ECONOMIC CRISIS

Who is hurt by this law: Everyone who was relying on good laws from the New Deal: Eight decades ago the economy was rampant in speculations, tax breaks for the rich, and weak labor unions, similarly to the 2000s where Bush provided tax cuts for the wealthy (see Taxes, pg. 121), in addition to financing two wars (see Wars, pg. 134), the lack of enforcement of the Fair Labor Standards Act (see Labor, pg. 100), and the deregulation laws that has wiped out the old good laws has swept the U.S. economy into a deep hole even with the bailout.

Credit default swaps (CDSs) are essentially insurance policies covering the losses on securities in the event of a default. To protect themselves against such defaults, bond investors could agree to pay a periodic fee to have another party cover the losses. Because of the swap-related provisions of Gramm's bill—which were supported by Fed chairman Alan Greenspan and Treasury Secretary Larry Summers—a $62 trillion market (nearly four times the size of the entire US stock market) remained utterly unregulated, meaning no one made sure the banks and hedge funds had the assets to cover the losses they guaranteed.[1] "Since then, big hedge funds and other traders discovered that swaps could be traded and used to speculate on how close a company was to collapse. The market mushroomed. Its total value outgrew that of all publicly traded stocks combined. The swaps market began to affect the financial system in once unimagined ways."[2] Between 1994 and 2004, subprime mortgage lending grew from $35 billion to $530 billion.[3]

U.S. Law: Glass-Steagall Act (1933)[4]
Congress passed the Glass-Steagall Act (the Banking Act of 1933) as an emergency response during the Great Depression. It prohibited commercial banks (focusing on consumer activities such as checking and savings) from engaging in the investment business (dealing with speculative trading and mergers). It gave the Federal Reserve System tighter regulation of national banks; prohibited bank sales of securities; and created the Federal Deposit Insurance Corporation (FDIC), to insure bank deposits with a pool of money appropriated from banks.[5]

The Act was built on the **Federal Reserve Act (1913)** creating a national banking system, and the **Federal Trade Commission Act (1914)** prohibiting unfair or deceptive business practices. The **Truth in Lending Act (1968)**[6] required banks to disclose loan terms & fees. "To assure a meaningful disclosure of credit terms so that the consumer will be able to compare more readily the various credit terms available to him and avoid the uninformed use of credit, and to protect the consumer against inaccurate and unfair credit billing and credit card practices."[7]

LAWS WHICH WEAKENED GLASS-STEAGALL:

Bank Holding Company Act Amendments (1970)[8]
Required Federal Reserve Board approval for the establishment of a bank holding company. Prohibited bank holding companies headquartered in one state from acquiring a bank in another state.[9] Allowed commercial banks, via holding companies, to both accept deposits and make commercial loans.[10]

Garn-St. Germain Depository Institutions Act (1982)[11]
"The official description of the bill was 'An Act to revitalize the housing industry by strengthening the financial stability of home mortgage lending institutions and ensuring the availability of home mortgage loans.'"[12] The deregulation of the savings and loan industry led to its collapse seven years later. "On Feb. 6, 1989, Pres. George H.W. Bush bails out S&L industry; among those helped is his son, Jeb, as government takes over most of a $5 million second mortgage on his Miami office building."[13]

Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA)[14]
FDICIA was enacted to provide measures to sustain the bank insurance fund (BIF) as well as provide for regulatory changes to strengthen the banking industry. Included in Section 131 of FDICIA was a requirement for the Office of the Inspector General (OIG) of the primary federal banking regulator to conduct a review of the failed financial institution when the deposit insurance funds incur a material loss.

