

**EMERGENCY ECONOMIC STABILIZATION ACT**  
**Effective October 1, 2008**

<b>PROVISIONS— Original Proposal and Compromise Additions</b>	<b>Details</b>	<b>Final Version</b>
Scope of Authorized Actions	Purchase MRAs, contracting, hiring employees, designating financial institutions as agents, establishing vehicles to purchase assets, issuing regulations.	<p><b>Section 101</b></p> <p>Original authorized actions remain intact.</p> <p>Additionally, the Secretary is authorized and required to establish the Troubled Asset Relief Program (“TARP”) to purchase “troubled assets.”</p> <p>Troubled assets are defined as residential or commercial mortgages and any securities, obligations, or other instruments based on or related to mortgages that originated on or before 3/14/08. The definition also includes “any other financial instrument the Secretary, after consultation with the Board of Governors of the Federal Reserve System (‘Board’), determines is necessary to purchase to promote financial stability.” For these purchases, notice must be given to various Congressional committees.</p>
Establishment of New Office to Implement TARP	<b>New Provision</b>	<p><b>Section 101</b></p> <p>Office of Financial Stability will be created and run by an Assistant Secretary of the Treasury (to be appointed by the President, by and with the advice and consent of the Senate) to implement TARP. Secretary can appoint the interim Assistant Secretary.</p>
Consultation Requirements	<b>New Provision</b>	<p><b>Section 101</b></p> <p>In exercising his broad authority under the Act, the Secretary is required to “consult” with the various financial boards and individuals.</p>

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Program Guidelines	<b>New Provision</b>	<p><b>Section 101</b></p> <p>The Secretary must establish program guidelines before the earlier of 2 days from his first purchase of troubled assets or 45 days after enactment of the Act.</p> <p>The Secretary is to prevent unjust enrichment on the part of financial institutions by purchasing assets at a higher price than at what the seller purchased them</p>
Guarantees	<b>New Provision</b>	<p><b>Section 102</b></p> <p>The Secretary will issue guarantees of timely payment not to exceed 100% of the payments.</p>
Premiums	<b>New Provision</b>	<p><b>Section 102</b></p> <p>The Secretary is required to collect premiums from participating financial institutions; amounts set by the Secretary, depending on credit risk. These fees will be deposited into a Troubled Assets Insurance Financing Fund, which shall be invested in U.S. Treasury securities or kept in cash on hand. Payments of guarantees will come out of this fund.</p>

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Management and Sale Authority	<p>Secretary has authority to manage and sell assets without limitation, including the Sunset provision.</p> <p><b>Drastically changed</b></p>	<p><b>Section 104</b></p> <p>The Act establishes a Financial Stability Oversight Board, which is tasked with reviewing the Secretary’s exercise of authority under the Act. The Board is made up of the Chairman of the Board of Governors of the Federal Reserve System, the Secretary, the Director of the Federal Housing Finance Agency, the Chairman of the SEC, and the Secretary of Housing and Urban Development. The Chair of the Board is elected by the Board members but cannot be the Secretary.</p> <p>Board may appoint a credit review committee to evaluate the purchase authority under the Act.</p> <p>Board must report quarterly to various Congressional committees.</p> <p>Section 106 still provides authority to manage and sell assets without limitation of the Sunset provision. Authority is now limited by reporting and oversight procedures.</p>

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Reporting Requirements	<p>Secretary must report within 3 months and then semiannually to House and Senate Committees.</p> <p><b>Drastically changed</b></p>	<p><b>Section 105</b></p> <p>The Secretary must report to the various Congressional committees within 60 days of his first act and then every 30 days thereafter. The Act specifically describes what must be included in the report – overview of actions taken, obligations and expenditures (and expected expenditures), and a detailed financial statement, including identification of all agreements, insurance contracts, transactions, nature of assets purchased, projected costs and liabilities, operating expenses (including compensation for financial agents), valuation or pricing method, and description of vehicles established.</p> <p>The Secretary also must provide specific written reports describing all transactions and justifying prices paid within 7 days after commitments to purchase assets reach \$50 billion and within 7 days after each additional \$50 billion interval.</p> <p>Secretary must report on guarantees within 90 days.</p> <p>By April 30, 2009, the Secretary is required to report on the state of the financial markets and on the regulatory system.</p>
Review	The Secretary’s actions are non-reviewable.	<b>This provision no longer exists. See Section 105 above.</b>
Conflicts of Interest	<b>New Provision</b>	<p><b>Section 108</b></p> <p>Requires the Secretary to issue regulations to address and manage conflicts of interest that may arise in the various activities authorized by the Act.</p>

