

Summary of “Housing and Economic Recovery Act of 2008” Approved by U.S House (7/23/2008) and Senate (7/26/2008)

Prepared by Citizens Housing and Planning Association, July 28, 2008

On July 26, Congress passed a major housing bill ([H.R. 3221](#)) which the President has agreed to sign. The 694-page bill contains elements of many bills considered by the House and Senate over the past year and is divided broadly into three parts (Divisions A, B and C).

Division A (“Housing Finance Reform”)

- **Title I** (GSE Reform) establishes a new regulator for the GSEs (Fannie Mae and Freddie Mac) and the Federal Home Loan Bank, revises GSE regulatory requirements and affordable housing goals, creates an **Affordable Housing Trust** that will begin distributing funds for housing in 2010, and authorizes Treasury support for the GSEs. All provisions effective date of bill enactment unless otherwise stated. Titles II and III revise housing goals for the Federal Home Loan Bank and phases out OFHEO
- **Title IV** establishes **HOPE for Homeowners**, an FHA program starting October 1 to help delinquent or at risk borrowers to refinance into affordable mortgages, if lenders write down the balance owed to 87% of current value or below. It also creates a legal “safe harbor” to encourage servicers to modify delinquent mortgages
- Title V establishes mortgage originator licensing and registration requirements. Title VI includes miscellaneous provisions, including required new studies.

Division B (“Foreclosure Prevention”):

- Title I (FHA Reform) updates FHA programs and standards and raises loan limits
- Title II lengthens foreclosure protections for members of the armed services
- **Title III** authorizes a **\$3.92 billion Neighborhood Stabilization grant program** to help localities deal with abandoned and foreclosed properties
- **Title IV** authorizes **\$180 million in new funding for foreclosure prevention counseling.**
- Title V adds new mortgage disclosure requirements; revises the definition of bank public welfare investments.
- Title VI expands eligibility for and updates benefit levels for VA program for adaptive housing
- Title VII exempts PHAs with less than 550 units/vouchers from annual plan requirements
- **Title VIII** requires **HUD and the Rural Housing Service to speed up processing of project approvals, revises certain LIHTC and HUD program rules** including the Section 8 Project Based Voucher program and Shelter Plus Care.
- Title IX authorizes a \$30 million increase in homelessness grant for education costs in FY2009 to fund activities for children and families (owners and renters) displaced by foreclosure.

Division C (“Tax Related Provisions”) has two titles:

- Title I revises **LIHTC and Tax-Exempt Bond rules**, revises AMT treatment and provides a one time increase in LIHTC allocations (20 cents per capita for 2008 and 2009) and tax-exempt bond authority (\$11 billion for 2008 only).
- Title I also provides a temporary tax credit for first time homebuyers of up to 10%, capped at \$7,500, targeted at individuals below \$75,000 (joint filers below \$150,000) that repayable over 15 years. It also provides a new deduction for property taxes for homeowners who do not itemize.
- Title II revises tax provisions related to REITs

Major bill provisions related to affordable housing, counseling and foreclosure prevention are summarized section by section below.

**Division A – Title I
GSE Reform**

Subtitle A -Improvement of Safety and Soundness Supervision

Short Title	§1001	Federal Housing Finance Regulatory Reform Act of 2008
Regulated Entity	§1002	Fannie Mae, Freddie Mac and Federal Home Loan Bank
New Regulator	§1101	Establishes a new agency – the Federal Housing Finance Agency (FHFA) – to oversee all three regulated entities (Fannie Mae, Freddie Mac and the Federal Home Loan Banks). It will replace the Office of Federal Housing Enterprise Oversight and the Federal Home Loan Bank Board. Its operations will be funded from assessment levied on the regulated entities. Assessment amounts to be determined by FHFA Director.
FHFA Director, Deputy Directors	§1101	FHFA Director to be appointed by the President and confirmed by the Senate with a 5-year term. Deputy Directors will oversee 3 major divisions: <ul style="list-style-type: none"> • Enterprise Regulation (regulation of Fannie Mae and Freddie Mac), • Federal Home Loan Bank Regulation (regulation of home loan banks) and • Housing Division (oversee the housing and community development missions and goals of the three entities).
FHFA Director duties, authority	§1102	Director must set management and operational standards for each of the entities. If an entity fails to meet the standards, the Director can order the entity to submit a compliance plan. If entities fail to submit or implement plan, FHFA must order implementation and may take other actions such as raising capital requirements or restricting the entity’s asset growth.
FHFA Advisory Board	§1103 (a)	Creates 4-person Federal Housing Finance Board to advise the FHFA director: (1) FHFA director, (2) HUD Secretary, (3) Treasury Secretary, (4) SEC Chair. Board must meet at least every 3 months and report to Congress annually on the state of the regulated entities.
Annual Report	§1103 (b)	Expands items regulated entities must provide in an annual report to FHFA to include income, total contributions to nonprofits, and names of organizations receiving amounts over a threshold FHFA may specify.
Other provisions		Allows Treasury loans to GSE. Regulated entities must pay annual assessments set by FHFA Director to cover FHFA costs of oversight, etc. and OFHEO windup to establishment annual assessments. Assessment not treated as government funds. Requires FHFA to establish risk management standards.
Affirmative Employment		Strengthens obligations of regulated entities to affirmatively promote participation of minorities and women in business and staffing
Report on Mortgage Guarantee Fees	§1601	FHFA Director must conduct ongoing study of mortgage guarantee fees, including basis, revenues generated and costs and report annually to Congress.

**Division A – Title I
GSE Reform
Subtitle B – Improvement of Mission Supervision**

Subtitle B		Improvement of Mission Supervision
New Products	§1123	Regulated entities must receive prior approval from FHFA to offer new products. FHFA Director must publish notice of proposal at least 45 days in advance, providing 30 day comment period. (Doesn't apply to changes in terms, underwriting of mortgages purchased or guaranteed by the entities.)
Conforming Loan Limits	§1124	Sets conforming loan limits for 2009 and forward at 115% of the area median price for a residence of comparable size (can't exceed 150% of the indexed limit) or the 2008 general limit (adjusted by the FHFA single-family housing price index) if higher. 150% of current limit for single family home (\$417,000) is \$625,000.
Single family housing price index		Requires FHFA to devise method to determine national average single family house price for use in adjusting conforming loan limits. Method must consider data from FHFA monthly survey of major lenders, current OFHEO index, other measures Director finds appropriate, including Census house price indexes.
Annual Housing Report	§1125	Expands required content, specifies date FHFA must submit to Congress (not later than October 30 of each year), and adds new data collection requirement. <ul style="list-style-type: none"> • In addition to discussing performance relative to affordable housing goals, report must now discuss extent of entities' purchase and securitization of subprime, non traditional mortgages and characteristics. • To ensure FHFA has data to assess performance relative to goals, requires FHFA to survey mortgage markets monthly to collect loan-level data on characteristics of loans eligible and ineligible for purchase by the entities. FHFA must make data public (scrubbed to hide borrower identity).
Public Use Database	§1126 §1127	GSE single family mortgage database must include census tract level data with HMDA data elements and be made available by September 30 of following year.

Subtitle B		GSE Housing Goals
Revised Housing Goals	§1128	Directs FHFA to revise single family goals and set one multifamily goal, as described below, by regulation <u>effective for 2010</u> . New goals will be simpler and use slightly lower income limits. <ul style="list-style-type: none"> • Keeps current goals in effect for 2009 but gives FHFA director 270 days from bill enactment to consider revising based on market conditions, subject to a 30 day public comment period.
Disparate interest rates charged to minority borrowers		Permits FHFA director to review GSE data to see if there is pattern by any lender of charging disparate interest rates to minority borrowers. Director must refer any such findings to appropriate regulatory or enforcement agency. FHFA must report annually to Congress on actions under this provision.
Single Family Goals (1-4 units)	§1128	Establishes four single family mortgage purchase goals starting 2010 (all for conventional, conforming loans), using slightly lower income limits than the current goals: <ul style="list-style-type: none"> • purchase-money mortgages: for "low income" families ($\leq 80\%$ AMI) • purchase-money mortgages for very low income families ($\leq 50\%$ AMI) • purchase-money mortgages for families living in low income areas: <ul style="list-style-type: none"> ○ living in census tract or block with a median income $\leq 80\%$ AMI ○ families below 100% AMI who live in a census tract with a minority population of at least 30% ○ families below 100% AMI who live in a designated disaster area. • <u>refinance mortgages</u> for very low income owners ($\leq 50\%$ AMI).

