

CRS Report for Congress

Creating GSE Affordable Housing Funds: Proposed Legislation in the 110th Congress

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Summary

One key feature of H.R. 1427, the Federal Housing Finance Reform Act of 2007, which passed the House on May 24, 2007, is the requirement that Fannie Mae and Freddie Mac contribute to a new affordable housing fund for owner-occupied and rental housing. Based on the most recently available information (for FY2005) on Fannie Mae's and Freddie Mac's total portfolios, this could amount to approximately \$482 million annually.

In FY2007, the fund would be divided between purchasing mortgages for homes in the areas affected by Hurricanes Katrina and Rita in 2005 in Louisiana and Mississippi, and REFCORP, which financed the savings and loan restructuring in 1989. After FY2007, funding would be allocated according to a formula to be developed by the Secretary of the Department of Housing and Urban Development (HUD). If the Secretary does not develop a formula, funds would be allocated according to HUD's HOME allocation formula. The fund would expire after five years.

As engrossed by the House, H.R. 1427 would place the affordable housing fund into a national affordable housing trust if one is created. One such bill is H.R. 2895, the National Affordable Housing Trust Fund Act of 2007. Another bill, H.R. 1852, the Expanding American Homeownership Act of 2007, would require that savings from increased efficiency in the Federal Housing Administration also go into the national trust fund.

H.R. 1427 is similar to H.R. 1461, which passed the House in the 109th Congress, but under H.R. 1461 Fannie Mae and Freddie Mac would have been involved in selecting grantees, while the states and Indian tribes would not have been involved. H.R. 1461 also contained more restrictions on the entities that could receive funding.

Probably the critical issue behind the government-sponsored enterprise (GSE) affordable housing fund and the GSE contribution to the national housing trust is the rationale for GSEs' participation in and contributions to them. The justification is that the GSEs have special charters from Congress that give them special treatment such as exemption from state and local income taxes and the ability to borrow up to \$2.25 billion from the U.S. Treasury. In return, their charters limit their business activities to purchasing home mortgages and supporting affordable housing. Opponents of the fund are concerned that the cost of the contributions would be passed onto mortgage borrowers.

This report will be updated as legislative events warrant.

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Background on Housing GSEs' Mission

Congress chartered Fannie Mae and Freddie Mac as stockholder-owned, government-sponsored enterprises (GSEs) with the mission of supporting home ownership by enhancing mortgage market liquidity and providing assistance to lower-income families and underserved areas. The 12 Federal Home Loan Banks (FHLBs) make up a third collective housing GSE with a similar mission. The FHLBs are owned by member organizations (originally savings and loan associations) and purchase mortgages from them.

In exchange for their financial support for owner-occupied and rental affordable housing, the GSEs receive several advantages, such as the right to borrow from the U.S. Treasury, and exemption from state and local taxes. By law, the GSEs cannot make loans directly to property owners. Instead, Fannie Mae and Freddie Mac purchase mortgages from lenders and package them into mortgage-backed securities (MBS) that they either hold in their portfolio or sell to investors. The FHLBs purchase mortgages from member lenders and have recently begun to issue some MBS.

The Office of Federal Housing Enterprise Oversight (OFHEO) regulates Fannie Mae and Freddie Mac for safety and soundness, while the Department of Housing and Urban Development (HUD) monitors adherence to their mission goals. The Federal Housing Finance Board (FHFB) regulates the FHLBs for safety, soundness, and mission goals.

The Federal Housing Enterprise Financial Safety and Soundness Act of 1992 gives HUD the authority to set specific goals for Fannie Mae and Freddie Mac to serve low-income families and underserved markets.¹ Between 2005 and 2008 there are three goals and three subgoals. Three goals establish a minimum percentage of mortgages in income and geographic categories of homes for the GSEs to purchase based on the origination of similar mortgages. The subgoals specify the dollar volume of mortgages used to purchase (as opposed to refinance) homes.²

¹ 12 U.S.C. 4561 et seq., P.L. 102-550, 106 Stat. 3672.