The OIG report findings in "Summary of Material Loss Reviews of Failed National Banks and Thrift Institutions Between 1993 and 2002": "For the 6 other failed institutions, management developed either new high-risk products/services or high-risk variations for existing business strategies and implemented them without appropriate safety and soundness standards. These business strategies were then aggressively pursued with little or no regard to the necessary managerial expertise, adequate oversight by the institutions' boards of directors, or adequate risk management strategies. When problems arose, management was unable to restore the institution to profitability and avert further capital depletion. This strategy of investing heavily in high-risk activities without appropriate safeguards ultimately proved costly to the institutions and the deposit insurance funds."[15]

Truth in Lending Act "Reform" (Sept. 30, 1995) [16]
"Easing regulations on creditors; bill powered through by Rep. Bill McCollum (R-FL), a key recipient of finance, insurance, and real estate (FIRE) donations ($136,000 in 1993-94)."[17]

Gramm-Leach-Bliley Act (1999)[18]
A bank deregulation bill that undermined the Glass-Steagall Act by opening up competition among banks, securities companies and insurance companies. It passed the Senate 90-8 and was signed by President Clinton which led to a wave of megamergers "too big to fail." The driving force was Sen. Phil Gramm (R-TX) who had received $4.6 million from the FIRE sector over the previous decade.[19]

Commodity Futures Modernization Act (Dec. 14, 2000)[20]
The House and Senate versions of the bill were introduced just prior to the Christmas holiday in December of 2000, following George W Bush's (first) election (in November of 2000), while then-President Clinton was serving out his final days as President. The bill was never debated by the House or Senate. The bill by-passed the substantive policy committees in both the House and the Senate so that there were neither hearings nor opportunities for recorded committee votes. In substance, it appears that the leadership of the Republican-controlled Senate and House incorporated the deregulation of credit default swaps into an omnibus budget bill (without hearings or recorded votes) at a time when the outgoing president was in no position to veto anything.

What the law provides: Sen. Gramm attached a 262 page amendment to an omnibus appropriations bill to deregulate derivatives trading. This law unleashed the derivatives market and paved the way for banks to become more aggressive about investing in mortgages.[21]

This law gave rise to the "Enron loophole" and opened the door to an explosion in new, unregulated securities. "The legislation contained a provision—lobbied for by Enron, a generous contributor to Gramm—that exempted energy trading from regulatory oversight, allowing Enron to run rampant, wreck the California electricity market, and cost consumers billions before it collapsed."[22]

American Homeownership and Economic Opportunity Act (Dec. 27, 2000)[23]
The act makes it harder for consumers to get out of lender-required insurance.

Bankruptcy Abuse Prevention and Consumer Protection Act (April 20, 2005)[24]
The act makes it harder for consumers (but not businesses) to discharge debts. The strict means test that would force more debtors to file under Chapter 13 (under which a percentage of debts must be paid over a period of 3-5 years) as opposed to Chapter 7 (under which debts are paid only out of existing assets), the additional penalties and responsibilities the bill

placed on debtors, and the bill's many provisions favorable to credit card companies.

Housing and Economic Recovery Act of 2008[25]
This legislation strengthens and modernizes the regulation of the housing government-sponsored enterprises (GSEs) – Fannie Mae and Freddie Mac (the enterprises) and the Federal Home Loan Banks (FHLBs or Banks) – and expands the housing mission of these GSEs. In addition, it creates a new program at FHA that will help at least 400,000 families save their homes from foreclosure by providing for new FHA loans after lenders take deep discounts.[26]

