



**Congressional
Research Service**

Informing the legislative debate since 1914

The Housing Trust Fund: Background and Issues

-name redacted-

Analyst in Housing Policy

January 22, 2015

Congressional Research Service

7-....

www.crs.gov

R40781

Summary

On July 30, 2008, President George W. Bush signed into law the Housing and Economic Recovery Act of 2008 (P.L. 110-289), which included a wide variety of housing-related provisions. Among other things, it created a national Housing Trust Fund. In general, affordable housing trust funds provide dedicated, permanent sources of funding for affordable housing that do not require annual appropriations. Many states and localities across the United States have their own affordable housing trust funds, and for years affordable housing advocates had worked to get such a fund created on a national level. Opponents of a national affordable housing trust fund argued that it would be duplicative of other affordable housing programs.

The Housing Trust Fund created by P.L. 110-289 would provide formula-based grants to states to use for affordable housing activities. By statute, most of the funding would have to be used for rental housing; states could use up to 10% of their grants for homeownership activities. Furthermore, all of the funds would have to benefit very low- or extremely low-income households, with at least 75% of the funding for rental housing being used exclusively for the benefit of extremely low-income households.

P.L. 110-289 established that the dedicated funding source for the Housing Trust Fund would be contributions from Fannie Mae and Freddie Mac. These two entities were to annually set aside .042 cents for each dollar of the unpaid principal balance of their new business purchases to be allocated to the Housing Trust Fund and another new housing fund established by P.L. 110-289, the Capital Magnet Fund. However, the law also gave the director of the Federal Housing Finance Agency (FHFA), Fannie's and Freddie's regulator, the authority to suspend those contributions if he determined that they were contributing to financial trouble at the agencies. On September 7, 2008, Fannie Mae and Freddie Mac were placed in conservatorship, and in November 2008, the director of FHFA suspended their contributions to the Housing Trust Fund. The Fund had not yet received any funding at the time the contributions were suspended.

In the years after the contributions to the funds were suspended, affordable housing advocates searched for a new source of funds for the program, as well as arguing that Fannie Mae's and Freddie Mac's contributions to the Housing Trust Fund should be reinstated as those entities returned to profitability. At the same time, policy makers who oppose the Housing Trust Fund have made efforts to repeal it or to prevent Fannie Mae and Freddie Mac from contributing to it while they remain in conservatorship. In recent Congresses, legislation has been introduced to fund the Housing Trust Fund through alternate sources, as well as to eliminate the Housing Trust Fund entirely. The Housing Trust Fund has also been debated in the context of housing finance reform, which is largely concerned with proposals for how to reform, eliminate, or replace Fannie Mae and Freddie Mac. However, no legislation to either fund the Housing Trust Fund through a different source or eliminate the Housing Trust Fund entirely has been enacted to date.

On December 11, 2014, FHFA announced that it was directing Fannie and Freddie to begin contributions to the Housing Trust Fund and the Capital Magnet Fund starting in 2015. The first funds would be transferred to the Housing Trust Fund and the Capital Magnet Fund in early 2016.

Contents

Introduction.....	1
Background on Efforts to Create a National Affordable Housing Trust Fund.....	1
The Housing Trust Fund	3
Formula Allocation.....	4
Funding Distribution	5
Eligible Uses.....	5
Rental Housing.....	5
Owner-Occupied Housing.....	5
Restrictions and Requirements.....	6
Restriction on Eligible Activities	6
Oversight.....	6
Current Issues	6
Start of Fannie Mae and Freddie Mac Contributions to the Housing Trust Fund.....	6
Other Potential Funding Sources.....	8
The Housing Trust Fund and Housing Finance Reform Proposals	8
Other Legislation Related to the Housing Trust Fund.....	9
113 th Congress	9
112 th Congress	9
111 th Congress	10

Appendixes

Appendix. Legislative History of Housing Trust Fund Bills Prior to 2008.....	11
--	----

Contacts

Author Contact Information.....	13
---------------------------------	----

Introduction

Many states and localities across the nation have created housing trust funds that provide dedicated sources of state or local funding for affordable housing activities. For several years, affordable housing advocates campaigned for a national affordable housing trust fund to provide a permanent federal source of funding for affordable housing that would not be subject to the annual appropriations process. In July 2008, Congress passed the Housing and Economic Recovery Act of 2008 (P.L. 110-289), which was signed into law by President George W. Bush on July 30, 2008. The law included a wide range of housing-related provisions.¹ Among other things, it established two new affordable housing funds: a Housing Trust Fund and a Capital Magnet Fund.

