HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 1321 Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010
SPONSOR(S): Ahern
TIED BILLS: **IDEN./SIM. BILLS:** SM 1778

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Federal Affairs Subcommittee	9 Y, 3 N	Bennett	Camechis
2) State Affairs Committee	11 Y, 2 N	Camechis	Hamby

SUMMARY ANALYSIS

This memorial urges Congress to repeal the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.

The Dodd-Frank Act was enacted in 2010 and made widespread changes to the regulatory environment for banking and investment institutions, as well as financial markets and their participants. Changes were made to regulations regarding credit ratings, regulation of financial products, corporate governance and disclosure, consumer protection, trading restrictions, and transparency. In addition, the Act created, expanded, and reallocated regulatory authority among thirteen new federal agencies.

The Dodd-Frank Act has faced criticism since its enactment, and some federal lawmakers have proposed repealing the Act. Federal lawmakers and industry officials seeking to repeal the Act assert that the Act will cost too much to implement and maintain, and that its regulatory requirements are overly burdensome and confusing for businesses.

The memorial does not have a fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Effect of Proposed Changes

This memorial urges Congress to repeal the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.

Present Situation

Background

Financial conditions in the United States began to deteriorate in 2007 and, by September 2008, many banks, insurers, government-sponsored enterprises, and investment banks had either failed or required hundreds of billions in federal support to continue functioning. American consumers were affected by a rapid decline in real estate value and financial assets, as well as an increase in unemployment.

In response to the crisis, Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).[1] The Act, which addresses a variety of issues that arose as a result of the deteriorating financial situation, has been regarded as "the strongest financial reform [] this country has considered since the Great Depression."[2] Major elements of the Dodd-Frank Act include: [3]

- *Framework for Financial Stability:* Creates framework intended to promote the financial stability of the US financial services system.
- *Framework for Orderly Liquidation:* Establishes framework to resolve failing nonbank financial institutions in a manner similar to the Federal Deposit Insurance Corporation.
- *Changes to the Bank Regulatory Structure:* Makes significant changes to the structure of bank regulation, and expands bank regulatory powers in a variety of areas.
- *Consumer Protection:* Establishes new federal regulations to protect consumers.
- *Derivatives Regulation:* Creates framework for the regulation of over-the-counter derivatives and supervision of swap dealers. Provides new authority to the Commodity Futures Trading Commission and Securities and Exchange Commission (SEC).
- *Capital Markets and Investor Protection:* Strengthens SEC's regulatory oversight and creates numerous protections for investors.
- *Registration Requirements:* Requires advisers to hedge funds, private equity funds, and certain other types of private investments to, among other things, register with the SEC.
- *Insurance Oversight and Regulatory Reform:* Monitors the insurance industry.
- *Federal Reserve System Changes:* Imposes new limitations on the Federal Reserve System's power to make emergency loans, gives the Government Accountability Office new audit authority.
- *Other Provisions:* Creates provisions that are designed to expand access to banking services and credit for low-income families, and requires numerous studies and reports.

Costs and Economic Impact of the Dodd-Frank Act

The Congressional Budget Office (CBO) estimated that over the period of 2010-2020, federal spending associated with the Act would total $37.8 billion, which would be offset by an estimated $41 billion in

[1] Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376 (2010); enacted July 21, 2010.
[2] *See* Press Release, U.S. Dept. of Treasury, Treasury Sec'y Timothy Geithner Remarks on Passage of the Wall Street Reform and Consumer Protection Act (July 15, 2010), Available at: www.financialstability.gov/latest/pr_07152010.html.
[3] *See* Mayer Brown LLP, "Understanding the New Financial Reform Legislation", Available at: http://www.google.com/#sclient=psy-ab&hl=en&site=&source=hp&q=Understanding+the+New+Financial+Reform+Legislation&pbx=1&oq=Understanding+the+New+Financial+Reform+Legislation&aq=f&aqi=&aql=&gs_sm=s&gs_upl=1950l1950l0l3027l1l1l0l0l0l0l94l94l1l1l0&bav=on.2,or.r_gc.r_pw.,cf.osb&fp=8d6768a857bfc9db&biw=1280&bih=862.

saving and revenues, leading to a deficit reduction of $3.2 billion dollars.[4] The revenue would be generated primarily from new fees assessed on various financial institutions and market participants. Most of the spending would result from the creation and staffing of the following thirteen new regulatory agencies established to carry out the Act's numerous reforms: The Office of Minority and Women Inclusion; Financial Stability Oversight Council; Office of Financial Literacy; Consumer Financial Protection Bureau; Federal Insurance Office; Investor Advisory Committee; Office of Investor Advocate; Office of Credit Ratings; Credit Rating Agency Board; Office of Financial Research; Office of Housing Counseling; Office of Fair Lending and Equal Opportunity; and the Office of Financial Protection for Older Americans.[5] The new agencies will result in roughly 2,600 new full-time federal employees.[6] The Act abolished the Office of Thrift Supervision; its functions were merged into various other offices.

