

111<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1929

To establish the Fannie Mae and Freddie Mac Investigative Commission to investigate the policies and practices engaged in by officers and directors at Fannie Mae and Freddie Mac responsible for making the decisions that led to the enterprises' financial instability and the subsequent Federal conservatorship of such enterprises.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 2, 2009

Ms. KAPTUR introduced the following bill; which was referred to the  
Committee on Financial Services

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## A BILL

To establish the Fannie Mae and Freddie Mac Investigative Commission to investigate the policies and practices engaged in by officers and directors at Fannie Mae and Freddie Mac responsible for making the decisions that led to the enterprises' financial instability and the subsequent Federal conservatorship of such enterprises.

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 “Fannie Mae and  
5        Freddie Mac Investigative Commission Act”.

1 **SEC. 2. DEFINITIONS AND FINDINGS.**

2 (a) DEFINITIONS.—In this Act:

3 (1) The term “Commission” means the Fannie  
4 Mae and Freddie Mac Investigative Commission es-  
5 tablished under section 3.

6 (2) The term “Fannie Mae” means the Federal  
7 National Mortgage Corporation.

8 (3) The term “Freddie Mac” means the Fed-  
9 eral Home Loan Mortgage Corporation.

10 (b) FINDINGS.—Congress finds the following:

11 (1) With foreclosure activity increasing 81 per-  
12 cent in 2008, the mortgage foreclosure crisis has  
13 triggered the Nation’s most significant economic  
14 downturn in recent history during which the stock  
15 market has dipped to record lows. While neighbor-  
16 hoods continue to deteriorate due to a loss of value,  
17 an estimated 8,000,000 homes are projected to enter  
18 foreclosure in the next 4 years.

19 (2) There is a need to fully document what  
20 went wrong in the management of secondary market  
21 activities at Fannie Mae and Freddie Mac that con-  
22 tributed to the misguided, potentially fraudulent  
23 policies and practices that ultimately led to the Fed-  
24 eral conservatorship of such enterprises so that simi-  
25 lar mismanagement and risky behavior will not be  
26 repeated in the future.

1           (3) The people of the United States have suf-  
2           fered tremendous harm from the irresponsible, high  
3           risk, and unregulated practices of the mortgage in-  
4           dustry under the policies of Fannie Mae and Freddie  
5           Mac.

6           (4) The Federal conservatorship of Fannie Mae  
7           and Freddie Mac may cost the American people hun-  
8           dreds of billions of dollars, likely exceeding  
9           \$200,000,000,000, making it potentially the largest  
10          debt unjustly imposed on the taxpayers of the  
11          United States in our Nation's history.

12          (5) The American people, forced to shoulder the  
13          financial burden of the damage done to the economy  
14          of the United States, deserve to know who made the  
15          decisions that contributed to the crisis, what went  
16          wrong, and why.

17          (6) Any executive officers and members of the  
18          boards of directors at Fannie Mae and Freddie Mac  
19          who may have exercised poor judgment, or com-  
20          mitted wrongdoing, should be held accountable for  
21          such judgments and actions.

22          (7) In June 2003, Freddie Mac disclosed that  
23          it had misstated its earnings by roughly  
24          \$5,000,000,000 between the years 2000 and 2002 to

1 smooth the appearance of quarterly volatility in  
2 earnings and to meet Wall Street expectations.

3 (8) In December 2004, the Securities and Ex-  
4 change Commission found that Fannie Mae had vio-  
5 lated accounting rules and needed to restate its  
6 earnings by recording a loss of up to  
7 \$9,000,000,000 from 2001 to 2004.

8 (9) For nearly two decades the shareholders of  
9 Fannie Mae and Freddie Mac and the employees  
10 and directors of the boards of these enterprises have  
11 enjoyed large dividends, bonuses, salaries, and other  
12 compensation based on policies and practices that  
13 may have been misguided or fraudulent.

14 (10) In 2007, former Freddie Mac Chairman  
15 and Chief Executive Richard Syron received millions  
16 of dollars in compensation, despite the fact that the  
17 enterprise's stock lost half its value.

18 (11) In 2007, former Fannie Mae President  
19 and Chief Executive Daniel Mudd received millions  
20 of dollars in compensation.