Subtitle B		GSE Housing Goals
		<p>Also requires each GSE to report the number of rental units affordable to low income families contained in mortgages it purchases for 2-4 unit owner-occupied single family homes. Permits FHFA to establish requirements regarding such units.</p> <p><u>Method for setting annual goals:</u> Director must set goals as a percentage of the total conventional, conforming purchase money and refinance mortgages each GSE buys. Can't set prospective targets for longer than 3 years. Goals shall be based on the percentage of purchase money and refinance mortgages originated for each target group in the prior 3 years per HMDA data as well as national housing goals, market conditions, prior GSE target performance, need to maintain financial soundness of GSEs and other factors. FHFA shall determine compliance annually.</p>
Multi-family goals		<p>Requires FHFA to establish a single annual multifamily housing goal, either by unit or dollar volume, for mortgages “that finance dwelling units <u>affordable to low-income families</u> ($\leq 80\%$ AMI), with “<i>additional requirements</i>” for units <i>affordable to very low income families</i>.</p> <ul style="list-style-type: none"> • Units affordable if rent is $\leq 30\%$ of maximum income limit for each category. • Units financed by HFAs through taxable or tax-exempt bonds and <i>guaranteed</i> by a GSE count toward the goals. <p>GSEs must also report on their purchase of mortgages for <u>smaller properties</u>, based on size (5-50 units, as such numbers may be adjusted by Director) or mortgage amount (up to \$5 million, as such amount may be adjusted by Director).</p> <p>In establishing goal and requirements, Director must consider national multifamily mortgage credit needs, ability of GSEs to provide additional liquidity and stability, past GSE performance, size of market for housing affordable to low- and very-low-income families, including size of market for housing of a smaller or limited size, and GSE ability lead market in making multifamily mortgages available.</p>
Modification of Targets		<p>If a GSE requests, FHFA can modify goals, sub-goals based on market and economic conditions, GSE financial condition or other adverse consequences. Must allow 30 days for public comment before deciding upon request.</p>
Duty to Serve Underserved Markets	§1129	<p>Drops serving rural areas as housing goal, but requires each entity to “provide leadership to the market” in developing loan products and flexible underwriting guidelines to facilitate secondary market for mortgages for very low, low and moderate income families for:</p> <ul style="list-style-type: none"> • manufactured housing • preservation of existing affordable housing (developed using project-based S8, §236, §202, §811, §221d4 BMIR (sic), §515, LIHTC, McKinney Vento permanent supportive housing and comparable state and local programs) • rural markets • additional categories as FHFA Director may recommend to House Financial Services and Senate Banking Committees. <p>Requires FHFA director to establish methods to measure compliance and rate performance of this duty annually starting in 2010.</p>
Child Care Facilities	§1129	<p>Allows FHFA to give entities extra credit for mortgages under goals that involve properties housing with a licensed child care facility.</p>
Enforcement of Housing Goals	§1130 [§1345 (b)]	<p>FHFA can require entities to submit a housing plan if failing to meet housing goals and can impose civil penalties (up to \$100,000/day) and other sanctions on entities that don't meet goals after being given time to comply.</p>

Division A – Title I (GSE Reform)
Subtitle B – Improvement of Mission Supervision
Affordable Housing Trust Fund

The bill revises the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (FHEFSSA) by adding new §1337, 1338, 1339 and 1340 to create an Affordable Housing Trust Fund and Capital Magnet Fund (to support affordable housing and related economic development activities and community facilities).

	§ of Bill/[[§ of FHEFSSA]	Affordable Housing Trust Fund/ Capital Magnet Fund
Funding Set-aside for HOPE Reserve	§1131(b) [§1337]	Requires GSEs to each set aside 4.2 cents per \$100 in total new business each year (unpaid principal balance of mortgages purchased or securitized) starting in 2009. Twenty five percent (25%) of the assessment funds must be deposited into a reserve fund set up by the Treasury Department for the HOPE for Homeowners program (FHA refinance program for borrowers with unaffordable mortgages). Of the remaining assessments, <ul style="list-style-type: none"> • 65% will be transferred to new HUD Housing Trust Fund • 35% will be transferred to new Capital Magnet Fund The Congressional Budget Office estimates that assessments paid to these two Funds will total \$283 million in FY2010, over \$600 million a year by FY2012 and total \$2 billion through FY2013. However, <u>portions of the Housing Trust and Capital Magnet amounts</u> will be used for HOPE Bond payments in 2009-2011.
HOPE Bond Payments	§1131(b) [§1337(e)] [§1338(b)]	<ul style="list-style-type: none"> • In calendar year 2009, 100% of the remaining assessments (after funding HOPE reserve) must go to the Treasury to reimburse it for the net cost of the HOPE for Homeowners program. In calendar year 2010, 50% must go to this purpose and in 2011, 25% must be so used. Any excess HOPE reimbursements at termination of program will be returned to the Housing and Capital Magnet Funds
Suspension	[§1337(b)]	FHFA must temporarily suspend the assessments if they cause financial problems for GSEs (e.g. undercapitalization).
Housing Trust Fund	[§1338(a)]	HUD to establish and manage a Housing Trust Fund, using the GSE assessments above and any other amounts appropriated, transferred, etc. under any other provisions of law. Grants to states will begin in 2010.
Purpose		To provide formula grants to states, District of Columbia (and U.S. commonwealths, territories or possessions) for rental and ownership housing activities to assist extremely- and very-low-income families, homeless.
Income Targeting	§1228(d) [§1338(c)(7) and (10)]	All funding to be targeted to households with incomes ≤50% of area median. <ul style="list-style-type: none"> • Up to 10% can be spent for ownership activities (VLI first time buyers) • At least 75% of rental spending must benefit families that are extremely low income or below the poverty line.
Distribution Formula/ State minimum	[1338(c)] [§1338(f)] (definitions)	HUD must establish a distribution formula with 12 months of bill enactment, based on each state’s share of the national total: <ul style="list-style-type: none"> • the shortage of standard rental units both affordable and available to¹ extremely low income (ELI) renter households (30% AMI), • the shortage of standard rental units both affordable and available to very low income (VLI) renter households (30-50% AMI), • the number of ELI renter households with incomplete kitchen or plumbing facilities, with >1 person per room or paying >50% of income for housing,,

¹ Gap between total renters in income group and affordable units occupied by that group or vacant for rent

	§ of Bill/[§ of FHEFSSA]	Affordable Housing Trust Fund/ Capital Magnet Fund
		<ul style="list-style-type: none"> the number of VLI renters paying >50% of income for housing. The formula must give the first factor “priority emphasis”. It must also adjust the sum states would receive using above factors by the ratio of each state’s construction/rehab costs to national average costs. Allocations must also be adjusted so that each state and D.C. receives a minimum allocation of \$3 million each year.
State allocation Plans	[§1338(c)(2) and (5)]	States may designate a housing finance agency, tribal housing entity or other state instrumentality to receive, administer the state grant. The State or designated entity must establish an allocation plan for the grants, after public notice, hearing and comments. The plan must describe how the grant will be used (activities to be conducted).
Eligible Uses	[§1338(c)(7)] [§1338(c)(10) (D)]	<ul style="list-style-type: none"> At least 80% of grant must be used for <u>rental</u> housing production, preservation, rehab and operating costs (75% of rental spending must benefit ELI and poverty level families, while up to 25% can assist those at 30.1-50% AMI). Up to 10% can be used to produce, preserve and rehab <u>housing for sale</u> to first time homebuyers with incomes ≤ 50% AMI including buyer financing assistance (down payment/closing cost assistance, interest rate buy-downs. The initial price can’t exceed HOME purchase limits (95% of median purchase price as adjusted by HUD) and units must be subject to resale restrictions consistent with HOME as approved by HUD (80% AMI?). Buyers must complete an approved homebuyer education course. Up to 10% of annual grant can be used by State/designee for administrative costs of carrying out program, <u>including homeownership counseling</u>.
Project Selection	[§1338(g)(D)]	HUD must issue regulations (timetable not specified) regarding application and selection process States must use. Regulations must give priority for funding based on geographic diversity, ability to spend funds in a timely fashion, length of time units will remain affordable, use of other funding sources.
Eligible Recipients	[§1338(c)(9)]	States may allocate grant funds to agencies and entities, for- and non-profit with demonstrated capability.
Spending deadlines/ recapture	[§1338(c)(10) (B)]	States or state designees must use or commit grant funds within 2 years after HUD makes funds available; HUD must recapture and reallocate unused funds.
Program Income	[§1338(c)(10) (C)]	Any State return on loan or investment of grant funds shall be retained by state and re-used for program eligible activities.
Performance Reports	[§1338(e)]	HUD must require States to submit annual performance reports.
Capital Magnet Fund	[§1339(a)-(e)]	<p>Fund established in Treasury Department, through assessments described above and any other sources authorized by other laws, to provide competitive grants to support attract private capital and increase investment in:</p> <ul style="list-style-type: none"> Affordable housing (development, preservation, or rehab for “low income” households) and Economic development activities or community service facilities (e.g. day care, workforce development centers, health clinics) “<i>which in conjunction with affordable housing activities implement a concerted strategy to stabilize or revitalize a low income area or underserved rural areas</i>”. <p>No more than 15% of funds can go to a single entity in one year.</p>
Leverage	[§1339(g)(3)]	Grants shall be “reasonably expected” result in projects with aggregate costs of at least 10 times the grant amount.

