

every day to make a better life for the next generation.

While we're doing that, we must always remember that we still have people over there—we're fighting two wars—and as we face new threats, we must maintain a strong military, and we must fully support our troops in harm's way.

Mr. Speaker, our military personnel and their families ask nothing more, and they deserve nothing less than the same level of care and devotion that they have shown our country. This is not a partisan issue. It is a basic American value, and it is a value I will champion every day as a Member of Congress.

□ 1015

#### A DIFFERENT STIMULUS

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, I rise today in support of legislation with a proven record of stimulating the economy and creating jobs.

Members of the Republican Study Committee have introduced the Economic Recovery and Middle-Class Tax Relief Act, legislation that is fiscally responsible and one that will stimulate job growth in the private sector rather than the Federal Government. This package includes tax relief for American families, businesses, and entrepreneurs. It allows businesses to expense the purchase of assets which will encourage growth and job creation.

This job does not threaten American families with hyper-inflation or saddle future generations with evermore debt with hundreds of billions of dollars in spending.

I encourage my colleagues on both sides of the aisle to consider these proposals. These are proposals that will address the economic downturn and will not demand government spending. We should remember that Jerry Bellune of the Lexington County Chronicle is correct: This is the people's money, not the government's.

In conclusion, God bless our troops, and we will never forget September the 11th.

#### TARP REFORM AND ACCOUNTABILITY ACT OF 2009

Mr. McGOVERN. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 62 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 62

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII declare the House resolved into the Committee of the Whole House on the state of the Union for further consideration of the bill (H.R. 384) to reform the Troubled Assets Relief Program

of the Secretary of the Treasury and ensure accountability under such Program. No further general debate shall be in order. The bill shall be considered for amendment under the five-minute rule. The bill shall be considered as read. All points of order against provisions in the bill are waived. Notwithstanding clause 11 of rule XVIII, no amendment to the bill shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived except those arising under clause 9 or 10 of rule XXI. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and any amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. A motion to proceed under section 115 of the Emergency Economic Stabilization Act of 2008—

(a) shall be in order only if offered by the Majority Leader or his designee; and

(b) may be offered even following the sixth day specified in subsection (d)(3) of such section but not later than the legislative day of January 22, 2009.

The SPEAKER pro tempore (Mr. ROSS). The gentleman from Massachusetts is recognized for 1 hour.

Mr. McGOVERN. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from California (Mr. DREIER). All time yielded during consideration of the rule is for debate only.

#### GENERAL LEAVE

Mr. McGOVERN. Mr. Speaker, I also ask unanimous consent that all Members be given 5 legislative days in which to revise and extend their remarks on House Resolution 62.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 62 provides for further consideration of H.R. 384, the Troubled Assets Recovery Program Reform Act of 2009 under a structured rule. The rule makes in order the 11 amendments printed in the Rules Committee report, including a manager's amendment that incorporated many of the amendments submitted to the Rules Committee. All the amendments are debatable for 10 minutes except the manager's amendment, which is debatable for 40 minutes.

The rule also provides for a motion to recommit with or without instructions.

Finally, the rule contains a provision to preserve the House's ability to have a vote on the second \$350 billion. The first TARP bill contained language

providing for expedited consideration a disapproval resolution that provided for a vote not later than 6 days after the date Congress receives the report.

However, because President Bush sent the request to Congress on January 12, the 6th day would fall on a Sunday, a day that the House is not in session. Therefore, the ability to move to proceed would expire without giving the House an opportunity to act. The language in this rule assures that the House will have that opportunity.

Mr. Speaker, let me begin by saying that this is a good rule. Eleven amendments are made in order—five Republican and six Democratic. One of the Democratic amendments is the manager's amendment which incorporates parts or all of the 16 Democratic amendments and Republican amendments.

Mr. Speaker, as I discussed yesterday, this bill is about the way the TARP should be spent, but it does not actually allow or preclude the release of the second round of these funds.

Now, I know many of my colleagues are apprehensive about the release of these funds. I understand their concerns, and I share some of them. The Bush administration did not disburse the funds as many of us thought they promised. I believe that this bill that we are debating today and the amendments should alleviate many of these concerns.

I believe that providing a blueprint for how these funds should be spent is one of the most important actions this Congress will take. We know jump-starting our economy is a top priority of this new administration and of this Congress. But we have to do it right. We must ensure that the funding goes to the right places—to the homeowners who face foreclosure, in many cases at no fault of their own, and the small businesses who don't have access to funds for their payrolls simply because the credit market is so tight.

This bill, Mr. Speaker, attempts to get it right. Not only does this bill provide a blueprint on how this House believes these funds should be spent; it complements the roadmap already provided by President-elect Obama about how his administration would use these funds.

The January 12, 2009, letter from National Economic Adviser-designate Larry Summers details how the incoming Obama administration will allocate these funds, and I support these goals. But like I said yesterday, Mr. Speaker, we will trust the new administration, but we need to also verify.

This is a good bill that will be made better with the adoption of many of the amendments made in order under this rule. I support this rule, I support the underlying bill, and I urge my colleagues to support both the rule and the bill.

I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield myself such time as I might consume.

(Mr. DREIER asked and was given permission to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, I want to begin by expressing my appreciation to my good friend from Worcester, the distinguished vice chairman of the Committee on Rules, Mr. MCGOVERN, for yielding me the time, the customary 30 minutes.

And I would also like to say in response to the exchange that Mr. MCGOVERN and I had yesterday, that I am more than willing and happy to yield at any time if he asks me to yield to him during debate. Yesterday, he was very reluctant to. One of the things that has troubled me is that as we deal with this and other issues, people begin with prepared statements, but as we get into a period of time during which I believe this institution should have a free-flowing debate, the option of yielding is one which should be taken up as much as possible. That's my perspective, and I understand the right of individuals not to yield, but I will say that I'm happy to yield to individuals at any point.

At this point, I'm happy to yield to my distinguished friend.

Mr. MCGOVERN. I thank the gentleman.

If I recall correctly, I did yield to the gentleman once. What I objected to was being interrupted in mid-sentence. But I will be happy to yield to the gentleman for a discourse at any time.

Thank you.

Mr. DREIER. If I can reclaim my time, I will simply say that I look forward to yielding when we're having an exchange as we proceed with the 111th Congress. And I always want to, as I believe this institution deserves, to encourage a free-flowing debate on a wide range of issues.

Today actually, interestingly enough, Mr. Speaker, marks the first time, the first time in the 111th Congress—and we've gone through quite a bit of legislation in the last week—that we are not dealing with a completely closed rule. But this process has been so utterly flawed that this rule simply exposes just how far we have to go rather than standing out as a step in the right direction.

The most serious problem is that the underlying bill is not a product of any semblance of order whatsoever. No hearings, no testimony, no markups. Now, anyone who looks at how a bill becomes a law, they understand that the process of hearings, testimony, markup, that's all part of the process. There has been absolutely no opportunity for any of that. No opportunity for scrutiny whatsoever as this bill was written.

This has continued into this amendment process. While I appreciate the fact that the Democratic majority has actually considered amendments for the first time, we're still left guessing as to what is actually in this bill.

Most of the amendments that have been accepted will never even be debated here on the House floor. They'll not be individually considered in a transparent way. And one of the great

statements of the many statements made by President-elect Obama—and we all look forward in 5 days to his inauguration—is that he regularly talks about the need for transparency. Well, a measure that we're about to consider under this so-called manager's amendment will not allow the kind of transparency that Mr. Obama believes should be the case.

These amendments were simply added en masse into this one amendment. The point of considering amendments, Mr. Speaker, is not just to have the opportunity to improve legislation. It is also meant to be an opportunity for debate. It's a chance for Democratic and Republican Members alike, not to mention the American people, to examine the key components of a bill and have a real debate.

Unfortunately, this rule simply perpetuates a very flawed process, protects a flawed bill, and prevents the real scrutiny that is very, very deserving on the way in which this \$350 billion, taxpayer dollars, will be spent.

The Troubled Assets Recovery Program Reform Act, the so-called TARP, has itself become quite troubled. As we've heard in yesterday's discussion, we have serious concerns for how this program has been implemented. We can't begin to consider the wisdom of releasing another \$350 billion until we understand how the initial money was used. And we cannot begin to consider a bill to fix the system until we understand what exactly this bill does. These are obligations we should take seriously.

In the meantime, there are a number of far more limited and targeted proposals that could easily be considered and enacted to address the economic challenges we are facing.

Our colleagues on both sides of the aisle have proposed a number of ideas for restoring our economy. They have suggested options that don't pick winners and losers and don't ask the taxpayers to pay for an unaccountable program.

□ 1030

One proposal that I've advocated is a tax credit for new home purchases that are made with a down payment of at least 5 percent.

The housing industry has been at the center of our economic crisis from the beginning. It remains the core impediment to our economic recovery. As home prices have fallen and foreclosures have risen, the impact on working families has been enormous and the impact on our economy has been, as we all know, very widespread. By encouraging and enabling responsible home purchases, we can start to clear out the excess supply in the housing market. This will help to stabilize prices, prevent foreclosures, and put us back on a path to economic recovery.

Now, I don't believe that this proposal that I've outlined and have been talking about for the last couple of weeks is a panacea, but it is a targeted

measure that would help to address a key economic challenge that we face.

Now, I would have offered my proposals and amendment to the underlying bill, but it was not germane to the measure. But Mr. Speaker, the point that I'm making is that there are many other creative ideas out there that I believe should be given full consideration. Unfortunately, we are spending our time on a bill that its own author—I see the distinguished chairman of the Committee on Financial Services has joined us here—has indicated will not be enacted into law. The Democratic majority is merely concerned with providing what I consider to be a fig leaf for the impending vote that we're going to face to release this additional \$350 billion.

The underlying bill will not safeguard the taxpayers' money and it will not ensure that we have the proper tools to restore our economy. I urge my colleagues to oppose this rule and the underlying legislation.

With that, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I just want to set the record straight. It is incorrect to say that there have been no hearings on this measure. In fact, the Financial Services Committee on Tuesday held a hearing—I think it began at around two o'clock in the afternoon and went into the evening. So there has been a hearing in the committee of jurisdiction on this.

At this time, I would like to yield 4 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. I thank my colleague. And we've had several hearings on this subject.

Again, the timetable here has been forced by the bill we adopted last fall with the support of the Republican leadership and the President as well as the Democratic leadership. And as a concession to Members, we put in there that once the President asked for the second \$350 billion it would trigger a 15-day period in which we had to act. And we believe it's important for the House to make clear what it wants to do here during that period. But we've been having hearings on this since the fall.

We put into the bill last fall some good oversight. The Government Accountability Office put out a report last year very critical of the failure to demand that the financial institutions that received funds make clear what they were doing with them, and particularly to show to what extent they were re-lending. That was because we put into the bill that the GAO would be there from the first day in their offices. We had a hearing with Mr. Kashkari, the Bush appointee to run the program, and the GAO to deal with it. We had a further hearing on this subject in the fall. We then had the long hearing that the gentleman from Massachusetts talked about earlier this week to go into this in great detail on Monday.

We have invited all Members as of Friday to submit amendments. A number of Members did so. In fact, I thank the Rules Committee; they have put 10 amendments in order—one was a duplicate, so 10 are in order, five from Republicans, five from Democrats. Of the Republican amendments, I intend to vote for two; I intend to vote against three. There were also amendments that we received from some Republicans that we agreed to put in the manager's amendment.

The question is simply this, and it's two-fold: First, on the broader question that's not before us today, do we deny to President Obama a set of tools that this Congress voted for last fall because a great majority of Members on both sides think that the Bush administration used them poorly? If someone drives a car badly, do you sequester the car and deny it to someone else who wants to drive it?

The TARP is not some living organism with a mind of its own. It is a set of policy tools. A newly elected President has asked that he be allowed to implement those tools. We say yes, but—and we are asking for some serious commitments about how it's done. So that's the first point.

The second point is that this money, whether or not it is spent, will be in a separate vote. And the ranking Republican said yesterday, well, let's wait for them to tell us how they plan to spend it. No, I don't think we should do that. I think we should tell them how we want them to spend it and see if they agree. And we have been having conversations, and they do agree.

We are talking about subjects that have been very familiar to Members. We are here trying to remedy defects in the Bush administration's execution of this program—nothing for foreclosures, not enough for community banks, no restrictions on what the banks that receive the money use, tougher restrictions on compensation—though I know not everybody agrees with that. The Wall Street Journal Editorial Board—which I know represents the viewpoint of many on the Republican side—was very critical today because we are asking that money be used to reduce foreclosures; they say that's a waste of money. They were scoffing, the Wall Street Journal—and again, I think that editorial reflects some of the opposition we have here—they scoffed at the notion that we want community banks to get some of the money. And they said, how can you possibly want the money to go to nonfinancial institutions? I guess the Wall Street Journal wants to be the "Wall-Street-Only Journal," and any effort to deal with small businesses or automobiles, that's somehow a profanation of the temple as far as they're concerned.

We have had serious discussions with the Obama administration. I believe it is important that we do two things: First of all, give the new President the right to spend the money; and, two, give him restrictions on how he spends it.

Mr. DREIER. Mr. Speaker, I yield myself such time as I might consume. And I would simply say to my colleague that we all recognize that there is a pressing need out there, and the issue of foreclosures is one that does need to be addressed. And I know that we had a discussion in the Rules Committee the night before last on the issue of—and this is prospective, as I had said earlier—but this notion of trying to encourage people, prospective homebuyers, to buy up that surplus of housing out there by incentivizing them to put a down payment. Now, I know that this is an issue that transcends what we're dealing with today—

Mr. FRANK of Massachusetts. Would the gentleman yield?

Mr. DREIER. I'm happy to yield to my friend.

Mr. FRANK of Massachusetts. I think there is a lot to be said, but it is, of course, entirely outside the jurisdiction of the Financial Services Committee.

Mr. DREIER. Absolutely. If I could reclaim my time, I will say that I know that it is outside the jurisdiction of the Financial Services Committee, but I think it is very important for us to do everything that we can to look at a broad range of creative proposals to try and deal with this crisis.

And I am happy to further yield to my friend.

Mr. FRANK of Massachusetts. I thank the gentleman. And I agree with that. And housing has been at the center. I would note—and it's not directly relevant, and may, in fact, support this other proposal—but I would note that the homebuilders and the realtors strongly support the bill we are talking about today because they think it helps in other ways. It does not preempt what the gentleman from California is talking about, but those people who are most concerned with the housing industry support the bill and think it will be helpful.

Mr. DREIER. I understand that. And let me reclaim my time, Mr. Speaker, and say that even though it does not fall within the jurisdiction of the Financial Services Committee, this kind of proposal is something that I would like to work with my colleague on and others on as a way to deal with the challenge of this huge supply of housing that exists in my State of California and in other States as well. And the fact that, unfortunately, over the past several years we have seen a wide range of people treating homes that they have purchased like rental units because they put zero down and have very low interest payments, and so they're encouraged to walk away from it, our proposal here is one that is designed to ensure that people actually have a vested interest in that home.

And with that, I'm happy to yield 2 minutes to my very good friend from Hayes, Kansas (Mr. MORAN).

Mr. MORAN of Kansas. I thank the gentleman from California for yielding.

I am here about a specific provision that was initially in the legislation

that we are going to address today. In fact, I came to that realization over the weekend and I contacted the gentleman from Massachusetts (Mr. FRANK), who was kind enough to return my phone call this past weekend. And as a result of an effort by many in this Congress, this provision has been removed. And I am here to commend the gentleman from Massachusetts and my colleagues on the Rules Committee for making in order a manager's amendment that will eliminate a provision that denies the opportunity for those who receive funds under TARP from owning general aviation aircraft.

Mr. FRANK of Massachusetts. Would the gentleman yield?

Mr. MORAN of Kansas. I have very little time, but I would yield.

Mr. FRANK of Massachusetts. I just want to congratulate him and his fellow Kansans and others who brought this to our attention.

And let's make one thing clear; we recently read—I did—in the New York Times about smaller communities that have lost commercial air service. To tell a business which is located in a community that has lost commercial air service that it can never charter or buy a plane is really to invite them to leave those communities. So it is not simply the airline industry that's involved here, but it is economic fairness for small communities where businesses located there would have no other option if they aren't allowed to go to private aircraft.

Mr. MORAN of Kansas. Reclaiming my time. Again, I appreciate it for two reasons; a person who represents very rural America where air service is very limited, and someone who is from Kansas that represents the general aviation industry, which is very dominant. We are very appreciative of the fact that the provisions which would reduce employment in the aircraft industry and eliminate the opportunities for businesses to remain in rural America is stricken from this legislation in the manager's amendment.

Mr. MCGOVERN. I yield 3 minutes to the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. I thank the gentleman for yielding.

The bill is good as far as it goes, but before Congress thinks that we're done with the TARP program, we ought to be considering legislation to make it stronger and to provide additional limits.

First, and most important, we need to prohibit those companies that receive funds under this program from then paying dividends to their existing common shareholders or using their money to go buy the shares held by their existing shareholders. Why are we putting capital in if the company is then taking the capital out, and giving it to its existing shareholders? That needs to be prohibited by statute. At a minimum, I hope we get an unequivocal letter from the incoming administration that they will prevent such

transfers by regulation, and through other means.

Second, we need to make sure that if assets are purchased from the banks that were buying bad bonds, that such bonds were owned by American entities, including those with foreign parents, and that these bonds were owned by American entities on September 20, 2008, which is when the whole dam broke. What we don't want to do is see these monies go to buy bad bonds that were bad investments made in Shanghai and Riyadh and London.

Third, this bill under consideration, and the TARP bill, allows for Million-Dollar-a-Month salaries. We cannot go to the American people and say we have limited executive compensation except for the most common element of executive compensation, salaries. There ought to be a limit—and only on those companies, of course, that are holding taxpayer money. I say to those banks that want to pay more than a million a year, the banks that want to pay more than a million a month to some of their executives and say, fine, give us back the money first.

And finally, as to perks, one thing that the American people have focused on is the use of private executive jets. This bill says you cannot use those—you can't own them or lease them, at least—if your company is based in Detroit. But if you're a Wall Street bank, buy, lease, fly whatever you want. That is a strange anti-Detroit dichotomy. Why should we prohibit these luxury jets? Because we want them to give us the money back. We don't want every executive on Wall Street to come and take the TARP money and hold on to it as long as possible.

Second, we want to encourage jobs in the commercial aircraft industry, both the manufacture and operation of those Boeing jets and United and American Airlines. And finally, because when the banks spend the money on ridiculous perks, whether it be extreme limos or extreme jets, that's money they can't lend to businesses in our districts.

Mr. DREIER. Mr. Speaker, at this time I am happy to yield 3 minutes to our very diligent former Rules Committee member, the gentleman from Marietta, Georgia (Mr. GINGREY).

Mr. GINGREY of Georgia. I thank the gentleman for yielding.

I rise in opposition to this rule, which denies Members of this House an opportunity to have their amendments openly debated and given an up-or-down vote.

The amendment which I offered, which was not made in order, would have very simply prohibited any additional budget authority for the TARP program unless at least 30 percent of the final \$350 billion tranche is used to assist smaller, local community financial institutions. The 30 percent floor reflects the fact that approximately 30 percent of our Nation's deposits are held in these institutions, some 7,000 of them across the country.

Mr. Speaker, without question, these smaller institutions are suffering on

the front lines of a crisis that they did not create. However, they are uniquely positioned to help provide much-needed credit access to ordinary citizens looking to buy a car or buy a home or invest in a small business.

Allow me to give an example. With every dollar in new capital a community bank can raise, it will help facilitate an additional \$7 to \$10 of lending in their communities. So by guaranteeing an appropriate portion of TARP authority to community institutions, we can better ensure this capital will indeed be put to good use.

□ 1045

Mr. Speaker, when Congress first considered the economic stabilization package last fall, the most severe threat presented to us was across-the-board credit freeze that would have stopped all financial activity in its tracks. Well, we may have avoided a catastrophe on Wall Street, but now is the time to encourage lending and capital on Main Street. And while I am pleased to see the underlying bill recognizes that community financial institutions, including those that are privately thinly held or subchapter S should have are the same level of access to the program as larger institutions, H.R. 384 does not go far enough. We must address the current crisis from a systemic perspective, and my amendment, I believe, would have fostered meaningful participation from the smaller financial institutions which, after all, Mr. Speaker, are vital to the economic recovery of our Nation, our States, our congressional districts. They are the lifeblood.

I ask my colleagues to oppose the rule.

Mr. MCGOVERN. Mr. Speaker, I have no further requests for time.

Mr. DREIER. Will the gentleman yield so I might engage in a colloquy?

Mr. MCGOVERN. I would be happy to yield to the gentleman.

Mr. DREIER. I thank my friend for yielding.

Mr. Speaker, let me say that last night in the Rules Committee as this rule came forward, there was some concern voiced as to whether or not this rule may in some way preempt the opportunity for Members to, in fact, offer a resolution of disapproval to deal with this.

Section 2 of the rule relates to the consideration of the resolution to disapprove the last \$350 billion of TARP funds. Subsection b permits a Member to make a privileged motion to proceed on Wednesday, January 22, when it would normally only be available this coming Sunday. However, subsection a limits the motion to the majority leader rather than any Member.

I just want to confirm again with the gentleman from Massachusetts, just as we did last night in the Rules Committee, that the purpose of this provision is only, only to allow the majority leader to manage the day's schedule and will not in any way be used to deny

Members an up-or-down vote on releasing the remaining TARP funds.

And I thank my friend for yielding to me for the question and if he'd like to respond.

Mr. MCGOVERN. The gentleman is correct.

Mr. DREIER. Correct. Okay. I thank my friend for yielding on that.

Mr. MCGOVERN. Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I would like to yield 1 minute to a very, very hardworking Member, a very senior Member from Indianapolis, Indiana (Mr. BURTON).

Mr. BURTON of Indiana. I thank the gentleman for yielding.

What does that mean, a "senior Member"? I hope it doesn't mean I look old.

Mr. DREIER. If the gentleman would yield, he's one term less senior than I.

Mr. BURTON of Indiana. All right.

Mr. Speaker, let me just say that Everett Dirksen, when he was a United States Senator, said, a billion here, a billion there, and you're really talking about money, real money. Now it's a trillion here, a trillion there, and you're talking about real money. The only problem is the American people are going to face hyperinflation down the road if we continue down this path.

Today we are talking about an additional \$350 billion, and we don't even know where the first \$350 billion of the bailout was spent. It makes no sense to me to be voting for this today when we really don't have any accountability for the first tranche, the \$350 billion that has already been allocated.

People in the stock market are taking a real bath. People who have investments, their life investments, in the stock market are taking a real bath. People who are going to retire or are already retired are taking a real bath.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DREIER. Mr. Speaker, at this time I am happy to yield to my friend from Indianapolis an additional 1 minute.

Mr. BURTON of Indiana. Mr. Speaker, it seems to me that the people who are having trouble in the stock market ought to start looking at places to invest like the ink that's being sold to the U.S. Treasury or the paper that's being sold to the U.S. Treasury that's going to be used to print more and more and more money.

I don't want to take the whole extra minute my colleague has allocated to me, and I really appreciate it, but I would like to say if I were talking to the President or the American people that we have to control spending in this place. We have to control spending. If we don't do that, we're going to see very high inflation which will be followed by very high interest rates, will put a real kibosh and a rubber band effect on our economy. The way to solve this problem is to give the American people some of their money

back with tax cuts and to cut capital gains.

So I would like to end up by just saying let's be more concerned about spending around here. Let's really start thinking about it. It's the people's money. The taxpayers want accountability.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

I would just respond to the gentleman by saying that what we are debating today is not about releasing money. There's no money attached to this bill. In fact, all this bill does really is set conditions on any money that may or may not be released. This bill also preserves this Chamber's right to have a vote on the release of the next TARP tranche.

Mr. DREIER. Will the gentleman yield?

Mr. MCGOVERN. I yield to the gentleman.

Mr. DREIER. I thank my friend for yielding.

And I have got to say that the notion that somehow the measure that we're trying to consider here today is not related to this idea of releasing, within this 15-day period, the additional \$350 billion is preposterous. It's clear that it's tied together.

Mr. MCGOVERN. Mr. Speaker, reclaiming my time, I thank the gentleman for his observation, but I didn't say that it was not related. The gentleman was talking about this bill as if today we're releasing this money.

What this bill does is set conditions. It makes it clear what Congress' intention is on how that money should be spent if it should be released. If the gentleman or anybody else in this Chamber wants to vote against releasing additional money, they will have that opportunity at a later date.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, at this time I am happy to yield 5 minutes to our friend from Columbus, Indiana, the distinguished chairman of the Republican Conference (Mr. PENCE).

(Mr. PENCE asked and was given permission to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, I rise in opposition to the rule.

Mr. Speaker, we are in a recession. Many American families are hurting. Many millions more worry that they'll lose their job next. And it is important that this Congress, in legislation before us today, in the related legislation and in upcoming bills, take action. Inaction is not an option. But more important than just doing something, it is imperative that Congress, on behalf of the American people, do the right thing. And I rise today to say from my heart that the American people know we cannot borrow and spend and bail our way back to a growing economy.

This legislation, related as it is to the second half of the banking bailout that passed the Congress last fall, is the wrong approach. I opposed that leg-

islation last fall both times it came up because I believe that economic freedom means the freedom to succeed and the freedom to fail. The decision that Congress made to give the Federal Government the ability to nationalize almost every bad mortgage in America interrupted this basic truth. There were no easy answers at the time. But the American people deserved to know then and deserve to know now there are alternatives to massive government spending and bailouts.

We come today to consider legislation that, as the gentleman just stated, is preamble, if you will, to the TARP vote that may or may not come to this body, and I acknowledge that. But the truth is that it is all interrelated. And Congress and this body may soon be asked to approve and police the second \$350 billion installment to the financial markets in this country approved last fall, and we will be asked to do so under a new set of promises from a Congress in this legislation and a President, neither of which's sincerity do we question on this floor today, but it's a set of promises about oversight and promises that we'll spend the money better, and I rise today to say that there is just simply a better way.

Taxpayers should not be asked to pay another \$350 billion for a bailout that could be disbursed far beyond the original authorization of this Congress to undetermined industries in ways that we have seen used already for the initial tranche of this bill. House Republicans believe that enough is enough. We believe, as most Americans do, that we cannot borrow and spend and bail our way back to a growing economy.

The real answer that House Republicans embrace, and I believe that it is an answer that most Americans embrace, is that it is time for us to put the American taxpayer first. It's time for us to say "no" to more bailouts, however well additionally supervised, no more bailouts, no more excessive government spending. It's time this Congress began to reduce the burden of taxes on working families, small businesses, and family farms and began to practice the kind of fiscal discipline that the American people expect.

So I rise today in opposition to this rule and the underlying bill. And however well-intentioned, I believe it is, in effect, only preamble to legislation that could come to this floor that would be the wrong decision for the American people. The American people want us to walk away from the politics of bailouts, and they want us to take this country in the direction where we're not releasing the power of the Treasury to solve our very real economic woes but we are passing the kind of tax relief that will release the resources, the genius, the courage, and the ingenuity of the American people. As President John F. Kennedy said, all ships will then rise on a rising tide.

