

## THE CRISIS IN THRIFT INSTITUTIONS AND HOUSING FINANCE

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### 1. Introduction

Fifty years ago the United States federal government did not build or subsidize public housing. It did not make, or guarantee, real estate or home mortgage loans or subsidize any form of home financing. Nor did it provide any type of subsidy or assistance to induce private banks or any other lender to make housing or any other type of loans. This country had a largely free market that allocated resources and distributed credit to industry, housing, consumption, or whatever.

But fifty years ago this country was experiencing a deep and worsening depression with economic activity slowing on all fronts. Residential building had virtually ceased because there was a large inventory of unsold houses overhanging the market. New mortgage financing was nearly impossible to obtain. The default rate on existing mortgage loans was climbing, and banks were increasingly forced to foreclose. These bad loans, and difficulties in disposing of foreclosed properties in the depressed market, contributed to the weakened condition of the banks and to a steadily increasing number of bank failures.

Starting in 1932, the Administration and the Congress concluded that the free market system was not working and began to act to try to reverse the economic slide. In 1933, after the election of President Roosevelt, the pace of Congressional action picked up. Housing and home finance was one of the principal areas of attention. Within a decade the federal government was in the business of building and subsidizing public housing, subsidizing and guaranteeing mortgage loans, and insuring deposits in financial institutions so that they could attract savings and maintain the flow of credit to the markets.

As is not uncommon in the flow of events, we stand today faced with a recurrence of some of the problems of fifty years ago. Housing starts are down

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to the lowest level in fifteen years, with a large inventory of newly-constructed houses standing unsold. Private mortgage financing is not obtainable in some areas and in others is available only at prohibitively high rates. Foreclosure rates are rising. Our thrift institutions that specialize in real estate mortgage financing – the savings and loan associations and mutual savings banks – are virtually all insolvent on a liquidation basis and, without governmental assistance, a growing number will likely fail in the months and years ahead. There is a rising chorus of demands for the federal government to do something. But the parallel largely stops there.

Today we start not with a *tabula rasa*, as we did in 1932, but rather with an extraordinary complex of public and private subsidies, both to housing and housing finance, and a pervasive regulatory scheme designed to facilitate lending by banks and other institutions to the housing sector. Some of our present problems have at least as much to do with the misdesign or malfunctioning of past and present programs as with the need for new ones. It would seem useful to try to untangle the policies and the programs that have brought us to the present crisis before responding with a new set of programs. This article attempts to sketch the evolution of some of those policies and to draw a few conclusions on the new directions indicated.

## 2. The evolution of present policies on housing and housing finance

The transmutation of housing and housing finance from a private sector responsibility to a mixed government–private sector enterprise started in 1932 and can conveniently be considered in three historical phases: from 1932 to World War II, from World War II to 1966, and from 1966 to the present.

### 2.1. *The first phase: 1932 to World War II*

The first phase – from 1932 to World War II – saw the establishment of most of the present programs and governmental institutions. In 1932, responding to an appeal by President Hoover [1], Congress established the Federal Home Loan System to operate as a regional and central bank for state building and loan associations, much the way the Federal Reserve System acted (and acts) for commercial banks [2]. Until then building and loan associations (the lineal ancestors of our savings and loan associations) operated as independent deposit and lending institutions under the laws of the various states. While there were, and are, differences from state to state, basically these associations were founded on the model of similar associations in England as places for working men and women to save and to obtain homeowner mortgage loans. Our mutual savings banks, which together with our savings and loan associations are the so-called thrift institutions that share the present crisis, had a

similar lineage and purpose, namely the encouragement of thrift and home ownership in what used to be somewhat quaintly described as “the working classes”.

With the crisis in housing finance clearly evident in 1932, the savings and loan industry view was that it would be helpful to have a national system to provide a wide market for, and greater uniformity in, mortgage-backed securities. On that rationale the new Federal Home Loan Bank Board (FHLBB) and its regional banks were established, but while the new system provided some liquidity for associations around the country, it did not have any real impact on the then existing housing emergency [3]. Dealing with that emergency was one of the early objectives of the New Deal.

In 1933 Congress established the Home Owners Loan Corporation, as part of the Federal Home Loan Bank System, to purchase delinquent home mortgages from banks, savings and loan associations, and others and to refinance the mortgages over longer terms and at lower interest rates [4]. By 1936, when its purchase program ended, the Home Owners Loan Corporation had acquired and refinanced over one million delinquent mortgages, representing about \$3 billion of indebtedness [5].

