

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5409

To establish the Residential Construction Loan Guarantee Program to guarantee loans made to eligible home building companies for viable building projects.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 26, 2010

Mr. MILLER of North Carolina (for himself, Mr. BACA, and Mrs. MALONEY) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To establish the Residential Construction Loan Guarantee Program to guarantee loans made to eligible home building companies for viable building projects.

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 “Residential Construc-  
5 tion Lending Act”.

6 **SEC. 2. RESIDENTIAL CONSTRUCTION LOAN GUARANTEE**  
7 **PROGRAM.**

8 (a) ESTABLISHMENT.—There is established within  
9 the Department of the Treasury a program to be known

1 as the “Residential Construction Loan Guarantee Pro-  
2 gram” (hereinafter referred to in this section as the “Loan  
3 Guarantee Program”).

4 (b) LOAN GUARANTEE PROGRAM.—

5 (1) PURPOSE.—The purpose of the Loan Guar-  
6 antee Program is to guarantee loans made to eligible  
7 home building companies for viable building projects.

8 (2) APPLICATION.—An insured depository insti-  
9 tution that wishes to make loans that are guaran-  
10 teed under the Loan Guarantee Program may sub-  
11 mit an application to the Secretary in such form and  
12 manner and containing such information as the Sec-  
13 retary may require.

14 (3) SELECTION CRITERIA.—

15 (A) IN GENERAL.—The Secretary shall ap-  
16 prove any insured depository institution submit-  
17 ting a full and complete application under para-  
18 graph (2) for participation in the Loan Guar-  
19 antee Program, and shall guarantee loans on a  
20 first-come-first-served basis.

21 (B) SUBMISSION OF LOANS.—Insured de-  
22 pository institutions approved for participation  
23 in the Loan Guarantee Program shall submit  
24 each loan made by such institution as part of  
25 the Loan Guarantee Program to the Secretary

1 so the Secretary may confirm that such loan  
2 complies with the requirements of this section.

3 (4) OVERSIGHT.—

4 (A) LOAN TERMS.—Not later than 7 days  
5 after a loan guaranteed under the Loan Guar-  
6 antee Program is originated, the insured depos-  
7 itory institution making such loan shall submit  
8 all information about the terms and conditions  
9 of such loan to the Secretary.

10 (B) SUSPENSION AND TERMINATION AU-  
11 THORITY.—Notwithstanding paragraph (3), the  
12 Secretary shall, not less than yearly, review all  
13 of the loans made by each insured depository  
14 institution that are guaranteed under the Loan  
15 Guarantee Program, and may suspend or termi-  
16 nate any insured depository institution's future  
17 participation in the Loan Guarantee Program if  
18 the Secretary finds that such institution has en-  
19 gaged in fraud or abuse with respect to the  
20 Loan Guarantee Program, or has consistently  
21 made loans guaranteed under the Loan Guar-  
22 antee Program that are not repaid by the bor-  
23 rower in accordance with the terms of the loan.

1           (5) LOAN ELIGIBILITY.—A loan may only be  
2           guaranteed under the Loan Guarantee Program if it  
3           meets the following criteria:

4                   (A) VIABLE BUILDING PROJECT.—The  
5           loan must be made for a viable building project,  
6           as determined by the Secretary. In making such  
7           determination, the Secretary shall consider  
8           housing demand, local government support, per-  
9           centage of workforce, and speculative units.

10                   (B) ELIGIBLE HOME BUILDING COM-  
11           PANY.—The loan must be made to an eligible  
12           home building company, as determined by the  
13           Secretary. In making such determination, the  
14           Secretary shall consider whether such company  
15           is creditworthy, reputable, and has a record of  
16           successful residential building projects.

17                   (C) LOAN GUARANTEE AMOUNT LIMITA-  
18           TION.—The eligible home building company, or  
19           its principals, must have a minimum net worth  
20           equal to the loan amount to be guaranteed.

21                   (D) USE OF LOAN.—The loan may only be  
22           used for the acquisition, development, and con-  
23           struction of residential developments that have  
24           locally approved development plans and that  
25           create immediate job opportunities.

1 (E) TERM REQUIREMENTS.—

2 (i) IN GENERAL.—The term of the  
3 loan shall be for no more than 5 years, but  
4 may have an option to extend.