The CBO did not analyze the regulatory impact of the legislation on the private-sector, but did state that that the fees associated with the Act alone would significantly exceed the annual threshold established by law for private-sector mandates ($141 million in 2010, adjusted annually for inflation).[7] The CBO cites its lack of analysis on the economic impact in the private-sector due to the uncertain nature of the new regulations.[8] Concerns remain regarding the uncertainty of the new required rules - only 86 of the 400 required rules (21.5%) have been finalized, and 159 have not yet been proposed (39.75%).[9] Of the 200 rules which were to be completed by the end of 2011, only 51 (25.5%) were finalized; the remaining 149 rules (74.5%) remain incomplete.[10]

The implementation and potential impact of the new rules have prompted industry associations to raise concerns about the regulations' impact on the financial markets. To provide more clarity about the implementation of the new rules, the Financial Stability Oversight Council (FSOC) issued a proposed rule describing the manner in which FSOC intends to apply the statutory standards.[11]

Efforts to Repeal the Dodd-Frank Act

The Dodd-Frank Act has faced criticism since its enactment, and some federal lawmakers have proposed repealing the Act.[12] Federal lawmakers and industry officials seeking to repeal the Act assert that the Act will cost too much to implement and maintain, and that its regulatory requirements are overly burdensome and confusing for businesses.[13]

In the current 112th Congress, at least three legislative proposals to repeal the Dodd-Frank Act have been introduced; as of January 12, 2012, all remain in committee.[14]

B. SECTION DIRECTORY: Not applicable.

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4 Congressional Budget Office, Review of CBO's Cost Estimate for the Dodd-Frank Wall Street Reform and Consumer Protection Act. March 2011.

5 *See, e.g.*, A. Nicole Clowers, Testimony before the House Committee on Financial Services Subcommittee on Oversight and Investigations (July 14, 2011), http://www.gao.gov/new.items/d11808t.pdf.

6 House Committee on Financial Services, *Fixing Provisions In Dodd-Frank That Are Hindering An Economic Recovery*, available at: http://financialservices.house.gov/Issues/fixprovdf.htm

7 Congressional Budget Office, Cost Estimate of Restoring American Financial Stability Act of 2010 As passed by the Senate on May 20, 2010, at 22, June 9, 2010.

8 *Id.* at 3.

9 Dodd-Frank Progress Report. January 2012. Generated using the Davis Polk Regulatory Tracker. Available at: http://www.advisorone.com/2012/01/03/dodd-frank-progress-report-on-laws-key-elements

10 *See Id.*

11 FSOC Issues Proposed Guidance on Authority to Require Supervision and Regulation of Certain Nonbank Financial Companies by Ethan Mark, October 12, 2011. Available at: http://www.treasury.gov/initiatives/fsoc/Documents/Nonbank%20Designation% 20NPR %20 %20Final%20with%20web%20disclaimer.pdf

12 "Dodd-Frank bill has a murky future," by Scott Wong and Ben White, November 11th, 2011. Available at: http://www.politico.com/news/ stories/1111/69314.html#ixzz1jGHbM7XO

13 *Id.; see also* Federal Reserve, Comments of The American Bankers Association, May 2, 2011. Available at: http://www.federalreserve.gov/SECRS/2011/May/20110511/R-1406/R-1406_050311_69598_354199143008_1.pdf

14 S. 712: Financial Takeover Repeal Act of 2011, read twice and referred to the Committee on Finance; S. 746: Dodd-Frank Repeal Act of 2011, read twice and referred to the Committee on Banking; H.R. 87: Referred to the Subcommittee on Technology, Information Policy, Intergovernmental Relations and Procurement Reform.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.

2. Expenditures: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.

2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: Not applicable.

2. Other: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.