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112TH CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
112–25

FHA REFINANCE PROGRAM TERMINATION ACT

MARCH 7, 2011.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BACHUS, from the Committee on Financial Services, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 830]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 830) to rescind the unobligated funding for the FHA Refinance Program and to terminate the program, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "FHA Refinance Program Termination Act".

SEC. 2. RESCISSION OF FUNDING FOR FHA REFINANCE PROGRAM.

Effective on the date of the enactment of this Act, there are rescinded and permanently canceled all unexpended balances remaining available as of such date of enactment of the amounts made available under title I of the Emergency Economic Stabilization Act (Public Law 110–343; 12 U.S.C. 5211 et seq.) that have been allocated for use under the FHA Refinance Program (pursuant to Mortgagee Letter 2010–23 of the Secretary of Housing and Urban Development) of the Making Home Affordable initiative of the Secretary of the Treasury.

SEC. 3. TERMINATION OF FHA REFINANCE PROGRAM.

(a) TERMINATION OF MORTGAGEE LETTER.—The Mortgagee Letter referred to in section 2 shall be void and have no effect and the Secretary of Housing and Urban Development may not issue any regulation, order, notice, or mortgagee letter based on or substantially similar to such Mortgagee Letter.

(b) TREATMENT OF REMAINING FUNDS.—Notwithstanding subsection (a) of this section, any amounts made available for use under the Program referred to in section 2 of this Act and expended before the date of the enactment of this Act shall con-

tinue to be governed by the Mortgagee Letter specified in subsection (a) of this section, and any other provisions of law, regulations, orders, and notices, applicable to such amounts, as in effect immediately before such date of enactment.

(c) TERMINATION.—After the enactment of this Act, the Secretary of Housing and Urban Development may not newly insure any mortgage under the FHA Refinance Program referred to in section 2 of this Act except pursuant to a commitment to insure made before such enactment, and upon the completion of all activities with respect to such commitments under the provisions of law, regulations, orders, notices, and mortgagee letters referred to in subsection (b) of this section, the Secretary of Housing and Urban Development shall terminate the FHA Refinance Program referred to in section 2.

(d) STUDY OF USE OF PROGRAM BY MEMBERS OF THE ARMED FORCES, VETERANS, AND GOLD STAR RECIPIENTS.—

(1) STUDY.—The Secretary of Housing and Urban Development shall conduct a study to determine the extent of usage of the FHA Refinance Program referred to in section 2 by, and the impact of such program on, covered homeowners.

(2) REPORT.—Not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, the Secretary shall submit to the Congress a report setting forth the results of the study under paragraph (1) and identifying best practices, with respect to covered homeowners, that could be applied to the FHA Refinance Program.

(3) COVERED HOMEOWNER.—For purposes of this subsection, the term "covered homeowner" means a homeowner who is—

(A) a member of the Armed Forces of the United States on active duty or the spouse or parent of such a member;

(B) a veteran, as such term is defined in section 101 of title 38, United States Code; or

(C) eligible to receive a Gold Star lapel pin under section 1126 of title 10, United States Code, as a widow, parent, or next of kin of a member of the Armed Forces person who died in a manner described in subsection (a) of such section.

PURPOSE AND SUMMARY

H.R. 830, The FHA Refinance Program Termination Act, would rescind all unobligated balances made available for the program by Title I of the Emergency Economic Stabilization Act (P.L. 110–343) that have been allocated for use under the FHA Refinance Program (pursuant to Mortgagee Letter 2010–23 of the Secretary of Housing and Urban Development). The bill would also terminate the program and void the Mortgagee Letter pursuant to which it was implemented, with concessions made for current participants in the program.

