

Union Calendar No. 247

112TH CONGRESS
2^D SESSION

H. R. 1221

[Report No. 112-366, Part I]

To suspend the current compensation packages for the senior executives of Fannie Mae and Freddie Mac and establish compensation for such positions in accordance with rates of pay for senior employees in the Executive Branch of the Federal Government, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 29, 2011

Mr. BACHUS (for himself, Mr. GARRETT, Mr. HENSARLING, Mr. PEARCE, and Mrs. BIGGERT) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

JANUARY 17, 2012

Additional sponsors: Mr. McCOTTER, Mr. CANSECO, Mr. ROYCE, Mr. GERLACH, Mr. WOMACK, Mr. REHBERG, Mr. ISSA, Mr. FORBES, Mr. VIS-CLOSKY, Mr. LOBIONDO, Mr. COFFMAN of Colorado, Mr. KISSELL, Mr. NUNNELEE, Mr. DEFAZIO, and Mrs. NOEM

JANUARY 17, 2012

Reported from the Committee on Financial Services with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

JANUARY 17, 2012

The Committee on Oversight and Government Reform discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on March 29, 2011]

A BILL

To suspend the current compensation packages for the senior executives of Fannie Mae and Freddie Mac and establish compensation for such positions in accordance with rates of pay for senior employees in the Executive Branch of the Federal Government, and for other purposes.

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 “Equity in Government*
5 *Compensation Act of 2011”.*

6 **SEC. 2. CONGRESSIONAL FINDINGS.**

7 *The Congress finds that—*

8 (1) *the Federal National Mortgage Association*
9 *(known as Fannie Mae) and the Federal Home Loan*
10 *Mortgage Corporation (known as Freddie Mac), which*
11 *are both privately owned but publicly chartered Gov-*
12 *ernment-sponsored enterprises (GSEs), were at the*
13 *center of the mortgage market meltdown that caused*
14 *the financial crisis that commenced in 2008;*

15 (2) *the failures of Fannie Mae and Freddie Mac*
16 *helped precipitate the deepest economic decline since*
17 *World War II;*

18 (3) *in September 2008, the Bush Administration,*
19 *Federal Reserve Board, and Federal Housing Finance*
20 *Agency (FHFA) exercised authority granted by the*
21 *Congress to place the two GSEs in conservatorship, a*
22 *form of nationalization that puts the regulators firm-*
23 *ly in control of the GSEs’ daily operations;*

24 (4) *in September 2008, the Bush Administration*
25 *established a \$200 billion facility to purchase senior*

1 *preferred stock in the enterprises to backstop their*
2 *losses;*

3 *(5) in February 2009, the Obama Administra-*
4 *tion raised the senior preferred stock purchase com-*
5 *mitment to \$400 billion;*

6 *(6) on Christmas Eve 2009, the Obama Adminis-*
7 *tration removed any limits on the use of Federal*
8 *funds to cover losses at the enterprises, significantly*
9 *expanding a commitment that has resulted in the ex-*
10 *penditure of so far nearly \$175 billion in taxpayer*
11 *funds to purchase senior preferred stock in the two en-*
12 *terprises;*

13 *(7) as a result of the Government's actions, the*
14 *taxpayers of the United States now own nearly 80*
15 *percent of the two GSEs;*

16 *(8) the Congressional Budget Office has con-*
17 *cluded that Fannie Mae and Freddie Mac have effec-*
18 *tively become Government entities whose operations*
19 *should be included in the Federal budget;*

20 *(9) the GSEs are expected to be a long-term*
21 *drain on the taxpayers as a result of market condi-*
22 *tions and the political and public policy mandates*
23 *imposed on them by the Administration and the Con-*
24 *gress;*

1 (10) *in spite of these liabilities, the Treasury De-*
2 *partment and FHFA approved compensation pack-*
3 *ages for the chief executive officers of Fannie Mae and*
4 *Freddie Mac in 2009, 2010, and 2011 that were near-*
5 *ly 15 times greater than the annual compensation of*
6 *the President of the United States and 30 times great-*
7 *er than the annual compensation of a Cabinet Sec-*
8 *retary;*

9 (11) *the Treasury Department and the FHFA*
10 *also approved multi-million dollar compensation*
11 *packages for a number of the GSEs' top executives,*
12 *payable in cash rather than in the type of stock op-*
13 *tions that have characterized compensation arrange-*
14 *ments at other large financial institutions that have*
15 *received extraordinary government assistance;*

