

110TH CONGRESS
2^D SESSION

H. R. 7305

To immediately terminate the authority of the Secretary of the Treasury under the Emergency Economic Stabilization Act of 2008 to purchase troubled assets, to require the Secretary to make insurance of troubled mortgage-backed securities available for purchase, and to provide incentives to reinvest foreign earnings in the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 20, 2008

Mr. GOHMERT introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To immediately terminate the authority of the Secretary of the Treasury under the Emergency Economic Stabilization Act of 2008 to purchase troubled assets, to require the Secretary to make insurance of troubled mortgage-backed securities available for purchase, and to provide incentives to reinvest foreign earnings in the United States, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Responsibly Ending
3 Authority to Purchase Act of 2008” or the “REAP Act
4 of 2008”.

5 **SEC. 2. TERMINATION OF PURCHASE AUTHORITY.**

6 (a) **IN GENERAL.**—The authorities provided under
7 section 101(a) of the Emergency Economic Stabilization
8 Act of 2008 (Public Law 110–343), excluding section
9 101(a)(3) of such Act, shall terminate immediately upon
10 the enactment of this Act.

11 (b) **RULE OF CONSTRUCTION.**—The termination
12 under subsection (a) shall apply to any authority of the
13 Secretary of the Treasury under the Emergency Economic
14 Stabilization Act of 2008 to purchase preferred or other
15 stock or equity in any financial institution.

16 (c) **CONFORMING AMENDMENT.**—The Emergency
17 Economic Stabilization Act of 2008 is amended by strik-
18 ing section 120.

19 **SEC. 3. IMPLEMENTATION OF PROGRAM FOR INSURANCE**
20 **OF TROUBLED MORTGAGE-BACKED SECURI-**
21 **TIES.**

22 (a) **IN GENERAL.**—Section 102 of the Emergency
23 Economic Stabilization Act of 2008 (Public Law 110–
24 343) is amended—

1 (1) in the section heading, by striking “**AS-**
2 **SETS**” and inserting “**MORTGAGE-BACKED SECURITIES**”;
3

4 (2) by striking “troubled asset” and “troubled
5 assets” each place such terms appear and inserting
6 “troubled asset” and “troubled mortgage-backed se-
7 curities”, respectively;

8 (3) in subsection (a)—

9 (A) in paragraph (1)—

10 (i) by striking “If the Secretary estab-
11 lished the program authorized under sec-
12 tion 101, then the Secretary shall estab-
13 lish” and inserting “Not later than the ex-
14 piration of the 60-day period beginning
15 upon the date of the enactment of the Re-
16 sponsibly Ending Authority to Purchase
17 Act of 2008, the Secretary shall establish
18 and implement”; and

19 (ii) by striking “, including mortgage-
20 backed securities”;

21 (B) in the first sentence of paragraph (2),
22 by striking “may” and inserting “shall”; and

23 (C) in the first sentence of paragraph (3),
24 by striking “may” and inserting “shall, subject
25 to compliance by such financial institution with

1 any terms and conditions established by the
2 Secretary,”;

3 (4) in subsection (c)(4), by striking “Troubled
4 Assets” and inserting “Troubled Mortgage-Backed
5 Securities”;

6 (5) in subsection (d)—

7 (A) in the subsection heading, by striking
8 “TROUBLED ASSETS” and inserting “TROU-
9 BLED MORTGAGE-BACKED SECURITIES”; and

10 (B) in paragraph (1), by striking “Trou-
11 bled Assets” and inserting “Troubled Mort-
12 gage-Backed Securities”; and

13 (6) by adding at the end the following new sub-
14 section:

15 “(e) TERMINATION.—

16 “(1) IN GENERAL.—The authority of the Sec-
17 retary to issue guarantees and commitments for
18 guarantees under this section shall terminate on De-
19 cember 31, 2009.

