

112TH CONGRESS
1ST SESSION

H. R. 2636

To authorize depository institutions, depository institution holding companies, Fannie Mae, and Freddie Mac to lease foreclosed property held by such entities for up to 5 years, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2011

Mr. GARY G. MILLER of California (for himself, Mr. BACHUS, Mrs. MCCARTHY of New York, and Mr. FRANK of Massachusetts) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To authorize depository institutions, depository institution holding companies, Fannie Mae, and Freddie Mac to lease foreclosed property held by such entities for up to 5 years, 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 “Neighborhood Preser-
5 vation Act of 2011”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds as follows:

1 (1) Depository institutions and affiliates of de-
2 pository institutions currently may control and lease
3 foreclosed property for a limited period of time often
4 subject to safety and soundness considerations,
5 under various Federal laws and the law of some
6 States.

7 (2) Authorizing such institutions, the GSEs,
8 and affiliates to enter into a long-term lease with the
9 occupant of the property or any other person would
10 reduce the number of residential properties entering
11 into the housing inventory, which in turn would help
12 to stabilize home values and restore confidence in
13 the housing markets.

14 (3) Allowing depository institutions, the GSEs,
15 and affiliates of such institutions to lease foreclosed
16 property will allow the institution or affiliate to dis-
17 pose of such property into a presumably more stable
18 market at the end of the lease term which would re-
19 duce the loss the institution or affiliate may other-
20 wise be required to recognize upon disposition of the
21 property.

22 (4) Providing a means for foreclosed property
23 to remain occupied during the housing downturn will
24 preserve the property itself as well as the aesthetic

1 and economic values of neighboring homes and even
2 whole neighborhoods.

3 **SEC. 3. BANK LEASING OF FORECLOSED PROPERTIES.**

4 (a) IN GENERAL.—Section 18 of the Federal Deposit
5 Insurance Act (12 U.S.C. 1828) is amended by adding at
6 the end the following new subsection:

7 “(y) LEASING OF FORECLOSED PROPERTY.—

8 “(1) LEASING AUTHORIZED.—Notwithstanding
9 any provision of Federal or State law restricting the
10 time during which a depository institution, or any
11 affiliate of a depository institution, may hold or
12 lease property, or any provision of Federal or State
13 law prohibiting a depository institution, or any affil-
14 iate of a depository institution, from leasing prop-
15 erty and subject to this subsection and regulations
16 prescribed under this subsection, any depository in-
17 stitution, and any affiliate of a depository institu-
18 tion, may lease to any individual, including a lease
19 with an option to purchase, for not to exceed 5 years
20 an interest in residential property which—

21 “(A) was or is security for an extension of
22 credit by such depository institution or affiliate;
23 and

24 “(B) came under the ownership or control
25 of the depository institution or affiliate through

1 foreclosure, or a deed in lieu of foreclosure, on
2 the extension of credit.

3 “(2) SAFETY AND SOUNDNESS REGULATIONS.—

4 The Federal banking agencies shall jointly prescribe
5 regulations which—

6 “(A) establish criteria and minimum re-
7 quirements for the leasing activity of any depos-
8 itory institution or affiliate of a depository in-
9 stitution, including minimum capital require-
10 ments, that the agency determines to be appro-
11 priate for the preservation of the safety and
12 soundness of the institution or affiliate;

13 “(B) establish requirements or exceptions
14 that the agency determines are appropriate
15 under this subsection for any such institution
16 or affiliate for any other purpose; and

17 “(C) provide for appropriate actions under
18 section 38 with respect to any such lease if nec-
19 essary to protect the capital or safety and
20 soundness of the institution or affiliate or any
21 other necessary enforcement action.

22 “(3) LENGTH OF LEASE.—If any provision of
23 any Federal or State law, including the Bank Hold-
24 ing Company Act of 1956, governing the permissible
25 activities of depository institutions or affiliates of de-

1 pository institutions permits a depository institution
2 or any such affiliate to hold property as described in
3 paragraph (1) for a period longer than 5 years, any
4 lease under paragraph (1) may be extended to the
5 extent permitted by such provision of law.

6 “(4) SUNSET.—This section shall apply only
7 with respect to leases entered into during the 3-year
8 period beginning on the date of the enactment of the
9 Neighborhood Preservation Act.”.

10 (b) INTENT OF THE CONGRESS.—It is the intent of
11 the Congress that—

12 (1) no permanent change in policy on leasing
13 foreclosed property is being established with respect
14 to depository institutions and depository institution
15 holding companies; and

16 (2) subsection (y) of section 18 of the Federal
17 Deposit Insurance Act should not apply to leases en-
18 tered into after the sunset date contained in such
19 subsection.

20 **SEC. 4. GOVERNMENT SPONSORED ENTERPRISE LEASING**
21 **OF FORECLOSED PROPERTIES.**

22 (a) IN GENERAL.—For the purpose of mitigating
23 losses to the taxpayer and stabilizing home prices, an en-
24 terprise may market for rental any real estate owned prop-
25 erties and assets of such enterprises and enter into lease

1 agreements with lessees as the Federal Housing Finance
2 Agency determines appropriate, prior to the sale of such
3 properties and assets, except that any such lease agree-
4 ment shall be no greater than 5 years. Authority to enter
5 into leasing agreements pursuant to this subsection shall
6 terminate 3 years after the date of the enactment of this
7 Act.

8 (b) ENTERPRISE DEFINED.—The term “enterprise”
9 means—

10 (1) the Federal National Mortgage Association;

11 and

12 (2) the Federal Home Loan Mortgage Corpora-

13 tion.

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