	§ of Bill/[§ of FHEFSSA]	Affordable Housing Trust Fund/ Capital Magnet Fund
Eligible applicants		<ul style="list-style-type: none"> • CDFIs • nonprofits with affordable housing development as one of principal purposes.
Eligible uses	[§1339(f)]	Purposes described above, including: <ul style="list-style-type: none"> • Loan loss reserves • Capitalizing a revolving loan fund • <u>Capitalizing an affordable housing fund</u> • capitalizing a fund to support economic development activities and community service facilities above • Risk sharing loans
Eligible Areas		Treasury Secretary must distribute to “geographically diverse areas of economic distress” and define defining such areas. Criteria may include: <ul style="list-style-type: none"> • percentage of low income families or extent of poverty • rate of unemployment or underemployment • extent of blight and disinvestment • projects that target extremely-, very- and low-income families in or outside a designated economic distress area.
Spending deadlines		Grantees must commit funds within 2 years of allocation. Treasury must recapture unused/uncommitted funds and return to Magnet Trust.
Report to Congress	[§1339(i)]	Treasury Secretary must periodically report to House Financial Services and Senate Banking Committees on activities funded under Magnet Fund.

Division A – Title I (GSE Reform)
Subtitle B – Improvement of Mission Supervision

Treasury Department Financial Education/Counseling Grants

	Bill Section	
Treasury Dept Homebuyer Education/ Counseling Grants	§1132	Requires Treasury Secretary to make grants to eligible organizations to provide financial education and counseling to prospective homebuyers (e.g. asset development, budgeting, credit repair). Eligible groups include HUD certified counseling agencies and agencies certified by Treasury Department’s Office of Financial Education (can be a HUD counseling agency, a state, local or tribal agency, credit union or CDFI).
Pilot Program	§1132 (d)	Requires Treasury to authorize up to 5 pilot program grants to eligible organizations (defined above) to identify “successful methods resulting in positive behavioral change for financial empowerment” and to establish program models for effective counseling. GAO must study and report to House, Senate committees on effectiveness of program within 3 years of bill enactment.
Funding	§1132 (e)	Authorizes appropriation of “sums as necessary” to carry out these activities.

Division A – Title I (GSE Reform)
Subtitles C (Prompt Corrective Action), D (Case and Desist Proceedings) and E (General Provisions)

These sections establish capital and other standards and regulator authority in event corrective actions are needed. They also make minor changes to the composition of the Fannie Mae and Freddie Mac Boards.

Division A -Title II - Federal Home Loan Banks

Regulation of FHLB; Governance	§1201-1204	Directs FHFA to recognize differences between GSEs, FHLB in developing regulations. Makes minor changes to FHLB Board of Directors composition.
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FHLB Housing Goals	§1205	Requires FHFA Director to establish goals with respect to any purchases of mortgages by the Federal Home Loan Banks consistent with the goals established for the GSEs. Requires establishment of interim target goals for each of the two calendar years following bill enactment to facilitate orderly transition.
CDFI membership	§1206	Allows Community Development Financial Institutions to be members of the Federal Home Loan Bank.
Mergers	§1209	Permits a FHLB to voluntarily merge with another, subject to FHFA approval.
Reduction in Districts	§1210	Allows number of districts to be reduced to less than 8, pursuant to a voluntary merger or FHFA decision to liquidate a bank.
Community Financial Institutions	§1211	Raises asset limit from \$500,000 to \$1 million and allows use of advances for community development activities
Public Use Database	§1212	Requires disclosure of FHLB census tract level mortgage purchase data, if any, including HMDA data elements.
Use of AHP to refinance mortgages	§1218	For two years following the date of enactment, allows a percentage of AHP subsidized advances to be used to refinance first mortgages for families at \leq 80% AMI (Director to set percentage allowed for this use).

Division A - Title III

Transition Period	§1301-1304	Provides for one year transition period to transfer functions, staff, programs, property etc. from OFHEO, FHFB and HUD to FHFA.
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**Division A-Title IV
HOPE for Homeowners (Temporary FHA Discount Loan Program)**

The bill authorizes a new FHA insurance program to help at-risk homeowners to refinance into affordable, long-term fixed rate mortgages by adding a new section (Section 257) to Title II of the National Housing Act. It also includes language providing a litigation “safe harbor” to servicers who modify a loan that is part of a securitized pool of mortgages. Assessments on Fannie Mae and Freddie Mac business will be used to cover program costs (operations and any losses) not covered by borrower premiums and fees. FHA can begin insuring new mortgages October 1.

		HOPE for Homeowners
Division B Title IV – Short Title	§1401	HOPE for Homeowners Act of 2008
HOPE for Homeowners Program	§1402	Authorizes new refinance insurance program by adding new Section 257 to Title II of National Housing Act.
Insurance Authorization	§1402 [§257(m)]	Aggregate original principal obligation of all mortgages insured under program can’t exceed \$300 billion.
Funding Source (HOPE Bonds)	§1402 [§257(l)] [§257(w)]	Establishes an FHA revolving fund, called the Home Ownership Preservation Entity (HOPE) Fund, to cover program costs. Fund to be administered by HUD Secretary. Requires Treasury to issue HOPE Bonds to finance subsidy cost (net) for the FHA loan guarantees and program administration costs. <ul style="list-style-type: none"> • New Fannie Mae and Freddie Mac assessments (4.2 basis points for each dollar of the unpaid principal balance of their total new business purchase), including all of the funds in 2009 that would otherwise go to the new Affordable Housing Fund established as part of GSE reform, will be used to reimburse Treasury for bond costs (see discussion of Affordable Housing Trust). • Any HOPE premium and shared appreciation/equity revenues in excess of net program costs will be used to reduce national debt.
Program Start and Sunset	§1402 [§257(r)]	Authority to commit to insure new mortgages <ul style="list-style-type: none"> • begins October 1, 2008 • ends Sept. 30, 2011.
Board of Directors	§1402 [§257(c)] [§257(s)] [§257(t)]	Establishes a 4-person Board of Directors for HOPE Program: HUD Secretary, Treasury Secretary, Federal Reserve Board chair, and FDIC chair. <ul style="list-style-type: none"> • Requires Board to establish program standards, requirements, regulations and guidance (e.g. underwriting criteria, premium structures, etc.) and monitor program performance. • Authorizes HUD to issue interim guidance, mortgagee letters as needed. • Board can requisition Federal employees to serve as staff and hire consultants.
Requirements for Insured Mortgages	[§257(s) (3)]	Insurance is limited to refinance loans for mortgages issued on or before 10/1/2008 for owner-occupied single family (1-4 unit) homes where mortgage is now unaffordable to borrower.
Eligible Borrowers: Incapacity to Pay	257(e)(1) (B)	Owner-occupant of 1-4 unit property with <ul style="list-style-type: none"> • mortgage originated on or before 1/1/2008 and • mortgage debt to income ratio (as of 3/1/2008) that is >31% or such higher amount as Board determines.

		HOPE for Homeowners
Borrower ineligibility due to intentional default, false information or prior mortgage fraud convictions	§257(e)(1) (A) §257(e)(10)	Borrowers cannot have been convicted of state or federal mortgage fraud in 10 years prior to refinance. Borrowers must also certify that they did not: <ul style="list-style-type: none"> intentionally default on existing mortgage <i>or any other debt</i> and did not knowingly furnish false information to obtain any mortgage eligible for refinance program. False certification can be punished by imprisonment, fines. <ul style="list-style-type: none"> Borrowers must agree to repay to the FHA any direct financial benefit achieved from reducing mortgage(s) on the refinanced property due to misrepresentations in certification, required documents for refinance.
Documentation of Primary Residence	§257(e)(11)	Borrower must document that property is primary residence and only residence in which borrower currently has an ownership interest; documentation must meet HUD requirements.
Refinance Mortgage Terms		
Refinance Mortgage Requirements	summary	Refinance mortgage principal shall be the <i>lesser</i> of: amount borrower can repay per underwriting standards established by Board or amount established at auction for such mortgage <i>and</i> <ul style="list-style-type: none"> can't exceed 90% of appraised value. can't exceed 132% of 2007 conforming loan limit. must be fixed-rate entire term. term must be at least 30 years. Allows Board to require FHA to require demonstrated payment performance in case of higher risk loans before insuring (e.g. six months on time payments).
Maximum Mortgage	§257(e)(2) §257(e)(6)	Mortgage Refinance principal shall be based on borrower capacity to pay using FHA underwriting and can't exceed: <ul style="list-style-type: none"> 90% of current appraised value <i>nor</i> 132% of 2007 conforming loan limit.
Waiver of Prepayment Penalties, etc.	§257(e)(3)	Current mortgage holder(s) must waive any/all penalties and fees related to prepayment, default or delinquency to current mortgage.
Write-down, Discharge of Existing Mortgage Debt	§257(e)(4) (A)	All mortgage holders (senior and junior) must agree to accept proceeds of FHA-insured loan as payment in full of all debt, effectively writing the debt down to 87% or less of a property's value since the new mortgage principal can't exceed 90% of current appraised value and the lender must fund the upfront premium of 3% of the refinance mortgage (serves as a loan loss reserve). <ul style="list-style-type: none"> HUD may take steps as needed to facilitate agreements between holders of senior and any existing subordinate mortgages, subject to standards established by the Board.
Extinguishment of Subordinate Liens	§257(e)(4) (B)	Board must establish standards that allow holders of subordinate liens to share with FHA in a portion of future equity. In establishing such standards, the Board must consider: <ul style="list-style-type: none"> the status of any subordinate mortgage, the outstanding balance of and accrued interest on the existing senior mortgage and any outstanding subordinate mortgages, the extent to which the current appraised value of property securing subordinate mortgage is less than the outstanding principle balance and accrued interest on more senior mortgages, and such other factors as the Board deems appropriate.
Refinance Term, Interest Rate	§257(e)(5)	<ul style="list-style-type: none"> Interest must be fixed-rate entire term. Term must be at least 30 years from start of amortization.

