RSC
Republican Study Committee

Rep. Jeb Hensarling (R-TX), Chairman
Russ Vought, Executive Director
132 Cannon House Office Building
Washington, DC 20515

www.house.gov/hensarling/rsc
ph (202) 226-9717 / fax (202) 226-1633

Legislative Bulletin……………………………………...…..………May 7, 2008

Contents:

H.Res. 1175 – Providing for consideration of the Senate amendments to the bill (H.R. 3221) to provide needed housing reform (*Frank, D-MA*)

Please note the conservative concerns, beginning on page 10 below.

Order of Business: On August 4, 2007, the House passed H.R. 3221 as the New Direction for Energy Independence, National Security, and Consumer Protection Act. Much of the energy language in H.R. 3221 was enacted as part of H.R. 6, which became Public Law 110-140 on December 19, 2007. On April 10, 2008, the Senate removed all of the House's energy language from H.R. 3221 and inserted the text of its Foreclosure Prevention Act. On May 7, 2008, via H.Res. 1175, the House will motion to amend the Senate amendments to H.R. 3221. Specifically, the House motion will provide for the consideration of three amendments that, when taken together, would strike all of the Senate amendments and insert three separate ones: #1, #2, and #3.

Summary: The following summarizes the three House amendments to the Senate amendments.

HOUSE AMENDMENT #1

House Amendment #1 contains the text of H.R. 5830, H.R. 3019, H.R. 1852, H.R. 2139, H.R. 1427, H.R. 5579, H.R. 1066, and parts of H.R. 1851.

Title I of House Amendment #1—Text of H.R. 5830 and H.R. 3019

H.R. 5830:

- Creates a new, voluntary program for borrowers and existing mortgage loan holders to allow the Federal Housing Administration (FHA) to provide up to $300 billion in new loan guarantees (mortgage insurance) to refinance mortgages on properties at risk of foreclosure. It is not clear who would initiate participation in the program—lenders or borrowers.

- Creates the Refinance Program Oversight Board, comprised of the Federal Reserve chairman, the Treasury Secretary, and the Secretary of Housing and Urban Development, which would set requirements for and oversee the program, including the "flexible" underwriting criteria (discussed below), fees, and insurance premiums. The Board could exclude poorly-performing lenders from the program.

- Limits the program only to principal residences that are owner-occupied and excludes investment properties and second or multiple homes. The existing loan must have been originated prior to Dec. 31, 2007.

- Requires borrowers to certify that they have not intentionally defaulted on their existing mortgage in order to get into this program and that they did not provide false information in order to obtain the original mortgage.

- Makes eligible only those borrowers who have a monthly (total) mortgage debt to monthly income ratio above 35% as of March 1, 2008.

- Requires participating lenders to write-down the value of the original mortgage to no more than 85% of the newly appraised value of the home. The borrower in the program would then get a new mortgage that is no more than 90% of the newly appraised value of the home, which would be used to pay off the original lender. The remaining 5% (the difference between the new 90%-of-value mortgage and the 85%-of-value write-down) would consist of a 3% upfront insurance premium to FHA and a 2% origination fee to the new lender.

- Requires mortgage lenders and servicers to waive all prepayment penalties and related fees.

- Requires that, in order for participation in this program to be complete, the claims of second lien holders (second mortgages and home equity loans) must be wiped out. The Oversight Board could set a fixed dollar amount that any second lien holder would receive as compensation and could require the borrower to share a percentage of future profits on the home with second lien holders (subject to the profits exceeding required payments to the government). The Board could also prohibit borrowers from taking out second mortgages during the first five years they are in the program.

- Requires the new mortgage to be fixed-rate. The maximum loan amount would be the same as the maximum FHA loan amount, which is currently $729,750.

- Requires borrowers to pay an annual mortgage insurance premium of 1.5% of the remaining insured principal balance of the mortgage, as well as an exit fee of at least 3% of the original insured principal obligation of the mortgage when borrowers sell or refinance. If the sale or refinancing happens within a year, 100% of the profits would go to the federal government. This percentage would phase-down to 80% in the second year, 60% in the third year, 50% in the fourth year, and 20% in the fifth year, and 0% thereafter (though the 3% exit fee would never go away).