- Increases the national debt limit from $9.82 trillion to $10.62 trillion (Sec. 3083).
- Establishes the Home Ownership Preservation Entity Fund to fund the HOPE (Home Ownership Preservation Entity) for Homeowners Program, which will insure up to $300 billion for 30 year refinanced loans for distressed borrowers between October 1, 2008-September 30, 2011 (Sec. 1402).
- Provides that the mortgagor and the Secretary for Housing and Urban Development each receive 50 percent of the appreciation value for each eligible mortgage insured under the HOPE program if changes occur to the property value 5 years after the loan is taken over by HOPE (Sec. 1402).
- Allocates $3.92 billion in grants to States and other units of local government to redevelop abandoned and foreclosed property and $180 million to the Neighborhood Reinvestment Corporation, given that at least 15 percent of the $180 million be provided to housing counseling organizations that provide services for loss mitigation to minority and low-income homeowners (Sec. 2305).
- Establishes a Housing Trust Fund to be used to increase and preserve the supply of rental housing for extremely low and very low-income families (Sec. 1131).
- Establishes the Federal Housing Finance Agency, with regulatory authority over Fannie Mae, Freddie Mac, the Federal Home Loan Banks, and the Office of Finance (Sec. 1101).
- Sets conforming loan limitations for Fannie Mae and Freddie Mac at a maximum of $417,000 for a single-family residence up to $801,950 for a 4-family residence, adjusted annually (Sec. 1124).
- Raises the limits on the size of the principle mortgage obligation that is eligible for insurance for most homeowners, up to 115 percent of the local area median house price for single-family homes (Sec. 2112).
- Increases conforming loan limitations in areas where the average house price is over 115 percent of the housing price index (Sec. 1124).
- Increases appropriations under the McKinney-Vento Homeless Assistance Act from $70 million to $100 million for the fiscal year

2009 (Sec. 2901).

- Increases housing benefits for specially adapted houses for disabled veterans from $10,000 to $12,000, with increases each year tied to the residential home cost-of-construction index (Sec. 2605).
- Changes the limitation on the sale, foreclosure, or seizure of property owned by service members from 90 days to nine months after their return from military service, and limits their interest rates to 6 percent during service and one year after their return (Sec. 2203).
- Provides first-time homebuyers with a tax credit of up to $7,500 for residences purchased on or after April 9, 2008, which the homebuyers will repay over fifteen years following their purchase (Sec. 3011).
- Expands home ownership counseling eligibility to include people who have a reduction in income due to divorce or death, or who have an increase in expenses due to medical expenses, divorce, unexpected property damages not covered by insurance, or a large property tax increase (Sec. 2127).
- Allows a real property tax deduction on the amount of state and local real property taxes paid during the taxable year of up to $500 for individuals and $1,000 for joint returns, applicable to taxable years beginning in 2008 (Sec. 3012).[27]

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[1] David Corn, "Foreclosure Phil" July/August 2008, http://www.motherjones.com/news/feature/2008/07/foreclosure-phil.html
[2] http://www.washingtonpost.com/wp-dyn/content/article/2008/10/20/AR2008102003110_2.html?hpid=topnews&sub=new&sid=ST2008102100283&s_pos=
[3] http://www.responsiblelending.org/policy/congress/page.jsp?itemID=28009832
[4] 48 Stat. 162.
[5] http://law.jrank.org/pages/7165/Glass-Steagall-Act.html
[6] 82 Stat. 146.
[7] http://www.fdic.gov/regulations/laws/rules/6500-200.html
[8] 70 Stat. 133.
[9] http://www.fdic.gov/regulations/laws/important/index.html
[10] Nomi Prins, "Where Credit is Due: a Timeline of the Mortgage Crisis," July/August 2008, http://www.motherjones.com/news/feature/2008/07/where-credit-is-due-timeline.html
[11] Public Law 97-320.
[12] Mark Sumner, "John McCain: Crisis Enabler," September 21, 2008, The Nation, http://www.thenation.com/doc/20081006/sumner
[13] Supra note 9.
[14] 105 Stat. 2236.
[15] The Department of Treasury, OIG Report: Summary of Material Loss Reviews of Failed National Banks and Thrift Institutions Between 1993 and 2002 (OIG-CA-04-004). http://www.treas.gov/inspector-general/evaluation-reports/ca04004.pdf
[16] 109 Stat. 271. See the full text at: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=104_cong_public_laws&docid=f:publ29.104
[17] Supra note 9.
[18] Public Law 106-102, 113 Stat. 1338.
[19] Supra note 9.
[20] Public Law 106–554, §1(a)(5).