These two new funds were to be funded through contributions from two government-sponsored enterprises (GSEs), Fannie Mae and Freddie Mac. However, Fannie Mae and Freddie Mac were both placed in conservatorship in September 2008, and their contributions were suspended before they had begun. On December 11, 2014, the Director of the Federal Housing Finance Agency (FHFA), Fannie Mae's and Freddie Mac's regulator and conservator, directed Fannie Mae and Freddie Mac to begin setting aside contributions for the Housing Trust Fund and the Capital Magnet Fund beginning in 2015. By statute, 65% of the funds will be allocated to the Housing Trust Fund and 35% will be allocated to the Capital Magnet Fund. This will be the first funding the Housing Trust Fund has received.

This report briefly describes the structure and eligible uses of the Housing Trust Fund as authorized in P.L. 110-289. It also discusses legislation related to the Housing Trust Fund that has been introduced in recent Congresses, including bills that would provide alternative sources of funding for the Housing Trust Fund and bills that would eliminate the program entirely.

Background on Efforts to Create a National Affordable Housing Trust Fund

For several years prior to the establishment of the Housing Trust Fund in 2008, a coalition of low-income housing organizations had advocated for the establishment of a national affordable housing trust fund. The idea of an affordable housing trust fund was not new; several states and localities had already adopted their own state and local trust funds. In general, affordable housing trust funds are permanent funding streams that are not reliant on annual appropriations and are dedicated to affordable housing activities for low-income households. According to the Center for Community Change, an advocacy group, nearly 700 state, city, and county housing trust funds have been established in 47 states across the nation.²

Advocacy organizations such as the Center for Community Change and the National Low Income Housing Coalition, one of the leading proponents of a national affordable housing trust fund, have

¹ For more information on the Housing and Economic Recovery Act, see archived CRS Report RL34623, *Housing and Economic Recovery Act of 2008*, coordinated by (name redacted).

² For more information on the Center for Community Change's research on housing trust funds, see <http://housingtrustfundproject.org/housing-trust-funds/>.

long argued that a federal fund should be established to complement these state and local efforts. These advocates want this fund to be capitalized with new resources devoted to affordable housing activities, rather than from current appropriations for other affordable housing programs. They argue that a national affordable housing trust fund would be more targeted towards increasing the supply of rental housing affordable to households with the lowest incomes than most existing housing programs.

Opponents of a national housing trust fund argue that the federal government already provides funding for affordable housing through other programs, including flexible block grant programs such as the HOME Investment Partnerships Program.³ They argue that a national affordable housing trust fund is duplicative of these programs since the activities that it would fund are eligible uses of these other sources of funds. Some opponents have also expressed concerns that funds could be used as a “slush fund” for special interest groups or otherwise misused.⁴

Legislation to establish a national affordable housing trust fund was introduced several times, beginning in the 106th Congress.⁵ One major question surrounding the creation of an affordable housing trust fund was how such a program would be funded. Early legislation proposed using a portion of receipts from the Federal Housing Administration (FHA), but diverting FHA receipts to a housing trust fund would count as new spending and would be subject to annual spending limits, including the Pay-As-You-Go rule (PAYGO).⁶

Later legislation proposed using contributions from Fannie Mae and Freddie Mac, two government-sponsored enterprises (GSEs), as a potential funding source. Because of the GSEs’ status as private entities, contributions from Fannie Mae and Freddie Mac would not have counted as new government spending.⁷ However, there was some disagreement over whether it was appropriate for the government to require the GSEs to contribute to affordable housing funds. Opponents of GSE contributions argued that the GSEs should not be asked to balance public policy objectives against the interests of their shareholders. Proponents pointed to the special privileges that the GSEs received, and statutory affordable housing goals that they already had, to justify their contributions to the Housing Trust Fund.⁸ Ultimately, GSE contributions were identified as the funding source for the Housing Trust Fund created in P.L. 110-289.

³ For more information on the HOME Investment Partnerships Program, see CRS Report R40118, *An Overview of the HOME Investment Partnerships Program*, by (name redacted).

⁴ For example, see a July 2011 press release from the office of Representative Ed Royce, describing committee passage of a bill he had introduced to eliminate the Housing Trust Fund during the 111th Congress at <http://royce.house.gov/news/documentsingle.aspx?DocumentID=251288>.

⁵ For a brief legislative history of affordable housing trust fund proposals, see the **Appendix**.

⁶ See archived CRS Report RL34300, *Pay-As-You-Go Procedures for Budget Enforcement*, by (name redacted), for more information on PAYGO.

⁷ The GSEs are private companies that are chartered by Congress to ensure liquidity in the mortgage market. They purchase mortgages from private lenders, guarantee the principal and interest payments on the mortgages, and package them into mortgage-backed securities that they either hold on their balance sheets or sell to investors. In 2008, Fannie Mae and Freddie Mac experienced financial trouble and were in danger of being unable to meet their financial obligations. They agreed to go into voluntary conservatorship and their regulator, the Federal Housing Finance Agency, took over their management. The Treasury Department agreed to provide financial support to the GSEs through the purchase of senior preferred stock. Under the amended terms of the preferred stock purchase agreements, the GSEs currently send any profits they earn in a quarter to Treasury as dividend payments. For more information on the current status of the GSEs, see CRS Report R42760, *Fannie Mae’s and Freddie Mac’s Financial Status: Frequently Asked Questions*, by (name redacted).