- Instructs the Oversight Board to create <u>“flexible” underwriting criteria</u>, including a prohibition on rejecting borrowers solely because of their credit scores or because they defaulted on their existing mortgage. Borrowers could have a total monthly debt-to-income ratio of up to 50% (up from the current 43% maximum), if they have made six consecutive payments in an amount not less than their new mortgage payment.

- Prohibits the initiation of any new commitment to insure a mortgage under this program beginning <u>two years</u> after the enactment of this legislation, subject to up to four <u>six-month extensions</u> and congressional and public notification as such.

- Authorizes <u>$230 million for each of fiscal years 2008 and 2009</u> for mortgage counseling, $35 million of which would be earmarked for legal assistance to lower-income people regarding foreclosure, eviction, etc., and $20 million of which would be earmarked for veterans counseling.

- Authorizes <u>$150 million</u> for increased FHA administrative costs.

- Conservatives have expressed serious concerns about the language in H.R. 5830, as detailed in the “Possible Conservative Concerns” section on page 10 of this Legislative Bulletin.

H.R. 3019:

- Establishes, within the Office of the HUD Secretary, the Office of Housing Counseling, which would conduct activities relating to homeownership and rental housing counseling.

- Directs the Director of Housing Counseling to develop, implement, and conduct national public service multimedia campaigns (authorized at $3 million a year for three years) designed to make people facing mortgage foreclosure, people considering subprime mortgages, elderly people, people who face language barriers, low-income people, and other “potentially vulnerable” individuals aware that: 1) it is advisable, before seeking or maintaining a residential mortgage loan, to obtain homeownership counseling from unbiased and reliable sources; and 2) such homeownership counseling is available through HUD and elsewhere.

- Directs HUD to make $45 million in grants to states, localities, and nonprofits in each of fiscal years 2008 through 2011 for housing counseling activities.

<u>Title II of House Amendment #1—Text of H.R. 1852 and H.R. 2139</u>

H.R. 1852:

- This section is similar to H.R. 1852, the Expanding American Homeownership Act, which passed the House on September 18, 2007, by a vote of 348-72.

- This section would, among other things, permanently increase the availability of loan guarantees from the Federal Housing Administration (FHA) and authorize FHA to use risk-based pricing for the mortgage guarantees it offers. The language here in House Amendment #1 to H.R. 3221 does NOT include the controversial language on zero downpayments and diversion of FHA savings to an Affordable Housing Fund that was in the House-passed version of H.R. 1852. For more details, see the RSC Legislative Bulletin for H.R. 1852 here: http://www.house.gov/hensarling/rsc/doc/lb_091807_fha.doc.

- When HR. 1852 was considered in the House last year, many conservatives expressed concerns about—and voted against the bill because of—numerous provisions in the bill, including:

    - Loan Limits Increases. The bill would increase various loan limits and thus make more people eligible to receive FHA mortgage insurance. By raising loan limits, FHA insurance could presumably be obtained by more people who are not the true targets of FHA.

    - Mandatory Refunds. The bill would essentially mandate refunds to borrowers who have made on-time payments for five years. This provision would reduce revenues to the FHA (making it more likely to need appropriations support from general taxpayers) and would remove flexibility for FHA in its incentive programs.

    - Crowding Out the Private Market. Some conservatives expressed concerns that this bill would expand FHA's ability to guarantee mortgages and therefore increase a federal subsidy for homebuyers. In addition, some may be concerned that this expansion will crowd out the private market. Given that the private marketplace is offering many different, affordable homeownership opportunities, one might question whether now is the proper time to expand and perpetuate a government program that was created in 1934 to broaden homeownership and increase employment in the building industry.

H.R. 2139:

- This section is substantively identical to H.R. 2139, the FHA Manufactured Housing Loan Modernization Act, which the House passed by voice vote on June 25, 2007.

- This section would eliminate the current cap on FHA's exposure on manufactured housing loan guarantees of 10% of the value of a lender's portfolio, allow FHA to guarantee 90% of an individual loan, and increase the manufactured housing loan limits. For more details, see the RSC Legislative Bulletin on H.R. 2139 here: http://www.house.gov/hensarling/rsc/doc/LB_062507__suspensions.doc.