² U.S. Department of Housing and Urban Development, "HUD's Housing Goals for the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) for the Years 2005 — 2008 and Amendments to HUD's Regulation of Fannie Mae and Freddie Mac," 69 *Federal Register* 63587, Nov. 2, 2004.

In response to concerns about needing a strong regulator — heightened in part by accounting problems at Fannie Mae and Freddie Mac — H.R. 1427 would combine OFHEO, HUD's regulatory division, and FHFB into a new, independent regulatory agency called the Federal Housing Finance Agency (FHFA).³ H.R. 1427 would also revise and expand Fannie Mae's and Freddie Mac's affordable housing activities.⁴

H.R. 1427, the Federal Housing Finance Reform Act of 2007, as engrossed by the House, would repeal the 2005-2008 goals and replace them with three single-family housing goals with a refinancing subgoal and a multifamily special affordable housing goal.⁵ The new goals would target slightly lower-income families than the current goals, and FHFA would set the numeric goals to be equal to the three-year average for mortgages reported under the Home Mortgage Disclosure Act of 1975.⁶ Moreover, Fannie Mae and Freddie Mac would be required to contribute to a new affordable housing fund. The FHLB programs would continue under FHFA regulation.

The Federal Housing Finance Board regulates the FHLBs for both safety and soundness and for mission. In turn, each FHLB administers and provides financial support to an affordable housing program.

Since the FHLB affordable housing programs would not be changed by H.R. 1427, the remainder of this report pertains only to Fannie Mae and Freddie Mac unless the FHLBs are specifically mentioned.

Proposed Changes to GSE Affordable Housing Activities

H.R. 1427 would require the GSEs to contribute a percentage of their total mortgage portfolio outstanding to an affordable housing fund. For FY2007, the bill would direct most of the fund to go to areas of Louisiana and Mississippi damaged by Hurricanes Katrina and Rita in 2005. In later years, the Secretary of HUD would create a formula for allocating the housing fund based on general criteria in the bill. H.R. 1427 would also create housing goals and a duty to serve underserved markets.

GSE Affordable Housing Fund in H.R. 1427

The fund would have five general goals:

³ Representative Barney Frank introduced H.R. 1427 on March 9, 2007, with three cosponsors.

⁴ See CRS Report RS21949, *Accounting Problems at Fannie Mae*, by Mark Jickling, and CRS Report RS21567, *Accounting and Management Problems at Freddie Mac*, by Mark Jickling for information on the accounting problems.

⁵ H.R. 1427, Section 137 contains the language on goals.

⁶ 12 U.S.C. 2801, P.L. 94-200, 89 Stat. 1124

- (1) increase home ownership by families at or below 50% of area median income;
- (2) increase mortgage funds in designated areas of chronic economic distress;
- (3) increase the supply of rental and owner-occupied housing for families at or below 50% of area median income;
- (4) increase investment in public infrastructure in connection with related affordable housing goals; and,
- (5) leverage funding from other sources.

Allocation of Funds. In each year, 25% of the fund would go to the Federal Home Loan Banks' Resolution Funding Corporation (REFCORP).⁷ In FY2005, the most recent year for which data are available, nearly \$120 million would have gone to REFCORP, leaving \$362 million available for other affordable housing financing. Under the bill, in FY2007, 75% of the remaining affordable housing fund (\$271 million in FY2005) would be allocated to the Louisiana Housing Finance Agency, and 25% (\$90 million in FY2005) would be allocated to the Mississippi Development Authority for housing in the disaster areas created by Hurricane Katrina or Rita in 2005. Congress might wish to consider what should be done if H.R. 1427 were to be signed into law after the end of FY2007 or too close to the end of FY2007 for these provisions to be implemented before FY2008.

In succeeding years, the Secretary of HUD would be required to develop a formula to allocate the funds among the states and federally recognized Indian tribes. The allocation formula would be based on (1) population, (2) the percentage of families that pay more than 50% of their annual incomes for housing costs, (3) the percentage of persons in families with incomes below 50% of area median family income (adjusted for family size only for renters), (4) the cost of construction or rehabilitation, (5) the percentage of families living in substandard housing, (6) the percentage of housing stock that is extremely old, and (7) any other factors that the Secretary of HUD determines to be appropriate.⁸ If the HUD Secretary does not establish a formula, HUD's HOME program formula would be used.

