

**Regarding Provisions of Public Law 110-289 (formerly known as HR 3221)
A Public Policy summary prepared by NeighborWorks America
October 2, 2008**

New GSE Regulator — the Federal Housing Finance Agency
Public Law 110-289, also known as the Housing and Economic Recovery Act of 2008 (HERA), became law on July 30, 2008. Under Section 1101 of the new law, regulatory responsibility for loans originated or held by Fannie Mae and Freddie Mac (government sponsored enterprises, or GSEs) has transferred from HUD to a new regulator, the Federal Housing Finance Agency (FHFA), effective immediately.

This new regulator (the Federal Housing Finance Agency) also assumes responsibility for oversight of the Federal Home Loan Banks – and the legislation eliminates the Federal Home Loan Bank’s previous oversight entity, the Federal Housing Finance Board.

With that transfer, FHFA also assumes responsibility for the GSEs’ affordable housing goals. (Those goals were established under the Federal Housing Enterprises Financial Safety and Soundness Act of 1992. The new law retains those housing goals through 2009, but has redefined them for subsequent years.)

Prior to HERA, the Secretary of HUD was the mission-regulator for the GSEs, with oversight authority to ensure that Fannie Mae and Freddie Mac complied with the public purposes set in their charters. HUD’s previous oversight responsibilities included: establishing housing goals (including affordable housing goals); monitoring and enforcing compliance with housing goals; approving new programs; collecting loan-level data from the GSEs on their mortgage purchase activities; making available to the public a database of non-proprietary GSE loan purchase data; and ensuring GSE compliance with fair lending requirements.

In addition, the Office of Federal Housing Enterprise Oversight (OFHEO), an independent office of HUD, regulated the GSEs for safety and soundness. OFHEO was responsible for ensuring that the GSEs were adequately capitalized and operated their businesses in a financially sound manner.

With the exception of fair lending oversight (which remains at HUD), HERA transfers HUD’s mission oversight responsibilities, as well as OFHEO’s safety and soundness responsibilities, to FHFA. Additional information regarding the role and function of FHFA will be available on FHFA’s Web site, currently under development.

Until the FHFA Web site is completed, the public can refer to the OFHEO Web site for current FHFA information: <http://www.ofheo.gov>

GSE Affordable Housing Goals

HERA adds affordable housing goals and mission enforcement to the responsibilities of FHFA, the GSEs’ new regulator. The new law states that, effective for 2010 and each year thereafter, the

FHFA Director will establish annual housing goals, with respect to the mortgage purchases by the GSEs, as follows:

Single-Family Housing Goals — There are four single-family housing goals under Section 1332 of HERA:

- 1) ***Purchase-Money Mortgages***: A goal for purchase of conventional, conforming, single-family, purchase-money mortgages financing owner-occupied housing for each of the following categories of families: (A) low-income families; (B) families that reside in low-income areas; (C) very low-income families.
- 2) ***Refinancing Mortgages***: A goal for purchase of conventional, conforming mortgages on owner-occupied, single-family housing for low-income families that are given to pay off or prepay an existing loan secured by the same property.
- 3) ***Percentage of Total Mortgage Purchases Goals***: The goals established under paragraphs (1) and (2) above will be established as a percentage of the total number of conventional, conforming, single-family, owner-occupied, purchase-money mortgages purchased by the GSE, or as a percentage of the total number of conventional, single-family, owner-occupied refinance mortgages purchased by the GSE, as applicable, that are mortgages for the types of families specified in paragraphs (1) and (2) above.
- 4) ***Rental—Single-Family, Owner-Occupied Housing Units***: The FHFA Director will require the GSEs annually to report the number of rental housing units affordable to low-income families that are contained in GSE-purchased mortgages financing 2- to 4-unit single-family, owner-occupied properties. The FHFA Director may, by regulation, establish additional requirements relating to such units.

Multifamily Special Affordable Housing Goal — There is one multifamily special affordable housing goal under Section 1333 of HERA:

- 1) A new ***multifamily annual goal*** will be established, either by unit or dollar volume, of purchases by each GSE of mortgages on multifamily housing that finance dwelling units affordable to low-income families.

Goal Enforcement Since the Institution of the GSE Conservatorship

On September 7, 2008, Fannie Mae and Freddie Mac were placed under conservatorship by their new regulator, FHFA. After that action, FHFA Director James B. Lockhart stated:

“Enforcement of the affordable housing goals established for the Enterprises by the Congress, once HUD’s responsibility, is now up to FHFA. While ensuring liquidity in the mortgage marketplace has necessarily been a primary focus in recent weeks and months, ensuring that low and moderate income persons and underserved areas have ready access to affordable mortgage loans remains a critical responsibility of the Enterprises. In the near-term, the Enterprises are charged with meeting the very ambitious goals set by HUD

back in 2004, a year in which the mortgage marketplace looked very different than it does today. In 2007, they missed two subgoals. Based on FHFA discussions with the Enterprises, the miss will be larger in 2008. With the Enterprises now in conservatorship, even if some or all of these goals are found to be unattainable, FHFA will still ask the GSEs to develop and implement ambitious plans to support the borrowers and markets targeted by the goals.”