- When H.R. 2139 moved through the House, some conservatives expressed concerns that this bill would significantly expand government liabilities in this area.

Title III of House Amendment #1—Text of H.R. 1427

- This title is substantively identical to H.R. 1427, the Federal Housing Finance Reform Act, as it passed the House on May 22, 2007, by a vote of 313-104.

- This title would, among other things, establish a single regulator—the Federal Housing Finance Agency (FHFA)—for government-sponsored enterprises (GSEs) involved in the home mortgage market (Fannie Mae, Freddie Mac, and the Federal Home Loan Banks) and increase the conforming loan limits for the GSEs. Additionally, the GSEs would be required to contribute 1.2 cents per $100 of the value of their mortgage portfolios from the previous year to a new affordable housing fund created by the bill to support the low-income-housing activities of nonprofits like ACORN and La Raza nationwide. For more details, see the RSC Legislative Bulletin for H.R. 1427 here: http://www.house.gov/hensarling/rsc/doc/LB_051707_GSE.doc and here: http://www.house.gov/hensarling/rsc/doc/LB_052207_GSEamdtsCONT.doc.

- While most conservatives have supported the notion of creating a single regulator overseeing the GSEs and reining them in from exceeding their congressional charters, conservative opposition to H.R. 1427 has centered largely on the Affordable Housing Fund. RSC Members sent the following letter opposing the Affordable Housing Fund: http://www.house.gov/hensarling/rsc/doc/GSE%20slush%20fund.pdf.

- **NOTE:** Many conservatives have regarded the required GSE contributions to the Fund as a tax on publicly-traded corporations. Arguably, since the GSEs constitute a duopoly, they have a heightened ability to pass this "contribution" on to consumers—thus making housing *less* affordable rather than more.

  Furthermore, despite the provisions of the Affordable Housing Fund section that restrict the use of grants, many conservatives in the past have expressed concerns that the Fund could still be used by liberal entities to displace other funds. Money is fungible, so that if a group cannot use Fund grants for political activities, it could certainly have more money freed up for political activities because of the injection of Fund grants.

  For example, if someone gives you $100 and says you can't use it to pay your electric bill, yet you deposit the money in your bank and then write a $100 check to your electric company, have you used the gift money to pay your electric bill? Maybe, or maybe not. More importantly, does it matter? The gift money unquestionably offset your other expenditures. Perhaps you didn't use the gifted $100 to pay your bill, but you now have $100 extra to buy other things.

  The largest organizations (and thus the most able to commit resources to apply for federal grants) who work on affordable housing issues include, for example, ACORN (led voter registration efforts against Republicans, with allegations of voter fraud in at least Florida, Ohio, Missouri, and North Carolina), National Council of La Raza (allegations of voter fraud in the Bob Dornan-Loretta Sanchez election of 1996), and Housing Works (led a demonstration against Senator Rick Santorum for his anti-needle exchange and pro-abstinence voting record). These entities unquestionably, and sometimes unabashedly, engage in partisan, leftist political activities.

ACORN, the Association of Community Organizations for Reform Now, is actually an umbrella organization for more than 75 entities, most of which are run out of a single office in New Orleans. Among these entities are unions, schools, radio stations, home mortgage counseling centers, tax advising centers, voter-mobilization organizations, lobbying firms, and even a furniture company. For example, the Service Employees International Union Local 880 once listed its contact email as seiu880@acorn.org (it changed its email address when the Employment Policies Institute highlighted this address in a report).

Estimates of ACORN's annual operation budget range from 30 to 40 million dollars. The Employment Policies Institute reports that large amounts of money move back and forth from various elements of the ACORN network all the time.

Furthermore, a forthcoming report by the Consumers Rights League will document how ACORN has:

--threatened lenders in order to secure financial resources for itself;
--lobbied extensively and successfully for the lowering of lending standards (which have contributed significantly to the current increase in foreclosures nationwide);
--worked to obtain mortgages for illegal workers; and
--maintained consistent coordination between its tax-exempt and its political (non-tax-exempt) activities.