HOPE for Homeowners		
Borrower Income Documentation	§257(e)(9)	The new lender must document and verify borrower income or non-filing status by obtaining IRS transcript of income tax filing for two most recent years for which filing deadline has passed and by any other method Board establishes.
Origination Fees and Interest Rates	§257(j)	Board must establish reasonable limitation on origination fees and ensure interest rates are commensurate with market rates on such types of loans.
Mortgage premiums	§257(i)	Requires for each insured mortgage: <ul style="list-style-type: none"> • an upfront premium of 3% of the original insured mortgage (to be paid from proceeds of the refinance, mortgage through the reduction of debt on the prior mortgage), and • annual premium of 1.5% of the remaining insured principal balance.
Appraisals	§257(e)(7) §257(g)	Any appraisal conducted in connection with this insurance program must: <ul style="list-style-type: none"> • be based on current value of property, • comply with FHA requirements and title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and • be conducted by a qualified independent appraiser. • Interested parties cannot try to improperly influence. Allows civil money penalties for violations.
Revised Standards for FHA Appraisers	§1404	Starting on the date of enactment of the FHA 2008 reform legislation, any appraiser for mortgages under this title must be certified by the state in which the property is located or by a nationally recognized appraisals organization and have demonstrated, verifiable education in FHA appraisal requirements.
Shared Equity and Appreciation	§257(k)	<u>Shared Equity:</u> HUD and borrower to share any equity created as a result of the refinancing. HUD’s share will decline over time. <ul style="list-style-type: none"> • If sale or refinancing occurs during the first year following date the HOPE mortgage is insured, HUD gets 100%. • in the second year, HUD gets 90%, in the third year, 80%, in the fourth 70%, in the fifth year, 60% and after that, gets 50%. <u>Shared Appreciation:</u> on sale/ disposition, HUD and borrower to also share 50/50 in any increase in appraised value that occurs from date mortgage insured.
Restrictions on new second liens	§257(e)(7)	Borrowers will not be allowed to grant new second liens <u>during first five years</u> of the refinance loan term except as the Board determines necessary to ensure appropriate maintenance of the property. New liens: <ul style="list-style-type: none"> • can’t reduce value of Government’s equity in borrower’s home and, • when combined with borrower’s existing mortgage debt, can’t exceed 95% of home’s appraised value at time of new second lien.
FHA Capacity	§257(p)	Under Board direction, requires HUD to take all actions needed to design, implement and monitor program and to contract for independent review of quality of underwriting, appraisals and fraud detection. Cost to be funded through HOPE bonds.

		HOPE for Homeowners
Monthly Reports to Congress	§257(n)	Board must submit monthly reports to Congress on program, including: <ul style="list-style-type: none"> • number of mortgages insured. • location by census tract. • aggregate principal insured. • average amounts by which mortgages were discounted. • premium revenue collected, claim and loss rates.
Protections Against Adverse Selection (underwriter violations)	§257(h)	Board must set standards to ensure underwriters comply with HOPE underwriting and appraisal requirements. <ul style="list-style-type: none"> • Bans payment of insurance benefits to lender who violates above standards and in any case where borrower fails to make first payment on HOPE loan.
Trial payment period before insurance	§257(h)(3)	<ul style="list-style-type: none"> • Allows Board to adopt other standards in connection with higher risk loans including requirement borrower to demonstrate payment performance for a period time before being insured under program.
Auction or Bulk Refinance	§257(f)	Requires Board to study the need for, efficacy of mechanisms to facilitate more rapid refinancing of borrowers into this program and report findings and recommendations to House Financial Services, Senate Banking committees within 60 days of bill enactment. Study must identify various options under which lenders and servicers of such mortgages could make bids for forward commitments of insurance in expedited fashion. Must also discuss whether such mechanisms necessary to stabilize housing market and whether there are other approaches that would be useful to reduce foreclosure. Must identify resources, authorities necessary to implement such mechanisms if recommended.
GNMA Backing	§257(q)	Authorizes the Government National Mortgage Association to guarantee up to \$300 billion in securities backed by these mortgages.
Loan Servicer Safe Harbor	§1403	Absent contractual provisions to the contrary, deems actions by servicers of pooled residential mortgages to enter modification or workout of individual residential mortgages (or a class of residential mortgages) to be in best interest of investors as long as: <ul style="list-style-type: none"> • default has occurred or is reasonably foreseeable • property is occupied by the borrower, and • expected recovery of principal through modification/workout exceeds expected recovery through foreclosure

**Division A – Title V
National Mortgage Licensing/Registry**

Background: In late 2006, the Conference of State Bank supervisors established the Nationwide Mortgage Licensing System and Registry (NMLS) to provide a nationwide licensing system for state-regulated residential loan originators. It functions as a back office to state regulators, accepting and processing a uniform set of license application and renewal forms for all participating states. It creates a single, unique record for every licensee. Licensees can use the record to electronically apply for, amend, renew and surrender licenses in one or more state. The system began operating in January 2008. Currently 14 states are using the system and another 26 expect to be using it by the end of 2009, for a total of 40.

The new bill extends coverage by requiring all loan originators to join the system, imposes minimum national licensing requirements (including criminal background checks). It encourages use of the Registry database to provide consumers with free information on the employment history of loan originators and any enforcement actions taken against them.

		Loan Originator Licensing/Registration
Title	§1501	Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (S.A.F.E. Mortgage Licensing Act of 2008)
Mandatory licensing/ registration of loan originators	§1504	Requires all loan originators to register and/or obtain, maintain license under appropriate state or federal licensing/ registration system.
Unique ID/ Originator Profile	§1503 (12)	All loan originators (state and federal) must be assigned unique ID in NMLS to facilitate public access to the employment history and disciplinary record of originators.
State licensing requirements	§1505	Requires States to adopt licensing and registration requirements and renewal requirements consistent with this Act. If don't act in 1-2 years, HUD must implement standards or requirements. To comply, State systems must: <ul style="list-style-type: none"> • Provide effective supervision and enforcement of licensing requirements and participate in NMLS • Regularly report violations of law to NMLS • Have a process to challenge information in NMLS • Have a mechanism to assess civil penalties for violations • Have established minimum net worth or surety bond requirements for originators based on dollar amount of residential mortgages originated
Loan Originator background checks	§1505(a)	Applications for <u>state license</u> must be submitted to NMLS and include: <ul style="list-style-type: none"> • fingerprints (to be used to check criminal history) • information on personal history and experience • authorization for Registry to obtain credit report and information on any administrative, civil or criminal findings by any governmental jurisdiction
Basis for Rejection of Application		<u>State licenses</u> will NOT be granted to if applicant has: <ul style="list-style-type: none"> • ever had a loan originator license revoked anywhere, or • ever been convicted of/pleaded no contest to a felony involving an act of fraud, dishonesty, a breach of trust or money laundering, or • been convicted of any other felony in prior 7 years
Minimum Standards for License		Applicant must: <ul style="list-style-type: none"> • demonstrate financial responsibility and good character. • complete pre-licensing education and pass written test. • meet net worth or surety bond requirement.

