Management to Discontinue the Reduction of Operating Subsidy — Extension of Stop Loss Deadline to April 15, 2007, issued September 25, 2006.

[66] For example, see Public Housing Authority Directors Association, "PHADA makes recommendations to HUD on dealing with budget gap," PHADA News, July 3, 2006, available at [http://www.phada.org/news.php?id=248].

[67] "Committee Chairs Weigh In on Asset Management Implementation," National Low Income Housing Coalition, Memo to Members, vol. 12, no. 3, January 19, 2007.

[68] See PIH Notice 2007-9 Subject: Updated Changes in Financial Management and Reporting Requirements Public Housing Agencies Under the New Operating Fund Rule (24 C.F.R. part 990).

[69] For a summary of comments and requests submitted by industry groups and HUD's responses, see the HUD website at [http://www.hud.gov/offices/pih/publications/notices/07/pih2007-9comments.pdf].

for exemption from 250 to 400 units and limiting HUD's ability to restrict capital fund transfers — were included in the FY2008 appropriations law.[70]

The House Financial Services Committee approved H.R. 3521 on September 25, 2007. On February 12, 2008, a rule for floor debate on the bill was adopted (H.Res. 974). Following the adoption of the rule, the President issued a Statement of Administration Policy strongly opposing the provisions of H.R. 3521, noting the Administration's concern that the bill would "severely undermine PHAs' long-awaited conversion to asset management and the adoption of conventional business practices." On February 26, 2008, during floor consideration of the bill, a motion to recommit related to restricting a PHA's ability to regulate gun possession in public housing was offered. In response to the motion to recommit, the chair indefinitely postponed further consideration of the bill.

On April 17, 2008, the Public Housing Asset Management Improvement Act of 2008 (H.R. 5829) was introduced. It contains all of the provisions of H.R. 3521, as well as the language from the motion to recommit that was offered during floor consideration of H.R. 3521. Other provisions include reauthorizing the Public Housing Drug Elimination grant program and making enforcement of a community service requirement in public housing optional.

HOPE VI Reauthorization. The HOPE VI program provides competitive grants to PHAs for the demolition and/or revitalization of distressed public housing. HOPE VI has been popular with many Members of Congress, but it has been criticized by the Administration, which argues that grantees spend money too slowly, and by tenant advocates, who argue the program displaces more families than are housed in new developments. Reflecting these criticisms, HUD has requested no new funding for HOPE VI each year since FY2004. Congress has continued funding the program, although at lower levels than in previous years (the FY2008 appropriation was $100 million, compared with $570 million in FY2003).

The statute authorizing the HOPE VI program includes a sunset clause. The sunset date was September 30, 2006. However, the FY2007 funding bill (P.L. 110-5) provided an extension of the HOPE VI program through the end of FY2007, and the FY2008 funding bill (P.L. 110-161) extended the program through the end of FY2008. On March 8, 2007, the HOPE VI Improvement and Reauthorization Act of 2007 (S. 829) was introduced by Senator Barbara Mikulski and Senator Mel Martinez. It would reauthorize the program through FY2013 and, according to the sponsors' press release, make "several improvements to ensure grants are cost-efficient, and effective at improving resident and community life."[71]

---

[70] See Sections 225 and 226 of Division K of P.L. 110-161. Section 225 relates to the small agency threshold for exemption from asset-based management; HUD has interpreted the language to only be in effect for calendar year 2008. Section 226 relates to capital fund fungibility. HUD has interpreted this language to be permanent (and extend beyond 2008).

[71] Press release from the office of Barbara Mikulski, *Mikulski Introduces Legislation To Continue, Strengthen Hope VI Program*, March 8, 2007, [http://mikulski.senate.gov/record.cfm?id=270346].

