

107TH CONGRESS
1ST SESSION

H. R. 3206

To authorize the Government National Mortgage Association to guarantee securities backed by certain conventional mortgages.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 1, 2001

Mrs. ROUKEMA introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To authorize the Government National Mortgage Association to guarantee securities backed by certain conventional mortgages.

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 “Home Ownership Ex-
5 pansion and Opportunities Act of 2001”.

6 **SEC. 2. CONGRESSIONAL FINDINGS.**

7 The Congress finds that—

8 (1) expanding home ownership is a national
9 goal;

1 (2) despite record home ownership rates, the
2 ability to pursue the American dream of home own-
3 ership is not consistent in all geographical areas or
4 within all demographic groups in the United States;

5 (3) new home ownership tools are necessary to
6 bridge the gap for creditworthy borrowers who are
7 excluded from the present mortgage finance systems;

8 (4) any new Federal Government liability
9 should be limited or prevented by providing appro-
10 prium Federal authority to establish minimum
11 standards of acceptable risk;

12 (5) the Federal Housing Administration should
13 partner with other public and private mortgage fi-
14 nance systems to develop and access new technology
15 that will assist in discovering new ways to under-
16 write affordable home ownership, as well as mitigate
17 losses;

18 (6) risk-sharing between the public sector and
19 the private mortgage insurance industry will provide
20 consumers greater access to mortgage credit oppor-
21 tunities; and

22 (7) the underwriting and financing of home
23 ownership opportunities should expand and become
24 more flexible to meet the evolving needs of the citi-

1 zens and private sector financial institutions of the
2 United States.

3 **SEC. 3. GNMA GUARANTEE OF SECURITIES BACKED BY**
4 **CONVENTIONAL MORTGAGES.**

5 (a) GUARANTEE AUTHORITY.—Section 306 of the
6 National Housing Act (12 U.S.C. 1721) is amended by
7 adding at the end the following new subsections:

8 “(h) GUARANTEE OF SECURITIES BACKED BY CON-
9 VENTIONAL MORTGAGES.—

10 “(1) IN GENERAL.—The Association may guar-
11 antee the timely payment of principal of and interest
12 on such trust certificates and other securities that
13 are based on or backed by qualifying privately in-
14 sured mortgages.

15 “(2) MORTGAGE INSURANCE PREMIUMS.—The
16 issuer of any trust certificate or security that is
17 guaranteed by the Association pursuant to this sub-
18 section shall—

19 “(A) for primary mortgage insurance, col-
20 lect from the mortgagor, and remit to the quali-
21 fied mortgage insurer, such premium or pre-
22 miums as may be established by the qualified
23 mortgage insurer in accordance with applicable
24 Federal or State law; and

“(B) for supplemental mortgage insurance, pay and remit the premium or premiums to the Secretary of Housing and Urban Development from the sums attributable to the difference between the interest rate of the mortgages in the particular pool and the interest rate set forth on the trust certificate or security guaranteed by the Association based on and backed by such mortgages, and without additional premium charge therefor to the mortgagor.

“(3) ORIGINATION, SERVICING, AND DEFAULT PRACTICES.—

“(A) INAPPLICABILITY OF FHA PRACTICES.—The requirements of the National Housing Act, and of the Secretary, that apply to mortgages insured under the National Housing Act (other than insurance provided under this subsection) and to the mortgagees that make and service such mortgages shall not apply to—

“(i) qualifying privately insured mortgages;

“(ii) lenders making qualifying privately insured mortgages; and

1 “(iii) issuer of certificates or securities
2 that are, or will be, based on or backed by
3 qualifying privately insured mortgages and
4 guaranteed under this subsection by the
5 Association.

6 “(B) DISPOSITION OF PROPERTY UPON
7 DEFAULT.—Upon default by the mortgagor on
8 a qualifying privately insured mortgage which
9 backs, or upon which is based, any trust certifi-
10 cate or security that is or will be guaranteed
11 pursuant to this subsection, the property cov-
12 ered by the mortgage shall be disposed of by
13 the issuer or the qualified mortgage insurer in
14 accordance with the applicable issuer’s or insur-
15 er’s customary policies and procedures.

