

110TH CONGRESS
2D SESSION

S. 2791

To address the foreclosure crisis and to revitalize neighborhoods, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 1 (legislative day, MARCH 13), 2008

Mr. VOINOVICH introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To address the foreclosure crisis and to revitalize neighborhoods, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting America’s
5 Homeowners Act of 2008”.

1 **SEC. 2. DISCHARGE OF INDEBTEDNESS ON PRINCIPAL RES-**
2 **IDENCE EXCLUDED FROM GROSS INCOME EX-**
3 **TENSION.**

4 Subparagraph (E) of section 108(a)(1) of the Inter-
5 nal Revenue Code of 1986 is amended by striking “Janu-
6 ary 1, 2010” and inserting “January 1, 2011”.

7 **SEC. 3. TEMPORARY MORATORIUM OF PREPAYMENT PEN-**
8 **ALTIES FOR ALL MORTGAGE PRODUCTS.**

9 (a) IN GENERAL.—Notwithstanding any other provi-
10 sion of law, beginning on the date of enactment of this
11 Act and ending on December 31, 2009, the terms of any
12 home mortgage loan that require that a consumer must
13 pay a prepayment penalty for paying all or part of the
14 outstanding principal on such loan before the date on
15 which the principal is due under the terms of the loan
16 agreement shall not be valid.

17 (b) DEFINITIONS.—In this section, the following defi-
18 nitions shall apply:

19 (1) CONSUMER; CREDIT.—The terms “con-
20 sumer” and “credit” have the same meaning as in
21 section 103 of the Truth in Lending Act (15 U.S.C.
22 1602).

23 (2) HOME MORTGAGE LOAN.—The term “home
24 mortgage loan” means any consumer credit trans-
25 action in which a security interest, including any
26 such interest arising by operation of law, is or will

1 be retained or acquired in any real property located
2 within the United States which is or, upon the com-
3 pletion of the transaction, will be used as the prin-
4 ciple residence of the consumer.

5 **SEC. 4. ASSISTANCE FOR MORTGAGE FORECLOSURE COUN-**
6 **SELING.**

7 (a) **EXPEDITIOUS DISTRIBUTION OF FUNDS AL-**
8 **READY PROVIDED.**—Upon certification by the Neighbor-
9 hood Reinvestment Corporation under paragraph (4)
10 under the second undesignated paragraph (beginning with
11 the phrase “For an additional amount”) under the head-
12 ing “Neighborhood Reinvestment Corporation—Payment
13 to the Neighborhood Reinvestment Corporation” of Public
14 Law 110–161 that Housing and Urban Development or
15 Neighborhood Reinvestment Corporation-approved coun-
16 seling intermediaries and State Housing Finance Agencies
17 have the need for additional portions of the \$180,000,000
18 provided therein for mortgage foreclosure mitigation ac-
19 tivities in States and areas with high rates of mortgage
20 foreclosures, defaults, or related activities beyond the ini-
21 tial awards, and the expertise to use such funds effectively,
22 the Neighborhood Reinvestment Corporation shall expedi-
23 tiously continue to award such funds as need and expertise
24 is shown.

1 (b) ADDITIONAL FUNDING.—There are appropriated
2 out of any money in the Treasury not otherwise appro-
3 priated for the fiscal year 2008, for an additional amount
4 for the “Neighborhood Reinvestment Corporation—Pay-
5 ment to the Neighborhood Reinvestment Corporation”
6 \$200,000,000, to remain available until expended, for
7 foreclosure mitigation activities under the terms and con-
8 ditions contained in the second undesignated paragraph
9 (beginning with the phrase “For an additional amount”)
10 under the heading “Neighborhood Reinvestment Corpora-
11 tion—Payment to the Neighborhood Reinvestment Cor-
12 poration” of Public Law 110–161.

13 **SEC. 5. ASSISTANCE FOR THE REDEVELOPMENT OF ABAN-**
14 **DONED AND FORECLOSED HOMES.**

15 (a) DIRECT APPROPRIATIONS.—There are appro-
16 priated out of any money in the Treasury not otherwise
17 appropriated for the fiscal year 2008, \$1,000,000,000, to
18 remain available until expended, for assistance to States
19 and units of general local government (as such terms are
20 defined in section 102 of the Housing and Community De-
21 velopment Act of 1974 (42 U.S.C. 5302)) for the redev-
22 opment of abandoned and foreclosed homes.

