

111TH CONGRESS
1ST SESSION

H. R. 2394

To establish the Family Foreclosure Rescue Corporation to provide emergency relief to refinance home mortgages of homeowners in foreclosure or default.

IN THE HOUSE OF REPRESENTATIVES

MAY 13, 2009

Mr. BACA introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Ways and Means, 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 establish the Family Foreclosure Rescue Corporation to provide emergency relief to refinance home mortgages of homeowners in foreclosure or default.

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 “Family Foreclosure
5 Rescue Corporation Act”.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are to provide emergency
8 relief with respect to home mortgage indebtedness through

1 the establishment of a corporation to directly refinance
2 home mortgages to homeowners currently in foreclosure,
3 serious default, or with a reasonable expectation of immi-
4 nent, sustained default and—

5 (1) to extend relief to the owners of homes oc-
6 cupied by them and who are unable to amortize their
7 debt elsewhere, including those homeowners whose
8 outstanding mortgage indebtedness exceeds the value
9 of their home due to recent declines in the housing
10 market;

11 (2) to provide necessary funds for refinancing
12 without reliance on liquidity and credit availability in
13 private markets;

14 (3) to stabilize neighborhoods by reducing fore-
15 closures and the downward impact on house prices
16 created by the threat of widespread foreclosure;

17 (4) to encourage loan originators and servicers
18 to modify the terms of existing nonperforming loans
19 to obligations that borrowers can reasonably repay;

20 (5) to provide mortgage assistance in an effi-
21 cient manner at minimal to no cost to the taxpayer,
22 with corporate profits returned to the Treasury of
23 the United States; and

24 (6) to minimize the impacts of the current
25 mortgage crisis on the broader economy.

1 **SEC. 3. DEFINITIONS.**

2 For purposes of this Act, the following definitions
3 shall apply:

4 (1) CORPORATION.—The term “Corporation”
5 means the Family Foreclosure Rescue Corporation
6 established under section 4.

7 (2) BOARD.—The term “Board” means the
8 Board of Directors of the Corporation.

9 (3) HOME MORTGAGE.—The term “home mort-
10 gage” means a first mortgage on real estate—

11 (A)(i) in fee simple, upon which there is lo-
12 cated a dwelling for not more than four fami-
13 lies;

14 (ii) on a leasehold under a renewable lease
15 for not less than 99 years, upon which there is
16 located a dwelling for not more than four fami-
17 lies; or

18 (iii) that is a single unit in a condominium;
19 and

20 (B) has a value not exceeding the lower
21 of—

22 (i) 125 percent of the local area me-
23 dian home price; or

24 (ii) 175 percent of the dollar amount
25 limitation for a single-family residence
26 then in effect under section 305(a)(2) of

1 the Federal Home Loan Mortgage Cor-
2 poration Act (12 U.S.C. 1454(a)(2)).

3 (4) SECRETARY.—The term “Secretary” means
4 the Secretary of the Treasury.

5 **SEC. 4. ESTABLISHMENT.**

6 The Secretary of the Treasury shall establish a cor-
7 poration to be known as the Family Foreclosure Rescue
8 Corporation, which shall be an instrumentality of the
9 United States, and which shall have authority to sue and
10 to be sued in any court of competent jurisdiction, Federal
11 or State.

12 **SEC. 5. BOARD.**

13 (a) IN GENERAL.—The Corporation shall be under
14 the direction of a Board of Directors and shall be operated
15 by the Board under such bylaws, rules, and regulations
16 as the Board may prescribe for the accomplishment of the
17 purposes and intent of this Act.

18 (b) MEMBERS.—The Board shall consist of seven
19 members, as follows:

20 (1) Two of the members shall be appointed by
21 the President.

22 (2) Four of the members shall be appointed by
23 President from among a list of 10 nominees selected
24 jointly by the Speaker of the House of Representa-
25 tives and the majority leader of the Senate.

1 (3) The Secretary shall serve as an ex officio
2 member of the Board.

3 **SEC. 6. CAPITAL STOCK.**

4 (a) IN GENERAL.—The Corporation shall have cap-
5 ital stock subscribed to by the Secretary on behalf of the
6 United States Government in such amount as the Sec-
7 retary may determine to be appropriate, to the extent pro-
8 vided in advance in an appropriation Act for any fiscal
9 year, but not to exceed in the aggregate \$200,000,000.

10 (b) CERTIFICATES.—Certificates evidencing shares of
11 nonvoting capital stock of the Corporation shall be issued
12 by the Corporation to the Secretary, to the extent of pay-
13 ments made for the capital stock of the Corporation.

14 (c) PUBLIC DEBT TRANSACTION.—For the purpose
15 of purchasing shares of capital stock of the Corporation,
16 the Secretary may use as a public-debt transaction the
17 proceeds of any securities issued under chapter 31 of title
18 31, United States Code.