In the same Act, Congress authorized the federal chartering of savings and loan associations [6] to be regulated by the FHLBB, following the pattern of the National Bank Act which provides for the federal chartering of commercial banks. The purpose was to encourage new associations across the nation that would ultimately increase the quantity and availability of housing credit. After a slow start, the pace of federal chartering picked up, and by the beginning of World War II more than one thousand federally chartered savings and loan associations were in operation [7].

In 1934, with the recovery in the housing sector still proceeding slowly, Congress passed the National Housing Act to provide federal home mortgage insurance [8]. That was the birth of the Federal Housing Administration (FHA), the first direct federal subsidy to new housing. The Act also established the Federal Savings and Loan Insurance Corporation (FSLIC) [9] to insure the deposits of savings and loan associations. It mirrored the structure of the Federal Deposit Insurance Corporation (FDIC) which had been established in 1933 to insure the deposits of banks [10]. Mutual savings banks were eligible to become members of the FDIC [11], and over the years many of them have joined, although the deposits of others are insured by state agencies and the FSLIC [12].

As the decade of the 1930s proceeded, the federal government also embarked on programs that are the ancestors of most of our present public housing programs, and by 1940 publicly-financed housing starts amounted to more than 10% of the overall total of homes built in that year [13]. In the area of housing finance, the years after 1934 witnessed the gradual implementation of the extraordinary enactments of the early 1930s, with the result that by the

start of World War II the functioning framework of today's system was in place. The FHA was insuring 19% of all home mortgages [14]; the FHLBB was providing liquidity to savings and loan associations; half of them had become members of the FSLIC; and failures of associations had stopped [15]. It was also clear that housing was by then a mixed private–public sector industry.

### *2.2. The second phase: World War II to 1966*

The twenty-five years from the start of World War II to 1966 witnessed no significant change in direction, but continuing expansion of federal government programs in both housing and home finance. The Veterans Administration joined the FHA in insuring home mortgages [16]. The Federal National Mortgage Association, originally established by the 1934 National Housing Act, was revived and its secondary market system started [17]. The preamble to the 1949 Housing Act made it clear that the government had assumed the overall responsibility to see that every American had a decent home [18]. Fifteen years of amendments to the housing acts continued the process of mixing new public housing programs with federally guaranteed or insured credit programs.

The course was by no means smooth. There were expansion and contraction years, but in those twenty-five years of overall prosperity the volume of both private sector housing and public sector housing grew enormously. One statistic illustrates the growth. Total mortgage debt increased from \$35.5 billion at the end of 1945 to \$326.3 billion at the end of 1965 [19]. Mutual associations with part-time management became big businesses, and the numbers were large even by government standards. On the whole, the system seemed to be working well and plenty of housing was built and financed. But in 1966 the environment changed.

### *2.3. The third phase: 1966 to the present*

In 1966 the Vietnam war began to heat up. Interest rates climbed to the highest levels since the 1920s. The rates on short-term government securities edged up to or above the rates that banks and savings and loan associations paid on their savings accounts. Deposit inflows dropped, and thrift institutions did not have what had come to be regarded as a customary and predictable flow of new funds with which to make mortgage loans. Home building went into a recession. Congress responded first by providing some new interest rate subsidy and public housing programs, but also by imposing ceilings on the rates of interest that banks and thrift institutions could pay to their depositors. The theory of the latter approach was that ceilings, which would have the result of lowering the cost of funds to the banks and the thrifts, would permit or perhaps cause them to make low-cost mortgage loans.

The United States is, and for many years has been, virtually the only major developed country that directly imposes comprehensive ceilings on the rates of interest that banks may pay. Authority to impose ceilings was one of a number of measures enacted to deal with the rash of bank failures that destabilized the economy in the 1920s and the early 1930s. Specifically, the Banking Act of 1933 prohibited the payment of interest on demand deposits by banks that are members of the Federal Reserve System and gave the Federal Reserve Board the authority to set ceilings on rates of interest payable on other types of deposits with its member banks [20].

The legislative record is not illuminating, but it appears that the decision in 1933 to impose ceilings was the result of fears that the banks might agree to pay interest rates so high as to precipitate destructive competition or failure [21]. There is no indication of a Congressional intent to create a system under which depositors in banks would receive lower than market rates so that banks could lend to borrowers at artificially low rates. In any event, rate ceilings were established, but at levels higher than those prevailing in the market place, and that situation prevailed through the 1930s and until after World War II [22].