At least 10% of the fund (\$36 million in FY2005) would be required to be used for home ownership activities. No more than 12.5% (\$45 million in FY2005) could finance public infrastructure associated with affordable housing projects. The bill sets no minimum for rental housing support. The bill specifies that if an affordable housing trust fund is established between FY2007 and FY2011, all affordable housing funds generated by H.R. 1427 that are not transferred to REFCORP would be transferred to the trust fund and allocated under trust fund provisions.

⁷ CRS Report RS20197, *Community Reinvestment Act: Regulation and Legislation*, by Walter W. Eubanks, explains REFCORP, which was created during the savings and loan restructuring in 1989.

⁸ H.R. 1427 does not define "extremely old housing," but a related bill, H.R. 2895, which is also discussed in this report, uses the term to mean 45 years old or older.

The grantees (states and Indian tribes) would be responsible for overseeing the proper use of the funds and obtaining reimbursement for improperly used funds. Future grants would be reduced by the amount of any unreimbursed improperly used money.

Restrictions on Use. The bill would prohibit using the grants for political activities, advocacy, lobbying, counseling services, travel expenses, and preparing or providing advice on tax returns. Grants could not be used for outreach or other administrative costs of the grantee or fund recipient.

Other restrictions would apply to home ownership. Only first-time home buyer families with incomes at or below 50% of the area median income would be eligible.⁹ The price of these homes could not exceed 95% of the area median price for comparable dwellings. Homeowners could resell the houses only to low-income families, and resale profits beyond a fair return on their investment would be subject to recapture for 10 years, under certain conditions.¹⁰ Any return on an affordable housing fund grant would belong to the grantee (state or Indian tribe) for use as an affordable housing grant in the future.

There would be no restrictions on the funding mechanism: grants, market rate loans, interest rate buy-downs, downpayment assistance, closing cost aid, and equity investments would be allowed. Grantees could subgrant to themselves, or to for-profit and nonprofit developers of affordable housing, or use it themselves.

Restrictions on Sponsors. Under H.R. 1427, those receiving funding from the affordable housing fund must have relevant experience. More specifically, an organization receiving funding for a rental housing project would have to have experience owning, constructing, or rehabilitating affordable multifamily rental projects. An organization receiving funding for homeownership would be required to have experience in designing, constructing, rehabilitating, providing assistance with downpayments, closing costs, or interest rate subsidies. The recipient of funding for public infrastructure would have to demonstrate experience in that area. Recipients would also have to demonstrate general financial experience and expertise.

Priorities. Each grantee would be required to issue regulations with specific criteria for selecting projects. After 2007, grantees would be required to develop funding priorities based on (1) the greatest impact, (2) geographic diversity, (3) the ability to obligate the funds and undertake the activities quickly, (4) the use of other funding sources, and (5) the merits of the proposed activity.

⁹ First-time home buyers are home buyers who have not owned a home in the past three years. Exceptions to this criteria exist for certain groups that have owned a home more recently.

¹⁰ H.R. 1427, Section 140, refers to Section 215(b)(3) of the Cranston Gonzalez National Affordable Housing Act (42 U.S.C. 12745[b][2]). The 10-year time limit and other resale provisions are in 42 U.S.C. 12745(b)(3).

For rental projects, additional priorities would be affordability for families with incomes below 30% of area median income, and the duration that rental projects would remain affordable to extremely low-income families. In rental housing projects, only families with incomes at or below 50% of the area median income could benefit from the funds. These criteria differ from the housing goals, which count units that would be affordable to families of the target income regardless of actual tenant incomes. Historically, housing goals have used the latter approach because it is difficult for the GSEs to determine the income of rental tenants.

Any funds not used by a grantee within two years would be recaptured by the GSE fund and reallocated.

