

# NRHC Budget Bulletin

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## Summary of Key Provisions of Housing and Economic Recovery Act of 2008 (HR 3221)

### Link to the law:

[http://www.house.gov/apps/list/press/financialsvcs\\_dem/hr3221\\_bill\\_text.pdf](http://www.house.gov/apps/list/press/financialsvcs_dem/hr3221_bill_text.pdf)

### Division A – Housing Finance Reform

#### Title I – Reform of Regulation of Enterprises

- Authorizes an independent Federal Housing Finance Agency Director as regulator of the GSEs. The new Director will have authority to raise capital standards, set strict prudential standards including internal controls and audits, and will have authority to enforce these new standards and take corrective action. The new regulator will oversee, and can directly restrict, executive compensation at Fannie Mae and Freddie Mac;
- Raises the GSE loan limits for single family homes up to 115% of the local area median home price, and raises the permanent loan limit from \$417,000 to \$625,500;
- Includes a duty to serve underserved markets which includes rural areas. Each entity is directed to develop loan products and flexible underwriting guidelines to facilitate a secondary market for mortgages for very low, low, and moderate income families located in rural areas;
- Gives the Secretary of the Treasury the authority to increase the existing line of credit to Freddie Mac and Fannie Mae for the next 18 months, and gives the Treasury Department standby authority to buy stock in those companies to provide confidence in the GSEs and stabilize housing finance markets. (CBO estimates that, if used, the federal budgetary cost of this proposal would be \$25 billion over fiscal years 2009 and 2010); and
- CBO estimates that these provisions could increase direct spending, so the bill requires the Secretary of the Treasury to make an emergency designation before using the authority. No spending would occur unless the Secretary certifies that there is an emergency that requires immediate action. If those conditions are not met, there would not be any increase in the deficit as a result of the legislation.

### Sec. 1131. Affordable Housing Programs

#### Housing Trust Fund

- Creates a new permanent national affordable housing trust fund financed by profits generated from the GSEs;
- No funds will be provided to the housing trust fund until Fiscal Year 2010;

- The Federal Home Loan Mortgage Corporation will set aside an amount equal to 4.2 basis points for each dollar of unpaid principal balance of its total new business purchases;
- It is estimated that in 2008, using this formula, GSE profits would have generated \$300 million annually for the trust fund;
- Each year 25% of the funds must first go to a HOPE reserve fund at Treasury. The other 75% of the funds will be divided between the Housing Trust Fund (which will receive 65%) and the Capital Magnet Fund (which will receive 35%);
- For the next 3 years proceeds from Fannie Mae and Freddie Mac will be diverted to a reserve fund at Treasury (100% in CY09, 50% in CY10, and 25% in CY11) to cover losses that the FHA might incur refinancing mortgages through the HOPE for Homeowners program;
- Grants to states will be used to fund the construction, maintenance and preservation of affordable rental housing for extremely low and very low-income individuals and families in rural and urban areas, and not more than 10% of assistance will be used to increase homeownership for extremely low and very low-income families;
- Requires all assistance to benefit very low-income families (incomes not greater than 50% AMI) and requires at least 75% of the assistance to benefit extremely low-income families (incomes not greater than 30% AMI);
- The definition of a very low income family includes any family that resides in a rural area that has an income that does not exceed the poverty line;
- States may designate a state housing finance agency, housing and community development entity, tribally designated housing entity or other qualified instrumentality of the state to receive the grant funds;
- All funds must be used or committed within 2 years of availability;
- Requires Secretary of HUD to establish a needs-based formula for grant distribution within 12 months; and
- Requires a \$3 million minimum allocation per state

#### Capital Magnet Fund

- Creates a Capital Magnet Fund at the Community Development Financial Institutions (CDFI) Fund within the Treasury Department;
- Will be capitalized each year with 35% of the affordable housing allocation provided by the set aside of the profits from GSEs;
- Grants may be used for development, preservation, rehabilitation or purchase of affordable housing for extremely low, very low and low-income families;
- Grants may also be used for economic development activities or community service facilities in conjunction with affordable housing activities in a low-income or underserved rural area;
- Grants must be committed for use within 2 years of allocation;
- Eligible grantees include certified CDFIs and non-profit organizations that have development or management of affordable housing as one of their principal purposes;

- Any one eligible grantee and its subsidiaries and affiliates may not be awarded more than 15% of the aggregate funds available for grants from the Capital Magnet Fund during any year; and
- Secretary of Treasury will seek to fund activities in geographically diverse areas with economic distress including metropolitan and underserved rural areas in every State.

