To establish the Office of the Homeowner Advocate.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Homeowner Advocate Act of 2011”.

SEC. 2. OFFICE OF THE HOMEOWNER ADVOCATE.

(a) ESTABLISHMENT.—There is established in the Department of the Treasury an office to be known as the “Office of the Homeowner Advocate” (in this Act referred to as the “Office”).
(b) Director.—

(1) In general.—The Director of the Office of the Homeowner Advocate (in this Act referred to as the “Director”) shall report directly to the Assistant Secretary of the Treasury for Financial Stability, and shall be entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code.

(2) Appointment.—The Director shall be appointed by the Secretary, after consultation with the Secretary of the Department of Housing and Urban Development, and without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service or the Senior Executive Service.

(3) Qualifications.—An individual appointed under paragraph (2) shall have—

(A) experience as an advocate for homeowners; and

(B) experience dealing with mortgage servicers.

(4) Restriction on employment.—An individual may be appointed as Director only if such individual was not an officer or employee of either a
mortgage servicer or the Department of the Treasury during the 4-year period preceding the date of such appointment.

(5) Hiring Authority.—The Director shall have the authority to hire staff, obtain support by contract, and manage the budget of the Office of the Homeowner Advocate.

SEC. 3. FUNCTIONS OF THE OFFICE.

(a) In General.—It shall be the function of the Office—

(1) to assist homeowners, housing counselors, and housing lawyers in resolving problems with the Home Affordable Modification Program of the Making Home Affordable initiative of the Secretary, authorized under the Emergency Economic Stabilization Act of 2008 (in this Act referred to as the “Home Affordable Modification Program”);

(2) to identify areas, both individual and systematic, in which homeowners, housing counselors, and housing lawyers have problems in dealings with the Home Affordable Modification Program;

(3) to the extent possible, to propose changes in the administrative practices of the Home Affordable Modification Program, to mitigate problems identified under paragraph (2);
(4) to identify potential legislative changes which may be appropriate to mitigate such problems; and

(5) to implement other programs and initiatives that the Director deems important to assisting homeowners, housing counselors, and housing lawyers in resolving problems with the Home Affordable Modification Program, which may include—

(A) running a triage hotline for homeowners at risk of foreclosure;

(B) providing homeowners with access to housing counseling programs of the Department of Housing and Urban Development at no cost to the homeowner;

(C) developing Internet tools related to the Home Affordable Modification Program; and

(D) developing training and educational materials.

(b) Authority.—

(1) In general.—Staff designated by the Director shall have the authority to implement servicer remedies, on a case-by-case basis, subject to the approval of the Assistant Secretary of the Treasury for Financial Stability.
(2) Resolution of homeowner concerns.—The Office shall, to the extent possible, resolve all homeowner concerns not later than 30 days after the opening of a case with such homeowner.

(c) Commencement of Operations.—The Office shall commence its operations, as required by this Act, not later than 3 months after the date of enactment of this Act.

(d) Sunset.—The Office shall cease operations as of the date on which the Home Affordable Modification Program ceases to operate.

SEC. 4. RELATIONSHIP WITH EXISTING ENTITIES.

(a) Transfer.—The Office shall coordinate and centralize all complaint escalations relating to the Home Affordable Modification Program.

(b) Hotline.—The HOPE hotline (or any successor triage hotline) shall reroute all complaints relating to the Home Affordable Modification Program to the Office.

(c) Coordination.—The Office shall coordinate with the compliance office of the Office of Financial Stability of the Department of the Treasury and the Homeownership Preservation Office of the Department of the Treasury.
SEC. 5. RULE OF CONSTRUCTION.

Nothing in this Act shall prohibit a mortgage servicer from evaluating a homeowner for eligibility under the Home Affordable Foreclosure Alternatives Program while a case is still open with the Office of the Homeowner Advocate. Nothing in this Act may be construed to relieve any loan services from otherwise applicable rules, directives, or similar guidance under the Home Affordable Modification Program relating to the continuation or completion of foreclosure proceedings.

SEC. 6. REPORTS TO CONGRESS.

(a) Testimony.—The Director shall be available to testify before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, not less frequently than 4 times a year, or at any time at the request of the Chairs of either committee.

(b) Reports.—Once annually, the Director shall provide a detailed report to Congress on the Home Affordable Modification Program. Such report shall contain full and substantive analysis, in addition to statistical information, including, at a minimum—

(1) data and analysis of the types and volume of complaints received from homeowners, housing counselors, and housing lawyers, broken down by
category of servicer, except that servicers may not be identified by name in the report;

(2) a summary of not fewer than 20 of the most serious problems encountered by Home Affordable Modification Program participants, including a description of the nature of such problems;

(3) to the extent known, identification of the 10 most litigated issues for Home Affordable Modification Program participants, including recommendations for mitigating such disputes;

(4) data and analysis on the resolutions of the complaints received from homeowners, housing counselors, and housing lawyers;

(5) identification of any programs or initiatives that the Office has taken to improve the Home Affordable Modification Program;

(6) recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by Home Affordable Modification Program participants; and

(7) such other information as the Director may deem advisable.

SEC. 7. FUNDING.

Amounts made available for the costs of administration of the Home Affordable Modification Program that
are not otherwise obligated shall be available to carry out the duties of the Office. Funding shall be maintained at levels adequate to reasonably carry out the functions of the Office.