⁸ For more information on the GSEs and the privileges that they have historically enjoyed, see archived CRS Report (continued...)

A brief legislative history of efforts to establish a national affordable housing trust fund prior to 2008 is included as an **Appendix**.

The Housing Trust Fund

P.L. 110-289 created a national Housing Trust Fund within the Department of Housing and Urban Development (HUD).⁹ It also created a new Capital Magnet Fund to be administered by the Treasury Department's Community Development Financial Institutions (CDFI) Fund.¹⁰ For more information on the Capital Magnet Fund, see CRS Report R42770, *Community Development Financial Institutions (CDFI) Fund: Programs and Policy Issues*, by (name redacted).

The Housing Trust Fund and the Capital Magnet Fund were to be funded by contributions from Fannie Mae and Freddie Mac.¹¹ However, P.L. 110-289 also required the head of the Federal Housing Finance Agency (FHFA), Fannie's and Freddie's regulator, to temporarily suspend their contributions if he found that the contributions (1) were contributing or would contribute to a GSE's financial instability, (2) were causing or would cause a GSE to be classified as undercapitalized, or (3) were preventing or would prevent a GSE from successfully completing a capital restoration plan.¹²

In response to financial trouble at the GSEs, Fannie Mae and Freddie Mac were placed in conservatorship on September 7, 2008. In November 2008, FHFA informed Fannie Mae and Freddie Mac that they should suspend their contributions to the affordable housing funds until further notice.¹³ Neither GSE had begun making contributions at the time that the contributions were suspended.

The suspension of the GSEs' contributions left the Housing Trust Fund without a source of funding. Without a funding source, the Housing Trust Fund has not been operational. However, in December 2014, FHFA directed Fannie Mae and Freddie Mac to begin their contributions to the affordable housing funds. The GSEs are to set aside funds beginning in 2015, with the first funds scheduled to be transferred to the Housing Trust Fund and the Capital Magnet Fund in early 2016. For more information on the beginning of the GSE contributions to the affordable housing funds,

(...continued)

RL33756, *Fannie Mae and Freddie Mac: A Legal and Policy Overview*, by (name redacted) and (name redacted). For background on the GSEs' affordable housing goals, see CRS Report R43507, *Affordable Housing Provisions in Selected Housing Finance Reform Proposals*, by (name redacted), (name redacted), and (name redacted).

⁹ P.L. 110-289 established the Housing Trust Fund by amending the Federal Housing Enterprises Financial Safety and Soundness Act of 1992. The program is codified at 12 U.S.C. 4568.

¹⁰ More information on the Capital Magnet Fund is available on the Treasury Department's CDFI Fund website at http://www.cdfifund.gov/what_we_do/programs_id.asp?programID=11.

¹¹ Specifically, the GSEs were to contribute 4.2 basis points (.042%, or .042 cents per dollar) of the unpaid principal balance of their new business purchases. Sixty-five percent of the contributions would go to the Housing Trust Fund, and the remaining 35% would go to the Capital Magnet Fund.

¹² 12 U.S.C. §4567(b)

¹³ United States Securities and Exchange Commission filing, Form 8-K, Federal National Mortgage Association, November 18, 2008, available at http://www.sec.gov/Archives/edgar/data/310522/000129993308005442/htm_30041.htm, and United States Securities and Exchange Commission Filing, Form 10-Q, Federal Home Loan Mortgage Corporation, November 14, 2008, p. 66, available at <http://ir.10kwizard.com/files.php?source=1372>.

see the “Start of Fannie Mae and Freddie Mac Contributions to the Housing Trust Fund” section later in this report.

HUD published a proposed rule governing the allocation formula for the Housing Trust Fund on December 4, 2009,¹⁴ and a proposed program rule on October 29, 2010.¹⁵ This report describes the Housing Trust Fund based on the statutory requirements in P.L. 110-289 and HUD’s proposed rules.

Formula Allocation

The Housing Trust Fund is intended to provide formula-based grants for states to increase housing opportunities for extremely low- and very low-income households. Extremely low-income households are defined as households that have an income at or below 30% of area median income. Very low-income households are defined as households that have an income at or below 50% of area median income.

P.L. 110-289 required the Secretary of HUD to develop a formula for allocating funds available from the Housing Trust Fund among the states,¹⁶ and, as mentioned above, HUD has published a proposed rule governing the allocation formula. By statute, the formula is based on the following factors:

- the relative shortage of affordable standard rental units available to extremely low-income renter households in the state (this factor is given “priority emphasis”);
- the relative shortage of affordable standard rental units available to very low-income renter households in the state;
- the relative number of extremely low-income renter households living with incomplete kitchen or plumbing facilities, more than one person per room, or spending more than 50% of income on housing costs in the state; and
- the relative number of very low-income renter households spending more than 50% of income on rent in the state.