## Title II – Federal Home Loan Banks

### Sec. 1206 – Community Development Financial Institutions

- Makes Community Development Financial Institutions (CDFIs) eligible members of the Federal Home Loan Bank; and
- Allows community financial institution members of the FHLBs to use FHLB advances for community development purposes

## Title V – S.A.F.E. Mortgage Licensing Act

- Establishes a nationwide loan originator licensing and registration system that will set minimum standards for loan originator licensing substantially improving the oversight of mortgage brokers and bank loan officers; and
- Establishes improved mortgage disclosure requirements that will help ensure that mortgage borrowers understand their mortgage loan terms.

## Division B – Foreclosure Prevention

### Title I – FHA Modernization Act of 2008

- Expands the FHA program and provides authority to insure up to \$300 billion in mortgages to keep at least 400,000 families from losing their homes;
- This 3-year program is paid for with funds from the Affordable Housing Trust Fund;
- Expands opportunities for seniors to tap into equity in their home through FHA reverse mortgage loans, by increasing the loan limit for the program, reducing and capping lender fees for such loans, and strengthening consumer protections limiting the sale of other financial products in conjunction with FHA reverse mortgage loans;
- Prevents HUD from raising single family loan fees on lower- and middle-income borrowers, and from raising loan fees on FHA rental housing loans;
- In order to participate, lenders and mortgage investors must take losses by reducing the loan principal. In exchange for an FHA guarantee on the mortgage, borrowers must share any profit from the resale of a refinanced home with the government;
- Contains protections for taxpayers' dollars, including higher refinancing fees that establish a new FHA reserve to cover possible losses from defaults on the government-backed mortgages;
- Only primary residences are eligible; no speculators, investment properties, second or third homes may qualify to be refinanced; and
- Prohibits seller-financed down payments but does not prohibit other assistance programs. Only those programs that are funded directly from the seller or other party to the transaction are prohibited. Down payment assistance from family

members, government programs, or charities that are not seller-funded is still permitted.

### Title III - Emergency Assistance for the Redevelopment of Abandoned and Foreclosed Homes

- Provides almost \$4 billion in CDBG funds for emergency assistance to communities hardest hit by the foreclosure and subprime crisis to purchase foreclosed homes, at a discount, and rehabilitate or redevelop the property;
- Requires HUD to establish a funding allocation formula within 60 days based on the number and percentage of home foreclosures, subprime mortgages, and homes in default or delinquency in each state or locality. Funds must be distributed to States and localities within 30 days of establishment of the funding formula; then States or localities have 18 months to use the funds to purchase and redevelop the property;
- Funds may be used to establish financing mechanisms for purchase and redevelopment of foreclosed homes, purchase and rehabilitate properties that have been abandoned or foreclosed, establish land banks for foreclosed homes, demolish blighted structures, and redevelop demolished or vacant properties;
- Amounts appropriated will be treated as though such funds were community development block grant (CDBG) funds. This implies 70% of the funds will be distributed to localities and 30% to states, as under the CDBG program. Establishes a minimum state allocation of 0.5 percent of the funds (\$19.6 million based on \$3.92 billion amount);
- The Center for American Progress (CAP) has used a formula to estimate how much each state can expect to receive as a result of this new emergency appropriation. CAP estimates that the following states will receive more than \$100 million each in direct funds: New York, Pennsylvania, Ohio, Illinois, Michigan, Georgia, Florida, Texas, New Mexico, Nevada and California. The other states will each receive less than \$100 million according to their research. States and local governments must use their allocation within 18 months of receipt;
- Requires the Secretary ensure, to the maximum extent practicable and for the longest feasible term, that the homes and properties remain affordable. Any profit from the sale, rental, rehabilitation or redevelopment of these properties must be reinvested in affordable housing and neighborhood stabilization;
- Foreclosed and rehabilitated homes would be sold or rented to moderate-income individuals and families whose incomes do not exceed 120% of the area median income. At least 25% of the funds would be targeted to house low-income and very low-income persons and families whose incomes do not exceed 50% of area median income;
- Purchases of foreclosed homes must be at a discount from the current market appraised value of the home or property, and sales of these homes and properties to an individual as a primary residence must be in an amount equal or less than the cost to acquire and rehabilitate such home or property;

- Creates a 5-year reinvestment period in which revenue from the sale, rental, redevelopment, rehabilitation, or other eligible use in excess of the cost to acquire and rehabilitate the home or property must be used by the state or locality; and
- No matching funds are required

#### Title IV - Housing Counseling Resources

- Appropriates \$180 million for pre-foreclosure counseling, to be distributed in grants by the Neighborhood Reinvestment Cooperation – with 15% targeted for low-income and minority homeowners and neighborhoods, and \$30 million in grants for legal counseling to assist homeowners in foreclosure.