BACKGROUND AND NEED FOR LEGISLATION

On March 26, 2010, the Obama Administration announced the FHA Refinance Program, which provides refinancing options through the Federal Housing Administration's mortgage insurance program to homeowners who are "underwater" on their mortgages, owing more in mortgage principal than the property's current value. The program is designed to be funded with $8.12 billion in Troubled Asset Relief Program (TARP) funds that had originally been set aside for the Home Affordable Modification Program (HAMP). FHA Mortgagee Letter (2010–23) was the governing document for the program, and provided guidance to lenders on the FHA Refinance Program. The program was implemented on September 7, 2010, and is scheduled to expire on December 31, 2012.

Of the $8.12 billion set aside by the Administration for this program, only $50 million has been disbursed thus far. The funds apportioned for this program from TARP are to act as a buffer against future losses from loans refinanced through the program

for the FHA Reserve Fund. In the event the funds set aside to cover potential losses are exhausted, additional defaults associated with the program will be borne by the FHA directly. Testimony by Administration officials before the Subcommittee on Insurance, Housing and Community Opportunity on March 3, 2011, stated that "there is reasonable concern that there may be a performance differential—these [FHA Refinance] loans may perform worse than refinanced loans that were not previously underwater." The most recent annual independent audit of FHA found that the Mutual Mortgage Insurance Fund (MMIF) was well below its statutory capital ratio requirement of 2 percent of FHA, at a ratio of .50 percent. Therefore, the prospect of the FHA Refinance Program further weakening the FHA Mutual Mortgage Insurance Fund exposes the taxpayer to additional risks.

The program has experienced little demand since its inception. As of its most recent report (Jan 2011), FHA indicates only 182 borrowers have applied for the program, and just 40 have been refinanced to date. The FHA Commissioner testified to this point on March 3, 2011, saying, "I do not expect large numbers. And I think that's an absolute concern."

H.R. 830 would terminate the program, while providing that those mortgages where an insurance commitment was made prior to the enactment of this legislation will be governed by the law, FHA Mortgagee letter, regulations, orders and notices.

HEARING

The Subcommittee on Insurance, Housing, and Community Opportunity held a hearing on March 2, 2011 entitled "Legislative Proposals to End Taxpayer Funding for Ineffective Foreclosure Mitigation Programs." The following witnesses testified:

- The Honorable Neil M. Barofsky, Special Inspector General for the Troubled Asset Relief Program
- The Honorable Mercedes M. Mãrquez, Assistant Secretary, Community Planning and Development
- The Honorable David Stevens, Assistant Secretary for Housing/FHA Commissioner
- Matthew J. Scirè, Director, Financial Markets and Community Investment, U.S. Government Accountability Office
- Katie Jones, Analyst in Housing Policy, Congressional Research Service, Library of Congress

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on March 3, 2011 and ordered H.R. 830, the FHA Refinance Program Termination Act, as amended, favorably reported to the House by a record vote of 33 yeas and 22 nays (Record vote no. FC–12).

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. A motion by Chairman Bachus to report the bill, as amended, to the House with a favorable recommendation was agreed to by a record vote of 33

yeas and 22 nays (Record vote no. FC–12). The names of Members voting for and against follow:

RECORD VOTE NO. FC–12

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bachus	X			Mr. Frank (MA)		X	
Mr. Hensarling	X			Ms. Waters		X	
Mr. King (NY)	X			Mrs. Maloney		X	
Mr. Royce	X			Mr. Gutierrez			
Mr. Lucas	X			Ms. Velázquez		X	
Mr. Paul	X			Mr. Watt		X	
Mr. Manzullo	X			Mr. Ackerman		X	
Mr. Jones	X			Mr. Sherman		X	
Mrs. Biggert	X			Mr. Meeks			
Mr. Gary G. Miller (CA)				Mr. Capuano		X	
Mrs. Capito	X			Mr. Hinojosa			
Mr. Garrett	X			Mr. Clay		X	
Mr. Neugebauer	X			Mrs. McCarthy (NY)		X	
Mr. McHenry	X			Mr. Baca			
Mr. Campbell	X			Mr. Lynch		X	
Mrs. Bachmann	X			Mr. Miller (NC)		X	
Mr. Marchant	X			Mr. David Scott (GA)		X	
Mr. McCotter	X			Mr. Al Green (TX)		X	
Mr. McCarthy (CA)	X			Mr. Cleaver		X	
Mr. Pearce	X			Ms. Moore		X	
Mr. Posey	X			Mr. Ellison		X	
Mr. Fitzpatrick	X			Mr. Perlmutter		X	
Mr. Westmoreland	X			Mr. Donnelly			
Mr. Luetkemeyer	X			Mr. Carson		X	
Mr. Huizenga	X			Mr. Himes		X	
Mr. Duffy	X			Mr. Peters		X	
Ms. Hayworth	X			Mr. Carney		X	
Mr. Renacci	X						
Mr. Hurt	X						
Mr. Dold	X						
Mr. Schweikert	X						
Mr. Grimm	X						
Mr. Canseco	X						
Mr. Stivers	X						