A House HOPE VI reauthorization bill, The HOPE VI Improvement and Reauthorization Act of 2007 (H.R. 3524),[72] was approved by the full House on January 17, 2007. The bill is sponsored by Representative Maxine Waters, who chairs the Housing and Community Opportunity subcommittee of the House Financial Services committee. It would reauthorize the HOPE VI program through FY2015 at $800 million per year and make a number of changes to the program. According to the committee's press release, the bill would "provide for the retention of public housing units, prevent re-screening of returning residents, protect residents from disruptions resulting from the grant, increase resident involvement, improve the efficiency and expediency of HOPE VI construction, and achieve green developments."[73] (For more information, see CRS Report RL32236, *HOPE VI Public Housing Revitalization Program: Background, Funding, and Issues*, by Maggie McCarty.)

Assisted Housing Preservation

Assisted housing preservation involves efforts to maintain the affordable nature of federally assisted housing. Many affordable housing projects were developed by private owners with assistance from the government, including programs administered by HUD, the Low Income Housing Tax Credit (LIHTC) program, and the programs of the Department of Agriculture's Rural Housing Service. In exchange for government assistance in developing their properties, building owners entered into contracts with the government in which they agreed to serve low-income families through reduced rents and/or federal rent subsidies for a certain number of years. Depending on the assisted housing program, the duration of these contracts, or "use restrictions," range from 15 to 50 years.[74] In recent years, these contracts have begun to expire or, in some cases, property owners have chosen to pay off their mortgages early and end the use restrictions. Contracts for rental assistance, including project-based Section 8 rental assistance, have also begun to expire. By 2005, nearly 200,000 formerly assisted housing units were no longer subject to use restrictions due to mortgage prepayment or expiration of project-based rental assistance.[75] The mortgages on a further 2,328 HUD properties, representing 237,000 housing units, are expected to mature by 2013.[76] These properties make up 21% of the total number of properties with HUD-assisted mortgages.

---

[72] This bill is similar to a bill with the same title and sponsor, but a different bill number (H.R. 3126) that was introduced on July 23, 2007.

[73] Press release from the House Financial Services Committee, *Financial Services Committee Passes Housing Measures,* September 26, 2007, [http://www.house.gov/apps/list/press/financialsvcs_dem/press0926073.shtml].

[74] Programs in which assisted housing preservation is an issue include the Section 221(d)(3) program, the Section 236 program, the Section 202 and 811 programs, the Section 515 rural housing program, and the Low Income Housing Tax Credit program.

[75] National Housing Trust, *HUD-Assisted, Project-Based Losses by State*, March 2, 2005, available at [http://www.nhtinc.org/prepayment/State_Loss_Report.pdf].

[76] U.S. Government Accountability Office, *More Accessible HUD Data Could Help to Preserve Housing for Low-Income Tenants*, GAO-04-20, January 2004, p. 4, available at [http://www.gao.gov/new.items/d0420.pdf].

Previous Legislative Efforts to Preserve Affordable Housing. Beginning in 1987, Congress started to enact legislation to help preserve affordable rental housing. Congress first attempted to address the problem through the Emergency Low-Income Housing Preservation Act (ELIHPA).[77] The act temporarily prevented owners of Section 221(d)(3) and Section 236 developments from prepaying their mortgages without approval from HUD. In 1990 Congress enacted the Low-Income Housing Preservation and Resident Homeownership Act (LIHPRHA) as part of the Cranston-Gonzalez National Affordable Housing Act (P.L. 101-625). The program created incentives for building owners to continue offering affordable housing through the Section 221(d)(3) and Section 236 programs. LIHPRHA has not been funded since FY1997 (P.L. 104-204), but during the 1990s it is estimated to have preserved 100,000 units of Section 221(d)(3) and Section 236 housing.[78]

In 1997, the Multifamily Assisted Housing Reform and Accountability Act (MAHRA, P.L. 105-65) created the Mark-to-Market program.[79] The program applies to owners of multifamily housing projects that have HUD-insured or HUD-held loans as well as project-based Section 8 rental assistance contracts in which the rent collected is considered above-market. (Market rent is based on either the rent levels of comparable unassisted properties in a building's area or on area fair market rent levels as determined by HUD.) Mark-to-Market allows those owners with above-market rents to renew their rental assistance contracts with HUD, although at a lower rate, while also restructuring their outstanding debt on the property. The program is designed both to ensure that HUD pays reasonable market rents for subsidized properties and to provide incentives for owners of assisted properties to renew their contracts with HUD. Mark-to-Market allows rents on up to 5% of units eligible for the program to be set at levels that exceed market rents, as long as they do not exceed 120% of market rent. The FY2007 year-long continuing resolution (P.L. 110-5) extended the Mark-to-Market program through the end of FY2011.

