I

111TH CONGRESS
1ST SESSION

H. R. 906

To provide incentives for affordable housing.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 2009

Mrs. TAUSCHER (for herself, Mr. CARDOZA, Ms. ZOE LOFGREN of California, Ms. BERKLEY, and Mr. HINCHEY) 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 provide incentives for affordable housing.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Housing Disaster Area Foreclosure Prevention Act of 2009".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—EXPANSION OF STATE FORECLOSURE MITIGATION PROGRAMS

SEC. 101. STABILIZATION OF THE MORTGAGE REVENUE BOND MARKET.

The Secretary of the Treasury shall take all necessary steps to support the mortgage revenue bond market, including the use of amounts made available under title I of the Emergency Economic Stabilization Act of 2008 to purchase mortgage revenue bonds (as defined in section 143 of the Internal Revenue Code of 1986) at a rate of interest that makes the housing programs carried out with the proceeds of such bonds economically feasible.

SEC. 102. TARP ASSISTANCE FOR REFINANCING UNDERWATER MORTGAGES.

(a) AUTHORITY.—The Secretary of the Treasury shall carry out a program to use amounts specified in subsection (e) to reduce the outstanding debt on qualifying existing underwater mortgages in connection with the refinancing of such mortgages.

(b) QUALIFYING EXISTING UNDERWATER MORTGAGES.—For purposes of this section, the term ''qualifying existing underwater mortgage'' means a mortgage or mortgages on a 1- to 4-family owner-occupied residential property that has an appraised value that is less than the outstanding obligation under such mortgage or mortgages.

(c) TERMS OF REFINANCING MORTGAGE.—The Secretary may use amounts under the program under this section only with respect to qualifying existing underwater mortgages that are refinanced under a mortgage that is eligible to be financed with the proceeds of a mortgage revenue bond pursuant to section 143(k)(12) of the Internal Revenue Code of 1986.

(d) RECAPTURE OF ASSISTANCE AMOUNTS.—In making assistance available under the program under this section with respect to a qualifying existing underwater mortgage, the Secretary shall take such actions and enter into such binding agreements as are necessary to provide for recovery by the Secretary, upon any sale of the residential property subsequent to the refinancing of the mortgage under such program, of the lesser of—

(1) an amount equal to 50 percent of any proceeds of the sale in excess of the amount necessary to fully pay any outstanding obligations, including interest, under the refinanced mortgage; or

(2) the amount of assistance provided under the program with respect to such mortgage.

(e) USE OF TARP AMOUNTS.—Of any amounts made available under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211 et seq.), the Secretary of the Treasury shall reserve for use only under the program under this section, and shall use only under such program, amounts sufficient to provide assistance under the program in connection with any mortgage refinanced with the proceeds of a mortgage revenue bond pursuant to section 143(k)(12) of the Internal Revenue Code of 1986.

SEC. 103. INTEREST RATE BUY-DOWN FOR REFINANCING MORTGAGES AND NEW MORTGAGES FOR HOMES IN AREAS SERVED BY STATE HOUSING FINANCE AGENCY FORECLOSURE PREVENTION PROGRAMS.

(a) AUTHORITY.—The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation shall each carry out a program under this section to purchase and securitize qualified refinancing mortgages and qualified new mortgages on single-family housing, in accordance with this section and policies and procedures that the Director of the Federal Housing Finance Agency shall establish.

(b) PURCHASE OF QUALIFIED MORTGAGES.—

(1) REQUIREMENT TO PURCHASE.—If a lender proffers to an enterprise, in accordance with requirements established by the Director, a mortgage or mortgages for purchase under this section, the enterprise shall make a determination of whether such mortgage or mortgages are qualified mortgages. Subject to subsection (h), if the enterprise determines that such mortgage or mortgages meet the requirements for qualified mortgages, the enterprise shall make a commitment to purchase, and shall purchase, the mortgage or mortgages.

(2) ADVANCE COMMITMENTS.—The Director shall require each enterprise to establish a procedure for approval of lenders to receive commitments, in advance of the origination of qualified mortgages, for purchase of such mortgages under this section by the enterprise.

(c) QUALIFIED MORTGAGES.—

(1) QUALIFIED MORTGAGE.—For purposes of this section, the term ‘‘qualified mortgage’’ means a mortgage that is a qualified refinancing mortgage or a qualified new mortgage.

(2) QUALIFIED REFINANCING MORTGAGE.—For purposes of this section, the term ‘‘qualified refinancing mortgage’’ means a mortgage that meets the following requirements:

(A) SINGLE-FAMILY HOUSING IN HOUSING DISTRESS AREAS SERVED BY STATE HOUSING FINANCE AGENCY FORECLOSURE REDUCTION PROGRAMS.—The property subject to the mortgage shall be a residence as defined in section 143 of the Internal Revenue Code of 1986 that is located within a qualified census tract or area of chronic economic distress (within the meaning given such terms in section 143(j) of such Code) that is located within a foreclosure crisis

State (as such term is defined in section 146(d)(6) of such Code).

(B) PRINCIPAL RESIDENCE.—The mortgagor under the mortgage shall satisfy the requirement in section 143(c)(1) of the Internal Revenue Code of 1986.