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[21] David Leonhardt, "Washington's Invisible Hand" September 28, 2008, The New York Times.
[22] Supra note 1.
[23] Public Law 106-569.
[24] Public Law 109-8, 119 Stat. 23.
[25] Public Law 110-289, 122 Stat. 2654.
[26] http://banking.senate.gov/public/_files/HousingandEconomicRecoveryActSummary.pdf
[27] http://www.govtrack.us/congress/bill.xpd?bill=h110-3221&tab=summary

Bush Law: Emergency Economic Stabilization Act of 2008[1]

Who is hurt by this law: As of the fall of 2008, people whose mortgages have been foreclosed and whose federal health and human services have been ended, and the millions who have lost their jobs -- all who are hurt by the U.S. economic crisis are hurt by the bill rushed through Congress in October 2008. As of September 2008, 9.5 million people are unemployed, that is officially at 6.1%, not counting those so long unemployed they are not counted.[2] A 2005 HUD study found the homeless population is 744,000 and 41% are families.[3] 78 million baby boomers expect to live on Social Security benefits after retiring beginning this year and over the next 17 years. Taxpayers will end up losing the most and paying this debt for the next 20 years.

"At the dawn of the 21st century, the U.S. had $5.7 trillion in total debt... only eight years later, that sum has nearly doubled, thanks to war costs, tax cuts, spending increases, expanded entitlement programs, and now a welter of government bailouts and rescues."[4] "On March 16, 2007, Bear Stearns announced the takeover by JPMorgan Chase in Fed-engineered bailout; a measure approved by Fed Board of Governors with fewer votes than required by law, under a post-9/11 'national security emergency' exception."[5]

In April 2008, Business correspondent Bob Moon stated on American Public Media's Marketplace, "The value of the entire US Treasuries market: $4.5 trillion. The value of the entire mortgage market: $7 trillion. The size of the US stock market: $22 trillion. OK, you ready? The size of the credit default swap market last year: $45 trillion. As in three times the whole US gross domestic product..."[6] "The unregulated and poorly reported credit default swaps may have actually passed $70 trillion last year, which means that they were about $5 trillion more than the GDP of the entire world."[7]

"... Paulson sensibly decided to follow the British model and inject capital directly into the major banks in exchange for equity. $125 billion is going into the first nine -- Goldman Sachs, Morgan Stanley, Merrill Lynch, Bank of America, Citigroup, JPMorgan Chase, Wells Fargo, and Bank of New York Mellon and State Street Corporation. This plus a guarantee of new debt over the next three years is designed to reassure other banks of their solvency, and hopefully get them to resume lending to one another and to businesses."[8] Financial institutions and other companies have been lobbying to get a slice of the $700,000,000,000 federal bailout, but it has yet to help struggling homeowners.[9]

Current	Debt Held by the Public	Intragovernmental Holdings	Total Public Debt Outstanding
10/30/2008[10]	6,257,578,457,250	4,273,314,576,527	10,530,893,033,778

What the law provides: Oct. 3, 2008, Bush signed the modified bailout law introduced by Rep. Patrick Kennedy March 9, 2007, giving the Secretary of the Treasury, Henry Paulson[11], unprecedented power:

Troubled Assets Relief Program (TARP)

· Authorizes the Secretary of the Treasury (SOT) to purchase troubled assets from any financial institution, in accordance with terms he develops.

· Directs the SOT to establish within the Office of Domestic Finance of the Treasury Department an Office of Financial Stability to implement TARP.

· Directs the SOT to prevent unjust enrichment of participating financial institutions, including sale of a troubled asset (with certain exceptions) to the SOT at a price higher than the seller paid to purchase it.

· Establishes a program to guarantee troubled assets originated or issued before March 14, 2008, including mortgage-backed securities.