The Mark-to-Market Program. On January 23, 2007, Representative Maxine Waters introduced the Mark-to Market Extension Act (H.R. 647), a bill that would make changes to the Mark-to-Market program. On October 23, 2007, the House Financial Services Committee held a hearing regarding the bill. Two days later, Representative Waters introduced a nearly identical bill but with additional provisions. The new bill, the Mark-to-Market Extension and Enhancement Act (H.R. 3965), was approved by the House Financial Services Committee on October 31, 2007.

H.R. 3965 would extend the Mark-to-Market program until the end of FY2012 and would make eligible for the program certain properties where rent is not considered above-market, as long as the HUD Secretary determines that debt

---

[77] ELIHPA was part of the Housing and Community Development Act of 1987 (P.L. 100-242).

[78] Emily Achtenberg, *Stemming the Tide: A Handbook on Preserving Subsidized Multifamily Housing*, Local Initiatives Support Corporation, September 1, 2002, p. 2, available at [http://www.lisc.org/content/publications/detail/893].

[79] Mark-to-Market is codified at 42 U.S.C. §1437f, note.

restructuring is necessary to preserve the property. The bill would also allow the Secretary to waive the requirement that rent levels be above market for properties in federally declared disaster areas (as long as uninsured damage is likely to exceed $5,000 per unit). In addition, the bill would increase the cap on the percentage of units eligible to restructure rents to levels above market rents from 5% to 9% and would waive the cap in disaster areas. It would also permit certain non-profit owners to participate in mortgage restructuring. Another provision of H.R. 3965 would apply to late Section 8 payments from HUD to property owners. The bill would require HUD to alert owners at least 10 days before the Section 8 payment due date if it anticipates that a payment will be late. If a Section 8 payment is more than 30 days late, HUD would be required to pay interest to the building owner. An amendment adopted at the markup of H.R. 3965 would make changes to the Mark-to-Market provisions that encourage resident involvement in the preservation and improvement of their low-income housing developments. As amended, H.R. 3965 would authorize not less than $10 million for technical assistance that may be used to train tenants and provide for capacity building.

Section 202 Housing for the Elderly Program Preservation. Properties developed as part of HUD's Section 202 Housing for the Elderly program are aging, and their mortgages are beginning to mature. Between 1959, when the Section 202 program was established, and the early 1990s, the program loaned money to developers of projects for low-income elderly persons (defined by HUD as those age 62 and older). Beginning in 1974, the program also provided Section 8 rental assistance. Legislation has been introduced that would address aspects of refinancing Section 202 projects in order to maintain their affordability and prevent physical deterioration.

Two similar bills, both entitled the Section 202 Supportive Housing for the Elderly Act (H.R. 2930 and S. 2736) have been introduced in the 110th Congress. On December 5, 2007, H.R. 2930 was approved by the House. Both bills would expand the circumstances under which a building owner may refinance a Section 202 loan. Under current law, a Section 202 loan may only be refinanced if the new loan has a lower interest rate. H.R. 2930 and S. 2736 would expand circumstances in which a loan may be refinanced to include cases in which the proceeds from the new loan are used to address the project's physical needs, the rent charged to tenants does not change, and the cost of any Section 8 contract is not increased. The two bills would also expand the ways in which project owners may use proceeds from refinanced loans. Funds could be used to provide supportive services without limitation (current law limits 15% of funds for this use), for payment of developers fees, and for equity returns to nonprofit sellers.