During consideration of H.R. 830, the following amendments were considered:

1. An Amendment offered by Ms. Maloney, no. 1, allowing the FHA Refinance Program to insure 500,000 loans after the date of enactment, was not agreed to by a record vote of 22 yeas and 33 nays (Record vote no. FC–9).

RECORD VOTE NO. FC–9

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bachus		X		Mr. Frank (MA)	X		
Mr. Hensarling		X		Ms. Waters	X		
Mr. King (NY)		X		Mrs. Maloney	X		
Mr. Royce		X		Mr. Gutierrez			
Mr. Lucas		X		Ms. Velázquez	X		
Mr. Paul		X		Mr. Watt	X		
Mr. Manzullo		X		Mr. Ackerman	X		
Mr. Jones		X		Mr. Sherman	X		
Mrs. Biggert		X		Mr. Meeks			
Mr. Gary G. Miller (CA)				Mr. Capuano	X		
Mrs. Capito		X		Mr. Hinojosa			
Mr. Garrett		X		Mr. Clay	X		
Mr. Neugebauer		X		Mrs. McCarthy (NY)	X		
Mr. McHenry		X		Mr. Baca			

RECORD VOTE NO. FC–9—Continued

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Campbell		X		Mr. Lynch	X		
Mrs. Bachmann		X		Mr. Miller (NC)	X		
Mr. Marchant		X		Mr. David Scott (GA)	X		
Mr. McCotter		X		Mr. Al Green (TX)	X		
Mr. McCarthy (CA)		X		Mr. Cleaver	X		
Mr. Pearce		X		Ms. Moore	X		
Mr. Posey		X		Mr. Ellison	X		
Mr. Fitzpatrick		X		Mr. Perlmutter	X		
Mr. Westmoreland		X		Mr. Donnelly			
Mr. Luetkemeyer		X		Mr. Carson	X		
Mr. Huizenga		X		Mr. Himes	X		
Mr. Duffy		X		Mr. Peters	X		
Ms. Hayworth		X		Mr. Carney	X		
Mr. Renacci		X					
Mr. Hurt		X					
Mr. Dold		X					
Mr. Schweikert		X					
Mr. Grimm		X					
Mr. Canseco		X					
Mr. Stivers		X					

2. An amendment offered by Mr. Lynch, no. 2, striking the mortgagee letter termination part of the bill, was not agreed to by a record vote of 22 yeas and 33 nays (Record vote no. FC–10).