21 (12) Previous investigations of Fannie Mae and  
22 Freddie Mac have focused on accounting fraud, but  
23 there have not been any investigations on the full  
24 range of policies, practices, and high risk board deci-

1 sions that contributed to and exacerbated our Na-  
2 tion's housing crisis.

3 (13) According to the Office of Federal Hous-  
4 ing Enterprise Oversight, regulation allowed Freddie  
5 Mac and Fannie Mae to operate with just \$83.2 bil-  
6 lion of capital at the end of 2007, even though it  
7 supported \$5.2 trillion of debt and guarantees.

8 (14) The boards of directors of Fannie Mae and  
9 Freddie Mac have been held harmless throughout  
10 the Nation's housing crisis, despite having the au-  
11 thority to create and influence many of the policies  
12 of such enterprises.

13 (15) The involvement of the boards of directors  
14 in the policies of Fannie Mae and Freddie Mac has  
15 been shrouded in secrecy, as their policymaking deci-  
16 sions have not been publicly disclosed, despite the  
17 public protections and public benefits their enter-  
18 prises receive.

19 **SEC. 3. ESTABLISHMENT.**

20 There is established a commission to be known as the  
21 "Fannie Mae and Freddie Mac Investigative Commis-  
22 sion".

23 **SEC. 4. DUTY OF THE COMMISSION.**

24 (a) IN GENERAL.—The Commission shall investigate,  
25 determine, and make recommendations to Congress with

1 respect to the policies, practices, and board decisions of  
2 Fannie Mae and Freddie Mac subsequent to the actions  
3 of the Resolution Trust Corporation during the late 1980s  
4 and from the 1990s through the present that led to the  
5 enterprises' financial instability and the subsequent Fed-  
6 eral conservatorship of such enterprises.

7 (b) SPECIFIC TOPICS.—In carrying out its duty  
8 under subsection (a), the Commission shall address and  
9 analyze, by year, beginning in 1990 and through the  
10 present, the following:

11 (1) The appropriate role of Fannie Mae and  
12 Freddie Mac in expanding homeownership and the  
13 appropriate role in helping the housing market re-  
14 cover nationwide.

15 (2) Fannie Mae and Freddie Mac's involve-  
16 ment, if any, in the development of faulty risk  
17 standards and accounting practices and the creation  
18 and proliferation of the securitized mortgage instru-  
19 ment, and how such instrument affected the solvency  
20 of such enterprises.

21 (3) The role of the boards of directors of  
22 Fannie Mae and Freddie Mac in developing and vot-  
23 ing for the investment, accounting, and contracting  
24 policies of such enterprises, particularly as they re-

1 late to risk assessments, subprime mortgages, and  
2 the international securitization of mortgages.

3 (4) Any board members, working committees,  
4 or executive officers responsible for making the deci-  
5 sions to adapt or change risk assessments or grow  
6 Fannie Mae and Freddie Mac's portfolios of  
7 subprime mortgage loans, a summary of actual  
8 board votes on the same, and the process that led  
9 to such decisions.

10 (5) The decisions of the boards or executive of-  
11 ficers of Fannie Mae and Freddie Mac that contrib-  
12 uted or may have contributed to the overvaluation of  
13 risky mortgage investments in the stock market and,  
14 later, to the growth of the subprime mortgage indus-  
15 try.

16 (6) The annual compensation, including all  
17 forms of compensation, stock options, and other fi-  
18 nancial benefits accrued to each of Fannie Mae and  
19 Freddie Mac's executive officers and members of the  
20 boards of directors.

21 (7) Such other matters that the Congress may  
22 place before the Commission.

23 **SEC. 5. MEMBERSHIP.**

24 (a) NUMBER AND APPOINTMENT.—

1           (1) IN GENERAL.—The Commission shall be  
2 composed of 8 members, appointed as follows:

3           (A) Two members appointed by the Speak-  
4 er of the House of Representatives.

5           (B) Two members appointed by the minor-  
6 ity leader of the House of Representatives.

7           (C) Two members appointed by the major-  
8 ity leader of the Senate.

9           (D) Two members appointed by the minor-  
10 ity leader of the Senate.