In addition, H.R. 2930 and S. 2736 would create Preservation Project Rental Assistance to assist residents who live in Section 202 units that do not currently receive rental assistance (these include a portion of units financed prior to 1974). Another provision in H.R. 2930 and S. 2736 would limit HUD's ability to put conditions on the amount of proceeds that Section 202 owners may realize from a sale or refinancing, or the way in which owners use the proceeds. HUD would only be able to impose conditions on the amount or use of proceeds if there were an existing contract between HUD and the project owner that authorized such conditions to be imposed. (For more information on the Section 202 program, see CRS Report

RL33508, *Section 202 and Other HUD Rental Housing Programs for the Low-Income Elderly Residents*, by Libby Perl.)

Other Preservation Legislation. The Section 515 Rural Housing Property Transfer Improvement Act (H.R. 3873) would facilitate the preservation of affordable housing developments that are located in rural areas. The Section 515 program is part of the Department of Agriculture's (USDA's) Rural Housing Service. The program provides low-interest loans to housing developers to make it possible to build multifamily housing that is affordable to low-income families and individuals. H.R. 3873 would make it easier for an owner of a Section 515 building owner to transfer the property to another owner while maintaining the property's affordability. The House approved H.R. 3873 on January 24, 2008. (For more information about USDA rural housing programs, see CRS Report RL33421, *USDA Rural Housing Programs: An Overview*, by Bruce Foote.)

Recent HUD appropriations have also contained preservation-related provisions. Section 318 of the FY2006 HUD appropriations law (P.L. 109-115) authorized HUD to transfer project-based rental assistance contracts, debt, and low-income use restrictions from one multifamily property to another, subject to some criteria. The provision was designed to ensure that, if a property is no longer available or viable, the rental assistance contract can be maintained at another property. Although this provision has been generally supported by preservation advocates, they have argued that some of the criteria — such as the requirement that the transferring property and the receiving property have the same number of units — should be lifted in order to make the transfers more workable. This authority was extended in the FY2007 continuing resolution (P.L. 110-5) and the FY2008 HUD appropriations law (Sec. 215 of P.L. 110-161).

Section 311 of the FY2006 HUD appropriations law also contained a similar provision, requiring HUD to maintain rental assistance contracts on any properties held by the Secretary (generally, as a result of mortgage foreclosure), or to transfer the contracts to another viable property. In the past, when HUD took possession of a property, it would generally terminate the rental assistance contract and provide the tenants with vouchers. This authority was also extended in the FY2007 continuing resolution, and similar language was included in the FY2008 HUD appropriations law (Sec. 220 of P.L. 110-161).

Low Income Housing Tax Credits

The Low Income Housing Tax Credit (LIHTC) program provides incentives for the development of affordable rental housing through federal tax credits administered by the Internal Revenue Service.[80] The tax credits are disbursed to state housing finance agencies (HFAs) on the basis of population. HFAs, in turn, award the credits to housing developers that agree to build or rehabilitate housing where a certain percentage of units will be affordable to low-income households. Housing developers then sell the credits to investors and use the proceeds from the sale of the

---

[80] The program is codified at 26 U.S.C. §42 and the regulations are at 26 CFR §§1.42-1 to 1.42-17.

credits to help finance the housing developments. The benefit of the tax credits to the purchasing investors is that they reduce the federal income tax liability annually over a ten-year period. (For more information on the LIHTC program, see CRS Report RS22389, *An Introduction to the Design of the Low-Income Housing Tax Credit*, by Pamela J. Jackson.)

Because tax credits reduce the amount of financing required to build or rehabilitate housing, the owners of developments financed through tax credits are able to charge lower rents. In order to qualify for the tax credits, at least 20% of units must be occupied by households with incomes at or below 50% of area median income, or at least 40% of units must be occupied by households with incomes at or below 60% of area median income. Gross rent for the rent-restricted units in a development may not exceed 30% of an imputed income limitation — calculated on the basis of area median incomes. Units financed with tax credits must remain affordable for at least 15 years.