Mr. MCGOVERN. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield myself such time as I might consume simply to rise and compliment my friend from Columbus, our Republican Conference Chair, for his very thoughtful remarks on this issue. And I hope very much that we will be able to proceed with a strong and rigorous debate.

Unfortunately, Mr. Speaker, this rule does not allow us to have the kind of debate that I think this institution or the American people deserve, and I say that again reminding our friends that the so-called manager's amendment takes a huge package of amendments and does not allow the kind of transparency about which Mr. Obama has spoken because we won't have time to debate them. I guess there's, what, 40 minutes debate, 20 minutes on each side, to discuss all of the amendments that have been made in order and is I do not believe an adequate amount of time for us to go through the kind of detail that I think the American people deserve and that Members of this institution deserve.

Mr. Speaker, I will say I have been waiting patiently for one of our colleagues; so I just want him to know that I made an attempt to yield time to him. His name will not be mentioned at this point for fear that anyone might think that he was being derelict in his duties. I'm sure he is very, very busy.

Let me say that we are proceeding on an issue which I don't believe we should be dealing with at this moment. The reason I say that is that we have not had adequate hearings, we have not had adequate deliberation on this question, and there is acknowledgment from our friend the Chair of the Committee on Financial Services that the measure that we will be proceeding with will never become public law. It is being used as a consultative tool with the incoming administration. Needless to say, this is a somewhat unusual procedure that the House is going to deal with an issue that is not going to become public law, and as the House is looking at this, discussions are taking place with the administration.

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It is unusual, to say the least. Now, I recognize that we are in near unprecedented times, and we need to deal responsibly with the economic downturn through which the United States of America and the world is now going. But I don't believe that we should be casting aside our responsibility as Members of this institution to do the right thing.

I think that the right thing for us is to actually spend the time and effort looking at creative solutions. At this moment, there is a hearing taking place among our Republican economic stimulus group. I was there earlier this morning. We have a couple of very thoughtful witnesses who I suspect are still testifying. The former Governor of Massachusetts and Presidential candidate, Mitt Romney; the former president and CEO of eBay, Meg Whitman,

were testifying just as I was leaving, and there are several other witnesses coming before this working group of which I am privileged to be a part.

There are lots of ideas that are coming to that hearing, not just from the witnesses, Mr. Speaker, but from the American people as well. Those are actually being voiced at that hearing.

So here we are, I believe, rushing ahead with legislation that is not going to become law and, quite possibly, allowing an additional \$350 billion to be expended on this very, very troubled, troubled asset relief plan. I, for one, believe it is wrong for us to do it as we are doing it.

So, Mr. Speaker, I urge my colleagues to vote "no" on this rule and to vote "no" on the underlying legislation.

With that, I yield back the balance of my time.

Mr. MCGOVERN. Mr. Speaker, the Bush economic policies over the 8 years have been a failure. They have been a miserable failure. We have an incredibly high number of people who have lost their jobs. December marked the second highest number of foreclosures in the history of the United States of America. We have the highest deficit and the highest debt in the history of our country.

Unless we do something, something big and something bold, the economy will get worse. We have the worst economy since the Great Depression.

People don't want to hear anymore speeches. People don't want to hear anymore excuses. The people of this country don't want us to stand on the House floor and say we feel your pain.

What people want is action and people want smart, bold, big, effective action by this Congress. What we are doing here today is trying to put forward in blueprint so if, in fact, anymore money is going to be released as part of the TARP, that it is clear where that money will be spent. We are not content to just take the next administrations at their word.

We want to make it very clear where Congress stands. This is a chance for people to decide. If you are for foreclosure relief, then you should be supporting the bill that Chairman FRANK has put forward. If that's not important to you, then you can vote "no." If you want accountability, then you should support this bill. If that's not important, then put it aside.

If you think that the United States House of Representatives should have a say in how this money is spent, then I think you should support this bill. If not, then fine. You don't have to support it.

Mr. DREIER. Will the gentleman yield?

Mr. MCGOVERN. I am happy to yield to the gentleman from California.

Mr. DREIER. I thank my friend for yielding.

Mr. Speaker, I would just like to say the gentleman we were waiting for earlier has arrived. I was wondering if I

might reclaim a little of my time and allow my friend to offer his remarks.

Mr. MCGOVERN. I have no objection to that.

The SPEAKER pro tempore. Without objection, the gentleman is recognized. There was no objection.

Mr. DREIER. So the gentleman will be able to continue his very brilliant closing statement.

Mr. MCGOVERN. Why don't I reserve my final close and let you yield.

Mr. DREIER. Brilliant idea.

At this time, Mr. Speaker, I would be very, very happy to yield 2 minutes to my friend from Palm Harbor, Florida (Mr. BILIRAKIS).

Mr. BILIRAKIS. I thank the gentleman for yielding.

Mr. Speaker, I rise in opposition to this restrictive rule. The last Congress approved transferring \$350 billion of this Nation's wealth to Wall Street with little transparency, less accountability and, worst of all, with no real effect on our failing economy.

Many of our constituents are opposed to the use of the money to bail out Wall Street. Some of them are so angry at Congress they no longer trust anyone in government.

I submitted an amendment to the Rules Committee that would have required institutions receiving bailout funds to disclose the compensation of their highest-paid executives and directed the Treasury Department to maintain a searchable database of that information.

Unfortunately, my amendment was made out of order. This Congress is entrusting \$700 billion of taxpayers' monies to executives on Wall Street, and yet Congress won't even require those same executives to disclose what they are paying themselves.

I believe we need this information to help us make informed decisions about the use of taxpayers' money to help the people and companies that greatly contributed to our current economic crisis. Our constituents deserve to know how those to whom we have given their money are using it. If Congress fails to insist on at least the most basic mechanisms of transparency while handing billions to Wall Street, we will have victimized the American people and done irreparable harm to the reputation of this institution.

I hope in the future the majority heeds our incoming President's call for bipartisanship in this body and openness in government, goals towards which my amendment would have made progress.

Mr. DREIER. Mr. Speaker, I yield myself the balance of our time, and the gentleman from Massachusetts is going to offer his closing statements then.

I would just like to take a moment if I might, Mr. Speaker. The distinguished chairman of the Financial Services Committee, Mr. FRANK, as he reminded us in the Rules Committee the day before yesterday, and I came to Congress in 1980. We did so at a very challenging economic time for the United States.

I would like to remind our colleagues that Ronald Reagan was elected President the same day that Mr. FRANK and I were elected to serve in the House of Representatives. At that time we were dealing with double-digit unemployment, interest rates that were well into double digits and economic news that was, in fact, very, very dire.

Now, I am no way diminishing, diminishing, the seriousness of the economic challenges that we face today, but I think that it is very important for us to note that the economy that Ronald Reagan inherited, when some of us first arrived here, was, in fact, in a more serious and dire circumstance than we face today. The reason I say that is that it has become a standard line over the last week or two to say that we are, in fact, in the most serious economic time since the Great Depression.

Now, I hope and pray that that is not the case, but, again, if we look at simply the numbers that existed in the early part of the 1980s, when Mr. FRANK and I arrived here in the Congress, to what they are today, we still have a lot of work to do, but I believe that Ronald Reagan faced more serious challenges than we face now.

Now, I will say that I don't know what tomorrow is going to bring. No one knows what tomorrow is going to bring, but I believe that the solutions that we put into place in the early 1980s were, in fact, very positive ones, which brought about marginal rate reduction, which increased by \$1 trillion the flow of revenues to the Federal Treasury through the 1980s. And, yes, we did see an increase in the size of the Federal deficit.

This Congress ended up spending an awful lot more money than had been anticipated or than Ronald Reagan or some of the rest of us would have wanted. We also know that there was a dramatic buildup in defense spending that took place during the 1980s, and I believe at this juncture we have seen the great benefit of that.

In fact, this year we marked the very important 20th anniversary of many, many, many of the great accomplishments that came from what Ronald Reagan did during the 1980s.

Mr. FRANK of Massachusetts. Will the gentleman yield?

Mr. DREIER. Of course, I am happy to yield to my friend, the distinguished Chair of the Committee on Financial Services.

Mr. FRANK of Massachusetts. He says that Ronald Reagan didn't like the spending of the Congress during his administration. Of course, for 6 of those 8 years he had a Republican Senate, but the point is, if he didn't like it, he exercised great self-restraint because he never vetoed one of those spending bills that he apparently didn't like.

Mr. DREIER. Well, if I could reclaim my time, I would say that Ronald Reagan did not like a lot of that spending. Maybe he tolerated some of that spending, is what I might acknowledge.



But the fact is there was more spending than Ronald Reagan or any of the rest of us would have liked in the 1980s on a wide range of programs, but I did acknowledge the dramatic increase in defense spending. Again, this year, 2009, marks the 20th anniversary of the crumbling of the Berlin Wall and dramatic changes that took place in Asia, Africa, Europe that I think need to be realized that came from that very, very difficult economic challenge that Ronald Reagan inherited in 1981.

So I would say, Mr. Speaker, that I think it's important for us to use the kinds of solutions that worked in the early 1980s, if we can. All I am arguing, as we look at the debate on this rule and the underlying legislation that, we, unfortunately, are not turning to those very thoughtful time tested alternatives.

It's for that reason that I urge my colleagues to vote "no" on this rule and on the underlying legislation. I appreciate my colleagues allowing our friend from Florida to have the chance to speak.

I yield back the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I just want to close by saying that I appreciate the history lesson on Ronald Reagan and the Berlin Wall and all the other things that were mentioned.

But the harsh reality is that people are suffering. As we speak, people are losing their homes. The foreclosure numbers in December were the second highest, were the second highest in the history of this country. People need help now. We need to do something now.

So the point of this legislation is to help provide a blueprint for this new administration which has already outlined similar views but to basically reinforce what they have said they want to do, to help provide foreclosure relief, more accountability, to be able to help small businesses get the credit they need, so they can employ more people. We need to get this economy on the right track, and Congress should have a say in it.

So I would urge my colleagues to vote "yes" on the underlying bill and I would urge them to vote "yes" on the bill. I urge a "yes" vote on the previous question.

Ms JACKSON-LEE of Texas. Thank you, Mr. Speaker, for affording me this opportunity to address H. Res. 62, the rule providing for consideration of H.R. 384, the TARP Reform and Accountability Act of 2009. I believe the rule can be supported by every Member of the House.

Mr. Speaker, I was pleased to work with Chairman FRANK and his staff on significant portions of this Manager's Amendment to ensure that small and minority businesses along with local, community, and private banks gain fair and equitable access to the TARP funds. Small businesses are the backbone of our Nation, and unfortunately, they have not been afforded the opportunity that large financial institutions have received to TARP funds and loans. With the ever worsening economic crisis, we must ensure in this legislation that

small and minority businesses and community banks are afforded an opportunity to benefit from this important legislation. I am very pleased that this Manager's Amendment does just this.

This bill will amend the TARP provisions of the Emergency Economic Stabilization Act of 2008 (EESA) to strengthen accountability, close loopholes, increase transparency, and most importantly, require the Treasury Department to take significant steps on foreclosure mitigation. Mr. Speaker, I was particularly pleased to work with Chairman FRANK and his staff on significant portions of the Manager's Amendment to this legislation which ensures that small and minority businesses along with local, community, and private banks gain fair and equitable access to the TARP funds.

It's been 3 months since the Treasury started disbursing TARP funds. Just in time perhaps for a lot of big banks, however smaller banks have been locked out so far. A lot of small banks certainly are in need of relief as the real estate crisis continues to unfold and hundreds have already applied.

According to recent reports, the Treasury Department has yet to issue "the necessary guidelines for about 3,000 additional private banks. Most of them are set up as partnerships, with no more than 100 shareholders. They are not able to issue preferred shares to the government in exchange for capital injections, as other banks can." While Treasury officials state they are "working on a solution," for these private banks time is of the essence.

The Treasury Department has handed out more than \$155 billion to 77 banks. Of that sum, \$115 billion has gone to the eight largest banks. Community banks hold 11 percent of the industry's total assets and play a vital role in small business and agriculture lending. Community banks provide 29 percent of small commercial and industrial loans, 40 percent of small commercial real estate loans and 77 percent of small agricultural production loans.

Specifically, I worked with Chairman FRANK on the language in the Manager's Amendment. In Section 107, the Manager's Amendment creates an Office of Minority and Women Inclusion, which will be responsible for developing and implementing standards and procedures to ensure the inclusion and utilization of minority and women-owned businesses. These businesses will include financial institutions, investment banking firms, mortgage banking firms, broker-dealers, accountants, and consultants. Furthermore, the inclusion of these businesses should be at all levels, including procurement, insurance, and all types of contracts such as the issuance or guarantee of debt, equity, or mortgage-related securities. This office will also be responsible for diversity in the management, employment, and business activities of the TARP, including the management of mortgage and securities portfolios, making of equity investments, the sale and servicing of mortgage loans, and the implementation of its affordable housing programs and initiatives.

Section 107 also calls for the Secretary of the Treasury to report to Congress in 180 days detailed information describing the actions taken by the Office of Minority and Women Inclusion, which will include a statement of the total amounts provided under TARP to small, minority, and women-owned businesses. The Manager's Amendment in Section 404 also has clarifying language en-

suring that the Secretary has authority to support the availability of small business loans and loans to minority and disadvantaged businesses. This will be critical to ensuring that small and minority businesses have access to loans, financing, and purchase of asset-backed securities directly through the Treasury Department or the Federal Reserve.

Mr. Speaker, and I urge my colleagues to support this rule.

Mr. MCGOVERN. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 62 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the further consideration of the bill, H.R. 384.

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IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 384) to reform the Troubled Assets Relief Program of the Secretary of the Treasury and ensure accountability under such Program, and for other purposes, with Mr. ROSS (Acting Chair) in the chair.

The Clerk read the title of the bill.

The Acting CHAIR. When the Committee of the Whole House rose on Wednesday, January 14, 2009, all time for general debate, pursuant to House Resolution 53, had expired.

Pursuant to House Resolution 62, no further general debate is in order, and the bill shall be considered read for amendment under the 5-minute rule.

The text of the bill is, as follows:

H.R. 384

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

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "TARP Reform and Accountability Act of 2009".

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

Sec. 1. Short title; table of contents.

#### TITLE I—MODIFICATIONS TO TARP AND TARP OVERSIGHT

Sec. 101. New conditionality for TARP-assisted institutions.

Sec. 102. Executive compensation and corporate governance.

Sec. 103. New lending by insured depository institutions that is attributable to TARP investments and assistance.

Sec. 104. Other protections for the taxpayer.

Sec. 105. Availability of TARP funds to smaller community institutions.

Sec. 106. Increase in size and authority of Financial Stability Oversight Board.

Sec. 107. Clarification.

#### TITLE II—FORECLOSURE RELIEF

Sec. 201. TARP foreclosure mitigation plan and implementation.

Sec. 202. Elements of plan.  
 Sec. 203. Program alternatives.  
 Sec. 204. Systematic foreclosure prevention and mortgage modification plan established.  
 Sec. 204. Modification of plan.  
 Sec. 205. Servicer safe harbor.  
 Sec. 206. Report by Congressional Oversight Panel.

### TITLE III—AUTO INDUSTRY FINANCING AND RESTRUCTURING

Sec. 301. Short title.  
 Sec. 302. Direct loan provisions.

### TITLE IV—CLARIFICATION OF AUTHORITY

Sec. 401. Consumer loans.  
 Sec. 402. Municipal securities.  
 Sec. 403. Commercial real estate loans.

### TITLE V—HOPE FOR HOMEOWNERS PROGRAM IMPROVEMENTS

Sec. 501. Changes to HOPE for Homeowners Program.  
 Sec. 502. Funding of increased HOPE for Homeowners Program credit subsidy costs.

### TITLE VI—HOME BUYER STIMULUS

Sec. 601. Home buyer stimulus program.

### TITLE VII—FDIC PROVISIONS

Sec. 701. Permanent increase in deposit insurance.  
 Sec. 702. Extension of restoration plan period.  
 Sec. 703. Borrowing authority.  
 Sec. 704. Systemic risk special assessments.

### TITLE I—MODIFICATIONS TO TARP AND TARP OVERSIGHT

#### SEC. 101. NEW CONDITIONALITY FOR TARP-ASSISTED INSTITUTIONS.

(a) IN GENERAL.—Section 113 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5223) is amended by adding at the end the following new subsections:

“(e) REPORTING, MONITORING AND ACCOUNTABILITY.—

“(1) PERIODIC PUBLIC REPORTING ON USE OF ASSISTANCE.—The Secretary shall require any assisted institution that became an assisted institution on or after October 3, 2008, to publicly report, not less than quarterly, on such institution's use of the assistance.

“(2) ADDITIONAL REQUIREMENTS AND COMPLIANCE.—The Secretary—

“(A) may establish additional reporting and information requirements for any direct or indirect recipient of any assistance or benefit at any time on or after October 3, 2008, that involves the obligation or expenditure, loan, or investment of funds available to the Secretary under this title; and

“(B) shall establish appropriate mechanisms to ensure appropriate use and compliance with all terms of any use of funds made available under this title.

“(3) CONSULTATION.—The Secretary shall consult with the appropriate Federal banking agencies in establishing the reporting requirements under this subsection that are applicable to insured depository institutions.

“(f) USE AND ACCOUNTABILITY FOR USE OF FUNDS.—

“(1) INSURED DEPOSITORY INSTITUTION.—

“(A) INVESTMENT IN OR OTHER INJECTION OF FUNDS INTO A DEPOSITORY INSTITUTION.—As a condition for the provision of any investment in the capital or assets of, or any other provision of assistance to or for the benefit of, any insured depository institution, the Secretary shall incorporate into the agreement for such investment or assistance an agreement between the depository institution and the appropriate Federal banking agency with respect to such institution on the manner in which the funds are to be used and benchmarks that the institution is required to meet in using the funding so as to

advance the purposes of this Act to strengthen the soundness of the financial system and the availability of credit to the economy.

“(B) EXAMINATIONS.—In the case of any assisted insured depository institution that became an assisted institution on or after October 3, 2008, the appropriate Federal banking agency shall specifically review at least once annually the use, by the institution, of funds made available under this Act and compliance by the institution with the requirements established by or pursuant to this title or by agreement of the institution with the Secretary or the appropriate Federal banking agency, including executive compensation and any other specific agreement terms. Such review may be conducted in connection with the regular full-site examination, or any other examination.

“(C) COMPLIANCE PROCEDURES REQUIRED.—Each appropriate Federal banking agency shall prescribe regulations requiring assisted insured depository institutions to establish and maintain procedures designed to assure and monitor the compliance of such depository institutions with the requirements established by or pursuant to this title or by agreement of the institution with the Secretary or such agency.

“(2) USE OF TARP FUNDS FOR MERGERS OR ACQUISITIONS.—Effective as of the date of the enactment of the TARP Reform and Accountability Act of 2009, no assisted institution that became an assisted institution at any time on or after October 3, 2008, may merge or consolidate with any insured depository institution or, either directly or indirectly, acquire the assets of, or assume liability to pay any deposits made in, any insured depository institution, and no Federal banking agency may approve any such action under section 18(c) of the Federal Deposit Insurance Act, while any of such assistance is outstanding unless, prior to the approval of such agency, the Secretary has determined in consultation with any relevant Federal banking agencies that—

“(A) such action will reduce risk to the taxpayer; or

“(B) the transaction could have been consummated without funds provided under this title.

“(3) NONDEPOSITORY INSTITUTIONS.—In the case of any assisted institution that became an assisted institution on or after October 3, 2008, and is not described in and subject to paragraph (1), the Secretary shall establish such reporting requirements and require any other conditions or agreements no less stringent than those applicable to assisted insured depository institutions, including requirements to conduct examinations of the books, affairs, and procedures of any such financial institution by the Secretary or by delegation to the Board.

“(g) NO IMPEDIMENT TO WITHDRAWAL.—Subject to consultation with the appropriate Federal banking agencies, the Secretary may permit an insured depository institution to repay any assistance previously provided under this title to such depository institution without regard to whether the depository institution has replaced such funds from any other source.”

(b) DEFINITIONS.—Section 3 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5202) is amended by adding at the end the following new paragraphs:

“(10) DEFINITIONS RELATING TO INSURED DEPOSITORY INSTITUTIONS.—The terms ‘depository institution’, ‘insured depository institution’, ‘Federal banking agency’ and ‘appropriate Federal banking agency’ have the same meanings as in section 3 of the Federal Deposit Insurance Act.

“(11) ASSISTED INSTITUTION.—The terms ‘assisted institution’ or ‘assisted insured depository institution’ means any such institu-

tion that receives, directly or indirectly, any assistance or benefit that involves the obligation or expenditure, loan, or investment of funds available to the Secretary under title I.”

#### SEC. 102. EXECUTIVE COMPENSATION AND CORPORATE GOVERNANCE.

(a) IN GENERAL.—Section 111 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5221) is amended by adding at the end the following new subsections:

“(e) ACROSS-THE-BOARD EXECUTIVE COMPENSATION AND CORPORATE GOVERNANCE REQUIREMENTS.—

“(1) STANDARDS REQUIRED.—Effective as of the date of the enactment of the TARP Reform and Accountability Act of 2009 and notwithstanding any provision of, and in addition to any requirement of subsection (a), (b), or (c) (other than the definitions in subsection (b)(3)), the Secretary shall require any assisted institution to meet standards for executive compensation and corporate governance while any assistance under this title is outstanding.

“(2) SPECIFIC REQUIREMENTS.—The standards established under paragraph (1) shall include—

“(A) limits on compensation that exclude incentives for senior executive officers of an assisted institution which received assistance under this title to take unnecessary and excessive risks that threaten the value of such institution during the period that any assistance under this title is outstanding;

“(B) a provision for the recovery by such institution of any bonus or incentive compensation paid to a senior executive officer based on statements of earnings, gains, or other criteria that are later found to be materially inaccurate;

“(C) a prohibition on such institution making any golden parachute payment to a senior executive officer during the period that the assistance under this title is outstanding;

“(D) a prohibition on such institution paying or accruing any bonus or incentive compensation, during the period that the assistance under this title is outstanding, to the 25 most highly-compensated employees; and

“(E) a prohibition on any compensation plan that would encourage manipulation of such institution's reported earnings to enhance the compensation of any of its employees.

“(3) DIVESTITURE.—During the period in which any assistance under this title to any assisted institution is outstanding, the institution may not own or lease any private passenger aircraft, or have any interest in such aircraft, except that such institution shall not be treated as being in violation of this provision with respect to any aircraft or interest in any aircraft that was owned or held by the institution immediately before receiving such assistance, as long as the recipient demonstrates to the satisfaction of the Secretary that all reasonable steps are being taken to sell or divest such aircraft or interest.

“(4) APPLICABILITY TO PRIOR ASSISTANCE.—Notwithstanding any limitations included in subsection (a), (b), or (c) with regard to applicability, the Secretary may apply the requirements of and the standards established under this subsection to any assisted institution that received any assistance under this title on or after the date of the enactment of the TARP Reform and Accountability Act of 2009.

“(f) BOARD OBSERVER.—The Secretary may require the attendance of an observer delegated by the Secretary, on behalf of the Secretary, to attend the meetings of the board of directors of any assisted institution that became an assisted institution on or after



October 3, 2008, and any committees of such board of directors, while any assistance under this title is outstanding.”.

(b) **REPEAL OF DE MINIMIS EXCEPTION.**—Section 111(c) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5221(c)) is amended by striking “and only where such purchases per financial institution in the aggregate exceed \$300,000,000 (including direct purchases).”.

**SEC. 103. NEW LENDING BY INSURED DEPOSITORY INSTITUTIONS THAT IS ATTRIBUTABLE TO TARP INVESTMENTS AND ASSISTANCE.**

Section 7(a) of the Federal Deposit Insurance Act (U.S.C. 1817(a)) is amended by adding at the end the following new paragraph:

“(12) **LENDING INCREASES ATTRIBUTABLE TO INVESTMENT OR OTHER ASSISTANCE UNDER THE TROUBLED ASSETS RELIEF PROGRAM.**—

“(A) **IN GENERAL.**—Each report of condition filed pursuant to this subsection by an insured depository institution which received an investment or other assistance under the Troubled Assets Relief Program established by the Emergency Economic Stabilization Act of 2008 or section 136(d) of the Energy Independence and Security Act of 2007 shall report the amount of any increase in new lending in the period covered by such report (or the amount of any reduction in any decrease in new lending) that is attributable to such investment or assistance, to the extent possible.

“(B) **ALTERNATIVE MEASURE.**—If an insured depository institution that is subject to subparagraph (A) cannot accurately quantify the effect that an investment or other assistance under such Troubled Assets Relief Program has had on new lending by the institution, the insured depository institution shall report the total amount of the increase in new lending, if any, in the period covered by such report.

“(C) **DESIGNATION OF REPORTING REQUIREMENT.**—The Federal banking agencies and the Secretary of the Treasury shall specify the form, content, and manner of reports required under this paragraph.”.

**SEC. 104. OTHER PROTECTIONS FOR THE TAXPAYER.**

(a) **WARRANT REQUIREMENTS.**—Subsection (d) of section 113 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5223(d)) is amended by striking paragraph (1) and inserting the following new paragraph:

“(1) **WARRANTS.**—

“(A) **IN GENERAL.**—The Secretary may not provide any assistance under this title to any institution, unless the Secretary, receives from the institution—

“(i) in the case of an institution the securities of which are traded on a national securities exchange, a warrant giving the right to the Secretary to receive nonvoting common stock or preferred stock in such institution, or voting stock, with respect to which the Secretary agrees not to exercise voting power, whichever the Secretary determines appropriate; or

“(ii) in the case of an institution other than one described in clause (i), a warrant for common or preferred stock, or an instrument that is the economic equivalent (as determined by the Secretary) of such a warrant in the financial institution (in the case of a mutual association), holding company of the financial institution, or any company that controls a majority stake in the financial institution, whichever the Secretary determines appropriate.

“(B) **AMOUNT.**—

“(i) **IN GENERAL.**—The warrants or instruments described in subparagraph (A) with respect to an assisted institution shall have a value equal to 15 percent of the aggregate amount of all assistance provided to the institution under this title. Such warrants or

instruments shall entitle the Government to purchase—

“(I) nonvoting common stock, up to a maximum amount of 15 percent of the issued and outstanding common stock of—

“(aa) the assisted institution; or

“(bb) in the case of an assisted institution, the securities of which are not traded on a national securities exchange, a holding company or company that controls a majority of the stock thereof (in this section referred to as the ‘warrant common’); and

“(II) preferred stock having an aggregate liquidation preference equal to 15 percent of such aggregate loan amount, less the value of common stock available for purchase under the warrant common (in this section referred to as the ‘warrant preferred’).

“(ii) **COMMON STOCK WARRANT PRICE.**—The exercise price on a warrant or instrument described in paragraph (1) shall be—

“(I) the 15-day trailing average, as of 1 day prior to the date on which any commitment to provide assistance under this title was entered into, of the market price of the common stock of the assisted institution; or

“(II) in the case of an assisted institution, which is a mutual association or the securities of which are not traded on a national securities exchange, the economic equivalent of the market price described in clause (I), as determined by the Secretary.