SEC. 8. PROHIBITION ON PARTICIPATION IN MAKING HOME AFFORDABLE FOR BORROWERS WHO STRATEGICALLY DEFAULT.

No mortgage may be modified under the Making Home Affordable Program, or with any funds from the Troubled Asset Relief Program, unless the servicer of the mortgage loan has determined, in accordance with standards and requirements established by the Secretary of the Treasury, that the mortgagor cannot afford to make payments under the terms of the existing mortgage loan. The Secretary of the Treasury, in consultation with the Secretary of Housing and Urban Development, shall issue rules to carry out this section not later than 90 days after the date of enactment of this Act. This section shall not apply to any refinancing or modifications made under the "FHA Program Adjustments to Support Refinancings for Underwater Homeowners," announced by the Department of the Treasury and the Department of Housing and Urban Development on March 26, 2010, as long as the program continues to be structured so that borrowers participating in the FHA refinance program cannot be in de-
fault on their primary mortgage at the time of refinance
and their eligibility in the program is not helped if they
are in default on their second mortgage, and thus lack
a strategic reason to go into default on either their first
or second mortgage to participate in the program.

SEC. 9. PUBLIC AVAILABILITY OF INFORMATION.

(a) Public Availability of Data.—The Secretary
of the Treasury shall revise the guidelines for the Home
Affordable Modification Program of the Making Home Af-
fordable initiative of the Secretary of the Treasury, au-
thorized under the Emergency Economic Stabilization Act
of 2008 (Public Law 110–343), to establish that the data
collected by the Secretary of the Treasury from each mort-
gage servicer and lender participating in the Program is
made public in accordance with subsection (b).

(b) Content.—Not more than 60 days after each
monthly deadline for submission of data by mortgage
servicers and lender participating in the program, the
Treasury shall make all data tables available to the public
at the individual record level. This data shall include but
not be limited to—

(1) higher risk loans, including loans made in
connection with any program to provide expanded
loan approvals, shall be reported separately;

(2) disclose—
(A) the rate or pace at which such mortgages are becoming seriously delinquent;

(B) whether such rate or pace is increasing or decreasing;

(C) if there are certain subsets within the loans covered by this section that have greater or lesser rates or paces of delinquency; and

(D) if such subsets exist, the characteristics of such subset of mortgages;

(3) with respect to the loss mitigation efforts of the loan—

(A) the processes and practices that the reporter has in effect to minimize losses on mortgages covered by this section; and

(B) the manner and methods by which such processes and practices are being monitored for effectiveness;

(4) disclose, with respect to loans that are or become 60 or more days past due, (provided that for purposes of disclosure under this paragraph that each loan should have a unique number that is not the same as any loan number the borrower, originator, or servicer uses), the following attributes—

(A) the original loan amount;

(B) the current loan amount;
(C) the loan-to-value ratio and combined
loan-to-value ratio, both at origination and cur-
rently, and the number of liens on the property;

(D) the property valuation at the time of
origination of the loan, and all subsequent prop-
erty valuations and the date of each valuation;

(E) each relevant credit score of each bor-
rower obtained at any time in connection with
the loan, with the date of the credit score, to
the extent allowed by existing law;

(F) whether the loan has any mortgage or
other credit insurance or guarantee;

(G) the current interest rate on such loan;

(H) any rate caps and floors if the loan is
an adjustable rate mortgage loan;

(I) the adjustable rate mortgage index or
indices for such loan;

(J) whether the loan is currently past due,
and if so how many days such loan is past due;

(K) the total number of days the loan has
been past due at any time;

(L) whether the loan is subject to a balloon
payment;

(M) the date of each modification of the
loan;
(N) whether any amounts of loan principal has been deferred or written off, and if so, the date and amount of each deferral and the date and amount of each writedown;

(O) whether the interest rate was changed from a rate that could adjust to a fixed rate, and if so, the period of time for which the rate will be fixed;

(P) the amount by which the interest rate on the loan was reduced, and for what period of time it was reduced;

(Q) if the interest rate was reduced or fixed for a period of time less than the remaining loan term, on what dates, and to what rates, could the rate potentially increase in the future;

(R) whether the loan term was modified, and if so, whether it was extended or shortened, and by what amount of time;

(S) whether the loan is in the process of foreclosure or similar procedure, whether judicial or otherwise; and

(T) whether a foreclosure or similar procedure, whether judicial or otherwise, has been completed.
(c) GUIDELINES AND REGULATIONS.—The Secretary of the Treasury shall establish guidelines and regulations necessary—

(1) to ensure that the privacy of individual consumers is appropriately protected in the reports under this section;

(2) to make the data reported under this subsection available on a public Web site with no cost to access the data, in a consistent format;

(3) to update the data no less frequently than monthly;

(4) to establish procedures for disclosing such data to the public on a public Web site with no cost to access the data; and

(5) to allow the Secretary to make such deletions as the Secretary may determine to be appropriate to protect any privacy interest of any loan modification applicant, including the deletion or alteration of the applicant’s name and identification number.

(d) EXCEPTION.—No data shall have to be disclosed if it voids or violates existing contracts between the Secretary of Treasury and mortgage servicers as part of the Making Home Affordable Program.