11          (2) QUALIFICATIONS.—Members of the Com-  
12 mission shall be individuals who are of recognized  
13 standing and distinction in the areas of banking, se-  
14 curities, and finance regulation, consumer advocacy  
15 and fair housing programs, and in the mortgage in-  
16 dustry.

17          (3) CONFLICT OF INTEREST.—Members of the  
18 Commission shall not have a conflict of interest that  
19 is relevant to any matter the Commission is required  
20 to investigate under section 4.

21          (4) DEADLINE FOR APPOINTMENT.—Members  
22 of the Commission shall be appointed not later than  
23 90 days after the date of enactment of this Act.

24          (5) CHAIRPERSON.—The Chairperson of the  
25 Commission shall be designated by the Speaker of

1 the House of Representatives at the time of appoint-  
2 ment.

3 (b) TERMS.—

4 (1) IN GENERAL.—Each member shall be ap-  
5 pointed for the life of the Commission.

6 (2) VACANCIES.—A vacancy on the Commission  
7 shall—

8 (A) not affect the power of the remaining  
9 members to execute the duty of the Commis-  
10 sion; and

11 (B) be filled in the manner in which the  
12 original appointment was made.

13 (c) COMPENSATION.—

14 (1) RATES OF PAY; TRAVEL EXPENSES.—Each  
15 member shall serve without pay, except that each  
16 member shall receive travel expenses, including per  
17 diem in lieu of subsistence, in accordance with appli-  
18 cable provisions under subchapter I of chapter 57 of  
19 title 5, United States Code.

20 (2) PROHIBITION OF COMPENSATION OF FED-  
21 ERAL EMPLOYEES.—Notwithstanding paragraph (1),  
22 any member of the Commission who is a full-time of-  
23 ficer or employee of the United States may not re-  
24 ceive additional pay, allowances, or benefits because  
25 of service on the Commission.

1 (d) MEETING REQUIREMENTS.—

2 (1) FREQUENCY.—

3 (A) QUARTERLY MEETINGS.—The Com-  
4 mission shall meet at least quarterly.

5 (B) ADDITIONAL MEETINGS.—In addition  
6 to quarterly meetings, the Commission shall  
7 meet at the call of the Chairperson or a major-  
8 ity of its members.

9 (2) QUORUM.—Five members of the Commis-  
10 sion shall constitute a quorum, but a lesser number  
11 may hold hearings.

12 (3) MEETING BY TELEPHONE OR OTHER AP-  
13 PROPRIATE TECHNOLOGY.—Members of the Com-  
14 mission are permitted to meet using telephones or  
15 other suitable telecommunications technologies pro-  
16 vided that all members of the Commission can fully  
17 communicate with all other members simultaneously.

18 **SEC. 6. DIRECTOR AND STAFF OF COMMISSION; EXPERTS**

19 **AND CONSULTANTS.**

20 (a) DIRECTOR.—

21 (1) APPOINTMENT.—The Commission shall  
22 have a Director who shall be appointed by the Chair-  
23 person with the approval of the Commission.

24 (2) CREDENTIALS.—The Director shall have ex-  
25 perience in the areas of banking, securities, and fi-

1 nance regulation, specifically in the mortgage indus-  
2 try, consumer advocacy, and fair housing programs.

3 (3) SALARY.—The Director shall be paid at a  
4 rate determined by the Chairperson with the ap-  
5 proval of the Commission, except that such rate may  
6 not exceed the rate of basic pay for GS–15 of the  
7 General Schedule.

8 (b) STAFF.—With the approval of the Chairperson,  
9 the Director may appoint and fix the pay of additional  
10 qualified personnel as the Director considers appropriate.

11 (c) EXPERTS AND CONSULTANTS.—With the ap-  
12 proval of the Commission, the Director may procure tem-  
13 porary and intermittent services under section 3109(b) of  
14 title 5, United States Code, but at rates for individuals  
15 not to exceed the daily equivalent of the maximum annual  
16 rate of basic pay for GS–15 of the General Schedule.

17 (d) STAFF OF FEDERAL AGENCIES.—Upon request  
18 of the Commission, Chairperson, or Director, the head of  
19 any Federal department or agency may detail, on a nonre-  
20 imburseable basis, any of the personnel of that department  
21 or agency to the Commission to assist the Commission in  
22 carrying out its duty under this Act.