“(iii) **TERMS OF PREFERRED STOCK WARRANT.**—

“(I) **IN GENERAL.**—The initial exercise price for the preferred stock warrant shall be \$0.01 per share or such greater amount as the corporate charter may require as the par value per share of the warrant preferred. The Government shall have the right to immediately exercise the warrants.

“(II) **REDEMPTION.**—The warrant preferred may be redeemed at any time after exercise of the preferred stock warrant at 100 percent of its issue price, plus any accrued and unpaid dividends.”.

(b) **REPEAL OF CERTAIN EXCEPTION.**—Section 113(d)(3) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5223(d)(3)) is amended by striking subparagraph (A).

(c) **TECHNICAL AND CONFORMING AMENDMENTS.**—Section 113(d)(2) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5253(d)) is amended by striking subparagraph (E).

**SEC. 105. AVAILABILITY OF TARP FUNDS TO SMALLER COMMUNITY INSTITUTIONS.**

(a) **PROMPT ACTION.**—The Secretary shall promptly take all necessary actions to make available funds under title I of the Emergency Economic Stabilization Act of 2008 to smaller community financial institutions.

(b) **COMPARABLE TERMS.**—If any institution becomes an assisted institution after the date of the enactment of this Act, such funding for depository institutions that—

(1) have submitted applications on which no action has been taken, such as institutions that are C corporations (including privately held institutions) and community development financial institutions; or

(2) are of a type for which the Secretary has not yet established an application deadline or for which any such deadline has not yet occurred as of the date of the enactment of this Act, such as institutions that are non-stock corporations, S-corporations, mutually-owned insured depository institutions (as defined in section 3 of the Federal Deposit Insurance Act),

shall receive such funding on terms comparable to the terms applicable to institutions that received funding prior to the date of the enactment of this Act.

(c) **DEFINITIONS.**—For purposes of this section, the terms “S Corporation” and “C Cor-

poration” shall have the same meaning given to those terms in section 1361(a) of the Internal Revenue Code of 1986.

**SEC. 106. INCREASE IN SIZE AND AUTHORITY OF FINANCIAL STABILITY OVERSIGHT BOARD.**

(a) **AUTHORITY.**—Section 104 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 2514) is amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by inserting after subsection (f) the following new subsection:

“(g) **REVIEW AND DECISIONMAKING.**—After conducting any review under this section of a policy determination made by the Secretary, the Financial Stability Oversight Board may overturn any such policy determination by a ⅔ vote of all members of such board.”.

(b) **APPOINTMENT OF 3 ADDITIONAL MEMBERS.**—Section 104(b) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 2514(b)) is amended—

(1) by striking “and” at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

“(6) the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation; and

“(7) 2 members appointed by the President, by and with the consent of the Senate, from among individuals who are not officers or employees of the United States Government.”.

**SEC. 107. CLARIFICATION.**

Section 101 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 2514(b)) is amended by adding at the end the following new subsection:

“(f) **CLARIFICATION.**—Any provision of capital to, purchase of equity in, or assistance provided to any institution under this title shall be considered to be a purchase of troubled assets for purposes of this title.”.

**TITLE II—FORECLOSURE RELIEF**

**SEC. 201. TARP FORECLOSURE MITIGATION PLAN AND IMPLEMENTATION.**

(a) **PLAN REQUIRED.**—Notwithstanding any provision of title I of the Emergency Economic Stabilization Act of 2008, none of the funds otherwise available to the Secretary of the Treasury (in this title referred to as the “Secretary”) pursuant to section 115(a)(3) of such Act shall be available to the Secretary after March 15, 2009, unless a comprehensive plan to prevent and mitigate foreclosures on residential properties, in accordance with the requirements of this title, has been developed by the Secretary and approved by the Financial Stability Oversight Board by such date.

(b) **COMMITMENT OF RESOURCES.**—The comprehensive plan established pursuant to subsection (a) shall require the commitment of funds made available to the Secretary under title I of the Emergency Economic Stabilization Act of 2008 in an amount up to \$100,000,000,000, but in no case less than \$40,000,000,000.

(c) **IMPLEMENTATION REQUIRED.**—The Secretary shall begin committing funds available to the Secretary under title I of the Emergency Economic Stabilization Act of 2008 to implement the comprehensive plan established pursuant to subsection (a) by not later than April 1, 2009.

(d) **CERTIFICATION.**—If by May 1, 2009, the Secretary does not commit more than the minimum of \$40,000,000,000 as required under subsection (b), the Secretary shall certify to the Congress, no later than May 15, 2009, the specific reasons that such additional funds have not been committed.

**SEC. 202. ELEMENTS OF PLAN.**

(a) **REQUIRED ELEMENTS.**—The comprehensive plan established pursuant to section 201(a) shall comply with the following requirements:

(1) **OWNER-OCCUPIED RESIDENCES ONLY.**—The programs implemented under the plan shall prevent and mitigate foreclosures specifically on owner-occupied residential properties.

(2) **LEVERAGING OF PRIVATE CAPITAL.**—The plan shall leverage private capital to the maximum extent possible consistent with the purpose of preventing and mitigating foreclosures on such properties.

(3) **USE OF PROGRAM ALTERNATIVES.**—The actions to be taken under the plan shall consist of one, or a combination of more than one, of the program alternatives set forth in section 203.

(b) **CONCENTRATIONS OF FORECLOSURES.**—The comprehensive plan established pursuant to section 201(a) may include provisions designed to prevent and mitigate foreclosures on residential properties located in areas that are most seriously affected by such foreclosures.

**SEC. 203. PROGRAM ALTERNATIVES.**

The program alternatives set forth in this section are as follows:

(1) **SYSTEMATIC LOAN MODIFICATION PROGRAM.**—The systematic foreclosure prevention and mortgage modification program under section 204.

(2) **REDUCTION OF HOPE FOR HOMEOWNERS PROGRAM COSTS.**—A program under which the Secretary—

(A) provides coverage for fees under the HOPE for Homeowners Program under section 257 of the National Housing Act (12 U.S.C. 1715z–23), as amended by title V of this Act; or

(B) ensures the affordability of interest rates of mortgages insured under such Program.

(3) **BUY-DOWN OF SECOND LIEN MORTGAGES.**—A program under which the Secretary makes available to owners of owner-occupied residential properties a direct mortgage loan the proceeds of which shall be used only to reduce the outstanding debt of such owner under an existing second lien mortgage on such residential property, for the purpose of facilitating loan modification, subject to such reductions in the principal of such existing second lien mortgages as the Secretary may require.

(4) **SERVICER INCENTIVES AND ASSISTANCE.**—A program under which the Secretary may make payments to servicers who implement modifications to mortgages that result in mortgages that meet such requirements as the Secretary shall establish.

(5) **LOAN PURCHASES.**—A program under which the Secretary, or one or more entities that the Secretary, in consultation with the Secretary of Housing and Urban Development, enters into a contract with to carry out the program under this paragraph, which may include the Federal Deposit Insurance Corporation and entities selected as contractors under section 107 of the Emergency Economic Stabilization Act of 2008, purchases whole loans for the purpose of modifying or refinancing the loans.

**SEC. 204. SYSTEMATIC FORECLOSURE PREVENTION AND MORTGAGE MODIFICATION PLAN ESTABLISHED.**

(a) **IN GENERAL.**—The systematic foreclosure prevention and mortgage modification program under this section shall be a program established by the Secretary, in consultation with the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation and the Secretary of Housing and Urban Development, that—

(1) provides lenders and loan servicers with certain compensation to cover administra-

tive costs for each loan modified according to the required standards; and

(2) provides loss sharing or guarantees for certain losses incurred if a modified loan should subsequently re-default.

(b) **PROGRAM ADMINISTRATION.**—The Secretary, in consultation with the Secretary of Housing and Urban Development, may contract with one or more entities, including the Federal Deposit Insurance Corporation and entities selected as contractors under section 107 of the Emergency Economic Stabilization Act of 2008, to conduct the program activities required under the program under this section.

(c) **PROGRAM COMPONENTS.**—The program established under subsection (a) may include the following components:

(1) **ELIGIBLE BORROWERS.**—The program shall be limited to loans secured by owner-occupied properties.

(2) **EXCLUSION FOR EARLY PAYMENT DEFAULT.**—To promote sustainable mortgages, loss sharing or guarantees shall be available only after the borrower has made a specified minimum number of payments on the modified mortgage.

(3) **STANDARD NET PRESENT VALUE TEST.**—In order to promote consistency and simplicity in implementation and audit, the Secretary shall prescribe a standardized net present value analysis for participating lenders and servicers comparing the expected net present value of modifying past due loans compared to the net present value of foreclosing on them will be applied. Under this test, standard assumptions shall be used to ensure that a consistent standard for affordability is provided based on a ratio of the borrower's mortgage-related expenses for the first priority mortgage-to-gross income specified by the Secretary.

(4) **SYSTEMATIC LOAN REVIEW BY PARTICIPATING LENDERS AND SERVICERS.**—Participating lenders and servicers shall be required to undertake a systematic review of all of the loans under their management, to subject each loan to a standard net present value test to determine whether it is a suitable candidate for modification, and to offer modifications for all loans that pass this test. The penalty for failing to undertake such a systematic review and to carry out modifications where they are justified would be disqualification from further participation in the program until such a systematic program was introduced.

(5) **MODIFICATIONS.**—Modifications may include any of the following:

(A) Reduction in interest rates and fees.

(B) Term or amortization extensions.

(C) Forbearance or forgiveness of principal.

(D) Other similar modifications.

(6) **SIMPLIFIED LOSS SHARE CALCULATION.**—In order to ensure the administrative efficiency and effective operation of the program, the Secretary shall define appropriate measures for loss sharing or guarantees designed to reduce the risk and loss upon re-default of modified mortgages in order to provide adequate incentives to lenders, servicers, and investors to modify eligible mortgages and avoid unnecessary foreclosures. Interim modifications shall be allowed.

(7) **DE MINIMIS TEST.**—To lower administrative costs, a de minimis test shall be used to exclude from loss sharing any modification that does not lower the monthly payment at least 10 percent.

(8) **8 YEAR LIMIT ON LOSS SHARING PAYMENT.**—The loss sharing guarantee shall terminate at the end of the 8-year period beginning on the date the modification was consummated.

(d) **ALTERNATIVE COMPONENTS.**—The Secretary may, with the approval of the Board, implement foreclosure prevention and miti-

gation actions other than those included pursuant to subsection (c) in the comprehensive plan initially approved by the Board pursuant to section 201(a) that the Secretary believes would provide equivalent or greater impact on foreclosure mitigation.

(e) **REGULATIONS.**—The Secretary shall prescribe such regulations as may be necessary to implement this section and prevent evasions thereof.

(f) **TROUBLED ASSETS.**—The costs incurred by the Federal Government in carrying out the loan modification program established under this section shall be covered out of the funds made available to the Secretary of the Treasury under section 118 of the Emergency Economic Stabilization Act of 2008 or such other funds as may be available to the Secretary.

(g) **REPORT.**—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Secretary shall submit a progress report to the Congress containing such findings and such recommendations for legislative or administrative action as the Secretary may determine to be appropriate.

**SEC. 204. MODIFICATION OF PLAN.**

(a) **IN GENERAL.**—If the Secretary, in consultation with the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation and the Secretary of Housing and Urban Development, determines at any time that modification of the comprehensive plan initially approved by the Board pursuant to section 201(a) (as such plan may subsequently have been modified pursuant to this section), or that modification of any component program element, is necessary to maximize the prevention of foreclosures on residential properties or minimize costs to taxpayers of such foreclosure mitigation, the Secretary may modify the plan or program element, but only to the extent such modifications are approved by the Board.

**SEC. 205. SERVICER SAFE HARBOR.**

(a) **SAFE HARBOR.**—

(1) **LOAN MODIFICATIONS AND WORKOUT PLANS.**—Notwithstanding any other provision of law, and notwithstanding any investment contract between a servicer and a securitization vehicle or investor, a servicer that acts consistent with the duty set forth in section 129A(a) of Truth in Lending Act (15 U.S.C. 1639a) shall not be liable for entering into a loan modification or workout plan with respect to any such mortgage that meets all of the criteria set forth in paragraph (2)(B) to—

(A) any person, based on that person's ownership of a residential mortgage loan or any interest in a pool of residential mortgage loans or in securities that distribute payments out of the principal, interest and other payments in loans on the pool;

(B) any person who is obligated to make payments determined in reference to any loan or any interest referred to in subparagraph (A); or

(C) any person that insures any loan or any interest referred to in subparagraph (A) under any law or regulation of the United States or any law or regulation of any State or political subdivision of any State.

(2) **ABILITY TO MODIFY MORTGAGES.**—

(A) **ABILITY.**—Notwithstanding any other provision of law, and notwithstanding any investment contract between a servicer and a securitization vehicle or investor, a servicer—

(i) shall not be limited in the ability to modify mortgages, the number of mortgages that can be modified, the frequency of loan modifications, or the range of permissible modifications; and

(ii) shall not be obligated to repurchase loans from or otherwise make payments to the securitization vehicle on account of a

modification, workout, or other loss mitigation plan for a residential mortgage or a class of residential mortgages that constitute a part or all of the mortgages in the securitization vehicle,

if any mortgage so modified meets all of the criteria set forth in subparagraph (B).

(B) **CRITERIA.**—The criteria under this subparagraph with respect to a mortgage are as follows:

(i) Default on the payment of such mortgage has occurred or is reasonably foreseeable.

(ii) The property securing such mortgage is occupied by the mortgagor of such mortgage.

(iii) The servicer reasonably and in good faith believes that the anticipated recovery on the principal outstanding obligation of the mortgage under the particular modification or workout plan or other loss mitigation action will exceed, on a net present value basis, the anticipated recovery on the principal outstanding obligation of the mortgage to be realized through foreclosure.

(3) **APPLICABILITY.**—This subsection shall apply only with respect to modifications, workouts, and other loss mitigation plans initiated before January 1, 2012.

(b) **LEGAL COSTS.**—If an unsuccessful action is brought against a servicer by any person described in subparagraph (A), (B), or (C) of subsection (a)(1), such person shall bear any actual legal costs of the servicer, including reasonable attorney fees and expert witness fees, incurred in good faith in such action, as determined by the court.

(c) **REPORTING.**—Each servicer that engages in loan modifications or workout plans subject to the safe harbor in subsection (a) shall report to the Secretary on a regular basis regarding the extent, scope and results of the servicer's modification activities. The Secretary shall prescribe regulations specifying the form, content, and timing of such reports.

(d) **DEFINITION OF SECURITIZATION VEHICLES.**—For purposes of this section, the term "securitization vehicle" means a trust, corporation, partnership, limited liability entity, special purpose entity, or other structure that—

(1) is the issuer, or is created by the issuer, of mortgage pass-through certificates, participation certificates, mortgage-backed securities, or other similar securities backed by a pool of assets that includes residential mortgage loans; and

(2) holds such mortgages.

#### **SEC. 206. REPORT BY CONGRESSIONAL OVERSIGHT PANEL.**

The Congressional Oversight Panel established by section 125 of the Emergency Economic Stabilization Act of 2008 shall submit a report to the Congress, not later than July 1, 2009, regarding—

(1) the actions taken by the Secretary pursuant to this title;

(2) the impact and effectiveness of such actions on foreclosures on residential properties; and

(3) the effectiveness of such actions from the standpoint of minimizing costs to the taxpayers.

### **TITLE III—AUTO INDUSTRY FINANCING AND RESTRUCTURING**

#### **SEC. 301. SHORT TITLE.**

This title may be cited as the "TARP Reform and Accountability Act of 2009".

#### **SEC. 302. DIRECT LOAN PROVISIONS.**

(a) **IN GENERAL.**—The Emergency Economic Stabilization Act of 2008 (division A of Public Law 110-343) is amended by adding at the end the following:

### **"TITLE IV—AUTO INDUSTRY FINANCING AND RESTRUCTURING**

#### **"SEC. 401. PURPOSES.**

"The purposes of this title are—

"(1) to clarify and confirm the authority and facilities to restore liquidity and stability to domestic vehicle manufacturers in the United States; and

"(2) to ensure that such authority and such facilities are used in a manner that—

"(A) results in a viable and competitive domestic automobile industry that minimizes adverse effects on the environment;

"(B) enhances the ability and the capacity of the domestic automobile industry to pursue the timely and aggressive production of energy-efficient advanced technology vehicles;

"(C) preserves and promotes the jobs of American workers employed directly by the domestic automobile industry and in related industries;

"(D) safeguards the ability of the domestic automobile industry to provide retirement and health care benefits for the industry's retirees and their dependents; and

"(E) stimulates manufacturing and sales of automobiles produced by automobile manufacturers in the United States.

#### **"SEC. 402. PRESIDENTIAL DESIGNATION.**

"(a) **DESIGNATION.**—The President shall designate one or more officers from the Executive Branch having appropriate expertise in such areas as economic stabilization, financial aid to commerce and industry, financial restructuring, energy efficiency, and environmental protection (who shall hereinafter in this title be collectively referred to as the 'President's designee') to carry out the purposes of this title, including the facilitation of restructuring necessary to achieve the long-term financial viability of domestic automobile manufacturers, who shall serve at the pleasure of the President.

"(b) **ADDITIONAL PERSONS.**—The President or the President's designee may also employ, appoint, or contract with additional persons having such expertise as the President or the President's designee believes will assist the Government in carrying out the purposes of this title.

"(c) **PARTICIPATION BY OTHER AGENCY PERSONNEL.**—Other Federal agencies may provide, at the request of the President's designee, staff on detail from such agencies for purposes of carrying out this title.

#### **"SEC. 403. BRIDGE FINANCING.**

"(a) **IN GENERAL.**—The President's designee shall authorize and direct the disbursement of bridge loans or enter into commitments for lines of credit to each automobile manufacturer that submitted a plan to the Congress on December 2, 2008 (hereafter in this title referred to as an 'eligible automobile manufacturer'), and has submitted a request for such loan or commitment. Nothing in this section shall preclude the President's designee from authorizing and directing the disbursement of bridge loans or entering into commitments for lines of credit to other entities.

"(b) **AMOUNT OF ASSISTANCE.**—The President's designee shall authorize bridge loans or commitments for lines of credit to each eligible automobile manufacturer in an amount that is intended to facilitate the continued operations of the eligible automobile manufacturer and to prevent the failure of the eligible automobile manufacturer, consistent with the plan submitted on December 2, 2008, and subject to available funds.

#### **"SEC. 404. RESTRUCTURING PROGRESS ASSESSMENT.**

"(a) **ESTABLISHMENT OF MEASURES FOR ASSESSING PROGRESS.**—Not later than February 1, 2009, the President's designee shall determine appropriate measures for assessing the progress of each eligible automobile manufacturer toward transforming the plan submitted by such manufacturer to the Con-

gress on December 2, 2008, into the restructuring plan to be submitted under section 405(b).

#### **"(b) EVALUATION OF PROGRESS ON BASIS OF RESTRUCTURING PROGRESS ASSESSMENT MEASURES.—**

"(1) **IN GENERAL.**—The President's designee shall evaluate the progress of each eligible automobile manufacturer toward the development of a restructuring plan, on the basis of the restructuring progress assessment measures established under this section for such manufacturer.

"(2) **TIMING.**—Each evaluation required under paragraph (1) for any eligible automobile manufacturer shall be conducted at the end of the 15-day period beginning on the date on which the restructuring progress assessment measures were established by the President's designee for such eligible automobile manufacturer.

#### **"SEC. 405. SUBMISSION OF PLANS.**

"(a) **NEGOTIATED PLANS.—**

"(1) **FACILITATION.—**

"(A) **IN GENERAL.**—Beginning on the date of any disbursement under the facility, the President's designee shall seek to facilitate agreement on any restructuring plan to achieve and sustain the long-term viability, international competitiveness, and energy efficiency of an eligible automobile manufacturer, negotiated and agreed to by representatives of interested parties (in this title referred to as a 'negotiated plan') with respect to any eligible automobile manufacturer.

"(B) **INTERESTED PARTIES.**—For purposes of this section, the term 'interested party' shall be construed broadly so as to include all persons who have a direct financial interest in a particular automobile manufacturer, including—

"(i) employees and retirees of the eligible automobile manufacturer;

"(ii) trade unions;

"(iii) creditors;

"(iv) suppliers;

"(v) automobile dealers; and

"(vi) shareholders.

"(2) **ACTIONS OF THE PRESIDENT'S DESIGNEE.—**

"(A) **IN GENERAL.**—For the purpose of achieving a negotiated plan, the President's designee may convene, chair, and conduct formal and informal meetings, discussions, and consultations, as appropriate, with interested parties of an eligible automobile manufacturer.

"(B) **CLARIFICATION.**—The Federal Advisory Committee Act shall not apply with respect to any of the activities conducted or taken by the President's designee pursuant to this title.

"(b) **RESTRUCTURING PLAN.**—Not later than March 31, 2009, each eligible automobile manufacturer shall submit to the President's designee a restructuring plan to achieve and sustain the long-term viability, international competitiveness, and energy efficiency of the eligible automobile manufacturer (in this title referred to as the 'restructuring plan') in accordance with this section. The President's designee shall approve the restructuring plan if the President's designee determines that the plan will result in—

"(1) the repayment of all Government-provided financing, consistent with the terms specified in section 408, or otherwise agreed to;

"(2) the ability—

"(A) to comply with applicable fuel efficiency and emissions requirements;

"(B) to commence domestic manufacturing of advanced technology vehicles, as described in section 136 of the Energy Independence and Security Act of 2007 (Public Law 110-140; 42 U.S.C. 17013); and

"(C) to produce new and existing products and capacity;

“(3) the achievement of a positive net present value, using reasonable assumptions and taking into account all existing and projected future costs, including repayment of any financial assistance provided pursuant to this title;

“(4) the ability to rationalize costs, capitalization, and capacity with respect to the manufacturing workforce, suppliers, and dealerships of the eligible automobile manufacturer;

“(5) proposals to restructure existing debt, including, where appropriate, the conversion of debt to equity, to improve the ability of the eligible automobile manufacturer to raise private capital; and

“(6) a product mix and cost structure that is competitive in the marketplace.

“(c) **EXTENSION OF NEGOTIATIONS AND PLAN DEADLINE.**—Notwithstanding the time limitations in subsection (b), the President's designee, upon making a determination that the interested parties are negotiating in good faith, are making significant progress, and that an additional period of time would likely facilitate agreement on a negotiated plan, and upon notification of the Congress, may extend for not longer than 30 additional days the negotiation period under subsection (b).

**“SEC. 406. FINANCING FOR RESTRUCTURING.**

“Upon approval by the President's designee of a restructuring plan, the President's designee may provide financial assistance to an eligible automobile manufacturer to implement the restructuring plan.

**“SEC. 407. DISAPPROVAL AND CALL OF LOAN.**

“If the President's designee has not approved the restructuring plan at the expiration of the period provided in section 405 for submission and approval of the restructuring plan, the President's designee shall call the loan or cancel the commitment within 30 days, unless a restructuring plan is approved within that period.

**“SEC. 408. TERMS AND CONDITIONS.**

“(a) **DURATION.**—The duration of any loan made under this title shall be 7 years, or such period as the President's designee may determine with respect to such loan.

“(b) **NO PREPAYMENT PENALTY.**—A loan made under this title shall be prepayable without penalty at any time.

“(c) **INFORMATION ACCESS.**—As a condition for the receipt of any financial assistance made under this title, an eligible automobile manufacturer shall agree—

“(1) to allow the President's designee to examine any books, papers, records, or other data of the eligible automobile manufacturer, and those of any subsidiary, affiliate, or entity holding an ownership interest of 50 percent or more of such automobile manufacturer, that may be relevant to the financial assistance, including compliance with the terms of a loan or any conditions imposed under this title; and

“(2) to provide in a timely manner any information requested by the President's designee, including requiring any officer or employee of the eligible automobile manufacturer, any subsidiary, affiliate, or entity referred to in paragraph (1) with respect to such manufacturer, or any person having possession, custody, or care of the reports and records required under paragraph (1), to appear before the President's designee at a time and place requested and to provide such books, papers, records, or other data, as requested, as may be relevant or material.

“(d) **OVERSIGHT OF TRANSACTIONS AND FINANCIAL CONDITION.**—

“(1) **DUTY TO INFORM.**—During the period in which any loan extended under this title remains outstanding, the eligible automobile manufacturer which received such loan shall promptly inform the President's designee of—

“(A) any asset sale, investment, contract, commitment, or other transaction proposed to be entered into by such eligible automobile manufacturer that has a value in excess of \$100,000,000; and

“(B) any other material change in the financial condition of such eligible automobile manufacturer.

“(2) **AUTHORITY OF THE PRESIDENT'S DESIGNEE.**—During the period in which any loan extended under this title remains outstanding, the President's designee may—

“(A) review any asset sale, investment, contract, commitment, or other transaction described in paragraph (1); and

“(B) prohibit the eligible automobile manufacturer which received the loan from consummating any such proposed sale, investment, contract, commitment, or other transaction, if the President's designee determines that consummation of such transaction would be inconsistent with or detrimental to the long-term viability of the eligible automobile manufacturer.

“(3) **PROCEDURES.**—The President's designee may establish procedures for conducting any review under this subsection.

“(e) **CONSEQUENCES FOR FAILURE TO COMPLY.**—The terms of any financial assistance made under this title shall provide that if—

“(1) an evaluation by the President's designee under section 404(b) demonstrates that the eligible automobile manufacturer which received the financial assistance has failed to make adequate progress towards meeting the restructuring progress assessment measures established by the President's designee under section 404(a) with respect to such recipient;

“(2) after March 31, 2009, the eligible automobile manufacturer which received the financial assistance fails to submit an acceptable restructuring plan under section 405(b), or fails to comply with any conditions or requirement applicable under this title or applicable fuel efficiency and emissions requirements; or

“(3) after a restructuring plan of an eligible automobile manufacturer has been approved by the President's designee, the automobile manufacturer fails to make adequate progress in the implementation of the plan, as determined by the President's designee, the repayment of any loan may be accelerated to such earlier date or dates as the President's designee may determine and any other financial assistance may be cancelled by the President's designee.

**“SEC. 409. TAXPAYER PROTECTION.**

“(a) **WARRANTS.**—

“(1) **IN GENERAL.**—The President's designee may not provide any loan under this title, unless the President's designee, or such department or agency as is designated for such purpose by the President, receives from the eligible automobile manufacturer—

“(A) in the case of an eligible automobile manufacturer, the securities of which are traded on a national securities exchange, a warrant giving the right to the President's designee to receive nonvoting common stock or preferred stock in such eligible automobile manufacturer, or voting stock, with respect to which the President's designee agrees not to exercise voting power, whichever the President's designee determines appropriate; or

“(B) in the case of an eligible automobile manufacturer other than one described in subparagraph (A), a warrant for common or preferred stock, or an instrument that is the economic equivalent (as determined by the President's designee) of such a warrant in the holding company of the eligible automobile manufacturer, or any company that controls a majority stake in the eligible automobile manufacturer, whichever the President's designee determines appropriate.