For more information on ACORN, including a map of where ACORN has been accused of election fraud, go here: http://www.rottenacorn.com/.

- Additionally, some conservatives have expressed concerns about the increases in the GSE conforming loan limits, which could lessen the cost (via federal subsidies) of housing for consumers who are not necessarily low- or middle-income and crowd out private competitors. Other conservatives have argued that the high-cost adjustments are needed in certain areas where real estate is extremely expensive and "middle class" is defined by higher incomes than in the rest of the country.

Title IV of House Amendment #1—Text of H.R. 5579

- This title is substantively identical to H.R. 5579, the Emergency Mortgage Loan Modification Act, which was reported from the House Financial Services Committee on May 1, 2008, but which has not yet passed the House.

- This title would protect servicers of residential mortgage pools from legal liability when they modify mortgages before 2011 to avoid foreclosure (under certain listed circumstances), even if such modifications yield losses for certain individual investors in the pool. Mortgage servicers otherwise have a fiduciary responsibility to maximize returns to the investors in the aggregate.

Title V of House Amendment #1—Text of H.R. 1066 and Parts of H.R. 1851

- This title includes a variety of miscellaneous housing provisions, including:
  --Allowing federal savings associations to make direct or indirect investments (subject to certain limits) aimed at promoting the public welfare through the provision of housing, services, and jobs (H.R. 1066);
  --Providing for contract transfers for certain individually listed public housing projects (language taken from H.R. 1851); and
  --Protecting against discriminatory treatment against disabled veterans by mortgage loan guarantee or subsidy programs.

HOUSE AMENDMENT #2

House Amendment #2—Text of H.R. 5720 and Parts of H.R. 1851

- H.R. 5720, the Housing Assistance Tax Act, was reported by the Ways & Means Committee on April 24, 2008 and has not yet been considered by the full House. Highlights are as follows:

- Increases from $2.00 per person to $2.20 per person (in 2008 and 2009 only) the limit on federal low-income housing tax credits that may be allocated per state. *Saves taxpayers $1.05 billion over 11 years.*

- Makes certain clarifications to the rules for tax-exempt housing bonds. *Saves taxpayers $519 million over 10 years.*

- Provides first-time home buyers (only principal residences purchased on or after April 9, 2008 and before April 1, 2009) with a refundable tax credit equal to 10% of the purchase price of their home (up to $7,500 for married couples, phased-down for taxpayers with adjusted gross incomes above $70,000--$140,000 in the case of a joint return). Taxpayers would be required to repay any amount received under this provision back to the government over 15 years in equal installments. *Saves taxpayers $3.81 billion over 11 years.*

- Provides home owners who claim the standard deduction with an additional standard deduction in 2008 for state and local real property taxes, up to $350 ($700 for joint filers). *Saves taxpayers $1.17 billion over 11 years.*

- Allows for the state issuance of an additional $10 billion of tax-exempt housing bonds to provide loans to first-time home buyers and to finance the construction of low-income rental housing and allows qualified mortgage revenue bonds to be used to refinance certain subprime loans. *Saves taxpayers $1.37 billion over 11 years.*

- Allows the low-income housing tax credit and the rehabilitation tax credit to be used to offset the Alternative Minimum Tax (AMT) and shields interest on tax-exempt housing bonds from the AMT. *Saves taxpayers $2.06 billion over 11 years.*

- Requires mandatory cost basis reporting by brokers for transactions involving publicly traded securities acquired after January 1, 2012 (January 1, 2010, in the case of stocks). The Democrat staff of the Ways & Means Committee notes that, "Requiring brokers to maintain records of the adjusted basis of securities sold by their customers and report this information to the IRS would increase compliance with capital gains reporting." *Costs taxpayers $8.05 billion over 8 years.*

- Delays by one year the implementation of the worldwide allocation of interest. In 2004, Congress gave taxpayers, beginning in tax years after 2008, the option of using a liberalized rule for allocating interest expense between United States sources and foreign sources for the purposes of determining a taxpayer's foreign tax credit limitation. *Costs taxpayers $2.93 billion over 3 years.*

- Employs a familiar PAYGO gimmick that would modify the timing for certain corporate estimated tax payments so that corporations have to furnish $17.3 billion more in such estimated tax payments in FY2013. Over three years (FY2012-2014), however, affected corporations would have no net increase in their tax liabilities—just in the timing of such liabilities. *No net revenue effect over 11 years*.