RECORD VOTE NO. FC–10

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bachus		X		Mr. Frank (MA)	X		
Mr. Hensarling		X		Ms. Waters	X		
Mr. King (NY)		X		Mrs. Maloney	X		
Mr. Royce		X		Mr. Gutierrez			
Mr. Lucas		X		Ms. Velázquez	X		
Mr. Paul		X		Mr. Watt	X		
Mr. Manzullo		X		Mr. Ackerman	X		
Mr. Jones		X		Mr. Sherman	X		
Mrs. Biggert		X		Mr. Meeks			
Mr. Gary G. Miller (CA)				Mr. Capuano	X		
Mrs. Capito		X		Mr. Hinojosa			
Mr. Garrett		X		Mr. Clay	X		
Mr. Neugebauer		X		Mrs. McCarthy (NY)	X		
Mr. McHenry		X		Mr. Baca			
Mr. Campbell		X		Mr. Lynch	X		
Mrs. Bachmann		X		Mr. Miller (NC)	X		
Mr. Marchant		X		Mr. David Scott (GA)	X		
Mr. McCotter		X		Mr. Al Green (TX)	X		
Mr. McCarthy (CA)		X		Mr. Cleaver	X		
Mr. Pearce		X		Ms. Moore	X		
Mr. Posey		X		Mr. Ellison	X		
Mr. Fitzpatrick		X		Mr. Perlmutter	X		
Mr. Westmoreland		X		Mr. Donnelly			
Mr. Luetkemeyer		X		Mr. Carson	X		
Mr. Huizenga		X		Mr. Himes	X		
Mr. Duffy		X		Mr. Peters	X		
Ms. Hayworth		X		Mr. Carney	X		
Mr. Renacci		X					
Mr. Hurt		X					
Mr. Dold		X					
Mr. Schweikert		X					
Mr. Grimm		X					
Mr. Canseco		X					
Mr. Stivers		X					

3. An amendment offered by Mr. Grimm, no. 3a, requiring HUD to study the usage of the program for members of the armed forces, veterans, and gold star recipients, to the amendment offered by Mr. Green, no. 3, allowing for the continuation of the program to members of the armed forces, veterans, and gold star recipients, was agreed to by a record vote of 33 yeas and 22 nays (Record vote no. FC–11).

RECORD VOTE NO. FC–11

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bachus	X			Mr. Frank (MA)		X	
Mr. Hensarling	X			Ms. Waters		X	
Mr. King (NY)	X			Mrs. Maloney		X	
Mr. Royce	X			Mr. Gutierrez			
Mr. Lucas	X			Ms. Velázquez		X	
Mr. Paul	X			Mr. Watt		X	
Mr. Manzullo	X			Mr. Ackerman		X	
Mr. Jones	X			Mr. Sherman		X	
Mrs. Biggert	X			Mr. Meeks			
Mr. Gary G. Miller (CA)				Mr. Capuano		X	
Mrs. Capito	X			Mr. Hinojosa			
Mr. Garrett	X			Mr. Clay		X	
Mr. Neugebauer	X			Mrs. McCarthy (NY)		X	
Mr. McHenry	X			Mr. Baca			
Mr. Campbell	X			Mr. Lynch		X	
Mrs. Bachmann	X			Mr. Miller (NC)		X	
Mr. Marchant	X			Mr. David Scott (GA)		X	
Mr. McCotter	X			Mr. Al Green (TX)		X	
Mr. McCarthy (CA)	X			Mr. Cleaver		X	
Mr. Pearce	X			Ms. Moore		X	
Mr. Posey	X			Mr. Ellison		X	
Mr. Fitzpatrick	X			Mr. Perlmutter		X	
Mr. Westmoreland	X			Mr. Donnelly			
Mr. Luetkemeyer	X			Mr. Carson		X	
Mr. Huizenga	X			Mr. Himes		X	
Mr. Duffy	X			Mr. Peters		X	
Ms. Hayworth	X			Mr. Carney		X	
Mr. Renacci	X						
Mr. Hurt	X						
Mr. Dold	X						
Mr. Schweikert	X						
Mr. Grimm	X						
Mr. Canseco	X						
Mr. Stivers	X						

The following amendment was also considered by the Committee:

An amendment offered by Mr. Green, no. 3, as amended by an amendment offered by Mr. Grimm, no. 3a (Record vote no. FC–11), requiring HUD to study the usage of the program for members of the armed forces, veterans, and gold star recipients, was agreed to by voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held a hearing and made findings that are reflected in this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

The purposes of H.R. 830, the FHA Refinance Program Termination Act, are to rescind all unobligated balances made available for the FHA Refinance program pursuant to Title I of the Emergency Economic Stabilization Act (P.L. 110–343) that have been allocated for use under the Program (pursuant to Mortgagee Letter 2010–23 of the Secretary of Housing and Urban Development), to terminate the program, and to void the Mortgagee Letter pursuant to which it was implemented, with concessions made for current participants in the program.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 7, 2011.