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<p>Foreclosure Mitigation Efforts</p>	<p>Requires the government to promote sustainable homeownership through loan modifications and use of the new HOPE for Homeowners Program on the mortgages underlying the assets it buys in the bailout.</p>	<p>This made it into the Act as <b>Sections 109-110</b>.</p> <p>Allows the Secretary to use loan guarantees and credit enhancements to facilitate loan modifications to avoid home foreclosures. Also requires federal property managers to implement a plan to maximize assistance to homeowners, including loan modifications. Modifications can include reduction in interest rates, reduction in loan principals, and “other similar modifications.” Federal property managers also have oversight and reporting requirements.</p>
<p>Limits to Executive Pay</p>	<p>Would limit executive pay for participating companies.</p>	<p><b>Section 111</b></p> <p>Limits executive compensation for participating financial institutions from whom the Secretary makes direct purchases and for which the Secretary receives a “meaningful equity or debt position.”</p> <p>Limitations include (i) exclusion of incentives for executives to take unnecessary risks, (ii) recovery of any bonus or incentive compensation paid to executives based on statements of earnings gains, or other criteria proven later to be “materially inaccurate,” and (iii) prohibition on providing golden parachutes while the Secretary holds an equity or debt position.</p> <p>Limitations also affect auction purchases. If auction purchases exceed \$300 million, Act prohibits any new employment contracts that provide for golden parachutes in the event of involuntary termination, bankruptcy, insolvency, or receivership.</p>

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Coordination with Foreign Authorities and Central Banks	<b>New Provision</b>	<b>Section 112</b>  Requires the Secretary to coordinate with foreign authorities and central banks to work toward establishing similar programs.
Equity in Companies*	Would give the government equity in companies receiving assistance.	<b>Section 113</b>  Among other things, requires the Secretary to minimize long-term impact (not really defined), use market mechanisms, and make direct purchases when appropriate, and to acquire stock or debt instruments in exchange for purchases of troubled assets.
Market Transparency	<b>New Provision</b>	<b>Section 114</b>  Requires public notification of purchases within 2 business days of the purchase. Secretary may also require additional public disclosures by participating financial institutions.
Price Tag	\$700,000,000,000	<b>Section 115</b>  This changed quite a bit. Graduated Authority to Purchase. Limited to \$250 billion at any one time. Can be increased to \$350 billion at any one time with President’s certification of need. Can be increased to \$750 billion at any one time with President’s certification of need, written report to Congress, and expiration of 15 days with no Joint Resolution of Disapproval.  There are many details relating to the logistics and timing of a Joint Resolution of Disapproval.
Modification of Bankruptcy Laws	This provision allows bankruptcy judges to modify mortgages during bankruptcy proceedings.	This did not make it into the final Act.

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Oversight	Also addressed above. Now includes judicial review.	<b>Sections 116 and 119</b>  The Comptroller General of the United States shall oversee TARP activities (recall, this is in addition to the other reporting and oversight requirements listed above). TARP is also required to provide an annual audit to the various Congressional committees and is required to establish internal controls consistent with 31 U.S.C. § 3512(c).  Section 199 provides for judicial review if actions are found “arbitrary, capricious, an abuse of discretion, or not in accordance with law.” Limits equitable relief, including injunctions, and gives strict time requirements for TROs and injunctions.
Study and Report on Margin Authority	<b>New Provision</b>	<b>Section 117</b>  Requires the Comptroller General to study the extent to which leverage and sudden deleveraging of financial institutions caused the “financial crisis.”
Timeframe	Termination 2 years from enactment.	<b>Section 120</b>  Reduced as expected to a Dec. 31, 2009, end date, absent extension through Congressional certification. Extension limited to 2 years from date of enactment.

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Inspector General for the Troubled Asset Relief Program	<b>New Provision</b>	<p><b>Section 121</b></p> <p>Creates new office for the Inspector General for the Troubled Asset Relief Program. Appointed by the President with the advice and consent of Congress. Inspector’s duty to conduct, supervise, and coordinate audits and investigations of purchases, management, and sale of assets by the Secretary. <i>(This is in addition to other oversight and auditing addressed above.)</i></p>
Congressional Oversight Panel	<b>New Provision</b>	<p><b>Section 125</b></p> <p>Creates an oversight panel in the legislative branch, which is tasked with reviewing the “current state of the financial markets and the regulatory system” and must submit monthly reports to Congress on same.</p> <p>Committee will consist of 5 members –</p> <ul style="list-style-type: none"> <li>• 1 appointed by the Speaker of the House</li> <li>• 1 appointed by the minority leader of the House of Representatives</li> <li>• 1 appointed by the majority leader of the Senate</li> <li>• 1 appointed by the minority leader of the Senate</li> <li>• 1 appointed by the Speaker of the House and the majority leader of the Senate after consultation with the minority leaders.</li> </ul>