23 (b) ALLOCATION OF APPROPRIATED AMOUNTS.—

24 (1) IN GENERAL.—The amounts appropriated
25 or otherwise made available to States and units of

1 general local government under this section shall be
2 allocated based on a funding formula established by
3 the Secretary of Housing and Urban Development.

4 (2) FORMULA TO BE DEVISED SWIFTLY.—The
5 funding formula required under paragraph (1) shall
6 be established not later than 60 days after the date
7 of enactment of this Act.

8 (3) CRITERIA.—The funding formula required
9 under paragraph (1) shall ensure that any amounts
10 appropriated or otherwise made available under this
11 section are allocated to States and units of general
12 local government with the greatest need, as such
13 need is determined in the discretion of the Secretary
14 of Housing and Urban Development based on the
15 following factors:

16 (A) The number and percentage of home
17 foreclosures in each State or unit of general
18 local government.

19 (B) The number and percentage of aban-
20 doned homes in each State or unit of general
21 local government.

22 (4) DISTRIBUTION.—Amounts appropriated or
23 otherwise made available to States and units of gen-
24 eral local government under this section shall be dis-
25 tributed according to the funding formula required

1 under paragraph (1) not later than 30 days after
2 the establishment of such formula.

3 (c) USE OF FUNDS.—

4 (1) IN GENERAL.—Any State or unit of general
5 local government that receives amounts pursuant to
6 this section shall, not later than 18 months after the
7 receipt of such amounts, use such amounts to rede-
8 velop abandoned and foreclosed homes.

9 (2) PRIORITY.—Any State or unit of general
10 local government that receives amounts pursuant to
11 this section shall in distributing such amounts give
12 priority emphasis and consideration to those metro-
13 politan areas, metropolitan cities, urban areas, rural
14 areas, low- and moderate-income areas, and other
15 areas with the greatest need, including those with
16 the greatest percentage of abandoned and foreclosed
17 homes.

18 (3) ELIGIBLE USES.—

19 (A) IN GENERAL.—Amounts made avail-
20 able under this section may be used to—

21 (i) make grants, loans, and other fi-
22 nancing mechanisms to community devel-
23 opment financial institutions (as such term
24 is defined under section 103(5) of the
25 Community Development Banking and Fi-

1 nancial Institutions Act of 1994 (12
2 U.S.C. 4702(5))), national intermediaries,
3 and nonprofit housing or community devel-
4 opment organizations and others to pur-
5 chase and rehabilitate homes that have
6 been abandoned or foreclosed upon, in
7 order to sell, rent, or redevelop such
8 homes;

9 (ii) establish financing mechanisms
10 for redevelopment of foreclosed upon
11 homes, including such mechanisms as soft-
12 seconds, loan loss reserves, and shared-
13 equity loans for low- and moderate-income
14 homebuyers;

15 (iii) purchase and rehabilitate homes
16 that have been abandoned or foreclosed
17 upon, in order to sell, rent, or redevelop
18 such homes;

19 (iv) establish land banks for homes
20 that have been foreclosed upon; and

21 (v) demolish blighted structures.

22 (B) LIMITATION.—Any funds used under
23 this section for the purchase of an abandoned
24 or foreclosed upon home shall be at a discount
25 from cost equal to or less than the current mar-

1 ket appraised value of the home, taking into ac-
2 count its current condition, and such discount
3 appraisal shall ensure that purchasers are pay-
4 ing below-market value for the homes as part of
5 a broader neighborhood stabilization strategy.

6 (d) **RULE OF CONSTRUCTION.**—Amounts appro-
7 priated or otherwise made available to States and units
8 of general local government under this section shall be
9 treated as though such funds were community develop-
10 ment block grant funds under title I of the Housing and
11 Community Development Act of 1974.