- Directs the HUD Secretary to expedite the approval of new, or renovations to existing, multifamily housing projects for which HUD or Agriculture Department assistance is provided in conjunction with any low-income housing tax credits or tax-exempt housing bonds.

- Increases the maximum Section 8 housing project-based voucher contract term from 10 to 15 years.

- Allows for a public housing project to be funded using housing tax credits AND loans from the FHA without triggering the requirement that the HUD Secretary certify that HUD assistance to any housing project shall not be more than is necessary to provide affordable housing.

- Provides that a subsidy layering review would not be required for a housing assistance payment contract for an existing structure or if such a review has been conducted by a state or local agency. Subsidy layering occurs when a project receives funds from more than one governmental source.

- Requires state agencies administering low-income housing tax credits to at least annually furnish to HUD (and subsequently make public) information concerning the race, ethnicity, family composition, age, income, use of Section 8 voucher assistance, disability status, and monthly rental payments of households residing in each property receiving the tax credits.

- Extends from 90 days to one year the period following active duty military service during which a servicemember's house could not be foreclosed, seized, or sold. If a returning servicemember defaults on a mortgage payment for two consecutive months, the lender or servicer would have to provide notification in writing of his or her mortgage liability.

HOUSE AMENDMENT #3

House Amendment #3 would be added at the end of the newly amended bill.

- Provides that this legislation could not be construed as preempting the application, to any entity, of any state law regulating the foreclosure of residential real property in that state or the treatment of such foreclosed property.

- The Bush Administration regards this provision as an unwelcome imposition of state power upon federal bank regulators.

- The financial services industry, including the American Bankers Association, the American Financial Services Association, the Financial Services Roundtable, the Mortgage Bankers Association, and others, is unified in its strong opposition to this amendment. They claim that this amendment would give the states a new right to regulate how federally chartered financial institutions treat property post-foreclosure. Industry points out that states do not control how a national bank cares for or disposes of property, nor have they ever. Industry asserts that state control over the treatment of foreclosed property, especially if any suggested action conflicts with what the federal regulators are suggesting, could negatively impact the financial soundness of banks.

- This amendment is "strongly" supported by such entities as ACORN, the AFL-CIO, the NAACP, the National Council of La Raza, and the Service Employees International Union.

Additional Background:

FHA. The Federal Housing Administration (FHA) was created in 1934 (and became a part of the Department of Housing and Urban Development—HUD—in 1965) to provide mortgage insurance on loans made by FHA-approved lenders throughout the United States and its territories. The FHA insures mortgages on single family, multifamily, and manufactured homes and hospitals. The FHA is reportedly the largest insurer of mortgages in the world, having insured over 34 million properties since its inception. FHA mortgage insurance protects lenders against loss if the homeowner defaults on his mortgage loan.

FHA operates entirely from self-generated income (proceeds from the mortgage insurance paid by homeowners), which is placed in an account that is used to operate the program. The FHA currently has 4.8 million insured single family mortgages and 13,000 insured multifamily projects in its portfolio.

For more information about the FHA, visit its homepage here: http://www.fha.gov/.

GSEs: The Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) are government-sponsored enterprises (GSEs) created to facilitate a *secondary* mortgage market. That is, GSEs are privately owned, congressionally chartered financial institutions created to enhance the availability of credit for home mortgages. Under their charter, they exist to buy mortgages from lenders in the *primary* mortgage market and package them into securities for sale to investors on Wall Street. For more background on GSEs, including recent accounting failures, see pages one and two of this RSC Legislative Bulletin here: http://www.house.gov/hensarling/rsc/doc/LB_051707_GSE.doc.

Committee Action: Various portions of the three House amendments were considered at the committee level, while others were not.

Possible Conservative Concerns: Many conservatives have expressed numerous and significant concerns with this composite legislation and its various parts, including, but not necessarily limited to, the following:

Constitutionality. Some conservatives may question whether the "rescue" of borrowers and lenders from financial contracts gone bad qualifies as a proper role of the federal government under the U.S. Constitution.