“(2) **AMOUNT.**—

“(A) **IN GENERAL.**—The warrants or instruments described in paragraph (1) shall have a value equal to 20 percent of the aggregate amount of all loans provided to the eligible automobile manufacturer under this title. Such warrants or instruments shall entitle the Government to purchase—

“(i) nonvoting common stock, up to a maximum amount of 20 percent of the issued and outstanding common stock of—

“(I) the eligible automobile manufacturer; or

“(II) in the case of an eligible automobile manufacturer, the securities of which are not traded on a national securities exchange, a holding company or company that controls a majority of the stock thereof (in this section referred to as the ‘warrant common’); and

“(ii) preferred stock having an aggregate liquidation preference equal to 20 percent of such aggregate loan amount, less the value of common stock available for purchase under the warrant common (in this section referred to as the ‘warrant preferred’).

“(B) **COMMON STOCK WARRANT PRICE.**—The exercise price on a warrant or instrument described in paragraph (1) shall be—

“(i) the 15-day trailing average, as of the day before the date on which any commitment to provide a loan was entered into, of the market price of the common stock of the eligible automobile manufacturer which received any loan under this title; or

“(ii) in the case of an eligible automobile manufacturer, the securities of which are not traded on a national securities exchange, the economic equivalent of the market price described in clause (i), as determined by the President's designee.

“(C) **TERMS OF PREFERRED STOCK WARRANT.**—

“(i) **IN GENERAL.**—The initial exercise price for the preferred stock warrant shall be \$0.01 per share or such greater amount as the corporate charter may require as the par value per share of the warrant preferred. The Government shall have the right to immediately exercise the warrants.

“(ii) **REDEMPTION.**—The warrant preferred may be redeemed at any time after exercise of the preferred stock warrant at 100 percent of its issue price, plus any accrued and unpaid dividends.

“(iii) **OTHER TERMS AND CONDITIONS.**—Other terms and conditions of the warrant preferred shall be determined by the President's designee to protect the interests of taxpayers.

“(3) **APPLICATION OF OTHER PROVISIONS OF LAW.**—Except as otherwise provided in this section, the requirements for the purchase of warrants under section 113(d)(2) of the Emergency Economic Stabilization Act of 2008 (division A of Public Law 110-343) shall apply to any warrant or instrument described in paragraph (1), including the antidilution protection provisions therein.

“(b) **EXECUTIVE COMPENSATION AND CORPORATE GOVERNANCE.**—

“(1) **IN GENERAL.**—During the period in which any financial assistance under this title remains outstanding, the eligible automobile manufacturer which received such assistance shall be subject to—

“(A) the standards established by the President's designee under paragraph (2); and

“(B) the provisions of section 162(m)(5) of the Internal Revenue Code of 1986, as applicable.

“(2) **STANDARDS REQUIRED.**—The President's designee shall require any eligible automobile manufacturer which received any financial assistance under this title to meet appropriate standards for executive compensation and corporate governance.

“(3) SPECIFIC REQUIREMENTS.—The standards established under paragraph (2) shall include—

“(A) limits on compensation that exclude incentives for senior executive officers of an eligible automobile manufacturer which received assistance under this title to take unnecessary and excessive risks that threaten the value of such manufacturer during the period that the loan is outstanding;

“(B) a provision for the recovery by such automobile manufacturer of any bonus or incentive compensation paid to a senior executive officer based on statements of earnings, gains, or other criteria that are later found to be materially inaccurate;

“(C) a prohibition on such automobile manufacturer making any golden parachute payment to a senior executive officer during the period that the loan is outstanding;

“(D) a prohibition on such automobile manufacturer paying or accruing any bonus or incentive compensation during the period that the loan is outstanding to the 25 most highly-compensated employees; and

“(E) a prohibition on any compensation plan that would encourage manipulation of such automobile manufacturer's reported earnings to enhance the compensation of any of its employees.

“(4) DIVESTITURE.—During the period in which any financial assistance provided under this title to any eligible automobile manufacturer is outstanding, the eligible automobile manufacturer may not own or lease any private passenger aircraft, or have any interest in such aircraft, except that such eligible automobile manufacturer shall not be treated as being in violation of this provision with respect to any aircraft or interest in any aircraft that was owned or held by the manufacturer immediately before receiving such assistance, as long as the recipient demonstrates to the satisfaction of the President's designee that all reasonable steps are being taken to sell or divest such aircraft or interest.

“(5) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

“(A) SENIOR EXECUTIVE OFFICER.—The term ‘senior executive officer’ means an individual who is one of the top five most highly paid executives of a public company, whose compensation is required to be disclosed pursuant to the Securities Exchange Act of 1934, and any regulations issued thereunder, and non-public company counterparts.

“(B) GOLDEN PARACHUTE PAYMENT.—The term ‘golden parachute payment’ means any payment to a senior executive officer for departure from a company for any reason, except for payments for services performed or benefits accrued.

“(C) PROHIBITION ON PAYMENT OF DIVIDENDS.—Except with respect to obligations owed pursuant to law to any nonaffiliated party or any existing contract with any nonaffiliated party in effect as of December 2, 2008, no dividends or distributions of any kind, or the economic equivalent thereof (as determined by the President's designee), may be paid by any eligible automobile manufacturer which receives financial assistance under this title, or any holding company or company that controls a majority stake in the eligible automobile manufacturer, while such financial assistance is outstanding.

“(d) OTHER INTERESTS SUBORDINATED.—

“(1) IN GENERAL.—In the case of an eligible automobile manufacturer which received a loan under this title, to the extent permitted by the terms of any obligation, liability, or debt of the eligible automobile manufacturer in effect as of December 2, 2008, any other obligation of such eligible automobile manufacturer shall be subordinate to such loan, and such loan shall be senior and prior to all obligations, liabilities, and debts of the eligi-

ble automobile manufacturer, and such eligible automobile manufacturer shall provide to the Government, all available security and collateral against which the loans under this title shall be secured.

“(2) APPLICABILITY IN CERTAIN CASES.—In the case of an eligible automobile manufacturer referred to in paragraph (1), the securities of which are not traded on a national securities exchange, a loan under this title to the eligible automobile manufacturer shall—

“(A) be treated as a loan to any holding company of, or company that controls a majority stake in, the eligible automobile manufacturer; and

“(B) be senior and prior to all obligations, liabilities, and debts of any such holding company or company that controls a majority stake in the eligible automobile manufacturer.

“(e) ADDITIONAL TAXPAYER PROTECTIONS.—

“(1) DISCHARGE.—A discharge under title 11, United States Code, shall not discharge an eligible automobile manufacturer, or any successor in interest thereto, from any debt for financial assistance received pursuant to this title.

“(2) EXEMPTION.—Any financial assistance provided to an eligible automobile manufacturer under this title shall be exempt from the automatic stay established by section 362 of title 11, United States Code.

“(3) INTERESTED PARTIES.—Notwithstanding any provision of title 11, United States Code, any interest in property or equity rights of the United States arising from financial assistance provided to an eligible automobile manufacturer under this title shall remain unaffected by any plan of reorganization, except as the United States may agree to in writing.

#### “SEC. 410. OVERSIGHT AND AUDITS.

“(a) COMPTROLLER GENERAL OVERSIGHT.—

“(1) SCOPE OF OVERSIGHT.—The Comptroller General of the United States shall conduct ongoing oversight of the activities and performance of the President's designee.

“(2) CONDUCT AND ADMINISTRATION OF OVERSIGHT.—

“(A) GAO PRESENCE.—The President's designee shall provide to the Comptroller General appropriate space and facilities for purposes of this subsection.

“(B) ACCESS TO RECORDS.—To the extent otherwise consistent with law, the Comptroller General shall have access, upon request, to any information, data, schedules, books, accounts, financial records, reports, files, electronic communications, or other papers, things, or property belonging to or in use by the President's designee, at such reasonable time as the Comptroller General may request. The Comptroller General shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians. The Comptroller General may make and retain copies of such books, accounts, and other records as the Comptroller General deems appropriate.

“(3) REPORTING.—The Comptroller General shall submit reports of findings under this section to Congress, regularly and not less frequently than once every 60 days. The Comptroller General may also submit special reports under this subsection, as warranted by the findings of its oversight activities.

“(b) SPECIAL INSPECTOR GENERAL.—It shall be the duty of the Special Inspector General established under section 121 of Public Law 110-343 to conduct, supervise, and coordinate audits and investigations of the President's designee in addition to the duties of the Special Inspector General under such section and for such purposes. The Special Inspector General shall also have the duties, responsibilities, and authorities of inspectors gen-

eral under the Inspector General Act of 1978, including section 6 of such Act. In the event that the Office of the Special Inspector General is terminated, the Inspector General of the Department of the Treasury shall assume the responsibilities of the Special Inspector General under this subsection.

“(c) ACCESS TO RECORDS OF BORROWERS BY GAO.—Notwithstanding any other provision of law, during the period in which any financial assistance provided under this title is outstanding, the Comptroller General of the United States shall have access, upon request, to any information, data, schedules, books, accounts, financial records, reports, files, electronic communications, or other papers, things, or property belonging to or in use by the eligible automobile manufacturer, and any subsidiary, affiliate, or entity holding an ownership interest of 50 percent or more of such eligible automobile manufacturer (collectively referred to in this section as ‘related entities’), and to any officer, director, or other agent or representative of the eligible automobile manufacturer and its related entities, at such reasonable times as the Comptroller General may request. The Comptroller General may make and retain copies of such books, accounts, and other records as the Comptroller General deems appropriate.

#### “SEC. 411. REPORTING AND MONITORING.

“(a) REPORTING ON CONSUMMATION OF LOANS.—The President's designee shall submit a report to the Congress on each bridge loan made under this title not later than 5 days after the date of the consummation of such loan.

“(b) REPORTING ON RESTRUCTURING PROGRESS ASSESSMENT MEASURES.—The President's designee shall submit a report to the Congress on the restructuring progress assessment measures established for each manufacturer under section 404(a) not later than 10 days after establishing the restructuring progress assessment measures.

“(c) REPORTING ON EVALUATIONS.—The President's designee shall submit a report to the Congress containing the detailed findings and conclusions of the President's designee in connection with the evaluation of an eligible automobile manufacturer under section 404(b).

“(d) REPORTING ON CONSEQUENCES FOR FAILURE TO COMPLY.—The President's designee shall submit a report to the Congress on the exercise of a right under section 408(e) to accelerate indebtedness of an eligible automobile manufacturer under this title or to cancel any other financial assistance provided to such eligible automobile manufacturer, and the facts and circumstances on which such exercise was based, before the end of the 10-day period beginning on the date of the exercise of the right.

“(e) MONITORING.—The President's designee shall monitor the use of loan funds received by eligible automobile manufacturers under this title, and shall report to Congress once every 90 days (beginning 30 days after the date of enactment of this title) on the progress of the ability of the recipient of the loan to continue operations and proceed with restructuring processes that restore the financial viability of the recipient and promote environmental sustainability.

#### “SEC. 412. REPORT TO CONGRESS ON LACK OF PROGRESS TOWARD ACHIEVING AN ACCEPTABLE NEGOTIATED PLAN.

“(a) AUTHORITY TO FACILITATE A NEGOTIATED PLAN.—At any such time as the President's designee determines that action is necessary to avoid disruption to the economy or to achieve a negotiated plan, the President's designee shall submit to Congress a report outlining any additional powers and authorities necessary to facilitate

the completion of a negotiated plan required under section 405.

“(b) IMPEDIMENTS TO ACHIEVING NEGOTIATED PLANS.—If the President’s designee determines, on the basis of an evaluation by the President’s designee of the progress being made by an eligible automobile manufacturer toward meeting the restructuring progress assessment measures established under section 404, that adequate progress is not being made toward achieving a negotiated plan by March 31, 2009, the President’s designee shall submit to Congress a report detailing the impediments to achievement of a negotiated plan by the eligible automobile manufacturer.

**“SEC. 413. SUBMISSION OF PLAN TO CONGRESS BY THE PRESIDENT’S DESIGNEE.**

“Upon submission of a report pursuant to section 412(b), the President’s designee shall provide to Congress a plan that represents the judgement of the President’s designee as to the steps necessary to achieve the long-term viability, international competitiveness, and energy efficiency of the eligible automobile manufacturer, consistent with the factors set forth in section 405(b), including through a negotiated plan, a plan to be implemented by legislation, or a reorganization pursuant to chapter 11 of title 11, United States Code.

**“SEC. 414. COORDINATION WITH OTHER LAWS.**

“(a) IN GENERAL.—No provision of this title may be construed as altering, affecting, or superseding—

“(1) the provisions of section 129 of division A of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, relating to funding for the manufacture of advanced technology vehicles;

“(2) any existing authority to provide financial assistance or liquidity for purposes of the day-to-day operations in the ordinary course of business or research and development.

“(b) ANTITRUST PROVISIONS.—

“(1) IN GENERAL.—Subject to paragraphs (2) and (4), the antitrust laws shall not apply to meetings, discussions, or consultations among an eligible automobile manufacturer and its interested parties for the purpose of achieving a negotiated plan pursuant to section 405(a)(2).

“(2) EXCLUSIONS.—Paragraph (1) shall not apply with respect to price-fixing, allocating a market between competitors, monopolizing (or attempting to monopolize) a market, or boycotting.

“(3) ANTITRUST AGENCY PARTICIPATION.—The Attorney General of the United States and the Federal Trade Commission shall, to the extent practicable, receive reasonable advance notice of, and be permitted to participate in, each meeting, discussion, or consultation described in paragraph (1).

“(4) PRESERVATION OF ENFORCEMENT AUTHORITY.—Paragraph (1) shall not be construed to preclude the Attorney General of the United States or the Federal Trade Commission from bringing an enforcement action under the antitrust laws for injunctive relief.

“(5) SUNSET.—Paragraph (1) shall apply only with respect to meetings, discussions, or consultations that occur within the 3-year period beginning on the date of the enactment of this title.

“(6) DEFINITION.—For purposes of this subsection, the term ‘antitrust laws’—

“(A) has the same meaning as in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45), to the extent that such section 5 applies to unfair methods of competition; and

“(B) includes any provision of State law that is similar to the laws referred to in subparagraph (A).

**“SEC. 415. TREATMENT OF RESTRUCTURING FOR PURPOSES OF APPLYING LIMITATIONS ON NET OPERATING LOSS CARRYFORWARDS AND CERTAIN BUILT-IN LOSSES.**

“Section 382 of the Internal Revenue Code of 1986 shall not apply in the case of an ownership change resulting from this title or pursuant to a restructuring plan approved under this title.

**“SEC. 416. CLARIFICATION OF AVAILABILITY OF FINANCIAL SUPPORT FOR FINANCING ARMS.**

“The authority of the President’s designee to provide assistance to any eligible automobile manufacturer includes the authority to provide support to finance company affiliates of the manufacturer to ensure that such affiliates have the necessary resources to continue to provide needed credit, including through dealer and other financing of consumer and business auto and other vehicle loans and dealer floor plan loans.”.

**TITLE IV—CLARIFICATION OF AUTHORITY**

**SEC. 401. CONSUMER LOANS.**

Title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211 et seq.) is amended by adding at the end the following new section:

**“SEC. 137. CLARIFICATION OF AUTHORITY REGARDING CONSUMER LOANS.**

“The authority of the Secretary to take any action under this title includes the authority to establish or support facilities to support the availability of consumer loans, including loans for autos and other vehicles and student loans, including through purchase of asset-backed securities, directly or through the Board or any Federal reserve bank.”.

**SEC. 402. MUNICIPAL SECURITIES.**

Section 103 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211) is amended by inserting after subsection (f) (as added by section 401 of this title) the following new subsection:

“(g) CLARIFICATION OF AUTHORITY REGARDING MUNICIPAL SECURITIES.—

“(1) CLARIFICATION.—The authority of the Secretary to take any action under this title includes the authority to provide support to State and local governments, and other issuers of municipal securities, which are having difficulty accessing appropriate financing in the capital markets. Such support includes the direct purchase of municipal securities and providing credit enhancement in connection with municipal securities whose purchase is financed under any facility provided by the Board or any Federal reserve bank.

“(2) DEFINITION.—For purposes of this subsection, the term ‘municipal security’ has the meaning given the term ‘State or local bond’ in section 103(c) of the Internal Revenue Code of 1986 (26 U.S.C. 103(c)) and the regulations issued thereunder.”.

**SEC. 403. COMMERCIAL REAL ESTATE LOANS.**

Title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211 et seq.) is amended by adding after section 137 (as added by section 401 of this title) the following new section:

**“SEC. 138. CLARIFICATION OF AUTHORITY REGARDING COMMERCIAL REAL ESTATE LOANS.**

“The authority of the Secretary to take any action under this title includes the authority to establish or support facilities to support the availability of commercial real estate loans, including through purchase of asset-backed securities, directly or through the Board of Governors of the Federal Reserve System or any Federal reserve bank.”.

**TITLE V—HOPE FOR HOMEOWNERS PROGRAM IMPROVEMENTS**

**SEC. 501. CHANGES TO HOPE FOR HOMEOWNERS PROGRAM.**

Section 257 of the National Housing Act (12 U.S.C. 1715z–23) is amended—

(1) in subsection (e)—

(A) by striking paragraph (1);

(B) in paragraph (2)(B), by striking “90 percent” and inserting “93 percent”;

(C) by striking paragraph (7);

(D) in paragraph (9), by striking “by procuring” and all that follows through “by any other method”; and

(E) by redesignating paragraphs (2), (3), (4), (5), (6), (8), (9), (10), and (11) as paragraphs (1), (2), (3), (4), (5), (6), (7), (8), and (9), respectively;

(2) in subsection (h)(2), by striking “, or in any case in which a mortgagor fails to make the first payment on a refinanced eligible mortgage”;

(3) by striking subsection (i) and inserting the following new subsection:

“(i) ANNUAL PREMIUMS.—

“(1) IN GENERAL.—For each refinanced eligible mortgage insured under this section, the Secretary shall establish and collect an annual premium in an amount equal to not less than 0.55 percent of the amount of the remaining insured principal balance of the mortgage and not more than 0.75 percent of such remaining insured principal balance, as determined according to a schedule established by the Board that assigns such annual premiums based upon the credit risk of the mortgage.

“(2) REDUCTION OR TERMINATION DURING MORTGAGE TERM.—Notwithstanding paragraph (1), the Secretary may provide that the annual premiums charged for refinanced eligible mortgages insured under this section are reduced over the term of the mortgage or that the collection of such premiums is discontinued at some time during the term of the mortgage, in a manner that is consistent with policies for such reduction or discontinuation of annual premiums charged for mortgages in accordance with section 203(c).”;

(4) in subsection (k)—

(A) by striking the subsection heading and inserting “EXIT FEE”;

(B) in paragraph (1), in the matter preceding subparagraph (A), by striking “such sale or refinancing” and inserting “the mortgage being insured under this section”; and

(C) by striking paragraph (2);

(5) in subsection (s)(3)(A)(ii), by striking “subsection (e)(1)(B) and such other” and inserting “such”;

(6) in subsection (v), by inserting after the period at the end the following: “The Board shall conform documents, forms, and procedures for mortgages insured under this section to those in place for mortgages insured under section 203(b) to the maximum extent possible consistent with the requirements of this section.”;

(7) in subsection (w)(1)(C), by striking “(e)(4)(A)” and inserting “(e)(3)(A)”; and

(8) by adding at the end the following new subsection:

“(x) PAYMENT TO EXISTING LOAN SERVICER.—The Board may establish a payment to the servicer of the existing senior mortgage for every loan insured under the HOPE for Homeowners Program.”.

**SEC. 502. FUNDING OF INCREASED HOPE FOR HOMEOWNERS PROGRAM CREDIT SUBSIDY COSTS.**

Section 257 of the National Housing Act (12 U.S.C. 1715z–23) is amended by adding after subsection (x) (as added by section 501 of this title) the following new subsection:

“(y) FUNDING OF CREDIT SUBSIDY COSTS OF 2009 AMENDMENTS.—Notwithstanding section



1338(b) of the Housing and Community Development Act of 1992 (12 U.S.C. 4568(b)) and subsection (w) of this section—

“(1) to the extent amounts are available to the Secretary of the Treasury pursuant to section 118 of the Emergency Economic Stabilization Act of 2008, the Secretary shall use such amounts to cover any increase in the net costs to the Federal Government of the HOPE for Homeowners program under this section resulting from the amendments made by title V of the TARP Reform and Accountability Act of 2009, and actions authorized by title I of the Emergency Economic Stabilization Act of 2008 shall include such use; and

“(2) any remaining net costs to the Federal Government of the HOPE for Homeowners program under this section not resulting from the amendments made under this title shall be paid, and the Secretary of the Treasury shall be reimbursed for such costs, in accordance with the provisions of such section 1338 and subsection (w) of this section.”

#### TITLE VI—HOME BUYER STIMULUS

##### SEC. 601. HOME BUYER STIMULUS PROGRAM.

(a) IN GENERAL.—The Secretary of the Treasury (in this title referred to as the “Secretary”) shall carry out a program using the authority made available by section 1117 of the Housing and Economic Recovery Act of 2008 to stimulate demand for home purchases and reduce unsold inventories of residential properties, which shall include ensuring the availability of affordable interest rates on mortgages made for the purchase, by qualified home buyers, of 1- to 4-family residential properties.

(b) PURCHASE OBLIGATIONS AND SECURITIES USING HERA AUTHORITY.—The Secretary shall execute the program under this section through the purchase of obligations and other securities issued by—

(1) the Federal National Mortgage Association, pursuant to the authority under section 304(g) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(g)),

(2) the Federal Home Loan Mortgage Corporation, pursuant to the authority under section 304(l) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1455(l)), and

(3) any Federal Home Loan Bank, pursuant to the authority under section 11(l) of the Federal Home Loan Bank Act (12 U.S.C. 1431(l)),

as added by section 1117 of the Housing and Economic Recovery Act of 2008 (Public Law 110-289).

(c) USE OF LOAN ORIGINATORS AND PORTFOLIO LENDERS.—The program under this section shall provide mechanisms to ensure availability of such mortgages for home purchase having affordable interest rates through financial institutions that act as loan originators or as portfolio lenders.

(d) AVAILABILITY OF AFFORDABLE LOANS UNDER HOPE FOR HOMEOWNERS PROGRAM.—The Secretary, in consultation with the Secretary of Housing and Urban Development, shall ensure that the affordable interest rates made available through the program under this section are made available in connection with mortgages made for refinancing eligible mortgages, as such term is defined in section 257 of the National Housing Act (12 U.S.C. 1715z-23), to be insured under the HOPE for Homeowners Program under such section.

(e) TARGETING.—In carrying out the program under this section, the Secretary may take into consideration the impact of activities under the program on geographical areas having the greatest number of properties with foreclosed-upon mortgages.

#### TITLE VII—FDIC PROVISIONS

##### SEC. 701. PERMANENT INCREASE IN DEPOSIT INSURANCE.

(a) AMENDMENTS TO FEDERAL DEPOSIT INSURANCE ACT.—Section 11(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)) is amended—

(1) in paragraph (1)(E), by striking “\$100,000” and inserting “\$250,000”

(2) in paragraph (1)(F)(i), by striking “2010” and inserting “2015”;

(3) in subclause (I) of paragraph (1)(F)(i), by striking “\$100,000” and inserting “\$250,000”;

(4) in subclause (II) of paragraph (1)(F)(i), by striking “the calendar year preceding the date this subparagraph takes effect under the Federal Deposit Insurance Reform Act of 2005” and inserting “calendar year 2008”; and

(5) in paragraph (3)(A)(iii), by striking “, except that \$250,000 shall be substituted for \$100,000 wherever such term appears in such paragraph”.

(b) REPEAL OF EESA PROVISION.—Section 136 of the Emergency Economic Stabilization Act (Public Law 110-343; 122 Stat. 3765) is hereby repealed.

(c) AMENDMENT TO FEDERAL CREDIT UNION ACT.—Section 207(k) of the Federal Credit Union Act (12 U.S.C. 1787(k)) is amended—

(1) in paragraph (3)—

(A) by striking the opening quotation mark before “\$250,000”;

(B) by striking “, except that \$250,000 shall be substituted for \$100,000 wherever such term appears in such section”; and

(C) by striking the closing quotation mark after the closing parenthesis; and

(2) in paragraph (5), by striking “\$100,000” and inserting “\$250,000”;

##### SEC. 702. EXTENSION OF RESTORATION PLAN PERIOD.

Section 7(b)(3)(E)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(3)(E)(ii)) is amended by striking “5-year period” and inserting “8-year period”.

##### SEC. 703. BORROWING AUTHORITY.

Section 14(a) of the Federal Deposit Insurance Act (12 U.S.C. 1814(a)) is amended—

(1) by striking “\$30,000,000,000” and inserting “\$100,000,000,000”; and

(2) by inserting prior to the last sentence, the following new sentence: “The Corporation may request in writing to borrow, and the Secretary may authorize and approve the borrowing of, additional amounts above \$100,000,000,000 to the extent that the Board of Directors and the Secretary determine such borrowing to be necessary.”.

##### SEC. 704. SYSTEMIC RISK SPECIAL ASSESSMENTS.

Section 13(c)(4)(G)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(4)(G)(ii)) is amended to read as follows:

“(ii) REPAYMENT OF LOSS.—

“(I) IN GENERAL.—The Corporation shall recover the loss to the Deposit Insurance Fund arising from any action taken or assistance provided with respect to an insured depository institution under clause (i) from 1 or more special assessments on insured depository institutions, depository institution holding companies (with the concurrence of the Secretary of the Treasury with respect to holding companies), or both, as the Corporation determines to be appropriate.

“(II) TREATMENT OF DEPOSITORY INSTITUTION HOLDING COMPANIES.—For purposes of this clause, sections 7(c)(2) and 18(h) shall apply to depository institution holding companies as if they were insured depository institutions.

“(III) REGULATIONS.—The Corporation shall prescribe such regulations as it deems necessary to implement this clause. In prescribing such regulations, defining terms, and setting the appropriate assessment rate

or rates, the Corporation shall consider: the types of entities that benefit from any action taken or assistance provided under this subparagraph; economic conditions; the effects on the industry; and such other factors as the Corporation deems appropriate.”.

Mr. DAVIS of Illinois. Mr. Chair, I rise in strong support of the TARP Reform and Accountability Act. This bill greatly strengthens the safeguards for using taxpayer dollars for the TARP program. Two provisions promise to provide critical aid to Chicago. Requiring the Treasury to direct \$100 billion to foreclosure mitigation provides hope to the hundreds of thousands of Chicagoans and families across the Nation who are struggling with foreclosure. Moreover, directing the Treasury to use TARP funds to benefit small financial institutions will help strengthen these financial institutions that play such an important role in Chicago. Hundreds of community banks in Chicago are teetering on collapse. These companies provide important support to small businesses and minorities, and, as of yet, they have not received aid from the Treasury.

I especially want to thank Chairman FRANK for including language that highlights the importance of considering consumer protections when determining which classes of consumer loans to support. Congresswoman YVETTE CLARKE and I have worked actively along with 16 other Members to urge the Treasury and Federal Reserve to proceed cautiously when using taxpayer funds for the student loan industry, ensuring that both financial and consumer protections are considered. We strongly support ensuring that students have the money they need to attend institutions of higher education. However, we must make certain that any such plan aids students and does not simply line the pockets of for-profit lenders.

