

Union Calendar No. 43

111TH CONGRESS
1ST SESSION

H. R. 1748

[Report No. 111-95, Part I]

To amend title 18, United States Code, to enhance the investigation and prosecution of mortgage fraud and financial institution fraud, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 26, 2009

Mr. CONYERS (for himself, Mr. SMITH of Texas, Mr. DELAHUNT, Ms. JACKSON-LEE of Texas, and Mrs. BIGGERT) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Oversight and Government Reform and Financial Services, 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

MAY 4, 2009

Reported from the Committee on the Judiciary with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

MAY 4, 2009

Additional sponsors: Mr. GONZALEZ, Mr. MOORE of Kansas, Mr. WALZ, and Mr. SHERMAN

MAY 4, 2009

The Committees on Oversight and Government Reform and Financial Services discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To amend title 18, United States Code, to enhance the investigation and prosecution of mortgage fraud and financial institution fraud, 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 “Fight Fraud Act of*
5 *2009”.*

6 **SEC. 2. AMENDMENTS TO IMPROVE MORTGAGE, SECURI-**
7 **TIES, AND FINANCIAL FRAUD RECOVERY AND**
8 **ENFORCEMENT.**

9 *(a) DEFINITION OF FINANCIAL INSTITUTION AMENDED*
10 *TO INCLUDE MORTGAGE LENDING BUSINESS.—Section 20*
11 *of title 18, United States Code, is amended—*

12 *(1) in paragraph (8), by striking “or” after the*
13 *semicolon;*

14 *(2) in paragraph (9), by striking the period and*
15 *inserting “; or”; and*

16 *(3) by inserting at the end the following:*

17 *“(10) a mortgage lending business or any person*
18 *or entity that makes in whole or in part a federally*

1 *related mortgage loan as defined in section 3 of the*
2 *Real Estate Settlement Procedures Act of 1974.”.*

3 ***(b) MORTGAGE LENDING BUSINESS DEFINED.—***

4 ***(1) IN GENERAL.—****Chapter 1 of title 18, United*
5 *States Code, is amended by inserting after section 26*
6 *the following:*

7 ***“§27. Mortgage lending business defined***

8 *“In this title, the term ‘mortgage lending business’*
9 *means an organization which finances or refinances any*
10 *debt secured by an interest in real estate, including private*
11 *mortgage companies and any subsidiaries of such organiza-*
12 *tions, and whose activities affect interstate or foreign com-*
13 *merce.”.*

14 ***(2) CLERICAL AMENDMENT.—****The table of sec-*
15 *tions at the beginning of chapter 1 of title 18, United*
16 *States Code, is amended by adding at the end the fol-*
17 *lowing:*

“27. Mortgage lending business defined.”.

18 ***(c) FALSE STATEMENTS IN MORTGAGE APPLICATIONS***
19 ***AMENDED TO INCLUDE FALSE STATEMENTS BY MORTGAGE***
20 ***BROKERS AND AGENTS OF MORTGAGE LENDING BUSI-***
21 ***NESSES.—****Section 1014 of title 18, United States Code, is*
22 *amended—*

23 ***(1) by striking “or” after “the International***
24 ***Banking Act of 1978),”;*** *and*

1 (2) by inserting after “section 25(a) of the Fed-
2 eral Reserve Act” the following: “, or a mortgage
3 lending business, or any person or entity that makes
4 in whole or in part a federally related mortgage loan
5 as defined in section 3 of the Real Estate Settlement
6 Procedures Act of 1974”.

7 (d) MAJOR FRAUD AGAINST THE GOVERNMENT
8 AMENDED TO INCLUDE ECONOMIC RELIEF AND TROUBLED
9 ASSET RELIEF PROGRAM FUNDS.—Section 1031(a) of title
10 18, United States Code, is amended—

11 (1) by striking “in any procurement” and in-
12 serting “in any Federal assistance in the form of fi-
13 nancial relief or stimulus provided by the Govern-
14 ment, including through the Troubled Assets Relief
15 Program, whether through grant, contract, sub-
16 contract, subsidy, loan, guarantee, insurance, pur-
17 chase of preferred stock, or otherwise, or any procure-
18 ment”; and

19 (2) by striking “the contract, subcontract” and
20 inserting “such grant, contract, subcontract, subsidy,
21 loan, guarantee, insurance, purchase, or other form of
22 financial relief or stimulus”.

