

110TH CONGRESS
2D SESSION

H. R. 6308

To ensure uniform and accurate credit rating of municipal bonds and provide for a review of the municipal bond insurance industry.

IN THE HOUSE OF REPRESENTATIVES

JUNE 19, 2008

Mr. FRANK of Massachusetts (for himself, Mr. CAPUANO, and Mr. KANJORSKI) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To ensure uniform and accurate credit rating of municipal bonds and provide for a review of the municipal bond insurance industry.

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 “Municipal Bond Fair-
5 ness Act”.

1 **TITLE I—DISCRIMINATORY RAT-**
2 **INGS TREATMENT OF STATE**
3 **AND MUNICIPAL SECURITIES**

4 **SEC. 101. PRESERVATION OF AUTHORITY TO PREVENT DIS-**
5 **CRIMINATION.**

6 Section 15E(c) of the Securities Exchange Act of
7 1934 (15 U.S.C. 78o-7(c)) is amended—

8 (1) in paragraph (2), by striking “Notwith-
9 standing” and inserting “Subject to paragraph (3),
10 but notwithstanding”; and

11 (2) by adding at the end the following new
12 paragraphs:

13 “(3) RATINGS CLARITY AND CONSISTENCY.—

14 “(A) COMMISSION OBLIGATION.—Subject
15 to subparagraph (B), but notwithstanding any
16 other provision of this subsection, the Commis-
17 sion shall require each nationally recognized
18 statistical rating organization that is registered
19 under this section—

20 “(i) to establish and maintain credit
21 ratings with respect to securities and
22 money market instruments designed to as-
23 sess the risk that investors in securities
24 and money market instruments may not
25 receive payment in accordance with the

1 terms of issuance of such securities and in-
2 struments;

3 “(ii) to define clearly any rating sym-
4 bol used by that organization; and

5 “(iii) to apply such rating symbol in a
6 consistent manner for all types of securi-
7 ties and money market instruments to
8 which that symbol is assigned.

9 “(B) COMPLEMENTARY RATINGS.—The
10 Commission shall not impose any requirement
11 under subparagraph (A) that prevents nation-
12 ally recognized statistical rating organizations
13 from establishing ratings that are complemen-
14 tary to the ratings described in subparagraph
15 (A)(i) and that are created to measure a dis-
16 crete aspect of the security’s or instrument’s
17 risk.

18 “(4) REVIEW.—

19 “(A) PERFORMANCE MEASURES.—For
20 purposes of paragraph (1), the Commission
21 shall, by rule, establish performance measures
22 to be used to determine when to initiate a re-
23 view concerning whether a nationally recognized
24 statistical rating organization—

1 “(i) has issued ratings in material
2 contravention of the procedures described
3 in paragraph (1); or

4 “(ii) has failed to adhere to such or-
5 ganization’s stated procedures and meth-
6 odologies for issuing such ratings.

7 “(B) CONSIDERATION OF EVIDENCE.—The
8 rules required by subparagraph (A) shall re-
9 quire the consideration of evidence of perform-
10 ance of the organization’s ratings in each of the
11 categories described in clauses (i) through (v) of
12 section 3(a)(62)(B) during an appropriate in-
13 terval (as determined by the Commission), in-
14 cluding aggregate transition of ratings in dis-
15 crete asset classes.”.

16 **TITLE II—REVIEW OF MUNIC-**
17 **IPAL BOND INSURANCE IN-**
18 **DUSTRY**

19 **SEC. 201. AUTHORITY OF SECRETARY .**

20 (a) COLLECTION AND USE OF INFORMATION.—Ex-
21 cept as provided in subsection (b), the Secretary of the
22 Treasury shall have the authority to receive, analyze, col-
23 lect, and disseminate information, data, and material, and
24 issue reports, regarding entities that insure or guarantee
25 the payment of any portion of the principal and interest

1 of any municipal obligation, including information, data,
2 and material regarding—

3 (1) financial safety and soundness of such enti-
4 ties;

5 (2) concentration of insurance liabilities of such
6 entities;

7 (3) performance of such entities under various
8 scenarios of macro- and micro-economic stress;

9 (4) underwriting standards for such entities;
10 and

11 (5) risk management of such entities.

12 (b) PROTECTION OF PRIVACY.—Any requirement
13 under Federal or State law to the extent otherwise appli-
14 cable, or any requirement pursuant to a written agreement
15 in effect between the Secretary and the National Associa-
16 tion of Insurance Commissioners or any member or affil-
17 iate of such Association, regarding the privacy or confiden-
18 tiality of any information, data, or material in the posses-
19 sion of the Secretary or such Association or any member
20 or affiliate of such Association, and any privilege arising
21 under Federal or State law (including the rules of any
22 Federal or State court) with respect to such information,
23 data, or material, shall continue to apply to such informa-
24 tion, data, or material after the information, data, or ma-
25 terial has, pursuant to subsection (a), been provided to

1 or otherwise collected or received by the Secretary or such
2 Association or any member or affiliate of such Association.

3 **SEC. 202. SOURCES OF INFORMATION.**

4 The Secretary may collect and receive information,
5 data, and material pursuant to section 201 from State in-
6 surance regulatory authorities, the National Association of
7 Insurance Commissioners, and any other sources the Sec-
8 retary determines are credible.

9 **SEC. 203. REPORTS TO CONGRESS.**

10 The Secretary shall submit a report annually to the
11 Committee on Financial Services of the House of Rep-
12 resentatives and the Committee on Banking, Housing, and
13 Urban Affairs of the Senate on the financial state of the
14 industry for insurance and guarantee of municipal bonds,
15 meaningful trends in such industry, and the potential im-
16 pacts on the overall financial system in the United States
17 that entities that providing such insurance and guarantees
18 could have under various scenarios of macro- and micro-
19 economic stress.

20 **SEC. 204. RETENTION OF EXISTING REGULATORY AUTHOR-**
21 **ITY.**

22 This title may not be construed to establish any su-
23 pervisory or regulatory authority of the Secretary over any
24 entity that insures or guarantees the payment of any por-

1 tion of the principal and interest of any municipal obliga-
2 tion.

3 **SEC. 205. DEFINITIONS.**

4 For purposes of this title, the following definitions
5 shall apply:

6 (1) MUNICIPAL OBLIGATION.—The term “mu-
7 nicipal obligation” means any bond, note, security,
8 or other debt obligation issued by any State, any po-
9 litical subdivision of a State, one or more political
10 subdivisions of a State, or a State and one or more
11 of its political subdivisions, or by any agency, de-
12 partment, office, authority, or other instrumentality
13 of a State, any political subdivision of a State, one
14 or more political subdivisions of a State, or a State
15 and one or more of its political subdivisions.

16 (2) POLITICAL SUBDIVISION.—The term “polit-
17 ical subdivision” includes any city, county, town,
18 township, parish, village, or other general purpose
19 political subdivision of a State and any school, util-
20 ity, fire, or tax district, or other special purpose po-
21 litical subdivision of a State.

22 (3) SECRETARY.—The term “Secretary” means
23 the Secretary of the Treasury.

24 (4) STATE.—The term “State” means the
25 States of the United States, the District of Colum-

1 bia, the Commonwealth of Puerto Rico, the Com-
2 monwealth of the Northern Mariana Islands, Guam,
3 the Virgin Islands, American Samoa, and any other
4 territory or possession of the United States.

5 **SEC. 206. AUTHORIZATION OF APPROPRIATIONS.**

6 There are authorized to be appropriated to the Sec-
7 retary for carrying out this title such sums as may be nec-
8 essary for each fiscal year.

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