

we find in many States people are better served where markets are open, products are available, and prices are competitive.

I believe this surplus lines reform proposal will demonstrate that as an effective remedy to the problems we now face in a very expensive insurance market, and, in some cases, a market where a product is not available at all.

Mr. MOORE of Kansas. Mr. Speaker, I thank Mr. BAKER and the other speakers and the ranking member all for their comments. I hope we pass this.

I yield back the balance of my time.

Mr. OXLEY. Mr. Speaker, this was, again, in the great tradition of our committee, a good bipartisan effort by a lot of members that have been mentioned heretofore, and it is really what makes our committee very special. I am very proud of the work product that was put out. It is a somewhat controversial subject, the overall issue; but to be able to take a chunk of this, a very important chunk, and move it separately I think was a wise decision that our staff participated in as well as the members.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BRADLEY of New Hampshire). The question is on the motion offered by the gentleman from Ohio (Mr. OXLEY) that the House suspend the rules and pass the bill, H.R. 5637, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. OXLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

CREDIT RATING AGENCY REFORM ACT OF 2006

Mr. OXLEY. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 3850) to improve ratings quality for the protection of investors and in the public interest by fostering accountability, transparency, and competition in the credit rating agency industry.

The Clerk read as follows:

S. 3850

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 "Credit Rating Agency Reform Act of 2006".

SEC. 2. FINDINGS.

Upon the basis of facts disclosed by the record and report of the Securities and Exchange Commission made pursuant to section 702 of the Sarbanes-Oxley Act of 2002 (116 Stat. 797), hearings before the Committee on Banking, Housing, and Urban Af-

fairs of the Senate and the Committee on Financial Services of the House of Representatives during the 108th and 109th Congresses, comment letters to the concept releases and proposed rules of the Commission, and facts otherwise disclosed and ascertained, Congress finds that credit rating agencies are of national importance, in that, among other things—

(1) their ratings, publications, writings, analyses, and reports are furnished and distributed, and their contracts, subscription agreements, and other arrangements with clients are negotiated and performed, by the use of the mails and other means and instrumentalities of interstate commerce;

(2) their ratings, publications, writings, analyses, and reports customarily relate to the purchase and sale of securities traded on securities exchanges and in interstate over-the-counter markets, securities issued by companies engaged in business in interstate commerce, and securities issued by national banks and member banks of the Federal Reserve System;

(3) the foregoing transactions occur in such volume as substantially to affect interstate commerce, the securities markets, the national banking system, and the national economy;

(4) the oversight of such credit rating agencies serves the compelling interest of investor protection;

(5) the 2 largest credit rating agencies serve the vast majority of the market, and additional competition is in the public interest; and

(6) the Commission has indicated that it needs statutory authority to oversee the credit rating industry.

SEC. 3. DEFINITIONS.

(a) SECURITIES EXCHANGE ACT OF 1934.—Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end the following new paragraphs:

“(60) CREDIT RATING.—The term ‘credit rating’ means an assessment of the credit-worthiness of an obligor as an entity or with respect to specific securities or money market instruments.

“(61) CREDIT RATING AGENCY.—The term ‘credit rating agency’ means any person—

“(A) engaged in the business of issuing credit ratings on the Internet or through another readily accessible means, for free or for a reasonable fee, but does not include a commercial credit reporting company;

“(B) employing either a quantitative or qualitative model, or both, to determine credit ratings; and

“(C) receiving fees from either issuers, investors, or other market participants, or a combination thereof.

“(62) NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION.—The term ‘nationally recognized statistical rating organization’ means a credit rating agency that—

“(A) has been in business as a credit rating agency for at least the 3 consecutive years immediately preceding the date of its application for registration under section 15E;

“(B) issues credit ratings certified by qualified institutional buyers, in accordance with section 15E(a)(1)(B)(ix), with respect to—

“(i) financial institutions, brokers, or dealers;

“(ii) insurance companies;

“(iii) corporate issuers;

“(iv) issuers of asset-backed securities (as that term is defined in section 1101(c) of part 229 of title 17, Code of Federal Regulations, as in effect on the date of enactment of this paragraph);

“(v) issuers of government securities, municipal securities, or securities issued by a foreign government; or

“(vi) a combination of one or more categories of obligors described in any of clauses (i) through (v); and

“(C) is registered under section 15E.

“(63) PERSON ASSOCIATED WITH A NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION.—The term ‘person associated with’ a nationally recognized statistical rating organization means any partner, officer, director, or branch manager of a nationally recognized statistical rating organization (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with a nationally recognized statistical rating organization, or any employee of a nationally recognized statistical rating organization.

“(64) QUALIFIED INSTITUTIONAL BUYER.—The term ‘qualified institutional buyer’ has the meaning given such term in section 230.144A(a) of title 17, Code of Federal Regulations, or any successor thereto.”

(b) APPLICABLE DEFINITIONS.—As used in this Act—

(1) the term “Commission” means the Securities and Exchange Commission; and

(2) the term “nationally recognized statistical rating organization” has the same meaning as in section 3(a)(62) of the Securities Exchange Act of 1934, as added by this Act.

SEC. 4. REGISTRATION OF NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS.

(a) AMENDMENT.—The Securities Exchange Act of 1934 is amended by inserting after section 15D (15 U.S.C. 78o-6) the following new section:

“SEC. 15E. REGISTRATION OF NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS.

“(a) REGISTRATION PROCEDURES.—

“(1) APPLICATION FOR REGISTRATION.—

“(A) IN GENERAL.—A credit rating agency that elects to be treated as a nationally recognized statistical rating organization for purposes of this title (in this section referred to as the ‘applicant’), shall furnish to the Commission an application for registration, in such form as the Commission shall require, by rule or regulation issued in accordance with subsection (n), and containing the information described in subparagraph (B).