The Housing Assistance Tax Act of 2008 (H.R. 5720) was approved by the House Ways and Means Committee on April 9, 2008, and was then added to H.R. 3221 as an amendment, which passed the House on May 8, 2008. The bill would make both temporary and permanent changes to the LIHTC program. Currently, the tax credits are allocated to states at a rate of $2.00 per capita; H.R. 5720 would temporarily raise that rate to $2.20 for calendar years 2008 and 2009.

The bill would also make changes to the way in which the amount of tax credits per development are determined. The amount of credits are determined by a property's "qualified basis" and depend, in part, on whether the property receives federal subsidies. The qualified basis is arrived at by determining *eligible basis* (the cost of developing a building minus non-depreciable costs, and not including federal grants) and multiplying that by the percentage of the units and common areas devoted to low-income use. Then, the qualified basis is multiplied by either 9% or 4% to determine the total annual value of the tax credits; facilities that receive federal subsidies are not eligible for the 9% credit. H.R. 5720 would expand the circumstances in which buildings may qualify for the higher 9% credits. In addition, under current law, buildings in certain qualified census tracts or difficult development areas may qualify for a higher rate of tax credits in some circumstances. H.R. 5720 would expand the possible developments that could qualify for the increased credit. The bill would also expand the common areas that may be included in calculating the qualified basis of a property by increasing the size of community service facilities that may be counted toward the space dedicated to low-income use.

H.R. 5720 would also change the way in which federal grants interact with the LIHTC, making mixed-finance developments more feasible. Under current law, most federal rental assistance is considered a federal grant which does not count toward a project's eligible basis. H.R. 5720 would amend the regulations governing the LIHTC program so that rental assistance under many federal programs would not be considered a "federal grant." (See H.Rept. 110-606.) Among the types of rental assistance that would be covered by this provision are Section 202 and Section 811 project rental assistance, Section 236 interest reduction payments, rental assistance under the Housing Opportunities for Persons with AIDS program, rental assistance provided through the McKinney-Vento Homeless Assistance Grants, and Rent

Supplement payments. In addition, under current law, buildings developed using funds from HUD's Section 8 Moderate Rehabilitation program are not eligible for LIHTCs. H.R. 5720 would eliminate this restriction.

Homelessness

The HUD homeless assistance grants, established as part of the McKinney-Vento Homeless Assistance Act (P.L. 100-77), consist of four separate grant programs. The Emergency Shelter Grants (ESG) Program distributes funds to communities through a formula allocation, and they, in turn, may use the funds for the renovation, major rehabilitation or conversion of buildings into emergency shelters. Grantees may also use funds to provide services to homeless individuals, and for homelessness prevention activities, although not more than 30% of funds may be used for either of these purposes. The grants for the other three homeless assistance grant programs are awarded competitively through HUD's continuum of care (CoC) system. These programs are the Supportive Housing Program (SHP), Shelter Plus Care (S+C) program, and the Section 8 Moderate Rehabilitation Assistance for Single-Room Occupancy Dwellings program (SRO). Unlike the ESG program, the three competitive grant programs focus on transitional and permanent supportive housing for the homeless. (For more information on the homeless assistance grants, see CRS Report RL33764, *The HUD Homeless Assistance Grants: Distribution of Funds*, by Libby Perl.)

In the 110th Congress, two bills have been introduced that would reauthorize the housing programs of McKinney-Vento. The Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2007 (H.R. 840) was introduced on February 6, 2007, and the Community Partnership to End Homelessness Act of 2007 (S. 1518) was introduced on May 24, 2007. On September 19, 2007, the Senate Banking, Housing, and Urban Affairs Committee unanimously approved S. 1518.