		Loan Originator Licensing/Registration
Pre-Licensing Education Requirement		<ul style="list-style-type: none"> • Must complete at least 20 hour course approved by National Registry (with at least 2 hours on lending standards for nontraditional mortgages (any loan not 30 year, fixed rate). • Must pass written test (can try 3 times, at least 1 month apart, and then must wait 6 months). • If license lapses for 5 years or longer, must also take test.
License Renewal/ Continuing Education	§1506	Applicants must continue to meet minimum standards and fulfill annual continuing education requirement (8 hrs)
Loan originators employed by federally regulated institutions, credit unions	§1507	Federal banking agencies must establish system for registering employees of depository institutions regulated by federal agencies within 1 year of bill enactment, using NMLS. <ul style="list-style-type: none"> • Originators must same materials to Registry as applicants for state licenses (except credit report authorization).
HUD Back-Up Licensing Authority	§1508	Requires HUD to establish and maintain a licensing and registration system for States that do not have a system that complies with the minimum standards above or do not participate in the NMLS within 1-2 years of bill enactment. HUD can extend timeframe by up to 24 months for States making a good faith effort toward this status.
HUD Enforcement Powers	§1514	Authorizes HUD to conduct examinations, issues summons, etc. to enforce license/ registration requirements under its backup system and to issue cease and desist orders.
Annual Report to Congress	§1516	Requires HUD to report annually to Congress, starting 1 year from bill enactment, on effectiveness of mortgage licensing/ registration requirement and recommendations for improvement.

**Division A – Title V and VI
Miscellaneous (Studies, Other Housing Provisions)**

RESPA Reform Study	§1516	Requires HUD to report to Congress within 6 months of bill enactment on any recommendations for legislative reform of RESPA
HUD Study of Defaults and Foreclosures	§1517	HUD must conduct an “extensive study of the root causes of default and foreclosure of home loans” using empirical data. <ul style="list-style-type: none"> • Preliminary report due to Congress within 6 months of bill enactment, final within 12 months of bill enactment. • Should include recommendations for legislation, if any, on best practices and ways to provide targeted assistance to populations at highest risk of default or foreclosure.
Study of GSE, Federal Home Loan Bank fees	§1601	Requires new Federal Housing Finance Agency (FHFA) Director to conduct an ongoing study of mortgage guarantee fees and report annually, including basis, revenues generated and costs.
Mortgage Risk Evaluation Improvement Study	§1602	Requires FHFA Director to study and report to House FSC and Senate Banking Committees within 1 year on ways to improve overall default risk evaluation used for residential mortgage loans, and especially means to standardize risk evaluation.
Conversion of HUD Contracts	§1603	Allows conversion of Starrett City (NYC) Section 8 and RAP contract to 20-year project-based Section 8.
FDIC Takeover Failed Banks	§1604	Gives FDIC more flexibility in types of new or bridge institutions it creates when banks, savings associations or credit unions fail.
Local Requirements for Foreclosed Properties	§1605	Expresses Senate policy of non-interference with local requirements that holder of a foreclosed property maintain the property.

Division B – Title I

FHA Reform

Subtitle A makes a number of changes to FHA single family mortgage insurance programs to improve usability. It raises loan limits to make it usable in high cost markets (setting one family limits at 115% of area median price up to 150% of the GSE conforming loan limit), revises downpayment requirements, eliminates seller financing starting October 1, institutes a one year moratorium on risk-based premiums and revises the Home Equity Mortgage Conversion program, among other things. Subtitle B revises provisions regarding manufactured housing.

		FHA Reform
Title I		FHA Modernization Act of 2008
Subtitle A Title	§2111	Building American Homeownership Act of 2008
Loan Limits; LTV cap	§2112	Effective January 1, 2009, permanently raises the maximum loan amount the FHA can insure for 1-4 unit homes. Allows mortgage principal up to 100% of appraised value (including upfront mortgage premiums). <ul style="list-style-type: none"> • Sets limit for single family homes at 115% of the area median one-family house price (but not less than 65% of the GSE conforming loan limit nor more than 150% of the GSE conforming loan limit). Currently 150%= \$625,500. • Permanently raises limits for 2-, 3- and 4-family homes using new multiplier (the ratio of the 2-, 3- and 4-unit conforming loan limits to the single family conforming loan limit).
Downpayment Requirements ; Prohibition on Seller Financing	§2113	Requires minimum downpayment equal to <u>3.5% of appraised value</u> of property or such higher amounts as HUD requires. Loans from family members allowed. <ul style="list-style-type: none"> • Starting with mortgages approved on October 1, 2008, buyers can't meet minimum downpayment requirement using funds provided by seller or entity that financially benefits from transaction, including third parties reimbursed by seller.
Higher Upfront Premium	§2114	<ul style="list-style-type: none"> • Raises maximum upfront FHA premium to 3.0% (was 2.25%). • Raises maximum for first time homebuyers who have completed an approved homebuyer education course to 2.75% (was 2.0%).
Rehab Loans (203(k))	§2115	Makes 203(k) program a mutual mortgage insurance fund program rather than a general insurance fund program.
Manufactured Housing, Condos	§2117	Adds language to allow condominiums and manufactured housing units to be insured under the single family home program.
Mutual Mortgage Insurance Fund (MMIF) Financial Soundness	§2118 §2119	Requires HUD to arrange for an annual independent actuarial study of Fund financial status and to report results annually to Congress. Also: <ul style="list-style-type: none"> • Requires HUD to report quarterly to Congress on Fund lending activity, claims, prepayments and loss rates fiscal year to date starting 90 days after bill enactment. • Authorizes HUD to adjust programs or premiums to maintain Fund soundness and target subsidy rate. • Establishes two operational goals: (1) minimizing default risk by instituting fraud prevention quality control screening within 18 months of Act enactment and (2) meeting needs of single family borrowers program is designed to serve. • Transfers mortgages insured under the Section 8 homeownership program, Home Equity Conversion program, single family mortgages on Hawaiian home lands, Indian reservations from the General Insurance Fund to MMIF.

		FHA Reform
Other Provisions	§2120 (a),(b)	Repeals several FHA programs (e.g. graduated income mortgages) Clarifies “area” to which limit on lender interest rate variations applies is metropolitan statistical area.
Cooperatives	§2121(b)	Adds language making FHA insurance easier to use with cooperatives.
Home Equity Conversion Mortgage (HECM)		<ul style="list-style-type: none"> • Sets national uniform loan limit at GSE conforming limit for a single family home. • Allows use with coops.
Restrictions on Loan Originators	§2122	<p>Sets new restrictions on mortgage originators:</p> <ul style="list-style-type: none"> • Limits insurance to mortgages originated by HUD approved lender. • Originators can’t be associated with any other financial or insurance activity, sale of financial products, unless strict firewall between mortgage origination and such other activities. Lenders can’t condition loan of purchase of unrelated insurance, annuity or similar products. • HUD must study whether bill provides adequate consumer protections.
Counseling Requirements		<p>Strengthens pre-mortgage counseling requirements:</p> <ul style="list-style-type: none"> • Requires that counseling be provided by an <i>independent</i> third party (not entities associated with or compensated by parties involved in funding, originating or servicing the loan or selling annuities or other financial and insurance products). • Counselors must met HUD qualification standards and follow HUD counseling protocols. HUD must develop both within 12 months of bill. • Let FHA use insurance premiums to fund counseling requirements.
Loan Origination Fee Limits	§2122 (c)	<p>Requires HUD to limit loan origination fees to 2% of first \$200,000 of maximum claim plus 1% of any amount over that, subject to a cap of \$6,000. Fee cap can be adjusted in future based on CPI index but only in increments of \$500.</p> <ul style="list-style-type: none"> • Allows HUD to adjust the \$200,000 threshold based on analysis of costs to borrowers and impact on reverse mortgage market. • Origination fees can be fully financed with the mortgage.
GAO Study	§2122 (d)	<ul style="list-style-type: none"> • Requires GAO to study impact of reducing HECM origination fees on borrowers, loan availability and program financial soundness and report to House Financial Services and Senate Banking committees with recommendations within 12 months of bill enactment.
FHA Energy Efficient Mortgage program limits	§2123	<p>Eliminates absolute caps on value of energy efficiency improvements that can be financed. Was <i>greater</i> of \$4,000 or 5% of single family loan limit (up to \$8000). Now <i>greater</i> of 2% of property appraised value or 5% of single family loan limit.</p> <ul style="list-style-type: none"> • Caps number of loans at 5% of prior year FHA single family loans.
Pilot Program for Borrowers with Limited Credit History	§2124	<p>Requires HUD to implement a pilot insurance program for single-family (1-4 unit) borrowers with limited credit histories, using a to-be-developed automated process to establish an alternative credit rating using such information as rent, utility and insurance payment histories.</p> <ul style="list-style-type: none"> • Program to sunset 5 years from date of bill enactment. • Allows HUD to carry out pilot on a limited basis or scope and consider limiting to first time homebuyers. • Caps number of mortgages insured under pilot each fiscal year at 5% of number of 1-4 unit mortgages FHA insured prior fiscal year. • Requires GAO to report to Congress within 2 years of bill enactment on # mortgages insured under pilot and impact on insurance fund.

