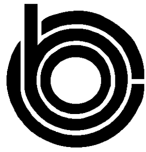

CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

April 30, 2008

H.R. 3221
Foreclosure Prevention Act of 2008

As passed by the Senate on April 10, 2008

SUMMARY

H.R. 3221 contains several provisions that would affect the Federal Housing Administration (FHA), veterans' housing benefits, and other housing-related programs. In addition, the act would make several changes to the tax code affecting businesses and individuals.

The Congressional Budget Office and the Joint Committee on Taxation (JCT) estimate that H.R. 3221 would:

- Decrease revenues by about $2.4 billion in 2008 and by $21.5 billion over the 2008-2018 period; and

- Increase direct spending by $218 million in 2008 and by $4.8 billion over the 2008-2018 period.

In total, those changes would increase budget deficits (or reduce future surpluses) by about $2.6 billion in 2008 and by $26.3 billion through 2018.

CBO has not completed an estimate of the effects of H.R. 3221 on discretionary spending.

CBO has determined that the nontax provisions of H.R. 3221 contain no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

The nontax provisions of H.R. 3221 would impose private-sector mandates, as defined in the UMRA, on certain mortgage holders and other creditors. Based on information from industry sources, CBO expects that the cost of those mandates would fall below the annual threshold for private-sector mandates ($136 million in 2008, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 3221 is shown in the following table. The cost of this legislation falls within budget functions 050 (defense), 370 (commerce and housing credit), 450 (community and regional development), and 700 (veterans benefits and services).

BASIS OF ESTIMATE

CBO estimates that enacting H.R. 3221 would increase direct spending by $4.8 billion over the 2008-2018 period. JCT estimates that enacting the proposed changes to the tax code included within this legislation would decrease revenues to the federal government by $21.5 billion over that period—resulting in a net increase to deficits (or decrease in surpluses) of $26.3 billion through 2018. (Through 2017, the last year used for budget enforcement in the Senate under the current budget resolution, the net increase in deficits would be $26.2 billion.) For this estimate, CBO and JCT assume that H.R. 3221 will be enacted in June 2008.

Revenues

JCT estimated the effects of H.R. 3221 on revenues. Those provisions with the most significant budgetary effects are described below.

Increased Use of Net Operating Losses. The act would allow businesses to use losses in 2008 and 2009 to file for refunds of taxes paid up to four years earlier, rather than the two-year period allowed under current law. To be eligible for the longer carryback period, firms would have to forgo the enhanced depreciation allowances (so-called "bonus depreciation") enacted in the Economic Stimulus Act of 2008 (Public Law 110-185). Because losses not used to file for refunds of past taxes can be carried forward to offset future taxable income, the provision would partially shift tax reductions into 2009 and 2010 from later years. As a result, JCT estimates that the provision would reduce revenues by $25.5 billion over the 2008-2010 period, but raise revenues by $19.5 billion over the 2011-2018 period, with a net effect of reducing revenues by $6.1 billion over the 2008-2018 period.

	By Fiscal Year, in Millions of Dollars												
	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2008-2013	2008-2018
CHANGES IN REVENUES													
Increased Use of NOLs	-960	-16,659	-7,928	5,430	4,293	2,957	2,119	1,623	1,268	1,001	801	-12,867	-6,054
Modifications of Energy Tax Incentives	-562	-1,688	-1,609	-579	-562	-541	-547	-545	-581	-554	-520	-5,542	-8,288
Other Provisions	-833	-3,716	-853	-311	-195	-189	-255	-255	-186	-163	-157	-6,099	-7,114
Total Estimated Revenues	-2,355	-22,063	-10,390	4,540	3,536	2,227	1,317	823	501	284	124	-24,508	-21,456
CHANGES IN DIRECT SPENDING													
Redevelopment of Abandoned and Foreclosed Homes													
Budget Authority	3,920	0	0	0	0	0	0	0	0	0	0	3,920	3,920
Estimated Outlays	20	900	1,380	700	490	375	0	0	0	0	0	3,865	3,865
Refunds of Certain R&E Credits													
Estimated Budget Authority	13	650	0	0	0	0	0	0	0	0	0	663	663
Estimated Outlays	13	650	0	0	0	0	0	0	0	0	0	663	663
Housing Counseling													
Budget Authority	180	0	0	0	0	0	0	0	0	0	0	180	180
Estimated Outlays	180	0	0	0	0	0	0	0	0	0	0	180	180
Housing Benefits for Veterans													
Estimated Budget Authority	3	8	9	10	10	10	11	12	12	13	14	50	112
Estimated Outlays	3	8	9	10	10	10	11	12	12	13	14	50	112
HECM Loan Insurance Program													
Estimated Budget Authority	1	0	0	0	0	0	0	0	0	0	0	1	1
Estimated Outlays	1	0	0	0	0	0	0	0	0	0	0	1	1
Increase in VA Housing Loan Guarantees													
Estimated Budget Authority	-1	*	0	0	0	0	0	0	0	0	0	-1	-1
Estimated Outlays	-1	*	0	0	0	0	0	0	0	0	0	-1	-1
Relocation Benefits for Service Members													
Estimated Budget Authority	2	0	0	0	0	0	0	0	0	0	0	2	2
Estimated Outlays	2	0	0	0	0	0	0	0	0	0	0	2	2
Total Direct Spending Under H.R. 3221													
Estimated Budget Authority	4,118	658	9	10	10	10	11	12	12	13	14	4,815	4,877
Estimated Outlays	218	1,558	1,389	710	500	385	11	12	12	13	14	4,760	4,822
NET CHANGE IN THE BUDGET DEFICIT OR SURPLUS FROM CHANGES IN REVENUES AND DIRECT SPENDING													
Impact on Deficit/Surplus [a]	-2,573	-23,621	-11,779	3,830	3,036	1,842	1,306	811	489	271	110	-29,265	-26,278

