

111TH CONGRESS
1ST SESSION

H. R. 2745

To amend the Emergency Economic Stabilization Act of 2008 to provide repayment procedures for certain assistance received under the Troubled Asset Relief Program.

IN THE HOUSE OF REPRESENTATIVES

JUNE 8, 2009

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

A BILL

To amend the Emergency Economic Stabilization Act of 2008 to provide repayment procedures for certain assistance received under the Troubled Asset Relief Program.

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 “TARP Repayment and
5 Termination Act of 2009”.

6 **SEC. 2. ADDITIONAL REPAYMENT PROCEDURES.**

7 (a) IN GENERAL.—Title I of the Emergency Eco-
8 nomic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.)
9 is amended by adding at the end the following new section:

1 **“SEC. 137. ADDITIONAL REPAYMENT PROCEDURES.**

2 “(a) **RIGHT OF REPAYMENT FOR WELL CAPITALIZED**
3 **INSTITUTIONS.**—Any financial institution that has re-
4 ceived or receives assistance under this title shall have the
5 right to immediately repay all of such assistance, and the
6 Secretary shall unconditionally accept such a payment,
7 if—

8 “(1) with respect to an insured depository insti-
9 tution, the appropriate Federal banking agency de-
10 termines that such financial institution will be well
11 capitalized after the repayment of all of such assist-
12 ance; and

13 “(2) such financial institution has paid any div-
14 idend, interest, or other payment due to the Sec-
15 retary by reason of the financial institution receiving
16 assistance under this title.

17 “(b) **RIGHT OF REPAYMENT FOR CERTAIN BANK**
18 **HOLDING COMPANIES.**—Notwithstanding subsection (a),
19 a bank holding company assessed under SCAP shall have
20 the right to immediately repay all assistance such com-
21 pany received under this title, and the Secretary shall un-
22 conditionally accept such a payment, if the Secretary, in
23 consultation with the appropriate Federal banking agency,
24 where applicable, determines that, upon the repayment of
25 all of such assistance, such company—

1 “(1) will remain in a position to continue to ful-
2 fill its role as an intermediary that facilitates lend-
3 ing to creditworthy households and businesses;

4 “(2) will be able to maintain capital levels that
5 are consistent with supervisory expectations;

6 “(3) will be able to continue to serve as a
7 source of financial and managerial strength and sup-
8 port to any subsidiary bank of such company; and

9 “(4) along with any subsidiary bank of such
10 company, will be able to meet all ongoing funding
11 requirements and obligations to counterparties while
12 reducing reliance on Government capital and the
13 TLGP.

14 “(c) PREFERRED SHARE REPURCHASE LEVELS.—
15 With respect to preferred shares held by the Secretary,
16 in making a full repayment of all assistance received by
17 a financial institution under this title on or before Sep-
18 tember 30, 2009, such institution shall have the right to
19 repurchase such preferred shares at—

20 “(1) in the case of a preferred share purchased
21 by the Secretary under this title, the same price the
22 Secretary purchased such share for from the finan-
23 cial institution; and

24 “(2) in the case of a preferred share held by the
25 Secretary as a result of the Secretary’s exercise of

1 a warrant received by the Secretary pursuant to sec-
2 tion 113(d)(1)(B), the same price the Secretary pur-
3 chased such warrant for from the financial institu-
4 tion.

5 “(d) REDUCTION IN AUTHORIZATION TO PURCHASE
6 IN CORRESPONDING AMOUNT TO ANY REPAYMENT.—
7 Each time a financial institution makes a repayment of
8 assistance provided under this title, the authorization to
9 purchase authority under section 115 shall be reduced by
10 a corresponding dollar amount.

11 “(e) PROVISION OF REPAYMENT INFORMATION.—
12 Not later than 15 days after the Secretary is notified by
13 a financial institution that such financial institution wants
14 to immediately repay all assistance received by such insti-
15 tution under this title, the Secretary, in consultation with
16 the appropriate Federal banking agency, if any, shall ei-
17 ther—

18 “(1) accept such repayment; or

19 “(2) notify such institution, in writing, that the
20 individual financial position of such institution does
21 not currently permit the repayment of such assist-
22 ance, and include in such notice information detail-
23 ing steps the institution can take to satisfy the Sec-
24 retary and the appropriate Federal banking agency,

1 if any, that the institution is in a position to repay
2 such assistance.

3 “(f) DEFINITIONS.—For purposes of this section:

4 “(1) APPROPRIATE FEDERAL BANKING AGEN-
5 CY.—The term ‘appropriate Federal banking agency’
6 has the meaning given to such term in section 3(q)
7 of the Federal Deposit Insurance Act (12 U.S.C.
8 1813(q)).

9 “(2) BANK HOLDING COMPANY.—The term
10 ‘bank holding company’ has the meaning given to
11 such term in section 2 of the Bank Holding Com-
12 pany Act of 1956 (12 U.S.C. 1841).

13 “(3) INSURED DEPOSITORY INSTITUTION.—The
14 term ‘insured depository institution’ has the mean-
15 ing given to such term in section 3(c) of the Federal
16 Deposit Insurance Act (12 U.S.C. 1813(c)).

17 “(4) SCAP.—The term ‘SCAP’ means the Su-
18 pervisory Capital Assessment Program conducted by
19 the Board of Governors of the Federal Reserve Sys-
20 tem and other Federal regulators, the results of
21 which were made public on May 7, 2009.

22 “(5) TLGP.—The term ‘TLGP’ means the
23 Temporary Liquidity Guarantee Program, imple-
24 mented by the Federal Deposit Insurance Corpora-
25 tion by final rule on November 21, 2008.

1 “(6) WELL CAPITALIZED.—With respect to an
2 insured depository institution, the term ‘well capital-
3 ized’ has the meaning given to such term in section
4 38(b)(1)(A) of the Federal Deposit Insurance Act
5 (12 U.S.C. 1831o(b)(1)(A)).”.

6 (b) WARRANT LIQUIDATION REQUIREMENT.—Sec-
7 tion 111(g) of the Emergency Economic Stabilization Act
8 of 2008 (12 U.S.C. 5221(g)) is amended by striking “,
9 at the market price, may liquidate warrants associated
10 with such assistance” and inserting “shall liquidate war-
11 rants associated with such assistance at the current mar-
12 ket price, except as otherwise provided in section
13 137(c)(2)”.

14 (c) REPEAL OF EXTENSION AUTHORITY.—Section
15 120 of the Emergency Economic Stabilization Act of 2008
16 (12 U.S.C. 5230) is amended—

17 (1) in subsection (a), by striking “(a) TERMI-
18 NATION.—The” and inserting “The”; and

19 (2) by striking subsection (b).

20 (d) CONFORMING AMENDMENT.—The table of con-
21 tents for the Emergency Economic Stabilization Act of
22 2008 is amended by inserting after the item relating to
23 section 136 the following new item:

“137. Additional repayment procedures.”.

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