

Suspend the Rules and Pass the Bill, H.R. 2440, with An Amendment

(The amendment strikes all after the enacting clause and inserts a new text)

112TH CONGRESS
1ST SESSION

H. R. 2440

To protect the taxpayers of the United States by requiring Fannie Mae and Freddie Mac to sell or dispose of the assets of such enterprises that are not critical to their missions.

IN THE HOUSE OF REPRESENTATIVES

JULY 7, 2011

Mr. HURT (for himself, Mr. BACHUS, and Mr. GARRETT) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To protect the taxpayers of the United States by requiring Fannie Mae and Freddie Mac to sell or dispose of the assets of such enterprises that are not critical to their missions.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Market Transparency
5 and Taxpayer Protection Act of 2012”.

1 **SEC. 2. DISPOSITION OF NON-MISSION CRITICAL ASSETS.**

2 (a) ENTERPRISE REPORTS TO DIRECTOR.—The Di-
3 rector of the Federal Housing Finance Agency shall re-
4 quire each enterprise to submit a report to the Director,
5 not later than the expiration of the 180-day period begin-
6 ning upon the date of the enactment of this Act, that—

7 (1) identifies all assets of value of the enter-
8 prise; and

9 (2) describes the functions, characteristics, and
10 estimated value of each such asset.

11 (b) DETERMINATION OF NON-MISSION CRITICAL AS-
12 SETS.—

13 (1) IN GENERAL.—After reviewing the report
14 submitted by an enterprise pursuant to subsection
15 (a), the Director shall make a determination of
16 which assets of such enterprise are critical, and
17 which are not critical, to carrying out the mission of
18 the enterprise in accordance with the charter Act for
19 the enterprise and other applicable laws.

20 (2) PATENTS AND HISTORICAL MORTGAGE
21 DATA.—The determinations under paragraph (1)
22 shall include determinations with regard to any pat-
23 ents and historical mortgage data of the enterprise.

24 (c) ANNUAL PLANS.—

25 (1) ESTABLISHMENT.—Not later than the expi-
26 ration of the 12- and 24-month periods beginning

1 upon the date of the enactment of this Act, the Di-
2 rector shall establish a plan for each enterprise for
3 sale or other disposition, during the annual plan pe-
4 riod for each such plan, of assets of such enterprise
5 that the Director has determined, pursuant to sub-
6 section (b), to be non-mission critical assets of such
7 enterprise in a manner that complies with the re-
8 quirements under subsection (d) (relating to imple-
9 mentation, commencement, and divestment).

10 (2) CONTENTS.—Each plan required under
11 paragraph (1) for an enterprise shall—

12 (A) identify the non-mission critical assets
13 of the enterprise to be sold or otherwise dis-
14 posed of during the annual plan period;

15 (B) specifically address whether and how
16 patents and historical mortgage data of the en-
17 terprise that are non-mission critical assets
18 should be sold or disposed of during the annual
19 plan period, which may include making such as-
20 sets available in the public domain;

21 (C) provide for any sales or other disposi-
22 tions to be conducted in accordance with section
23 1367(b)(11)(E) of the Federal Housing Enter-
24 prises Financial Safety and Soundness Act of
25 1992 (12 U.S.C. 4617(b)(11)(E)); and

1 (D) include any other information as the
2 Director considers appropriate.

3 (d) IMPLEMENTATION.—

4 (1) COMMENCEMENT.—Not later than the expi-
5 ration of the 90-day period beginning upon estab-
6 lishment of each annual plan pursuant to subsection
7 (c), the Director shall commence implementation of
8 such plan.

9 (2) MULTIFAMILY HOUSING MORTGAGES.—

10 (A) IN GENERAL.—In making the deter-
11 mination pursuant to paragraph (1) with re-
12 spect to mortgages and mortgages loans that fi-
13 nance multifamily housing that are held in
14 portfolio by an enterprise, the Director shall
15 consider the impacts to the market for multi-
16 family housing mortgages and loans of deter-
17 mining that such assets are not critical to car-
18 rying out the mission of the enterprise in ac-
19 cordance with the charter Act for the enterprise
20 and other applicable laws.

21 (B) MULTIFAMILY HOUSING.—For pur-
22 poses of this paragraph, the term “multifamily
23 housing” means a residential structure that
24 consists of 5 or more dwelling units.

1 (3) DIVESTMENT OF ALL NON-MISSION CRIT-
2 ICAL ASSETS.—The Director shall prohibit each en-
3 terprise from owning or holding, after the expiration
4 of the 36-month period beginning upon the date of
5 the enactment of this Act (as such period may be ex-
6 tended pursuant to paragraph (4)), any asset that
7 the Director has determined, pursuant to subsection
8 (b), to be a non-mission critical asset of such enter-
9 prise.

10 (4) MAXIMIZING RETURN, OR MINIMIZING LOSS,
11 FOR THE TAXPAYER.—If the Director determines
12 that extension of the period specified in paragraph
13 (3) would maximize the return to the taxpayers on
14 non-mission critical assets of an enterprise, or mini-
15 mize loss to such taxpayers, the Director may extend
16 such period, by no more than 6 months, as the Di-
17 rector determines appropriate to maximize such re-
18 turn or minimize such loss.

19 (e) ANNUAL REPORTS TO CONGRESS.— Not later
20 than 90 days after the conclusion of the annual plan pe-
21 riod for each annual plan for an enterprise required by
22 subsection (c), the Director shall submit to the Congress
23 a report on the non-mission critical assets of such enter-
24 prise that were sold or otherwise disposed of pursuant to
25 such annual plan.