20 “(2) EXTENSION UPON CERTIFICATION.—The
21 Secretary, upon submission of a written certification
22 to Congress, may extend the authority specified in
23 paragraph (1) to expire not later than 2 years from
24 the date of enactment of this Act. Such certification
25 shall include a justification of why the extension is

1 necessary to assist American families and stabilize
2 financial markets, as well as the expected cost to the
3 taxpayers for such an extension.”.

4 (b) DEFINITION.—Section 3 of the Emergency Eco-
5 nomic Stabilization Act of 2008 (Public Law 110–343) is
6 amended by adding at the end the following new para-
7 graph:

8 “(10) TROUBLED MORTGAGE-BACKED SECUR-
9 RITY.—The term ‘troubled mortgage-backed secu-
10 rity’ means a residential or commercial mortgage or
11 any security, obligation, or other instrument that is
12 based on or related to such mortgages, that in each
13 case was originated or issued on or before March 14,
14 2008.”.

15 (c) LIMITATIONS ON GUARANTEE AUTHORITY.—
16 Paragraph (4) of subsection (c) of section 102 of the
17 Emergency Economic Stabilization Act of 2008 (Public
18 Law 110–343) is amended to read as follows:

19 “(4) LIMITATIONS ON GUARANTEE AUTHOR-
20 ITY.—The difference between the aggregate amount
21 of outstanding obligations guaranteed under this
22 section and the balance in the Troubled Mortgage-
23 Backed Securities Insurance Financing Fund may
24 not at any time exceed the remaining purchase au-
25 thority limit under section 115 at such time.”.

1 **SEC. 4. INCENTIVES TO REINVEST FOREIGN EARNINGS IN**
2 **UNITED STATES.**

3 (a) IN GENERAL.—Section 965 of the Internal Rev-
4 enue Code of 1986 is amended to read as follows:

5 **“SEC. 965. DEDUCTION FOR DIVIDENDS RECEIVED.**

6 “(a) DEDUCTION.—

7 “(1) IN GENERAL.—In the case of a corpora-
8 tion which is a United States shareholder and for
9 which the election under this section is in effect for
10 the taxable year, there shall be allowed as a deduc-
11 tion an amount equal to the applicable percentage of
12 cash dividends which are received during such tax-
13 able year by such shareholder from controlled for-
14 eign corporations.

15 “(2) APPLICABLE PERCENTAGE.—For purposes
16 of paragraph (1)—

17 “(A) IN GENERAL.—Except as provided by
18 subparagraph (B), the term ‘applicable percent-
19 age’ means 85 percent.

20 “(B) DISTRESSED DEBT.—In the case of
21 dividends received with respect to which the re-
22 quirements of subsection (b)(4)(B) are met,
23 such term means 100 percent.

24 “(3) DIVIDENDS PAID INDIRECTLY FROM CON-
25 TROLLED FOREIGN CORPORATIONS.—If, within the
26 taxable year for which the election under this section

1 is in effect, a United States shareholder receives a
2 cash distribution from a controlled foreign corpora-
3 tion which is excluded from gross income under sec-
4 tion 959(a), such distribution shall be treated for
5 purposes of this section as a cash dividend to the ex-
6 tent of any amount included in income by such
7 United States shareholder under section
8 951(a)(1)(A) as a result of any cash dividend during
9 such taxable year to—

10 “(A) such controlled foreign corporation
11 from another controlled foreign corporation that
12 is in a chain of ownership described in section
13 958(a), or

14 “(B) any other controlled foreign corpora-
15 tion in such chain of ownership, but only to the
16 extent of cash distributions described in section
17 959(b) which are made during such taxable
18 year to the controlled foreign corporation from
19 which such United States shareholder received
20 such distribution.

21 “(b) LIMITATIONS.—

22 “(1) IN GENERAL.—The amount of dividends
23 taken into account under subsection (a) shall not ex-
24 ceed the greater of—

25 “(A) \$500,000,000,

1 “(B) the amount shown on the applicable
2 financial statement as earnings permanently re-
3 invested outside the United States, or

4 “(C) in the case of an applicable financial
5 statement which fails to show a specific amount
6 of earnings permanently reinvested outside the
7 United States and which shows a specific
8 amount of tax liability attributable to such
9 earnings, the amount equal to the amount of
10 such liability divided by 0.35.