Taxpayer Exposure. The FHA "rescue" portion of the bill would increase the taxpayer's exposure by $300 billion. CBO has likely underestimated the cost of such exposure to be just $1.7 billion over five years, despite the fact that CBO concedes that default rates for this program are likely to be higher than current FHA default rates, since lenders will seek to off-load their worst-performing loans onto the FHA.

Growth of Government. The FHA currently manages a portfolio worth about $180 billion, according to the Republican staff of the Financial Services Committee. How could the FHA handle a $300 billion increase in its portfolio—a 167% increase—without massive expansion of its operations, staff, office space, and budget?

Punishing Good Behavior. The FHA "rescue" portion of the bill would punish taxpayers who have paid their mortgage on time or who responsibly delayed buying a home by forcing them, as taxpayers, to pay to bail out those borrowers who made risky financial decisions or committed fraud, and those lenders who lowered their standards and also made risky financial decisions. This bailout would create a moral hazard by encouraging excessively risky behavior in the future.

Rewarding Bad Behavior. The FHA "rescue" portion of the bill would carve out a specific reward for those borrowers who committed mortgage fraud yet did not get convicted (because those convicted under state or federal law within the last seven years would not be eligible for the mortgage trade-in program). Although people would have to certify that they have not committed mortgage fraud, what value are certifications of honesty from people who have already lied?

No Protections Against Intentional Default. There is no way to ensure that people did not intentionally default on their mortgage in order to participate in the mortgage trade-in program. While certifications of non-deliberate-default would be required, one again could question the validity of certifications. Would someone who intentionally defaulted admit it?

Government Overreaction. It is also important to note how many homeowners and renters are already making due, often by adjusting their behavior to pay their bills. 25 million households own their home without an existing mortgage, 35 million households rent, and 42 million households are adhering to the terms of their existing mortgages. According to the Mortgage Bankers Association, in the fourth quarter of 2007, 91.7% of borrowers were paying on time, 6.3% of borrowers were late in making a mortgage payment (but not in foreclosure), and only 2.0% of borrowers were in foreclosure. An estimated 1.35 million homes went into the foreclosure process last year (up from 705,000 in 2005), and 1.44 million more are predicted for 2008. While these are not insignificant numbers, should the 91.7% be expected to shoulder the burden of the 6.3% (or the 2.0%), especially when many of these homeowners made a conscious decision to bet on the continued appreciation their home values and/or committed mortgage fraud?

Furthermore, much of the housing turmoil is concentrated regionally. 44.7% of all foreclosures are located in seven states: Arizona, California, Colorado, Florida, Indiana, Minnesota, and Nevada. However, despite clear dips in these and other states, houses are still worth more now than they were four years ago. The Case-Shiller U.S. National Home Price Index was 169.2 in the first quarter of 2005, and it was 170.6 for the fourth quarter of 2007. Does this situation really require putting taxpayers on the hook for $300 billion?

Not Truly Voluntary. Although the mortgage trade-in portion of this bill is being described as "voluntary" by the Democrats, since borrowers and lenders cannot be forced to participate, once they do participate—and hundreds of thousands will—the taxpayer would have no choice of whether to be on the hook for the new mortgages, the borrower paying his mortgage on time would have no choice, the renter would have no choice, and the investor in mortgage-backed securities would have no choice.

Threatens Retirement Savings. The mortgage trade-in programs requires new mortgages to be guaranteed at no more than 90% of newly assessed value, meaning a 10% loss for investors in mortgage-backed securities. But this problem isn't just for wealthy Wall Street speculators. Many 401(k) accounts, mutual funds, money markets, and defined-benefit pensions plans are indirect holders of mortgage-backed securities. In fact, as according to Credit Suisse, 14% of mortgage-backed securities are owned by pensions and mutual funds that serve middle-class savers. Devaluing mortgage-backed securities weakens retirement savings.

Affordable Housing Trust Fund and Additional Funds for Nonprofits. As discussed more fully above, the GSE reform portion of the bill would create an Affordable Housing Trust Fund, diverting assets from publicly traded entities to liberal housing organizations, many of which have engaged in questionable or illegal political activities. In several other sections of the bill, housing nonprofits could participate in new funding streams, further funding activities that many conservatives would regard as objectionable.

