CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

June 9, 2008

Federal Housing Finance Regulatory Reform Act of 2008

As ordered reported by the Senate Committee on Banking, Housing, and Urban Affairs on May 20, 2008

SUMMARY

CBO estimates that enacting this legislation would increase revenues by about $8.0 billion over the 2009-2018 period, net of income and payroll tax offsets. Over that period, we estimate that direct spending from those proceeds would total about $7.2 billion. The additional revenues would thus exceed direct spending by an estimated $800 million, decreasing future deficits (or increasing surpluses) by that amount over the next 10 years. In addition, implementing this bill would reduce net discretionary spending over the next 10 years by $31 million, assuming appropriation actions consistent with the bill.

This legislation would make a number of changes in federal housing policy. It would:

- Establish a single regulator—the Federal Housing Finance Agency (FHFA)—for government-sponsored enterprises (GSEs) involved in the home mortgage market. GSEs are privately owned, Congressionally chartered financial institutions created to enhance the availability of mortgage credit. The GSEs that would be regulated by FHFA include the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), and the Federal Home Loan Banks (FHLBs).

- Require Fannie Mae and Freddie Mac to annually pay amounts equal to 4.2 basis points on each dollar of unpaid principal balance of each enterprise's total new business purchases (that is, 4.2 cents per $100 of the value of the new mortgages purchased or securitized in that year). These assessments would begin during fiscal year 2009 and would be deposited into new federal funds.

- Authorize—from October 1, 2008, through September 30, 2011—a new mortgage guarantee program under the Federal Housing Administration (FHA) that would allow certain at-risk borrowers to refinance their mortgages after the mortgage holder (lender or servicer) agrees to a write-down of the existing loan (that is, a

reduction in the amount of loan principal). A portion of the GSEs' assessments would be used to pay the cost of this new program.

- Require loan originators to participate in a Nationwide Mortgage Licensing System and Registry (NMLSR) that would be administered by either a nonfederal entity or the Department of Housing and Urban Development (HUD) in coordination with the federal banking regulatory agencies.

- Authorize the appropriation of such sums as are necessary for the Treasury Department's Office of Financial Education to provide grants to state and local governments, Indian tribes, and other entities to support financial education and counseling services.

The bill contains several intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). The bill would prevent governmental and private-sector entities that invest in pooled residential mortgages from seeking damages from servicers of those mortgages on grounds that they violated their duty to maximize the value of the loan pool. In addition, the bill would impose new requirements on state regulators and would preempt some state and local laws.

CBO estimates that the costs of the intergovernmental mandates would not exceed the annual threshold established in UMRA ($68 million for intergovernmental mandates in 2008, adjusted annually for inflation).

The bill also would impose several other mandates affecting only private-sector entities, including Fannie Mae, Freddie Mac, the FHLBs, and originators of mortgage loans. CBO estimates that the aggregate direct cost of all of the private-sector mandates in the bill would well exceed the annual threshold established in UMRA ($136 million for private-sector mandates in 2008, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The bill's estimated budgetary impact over the next 10 years is shown in the following table. The costs of this legislation fall within budget functions 370 (commerce and housing credit), 450 (community and regional development), and 800 (general government).

ESTIMATED BUDGET IMPACT OF THE FEDERAL HOUSING FINANCE REGULATORY REFORM ACT OF 2008

	By Fiscal Year, in Millions of Dollars											
	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2009-2013	2009-2018
CHANGES IN REVENUES												
GSE Assessments [a]	531	565	595	624	656	688	723	759	797	837	2,971	6,775
FHFA Fees	50	100	110	110	110	110	120	120	120	120	480	1,070
NMLSR Fees	15	15	14	14	14	13	13	13	13	13	72	137
Total Estimated Revenues	596	680	719	748	780	811	856	892	930	970	3,523	7,982
CHANGES IN DIRECT SPENDING												
Housing Trust Fund/Capital Magnet Fund												
Estimated Budget Authority	0	283	446	624	656	688	723	759	797	837	2,009	5,813
Estimated Outlays	0	131	326	510	618	667	701	736	772	811	1,585	5,272
Hope for Homeowners Program												
Estimated Budget Authority	531	282	149	0	0	0	0	0	0	0	962	962
Estimated Outlays	280	243	165	22	5	4	3	3	2	2	715	729
Spending of FHFA Fees												
Estimated Budget Authority	50	100	110	110	110	110	120	120	120	120	480	1,070
Estimated Outlays	50	100	110	110	110	110	120	120	120	120	480	1,070
Spending of NMLSR Fees												
Estimated Budget Authority	15	15	14	14	14	13	13	13	13	13	72	137
Estimated Outlays	15	15	12	12	11	11	11	11	11	11	65	120
Total Changes												
Estimated Budget Authority	596	680	719	748	780	811	856	892	930	970	3,523	7,982
Estimated Outlays	345	489	613	654	744	792	835	870	905	944	2,845	7,191
NET CHANGE IN THE BUDGET DEFICIT OR SURPLUS FROM CHANGES IN REVENUES AND DIRECT SPENDING												
Reduction in Deficits or Increase in Surpluses	251	191	106	94	36	19	21	22	25	26	679	791