Certain groups of students require private student loans to attend school. Unlike Federal student loans, private student loans typically lack any form of consumer protection (such as fixed interest rates, income-contingent and income-based repayment options, or debt discharge in the case of disability or death). Moreover, private student loan lenders enjoy Federal protections from bankruptcy that other consumer creditors do not. Specifically, unlike other types of consumer debt, private student loans are protected from discharge during bankruptcy except under extreme circumstances. Thus, an individual who accumulates thousands of dollars in debt for purchases of cars or luxury goods can obtain relief via bankruptcy; however, a teacher with private student loans cannot.

Given these circumstances, we hope the Treasury and Federal Reserve will construct its student loan plan carefully to mitigate against adverse consequences for private student loan borrowers, especially in light of current economic conditions. Should taxpayer money be used to support private student lenders of non-federal loans, we strongly urge that the Treasury and Federal Reserve require consumer protections similar to those afforded to Federal student loans as a condition of receipt of Federal rescue funds. Federal student loans have consumer protections; private student loans subsidized by the Treasury-Fed plan should have such protections as well. Further, we recommend instituting steps to assess the underwriting standards of lenders who seek Federal relief to determine if the

lenders extended credit to particularly vulnerable consumers and whether credit was extended with onerous terms or conditions. Similar to the executive compensation restrictions of the Treasury-Fed plan, these restrictions would help focus Federal dollars on stimulating lending while protecting taxpayers and borrowers.

I thank Chairman FRANK and House leadership for developing this bill, and I urge my colleagues to support its passage.

Mr. HOYER. Mr. Chair, last fall, at the urging of President Bush, Treasury Secretary Paulson, and Federal Reserve Chairman Bernanke, Congress took extraordinary action to stabilize America's financial markets and limit the scope of an economic crisis. I know that the Troubled Assets Relief Program (TARP) was one of the most difficult votes that anyone in this Chamber had ever taken. But passing that bill was the right thing to do—and even with all of the turmoil of the past months, my mind hasn't changed.

On the other hand, I don't think anyone in this Chamber is happy with TARP, either. As it has done so many times in the last 8 years, the Bush administration failed to follow congressional intent when it came to executing a law. The administration has failed to fight the wave of foreclosures at the source of this crisis, and it did too little to maximize the effectiveness of TARP funds in helping to restore our economy's flow of credit. Nor did the administration adequately track how taxpayer money was spent to ensure that banks were using it for the intended purposes.

We cannot in good conscience approve another \$350 billion request without confidence that those failures will be remedied.

This bill strengthens accountability and oversight measures, so that we can get necessary loans flowing again to families and businesses. It requires detailed reports from recipients of TARP funds and ensures that those funds un-thaw credit. It provides even stronger limits on executive compensation, so that taxpayers can be sure their money is not funding million-dollar Park Avenue apartments for CEOs. It clarifies the Treasury Department's authority to use TARP funds to benefit small financial institutions, auto companies, consumers, and municipalities. And it insists that Treasury immediately commit \$100 billion to fight foreclosures and help Americans keep their homes.

President-elect Obama has promised that "we are going to fundamentally change some of the practices in using this next phase of the program." I agree wholeheartedly, and this bill is a strong first step toward that change. But I also want to make clear that the same high standards of oversight ought to apply to any administration, Republican or Democratic. TARP funds must be watched with the same diligence we would expect from any lender—and how much more so when the source of the funds is the American taxpayer, when the principal runs into twelve digits, and when the stakes are so high?

Mr. Chair, Lyndon Johnson said—in words I've quoted before on this floor and I'm sure I'll quote again—"It's not hard to do the right thing. It's hard to know what the right thing is."

In this crisis, the problems are as complex as our end goal is simple: Businesses hiring, families thriving, America growing once again. But I am convinced that passing this bill is the right thing today. I hope and trust that my colleagues will see it the same way.

Ms. CORRINE BROWN of Florida. Mr. Chair, I want to thank Chairman FRANK for his leadership in developing this bill. I appreciate the time you and your staff have spent on the issues important to the American people. You were instrumental in getting an amendment regarding tax credits in the manager's amendment.

I want to speak on the situation today. I voted for TARP when it was brought up last year. I am extremely disappointed as to how the banking industry used the taxpayer funds.

The way the administration disbursed the first half of the TARP funds was not in the interest of the American people. It was in the interest of those who caused this crisis in the first place. The investment bankers, and elite financiers in New York were the first in line to claim some money and then left nothing for the people holding the bag, the homeowners and the small businesspeople like those from my district in Florida.

The administration moved from helping those who held mortgages that were in foreclosure to bailing out the large banks. These banks took that money and put it in their pockets. They paid their shareholders and continued to pay bonuses to their executives. The banks called in their loans and eliminated lines of credit. They bought other banks. They closed businesses and used every legal means to get as much money as they could. What the banking industry did was not our intent.

The Europeans used the government money to help stimulate the economy. Every pound or euro given to banks was required to be loaned out. As opposed to the banks here who called in loans and did away with lines of credit.

I would like to ask Chairman FRANK a couple of questions at this time:

"Chairman FRANK, I am very concerned the money we are authorizing for the TARP program will not make it to the American people and will not be used for what we are intending it to be used for. We need to get money to people for (1) to end the foreclosures, of which thousands a day are happening all over the country, (2) auto loans—people can't get credit to buy a car and (3) school loans—the banks are calling in the notes, prohibiting our young people from getting an education.

The American people need this money.

What protections have you included in the bill to ensure this happens?"

Second, I have a question regarding the re-appraisal of real estate collateral that is affecting the home builders in our country. I have an amendment in front of the rules committee which would permit lenders to extend or modify loan terms for home builders, so they could continue to pay interest without forcing them to pay large sums to the principal while in this economic crisis.

I understand this issue is not covered by this bill. What assurances do I have that you will consider this issue in the future in your committee?

Mr. Chairman, thank you very much for your explanations. In my district, along with most of the country, people cannot get the loans to consume, which is the basis for our economy. I am pleased you included these provisions in the bill, to help small businesses all over our country.

Thank you for your hard work on this bill, to bring relief to those who are suffering from

foreclosures and for your firm leadership on this issue for the many years you have served the people of Massachusetts and America.

It is important the TARP funds being spent by the Administration be used for the benefit of the American people. From what I have seen, it does not.

Mr. DINGELL. Mr. Chairman, I rise in support of the manager's amendment to H.R. 384, the "TARP Reform and Accountability Act of 2009." Let me begin by thanking the distinguished chairman of the Committee on Financial Services for his fine work on H.R. 384, as well as for his cooperation in the past in my efforts to ensure that TARP funds were made available to the domestic automotive industry, as well as to domestic automotive financing companies. I look forward to working with him in the future to see that TARP funds are properly allocated and their use and effectiveness be subject to impartial oversight by the Congress.

As debate on the use of TARP funds has progressed, I have consistently maintained that recipients of those funds all be subject to uniform oversight requirements. It pleases me that the manager's amendment to H.R. 384 includes additional public reporting requirements for entities that have received or will receive TARP funds in the future.

The question of oversight aside, I have also long maintained that the root of the Nation's current economic crisis lies in the collapse of the housing market. Too little has been done in the past year to stabilize the market and help financially distressed homeowners. The manager's amendment wisely addresses this problem by requiring that a specific portion of the next tranche of TARP funds be dedicated to mitigate foreclosures on residential mortgages within 7 days of enactment of H.R. 384. This is of particular importance and will hopefully be of great assistance to my State, Michigan, which unfortunately has one of the Nation's highest foreclosure rates.

While stabilizing the housing market is a large part of the solution to the current recession, I must reiterate my belief that the Congress should take action to support the domestic manufacturing industry, and in particular, our ailing automakers. I would note that foreign markets for automobiles are contracting, and other governments are contemplating or have already taken measures to help automakers with production facilities in their countries. A key part of the automotive industry's troubles in the United States is the lack of credit available to consumers. The manager's amendment retains H.R. 384's grant of authority to the Treasury to provide support to the financing arms of automakers, which will in turn allow consumers and businesses access to previously unavailable lines of credit for the purchase of new vehicles. I voice my wholehearted support for this sensible provision, especially as the collective future of our automakers is tied directly to the health of their financing arms.

I would again thank the chairman for his gracious cooperation in the past on this and many other issues. The manager's amendment contains prudent measures to improve oversight and administration of the Troubled Asset Relief Program, and I would urge my colleagues to support its passage.

The Acting CHAIR. No amendment to the bill is in order except those printed in House Report 111-3. Each

amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent of the amendment, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. FRANK OF MASSACHUSETTS

The Acting CHAIR. It is now in order to consider amendment No. 1 printed in House Report 111-3.

Mr. FRANK of Massachusetts. I rise to offer that amendment, Mr. Chairman.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. FRANK of Massachusetts:

Page 3, line 16, after the period insert the following: "Such reporting may be required directly for nondepository institutions or through the appropriate Federal banking agency, as provided in section 103."

Page 4, line 15, strike "As" and insert "Except as provided in section 105, as".

Page 4, line 18, before the second comma insert "made after the date of the enactment of the TARP Reform and Accountability Act of 2009".

Page 5, line 1, strike "funding" and insert "assistance".

Page 5, line 10, strike "funds" and insert "assistance".

Page 6, line 23, strike "funds" and insert "assistance".

Page 7, after line 11, insert the following:

(4) RENTER PROTECTION.—In the case of any foreclosure on any dwelling or residential real property securing an extension of credit made under a contract entered into after the date of the enactment of this Act, any successor in interest in such property pursuant to the foreclosure shall assume such interest subject to—

(A) the provision, by the successor in interest, of a notice to vacate to any bona fide tenant at least 90 days before the effective date of the notice to vacate; and

(B) the rights of any bona fide tenant, as of the date of such notice of foreclosure—

(i) under any bona fide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease or the end of the 6-month period beginning on the date of the notice of foreclosure, whichever occurs first, subject to the receipt by the tenant of the 90-day notice under subparagraph (A); or

(ii) without a lease or with a lease terminable at will under State law, subject to the receipt by the tenant of the 90-day notice under subparagraph (A).

(5) BONA FIDE LEASE OR TENANCY.—For purposes of this paragraph (1), a lease or tenancy shall be considered bona fide only if—

(A) the mortgagor under the contract is not the tenant;

(B) the lease or tenancy was the result of an arms-length transaction; or

(C) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property.

Page 7, line 14, strike "may permit an" and insert "shall permit an assisted".

Page 7, line 18, before the first period insert the following: ", and when such assistance is repaid, the Secretary shall liquidate warrants associated with such assistance at the current market price".

Page 8, line 6, strike "means" and insert "mean".

Page 8, strike lines 19 through 21 and insert the following:

"(1) STANDARDS REQUIRED.—Notwithstanding any—"

Page 8, line 25, strike "assisted institution" and insert "institution that became an assisted institution after the date of the enactment of the TARP Reform and Accountability Act of 2009".

Page 9, lines 6 through 8, strike "an assisted institution which received assistance under this title" and insert "such institution".

Page 10, strike lines 5 through 16.

Page 10, line 17, strike "(4)" and insert "(3)".

Page 10, line 23, strike "on or after" and insert "before".

Page 12, line 24, before the first period, insert ", and shall require such reports to be provided to the appropriate State bank supervisor (as defined in section 3 of the Federal Deposit Insurance Act)".

Page 13, line 4 and 5, strike "striking paragraph (1) and inserting" and inserting "adding at the end".

Strike line 6 on page 13 and all that follows through page 16, line 18, and insert the following:

"(4) AMOUNT.—For assistance provided after the date of the enactment of the TARP Reform and Accountability Act of 2009, and except as provided in title III of such Act, the warrants or instruments described in this section shall have a value at least equal to 15 percent of the aggregate amount of such assistance."

Strike line 23 on page 16 and all that follows through page 17, line 2.

Page 17, line 6, strike "make available funds" and insert "provide assistance".

Page 17, line 8, before the period insert ", including such institutions that are privately held".

Page 17, strike lines 9 through 12 and insert the following:

(b) COMPARABLE TERMS.—An institution that receives assistance after the date of the enactment of the TARP Reform and Accountability Act of 2009, shall do so on terms comparable to the terms applicable to institutions that received assistance prior to the date of the enactment of such Act of 2009: *Provided*, That the institution—

Page 17, line 13, strike "have submitted applications" and inserting "has submitted an application".

Page 17, line 18, strike "are" and insert "is".

Page 17, line 25, strike the comma and insert a period.

Page 18, strike lines 1 through 3.

Page 19, after line 12, insert the following:

**SEC. 107. INCLUSION OF WOMEN AND MINORITIES.**

(a) OFFICE OF MINORITY AND WOMEN INCLUSION.—The Secretary of the Treasury shall establish an Office of Minority and Women Inclusion, or designate an office of the entity, that shall be responsible for carrying out this section and ensuring compliance by the Secretary and each assisted institution (as such term is defined in section 3 of the Emergency Economic Stabilization Act of 2008) with the requirements of this section. The Office shall be responsible for all matters of the entity relating to diversity in management, employment, and business activities in accordance with such standards and requirements as the Secretary shall establish regarding the use of assistance provided under title I of such Act.

(b) INCLUSION IN ALL LEVELS OF BUSINESS ACTIVITIES.—The Secretary and each assisted institution shall develop and implement standards and procedures to ensure, to the

maximum extent possible, the inclusion and utilization of minorities (as such term is defined in section 1204(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note)) and women, and minority- and women-owned businesses (as such terms are defined in section 21A(r)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(r)(4)) (including financial institutions, investment banking firms, mortgage banking firms, asset management firms, broker-dealers, financial services firms, underwriters, accountants, brokers, investment consultants, and providers of legal services) in all business and activities of the Secretary and each assisted institution at all levels, including in procurement, insurance, and all types of contracts (including contracts for the issuance or guarantee of any debt, equity, or mortgage-related securities, the management of its mortgage and securities portfolios, the making of its equity investments, the purchase, sale and servicing of single- and multi-family mortgage loans, and the implementation of its affordable housing program and initiatives). The processes established by the Secretary and each assisted institution for review and evaluation for contract proposals and to hire service providers shall include a component that gives consideration to the diversity of the applicant.

(c) APPLICABILITY.—This section shall apply to all contracts of the Secretary of the Treasury and assisted institutions for services of any kind, including services that require the services of investment banking, asset management entities, broker-dealers, financial services entities, underwriters, accountants, investment consultants, and providers of legal services.

(d) REPORTS TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall report to the Congress detailed information describing the actions taken by the Office and assisted institutions pursuant to this section, which shall include a statement of the total amounts provided by the Secretary and assisted institutions under title I of the Emergency Economic Stabilization Act of 2008 to third party contractors since the last such report and the percentage of such amounts paid to businesses described in subsection (b) of this section.

#### SEC. 108. ANALYSIS OF USE OF ASSISTANCE.

(a) REQUIREMENT.—The Secretary of the Treasury shall regularly analyze timely and detailed information concerning the use of assistance provided under title I of the Emergency Economic Stabilization Act of 2008 by assisted institutions to ensure that the program established under title I of such Act is meeting the goals of the program.

(b) AGENCY COLLECTION.—The Secretary of the Treasury shall require the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act) and any other Federal agency the Secretary chooses to report detailed information to the Secretary on the use of assistance provided by the Secretary under the Emergency Economic Stabilization Act of 2008 in a standard electronic form on no less than a quarterly basis.

(c) SOURCE OF INFORMATION.—The data collected and analyzed under subsections (a) and (b)—

(1) shall come from existing reports filed by all assisted institutions where possible, including depository institutions and non-depository institutions, with the principal Federal regulator of each such institution, if any; and

(2) and should be sufficiently detailed and timely to enable the Secretary to determine the effectiveness of the program established

under title I of the Emergency Economic Stabilization Act of 2008 in stimulating prudent lending and strengthening bank capital.

(d) **ADJUSTMENTS AND RECOMMENDATIONS.**—If the Secretary of the Treasury determines that—

(1) the goals of the program established under title I of the Emergency Economic Stabilization Act of 2008 are not being met, the Secretary shall work with the Federal agencies supplying the information under subsection (b) to encourage such agencies to provide the recipients of assistance under such title with recommendations for better meeting the goals of the program; and

(2) the goals of the program are not being met following the recommendations and adjustments made in accordance with paragraph (1), the Secretary shall adjust the future uses of assistance provided under such title.

#### **SEC. 109. DATABASE OF USE OF TARP FUNDS.**

The Secretary of the Treasury shall create and maintain a fully searchable database, accessible on the Internet at no cost to the public, that contains the name of each entity receiving funds made available under section 115(a) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5225(a)) and the purpose for which such entity is receiving such funds.

Page 19, line 13, strike “107” and insert “110”.

Page 19, line 16, strike “subsection” and insert “subsections”.

Page 19, line 20, strike the quotation marks and the last period.

Page 19, line after line 20, insert the following:

“(g) **QUALIFIED PROPERTY.**—

“(1) **GUARANTEE.**—Upon the request of a lessee of qualified property in leases where the lessee economically defeased its rent and purchase option payments, the Secretary may serve as a guarantor with respect to all payment obligations of such lessee with respect to any defeased lease transaction that is in technical default because of a downgrade of a financial guarantor. Such guarantee shall be on such terms and conditions as are determined by the Secretary.

“(2) **DEFINITIONS.**—For purposes of this subsection, the following definitions shall apply:

“(A) **QUALIFIED PROPERTY.**—The term ‘qualified property’ means domestic property subject to a lease entered into prior to November 1, 2007, in which a State or local government authority (as defined in section 5302(a) of title 49, United States Code) is the lessee.

“(B) **GUARANTOR.**—The term ‘guarantor’ includes any guarantor, surety, and payment undertaker.”.

Page 20, before line 1 insert the following new section:

#### **SEC. 111. INVESTMENT OF TARP FUNDS IN CREDIT UNIONS TAKEN INTO ACCOUNT IN DETERMINATION OF NET WORTH.**

(a) **IN GENERAL.**—Section 216(o)(2) of the Federal Credit Union Act (12 U.S.C. 1790d(o)(2)) is amended by striking subparagraph (A) and inserting the following new subparagraph:

“(A) with respect to any insured credit union, means—

“(i) the retained earnings balance of the credit union, as determined under generally accepted accounting principles, together with any amounts that were previously the retained earnings of any other credit union with which the credit union has combined; and

“(ii) any donated equity, permanent, and perpetual capital deposits, or other primary capital made available under Title I of the Emergency Economic Stabilization Act of 2008, as determined by regulation or order of

the Board with due regard for the accepted capital standards for United States depository institutions generally; and”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect at the end of the 30-day period beginning on the date of the enactment of this Act.

#### **SEC. 112. TREASURY FACILITATED AUCTION.**

Section 113(b) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5223(b)) is amended to read as follows:

“(b) **USE OF MARKET MECHANISMS.**—

“(1) **IN GENERAL.**—In making purchases under this Act, the Secretary shall—

“(A) make such purchases at the lowest price that the Secretary determines to be consistent with the purposes of this Act; and

“(B) maximize the efficiency of the use of taxpayer resources by using market mechanisms, including auctions or reverse auctions, where appropriate.

“(2) **AUCTION FACILITATION.**—

“(A) **IN GENERAL.**—The Secretary shall, in coordination with institutions that volunteer to participate, and not using any funds under this title for purchases, facilitate an auction of troubled assets owned by such institutions to third party purchasers.

“(B) **REPORT.**—If the auction described in subparagraph (A) does not take place within the 3 month period following the date of the enactment of the TARP Reform and Accountability Act of 2009, the Secretary shall issue a report to the Congress stating—

“(i) why such auction has not taken place; and

“(ii) by what mechanism the Secretary feels that troubled assets could most expeditiously be valued and liquidated.”.

Page 20, after line 4, insert the following:

(a) **COMMITMENT OF RESOURCES.**—Notwithstanding any provision of title I of the Emergency Economic Stabilization Act of 2008, not later than seven days after the date of the enactment of the TARP Reform and Accountability Act of 2009, the Secretary of the Treasury (in this title referred to as the “Secretary”) shall commit funds made available to the Secretary under title I of the Emergency Economic Stabilization Act of 2008 in an amount of at least \$100,000,000,000, unless the Secretary certifies otherwise under subsection (d), but in no case less than \$40,000,000,000, for the purposes of foreclosure mitigation. Not less than \$20,000,000,000 of this amount shall be dedicated to the program described under section 204 of this Act. The Secretary shall consult with the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation regarding the administration of the program.

Page 20, line 5, strike “(a)” and insert “(b)”.

Page 20, strike “of the Treasury” in line 8 and all that follows through “‘Secretary’” in line 9.

Page 20, line 11, after “to” insert “use the funds committed under subparagraph (a) to”.

Page 20, strike lines 16 through 21. Strike “committing funds” in line 23 of page 20 and all that follows through “of 2008” on page 21, line 1.

Page 21, line 2, strike “(a)” and insert “(b)”.

Page 21, line 3, strike “by May 1, 2009.”.

Page 21, lines 4 and 5, strike “more than the minimum of \$40,000,000,000 as required” and insert “at least \$100,000,000,000 in the plan established”.

Page 21, lines 6 and 7, strike “, no later than May 15, 2009,” and insert “in the plan”.

Page 21, line 7, strike “additional funds” and insert “amounts”.

Page 21, after line 8, insert the following:

(e) **CLARIFICATION.**—For purposes of this title, the term “residential properties” shall include 1- to 4-family residential properties.

Page 21, line 11, strike “201(a)” and insert “201(b)”.

Page 21, lines 23 and 24, strike “one, or a combination of more than one,” and insert “the systematic foreclosure prevention and mortgage modification program under section 204 and a combination”.

Page 21, after line 25, insert the following:

(4) **WORKFORCE AND OUTREACH.**—The plan shall set forth how the Secretary intends to develop, second, or contract for appropriate staffing to carry out the plan and the component programs and to ensure that private mortgage servicers utilizing the programs established by the Secretary will provide sufficient staffing and resources to engage in the outreach, loss mitigation activities, and homeowner education necessary for successful foreclosure mitigation.

Page 22, line 2, strike “201(a)” and insert “201(b)”.

Page 22, strike lines 9 through 11.

Page 22, line 12, strike “(2)” and insert “(1)”.

Page 22, line 23, strike “(3)” and insert “(2)”.

Page 23, line 8, strike “(4)” and insert “(3)”.

Page 23, line 13, strike “(5)” and insert “(4)”.

Page 23, line 10, after “servicers” insert the following: “‘, including servicers that are not affiliated with a depository institution,”.

Page 23, line 19, after “Corporation” insert “, regional public-private partnerships,”.

Page 23, after line 22, insert the following:

(5) **SUBSTITUTION OF TRUST.**—A program under which modifications are allowed to the securitization trust agreements with respect to securities secured by pools of mortgages to allow a new qualified buyer to be substituted on a foreclosed property or a delinquent mortgage without seeking new financing.

Page 24, line 18, after “with” insert “the Chairperson of the Federal Deposit Insurance Corporation and”.

Page 27, line 19, strike “201(a)” and insert “201(b)”.

Page 28, line 3, strike “118” and insert “title I”.

Page 28, line 12, strike “204” and insert “205”.

Page 28, line 18, strike “201(a)” and insert “201(b)”.

Page 29, line 1, strike “205” and insert “206”.

Strike line 21 on page 31 and all that follows through page 32, line 2.

Page 32, line 3, strike “(c)” and insert “(b)”.

Page 32, line 10, strike “(d)” and insert “(c)”.

Page 32, after line 19, insert the following:

#### **SEC. 207. FORECLOSURE PREVENTION FOR AFFORDABLE HOUSING.**

Section 109 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5219) is amended to read as follows:

#### **“SEC. 109. FORECLOSURE MITIGATION EFFORTS.**

“(a) **RESIDENTIAL MORTGAGE SERVICING STANDARDS.**—To the extent that the Secretary acquires mortgages, mortgage backed securities, and other assets secured by residential real estate, including multifamily housing, the Secretary shall implement a plan that seeks to maximize assistance for homeowners and renters and use the authority of the Secretary to encourage the servicers of the underlying mortgages, considering net present value to the taxpayer, to take advantage of the HOPE for Homeowners Program under section 257 of the National Housing Act or other available programs to minimize foreclosures. In addition, the Secretary may use loan guarantees and

credit enhancements to facilitate loan modifications to prevent avoidable foreclosures on single-family and multifamily housing.

“(b) COORDINATION.—The Secretary shall coordinate with the Corporation, the Board (with respect to any mortgage or mortgage-backed securities or pool of securities held, owned, or controlled by or on behalf of a Federal reserve bank, as provided in section 110(a)(1)(C)), the Federal Housing Finance Agency, the Secretary of Housing and Urban Development, and other Federal Government entities that hold troubled assets to attempt to identify opportunities for the acquisition of classes of troubled assets that will improve the ability of the Secretary to improve the loan modification and restructuring process and, where permissible, to permit bona fide tenants who are current on their rent to remain in their homes under the terms of the lease. In the case of a mortgage on a residential rental property, including a qualified low-income building under section 42 of the Internal Revenue Code of 1986, the plan required under this section shall include protecting Federal, State, and local rental subsidies and protections, and ensuring any modification takes into account the need for operating funds to maintain decent and safe conditions at the property.

“(c) CONSENT TO REASONABLE LOAN MODIFICATION REQUESTS.—Upon any request arising under existing investment contracts, the Secretary shall consent, where appropriate and considering net present value to the taxpayer, to reasonable requests by homeowners and owners of multifamily housing, including qualified low-income buildings under section 42 of the Internal Revenue Code of 1986, for loss mitigation measures, including term extensions, rate reductions, principal write downs, increases in the proportion of loans within a trust or other structure allowed to be modified, or removal of other limitation on modifications.”.

Page 32, line 20, strike “206” and insert “208”.

Page 33, after line 6, insert the following (and conform the Table of Contents accordingly):

**SEC. 209. MORTGAGE MODIFICATION DATA COLLECTING AND REPORTING.**

(a) REPORTING REQUIREMENTS.—Not later than 120 days after the date of the enactment of this Act, and quarterly thereafter, the Comptroller of the Currency, in coordination with the Director of the Office of Thrift Supervision, shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Financial Services of the House of Representatives, and the Joint Economic Committee on the volume of mortgage modifications reported to the Office of the Comptroller of the Currency and the Office of Thrift Supervision, under the mortgage metrics program of each such Office, during the previous quarter, including the following:

(1) The total number of mortgage modifications resulting in each of the following:

- (A) Additions of delinquent payments and fees to loan balances.
- (B) Interest rate reductions and freezes.
- (C) Term extensions.
- (D) Reductions of principal.
- (E) Deferrals of principal.
- (F) Combinations of modifications described in subparagraph (A), (B), (C), (D), or (E).