Hon. SPENCER BACHUS,
Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 830, the FHA Refinance Program Termination Act of 2011.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Chad Chirico.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 830—FHA Refinance Program Termination Act of 2011

Summary: H.R. 830 would terminate the Federal Housing Administration's (FHA's) program to refinance mortgages for borrowers who owe more than the value of their home. Additionally, the bill would rescind funds that remain available for the program as of the date of enactment.

CBO estimates that enacting the legislation would decrease federal budget deficits by $175 million over the 2011–2021 period.

Pay-as-you-go procedures apply because the legislation would affect direct spending.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 830 is shown in the following table. The costs of this legislation fall within budget function 600 (income security).

	By fiscal year, in millions of dollars—												
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2011–2016	2011–2021
CHANGES IN DIRECT SPENDING													
Estimated Budget Authority	−2	−103	−70	0	0	0	0	0	0	0	0	−175	−175
Estimated Outlays	−2	−103	−70	0	0	0	0	0	0	0	0	−175	−175

Basis of estimate: The FHA program to refinance mortgages for borrowers who owe more than the value of their house was launched in September 2010 and is a joint effort between the Department of the Treasury and the FHA. Using authority provided by the Emergency Economic Stabilization Act of 2008, the Treasury established an $8 billion letter of credit with Citigroup to be used to provide loss protection on the new FHA loans. The loss protection allows FHA to guarantee the new mortgages without the need for additional appropriations for the cost of the credit subsidy. The Treasury also has obligated $2.7 billion for the FHA Second Lien Program which complements the refinance program by encouraging the write-down of second-lien loans. Homeowners can refinance into FHA mortgages through December 31, 2012.

To be eligible for a mortgage under this program the homeowners must be current on their existing mortgage, owe more on their mortgage than the house is worth, and have an existing loan that is not insured by FHA. Additionally, servicers of the existing mortgage must agree to write off at least 10 percent of the unpaid balance so that the new mortgage has a loan-to-value ratio of no more than 97.75 percent.

As of January 31, 2011, about 40 loans have been refinanced under the program. Based on data from the Department of Housing and Urban Development, CBO estimates that the refinanced loans cost the government an average of $13,000 on a present-value basis. CBO estimates that enacting H.R. 830 would prevent the refinancing of about 13,000 mortgages under the program. In total, CBO estimates that enacting the bill would reduce direct spending by $175 million over the 2011–2021 period. For this estimate, CBO assumes that the legislation will be enacted by June 2011.

Pay-as-you-go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table. (Enacting H.R. 830 would have no impact on Federal revenues.)

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 830, THE FHA REFINANCE PROGRAM TERMINATION ACT, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON FINANCIAL SERVICES ON MARCH 3, 2011

	By fiscal year, in millions of dollars—												
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2011–2016	2011–2021
	NET DECREASE (−) IN THE DEFICIT												
Statutory Pay-As-You-Go Impact	−2	−103	−70	0	0	0	0	0	0	0	0	−175	−175

Intergovernmental and private-sector impact: The bill contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal Costs: Chad Chirico; Impact on State, Local, and Tribal Governments: Lisa Ramirez-Branum; Impact on the Private Sector: Paige Piper-Bach.

Estimate approved by: Peter H. Fontaine, Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of the section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

H.R. 830 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This Act may be cited as the "FHA Refinance Program Termination Act."

Section 2. Rescission of funding for FHA Refinance Program

Section Two would rescind and permanently cancel all unexpended balances remaining available after the enactment of the bill for the FHA Refinance Program, pursuant to Mortgagee Letter 2010–23 of the Secretary of Housing and Urban Development.

