

110TH CONGRESS
2D SESSION

S. _____

To provide authority for the Federal Government to purchase certain types of troubled assets for the purposes of providing stability or preventing disruption to the financial markets and banking system and protecting taxpayers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice
and referred to the Committee on _____

A BILL

To provide authority for the Federal Government to purchase certain types of troubled assets for the purposes of providing stability or preventing disruption to the financial markets and banking system and protecting taxpayers, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “_____ Act of 2008”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Authority to purchase troubled assets.
- Sec. 3. Considerations.
- Sec. 4. Oversight.
- Sec. 5. Rights; management; sale of troubled assets.
- Sec. 6. Maximum amount of authorized purchases.
- Sec. 7. Funding.
- Sec. 8. Limits on review.
- Sec. 9. Assistance to homeowners and localities.
- Sec. 10. Maintaining insurance parity.
- Sec. 11. Minimizing foreclosures.
- Sec. 12. Termination of authority.
- Sec. 13. Increase in statutory limit on the public debt.
- Sec. 14. Credit reform.
- Sec. 15. Annual financial reports and audits.
- Sec. 16. Conflicts of interest.
- Sec. 17. Executive compensation.
- Sec. 18. Studies and reports.
- Sec. 19. Disclosures on exercise of loan authority.
- Sec. 20. Special inspector general for the troubled asset program.
- Sec. 21. Definitions.

1 **SEC. 2. AUTHORITY TO PURCHASE TROUBLED ASSETS.**

2 (a) OFFICES; AUTHORITY.—

3 (1) AUTHORITY.—The Secretary is authorized
4 to establish a program to purchase, and to make and
5 fund commitments to purchase troubled assets from
6 any financial institution, on such terms and condi-
7 tions as are determined by the Secretary, and in ac-
8 cordance with policies and procedures developed by
9 the Secretary.

10 (2) ESTABLISHMENT OF TREASURY OFFICE.—

11 The Secretary shall implement any program under
12 paragraph (1) through an Office of Financial Sta-
13 bility, established for such purpose within the Office
14 of Domestic Finance of the Department of the

1 Treasury, which office shall be headed by an Assist-
2 ant Secretary of the Treasury.

3 (b) NECESSARY ACTIONS.—The Secretary is author-
4 ized to take such actions as the Secretary deems necessary
5 to carry out a program established under subsection (a),
6 including, without limitation—

7 (1) appointing such employees as may be re-
8 quired for such purpose and defining their duties;

9 (2) entering into contracts, including contracts
10 for services authorized by section 3109 of title 5,
11 United States Code;

12 (3) designating appropriate entities as financial
13 agents of the Federal Government, authorized to
14 perform in such capacity all such reasonable duties
15 related to this Act as may be required;

16 (4) establishing vehicles that are authorized to
17 purchase troubled assets and issue obligations, sub-
18 ject to approval and supervision by the Secretary;
19 and

20 (5) issuing such regulations and other guidance
21 as may be necessary or appropriate to define terms
22 or carry out this Act.

23 (c) LIMITATION ON AUTHORITY.—

24 (1) IN GENERAL.—The Secretary may not pur-
25 chase, or make any commitment to purchase, any

1 cent of the dollar amount of the difference
2 between the amount the Secretary paid for
3 the troubled assets and the disposition
4 price of such assets. The Secretary may
5 demand payment of such contingent debt
6 instrument under such terms and condi-
7 tions as determined appropriate by the
8 Secretary.

9 (B) MULTIPLE CLASS OF SHARES.—If the
10 financial institution from which troubled assets
11 are to be purchased has more than 1 class of
12 shares, the contingent shares to be received by
13 the Secretary shall be that class of shares with
14 the highest trading price during the 14 business
15 days prior to the date of the purchase of such
16 assets.

17 (C) CONTENT.—The instrument rep-
18 resenting the contingent shares shall contain
19 anti-dilution provisions of the type employed in
20 capital market transactions, as determined by
21 the Secretary, to protect the Secretary from
22 transactions such as stock splits, stock distribu-
23 tions, dividends, and other distributions, merg-
24 ers, and other reorganizations and recapitaliza-
25 tions.

1 (3) VESTING OF SHARES.—If, after the pur-
2 chase of troubled assets from a financial institution,
3 the amount the Secretary receives in disposing of
4 such assets is less than the amount that the Sec-
5 retary paid for such assets, the contingent shares re-
6 ceived by the Secretary under paragraph (1) shall
7 automatically vest to the Secretary on behalf of the
8 United States Treasury in an amount equal to—

9 (A) 125 percent of the dollar amount of
10 the difference between the amount that the Sec-
11 retary paid for the troubled assets and the dis-
12 position price of such assets; divided by

13 (B) the amount of the average share price
14 of the financial institution from which such as-
15 sets were purchased during the 14 business
16 days prior to the date of such purchase.

17 (4) DEFINITION.—As used in this subsection,
18 the term “contingent share” means any equity secu-
19 rity traded on a national securities exchange.

20 **SEC. 3. FINDINGS.**

21 Before establishing a program under this Act, the
22 Secretary shall make a finding that such program is nec-
23 essary—

24 (1) to provide stability or preventing disruption
25 to the financial markets or banking system; and

1 (2) to protect the taxpayer.

2 **SEC. 4. OVERSIGHT.**

3 (a) EMERGENCY OVERSIGHT BOARD.—

4 (1) ESTABLISHMENT.—There is established the
5 Emergency Oversight Board, which shall be respon-
6 sible for—

7 (A) reviewing the exercise of authority
8 under a program developed in accordance with
9 this Act, including—

10 (i) all actions taken by the Secretary
11 and the office created under section 2, in-
12 cluding the appointment of financial
13 agents, the designation of asset classes to
14 be purchased, and plans for the structure
15 of vehicles used to purchase troubled as-
16 sets; and

17 (ii) the effect of such actions in assist-
18 ing American families in preserving home
19 ownership, stabilizing financial markets,
20 and protecting taxpayers; and

21 (B) making recommendations, as appro-
22 priate, to the Secretary regarding use of the au-
23 thority under this Act.