The two bills, H.R. 840 and S. 1518, are similar in that they would both consolidate the three competitive homeless assistance grants (S+C, SHP, and SRO) into one consolidated grant, called the Continuum of Care Program in H.R. 840 and the Community Homeless Assistance Program in S. 1518 (the President has also urged the consolidation of these three programs in his last seven budgets). The two bills would also codify the system through which the funds are distributed, retaining many aspects of the current Continuum of Care system. H.R. 840 would authorize the homeless assistance grants at $2.5 billion for FY2008, and S. 1518 would provide an authorization level of $2.2 billion. However, in S. 1518, permanent housing contracts would be renewed through the Section 8 program rather than through the funds made available for the homeless assistance grants.

Both bills propose to expand the definition of "homeless individual," although each would do so in a different way. Under the current definition, a homeless individual is one who lacks a fixed, regular, and adequate nighttime residence, and who resides in a temporary shelter (including transitional housing for the mentally ill), an institution (with qualifications), or a place not designed for human habitation. H.R. 840 would include in the definition persons who are sharing housing due to economic hardship and those living in hotels, motels, or campgrounds due to a lack of alternative accommodations. H.R. 840 would also include in the definition those individuals residing in transitional housing, not just transitional housing for the mentally ill, as in current law. In addition, H.R. 840 would include substandard housing in the list of accommodations in which a person would be considered homeless (the list also includes cars, parks, abandoned buildings, and bus or train stations).

S. 1518 would also expand the definition of "homeless individual" to include individuals and families who are sharing housing, but unlike H.R. 840, those doubled-up households must also (1) lack the resources to pay for decent and safe housing, (2) only be permitted to remain in the shared housing for a short period of time, (3) have moved three or more times in the past year or at least two times within the last 21 days, and (4) not be able to make a significant financial contribution toward the shared housing. S. 1518 would also include among homeless individuals those persons residing in a hotel or motel, with the same reservations as those sharing housing, however. In addition, S. 1518 would change the definition of chronically homeless to include families with an adult member who has a disability (currently only unaccompanied individuals are included). The definition would also include persons released from institutions as long as, prior to entering the institution, they otherwise met the definition of chronically homeless, and had been institutionalized for fewer than 90 days.

Both S. 1518 and H.R. 840 would allow more funds to be used for homelessness prevention activities. Under current law, only ESG funds can be used for homelessness prevention activities; the other three homeless assistance grants cannot be used for prevention. H.R. 840 would allow up to 3% of Continuum of Care Program funds to be used to prevent homelessness, and would remove the ESG restriction that not more than 30% of funds be used to prevent homelessness. S. 1518 would allocate 20% of funds made available by Congress for the homeless assistance grants to the newly-named Emergency Solutions Grants program; of those funds, at least 40% would be available for activities such as rental assistance and housing relocation for persons at risk of homelessness.

S. 1518 would also create a separate process for rural communities to apply for grants, whereas in the House bill, rural communities would be part of the same application process in the Continuum of Care Program as non-rural areas. S. 1518 would allow grantees in rural communities to apply separately for funds that would otherwise be awarded as part of the consolidated Community Homeless Assistance Program. Unlike the Community Homeless Assistance Program, however, rural communities would be able to serve persons who do not meet HUD's definition of "homeless individual;" the bill provides that HUD may award grants for the costs of assisting those in the worst housing situations in their geographic area, those in imminent danger of losing housing, and the lowest-income residents in the community.

CRS Reports on Housing

In General

CRS Report RL34022, *The Department of Housing and Urban Development (HUD): FY2008 Budget*, by Maggie McCarty, Libby Perl, Bruce Foote, Eugene Boyd, and Meredith Peterson.

CRS Report RL33879, *Housing Issues in the 110th Congress*, by Libby Perl, Maggie McCarty, Bruce E. Foote, Eugene Boyd, Darryl E. Getter, Oscar R. Gonzales, Francis X. McCarthy, Edward Vincent Murphy, N. Eric Weiss, David H. Carpenter, and Meredith Peterson.

CRS Report RL33421, *USDA Rural Housing Programs: An Overview,* by Bruce Foote.

Section 8 Rental Assistance

CRS Report RL32284, *An Overview of the Section 8 Housing Program*, by Maggie McCarty.