Continued

ESTIMATED BUDGET IMPACT OF THE FEDERAL HOUSING FINANCE REGULATORY REFORM ACT OF 2008 (Continued)

	By Fiscal Year, in Millions of Dollars											
	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2009-2013	2009-2018
CHANGES IN SPENDING SUBJECT TO APPROPRIATION												
Reduction in HUD's Regulatory Responsibilities												
Estimated Authorization Level	-2	-4	-4	-4	-4	-5	-5	-5	-5	-5	-18	-43
Estimated Outlays	-2	-4	-4	-4	-4	-5	-5	-5	-5	-5	-18	-43
Office of Financial Education Grants												
Estimated Authorization Level	*	*	5	7	*	0	0	0	0	0	13	13
Estimated Outlays	*	*	2	5	3	2	0	0	0	0	10	13
Total Changes												
Estimated Authorization Level	-2	-4	1	3	-4	-5	-5	-5	-5	-5	-6	-31
Estimated Outlays	-2	-4	-2	1	-1	-3	-5	-5	-5	-5	-8	-31

Notes: GSE = Government-sponsored enterprise; FHFA = Federal Housing Finance Agency; NMLSR = Nationwide Mortgage Licensing System and Registry; HUD = Department of Housing and Urban Development.

* = less than $500,000. Numbers may not sum to totals because of rounding.

a. Net of income and payroll tax offsets.

BASIS OF ESTIMATE

For this estimate, CBO assumes that this legislation will be enacted near the end of fiscal year 2008, that FHFA will become operational around the middle of fiscal year 2009, that assessments on the GSEs will begin in fiscal year 2009, and that appropriation actions consistent with this bill will occur.

CBO estimates that enacting this legislation would result in additional revenues, net of income and payroll tax offsets, of about $3.5 billion over the 2009-2013 period and about $8.0 billion over the 2009-2018 period. We estimate that direct spending would increase by $2.8 billion and about $7.2 billion over the same periods, respectively.

In addition, CBO estimates that implementing this legislation would result in a reduction in discretionary spending of $8 million over the next five years and $31 million over the 2009-2018 period, assuming appropriations are adjusted accordingly.

Changes in Revenues and Direct Spending

Assessments on GSEs. Under this legislation, beginning in 2009 both Fannie Mae and Freddie Mac would be required to pay annual assessments equal to 4.2 basis points on each dollar of unpaid principal balance of the enterprises' total new business purchases (including mortgages that are held in their portfolios and those that are securitized), provided that such assessments would not contribute to the GSEs' financial instability.

Combined new business purchases by these two GSEs have ranged between $1.3 trillion and $2.9 trillion per year over the past five years. CBO estimates that new mortgage purchases by Fannie Mae and Freddie Mac will total about $1.7 trillion in 2009, and that gross assessments under the bill would total about $710 million in 2009 and about $9 billion over the 2009-2018 period. This estimate assumes that the GSEs' new business purchases will grow at the same rate that CBO forecasts for the nation's outstanding mortgage debt—between 4 percent and 6 percent a year.

Assessments collected from the housing GSEs would generate deductions against taxable profits for those entities. Even if the GSEs passed through some of the cost of the assessments to customers in the form of higher fees, other taxable incomes in the economy would be lower. Therefore, CBO estimates that the payments made under this legislation would reduce total taxable income in the economy, and would thus decrease federal tax receipts by about $2.25 billion over the 2009-2018 period (25 percent of the amount of payments made by the GSEs)—resulting in a net increase in revenues of about $6.8 billion over the next 10 years.

In 2009, 100 percent of the estimated net receipts (or 75 percent of the gross assessments) from the GSEs would be used to pay for the cost of the HOPE for Homeowners program created by the bill. The HOPE program's share of net receipts would drop to 50 percent in 2010 and 25 percent in 2011.