In the early years of the post-war period, commercial banks relied for funds mainly on demand deposits, on which they paid no interest and which, by law, the thrift institutions could not offer. The latter (unfettered by any legally mandated interest rate ceilings) offered savings deposits at rates slightly above the ceilings applicable to the commercial banks. By the middle 1950s some commercial banks began to agitate for increases in the ceilings on interest they could pay so that they could offer deposit savings accounts competitive with those offered by thrift institutions, and in 1957 the Federal Reserve and the FDIC raised the ceilings [23]. Relatively unregulated competition for savings accounts took place for the next ten years.

Then came the 1966 credit crunch and enactment of the Interest Rate Adjustment Act [24]. That statute explicitly mandated the use of interest rate ceilings to facilitate, and, as the years went on, had the effect of subsidizing, mortgage lending – a novel concept and one unrelated to the original purpose of the 1933 enactment. The Act gave the appropriate regulators the authority to regulate share (or interest) rates on savings deposits in mutual savings banks and savings and loan associations, just as the 1933 Act had authorized the Federal Reserve to fix ceilings for its member banks.

With the concurrence of the Federal Reserve, the interest rate ceilings on savings deposits at thrift institutions were set at a level higher than the ceilings applicable to deposits at commercial banks. This discriminatory treatment, which came to be known as the “differential”, was designed to, and did, cause a higher proportion of savings deposits to be placed with mutual savings banks and savings and loan associations than with commercial banks. Since the primary business of the thrifts was to make mortgage loans, the effect of the change in policy was to tilt the flow of private credit toward housing – and at

lower rates than would otherwise have prevailed.

The use of interest rate ceilings to increase credit to housing can be viewed as complementary to the Congressional decisions in the early 1930s to encourage the supply of mortgage lending, but there was one major difference. The subsidies provided for in the legislation of the 1930s were paid out of general tax revenues, whereas the inherent subsidy mandated by the Interest Rate Adjustment Act has been paid by the small savers of the country who had no other convenient place to save. Predictably, as the years went on, increasing numbers of savers departed the thrifts and the banks and found alternative investments paying higher rates [25].

The 1966 legislative record supports the view that Congress did not think it was then establishing a new subsidized source of funds for the thrifts and the banks, but rather intended to enact a temporary measure designed to deal with what was regarded as a passing credit crunch [26]. But when the ceilings and the differential were extended year after year to the present, the original rationale became a fiction. It also became clear that serious problems were developing.

The first problem was – as indicated above – that sophisticated savers soon demonstrated they would not continue to keep their savings at institutions where they received below market rates. Instead they moved their savings to alternative investments such as Treasury bills, commercial paper, and, more recently, money market funds. The outflow produced demands from the banks and thrift institutions that they be permitted to offer instruments that paid market rates and thus retain the deposits. Federal regulators responded by authorizing, over the last fifteen years, a bewildering variety of certificates of deposit and related instruments with which the banks and thrifts have lured back at least some of the depositors [27]. But the price, namely paying close to market interest rates on the deposits lured back, has been steep and that has led to the second problem.

Interest rates were generally stable in the 1950s and the first half of the 1960s. During that period of extraordinary growth in housing, most thrift institutions followed a policy of making fifteen- to thirty-year mortgage loans at fixed interest rates and funding the loans with savings deposits on which they paid somewhat lower rates but which could be withdrawn by depositors virtually on demand. Since rates were stable, depositors did not withdraw their savings, and all went well. Congress amended the income tax laws to provide benefits to thrift institutions that maintained high levels of mortgage lending, and the federal and state regulators were supportive of the funding policies of the thrifts.

In 1966 the economic climate began to change. An overheated Vietnam War economy began to generate inflationary price increases and interest rates began to climb. Recessions and various government programs slowed the climb from time to time, but basically the trend of increasing inflation and increasing

interest rates has continued for the last fifteen years. During that period thrift institutions have had to buy an increasing percentage of their deposits at market rates, rates well above the returns they earn on the twenty- and thirty-year mortgage loans they made back in the 1950s and 1960s. Today, the thrifts hold approximately \$87 billion in mortgage loans with coupon interest rates of less than 8% [28]. The national average cost of funds for FSLIC-insured associations on June 30, 1981, was 10.31% [29]. The higher short-term interest rates move – and they averaged 15% or more over the last six months – the greater the gap and hence the losses of the thrift institutions on their 8% mortgages. High short-term rates were serious enough, but in the late 1970s another aspect of the situation became a problem.