CRS Report RL34022, *Section 8 Housing Choice Voucher Program: Issues and Reform Proposals in the 110th Congress*, by Maggie McCarty.

CRS Report RL33929, *Recent Changes to the Section 8 Voucher Renewal Funding Formula,* by Maggie McCarty.

Public Housing

CRS Report RS22557, *Public Housing: A Fact Sheet on the New Operating Fund*, by Maggie McCarty.

CRS Report RS21591, *Community Service Requirement for Residents of Public Housing*, by Maggie McCarty.

CRS Report RL32236, *HOPE VI Public Housing Revitalization Program: Background, Funding and Issues*, by Maggie McCarty.

Housing for Special Populations

CRS Report RL30442, *Homelessness: Targeted Federal Programs, and Recent Legislation*, coordinated by Libby Perl.

CRS Report RL34024, *Veterans and Homelessness*, by Libby Perl.

CRS Report RL33956, *Counting Homeless Persons: Homeless Management Information Systems*, by Libby Perl.

CRS Report RL33764, *The HUD Homeless Assistance Grants: Distribution of Funds*, by Libby Perl.

CRS Report RL33508, *Section 202 and Other HUD Rental Housing Programs for Low-Income Elderly Residents*, by Libby Perl.

CRS Report RL34318, *Housing Opportunities for Persons with AIDS (HOPWA)*, by Libby Perl.

CRS Report RL31753, *Immigration: Noncitizen Eligibility for Needs-Based Housing Programs*, by Alison Siskin and Maggie McCarty.

Federal Housing Finance Programs

CRS Report RS20530, *FHA Loan Insurance Program: An Overview*, by Bruce E. Foote and Meredith Peterson.

CRS Report RS22662, *H.R. 1852 and Revisiting the FHA Premium Pricing Structure: Proposed Legislation in the 110th Congress*, by Darryl E. Getter.

CRS Report RL33843, *Reverse Mortgages: Background and Issues*, by Bruce E. Foote.

CRS Report RS20533, *VA-Home Loan Guaranty Program: An Overview*, by Bruce E. Foote and Meredith Peterson.

Subprime Mortgages, Markets, and Regulation

CRS Report RL33930, *Subprime Mortgages: Primer on Current Lending and Foreclosure Issues*, by Edward Vincent Murphy.

CRS Report RL33775, *Alternative Mortgages: Causes and Policy Implications of Troubled Mortgage Resets in the Subprime and Alt-A Markets*, by Edward Vincent Murphy.

CRS Report RL34423, *Government Interventions in Financial Markets: Economic and Historic Analysis of Subprime Mortgage Options*, by N. Eric Weiss.

CRS Report RL34232, *Understanding Mortgage Foreclosure: Recent Events, the Process, and Costs*, by Darryl E. Getter.

CRS Report RS22722, *Securitization and Federal Regulation of Mortgages for Safety and Soundness*, by Edward Vincent Murphy.

CRS Report RL34386, *Could Securitization Obstruct Voluntary Loan Modifications and Payment Freezes?*, by Edward Vincent Murphy.

CRS Report RL34372, *The HOPE NOW Alliance/American Securitization Forum (ASF) Plan to Freeze Certain Mortgage Interest Rates*, but David H. Carpenter and Edward Vincent Murphy.

CRS Report RL34442, *HUD Proposes Administrative Modifications to the Real Estate Settlement Procedures Act*, by Darryl E. Getter.

CRS Report RL34212, *Analysis of the Proposed Tax Exclusion for Canceled Mortgage Debt Income*, by Pamela J. Jackson and Erika Lunder.

CRS Report RL34386, *Could Securitization Obstruct Voluntary Loan Modifications and Payment Freezes?*, by Edward Vincent Murphy.

CRS Report RS22799, *The Recovery Rebates and Economic Stimulus for the American People Act of 2008 and Jumbo Mortgages*, by N. Eric Weiss.