Housing Trust Fund and Capital Magnet Fund. After 2011, three quarters of the collections from the housing GSEs would be directed to the Housing Trust Fund and Capital Magnet Fund established under the bill. (Over the 2009-2011 period, about $960 million of the GSE assessments would be available to finance the HOPE for Homeowners program discussed below.) Deposits into those funds would total an

estimated $5.8 billion over the 2010-2018 period. Of that amount, 65 percent (or 48.75 percent of total assessments) would be deposited into the Housing Trust Fund; and 35 percent (or 26.25 percent of total assessments) would be deposited into the Capital Magnet Fund.

The Housing Trust Fund would be used to provide grants to states to support homeownership and rental housing among low-income individuals; the Capital Magnet Fund would be used to provide grants to nonprofits and community development financial institutions to support private investment in community revitalization and affordable housing activities. Based on information from state and local governments and historical expenditure data regarding community development projects, CBO estimates that expenditures from the two funds established by this legislation would increase direct spending by about $5.3 billion over the 2009-2018 period.

HOPE for Homeowners Program. The legislation would establish a new board consisting of the Secretary of the Treasury, the Secretary of HUD, and the Chairman of the Federal Deposit Insurance Corporation (FDIC) to establish the procedures for providing mortgage guarantees (including underwriting standards for mortgages) and to oversee the proposed loan-guarantee program.

Description of the HOPE Loan-Guarantee Program. Under the legislation, certain borrowers who are at risk of defaulting on their mortgages could refinance their home loans through a private lender with an FHA loan guarantee. To qualify for the program, an existing loan must be for an owner-occupied principal residence, originated on or before January 1, 2008, and meet other conditions specified in the bill. The legislation would authorize FHA to provide up to $300 billion in loan guarantees under the new program over the 2009-2011 period.

Under the new program, the participating mortgage holder must agree to a loan refinancing arrangement that brings the loan-to-value (LTV) ratio on the new FHA-insured loan to no greater than 90 percent of the property's current appraised value. That change would result in a substantial reduction in the payment owed by the borrower each month because CBO expects the program would be used by homeowners within high LTV ratios. (The LTV ratio indicates how much equity a borrower initially has in the home—in this case, no less than 10 percent after the refinancing.) In addition to forgiving a portion of the debt of the existing loan, the mortgage holder would have to pay 3 percent of the original insured loan amount to FHA. The existing mortgage holder might also cover some portion of the origination fees for the new loan. In effect, the existing mortgage holder would take at least a 13 percent write-down on the value of the existing mortgage (this amount could be higher, depending on the amount of origination

fees paid), and thus receive no more than 87 percent of the property's current value, after the premium is taken into account.

In addition, the new loan would have to carry a fixed interest rate and the loan amount could be no more than about $550,000—132 percent of the dollar limitation in effect for 2007 under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act. This legislation also would require FHA to charge the borrower an annual fee of 1.5 percent of the remaining insured principal balance each year. Furthermore, the program would provide that, upon sale, refinancing, or other disposition of the residence, the borrower would pay to FHA a share of the new equity that would be created under the program. (This new equity would be at least 10 percent of the property's value because of the required write-down to no more than 90 percent of the current appraised value.) FHA's share would start at 100 percent of that newly created equity, and would drop to 50 percent in the sixth year of the term of the new loan; it would remain at that level for the duration of the loan. In addition, upon sale or refinancing of the home, the borrower would be required to pay FHA 50 percent of any appreciation in the appraised value of the home since the date on which the mortgage was insured (excluding the initial 10 percent equity created by participating in the program).

Budgetary Impact of HOPE Loan Guarantees. The Federal Credit Reform Act requires the federal budget to record the up-front cost of subsidizing loan guarantees on a net-present-value basis. CBO estimates that enacting this legislation, which would directly appropriate the subsidy cost of the proposed loan-guarantee program and its administrative expenses, would increase direct spending by $729 million over the 2009-2018 period. That amount includes $684 million for the estimated subsidy costs of loan guarantees and $45 million in administrative costs.

To determine the subsidy cost, CBO estimated the volume of loans that would be refinanced under this voluntary program and the likelihood that borrowers would default on their refinanced mortgages. We estimate that demand for loan guarantees will total $68 billion over the next four years and that the average subsidy rate for those guarantees would be 1 percent. The following sections describe key factors and assumptions used to develop those estimates.