24 (2) MEMBERSHIP.—The Emergency Oversight
25 Board shall be comprised of—

1 (A) the Chairman of the Board of Gov-
2 ernors of the Federal Reserve System, who
3 shall serve as the chairperson of the Emergency
4 Oversight Board;

5 (B) the chairperson of the Board of Direc-
6 tors of the Federal Deposit Insurance Corpora-
7 tion;

8 (C) the chairperson of the Securities and
9 Exchange Commission;

10 (D) one member who is not a government
11 employee, having appropriate financial expertise
12 in both the public and private sectors, ap-
13 pointed jointly by the Majority leadership of the
14 Senate and the House of Representatives; and

15 (E) one member who is not a government
16 employee, having appropriate financial expertise
17 in both the public and private sectors, ap-
18 pointed jointly by the Minority leadership of the
19 Senate and the House of Representatives.

20 (3) MEETINGS.—The Emergency Oversight
21 Board shall meet 2 weeks after the first exercise of
22 the purchase authority of the Secretary under this
23 Act and monthly thereafter.

24 (4) CREDIT REVIEW COMMITTEE.—The Emer-
25 gency Oversight Board may appoint a credit review

1 committee for the purpose of evaluating the exercise
2 of the purchase authority provided under and the as-
3 sets acquired through such exercise, as the Oversight
4 Board determines appropriate, and the employees of
5 such credit review committee shall be employees of
6 the Federal Government.

7 (5) COSTS.—The costs of the Emergency Over-
8 sight Board and a credit review committee appointed
9 by the Emergency Oversight Board shall be reim-
10 bursed by the Secretary.

11 (b) REPORTS BY THE SECRETARY.—

12 (1) MONTHLY REPORTS TO CONGRESS.—Not
13 later than one month after the date of the first exer-
14 cise of the authority granted in section 2(a)(2), and
15 monthly thereafter, the Secretary shall provide to
16 the Committee on Banking, Housing, and Urban Af-
17 fairs, the Committee on the Budget, and the Com-
18 mittee on Finance of the Senate and the Committee
19 on Financial Services, the Committee on the Budget,
20 and the Committee on Ways and Means of the
21 House of Representatives a written explanation of
22 the overall actions taken by the Secretary during the
23 reporting period and a detailed financial statement
24 with respect to the exercise of authority under this
25 Act, including—

- 1 (A) all agreements made or renewed;
- 2 (B) all transactions occurring during the
- 3 month, including the parties involved;
- 4 (C) the nature of the assets purchased;
- 5 (D) all projected costs and liabilities;
- 6 (E) operating expenses, including com-
- 7 pensation for financial agents;
- 8 (F) the valuation method used for each
- 9 transaction; and
- 10 (G) a description of the vehicles estab-
- 11 lished to exercise such authority.

12 (2) WEEKLY PUBLIC REPORTS.—On a weekly

13 basis, every Friday, the Secretary shall make public

14 the total value of assets held and the total amount

15 of assets purchased and sold during that week under

16 the authority of this Act.

17 **SEC. 5. RIGHTS; MANAGEMENT; SALE OF TROUBLED AS-**

18 **SETS.**

19 (a) EXERCISE OF RIGHTS.—The Secretary may, at

20 any time, exercise any rights received in connection with

21 troubled assets purchased under this Act.

22 (b) MANAGEMENT OF TROUBLED ASSETS.—

23 (1) IN GENERAL.—Except as provided in para-

24 graph (2), the Secretary shall have authority to

1 manage troubled assets purchased under this Act,
2 including revenues and portfolio risks there from.

3 (2) CORPORATION AUTHORITY.—

4 (A) IN GENERAL.—The Corporation, shall
5 manage all residential mortgages and residen-
6 tial mortgage-backed securities purchased by
7 the Secretary under this Act.

8 (B) REIMBURSEMENT OF COSTS.—All
9 costs and expenses of the Corporation in car-
10 rying out this paragraph shall be reimbursed to
11 the Corporation by the Secretary.

12 (C) SYSTEMATIC APPROACH.—In carrying
13 out this paragraph, the Corporation shall utilize
14 a systematic approach for preventing fore-
15 closures and ensuring long-term, sustainable
16 homeownership through loan modifications and
17 use of the HOPE for Homeowners Program es-
18 tablished under section 257 of the National
19 Housing Act and any other programs that may
20 be available for such purposes.

21 (D) REPORTS TO CONGRESS.—The Cor-
22 poration shall provide to Congress a monthly
23 report on its activities under this paragraph
24 during the reporting period, including specific
25 information on the number and types of loan

1 modifications made and the number of actual
2 foreclosures occurring with respect to such
3 loans during the reporting period.

4 (E) SALE OF TROUBLED ASSETS.—The
5 Corporation may, at any time, upon terms and
6 conditions and at prices determined by the Sec-
7 retary, sell, or enter into securities loans, repur-
8 chase transactions, or other financial trans-
9 actions in regard to any troubled asset man-
10 aged by the Corporation under this paragraph.

11 (3) ACQUISITION OF SECURITIZATION POOLS
12 AND MORTGAGE LOANS.—The Secretary shall, to the
13 extent practicable, acquire—

14 (A) sufficient ownership or control of
15 pooled residential mortgage loans, or a
16 securitization vehicle for such loans so that the
17 Corporation has authority to modify the under-
18 lying residential mortgage loans, either directly
19 or through a designee; and

20 (B) whole residential mortgage loans, so
21 that the Corporation may use its authority to
22 modify the underlying residential mortgage
23 loans, either directly or through a designee.