		FHA Reform
Improve FHA Loss Mitigation Process	§2125	Requires HUD, FHA, in consultation with industry, Neighborhood Reinvestment Corporation and others involved in foreclosure prevention to develop and implement plan to improve FHA loss mitigation process and report plan to House FSC and Senate Banking committees (no deadlines specified).
Improving FHA Technology and Operations	§2126	Authorizes appropriation of \$25 million each fiscal year for 2009-2013 from premium revenue (negative credit subsidy) <i>if available</i> for technology and other improvements (e.g. processes, performance, fraud elimination, appropriate staffing for FHA operations). <ul style="list-style-type: none"> • Before using, HUD must make a determination each fiscal, following rulemaking and notice provisions, that it can afford this spending based on premium revenue, Fund soundness and Fund financial safety. • HUD must study how to update FHA processes, technologies to conform with those customarily used by secondary market purchasers and report recommendations to Congress within 12 months of bill.
HUD Housing Counseling Program	§2127	Expands situations that qualify owners for counseling, (see page 21).
Pre-Purchase Counseling Demonstration	§2128	Requires HUD to create, run demonstration for 3 years from date of bill enactment, to test alternative forms of pre-purchase counseling (see page 21).
Moratorium on Premium Increases	§2130	Until October 1, 2009, forbids raising premiums above October 1, 2006 amounts <u>unless</u> <ul style="list-style-type: none"> • HUD determines they are needed to avoid new credit subsidy appropriation; if so, must provide 30 days notice to House Financial Services and Senate Banking committees and in Federal Register. • HUD can waive 30 day notice if determines wait would substantially damage Fund solvency.
Moratorium on Risk Based Premiums	§2133	Establishes 12 month <u>moratorium</u> (starting October 1, 2008) on implementation of any FHA risk-based premiums for single family programs that would base price in any part on borrower’s credit score, including those scheduled to go into effect on July 14 2008.

Subtitle B		FHA Manufactured Housing Loan Insurance Modernization Act of 2008
Manufactured Housing Loan Insurance	§2141- §2146	Update program: <ul style="list-style-type: none"> • Raises loan limits and requires annual indexing in future (HUD must develop index within one year of bill enactment). • Authorizes upfront mortgage premium of up to 2.25% and annual premium up to 1%. • Requires HUD to issue revised underwriting criteria within 6 months of bill enactment
	§2150	Limits insurance to properties with at least a 3 year land lease with subsequent 1 yr renewal options

**Division B- Title II
Mortgage Foreclosure Protections for Servicemembers**

Temporary Increase VA Loan Guaranty	§2201	From date of bill enactment through 12/31/2008, raises maximum guaranty amount from 25% of conforming loan limit to 125% of area median price for single family home <i>if higher</i> (capped at 175% of conforming loan limits).
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Counseling for Returning Vets	§2202	Requires Dept of Defense to create program to provide credit, mortgage and foreclosure counseling to service members returning from active duty overseas as soon as practical after return.
Temporary Extension of Foreclosure Protection	§2203 (a)	Temporarily (date of bill enactment thru 12/31/2010) increases time service members can seek court protection from sale, foreclosure or seizure of property they own, raising it from the current 90 days after the end of military service to 9 months.
Expanded interest rate protection	§2203 (b)	Extends period during which interest rate on mortgages can't exceed 6% to one year after end of military service and expands definition of interest to include fees or other charges.

**Division B- Title III
Neighborhood Stabilization**

Grants to States and Localities to Redevelop Foreclosed Properties		
Division B- Title III		“Emergency Assistance for the Redevelopment of Abandoned and Foreclosed Homes”
Overview		Authorizes HUD program of grants to states and units of general local government for purchase, management and resale of foreclosed and abandoned properties.
Funding	§2301(a), §2305	Appropriates \$3.92 billion in FY2008 for grants to states and units of general local government.
Funding Source	§2301(e)	Appropriation and revenues generated by these foreclosure related activities “shall be treated as though such funds were CDBG” except as otherwise provided by this Act (no local match required). HUD can modify some CDBG requirements (see page 20).
Grantees		All States; Units of Local Government.
Funding Distribution Formula	§2301(b) §2302	HUD to devise distribution formula within 60 days of bill enactment that allocates funds to states, units of local government with greatest need, as determined by HUD, based on <u>the number and percentage in each state or units of local government of:</u> <ul style="list-style-type: none"> • “home foreclosures” • homes financed with a “subprime mortgage related loan” and • homes in default or delinquency. <u>Minimum State allocation</u> Notwithstanding formula, each state shall receive at least 0.5% of the funds.
Distribution timetable	§2301(b)(4) §2301(c)(1)	HUD must distribute funds within 30 days of establishing formula. Localities must use funds within 18 months after receiving from HUD.
Required priority	§2301(c) (2)	Grantees (States, units of local government) in distributing funds must give “priority emphasis and consideration” to metro areas, metro cities, urban areas, low and moderate income areas, rural areas and other areas with greatest needs, including those with: <ul style="list-style-type: none"> • highest % of home foreclosures, • highest % of homes financed with subprime mortgage related loans, and • those identified by grantee as likely to face a significant rise in the rate of home foreclosures.
Eligible Activities	§2301(c) (3)	<ul style="list-style-type: none"> • Financing mechanisms for purchase and redevelopment of foreclosed upon residential properties (e.g. soft-seconds, loan loss reserves, shared-equity loans for LMI homebuyers). • Purchase and rehab abandoned or foreclosed homes, residential properties for sale, rent or redevelopment • Establishment of land banks for foreclosed homes • Demolition of blighted properties • Redevelopment of demolished or vacant properties.
Properties that can be assisted		Abandoned or foreclosed upon homes and residential properties.
Purchase price limit	§2301(d) (1)	All purchases of foreclosed properties must be <u>below current market appraised value, taking condition into account.</u>
Allowed Rehab	§2301(d)	Rehab of foreclosed properties must be to extent necessary to comply with

		Grants to States and Localities to Redevelop Foreclosed Properties
costs	(2)	housing safety, quality and habitability codes, laws, regulations in order to sell, rent or redevelop. May include energy efficiency and conservation improvements or provide a renewable energy source.
Resale Price Cap	§2301(d) (3)	Resale price to individuals as primary residence can't exceed price to acquire and rehab "up to a decent, safe, and habitable condition".
Grantee reinvestment of profits (5 years)	§2301(d) (4)	Any profits (revenues from sale, rental, redevelopment, rehab of abandoned or foreclosed residential property or any other eligible use in excess of acquisition, redevelopment, rehab costs and reasonable development fees) in the first <u>5 years</u> after bill enactment shall be kept/reused by the State or local government for eligible activities.
Federal Government Profit-sharing (after 5 years)		<u>All</u> profits from the above activities after <u>5 years</u> from the date of bill enactment must go back to the U.S. Treasury <i>unless Secretary approves local request to use for purposes of Act.</i> Localities <u>can keep</u> revenues related to financing mechanisms, land-banking and demolition, but must reinvest them in activities that further intent of this Act (i.e. Section 2301).
CDBG requirements	§2301(f) (1),(2)	HUD can set different standards than the CDBG statute requires except those related to fair housing, labor standards and the environment "for the sole purpose of expediting the use of such funds". It must notify Senate Banking and House Financial Services Committees at least 10 business days before it exercises this authority.
Income Limit and Targeting	§2301(f) (3)	All funds must be used to assist individuals and families with incomes at or below 120% AMI. • At least 25% of funds must be used to purchase/ redevelop abandoned or foreclosed residential properties that will be used to house individuals or families with incomes at or below 50% of AMI.
Long term affordability	§2301(f) (3)	Requires HUD to try to ensure by rule or order "to the maximum extent practicable and for the longest feasible term" that properties assisted under program remain affordable to households at/ below 120% AMI.
Federal Election Law Violations	§2304	Bans distribution of funds to any organization indicted for violations related to election for federal office (or to any employing such indicted individuals).