Notes: NOL = net operating losses; R&E = research and experimentation; HECM = Home Equity Conversion Mortgage; VA = Department of Veterans Affairs. Components may not sum to totals because of rounding. * = between -$500,000 and 0.

a. Positive numbers indicate decreases in deficits (or increases in surpluses); negative numbers indicate increases in deficits (or decreases in surpluses).

Modification of Certain Energy Tax Incentives. H.R. 3221 would extend and modify several existing tax credits and other tax incentives for production, investment, and consumer purchases that pertain to certain renewable and efficient energy technologies. The tax credits include the renewable energy production credit, the solar energy and fuel cell investment credit, the residential energy-efficient property credit, and the credit for energy-efficient improvements to existing homes. JCT estimates that enacting those provisions would decrease revenues by $8.3 billion over the 2008-2018 period.

Other Provisions. H.R. 3221 also includes many other provisions that would affect revenues. Key provisions are described in further detail below.

Mortgage Revenue Bonds and Multifamily Housing Bonds. The act would authorize state housing authorities to issue an additional $10 billion in private-activity bonds to be used as mortgage revenue bonds and multifamily bonds (which finance multifamily housing projects). Those bonds, which would have to be issued by the end of 2010, could be used to refinance subprime mortgage loans. Additionally, the interest earned on such mortgage revenue bonds would be exempt from the alternative minimum tax (AMT). JCT estimates that enacting those provisions would reduce revenues by $1.8 billion over the 2008-2018 period.

Credit for Certain Homebuyers. The legislation also would provide a nonrefundable tax credit of up to $7,000 to purchasers of single-family homes that have gone into foreclosure. The credit would be spread over two years and would apply only to purchases made during the year following enactment. JCT estimates that the provision would decrease revenues by $1.6 billion over the 2008-2011 period.

Temporary Increase in the Standard Deduction for Certain Taxpayers. The act would allow taxpayers who do not itemize their deductions to add up to $500 of their 2008 property taxes paid to their standard deduction ($1,000 in the case of a married couple filing a joint return). The addition to the standard deduction would not be allowed for residents of jurisdictions that raised property tax rates between April 2, 2008, and January 1, 2009. JCT estimates that the provision would reduce revenues by $1.5 billion over the 2008-2009 period.

Election to Receive a Refund of Certain Tax Credits. The provision would allow a corporation to elect to forgo the enhanced depreciation provisions enacted in the Economic Stimulus Act of 2008 and instead receive enhanced use of certain tax credits. Specifically, a corporation could reduce its tax liability based on the amount of research and experimentation (R&E) credits and AMT credits that it has accrued through 2005 but could not yet use due to statutory limitations.

Under the act, a firm could use a portion of those credits to reduce its tax liability in the current tax year (when bonus depreciation is in place), and it could also receive a payment from the Department of the Treasury to the extent the allowed credits exceed the firm's tax liability. Such a payment related to the R&E credit is not appropriately considered a refund of past taxes paid—reductions in revenues in the federal budget—because those credits are unrelated to past tax liabilities of a firm. Instead, such payments should be treated as outlays in the federal budget. Because credits for the AMT result from past tax liability, the enhanced use of those credits under the legislation would not generate outlays.

JCT estimates that this provision would reduce revenues by $1.2 billion over the 2008-2009 period, and increase outlays by $0.7 billion over the same period. Because some of those credits would have been claimed in later years under current law, JCT estimates that the provision would increase revenues by $0.4 billion over the 2010-2018 period. Over the 2008-2018 period, JCT estimates that the provision would reduce revenues by $0.7 billion and increase outlays by $0.7 billion.