Demand for the HOPE for Homeowners Program. Since the end of the unusual boom in homeownership and housing prices from 2003 to early 2006, delinquencies and foreclosures on mortgages have risen, particularly on subprime loans and alt-A loans. (Subprime loans are made to borrowers with low credit scores or other impairments to their credit histories. Alt-A loans are loans often made on the basis of little or no documentation of the borrower's income and may include low-downpayment loans, loans

that are not for an owner's principal residence, interest-only loans, and loans whose balances rise over time.) Because economic activity has slowed and house prices continue to decline in many areas of the United States, CBO expects that delinquencies and foreclosures on mortgage loans will continue to rise in the near term; in places where house prices have declined a great deal, some borrowers whose loan amount exceeds the value of their home may have little incentive to remain current on their loans.[1]

Use of the new loan program is contingent on the voluntary participation of both lenders and borrowers. As a result, demand for this program to refinance qualifying mortgages would depend on how many lenders and borrowers would perceive the new program as their best option.

Based on information from the Federal Reserve and mortgage industry data, CBO estimates that there are about 11 million subprime and alt-A mortgages outstanding, with a face value of over $2 trillion. Of those 11 million loans, we estimate that about 9 million are for owner-occupied houses. Of those 9 million borrowers, CBO estimates that, over the 2009-2011 period, about 400,000 would refinance troubled loans worth about $68 billion under the new program that this bill would establish. The basis for this estimate of program volume is described below, reflecting the number of expected foreclosures, the impact of second liens, administrative challenges, and anticipated participation by mortgage holders and borrowers.

Number of Foreclosure Proceedings. CBO estimates that about 2.2 million borrowers with alt-A or subprime loans will have foreclosure proceedings initiated against them at some point between October 1, 2008, and September 30, 2011. That estimate is tied to the historic performance of alt-A and subprime mortgage loans, but was adjusted to reflect current macroeconomic conditions. In particular, roughly 10 to 15 percent of alt-A and subprime loans would enter foreclosure proceedings under more favorable economic conditions over this period. However, given CBO's projections of house prices, interest rates, employment, and other factors, the estimated foreclosure rate was increased to about 25 percent.

While many of those 2.2 million loans that are estimated to enter the foreclosure process could be eligible for an FHA guarantee of a refinanced loan under this legislation, CBO expects that most would not be refinanced under the proposed program for several reasons, as described below.

---

1. For additional details on the state of the nation's housing market, see: Congressional Budget Office, *Policy Options for the Housing and Financial Markets,* CBO Paper (April 2008).

Second Liens. According to most mortgage industry participants that CBO consulted, the biggest impediment to the use of the proposed program is that participation is conditioned on the release of all existing liens on the loan. Second liens are very common for subprime and alt-A financing; based on information from loan servicers, CBO estimates that 40 percent of such loans carry second liens. Because first and second-lien holders may have conflicting financial incentives, the opportunities for joint consent can be limited. That is, second-lien holders may prefer to retain their existing loans with the expectation that borrowers' repayments, or the value of the home, will be greater in the future. In those instances, modifying the first mortgage outside of the proposed program may be more consistent with the second-lien holder's interests. The intersection of willing first-lien holders and willing second-lien holders is more likely to occur when foreclosure is perceived by all parties to be truly imminent. Currently, about 40 percent of borrowers entering the foreclosure process lose their homes through a foreclosure sale.

This legislation would give the new board—consisting of the Secretary of the Treasury, the Secretary of HUD, and the Chairman of the FDIC—the authority to implement certain program features aimed at enticing second-lien holders to voluntarily release their liens.

Specifically, the board could allow a portion of any future appreciation in the property that is owed to the Secretary of HUD to be paid to the existing second-lien holder. Based on information from industry representatives, CBO estimates that initially about 25 percent of the loans with second liens could be refinanced under this new program. As house prices recover, however, second-lien holders' incentive to retain their current position with the loans will increase. Accordingly, CBO estimates that in later years, about 20 percent of loans with second liens could be refinanced under the new program. Reducing the pool of potential participants because second liens would remain an impediment to program participation results in about 1.5 million loans that might be affected by the new program.

Adjustment for Other Factors. Many borrowers who would otherwise be eligible for this program would not participate because servicers will not be able to contact some borrowers and some borrowers will not be able to avoid foreclosure because they have experienced a significant event, such as job loss, illness, divorce, or death. Reducing the pool of potential participants for those factors leaves about 1.1 million borrowers that could seek the new loan guarantees.

Participation by Mortgage Holders and Borrowers. CBO adjusted this eligible population of about 1.1 million borrowers to reflect expected levels of participation by mortgage holders and borrowers. Typically, much less than 100 percent of those eligible actually participate in federal benefit programs. Moreover, many factors would influence

participation in the new program though, ultimately, the intersection of interests of both the mortgage holders and borrowers would determine the amount of participation.