12 (e) **WAIVER AUTHORITY.**—In administering any
13 amounts appropriated or otherwise made available under
14 this section, the Secretary of Housing and Urban Develop-
15 ment may waive, or specify alternative requirements for,
16 any provision of any statute or regulation that the Sec-
17 retary administers in connection with the obligation by the
18 Secretary or the use by the recipient of such funds (except
19 for requirements related to fair housing, nondiscrimina-
20 tion, labor standards, and the environment), in order to
21 expedite or facilitate the use of such funds.

22 (f) **PERIODIC AUDITS.**—In consultation with the Sec-
23 retary of Housing and Urban Development, the Comp-
24 troller General of the United States shall conduct periodic
25 audits to ensure that funds appropriated, made available,

1 or otherwise distributed under this title are being used in
2 a manner consistent with the criteria provided in this title.

3 (g) ACROSS-THE-BOARD RESCISSIONS IN NON-DE-
4 FENSE, NON-HOMELAND-SECURITY DISCRETIONARY
5 SPENDING FOR FISCAL YEAR 2009.—

6 (1) ACROSS-THE-BOARD RESCISSIONS.—There
7 is hereby rescinded an amount equal to 0.25 percent
8 of—

9 (A) the budget authority provided (or obli-
10 gation limitation imposed) for fiscal year 2009
11 for any non-defense, non-homeland-security dis-
12 cretionary account in any fiscal year 2009 ap-
13 propriation Act;

14 (B) the budget authority provided in any
15 advance appropriation for fiscal year 2009 for
16 any non-defense, non-homeland-security discre-
17 tionary account in any prior fiscal year appro-
18 priation Act; and

19 (C) the contract authority provided in fis-
20 cal year 2009 for any program that is subject
21 to a limitation contained in any fiscal year
22 2009 appropriation Act for any non-defense,
23 non-homeland-security discretionary account.

24 (2) NON-DEFENSE, NON-HOMELAND-SECURITY
25 DISCRETIONARY ACCOUNT.—For purposes of para-

1 graph (1), the term “non-defense, non-homeland se-
2 curity discretionary account” means any discre-
3 tionary account, other than—

4 (A) any account included in a Department
5 of Defense Appropriations Act;

6 (B) any account included in a Department
7 of Homeland Security Appropriations Act;

8 (C) any account of the Department of De-
9 fense included in a Military Quality of Life and
10 Veterans Affairs Appropriations Act; or

11 (D) any account for Department of Energy
12 defense activities included in an Energy and
13 Water Development Appropriations Act.

14 (3) PROPORTIONATE APPLICATION.—Any re-
15 seission made by paragraph (1) shall be applied pro-
16 portionately—

17 (A) to each discretionary account and each
18 item of budget authority described in such
19 paragraph; and

20 (B) within each such account and item, to
21 each program, project, and activity (with pro-
22 grams, projects, and activities as delineated in
23 the appropriation Act or accompanying reports
24 for the relevant fiscal year covering such ac-
25 count or item, or for accounts and items not in-

1 cluded in appropriation Acts, as delineated in
2 the most recently submitted President’s budg-
3 et).

4 (4) **SUBSEQUENT APPROPRIATION LAWS.**—In
5 the case of any fiscal year 2009 appropriation Act
6 enacted after the enactment of this subsection, any
7 rescission required by paragraph (1) shall take effect
8 immediately after the enactment of such Act.

9 **SEC. 6. ENHANCED MORTGAGE LOAN DISCLOSURES.**

10 (a) **IN GENERAL.**—The Truth In Lending Act (15
11 U.S.C. 1601 et seq.) is amended by inserting after section
12 129 the following new section:

13 **“SEC. 129A. ENHANCED MORTGAGE LOAN DISCLOSURES.**

14 “(a) **DEFINITIONS.**—As used in this section, the term
15 ‘home mortgage loan’ means any consumer credit trans-
16 action in which a security interest is or will be retained
17 or acquired in any real property located in the United
18 States which is or, upon completion of the transaction, will
19 be used as the principle residence of the consumer.