23 (e) SECURITIES FRAUD AMENDED TO INCLUDE
24 FRAUD INVOLVING OPTIONS AND FUTURES IN COMMOD-
25 ITIES.—

1 (1) *IN GENERAL.*—Section 1348 of title 18,
2 *United States Code*, is amended—

3 (A) *in the caption*, by inserting “**and**
4 **commodities**” after “**Securities**”;

5 (B) *in paragraph (1)*, by inserting “any
6 commodity for future delivery, or any option on
7 a commodity for future delivery, or” after “any
8 person in connection with”; and

9 (C) *in paragraph (2)*, by inserting “any
10 commodity for future delivery, or any option on
11 a commodity for future delivery, or” after “in
12 connection with the purchase or sale of”.

13 (2) *CLERICAL AMENDMENT.*—The item relating
14 to section 1348 in the table of sections at the begin-
15 ning of chapter 63 of title 18, *United States Code*, is
16 amended by inserting “and commodities” after “Secu-
17 rities”.

18 **SEC. 3. AUTHORIZATION OF ADDITIONAL RESOURCES FOR**
19 **INVESTIGATORS AND PROSECUTORS FOR**
20 **MORTGAGE FRAUD, SECURITIES AND COM-**
21 **MODITIES FRAUD, AND OTHER CRIMES OF**
22 **FRAUD.**

23 (a) *AUTHORIZATIONS FOR THE DEPARTMENT OF JUS-*
24 *TICE.*—

1 (1) *IN GENERAL.*—*There is authorized to be ap-*
2 *propriated to the Attorney General, \$185,000,000 for*
3 *fiscal year 2010 and \$175,000,000 for fiscal year*
4 *2011, for the purposes of investigations, prosecutions,*
5 *and civil enforcement actions against possible fraud*
6 *(including mortgage fraud and securities and com-*
7 *modities fraud) relating to a financial institution, in-*
8 *cluding financial institutions receiving Federal as-*
9 *stance under the Troubled Assets Relief Program or*
10 *otherwise.*

11 (2) *ALLOCATIONS.*—*The amounts authorized to*
12 *be appropriated under paragraph (1) shall be allo-*
13 *cated as follows:*

14 (A) *Federal Bureau of Investigation:*
15 *\$75,000,000 for fiscal year 2010 and \$65,000,000*
16 *for fiscal year 2011, an appropriate percentage*
17 *of which amounts shall be used to investigate*
18 *mortgage fraud.*

19 (B) *The offices of the United States Attor-*
20 *neys: \$50,000,000.*

21 (C) *The criminal division of the Depart-*
22 *ment of Justice: \$20,000,000.*

23 (D) *The civil division of the Department of*
24 *Justice: \$15,000,000.*

1 (E) *The tax division of the Department of*
2 *Justice: \$5,000,000.*

3 (F) *The Director of the Administrative Of-*
4 *fice of the United States Courts: \$20,000,000.*

5 (b) *AUTHORIZATIONS FOR THE POSTAL INSPECTION*
6 *SERVICE.—There is authorized to be appropriated to the*
7 *Postal Inspection Service of the United States Postal Serv-*
8 *ice, \$30,000,000 for each of the fiscal years 2010 and 2011*
9 *for investigations into possible fraud described in subsection*
10 *(a)(1).*

11 (c) *AUTHORIZATIONS FOR THE INSPECTOR GENERAL*
12 *FOR THE DEPARTMENT OF HOUSING AND URBAN DEVEL-*
13 *OPMENT.—There is authorized to be appropriated to the In-*
14 *spector General of the Department of Housing and Urban*
15 *Development, \$30,000,000 for each of the fiscal years 2010*
16 *and 2011 for investigations into possible fraud described*
17 *in subsection (a)(1).*