· Establishes the Troubled Assets Insurance Financing Fund for deposit of premiums collected from participating financial institutions to fund such guarantee program.

· Requires the SOT to report periodically to Congress re: (1) transactions; (2) purchases; (3) liabilities; and (4) the status of regulatory oversight.

· Directs the SOT, to the extent that he acquires mortgages, mortgage backed securities, and other assets secured by residential real estate, and the Federal Housing Finance Agency, as conservator of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac), to implement a plan to maximize assistance for homeowners and encourage taking advantage of the HOPE for Homeowners Program under the National Housing Act to minimize foreclosures. Authorizes the SOT to use loan guarantees and credit enhancements to facilitate loan modifications to prevent foreclosures.

· Increases the statutory limit on the public debt to $11.315 trillion.

· Amends the National Housing Act re extinguishment of subordinate liens for refinanced mortgages, to authorize SOT to make payments to be accepted as payment in full of all indebtedness to any holder of an existing subordinate mortgage in lieu of certain future appreciation payments.

· Amends the Federal Deposit Insurance Act to prohibit false advertising, misuse of FDIC names, and misrepresentation of insured status.

· Requires federal financial regulatory agencies to cooperate with the FBI investigating fraud, misrepresentation, and malfeasance re sale of mortgages.

· Amends the Financial Services Regulatory Relief Act of 2006 to accelerate from Oct. 1, 2011, to Oct. 1, 2008, the effective date for the Board of Governors of the Federal Reserve (Board) to: (1) pay interest on balances maintained at a Federal Reserve bank; and (2) employ increased flexibility to set reserve requirements for member banks.

· Instructs the Board to submit periodic updates to Congress.

· Directs the SOT to reimburse the Exchange Stabilization Fund for funds used for the Treasury Money Market Funds Guaranty Program for the U.S. money market mutual fund industry.

· Prohibits the SOT from using the Exchange Stabilization Fund to establish future guaranty programs for U.S. Money market mutual fund industry.

· Authorizes the Securities and Exchange Commission (SEC) to suspend application of Statement Number 157 (about mark-to-market accounting) of the Financial Accounting Standards Board and directs SEC to study and report to Congress on Statement No. 157.

· Increases from $100,000 to $250,000, until Dec. 31, 2009, the amount of deposit and share insurance coverage offered under the Federal Deposit Insurance Act and the Federal Credit Union Act.

Executive Compensation[12]

· Prescribes program guidelines for: (1) executive compensation and corporate governance; (2) market transparency; (3) graduated authorization for the SOT to purchase troubled assets; (4) oversight and audits of the program by the Comptroller General. Prescribes requirements for purchase/sale of assets by SOT, using market mechanisms that will minimize potential long-term negative impact on the taxpayer.

· Directs the Comptroller General to: (1) oversee TARP activities and performance, (2) study and report to Congress on the extent leverage and sudden deleveraging of financial institutions was a factor in the current financial crisis.

Oversight, Reporting, and Disclosure Requirements

· Establishes the Office of Special Inspector General to report to Congress.

· Establishes a new Financial Stability Oversight Board comprised of the

Chair, SOT, Director of Federal Housing Finance Agency, Chair of SEC, and the Secretary of HUD to review and report to Congress on the authorities created under this Act and their effect in assisting American families in preserving home ownership, stabilizing financial markets, and protecting taxpayers.

· Establishes a 5-member Congressional Oversight Panel to submit regular reports to Congress detailing what he has done and the impact of the TARP on financial markets, financial institutions, market transparency, and foreclosure mitigation efforts. The panel is to submit a special report on regulatory reform by Jan. 20, 2009.

· Requires more reports from the Office of Management and Budget (OMB).

Tax Provisions

· Provides for ordinary income or loss treatment of gain or loss from the sale or exchange of any applicable preferred stock by any applicable financial institution, e.g., in Fannie Mae or Freddie Mac that was held on Sept. 6, 2008, or that was sold or exchanged on or after Jan. 1, 2008, and before Sept. 7, 2008. Allows SOT to apply ordinary gain or loss treatment to certain sales of preferred stock not held on Sept. 6, 2008.