Section 3. Termination of FHA Refinance Program

Section Three terminates FHA's Mortgagee Letter 2010–23 and prohibits the Department of Housing and Urban Development from issuing any regulation, order, notice, or mortgagee letter that is substantially similar to the mortgagee letter. Any remaining amounts made available prior to the date of enactment of this Act shall continue to be used as governed by FHA Mortgagee Letter 2010–23. After the date of enactment of this Act, the Secretary of Housing and Urban Development may not newly insure any mortgage under the FHA Refinance Program unless a commitment to insure was made before the Act's enactment. Once all activities are completed pursuant to this Act, the Secretary of Housing and Urban Development shall terminate the FHA Refinance Program.

Further, this section directs the Secretary of Housing and Urban Development to conduct a study to determine the extent of usage of the FHA Refinance Program by "covered homeowners." Covered homeowners are defined as individuals who are active duty members of the U.S. armed forces and their spouses or parents, veterans of the U.S. armed forces, and individuals eligible to receive a Gold Star lapel button under 10 U.S.C. 1126 as the widow, parent, or next of kin of a fallen member of the U.S. armed forces. The Secretary of Housing and Urban Development is then required to submit a report to Congress including the results of that study and identifying any best practices that could be applied to the FHA Refinance Program for covered homeowners within 90 days of enactment of this Act.

DISSENTING VIEWS

H.R. 830, the "FHA Refinance Program Termination Act," is one of four bills being advanced by the Majority as a coordinated assault on federal programs designed to address the nationwide housing and foreclosure crisis. This bill would terminate an important FHA refinance program that can be used in conjunction with lender writedowns of principal on "underwater" mortgage loans.

This program is one of a number of complementary federal programs that address different problems posed by our current housing programs. The other programs the Majority is shutting down are the HAMP loan modification program, loans to unemployed homeowners to bridge the gap so that homeowners can resume payments when they find a job, and grants to local communities for purchase and rehabilitation of foreclosed and abandoned homes, to address blight and deterioration of neighborhoods experiencing a high foreclosure rate. At the hearing on these four bills, not a single witness—including the GAO and SIGTARP, who were witnesses called by the Majority—supported shutting down any of these four programs at this time.

A major factor in the housing crisis was private sector lenders originating loans to borrowers that could not afford them, with such loans often combined with predatory loan features, such as exploding mortgage rate reset terms. As the housing crisis hit and homeowners started to default on loans, these same private sector lenders announced that they would address problems through proprietary loan modifications. In practice, there is a general consensus that these initial efforts were woefully inadequate to address the default and foreclosure crisis, particularly since a majority of these modifications actually increased the payments borrowers were required to make. Therefore, in early 2009, the Obama Administration started to roll out the first of a number of initiatives, using general authority under the TARP legislation, to facilitate loan modifications and refinancings of borrowers in or at risk of default, and in danger of foreclosure.

Now, two years later, as some of these initiatives are showing real results and others are just beginning to take off, the Majority wants to shut these efforts down. They claim that these federal programs have not helped enough homeowners. But, their answer to the criticism that not enough homeowners have been helped by these programs . . . is to stop them from helping anyone else in the future. Their answer is to eliminate federal assistance that helps keep people in their homes and to eliminate the nationwide loan modification standards that go with them. Their answer is to turn over resolution of the foreclosure crisis to the very entities that created the bad loans in the first place and failed to achieve meaningful loan modifications in the period before these government programs were put in place. The result would lead inevitably to a worsening of the foreclosure crisis, dampened home prices, and economic instability.