“(B) REQUIRED INFORMATION.—An application for registration under this section shall contain information regarding—

“(i) credit ratings performance measurement statistics over short-term, mid-term, and long-term periods (as applicable) of the applicant;

“(ii) the procedures and methodologies that the applicant uses in determining credit ratings;

“(iii) policies or procedures adopted and implemented by the applicant to prevent the misuse, in violation of this title (or the rules and regulations hereunder), of material, non-public information;

“(iv) the organizational structure of the applicant;

“(v) whether or not the applicant has in effect a code of ethics, and if not, the reasons therefor;

“(vi) any conflict of interest relating to the issuance of credit ratings by the applicant;

“(vii) the categories described in any of clauses (i) through (v) of section 3(a)(62)(B) with respect to which the applicant intends to apply for registration under this section;

“(viii) on a confidential basis, a list of the 20 largest issuers and subscribers that use the credit rating services of the applicant, by amount of net revenues received therefrom in the fiscal year immediately preceding the date of submission of the application;

“(ix) on a confidential basis, as to each applicable category of obligor described in any of clauses (i) through (v) of section 3(a)(62)(B), written certifications described in subparagraph (C), except as provided in subparagraph (D); and

“(x) any other information and documents concerning the applicant and any person associated with such applicant as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors.

“(C) WRITTEN CERTIFICATIONS.—Written certifications required by subparagraph (B)(ix)—

“(i) shall be provided from not fewer than 10 qualified institutional buyers, none of which is affiliated with the applicant;

“(ii) may address more than one category of obligors described in any of clauses (i) through (v) of section 3(a)(62)(B);

“(iii) shall include not fewer than 2 certifications for each such category of obligor; and

“(iv) shall state that the qualified institutional buyer—

“(I) meets the definition of a qualified institutional buyer under section 3(a)(64); and

“(II) has used the credit ratings of the applicant for at least the 3 years immediately preceding the date of the certification in the subject category or categories of obligors.

“(D) EXEMPTION FROM CERTIFICATION REQUIREMENT.—A written certification under subparagraph (B)(ix) is not required with respect to any credit rating agency which has received, or been the subject of, a no-action letter from the staff of the Commission prior to August 2, 2006, stating that such staff would not recommend enforcement action against any broker or dealer that considers credit ratings issued by such credit rating agency to be ratings from a nationally recognized statistical rating organization.

“(E) LIMITATION ON LIABILITY OF QUALIFIED INSTITUTIONAL BUYERS.—No qualified institutional buyer shall be liable in any private right of action for any opinion or statement expressed in a certification made pursuant to subparagraph (B)(ix).

“(2) REVIEW OF APPLICATION.—

“(A) INITIAL DETERMINATION.—Not later than 90 days after the date on which the application for registration is furnished to the Commission under paragraph (1) (or within such longer period as to which the applicant consents) the Commission shall—

“(i) by order, grant such registration for ratings in the subject category or categories of obligors, as described in clauses (i) through (v) of section 3(a)(62)(B); or

“(ii) institute proceedings to determine whether registration should be denied.

“(B) CONDUCT OF PROCEEDINGS.—

“(i) CONTENT.—Proceedings referred to in subparagraph (A)(ii) shall—

“(I) include notice of the grounds for denial under consideration and an opportunity for hearing; and

“(II) be concluded not later than 120 days after the date on which the application for registration is furnished to the Commission under paragraph (1).

“(ii) DETERMINATION.—At the conclusion of such proceedings, the Commission, by order, shall grant or deny such application for registration.

“(iii) EXTENSION AUTHORIZED.—The Commission may extend the time for conclusion of such proceedings for not longer than 90 days, if it finds good cause for such extension and publishes its reasons for so finding, or for such longer period as to which the applicant consents.

“(C) GROUNDS FOR DECISION.—The Commission shall grant registration under this subsection—

“(i) if the Commission finds that the requirements of this section are satisfied; and

“(ii) unless the Commission finds (in which case the Commission shall deny such registration) that—

“(I) the applicant does not have adequate financial and managerial resources to consistently produce credit ratings with integrity and to materially comply with the procedures and methodologies disclosed under paragraph (1)(B) and with subsections (g), (h), (i), and (j); or

“(II) if the applicant were so registered, its registration would be subject to suspension or revocation under subsection (d).

“(3) PUBLIC AVAILABILITY OF INFORMATION.—Subject to section 24, the Commission shall, by rule, require a nationally recognized statistical rating organization, upon the granting of registration under this section, to make the information and documents submitted to the Commission in its completed application for registration, or in any amendment submitted under paragraph (1) or (2) of subsection (b), publicly available on its website, or through another comparable, readily accessible means, except as provided in clauses (viii) and (ix) of paragraph (1)(B).

“(b) UPDATE OF REGISTRATION.—

“(1) UPDATE.—Each nationally recognized statistical rating organization shall promptly amend its application for registration under this section if any information or document provided therein becomes materially inaccurate, except that a nationally recognized statistical rating organization is not required to amend—

“(A) the information required to be furnished under subsection (a)(1)(B)(i) by furnishing information under this paragraph, but shall amend such information in the annual submission of the organization under paragraph (2) of this subsection; or

“(B) the certifications required to be provided under subsection (a)(1)(B)(ix) by furnishing information under this paragraph.

“(2) CERTIFICATION.—Not later than 90 days after the end of each calendar year, each nationally recognized statistical rating organization shall furnish to the Commission an amendment to its registration, in such form as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors—

“(A) certifying that the information and documents in the application for registration of such nationally recognized statistical rating organization (other than the certifications required under subsection (a)(1)(B)(ix)) continue to be accurate; and

“(B) listing any material change that occurred to such information or documents during the previous calendar year.

“(c) ACCOUNTABILITY FOR RATINGS PROCEDURES.—

“(1) AUTHORITY.—The Commission shall have exclusive authority to enforce the provisions of this section in accordance with this title with respect to any nationally recognized statistical rating organization, if such nationally recognized statistical rating organization issues credit ratings in material contravention of those procedures relating to such nationally recognized statistical rating organization, including procedures relating to the prevention of misuse of non-public information and conflicts of interest, that such nationally recognized statistical rating organization—

“(A) includes in its application for registration under subsection (a)(1)(B)(ii); or

“(B) makes and disseminates in reports pursuant to section 17(a) or the rules and regulations thereunder.

“(2) LIMITATION.—The rules and regulations that the Commission may prescribe pursuant to this title, as they apply to na-

tionally recognized statistical rating organizations, shall be narrowly tailored to meet the requirements of this title applicable to nationally recognized statistical rating organizations. Notwithstanding any other provision of law, neither the Commission nor any State (or political subdivision thereof) may regulate the substance of credit ratings or the procedures and methodologies by which any nationally recognized statistical rating organization determines credit ratings.