CRS Report RS22841, *Mortgage Revenue Bonds: Analysis of Section 101 of the Foreclosure Prevention Act of 2008*, by Pamela J. Jackson and Erika Lunder.

Legal Issues in the Current Mortgage Market

CRS Report RL34301, *The Primary Residence Exception: Legislative Proposals in the 110th Congress to Amend Section 1322(b)(2) of the Bankruptcy Code*, by David H. Carpenter.

CRS Report RL34369, *Constitutional Issues Relating to Proposals for Foreclosure Moratorium Legislation That Affects Existing Mortgages*, by David H. Carpenter.

CRS Report RL34379, *Constitutional Issues Relating to Proposals for Legislation to Impose an Interest Rate Freeze/Reduction on Existing Mortgages*, by David H. Carpenter.

CRS Report RL34259, *A Predatory Lending Primer: The Home Ownership and Equity Protection Act*, by David H. Carpenter.

Economic Implications of the Current Mortgage Market

CRS Report RL34244, *Would a Housing Crash Cause a Recession?*, by Marc LaBonte.

CRS Report RL34412, *Averting Financial Crisis*, by Mark Jickling.

CRS Report RL34182, *Financial Crisis? The Liquidity Crunch of August 2007*, by Darryl E. Getter, Mark Jickling, Marc Labonte, and Edward Vincent Murphy.

Housing Government-Sponsored Enterprises (GSEs)

CRS Report RL33940, *H.R. 1427 and S. 1100: Reforming the Regulation of Government-Sponsored Enterprises*, by Mark Jickling, Edward Vincent Murphy, and N. Eric Weiss.

CRS Report RL34236, *Fannie Mae and Freddie Mac: Proposals to Regulate Their Mortgage Portfolio Size in the 110th Congress*, by N. Eric Weiss.

CRS Report RL33756, *Fannie Mae and Freddie Mac: A Legal and Policy Overview*, by Michael V. Seitzinger and N. Eric Weiss.

CRS Report RL34158, *Creating GSE Affordable Housing Funds: Proposed Legislation in the 110th Congress*, by N. Eric Weiss.

CRS Report RS21724, *GSE Regulatory Reform: Frequently Asked Questions*, by N. Eric Weiss.

CRS Report RL32815, *Federal Home Loan Bank System: Policy Issues*, by Edward Vincent Murphy.

CRS Report RS22172, *The Conforming Loan Limit*, by Mark Jickling and N. Eric Weiss.

CRS Report RS21567, *Accounting and Management Problems at Freddie Mac*, by Mark Jickling.

Housing Tax Policy

CRS Report RS22389, *An Introduction to the Design of the Low-Income Housing Tax Credit*, by Pamela J. Jackson.

CRS Report RL33904, *The Low-Income Housing Tax Credit: A Framework for Evaluation*, by Pamela J. Jackson.

CRS Report RL33025, *Fundamental Tax Reform: Options for the Mortgage Interest Deduction*, by Pamela J. Jackson.

CRS Report RL32978, *The Exclusion of Capital Gains for Owner-Occupied Housing*, by Jane G. Gravelle and Pamela J. Jackson.

Disaster Relief

CRS Report RL34087, *FEMA Disaster Housing and Hurricane Katrina: Overview, Analysis, and Congressional Options*, by Francis X. McCarthy.

CRS Report RL33761, *Rebuilding Housing After Hurricane Katrina: Lessons Learned and Unresolved Issues*, by N. Eric Weiss.

CRS Report RS22358, *The Role of HUD Housing Programs in Response to Hurricane Katrina*, Maggie McCarty, Libby Perl, Bruce E. Foote, Eugene Boyd.

CRS Report RL33078, *The Role of HUD Housing Programs in Response to Past Disasters*, by Maggie McCarty, Libby Perl, and Bruce Foote.

CRS Report RL33173, *Hurricane Katrina: Questions Regarding the Section 8 Housing Voucher Program*, by Maggie McCarty.

CRS Report RL33330, *Community Development Block Grant Funds in Disaster Relief and Recovery*, by Eugene Boyd.