The sum of these factors is then to be multiplied by the relative cost of construction in the state to arrive at a grant amount.¹⁷ Each state is to receive a minimum annual grant of \$3 million.¹⁸

¹⁴ Department of Housing and Urban Development, “Housing Trust Fund; Allocation Formula; Proposed Rule,” 74 *Federal Register* 63938-63942, December 4, 2009. This proposed rule would create a new Part 93 to Title 24 of the Code of Federal Regulations.

¹⁵ Department of Housing and Urban Development, “Housing Trust Fund; Proposed Rule,” 75 *Federal Register* 66978-67009, October 29, 2010. This proposed rule would create a new Subpart N to Part 92 of Title 24 of the Code of Federal Regulations. Part 92 of Title 24 contains the regulations governing HUD’s Home Investment Partnerships Program.

¹⁶ The term “states” includes the 50 states, the District of Columbia, and the territories and possessions of the United States, including Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands, and American Samoa.

¹⁷ In 2010, HUD’s Office of Policy Development and Research released preliminary estimates of the amount of funding that each state could receive from \$1 billion allocated to the Housing Trust Fund, based on the proposed formula. These estimates are available at <http://www.huduser.org/portal/periodicals/cityscpe/vol112num1/ch7.pdf>.

¹⁸ The \$3 million minimum grant amount applies only to the 50 states and the District of Columbia.

Funding Distribution

Grants from the Housing Trust Fund are to be awarded to states based on the formula described above. States can designate entities such as housing finance agencies, housing and community development agencies, or tribally designated entities to administer the funds. The state-designated agency can administer the grant itself, or it can allow subgrantees to administer the funds. Subgrantees must be state agencies or units of local government that have submitted Consolidated Plans to HUD.¹⁹

Grantees and subgrantees ultimately provide funds to recipients, which are for-profit or nonprofit entities that receive Housing Trust Fund funds as owners or developers of affordable housing. Recipients of Housing Trust Fund grant amounts must have relevant experience. More specifically, an organization receiving funding for a rental housing project must have experience owning, constructing, rehabilitating, managing, or operating affordable multifamily rental projects. An organization receiving funding for homeownership activities is required to have experience in designing, constructing, rehabilitating, or marketing affordable homeownership housing, or in providing assistance with down payments, closing costs, or interest rate subsidies. Recipients also have to demonstrate general financial experience and expertise and familiarity with the requirements of any related federal, state, or local housing programs that will be used in conjunction with grants from the Housing Trust Fund.

Eligible Uses

States must use most of their grant amounts from the Housing Trust Fund to support rental housing, although they can use a portion of their funding for owner-occupied housing. Similarly, most of the funding is required to be used to benefit extremely low-income families or families with incomes below the poverty line, but some funding can be used to benefit very low-income families as well.

Rental Housing

Grants from the Housing Trust Fund can be used for the production, preservation, rehabilitation, or operation of rental housing. By law, all funding used for rental housing must benefit families that are extremely low- or very low-income. At least 75% of the grant amounts for rental housing must be used for the sole benefit of extremely low-income families or families with incomes at or below the poverty line for a family of its size.

Owner-Occupied Housing

Up to 10% of a state's grant from the Housing Trust Fund may be used for the production, preservation, and rehabilitation of owner-occupied housing, or for related homeownership costs such as down payment assistance, closing cost assistance, and interest-rate buy-downs. By law,

¹⁹ HUD requires jurisdictions to submit a Consolidated Plan in order to receive funds from its block grant programs, such as the Community Development Block Grant (CDBG) program and the HOME Investment Partnerships Program. The Consolidated Plan describes a jurisdiction's affordable housing needs and explains how funds received from HUD and other sources will be used to meet those needs.

both the home and the homebuyer must meet certain requirements,²⁰ and the funds must be used to benefit families who are extremely low- or very low-income.

Restrictions and Requirements

Restriction on Eligible Activities

Money from the Housing Trust Fund cannot be used for political activities, advocacy, lobbying, counseling services, travel expenses, or preparing or providing advice on tax returns. The Secretary can set a limit of up to 10% of a state or state-designated entity's Housing Trust Fund grant amount that can be used for the cost of administering the programs funded by the grant; using funds for other outreach or other administrative costs of the grantee or fund recipient is prohibited.

Oversight

P.L. 110-289 requires states or the state-designated entities that administer grants from the Housing Trust Fund to develop allocation plans describing how the grant money will be distributed. An allocation plan must explain how the allocation of funds will be based on priority housing needs, and it must include performance goals. The states and state-designated entities are to make their allocation plans available for public comment and consider any public comments they receive.

Any funds not committed for use by a grantee within two years will be recaptured by the Housing Trust Fund and reallocated.