In spite of the fact that they were clearly earning less than market rates on their savings, a great many depositors did not move, and have not moved, their passbook accounts to other higher yielding forms of investment. It is something of a mystery why they have not moved in greater numbers. On September 30, 1981, nationwide depositors continued to hold almost \$300 billion in passbook savings accounts earning 5% or 5.5% interest annually [30] – at least 8% less than the rates paid by money market funds over the last six months. Some depositors probably cannot find the time or are afraid to make the switch; some may be sick or aged; some may not feel the amounts involved are worth the trouble or receive other kinds of attention or service from the bank or thrift; some may have legal problems making changes; some may feel that the protection of FDIC or FSLIC insurance is essential; others may simply not understand what has happened. But in the late 1970s the general public – not just larger, sophisticated investors – began to understand their position. Estimates of the “losses” to depositors caused by the ceilings began to appear [31], and the depositors began to write to their Congressmen and their newspapers. Various special interest groups – such as the Gray Panthers representing the elderly – testified before Congress that it was patently unfair to have a system that meant the elderly had to subsidize banks, thrift institutions, and homeowners.

After lengthy hearings Congress passed an omnibus bill that gave new powers to thrift institutions so they could enter different and hopefully more profitable areas of the banking business and that also mandated the end of interest ceilings on deposit accounts in 1986 [32]. Thus, unless Congress reverses course, banks and thrift institutions will soon be much more similar than they are today and will be paying market rates of interest to all their depositors.

### **3. New directions to be taken in the present situation**

This trend ensures that unless inflation and interest rates come down substantially and stay down, a large number of thrift institutions will continue

– until their low coupon mortgage portfolios run off – to be caught between rising costs and loan portfolios that do not earn adequate returns. As a result, they will disappear in the next year or two. Passbook savings accounts are continuing to decline as a percentage of the deposits of thrift institutions; the older thrifts continue to lose money as they continue to have to fund part of their large portfolios of low interest mortgages with higher cost deposits; and the whole thrift industry and its customers are moving into a competitive environment.

The tortuous history of the last fifty years does lead to some general conclusions as to the way out of the bog. First, we decided fifty years ago for what seemed to be good reasons that the federal government should play a major role in housing and housing finance. While some of the programs merit re-examination (about which more is said below), the fact remains that the federal government is now the major factor in this industry and it cannot – nor should it – avoid shaping the policies that will guide us for the next fifty years.

Secondly, in retrospect, the 1966 policy of using interest rate ceilings to subsidize thrifts and home financing was a disastrous mistake. It was essentially a governmental policy even though it had the support of most thrift institutions and smaller banks, and there is no escaping that the federal government having mandated an ill-considered and inequitable subsidy system must bear at least part of the cost of repairing the damage to the system. Some members of the thrift industry were indeed more prescient than others in recognizing the hazardous funding policies they were following and cut back on mortgage lending earlier than others. Some remain relatively prosperous, but most of those are located in areas where significant growth has occurred in the 1970s. Institutions where the growth occurred in the 1950s and the 1960s and then leveled off are less profitable [33], and the high percentage in serious trouble in those areas makes it clear that an industry, rather than a simple management problem, is involved.

Thirdly, a damage control and repair policy will have to include both a short-term emergency aid component and a long-term vision of how the industry should operate. The short-term assistance should focus on the core of the problem – the portfolio of low coupon mortgages held by the older thrift institutions. It should also recognize that in many areas of the country, especially where growth rates and construction have slowed, there are redundant and inefficient thrift units. Some rationalization and contraction of the industry is called for, and there are undoubtedly some situations where the management record is inadequate. That means that the FDIC and FSLIC will have to continue to preside over and assist mergers and combinations. They should also take this opportunity to broaden the base of the industry, both by encouraging new investors to enter and by approving reorganizations that spread risks geographically.

This rescue operation may prove very expensive, and it seems doubtful that

the insurance trust funds were intended, or should be asked, to cover risks that were in part government created and that are reflected in an overall industry crisis. Obviously, over time the costs incurred in liquidating and rationalizing failing institutions can be recovered in increased insurance premiums, but that will simply raise the longer term costs of the industry and delay its recovery. An alternative is to confront the problem and authorize a program whereby, in coordination with or through the operations of the FDIC and the FSLIC, a federal government corporation acquires low coupon mortgage loans from those institutions where the holdings of such mortgages are unacceptably high.

