

114TH CONGRESS  
2D SESSION

# H. R. 4913

To ensure the sufficient capitalization of Fannie Mae and Freddie Mac and prevent any further bailout of such enterprises by the Federal Government, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 12, 2016

Mr. MULVANEY introduced the following bill; which was referred to the  
Committee on Financial Services

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## A BILL

To ensure the sufficient capitalization of Fannie Mae and Freddie Mac and prevent any further bailout of such enterprises by the Federal Government, and for other purposes.

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Housing Finance Re-

5       structuring Act of 2016”.

6       **SEC. 2. REPAYMENT OF LIQUIDATION PREFERENCE.**

7       (a) REPAYMENT AND REDEMPTION.—Not later than

8       the expiration of the 60-day period beginning on the date

1 of the enactment of this Act, the Secretary of the Treasury  
2 shall modify the Senior Preferred Stock Purchase Agree-  
3 ment for each enterprise to provide as follows:

4 (1) DEEMED REPAYMENT IN FULL.—Effective  
5 on the date of the date of the enactment of this Act,  
6 the liquidation preference on the Variable Liquida-  
7 tion Preference Senior Preferred Stocks of each en-  
8 terprise is reduced to zero.

9 (2) REDEMPTION OF VARIABLE LIQUIDATION  
10 PREFERENCE SENIOR PREFERRED STOCK.—Pursu-  
11 ant to paragraph (1), the Variable Liquidation Pref-  
12 erence Senior Preferred Stock of each enterprise  
13 shall be redeemed upon the date of the modification  
14 of the Senior Preferred Stock Purchase Agreement  
15 required under this subsection and, upon and after  
16 such redemption—

17 (A) shares of such Variable Liquidation  
18 Preference Senior Preferred Stock of each en-  
19 terprise shall no longer be deemed to be out-  
20 standing and all rights of the holders thereof,  
21 as such holders, shall cease;

22 (B) shares of redeemed Variable Liquida-  
23 tion Preference Senior Preferred Stock of each  
24 enterprise shall no longer have the status of au-  
25 thorized, issued, or outstanding shares;

1           (C) the Senior Preferred Stock Purchase  
2           Agreement for each enterprise shall be termi-  
3           nated, except that sections 2.1 and 2.2 of such  
4           Agreement, as modified by the Second Amend-  
5           ment to the Senior Preferred Stock Purchase  
6           Agreement for the enterprise (dated December  
7           24, 2009), shall remain in force and effect; and

8           (D) the Department of the Treasury shall  
9           retain any dividend payments made by an en-  
10          terprise to the Department of the Treasury be-  
11          fore the date of the enactment of this Act.

12          (b) NO RESUMPTION OF PERIODIC COMMITMENT  
13          FEE.—The Department of the Treasury shall not require  
14          the enterprises to pay a periodic commitment fee, as de-  
15          scribed in section 3.2 of the Senior Preferred Stock Pur-  
16          chase Agreements.

17          (c) EXERCISE OF WARRANTS FOR COMMON  
18          STOCK.—Notwithstanding subsection (a)(2)(C) of this  
19          section, upon the enactment of this Act, the Department  
20          of the Treasury shall exercise the warrants for the pur-  
21          chase of common stock of the enterprises provided to the  
22          Department under the Senior Preferred Stock Purchase  
23          Agreements.

1 **SEC. 3. REBUILDING OF ENTERPRISE RETAINED CAPITAL.**

2 (a) APPLICABILITY.—Notwithstanding any other pro-  
3 vision of law or any provision of the Senior Preferred  
4 Stock Purchase Agreement for an enterprise, the provi-  
5 sions of this section shall apply to each enterprise, includ-  
6 ing during the term of any conservatorship of an enter-  
7 prise pursuant to section 1367 of the Federal Housing  
8 Enterprises Financial Safety and Soundness Act of 1992  
9 (12 U.S.C. 4617).

10 (b) USE OF NET INCOME FOR CAPITAL RESERVES.—  
11 At any time that an enterprise is not fully capitalized (as  
12 such term is defined in subsection (c)(3))—

13 (1) section 1337 of the Federal Housing Enter-  
14 prises Financial Safety and Soundness Act of 1992  
15 (42 U.S.C. 4567) shall not apply to the enterprise;  
16 and

17 (2) the Director shall require that, in each fis-  
18 cal year, the net income of each enterprise, as deter-  
19 mined by the Director, for such fiscal year shall be  
20 retained and maintained by the enterprise as re-  
21 tained capital reserves.

22 (c) FULL CAPITALIZATION.—

23 (1) ALLOCATION TO HOUSING TRUST FUND  
24 AND CAPITAL MAGNET FUND.—At any time that an  
25 enterprise is fully capitalized, as determined by the  
26 Director, subsection (b) shall not apply to the enter-

1       prise and section 1337 of the Federal Housing En-  
2       terprises Financial Safety and Soundness Act of  
3       1992 shall apply to the enterprise.

4               (2) DIVIDENDS.—An enterprise may not, unless  
5       the enterprise is fully capitalized, declare or pay any  
6       dividend (whether common or preferred) with re-  
7       spect to any equity interests of the enterprise.

8               (3) DEFINITION.—For purposes of this sub-  
9       section, the term “fully capitalized” means, with re-  
10      spect to an enterprise, that the enterprise maintains  
11      an amount of total capital, as such term is defined  
12      in section 1303 of the Federal Housing Enterprises  
13      Financial Safety and Soundness Act of 1992 (12  
14      U.S.C. 4502), that is equal to or exceeds 10 percent  
15      of the risk-weighted assets of the enterprise.