The states or state-designated entities that receive grants from the Housing Trust Fund are responsible for overseeing the proper use of the funds and obtaining reimbursement for improperly used funds. Future grants are to be reduced by the amount of any improperly used money that is not reimbursed.

Current Issues

Start of Fannie Mae and Freddie Mac Contributions to the Housing Trust Fund

In December 2014, the Director of FHFA, Mel Watt, sent letters to Fannie Mae and Freddie Mac directing them to begin making contributions to the Housing Trust Fund and the Capital Magnet

²⁰ The home must be available for purchase by extremely low- or very low-income families who will use the home as a principal residence and are first-time home buyers, meaning that they have not owned a home in the prior three years. Home buyers must also complete a pre-purchase financial counseling requirement. The home is subject to initial purchase price and resale restrictions.

Fund.²¹ In lifting the suspension, Director Watt noted Fannie Mae's and Freddie Mac's recent profitability.

As required by statute, Fannie Mae and Freddie Mac will set aside 4.2 basis points (.042%, or .042 cents per dollar) of the unpaid principal balance of their new business purchases beginning in 2015, with the amounts being transferred to the housing funds within 60 days after the end of 2015. By statute, 65% of the contributions will go to the Housing Trust Fund and 35% to the Capital Magnet Fund.

The letters sent by FHFA specify that Fannie Mae or Freddie Mac will not be required to make contributions in any year during which they draw funds under the preferred stock purchase agreements they have in place with Treasury, or if the contributions would cause them to make such a draw.²² The FHFA director continues to have the authority to suspend the contributions in the future if he determines that circumstances require it.

FHFA also released an interim final rule to implement a provision of HERA prohibiting Fannie Mae and Freddie Mac from passing the costs of the contributions on to mortgage lenders.²³

Affordable housing advocates and some lawmakers praised the decision to direct Fannie Mae and Freddie Mac to begin contributions to the housing funds, noting the need for additional affordable housing in many communities.²⁴ However, other lawmakers criticized the decision based on opposition to the Housing Trust Fund in general or because of concerns about requiring Fannie Mae and Freddie Mac to make contributions to the housing funds while they remain under government control and subject to agreements with Treasury. Critics also argued that Fannie Mae and Freddie Mac should not make contributions to the affordable housing funds because they have technically not repaid Treasury for financial support they received in recent years, although they have paid Treasury dividends in an amount that exceeds what they received in support.²⁵

When the decision to begin contributions was announced in December 2014, some lawmakers stated that they intended to hold hearings on the topic during the 114th Congress.²⁶ Critics of the Housing Trust Fund could also introduce legislation to block the contributions.

²¹ The letters are available at <http://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Statement-on-the-Housing-Trust-Fund-and-Capital-Magnet-Fund.aspx>.

²² When Fannie Mae and Freddie Mac were placed into conservatorship in 2008, Treasury also agreed to provide financial support to Fannie Mae and Freddie Mac through purchases of senior preferred stock. In total, Fannie Mae and Freddie Mac received about \$187 billion from Treasury under these agreements. Neither Fannie nor Freddie has required support from Treasury since early 2012, but under the terms of the agreements, they can receive additional funds from Treasury if necessary. For more information on these agreements, see CRS Report R42760, *Fannie Mae's and Freddie Mac's Financial Status: Frequently Asked Questions*, by (name redacted).

²³ Federal Housing Finance Agency, "Housing Trust Fund," 79 *Federal Register* 74595-74597, December 16, 2014.

²⁴ For example, see the statement of then-Chairman of the Senate Banking Committee Tim Johnson at http://www.banking.senate.gov/public/index.cfm?FuseAction=Newsroom.PressReleases&ContentRecord_id=487d95bb-d627-24da-4ac7-72bca1f2a6ee.

²⁵ According to the terms of the preferred stock purchase agreements with Treasury, Fannie Mae and Freddie Mac pay dividends to Treasury equal to the amount of any profits they earn in a quarter. These dividend payments compensate Treasury for the risk it incurred in providing support for Fannie Mae and Freddie Mac, but do not count as repayment of the amount Fannie Mae and Freddie Mac received. For more information on the terms of the agreements with Treasury, see CRS Report R42760, *Fannie Mae's and Freddie Mac's Financial Status: Frequently Asked Questions*, by (name redacted).

²⁶ For example, see the statement of House Financial Services Committee Chairman Jeb Hensarling at (continued...)

Other Potential Funding Sources

P.L. 110-289 allows other funds to be “appropriated, transferred, or credited” to the Housing Trust Fund. In the years following the suspension of contributions to the Housing Trust Fund, affordable housing advocates searched for both a new dedicated source of permanent funding for the Housing Trust Fund and for a source of funding to initially capitalize the Housing Trust Fund. Although FHFA directed the GSEs to begin their contributions to the Housing Trust Fund and the Capital Magnet Fund in December 2014, housing advocates may continue to search for additional sources of funding for the Housing Trust Fund.

