

[Committee Print]

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[Showing H.R. 1221, as reported by the Subcommittee on Capital Markets and Government Sponsored Enterprises on April 5, 2011]

112TH CONGRESS
1ST SESSION

H. R. 1221

To suspend the current compensation packages for the senior executives of Fannie Mae and Freddie Mac and establish compensation for such positions in accordance with rates of pay for senior employees in the Executive Branch of the Federal Government, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 29, 2011

Mr. BACHUS (for himself, Mr. GARRETT, Mr. HENSARLING, Mr. PEARCE, and Mrs. BIGGERT) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To suspend the current compensation packages for the senior executives of Fannie Mae and Freddie Mac and establish compensation for such positions in accordance with rates of pay for senior employees in the Executive Branch of the Federal Government, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Equity in Government
5 Compensation Act of 2011”.

6 **SEC. 2. CONGRESSIONAL FINDINGS.**

7 The Congress finds that—

8 (1) the Federal National Mortgage Association
9 (known as Fannie Mae) and the Federal Home Loan
10 Mortgage Corporation (known as Freddie Mac),
11 which are both privately owned but publicly char-
12 tered Government-sponsored enterprises (GSEs),
13 were at the center of the mortgage market meltdown
14 that caused the financial crisis that commenced in
15 2008;

16 (2) the failures of Fannie Mae and Freddie
17 Mac helped precipitate the deepest economic decline
18 since World War II;

19 (3) in September 2008, the Treasury Depart-
20 ment, Federal Reserve Board, and Federal Housing
21 Finance Agency (FHFA) exercised authority grant-
22 ed by the Congress to place the two GSEs in con-
23 servatorship, a form of nationalization that puts the
24 regulators firmly in control of the GSEs’ daily oper-
25 ations;

1 (4) in September 2008, the Administration es-
2 tablished a \$200 billion facility to purchase senior
3 preferred stock in the enterprises to backstop their
4 losses;

5 (5) in February 2009, the Obama Administra-
6 tion raised the senior preferred stock purchase com-
7 mitment to \$400 billion;

8 (6) on Christmas Eve 2009, the Obama Admin-
9 istration removed any limits on the use of Federal
10 funds to cover losses at the enterprises, significantly
11 expanding a commitment that has resulted in the ex-
12 penditure of so far nearly \$150 billion in taxpayer
13 funds to purchase senior preferred stock in the two
14 enterprises;

15 (7) as a result of the Government's actions, the
16 taxpayers of the United States now own nearly 80
17 percent of the two GSEs;

18 (8) the Congressional Budget Office has con-
19 cluded that Fannie Mae and Freddie Mac have ef-
20 fectively become Government entities whose oper-
21 ations should be included in the Federal budget;

22 (9) the GSEs are expected to be a long-term
23 drain on the taxpayers as a result of market condi-
24 tions and the political and public policy mandates

1 imposed on them by the Administration and the
2 Congress;

3 (10) in spite of these liabilities, the Treasury
4 Department and FHFA approved compensation
5 packages for the chief executive officers of Fannie
6 Mae and Freddie Mac in 2009 and 2010 that were
7 nearly 15 times greater than the annual compensa-
8 tion of the President of the United States and 30
9 times greater than the annual compensation of a
10 Cabinet Secretary;

11 (11) the Treasury Department and the FHFA
12 also approved multi-million dollar compensation
13 packages for a number of the GSEs' top executives,
14 payable in cash rather than in the type of stock op-
15 tions that have characterized compensation arrange-
16 ments at other large financial institutions that have
17 received extraordinary government assistance;

18 (12) on September 17, 2008, FHFA deter-
19 mined that no executive officer of Fannie Mae or
20 Freddie Mac would be entitled to receive a cash
21 bonus or long-term incentive awards for 2008;

22 (13) FHFA's five-year Strategic Plan for
23 Fannie Mae and Freddie Mac includes a commit-
24 ment that the GSEs will operate in a safe and sound
25 manner; and

1 (14) section 1318(c) of the Federal Housing
2 Enterprises Financial Safety and Soundness Act of
3 1992 (12 U.S.C. 4518(c), as added by section
4 1113(a)(4) of the Housing and Economic Recovery
5 Act of 2008 (Public Law 110–289; 122 Stat.
6 2678)), permits the Director of FHFA to “withhold
7 any payment, transfer, or disbursement of com-
8 pensation to an executive officer, or to place such
9 compensation in an escrow account, during the re-
10 view of the reasonableness and comparability of com-
11 pensation”.

12 **SEC. 3. DEFINITIONS.**

13 In this Act:

14 (1) DIRECTOR.—The term “Director” means
15 the Director of the Federal Housing Finance Agen-
16 cy.