Additional Provisions. H.R. 3221 also would allow certain taxpayers who suffered hurricane-related losses in 2005 to amend their past tax returns so as to deduct those losses from their taxable income in the year in which they receive compensation for those losses. Additionally, the act would loosen the requirements that certain property in the Gulf of Mexico region must satisfy to allow taxpayers who purchase such property to receive an additional deduction from their taxable income. The legislation also includes temporary provisions, such as the offering of special treatment of the net operating losses of businesses and a credit for employers, to target the storm-struck areas of Kiowa County, Kansas. Finally, the act would modify the tax rules applicable to real estate investment trusts. JCT estimates that those provisions would reduce revenues by $1.5 billion over the 2008-2018 period.

Direct Spending

Redevelopment of Abandoned and Foreclosed Homes. Title III would appropriate $3.9 billion to purchase and rehabilitate foreclosed and abandoned homes. Funds would be allocated through the Community Development Block Grant (CDBG) program to states and metropolitan areas based on the number of homes that are in foreclosure, in default or delinquency, or financed with a subprime mortgage (under the act, each state would receive at least 0.5 percent of the funds made available). Based on historical spending patterns of CDBG projects and on information from several local community development offices, CBO estimates that enacting this provision would increase direct spending by $20 million in 2008 and by about $3.9 billion over the 2008-2013 period.

Refunds of Certain Research and Experimentation Credits. As discussed above (under "Revenues"), the act would allow firms enhanced use of the R&E and AMT tax credits, which would result in a payment from the Department of the Treasury to some firms without current-year tax liability. Such a payment resulting from the enhanced use of the R&E credit is not appropriately considered a refund of past taxes paid—reductions in revenues in the federal budget—because those credits are unrelated to past tax liabilities of a firm. Instead, such payments should be treated as outlays in the federal budget. JCT estimates that such payments would total $13 million in 2008 and $650 million in 2009.

Housing Counseling. H.R. 3221 would appropriate $180 million to the Neighborhood Reinvestment Corporation (NRC) to award grants to organizations that provide counseling and other services to current and potential homeowners. Of those funds, $30 million would be used to provide legal assistance for homeowners facing foreclosure, delinquency, or a short sale. Because the NRC is not considered an entity of the federal government, appropriations provided to that organization are recorded in the budget as an expenditure of the full appropriated amount in that year. As such, CBO estimates that enacting this provision would increase direct spending by $180 million in 2008.

Specially Adapted Housing (SAH) Grants. The Department of Veterans Affairs (VA) currently administers two grant programs to assist severely disabled veterans in acquiring housing that is adapted to their disabilities or in modifying their existing housing. Under current law, veterans who are classified by VA as totally disabled and who have certain mobility limitations are entitled to receive grants of up to $50,000 toward the acquisition of suitable housing. Totally disabled veterans who are blind or have lost the use of their hands are entitled to receive grants of up to $10,000 to adapt their residences to accommodate their disabilities.

SAH Grants for Individuals with Severe Burns. Section 803 would allow totally disabled individuals with severe burn injuries to be eligible for SAH grants. Based on information from the Department of Defense (DoD) and VA, CBO estimates that under section 803, nearly 100 veterans would newly qualify for such housing grants immediately and that an additional 30 veterans would become eligible in 2009. Assuming this rate of eligibility would change together with projections of wartime deployments, CBO estimates that under section 803, approximately 230 individuals would become newly eligible for housing grants over the 2008-2018 period, resulting in an increase of $11 million in direct spending over that period.

Increase in SAH Benefits. Section 805 would increase the maximum grant amounts to $60,000 and $12,000, respectively (a 20 percent increase). In addition, the maximum grant amounts would be adjusted annually to reflect increases in the cost of residential home

construction beginning in October 2009. Based on current usage rates, CBO estimates that implementing section 805 would cost about $100 million over the 2008-2018 period.

Amendments to the HECM Loan Insurance Program. Under current law, FHA is permitted to guarantee up to a cumulative total of 275,000 home equity conversion mortgage (HECM) loans. That number of loans was reached during 2007, but the appropriation law for 2008 (Public Law 110-161) eliminated the limit on the number of HECM loans FHA can insure through September 30, 2008. Without further Congressional action, CBO assumes that the HECM program will be inactive beginning in 2009.

Enacting this legislation would permanently remove the statutory limitation on the number of HECM loans that could be guaranteed, set a single nationwide limit on the dollar amount of a HECM loan that would be tied to the conforming loan amount, limit the origination fee to 1.5 percent of the home's value (subject to a minimum allowable amount), and allow borrowers to use HECM loans to purchase a new home. (Conforming loans have terms and conditions that follow the guidelines set forth by the government-sponsored enterprises.)