(2) The total number of mortgage modifications in which the total monthly principal and interest payment resulted in the following:

- (A) An increase.
- (B) Remained the same.
- (C) Decreased less than 10 percent.
- (D) Decreased 10 percent or more.
- (b) DATA COLLECTION.—

(1) REQUIRED.—

(A) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Comptroller of the Currency and the Director of the Office of Thrift Supervision, shall issue mortgage modification data collection and reporting requirements to institutions covered under the reporting requirement of the mortgage metrics program of the Comptroller or the Director.

(B) INCLUSIVENESS OF COLLECTIONS.—The requirements under subparagraph (A) shall provide for the collection of all mortgage modification data needed by the Comptroller of the Currency and the Director of the Office of Thrift Supervision to fulfill the reporting requirements under subsection (a).

(2) REPORT.—The Comptroller of the Currency shall report all requirements established under paragraph (1) to each committee receiving the report required under subsection (a).

Page 52, strike “obligation” in line 19 and all that follows through “2008” in line 21 and insert “existing vested legal rights and the Constitution”.

Page 63, line 9, after the first period insert the following: “In determining which classes of consumer loans to support, the Secretary may consider the applicable regulatory structure and level of consumer protection afforded to such loans.”.

Page 63, line 11, strike “103” and insert “101”.

Page 63, line 13, strike “(f)” and insert “(g)”.

Page 63, line 13, strike “401” and insert “110”.

Page 63, line 15, strike “(g)” and insert “(h)”.

Page 64, line 8, before the first period insert the following: “or any other entity eligible to issue bonds the interest on which is excludable from gross income for Federal income tax purposes.”.

Page 64, line 19, after “estate loans,” insert “including loans for multifamily housing.”.

Page 64, after line 22, insert the following new sections:

**SEC. 404. SMALL BUSINESS LOANS.**

Title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211 et seq.) is amended by adding after section 138 (as added by section 403 of this title) the following new section:

**“SEC. 139. CLARIFICATION OF AUTHORITY REGARDING SMALL BUSINESS LOANS.**

“The authority of the Secretary to take any action under this title includes the authority to establish or support facilities to support the availability of small business loans, including farm loans, loans to minority and disadvantaged businesses, debtor-in-possession financing, dealer floor plan financing, and any other small business loans, including through purchase of asset-backed securities, directly or through the Board or any Federal reserve bank.”.

**SEC. 405. COMMERCIAL LOANS.**

Title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211 et seq.) is amended by adding after section 139 (as added by section 404 of this title) the following new section:

**“SEC. 140. CLARIFICATION OF AUTHORITY REGARDING COMMERCIAL LOANS.**

“The authority of the Secretary to take any action under this title includes the authority to establish or support facilities to support the availability of commercial loans, including through purchase of asset-backed securities, directly or through the Board or any Federal reserve bank.”.

**SEC. 406. AUTOMOBILE FLEET PURCHASE LOANS.**

Title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211 et seq.) is amended by adding after section 140 (as

added by section 405 of this title) the following new section:

**“SEC. 140. CLARIFICATION OF AUTHORITY REGARDING AUTOMOBILE FLEET PURCHASE LOANS.**

“The authority of the Secretary to take any action under this title includes the authority to establish or support facilities to support the availability of automobile fleet purchase loans, including loans for the automobile rental industry and other fleet purchasers, including through purchase of asset-backed securities, directly or through the Board or any Federal reserve bank.”.

**SEC. 407. CERTIFICATION.**

Subsection (a) of section 105 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5215(a)) is amended—

(1) in paragraph (2), by striking “and” at the end;

(2) in paragraph (3), by striking the period at the end and inserting “; and”; and

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

“(4) the use of the authority for the purposes specified in the amendments made by title IV of the TARP Reform and Accountability Act of 2009.”.

Strike line 1 on page 68 and all that follows through page 69, line 2.

Page 69, line 7, strike “carry out” and insert “establish and implement, within 60 days of the date of the enactment of the TARP Reform and Accountability Act of 2009.”.

Page 69, lines 8 and 9, strike “using the authority made available by section 1117 of the Housing and Economic Recovery Act of 2008”.

Page 69, lines 11 and 12, strike “which shall include ensuring” and insert “by providing mechanisms to ensure”.

Page 69, line 12, after “affordable” insert “, below-market”.

Strike line 15 on page 69 and all that follows through page 70, line 13, and insert the following:

(b) IMPLEMENTATION.—The Secretary shall execute the program under this section using the authority to purchase obligations and other securities issued by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Home Loan Banks made available by the Housing and Economic Recovery Act of 2008 and such other authority as the Secretary may have (other than that provided by title I of the Emergency Economic Stabilization Act of 2008) to make affordable, below-market interest rates available directly through portfolio lenders.

Page 70, line 14, strike “(d)” and insert “(c)”.

Page 70, line 17, after “affordable” insert “, below-market”.

Strike line 24 on page 70 and all that follows through page 71, line 3, and insert the following:

(e) TARGETING FOR HOUSING DISASTER AREAS.—

(1) IN GENERAL.—In carrying out the program under this section, the Secretary shall take into consideration impact of activities under the program on housing disaster areas.

(2) REPORT.—Not later than 60 days after the Secretary first has authority to purchase troubled assets pursuant to section 115(a)(3) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5225(a)(3)), the Secretary shall—

(A) evaluate the impact of existing Federal foreclosure prevention activities on housing disaster areas;

(B) make a determination of whether the foreclosure rates and anticipated default rates in such areas have been adequately reduced; and

(C) submit a report to the Congress that describes the impact of such activities and the determination of the Secretary under subparagraph (B).

(3) **ALTERNATIVE PROPOSALS.**— If the Secretary determines that the foreclosure rates and anticipated default rates in housing disaster areas have not been adequately reduced, the Secretary shall—

(A) consider carrying out alternative proposals, including a proposal under which the Federal Government makes available affordable mortgages, including refinancings, through subsidized financing or mortgage purchases; and

(B) establish and carry out alternative programs as the Secretary considers necessary to ensure that foreclosure prevention efforts are most effective in the areas of greatest need, including housing disaster areas.

(4) **HOUSING DISASTER AREAS.**—For purposes of this section, the term “housing disaster area” means a geographic area having both—

(A) a high foreclosure rate during the 12 months preceding the date of the enactment of this Act, as measured by percentages of homes in or having gone through foreclosure during such period and compared to other areas; and

(B) a substantial decline in home prices during the 12 months preceding the date of the enactment of this Act, as measured by the Office of Federal Housing Enterprise and Oversight and compared to other areas.

Page 72, line 20, strike “1814(a)” and insert “1824(a)”.

At the end of the bill, add the following new title:

#### **TITLE VIII—REPORTS ON THE GUARANTEE OF CERTAIN CITIGROUP ASSETS**

##### **SEC. 801. REPORTS REQUIRED.**

(a) **TREASURY REPORTS.**—Not later than 30 days after the date of the enactment of this Act, the Secretary of the Treasury, in coordination with the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation, shall issue a report to the Committee on Financial Services of the House of Representatives, the Committee on Banking of the Senate, and to the Comptroller General of the United States containing the following:

(1) The authority under which the Citigroup guarantee and purchases were made.

(2) A complete accounting of the specific loans, securities, and any other financial instruments in the asset pool covered by the Citigroup guarantee.

(b) **GAO REPORT.**—Not later than 60 days after the date the Secretary of the Treasury issues the report required by subsection (a), the Comptroller General of the United States shall issue a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking of the Senate examining the probable long-term cost to the Federal Government of the Citigroup guarantee.

(c) **CITIGROUP GUARANTEE DEFINED.**—For the purpose of this section, the term “Citigroup guarantee” means the agreement announced November 23, 2008, between Citigroup and the Treasury and the Federal Deposit Insurance Corporation to guarantee or purchase, partly through the use of funds authorized under the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.), an asset pool of approximately \$306 billion of loans and securities backed by residential and commercial real estate and other such assets on Citigroup’s balance sheet.

#### **TITLE IX—GAO STUDY OF FINANCIAL CRISIS**

##### **SEC. 901. STUDY REQUIRED.**

The Comptroller General of the United States shall—

(1) conduct an in-depth study of the root causes of the financial crisis; and

(2) submit a report to the Congress and the President, and transmit a copy to the Secretary of the Treasury, containing the findings and conclusions of the Comptroller General with respect to the study under paragraph (1), together with such recommendations for legislative and administrative action as the Comptroller General may determine to be appropriate before the end of the 6-month period beginning on the date of the enactment of this Act.

##### **SEC. 902. TREASURY STRATEGY AND TIMELINE.**

Using the findings and conclusions of the Comptroller General in the report under section 901(2), within 30 days, the Secretary of the Treasury shall issue an overall strategy and timeline for implementing the recommendations contained in the report with the goal of financial stability and the well-being of taxpayers.

The Acting CHAIR. Pursuant to House Resolution 62, the gentleman from Massachusetts (Mr. FRANK) and a Member opposed each will control 20 minutes.

The Chair recognizes the gentleman from Massachusetts.

□ 1115

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, when we determined that because the President was going to be triggering this request we should act on this bill, we sent out a notice to all Members inviting amendments. We received a large number of amendments and we agreed that many of them made a great deal of sense. Some of them we think clarify what was already the intention of the bill. This amendment includes a variety of those. There will be Members here on the floor who want to talk about it.

For example, you heard the gentleman from Kansas (Mr. MORAN) talk about the removal of the provision that would have restricted the use of private aircraft. That is one of the things that is in here. There are other things that are important to various Members who will be addressing them. They aim at enforcing better the accountability and essentially increasing some of the restrictions on the recipient institutions. I will be discussing these and other matters with some other Members.

At this point, I reserve the balance of my time.

Mr. GARRETT of New Jersey. Mr. Chairman, I claim the time in opposition.

The Acting CHAIR. The gentleman is recognized for 20 minutes.

Mr. GARRETT of New Jersey. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, just before this meeting out here on the floor, I was in my office back in Cannon meeting with and on the phone with constituents back at home discussing the fact of the difficult plight we find ourselves and the economy in in this country right now, specifically with regard to homeowners, the problems that they are

having with paying their mortgages and the like, the difficulty overall with the economy, with the rising unemployment rates, the problems in the credit markets and the like.

The question they ask, of course, is what is Congress about to do with this situation. The conversation always turns around to what has Congress done in the first place, and, of course, we know what that is.

Several months ago, I guess it was in September, this Congress was told by the administration and agreed to by the other side of the aisle that unless Congress acted expeditiously, the sky was going to fall in, and that what Congress had to do was authorize and appropriate \$700 billion to bail out the situation.

Well, we have since that time spent \$350 billion of that sum, and the callers that I heard from from home that I was just referring to before are saying, what did it achieve? What did we accomplish? Unemployment is still high, the housing market is still tight, home prices are still falling, and all that we really did was to bail out Wall Street, is the way some people couch it.

The question then comes up, how did we go through that process. I have to tell the people back at home, not in a very transparent and open manner. Quite honestly, it was in a rushed matter. We rushed through a piece of legislation that started out at three pages and then turns out to well over 100, without a single hearing, without a single markup, without a single discussion really in committee as to whether there would be transparency and accountability and the like.

Well, sir, now we are about to do the same thing next week, I understand, when President-elect Obama has requested that we spend the next \$350 billion, again without the appropriate oversight. So I commend the chairman for taking the step to try to begin to begin the process of providing some of that degree of accountability, transparency and oversight.

But I do raise the same question that the people asked me on the phone today that I was talking to: Why are we rushing to judgment on it? Why are we going through it in the same manner, the same failed policy reasons, the same procedural manner that we did before, without a hearing, without a discussion, without a markup in committee, so that both sides of the aisle could come together with their good ideas in order to achieve what the American public wants, to right the economy, to not put the taxpayer on a hook, and to do so that the taxpayer is protected. Why are we doing it in the same failed policy procedure we did in the past without that ability for input?

Now, the chairman will say, well, we have ability because the Rules Committee allowed a number of amendments. We will be debating those amendments shortly, 10 or 11 amendments I believe we will have at that point in time.



The chairman will agree that is not the best way to achieve what we are trying to for the American people. The best way is to have an open, honest discussion in committee, allow the experts to come in and testify, allow Members from both sides of the aisle to have input, and allow it to go through the committee to get that desired result.

That was not done with TARP 1, that really is not being done with TARP 2. So I rise in opposition to this failed policy and procedure that we are doing here today as well.

With that, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, I first yield myself 30 seconds to correct the gentleman from New Jersey.

The gentleman from New Jersey said that President Obama was requesting these funds. In fact, President Bush requested the funds. He did it after President-elect Obama asked him to, but I think it ought to be clear on the record, this is a continuation of the Bush policy and it was President Bush who in fact requested the funds. President Obama could not request them until next week. The President did it at the request of the President-elect, but it was President Bush who did it.

I now yield 2 minutes to the gentleman from Rhode Island (Mr. KENNEDY).

(Mr. KENNEDY asked and was given permission to revise and extend his remarks.)

Mr. KENNEDY. Thank you, Mr. Chairman. I rise to engage the chairman in a colloquy.

Mr. Chairman, I am extremely concerned at the current state of affairs with credit card regulations as my constituents see these extraordinary interest rates affecting their credit cards. I am appalled that companies continue to engage in predatory practices, like double-cycle billing and inadequate notification periods and retroactive rate hikes for these credit cards.

I am seeing these predatory practices continue, in spite of the fact that the Federal Reserve has recently finalized a rule that will ban many of these predatory practices. Unfortunately, these reforms are not scheduled to go into place until July 2010, and then they will save our consumers over \$10 billion a year.

I think it would be outrageous to see us bail out these banks, and yet see them also continue to gouge these consumers of ours, these taxpayers at the other end of the ledger on these predatory practices. I would like to work with the chairman to see that we address this issue in forthcoming legislation.

Mr. FRANK of Massachusetts. If the gentleman will yield, as he knows, because he was a strong supporter, the Committee on Financial Services, once we became the majority, in fact put through this House a bill that was even tougher in some ways than what the

Federal Reserve did, and I think was the spur to the Federal Reserve acting. Unfortunately, it wasn't acted on in the Senate, but I thought it was good that we passed it. I know there are Members who say if we can't know the Senate is going to pass something, we shouldn't even try. We have rejected that. We did pass that bill.

The gentlewoman from New York (Mrs. MALONEY) has been a leader here. She will be bringing that bill up again, and we want to apply those principles not just to TARP recipients, but to all credit card companies. We expect to do it quickly. The gentleman is absolutely right. We should not wait until 2010. I hope that we will have this bill on the floor by March, and we will be able, and the gentleman's input has been very helpful to us, to pass this bill that will become law very soon.

Mr. KENNEDY. I want to salute the gentleman for the transparency and accountability standards that he has in the manager's amendment, and encourage additional funds to go to the foreclosure problem that he has identified in his manager's amendment.

Mr. GARRETT of New Jersey. Mr. Chairman, I yield myself such time as I may consume.

It is interesting to find out that our chairman, who oftentimes berates our side of the aisle for distancing ourselves from our President, now I find that he is already distancing himself from the President-to-be, President-elect Obama.

While he is correct while being overly technical about it by saying that it was President Bush who actually filed the paperwork and made the submission to this House and to the Congress in order for the request of the additional TARP funds, he seems to be distancing himself from his party's candidate and his party's and all this Nation's President-elect Obama, for it was President-elect Obama who did go to President Bush and did request that this Congress facilitate the passage of the additional \$350 billion.

Now, the chairman may not like the fact that President-elect Obama is requesting it. Maybe, quite candidly, the chairman has the same concerns that I do, that President-elect Obama failed to give us a plan, which makes it hard for either one of us, quite candidly, to be able to discuss either in committee or here on the Floor in a rational and logical manner what it is exactly we will be spending the \$350 billion on.

So I will join with the chairman in being concerned and outraged that President-elect Obama has not given us a plan. But it is concerning that the chairman points to President Bush, when he knows it is President-elect Obama who instigated this in the first place.

But I will yield.

Mr. FRANK of Massachusetts. The gentleman has transformed my correcting his error into distancing myself from President Obama. I said when I got up that it was done by President

Bush at the request of President Obama.

Mr. GARRETT of New Jersey. I reclaim my time. Thank you. I understand what he said before, but then you have to always point to the words that came after that, and he was alluding to the fact that it actually came to the floor from President Bush when, yes, it was President-elect Obama who initiated it.

But for the fact that President-elect Obama initiated it, President Bush, as far as I know, has never made a statement that he would have unilaterally made that request. I have never seen anything in the media, and I may be wrong, but I have never seen anything in the media or otherwise saying that President Bush was about to come to this Congress and ask for those additional funds.

It was President-elect Obama, for good or for bad, and I think for the fact that we don't have a plan here, quite candidly, Mr. Chairman, to discuss and debate today, more for the bad than the good that we are coming here without such a plan.

I reserve the balance of my time.

Mr. FRANK of Massachusetts. I will yield myself 1 minute.

The gentleman from New Jersey has built that castle in the air because I corrected his flat error. He said President-elect Obama asked for it. He did not. I said that President Bush asked for it at the request of President-elect Obama. How my correcting his error became distancing myself from the new President is beyond me.

In fact, President Bush's administration did want the second \$350 billion. The gentleman is wrong in saying they didn't. Secretary Paulson was deterred from doing that, however, because we told him that we were sufficiently disappointed in the way it had been administered and that if he asked for it we would probably reject it, and that only if he came to some agreement with the new President and the Congress could that go forward. So those are the facts.

Yes, the outgoing administration wanted it. They withheld because they were told they wouldn't get it unless they had cooperation, and then the two administrations jointly did that. There is no distancing when I make that point.

In fact, the central point here about the TARP is this: We believe quite to the opposite that we are distancing ourselves from Mr. Obama. We believe that because Bush used this badly is no reason to give Obama not a chance to use it well.

I now yield 2 minutes to the gentleman from Kansas (Mr. MOORE).

Mr. MOORE of Kansas. Mr. Chairman, I thank the chairman.

Mr. Chairman, I rise today in support of Chairman FRANK's manager's amendment and the underlying legislation. I want to thank Chairman FRANK and his excellent staff for working with me to address a concern I had with the original draft bill.

On Tuesday, I talked to our Kansas Governor, Kathleen Sebelius. We were concerned about a provision in the bill that would have required financial firms participating in TARP to divest their companies of corporate business aircraft.

While it is clear that the auto executives were very insensitive to the American taxpayers when they flew in their private jets last November to request billions of dollars in Federal assistance, a blanket prohibition against the corporate use of business aircraft would have had the unintended consequence of hurting the general aviation industry and its workers, which is important to Kansas.

With nearly 44,000 Kansans who work for aviation companies like Cessna, Beechcraft, Learjet and Boeing, as well as their contracting counterparts like Garmin and Honeywell, many Kansas families depend on this industry. And the impact would have been felt not just in Kansas. General aviation contributes more than \$150 billion a year to the U.S. economy and employs more than 1.2 million people.

I want to thank again Chairman FRANK and his staff for responding to our concerns and for striking this provision. This is good news for Kansans and aviation workers across this country. These are difficult times. I urge my colleagues to support the manager's amendment and this bill to ensure these TARP funds are responsibly allocated with strong oversight protections for the American taxpayer.

Mr. GARRETT of New Jersey. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. HENSARLING), a leader on this issue and more importantly a leader on the issue of reviving our economy in general and in a free market manner which will not put the American taxpayer on the hook.

Mr. HENSARLING. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I again question why we are even here today. I observe again that those who have risen to be the largest critics of the TARP bill were the ones who wrote the TARP bill. So, number one, why weren't the standards, the accountability, the provisions that some are seeking today, why weren't they there originally? That is question number one.

Question number two is: Why are we having to have a vote that turns off the spigot of an extra \$350 billion of taxpayer money, as opposed to turn it on?

So why are we even having to have this vote, Mr. Chairman, I think is an interesting question that the American people want to know the answer to.

Now, already if you look at the actions of the Federal Reserve, if you look at the actions of Treasury, Mr. Chairman, we are already up to somewhere in the neighborhood of \$7 trillion to \$8 trillion of potential liability taxpayer exposure. I don't necessarily believe the taxpayer will have to pay it all. I hope and pray that the taxpayer will get some return on his investment.

□ 1130

But to sit here and say that unless Congress somehow authorizes the incoming President to spend an extra \$350 billion that we could spend ourselves, and to give him this authority, without any plan being presented whatsoever, I mean, Mr. Chairman, that's just something I don't understand. It's not something that the constituents that I represent in the Fifth District of Texas understand.

Now, I do believe that the chairman is right on a couple of instances, that, yes, we need to know how institutions who are receiving TARP funds actually spend it. That's important. We need to have some kind of measurement of success to know what's actually happening here.

But I look at the provisions of the strings that he's attempting to attach after the fact, when, if this was a horse leaving the barn, I don't think we've seen much left but his tail. But when I look at the strings that are being attached here, I mean, Number 1, we have explicit language here that most of us have concluded is picking winners and losers in our economy, express language dealing with the auto companies.

Now, I don't want to see the auto companies fail. Nobody in America does. But name me an industry in America that isn't struggling. Is Congress so wise that they can decide which industries are deserving the taxpayer bailout and which aren't?

It's one thing for the Federal Government to try to monitor the money supply, ensure that the money supply is proper, that would hopefully lift all industries, help all families, help all job creators and those who have the jobs.

But it's another to start saying, well, here's the explicit plan for the auto industry. And if it's the auto industry today, is it the airlines industry tomorrow? Who is it next week?

Again, how can everybody who's struggling bail out everybody else who's struggling?

And what has become of all of this money?

Again, it's not like this is the only \$350 billion lying around. The Federal Reserve already has a number of credit facilities that are set up. We don't even know the full impact of the first \$350 billion.

And so now we have a plan that, as I understand, and I believe I've heard the chairman say that the Senate does not intend to vote on this, which is another reason I question the use of the House's time on this matter. But trying to have a provision that picks winners and losers in our economy and, specifically, in our housing industry as well.

We know about the tragic circumstances in our housing industry. But what's going to make it even more tragic, Mr. Chairman, is to take money away from people who are current on their mortgages, or who rent, or who own their homes outright, to give the money to people who aren't current in their mortgage.

Now, there's a couple of reasons people aren't current in their mortgages. Number 1, maybe it's through no fault of their own. Maybe they were duped by a predatory lender. Maybe they had a serious illness. Maybe they had a loss of job. I mean, these are serious setbacks, and I would hope that we could help these people.

But, Mr. Chairman, there's a huge universe of people who engaged in predatory borrowing, out-and-out mortgage fraud. There's a universe of people who decided they would turn their homes into an ATM machine, and now they expect their neighbor to bail them out. There's a whole group who didn't really buy a home, they bought an investment and they decided to live in it, and now they expect their neighbor to bail them out.

When you're struggling to pay your mortgage, Mr. Chairman, you shouldn't be compelled to have to pay your neighbors' as well.

For all these reasons, this amendment should be defeated.

Mr. FRANK of Massachusetts. Mr. Chairman, I first yield myself 1 minute to say that I appreciate the intellectual honesty of the gentleman from Texas (Mr. HENSARLING). He opposes one of the major thrusts of this bill and one of the major criticisms many of us had of the Bush administration, namely, the foreclosure relief. And the gentleman opposed these efforts.

I must say that I am encouraged by the Bush appointee, Secretary of HUD, Mr. Preston, the Bush appointee as head of the FDIC, Ms. Bair, both of whom believe that we can do foreclosure protection with the tools in this bill, and that it can be done effectively. But I appreciate this is a genuine difference between us and I appreciate the gentleman articulating it.

In 2007, this House passed a bill to restrict subprime lending of an inappropriate sort aimed at both borrowers and lenders. It would have made it impossible for people to borrow inappropriately, as well as to lend. The gentleman, I believe, opposed that. Many others, the gentleman from New Jersey did. There were some important philosophical differences.

The Wall Street Journal, which today denounces us for trying to do foreclosure relief, denounced us at the time. They said when we passed the bill to restrict subprime lending, it was an undue interference in the market, and we're going to keep people from owning homes.

The Acting CHAIR. The time of the gentleman has expired.

Mr. FRANK of Massachusetts. I yield myself an additional 30 seconds.

So just to be clear, whether or not there should be Federal programs as advocated by FDIC Chair Bair, Secretary of HUD Preston and many others, whether or not there should be Federal programs to reduce foreclosure, is a very defining difference between most of us on this side and most on the other side; although there

are many on the Republican side who do agree with us that we should try to abate foreclosures, not just as a matter of compassion, but as central to solving our economic problem.

I now yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Let me thank the chairman very much. And I might just simply say that I remember the haggling previously in the last year about this bill. And one of the issues was the veto threat of the President in not allowing us to add language earlier. We fought for it.

Let me thank the chairman very much for what we've all fought for over the years, over the last couple of months, and that is the amount of, if you will, mortgage set aside money. I want to announce that over and over again, that there is now money included in here to directly work with my constituent who I sat down at her kitchen table. She gets \$18,000 a year, but she's hardworking and she had a home that she could afford, except for the adjustable rate. So I want to thank for that. And it is something that I want more. We all want more, but we're starting out in that direction to be able to focus on mortgage workouts.

Mr. Chairman, I'd like to engage in a colloquy at this time. Quickly, the Treasury Department has yet to issue the necessary guidelines for about 3,000 additional private banks. Most of them are set up as partnerships with no more than 100 shareholders. They are not able to issue preferred shares to the government in exchange for capital injections at other banks. However, they are very vital to the inner city. And I ask, in our work together, whether or not if you can explain the language.

Mr. FRANK of Massachusetts. If the gentlewoman would yield.

Ms. JACKSON-LEE of Texas. I'd be happy to yield.

Mr. FRANK of Massachusetts. She's absolutely right. I appreciate her calling this to our attention. We have amended the bill to take into account these private banks, many of which serve lower-income communities and are themselves people of experience in this area.

As I said yesterday when the question came up about mutuals, the form of ownership should not be determinative here. Whether or not they are performing a valid function in the economy and whether or not they can use these funds responsibly is all that should cover. So we did amend the bill at the gentlewoman's request in that manner.

Ms. JACKSON-LEE of Texas. We thank you very much. And the language does move this along, and I want to thank you.

Quickly, let me also thank you for regulating the automobile industry, which you promised to do, which you also worked specifically to provide

more credit to the automobile industry. But in that light we talked about—

The Acting CHAIR. The time of the gentlewoman has expired.

Mr. FRANK of Massachusetts. I yield the gentlewoman 30 seconds.

Ms. JACKSON-LEE of Texas. We talked about minority participation. You have now some language that says, not only can they benefit as small businesses from loans, but they can service or participate in that process of doing business.

Mr. FRANK of Massachusetts. If the gentlewoman would yield.

Ms. JACKSON-LEE of Texas. I'd be happy to yield.

Mr. FRANK of Massachusetts. Yes. In fact, it will make the administration better if those administering it have knowledge of and represent the whole range of people to whom this is aimed. And I thank the gentlewoman.

Ms. JACKSON-LEE of Texas. Well, let me thank you specifically for the Office of Minority and Women Inclusion. It is a great edition. And I would say this is a tough business. People are hurting. It's time to move forward on a newly regulated TARP, the American people's taxpayer dollars will be protected.

