

Legislative Bulletin.....July 30, 2010

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H.R. __ - To increase the flexibility of the Secretary of Housing and Urban Development with respect to the amount of premiums charged for FHA single family housing mortgage insurance (*Frank, D-MA*)

Order of Business: The bill is scheduled to be considered on Friday, July 30, 2010, under a motion to suspend the rules and pass the bill.

Summary: The legislation would allow the Federal Housing Administration (FHA) to raise annual single-family mortgage insurance premiums from 0.55% to 1.55%, for properties where the loan-to-value ratio is greater than 95%.

The legislation also requires the Assistant Secretary to the Department of Housing and Urban Development (HUD), who is the Federal Housing Commissioner, to appear before the Senate Banking, Housing and Urban Affairs Committee, and the House Financial Services Committee within 270 days after enactment to testify on the finances, including premiums, of FHA.

Additional Background: Similar language was included as part of [H.R. 5072](#), which passed the House on June 10, 2010 by a roll call vote of [406-4](#). The Senate has yet to consider this legislation. The legislation does not contain many of the reforms that were included in H.R. 5072 (see RSC Legislative Bulletin [here](#)). Enactment of this bill could preclude these reforms from being enacted during this Congress.

The Department of HUD currently has the authority to raise the upfront premium up to 3%, but under current law the annual premium is capped at 0.55%.

Committee Action: The legislation has yet to be introduced.

Administration Position: No Statement of Administration Policy is provided.

Cost to Taxpayers: No formal CBO score is available. However, it is staff's understanding that the legislation would reduce authorized discretionary spending (through higher offsetting receipts) by \$900 million.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: A committee report citing compliance with rules regarding earmarks, limited tax benefits, or limited tariff benefits is not available at press time.

Constitutional Authority: A committee report citing constitutional authority is not available at press time.

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.

H.R. 4862 - To permit Members of Congress to administer the oath of allegiance to applicants for naturalization (*Serrano, D-NY*)

Order of Business: The legislation is scheduled to be considered on Friday, July 30, 2010, under a motion to suspend the rules and pass the legislation.

Summary: H.R. 4862 would amend the Immigration and Nationality Act to allow a Member of Congress, a Delegate, or a Resident Commissioner to administer the oath of allegiance to applicants for naturalization.

Committee Action: H.R. 4862 was introduced on March 16, 2010, and referred to the House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, which took no public action.

Administration Position: No Statement of Administration Policy (SAP) is available.

Cost to Taxpayers: A CBO report is unavailable.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Though the bill contains no earmarks, and there's

no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

Constitutional Authority: A committee report citing constitutional authority is unavailable.

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H.R. 5982—Small Business Tax Relief Act of 2010
(Rep. Levin, D-MI)

Key Conservative Concerns

Take-Away Points

--Tax Increases: The legislation repeals Section 9006 of the Patient Protection and Affordable Care Act, which imposes a great paperwork burden on small businesses. Most conservatives believe that this provision should be repealed. However, this is paired with \$19.4 billion of tax increases that will kill jobs. As the majority has now abandoned Section 9006 of its government health care takeover, this provision is now untenable, and is very likely to never take effect. The only question is whether repeal of Section 9006 will be paired with tax increases.

--Process: Text of the legislation was not available until just moments before debate began. Many conservatives would argue that Congress should not suspend the normal rules of the House, with little notice of legislative text, to increase taxes.

For more details on these concerns, see below.

NOTE: Americans for Tax Reform, NAM, and the U.S. Chamber (as well as other organizations) are opposed to the bill.

Order of Business: The legislation is being considered today, Friday, July 30, 2010 under a motion to suspend the rules and pass the bill.

Cost to Taxpayers: The legislation cuts taxes by \$19.2 billion over ten years, and increases other taxes by \$19.4 billion over ten years. On net, the bill increases federal revenue by \$149 million over ten years.