18 (d) *AUTHORIZATIONS FOR THE UNITED STATES SE-*
19 *CRET SERVICE.—There is authorized to be appropriated to*
20 *the United States Secret Service of the Department of*
21 *Homeland Security, \$20,000,000 for each of the fiscal years*
22 *2010 and 2011 for investigations into possible fraud de-*
23 *scribed in subsection (a)(1).*

24 (e) *ADDITIONAL AUTHORIZATIONS; AVAILABILITY.—*
25 *The amounts authorized under this section are in addition*

1 *to amounts otherwise authorized in other Acts, and shall*
2 *remain available until expended.*

3 *(f) DEFENSE SERVICES.—Funds made available under*
4 *this section by the recipient described in subsection*
5 *(a)(2)(F) shall be used to cover costs associated with pro-*
6 *viding defense services to defendants investigated for or*
7 *charged with an offense described in subsection (a)(1).*

8 *(g) REPORT TO CONGRESS.—Following the final ex-*
9 *penditure of all funds appropriated pursuant to authoriza-*
10 *tion under this section, the Attorney General, in consulta-*
11 *tion with the United States Postal Inspection Service, the*
12 *Inspector General for the Department of Housing and*
13 *Urban Development, and the Secretary of Homeland Secu-*
14 *rity, shall submit a report to Congress identifying—*

15 *(1) the amounts expended under each of sub-*
16 *sections (a), (b), (c), and (d) and a certification of*
17 *compliance with the requirements listed in subsection*
18 *(e); and*

19 *(2) the amounts recovered as a result of criminal*
20 *or civil restitution, fines, penalties, and other mone-*
21 *tary recoveries resulting from criminal, civil, or ad-*
22 *ministrative proceedings and settlements undertaken*
23 *with funds authorized by this Act.*

1 **SEC. 4. GRANTS FOR STATE AND LOCAL LAW ENFORCE-**
2 **MENT.**

3 (a) *IN GENERAL.*—Subject to the availability of
4 amounts provided in advance in appropriations Acts, the
5 Attorney General is authorized to award grants to States
6 to establish and develop programs to increase and enhance
7 enforcement against mortgage fraud, securities and com-
8 modities fraud, and financial institution fraud, including
9 enforcement against the use of computers in committing
10 such fraud.

11 (b) *APPLICATION.*—To be eligible to be considered for
12 a grant under subsection (a), a State shall submit an appli-
13 cation to the Attorney General at such time, in such man-
14 ner, and containing such information, including as de-
15 scribed in subsection (d), as the Attorney General may re-
16 quire.

17 (c) *USE OF GRANT AMOUNTS.*—A grant awarded to
18 a State under subsection (a) shall be used by the State to
19 establish and develop programs to—

20 (1) assist State and local law enforcement agen-
21 cies in enforcing State and local criminal laws relat-
22 ing to criminal activity described in subsection (a);

23 (2) assist State and local law enforcement agen-
24 cies in educating the public to prevent and identify
25 such criminal activity;

1 (3) *educate and train State and local law en-*
2 *forcement officers and prosecutors to conduct inves-*
3 *tigations, forensic analyses of evidence, and prosecu-*
4 *tions relating to such criminal activity;*

5 (4) *assist State and local law enforcement offi-*
6 *cers and prosecutors in acquiring computer and other*
7 *equipment to conduct investigations and forensic*
8 *analyses of evidence relating to such criminal activ-*
9 *ity;*

10 (5) *assist public defenders with providing defense*
11 *services to defendants in cases in which the defendant*
12 *is charged with any such criminal activity; and*

13 (6) *facilitate and promote communication be-*
14 *tween Federal, State, and local law enforcement to*
15 *improve the sharing of Federal law enforcement ex-*
16 *pertise and information about the investigation, fo-*
17 *rensic analysis of evidence, and prosecution relating*
18 *to such criminal activity, with State and local law*
19 *enforcement officers and prosecutors, including*
20 *through the use of multi-jurisdictional task forces.*