Mortgage holders would evaluate loans that are eligible for the new FHA program and determine if the program would provide a better return than modifying the loans on their own, despite the risk of default. They would also evaluate whether the present value of the proceeds stemming from a modified loan under the new program is greater than or less than the value of proceeds from a foreclosure sale. Expectations regarding trends in house prices will greatly affect such calculations. Because mortgage holders may use different models to project future house prices, CBO expects that the behavioral responses by mortgage holders to the new program would vary considerably.

Borrowers also would have to decide whether participating in the program is a favorable option. In particular, borrowers would have to evaluate the equity-sharing provisions under the program and determine if forgoing some future profits on their homes is an acceptable arrangement even if foreclosure on their existing loans is the only alternative.

CBO estimates that fewer than 40 percent of the 1.1 million eligible loans would be refinanced under the new program. Following a reduction in the principal amount of those loans to make them affordable, CBO estimates that approximately 400,000 loans would be guaranteed under this legislation with an average loan amount of $170,000 each. Thus, CBO estimates that FHA would require about $68 billion in loan commitment authority through 2011 to implement the program. (The legislation would authorize FHA to provide up to $300 billion in loan guarantees under the new program.)

Subsidy Rate of the New FHA Loan-Guarantee Program. CBO estimates that the new program would have a subsidy rate of about 1 percent of the loan value. This estimated subsidy rate assumes that the cumulative claims rate (default) for the program would be about 35 percent and that recoveries on defaulted mortgages would be about 60 percent of the outstanding loan amount. Those rates reflect CBO's view that mortgage holders would have an incentive to direct their highest-risk loans to the program, and are based on the expectation that the underwriting standards established for the new program would be less restrictive than those currently in place for FHA's single-family loan-guarantee program, thereby allowing FHA to insure loans with a greater risk of default. More-restrictive underwriting standards would lower the subsidy cost of the program but at the expense of reducing the number of borrowers able to participate.

Using an estimated subsidy rate of 1 percent and our estimate that demand for loan guarantees would equal $68 billion over the next four years, CBO estimates that

implementing the new loan-guarantee program would cost about $680 million over the 2009-2018 period.

Administrative Costs. Based on the cost of administering other FHA loan guarantee programs, CBO estimates it would cost nearly $50 million over the 2009-2018 period to oversee the new program. Those costs also would constitute new direct spending under the bill. (Under current law, all of FHA's administrative costs are subject to annual appropriation.)

Financing the HOPE for Homeowners Loan-Guarantee Program. Under this legislation, the federal government would issue HOPE bonds to finance the new loan-guarantee program because revenues from the GSE assessments under the bill would not be immediately available in 2009 to pay for the costs of the program. During the 2009-2011 period, some of the collections that would otherwise be deposited into the Housing Trust Fund and the Capital Magnet Fund would be used to reimburse the Treasury for the amounts borrowed using the HOPE bonds. Under the bill, 75 percent of GSE assessments would be available for covering costs of the new housing programs. Initially, those funds would be allocated to the HOPE for Homeowners program as follows: 100 percent in 2009, 50 percent in 2010, and 25 percent in 2011—totaling an estimated $960 million for those three years. If the specified payments exceed the amounts needed to reimburse the Treasury, the excess would be deposited back into the Housing Trust Fund and the Capital Magnet Fund after the termination of the HOPE for Homeowners Program—that is, around 30 years after enactment.

Of the amounts collected from the housing GSEs, 25 percent—or $2.3 billion over 10 years—would be directed to the HOPE Reserve Fund. Spending from the HOPE Reserve Fund would be limited to the retirement of any remaining debt associated with the new HOPE for Homeowners loan program that is not covered by the HOPE bonds. CBO expects that spending from the fund would only occur as a result of credit reestimates for the HOPE program that might be recorded in the budget over the next 30 years. (Credit reestimates are subsequent revisions to the initial estimated subsidy costs of loans or loan guarantees.) Under current law, costs attributable to credit reestimates are paid using the permanent and indefinite spending authority provided under the Federal Credit Reform Act. Payments from the HOPE Reserve Fund to reimburse the Treasury for any such credit reestimates would be considered intragovernmental and thus would have no net budgetary effect.

FHFA Fees and Spending. Currently, HUD is responsible for setting affordable housing goals for Fannie Mae and Freddie Mac and ensuring that those two GSEs meet such goals. In 2007, HUD allocated about $4 million from its annual appropriation to perform

those oversight responsibilities. The Office of Federal Housing Enterprise Oversight (OFHEO), an independent agency within HUD, currently oversees the financial safety and soundness of those two GSEs. OFHEO is funded through annual assessments collected from Fannie Mae and Freddie Mac, and its spending is subject to appropriation action. In 2008, OFHEO was authorized to collect and spend about $66 million to perform its duties.