Since the acquisition of mortgages by any federal government agency is a direct budget or trust fund outlay, it may be desirable for reasons of practical politics to consider variations that would limit the level of immediate budget or trust fund outlays. One such alternative would be for the agency to purchase a one- or two-year participation in a block of mortgages from a troubled thrift. For instance, the agency would purchase at par (or a lower rate if it were desirable to reduce the level of subsidy) the interest and principal repayments on a portfolio of mortgages for the years 1982 and 1983. In effect that would relieve the thrift of the economic risk for those mortgages for those two years; the thrift would not book any losses on the sale of the two-year participation; the federal government budgetary or trust fund outlay would be comparatively small, and it would benefit from any fall in interest rates during the period. If by 1984 the thrift remained in trouble, a second step might be called for, but it would take place after there had been an opportunity to review management's performance and changed industry and economic conditions.

The FSLIC and FDIC recently have assisted several takeovers of failing thrifts by agreeing, in effect, to make payments to the rescuing institutions for a period of years, which payments would protect them against a continuing high or higher cost of funding the low coupon mortgage portfolios they have assumed [34]. This type of subsidy is eminently sensible and minimizes costs, but it will come from the trust funds of the agencies or from higher insurance premiums paid by the industry, and those funds are limited. It is also awkward to use this approach with respect to an institution that is tottering but not yet clearly destined for extinction.

Whatever the precise techniques finally decided on, the Administration and Congress should get on with the job. They should not sponsor any more uncoordinated and wasteful solutions such as the All-Savers Certificate [35], where as much as two-thirds of the aid may well accrue to commercial banks and solvent thrifts. It is not in the nation's interest to have this industry poised on the brink of disaster with the responsible government agencies lacking the tools necessary to deal with emergencies and lacking any clear signals that implementation of the deregulation policies of the last two years remains their basic mandate.

Finally, the longer term vision of how the industry should operate requires

that we make some basic decisions about the level of housing that this country needs and can afford, about how the market and the government should allocate credit among potential borrowers, and about the extent to which this allocation should use the thrifts as intermediaries.

This final point requires further explanation. Over the last fifty years the federal government has spawned a large number of direct and indirect programs to subsidize residential housing. An incomplete list ranges from public housing programs, rent subsidies, FHA and Veterans Administration mortgage insurance, Federal National Mortgage Association, Government National Mortgage Association, tax-exempt bonds for state and local housing agencies, income tax deductions for interest on mortgages and real estate taxes, special income tax concessions, and a federally back-stopped central bank for thrift institutions. The numbers involved in these programs are large. The 1981 Budget Special Analyses estimate the present value of 1981 federal government interest subsidies to housing at around \$15.9 billion [36] and the value of the tax benefits from deductions for mortgage interest and property taxes at more than \$23 billion [37]. Congress will soon have to decide whether to add another subsidy to the list or increase one of the others – because the lower cost funds provided to the banks and thrifts through the ceilings on interest paid on deposits are being phased out.

One authority recently estimated that between 1968 and 1979 interest rate ceilings resulted in a loss of \$55 billion to various classes of savers [38]. A significant percentage of that “loss” went to borrowers in the form of lower interest coupons on mortgage loans. Another authority estimates that because of the weakened structure and condition of the thrift industry and the shift to market interest rates on deposits, there will be a significant shortage of mortgage credit or gap in the 1980s and that in order to attract new secondary market purchasers, mortgage lending rates will have to increase by 2–3% above the alternative investment instruments with which they compete today [39]. Even if these estimates are overstated, there will still be pressure in Congress to provide more and cheaper mortgage credit from somewhere. Indeed, the process has already begun.

Three years ago, with no debate and virtually no legislative record, Congress amended the Federal Home Loan Mortgage Act to include home improvement mortgages along with new construction mortgages [40]. The Executive Vice President of the Federal Home Loan Mortgage Corporation stated that home improvements are the fastest growing area of real estate-related expenditures and estimated that homeowners will spend \$75 billion on home improvements in 1984 [41]. The reverse side of that change, assuming that this increase is reflected to some degree in his agency’s program, is that as much as \$75 billion of credit in other sectors will be harder to place and more expensive. One must surely ask the question whether before we start off on new long-term housing credit programs the time has not come to consider where we are.