20 “(b) **DISCLOSURES FOR MORTGAGE LOANS.**—

21 “(1) **IN GENERAL.**—Subject to the rules of the
22 Board, with respect to a home mortgage loan, the
23 creditor shall disclose to the consumer, in addition
24 to any other disclosures required under this title, a
25 good faith estimate of—

1 “(A) the amount of the loan;

2 “(B) the term of the loan;

3 “(C) the annual percentage rate of interest
4 for the loan if such rate is fixed;

5 “(D) the annual percentage rate of interest
6 for the loan if such rate is variable, provided
7 that for such a variable rate the creditor also
8 discloses—

9 “(i) the initial interest rate;

10 “(ii) the duration of the initial inter-
11 est rate;

12 “(iii) the date on which the interest
13 rate will be adjusted or reset;

14 “(iv) the fully indexed rate (expressed
15 as an estimate of the interest rate after it
16 is adjusted or reset); and

17 “(v) an estimate of the maximum pos-
18 sible applicable annual percentage rate of
19 interest, including language expressing
20 that if there is no maximum rate, the ap-
21 plicable State usury rate shall be disclosed;

22 “(E) any prepayment fees or penalties that
23 may be imposed with respect to the loan, in-
24 cluding—

1 “(i) the amount of such fee or pen-
2 alty; and

3 “(ii) a brief description, in plain
4 English, of the circumstances or events
5 which would trigger the imposition of the
6 prepayment fee or penalty;

7 “(F) any balloon payment that may be re-
8 quired with respect to the loan, including—

9 “(i) the date on which the balloon
10 payment is due, and the estimated amount
11 of the balloon payment; and

12 “(ii) a brief statement, in plain
13 English, that a balloon payment mortgage
14 does not fully pay off the loan, that a large
15 balloon payment of the remaining principal
16 will be required at the end of the loan
17 term, and that many borrowers must se-
18 cure another loan to make the balloon pay-
19 ment;

20 “(G) whether or not the creditor automati-
21 cally provides for the escrow of taxes and insur-
22 ance; and

23 “(H) the total settlement costs, including
24 if the consumer shall be required to maintain
25 private mortgage insurance or take out a subor-

1 dinate lien mortgage or deed of trust (also re-
2 ferred to as a ‘piggyback loan’) on the real
3 property securing the loan to cover the cost of
4 acquiring the property.

5 “(2) RANGE FOR ESTIMATE.—The disclosure
6 required under paragraph (1)(H) of the good faith
7 estimate of the total settlement costs of a home
8 mortgage loan shall indicate whether such estimated
9 costs are or are not guaranteed to come within 10
10 percent of the actual final settlement costs related to
11 the loan, subject to approval of such terms by the
12 consumer and the appraisal of the real property se-
13 curing the loan.

14 “(c) TIMING OF DISCLOSURES.—The disclosures re-
15 quired by this section shall be provided to the consumer
16 at the time of approval of the home mortgage loan, but
17 in no case later than 7 days before the date on which the
18 home mortgage loan is consummated.

19 “(d) FORMAT.—The disclosures required by this sec-
20 tion shall be presented to the consumer—

21 “(1) in plain English;

22 “(2) to the extent possible, as a 1-page, single
23 document; and

1 “(3) when provided in conjunction with or at
2 the same time as other required written disclosures,
3 as the first of such documents.

4 “(e) TOLERANCES FOR ACCURACY.—The provisions
5 of section 106(f), relating to tolerances for accuracy, and
6 any rules of the Board issued under that subsection, shall
7 apply to disclosures required under this section.”.

8 (b) AMENDMENT TO REAL ESTATE SETTLEMENT
9 PROCEDURES.—Section 4 of the Real Estate Settlement
10 Procedures Act of 1974 (12 U.S.C. 2603) is amended by
11 adding at the end the following:

12 “(c) TRUTH IN LENDING ACT DISCLOSURES.—The
13 form required under section 129A of the Truth in Lending
14 Act shall be provided to the borrower at the time of settle-
15 ment by the person conducting the settlement, in addition
16 to any other disclosures required by this Act. In no case
17 may a federally related mortgage loan be consummated
18 if such form has not been provided to the borrower, both
19 at the time of the approval of the loan, in accordance with
20 that section 129A, and at settlement.”.