24 (c) SALE OF TROUBLED ASSETS.—The Secretary
25 may, at any time, upon terms and conditions and at prices

1 determined by the Secretary, sell, or enter into securities
2 loans, repurchase transactions, or other financial trans-
3 actions in regard to any troubled asset purchased under
4 this Act.

5 (d) TRANSFER OF A PERCENTAGE OF PROFITS.—

6 (1) DEPOSITS.—Not less than 20 percent of
7 any profit realized on the sale of each troubled asset
8 purchased under this Act shall be deposited as pro-
9 vided in paragraph (2).

10 (2) USE OF DEPOSITS.—Of the amount referred
11 to in paragraph (1)—

12 (A) 65 percent shall be deposited into the
13 Housing Trust Fund established under section
14 1338 of the Federal Housing Enterprises Regu-
15 latory Reform Act of 1992 (12 U.S.C. 4568);
16 and

17 (B) 35 percent shall be deposited into the
18 Capital Magnet Fund established under section
19 1339 of that Act (12 U.S.C. 4569).

20 (3) REMAINDER DEPOSITED IN THE TREAS-
21 URY.—All amounts remaining after payments under
22 paragraph (1) shall be paid into the General Fund
23 of the Treasury for reduction of the public debt.

1 **SEC. 6. MAXIMUM AMOUNT OF AUTHORIZED PURCHASES.**

2 The authority of the Secretary to purchase troubled
3 assets under this Act shall be limited to \$700,000,000,000
4 outstanding at any one time, by aggregating the purchase
5 prices of all troubled assets held and any expenditures
6 made under section 10(a).

7 **SEC. 7. FUNDING.**

8 For the purpose of the authorities granted under this
9 Act, and for the costs of administering such authorities,
10 the Secretary may use the proceeds of the sale of any secu-
11 rities issued under chapter 31 of title 31, United States
12 Code, and the purposes for which securities may be issued
13 under chapter 31 of title 31, United States Code, are ex-
14 tended to include actions authorized by this Act, including
15 the payment of administrative expenses. Any funds ex-
16 pended for actions authorized by this Act, including the
17 payment of administrative expenses, shall be deemed ap-
18 propriated at the time of such expenditure.

19 **SEC. 8. LIMITS ON REVIEW.**

20 (a) IN GENERAL.—Any determination of the Sec-
21 retary with regard to any particular troubled asset pursu-
22 ant to this Act shall be final, and shall not be set aside
23 unless such determination is found to be arbitrary, capri-
24 cious, an abuse of discretion, or not in accordance with
25 the law.

1 (b) EXCEPTION.—Notwithstanding subsection (a),
2 the terms of a residential mortgage loan that is part of
3 any purchase by the Secretary under this Act shall remain
4 subject to all claims and defenses that would otherwise
5 apply notwithstanding the exercise of authority by the Sec-
6 retary or the Corporation under this Act.

7 **SEC. 9. ASSISTANCE TO HOMEOWNERS AND LOCALITIES.**

8 (a) DEFINITIONS.—As used in this section—

9 (1) the term “Federal property manager”
10 means—

11 (A) the Federal Housing Finance Agency,
12 in its capacity as conservator of the Federal
13 National Mortgage Association and the Federal
14 Home Loan Mortgage Corporation;

15 (B) the Corporation, in its capacity as con-
16 servator or receiver of an insured depository in-
17 stitution; and

18 (C) the Board of Governors of the Federal
19 Reserve System, with respect to any mortgage
20 or mortgage-backed securities or pool of securi-
21 ties held, owned, or controlled by or on behalf
22 of a Federal reserve bank;

23 (2) the term “consumer” has the same meaning
24 as in section 103 of the Truth in Lending Act (15
25 U.S.C. 1602);

1 (3) the term “insured depository institution”
2 has the same meaning as in section 3 of the Federal
3 Deposit Insurance Act (12 U.S.C. 1813); and

4 (4) the term “servicer” has the same meaning
5 as in section 6(i)(2) of the Real Estate Settlement
6 Procedures Act of 1974 (12 U.S.C. 2605(i)(2)).

7 (b) **SYSTEMATIC HOMEOWNER ASSISTANCE BY**
8 **AGENCIES.—**

9 (1) **IN GENERAL.—**Each Federal property man-
10 ager shall, with respect to any residential mortgage
11 loans and any mortgage-backed securities that it
12 holds, owns, or controls on or after the date of en-
13 actment of this Act, develop a program that is des-
14 ignated to provide a systematic approach for pre-
15 venting foreclosure on the properties securing such
16 loans and securities, and ensuring long-term, sus-
17 tainable homeownership through loan modifications
18 and use of the HOPE for Homeowners Program es-
19 tablished under section 257 of the National Housing
20 Act and any other programs that may be available
21 for such purposes.

22 (2) **MODIFICATIONS.—**In the case of a residen-
23 tial mortgage loan, modifications made under para-
24 graph (1) may include—

25 (A) reduction in interest rates;

1 (B) reduction of loan principal; and

2 (C) other similar modifications.

3 (3) TIMING.—Each Federal property manager
4 shall develop and begin implementation of the pro-
5 gram required by this subsection not later than 60
6 days after the date of enactment of this Act.

7 (4) REPORTS TO CONGRESS.—Each Federal
8 property manager shall, 60 days after the date of
9 enactment of this Act and every 30 days thereafter,
10 report to Congress specific information on the num-
11 ber and types of loan modifications made and the
12 number of actual foreclosures occurring during the
13 reporting period in accordance with this section.

14 (5) CONSULTATION.—In developing the pro-
15 gram required by this subsection, the Federal prop-
16 erty managers shall consult with one another and, to
17 the extent possible, utilize consistent approaches to
18 implement the requirements of this subsection.

19 (c) AVAILABILITY OF FORECLOSED PROPERTIES TO
20 STATES AND LOCALITIES.—

21 (1) IN GENERAL.—Each Federal property man-
22 ager shall make available to any State or local gov-
23 ernment that is receiving emergency assistance
24 under section 2301 of the Foreclosure Prevention
25 Act of 2008 (Public Law 110-289) for purchase at

1 a discount, any properties that it owns through fore-
2 closure in that State or locality, in order to facilitate
3 the sale of such properties and to stabilize neighbor-
4 hoods affected by foreclosures.