19 **SEC. 7. BORROWING.**

20 (a) ISSUANCE.—The Corporation may issue bonds in
21 an aggregate amount not to exceed \$150,000,000,000,
22 which may be sold by the Corporation to obtain funds for
23 carrying out the purposes of this Act, or exchanged as
24 hereinafter provided. Such bonds shall be issued in such
25 denominations as the Board shall prescribe, shall mature

1 within a period of not more than 30 years from the date
2 of their issue, shall bear interest at a rate not to exceed
3 5 percent annually, and shall be fully and unconditionally
4 guaranteed as to principal and interest by the United
5 States, and such guaranty shall be expressed on the face
6 thereof.

7 (b) PAYMENT.—The Corporation shall make bond
8 payments of accrued interest plus principal in the amount
9 sufficient to return the principal within a period not to
10 exceed 30 years, and such payments may be made month-
11 ly, quarterly, semiannually, or annually, in the discretion
12 of the Corporation. Outstanding principal and accrued in-
13 terest shall be paid to the bond holder in the event that
14 the mortgage issued in exchange for that bond is paid off
15 or title to the underlying property is transferred by sale
16 or foreclosure.

17 (c) TREASURY BORROWING.—In the event that the
18 Corporation is unable to pay upon demand, when due, the
19 interest on any such bonds, the Secretary shall pay to the
20 Corporation the amount of such interest, which is hereby
21 authorized to be appropriated to the Corporation, and the
22 Corporation shall pay the amount of such interest to the
23 holders of the bonds. Upon the payment of such interest
24 by the Secretary, the amount so paid shall become an obli-
25 gation of the Corporation to the United States and shall

1 bear interest at the same rate as that borne by the bonds
 2 upon which the interest has been so paid.

3 (d) TREATMENT.—The bonds issued by the Corpora-
 4 tion under this section shall be exempt, both as to prin-
 5 cipal and interest, from all taxation (except surtaxes, es-
 6 tate, inheritance, and gift taxes) now or hereafter imposed
 7 by the United States or any District, Territory, depend-
 8 ency, or possession thereof, or by any State, county, mu-
 9 nicipality, or local taxing authority.

10 **SEC. 8. TREATMENT OF CORPORATION.**

11 The Corporation, including its franchise, its capital,
 12 reserves, and surplus, and its loans and income, shall be
 13 exempt from taxation referred to in section 7(c), except
 14 that any real property of the Corporation shall be subject
 15 to taxation to the same extent, according to its value, as
 16 other real property is taxed.

17 **SEC. 9. EMERGENCY MORTGAGE RELIEF.**

18 (a) ACQUISITION OF MORTGAGES.—The Corporation
 19 may, during the three-year period that begins upon the
 20 date of the enactment of this Act—

21 (1) acquire in exchange for bonds issued by the
 22 Corporation, home mortgages and other obligations
 23 and liens secured by real estate (including the inter-
 24 est of a vendor under a purchase-money mortgage or
 25 contract) recorded or filed in the proper office or ex-

1 ecuted prior to the date of the enactment of this
2 Act, which are currently in default or at foreseeable
3 risk of default, except that—

4 (A) in the event that the home mortgage
5 was placed in a trust or other qualified special
6 purpose vehicle for the purposes of
7 securitization, acceptance of Corporation bonds
8 by a duly appointed servicer as payment in full
9 for the purchase of the home mortgage shall be
10 construed as a nonforeclosure alternative to the
11 termination of a loan, equivalent to a short sale
12 or short payoff;

13 (B) the face value of the bonds so ex-
14 changed and the cash so advanced shall not ex-
15 ceed, in any case, the principal balance plus ac-
16 crued interest on that balance (exclusive of ad-
17 ditional fees incurred as part of lender workouts
18 and similar actions), as of the time of acquisi-
19 tion by the Corporation, as determined by an
20 appraisal made by the Corporation; and

21 (C) in any case in which the amount of the
22 face value of the bonds exchanged plus accrued
23 interest thereon and the cash advanced is less
24 than the amount the homeowner owes with re-
25 spect to the home mortgage or other obligation

1 or lien so acquired by the Corporation, the Cor-
2 poration shall credit the difference between
3 such amounts to the homeowner and shall re-
4 duce the amount owed by the homeowner to the
5 Corporation, to that extent; and

6 (2) in connection with any such exchange, make
7 advances in cash to pay the taxes and assessments
8 on the real estate, to meet the incidental expenses of
9 the transaction, and to pay such amounts, not ex-
10 ceeding \$750, to the holder of the mortgage, obliga-
11 tion, or lien acquired as may be the difference be-
12 tween the face value of the bonds exchanged and the
13 purchase price of the mortgage, obligation, or lien;

14 (b) AMORTIZATION.—Each home mortgage or other
15 obligation or lien so acquired shall be carried as a first
16 lien or refinanced as a home mortgage by the Corporation
17 on the basis of the price paid for the mortgage, obligation,
18 or lien by the Corporation, and shall be amortized by
19 means of monthly payments sufficient to retire the inter-
20 est and principal within a period of not to exceed 30 years;
21 but the amortization payments of any homeowner may be
22 made quarterly, semiannually, or annually, if in the judg-
23 ment of the Corporation the situation of the homeowner
24 requires it.

1 (c) MAXIMUM INTEREST RATE.—Interest on the un-
2 paid balance of the obligation of the homeowner to the
3 Corporation shall be at a rate not exceeding 7.5 percent
4 annually.