A range of other potential sources of either permanent or initial funding have been suggested by advocates in the past, including proposals to make changes to the mortgage interest deduction and direct revenue generated by the changes to the Housing Trust Fund.²⁷ The President’s budget requests have included mandatory funding for the Housing Trust Fund in each year of President Obama’s Administration, although the budget requests have not identified a funding source.

Other than the original funding mechanism in P.L. 110-289, no funding for the Housing Trust Fund has been included in annual appropriations acts or in any other enacted legislation to date.

The Housing Trust Fund and Housing Finance Reform Proposals

In recent years, a major issue on Congress’s agenda has been housing finance reform. In the wake of the recent turmoil in the housing and mortgage markets, Congress and the Administration have expressed interest in reforming the housing finance system in general, and Fannie Mae and Freddie Mac in particular, to reduce the federal government’s exposure to future losses related to mortgages. Because much of the discussion of housing finance reform centers on Fannie Mae and Freddie Mac, and because the Housing Trust Fund’s statutory funding source is contributions from these entities, the Housing Trust Fund has been a part of housing finance reform discussions.

While there is broad agreement on the need for housing finance reform, there is no consensus on how the system should be reformed. Several housing finance reform bills were introduced in the 113th Congress. Two bills that were ordered to be reported out of committee were the Protecting American Taxpayers and Homeowners (PATH) Act in the House (H.R. 2767) and the Housing Finance Reform and Taxpayer Protection Act of 2013 (commonly referred to as the Johnson-Crapo bill) in the Senate (S. 1217).²⁸ These bills took different approaches to housing finance reform in general and to the Housing Trust Fund in particular.

(...continued)

<http://financialservices.house.gov/news/documentsingle.aspx?DocumentID=398566>.

²⁷ For example, see National Low-Income Housing Coalition, “National Housing Trust Fund Current Avenues for Funding,” updated September 2013, http://nlihc.org/sites/default/files/NHTF_Funding.pdf. For an overview of the mortgage interest deduction, see CRS Report R41918, *The Mortgage Interest and Property Tax Deductions: Brief Overview with Revenue Estimates*, by (name redacted). For more detailed analysis and policy options related to the mortgage interest deduction, see CRS Report R41596, *The Mortgage Interest and Property Tax Deductions: Analysis and Options*, by (name redacted).

²⁸ For more information on these bills, see CRS Report R43219, *Selected Legislative Proposals to Reform the Housing Finance System*, by (name redacted), (name redacted), and (name redacted).

The PATH Act would have wound down Fannie Mae and Freddie Mac over several years and replaced them with a new entity that would facilitate mortgage securitization but would not provide any kind of government guarantee. The PATH Act would have abolished the Housing Trust Fund. The Johnson-Crapo bill would have also wound down Fannie Mae and Freddie Mac over several years and replaced them with a new entity, which would have provided federal reinsurance on certain eligible mortgage-backed securities. The bill would have retained the Housing Trust Fund and directed the new entity to make contributions to the Housing Trust Fund through a fee on covered mortgage-backed securities.

For more information on how housing finance reform proposals in the 113th Congress would have affected the Housing Trust Fund, see CRS Report R43507, *Affordable Housing Provisions in Selected Housing Finance Reform Proposals*, by (name redacted), (name redacted), and (name redacted).

Other Legislation Related to the Housing Trust Fund

In addition to housing finance reform legislation, other bills have been introduced in recent Congresses that would fund or, alternatively, eliminate the Housing Trust Fund.

113th Congress

In the 113th Congress, the Common Sense Housing Investment Act of 2013 (H.R. 1213) would have made changes to the mortgage interest deduction and diverted some of the revenue generated by the changes to the Housing Trust Fund. It would also have required the Secretary of HUD to make certain revisions to the regulations governing the Housing Trust Fund.

On the other hand, the New Fair Deal Banking and Housing Stability Act of 2013 (H.R. 3550) would have eliminated several government policies, programs, and agencies related to housing and mortgage markets, including repealing the Housing Trust Fund. The Pay Back the Taxpayers Act of 2014 (H.R. 3901) would have prohibited Fannie Mae and Freddie Mac from making any contributions to the Housing Trust Fund or the Capital Magnet Fund while in conservatorship or receivership. None of these bills was enacted prior to the end of the 113th Congress.

112th Congress

In the 112th Congress, as in the 113th Congress, some bills would have provided funding to the Housing Trust Fund, while others would have eliminated the Housing Trust Fund entirely. Bills called the Preserving Homes and Communities Act were introduced during the 112th Congress in both the House and the Senate (H.R. 1477 and S. 489, respectively). Both of these bills would have provided \$1 billion to the Housing Trust Fund, with the funding coming from the sale of warrants under the Troubled Asset Relief Program (TARP).²⁹ Another bill, the Common Sense Housing Investment Act of 2012 (H.R. 6677), would have made changes to the mortgage interest deduction and diverted some of the revenue generated by the changes to the Housing Trust Fund. It would have also directed the Secretary of HUD to make certain revisions to the regulations governing the Housing Trust Fund.