5 (2) INFORMATION CLEARINGHOUSE.—

6 (A) PROVISION OF INFORMATION TO THE
7 SECRETARY.—Each Federal property manager
8 shall make available to the Secretary of Hous-
9 ing and Urban Development (in this section re-
10 ferred to as the “Secretary”) information on
11 properties available for purchase under this
12 subsection.

13 (B) CLEARINGHOUSE.—The Secretary and
14 the Federal property managers shall develop a
15 clearinghouse for the information compiled
16 under this paragraph, and make such clearing-
17 house easily accessible by States and local gov-
18 ernments described in paragraph (1).

19 (d) ACTIONS WITH RESPECT TO SERVICERS.—In any
20 case in which an Federal property manager is not the
21 owner of a residential mortgage loan, but holds an interest
22 in obligations or pools of obligations secured by residential
23 mortgage loans, the Federal property manager shall—

1 (1) encourage implementation by the loan
2 servicers of loan modifications developed under sub-
3 section (b);

4 (2) encourage the loan servicers to make fore-
5 closed properties available for sale to State and local
6 governments at a discount, as described in sub-
7 section (c); and

8 (3) assist in facilitating any such modifications
9 or sales, to the extent possible.

10 (e) **LIMITATION.**—The requirements of this section
11 shall not supersede any other duty or requirement imposed
12 on the Federal property managers under otherwise appli-
13 cable law.

14 **SEC. 10. MAINTAINING INSURANCE PARITY.**

15 (a) **REIMBURSEMENT.**—The Secretary shall reim-
16 burse the Exchange Stabilization Fund established under
17 section 5302 of title 31, United States Code, for any funds
18 used for the temporary guaranty program for the United
19 States money market mutual fund industry during the pe-
20 riod when the Exchange Stabilization Fund was used as
21 the source for the guarantee.

22 (b) **LIMITATION ON USE OF FUND.**—The Secretary
23 is prohibited from using the Exchange Stabilization Fund
24 for the establishment of any guaranty programs for the
25 United States money market mutual fund industry.

1 (c) MONEY MARKET FUND AUTHORITY.—

2 (1) IN GENERAL.—The Secretary is authorized
3 to establish an insurance or guarantee program for
4 money market mutual funds in connection with the
5 program authorized by this Act.

6 (2) APPLICABILITY.—The authority of this sub-
7 section shall remain in effect—

8 (A) for 120 days following the date of en-
9 actment of this Act; or

10 (B) such longer period, not to exceed 365
11 days after the date of enactment of this Act, as
12 the Secretary certifies in writing to Congress is
13 necessary to continue the insurance or guar-
14 antee program for money market mutual funds.

15 (d) LIMITATION ON INSURED AMOUNTS.—

16 (1) DEPOSIT INSURANCE MODEL.—Any action
17 by the Secretary or a program to provide guarantees
18 or insurance to the money market mutual fund in-
19 dustry shall not provide insurance in excess of the
20 amount of insurance provided to any depositor under
21 the Federal Deposit Insurance Act (12 U.S.C. 1811
22 et seq.).

23 (2) PREMIUMS.—In exchange for providing
24 such a guarantee or insurance, the Secretary shall
25 charge premiums to those money market funds

1 which receive the insurance. The rate charged by the
2 Secretary shall be equivalent to the rate charged by
3 the Corporation to deposit insurance providers, re-
4 spectively, for such insurance.

5 (e) CONSULTATIONS.—In carrying out the duties of
6 the Secretary under this section, the Secretary shall con-
7 sult with the Board of Directors of the Corporation and
8 the Securities and Exchange Commission.

9 **SEC. 11. MINIMIZING FORECLOSURES.**

10 (a) SPECIAL RULES FOR MODIFICATION OF LOANS
11 SECURED BY RESIDENCES.—

12 (1) IN GENERAL.—Section 1322(b) of title 11,
13 United States Code, is amended—

14 (A) in paragraph (10), by striking “and”
15 at the end;

16 (B) by redesignating paragraph (11) as
17 paragraph (12); and

18 (C) by inserting after paragraph (10) the
19 following:

20 “(11) notwithstanding paragraph (2) and other-
21 wise applicable nonbankruptcy law—

22 “(A) modify an allowed secured claim for
23 a debt secured by the principal residence of the
24 debtor, as described in subparagraph (B), if,
25 after deduction from the debtors current

1 monthly income of the expenses permitted for
2 debtors described in section 1325(b)(3) of this
3 title (other than amounts contractually due to
4 creditors holding such allowed secured claims
5 and additional payments necessary to maintain
6 possession of that residence), the debtor has in-
7 sufficient remaining income to retain possession
8 of the residence by curing a default and main-
9 taining payments while the case is pending, as
10 provided under paragraph (5); and

11 “(B) provide for payment of such claim—

12 “(i) in an amount equal to the
13 amount of the allowed secured claim;

14 “(ii) for a period that is not longer
15 than 40 years; and

16 “(iii) at a rate of interest accruing
17 after such date calculated at a fixed an-
18 nual percentage rate, in an amount equal
19 to the most recently published annual yield
20 on conventional mortgages published by
21 the Board of Governors of the Federal Re-
22 serve System, as of the applicable time set
23 forth in the rules of the Board, plus a rea-
24 sonable premium for risk; and”.

1 (2) CONFORMING AMENDMENT.—Section
2 1325(a)(5) of title 11, United States Code, is
3 amended by inserting before “with respect” the fol-
4 lowing: “except as otherwise provided in section
5 1322(b)(11) of this title,”.