17 (2) EMPLOYEE.—The term “employee” means
18 an employee of an enterprise, except that such term
19 does not include any employee who would be defined
20 as a prevailing rate employee (as defined in section
21 5342(2) of title 5, United States Code) if such em-
22 ployee were employed by an agency (as defined in
23 paragraph (1) of such section).

24 (3) ENTERPRISE.—The term “enterprise”
25 means—

1 (A) the Federal National Mortgage Asso-
2 ciation and any affiliate thereof; and

3 (B) the Federal Home Loan Mortgage
4 Corporation and any affiliate thereof.

5 (4) EXECUTIVE OFFICER.—The term “executive
6 officer” has the same meaning as is given such term
7 in section 1303(12) of the Federal Housing Enter-
8 prises Financial Safety and Soundness Act of 1992
9 (12 U.S.C. 4502(12)).

10 **SEC. 4. REASONABLE PAY FOR EXECUTIVE OFFICERS.**

11 (a) SUSPENSION OF CURRENT COMPENSATION
12 PACKAGES.—The Director shall suspend the compensa-
13 tion packages approved for 2011 for the executive officers
14 of an enterprise and, in lieu of such packages, establish
15 a compensation system for the executive officers of such
16 enterprise in accordance with the rates of pay for positions
17 in the Executive Schedule and the Senior Executive Serv-
18 ice of the Federal Government.

19 (b) CLAWBACK OF 2010 COMPENSATION.—

20 (1) SENSE OF THE CONGRESS.—It is the sense
21 of the Congress that each executive officer per-
22 forming services for an enterprise on the date of the
23 enactment of this Act whose compensation package
24 is suspended under this subsection should return to
25 the Secretary of the Treasury any compensation

1 Act (12 U.S.C. 1451 et seq.), the compensation of the po-
2 sitions held by employees shall be in accordance with this
3 section.

4 (b) CONVERSION OF COMPENSATION RATE FOR CUR-
5 RENT EMPLOYEES.—

6 (1) IN GENERAL.—Except for as provided in
7 section 4, effective for pay periods beginning after
8 the date of the enactment of this Act, the Director
9 shall fix the rate of basic compensation of positions
10 held by employees performing services for an enter-
11 prise as of the date of the enactment of this Act in
12 accordance with the General Schedule set forth in
13 section 5332 of title 5, United States Code. In fixing
14 such rate—

15 (A) if the employee is receiving a rate of
16 basic compensation that is less than the min-
17 imum rate of basic compensation of the appro-
18 priate grade of the General Schedule in which
19 his or her position is placed, such employee's
20 rate of basic compensation shall be increased to
21 such minimum rate;

22 (B) if the employee is receiving a rate of
23 basic compensation that is equal to a rate of
24 basic compensation of the appropriate grade of
25 the General Schedule in which his or her posi-

1 tion is placed, such employee's rate of basic
2 compensation shall be equal to that rate of
3 basic compensation of the appropriate grade of
4 the General Schedule;

5 (C) if the employee is receiving a rate of
6 basic compensation that is between 2 rates of
7 basic compensation of the appropriate grade of
8 the General Schedule in which his or her posi-
9 tion is placed, such employee's rate of basic
10 compensation shall be at the higher of those 2
11 rates under the General Schedule; and

12 (D) if the employee is receiving a rate of
13 basic compensation that is in excess of the max-
14 imum rate of basic compensation of the appro-
15 priate grade of the General Schedule in which
16 his or her position is placed, such employee's
17 rate of basic compensation shall be reduced to
18 such maximum rate.

19 (2) NOT CONSIDERED TRANSFERS OR PRO-
20 MOTIONS.—The conversion of positions and employ-
21 ees to the appropriate grades of the General Sched-
22 ule and the initial adjustment of rates of basic com-
23 pensation of those positions and employees provided
24 for by this subsection, shall not be considered to be
25 transfers or promotions within the meaning of sec-

1 tion 5334(b) of title 5, United States Code, and the
2 regulations issued thereunder.

3 (3) CREDIT FOR INCREASE IN COMPENSATION
4 BEFORE ADJUSTMENT.—Each employee performing
5 services for an enterprise on the date of the enact-
6 ment of this Act whose position is converted under
7 this subsection to the General Schedule and who
8 prior to the initial adjustment of his or her rate of
9 basic compensation under paragraph (1) has earned,
10 but has not been credited with, an increase in that
11 rate, shall be granted credit for such increase before
12 his or her rate of basic compensation is initially ad-
13 justed under such paragraph.

14 (4) SERVICE PERFORMED SINCE LAST COM-
15 PENSATION INCREASE.—Each employee performing
16 services for an enterprise on the date of the enact-
17 ment of this Act whose position is converted under
18 this subsection to the General Schedule shall be
19 granted credit, for purposes of his or her first step
20 increase under the General Schedule, for all satisfac-
21 tory service performed since his or her last increase
22 in compensation prior to the initial adjustment of
23 his or her rate of basic compensation under para-
24 graph (1).