The financial safety and soundness of the Federal Home Loan Bank system is currently regulated by the Federal Housing Finance Board (FHFB). FHFB is funded through annual assessments collected on the earnings of the FHLBs. The collection and spending of those annual assessments are not subject to appropriation action. CBO estimates that assessments and subsequent spending by FHFB will total about $35 million in 2008.

Under the legislation, FHFA would assume all of the responsibilities associated with the oversight of the housing GSEs, which are currently under the jurisdiction of OFHEO and the Federal Housing Board. The legislation would abolish those entities one year after enactment, and their current employees would be transferred to FHFA. In addition to current regulatory activities, the bill would establish new oversight authorities for FHFA, such as the authority to liquidate a troubled or insolvent GSE and limit portfolio holdings (that is, the amount of mortgages and mortgage-backed securities held by the enterprises instead of sold to a third party). In addition, Fannie Mae and Freddie Mac would not be able to undertake any new program without prior approval from the Director of FHFA. The legislation also would establish an inspector general within FHFA.

Section 106 of this legislation would authorize the Director of FHFA to assess annual fees on the GSEs to cover expected expenses associated with FHFA's responsibilities. Those fees would be classified in the budget as federal revenues because they would be imposed through the exercise of the government's sovereign power. CBO estimates that FHFA would begin operations midway through 2009 and would require funding of about $50 million in that year, approximately half the amount collected by HUD, OFHEO, and FHFB to oversee the GSEs in 2008. In subsequent years, we estimate that the agency would spend $100 million to $120 million a year, and that total revenues and spending would total about $1.1 billion over the 2009-2018 period. CBO estimates that any increase in costs stemming from the new responsibilities of FHFA would be offset by savings from merging the technical and administrative functions of OFHEO and FHFB.

Revenue collections made under the bill would have the effect of decreasing the taxable corporate income of the GSEs, and thus could decrease federal income tax receipts. However, because the new fees paid by the GSEs to FHFA would be approximately equal to the amounts they would pay to OFHEO and FHFB under current law, taxable incomes

of Fannie Mae and Freddie Mac, or of other entities in the economy, would not change significantly under these provisions.

Nationwide Registry for Licensing Fees and Spending. Since 2004, the Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR) have developed a nationwide licensing system for the residential mortgage industry. The system began operations in January 2008 and currently includes participation by agencies in eight states; the registry is expected to be available to the public sometime during 2009. As of May 2008, agencies in 40 states and in Puerto Rico and the District of Columbia have signed statements of intent to participate in the nationwide system. Both the CSBS and AARMR anticipate that agencies in the remaining 10 states will eventually commit to participating in the system.

Assuming that all the states participate and meet the minimum standards that would be established by this legislation, CBO does not expect HUD to develop its own national registry, though HUD would conduct some monitoring and oversight of the emerging voluntary system.

Enacting this legislation would impose a new requirement on loan originators to register with a nationwide registry and would authorize the assessment of fees for the cost of that registration. Although private entities are currently developing and maintaining a registry, participation in that system is voluntary. Under this legislation, participation by loan originators would become mandatory (that is, a loan originator would have to register to be state-licensed), and HUD would have the authority to enforce that requirement. Thus, CBO expects that the NMLSR would be acting as an agent of the federal government; consequently, the cash flows associated with the NMLSR's regulatory and assessment authorities should be recorded in the federal budget. Because the fees paid to NMLSR by loan originators would be approximately equal to the amounts some loan originators are currently paying or would pay the registry overseen by CSBS and AARMR under current law, taxable incomes of the loan originators and other entities in the economy would not change significantly under the bill.

The legislation would increase federal revenues by authorizing the NMLSR to collect assessments from loan originators (that is, individual loan officers, branches of lending institutions, and lending companies). Based on information from the CSBS, CBO estimates that those individuals and entities would likely be charged an initial fee and an annual fee. Moreover, fees could be reduced over time as expenses decrease and more loan originators register with the system.

Based on fee schedules for similar activities and assuming that more than 300,000 entities and individuals would register with the NMLSR over the next five years, CBO estimates that $137 million in fees would be collected by the NMLSR over the 2009-2018 period.

Funds collected through such assessments would be spent without further appropriation to develop and maintain the registry system, and thus, the expenditures would be classified as direct spending. CBO estimates that the NMLSR would spend about $120 million over the 2009-2018 period.