The delicate condition of the thrift industry provides a suitable occasion for considering the whole question of whether preferences given in the credit markets to housing and other special sectors are in the country's long-term interest. Every interest rate subsidy, guarantee, or the like is a decision to depart from market allocation of resources and substitute another policy imperative. Some of those decisions are no doubt justifiable on clear social policy grounds, but others have crept into our statutes through skillfully orchestrated lobbying campaigns. In this way they escape being measured against alternative programs that they crowd out in either the public or private sector.

While it is possible in a rough and ready way to aggregate the costs of the galaxy of federal housing programs referred to above, the discipline or the structure by which we weigh those costs against the desirability of providing credit for manufacturing capacity expansion or for exports or for any number of other socially desirable categories, is rudimentary at best. When the federal budget seems too large, Congress often resorts to a 2 or a 3 or a 5% across the board cut rather than undertake an evaluation of program against program and arrive at a more rationally defensible result. But the nation's savings and credit are not unlimited, and choices as to how these savings and credit are used are being made. In the housing area the record of the last fifteen years is ample evidence that these choices have been made in an uncoordinated and disruptive way.

A discussion of federal government housing policy goes well beyond the scope of this article, but it is no secret that some continuing programs have worked less well than others and that over the years inconsistencies and anomalies have developed. Public housing programs have been criticized both as to role and design. Rent control, local building codes, union work rules, usury ceilings on mortgage loans (at least until recently), zoning restrictions, and many other factors have complicated the picture. It may be that the resulting amalgam represents a rich and desirable diversity of approach or that because programs have different objectives, inconsistencies are unavoidable. But the fact that each program tends to have its own advocates, who often have little enthusiasm for parallel programs, raises questions as to the effectiveness of overall policy development and coordination.

Even though there is a significant unfilled demand for housing today, by most measurements middle-income Americans are among the best housed on earth, and the standard they enjoy has risen steadily over the last fifty years. On the other hand, the rate of investment in infrastructure, particularly in the older areas of the country, has fallen. Our urban mass transit, road, water, and sewage systems are presently underfunded in many areas with service deteriorating or increasingly vulnerable to breakdown. Similarly, our rates of investment in research and development and in new capital equipment for industry is well below that of most other developed countries. It is a political

decision whether people will continue to opt for higher – or the present – housing standards and accept deteriorating municipal services and aging non-competitive manufacturing plants. The most likely process by which that political decision will be made is disturbing.

#### **4. Conclusion**

In fifty years we have involved the federal government in the direct financing and subsidy of perhaps one-third of all new housing in this country [42] and indirect subsidy of most of the rest. There will be increasing political pressures for both direct and indirect subsidies. Examining whether further increases are desirable – or indeed whether reductions are called for – is a complex, interdisciplinary undertaking.

In 1931 President Hoover convened the President's Conference on Home Building and Home Ownership, and in many respects it produced the record and recommendations on which our present housing programs were based. I would suggest that it is now time to re-examine the commitment to housing in the context of whether we have consistent and efficient programs and whether other public and private investment needs of the nation are being met. That could be done by an administration [43] or Congressional initiative or by a carefully focused program in an academic center. Without such a re-examination the policy judgments of two generations ago are likely to prevail and that may prove very costly for the next generation.

## Notes

[1] In late 1931 President Hoover convened the President's Conference on Home Building and Home Ownership. The proceedings were published by the conference in eleven volumes. That conference went on record in support of Hoover's "home loan discount banks" and marked the first significant public support for the proposal. In December 1931, Hoover recommended passage of such legislation in his State of the Union Message to Congress. J.H. Ewalt, *A Business Reborn* 51 (1962).

[2] Federal Home Loan Bank Act, ch. 522, 47 Stat. 725 (1932) (current version at 12 U.S.C. §§1421–1449 (1976 & Supp. III 1979)).

[3] J.H. Ewalt, *supra* note 1, at 67.

[4] Home Owners' Loan Act of 1933, ch. 64, 48 Stat. 128 (current version at 12 U.S.C. §§1461–1468 (1976 & Supp. III 1979)).

[5] T.B. Marvell, *The Federal Home Loan Bank Board* 24 (1969). A more precise estimate places the value of refinanced mortgages at \$2.75 billion, J.H. Ewalt, *supra* note 1, at 37–38.

[6] Home Owner's Loan Act of 1933, ch. 64, §5, 48 Stat. 128, 132 (current version at 12 U.S.C. §1464 (1976 & Supp. III 1979)). Operating details and charter provisions are located at 12 C.F.R. pts. 541–556 (1981).