GSE Affordable Housing Fund

Section 140 of H.R. 1427 would require Fannie Mae and Freddie Mac to contribute 1.2 basis points (0.012%) of the annual average total of mortgages retained in portfolio or sold in the secondary market whether or not the mortgages are pooled into an MBS to the new GSE affordable housing fund. In FY2005, this would have generated approximately \$482 million.¹¹ After 2011, contributions to the fund would end.

Housing Goals

The new housing goals contained in H.R. 1427 would require the GSEs to purchase at least a proportionate share of mortgages for very low- and extremely low-income families as are generated by the primary market.¹² FHFA could raise the goals based on specified economic and financial factors, and the GSEs could request a reduction in the percentage based on housing market conditions or adverse economic impact on the GSEs. Mortgages financed with affordable housing funds would not count toward meeting the housing goals. Mortgages on energy efficient housing and housing that included a licensed childcare facility would be encouraged by counting at least 125% of the actual mortgage amount.

Duty to Serve Underserved Markets

H.R. 1427 would create an explicit duty to serve underserved markets that would be met by purchasing mortgages on (1) manufactured housing, (2) affordable housing, and (3) housing in rural and other underserved markets.¹³ Mortgages funded by the affordable housing fund would not count toward the duty to serve. The bill

¹¹ Office of Federal Housing Enterprise Oversight, *Mortgage Markets and the Enterprises: 2006*, June 2007, Tables 22 and 22a on pages 40 and 41 provide statistics on GSE mortgages. The \$482 million estimate is 0.00012 times the total, which was approximately \$4 trillion.

¹² Very-low-income families have incomes at or below 50% of area median family income; extremely low-income families have incomes at or below 30% of area median family income.

¹³ H.R. 1427, Section 138.

would create general guidelines for FHFA to implement in evaluating the GSEs' success in serving underserved markets. FHFA would evaluate the GSEs annually and report to Congress.

National Affordable Housing Trust Fund and Other Related Bills

This section discusses the relationship between H.R. 1427, H.R. 2895, which would create a national affordable housing trust fund, and H.R. 1852, which would provide additional funding for the trust fund.

H.R. 1852

H.R. 1852, the Expanding American Homeownership Act of 2007, would use increased revenue and savings to the FHA resulting from H.R. 1852 to (1) reduce the credit subsidy for single-family mortgage insurance to zero; (2) provide up to \$100 million for housing counseling; (3) provide up to \$25 million to improve mortgage insurance technology, processes, procedures, program performance, and salaries; and (4) provide funds for a national affordable housing trust fund with any funds remaining.¹⁴

The Congressional Budget Office (CBO) finds two changes in direct spending and six changes in areas such to appropriations.¹⁵ The two direct spending changes would

- change the valuation of multifamily properties in noncompetitive sales by HUD to states and local governments. CBO estimates that this would increase the use of noncompetitive sales and reduce government revenues by \$5 million per year between 2008 and 2010.
- clarify the disposition of certain properties. CBO estimates that this would affect one property and increase direct spending by \$2 million in 2007.

CBO estimates that H.R. 1852 would increase offsetting collections by \$313 million in 2008 and \$628 million between 2008 and 2012. The six changes would

¹⁴ H.R. 1852, the Expanding American Homeownership Act of 2007, was introduced on March 29, 2007, by Representative Maxine Waters with one cosponsor. For information on H.R. 1852, see CRS Report RS22662, *H.R. 1852 and Revisiting the FHA Premium Price Structure: Proposed Legislation in the 110th Congress*, by Darryl E. Getter. Another FHA reform bill, H.R. 1752, the Expanding American Homeownership Act of 2007, was introduced by Representative Judy Biggert on March 29, 2007, for herself and 16 cosponsors.

¹⁵ CBO's estimates are contained in Congressional Budget Office, *Cost Estimate. H.R. 1852, Expanding American Homeownership Act of 2007*, June 11, 2007, p. 6.