11 The amounts described in subparagraphs (B) and
12 (C) shall be treated as being zero if there is no such
13 statement or such statement fails to show a specific
14 amount of such earnings or liability, as the case may
15 be.

16 “(2) DIVIDENDS MUST BE EXTRAORDINARY.—
17 The amount of dividends taken into account under
18 subsection (a) shall not exceed the excess (if any)
19 of—

20 “(A) the cash dividends received during
21 the taxable year by such shareholder from con-
22 trolled foreign corporations, over

23 “(B) the sum of—

1 “(i) the dividends received during the
2 base period year by such shareholder from
3 controlled foreign corporations,

4 “(ii) the amounts includible in such
5 shareholder’s gross income for the base pe-
6 riod year under section 951(a)(1)(B) with
7 respect to controlled foreign corporations,
8 and

9 “(iii) the amounts that would have
10 been included for the base period year but
11 for section 959(a) with respect to con-
12 trolled foreign corporations.

13 The amount taken into account under clause
14 (iii) for the base period year shall not include
15 any amount which is not includible in gross in-
16 come by reason of an amount described in
17 clause (ii) with respect to a prior taxable year.

18 Amounts described in subparagraph (B) for the
19 base period year shall be such amounts as
20 shown on the most recent return filed for such
21 year; except that amended returns filed after
22 June 30, 2007, shall not be taken into account.

23 “(3) REDUCTION OF BENEFIT IF INCREASE IN
24 RELATED PARTY INDEBTEDNESS.—The amount of
25 dividends which would (but for this paragraph) be

1 taken into account under subsection (a) shall be re-
2 duced by the excess (if any) of—

3 “(A) the amount of indebtedness of the
4 controlled foreign corporation to any related
5 person (as defined in section 954(d)(3)) as of
6 the close of the taxable year for which the elec-
7 tion under this section is in effect, over

8 “(B) the amount of indebtedness of the
9 controlled foreign corporation to any related
10 person (as so defined) as of the close of Sep-
11 tember 26, 2008.

12 All controlled foreign corporations with respect to
13 which the taxpayer is a United States shareholder
14 shall be treated as 1 controlled foreign corporation
15 for purposes of this paragraph. The Secretary may
16 prescribe such regulations as may be necessary or
17 appropriate to prevent the avoidance of the purposes
18 of this paragraph, including regulations which pro-
19 vide that cash dividends shall not be taken into ac-
20 count under subsection (a) to the extent such divi-
21 dends are attributable to the direct or indirect trans-
22 fer (including through the use of intervening entities
23 or capital contributions) of cash or other property
24 from a related person (as so defined) to a controlled
25 foreign corporation.

1 “(4) REQUIREMENTS.—

2 “(A) REQUIREMENT TO INVEST IN UNITED
3 STATES.—Except as provided by subparagraph
4 (B), subsection (a) shall not apply to any divi-
5 dend received by a United States shareholder
6 unless the amount of the dividend is invested in
7 the United States pursuant to a domestic rein-
8 vestment plan which—

9 “(i) is approved by the taxpayer’s
10 president, chief executive officer, or com-
11 parable official before the payment of such
12 dividend and subsequently approved by the
13 taxpayer’s board of directors, management
14 committee, executive committee, or similar
15 body, and

16 “(ii) provides for the reinvestment of
17 such dividend in the United States (other
18 than as payment for executive compensa-
19 tion), including as a source for the funding
20 of worker hiring and training, infrastruc-
21 ture, research and development, capital in-
22 vestments, or the financial stabilization of
23 the corporation for the purposes of job re-
24 tention or creation.

1 “(B) DISTRESSED DEBT.—The require-
2 ments of this subparagraph are met if amounts
3 repatriated are invested in distressed debt (as
4 defined by the Secretary) for at least one year.