²⁹ For more information on TARP, see CRS Report R41427, *Troubled Asset Relief Program (TARP): Implementation and Status*, by (name redacted).

Legislation was also introduced in the 112th Congress to eliminate the Housing Trust Fund. The GSE Bailout Elimination and Taxpayer Protection Act was introduced in both the House and the Senate (H.R. 1182 and S. 693, respectively) and would have repealed the section of law that established the Housing Trust Fund. The Housing Trust Fund Elimination Act of 2011 (H.R. 2441) would have eliminated the Housing Trust Fund and transferred any amounts available in the fund to the Treasury, to be used solely for the purpose of reducing the federal budget deficit. None of these bills was enacted by the end of the 112th Congress.

111th Congress

In the 111th Congress, several legislative proposals included funding for the Housing Trust Fund. For example, the House-passed version of H.R. 4213, the American Jobs and Closing Tax Loopholes Act of 2010, would have provided \$1.065 billion for the Housing Trust Fund.³⁰ Of this amount, \$1 billion would have been used for formula grants to states, and the remaining \$65 million would have been used for project-based rental assistance associated with those grants. The bill also would have made some changes to the underlying statute that governs the Housing Trust Fund. The version of the bill enacted into law did not include any provisions related to the Housing Trust Fund.

The House-passed version of the Jobs for Main Street Act of 2009 also included funding for the Housing Trust Fund in the 111th Congress. Like the version of H.R. 4213 that was passed by the House, the House-passed version of the Jobs for Main Street Act included \$1.065 billion for the Housing Trust Fund, including \$65 million for project-based rental assistance to be used in conjunction with projects funded by the Housing Trust Fund. The funding for the Housing Trust Fund was not included in the version of the bill that was signed into law (P.L. 111-147).

Additionally, two House bills would have used TARP funds to fund the Housing Trust Fund in the 111th Congress. The first (H.R. 3068) would have provided \$1 billion for the Housing Trust Fund from dividends paid to the Treasury by financial institutions that received funds under TARP. The second (H.R. 3766) would have provided \$1 billion for the Housing Trust Fund by diverting TARP funds directly to the Housing Trust Fund, rather than using dividends paid to the Treasury by TARP recipients. The latter bill also would have limited the rents paid by tenants living in housing assisted with funds from the Housing Trust Fund to no more than 30% of the family's adjusted income. A Senate bill (S. 1731) would also have provided \$1 billion for the Housing Trust Fund, using funds from the sale of warrants under TARP. No bills that included funding for the Housing Trust Fund were enacted into law by the end of the 111th Congress.

³⁰ The version of H.R. 4213 that passed the House on May 28, 2010, was a House amendment to the Senate amendment to H.R. 4213.

Appendix. Legislative History of Housing Trust Fund Bills Prior to 2008

Prior to the establishment of the Housing Trust Fund in P.L. 110-289, proposals to create an affordable housing trust fund had been included in legislation since the 106th Congress. This report has described the Housing Trust Fund as it was authorized by P.L. 110-289. This appendix discusses previous legislative proposals to establish a national housing trust fund and the funding sources that these bills identified.

106th Congress

In the 106th Congress, Senator John Kerry and 10 cosponsors introduced S. 2997, the National Affordable Housing Trust Fund Act of 2000. This bill would have established a National Affordable Housing Trust Fund within the Department of the Treasury. The dedicated funding source would have been funds in the FHA Mutual Mortgage Insurance Fund (MMI Fund) beyond those needed to maintain a capital adequacy level of 3%, as well as any excess funds from Ginnie Mae. Hearings on the bill were held by the Subcommittee on Housing and Transportation of the Committee on Banking, Housing, and Urban Affairs.

107th Congress

In the 107th Congress, Senator John Kerry and 28 cosponsors introduced S. 1248, the National Affordable Housing Trust Fund Act of 2001. Like S. 2997, this bill would have authorized a trust fund and proposed the same dedicated funding source of FHA MMI Fund funds above a capital adequacy level set at 3% and any excess funds from Ginnie Mae. Again, subcommittee hearings were held, but the bill was never sent to the full committee.

In the House, Representative Bernie Sanders and 199 cosponsors introduced H.R. 2349, also called the National Affordable Housing Trust Fund Act of 2001. This bill proposed using the same dedicated funding source of excess Ginnie Mae funds and FHA MMI Fund funds above a capital adequacy level, but it set the capital adequacy level at 2% rather than 3%. The bill was referred to the Subcommittee on Housing and Community Opportunity, but hearings were never held.

