

113TH CONGRESS
2D SESSION

H. R. 4042

To require a study of appropriate capital requirements for mortgage servicing assets for nonsystemic banking institutions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 2014

Mr. LUETKEMEYER (for himself, Mr. PERLMUTTER, Mr. COTTON, Mr. LUCAS, and Mr. WOMACK) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To require a study of appropriate capital requirements for mortgage servicing assets for nonsystemic banking institutions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Community Bank
5 Mortgage Servicing Asset Capital Requirements Study Act
6 of 2014”.

7 **SEC. 2. DEFINITIONS.**

8 For purposes of this Act:

1 (1) BANKING INSTITUTION.—The term “bank-
2 ing institution” means a bank holding company, in-
3 sured depository institution, or savings and loan
4 holding company.

5 (2) BASEL III CAPITAL REQUIREMENTS.—The
6 term “Basel III capital requirements” means the
7 Global Regulatory Framework for More Resilient
8 Banks and Banking Systems issued by the Basel
9 Committee on Banking Supervision on December 16,
10 2010, as revised on June 1, 2011.

11 (3) FEDERAL BANKING AGENCIES.—The term
12 “Federal banking agencies” means the Board of
13 Governors of the Federal Reserve System, the Office
14 of the Comptroller of the Currency, and the Federal
15 Deposit Insurance Corporation.

16 (4) MORTGAGE SERVICING ASSET.—The term
17 “mortgage servicing asset” means those assets that
18 result from contracts to service loans secured by real
19 estate, where such loans are owned by third parties.

20 (5) NONSYSTEMIC BANKING INSTITUTION.—
21 The term “nonsystemic banking institution” means
22 any banking institution other than an institution
23 identified by the Financial Stability Board as a
24 “global systemically important bank”.

1 (6) OTHER DEFINITIONS.—The terms “bank
2 holding company”, “insured depository institution”,
3 and “savings and loan holding company” have the
4 meanings given such terms, respectively, under sec-
5 tion 3 of the Federal Deposit Insurance Act (12
6 U.S.C. 1813).

7 **SEC. 3. STUDY OF THE APPROPRIATE CAPITAL FOR MORT-**
8 **GAGE SERVICING ASSETS.**

9 (a) IN GENERAL.—The Federal banking agencies
10 shall, jointly, conduct a study of the appropriate capital
11 requirements for mortgage servicing assets for nonsys-
12 temic banking institutions.

13 (b) ISSUES TO BE STUDIED.—The study required by
14 this section shall include, with a specific focus on nonsys-
15 temic banking institutions—

16 (1) the risk to insured depository institutions of
17 holding mortgage servicing assets;

18 (2) the history of the market for mortgage serv-
19 icing assets, including particularly the market for
20 such assets in the period of the financial crisis;

21 (3) the ability of insured depository institutions
22 to establish a value for their mortgage servicing as-
23 sets through periodic sales or other means;

24 (4) regulatory approaches to mortgage servicing
25 assets in addition to capital requirements that could

1 be used to address concerns about the value of and
2 ability to sell mortgage servicing assets;

3 (5) the impact of imposing the Basel III capital
4 requirements on nonsystemic banking institutions on
5 their ability to compete in the mortgage servicing
6 business, including the need for economies of scale
7 to compete in that business, and on their ability to
8 provide service to consumers to whom they have
9 made a mortgage loan;

10 (6) an analysis of what the mortgage servicing
11 marketplace would look like if the Basel III capital
12 requirements on mortgage servicing assets were fully
13 implemented;

14 (7) the significance of problems with mortgage
15 servicing assets, if any, in insured depository institu-
16 tion failures and problem insured depository institu-
17 tions, including specifically identifying failed insured
18 depository institutions where mortgage servicing as-
19 sets contributed to the failure; and

20 (8) an analysis of the relevance of the Basel III
21 capital requirements on mortgage servicing assets to
22 the banking systems of other significant developed
23 countries.

24 (c) REPORT TO CONGRESS.—Not later than the end
25 of the 1-year period beginning on the date of the enact-

1 ment of this Act, the Federal banking agencies shall issue
2 a report to the Committee on Banking, Housing, and
3 Urban Affairs of the Senate and the Committee on Finan-
4 cial Services of the House of Representatives containing—

5 (1) the results of the study required under sub-
6 section (a); and

7 (2) any analysis on the specific issue of mort-
8 gage servicing assets undertaken by the Federal
9 banking agencies prior to finalizing regulations im-
10 plementing the Basel III capital requirements.

11 **SEC. 4. DELAY OF RULEMAKING.**

12 (a) **RULES ON MORTGAGE SERVICING ASSETS.**—Not-
13 withstanding any other provision of law, no regulation to
14 implement the Basel III capital requirements with respect
15 to mortgage servicing assets for nonsystemic banking in-
16 stitutions shall take effect before the end of the 6-month
17 period beginning on the date the report is issued under
18 section 3(c).

19 (b) **FINAL RULE REQUIREMENTS.**—Before any final
20 rule is issued by a Federal banking agency with respect
21 to capital requirements on mortgage servicing assets for
22 nonsystemic banking institutions, the Federal banking
23 agency shall—

24 (1) if the related proposed rule was issued be-
25 fore the date on which the report is issued under

1 section 3(c), issue a new proposed rule for public
2 comment; and

3 (2) consider regulatory approaches to mortgage
4 servicing assets that could address concerns about
5 the value of and ability to sell mortgage servicing as-
6 sets.

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