

111TH CONGRESS  
1ST SESSION

# H. R. 2897

To amend the Federal Deposit Insurance Act to return a sense of fairness and accountability to the deposit insurance premium assessment process, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 16, 2009

Mr. GUTIERREZ (for himself, Mr. KANJORSKI, Mr. CAPUANO, Ms. MOORE of Wisconsin, and Ms. LEE of California) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To amend the Federal Deposit Insurance Act to return a sense of fairness and accountability to the deposit insurance premium assessment process, 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 “Bank Accountability  
5       and Risk Assessment Act of 2009”.

6       **SEC. 2. FINDINGS AND PURPOSE.**

7       (a) FINDINGS.—Congress makes the following find-  
8       ings:

1           (1) The unprecedented Government intervention  
2           into the financial markets in 2008 was required by  
3           a threat to our Nation’s economy from large, com-  
4           plex, and deeply inter-connected financial institu-  
5           tions, many of which were on the verge of failing.

6           (2) The necessary Government intervention in  
7           the financial system placed hundreds of billions of  
8           taxpayer dollars at risk.

9           (3) Many of the financial institutions involved  
10          in the crisis were so large and their dealings so  
11          intertwined that their failures could have led to the  
12          collapse of America’s financial system.

13          (4) The scale of the banking system crisis put  
14          severe strains on the Deposit Insurance Fund of the  
15          Federal Deposit Insurance Corporation.

16          (5) The depository institutions that present a  
17          systemic risk to the financial system would over-  
18          whelm the resources of the Deposit Insurance Fund  
19          if one or more of them were to fail.

20          (6) Without a substantial increase in the De-  
21          posit Insurance Fund, depository institutions that  
22          are deemed “too-big-to-fail” will remain potential  
23          threats to the health of the entire financial system  
24          and possibly place U.S. taxpayer dollars at risk.

1           (7) It is inherently unfair to require the finan-  
2           cial institutions that are too small to be systemic  
3           risks, or that do not become involved in the most  
4           risky, questionable, and harmful financial practices,  
5           to share the financial responsibility for the failures  
6           of these “too-big-to-fail” institutions.

7           (8) Large depository institutions whose failure  
8           may threaten the safety and soundness of the entire  
9           financial system should be assessed premiums based  
10          on their potential risk to the system, not just on the  
11          deposits they hold.

12          (9) The Deposit Insurance Fund should be in-  
13          sulated against potential financial crises, the finan-  
14          cial institutions that cause a crisis in the future  
15          must be held accountable, and U.S. taxpayer dollars  
16          should not be placed at risk.

17          (b) PURPOSE.—The purpose of this Act is to main-  
18          tain the safety and soundness of the U.S. banking system  
19          by ensuring that the Federal Deposit Insurance Corpora-  
20          tions’ Deposit Insurance Fund is adequately capitalized  
21          to respond to the failures of large depository institutions  
22          that would otherwise threaten our financial system and  
23          to return a sense of fairness and accountability to the de-  
24          posit insurance premium assessment process.

1 **SEC. 3. ACCOUNTING FOR ACTUAL RISK TO THE DEPOSIT**  
2 **INSURANCE FUND.**

3 (a) Section 7(b)(1)(C) of the Federal Deposit Insur-  
4 ance Act is amended to read as follows:

5 “(C) ‘RISK-BASED ASSESSMENT SYSTEM’  
6 DEFINED.—For purposes of this paragraph, the  
7 term ‘risk-based assessment system’ means a  
8 system for calculating a depository institution’s  
9 assessment based on—

10 “(i) the probability that the Deposit  
11 Insurance Fund will incur a loss with re-  
12 spect to the institution;

13 “(ii) the likely amount of any such  
14 loss;

15 “(iii) the risks to the Deposit Insur-  
16 ance Fund attributable to such depository  
17 institution and its affiliates, taking into ac-  
18 count—