6 (b) WAIVER OF COUNSELING REQUIREMENT WHEN
7 HOMES ARE IN FORECLOSURE.—Section 109(h) of title
8 11, United States Code, is amended by adding at the end
9 the following:

10 “(5) Paragraph (1) shall not apply with respect
11 to a debtor who files with the court a certification
12 that a foreclosure sale of the debtor’s principal resi-
13 dence has been scheduled.”.

14 (c) COMBATING EXCESSIVE FEES.—Section 1322(c)
15 of title 11, the United States Code, is amended—

16 (1) in paragraph (1), by striking “and” at the
17 end;

18 (2) in paragraph (2), by striking the period at
19 the end and inserting a semicolon; and

20 (3) by adding at the end the following:

21 “(3) the plan need not provide for the payment
22 of, and the debtor, the debtor’s property, and prop-
23 erty of the debtor’s estate shall not be liable for, any
24 fee, cost, or charge, notwithstanding section 506(b),
25 that arises in connection with a claim secured by the

1 debtor's principal residence, if the event that gives
2 rise to such fee, cost, or charge occurs while the case
3 is pending but before the discharge order, except to
4 the extent that—

5 “(A) notice of such fees, costs, or charges
6 is filed with the court, and served on the debtor
7 and the trustee, before the expiration of the
8 earlier of—

9 “(i) 1 year after the event that gives
10 rise to such fee, cost, or charge occurs; or

11 “(ii) 60 days before the closing of the
12 case; and

13 “(B) such fees, costs, or charges are law-
14 ful, reasonable, and provided for in the agree-
15 ment under which such claim or security inter-
16 est arose;

17 “(4) the failure of a party to give notice de-
18 scribed in paragraph (3) shall be deemed a waiver
19 of any claim for fees, costs, or charges described in
20 paragraph (3) for all purposes, and any attempt to
21 collect such fees, costs, or charges shall constitute a
22 violation of section 524(a)(2) of this title or, if the
23 violation occurs before the date of discharge, of sec-
24 tion 362(a) of this title; and

1 “(5) a plan may provide for the waiver of any
2 prepayment penalty on a claim secured by the prin-
3 cipal residence of the debtor.”.

4 (d) APPLICATION OF AMENDMENTS.—The amend-
5 ments made to title 11, United States Code, by this sec-
6 tion shall apply with respect to cases commenced under
7 that title 11 on or after the date of enactment of this Act,
8 or pending on the date of enactment of this Act.

9 (e) HOPE FOR HOMEOWNER AMENDMENTS.—Sec-
10 tion 257(e) of the National Housing Act (12 U.S.C.
11 1715z-23(e)) is amended—

12 (1) in paragraph (1)(B), by inserting before “a
13 ratio” the following: “, or thereafter is likely to
14 have, due to the terms of the mortgage being
15 reset,”; and

16 (2) in paragraph (2)(B), by inserting before the
17 period at the end “(or such higher percentage as the
18 Board determines, in the discretion of the Board)”.

19 **SEC. 12. TERMINATION OF AUTHORITY.**

20 (a) TERMINATION.—

21 (1) IN GENERAL.—Except as provided in para-
22 graph (2), the authorities provided under this Act
23 shall terminate on December 31, 2009.

1 (2) EXCEPTION.—Paragraph (1) does not apply
2 to the authorities granted in sections 2(b)(5), 5, and
3 7.

4 (b) EXTENSION UPON CERTIFICATION.—The Sec-
5 retary, upon submission of a written certification to Con-
6 gress, may extend the authority provided under this Act
7 to expire not later than 2 years from the date of enact-
8 ment of this Act. Such certification shall include a jus-
9 tification of why the extension is necessary to assist Amer-
10 ican families and stabilize financial markets, as well as
11 the expected costs to the taxpayer for such an extension.

12 (c) APPLICATION OF SUNSET TO TROUBLED AS-
13 SETS.—The authority of the Secretary to hold any trou-
14 bled asset purchased under this Act before the termination
15 date under this section, or to purchase or fund the pur-
16 chase of a troubled asset under a commitment entered into
17 before the termination date under this section shall not
18 terminate in accordance with this section.

19 **SEC. 13. INCREASE IN STATUTORY LIMIT ON THE PUBLIC**
20 **DEBT.**

21 Section 3101(b) of title 31, United States Code, is
22 amended by striking “\$10,615,000,000,000” and insert-
23 ing “\$11,315,000,000,000”.

24 **SEC. 14. CREDIT REFORM.**

25 **【To Be Supplied by Budget Committee】.**

1 **SEC. 15. ANNUAL FINANCIAL REPORTS AND AUDITS.**

2 (a) **COMPTROLLER GENERAL AUDITS.—**

3 (1) **IN GENERAL.—**The Secretary shall annually
4 prepare and submit to the Congress, and make
5 available to the public, audited financial statements
6 prepared in accordance with generally accepted ac-
7 counting principles, such statements to be audited
8 annually by the Comptroller General, in accordance
9 with generally accepted government auditing stand-
10 ards. The Comptroller General shall annually issue
11 an advisory opinion on the adequacy of the internal
12 financial controls of the office established under sec-
13 tion 2 (in this section referred to as the “office”).
14 The Secretary shall reimburse the Government Ac-
15 countability Office for the full cost of any such audit
16 as billed therefor by the Comptroller General.

17 (2) **SCOPE OF AUTHORITY.—**The Comptroller
18 General may audit the programs, activities, receipts,
19 expenditures, and financial transactions of the office,
20 and any contractor or agent of the office with re-
21 spect to any contract with or service performed for
22 the office or the Secretary in carrying out this Act.

23 (3) **PROFESSIONAL SERVICES.—**For the pur-
24 pose of conducting an audit under this subsection,
25 the Comptroller General is authorized in the discre-
26 tion of the Comptroller General, to employ by con-

1 tract without regard to section 3709 of the Revised
2 Statutes of the United States (41 U.S.C. 5), profes-
3 sional services of firms and organizations of certified
4 public accountants for temporary periods or for spe-
5 cial purposes.