- expand the home equity conversion mortgage (HECM) reverse annuity program, which would increase offsetting collections by \$370 million to \$480 million annually in the FY2008-FY2012 period;
- increase loan limits in the FHA's multifamily loan program, which would increase offsetting collections by \$19 million annually between FY2008 and FY2012;
- increase Government National Mortgage Association (GNMA) revenues by \$12 million - \$34 million annually in the period FY2008-FY2012 because of the higher FHA multifamily loan limits;
- increase loan limits on FHA single-family mortgages, which would have no net impact on offsetting collections;
- limit increases in fees for mortgage insurance, which would reduce FHA revenue by \$20 million - \$43 million annually in FY2008 to FY2012; and
- authorize FHA to make payment incentives after three years of timely premium payments and require incentives after five years of timely premium payments, which would cost \$16 million annually between FY2008 and FY2012.

CBO estimates that the affordable housing fund would receive between \$270 million and \$357 million annually between FY2008 and FY2012. A new housing counseling program in H.R. 1852 would receive \$58 million annually in FY2008-FY2012, and increased FHA technology support costs would be allocated at \$25 million annually.

H.R. 2895

As noted earlier, H.R. 1427 would transfer affordable housing funds to a new national affordable housing trust fund upon enactment of such a trust fund. H.R. 2895, the National Affordable Housing Trust Fund Act of 2007, would create that fund; this bill was introduced on June 28, 2007, by Representative Barney Frank and 16 cosponsors.¹⁶ Presently the bill has 31 cosponsors. It was referred to the Committee on Financial Services. There is no companion bill in the Senate.

National Affordable Housing Trust Fund. The national affordable housing trust fund would provide a dedicated source of revenue to support affordable housing. The national trust fund that would be created by H.R. 2895 would be funded by the affordable housing fund (estimated \$482 million in FY2005) and increased revenues from the FHA program changes contained in H.R. 1852. CBO

¹⁶ The House Financial Services Committee amended and ordered H.R. 2895 reported on July 31, 2007.

estimates that H.R. 1852 would generate \$270 to \$357 million annually making the contributions to the trust fund \$752 to \$839 million.

A coalition of low-income-housing organizations, led by the National Low Income Housing Coalition (NLIHC), has advocated establishment of such a trust fund for several years. Legislation to create a National Affordable Housing Trust Fund using a portion of Federal Housing Administration receipts as the dedicated source of revenue was introduced, but not enacted, in the 106th, 107th, and 108th Congresses. Since FHA receipts are currently deposited in the U.S. Treasury, diverting them to a housing trust fund would count as new spending and would be subject to annual appropriations procedures, including PAYGO.

The trust fund proposed in H.R. 2895 would provide formula grants to states and localities, and competitive grants to Indian tribes. The funds could be subgranted to for-profit and nonprofit organizations for the creation, rehabilitation, or financial support of rental housing, as well as downpayment, interest rate buydowns, and closing cost assistance for first-time home buyers. The bill would require that all funds be used to benefit families at or below 80% of local area median income, and that 75% of all funds be used to benefit families at the higher of 30% of local area median income or the poverty line. As mentioned previously, the allocation rules for the trust fund would replace the rules for the GSE housing fund.

H.R. 2895 would prohibit any reduction in HOME funding because of the additional money available from the trust. This would apply to the federal government and grantees, but it is not clear how this could be enforced.

Restrictions. The restrictions on the use of GSE affordable housing grant funds would apply to the trust fund and the same provisions for recapturing profits of owner-occupied units would apply.

Policy Analysis

This section analyzes the rationale for requiring GSEs to support an affordable housing fund, comply with affordable housing goals, and accept a duty to serve underserved markets. It also compares the affordable housing fund with a similar fund that was contained in a bill that passed the House in the 109th Congress.

Why Should the GSEs Support an Affordable Housing Fund?