Division B – Title V

Mortgage Disclosure Improvement Act, Bank Public Welfare Investments

Title	§2501	Mortgage Disclosure Improvement Act of 2008
Enhanced Mortgage Loan Disclosures Good Faith Estimates Variable rate loan disclosures	§2502	Revises Truth in Lending Act to require <u>new disclosures for all credit transactions secured by consumer’s dwelling</u> . Specifically: Effective 12 months from bill enactment, lenders must provide good faith estimates no later than 3 days after loan application and at least 7 days before loan closing. <ul style="list-style-type: none"> • The good faith estimate must state in conspicuous type size and format that “You are not required to complete this agreement merely because you have received these disclosures or signed a loan application”. • If annual percentage rate provided above changes, the creditor must give borrower a <u>corrected</u> statement at least 3 days before consummation of the transaction. • If disclosures are mailed, consumer is considered to have received them 3 business days later. In the case of a variable rate loan, the good faith estimate must include a payment schedule conspicuously labeled “payments will vary based on interest rate changes” <u>with examples, including maximum payments</u> under proposed loan. <ul style="list-style-type: none"> • This requirement effective on date to be established by Federal Reserve (no later than 30 months from bill enactment). • Federal Reserve Board must conduct consumer testing before issuing regulation on the required format of disclosures to ensure disclosures will be easily understood.
Consumer right to modify timing		Consumers can waive or modify requirements regarding timing of disclosures, in writing, but only in the case of a “bona fide personal emergency” which they must also describe (Federal Reserve may establish definition of bona fide emergency).
No application fees prior to disclosure		Creditors/others cannot collect application fees from consumers prior to receipt of the disclosures except “bona fide and reasonable” fee for lender to obtain consumer’s credit report.
Increase in civil penalties		Doubles minimum/maximum civil penalties for violating Act (in addition to damages and other awards) to \$400 and \$4000 respectively in case of an individual action related to a credit extension related to a person’s real property or dwelling.
Bank Public Welfare Investments	§2503	Restores flexibility removed in 2006 legislation, to permit investments by national banks and state member banks in mixed-income projects and distressed and rural areas that don’t meet definition of low and moderate income communities.

**Division B – Title VI
Veterans’ Housing Matters**

Veterans’ Housing Matters Adapted Housing for Totally Disabled Vets	§2601	Allows VA to fund improvements before veteran is discharged or released.
Eligibility for disabled vets assistance	§2602(a)	Extends to otherwise eligible individuals still on active duty.
Eligibility for VA adapted housing assistance	§2602(b) §2603	Extends to otherwise eligible individuals living in housing they own outside U.S.; extends to severe burn victims.
Benefit Increase – adapted housing	§2605	Effective 7/1/2008, raises current caps on dollar value of assistance by 20%. Requires annual adjustments starting on 10/1/2009 based on residential construction index to be established by VA.
VA report on Adapted Housing Assistance	§2606	Requires VA Secretary to provide House and Senate VA committees with assessment of adequacy of current VA authority to assist eligible disabled person in acquiring adapted housing by 12/31/2008. Must assess adequacy by type of disability.
VA report on Adapted Housing Assistance for persons living permanently with family members	§2607	VA Secretary must submit report to House, Senate VA committees by 12/31/2008 on advisability of assisting this population.
Section 8, public housing income exclusion	§2608	Amends definition of income for Section 8, federal public housing to exclude VA lump sum disability payments.
Moving expenses for service members displaced from rental housing due to foreclosure	§2609	Provide same transportation, baggage, storage benefits would receive upon separation from duty or reassignment.

**Division B – Title VII
Small Housing Authority Exemption from PHA Annual Plan**

Title	§2701	Small Public Housing Authorities Paperwork Reduction Act
Qualifying Public Housing Agencies (PHAs)	§2702	Exempts PHAs from requirement to file an <u>annual</u> plan if their federal portfolio (total public housing units and Section 8 vouchers administered) is less than or equal to 550 <i>and</i> they are not a troubled housing authority. Qualifying PHAs <ul style="list-style-type: none"> • Must still hold an annual public hearing to discuss any changes to agency goals, objectives and policies, receive comments and consult with Resident Advisory Board. Must give 45 day notice of hearing. • Must certify annually that their programs comply with civil rights and fair housing laws, ADA, and obligation to affirmatively further fair housing.

Division B – Title VIII

Housing Preservation (LIHTC Processing, Reporting and Rents, HUD Program Revisions)

LIHTC, Other HUD Rule Changes		
	Subtitle A	Preservation under Federal Housing Programs
Preservation of certain properties	§2801,2802 2803,2805	Authorizes assistance to preserve several projects in U.S., including Heritage Apartments in Malden.
Strike public housing emergency reserve	§2804	Strikes statutory language that reserves 2% of operating and capital fund appropriation for emergency reserve, Operation Safe Home.
	Subtitle B	Coordination of Federal Housing Programs, Tax Incentives for Housing
Short Title	§2831	<i>Housing Tax Credit Coordination Act of 2008</i>
Expedited Processing for LIHTC, tax-exempt bond projects by HUD	§2832	Requires HUD to simplify and expedite its approval and processing requirements and procedures, in consultation with IRS, owners, sponsors, state and local housing agencies and other stakeholders for multifamily projects using tax credits or tax-exempt housing bonds, including public and assisted housing. <ul style="list-style-type: none"> • Must adopt new procedures within 6 months of bill enactment and report to Congress within 9 months of bill enactment on steps taken, improvements and any legislative changes required.
RHS Expedited Approvals for Preservation/ Rehab	§2833	Requires Rural Housing Service (RHS) to expedite approvals of transfers of ownership/control for purpose of preserving or rehabbing RHS multifamily projects in combination with tax-credits or tax-exempt bonds. Must coordinate with LIHTC, tax-exempt bond requirements. Must consult with IRS, stakeholders.
Expedited FHA process for LIHTC projects	§2834	<ul style="list-style-type: none"> • Revises treatment of FHA insurance in subsidy layering review. • Exempts LIHTC projects from FHA builders cost certification requirement if FHA mortgage <80% of project cost. • Lifts requirement to escrow LIHTC equity proceeds or provide other security (e.g. letter of credit). • Exempts LIHTC projects from periodic FHA property inspection requirements if FHA determines state allocation agency monitoring procedures are sufficient. • Requires FHA to create pilot program, using designated underwriters, to insure all LIHTC projects within 180 days of bill enactment.
Section 8 Project Based Voucher (PBV) Revisions	§2835(a) (1)	<ul style="list-style-type: none"> • Raises maximum initial term of contract with owner to 15 years, allows renewal terms of up to 15 years each and allows PHA and owner to enter such agreements anytime prior to expiration of the contract. • Makes 25% limit on units assisted per-project rather than per-building. • For units with credits, lets PHA use the rent allowed under PBV rules if higher than the LIHTC rent, subject to rent reasonableness. • Allows PHA contract with owner to specify unit rents will never fall below initial rents approved under initial contract. • Specifies that PBV can be used for units in cooperative housing and, without HUD review, for units with high-rise elevator projects. • Clarifies that PBV for an existing building does not trigger subsidy layering or environmental review requirements.
Voucher Rent Reasonableness in HOME and Tax Credit Projects	§2835(a) (2)	Ends requirement that voucher rent reasonableness for units in HOME, LIHTC projects be determined based on private unassisted units as long as voucher unit rent ≤ non-voucher rent for HOME, LIHTC units <ul style="list-style-type: none"> • Rents shall NOT be considered reasonable if exceed the <i>higher</i> of

LIHTC, Other HUD Rule Changes		
		payment standard or rents on other HOME or tax credit units in project.
Section 202 Mixed-Finance Delegated Processing	§2835(b)	<p>Requires HUD to delegate review and processing to a state or local housing agency near the project with experience underwriting supportive multifamily housing, unless no interested agency exists.</p> <ul style="list-style-type: none"> • State/local agency must agree to issue a firm commitment within 12 months of delegation and HUD must execute capital advance within 60 days of commitment. Capital advance must include processing fees charged by state/local agency. • Delegated agency may recommend a higher rental assistance amount than HUD initially awarded.
Shelter Plus Care – longer terms	§2835(c)	<ul style="list-style-type: none"> • Allows contracts with owners for initial terms of up to 15 years and renewal terms of up to 15 years each, subject to availability of funds. • Gives tax credit projects more time to meet rehab expenditure requirement (5 years from grant notification, rather than one year, if close on financing within 2 years).
LIHTC Data Reporting	§2835(d)	<p>Requires States to provide data to HUD at least annually on characteristics of households living in each project, including race, income, age, ethnicity, family composition, use of Section 8 and other rental assistance, and monthly rental payments.</p> <ul style="list-style-type: none"> • HUD must compile results and make public at least annually. • HUD must establish data collection standards and provide technical assistance to States. <p>Authorizes appropriation of \$2.5 million in FY2009 and \$900,000 a year for FY2010 through FY2013 to carry out these activities.</p>

Division B – Title IX

Miscellaneous (Homeless Education Aid, Promotion of Energy Efficient Mortgages)

Increased Homeless Education Grants due to foreclosure	§2901	<p>Revises McKinney-Vento statute regarding grants for education activities for homeless children and adults to raise the appropriation from \$70 million to \$100 million for FY2009 “and such sums as may be necessary for each subsequent fiscal year”; allows all of the <u>up to \$30 million increase for FY2009</u> to be used to assist children and families, including renters, who have become homeless due to foreclosure through grants to States for reallocation to local agencies. Grants will go to States for redistribution to localities based on numbers of eligible households.</p>
Promotion of Energy Efficient Mortgages	§2902	<p>HUD must conduct study, with DOE and EPA, on barriers to use of energy efficient mortgages and submit findings with recommendations on ways to overcome them to Congress within 180 days of bill enactment.</p> <ul style="list-style-type: none"> • Also requires HUD to conduct education and outreach campaign on energy efficient mortgages to consumers, builders and lenders. • Defines as mortgages that provides financing incentives for the purchase of energy efficient homes or incorporate the cost of making energy efficiency improvements in existing homes into the mortgage).

