

109TH CONGRESS
1ST SESSION

H. R. 2660

To amend the Bank Holding Company Act of 1956 to clarify that real estate brokerage activities and real estate management activities are authorized financial activities for financial holding companies and financial subsidiaries of national banks, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 26, 2005

Mr. OXLEY (for himself and Mr. FRANK of Massachusetts) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Bank Holding Company Act of 1956 to clarify that real estate brokerage activities and real estate management activities are authorized financial activities for financial holding companies and financial subsidiaries of national banks, 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 “Fair Choice and Com-
5 petition in Real Estate Act of 2005”.

1 **SEC. 2. CLARIFICATION THAT CERTAIN REAL ESTATE AC-**
 2 **TIVITIES ARE FINANCIAL ACTIVITIES.**

3 (a) IN GENERAL.—Section 4(k)(4) of the Bank Hold-
 4 ing Company Act of 1956 (12 U.S.C. 1843(k)(4)) is
 5 amended by adding at the end the following new subpara-
 6 graph:

7 “(J) Engaging in real estate brokerage ac-
 8 tivities and real estate management activities.”.

9 (b) DEFINITIONS.—Section 2 of the Bank Holding
 10 Company Act of 1956 (12 U.S.C. 1841) is amended by
 11 adding at the end the following new subsection:

12 “(r) DEFINITIONS RELATING TO FINANCIAL ACTIVI-
 13 TIES.—

14 “(1) REAL ESTATE BROKERAGE ACTIVITY.—
 15 The term ‘real estate brokerage activity’ means any
 16 activity that involves offering or providing real estate
 17 brokerage services to the public, including—

18 “(A) acting as an agent for a buyer, seller,
 19 lessor, or lessee of real property;

20 “(B) listing or advertising real property for
 21 sale, purchase, lease, rental, or exchange;

22 “(C) providing advice in connection with
 23 sale, purchase, lease, rental, or exchange of real
 24 property;

1 “(D) bringing together parties interested
2 in the sale, purchase, lease, rental, or exchange
3 of real property;

4 “(E) negotiating, on behalf of any party,
5 any portion of a contract relating to the sale,
6 purchase, lease, rental, or exchange of real
7 property (other than in connection with pro-
8 viding financing with respect to any such trans-
9 action);

10 “(F) engaging in any activity for which a
11 person engaged in the activity is required to be
12 registered or licensed as a real estate agent or
13 broker under any applicable law; and

14 “(G) offering to engage in any activity, or
15 act in any capacity, described in subparagraph
16 (A), (B), (C), (D), (E), or (F).

17 “(2) REAL ESTATE MANAGEMENT ACTIVITY.—
18 The term ‘real estate management activity’ means
19 any activity that involves offering or providing real
20 estate management services to the public, includ-
21 ing—

22 “(A) procuring any tenant or lessee for
23 any real property;

24 “(B) negotiating leases of real property;

1 “(C) maintaining security deposits on be-
2 half of any tenant or lessor of real property
3 (other than as a depository institution for any
4 person providing real estate management serv-
5 ices for any tenant or lessor of real property);

6 “(D) billing and collecting rental payments
7 with respect to real property or providing peri-
8 odic accounting for such payments;

9 “(E) making principal, interest, insurance,
10 tax, or utility payments with respect to real
11 property (other than as a depository institution
12 or other financial institution on behalf of, and
13 at the direction of, an account holder at the in-
14 stitution);

15 “(F) overseeing the inspection, mainte-
16 nance, and upkeep of real property, generally;
17 and

18 “(G) offering to engage in any activity, or
19 act in any capacity, described in subparagraphs
20 (A), (B), (C), (D), (E), or (F).”.

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