5 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-
6 poses of this section—

7 “(1) APPLICABLE FINANCIAL STATEMENT.—
8 The term ‘applicable financial statement’ means—

9 “(A) with respect to a United States
10 shareholder which is required to file a financial
11 statement with the Securities and Exchange
12 Commission (or which is included in such a
13 statement so filed by another person), the most
14 recent audited annual financial statement (in-
15 cluding the notes which form an integral part
16 of such statement) of such shareholder (or
17 which includes such shareholder)—

18 “(i) which was so filed on or before
19 June 30, 2007, and

20 “(ii) which was certified on or before
21 June 30, 2007, as being prepared in ac-
22 cordance with generally accepted account-
23 ing principles, and

24 “(B) with respect to any other United
25 States shareholder, the most recent audited fi-

1 nancial statement (including the notes which
2 form an integral part of such statement) of
3 such shareholder (or which includes such share-
4 holder)—

5 “(i) which was certified on or before
6 June 30, 2007, as being prepared in ac-
7 cordance with generally accepted account-
8 ing principles, and

9 “(ii) which is used for the purposes of
10 a statement or report—

11 “(I) to creditors,

12 “(II) to shareholders, or

13 “(III) for any other substantial
14 nontax purpose.

15 “(2) BASE PERIOD YEAR.—

16 “(A) IN GENERAL.—The base period year
17 is the first taxable year ending in 2007.

18 “(B) MERGERS, ACQUISITIONS, ETC.—

19 “(i) IN GENERAL.—Rules similar to
20 the rules of subparagraphs (A) and (B) of
21 section 41(f)(3) shall apply for purposes of
22 this paragraph.

23 “(ii) SPIN-OFFS, ETC.—If there is a
24 distribution to which section 355 (or so
25 much of section 356 as relates to section

1 355) applies during the base period year
2 and the controlled corporation (within the
3 meaning of section 355) is a United States
4 shareholder—

5 “(I) the controlled corporation
6 shall be treated as being in existence
7 during the period that the distributing
8 corporation (within the meaning of
9 section 355) is in existence, and

10 “(II) for purposes of applying
11 subsection (b)(2) to the controlled cor-
12 poration and the distributing corpora-
13 tion, amounts described in subsection
14 (b)(2)(B) which are received or in-
15 cludible by the distributing corpora-
16 tion or controlled corporation (as the
17 case may be) before the distribution
18 referred to in subelause (I) from a
19 controlled foreign corporation shall be
20 allocated between such corporations in
21 proportion to their respective interests
22 as United States shareholders of such
23 controlled foreign corporation imme-
24 diately after such distribution.

1 Subclause (II) shall not apply if neither
2 the controlled corporation nor the distrib-
3 uting corporation is a United States share-
4 holder of such controlled foreign corpora-
5 tion immediately after such distribution.

6 “(3) DIVIDEND.—The term ‘dividend’ shall not
7 include amounts includible in gross income as a divi-
8 dend under section 78, 367, or 1248. In the case of
9 a liquidation under section 332 to which section
10 367(b) applies, the preceding sentence shall not
11 apply to the extent the United States shareholder
12 actually receives cash as part of the liquidation.

13 “(4) COORDINATION WITH DIVIDENDS RE-
14 CEIVED DEDUCTION.—No deduction shall be allowed
15 under section 243 or 245 for any dividend for which
16 a deduction is allowed under this section.

17 “(5) CONTROLLED GROUPS.—

18 “(A) IN GENERAL.—All United States
19 shareholders which are members of an affiliated
20 group filing a consolidated return under section
21 1501 shall be treated as one United States
22 shareholder.

23 “(B) APPLICATION OF \$500,000,000
24 LIMIT.—All corporations which are treated as a
25 single employer under section 52(a) shall be

1 limited to one \$500,000,000 amount in sub-
2 section (b)(1)(A), and such amount shall be di-
3 vided among such corporations under regula-
4 tions prescribed by the Secretary.