Wipe Out of Second Liens. The FHA "rescue" portion of the bill would wipe out a participating borrower's second mortgage and home equity loans (second liens) as condition of taking advantage of the mortgage trade-in. Although second lien holders would essentially be bought off with potential cash payments, it is difficult to see how this situation would not harm second lien-holders.

Tax Increase. The tax title's one-year delay in the implementation of the new rules for the worldwide allocation of interest is a $3 billion tax increase on Americans, taking particular aim at people who have financial dealings abroad.

Entrenched Public Housing. Some conservatives may also be concerned at the tax title's provisions lengthening Section 8 public housing voucher contracts and making it easier for housing projects to be funded from multiple sources of government money.

FHA Loan Limit Increases. The FHA modernization section would increase various loan limits and thus make more people eligible to receive FHA mortgage insurance. Such increases seem to conflict with the mission of the FHA—to help low-income and other people get mortgages. By raising loan limits, FHA insurance could presumably be obtained by more people who are not the traditional targets of FHA.

Mandatory Refunds under FHA-Backed Loans. The bill would essentially mandate refunds to borrowers who have made on-time payments for five years. This provision would reduce revenues to the FHA (making it more likely to need appropriations support from general taxpayers) and would remove flexibility for FHA in its incentive programs.

Crowding Out the Private Market. Some conservatives may be concerned that the FHA modernization section and mortgage trade-in program would expand FHA's ability to guarantee mortgages and therefore increase a federal subsidy for homebuyers. In addition, some may be concerned that this expansion may crowd out the private market. For instance, according to CBO, "FHA's basic insurance is directed at a segment of the market that is shrinking and becoming less dependent on the government for access to mortgage financing." Given that the private marketplace is offering many different, affordable homeownership opportunities, one might question whether now is the proper time to expand and perpetuate a government program that was created in 1934 to broaden homeownership and increase employment in the building industry.

Process. Lastly, conservatives may be concerned at the process under which this composite legislation is being considered, having not gone thru committee in its entirety, coming to the House floor with little more than a day to review the 630 pages of bill text, and being unable to offer amendments on the floor to arguably one of the most far-reaching and significant pieces of legislation the House will consider all year.

To read more facts and conservative talking points on the housing market, see this RSC Policy Brief: http://www.house.gov/hensarling/rsc/doc/pb_041508_housingmarket.doc.

Administration Position: The Statement of Administration Policy (SAP) for H.R. 3221, as amended by the three House amendments, indicated that the President's senior advisers would recommend that the President veto the bill, citing many of the same concerns as noted above in this RSC Legislative Bulletin.
http://www.whitehouse.gov/omb/legislative/sap/110-2/saphr3221-r.pdf

Cost to Taxpayers: A comprehensive CBO cost estimate for the composite bill is unavailable. CBO did estimate, however, that H.R. 5830, the portion containing the mortgage trade-in program, would authorize $2.71 billion over five years.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes, the bill would create several new programs and new federal authorities, not the least of which is the mortgage trade-in program.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: Although a comprehensive CBO analysis of the mandates in the composite bill is unavailable, the bill does contain several mandates, not the least of which is the Affordable Housing Trust Fund, which requires that publicly traded companies "contribute" to a fund providing payments to nonprofits.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: An earmarks/revenue benefits statement is not required for motions .

Constitutional Authority: Although a committee report for the composite bill—or even separate ones for all of its portions—is not available, the Financial Services Committee, in House Report 110-619 for H.R. 5830, cites constitutional authority in Article I, Section 8, Clauses 1 (the congressional power to provide for the ***general*** welfare) and 3 (the congressional power to ***regulate*** interstate commerce). *[emphasis added]*

Note: Article VI, Clause 3 of the U.S. Constitution states that, "The Senators and Representatives…and all executive and judicial Officers…shall be bound by Oath or Affirmation, to support this Constitution."

RSC Staff Contact: Paul S. Teller, paul.teller@mail.house.gov, (202) 226-9718