“(d) CENSURE, DENIAL, OR SUSPENSION OF REGISTRATION; NOTICE AND HEARING.—The Commission, by order, shall censure, place limitations on the activities, functions, or operations of, suspend for a period not exceeding 12 months, or revoke the registration of any nationally recognized statistical rating organization if the Commission finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or revocation is necessary for the protection of investors and in the public interest and that such nationally recognized statistical rating organization, or any person associated with such organization, whether prior to or subsequent to becoming so associated—

“(1) has committed or omitted any act, or is subject to an order or finding, enumerated in subparagraph (A), (D), (E), (H), or (G) of section 15(b)(4), has been convicted of any offense specified in section 15(b)(4)(B), or is enjoined from any action, conduct, or practice specified in subparagraph (C) of section 15(b)(4), during the 10-year period preceding the date of commencement of the proceedings under this subsection, or at any time thereafter;

“(2) has been convicted during the 10-year period preceding the date on which an application for registration is furnished to the Commission under this section, or at any time thereafter, of—

“(A) any crime that is punishable by imprisonment for 1 or more years, and that is not described in section 15(b)(4)(B); or

“(B) a substantially equivalent crime by a foreign court of competent jurisdiction;

“(3) is subject to any order of the Commission barring or suspending the right of the person to be associated with a nationally recognized statistical rating organization;

“(4) fails to furnish the certifications required under subsection (b)(2); or

“(5) fails to maintain adequate financial and managerial resources to consistently produce credit ratings with integrity.

“(e) TERMINATION OF REGISTRATION.—

“(1) VOLUNTARY WITHDRAWAL.—A nationally recognized statistical rating organization may, upon such terms and conditions as the Commission may establish as necessary in the public interest or for the protection of investors, withdraw from registration by furnishing a written notice of withdrawal to the Commission.

“(2) COMMISSION AUTHORITY.—In addition to any other authority of the Commission under this title, if the Commission finds that a nationally recognized statistical rating organization is no longer in existence or has ceased to do business as a credit rating agency, the Commission, by order, shall cancel the registration under this section of such nationally recognized statistical rating organization.

“(f) REPRESENTATIONS.—

“(1) BAN ON REPRESENTATIONS OF SPONSORSHIP BY UNITED STATES OR AGENCY THEREOF.—It shall be unlawful for any nationally recognized statistical rating organization to represent or imply in any manner whatsoever that such nationally recognized statistical rating organization has been designated, sponsored, recommended, or approved, or that the abilities or qualifications thereof have in any respect been passed upon, by the

United States or any agency, officer, or employee thereof.

“(2) BAN ON REPRESENTATION AS NRSRO OF UNREGISTERED CREDIT RATING AGENCIES.—It shall be unlawful for any credit rating agency that is not registered under this section as a nationally recognized statistical rating organization to state that such credit rating agency is a nationally recognized statistical rating organization registered under this title.

“(3) STATEMENT OF REGISTRATION UNDER SECURITIES EXCHANGE ACT OF 1934 PROVISIONS.—No provision of paragraph (1) shall be construed to prohibit a statement that a nationally recognized statistical rating organization is a nationally recognized statistical rating organization under this title, if such statement is true in fact and if the effect of such registration is not misrepresented.

“(g) PREVENTION OF MISUSE OF NONPUBLIC INFORMATION.—

“(1) ORGANIZATION POLICIES AND PROCEDURES.—Each nationally recognized statistical rating organization shall establish, maintain, and enforce written policies and procedures reasonably designed, taking into consideration the nature of the business of such nationally recognized statistical rating organization, to prevent the misuse in violation of this title, or the rules or regulations hereunder, of material, nonpublic information by such nationally recognized statistical rating organization or any person associated with such nationally recognized statistical rating organization.

“(2) COMMISSION AUTHORITY.—The Commission shall issue final rules in accordance with subsection (n) to require specific policies or procedures that are reasonably designed to prevent misuse in violation of this title (or the rules or regulations hereunder) of material, nonpublic information.

“(h) MANAGEMENT OF CONFLICTS OF INTEREST.—

“(1) ORGANIZATION POLICIES AND PROCEDURES.—Each nationally recognized statistical rating organization shall establish, maintain, and enforce written policies and procedures reasonably designed, taking into consideration the nature of the business of such nationally recognized statistical rating organization and affiliated persons and affiliated companies thereof, to address and manage any conflicts of interest that can arise from such business.

“(2) COMMISSION AUTHORITY.—The Commission shall issue final rules in accordance with subsection (n) to prohibit, or require the management and disclosure of, any conflicts of interest relating to the issuance of credit ratings by a nationally recognized statistical rating organization, including, without limitation, conflicts of interest relating to—

“(A) the manner in which a nationally recognized statistical rating organization is compensated by the obligor, or any affiliate of the obligor, for issuing credit ratings or providing related services;

“(B) the provision of consulting, advisory, or other services by a nationally recognized statistical rating organization, or any person associated with such nationally recognized statistical rating organization, to the obligor, or any affiliate of the obligor;

“(C) business relationships, ownership interests, or any other financial or personal interests between a nationally recognized statistical rating organization, or any person associated with such nationally recognized statistical rating organization, and the obligor, or any affiliate of the obligor;

“(D) any affiliation of a nationally recognized statistical rating organization, or any person associated with such nationally recognized statistical rating organization, with any person that underwrites the securities or

money market instruments that are the subject of a credit rating; and

“(E) any other potential conflict of interest, as the Commission deems necessary or appropriate in the public interest or for the protection of investors.

“(i) PROHIBITED CONDUCT.—

“(1) PROHIBITED ACTS AND PRACTICES.—The Commission shall issue final rules in accordance with subsection (n) to prohibit any act or practice relating to the issuance of credit ratings by a nationally recognized statistical rating organization that the Commission determines to be unfair, coercive, or abusive, including any act or practice relating to—

“(A) conditioning or threatening to condition the issuance of a credit rating on the purchase by the obligor or an affiliate thereof of other services or products, including pre-credit rating assessment products, of the nationally recognized statistical rating organization or any person associated with such nationally recognized statistical rating organization;

“(B) lowering or threatening to lower a credit rating on, or refusing to rate, securities or money market instruments issued by an asset pool or as part of any asset-backed or mortgage-backed securities transaction, unless a portion of the assets within such pool or part of such transaction, as applicable, also is rated by the nationally recognized statistical rating organization; or

“(C) modifying or threatening to modify a credit rating or otherwise departing from its adopted systematic procedures and methodologies in determining credit ratings, based on whether the obligor, or an affiliate of the obligor, purchases or will purchase the credit rating or any other service or product of the nationally recognized statistical rating organization or any person associated with such organization.