(C) REFINANCING.—The principal loan amount repayment of which is secured by the mortgage shall be used to satisfy all indebtedness under an existing first mortgage that—

(i) was made for purchase of, or refinancing another first mortgage on, the same property that is subject to the qualified refinancing mortgage; and

(ii) was originated on or before January 1, 2008.

(D) INTEREST RATE; TERM TO MATURITY.—The mortgage shall—

(i) bear interest at a single annual rate that is fixed for the entire term of the mortgage, which shall not exceed the annual rate that is 100 basis points less than the prevailing annual interest rate for mortgages of similar type and term to maturity, as determined by the Director; and

(ii) have a term to maturity of not less than 30 years and not more than 40 years from the date of the beginning of the amortization of the mortgage.

(E) UNDERWRITING STANDARDS.—The mortgage shall meet such underwriting standards as the Director shall require.

(F) WAIVER OF PREPAYMENT PENALTIES.—All penalties for prepayment or refinancing of the underlying mortgage refinanced by the mortgage, and all fees and penalties related to the default or delinquency on such mortgage, shall have been waived or forgiven.

(3) QUALIFIED NEW MORTGAGE.—For purposes of this section, the term ''qualified new mortgage'' means a mortgage that meets the following requirements:

(A) TERMS.—The mortgage meets the requirements under subparagraphs (A), (B), (D), and (E) of paragraph (2).

(B) HOME PURCHASE.—The principal loan amount repayment of which is secured by the mortgage shall be used to purchase the property that is subject to the qualified new mortgage.

(C) NEW MORTGAGES.—The mortgage was originated on or after the date of the enactment of this Act.

(d) EXCEPTIONS TO UNDERWRITING STANDARDS.—Each enterprise shall establish such exceptions to the underwriting standards of the enterprise, including downpayment and credit rating standards, that conform to the underwriting standards established pursuant to subsection (c)(2)(E), as may be necessary to allow the enterprise to purchase and securitize qualified refinancing mortgages and qualified new mortgages under this section, in accordance with such requirements as the Director shall establish.

(e) SECURITIZATION.—

(1) REQUIREMENT.—Each enterprise shall, upon such terms and conditions as it may prescribe, set aside any qualified mortgages purchased by it under this section and, upon approval of the Secretary of the Treasury, issue and sell securities based upon such mortgages set aside.

(2) FORM.—Securities issued under this subsection may be in the form of debt obligations or trust certificates of beneficial interest, or both.

(3) TERMS.—Securities issued under this subsection shall have such maturities and bear such

rate or rates of interest as may be determined by the enterprise with the approval of the Secretary.

(4) EXEMPTION.—Securities issued by an enterprise under this subsection shall, to the same extent as securities which are direct obligations of or obligations guaranteed as to principal and interest by the United States, be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission.

(5) PRINCIPAL AND INTEREST PAYMENTS.—Mortgages set aside pursuant to this subsection shall at all times be adequate to enable the issuing enterprise to make timely principal and interest payments on the securities issued and sold pursuant to this subsection.

(6) REQUIRED DISCLOSURE.—Each enterprise shall insert appropriate language in all of the securities issued under this subsection clearly indicating that such securities, together with the interest thereon, are not guaranteed by the United States and do not constitute a debt or obligation of the United States or any agency or instrumentality thereof other than the enterprise.

(f) FEDERAL RESERVE FINANCING FACILITY.—The Secretary of the Treasury shall establish a credit facility of the Federal Reserve System to make credit available to the enterprises at interest rates comparable to rates on securities issued by the Secretary of the Treasury under chapter 31 of title 31, United States Code, and having comparable terms, as determined by the Board.

(g) DEFINITIONS.—For purposes of this Act, the following definitions shall apply:

(1) DIRECTOR.—The term ''Director'' means the Director of the Federal Housing Finance Agency.

(2) ENTERPRISE.—The term ''enterprise'' means the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(h) TERMINATION.—The requirement under subsection (b)(1) for the enterprises to purchase mortgages shall not apply to any mortgage proffered to an enterprise after December 31, 2010.

SEC. 104. HUD ACTION TO INCREASE ACCESS TO MORTGAGE INSURANCE BY STATE HOUSING FINANCE AGENCIES.

The Secretary of Housing and Urban Development shall take all necessary actions, in consultation and coordination with State housing finance agencies, to increase access by such agencies to mortgage insurance for the purpose of making such insurance available in connection with mortgages financed by bonds issued by such agencies pursuant to this Act and the amendments made by this Act.

SEC. 105. STATE REPORTS ON USE OF REFINANCING BOND AUTHORITY.

Not later than the expiration of the 6-month period beginning upon the date of the enactment of this Act and every six months thereafter until the refinancing bond authority provided by the amendments made by title II of this Act has been exhausted, each State using the refinancing authority provided by the amendments made by section 3021 of the Housing and Economic Recovery Act of 2008 (Public Law 110–289; 122 Stat. 2892) shall submit a report to the Congress specifying—

(1) the amount of the refinancing bond authority provided for the State under the amendments made by such section 3021 and title II of this Act that remains;

(2) the number of homes that have been refinanced using such refinancing authority of the State; and

(3) the counties and municipalities in the State in which homes are located that are subject to mortgages refinanced using such refinancing authority

and the amount of such authority used with respect to each such county and municipality.