5 (d) EXTENSIONS.—The Corporation may at any time
6 grant an extension of time to any homeowner for the pay-
7 ment of any installment of principal or interest owed by
8 the homeowner to the Corporation if, in the judgment of
9 the Corporation, the circumstances of the homeowner and
10 the condition of the security justify such extension.

11 (e) REDEMPTION AND RECOVERY OF FORECLOSED
12 PROPERTIES.—The Corporation may, during the 3-year
13 period described in subsection (a), exchange bonds and ad-
14 vance cash subject to the limitations provided in sub-
15 section (a), to redeem or recover homes lost by the owners
16 by foreclosure or forced sale by a trustee under a deed
17 of trust or under power of attorney, or by voluntary sur-
18 render to the mortgagee within 2 years prior to such ex-
19 change or advance.

20 (f) REAL ESTATE.—As used in this section, the term
21 “real estate” includes only real estate described in section
22 3(3).

23 **SEC. 10. NONDISCRIMINATION.**

24 (a) LOCATION OF REAL ESTATE.—No discrimination
25 shall be made under this Act against any home mortgage

1 by reason of the fact that the real estate securing such
2 mortgage is located in a municipality, county, or taxing
3 district which is in default upon any of its obligations.

4 (b) CHARACTERISTICS OF APPLICANTS.—The Cor-
5 poration is prohibited from discriminating in its lending
6 behavior based on the race, color, religion, sex, national
7 origin, age, disability, or familial status of the applicant
8 or applicants.

9 **SEC. 11. DENIAL OF APPLICATIONS.**

10 (a) AUTHORITY TO DENY.—The Corporation may
11 deny a home mortgage application on the grounds of an
12 applicant's inability to pay or excess indebtedness, as de-
13 termined by credit score, household income and assets, or
14 other criteria, to be determined by the Board or its des-
15 ignees.

16 (b) COUNSELING.—The Corporation shall provide ap-
17 plicants who are denied a home mortgage issued by the
18 Corporation information sufficient to identify and contact
19 a housing counseling provider serving the local area in
20 which the applicant resides who has been certified pursu-
21 ant to section 106(f) of the Housing and Urban Develop-
22 ment Act of 1968 (12 U.S.C. 1701x(f)).

23 **SEC. 12. DISPOSITION OF REAL ESTATE.**

24 In the event the Corporation takes possession of real
25 estate through foreclosure, voluntary transfer of title, or

1 otherwise, the Corporation shall dispose of the real estate
2 in a manner that minimizes adverse impacts on neigh-
3 boring property values by staggering sales so as not to
4 create an excess supply of properties for sale or by offering
5 properties for rent until disposition is possible. The Cor-
6 poration may make necessary repairs to Corporation-
7 owned property to maintain the value of the property and
8 to prepare it for disposition.

9 **SEC. 13. APPRAISALS.**

10 The Board shall make rules for the appraisal of the
11 property on which loans are made under this Act, to ac-
12 complish the purposes of this Act.

13 **SEC. 14. OTHER PROVISIONS.**

14 (a) OFFICERS AND EMPLOYEES.—The Corporation
15 shall have power to select, employ, and fix the compensa-
16 tion of such officers, employees, attorneys, or agents as
17 shall be necessary for the performance of its duties under
18 this Act, without regard to the provisions of other laws
19 applicable to the employment or compensation of officers,
20 employees, attorneys, or agents of the United States. No
21 such officer, employee, attorney, or agent shall be paid
22 compensation at a rate in excess of the rate provided for
23 the members of the Board.

24 (b) USE OF MAILS.—The Corporation may use the
25 United States mails in the same manner and under the

1 same conditions as other departments and agencies of the
2 United States.

3 (c) SALARIES AND EXPENSES.—The Corporation
4 shall pay such proportion of the salary and expenses of
5 the members of the Board and of its officers and employ-
6 ees as the Board may determine to be equitable, and may
7 use the facilities of Federal Home Loan Banks, upon mak-
8 ing reasonable compensation for such use, as determined
9 by the Board.

10 (d) BYLAWS, RULES, AND REGULATIONS.—The
11 Board may make such bylaws, rules and regulations, not
12 inconsistent with the provisions of this Act, as may be nec-
13 essary for the proper conduct of the affairs of the Corpora-
14 tion.

15 (e) RETIREMENT OF STOCK.—The Corporation shall
16 retire and cancel the bonds and stock of the Corporation
17 as rapidly as the resources of the Corporation will permit.
18 Upon the retirement of such stock, the reasonable value
19 thereof as determined by the Board shall be paid into the
20 Treasury of the United States and the receipts issued
21 therefor shall be canceled.

22 **SEC. 15. LIQUIDATION.**

23 The Board shall proceed to liquidate the Corporation
24 when its purposes have been accomplished, and shall pay
25 any surplus or accumulated funds into the Treasury of

1 the United States. The Corporation may declare and pay
2 such dividends to the United States as may be earned and
3 as in the judgment of the Board it is proper for the Cor-
4 poration to pay.

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