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111TH CONGRESS
1ST SESSION

H. R. 2896

To amend the Federal Deposit Insurance Act to provide the same treatment for covered bonds as for other qualified financial contracts to which a depository institution is a party when such institution is in receivership or conservatorship, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 16, 2009

Mr. GARRETT of New Jersey (for himself, Mr. KANJORSKI, and Mr. BACHUS) introduced the following bill; which was referred to the Committee on Financial Services

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A BILL

To amend the Federal Deposit Insurance Act to provide the same treatment for covered bonds as for other qualified financial contracts to which a depository institution is a party when such institution is in receivership or conservatorship, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Equal Treatment of Covered Bonds Act of 2009''.

SEC. 2. COVERED BONDS TREATMENT.

(a) IN GENERAL.—Section 11(e)(8)(D)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(i)) is amended by inserting ''covered bond,'' after ''forward contract,''.

(b) DEFINITIONS.—Section 11(e)(8)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended—

(1) by redesignating clauses (vii), (viii), and (ix) as clauses (viii), (ix), and (x), respectively; and

(2) by inserting after clause (vi) the end the following new clause:

''(vii) COVERED BOND.—The term 'covered bond' means a nondeposit recourse debt obligation of an insured depository institution, with a term to maturity of at least 1 year, which is secured by specifically identified assets which are performing in accordance with the terms of the contracts which created the assets.''.

(c) TECHNICAL AND CONFORMING AMENDMENT.—Section 8(e)(3)(C) of the Federal Deposit Insurance Act (U.S.C. 1818(e)(3)(C)) is amended—

(1) by striking ''and'' at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting ''; and''; and

(3) by adding at the end the following new clause:

"(iii) with respect to a covered bond, actual direct compensatory damages determined as of the date of the appointment of the conservator or receiver equal to the sum of—

"(I) the outstanding principal amount of the covered bond on that date;

"(II) all interest that had accrued on the covered bond through that date but that had not been paid;

"(III) the cost on that date of a guaranteed investment contract, deposit agreement, or other instrument that would provide for scheduled payments to be made on the covered bond until its originally scheduled maturity date; and

"(IV) the costs (including reasonable fees of attorneys) incurred through that date that arise from or relate to the exercise of any right, power, or remedy under the covered

bond or a related transaction document.''.

(d) REGULATIONS.—No regulation of any Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) shall be applicable with respect to any covered bond (as defined in the amendment made by subsection (b)(2)) unless the regulation or the application of such regulation to such bond, as the case may be, is prescribed jointly by the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, and the Board of Directors of the Federal Deposit Insurance Corporation.

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