TITLE II—HOUSING TAX INCENTIVES

SEC. 201. TEMPORARY INCREASE IN VOLUME CAP FOR HOUSING BONDS ISSUED FOR AREAS MOST AFFECTED BY FORECLOSURE CRISIS.

(a) IN GENERAL.—Subsection (d) of section 146 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(6) INCREASE AND SET ASIDE FOR HOUSING BONDS FOR 2009.—

"(A) INCREASE OF 2009.—In the case of calendar year 2009, the State ceiling for each foreclosure crisis State shall be increased by the sum of—

"(i) an amount equal to $10,000,000,000 multiplied by a fraction—

"(I) the numerator of which is the number of foreclosures in such State, and

"(II) the denominator of which is the aggregate number of foreclosures in all foreclosure crisis States, plus "(ii) an amount equal to $10,000,000,000 multiplied by a fraction—

"(I) the numerator of which is the number of single family residences in such State with mortgages that are more than 30 days past due, and

"(II) the denominator of which is the aggregate number of single family residences in all foreclosure crisis States with mortgages that more than 30 days past due.

"(B) SET ASIDE.—Any amount of the State ceiling for any foreclosure crisis State which is attributable to an increase under this paragraph shall be allocated solely for one or more qualified housing issues (as defined in paragraph (5)). The State shall ensure that such issues (to the extent attributable to an increase under this paragraph) are used to finance housing in the counties and municipalities of the State which experience the highest number of foreclosures, or have the highest number of residences with mortgages that are more than 30 days past due, per capita.

"(C) FORECLOSURE CRISIS STATE.—For purposes of this paragraph, the term 'foreclosure crisis State' means the 10 States determined by the Secretary as having been the most impacted by the foreclosure crisis. In making such determination the Secretary shall take into account the rate of foreclosures in the States, the rate of single family residences in the States with mortgages that are more than 30 days past due, and such other factors as the Secretary determines appropriate.".

(b) CARRYFORWARD OF UNUSED LIMITATIONS.—Paragraph (6) of section 146(f) of the Internal Revenue Code of 1986 is amended—

(1) by striking "subsection (d)(5)" in the text preceding subparagraph (A) and inserting "paragraph (5) or (6) of subsection (d)", and

(2) by striking "INCREASED VOLUME CAP UNDER SUBSECTION (D)(5)" in the heading thereof and inserting "TEMPORARY INCREASED VOLUME CAP".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 202. EXTENSION OF TIME FOR USING INCREASED VOLUME CAP FOR HOUSING BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 146(f)(6) of the Internal Revenue Code of 1986 is amended by striking "2010" and inserting "2011".

(b) REPORT.—Not later than December 31, 2010, the Secretary of the Treasury shall submit a written report to Congress regarding whether or not, considering the stability of the housing markets, the liberalization of the tax-exempt housing bond rules included in sections 146(d)(5), 146(d)(6), and 143(k)(12) of the Internal Revenue Code of 1986 should be extended beyond December 31, 2011.

SEC. 203. EXPANSION OF USE OF MORTGAGE REVENUE BONDS FOR MORTGAGE REFINANCING LOANS.

(a) IN GENERAL.—Subparagraph (C) of section 143(k)(12) of the Internal Revenue Code of 1986 is amended by striking "adjustable rate".

(b) EXTENSION OF PROGRAM.—Subparagraph (D) of section 143(k)(12) of such Code is amended by striking "December 31, 2010" and inserting "December 31, 2011".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 204. ALTERNATIVE MINIMUM TAX LIMITATIONS NOT APPLICABLE TO REFINANCINGS OF TAX-EXEMPT HOUSING BONDS.

(a) IN GENERAL.—Clause (iii) of section 57(a)(5)(C) of the Internal Revenue Code of 1986 is amended by striking the last sentence thereof.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to refunding bonds issued after the date of the enactment of this Act.

SEC. 205. CLARIFICATION OF APPLICABILITY TO HIGH FORECLOSURE IMPACT AREAS.

(a) IN GENERAL.—Subsection (j) of section 143 of the Internal Revenue Code of 1986 is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking ''or'',

(B) in subparagraph (B), by striking the period at the end and inserting '', or'', and

(C) by adding at the end the following new subparagraph:

''(C) a high foreclosure area.''; and

(2) by adding at the end the following new paragraph:

''(4) HIGH FORECLOSURE AREA.—

''(A) IN GENERAL.—For purposes of paragraph (1), the term 'high foreclosure area' means an area for which the rate of—

"(i) foreclosures on mortgages on residences occurring during the preceding 12 months, and

"(ii) notices provided to mortgagors during the preceding calendar quarter, specifying that payment of amounts due under a mortgage on a residence is at least 30 days past due,

exceeds 150 percent of the national rate.

"(B) DATE USED.—The determination under subparagraph (A) shall be made on the basis of the best data available to a State on a quarterly basis.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

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