“(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1), or in any rules or regulations adopted thereunder, may be construed to modify, impair, or supersede the operation of any of the antitrust laws (as defined in the first section of the Clayton Act, except that such term includes section 5 of the Federal Trade Commission Act, to the extent that such section 5 applies to unfair methods of competition).

“(j) DESIGNATION OF COMPLIANCE OFFICER.—Each nationally recognized statistical rating organization shall designate an individual responsible for administering the policies and procedures that are required to be established pursuant to subsections (g) and (h), and for ensuring compliance with the securities laws and the rules and regulations thereunder, including those promulgated by the Commission pursuant to this section.

“(k) STATEMENTS OF FINANCIAL CONDITION.—Each nationally recognized statistical rating organization shall, on a confidential basis, furnish to the Commission, at intervals determined by the Commission, such financial statements, certified (if required by the rules or regulations of the Commission) by an independent public accountant, and information concerning its financial condition, as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors.

“(l) SOLE METHOD OF REGISTRATION.—

“(1) IN GENERAL.—On and after the effective date of this section, a credit rating agency may only be registered as a nationally recognized statistical rating organization for any purpose in accordance with this section.

“(2) PROHIBITION ON RELIANCE ON NO-ACTION RELIEF.—On and after the effective date of this section—

“(A) an entity that, before that date, received advice, approval, or a no-action letter from the Commission or staff thereof to be

treated as a nationally recognized statistical rating organization pursuant to the Commission rule at section 240.15c3-1 of title 17, Code of Federal Regulations, may represent itself or act as a nationally recognized statistical rating organization only—

“(i) during Commission consideration of the application, if such entity has furnished an application for registration under this section; and

“(ii) on and after the date of approval of its application for registration under this section; and

“(B) the advice, approval, or no-action letter described in subparagraph (A) shall be void.

“(3) NOTICE TO OTHER AGENCIES.—Not later than 30 days after the date of enactment of this section, the Commission shall give notice of the actions undertaken pursuant to this section to each Federal agency which employs in its rules and regulations the term ‘nationally recognized statistical rating organization’ (as that term is used under Commission rule 15c3-1 (17 C.F.R. 240.15c3-1), as in effect on the date of enactment of this section).

“(m) RULES OF CONSTRUCTION.—

“(1) NO WAIVER OF RIGHTS, PRIVILEGES, OR DEFENSES.—Registration under and compliance with this section does not constitute a waiver of, or otherwise diminish, any right, privilege, or defense that a nationally recognized statistical rating organization may otherwise have under any provision of State or Federal law, including any rule, regulation, or order thereunder.

“(2) NO PRIVATE RIGHT OF ACTION.—Nothing in this section may be construed as creating any private right of action, and no report furnished by a nationally recognized statistical rating organization in accordance with this section or section 17 shall create a private right of action under section 18 or any other provision of law.

“(n) REGULATIONS.—

“(1) NEW PROVISIONS.—Such rules and regulations as are required by this section or are otherwise necessary to carry out this section, including the application form required under subsection (a)—

“(A) shall be issued by the Commission in final form, not later than 270 days after the date of enactment of this section; and

“(B) shall become effective not later than 270 days after the date of enactment of this section.

“(2) REVIEW OF EXISTING REGULATIONS.—Not later than 270 days after the date of enactment of this section, the Commission shall—

“(A) review its existing rules and regulations which employ the term ‘nationally recognized statistical rating organization’ or ‘NRSRO’; and

“(B) amend or revise such rules and regulations in accordance with the purposes of this section, as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

“(o) NRSROS SUBJECT TO COMMISSION AUTHORITY.—

“(1) IN GENERAL.—No provision of the laws of any State or political subdivision thereof requiring the registration, licensing, or qualification as a credit rating agency or a nationally recognized statistical rating organization shall apply to any nationally recognized statistical rating organization or person employed by or working under the control of a nationally recognized statistical rating organization.

“(2) LIMITATION.—Nothing in this subsection prohibits the securities commission (or any agency or office performing like functions) of any State from investigating

and bringing an enforcement action with respect to fraud or deceit against any nationally recognized statistical rating organization or person associated with a nationally recognized statistical rating organization.

“(p) APPLICABILITY.—This section, other than subsection (n), which shall apply on the date of enactment of this section, shall apply on the earlier of—

“(1) the date on which regulations are issued in final form under subsection (n)(1); or

“(2) 270 days after the date of enactment of this section.”

(b) CONFORMING AMENDMENTS.—

(1) SECURITIES EXCHANGE ACT OF 1934.—The Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) is amended—

(A) in section 15(b)(4) (15 U.S.C. 78o(b)(4))—

(i) in subparagraph (B)(ii), by inserting “nationally recognized statistical rating organization,” after “transfer agent,”; and

(ii) in subparagraph (C), by inserting “nationally recognized statistical rating organization,” after “transfer agent,”; and

(B) in section 21B(a) (15 U.S.C. 78u-2(a)), by inserting “15E,” after “15C.”

(2) INVESTMENT COMPANY ACT OF 1940.—The Investment Company Act of 1940 (15 U.S.C. 80a et seq.) is amended—

(A) in section 2(a) (15 U.S.C. 80a-2(a)), by adding at the end the following new paragraph:

“(53) The term ‘credit rating agency’ has the same meaning as in section 3 of the Securities Exchange Act of 1934.”; and

(B) in section 9(a) (15 U.S.C. 80a-9(a))—

(i) in paragraph (1), by inserting “credit rating agency,” after “transfer agent,”; and

(ii) in paragraph (2), by inserting “credit rating agency,” after “transfer agent.”