Spending Subject to Appropriation

Changes in HUD's Regulatory Responsibilities. CBO estimates that implementing the bill would reduce HUD spending by $43 million over the 2009-2018 period because FHFA would take over HUD's current GSE-oversight responsibilities. HUD would be responsible for developing regulations associated with allocating funds from the Housing Trust Fund.

Office of Financial Education. Based on information from the department, CBO estimates that authorizing the Office of Financial Education within the Treasury to provide additional grants to state and local governments, Indian tribes, and other entities to support financial education and homeownership counseling would cost $13 million over the 2009-2014 period, subject to the availability of appropriations.

Government National Mortgage Association (GNMA). GNMA is responsible for guaranteeing securities backed by pools of mortgages insured by the federal government. In exchange for a fee charged to lenders or issuers of the securities, GNMA guarantees the timely payments of scheduled principal and interest due on the pooled mortgages that back those securities. Enacting this legislation would require GNMA to guarantee securities backed by pools of the homeownership retention loans in an amount not to exceed $300 billion. CBO estimates that most new federal loan guarantees made under this legislation would be included in GNMA's Mortgage-Backed Securities (MBS) program. CBO estimates that the subsidy rate for those securities would be close to zero. Thus, we estimate that implementing this legislation would result in a cost or savings of less than $500,000 a year to the MBS program over the 2009-2013 period, assuming enactment of appropriation laws necessary to implement the program.

ESTIMATED INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

The bill contains several intergovernmental and private-sector mandates as defined in UMRA. CBO estimates that the costs of the intergovernmental mandates would not exceed the annual threshold established in UMRA, but that the costs of the private-sector mandates would well exceed that threshold ($68 million and $136 million, respectively, in 2008, adjusted annually for inflation). The bill also would authorize grants to support housing programs, which would benefit state, local, and tribal governments.

Mandates that Apply to Both Public and Private Entities

The bill would impose a mandate on both intergovernmental and private-sector entities that invest in pooled residential mortgages by prohibiting those entities from suing servicers of those pools in some circumstances. The bill would provide legal protection for servicers of mortgage pools when they modify mortgages in ways that may violate their duty to maximize the value of the loan pool. Removing the existing right of investors to seek damages would be a mandate under UMRA. CBO concludes, however, that servicers would be unlikely to alter mortgages in ways that would be significant enough to cause investors to seek damages because they would still be required to maximize returns for investors under their fiduciary obligations. Therefore, CBO estimates that the cost of the mandate (the forgone net value of awards and settlements) would be small.

Mandates that Only Apply to Public Entities

Regulation of Mortgage Originators. The legislation would impose a mandate on state regulators by requiring them to ensure that mortgage originators who apply for state licenses or renewals meet minimum standards. According to industry and government sources, in order to comply with those requirements, states would need to license employees of some financial institutions that are not currently required to be licensed under state law, perform ongoing administrative tasks related to the new mortgage licensing system, and train employees in federal mortgage law and the licensing system. CBO estimates that the cost to state and local governments of the new requirements would average less than $500,000 annually per state.

Preemption of State and Local Laws. Several provisions of the bill would preempt state laws and thus constitute intergovernmental mandates as defined in UMRA. Those provisions would allow FHFA to act outside the authority of state law in some

circumstances and would preempt some state statute-of-limitation and contract laws. These preemptions would primarily occur in the unlikely instance that FHFA serves as the receiver or conservator of a regulated entity. The bill also would preempt state laws that allow individuals to seek compensation from entities that issue certain types of securities. While those preemptions would limit the application of state law, CBO estimates that they would impose no duty on states that would result in additional spending.

Mandates that Apply Only to Private-Sector Entities

The legislation would impose several private-sector mandates, as defined in UMRA, on Fannie Mae, Freddie Mac, the FHLBs, and mortgage loan originators. The bill would require Fannie Mae and Freddie Mac to make contributions to affordable housing programs. In addition, the bill would require the housing-related GSEs to comply with new requirements to be administered by the FHFA and to register their capital stock with the SEC. Lastly, the bill would require originators of mortgage loans to participate in a nationwide registry. CBO estimates that the aggregate direct cost of all of the private-sector mandates in the bill would exceed UMRA's annual threshold.

Assessments on GSEs. The most costly mandate would require Fannie Mae and Freddie Mac to make payments to new federal funds to support affordable housing programs and the new Hope for Homeowners program. Beginning in 2009, those GSEs would be required to contribute amounts equal to 4.2 basis points on each dollar of the unpaid principal balance of its total new business purchases. CBO estimates that the assessments would total approximately $4.0 billion over the 2009-2013 period.