This bill, which shuts down the FHA Short Refi program, is a prime example of this misguided strategy. The program was rolled out by the Obama Administration in October, 2010, and expires at the end of 2012. It is designed to offer incentives for holders of existing single family loans where the borrower is "underwater" (i.e., the loan amount exceeds the current property value) to reduce the outstanding principal balance of the underwater portion of the loan, in conjunction with a FHA refinancing of the remaining loan balance. Customary FHA underwriting guidelines and standards apply to these loans—including FHA loan to value (LTV) ratios, FHA mortgage premiums, FHA debt to income ratios and loan documentation standards, and a requirement that the home be owner occupied. However, the critical feature of the program is that the existing lender must write off at least 10% of the current outstanding loan balance. Thus, the borrower benefits from both a principal reduction and a lowered mortgage interest rate.

The program is designed to address concerns that other loan modification and refinancing programs may address payment affordability problems, but do not resolve underlying problems that may be caused by the mortgage loan being underwater. According to a December 13, 2010 release by CoreLogic, a leading provider of mortgage data, 10.8 million, or 22.5 percent, of all residential properties with mortgages were in negative equity at the end of the 3rd quarter, 2010. Mark Fleming, CoreLogic's Chief Economist, noted that *"Negative equity is a primary factor holding back the housing market and the broader economy."*

Some research has shown that default and foreclosure levels increase when loan to value (LTV) levels exceed 115% (that is, when the loan balance exceeds 115% of the home's current value). This is because homeowners who may be struggling to making payments on their mortgage are less motivated to keep making such payments if they are significantly underwater and don't have an expectation that their home will appreciate any time soon up to the loan amount. Underwater mortgages also lock homeowners in their home, preventing them from selling the home and being able to move without bringing substantial cash resources to the closing table.

Proponents of shutting down the program argued during markup that we have already spent $50 million for the program and yet

only completed a small number of loans. This cost claim is inaccurate. No federal tax dollars have been spent to date. Proponents of program shutdown have also claimed it has an ultimate price tag of $8 billion. This claim is misleading at best. It is true that a dollar amount cap of $8 billion in TARP funds have allocated for a loan loss reserve for this program. However, actual expenditure of tax dollars is dependent on program use, with any unused funds be returning to the taxpayer, pursuant to the terms of the original TARP act and pursuant to a Democratic amendment to the Dodd-Frank bill which prevents TARP funds for being used for new programs. Moreover, the FHA program is responsible for customary and normal risk exposure on these FHA short refinance loans (along with the benefit of customary loan fees the FHA charges). TARP loan loss reserve funds only cover losses in excess of customary FHA loan losses. Moreover, unlike some other loan modification programs, FHA restricts use of this program to only homeowners who are current on the existing mortgage, increasing the likelihood that the borrower will continue to make payments under the refi.

Proponents of shutting down the program also argued during the markup that the program was not a success because there have been few loans to date. While it is true that use has been limited so far, there are a number of reasons for this, including the fact that it has only been operational for a few months, that lender/servicers have had to update their systems in order to be ready to process loans, and that participation depends on their willingness to make meaningful principal reductions on existing loans. In fact, just within the last week, a number of major lenders, including Wells Fargo and Ally Financial (formerly GMAC), have indicated that they plan to start using the program. As existing mortgage holders seek a long-term resolution of their portfolio of underwater mortgages, this program may become an important component of a strategy to put the homeowner into a permanently sustainable mortgage.

In addition to shutting down the program precisely at the moment when lenders are starting to indicate they plan on using the program, the bill includes unnecessary language terminating not just the FHA mortgagee letter for the program, but prohibiting FHA from issuing any mortgagee letter "substantially similar" to this one. This unreasonably broad prohibition could stop FHA from rolling out any other refinance programs that might respond to the current housing crisis.

Proponents of shutting down the program can't have it both ways, arguing two contradictory claims at the same time—that the program will have a big price tag (with an underlying assumption of significant usage) and that no one will use it. In practice, if few loans are ultimately made, then shutting down the program now would have no or very limited cost savings. If, however as is more likely, the program gains traction and is more widely used, there may be a modest cost, but it would reflect a significant positive investment in reducing foreclosures, rightsizing homeowners' payment obligations and underwater loan status, and complementing other federal programs which work to address our nation's housing

problems. Either way, shutting down the program at this time makes no sense.

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