(3) INVESTMENT ADVISERS ACT OF 1940.—The Investment Advisers Act of 1940 (15 U.S.C. 80b et seq.) is amended—

(A) in section 202(a) (15 U.S.C. 80b-2(a)), by adding at the end the following new paragraph:

“(28) The term ‘credit rating agency’ has the same meaning as in section 3 of the Securities Exchange Act of 1934.”;

(B) in section 202(a)(11) (15 U.S.C. 80b-2(a)(11)), by striking “or (F)” and inserting the following: “(F) any nationally recognized statistical rating organization, as that term is defined in section 3(a)(62) of the Securities Exchange Act of 1934, unless such organization engages in issuing recommendations as to purchasing, selling, or holding securities or in managing assets, consisting in whole or in part of securities, on behalf of others; or (G)”;

(C) in section 203(e) (15 U.S.C. 80b-3(e))—

(i) in paragraph (2)(B), by inserting “credit rating agency,” after “transfer agent,”; and

(ii) in paragraph (4), by inserting “credit rating agency,” after “transfer agent.”

(4) HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992.—Section 1319 of the Housing and Community Development Act of 1992 (12 U.S.C. 4519) is amended by striking “effectively” and all that follows through “broker-dealers” and inserting “that is a nationally recognized statistical rating organization, as such term is defined in section 3(a) of the Securities Exchange Act of 1934”.

(5) HIGHER EDUCATION ACT OF 1965.—Section 439(r)(15)(A) of the Higher Education Act of 1965 (20 U.S.C. 1087-2(r)(15)(A)) is amended by striking “means any entity recognized as such by the Securities and Exchange Commission” and inserting “means any nationally recognized statistical rating organization, as that term is defined in section 3(a) of the Securities Exchange Act of 1934”.

(6) TITLE 23.—Section 181(11) of title 23, United States Code, is amended by striking “identified by the Securities and Exchange Commission as a nationally recognized sta-

tistical rating organization” and inserting “registered with the Securities and Exchange Commission as a nationally recognized statistical rating organization, as that term is defined in section 3(a) of the Securities Exchange Act of 1934”.

SEC. 5. ANNUAL AND OTHER REPORTS.

Section 17(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(a)(1)) is amended—

(1) by inserting “nationally recognized statistical rating organization,” after “registered transfer agent,”; and

(2) by adding at the end the following: “Any report that a nationally recognized statistical rating organization is required by Commission rules under this paragraph to make and disseminate to the Commission shall be deemed furnished to the Commission.”

SEC. 6. COMMISSION ANNUAL REPORT.

The Commission shall submit an annual report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives that, with respect to the year to which the report relates—

(1) identifies applicants for registration under section 15E of the Securities Exchange Act of 1934, as added by this Act;

(2) specifies the number of and actions taken on such applications; and

(3) specifies the views of the Commission on the state of competition, transparency, and conflicts of interest among nationally recognized statistical rating organizations.

SEC. 7. GAO STUDY AND REPORT REGARDING NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study—

(1) to determine the impact of this Act and the amendments made by this Act on—

(A) the quality of credit ratings issued by nationally recognized statistical ratings organizations;

(B) the financial markets;

(C) competition among credit rating agencies;

(D) the incidence of inappropriate conflicts of interest and sales practices by nationally recognized statistical rating organizations;

(E) the process for registering as a nationally recognized statistical rating organization; and

(F) such other matters relevant to the implementation of this Act and the amendments made by this Act, as the Comptroller General deems necessary to bring to the attention of the Congress;

(2) to identify problems, if any, that have resulted from the implementation of this Act and the amendments made by this Act; and

(3) to recommend solutions, including any legislative or regulatory solutions, to any problems identified under paragraphs (1) and (2).

(b) REPORT REQUIRED.—Not earlier than 3 years nor later than 4 years after the date of enactment of this Act, the Comptroller General shall submit a report on the results of the study required by this section to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. OXLEY) and the gentleman from Pennsylvania (Mr. KANJORSKI) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio.

GENERAL LEAVE

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that all Members may

have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, 4 years ago Congress passed the Sarbanes-Oxley Act to rectify the troubling accounting and reporting issue exposed by the largest corporate scandals in U.S. history. This landmark legislation strengthened the role of auditors, boards of directors, and audit committees, and in doing so stabilized America's capital markets. By enhancing the transparency and accountability of our public companies, Sarbanes-Oxley sought to fortify the pillars upon which our securities laws stand.

Within the many sweeping reforms implemented by the act was a provision, little noticed at the time, which required the SEC to examine credit rating agencies. Four years, one SEC report, over seven House and Senate hearings, and countless committee hours later, I stand before my colleagues in support of final action to bring much needed competition to the credit rating agencies.

S. 3850, the Credit Rating Agency Reform Act, closely follows and makes minor additions to H.R. 2990, the Credit Rating Agency Duopoly Relief Act, which was introduced by Congressman MICHAEL FITZPATRICK in June 2005, and passed the House on July 12 of this year. Like Mr. FITZPATRICK's bill, S. 3850 levels the playing field in the ratings industry by replacing an SEC designation process that benefits a privileged few with a voluntary registration system available to all.

Credit ratings are vital to our capital markets, providing investors with an evaluation of the creditworthiness of the debt issued by America's corporations and municipalities. High-profile mistakes made by prominent rating agencies, including missteps in the rating of Enron and WorldCom, highlight an industry in drastic need of increased competition and improved transparency.

As it now stands, the SEC designates rating agencies as nationally recognized statistical ratings organizations, or NRSROs, through an opaque process that provides applicants little guidance on the substance and procedure by which they will be evaluated. Currently, only five rating agencies are designated as NRSROs by the SEC. Understandably, many more aspire to attain that designation, as NRSRO status confers a significant competitive advantage. However, new applicants languish for years without an up-or-down vote in admission into this elite club. In fact, the Department of Justice commented upon the SEC designation process in 1998, calling it a “nearly insurmountable barrier to entry.”

The SEC's opaque designation process has created an artificial government-sponsored barrier to entry that has stifled competition and helped the top two rating agencies, Moody's and Standard & Poor's, garner an 80 percent market share, clearly a duopoly. Without true competition in this industry, fees have skyrocketed and ratings quality has deteriorated. Ultimately, individual investors will benefit from a voluntary registration system that produces cheaper, more accurate ratings.