Mr. Chair, I rise today in strong support of H.R. 384, the Troubled Assets Relief Program, TARP, Reform and Accountability Act of 2009. This bill will amend the TARP provisions of the Emergency Economic Stabilization Act of 2008, EESA, to strengthen accountability, close loopholes, increase transparency, and most importantly, require the Treasury Department to take significant steps on foreclosure mitigation.

Mr. Chair, I was particularly pleased to work with Chairman FRANK and his staff on significant portions of the manager's amendment to this legislation which ensures that small and minority businesses along with local, community, and private banks gain fair and equitable access to the TARP funds.

It has been 3 months since the Treasury started disbursing TARP funds. Just in time perhaps for a lot of big banks; however, smaller banks have been locked out so far. A lot of small banks certainly are in need of relief as the real estate crisis continues to unfold and hundreds have already applied.

According to recent reports, the Treasury Department has yet to issue "the necessary guidelines for about 3,000 additional private banks. Most of them are set up as partnerships, with no more than 100 shareholders. They are not able to issue preferred shares to the government in exchange for capital injections, as other banks can." While Treasury officials state they are "working on a solution," for these private banks time is of the essence.

The Treasury Department has handed out more than \$155 billion to 77 banks. Of that sum, \$115 billion has gone to the eight largest banks. Community banks hold 11 percent of the industry's total assets and play a vital role in small business and agriculture lending. Community banks provide 29 percent of small commercial and industrial loans, 40 percent of small commercial real estate loans, and 77 percent of small agricultural production loans.

This manager's amendment requires that the Treasury Department act promptly to per-

mit smaller community financial institutions that have been shut out so far to participate on the same terms as the large financial institutions that have already received funds.

Small businesses are the backbone of our Nation, and unfortunately, they have not been afforded the opportunity that large financial institutions have received to TARP funds and loans. Small businesses represent more than the American dream—they represent the American economy. Small businesses account for 95 percent of all employers, create half of our gross domestic product, and provide three out of four new jobs in this country. Small business growth means economic growth for the Nation. We cannot stabilize and revitalize our economy without ensuring the inclusion and participation of the small business segment of our economy. With the ever worsening economic crisis, we must ensure in this legislation that small and minority businesses and community banks are afforded an opportunity to benefit from this important legislation. I am very pleased that the manager's amendment will effect this change.

In Section 107, the manager's amendment creates an Office of Minority and Women Inclusion, which will be responsible for developing and implementing standards and procedures to ensure the inclusion and utilization of minority and women-owned businesses. These businesses will include financial institutions, investment banking firms, mortgage banking firms, broker-dealers, accountants, and consultants.

Furthermore, the inclusion of these businesses should be at all levels, including procurement, insurance, and all types of contracts such as the issuance or guarantee of debt, equity, or mortgage-related securities. This office will also be responsible for diversity in the management, employment, and business activities of the TARP, including the management of mortgage and securities portfolios, making of equity investments, the sale and servicing of mortgage loans, and the implementation of its affordable housing programs and initiatives.

Section 107 also calls for the Secretary of the Treasury to report to Congress in 180 days detailed information describing the actions taken by the Office of Minority and Women Inclusion, which will include a statement of the total amounts provided under TARP to small, minority, and women-owned businesses. The manager's amendment in Section 404 also has clarifying language ensuring that the Secretary has authority to support the availability of small business loans and loans to minority and disadvantaged businesses.

This will be critical to ensuring that small and minority businesses have access to loans, financing, and purchase of asset-backed securities directly through the Treasury Department or the Federal Reserve.

H.R. 384 reforms TARP by increasing oversight, reporting, monitoring and accountability. It requires any existing or future institution that receives funding under TARP to provide no less than quarterly public reporting on its use of TARP funding. Any insured depository institution that receives funding under TARP is required to report quarterly on the amount of any increased lending, or reduction in decrease of lending and related activity attributable to such financial assistance.

In connection with any new receipt of TARP funds, Treasury is also required to reach an

agreement with the institution, and its primary Federal regulator on how the funds are to be used and benchmarks the institution is required to meet so as to advance the purposes of the act to strengthen the soundness of the financial system and the availability of credit to the economy. In addition, a recipient institution's primary Federal regulator must specifically examine use of funds and compliance with any program requirements, including executive compensation and any specific agreement terms.

Mr. Chair, I am pleased that this legislation has strong requirements regarding executive compensation. For any new receipt of TARP funds, except those by small financial institutions, this legislation applies the most stringent non-tax executive compensation restrictions from EESA across the board including:

1. Requiring Treasury to prohibit incentives that encourage excessive risks,
2. Providing for claw-back of compensation received based on materially inaccurate statements; and
3. Prohibits all golden parachute payment for the duration of the investment.

Included in this legislation is a requirement of government board representation by authorizing Treasury to have an observer at board or board committee meetings of recipient institutions. This legislation changes the structure and authority of TARP board—the Financial Stability Oversight Board is expanded to include the Chairman of the FDIC and two additional members who are not currently Federal employees, who shall be appointed by President and subject to Senate confirmation. The Board will have the authority to overturn policy decisions of the Treasury Secretary by a two-thirds vote.

Mr. Chair, the act provides that the second \$350 billion is conditioned on the use of up to \$100 billion, but no less than \$40 billion, for foreclosure mitigation, with plan required by March 15, 2009. By that date, the Secretary shall develop, subject to TARP Board approval, a comprehensive plan to prevent and mitigate foreclosures on residential mortgages. The Secretary shall begin committing TARP funds to implement the plan no later than April 1, 2009. The Secretary must certify to Congress by May 15, 2009, if he has not committed more than required minimum \$40 billion.

The foreclosure mitigation plans must apply only to owner-occupied residences and shall leverage private capital to the maximum extent possible consistent with maximizing prevention of foreclosures. Treasury must use some combination of the following program alternatives:

1. Guarantee program for qualifying loan modifications under a systematic plan, which may be delegated to the FDIC or other contractor;
2. Bringing costs of Hope for Homeowner loans down, beyond mandatory changes in Title V below, either through coverage of fees, purchasing H4H mortgages to ensure affordable rates, or both;
3. Program for loans to pay down second lien mortgages that are impeding a loan modification subject to any writedown by existing lender Treasury may require;
4. Servicer incentives/assistance—payments to servicers in connection with implementation of qualifying loan modifications; and
5. Purchase of whole loans for the purpose of modifying or refinancing the loans with authorization to delegate to FDIC.

In consultation with the FDIC and HUD and with the approval of the Board, Treasury may determine that modifications to an initial plan are necessary to achieve the purposes of this act or that modifications to component programs of the plan are necessary to maximize prevention of foreclosure and minimize costs to the taxpayers.

A safe harbor from liability is provided to servicers who engage in loan modifications, regardless of any provisions in a servicing agreement, so long as the servicer acts in a manner consistent with the duty established in Homeowner Emergency Relief Act, maximize the net present value, NPV, of pooled mortgages to all investors as a whole; engage in loan modifications for mortgages that are in default or for which default is reasonably foreseeable; the property is owner-occupied; the anticipated recovery on the mod would exceed, on an NPV basis, the anticipated recovery through foreclosure.

This bill requires persons who bring suit unsuccessfully against servicers for engaging in loan modifications under the act to pay the servicers' court costs and legal fees. It also requires servicers who modify loans under the safe harbor to regularly report to the Treasury on the extent, scope, and results of the servicer's modification activities.

In addition to the above requirements, an oversight panel is required to report to Congress by July 1 on the actions taken by Treasury on foreclosure mitigation and the impact and effectiveness of the actions in minimizing foreclosures and minimizing costs to the taxpayers.

H.R. 384 clarifies and confirms Treasury authorization to provide assistance to automobile manufacturers under the TARP. With respect to the assistance already provided to the domestic automobile industry, includes conditions of the House auto bill, including long-term restructuring requirements.

There is further clarification on:

Treasury's authority to provide support to the financing arms of automakers for financing activities is clarified to ensure that they can continue to provide needed credit, including through dealer and other financing of consumer and business auto and other vehicle loans and dealer floor loans;

Treasury's authority to establish facilities to support the availability of consumer loans, such as student loans, and auto and other vehicle loans. Such support may include the purchase of asset-backed securities, directly or through the Federal Reserve;

Treasury's authority to provide support for commercial real estate loans and mortgage-backed securities; and

Treasury's authority to provide support to issuers of municipal securities, including through the direct purchase of municipal securities or the provision of credit enhancements in connection with any Federal Reserve facility to finance the purchase of municipal securities.

In addition, more reforms are enunciated for homeowners in title V. The home buyer stimulus provisions requires Treasury to develop a program, outside of the TARP, to stimulate demand for home purchases and clear inventory of properties, including through ensuring the availability of affordable mortgages rates for qualified home buyers.

In developing such a program Treasury may take into consideration impact on areas with

highest inventories of foreclosed properties. The programs will be executed through the purchase of mortgages and MBS using funding under HERA. Treasury will provide mechanisms to ensure availability of such reduced rate loans through financial institutions that act as either originators or as portfolio lenders.

Under this provision, Treasury has to make affordable rates available under this program available in connection with Hope for Homeowner refinancing program.

This legislation will give a permanent increase in FDIC and NCUA deposit insurance limits, it makes permanent the increase in deposit insurance coverage for banks and credit unions to \$250,000, which was enacted temporarily as part of the Emergency Economic Stabilization Act and is scheduled to sunset on December 31, 2009, and includes an inflation adjustment provision for future coverage.

Finally, I applaud Chairman FRANK and the Committee on Financial Services for their hard work on this important piece of legislation. In this economic climate it is critical for us to remember that while we need to assist our financial institutions, we cannot do this without implementing reforms to protect Americans' hard-earned money.

I strongly urge my colleagues to join me in support of this important legislation.

Mr. GARRETT of New Jersey. I first yield myself 30 seconds to respond to the chairman's question. Yes, there is a specific philosophical difference with regard to keeping people in their houses. As we know, both sides of the aisle want to do the best that the Federal Government can do in this area. And the administration has already set up a program, the HOPE program, and taken other actions to try to facilitate those people who are in difficult situations to remain in their houses.

But I believe it was Ms. WATERS on your side of the aisle that raised the same point similar to what I raised. What do we say to the person who has been on time paying their bills, which is over 90 percent of the American public homeowners, who has been paying their bill month after month after month on time and saying to them, well, you know what? We're going to use your tax dollars to subsidize the people across the street with a program to help them keep when they went over the amount they should be spending on their homes. And that is the philosophical difference that we have.

I yield now 2 minutes to the gentleman from Indiana (Mr. BURTON).

Mr. BURTON of Indiana. Let me just start off by saying I'm opposed to all these bailouts.

But after having said, let me say that if we're going to do it we really need a comprehensive plan that's going to deal with the problems facing this country.

I had home builders come into my office last week, and they told me that their businesses are being re-appraised, and they're going to have to pay the difference between what the appraisal was initially and what it is now, and they're driving a lot of these home builders out of business.

I had some people who are commercial developers come in to see me last

week, and they told me that their commercial assets are being re-appraised, maybe 70 percent of what they were before, and they have to pay the difference between what they were getting and the 70 percent, and they're being driven out of business. So there's a huge cascading effect with all these problems that we're facing right now. And we're not addressing them in this bill or any of the other bills that I've seen.

You've got people who are losing their homes. You've got home builders that are going out of business. You've got commercial developers that are going out of business because of these re-appraisals, and there's nothing in the plans that I've seen that addresses these problems.

Mr. FRANK and I are good friends. But just throwing this money at these problems without any plan is actually crazy. And yet we did it with the first \$350 billion tranche, and we're going to do it again, and then we're going to come back with a \$1.2 trillion request in just another 2 or 3 weeks. I mean, we can't buy our way out of these problems. We have to have a sound business plan to deal with these problems. And if we don't do it, we're going to see a huge economic problem that's even worse than what we face today.

So I'd like to say to Mr. FRANK and my colleagues, before we start giving all this money away, why don't we really sit down with the people that are supposed to be administering this money and come up with a sound plan that affects the entire economy. I mean, if you're going to spend the money, we might as well do it the right way.

Mr. FRANK of Massachusetts. Mr. Chairman, first I'll yield myself 30 seconds to answer the question. What do we tell the person making mortgage payments why we are trying to help reduce foreclosures? And the major reason is that it is the imprudent granting of these loans and the failure of many of these loans to pay off that is the single biggest cause of the financial crisis we're in. And a wide range of economists agree that until we reduce the rate of foreclosures which are embedded in so many securities that were, without regulation, scattered around the economic landscape, we will not be able to undo the economic problem we're in. So foreclosure diminution is part of our economic recovery plan.

It also, of course, hurts property values in general.

I now yield 1 minute to a very active member of our committee, the gentleman from Colorado (Mr. PERLMUTTER).

Mr. PERLMUTTER. Mr. Chairman, I rise in support of the manager's amendment and the bill. We're in a position where \$350 billion, without any conditions, is likely to be passed, or it's been requested and likely will go out the door.

These conditions are important, and the conditions that are added through

the manager's amendment are particularly important. One of the things we talked about with the original TARP bill was that money would, 1, buy mortgage portfolios, 2, recapitalize banks and 3, pass through various agencies to small businesses through the Federal home loan banks and through the farm credit administration.

This manager's amendment assures that money passes directly to people on Main Street, including the home builders that Mr. BURTON was just talking about, commercial realtors, commercial real estate, farmers, municipal bond dealers, so that credit all across the board is available to people and gets this economy back on track and loosens up credit across the United States.

And I support the manager's amendment and ask for an "aye" vote.

Mr. GARRETT of New Jersey. Mr. Chairman, I yield 3 minutes to Mr. SCHOCK from Illinois.

Mr. SCHOCK. Chairman FRANK, Ranking Member BACHUS and Congressman GARRETT, first let me thank you for the opportunity to come to the floor and speak today.

Chairman FRANK, I congratulate you on bringing this piece of legislation forward, and I admire the meticulous and bipartisan nature in which you have crafted it.

I would like also to thank you, the both of you, for the inclusion of my noncontroversial amendment into the manager's amendment. I believe this amendment represents a small but important step which will serve the good of the American people.

My amendment is very simple. It establishes a user-friendly Web site where the American people can quickly and accurately see where their money is going.

During debate yesterday, we heard the need for more oversight, more transparency, and more control over the flow of TARP funds.

□ 1145

I am glad that we here in Congress will be provided more information about TARP funds. However, what about the American people?

This is their money, and I believe they need to be able to track it. I hope that an online database will provide a helpful tool in this effort. In essence, this amendment seeks to create a Google for TARP. This Web site will clearly display who is using the money, for what purposes and how their dollars will ultimately cycle back to their pockets. I intend this Web site to be easily searchable and to contain information on both specific payments and on the aggregate amounts received by each receiving entity. This amendment is about accurate accounting, openness, fair government, transparency, and hopefully, one day, balancing our budget.

You know, when my constituents leave the grocery store, they know

three things—what they've spent, what they got for their money and how their purchases are going to help their families. Well, the American people deserve to know the same thing when they, for the very first time, are pouring billions of the same hard-earned dollars, which they used to purchase groceries, into the financial and housing markets. Americans should be able to identify what is being spent in their name.

Currently, the Treasury Department provides limited balance sheets, listing complex purchases on their Web site. The target audience of this Web site is for those applying for TARP funds, in other words, financial experts. It is not for those who are looking to see how their money is spent.

Well, I'm sure my constituents are very similar to yours. They're not high-powered New York City investment bankers. While they have not been a part of this problem, they're being asked to foot the bill for it. In doing so, it is their right to know where their money is going, for what programs it is being used and how it will benefit them in the long run.

While I support the bill we are considering today, I am concerned that these changes, while needed, will further confuse where this money is going. Funds will begin to cross over multiple government agencies to the point where anyone wanting to track the flow of money would have to visit multiple Web sites with his mouse in one hand and his calculator in the other. A person should not have to be a forensic accountant to decipher where his tax dollars are being allocated.

The Acting CHAIR. The time of the gentleman has expired.

Mr. FRANK of Massachusetts. I yield the gentleman an additional 30 seconds.

Mr. SCHOCK. Thank you, Mr. FRANK.

My hope is that, through this amendment, we can establish something similar to or what can become a part of what our President-elect has established under the Federal Funding Accountability and Transparency Act of 2006—the USAspending.gov Web site, a Web site explaining to the American people the different Federal agencies and how their hard-earned money is being spent to better their lives.

As I said, this is a commonsense amendment that seeks to improve the people's access to their government.

Mr. FRANK of Massachusetts. Would the gentleman yield to me the remaining few seconds?

Mr. SCHOCK. Yes, sir.

Mr. FRANK of Massachusetts. I just want to say the gentleman said his amendment was noncontroversial, but noncontroversial doesn't mean unimportant. It is a very thoughtful amendment. It will greatly advance things, and I appreciate his offering it.

The Acting CHAIR. The gentleman's time has expired.

Mr. FRANK of Massachusetts. I yield 2 minutes to one of the Members who has been most active in trying to deal

with this foreclosure problem that other Members think we should ignore. He is the gentleman from Maryland (Mr. CUMMINGS).

Mr. CUMMINGS. Mr. Chairman, I rise today in support of the manager's amendment offered today by Chairman FRANK to H.R. 384, the TARP Reform and Accountability Act of 2009. I will also take this opportunity to commend his extraordinary leadership on this issue and to thank him and the Rules Committee for including language that I have proposed within the manager's amendment.

The language I offer requires the Comptroller of the Currency and the Director of the Office of Thrift Supervision to issue mortgage modification data collection and reporting requirements for the banks they regulate and to report this information back to Congress. This amendment is necessary for one clear reason:

In a December 8, 2008 report, the OCC announced that, within 3 months of an initial mortgage modification, nearly 36 percent of borrowers redefaulted by being more than 30 days past due. After 6 months, the rate was nearly 53 percent, and after 8 months, it was 58 percent.

Unfortunately, no one really knows the reasons behind these redefault rates. This language will help us gather the information we need to understand what is occurring and to understand, hopefully, why it is occurring.

Mr. Chairman, a RealtyTrac reported this morning that the foreclosure rate jumped to 81 percent in 2008 with one in every 54 households experiencing at least one foreclosure. This equates to nearly 2.3 million properties.

Foreclosure rates are projected to rise in the coming months, and it is, therefore, imperative to us to understand the nature of the modifications being made by lenders and whether they address the real needs of borrowers by creating terms borrowers can realistically meet.

It is our duty to protect homeowners and to ensure transparency, accountability and strict standards. H.R. 384 accomplishes these objectives.

Again, I want to thank Mr. FRANK for his efforts, and I want to urge my colleagues to support this amendment and the underlying bill.

Mr. GARRETT of New Jersey. Mr. Chairman, at this time, I yield another 2 minutes to the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. I was listening carefully to the distinguished chairman of the Financial Services Committee when he introduced the previous speaker. He said the gentleman cared passionately about the foreclosure mitigation, and apparently, other Members don't. I'm not sure who the chairman was alluding to. We certainly care about foreclosure mitigation on this side of the aisle.

Mr. Chairman, there is no better foreclosure mitigation plan than keeping your job, number 1, having ex-

panded opportunities for a better job in the future, and number 3, having a growing paycheck. That's why Republicans on this side of the aisle have supported a tax relief plan to make sure that people keep their jobs and to help small businesses. It's why people on this side of the aisle—why Republicans, Mr. Chairman—have supported a plan that would reduce the tax on future job creation—the capital gains tax, the tax on investment. It's why we have supported tax reductions for middle-income families so they can pay these mortgages.

I see, unfortunately, that the chairman has left the floor, but I would also observe that over 2 million mortgages have been refinanced between the borrowers and lenders.

Listen, a great tragedy has occurred in our housing market. Now the question is: With all of these losses, who is going to realize it? Is it going to be the borrowers and the lenders or is it going to be the taxpayers?

So, if some believe there are other Members who don't care about foreclosure mitigation, I would say, Mr. Chairman, it appears that some Members don't care about the debt that they are placing on future generations, constraining their homeownership opportunities. They don't care about the fact that we are now looking, under this Congress, at the single largest deficit in America's history, that we are seeing red ink as far as the eye can see and that we are possibly planting the seeds for an even worse recession 5, 6, 7, 8 years from now because bad public policy decisions, Mr. Chairman, after 9/11 and after the dot-com bubble have led us to where we are today.

Mr. DRIEHAUS. Mr. Chairman, I yield myself 1 minute.

Thank you to the gentleman from Massachusetts for his leadership on this amendment and for his leadership on this issue. I stand in support of the manager's amendment.

Many who support it—the Emergency Economic Stabilization Act that first authorized the money for TARP—despite the fact that they were angered by the circumstances that caused its necessity, believed it was essential for the Nation's economy.

My home State of Ohio is amongst the Nation's leaders in its foreclosure rate, and I am keenly aware of the need for intervention to mitigate the increasing number of foreclosures. This measure recognizes that and provides relief for those who need it most, not just for America's homeowners, not just for America's financial institutions but for entire communities that are suffering and that are failing under the weight of the foreclosure crisis.

I appreciate the chairman's fundamental work on this issue. Again, I would encourage my colleagues to support the manager's amendment.

Mr. GARRETT of New Jersey. Mr. Chairman, at this time, I have no further speakers, and I would reserve my time until the gentleman from Massachusetts is ready to close.

Mr. FRANK of Massachusetts. I yield 2 minutes to one of the most active advocates of trying to have effective foreclosure relief. She is the gentlewoman from Maryland (Ms. EDWARDS).

Ms. EDWARDS of Maryland. Mr. Chairman, I rise today in support of the underlying bill and of the amendment introduced by my good friend from Massachusetts.

He has been a tireless leader, the chairman has, in trying to ensure that this administration does right by the taxpayers and that it particularly does right by homeowners who are facing foreclosure.

Like many of my colleagues, I supported the final TARP. Yet, despite the debate in this Congress and despite the intense discussions with the administration, they failed taxpayers miserably in making sure that homeowners are protected, that they stay in their homes and that we restore stability to our housing and mortgage markets.

This amendment adds and strengthens many critically important provisions. I particularly support the establishment of an Office of Minority and Women Inclusion.

As my colleague from Maryland noted, foreclosures continue to take their toll on families, communities and States across this country. Yesterday, of course, RealtyTrac announced that the foreclosure rate was up 81 percent in 2008. In fact, it's likely that, in my home State of Maryland, 1 in 26 homeowners will experience foreclosure this year. Many of those homeowners, some of those homeowners, live in my own neighborhood.

I represent two counties leading our State in foreclosure numbers. If left unaddressed, the foreclosures will continue to increase and will touch even more lives. I am frustrated that this administration has failed and that foreclosures have skyrocketed.

Yet it's important now for us to get it right for the American people and for the taxpayer. So I support the underlying bill and the amendment. I applaud the chairman for his leadership to make certain that American taxpayers are protected, that we ensure that people stay in their homes, that they are protected from foreclosure, that we stabilize our housing market, and that we provide accountability for taxpayers and for the administration.

Mr. GARRETT of New Jersey. I continue to reserve the balance of my time.

Mr. FRANK of Massachusetts. I yield 1 minute to the gentleman from Minnesota (Mr. ELLISON) who has been a fierce advocate here, particularly of the rights of tenants, which are often overlooked in this process.

Mr. ELLISON. Let me thank Chairman FRANK for bringing this critical legislation to the floor.

When Congress passed the emergency financial services rescue package last fall, we included specific provisions to help distressed homeowners. Unfortunately, the Bush administration decided to help out Wall Street with



these funds while ignoring the needs of Main Street.

The fact is that this piece of legislation, carefully crafted and now working with an amenable and a cooperative administration, is in a much better position to meet the needs set forth in the original legislation, which is to help homeowners. The bill requires at least \$40 billion, but no more than \$100 billion, be used to help distressed homeowners.

Finally, I am excited to report that there is a measure that I authored with other Members which provides reasonable protections for bona fide renters, which is something I'm very happy about. I am pleased to be able to support this legislation today.

Again, Mr. Chairman, let me thank our very able chairman on this piece of legislation so we can get our country back and moving again.

Mr. GARRETT of New Jersey. I continue to reserve the balance of my time.

Mr. FRANK of Massachusetts. The gentleman should proceed because I will be closing for us, and I am the last speaker.

The Acting CHAIR. The gentleman from New Jersey is recognized for 2 minutes.

Mr. GARRETT of New Jersey. Mr. Chairman, the gentleman from Colorado said that this amendment will make sure of "such and such," and he listed off a half a dozen things that the bill, or the amendment, will do.

The reality is that the chairman will tell him this amendment will make sure of absolutely nothing. Why? Because this amendment will never become law. That's not me saying that. That's what the chairman has said repeatedly as well. It is not going to move in the House and the Senate. It is not going to be eventually signed by the President.

Soon, we'll be voting on legislation that will, in essence, allow the next administration to spend \$350 billion, and the American taxpayer will be asking us: What did we authorize that \$350 billion for? For there was no plan, and there is no plan as we speak here today as to what the next administration will be spending that \$350 billion for.

Congress should not authorize, Congress should not pass any other legislation until we have the specifics of a plan. We should not do so until we have a plan that will not pick winners and losers, until we have a plan that will protect the American taxpayer, until we have a plan in place and the language before us that will not bail out the banks that made terrible decisions. We should not be moving legislation that will appropriate \$350 billion until we have a plan in writing specifically that will not bail out borrowers who knowingly took inappropriate loans.

Finally, we should not spend an additional \$350 billion as we pick winners and losers and do nothing, absolutely nothing, for the 90-plus percent of American homeowners who have done

absolutely everything right and who have paid their loans and mortgages on time and who are now asking: Why are they bailing out the banks and other imprudent lenders?

I encourage all of my colleagues at this point in time to vote "no" on this amendment that will do absolutely nothing to ensure these protections to the American taxpayers. I encourage all of my colleagues as well to vote such that we will not appropriate an additional \$350 billion of taxpayer dollars.

With that, I yield back the balance of my time.

□ 1200

Mr. FRANK of Massachusetts. Mr. Chairman, it becomes clear that for many in the minority this is an opportunity to punish Barack Obama for the mistakes made by George Bush. The gentleman says we should have a plan. In fact, what they are objecting to is the plan.

Here is where we differ: They have said, the gentleman who just spoke, the ranking member of the full committee, "Let's ask the President to tell us what he plans to do." We want to do it the opposite way. We want to pass this bill to tell the President what we think should be done.

Now, it doesn't get specific as to institutions. It shouldn't. We don't pick institutions here. We empower them and direct them, in some cases, to deal with the whole economy and with classes of institutions. There is no selection here by Congress of this or that company or even line of business.

Secondly, the gentleman closed by saying why should the majority respond to the foreclosure issue. And the answer is that the foreclosure issue hurts everybody in this country. It reduces property values too radically. It reduces the capacity of institutions that have these assets that are held. It hurts pension funds. It hurts a whole range of people. It hurts people's 401(k)s. The whole society has suffered from this improvidence.

And I would note again, in 2007, the majority in the House, when we became the majority, voted to ban these loans from being made whether the fault was on the part of the borrower or the lender. The gentleman from New Jersey and others condemned that, said we were interfering unduly with the market. He said the market would take care of it. Well, the market hasn't taken care of it. The market has plummeted.