21 (d) *ASSURANCES AND ELIGIBILITY.*—*To be eligible to*
22 *receive a grant under subsection (a), a State shall provide*
23 *assurances to the Attorney General that the State—*

24 (1) *will provide an assessment of the resource*
25 *needs of the State and units of local government with-*

1 *in that State, including criminal justice resources*
2 *being devoted to the investigation and enforcement of*
3 *laws related to criminal activity described in sub-*
4 *section (a);*

5 *(2) will develop a plan for coordinating the pro-*
6 *grams funded under this section with other federally*
7 *funded technical assistance and training programs;*
8 *and*

9 *(3) will submit to the Attorney General applica-*
10 *ble reports in accordance with subsection (f).*

11 *(e) MATCHING FUNDS.—The Federal share of a grant*
12 *received under this section may not exceed 75 percent of*
13 *the total cost of a program or proposal funded under this*
14 *section unless the Attorney General waives, wholly or in*
15 *part, the requirements of this subsection.*

16 *(f) REPORTS.—For each year that a State receives a*
17 *grant under subsection (a) for a program, the State shall*
18 *submit to the Attorney General a report on the results, in-*
19 *cluding the effectiveness, of such program during such year.*

20 *(g) DEFINITION OF STATE.—For the purposes of this*
21 *section, the term “State” means each of the several States,*
22 *the District of Columbia, the Commonwealth of Puerto Rico,*
23 *the United States Virgin Islands, American Samoa, Guam,*
24 *and the Northern Mariana Islands.*

25 *(h) AUTHORIZATION OF APPROPRIATIONS.—*

1 (1) *IN GENERAL.*—*There is authorized to be ap-*
2 *propriated to carry out this section \$100,000,000 for*
3 *each of the fiscal years 2010 through 2011.*

4 (2) *LIMITATIONS.*—*Of the amount made avail-*
5 *able to carry out this section in any fiscal year, not*
6 *more than 3 percent may be used for salaries and ad-*
7 *ministrative expenses for the Department of Justice.*

8 (3) *MINIMUM AMOUNT.*—*Each State submitting*
9 *an application for, and eligible to receive, a grant*
10 *under this section for a fiscal year shall be allocated*
11 *under this section, in each such fiscal year, not less*
12 *than 0.75 percent of the total amount appropriated in*
13 *such fiscal year for grants pursuant to this section,*
14 *except that not less than 0.25 percent of such total*
15 *amount shall be allocated to the United States Virgin*
16 *Islands, American Samoa, Guam, and the Northern*
17 *Mariana Islands, collectively.*

18 (4) *GRANTS TO INDIAN TRIBES.*—*Subject to*
19 *paragraph (3), the Attorney General may use*
20 *amounts made available pursuant to authorizations*
21 *under this section to make grants to Indian tribes for*
22 *use in accordance with this section.*

1 **SEC. 5. AUTHORIZATION AND EXPANSION OF NATIONAL**
 2 **WHITE COLLAR CRIME CENTER.**

3 (a) *IN GENERAL.*—*Title I of the Omnibus Crime Con-*
 4 *trol and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.)*
 5 *is amended—*

6 (1) *by redesignating part JJ, as added by sec-*
 7 *tion 952 of Public Law 110–315 (relating to Loan*
 8 *Repayment for Prosecutors and Public Defenders), as*
 9 *part LL, and moving such part so that such part fol-*
 10 *lows part KK;*

11 (2) *in part LL, as so redesignated and moved by*
 12 *paragraph (1), by redesignating section 3001 as sec-*
 13 *tion 3021; and*

14 (3) *by adding at the end the following new part:*

15 **“PART MM—NATIONAL WHITE COLLAR CRIME**
 16 **CENTER GRANTS**

17 **“SEC. 3031. ESTABLISHMENT OF GRANTS PROGRAM.**

18 “(a) *AUTHORIZATION.*—*The Attorney General is au-*
 19 *thorized to award grants and enter into contracts with*
 20 *State and local criminal justice agencies and nonprofit or-*
 21 *ganizations for the purpose of improving the detection, in-*
 22 *vestigation, and prosecution of covered criminal activities.*