In the many years that I, Capital Markets Subcommittee Chairman RICHARD BAKER, and the rest of the Financial Services Committee have studied and deliberated over credit ratings, we have heard from countless parties, including the SEC, industry, academia, and the rating agencies themselves about the conflicts of interest that pervade the industry. Ratings firms have expanded into new areas which, many commentators have suggested, further compromise their objectivity. In addition, it has been alleged that leading rating agencies engage in certain abusive practices, to the detriment of smaller market players. S. 3850 closes the door on this behavior by requiring disclosure of conflict of interest and prohibiting abusive practices.

I want to commend the leading credit rating agencies, Moody's and Standard & Poor's, for lending support for this measure despite their initial opposition. Taking the handoff from Congressman FITZPATRICK and H.R. 2990, S. 3850 provides a strong framework for advancing the credit rating industry for the 21st century.

As for Senator SARBANES and me, the bill provides a logical follow-up to the Sarbanes-Oxley Act and our efforts to restore integrity to the capital markets.

I reserve the balance of my time.

Mr. KANJORSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 3850, the Credit Rating Agency Reform Act. This investor protection bill will create a new regulatory system for identifying and overseeing the nationally recognized agencies that issue credit ratings.

A robust free market for trading debt securities relies on an independent assessment of financial strength provided by credit rating agencies like Moody's, Fitch, and Standard & Poor's. Sound financial regulation also depends on the work of these raters.

Since the Securities and Exchange Commission created the concept of nationally recognized statistical rating organizations in 1970, the term, with its inference to credible and reliable ratings, has become embedded in nearly 10 Federal statutes, about 100 Federal regulations, approximately 200 State laws, and around 50 State rules. Many private parties have also included references to national recognized agencies in the terms of their contracts, cor-

porate bylaws, and pension trust agreements. Foreign governments and international bodies have used the concept in their accords and codes, too.

In considering any bill to modify the process for identifying and overseeing nationally recognized agencies, we must therefore keep in mind the need to maintain the integrity of ratings. It is this credible and reliable standard on which investors and regulators rely. We should not lightly abandon this benchmark.

The critics of the present designation system have also long raised legitimate concerns about competition. In any legislative effort to increase the quantity of raters, I have long advocated that we should refrain from sacrificing the quality of their ratings. Unlike the bill the House considered earlier this year, S. 3850 has found the right equilibrium on these matters. It balances the desire to increase the quantity of approved agencies with the need to ensure quality ratings.

S. 3850 is a considerably better legislative product than H.R. 2990 in several significant ways:

First, unlike H.R. 2990, the bill before us would allow the commission to reject an application for registration as a nationally recognized agency if the entity lacks sufficient financial and managerial resources. This major improvement helps to ensure consistent high quality ratings.

Second, unlike H.R. 2990, the bill before us would require applicants for national recognition to provide to the commission written certifications from at least 10 of their institutional customers and a list of their 20 largest issuers and subscribers by the amount of net revenues received in the previous year. These important adjustments help guarantee that ratings used for regulatory purposes are accepted and used in the market.

Finally, unlike H.R. 2990, the bill before us would instruct the commission to issue rules on conflicts of interest and the misuse of nonpublic information. This helpful change advances investor protection.

Now that we are nearing the end of the legislative process, I want to clarify the legislative record on two specific provisions contained in S. 3850.

First, in the manager's amendment to S. 3850, the Senate added a preemption that gives exclusive oversight authority to the Securities and Exchange Commission to register, license, or qualify as a nationally recognized agency except in cases of fraud.

This preemption, based on existing language in the Investment Advisers Act, should be viewed narrowly as limiting a State's authority to regulate the day-to-day activities of credit rating agencies. It should not be taken to apply to typical State governmental functions in which States, their localities, and their agencies are users of credit ratings. Accordingly, States will continue to have the ability to continue to oversee their departments,

programs, and political subdivisions with respect to debt issuance conditions, contract specifications, and investment standards for governmental funds, such as pension portfolios and financial reserves.

The preemption also should not be taken to apply to the regulation of insurers and bank solvency standards and generic business licensing requirements normally applied to entities performing business within a State.

□ 1715

Finally, while many States often currently use the "nationally recognized" designation as their standard for defining rating agencies, this legislation should not be read as compelling them to do so for all purposes going forward.

Second, S. 3850 gives clear authority to the Commission to reject those applicants for national recognition who lack adequate financial and managerial resources to produce credit ratings with consistent integrity. The bill also explicitly details a number of requirements for an application and authorizes the Commission to add additional conditions via the rulemaking process. Accordingly, it is my expectation that the Commission will expeditiously complete a rulemaking to require the production of documents related to the financial and managerial resources for any and all applications.

In conclusion, Mr. Speaker, Congress wisely adopted standards in the Sarbanes-Oxley Act to strengthen financial reporting and assure the integrity of our capital markets in the wake of the bankruptcies of Enron and WorldCom. Although many observers criticized the "nationally recognized" agencies for their failure to identify these insolvencies more expeditiously, we could not decide at that time how best to proceed on improving the oversight of the credit rating agencies. Four years later, however, we have reached a consensus and determined the best way to address these prior shortcomings. Because this consensus will protect the quality of credit ratings, I encourage my colleagues to support S. 3850.

Mr. Speaker, I reserve the balance of my time.

Mr. OXLEY. Mr. Speaker, I recognize the gentleman from Pennsylvania (Mr. FITZPATRICK), the author of the legislation, for 4 minutes.

Mr. FITZPATRICK of Pennsylvania. Mr. Speaker, in the wake of the Enron and WorldCom scandals, it is vital that Congress bring competition, transparency and accountability to the credit rating industry. Thanks to the leadership of House Financial Services Committee Chairman MIKE OXLEY and Capital Markets Subcommittee Chairman RICHARD BAKER, our quest to reform the credit rating industry is becoming a reality.

It is extremely disturbing that the two largest NRSROs, S&P and Moody's, rated Enron at investment grade just prior to its bankruptcy filing. Essentially, S&P and Moody's told

the market that Enron was a safe investment; and Enron was not their only blunder. S&P and Moody's also rated WorldCom and Orange County at investment grade just prior to their bankruptcy filings. But what other options were out there?

