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New Law Provides Housing Relief

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On July 30, 2008, President Bush signed H.R. 3221, the Housing and Economic Recovery Act of 2008 (the Act), which provides assistance to homeowners facing foreclosure and stretches a safety net under a troubled housing market. The Act establishes a new regulatory agency to oversee Fannie Mae, Freddie Mac, and the Federal Home Loan Banks, gives the Treasury Department the authority to extend credit to these government-sponsored enterprises, and modifies FHA loan limits. The Act includes multiple additional provisions, including the following, which may be of interest to individual homeowners.

Temporary refundable tax "credit" for first-time homebuyers

The Act provides a refundable tax credit equal to 10 percent of the purchase price of a home (up to \$7,500; \$3,750 if married filing separately) by first-time home buyers. The provision applies to homes purchased on or after April 9, 2008 and before July 1, 2009. However, taxpayers receiving this tax credit are required to repay the government any amount received. Repayment must be made in equal installments over 15 years. So, this "credit" is actually an interest-free loan. The credit begins to phase out for taxpayers with adjusted gross income in excess of \$75,000 (\$150,000 in the case of a joint return).

Temporary additional standard deduction for non-itemizers

The Act provides homeowners who claim the standard deduction with an additional standard deduction for state and local real property taxes. For 2008 only, taxpayers who do not itemize can take the real property tax deduction typically available only to those taxpayers who do itemize. The maximum amount that can be claimed is \$500 (\$1,000 if married filing jointly).

New limitation on homesale capital gain exclusion

Under the Act, gain from the sale or exchange of a principal residence will not qualify for the \$250,000 (\$500,000 if married filing jointly) homesale exclusion to the extent that the gain is allocated to any periods of nonqualified use. A period of nonqualified use means any period (not including any period before January 1, 2009) during which the property is not used by the taxpayer or the taxpayer's spouse or former spouse as a principal residence.

HOPE for Homeowners Program

The Act establishes a new program entitled the HOPE for Homeowners Program. Only homeowner-occupants who are unable to afford their mortgage payments are eligible for the program. No investors or investor properties will qualify. Homeowners must certify, under penalty of law, that they have not intentionally defaulted on their loan to qualify for the program, and they must have a mortgage debt-to-income ratio greater than 31 percent as of March 1, 2008.

This program will let borrowers who have defaulted on their existing mortgages refinance into FHA-guaranteed loans. Lenders must write down the principal balance of the loan to no more than 90 percent of the current value (and less in some circumstances), and put the borrower in a 30-year fixed rate mortgage. Loans up to \$550,000 are eligible.

The borrower must share the newly-created equity and future appreciation equally with FHA. This obligation will continue until the borrower sells the home or refinances the FHA-insured mortgage. Moreover, the homeowner's access to the newly created equity will be phased-in over five years.

Before participating in this program, all subordinate liens must be extinguished. This will have to be done through negotiation with the first lien holder.

The Act provides loan servicers with an incentive to participate in the program. However, participation is voluntary; loan servicers are not required to participate.

The program will begin October 1, 2008 and end on September 30, 2011.



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