

clientalert

The Housing and Economic Recovery Act of 2008 – President Signed Today

July 30, 2008

With the Congressional passage of H.R. 3221 last weekend, the *Housing and Economic Recovery Act of 2008*, the most far reaching piece of housing legislation in decades, was signed into law by President Bush today. This bipartisan legislation aims to reform the government-sponsored enterprises system, modernize the Federal Housing Administration, create the HOPE for Homeowners program, establish national standards for residential mortgage brokers and lenders, enhance mortgage disclosure requirements, increase foreclosure counseling, and provide tax benefits intended to stabilize the housing market for homeowners and homebuilders. The legislation also includes emergency, temporary authority for the Department of Treasury, designed to improve confidence in Fannie Mae, Freddie Mac, and the Federal Home Loan Banks.

We provide a brief summary of the legislation below.



The *Housing and Economic Recovery Act of 2008* includes the following efforts to stabilize financial markets and the declining housing sector. Specifically, the legislation includes:

- **The Federal Housing Finance Regulatory Reform Act of 2008** (GSE Reform), which would create a new regulator for the government-sponsored enterprises (GSEs). The legislation would also raise loan limits to expand affordable housing in high cost areas. In addition, this legislation would create the Housing Trust Fund, of which 75 percent of the monies must be used to benefit extremely low-income families, and a Capital Magnet Fund, which will leverage \$10 for every dollar contributed by Fannie Mae and Freddie Mac.
- **Treasury Emergency Authority**, designed to shore up the confidence of the financial markets in Fannie Mae, Freddie Mac, and the Federal Home Loan Banks in response to the erosion of investor confidence in GSEs. This temporary authority would allow Treasury to purchase common stock of the GSEs with the agreement of the companies in order to provide stability to the financial markets, and prevent disruptions in the availability of mortgages.
- **The HOPE for Homeowners Act**, which would allow the Federal Housing Administration (FHA) to insure up to \$300 billion of new loans to help borrowers refinance their existing loans at an affordable rate, in an effort to avoid foreclosure and stay in their homes.
- **The S.A.F.E. Mortgage Licensing Act**, which would create a federal registry and establish minimum national standards for all residential mortgage brokers and lenders.
- **The Foreclosure Prevention Act**, which would provide assistance for communities devastated by foreclosures, foreclosure counseling for families in need, programs to help returning soldiers avoid foreclosure, and mortgage disclosure enhancements. The legislation would provide almost \$4 billion in emergency assistance to communities with the highest foreclosure rates for the purchase and redevelopment of abandoned and foreclosed-upon properties. The funds would be administered through the Community Development Block Grant (CDBG) program, and all

funds would be used to help individuals and families whose incomes do not exceed 120 percent of the area median income (moderate income persons). In addition, the legislation provides \$180 million in additional funding that would help housing counselors continue their outreach to families at risk of foreclosure, with \$30 million set aside for legal aid assistance.

- **The Housing Assistance Tax Act of 2008**, which provides a \$15.1 billion package of housing-focused tax breaks for homeowners, homebuyers, and homebuilders aimed at helping the housing market recover. The legislation would increase the LIHTC limitation in 2008 and 2009 by an additional 20 cents for each person residing in the state for large population states and increase by 10 percent the small state set-aside. The legislation would: require better coordination of HUD/FHA and USDA Rural Housing programs with the LIHTC program; establish a minimum credit rate for non-Federally subsidized buildings (expires 12/31/2013); clarify the circumstances under which a building is considered to be Federally subsidized and the circumstances in which Federal assistance will be taken into account in calculating the LIHTC; provide State housing agencies with greater flexibility to select sites for low-income housing projects and allocate adequate amounts of credit for projects; clarify the rules relating to determinations of current income; provide developers with more time to begin construction of low-income housing projects after the credits have been awarded (one year instead of current law 6 months); reform rules pertaining to sales of low income housing buildings; clarify the general public use requirement by allowing projects to restrict housing units to individuals who share common characteristics; relax income rules for rural areas; and eliminate technical barriers to rehabilitating low-income housing projects. The legislation would also offer a one-time tax credit to most first-time homebuyers that is equivalent to an interest-free loan for 10 percent of the home's cost, up to \$7,500. The credit would be available until July 1, 2009. The package also would allow taxpayers who do not itemize on their returns to claim a one-time

\$500 deduction (\$1,000 for married couples filing jointly) for local property taxes.

- **Improvement of Section 8 Coordination with LIHTC.** The legislation increases the maximum initial Section 8 contract term from 10 years to 15 years and allows PHAs to pre-commit to unlimited renewals. The legislation allows project-based rents in LIHTC buildings up to the normally allowed maximum rent, even if such rent exceeds the maximum rent allowed under the LIHTC program, and authorizes project-based housing assistance payments contracts for cooperative housing and buildings with elevators. The bill repeals the prohibition on using tax-exempt housing bonds in Section 8 moderate rehabilitation properties and treats single room occupancy (SRO) units as residential units for purposes of participating in the LIHTC program.

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