21 **SEC. 7. CALCULATION OF FINANCE CHARGE AND APR.**

22 (a) CALCULATION OF FINANCE CHARGE.—Section
23 106 of the Truth in Lending Act (15 U.S.C. 1605) is
24 amended—

1 (1) in subsection (a), by adding at the end of
2 the last sentence the following:

3 “(F) Settlement costs.”;

4 (2) by striking subsection (e); and

5 (3) by redesignating subsection (f) as sub-
6 section (e).

7 (b) CALCULATION OF APR.—Section 107 of the
8 Truth in Lending Act (15 U.S.C. 1606) is amending by
9 adding at the end the following:

10 “(f) EXTENSIONS OF CREDIT SECURED BY AN IN-
11 TEREST IN REAL PROPERTY.—In the case of any exten-
12 sion of credit secured by an interest in real property, the
13 annual percentage rate applicable to such extension of
14 credit shall include any settlement costs applicable in the
15 determination of the finance charge in connection with
16 such extension of credit.”.

17 **SEC. 8. REGISTRATION OF GSES UNDER SECURITIES LAWS.**

18 (a) FANNIE MAE.—

19 (1) MORTGAGE-BACKED SECURITIES.—Section
20 304(d) of the Federal National Mortgage Associa-
21 tion Charter Act (12 U.S.C. 1719(d)) is amended by
22 striking the fourth sentence and inserting the fol-
23 lowing: “Securities issued by the corporation under
24 this subsection shall not be exempt securities for
25 purposes of the Securities Act of 1933.”.

1 (2) SUBORDINATE OBLIGATIONS.—Section
2 304(e) of the Federal National Mortgage Association
3 Charter Act (12 U.S.C. 1719(e)) is amended by
4 striking the fourth sentence and inserting the fol-
5 lowing: “Obligations issued by the corporation under
6 this subsection shall not be exempt securities for
7 purposes of the Securities Act of 1933.”.

8 (3) SECURITIES.—Section 311 of the Federal
9 National Mortgage Association Charter Act (12
10 U.S.C. 1723c) is amended—

11 (A) in the section heading, by striking “AS-
12 SOCIATION”;

13 (B) by inserting “(a) IN GENERAL.—”
14 after “SEC. 311.”;

15 (C) in the second sentence, by inserting
16 “by the Association” after “issued”; and

17 (D) by adding at the end the following:

18 “(b) TREATMENT OF CORPORATION SECURITIES.—

19 “(1) IN GENERAL.—Any stock, obligations, se-
20 curities, participations, or other instruments issued
21 or guaranteed by the corporation pursuant to this
22 title shall not be exempt securities for purposes of
23 the Securities Act of 1933.

24 “(2) EXEMPTION FOR APPROVED SELLERS.—

25 Notwithstanding any other provision of this title or

1 the Securities Act of 1933, transactions involving
2 the initial disposition by an approved seller of pooled
3 certificates that are acquired by that seller from the
4 corporation upon the initial issuance of the pooled
5 certificates shall be deemed to be transactions by a
6 person other than an issuer, underwriter, or dealer
7 for purposes of the Securities Act of 1933.

8 “(3) DEFINITIONS.—For purposes of this sub-
9 section, the following definitions shall apply:

10 “(A) APPROVED SELLER.—The term ‘ap-
11 proved seller’ means an institution approved by
12 the corporation to sell mortgage loans to the
13 corporation in exchange for pooled certificates.

14 “(B) POOLED CERTIFICATES.—The term
15 ‘pooled certificates’ means single class mort-
16 gage-backed securities guaranteed by the cor-
17 poration that have been issued by the corpora-
18 tion directly to the approved seller in exchange
19 for the mortgage loans underlying such mort-
20 gage-backed securities.

21 “(4) MORTGAGE RELATED SECURITIES.—A sin-
22 gle class mortgage-backed security guaranteed by
23 the corporation that has been issued by the corpora-
24 tion directly to the approved seller in exchange for
25 the mortgage loans underlying such mortgage-

1 backed securities or directly by the corporation for
2 cash shall be deemed to be a mortgage related secu-
3 rity, as defined in section 3(a) of the Securities Ex-
4 change Act of 1934.”.