6 (b) **COMPTROLLER GENERAL ACCESS.**—In order to
7 conduct audits under subsection (a), representatives of the
8 Comptroller General shall have access, upon request, to
9 any information, data, schedules, books, accounts, finan-
10 cial records, reports, files, or other papers, things, or prop-
11 erty belonging to or in use by the office or the Secretary,
12 and to the employees, accountants, financial advisors, and
13 other agents thereof, all at such reasonable times as the
14 representatives of the Comptroller General may request.
15 The representatives of the Comptroller General shall be
16 afforded full facilities for verifying transactions with the
17 balances or securities held by depositories, fiscal agents,
18 and custodians. The representatives of the Comptroller
19 General may make and retain copies of such books, ac-
20 counts, and other records as they deem appropriate.

21 (c) **CORRECTIVE RESPONSES TO AUDIT PROB-**
22 **LEMS.**—The Secretary and the office shall—

23 (1) take action to address deficiencies identified
24 by the Comptroller General, any other auditor en-
25 gaged by the office, and any audit committee; or

1 (2) certify that no action is necessary or appro-
2 priate.

3 (d) INTERNAL CONTROLS.—

4 (1) SYSTEM.—The office shall establish and
5 maintain an effective system of internal controls,
6 consistent with the standards prescribed under sec-
7 tion 3512(c) of title 31, United States Code, that
8 provides reasonable assurance over—

9 (A) the effectiveness and efficiency of oper-
10 ations, including the use of office resources;

11 (B) the reliability of financial reporting, in-
12 cluding financial statements and other reports
13 for internal and external use; and

14 (C) compliance with applicable laws and
15 regulations.

16 (2) ANNUAL STATEMENTS.—In conjunction
17 with each annual financial statement issued under
18 subsection (a), the office shall—

19 (A) state the responsibility of management
20 for establishing and maintaining adequate in-
21 ternal control over financial reporting; and

22 (B) state its assessment, as of the end of
23 the most recent year covered by such financial
24 statement of the Office, of the effectiveness of
25 the internal control over financial reporting.

1 **SEC. 16. CONFLICTS OF INTEREST.**

2 (a) REGULATIONS REQUIRED.—The Secretary shall
3 promulgate regulations necessary to address and manage
4 or to prohibit conflicts of interest that may arise in con-
5 nection with the administration and execution of the au-
6 thorities provided under this Act, including—

7 (1) conflicts arising in the selection or hiring of
8 contractors or advisors, including asset managers;

9 (2) the purchase of troubled assets;

10 (3) the management of the troubled assets held;

11 (4) post-employment restrictions on employees;

12 and

13 (5) any other potential conflict of interest, as
14 the Secretary deems necessary or appropriate in the
15 public interest.

16 (b) TIMING.—Regulations required by this section
17 shall be issued in final form not later than 120 days after
18 the date of enactment of this Act.

19 **SEC. 17. EXECUTIVE COMPENSATION.**

20 The Secretary shall require that all entities seeking
21 to sell assets through a program established under this
22 Act meet appropriate standards for executive compensa-
23 tion and shareholder disclosure in order to be eligible,
24 which standards shall include—

1 (1) limits on compensation to exclude incentives
2 for executives to take risks that the Secretary deems
3 to be inappropriate or excessive;

4 (2) a claw-back provision for incentive com-
5 pensation paid to a senior executive based on earn-
6 ings, gains, or other criteria that are later proven to
7 be inaccurate; and

8 (3) such limitations on the entity paying sever-
9 ance compensation to its senior executives as are de-
10 termined to be appropriate in the public interest in
11 light of the assistance being given to the entity.

12 **SEC. 18. STUDIES AND REPORTS.**

13 (a) MARGIN AUTHORITY.—

14 (1) STUDY.—The Comptroller General shall un-
15 dertake a study to determine the extent to which le-
16 verage and sudden deleveraging of financial institu-
17 tions was a factor behind the current financial crisis.

18 (2) CONTENT.—The study required by this sec-
19 tion shall include—

20 (A) an analysis of the roles and respon-
21 sibilities of the Board, the Securities and Ex-
22 change Commission, the Secretary of the Treas-
23 ury, and banking regulators with respect to
24 monitoring leverage and acting to curtail exces-
25 sive leveraging;

1 (B) an analysis of the authority of the
2 Board to regulate leverage, including by setting
3 margin requirements, and what process the
4 Board used to decide whether or not use its au-
5 thority; and

6 (C) recommendations for the Board and
7 Congress with respect to the existing authority
8 of the Board.

9 (3) REPORT.—Not later than June 1, 2009, the
10 Comptroller General shall complete and submit to
11 Congress a report on the study required by this sub-
12 section.

13 (b) IMPACT ASSESSMENT.—

14 (1) STUDY.—The Comptroller General shall
15 conduct a study to assess the impact of the program
16 authorized by this Act, including—

17 (A) whether it has—

18 (i) provided stability or prevented dis-
19 ruption to the financial markets or the
20 banking system; and

21 (ii) protected taxpayers;

22 (B) with respect to the processes for pur-
23 chasing, pricing, and disposing of troubled as-
24 sets.

1 (2) SUBMISSIONS TO CONGRESS.—Not later
2 than 15 days after the date of enactment of this Act
3 and each 3 months thereafter, the Comptroller Gen-
4 eral shall submit a report on the study required by
5 this subsection to the Committee on Banking, Hous-
6 ing, and Urban Affairs of the Senate and the Com-
7 mittee on Financial Services of the House of Rep-
8 resentatives.