There are over 130 credit ratings agencies in the financial market. However, only five are currently designated as NRSROs by the Securities and Exchange Commission. This label is the root of the problem. To receive the elusive SEC distinction, companies must be "nationally recognized" or, that is, their ratings must be widely used and generally accepted in the financial markets.

This artificial barrier to entry has created a chicken-and-the-egg situation for non-NRSRO credit rating agencies trying to enter this industry, thus fostering a duopoly. S&P and Moody's have over 80 percent of the market share, and they rate more than 99 percent of the debt and preferred stock issues in the United States. As a result, they are raking in record fees.

This lack of competition in the credit rating industry has lowered the quality of ratings, inflated prices, stifled innovation, and allowed anti-competitive industry practices and conflicts of interest to go unchecked.

On June 20, 2005, I introduced the Credit Rating Agency Duopoly Relief Act. On July 12, 2006, the House passed H.R. 2990 with a bipartisan vote. Last Friday, the Senate passed bipartisan and broadly endorsed legislation, the Credit Rating Agency Reform Act, S. 3850, by unanimous consent.

I am extremely pleased that S. 3850 took the legislation, H.R. 2990, as its base text. Like H.R. 2990, Senate bill S. 3850 would eliminate the SEC staff's anti-competitive NRSRO process.

Mr. Speaker, in the wake of a seminal failure by S&P and Moody's in the Enron and WorldCom scandals, we must ensure integrity in the credit ratings process. This bill will reduce prices and anti-competitive practices. It will improve credit ratings quality and spur innovation. This view is broadly endorsed by the Investment Company Institute, Association for Financial Professionals, the Bond Market Association, the Financial Executives International, Financial Services Roundtable, Standards & Poor's, Moody's Corporation, Fitch Ratings, Fidelity Investments, and Consumer Federation of America.

Today's passage of this important reform legislation demonstrates Congress' commitment to protecting the individual investor by creating a more accountable, transparent and competitive market in our financial services industry.

This would not have been possible without the exemplary work by the staff of the Financial Services Committee, especially Bob Foster, Kristen Jaconi, Frank Tillotson, Josh Wilsusen, Alex Urrea, Marisol Garibay, and Tom Duncan, and the staff in the

Senate Banking Committee, especially Justin Daly. Thanks for your diligence.

Again, I thank Chairman OXLEY and Chairman BAKER for their leadership. This artificial barrier of entry that fostered the duopoly and allowed the warning signs of Enron and WorldCom to go unnoticed had to be broken. Thank you for supporting our legislative efforts.

Chairman OXLEY, it has been a pleasure to work with you. Your bipartisanship and knowledge of the issues are envied, admired, and they need to be replicated. I wish you and your wife, Pat, many future successes and endeavors. You will be greatly missed.

Mr. Speaker, I strongly urge a "yes" vote on S. 3850 to kill the duopoly and ensure integrity in the credit rating industry.

Mr. KANJORSKI. Mr. Speaker, I reserve the balance of my time.

Mr. OXLEY. Mr. Speaker, I am pleased to recognize the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) for 1 minute.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, when companies like WorldCom and Enron continued to enjoy high-rated bonds just days before they declared bankruptcy, something was wrong with the system. Congress has taken great strides in ensuring that the corporate scandals these companies precipitated will not happen again, and improving the agencies that rate them is yet another important step.

I was not in Congress when the Enron and WorldCom scandals erupted, but I still regularly hear from constituents who lost a great deal of their retirement packages because of these criminals.

Listen up America. If Congress cannot improve investor confidence in other corporations, many more constituents will have difficulty planning for their retirement as well. Let's kill the duopoly, and that is what this bill does.

I thank Mr. FITZPATRICK for his leadership on credit rating agency reform. Without his hard work, we could not go home to our districts with the confidence that we are doing what we can to protect our constituents' hard-earned savings.

I urge members to support S. 3850 to help ensure that the credit rating agencies are working as they should, providing reliable evaluations of corporations on which so many retirees rely.

Mr. KANJORSKI. Mr. Speaker, I reserve the balance of my time.

Mr. OXLEY. Mr. Speaker, I recognize the gentleman from Georgia (Mr. PRICE) for 2 minutes.

Mr. PRICE of Georgia. Mr. Speaker, I want to congratulate the chairman and Mr. BAKER for their work on this and appreciate their leadership; and I thank the gentleman from Pennsylvania (Mr. FITZPATRICK) for his leadership on this issue. I truly tell our colleagues and folks all across this Nation that the State of Pennsylvania and the

citizens all across this Nation are fortunate to have your leadership.

This bill addresses credit ratings or judging the financial worthiness of companies, and credit ratings play a real and significant role in our economy. Investors rely on these ratings to determine risks of default of companies, both large and small, as well as governmental entities. Currently, these ratings are often the determining factor as to whether companies and, hence, jobs will expand, or whether local governments are able to finance major municipal improvement projects.

The current process fails to provide a reasonably clear path for potential new rating agencies; and this bill addresses the fundamental, long-standing and widely recognized problems related to the operation and function of credit rating agencies.

Applicants seeking to become rating agencies will be required to make disclosures on rating performance, how they assist folks that they come in contact with; procedures and methodologies used to determine ratings, that is transparency; policies and procedures to prevent the misuse of non-public information, security; organizational structure; a code of ethics; a long list of subscribers and issuers; conflicts of interest; and the type of ratings that the applicant intends to use. In other words, accountability.

This reforms the current opaque process of the SEC approval of certain rating agencies as "nationally recognized" rating organizations. It doesn't favor a particular credit rating agency business model and thus encourages quantitative firms and subscriber-based models to compete with the qualitative issuer-paid structures of the current dominant firms.

Mr. Speaker, these are all extremely important advances and improvements for our entire economy, and I encourage the adoption of S. 3850.

Mr. OXLEY. Mr. Speaker, I recognize the chairman of the Capital Markets Insurance Subcommittee, the gentleman from Louisiana (Mr. BAKER), for 2 minutes.

Mr. BAKER. Mr. Speaker, I congratulate the chairman on his good work on what is truly an important piece of reform legislation in the world of finance. This has immeasurable impact on any number of businesses and individuals' financial interests.