Two fundamental questions behind the affordable housing fund (along with housing goals and the duty to serve underserved markets) present themselves to the congressional observer. First, is it appropriate to ask the GSEs to contribute to affordable housing? And, how are the GSEs likely to respond to the fund? Few dispute that the GSEs receive substantial benefits from their relationship with the federal government. There is debate over how the advantages of GSE status are divided among those who might benefit: lenders, mortgage borrowers (and which borrowers), holders of the GSE bonds and mortgage-backed securities, GSE

stockholders, and GSE employees. Most analysts believe that not all of the benefits go to borrowers.¹⁷

The Fannie Mae and Freddie Mac charters state that the purposes of the enterprises are

- (1) to provide stability in the secondary market for residential mortgages
- (2) to respond appropriately to the private capital market;
- (3) to provide ongoing assistance to the secondary market for residential mortgages (including activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing; and
- (4) to promote access to mortgage credit throughout the Nation (including central cities, rural areas, and underserved areas) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing.¹⁸

HUD has found that the GSEs are not leading the market in purchasing mortgages on owner-occupied and rental affordable housing and on housing in underserved areas as mentioned in their charters.¹⁹ This has led to calls for the GSEs to purchase more mortgages that finance affordable housing and housing in underserved areas, while balancing risk and profitability considerations.

H.R. 1427's affordable housing goals would require the GSEs to purchase more mortgages on homes owned or rented by persons of modest means, and would not distinguish between retaining the mortgage and selling it in a mortgage-backed security. The affordable housing fund would increase the supply of owner-occupied and rental affordable housing through grants.

Some of those opposed to the creation of a GSE affordable housing fund believe that it is unfair to require a privately owned company to balance the interests of stockholders against public policy. Others opposed to the GSE affordable housing

¹⁷ CRS Report RS22307, *Limiting Fannie Mae's and Freddie Mac's Portfolio Size*, by N. Eric Weiss summarizes both sides of the arguments. For an example of a government analysis, see Andreas Lehnert, Wayne Passmore, and Shane M. Sherlund, *GSEs, Mortgage Rates, and Secondary Market Activities*, Board of Governors of the Federal Reserve System, Working Paper 2006-30, Sept. 8, 2006. A contrasting view is presented in Freddie Mac, *The Systemic Risk Debate*, 2007, available at [http://www.freddiemac.com/corporate/about/policy/reg_reform/systemic_risk_debate.html] visited July 26, 2007.

¹⁸ The charter language setting the purpose for creating the enterprises is identical. Fannie Mae's language is at 12 U.S.C. 1716, P.L. 101-73, 103 Stat. 435; Freddie Mac's language is in P.L. 101-73, 103 Stat.429, 12 U.S.C. 1451 note. Both were amended by P.L. 102-550, 106 Stat. 3994 and 106 Stat. 4002.

¹⁹ Department of Housing and Urban Development, *Regulatory Analysis for The Secretary of HUD's Final Rule on HUD's Regulation of The Federal National Mortgage Association (Fannie Mae) and The Federal Home Loan Mortgage Corporation (Freddie Mac)*, Chapter III. Available at [<http://www.hud.gov/offices/hsg/gse/ra-chapter3.pdf>].

fund are concerned that the fund would be another cost of doing business, and that like other costs in any competitive market, they would be passed onto consumers (mortgage borrowers in this case) or reduce dividends to stockholders. H.R. 1427 includes language prohibiting the GSEs from passing on the cost of the housing fund to others. However, in a market where mortgage interest rates, mortgage terms, and home prices change as frequently as the mortgage market, it might be difficult to identify the reason for a specific interest rate or price change.

Some analysts also believe that with the GSEs' use of sophisticated financial engineering techniques to fund their retained portfolios, the GSEs' mortgage portfolio presents more risk to the financial system than when the mortgage-backed securities are sold to investors who use more conventional (and less risky) financing.²⁰ Among the reasons given that the portfolios result in greater risk are the following:

- The GSEs fund their portfolios of 30-year mortgages and MBS with short-term borrowing and thus take advantage of the fact that short-term interest rates are usually lower than long-term rates. Even if the average mortgage is paid off before 30 years, the GSEs must refinance their investment several times over the life of the mortgage. If short term interest rates increase, the GSEs could lose money, perhaps significant amounts of money.
- the financial derivatives that the GSEs also use to finance their portfolios are complex instruments and difficult to value correctly. Failure to understand the risks could lead to financial difficulty.
- many investors believe that because of the benefits in their charters, the GSEs have a special relationship with the federal government and that the federal government would rescue the GSEs if they were to get into financial trouble. This weakens market discipline and could lead the GSEs to take riskier financial positions than a non-GSE would take.