16              (d) CAPITAL RESTORATION PLAN.—

17               (1) REQUIREMENT.—Not later than the expira-  
18      tion of the 45-day period beginning on the date of  
19      the enactment of this Act, the Director shall prepare  
20      and submit to the Committee on Financial Services  
21      of the House of Representatives and the Committee  
22      on Banking, Housing, and Urban Affairs of the Sen-  
23      ate a capital restoration plan for each enterprise  
24      that complies with section 1369C(a) of the Federal

1       Housing Enterprises Financial Safety and Sound-  
2       ness Act of 1992 (12 U.S.C. 4622(a)).

3           (2) ANNUAL UPDATES.—After submission of a  
4       capital restoration plan for an enterprise pursuant  
5       to paragraph (1), during any period that an enter-  
6       prise remains not fully capitalized (as such term is  
7       defined in subsection (c)(3)), the Director shall up-  
8       date the plan for such enterprise on an annual basis  
9       and submit such updated plan to the Committees re-  
10      ferred to in paragraph (1), together with a report  
11      describing any progress made toward restoring the  
12      capital of the enterprise during the preceding 1-year  
13      period.

14          (3) PUBLIC AVAILABILITY.—The Director shall  
15      make publicly available each capital restoration plan  
16      prepared pursuant to paragraph (1) and each up-  
17      dated plan prepared pursuant to paragraph (2).

18          (e) TERMINATION OF CONSERVATORSHIPS.—The Di-  
19      rector shall terminate the conservatorship of an enterprise  
20      under section 1367 of the Federal Housing Enterprises  
21      Financial Safety and Soundness Act of 1992 (12 U.S.C.  
22      4617) at such time that the enterprise attains, as deter-  
23      mined by the Director, an amount of capital that is equal  
24      to or exceeds 5 percent of the risk-weighted assets of the  
25      enterprise.

1 (f) REGULATIONS.—Not later than the expiration of  
2 the 180-day period beginning on the date of the enactment  
3 of this Act, the Director shall issue regulations necessary  
4 to carry out this section and the amendments made by  
5 this section.

6 **SEC. 4. PRIVATE RIGHT OF ACTION.**

7 (a) IN GENERAL.—Any individual or entity adversely  
8 affected or aggrieved by action or inaction on the part of  
9 the Director or the Secretary of the Treasury in violation  
10 of this Act or title XIII of the Federal Housing Enter-  
11 prises Financial Safety and Soundness Act of 1992 (12  
12 U.S.C. 4501 et seq.) may commence a civil action for pro-  
13 spective injunctive relief against the Director or the Sec-  
14 retary, as appropriate.

15 (b) EQUITABLE RELIEF.—In any action under this  
16 section, the court may award appropriate equitable relief,  
17 including temporary, preliminary, or permanent injunctive  
18 relief.

19 (c) COSTS.—In any action under this section, the  
20 court shall award the costs of litigation, including reason-  
21 able attorney and expert witness fees, to any prevailing  
22 or substantially prevailing plaintiff.

23 (d) JURISDICTION.—The district courts of the United  
24 States shall have jurisdiction over proceedings commenced  
25 pursuant to this section and shall exercise the same with-

1 out regard to whether the party aggrieved shall have ex-  
2 hausted any administrative or other remedies that may be  
3 provided for by law.

4 **SEC. 5. DEFINITIONS.**

5 For purposes of this Act, the following definitions  
6 shall apply:

7 (1) DIRECTOR.—The term “Director” means  
8 the Director of the Federal Housing Finance Agen-  
9 cy, in the capacity of such Director and in the ca-  
10 pacity as conservator of an enterprise pursuant to  
11 section 1367 of the Federal Housing Enterprises Fi-  
12 nancial Safety and Soundness Act of 1992 (12  
13 U.S.C. 4617), as the case may be.

14 (2) ENTERPRISE.—The term “enterprise” has  
15 the meaning given such term in section 1303 of the  
16 Federal Housing Enterprises Financial Safety and  
17 Soundness Act of 1992 (12 U.S.C. 4502).

18 (3) NET INCOME.—The term “net income”  
19 means, with respect to an enterprise, income after  
20 deduction of all associated expenses, as calculated in  
21 accordance with generally accepted accounting prin-  
22 ciples.

23 (4) RISK-WEIGHTED.—The term “risk-weight-  
24 ed” means, with respect to the assets of an enter-  
25 prise, that the amount of any such assets that are



1 single family housing mortgages meeting the re-  
2 quirements of section 618(a)(1)(B) of the Resolution  
3 Trust Corporation, Refinancing, Restructuring, and  
4 Improvement Act of 1991 (12 U.S.C. 1831n note)  
5 are calculated using a risk-weighting of 50 percent,  
6 in the same manner required under subsection  
7 (a)(1)(A) of such section 618 with respect to single  
8 family housing loans.

9 (5) SENIOR PREFERRED STOCK PURCHASE  
10 AGREEMENT.—The term “Senior Preferred Stock  
11 Purchase Agreement” means, with respect to an en-  
12 terprise, the Amended and Restated Senior Pre-  
13 ferred Stock Purchase Agreements, dated September  
14 26, 2008, amended May 6, 2009, further amended  
15 December 24, 2009, and further amended August  
16 17, 2012, between the Department of the Treasury  
17 and such enterprise.

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