16 (12) *on September 17, 2008, FHFA determined*
17 *that no executive officer of Fannie Mae or Freddie*
18 *Mac would be entitled to receive a cash bonus or long-*
19 *term incentive awards for 2008;*

20 (13) *FHFA's five-year Strategic Plan for Fannie*
21 *Mae and Freddie Mac includes a commitment that*
22 *the GSEs will operate in a safe and sound manner;*
23 *and*

24 (14) *section 1318(c) of the Federal Housing En-*
25 *terprises Financial Safety and Soundness Act of 1992*

1 (12 U.S.C. 4518(c), as added by section 1113(a)(4) of
2 the Housing and Economic Recovery Act of 2008
3 (Public Law 110–289; 122 Stat. 2678)), permits the
4 Director of FHFA to withhold any payment, transfer,
5 or disbursement of compensation to an executive offi-
6 cer, or to place such compensation in an escrow ac-
7 count, during the review of the reasonableness and
8 comparability of compensation.

9 **SEC. 3. DEFINITIONS.**

10 *In this Act:*

11 (1) *DIRECTOR.*—The term “Director” means the
12 Director of the Federal Housing Finance Agency.

13 (2) *EMPLOYEE.*—The term “employee” means an
14 employee of an enterprise, except that such term does
15 not include any employee who would be defined as a
16 prevailing rate employee (as defined in section
17 5342(2) of title 5, United States Code) if such em-
18 ployee were employed by an agency (as defined in
19 paragraph (1) of such section).

20 (3) *ENTERPRISE.*—The term “enterprise”
21 means—

22 (A) the Federal National Mortgage Associa-
23 tion and any affiliate thereof; and

24 (B) the Federal Home Loan Mortgage Cor-
25 poration and any affiliate thereof.

1 (4) *EXECUTIVE OFFICER.*—*The term “executive*
2 *officer” has the same meaning as is given such term*
3 *in section 1303(12) of the Federal Housing Enter-*
4 *prises Financial Safety and Soundness Act of 1992*
5 *(12 U.S.C. 4502(12)).*

6 **SEC. 4. REASONABLE PAY FOR EXECUTIVE OFFICERS.**

7 (a) *SUSPENSION OF CURRENT COMPENSATION PACK-*
8 *AGES.*—*The Director shall suspend the compensation pack-*
9 *ages approved for 2011 for the executive officers of an enter-*
10 *prise and, in lieu of such packages, subject to the limitation*
11 *under subsection (d), establish a compensation system for*
12 *the executive officers of such enterprise in accordance with*
13 *the schedules of compensation and benefits established and*
14 *adjusted pursuant to section 1206 of the Financial Institu-*
15 *tions Reform, Recovery, and Enforcement Act of 1989 (12*
16 *U.S.C. 1833b).*

17 (b) *CLAWBACK OF 2010 AND 2011 COMPENSATION.*—

18 (1) *SENSE OF THE CONGRESS.*—*It is the sense of*
19 *the Congress that each executive officer performing*
20 *services for an enterprise on the date of the enactment*
21 *of this Act whose compensation package is suspended*
22 *under subsection (a) should return to the Secretary of*
23 *the Treasury any compensation earned in 2010 and*
24 *2011 that was in excess of the maximum annual rate*

1 of basic pay authorized for a position in level I of the
2 Executive Schedule.

3 (2) *USE TO REDUCE NATIONAL DEBT.*—The Sec-
4 retary of the Treasury shall transfer any amounts re-
5 ferred to in paragraph (1) that are returned to the
6 Secretary to the special account established by section
7 3113(d) of title 31, United States Code (relating to re-
8 ducing the public debt).

9 (c) *ADDITIONAL REQUIREMENT.*—An executive officer
10 of an enterprise shall be subject to section 111 of the Emer-
11 gency Economic Stabilization Act of 2008 (12 U.S.C. 5221),
12 which relates to executive compensation and corporate gov-
13 ernance.

14 (d) *LIMITATION ON COMPENSATION.*—An executive of-
15 ficer of an enterprise whose compensation package is sus-
16 pended under subsection (a) shall not be compensated more
17 than the highest compensated employee of the Federal Hous-
18 ing Finance Agency.

19 **SEC. 5. COMPENSATION RATE OF EMPLOYEES OF FANNIE**
20 **MAE AND FREDDIE MAC.**

21 (a) *IN GENERAL.*—During any period that an enter-
22 prise is federally chartered under the Federal National
23 Mortgage Association Charter Act (12 U.S.C. 1716 et seq.)
24 or the Federal Home Loan Mortgage Corporation Act (12

1 *U.S.C. 1451 et seq.*), the compensation of the positions held
2 by employees shall be in accordance with this section.