5 “(C) PERMANENTLY REINVESTED EARN-
6 INGS.—If a financial statement is an applicable
7 financial statement for more than 1 United
8 States shareholder, the amount applicable
9 under subparagraph (B) or (C) of subsection
10 (b)(1) shall be divided among such shareholders
11 under regulations prescribed by the Secretary.

12 “(d) DENIAL OF FOREIGN TAX CREDIT; DENIAL OF
13 CERTAIN EXPENSES.—

14 “(1) FOREIGN TAX CREDIT.—No credit shall be
15 allowed under section 901 for any taxes paid or ac-
16 crued (or treated as paid or accrued) with respect to
17 the deductible portion of—

18 “(A) any dividend, or

19 “(B) any amount described in subsection
20 (a)(2) which is included in income under section
21 951(a)(1)(A).

22 No deduction shall be allowed under this chapter for
23 any tax for which credit is not allowable by reason
24 of the preceding sentence.

1 “(2) EXPENSES.—No deduction shall be al-
2 lowed for expenses properly allocated and appor-
3 tioned to the deductible portion described in para-
4 graph (1).

5 “(3) DEDUCTIBLE PORTION.—For purposes of
6 paragraph (1), unless the taxpayer otherwise speci-
7 fies, the deductible portion of any dividend or other
8 amount is the amount which bears the same ratio to
9 the amount of such dividend or other amount as the
10 amount allowed as a deduction under subsection (a)
11 for the taxable year bears to the amount described
12 in subsection (b)(2)(A) for such year.

13 “(4) COORDINATION WITH SECTION 78.—Sec-
14 tion 78 shall not apply to any tax which is not allow-
15 able as a credit under section 901 by reason of this
16 subsection.

17 “(e) INCREASE IN TAX ON INCLUDED AMOUNTS NOT
18 REDUCED BY CREDITS, ETC.—

19 “(1) IN GENERAL.—Any tax under this chapter
20 by reason of nondeductible CFC dividends shall not
21 be treated as tax imposed by this chapter for pur-
22 poses of determining—

23 “(A) the amount of any credit allowable
24 under this chapter, or

1 “(B) the amount of the tax imposed by
2 section 55.

3 Subparagraph (A) shall not apply to the credit
4 under section 53 or to the credit under section 27(a)
5 with respect to taxes which are imposed by foreign
6 countries and possessions of the United States and
7 are attributable to such dividends.

8 “(2) LIMITATION ON REDUCTION IN TAXABLE
9 INCOME, ETC.—

10 “(A) IN GENERAL.—The taxable income of
11 any United States shareholder for any taxable
12 year shall in no event be less than the amount
13 of nondeductible CFC dividends received during
14 such year.

15 “(B) COORDINATION WITH SECTION 172.—
16 The nondeductible CFC dividends for any tax-
17 able year shall not be taken into account—

18 “(i) in determining under section 172
19 the amount of any net operating loss for
20 such taxable year, and

21 “(ii) in determining taxable income
22 for such taxable year for purposes of the
23 2nd sentence of section 172(b)(2).

24 “(3) NONDEDUCTIBLE CFC DIVIDENDS.—For
25 purposes of this subsection, the term ‘nondeductible

1 CFC dividends' means the excess of the amount of
2 dividends taken into account under subsection (a)
3 over the deduction allowed under subsection (a) for
4 such dividends.

5 “(f) ELECTION.—The taxpayer may elect to apply
6 this section to—

7 “(1) the taxpayer’s last taxable year which be-
8 gins before the date of the enactment of this section,
9 or

10 “(2) the taxpayer’s first taxable year which be-
11 gins during the 1-year period beginning on such
12 date.

13 Such election may be made for a taxable year only if made
14 before the due date (including extensions) for filing the
15 return of tax for such taxable year.”.

16 (b) CLERICAL AMENDMENT.—The item in the table
17 of sections for subpart F of part III of subchapter N of
18 chapter 1 of such Code relating to section 965 is amended
19 to read as follows:

“Sec. 965. Deduction for dividends received.”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to taxable years ending on or after
22 the date of the enactment of this Act.

○