[7] J.H. Ewalt, *supra* note 1, at 89. The Federal Home Loan Bank Board charters newly organized savings and loans and savings banks as well as converted state-regulated institutions. T.B. Marvell, *supra* note 5, at 25. Converted federal institutions outnumber newly chartered ones. *Id.* at 27.

[8] National Housing Act, ch. 847, 48 Stat. 1246 (1934) (codified as amended in scattered sections of 12 U.S.C.).

[9] National Housing Act, ch. 847, §§401–407, 48 Stat. 1246, 1255 (1934) (current version at 12 U.S.C. §§1724–1730f (1976 & Supp. III 1979)).

[10] Banking Act of 1933, ch. 89, §8, 48 Stat. 162, 168 (current version 12 U.S.C. §§1811–1832 (1976 & Supp. III 1979)).

[11] 12 U.S.C. §1814 (1976).

[12] W. Welfling, *Mutual Savings Banks* 95–96 (1968). Massachusetts is the only state that maintains an insurance fund for mutual savings banks. *See* Acts of 1934, ch. 43, as amended, *reprinted in*, Mass. Ann. Laws ch. 168 App. (Michie/Law. Co-op 1977 & Supp. 1981). The FSLIC insures federally chartered mutual savings banks but not state mutuals. 12 U.S.C. §1726 (1976 & Supp. III 1979).

[13] J.H. Ewalt, *supra* note 1, at 147.

[14] *Id.* at 137.

[15] *Id.* at 107.

[16] *Id.* at 230; *See* Servicemen's Readjustment Act of 1944, ch. 268, §§500–505, 58 Stat. 284, 291 (current version at 38 U.S.C. §1810 (1976 & Supp. III 1979)).

[17] National Housing Act, ch. 847, §§301–308, 48 Stat. 1246, 1252 (1934) (current version at 12 U.S.C. §§1716–1723h (1976 & Supp. III 1979)).

[18] Housing Act of 1949, ch. 338, §2, 63 Stat. 413.

[19] Economic Report of the President 276 (1968).

[20] Banking Act of 1933, ch. 89, §11(b), 48 Stat. 162, 181; *see* 12 U.S.C. §371a (Supp. III 1979); *see also* U.S. Dep't of the Treasury, *Deposit Interest Rate Ceilings and Housing Credit* 6 (1979) [hereinafter cited as *Interest Rate Report*]. The ceilings on interest payable on deposits in commercial banks are governed by the Federal Reserve Board's Regulation Q (codified at 12 C.F.R. pt. 217 (1981)).

The Banking Act of 1935, ch. 614, Sec. 101, §12B(v) (8), 49 Stat. 684, 702 (current version at 12 U.S.C. §1828 (g) (1) (1976 & Supp. III 1979)) prohibited the payment of interest or dividends on demand deposits by nonmember commercial banks insured by the FDIC. The Board of Directors of the FDIC was authorized to regulate interest rates on other types of deposits on a basis similar to that provided for the Federal Reserve Board. *See* 12 C.F.R. pt. 329 (1981).

[21] Interest Rate Report, *supra* note 20, at 34.

[22] *Id.* at 35.

[23] *Id.* at 36.

[24] Act of September 21, 1966, Pub. L. No. 89-597, 80 Stat. 823 (current version at 12 U.S.C. §1425b (1976 & Supp. III 1979)); *see* S. Rep. No. 1601, 89th Cong., 2d Sess., *reprinted in* 1966 U.S. Code Cong. & Ad. News 2994; *see also* Interest Rate Report, *supra* note 20, at 7, 38-39.

[25] *See* Interest Rate Report, *supra* note 20, at 8, 61-62.

[26] *Id.* at 56; *see* S. Rep. No. 1601, *supra* note 24.

[27] Interest Rate Report, *supra* note 20, at 10-13, 38-55, 194-199.

[28] This figure is derived from surveys conducted by the staff of the United States League of Savings and Loans and the National Association of Mutual Savings Banks. The League estimates that savings and loan associations hold \$64 billion in mortgages yielding less than 8%, while mutual savings banks hold \$23 billion in mortgages with coupons under 8%.

[29] Federal Home Loan Bank Board Rel., AML Index Rates (Nov. 13, 1981).

[30] Bd. of Governors, Fed. Res. Sys., Fed. Res. Statistical Rel. H.6 (508), Table 3A, Components of Money Stock Measures and Liquid Assets, Oct. 30, 1981.