In response, GSE supporters argue that the GSEs are better qualified to monitor and bear these risks that would otherwise go to other financial institutions.

The concern over GSE portfolio risk taking leads regulators and others to the recommend that the GSEs should support the housing finance system by selling MBS to other investors instead of keeping them in portfolio. Selling the MBS spreads the risk to sophisticated investors such as banks, trusts, and pension funds that are better diversified and better able to bear the risk. H.R. 1427 is neutral in this regard.

²⁰ For policy considerations, see Federal Reserve Chairman Ben S. Bernanke, *GSE Portfolios, Systemic Risk, and Affordable House*, Remarks to the Independent Community Bankers of America, Mar. 6, 2007, Honolulu, HI. Available at [<http://www.federalreserve.gov/boarddocs/speeches/2007/20070306/>].

In years when less than \$2 billion is available, the GSE allocation formula would redirect grants of less than \$750,000 from participating local jurisdictions to their states unless the state used its trust fund grant or other money to bring the amount going to the participating local jurisdiction up to the \$750,000 threshold.

At least 75% of national trust fund grant amounts would benefit families whose incomes do not exceed the greater of 30% of adjusted area median family income or the official poverty threshold. At least 30% of the funds would be for housing families eligible for the Supplemental Security Income program. At least 10% would go for housing for families above 50% of area median family income. In years when less than \$2 billion is available, these restrictions would be replaced by one limiting grants to projects that would benefit families at or below 60% of adjusted area median family income. The GSE fund has no such restrictions.

The national trust fund would add a matching requirement that the GSE fund would not have. If the match comes from state, local, or private resources, the match would be 12.5% of the grant amount. Alternatively, if the match comes from state- or locally controlled federal assistance, or from the Federal Home Loan Bank's affordable housing program, then a 25% match would be necessary. The HUD Secretary could reduce or waive the match in exchange for zoning variances or waiver of regulatory requirements. The secretary could waive the match in areas covered by a presidential disaster declaration.

Comparison to A Previous Affordable Housing Fund Proposal

H.R. 1461, which was introduced in the 109th Congress, would have also created an affordable housing fund, but the fund would have been funded and administered differently. H.R. 1461 would have required the GSEs to contribute 3.5% of after-tax profits in the first two years and 5% in the remaining three years; it would have raised approximately \$390 to \$580 million annually, compared to the \$482 million annually in FY2005 under H.R. 1427. Some analysts were concerned that the tie in H.R. 1461 between GSE profitability and the amount available for grants would have given grant recipients a possibly inappropriate reason to support the GSEs in undertaking profitable, but risky, activities.

Another provision in H.R. 1461 would have involved the GSEs in allocating the fund. Due to concerns over potential conflicts of interest, H.R. 1461 had provisions restricting nonprofits that would have received funding. H.R. 1427 would not give the GSEs any role in allocating the affordable housing fund and would not impose similar restrictions.

Legislative Developments

In the 110th Congress:

- H.R. 1427, the Federal Housing Finance Reform Act of 2007, was introduced in the House on March 9, 2007, by Representative Barney Frank and three cosponsors.

- The House Financial Services Committee amended it and reported it out on May 9, 2007.
- The House passed the bill by a vote of 313-104 on May 22, 2007.
- The Senate referred H.R. 1427 to the Committee on Banking, Housing, and Urban Affairs.
- H.R. 2895, the National Affordable Housing Trust Fund Act of 2007, was introduced on June 28, 2007, by Representative Barney Frank and 16 cosponsors.
- The House Financial Services Committee amended it and ordered it reported out on July 31, 2007 by a vote of 45-23.
- S. 1100, the Federal Housing Enterprise Regulatory Reform Act of 2007, was introduced by Senator Chuck Hagel for himself and three cosponsors on April 12, 2007. The Senate Committee on Banking, Housing, and Urban Affairs has not held hearings on the bill. This GSE reform bill does not contain an affordable housing fund.