3 (b) *CONVERSION OF COMPENSATION RATE FOR CUR-*
4 *RENT EMPLOYEES.—*

5 (1) *IN GENERAL.—*Except for as provided in sec-
6 tion 4, effective for pay periods beginning after the
7 date of the enactment of this Act, the Director shall
8 fix the rate of basic compensation of positions held by
9 employees performing services for an enterprise as of
10 the date of the enactment of this Act in accordance
11 with the General Schedule set forth in section 5332 of
12 title 5, United States Code. In fixing such rate—

13 (A) if the employee is receiving a rate of
14 basic compensation that is less than the min-
15 imum rate of basic compensation of the appro-
16 priate grade of the General Schedule in which
17 his or her position is placed, such employee's
18 rate of basic compensation shall be increased to
19 such minimum rate;

20 (B) if the employee is receiving a rate of
21 basic compensation that is equal to a rate of
22 basic compensation of the appropriate grade of
23 the General Schedule in which his or her posi-
24 tion is placed, such employee's rate of basic com-
25 pensation shall be equal to that rate of basic

1 *compensation of the appropriate grade of the*
2 *General Schedule;*

3 *(C) if the employee is receiving a rate of*
4 *basic compensation that is between 2 rates of*
5 *basic compensation of the appropriate grade of*
6 *the General Schedule in which his or her posi-*
7 *tion is placed, such employee's rate of basic com-*
8 *ensation shall be at the higher of those 2 rates*
9 *under the General Schedule; and*

10 *(D) if the employee is receiving a rate of*
11 *basic compensation that is in excess of the max-*
12 *imum rate of basic compensation of the appro-*
13 *priate grade of the General Schedule in which*
14 *his or her position is placed, such employee's*
15 *rate of basic compensation shall be reduced to*
16 *such maximum rate.*

17 (2) *NOT CONSIDERED TRANSFERS OR PRO-*
18 *MOTIONS.—The conversion of positions and employees*
19 *to the appropriate grades of the General Schedule and*
20 *the initial adjustment of rates of basic compensation*
21 *of those positions and employees provided for by this*
22 *subsection, shall not be considered to be transfers or*
23 *promotions within the meaning of section 5334(b) of*
24 *title 5, United States Code, and the regulations issued*
25 *thereunder.*

1 (3) *CREDIT FOR INCREASE IN COMPENSATION*
2 *BEFORE ADJUSTMENT.*—*Each employee performing*
3 *services for an enterprise on the date of the enactment*
4 *of this Act whose position is converted under this sub-*
5 *section to the General Schedule and who prior to the*
6 *initial adjustment of his or her rate of basic com-*
7 *penetration under paragraph (1) has earned, but has*
8 *not been credited with, an increase in that rate, shall*
9 *be granted credit for such increase before his or her*
10 *rate of basic compensation is initially adjusted under*
11 *such paragraph.*

12 (4) *SERVICE PERFORMED SINCE LAST COM-*
13 *PENSATION INCREASE.*—*Each employee performing*
14 *services for an enterprise on the date of the enactment*
15 *of this Act whose position is converted under this sub-*
16 *section to the General Schedule shall be granted cred-*
17 *it, for purposes of his or her first step increase under*
18 *the General Schedule, for all satisfactory service per-*
19 *formed since his or her last increase in compensation*
20 *prior to the initial adjustment of his or her rate of*
21 *basic compensation under paragraph (1).*

22 (5) *COMPENSATION INCREASE UNDER THIS SEC-*
23 *TION.*—*An increase in the rate of basic compensation*
24 *by reason of the enactment of paragraph (1) shall not*
25 *be considered to be an equivalent increase with respect*

1 *to step increases for employees whose positions are*
2 *converted to the General Schedule under authority of*
3 *this subsection.*

4 *(c) NEW EMPLOYEES.—Except for as provided in sec-*
5 *tion 4, the grade and rate of basic pay of any individual*
6 *beginning employment with an enterprise after the date of*
7 *enactment of this Act shall be fixed in accordance with the*
8 *General Schedule set forth in section 5332 of title 5, United*
9 *States Code.*

10 **SEC. 6. FANNIE AND FREDDIE EMPLOYEES NOT FEDERAL**
11 **EMPLOYEES.**

12 *Any executive officer or employee affected by any pro-*
13 *vision under sections 4 and 5, respectively, shall not be con-*
14 *sidered a Federal employee.*

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