#### Title VIII – Housing Preservation

- Amends the Housing Act of 1940 to provide that there be timely approval of requests to transfer ownership or control of Section 515 housing projects that also utilize Low Income Housing Tax Credits or tax exempt housing bonds; and
- The United States Department of Agriculture will consult with the Commissioner of the Internal Revenue Service to simplify the procedures that need to be taken by multifamily projects where both agencies provide assistance. The Secretary shall solicit recommendations from stakeholders in such projects.

#### Division C – Tax-Related Provisions

- Provides \$15 billion in tax benefits over 10 years, including tax credits to first-time homebuyers, a real property tax deduction for non-itemizers, an additional \$11 billion in mortgage revenue bonds for states, and improves access to low-income housing;
- Gives first-time homebuyers a refundable tax credit of 10% of the purchase price, up to \$7,500 (to be paid back over 15 years). The credit phases out for taxpayers with adjusted gross income \$75,000 or more (\$150,000 or more for a joint return);
- Provides taxpayers that claim the standard deduction with up to an additional \$500 (\$1,000 for a joint return) standard deduction for property taxes in 2008; and
- The cost of the bill is fully offset by delaying the effective date of a tax benefit for multinational companies that has not yet taken effect, and by enacting a tax compliance provision from the President's Budget that requires credit card companies to report more information to the IRS about credit card transactions.

#### Title I – Housing Tax Incentives

- Increases by \$0.20 the per capita amount of Low-Income Housing Tax Credits that each state can allocate for 2008 and 2009 and increases the small state minimum by 10%;
- Adopts a fixed 9% credit rate through 2013 for new construction and rehabilitation projects that are not financed by tax-exempt bonds;
- Allows state agencies to designate particular buildings for 130% basis increase treatment as if they were in difficult development areas;
- Provides that federal rental, operating, and interest reduction payments are not considered federal grants requiring a basis reduction; provides that loans derived from federal grants do not require a basis reduction ;

- Adds energy efficiency and historic nature as additional project criteria to be taken into account when making credit allocations;
- Expands allowable related party interest from 10% to 50% ;
- Eliminates the 10-year placed-in-service rule for projects financed or assisted pursuant to many federal or similar state programs; specifically permits housing for special needs populations, housing for groups specified in federal or state housing programs, and artists' housing to qualify for Housing Credits (provided fair housing rules are otherwise met); allows a full one year to meet the "10% test" for carryover allocations;
- Modifies the rural area median income definition to be the greater of the area median income and the national non-metropolitan median income;
- The credit can now be used in conjunction with the USDA Section 514/516 farmworker housing program or state specific farmworker housing programs without being in violation of the general public use requirement. Permits occupancy restrictions or preferences that favor tenants with special needs, who are members of specified groups under a Federal or State program that supports housing for such groups, or who are involved with artistic or literacy activities;
- Temporarily increases the volume cap for tax-exempt mortgage revenue bonds by \$11 billion; bonds may be used to refinance subprime loans, provide loans to first-time homebuyers and to finance the construction of low-income rental housing;
- Allows tax-exempt bonds to be recycled for housing projects if the second refunding bond is issued within 6 months of loan repayment and not later than 4 years after original issuance date and the second bond does not generate new LIHTCs;
- Eliminates recapture bonds; eliminates "below-market federal loans" from the definition of a federally subsidized property;
- Exempts Housing Bonds from Alternative Minimum Tax, allows interest on rehabilitation credit and LIHTC to be exempt from AMT; and
- Extends mortgage revenue bond disaster relief provisions to areas established on or after May 1, 2008 (from December 31, 1996) and on or before January 1, 2010 (from January 1, 1999).

**If you have any question please contact Courtney Spangler or, for rural provisions, Anne Law.**