

111TH CONGRESS
1ST SESSION

H. R. 1553

To amend the Home Owners' Loan Act to provide equitable remedies to mutual savings institutions to defend against individuals acting as a de facto corporation attempting to implement a hostile takeover of the institution, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2009

Mr. ACKERMAN introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Home Owners' Loan Act to provide equitable remedies to mutual savings institutions to defend against individuals acting as a de facto corporation attempting to implement a hostile takeover of the institution, 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 “Mutual Savings Asso-
5 ciation Preservation Act”.

1 **SEC. 2. CAUSE OF ACTION ESTABLISHED.**

2 (a) IN GENERAL.—Subsection (h) of section 10 of the
3 Home Owners’ Loan Act (U.S.C. 1467a(h)) is amended—

4 (1) by striking “or” after the semicolon at the
5 end of paragraph (2);

6 (2) by striking the period at the end of para-
7 graph (3) and inserting “; or”; and

8 (3) by inserting after paragraph (3), the fol-
9 lowing new paragraph:

10 “(4) any company or any subsidiary of any
11 company, any director, officer, employee or person
12 owning, controlling, or holding with the power to
13 vote, or holding proxies representing more than 25
14 percent of the voting shares, of such company or
15 subsidiary, or any director, officer, employee or per-
16 son acting in concert with such company or sub-
17 sidiary, to hold, solicit, or exercise any proxies in re-
18 spect of a savings association which is a mutual as-
19 sociation, with the view or intention to, directly or
20 indirectly, control or attempt to control the mutual
21 association.”.

22 (b) ENFORCEMENT ACTION.—Subsection (i) of sec-
23 tion 10 of the Home Owners’ Loan Act (U.S.C. 1467a(i))
24 is amended by inserting after paragraph (3) the following
25 new paragraph:

26 “(4) CIVIL ACTIONS BY ASSOCIATION.—

1 “(A) EQUITABLE RELIEF.—Any aggrieved
2 mutual savings association may bring a civil ac-
3 tion in a court of appropriate jurisdiction and
4 may recover such equitable relief, including in-
5 junctive relief, and reasonable attorneys fees, as
6 determined by the court for any violation or at-
7 tempted violation of paragraph (1) or (4) of
8 subsection (h).

9 “(B) PROXIES NULL AND VOID.—In addi-
10 tion to any damages or relief under paragraph
11 (1), any proxy held or exercised by any party
12 the holding or exercise of which has been deter-
13 mined to be a violation of paragraph (1) or (4)
14 of subsection (h) shall be deemed null and void,
15 as of the inception of such proxy, and shall not
16 be counted for purposes of determining a
17 quorum at any meeting of such aggrieved mu-
18 tual association.

19 “(C) STATUTE OF LIMITATION.—

20 “(i) IN GENERAL.—An action may not
21 be brought under subparagraph (A) after
22 the end of the 180-day period beginning on
23 the later of—

1 “(I) the date of the discovery of
2 the alleged violation by the aggrieved
3 mutual savings association; or

4 “(II) the date of the enactment
5 of the Mutual Savings Association
6 Preservation Act.

7 “(ii) ‘NO ATTRIBUTION’ RULE.—For
8 purposes of clause (i)(I), the knowledge of
9 the facts and circumstances giving rise to
10 an alleged violation by any party to the
11 violation shall not be attributed to the sav-
12 ings association.”.

○