9 **SEC. 19. DISCLOSURES ON EXERCISE OF LOAN AUTHORITY.**

10 (a) IN GENERAL.—Not later than 7 days after the
11 date on which the Board exercises its authority under the
12 third paragraph of section 13 of the Federal Reserve Act
13 ((12 U.S.C. 343), relating to discounts for individuals,
14 partnerships, and corporations) the Board shall provide to
15 the Committee on Banking, Housing, and Urban Affairs
16 of the Senate and the Committee on Financial Services
17 of the House of Representatives a report which includes—

18 (1) the justification for exercising the authority;

19 and

20 (2) the specific terms of the actions of the
21 Board, including the size and duration of the lend-
22 ing, the value of any collateral held with respect to
23 such a loan, the recipient of warrants or any other
24 potential equity in exchange for the loan, and any
25 expected cost to the taxpayer for such exercise.

1 (b) PERIODIC UPDATES.—The Board shall provide
2 updates to the Committees specified in subsection (a) not
3 less frequently than once every 30 days while the subject
4 loan is outstanding, including—

5 (1) the status of the loan;

6 (2) the value of the collateral held by the Fed-
7 eral reserve bank which initiated the loan; and

8 (3) the projected cost to the taxpayer of the
9 loan.

10 (c) CONFIDENTIALITY.—The information submitted
11 to the Congress under this section may be kept confiden-
12 tial, upon the written request of the Chairman of the
13 Board, in which case it will made available only to the
14 Chairpersons and Ranking Members of the Committees
15 described in subsection (a).

16 (d) APPLICABILITY.—The provisions of this section
17 shall be in force for all uses of the authority provided
18 under this Act occurring on or after March 1, 2008, and
19 reports shall be required beginning not later than 30 days
20 after the date of enactment of this Act.

21 **SEC. 20. SPECIAL INSPECTOR GENERAL FOR THE TROU-**
22 **BLED ASSET PROGRAM.**

23 (a) PURPOSES.—The purposes of this section are as
24 follows:

1 (1) To provide for the independent and objec-
2 tive conduct and supervision of audits and investiga-
3 tions relating to the programs and operations of the
4 program authorized to be established under section
5 2.

6 (2) To provide for the independent and objec-
7 tive leadership and coordination of, and rec-
8 ommendations on, policies designed to—

9 (A) promote economy efficiency, and effec-
10 tiveness in the administration of such program;
11 and

12 (B) prevent and detect fraud and abuse in
13 such program.

14 (3) To provide for an independent and objective
15 means of keeping the Congress fully and currently
16 informed about problems and deficiencies relating to
17 the administration of such program and the neces-
18 sity for and progress for corrective action.

19 (b) OFFICE OF INSPECTOR GENERAL.—There is
20 hereby established the Office of the Special Inspector Gen-
21 eral for the Troubled Asset Program.

22 (c) APPOINTMENT OF INSPECTOR GENERAL; RE-
23 MOVAL.—(1) The head of the Office of the Special Inspec-
24 tor General for the Troubled Asset Program is the Special

1 Inspector General for the Troubled Asset Program, who
2 shall be appointed by the President.

3 (2) The appointment of the Special Inspector General
4 for the Troubled Asset Program shall be made solely on
5 the basis of integrity and demonstrated ability in account-
6 ing, auditing, financial analysis, law, management anal-
7 ysis, public administration, or investigations.

8 (3) The nomination of an individual as Special In-
9 spector General for the Troubled Asset Program shall be
10 made not later than 30 days after the establishment of
11 any program under section 2.

12 (4) The Special Inspector General for the Troubled
13 Asset Program shall be removable from office in accord-
14 ance with the provisions of section 3(b) of the Inspector
15 General Act of 1978 (5 U.S.C. App.).

16 (5) For purposes of section 7324 of title 5, United
17 States Code, the Special Inspector General for the Trou-
18 bled Asset Program shall not be considered an employee
19 who determines policies to be pursued by the United
20 States in the nationwide administration of Federal law.

21 (6) The annual rate of basic pay of the Special In-
22 spector General for the Troubled Asset Program shall be
23 the annual rate of basic pay provided for positions at level
24 IV of the Executive Schedule under section 5315 of title
25 5, United States Code.

1 (d) ASSISTANT INSPECTORS GENERAL.—The Special
2 Inspector General for the Troubled Asset Program shall,
3 in accordance with applicable laws and regulations gov-
4 erning the civil service—

5 (1) appoint an Assistant Inspector General for
6 Auditing who shall have the responsibility for super-
7 vising the performance of auditing activities relating
8 to any program established under section 2; and

9 (2) appoint an Assistant Inspector General for
10 Investigations who shall have the responsibility for
11 supervising the performance of investigative activi-
12 ties relating to such program.

13 (e) DUTIES.—(1) It shall be the duty of the Special
14 Inspector General for the Troubled Asset Program to con-
15 duct, supervise, and coordinate audits and investigations
16 of the purchase, management, and sale of assets by the
17 Secretary of the Treasury under any program established
18 by the Secretary under section 2, including by collecting
19 and summarizing the following information:

20 (A) A description of the categories of troubled
21 assets purchased or otherwise procured by the Sec-
22 retary.

23 (B) A listing of the troubled assets purchased
24 in each such category described under subparagraph

25 (A).

1 (C) An explanation of the reasons the Secretary
2 deemed it necessary to purchase each such troubled
3 asset.

4 (D) A listing of each financial institution that
5 such troubled assets were purchased from.

6 (E) A listing of and detailed biographical infor-
7 mation on each person or entity hired to manage
8 such troubled assets.

9 (F) A current estimate of the total amount of
10 troubled assets purchased pursuant to any program
11 established under section 2, the amount of troubled
12 assets on the books of the Treasury, the amount of
13 troubled assets sold, and the profit and loss incurred
14 on each sale or disposition of each such troubled
15 asset.

16 (2) The Special Inspector General for the Troubled
17 Asset Program shall establish, maintain, and oversee such
18 systems, procedures, and controls as the Special Inspector
19 General considers appropriate to discharge the duty under
20 paragraph (1).

21 (3) In addition to the duties specified in paragraphs
22 (1) and (2), the Inspector General shall also have the du-
23 ties and responsibilities of inspectors general under the In-
24 specter General Act of 1978.