5 (b) FREDDIE MAC.—Section 306(g) of the Federal
6 Home Loan Mortgage Corporation Act (12 U.S.C.
7 1455(g)) is amended to read as follows:

8 “(g) TREATMENT OF SECURITIES.—

9 “(1) IN GENERAL.—Any securities issued or
10 guaranteed by the Corporation shall not be exempt
11 securities for purposes of the Securities Act of 1933.

12 “(2) EXEMPTION FOR APPROVED SELLERS.—
13 Notwithstanding any other provision of this title or
14 the Securities Act of 1933, transactions involving
15 the initial disposition by an approved seller of pooled
16 certificates that are acquired by that seller from the
17 Corporation upon the initial issuance of the pooled
18 certificates shall be deemed to be transactions by a
19 person other than an issuer, underwriter, or dealer
20 for purposes of the Securities Act of 1933.

21 “(3) DEFINITIONS.—For purposes of this sub-
22 section, the following definitions shall apply:

23 “(A) APPROVED SELLER.—The term ‘ap-
24 proved seller’ means an institution approved by

1 the Corporation to sell mortgage loans to the
2 Corporation in exchange for pooled certificates.

3 “(B) POOLED CERTIFICATES.—The term
4 ‘pooled certificates’ means single class mort-
5 gage-backed securities guaranteed by the Cor-
6 poration that have been issued by the Corpora-
7 tion directly to the approved seller in exchange
8 for the mortgage loans underlying such mort-
9 gage-backed securities.”.

10 (c) LIMITATION ON FEES.—Section 6(b)(2) of the
11 Securities Act of 1933 (15 U.S.C. 77f(b)(2)) is amended
12 by adding at the end the following: “Notwithstanding any
13 other provision of this title, no applicant, or group of affili-
14 ated applicants that does not include any investment com-
15 pany registered under the Investment Company Act of
16 1940, filing a registration statement subject to a fee shall
17 be required in any fiscal year with respect to all registra-
18 tion statements filed by such applicant in such fiscal year
19 to pay an aggregate amount in fees to the Commission
20 pursuant to this subsection in an amount that exceeds 5
21 percent of the target offsetting collection amount for such
22 fiscal year. Fees paid in connection with registration state-
23 ments relating to business combinations shall not be in-
24 cluded in calculating the total fees paid by any such appli-
25 cant.”.

1 (d) NO EFFECT ON OTHER LAW.—Nothing in this
2 section or the amendments made by this section shall be
3 construed to affect any exemption from the provisions of
4 the Trust Indenture Act of 1939 provided to the Federal
5 National Mortgage Association or the Federal Home Loan
6 Mortgage Corporation.

7 (e) REGULATIONS.—The Securities and Exchange
8 Commission may issue such regulations as may be nec-
9 essary or appropriate to carry out this section and the
10 amendments made by this section.

11 (f) ESTABLISHMENT OF FINANCIAL COUNSELING
12 AND FORECLOSURE PREVENTION FUND.—

13 (1) ESTABLISHMENT.—There is established in
14 the Securities and Exchange Commission a Finan-
15 cial Counseling and Foreclosure Prevention Fund (in
16 this subsection referred to as the “Fund”), which
17 shall be used by the Commission to provide assist-
18 ance to the Neighborhood Reinvestment Corporation
19 to make grants to counseling intermediaries ap-
20 proved by the Department of Housing and Urban
21 Development or the Neighborhood Reinvestment
22 Corporation to provide mortgage foreclosure mitiga-
23 tion assistance primarily to States and areas with
24 high rates of defaults and foreclosures, as authorized

1 by the Neighborhood Reinvestment Corporation Act
2 (42 U.S.C. 8101–8107).

3 (2) DEPOSITS.—The Fund established under
4 subsection (a) shall consist of any registration fees
5 paid by the Federal National Mortgage Association
6 or the Federal Home Loan Mortgage Corporation to
7 the Securities and Exchange Commission pursuant
8 to section 6 of the Securities Act of 1933 (15 U.S.C.
9 77f).

10 (3) MANAGEMENT OF FUND.—The Fund shall
11 be administered and managed by the Securities and
12 Exchange Commission, which shall establish reason-
13 able and prudent criteria for the management and
14 operation of any amounts in the Fund.

○