[31] One study estimates that, between 1968 and 1979, Regulation Q ceilings cost depositors \$42 billion in lost interest. The study reveals further that overall restrictions cost people over the age of 65 \$19 billion in lost interest. Interest Rate Report, *supra* note 20, at 15.

[32] Depository Institutions Deregulation and Monetary Control Act of 1980, Pub. L. No. 96-221, 94 Stat. 132. The act resolved a running dispute between the larger commercial banks and the thrifts and smaller commercial banks. The larger commercial banks wanted all interest rate ceilings removed; the thrifts wanted the ceilings retained but also wanted broader powers. Among other changes, the Act granted federal savings and loans the power to provide consumers with most of their household borrowing and banking needs, but also authorized nationwide NOW accounts and mandated the gradual elimination of ceilings on interest rates on deposits. *See* S. Rep. No. 368, 96th Cong., 2d Sess., *reprinted in* 1980 U.S. Code Cong. & Ad. News 236; H.R. Conference Rep. No. 842, 96th Cong., 2d Sess., *reprinted in* 1980 U.S. Code Cong. & Ad. News 298.

[33] The problem is also more severe in sophisticated financial centers where depositors are more sensitive to alternative investment opportunities. U.S. Dep't of the Treasury, Report of the Interagency Task Force on Thrift Institutions 11-13 (1980).

[34] For instance, on November 20, 1981, the FSLIC entered into a contingent financial assistance agreement to facilitate the acquisition of the troubled First Federal Savings and Loan Association of Broward County (Fla.) by the Glendale Federal Savings and Loan Association (Calif.). The FSLIC will not provide present financial assistance; rather, the assistance, if any, will depend on interest rates over the next five years. If interest rates rise, the FSLIC would make payments to Glendale. If interest rates fall, Glendale would be required to make payments to the FSLIC. *See* Federal Home Loan Bank Board Rel., Bank Board Approves Merger of First Federal of Broward County, Fort Lauderdale, Florida, and Glendale Federal, Glendale, California (Nov. 20, 1981); *Interstate S & L Merger Called Coup for Federal Regulators*, *Am. Banker*, Nov. 24, 1981 at 1, col. 3.

On November 5, 1981, the FDIC assisted in the merger of the Greenwich Savings Bank of New York City into the Metropolitan Savings Bank by agreeing, among other inducements to Metropolitan, to cover losses on the former Greenwich's assets for up to five years. *See* *Am. Banker*, Nov. 6, 1981, at 1, col. 2.

[35] Economic Recovery Tax Act of 1981, Pub. L. No. 97-34, §301, 95 Stat. 172, 267 (to be codified at I.R.C. §128); see also 46 Fed. Reg. 45, 124 (1981) (to be codified at 12 C.F.R. §1204.116).

[36] Executive Office of the President, Office of Management and Budget. Special Analyses: Budget of the United States Government, Fiscal Year 1981, at 194-98.

[37] *Id.* at 231. However, the value of the tax benefits for the two deductions combined is less (\$22.3 billion) because if both were deleted fewer taxpayers would itemize deductions. *Id.* at 222.

[38] Interest Rate Report, *supra* note 20, at 154. This figure covers losses resulting from rate restrictions on all types of financial instruments. The figures in note 31 relate only to depositors.

[39] D.M. Jaffee, The Future Role of Thrift Institutions in Mortgage Lending 13 (paper prepared for Federal Reserve Bank of Boston Conference, Oct. 29-30, 1981); see Jaffee and Rosen, *The Demand for Housing and Mortgage Credit: The Mortgage Gap Problem*, in *Housing Finance in the Eighties: Issues and Options* 6 (1981).

[40] Financial Institutions Regulatory and Interest Rate Control Act of 1978, Pub. L. No. 95-630, §1702, 92 Stat. 3641, 3718 (current version at 12 U.S.C. §1451(h) (Supp. III 1979)). This legislation expanded the definition of "residential mortgage" to include a secured loan for home improvements and renovations. The Federal Home Loan Mortgage Corporation was thus permitted to purchase and sell this type of mortgage in addition to conventional mortgages.

[41] *Am. Banker*, Oct. 27, 1981, at 11, col. 1.

[42] See 65 Fed. Res. Bull. 173, 178-83 (1979).

[43] A Presidential Commission on housing and finance and a thrift industry "working group" were established in June 1981, but their missions are somewhat limited and do not address the broader issues presented. *N.Y. Times*, Nov. 10, 1981, at D1, col. 3.

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