1 (f) POWERS AND AUTHORITIES.—(1) In carrying out
2 the duties specified in subsection (e), the Special Inspector
3 General for the Troubled Asset Program shall have the
4 authorities provided in section 6 of the Inspector General
5 Act of 1978.

6 (2) The Special Inspector General for the Troubled
7 Asset Program shall carry out the duties specified in sub-
8 section (e)(1) in accordance with section 4(b)(1) of the
9 Inspector General Act of 1978.

10 (g) PERSONNEL, FACILITIES, AND OTHER RE-
11 SOURCES.—(1) The Special Inspector General for the
12 Troubled Asset Program may select, appoint, and employ
13 such officers and employees as may be necessary for car-
14 rying out the duties of the Special Inspector General, sub-
15 ject to the provisions of title 5, United States Code, gov-
16 erning appointments in the competitive service, and the
17 provisions of chapter 51 and subchapter III of chapter 53
18 of such title, relating to classification and General Sched-
19 ule pay rates.

20 (2) The Special Inspector General for the Troubled
21 Asset Program may obtain services as authorized by sec-
22 tion 3109 of title 5, United States Code, at daily rates
23 not to exceed the equivalent rate prescribed for grade GS-
24 15 of the General Schedule by section 5332 of such title.

1 (3) The Special Inspector General for the Troubled
2 Asset Program may enter into contracts and other ar-
3 rangements for audits, studies, analyses, and other serv-
4 ices with public agencies and with private persons, and
5 make such payments as may be necessary to carry out
6 the duties of the Inspector General.

7 (4)(A) Upon request of the Special Inspector General
8 for the Troubled Asset Program for information or assist-
9 ance from any department, agency, or other entity of the
10 Federal Government, the head of such entity shall, insofar
11 as is practicable and not in contravention of any existing
12 law, furnish such information or assistance to the Special
13 Inspector General, or an authorized designee.

14 (B) Whenever information or assistance requested by
15 the Special Inspector General for the Troubled Asset Pro-
16 gram is, in the judgment of the Special Inspector General,
17 unreasonably refused or not provided, the Special Inspec-
18 tor General shall report the circumstances to the appro-
19 priate committees of Congress without delay.

20 (h) REPORTS.—(1) Not later than October 31, 2008,
21 and every calendar quarter thereafter, the Special Inspec-
22 tor General for the Troubled Asset Program shall submit
23 to the appropriate committees of Congress a report sum-
24 marizing the activities of the Special Inspector General
25 during the 120-day period ending on the date of such re-

1 port. Each report shall include, for the period covered by
2 such report, a detailed statement of all purchases, obliga-
3 tions, expenditures, and revenues associated with any pro-
4 gram established by the Secretary of the Treasury under
5 section 2, as well as the information collected under sub-
6 section (e)(1).

7 (2) Nothing in this subsection shall be construed to
8 authorize the public disclosure of information that is—

9 (A) specifically prohibited from disclosure by
10 any other provision of law;

11 (B) specifically required by Executive order to
12 be protected from disclosure in the interest of na-
13 tional defense or national security or in the conduct
14 of foreign affairs; or

15 (C) a part of an ongoing criminal investigation.

16 (i) APPROPRIATE COMMITTEES OF CONGRESS DE-
17 FINED.—In this section, the term “appropriate commit-
18 tees of Congress” means—

19 (1) the Committees on Finance, Budget, and
20 Banking, Housing, and Urban Affairs of the Senate;
21 and

22 (2) the Committees on Ways and Means, Budget,
23 et, and Financial Services of the House of Rep-
24 resentatives.

1 (j) FUNDING.—(1) Of the amounts made available to
2 the Secretary of the Treasury under section 6,
3 \$75,000,000 shall be available to the Special Inspector
4 General for the Troubled Asset Program to carry out this
5 section.

6 (2) The amount available under paragraph (1) shall
7 remain available until expended.

8 **SEC. 21. DEFINITIONS.**

9 For purposes of this Act, the following definitions
10 shall apply:

11 (1) BOARD.—The term “Board” means the
12 Board of Governors of the Federal Reserve System.

13 (2) COMPTROLLER GENERAL.—The term
14 “Comptroller General” means the Comptroller Gen-
15 eral of the United States.

16 (3) CORPORATION.—The term “Corporation”
17 means the Federal Deposit Insurance Corporation.

18 (4) FINANCIAL INSTITUTION.—The term “fi-
19 nancial institution” means—

20 (A) any institution, including banks, sav-
21 ings associations, credit unions, securities
22 broker and dealers, and insurance companies,
23 having significant operations in the United
24 States; and

1 (B) upon the determination of the Sec-
2 retary, in consultation with the Chairman of the
3 Board of Governors of the Federal Reserve Sys-
4 tem, any other institution that the Secretary
5 determines necessary to promote financial mar-
6 ket stability.

7 (5) RESIDENTIAL MORTGAGE LOAN.—The term
8 “residential mortgage loan” means a consumer cred-
9 it transaction that is secured by the principal resi-
10 dence of a consumer.

11 (6) SECRETARY.—The term “Secretary” means
12 the Secretary of the Treasury.

13 (7) TROUBLED ASSETS.—The term “troubled
14 assets” means—

15 (A) residential or commercial mortgages,
16 and any securities, obligations, or other instru-
17 ments that are based on or related to such
18 mortgages, that in each case were originated or
19 issued on or before March 14, 2008; and

20 (B) upon the determination of the Sec-
21 retary, in consultation with the Chairman of the
22 Board of Governors of the Federal Reserve Sys-
23 tem, any other financial instrument, as the Sec-
24 retary determines necessary to promote finan-
25 cial market stability.

1 (8) UNITED STATES.—The term “United
2 States” means the States, territories, and posses-
3 sions of the United States and the District of Co-
4 lumbia.