I certainly want to continue to compliment Mr. FITZPATRICK on his good work with H.R. 2990, a previously passed House bill, which in essence is incorporated into the version sent back to us from the Senate with the good additions provided by Senator SARBANES. So this has been a bipartisan and bicameral effort which I think presents itself before the House today and also provides for exemplary reforms.

Credit rating agencies are unique entities. Currently, there is no mechanism by which a corporation may become a credit rating agency. There is

little oversight once one is designated; and if they fail to meet their fiduciary duties, there is not clear methodology by which one would be decommissioned.

The underlying bill makes strategic and important changes with regard to these provisions establishing a registration process through the SEC. The additions which Mr. SARBANES suggested be included in the legislation are important, providing additional accounting and financial screens through which a corporation must pass in order to achieve this designation.

There is also another important reform not yet mentioned in the debate, and that goes to the previous practice of rating agencies engaging in unsolicited ratings. It is not a bad business model: You simply pick out the company you wish to charge, you rate them, and send them the bill for services later. It presents a corporation with a very difficult dilemma in that, under our securities law, if a corporation chooses to enter the public markets and issue debt, you must have two favorable ratings from credit rating agencies.

For these reasons, this bill eliminates those unsolicited ratings, provides stability in the overall rating process, and I believe will serve our capital markets well in good fashion going forward.

I again compliment Chairman OXLEY and Mr. FITZPATRICK for their leadership and good work.

Mr. KANJORSKI. Mr. Speaker, I have no other requests for time, and I yield back the balance of my time.

Mr. OXLEY. Mr. Speaker, in closing, I want to pay special tribute to our friend from Pennsylvania (Mr. FITZPATRICK). It is rare in this House that a freshman has been able to pass major legislation as we have before us today, and it is a real tribute to his leadership and hard work and the cooperation on both sides of the aisle that we were able to get this bipartisan and bicameral bill finished.

We had a most impressive and informative field hearing in the City of Brotherly Love last November, and it really did set the template and the opportunity for the committee to move forward with this legislation.

It is particularly poignant because it is a natural after passage of Sarbanes-Oxley, and I know Senator SARBANES and I both appreciate the work and the leadership that Mr. FITZPATRICK has provided for us and for Chairman BAKER to move that legislation through his subcommittee.

I want to thank all involved, including the staffers that Mr. FITZPATRICK mentioned. This has been a labor of love, and it will be one that will have enormous implications for our capital markets down the road.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. OXLEY)

that the House suspend the rules and pass the Senate bill, S. 3850.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

□ 1730

MARK-TO-MARKET EXTENSION ACT OF 2006

Mr. OXLEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6115) to extend the authority of the Secretary of Housing and Urban Development to restructure mortgages and rental assistance for certain assisted multifamily housing.

The Clerk read as follows:

H.R. 6115

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 "Mark-to-Market Extension Act of 2006".

SEC. 2. REAUTHORIZATION.

Section 579 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended—

(1) in subsection (a)(1), by striking "October 1, 2006" and inserting "October 1, 2011"; and

(2) in subsection (b), by striking "October 1, 2006" and inserting "October 1, 2011".

SEC. 3. EXCEPTION RENTS.

Section 514(g)(2)(A) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended by striking "five percent" and inserting "nine percent".

SEC. 4. PERIOD OF ELIGIBILITY FOR NONPROFIT DEBT RELIEF.

Section 517(a)(5) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended by inserting before the period at the end the following: "Provided, That if such purchaser acquires such project subsequent to the date of recordation of the affordability agreement described in section 514(e)(6), (A) such purchaser must acquire such project on or before the later of (i) five years after the date of recordation of the affordability agreement and (ii) two years after the date of enactment of this title; and (B) the Secretary must have received, and determined acceptable, such purchaser's application for modification, assignment or forgiveness prior to such purchaser's acquisition of the project".

SEC. 5. DEFINITIONS.

Section 512 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended by adding at the end the following new paragraph:

"(20) **DISASTER-DAMAGED ELIGIBLE PROJECT.**—The term 'disaster-damaged eligible project' means an eligible multifamily housing project—

"(A) that is located in a county that was declared a major disaster area on or after January 1, 2005, by the President pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq);

"(B) whose owner carried casualty and liability insurance covering such project in amounts required by the Secretary;

"(C) that suffered damages not covered by such insurance that the Secretary determines are likely to exceed \$5,000 per unit in

connection with the natural disaster that was the subject of such designation; and

"(D) whose owner requests restructuring within two years following the date that such damages were incurred.

Disaster-damaged eligible projects shall be eligible without regard to the relationship between rent level for the assisted units and comparable market rents."

SEC. 6. DISASTER-DAMAGED ELIGIBLE PROJECTS.

(a) **MARKET RENT DETERMINATIONS.**—Subparagraph (B) of section 514(g)(1) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended to read as follows:

"(B) if those rents cannot be determined—

"(i) with respect to a disaster-damaged eligible project, are equal to 100 percent of the fair market rents for the relevant market area (in effect at the time of such disaster); and

"(ii) with respect to other eligible multifamily housing projects, are equal to 90 percent of the fair market rents for the relevant market area."

(b) **OWNER INVESTMENT.**—Section 517(c) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended by adding at the end the following new paragraph:

"(3) **PROPERTIES DAMAGED BY NATURAL DISASTERS.**—With respect to a disaster-damaged eligible project, the owner contribution toward rehabilitation needs shall be determined in accordance with paragraph (2)(C)."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. OXLEY) and the gentlewoman from California (Ms. WATERS) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio.

GENERAL LEAVE

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

I rise in strong support of H.R. 6115, the Mark-to-Market Extension Act of 2006, legislation introduced by my friend and colleague from Ohio, Congresswoman DEBORAH PRYCE. This legislation extends the Multifamily Assisted Housing Restructuring and Affordability Act of 1997 for 5 years beyond its current expiration date of September 30, 2006.

Legislation creating the Mark-to-Market program was enacted in 1997 to reduce the cost to the Federal Government of renewing section 8 contracts. At that time, 4,000 multifamily projects with FHA-insured mortgages were receiving project-based rent subsidies under section 8 of the U.S. Housing Act of 1937. The original Housing Assistance Payment contracts attached to these projects were written for periods ranging from 15 to 40 years. The majority of these projects had units with rents that exceeded those for comparable unassisted units; however, HUD did not have the authority