1 (f) DEFINITIONS.—For purposes of this section, the
2 following definitions shall apply:

3 (1) ANNUAL PLAN PERIOD.—The term “annual
4 plan period” means, with respect to an annual plan
5 established pursuant to subsection (c) for an enter-
6 prise, the 12-month period that begins upon estab-
7 lishment of the annual plan.

8 (2) CHARTER ACT.—The term “charter Act”
9 means—

10 (A) with respect to the Federal National
11 Mortgage Association, the Federal National
12 Mortgage Association Charter Act (12 U.S.C.
13 1716 et seq.); and

14 (B) with respect to the Federal Home
15 Loan Mortgage Corporation, the Federal Home
16 Loan Mortgage Corporation Act (12 U.S.C.
17 1451 et seq.).

18 (3) DIRECTOR.—The term “Director” means
19 the Director of the Federal Housing Finance Agen-
20 cy.

21 (4) ENTERPRISE.—The term “enterprise” has
22 the meaning given such term in section 1303 of the
23 Federal Housing Enterprises Financial Safety and
24 Soundness Act of 1992 (12 U.S.C. 4502).

1 (5) NON-MISSION CRITICAL ASSETS.—The term
2 “non-mission critical asset” means, with respect to
3 an enterprise, an asset of the enterprise that the Di-
4 rector determines, pursuant to subsection (b), is not
5 critical to carrying out the mission of the enterprise
6 in accordance with the charter Act for the enterprise
7 and other applicable laws.

8 **SEC. 3. PUBLIC DISCLOSURE OF RESIDENTIAL REAL ES-**
9 **TATE DATA COMPLIED BY AN ENTERPRISE.**

10 (a) REQUIREMENTS FOR DISCLOSURE.—Section
11 1323 of the Federal Housing Enterprises Financial Safety
12 and Soundness Act of 1992 (12 U.S.C. 4543) is amended
13 by adding at the end the following new subsection:

14 “(e) PUBLIC DISCLOSURE OF RESIDENTIAL REAL
15 ESTATE DATA COMPLIED BY AN ENTERPRISE.—

16 “(1) DURING CONSERVATORSHIP.—During any
17 conservatorship of an enterprise by the Federal
18 Housing Finance Agency, if, in the discretion of the
19 Director as conservator, the Federal Housing Fi-
20 nance Agency provides for the release of covered
21 data, such release may only occur by means of dis-
22 closure to the public, and may not occur by sale,
23 transfer, assignment, or other disposition to any
24 other party or entity. The prohibition in this para-
25 graph shall not apply to any sale, transfer, assign-

1 ment, or other disposition of covered data from one
2 enterprise to another enterprise.

3 “(2) AFTER TERMINATION OF CONSERVATOR-
4 SHIP.—Upon termination of any conservatorship of
5 an enterprise by the Federal Housing Finance Agen-
6 cy, such enterprise shall make publicly available cov-
7 ered data, provided that such disclosure is carried
8 out in a manner consistent with the Director’s obli-
9 gations under section 1367(b)(11)(E).

10 “(3) ADDITIONAL DISCLOSURE REQUIRE-
11 MENTS.—The Director shall ensure that any public
12 disclosure of covered data pursuant to paragraphs
13 (1) and (2)—

14 “(A) does not include personally identifi-
15 able information; and

16 “(B) is carried out in accordance with the
17 public availability plan set forth pursuant to
18 section 3(b)(3)(B) of the Market Transparency
19 and Taxpayer Protection Act of 2012.

20 “(4) IMMUNITY FROM CIVIL ACTIONS.—No
21 cause of action shall lie in any court against the
22 Federal Housing Finance Agency or an enterprise,
23 or against any director, officer, employee, or agent
24 thereof, for any act or disclosure reasonably de-

1 signed to comply with the requirements of this sub-
2 section.

3 “(5) COVERED DATA.—For purposes of this
4 section, the term ‘covered data’ means—

5 “(A) appraisal or loan data submitted
6 under the Uniform Mortgage Data Program es-
7 tablished by an enterprise; or

8 “(B) legacy data similar to such data sub-
9 mitted under such Program compiled prior to
10 the establishment of such Program.”.

11 (b) STUDY AND REPORT.—

12 (1) STUDY.—Not later than 12 months after
13 the date of enactment of this Act, the Director of
14 the Federal Housing Finance Agency shall complete
15 a study on making covered data (as such term is de-
16 fined in section 1323(e) of the Federal Housing En-
17 terprises Financial Safety and Soundness Act of
18 1992 (12 U.S.C. 4543(e))) available to the public.

19 (2) CONSIDERATIONS.—The study required
20 under paragraph (1) shall include consideration of—

21 (A) the means, methods, and process re-
22 quired to prohibit the public disclosure of any
23 personally identifiable information of individ-
24 uals;

1 (B) the means, methods, and process re-
2 quired to prohibit the matching of appraisal
3 and loan data to other data which would result
4 in the disclosure of personally identifiable infor-
5 mation;

6 (C) the means, methods, and process re-
7 quired to prohibit the public disclosure of infor-
8 mation such as proprietary information or in-
9 formation subject to patent, copyright, or trade-
10 mark protection;

11 (D) the manner, form, and frequency of
12 such disclosures;

13 (E) the cost of developing, operating, and
14 maintaining any process or system for making
15 such disclosures; and

16 (F) the effects on the private secondary
17 mortgage market in making such disclosures.

18 (3) REPORT AND PLAN.—Upon completion of
19 the study required under paragraph (1), the Direc-
20 tor shall submit a report to the Committee on Fi-
21 nancial Services of the House of Representatives and
22 the Committee on Banking, Housing, and Urban Af-
23 fairs of the Senate that includes—

24 (A) the findings of the study; and

1 (B) a plan for providing public availability
2 of covered data, including recommendations to
3 prohibit disclosure of personally identifiable in-
4 formation and that address the findings of the
5 study.