The Revised GSE Goals language in PL 110-289 can be found in Title I Section 1331-1333 by using the following Web link: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_public_laws&docid=f:publ289.110

Regulation

With the passage of the Housing and Economic Recovery Act of 2008, HUD’s regulatory oversight of Fannie Mae and Freddie Mac transferred to a new regulator, the Federal Housing Finance Agency, effective July 30, 2008.

Prior to that date, HUD was the regulator responsible for ensuring that Fannie Mae and Freddie Mac engaged in activities and programs that were consistent with their charter authorities, including the public purposes that Congress established for them. HUD reviewed business activities and issued determination letters. HUD also issued policy letters on specific issues related to counting mortgages and dwelling units for credit towards the housing goals.

The determination and policy letters published by HUD in regard to the GSEs will remain on the HUD Web site until the FHFA Web site is fully operational.

High Cost Area Loan Limits

HERA modifies the provisions in the Emergency Economic Stimulus Bill (PL 110-185), which passed February 13, 2008, regarding High Cost Geographic Areas. The High Cost Area provisions under PL 110-185 are only in place from July 1, 2007 through December 31, 2008. The most significant difference between the two laws’ treatment of high cost areas is that values are reduced from 125% of area median home price under the Stimulus Bill to **115%** of area median home price under HERA.

HERA amends the GSEs’ charters to establish FHFA as the regulator that defines the High Cost Geographic Area.

For more details, see Section 1124 of HERA, available online at:

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_public_laws&docid=f:publ289.110

The FHFA Director will develop a method to assess the national average 1-family house price and adjust accordingly the GSEs’ conforming loan limits. The assessment method will consider FHFA’s monthly survey of all major lenders to determine the national average 1-family house

price, the House Price Index maintained by OFHEO before the effective date of the Federal Housing Finance Regulatory Reform Act of 2008, any appropriate house price indexes from the federal Bureau of the Census, as well as any other indexes or measures that the FHFA Director finds appropriate.

Fannie Mae made available the list of 2008 Conforming Mortgages Loan High Cost Geographic areas: <http://www.fanniemae.com/aboutfm/loanlimits.jhtml>

Additional Post-Conservatorship Impact on GSEs

In light of the conservatorship and recent market events, the new CEO of Fannie Mae, Herb Allison, and the new CEO of Freddie Mac, David Moffett, testified September 25 before the House Financial Services Committee. FHFA Director James Lockhart also testified.

The two CEOs outlined the GSEs' attempts to enhance overall mortgage and capital market liquidity, as well as their efforts to support affordable housing and prevent foreclosures.

FHFA Director Lockhart specifically highlighted one of HERA's most discussed provisions, the Housing Trust Fund:

“The new legislation also established a Housing Trust Fund to increase and preserve the supply of rental housing for extremely low and very low income families, including homeless families, and to increase homeownership for extremely low and very low income families. I recognize the importance of the Housing Trust Fund to many members of Congress. In the near-term, these funds will be used to fund a key component of the new law, the FHA HOPE for Homeowners Program, which will be funded by Treasury if the Enterprises do not.”

Lockhart also noted that FHFA expects to have a regulation in place by October 1 to implement Section 1218 of HERA. That section will provide temporary authority for the Federal Home Loan Banks to use a portion of the subsidy money in the Affordable Housing Program to refinance mortgages for families at or below 80% of area median income. The goal of that new regulation is to support the refinance program in HERA's Hope for Homeowners program by permitting AHP funding of additional principal write-downs or payment of closing costs.

For a complete review of the testimony before the House Financial Services Committee, see:

David Moffet, Freddie Mac CEO testimony to House Financial Services Committee, September 25, 2008:

http://www.freddiemac.com/speeches/pdf/moffett_092508-writtentestimony.pdf

Herb Allison, Fannie Mae CEO testimony to House Financial Services Committee, September 25, 2008:

http://www.fanniemae.com/media/pdf/speeches/hcfs_testimony_092508.pdf

Director James B. Lockhart III, Director, Federal Housing Finance Board, testimony to House Financial Services Committee, September 25, 2008

<http://www.ofheo.gov/newsroom.aspx?ID=468&q1=1&q2=None>