23 “(b) *COVERED CRIMINAL ACTIVITIES DEFINED.*—*For*
 24 *purposes of this part, the term ‘covered criminal activity’*
 25 *means a criminal conspiracy or activity or a terrorist con-*

1 *spiracy or activity that spans jurisdictional boundaries, in-*
2 *cluding the following:*

3 “(1) *Terrorism.*

4 “(2) *Economic crime, including financial fraud*
5 *and mortgage fraud.*

6 “(3) *High-tech crime, also known as cybercrime*
7 *or computer crime, including internet-based crime*
8 *against children and child pornography.*

9 “(c) *CRIMINAL JUSTICE AGENCY DEFINED.—For pur-*
10 *poses of this part, the term ‘criminal justice agency’, with*
11 *respect to a State or a unit of local government within such*
12 *State, includes a law enforcement agency, a State regu-*
13 *latory body with criminal investigative authority, and a*
14 *State or local prosecution office to the extent that such agen-*
15 *cy, body, or office, respectively, is involved in the preven-*
16 *tion, investigation, and prosecution of covered criminal ac-*
17 *tivities.*

18 **“SEC. 3032. AUTHORIZED PROGRAMS.**

19 “*Grants and contracts awarded under this part may*
20 *be made only for the following programs, with respect to*
21 *the prevention, investigation, and prosecution of covered*
22 *criminal activities:*

23 “(1) *Programs to provide a nationwide support*
24 *system for State and local criminal justice agencies.*

1 “(2) *Programs to assist State and local criminal*
2 *justice agencies to develop, establish, and maintain*
3 *intelligence-focused policing strategies and related in-*
4 *formation sharing.*

5 “(3) *Programs to provide training and inves-*
6 *tigative support services to State and local criminal*
7 *justice agencies to provide such agencies with skills*
8 *and resources needed to investigate and prosecute such*
9 *criminal activities and related criminal activities.*

10 “(4) *Programs to provide research support, to es-*
11 *tablish partnerships, and to provide other resources to*
12 *aid State and local criminal justice agencies to pre-*
13 *vent, investigate, and prosecute such criminal activi-*
14 *ties and related problems.*

15 “(5) *Programs to provide information and re-*
16 *search to the general public to facilitate the preven-*
17 *tion of such criminal activities.*

18 “(6) *Programs to establish National training*
19 *and research centers regionally, including within Vir-*
20 *ginia, Texas, and Michigan, to provide training and*
21 *research services for State and local criminal justice*
22 *agencies.*

23 “(7) *Any other programs specified by the Attor-*
24 *ney General as furthering the purposes of this part.*

1 **“SEC. 3033. APPLICATION.**

2 *“To be eligible to be considered for an award of a grant*
3 *or contract under this part, an entity shall submit to the*
4 *Attorney General an application in such form and manner,*
5 *and containing such information, as required by the Attor-*
6 *ney General.*

7 **“SEC. 3034. RULES AND REGULATIONS.**

8 *“The Attorney General shall promulgate such rules*
9 *and regulations as are necessary to carry out this part, in-*
10 *cluding rules and regulations for submitting and reviewing*
11 *applications under section 3033.”.*

12 **(b) AUTHORIZATION OF APPROPRIATION.**—*Section*
13 *1001(a) of such Act (42 U.S.C. 3793) is amended by adding*
14 *at the end the following new paragraph:*

15 *“(27) There is authorized to be appropriated to carry*
16 *out part MM—*

17 *“(A) \$25,000,000 for fiscal year 2010;*

18 *“(B) \$28,000,000 for fiscal year 2011;*

19 *“(C) \$31,000,000 for fiscal year 2012;*

20 *“(D) \$34,000,000 for fiscal year 2013;*

21 *“(E) \$37,000,000 for fiscal year 2014; and*

22 *“(F) \$40,000,000 for fiscal year 2015.”.*

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