5 (ii) LOAN AMOUNT LIMITATIONS.—  
6 The loan shall be for an amount not to ex-  
7 ceed—

8 (I) 75 percent loan-to-value on  
9 the land;

10 (II) 100 percent for construction  
11 and development costs; and

12 (III) 80 percent of the market  
13 value of the building project.

14 (F) INTEREST RATES.—Notwithstanding  
15 the provisions of the constitution of any State  
16 or the laws of any State limiting the rate or  
17 amount of interest which may be charged,  
18 taken, received, or reserved, the maximum legal  
19 rate of interest on the loan may not sub-  
20 stantively differ from the current average mar-  
21 ket yield on outstanding marketable obligations  
22 of similar privately held loans with remaining  
23 periods to maturity comparable to such loan.

24 (6) MULTIPLE GUARANTEES PERMITTED; AG-  
25 GREGATE DOLLAR AMOUNT LIMITATION.—A single

1 eligible home building company is permitted to have  
2 more than one loan guaranteed under the Loan  
3 Guarantee Program, but the aggregate amount of all  
4 such loans guaranteed for a single eligible home  
5 building company may not exceed the net worth of  
6 such company. The Secretary may exempt an eligible  
7 home building company from the net worth limita-  
8 tion of this paragraph if the Secretary determines  
9 doing so will advance the purpose of this Loan  
10 Guarantee Program.

11 (7) GOVERNMENT GUARANTEE.—

12 (A) LEVEL OF PARTICIPATION.—Loans  
13 guaranteed under the Loan Guarantee Program  
14 shall be guaranteed at 80 percent of the loan  
15 amount.

16 (B) PAYMENT OF ACCRUED INTEREST.—

17 (i) IN GENERAL.—Any insured deposi-  
18 tory institution making a claim for pay-  
19 ment on the guaranteed portion of a loan  
20 guaranteed under the Loan Guarantee  
21 Program shall be paid the accrued interest  
22 due on the loan from the earliest date of  
23 default to the date of payment of the claim  
24 at a rate not to exceed the rate of interest

1 on the loan on the date of default, minus  
2 one percent.

3 (ii) LOANS SOLD ON SECONDARY MAR-  
4 KET.—If a loan described under clause (i)  
5 is sold on the secondary market, the  
6 amount of interest paid to an insured de-  
7 pository institution described in that clause  
8 from the earliest date of default to the  
9 date of payment of the claim shall be no  
10 more than the agreed upon rate, minus one  
11 percent.

12 (iii) INTEREST RATE.—The rate of in-  
13 terest to be paid on a claim for payment  
14 on the guaranteed portion of a loan guar-  
15 anteed under the Loan Guarantee Pro-  
16 gram shall be established commensurate  
17 with Federal Housing Administration  
18 rates, based on safety and soundness.

19 (8) ONE-THIRD OF GUARANTEES TO BE MADE  
20 IN AREAS WITH GREATEST UNMET NEED.—Notwith-  
21 standing any other provision of this section, not less  
22 than one-third of the funds made available under  
23 this section to guarantee loans shall be used to guar-  
24 anteed loans in areas of the United States that have

1 the greatest unmet need for residential construction  
2 financing, as determined by the Secretary.

3 (9) REGULATIONS.—The Secretary shall pro-  
4 mulgate any regulations needed to carry out this  
5 section through a notice and public comment period  
6 of not more than 60 days.

7 (c) DEFINITIONS.—For purposes of this section:

8 (1) INSURED DEPOSITORY INSTITUTION.—The  
9 term “insured depository institution” has the mean-  
10 ing given such term under section 3(c)(2) of the  
11 Federal Deposit Insurance Act (12 U.S.C.  
12 1813(c)(2)).

13 (2) SECRETARY.—The term “Secretary” means  
14 the Secretary of the Treasury.

15 (d) AUTHORIZATION OF APPROPRIATIONS.—There  
16 are authorized to be appropriated to the Secretary  
17 \$15,000,000,000 to carry out this section.

18 (e) TERMINATION OF AUTHORITY.—The Secretary’s  
19 authority to make new loan guarantees under the Loan  
20 Guarantee Program shall terminate after the 3-year pe-  
21 riod beginning on the date of the enactment of this sec-  
22 tion.

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