

113TH CONGRESS  
2D SESSION

# H. R. 4042

To require a study of appropriate capital requirements for mortgage servicing assets for nonsystemic banking institutions, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 2014

Mr. LUETKEMEYER (for himself, Mr. PERLMUTTER, Mr. COTTON, Mr. LUCAS, and Mr. WOMACK) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To require a study of appropriate capital requirements for mortgage servicing assets for nonsystemic banking institutions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Community Bank  
5 Mortgage Servicing Asset Capital Requirements Study Act  
6 of 2014”.

7 **SEC. 2. DEFINITIONS.**

8 For purposes of this Act:

1           (1) BANKING INSTITUTION.—The term “bank-  
2           ing institution” means a bank holding company, in-  
3           sured depository institution, or savings and loan  
4           holding company.

5           (2) BASEL III CAPITAL REQUIREMENTS.—The  
6           term “Basel III capital requirements” means the  
7           Global Regulatory Framework for More Resilient  
8           Banks and Banking Systems issued by the Basel  
9           Committee on Banking Supervision on December 16,  
10          2010, as revised on June 1, 2011.

11          (3) FEDERAL BANKING AGENCIES.—The term  
12          “Federal banking agencies” means the Board of  
13          Governors of the Federal Reserve System, the Office  
14          of the Comptroller of the Currency, and the Federal  
15          Deposit Insurance Corporation.

16          (4) MORTGAGE SERVICING ASSET.—The term  
17          “mortgage servicing asset” means those assets that  
18          result from contracts to service loans secured by real  
19          estate, where such loans are owned by third parties.

20          (5) NONSYSTEMIC BANKING INSTITUTION.—  
21          The term “nonsystemic banking institution” means  
22          any banking institution other than an institution  
23          identified by the Financial Stability Board as a  
24          “global systemically important bank”.

1           (6) OTHER DEFINITIONS.—The terms “bank  
2 holding company”, “insured depository institution”,  
3 and “savings and loan holding company” have the  
4 meanings given such terms, respectively, under sec-  
5 tion 3 of the Federal Deposit Insurance Act (12  
6 U.S.C. 1813).

7 **SEC. 3. STUDY OF THE APPROPRIATE CAPITAL FOR MORT-**  
8 **GAGE SERVICING ASSETS.**

9           (a) IN GENERAL.—The Federal banking agencies  
10 shall, jointly, conduct a study of the appropriate capital  
11 requirements for mortgage servicing assets for nonsys-  
12 temic banking institutions.

13           (b) ISSUES TO BE STUDIED.—The study required by  
14 this section shall include, with a specific focus on nonsys-  
15 temic banking institutions—

16           (1) the risk to insured depository institutions of  
17 holding mortgage servicing assets;

18           (2) the history of the market for mortgage serv-  
19 icing assets, including particularly the market for  
20 such assets in the period of the financial crisis;

21           (3) the ability of insured depository institutions  
22 to establish a value for their mortgage servicing as-  
23 sets through periodic sales or other means;

24           (4) regulatory approaches to mortgage servicing  
25 assets in addition to capital requirements that could

1 be used to address concerns about the value of and  
2 ability to sell mortgage servicing assets;

3 (5) the impact of imposing the Basel III capital  
4 requirements on nonsystemic banking institutions on  
5 their ability to compete in the mortgage servicing  
6 business, including the need for economies of scale  
7 to compete in that business, and on their ability to  
8 provide service to consumers to whom they have  
9 made a mortgage loan;

10 (6) an analysis of what the mortgage servicing  
11 marketplace would look like if the Basel III capital  
12 requirements on mortgage servicing assets were fully  
13 implemented;

14 (7) the significance of problems with mortgage  
15 servicing assets, if any, in insured depository institu-  
16 tion failures and problem insured depository institu-  
17 tions, including specifically identifying failed insured  
18 depository institutions where mortgage servicing as-  
19 sets contributed to the failure; and

20 (8) an analysis of the relevance of the Basel III  
21 capital requirements on mortgage servicing assets to  
22 the banking systems of other significant developed  
23 countries.

24 (c) REPORT TO CONGRESS.—Not later than the end  
25 of the 1-year period beginning on the date of the enact-

1 ment of this Act, the Federal banking agencies shall issue  
2 a report to the Committee on Banking, Housing, and  
3 Urban Affairs of the Senate and the Committee on Finan-  
4 cial Services of the House of Representatives containing—

5 (1) the results of the study required under sub-  
6 section (a); and

7 (2) any analysis on the specific issue of mort-  
8 gage servicing assets undertaken by the Federal  
9 banking agencies prior to finalizing regulations im-  
10 plementing the Basel III capital requirements.

11 **SEC. 4. DELAY OF RULEMAKING.**

12 (a) **RULES ON MORTGAGE SERVICING ASSETS.**—Not-  
13 withstanding any other provision of law, no regulation to  
14 implement the Basel III capital requirements with respect  
15 to mortgage servicing assets for nonsystemic banking in-  
16 stitutions shall take effect before the end of the 6-month  
17 period beginning on the date the report is issued under  
18 section 3(c).

19 (b) **FINAL RULE REQUIREMENTS.**—Before any final  
20 rule is issued by a Federal banking agency with respect  
21 to capital requirements on mortgage servicing assets for  
22 nonsystemic banking institutions, the Federal banking  
23 agency shall—

24 (1) if the related proposed rule was issued be-  
25 fore the date on which the report is issued under

1 section 3(c), issue a new proposed rule for public  
2 comment; and

3 (2) consider regulatory approaches to mortgage  
4 servicing assets that could address concerns about  
5 the value of and ability to sell mortgage servicing as-  
6 sets.

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