This bill does what Members say they want, and I guess they won't take "yes" for an answer. It says this is what the House believes should be in the plan. And no, it does not look like it's going to pass the Senate now, although Members on the other side rarely think that's a reason for us not to act. But if we pass this and the President was to disappoint us—and I don't expect him to; I have a great deal of confidence in him—and not carry this

out, the bill will be alive in the Senate and will be available as an instrument to do it.

Beyond that, here's the difference. We passed a law, and George Bush ignored the law, as he often does. There will be a great contrast between a President who ignored the law and a President who agrees with us to abide with what the House asked him to do.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Massachusetts (Mr. FRANK).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Mr. FRANK of Massachusetts. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Massachusetts will be postponed.

AMENDMENT NO. 2 OFFERED BY MS. MATSUI

The Acting CHAIR. It is now in order to consider amendment No. 2 printed in House Report 111-3.

Ms. MATSUI. Mr. Chairman, I offer an amendment.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Ms. MATSUI:

Page 32, after line 19 insert the following new section (and redesignate the subsequent section and conform the table of contents accordingly):

**SEC. 206. FORECLOSURE MORATORIUM RECOMMENDATION.**

(a) FORECLOSURE DEFERMENT.—It is the sense of the Congress that any institution which becomes an assisted institution on or after the date of the enactment of this Act should not initiate, or allow to continue, a foreclosure proceeding or a foreclosure sale on any with respect to any principal homeowner mortgage, until the earliest of the following:

(1) The date by which the comprehensive plan to prevent and mitigate foreclosures has been developed by the Secretary and the Federal Deposit Insurance Corporation and approved by the Financial Stability Oversight Board under section 201 and become fully operational.

(2) The date by which the systematic foreclosure prevention and mortgage modification plan has been established by the Secretary in accordance with section 204 and become fully operational.

(3) The end of the 9-month period beginning on the date of the enactment of this Act.

(b) FHA-REGULATED LOAN MODIFICATION AGREEMENTS.—If an assisted institution to which subsection (a) applies reaches a loan modification agreement with a homeowner under the auspices of the Federal Housing Administration before any plan referred to in paragraph (1) or (2) of such subsection takes effect, subsection (a) shall cease to apply to such institution as of the effective date of the loan modification agreement.

(c) DUTY OF CONSUMER TO MAINTAIN PROPERTY.—Any homeowner for whose benefit any foreclosure proceeding or sale is barred under subsection (a) from being instituted, continued, or consummated with respect to any homeowner mortgage may not, with respect to any property securing such mortgage, destroy, damage, or impair such property, allow the property to deteriorate, or commit waste on the property.

(d) DUTY OF CONSUMER TO RESPOND TO REASONABLE INQUIRIES.—Any homeowner for whose benefit any foreclosure proceeding or sale is barred under subsection (a) from being instituted, continued, or consummated with respect to any homeowner mortgage shall respond to reasonable inquiries from a creditor or servicer during the period during which such foreclosure proceeding or sale is barred.

The Acting CHAIR. Pursuant to House Resolution 62, the gentlewoman from California (Ms. MATSUI) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California.

Ms. MATSUI. Mr. Chairman, I rise today to offer an amendment, along with Representative KATHY CASTOR, to help homeowners across our country. Our amendment expresses the sense of the Congress that financial institutions who receive future TARP funds should not foreclose on any principal homeowner until the new loan modification program in the bill is implemented and deemed fully operational.

Mr. Chairman, the foreclosure crisis is the root cause of our current economic crisis. Sadly, there is no end in sight.

Right now, more than 8 million homeowners are expected to face foreclosure over the next 4 years. That is one in six mortgages in the United States. The rising unemployment will cause even more Americans to face foreclosure.

California, and in particular my home district of Sacramento, has been greatly impacted by the foreclosure crisis. I've hosted foreclosure workshops. I've seen the hardships and looks of desperation on so many faces not knowing if they will lose their home.

At one workshop, I was approached by a woman that had a loan through one of the financial institutions that had taken TARP funds. When we met, she had been talking to the bank's representatives for a few months to no avail. She was one step from losing her home. It took her dozens of phone calls and letters over many months for her and the bank to settle on a new loan. I worry that without a true moratorium on foreclosures, people like her will not be as lucky.

Similar situations are occurring throughout the country.

Congress must use all of our available resources to keep Americans in their homes. The bill we're considering today calls for the strongest foreclosure prevention program to date. It requires the Treasury and the FDIC to develop a comprehensive systemic loan modification program by April 1. However, that is more than 3 months away, and the plan is estimated to take an additional month or two to become operational. In the meantime, thousands of homeowners could be foreclosed upon.

Our goal is to help Main Street. It would be devastating if homeowners were foreclosed on before they had an

opportunity to qualify for the new loan modification program under this bill.

That is why I have offered my amendment with Congresswoman CASTOR that calls on the mortgage industry to implement a temporary timeout on foreclosures.

Our constituents and businesses need breathing room to find solutions to help Americans stay in their home. I've been calling for a moratorium on foreclosures over the last 8 months. Last May, I introduced the Home Retention and Economic Stabilization Act that calls for a 9-month moratorium on foreclosures for responsible homeowners.

Yesterday, I reintroduced the same bill, along with Senator MENENDEZ in the Senate. I will continue to actively pursue a meaningful moratorium on foreclosures in the coming days and months.

Until then, a timeout in foreclosures is a necessary stop-gap measure that will give Congress, regulators, and homeowners some breathing room while everyone works to craft a fair, sensible, and lasting solution to the foreclosure crisis. I hope that my colleagues will join me in supporting this amendment.

I reserve the remainder of my time.

Mr. GARRETT of New Jersey. Mr. Chairman, I claim the time in opposition.

The Acting CHAIR. The gentleman from New Jersey is recognized for 5 minutes.

Mr. GARRETT of New Jersey. I yield myself 2 minutes.

First of all, I begin by saying I appreciate the sponsor's intent behind the amendment. She and I join in the thought that we need to do all that we possibly can to deal with the terrible situation of the economy right now, and she is right that the subprime issue and the foreclosure issue is at the heart of the housing prices and the heart of the economic crisis that we have right now.

The question is, what do we do about it? And the question is, what do we do about it in a manner to help both those people who have been paying on time and also help those people who are perhaps in a difficult situation?

The amendment, though, as it's currently written, may have an unintended effect. If you effectively allow for an extended period of moratorium on foreclosure, that may actually have the potential of encouraging people from actually going to the bank to try to work things out. Or maybe it's not encouraging, not just encouraging them enough to do what is appropriate during this period of time.

I would ask the gentlelady a question, though.

In the form of the amendment, besides the potential policy problems, it would appear that the amendment is flawed technically, and for that reason unworkable. If I look at page 2—and if she would refer to that—it's set up not as a sense of Congress, which, I believe,

is the intention behind this bill, but rather as language which would have the force of law. Page 2, section C, "duty of the consumer to maintain property." It goes on to say that any homeowner whose benefit in foreclosure proceeding or sale is "barred under subsection A," and it makes references to other sections of the law.

The question is, how can a sense of Congress, therefore, actually have the effect of law?

So is this an amendment that maybe has the best of intentions but was drafted in a manner that potentially would have the effect of law even though it is not a law, it is merely a sense of Congress?

I would ask, then, in light of the fact that there is both the policy reason that we may agree on but have some problems with but is technically flawed, I would ask that the sponsor would consider withdrawing the amendment at this time.

Ms. MATSUI. Mr. Chairman, I yield 1 minute to the chairman of the committee.

Mr. FRANK of Massachusetts. I'll tell you what it's written to say. We believe that it is entirely a sense of Congress but understand the terrible harm that would come if it wasn't. Of course, the gentleman says it's not going to become law, so why he's so concerned about it, I don't know.

But if it did, here is what it would do: This terrible section, here's what it does. It says that the borrower can't destroy the property. We are in danger of being too strong in insisting on protecting the lender. The language to which he objects—which he quite understandably didn't read—says "the homeowner may not, with respect to any property, destroy, damage, or impair such property, allow it to deteriorate or commit waste."

So it may be that we have unduly argued that the borrower pending this who's got a foreclosure shouldn't trash the property.

I will plead guilty to perhaps erring on the side of ambiguity in imposing on the borrower an obligation not to trash the property.

Mr. GARRETT of New Jersey. I will yield myself just 1 more minute.

I can simply come to the floor and speak to what the experts have testified in committee with problems of language of this nature. One is, as I've already stated, experts have said that language like this would encourage the situation for borrowers to not do the right thing, that is, to call up their lenders and say, "I have a problem, and I want to engage in negotiations to try to work out the loan."

We know this is an ongoing problem, and that's why there's so many advertisements and like on TV right now to encourage people to do the right thing. This language would be counterproductive in that, so the experts say.

And secondly, the lenders have come to the committee and testified before our committee that the longer the borrower remains delinquent, the less

likely he or she will be able to cure the delinquency and avoid foreclosure.

All this is really doing is prolonging what should be dealt with today. It's never to be put off to tomorrow what we should deal with today, and this language, unfortunately, does just that.

With that, I reserve.

Ms. MATSUI. Mr. Chairman, how much time do I have remaining?

The Acting CHAIR. The gentlewoman from California has 1 minute remaining. The gentleman from New Jersey has 2 minutes remaining.

Ms. MATSUI. Mr. Chairman, I would like to yield 1 minute to the gentlelady from Florida (Ms. CASTOR).

Ms. CASTOR of Florida. Mr. Chairman, I rise in support of the Matsui-Castor amendment. Congresswoman MATSUI has summarized the amendment very well, and I appreciate her leadership.

We all agree the housing crisis, foreclosures, and the related disintegration of value in our neighborhoods must be addressed. We know the statistics very well about the extent of the problem. And in Florida, we have the second highest rate of foreclosures.

I did not support the \$350 billion first tranche of the TARP because I had no confidence in the Bush administration that they were going to help homeowners and prevent foreclosures. I hoped and prayed that I was wrong, but unfortunately, that has been borne out.

I'm now planning my fourth foreclosure workshop, and to the contrary, rather than discouraging homeowners, here is what I found. They cannot get the loss mitigation personnel on the phone. They want to work it out. They want a little bit of breathing room. Now where it's a vicious cycle because they've lost their job, they're looking for their second part-time job, they need a little breathing room that this amendment will provide.

They're not asking for a bailout. They're not asking for billions of dollars that have gone to the financial institutions. They want a little bit of a break.

Mr. GARRETT of New Jersey. Mr. Chairman, I yield myself 1 minute.

I appreciate the gentlelady's comments. We have done similar programs such as that in talking to the people in the district as far as working out, what have you.

Again, the experts—this is the third point I could have raised before—the experts also tell us that a foreclosure moratorium, which in essence is what we're talking about here, will have the unintended side effect also of raising up the cost of mortgages in the future.

So what this means is for that individual who may be able to work out a deal today because mortgage rates are, as we know, at historic low rates, if this has the effect of law—which is actually how the language is situated here—and the moratorium were to occur and mortgage rates were to go up, by the time they actually sat down

with that facilitator at the bank and worked things out, they would find that the mortgage rates unfortunately, due to the economies of the nature of this bill, the rates are higher and they are at a disadvantaged situation than they would be today.

Let's have the people encouraged to work out their mortgages today. Work it out with their banks. I'm sure both sides of the aisle want to use our offices to facilitate those communications as well when people have problems contacting their banks. I know my office works, and I'm sure your office does as well to try to get that contact with them.

And let's do that to get it done today and not put it off until tomorrow.

The Acting CHAIR. The gentleman from New Jersey has 1 minute remaining.

Does he yield that minute back?

Mr. GARRETT of New Jersey. I yield back.

The Acting CHAIR. All time for debate has expired.

The question is on the amendment offered by the gentlewoman from California (Ms. MATSUI).

The amendment was agreed to.

□ 1215

AMENDMENT NO. 3 OFFERED BY MR. HENSARLING

The Acting CHAIR. It is now in order to consider amendment No. 3 printed in House Report 111-3.

Mr. HENSARLING. Mr. Chairman, I have an amendment at the desk made in order by the rule.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. HENSARLING:

Page 11, strike lines 1 through 7.

The Acting CHAIR. Pursuant to House Resolution 62, the gentleman from Texas (Mr. HENSARLING) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Mr. HENSARLING. Mr. Chairman, I've listened carefully to the previous speaker and comments from our distinguished chairman of the Financial Services Committee. It's quite clear to me that, come early next week, they're certainly going to miss President Bush. I don't know who they're going to start to blame every problem in the universe on come next week.

I didn't come here to engage in the blame game, but I certainly can't let the chairman's comment pass as he said something to the effect that President Obama is inheriting a problem created by President Bush. Well, as the chairman knows, there's a lot of underlying causes to the predicament we find ourselves in and I'm happy to debate them at a later time, but I would also note that the economic policy of America is determined substantially by this Congress, and the economy was doing just fine until the Democrats took over Congress.

Now, Mr. Chairman, as I look at the bill that is before us, again, there are certain areas where I agree with our distinguished chairman, more accountability and more transparency tends to be a good thing. But Mr. Chairman, there is a provision in here though that says the "Secretary may require an observer in the board rooms for institutions that receive TARP money." Now, Mr. Chairman, I've been around here for a few years and although I have no doubt that everybody is well-meaning in the legislation that they bring to the floor, my fear is that today's "may" shall turn out to be tomorrow's "shall." And my fear is that today's "observer" will become tomorrow's "suggester" and next week will become "the mandator." I think this is a terrible, terrible precedent. I think it bespeaks of industrial policy run by the government. I think it puts, again, one more of those slippery stones on that slippery slope to socialism.

And Mr. Chairman, what are they observing? I mean, what specific policies have they been given to undertake by this United States Congress? What are they observing? And what I observe, Mr. Chairman, is that my reading of the legislation says that any "assisted institution" as defined by any institution that receives "any direct or indirect recipient of assistance or benefit from TARP." And so I hope that the distinguished chairman of the Financial Services Committee, on his time, will enlighten us on his interpretation of how he wrote the underlying bill. Because does this mean that any business borrowing money from a bank under TARP will now be subject to an observer of the Federal Government? Does this mean anyone who has an insurance policy with AIG is now subject to an observer from the Federal Government?

Since we have express language in here dealing with the auto industry, I hope the chairman will answer the question, does this mean that the Secretary of the Treasury can place an observer in every UAW union hall across the Nation if they receive monies under TARP?

Now, again, I have no doubt that, although I disagree with the chairman on a number of issues, I know that his purpose is a noble one. But I also know, Mr. Chairman, that when things begin in Washington, they don't always end the way that they started. And so I would question, number one—you know, we were told at one time Social Security would be solvent forever; well, it's not. We were told that TRIA was a temporary program; well, it's not. We were told Fannie and Freddie would never be bailed out. And I'm sure those who said it meant it at the time, but circumstances change, they were bailed out. We were told that once House Democrats took over control, that they would rein in spending and balance the budget, and now we have the largest deficit in American history.

So I'm fearful that this provision will grow into something that maybe it's

not intended, not something that I would appreciate. And I'm also very curious why so many other accountability provisions dealing with home borrowers have seemingly fallen out of the bill, including one that the chairman agreed to earlier—I believe it was in April in the markup of the Hope for Homeowners program—when he accepted the amendment now, but seemingly is taking it out of the bill at this point.

Mr. Chairman, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, I rise to claim the time in opposition.

The Acting CHAIR. The gentleman from Massachusetts is recognized for—

Mr. FRANK of Massachusetts. How much time did the gentleman consume?

The Acting CHAIR. 5 minutes.

Mr. FRANK of Massachusetts. Mr. Chairman, I am struck by the implicit endorsement of this amendment that I received from my friend from Texas. He opposed the amendment by talking not about what it does, but what might happen later on in a way very different from it. He did not appear to have much objection to the amendment itself. He is talking about, if we do this, it might lead to something else. Well, at that point object to something else.

The argument that I'm against this because it will lead to something else almost always comes from Members who don't like the provision under debate, so they, therefore, debate a straw man. Yes, there were Members who wanted it to be mandatory that we put someone on the board of directors; I thought that was inappropriate. I don't think a Federal official with the political pressures to which he or she will be suffered should be voting as a member of the board of directors. There were others who wanted to require an observer in every case. We came to what I think is a very moderate approach, to give the Secretary of the Treasury the discretionary authority to do it. There may be some cases where it is important, some where you could forgo it.

The fact that the budget deficit went up does not seem to be an argument against giving the Secretary of the Treasury a discretionary observer at institutions that receive any help under the TARP. And the fact that the gentleman would cite the budget deficit and terrorism risk insurance and what happened to them as reasons not to deal with something entirely different because as they change this might change does not meet my logical standards.

Now, I will say, by the way, with terrorism risk insurance, as an advocate of it—along with the former chairman of the committee, Mr. Oxley—I never said that it would be temporary. I believe that there is, in fact, a public responsibility to deal with terrorism, and

I didn't feel it was going to go away. But in any case, it's an irrelevancy.

Here's the proposal: To give the Secretary of the Treasury discretionary authority to send an observer with the right to sit in on meetings if he believes that it is justified in the particular set of circumstances. It's not a voting member, and it's not mandatory in all cases. I find it hard to see what harm it would do; so, apparently, does my friend from Texas. Because if he were clear about the harm that would do, he would have documented that. Instead, he talked not about the harm that might come from this amendment, but from harm that might come at a future date when something very different from this amendment was put into effect. By the way, this could not grow in an evolutionary fashion; it would take a vote of the Congress to require this. This would not be something that happens accidentally; it would be something that would take a conscious decision.

What we are saying here is we want more accountability. We are saying that we have some confidence in the Obama administration. And again, we are at the central issue here. Many of us believe that President Bush's administration did not use this authority as well as they should have. By the way, I agree with the administration that we are still better off than they would have been if they had not had the authority at all, but we thought it could have been used even better. The central question we will be addressing next week is; do we deny to the new President tools that the old President had that many think he misused?

This bill is a subordinate, it says this; should we tell the new President that, while we in the House believe he should have the opportunity to deploy these tools, we have very clear ideas about what should be done about it?

And we have done several hearings. This has been a very participatory process. I was pleased with the gentleman from California (Mr. CAMPBELL) yesterday, the gentleman from Illinois (Mr. SCHOCK) today, both talked about things that are positive in this.

We have opened ourselves up and have accepted a large number of proposals from Members on both sides. There will be an amendment offered later by the gentleman from Arizona (Mr. FLAKE) that I intend to vote for and I hope the House will overwhelmingly adopt. So we are trying to move forward.

If Members want to debate what we are doing or not doing, that's reasonable; but let me just close by saying here's where we are: We are proposing that the Secretary of the Treasury in the new administration have a discretionary right to send an observer to recipients of TARP funds where he thinks that would be appropriate. The gentleman from Texas says don't do that because TRIA became permanent, and we have a bigger budget deficit. And I guess hair doesn't grow on cer-

tain parts of the body. None of these have anything to do with the issue under consideration. And the absence of arguments against this, what the amendment proposes, gives me a sense of confidence that it's really pretty hard to criticize.

Mr. Chairman, I yield back the balance of my time.

Mr. HENSARLING. Perhaps the chairman did not hear all of my remarks—

Mr. FRANK of Massachusetts. Parliamentary inquiry.

The Acting CHAIR.

Does the gentleman from Texas yield for a parliamentary inquiry?

Mr. HENSARLING. I do not.

Mr. FRANK of Massachusetts. Point of order, Mr. Chairman.

The Acting CHAIR. The gentleman from Massachusetts will state his point of order.

Mr. FRANK of Massachusetts. I was told that the gentleman's time had expired. I have a right to close. I waived that because I was told that the gentleman had consumed 5 minutes when I asked. I thought that was all there was on the amendment.

The Acting CHAIR. No. The gentleman from Texas had 30 seconds remaining. The Chair understood the question to be—or at least the answer provided was—how much time the gentleman from Massachusetts had, which was 5 minutes.

Mr. FRANK of Massachusetts. Oh. I apologize for my diction because I thought that I had asked how much time he had consumed.

The Acting CHAIR. And the Chair apologizes for any misunderstanding.

The gentleman from Texas has 30 seconds remaining to close.

Mr. HENSARLING. Again, perhaps the chairman of the committee missed some of my remarks. My concern is the way that this is drafted is we are giving the Secretary of Treasury the power to put an observer into every small business in America who borrows money from a community bank that gets TARP funds. That isn't what might happen, that is what does happen. And when the chairman says he's concerned about accountability, I wonder why doesn't that go to the borrower side. Why is he striking that portion of the bill that has borrower certification that they did not intentionally default on their mortgage? Why does this bill strike the fine or imprisonment for borrowers who make willful, false statements? Why does he strike the requirement of those who are found to have committed mortgage fraud, that they have to expunge any direct financial benefit? So it's kind of selective concern, I would say.

The Acting CHAIR. The time of the gentleman has expired.

Mr. FRANK of Massachusetts. Parliamentary inquiry, Mr. Chairman.

The Acting CHAIR. The gentleman from Massachusetts will state his parliamentary inquiry.

Mr. FRANK of Massachusetts. Do I have any time remaining?

The Acting CHAIR. The gentleman from Massachusetts yielded back the balance of his time.

Mr. FRANK of Massachusetts. Mr. Chairman, I did that, but I did that because I had asked—as I think the transcript would show—how much time he had consumed. We apparently had a miscommunication. So I would ask unanimous consent that any remaining time be allowed.

The Acting CHAIR. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Acting CHAIR. The gentleman from Massachusetts is recognized for the 10 seconds remaining before he yielded back the balance of his time.

Mr. FRANK of Massachusetts. I will use the 10 seconds to say that the gentleman from Texas said “may” may become “shall.” “May” does not become “shall” without our voting.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Texas (Mr. HENSARLING).

The question was taken; and the Acting Chair announced that the yeas appeared to have it.

Mr. HENSARLING. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas will be postponed.

The Acting CHAIR. The Committee will rise informally.

The SPEAKER pro tempore (Mr. HIGGINS) assumed the chair.

#### MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Wanda Evans, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

#### TARP REFORM AND ACCOUNTABILITY ACT OF 2009

The Committee resumed its sitting.

##### AMENDMENT NO. 4 OFFERED BY MR. HOLT

The CHAIR. It is now in order to consider amendment No. 4 printed in House Report 111-3.

Mr. HOLT. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. HOLT:

Page 19, after line 20, insert the following:

##### SEC. 108. TREASURY FACILITATED AUCTION.

Section 113(b) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5223(b)) is amended to read as follows:

“(b) USE OF MARKET MECHANISMS.—

“(1) IN GENERAL.—In making purchases under this Act, the Secretary shall—

“(A) make such purchases at the lowest price that the Secretary determines to be consistent with the purposes of this Act; and

“(B) maximize the efficiency of the use of taxpayer resources by using market mecha-

nisms, including auctions or reverse auctions, where appropriate.

“(2) AUCTION FACILITATION.—

“(A) IN GENERAL.—The Secretary shall, in coordination with institutions that volunteer to participate, and not using any funds under this title for purchases, facilitate an auction of troubled assets owned by such institutions to third party purchasers.

“(B) REPORT.—If the auction described in subparagraph (A) does not take place within the 3 month period following the date of the enactment of the TARP Reform and Accountability Act of 2009, the Secretary shall issue a report to the Congress stating—

“(i) why such auction has not taken place; and

“(ii) by what mechanism the Secretary feels that troubled assets could most expeditiously be valued and liquidated.”.

The CHAIR. Pursuant to House Resolution 62, the gentleman from New Jersey (Mr. HOLT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New Jersey.

Mr. HOLT. Mr. Chairman, my amendment is simple and straightforward.

One of the difficulties with the troubled assets is assigning values to them. One way of doing that is through auctions. This amendment encourages—in fact, directs—the Secretary, without using taxpayer funds, to facilitate an auction. It will allow the TARP assets to be valued and should help to liquidate and dispose of those assets in the way that was intended.

□ 1230

Now, I should say that this amendment, although approved by the Rules Committee, is also included in its entirety in the manager's amendment as accepted.

MODIFICATION TO AMENDMENT NO. 4 OFFERED  
BY MR. HOLT

Mr. HOLT. Therefore, I ask unanimous consent to modify the amendment before us in a manner that is before you at the desk.

The CHAIR. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment No. 4 offered by Mr. HOLT:

Amendment No. 4 is modified to read as follows:

Page 7, line 18, strike the quotation marks and the last period.

Page 7, after line 18, insert the following new subsection:

“(h) RECONSIDERATION.—

“(1) Any institution that has submitted, pursuant to procedures established by the Secretary and in consultation with the appropriate Federal banking agencies, an application for assistance under this title that has been denied by the Secretary, may seek reconsideration of its application from the Financial Stability Oversight Board within 30 days.

“(2) The Oversight Board shall promptly review such requests for reconsideration and provide its findings and conclusions to the Secretary within 30 days after receipt of such a request.

“(3) Pendency of a request for reconsideration pursuant to this subsection shall not in any way impede or stay the ability of the appropriate Federal banking agencies from taking any supervisory or other action necessary with respect to the safety and soundness of the institution.

Page 63, line 15, strike “(g)” and insert “(i)”.

Mr. HOLT (during the reading). Mr. Chairman, I ask that the amendment be considered as read.

The CHAIR. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIR. Is there objection to modifying the amendment?

Mr. GARRETT of New Jersey. Mr. Chairman, reserving the right to object, I appreciate the gentleman's initial amendment, and I think I appreciate the gentleman's intention of the subsequent amendment.

Can the gentleman explain the reason why the gentleman is on the floor with the subsequent amendment as opposed to having proposed that amendment through the regular committee process?

Mr. HOLT. Will the gentleman yield?

Mr. GARRETT of New Jersey. I yield to the gentleman from New Jersey.

Mr. HOLT. Yes, I can explain. I submitted both of these amendments for committee consideration and for Rules Committee consideration. It was my understanding that they were both included in the manager's amendment, and, in fact, the chairman tells me that it was his intention to include both of them in the manager's amendment. Only one of them was actually included in the manager's amendment. So I'm asking unanimous consent to modify the one amendment that is already in the manager's amendment but also approved for floor consideration to represent the one that was not included in the manager's amendment but should have been.

Mr. GARRETT of New Jersey. Reclaiming my time, wasn't your amendment, I'm told, dated, though, just this morning?

Mr. HOLT. If the Member who controls the floor would yield to Chairman FRANK, I think we can get a better explanation.

Mr. GARRETT of New Jersey. I will let the chairman speak during his time. So you're not aware, though?

Reclaiming my time, I'm looking at it as January 15, 2009, 9:59 a.m., which would have been this morning.

Mr. HOLT. That is because I learned only this morning that it was not included in the manager's amendment, as I had understood and been led to believe, and, therefore, I typed it up so that it could be considered on the floor.

Mr. GARRETT of New Jersey. Thank you.

At this point, Mr. Chairman, I object to the modification.

The CHAIR. The gentleman from New Jersey (Mr. HOLT) is recognized on the original amendment.

Mr. FRANK of Massachusetts. Would the gentleman yield to me?

Mr. HOLT. I yield to the chairman.

Mr. FRANK of Massachusetts. I just want to express my disappointment at this lack of comity. I had the explanation. There was an error that was