Division C – Title I – Subtitle A

Housing Tax Incentives – Multifamily Housing

Revises numerous current requirements for the Low Income Housing Tax Credit (LIHTC) program and tax-exempt bonds, provides temporary increases in resources, and makes it easier to use LIHTC with other federal funding programs.

Short Title		<i>Housing Assistance Tax Act of 2008</i>
	§3000	Part 1 – LIHTC
Temporary Allocation Increase	§3001	Raises per-capital allocation by 20 cents for 2008 and 2009 (a \$1.29 million/year increase for Massachusetts). Also raises state minimum threshold by 10% (rounded to nearest \$5,000)
	§3002(a)	Sets applicable percentage at not less than 9% for any building placed in service after date of bill enactment and <i>before 12/31/2013</i> , for any taxable year when it was not federally subsidized
Definition of federally subsidized building	§3002(b)	For projects placed in service after date of bill enactment, narrows the definition of “federally subsidized building” so applies only to projects using tax-exempt bonds (i.e. lifts limits on use of HOME with 9% credits).
State Discretion over 30% boost	§3003(a)	Allows states to increase basis for individual projects by 30% to achieve financial feasibility. This authority applies to 4% projects also. Effective for buildings placed in service after date of enactment of Act
Minimum Rehab Spending	§3003(b)	Raises the minimum rehabilitation spending necessary to use credits to the lower of 20% of adjusted basis or \$6000 per low income unit (current limits are 10% or \$3,000). <ul style="list-style-type: none"> • Dollar minimum to be adjusted annually for inflation starting with projects placed in service in 2010. • Applies to credits allocated after date Act enacted (or for buildings placed in service after date Act enacted in case of 4% credit projects)
Community Facilities	§3003(c)	Raises current 10% cap on the percentage of project eligible basis that can be used for community service facilities to 25% of the first \$15 million in basis and 10% of remaining basis. (Effective for buildings placed in service after date Act enacted)
Federal Grants Basis Reduction	§3003(d)	Ends basis reduction for some types of federal grants. Effective for buildings placed in service after date Act enacted
Exception to 10-Year Non-Acquisition Period	§3003(f)	Makes federally-assisted buildings (Sections 8, 236, 221d3 and 221d4, 515), as well as buildings assisted under similar State programs eligible for acquisition credits by exempting them from rule. Allows waiver for properties acquired from defaulted banks. (Effective for buildings placed in service after date Act enacted)
Section 8 Mod Rehab	§3004(a)	Repeals ban on combining Section 8 Moderate Rehabilitation Assistance with LIHTC
Deadline to Incur 10%	§3004(b)	Extends the deadline to incur at least 10% of basis after credits are awarded to 1 year (up from 6 months)
Bonding Requirement Repeal	§3004(c)	Repeals bonding requirement in case of disposition if property continues in qualified use.
New QAP Requirements	§3004(d)	Starting 1/1/2009, adds two new criteria that states must consider in allocating credits: energy efficiency and “the historic nature of projects”.
Foster Care	§3004(e)	Allows students who were formerly in foster care to reside in tax credit

Short Title		<i>Housing Assistance Tax Act of 2008</i>
Students		units. (Applies to determinations made after date of Act enactment)
Floor on rural income limits	§3004(f)	Sets a floor on rural project income limits by allowing to be calculated based on the <i>greater</i> of area median or national non-metro area median. (Applies to determinations made after date of Act enactment)
Allowed Population Restrictions, Preferences (“General Use” proviso)	§3004(g)	Allows LIHTC buildings to use restrictions or preferences that favor: <ul style="list-style-type: none"> • individuals with special needs, • members of a specified group under a Federal or State program or policy that supports housing for such group or • tenants who are involved in artistic or literary activities Applies to buildings placed in service already as well as going forward
GAO Evaluation	§3004(h)	Requires GAO to report to Congress by 12/31/2012 on implementation of LIHTC modifications under this subtitle, including analysis of distribution of credits before/after modifications
Effective Date	§3004(i)	Modifications under §3004 apply to buildings placed in service after date of Act enactment except where specified above
Military allowance disregard (tax-exempt bonds)	§3005	Temporarily excludes basic housing allowances from income calculation if building is in a county or adjacent county with large military installation (at least 1,000 assigned members on 6/1/2008) that grew at least 20% in prior 3 years. (Applies for determinations made from date of bill enactment until 12/31/2012).
Part II		Modifications to tax-exempt Housing Bond Rules
Authority to recycle multifamily rental payments	§3007	Expands bond authority by allowing repayments for multi-family rental projects received in first 3-4 years to recycle as new tax-exempt bond authority if re-issued within 6 months of refunding and within 4 years of original bond. (Applies to repayments received after date of Act enactment.)
Coordination of Tax-Exempt Bond and LIHTC rules	§3008	Revises other bond rules to be consistent with LIHTC rules: <ul style="list-style-type: none"> • Allows bond funding for non-transient SRO projects. • Applies “next available unit” rule on building rather than project basis. • adopts LIHTC rules regarding credit for full time student households. Applies to status determinations made after date of bill enactment, no matter when bonds issued.
Part III		Changes to LIHTC, Tax-Exempt Bonds
Income Limits hold-harmless	§3009	Adds hold-harmless provision for area median income limits, so new limits for projects never below limit applicable to project in prior year. Starts with calendar year 2009 limit calculations. Previously protected projects remain protected.
Annual Recertification Waiver [§610]	§3010	Waives annual recertification requirement if no unit is occupied by a new household whose income is over limit. Effective years ending after date of Act enactment.

Division C – Title I – Subtitle B

Housing Tax Incentives – Single Family Housing

- creates a repayable tax credit for first time homebuyers, who purchase a home before April 2009
- allows non-itemizing homeowners to take a standard deduction of \$350-700 a year from property taxes.

Temporary Tax Credit for First Time Homebuyers.	§3011	<p>Provides a refundable tax credit equal to 10% of purchase price for first time homebuyers (no ownership three years prior to date of purchase) to help with downpayment. Credit is up to \$7,500 for individuals with an adjusted gross income below \$75,000 (\$150,000 for joint filers). Allows lower credit for households with incomes above \$75,000 (\$150,000 for joint filers) with no credit for individuals above \$95,000 (joint filers above \$170,000).</p> <p><u>The credit is limited to homes purchased between April 9, 2008 and July 1, 2009.</u> Can't be used with homes purchased from a relative.</p> <p>The credit is recaptured through repayments equal to 1/15th of the credit starting with the income return filed the second year after the purchase (i.e. if initial credit taken for 2008 tax year, recapture starts with 2010 tax year).</p> <p>With some exceptions, full recapture is due if home ceases to become principal residence before 15 years is up except recapture can't exceed gain on sale.</p>
Property Tax Deduction for Non-Itemizers	§3012	<p>Provides deduction for property taxes for homeowners who do not itemize of up to \$500 (\$1,000 for joint filers). Applies to taxable years starting after 12/31/2007.</p>

Division C – Title I – Subtitle C

Housing Tax Incentives – General Provisions

		Tax Exempt Bond Provisions
2008 Bond Limit Increase	§3021	<p>Authorizes one-time \$11 billion increase in national limit (for 2008), to be allocated to states based on population.</p> <ul style="list-style-type: none"> • Increase can only be used for multifamily rental projects and homebuyer mortgages. <p>Bonds must be issued by 12/31/2010 and homeowner mortgage funds spent within 12 months of issue date.</p>
Temporary Authorization to refinance subprime mortgages	§3021 (b)	<p>Temporarily allows tax-exempt bonds to be used to refinance “qualified subprime loans” (loans originated in 2002-2007 that issuer finds likely to cause financial hardship to borrower if not refinanced).</p> <p>Bonds must be issued by 12/31/2010 and homeowner mortgage funds spent within 12 months of issue date. Authorization applies to bonds issued after date of Act enactment.</p>
Alternative Minimum Tax Treatment of LIHTC, Tax Exempt Bonds	§3022	<p>Revises treatment of credits and of bond interest: allows credits to offset tax liability and ends treatment of interest as a preference item.</p> <p>Applies to bonds issued after date of Act and LIHTC projects placed in service in 2008 or later.</p>
Tax-Exempt with FHLB guarantee	§3023	<p>Temporarily allows bonds that would be exempt from federal taxation if not guaranteed by a Federal Home Loan Bank to be treated as exempt guarantee (limited to bonds issued after date of bill enactment and before 1/1/2011).</p>
Historic/non-historic Rehab Tax Credit	§3025	<p>Raises percentage of property that can be leased to a tax-exempt entity without requiring credit adjustment to 50% (currently 35%).</p>