· Denies certain employers whose assets have been purchased under the TARP, a tax deduction for the payment of compensation or other benefits in excess of $500,000 to their executives or other highly compensated employees. Makes tax penalties for excess parachute payments applicable to employers who participate in TARP and their executives.

· Extends through 2012 the exclusion from gross income of income attributable to a discharge of indebtedness on a principal residence.

What the "law" ignores:

· Glass-Steagall and other laws that stemmed from the Depression Era.
· U.S. Constitution General Welfare Clause; U.N. Charter Art. 55.

What Congress can do: In 2009, Congress can pass:

· S. 2636: Foreclosure Prevention Act of 2008: (1) authorizes use of the proceeds of a qualified mortgage bond issue to refinance a mortgage on a residence originally financed through a qualified subprime loan; (2) raise the ceiling and volume cap imposed upon certain state housing bonds; and (3) exclude from the meaning of tax preference item private activity bonds, for purposes of the alternative minimum tax, qualified mortgage bonds or veterans' mortgage bonds issued after enactment of this Act and before January 1, 2011. Introduced February 13, 2008 by Sen. Harry Reid (D-

NV).[13]

· H.R. 5720: Housing Assistance Tax Act of 2008: Amends Internal Revenue Code provisions relating to the low-income housing tax credit and tax-exempt bond rules for financing low-income housing projects. Introduced April 8, 2008 by Rep. Charles Rangel (D- NY).[14]

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[1] Public Law 110-343.
[2] U.S. Department of Labor, http://www.bls.gov/news.release/empsit.nr0.htm
[3] The Boston Globe, www.boston.com/news/nation/washington/articles/2007/01/11 /of_744000_homeless_estimated_in_us_41_percent_are_in_families/
[4] David M. Walker, Former U.S. Comptroller General, "Call this a crisis? Just Wait," October 30, 2008, www.money.cnn.com/2008/10/28/magazines/fortune/babyboomcrisis_walker. fortune/index.htm
[5] Nomi Prins, "Where Credit is Due: a Timeline of the Mortgage Crisis," July/August 2008, http://www.motherjones.com/news/feature/2008/07/where-credit-is-due-timeline.html
[6] http://marketplace.publicradio.org/display/web/2008/04/01/credit_default_swaps_q/
[7] Mark Sumner, "John McCain: Crisis Enabler," September 21, 2008, The Nation, http://www.thenation.com/doc/20081006/sumner
[8] http://www.huffingtonpost.com/robert-l-borosage/in-paulson-we-trust_b_136591.html
[9]See "Bailout Bucks to Banks" list from Pro Publica, http://www.propublica.org/feature /bailout-bucks-to-banks-1028
[10] http://www.treasurydirect.gov/NP/BPDLogin?application=np
[11] On July 10, 2006, Henry M. Paulson Jr. sworn in as Treasury secretary, leaving job as Goldman Sachs chairman and CEO. In 2005, Goldman securitized $68 billion in residential mortgages and $23 billion in "other assets" primarily related to CDOS.
[12] Bailoutsleuth.com reported, "The Treasury Department has hired two big accounting firms, PricewaterhouseCoopers LLP and Ernst & Young, to help keep tabs on the government's financial-industry rescue program.""The Treasury Department said the first phase of the three-year contracts will be worth $191,469.27 and $492.006.95, respectively," however, the contracts are blacked out as to employee names, compensation, in order to hide potential conflict of interests. See: http://bailoutsleuth.com/transparency-secrecy/
[13] To see the full text visit: http://www.govtrack.us/congress/bill.xpd?bill=s110-2636
[14] To see the full text visit: http://www.govtrack.us/congress/bill.xpd?bill=h110-5720