108th Congress

In the 108th Congress, Senator John Kerry and 21 cosponsors introduced S. 1411, the National Affordable Housing Trust Fund Act of 2003. The bill proposed the same dedicated source of funding as S. 2997 and S. 1248 in the previous Congresses. S. 1411 was referred to the Committee on Banking, Housing, and Urban Affairs, but the committee never held hearings on it.

Also in the 108th Congress, the Reed Affordable Housing Fund amendment to S. 1508, a GSE reform bill, was unanimously adopted by the Senate Banking Committee. This amendment proposed a dedicated funding source of 5% of Fannie Mae's and Freddie Mac's pre-tax profits.

In the House, Representative Bernie Sanders and 214 cosponsors introduced H.R. 1102, also called the National Affordable Housing Trust Fund Act of 2003. This bill specified a dedicated

source of funding that was the same as H.R. 2349 in the previous Congress (and similar to the Senate bills, except for setting the FHA MMI Fund capital adequacy level at 2% rather than 3%). The bill was referred to the Subcommittee on Housing and Community Opportunity, but hearings were never held.

109th Congress

In the 109th Congress, proponents of an affordable housing fund concentrated their efforts on including an affordable housing fund in H.R. 1461, the Federal Housing Finance Reform Act of 2005. The bill would have required each GSE to create an affordable housing fund and to contribute either 3.5% or 5% of the prior year's after-tax income, depending on the year. The bill included a sunset provision after five years, after which the GSEs would no longer have been required to make contributions. The bill was referred to the Senate Committee on Banking, Housing, and Urban Affairs.

110th Congress

In the 110th Congress, Representative Barney Frank and three cosponsors introduced H.R. 1427, the Federal Housing Finance Reform Act of 2007, on March 9, 2007. The bill authorized the creation of a trust fund and directed the GSEs to contribute an amount equal to 1.2 basis points for each dollar of their average total mortgage portfolio for five years, at which point the funding requirement would have ended. H.R. 1427 passed the House and was referred to the Senate Committee on Banking, Housing, and Urban Affairs.

Representative Maxine Waters and 13 cosponsors introduced H.R. 1852, the Expanding American Homeownership Act of 2007, on March 29, 2007. The bill passed the House and was referred to the Senate Committee on Banking, Housing, and Urban Affairs. H.R. 1852 would have set aside a portion of any increase in negative credit subsidy for certain FHA programs in a given year for a housing trust fund.

Representative Barney Frank and 16 cosponsors introduced H.R. 2895, the National Affordable Housing Trust Fund Act of 2007, on June 28, 2007. H.R. 2895 was passed by the House and referred to the Senate Committee on Banking, Housing, and Urban Affairs. The bill would have created a permanent affordable housing trust fund and included guidance on how trust fund grantees should use the funds, but it did not create a permanent funding source.

Senator Jack Reed introduced S. 2391, the Government Sponsored Enterprise Mission Improvement Act, on November 16, 2007. The bill would have established an affordable housing block grant program and a Capital Magnet Fund, and would have funded both through GSE contributions of 4.2 basis points for each dollar of the unpaid principal balance of their total new business purchases. The bill did not include a sunset provision. S. 2391 was referred to the Committee on Banking, Housing, and Urban Affairs.

Senator John Kerry and 23 cosponsors introduced S. 2523, the National Affordable Housing Trust Fund Act of 2007, on December 19, 2007. The bill would have established a national affordable housing trust fund but would not have created a dedicated funding source. S. 2523 was referred to the Committee on Banking, Housing, and Urban Affairs.

Representative Nancy Pelosi and 18 cosponsors introduced H.R. 3221, the Housing and Economic Recovery Act of 2008, on July 30, 2007. This is the legislation that eventually became P.L. 110-289, which authorized the Housing Trust Fund and identified a permanent funding source. The version of the affordable housing trust fund that was created by P.L. 110-289 most resembles the proposed fund in S. 2391 during the 110th Congress.

Author Contact Information

(name redacted)
Analyst in Housing Policy
/redacted/@crs.loc.gov, 7-....

EveryCRSReport.com

The Congressional Research Service (CRS) is a federal legislative branch agency, housed inside the Library of Congress, charged with providing the United States Congress non-partisan advice on issues that may come before Congress.

EveryCRSReport.com republishes CRS reports that are available to all Congressional staff. The reports are not classified, and Members of Congress routinely make individual reports available to the public.

Prior to our republication, we redacted names, phone numbers and email addresses of analysts who produced the reports. We also added this page to the report. We have not intentionally made any other changes to any report published on EveryCRSReport.com.

CRS reports, as a work of the United States government, are not subject to copyright protection in the United States. Any CRS report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS report may include copyrighted images or material from a third party, you may need to obtain permission of the copyright holder if you wish to copy or otherwise use copyrighted material.

Information in a CRS report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to members of Congress in connection with CRS' institutional role.

EveryCRSReport.com is not a government website and is not affiliated with CRS. We do not claim copyright on any CRS report we have republished.