Summary:

Tax Cuts

Eliminate Business Reporting Requirement Tax: Section 9006 of the Patient Protection and Affordable Care Act requires businesses (including small businesses), beginning in 2012, to file 1099 forms to the IRS reporting on every business/individual for which the business has made payments of more than \$600. This provision will increase costs on all businesses, especially small businesses. Title I of this legislation repeals this provision. Representative Dan Lungren (R-CA) has previously introduced legislation to repeal this provision (H.R. 5141).

Tax Increases

The legislation includes several tax increases, totaling \$19.4 billion over ten years. This includes:

- **Rule to prevent splitting foreign tax credits from income:** This provision adopts a tax increase from the President’s FY 2011 budget that implements a rule that suspends the recognition of foreign tax credits from associated foreign income. *Increases taxes by \$4.2 billion over ten years.*
- **Denial of foreign tax credit with regard to foreign income not subject to U.S. taxation by reason of covered asset acquisitions:** According to Committee Democrats, this provision is intended to prevent taxpayers from claiming the foreign tax credit with respect to foreign income that is not subject to U.S. taxation. *Increases taxes by \$3.6 billion over ten years.*
- **Separate application of foreign tax credit limitation to items resourced under tax treaties:** This provision would segregate income (subject to both foreign taxes and income earned offshore) so that it is not the basis for claiming foreign tax credits. *Increases taxes by \$250 million over ten years.*
- **Limitation on use of section 956 for foreign tax credit planning:** The bill limits the foreign tax credits that may be claimed with respect to a deemed dividend under Section 956 to the amount that would have been allowed with respect to an actual dividend. *Increases taxes by \$704 million over ten years.*
- **Source rule on guarantees:** The bill subjects guarantees paid by U.S. taxpayers to a foreign person to withholding tax. *Increases taxes by \$2.0 billion over ten years.*
- **Crude tall oil ineligible for cellulosic biofuel producer credit:** Under current law, there is a \$1.01 per gallon tax credit for the production of biofuel from cellulosic feedstocks. The legislation would limit eligibility for the tax credit to fuels that are “not highly corrosive.” *Increases taxes by \$1.9 billion over ten years.*
- **Required minimum 10-year term for Grantor Retained Annuity Trusts:** The legislation requires that a grantor retained annuity trust have a minimum ten-year term in order to qualify for a reduced gift tax valuation. *Increases taxes by \$5.7 billion over ten years.*
- **“Reverse Morris Trust” provision:** Under current law, shareholders and corporations may defer taxes on gains from some corporate re-organizations. This provision would immediately tax the “parent” corporation in such spin-offs. Many conservatives may be concerned that this provision will discourage

corporate reorganizations, which are a source of economic vitality. *This provision would increase taxes by \$260 million over eleven years.*

- **Higher information return penalties:** The legislation increases penalties in effect under current law on individuals for failing to file information returns to the IRS. *This provision would increase tax revenues by \$421 million over eleven years.*

Democrat Inconsistency Alert!

Small Business Relief and Obama Care: Democrats have titled today’s tax bill the “Small Business Tax Relief Act” because it repeals a section of ObamaCare. If repealing a section of ObamaCare is RELIEF for small businesses, then doesn’t it follow that ObamaCare always was—and still remains—BAD for small businesses? Do Democrats think that the 1099 requirement is the only mandate on small businesses in ObamaCare? Maybe more micro-repeal bills will be rushed to the floor in the coming months as Democrats learn more about their own ObamaCare.

Committee Consideration: The legislation has not been considered

Outside Groups Opposed to Legislation (not an exhaustive list):

Americans for Tax Reform
U.S. Chamber of Commerce
National Association of Manufacturers
Business Roundtable
Information Technology Industry Council
National Foreign Trade Council

Does the Bill Expand the Size and Scope of the Federal Government?: The bill reduces the size of government by repealing section 9006 of the Patient Protection and Affordable Care Act, but increases the size of government by including \$19.4 billion of new taxes.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No CBO score listing any potential mandates is available.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: A committee report citing compliance with the rules regarding earmarks, limited tax benefits, or limited tariff benefits is not available.

Constitutional Authority: A committee report citing constitutional authority is unavailable.

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