Regulatory Functions. The bill would establish a new federal regulator for the GSEs involved in the home mortgage market—Fannie Mae, Freddie Mac, and the FHLBs. In general, the GSEs would have to comply with regulations administered by their new regulator, the Federal Housing Finance Agency. Under current law, those GSEs pay assessments to their regulators. Under the bill, they would pay assessments for the operation of the FHFA. The duty to pay those fees would be a private-sector mandate, but CBO expects that the new fees would not differ significantly from the amounts the GSEs would otherwise pay to their current regulators.

The bill also would establish new oversight authorities for FHFA, including the power to limit the portfolio holdings of the GSEs to ensure financial soundness, increase the amount of capital that GSEs must hold, and liquidate troubled or insolvent GSEs. Such new authority would impose private-sector mandates on the GSEs when it is utilized.

The cost to the GSEs would depend on how that regulatory authority is used. Because CBO has no basis for predicting that outcome, we cannot estimate the cost of those mandates.

Registration of Capital Stock. The bill also would require the GSEs to register their capital stock with the SEC under the Securities Act of 1934. Registering under this act involves a standardized disclosure of certain financial information. Under current law, GSEs are exempt from registering their capital stock with the SEC. According to the SEC, Fannie Mae has registered its stock voluntarily, and Freddie Mac intends to register when its financial statements are corrected. The FHLBs also have registered their stock with the SEC. Therefore, the direct cost to the GSEs to comply with the mandate would be minimal.

Registry of Originators of Mortgage Loans. The bill also would impose a mandate on the mortgage finance industry by requiring originators of mortgage loans to register with a national registration system and authorizing the assessment of fees for the cost of that registration. Private entities are currently developing and maintaining a voluntary registration system. CBO estimates that about $70 million in fees would be collected over the 2009-2013 period under the bill. However, the direct cost to register with a nationwide registry for some loan originators would be approximately equal to the amounts they are currently paying under the voluntary registration system. Therefore, CBO expects that the incremental cost of complying with the mandate would be small.

PREVIOUS CBO ESTIMATES

On April 23, 2007, CBO transmitted a cost estimate for H.R. 1427, the Federal Housing Finance Reform Act of 2007, as ordered reported by the House Committee on Financial Services on March 29, 2007. Both H.R. 1427 and the Senate bill include provisions to reform the regulatory structure of the housing GSEs, and both would impose some assessment on Fannie Mae and Freddie Mac. The bills differ in the amounts assessed and the basis for those assessments. There are also differences between these two bills regarding how those collections are spent. All such differences are reflected in the cost estimates for the two bills.

On May 2, 2008, CBO transmitted a cost estimate for H.R. 5830, the FHA Stabilization and Homeownership Retention Act of 2008, as ordered reported by the House Committee on Financial Services on May 1, 2008. Unlike this legislation, H.R. 5830 would not appropriate funds for the new loan guarantee program, and would not affect direct spending. CBO's estimates for the loan guarantee volume and subsidy costs for the two

bills primarily differ in two ways. First, under this legislation, the new program would be authorized to issue loan guarantees from October 1, 2008, through September 30, 2011. Under H.R. 5830, the program would begin shortly after enactment and could issue loan guarantees for up to four years. CBO estimates that the number of loans that would be guaranteed under this legislation is 100,000 lower than under H.R. 5830 mostly because of the program's shorter duration.

In addition, the estimated subsidy rate for the new loan guarantee program under this legislation is 1 percent, compared with our estimate of a 2 percent subsidy rate under H.R. 5830. That difference is largely the result of the equity-sharing structures under the two bills. H.R. 5830 would allow all premiums paid to be deducted from the amount of net proceeds that the borrower would have to pay FHA upon sale or refinancing. The Senate legislation would not allow the deduction of the premiums from the amounts due to FHA.

On November 9, 2007, CBO transmitted a cost estimate for H.R. 3915, the Mortgage Reform and Anti-Predatory Lending Act of 2007, as ordered reported by the House Committee on Financial Services on November 6, 2007. Both H.R. 3915 and the Senate legislation include nearly identical provisions that would establish a nationwide licensing system for the residential mortgage industry. As a result, the cost estimates associated with the proposed system are identical.

ESTIMATE PREPARED BY:

Federal Spending: Chad Chirico, Daniel Hoople and Susanne S. Mehlman
Federal Revenues: Mark Booth
Impact on State, Local, and Tribal Governments: Elizabeth Cove
Impact on the Private Sector: Paige Piper/Bach

ESTIMATE APPROVED BY:

Peter H. Fontaine
Assistant Director for Budget Analysis

G. Thomas Woodward
Assistant Director for Tax Analysis