23 **SEC. 7. POWERS OF COMMISSION.**

24 (a) HEARINGS AND SESSIONS.—The Commission  
25 may, for the purposes of carrying out this Act, hold hear-

1 ings, sit and act at such times and such places, take testi-  
2 mony, and receive evidence as the Commission considers  
3 appropriate.

4 (b) SUBPOENA POWER.—

5 (1) IN GENERAL.—The Commission may issue  
6 a subpoena to require the attendance and testimony  
7 of witnesses and the production of evidence relating  
8 to any matter under investigation by the Commis-  
9 sion.

10 (2) ISSUANCE AND SIGNATURE.—Subpoenas  
11 issued under paragraph (1) shall bear the signature  
12 of the Chairperson of the Commission and shall be  
13 served by any person or class of persons designated  
14 by the Chairperson for that purpose.

15 (3) ENFORCEMENT.—If a person refuses to  
16 obey a subpoena issued under paragraph (1), the  
17 Commission may apply to a United States district  
18 court for an order requiring that person to appear  
19 before the Commission to give testimony, produce  
20 evidence, or both, relating to the matter under inves-  
21 tigation. The application may be made within the ju-  
22 dicial district where the hearing is conducted or  
23 where that person is found, resides, or transacts  
24 business. Any failure to obey the order of the court  
25 may be punished by the court as civil contempt.

1           (c) POWERS OF MEMBERS AND AGENTS.—Any mem-  
2 ber or agent of the Commission may, if authorized by the  
3 Commission, take any action which the Commission is au-  
4 thorized to take under this Act.

5           (d) OBTAINING OFFICIAL DATA.—The Commission  
6 may secure directly from any department or agency of the  
7 United States information necessary to enable it to carry  
8 out its duty under this Act. Upon request of the Chair-  
9 person, the head of that department or agency shall fur-  
10 nish that information to the Commission.

11          (e) PHYSICAL FACILITIES AND EQUIPMENT.—The  
12 Architect of the Capitol, in consultation with the appro-  
13 priate entities in the legislative branch, shall locate and  
14 provide suitable facilities and equipment for the operation  
15 of the Commission on a nonreimbursable basis.

16          (f) ADMINISTRATIVE SUPPORT SERVICES.—Upon re-  
17 quest of the Commission, the Architect of the Capitol and  
18 the Administrator of the General Services shall provide to  
19 the Commission on a nonreimbursable basis such adminis-  
20 trative support services as the Commission may request  
21 in order for the Commission to carry out its duty under  
22 this Act.

23          (g) BYLAWS, RULES, AND REGULATIONS.—The  
24 Commission may adopt, amend, and repeal bylaws, rules,

1 and regulations governing the conduct of its business and  
2 the performance of its duties.

3 (h) COMMISSION RECORDS.—The Commission shall  
4 keep accurate and complete records of its doings and  
5 transactions which shall be made available for public in-  
6 spection, and for the purpose of audit and examination  
7 by the Comptroller General or his designee.

8 **SEC. 8. INFORMATION FROM FREDDIE MAC, FANNIE MAE,**  
9 **AND THE FHFA.**

10 (a) ENTERPRISES.—Fannie Mae and Freddie Mac  
11 shall provide full and prompt access to the Commission  
12 to any books, records, and other information requested for  
13 the purposes of carrying out its duty under this Act.

14 (b) FHFA.—Upon request of the Commission, the  
15 Director of the Federal Housing Finance Agency shall  
16 provide access to any information necessary to assist the  
17 Commission in carrying out its duty under this Act.

18 **SEC. 9. REPORT.**

19 Not later than 12 months after the date on which  
20 all initial members are appointed, the Commission shall  
21 submit to Congress a final report containing a detailed  
22 statement of the findings, conclusions, and recommenda-  
23 tions of the Commission.

1 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

2       There are authorized to be appropriated to the Com-  
3 mission such sums as may be necessary for fiscal year  
4 2010 to carry out this Act.

5 **SEC. 11. TERMINATION.**

6       The Commission shall terminate following the sub-  
7 mission and presentation of its final report and rec-  
8 ommendations under section 9, but not later than 30 days  
9 after such submission and presentation.

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