Under current law, FHA guarantees of HECM loans are estimated to result in net offsetting collections to the federal government because guarantee fees for those mortgages are currently estimated to more than offset the costs of expected defaults. For 2008, HUD's subsidy estimate for HECM loan guarantees is -1.35 percent.

Enacting this legislation would primarily affect loan volume for the years after 2008 because the provision with the greatest impact on volume—removing the statutory cap on the value of mortgages that can be insured—has already been implemented for 2008. However, CBO estimates that the cumulative effect of setting a nationwide loan limit, permitting borrowers to use HECM loans to purchase a new home, and limiting the origination fee would enable FHA to insure an additional $555 million in loan guarantees in 2008, increasing offsetting collections by about $7 million this year. Implementation of the HECM program is contingent on the enactment of appropriation laws that provide annual loan-commitment authority. Because the appropriation for the HECM program's commitment authority for 2008 has been enacted, the estimated $7 million in additional offsetting collections would be recorded in the budget as savings in direct spending in 2008. Receipts collected after 2008 would be recorded as discretionary offsetting collections.

In addition, this legislation would permit FHA to spend a portion of the mortgage insurance premiums collected under the HECM program on counseling activities required for HECM borrowers. Based on the number of borrowers expected to use this program in the remaining months of this year CBO estimates that FHA would spend about $8 million on counseling activities in 2008. That cost also would be recorded as an increase in direct spending in

2008. Thus, enacting both HECM provisions of this legislation would increase net direct spending by $1 million in 2008.

In subsequent years, any spending of the premiums would lower the estimated negative subsidy rate associated with the program and consequently decrease offsetting collections.

Increase in VA Housing Loan Guarantees. Section 201 would increase by up to 75 percent the maximum guarantee that VA could provide to lenders who make housing loans to qualified veterans. CBO estimates that the authority, which would expire on December 31, 2008, would result in a small increase in the number of loans guaranteed by VA. Receipts from fees that the department charges for most of the loans it guarantees exceed its outlays for guarantee payments on defaulting loans. Therefore, the additional loans that would be guaranteed under this authority would increase net receipts by about $1 million in 2008 and by less than $500,000 in 2009, CBO estimates.

Relocation Benefits for Service Members. Section 909 would authorize DoD to pay the costs of moving household items for military families who are displaced when the housing they are leasing or renting goes into foreclosure. Based on information from DoD, CBO estimates that a small number of families will move each year under such circumstances and that the average cost to DoD per move would be about $3,000. On that basis, CBO estimates that this provision would increase direct spending by about $2 million in fiscal year 2008 because it would increase total outlays from existing appropriations.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

CBO has determined that the nontax provisions of H.R. 3221 contain no intergovernmental mandates as defined by UMRA. The act would benefit state and local governments by authorizing grants for purchasing and redeveloping foreclosed properties.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

The nontax provisions of H.R. 3221 would impose private-sector mandates, as defined in UMRA, on certain mortgage holders and other creditors. Based on information from industry sources, CBO expects that the cost of those mandates would fall below the annual threshold for private-sector mandates ($136 million in 2008, adjusted annually for inflation).

Title II would extend the period after release of a servicemember from active duty during which the member is protected from mortgage foreclosure under the Servicemembers Civil Relief Act (SCRA) from 90 days to 9 months. Furthermore, it would extend the existing

period of interest rate limitation under the SCRA for one year. This would constitute a mandate upon mortgage holders, and the cost of the mandate would be the loss associated with delayed mortgage payments, delayed foreclosure, and interest rate limitations. Based on historical separation rates, foreclosure rates, and mortgage interest rates, CBO expects that the cost of the mandate would be small relative to the annual threshold for private-sector mandates.

Title V would require creditors to provide additional disclosures to consumers with respect to an extension of credit secured by the consumer's dwelling. The information would be required to be in conspicuous type and format. According to finance industry sources, the cost of complying with those mandates would be minimal.

ESTIMATE PREPARED BY:

Federal Revenues: Zachary Epstein

Federal Spending: CDBG/NRC—Daniel Hoople
FHA—Susanne Mehlman
Veterans' Benefits—Camille Woodland and David Newman
Department of Defense—Dawn Regan

Impact on State, Local, and Tribal Governments: Elizabeth Cove

Impact on the Private Sector: Paige Piper/Bach

ESTIMATE APPROVED BY:

G. Thomas Woodward
Assistant Director for Tax Analysis

Peter H. Fontaine
Assistant Director for Budget Analysis