19 “(I) the amount, different cat-  
20 egories, and concentrations of assets  
21 of the insured depository institution  
22 and its affiliates, including both on-  
23 balance sheet and off-balance sheet  
24 assets;

25 “(II) the amount, different cat-  
26 egories, and concentrations of liabil-

1                   ities, both insured and uninsured, con-  
2                   tingent and noncontingent, including  
3                   both on-balance sheet and off-balance  
4                   sheet liabilities, of the insured deposi-  
5                   tory institution and its affiliates; and  
6                   “(III) any other factors the Cor-  
7                   poration determines are relevant to  
8                   assessing the risks; and  
9                   “(iv) the revenue needs of the Deposit  
10                  Insurance Fund.”.

11               (b) Section 7(b)(1) of the Federal Deposit Insurance  
12 Act is further amended by redesignating subparagraphs  
13 (E) and (F) as subparagraphs (F) and (G), respectively,  
14 and by adding the following new subparagraph (E):

15                   “(E) SYSTEMIC RISK PREMIUM.—

16                   “(i) In addition to any annual assess-  
17                   ment imposed under paragraph (2) or spe-  
18                   cial assessment imposed under paragraph  
19                   (5), the Board of Directors shall impose a  
20                   systemic risk assessment, at least annually,  
21                   on all systemically important depository in-  
22                   stitutions. For purposes of the subpara-  
23                   graph, ‘systemically important depository  
24                   institution’ shall mean an insured deposi-  
25                   tory institution that is designated as sys-

1           temically important by the Corporation, in  
2           consultation with the Secretary of the  
3           Treasury and the Board of Governors of  
4           the Federal Reserve System, or that is an  
5           affiliate of a depository institution holding  
6           company or, in the case of an industrial  
7           loan company, controlling parent company  
8           designated as systemically important by  
9           the Corporation, in consultation with the  
10          Secretary of the Treasury and the Board  
11          of Governors of the Federal Reserve Sys-  
12          tem.

13               “(ii) In designating an insured deposi-  
14               tory institution, depository institution hold-  
15               ing company, or controlling parent com-  
16               pany as systemically important, the Cor-  
17               poration shall take into account:

18                       “(I) the amount, different cat-  
19                       egories, and concentrations of assets  
20                       of the entity and its affiliates, includ-  
21                       ing both on-balance sheet and off-bal-  
22                       ance sheet assets;

23                       “(II) the amount, different cat-  
24                       egories, and concentrations of liabil-  
25                       ities, both insured and uninsured, con-

1                   tingent and noncontingent, including  
 2                   both on-balance sheet and off-balance  
 3                   sheet liabilities, of the entity and its  
 4                   affiliates;

5                   “(III) the activities of the entity  
 6                   and its affiliates;

7                   “(IV) the relevant market share  
 8                   of the entity and its affiliates; and

9                   “(V) the potential adverse effects  
 10                  on economic conditions and financial  
 11                  stability, in the event any of the  
 12                  grounds in (c)(5) were to exist with  
 13                  respect to such entity.”.

14           (c) Section 7(b)(2) of the Federal Deposit Insurance  
 15   Act is amended by striking paragraph (D) and by redesigning  
 16   subparagraph (C) as subparagraph (D).

17   **SEC. 4. CREATING A RISK-FOCUSED ASSESSMENT BASE.**

18           Section 7(b)(2), as amended, is further amended by  
 19   adding the following new subparagraph (C):

20                   “(C) ASSESSMENT BASE.—The assessment  
 21                  of any insured depository institution imposed  
 22                  under this subsection shall be an amount equal  
 23                  to the product of—

24                   “(i) an assessment rate established by  
 25                  the Corporation; and

1                   “(ii) the amount of the insured depos-  
2                   itory institution’s average total assets dur-  
3                   ing the assessment period minus the  
4                   amount of the insured depository institu-  
5                   tion’s average tangible equity during the  
6                   assesssment period.”.

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