16 “(4) EFFECT OF HOMEOWNERS PROTECTION
17 ACT OF 1998.—For purposes of the Homeowners
18 Protection Act of 1998 (12 U.S.C. 4901 et seq.), in
19 the case of a qualifying privately insured mortgage
20 against which trust certificates or securities are
21 issued that are guaranteed pursuant to this
22 subsection—

23 “(A) primary mortgage insurance provided
24 in connection with such mortgage shall not be
25 considered to be mortgage insurance made

1 available under the National Housing Act (12
2 U.S.C. 1701 et seq.); and

3 “(B) supplemental mortgage insurance
4 provided in connection with such mortgage shall
5 be considered to be mortgage insurance made
6 available under the National Housing Act (12
7 U.S.C. 1701 et seq.).

8 “(5) VOLUNTARY PROGRAM PARTICIPATION.—
9 This subsection may not be construed to require any
10 issuer to issue any trust certificate or security that
11 is based on or backed by a trust or pool composed
12 of qualifying privately insured mortgages.

13 “(6) NO FEDERAL CONTRACTOR STATUS.—Not-
14 withstanding any other provision of law, a qualified
15 mortgage insurer that participates in the program
16 under this subsection for guarantee of trust certifi-
17 cates or securities backed by qualifying privately in-
18 sured mortgages shall not be considered, by virtue of
19 such participation, as entering into a contract with
20 any Federal department or agency, participating in
21 any program or activity that receives Federal finan-
22 cial assistance, or participating in any program or
23 activity that is conducted by any Federal depart-
24 ment or agency. This paragraph may not be con-
25 strued to deny or otherwise affect the rights of the

1 Association as the assignee, holder, or beneficiary of
2 a mortgage insurance contract.

3 “(7) MINIMUM UNDERWRITING STANDARDS.—

4 “(A) IN GENERAL.—The Association and
5 the Secretary shall establish minimum under-
6 writing standards with respect to certificates
7 and securities guaranteed under this subsection
8 that limit the level of risk to the Association
9 and supplemental insurance provided by the
10 Secretary.

11 “(B) FAILURE TO MEET STANDARDS.—If
12 the issuer of a certificate or security guaranteed
13 under this subsection does not meet the min-
14 imum standards established under subpara-
15 graph (A), the Association and the Secretary
16 shall assign to the issuer and underwriter any
17 liability not covered under paragraph (2).

18 “(8) COMMITMENT AUTHORITY.—

19 “(A) AGGREGATE COMMITMENT LIMIT.—
20 The aggregate amount of guarantees issued
21 under this subsection by the Association during
22 any fiscal year may not exceed an amount equal
23 to 30 percent of the aggregate amount of guar-
24 antees authorized, in accordance with section
25 504(b) of the Congressional Budget Act of

1 1974, to be made under this section during
2 such fiscal year.

3 “(B) AUTHORIZATION OF APPROPRIATIONS
4 FOR COSTS.—There is authorized to be appro-
5 priated for the costs (as such term is defined in
6 section 502 of the Congressional Budget Act of
7 1974 (2 U.S.C. 661a)) of guarantees under this
8 subsection such sums as may be necessary for
9 fiscal year 2002.

10 “(i) DEFINITIONS.—For purposes of this section:

11 “(1) CONVENTIONAL MORTGAGE LIMIT.—The
12 term ‘conventional mortgage limit’ means the great-
13 er of the applicable maximum original principal obli-
14 gation of conventional mortgages established by—

15 “(A) the Federal National Mortgage Asso-
16 ciation, pursuant to section 302(b)(2) of this
17 Act; or

18 “(B) the Federal Home Loan Mortgage
19 Corporation, pursuant to section 305(a)(2) of
20 the Federal Home Loan Mortgage Corporation
21 Act (12 U.S.C. 1454(a)(2)).

22 “(2) COVERAGE PERCENTAGE.—The term ‘cov-
23 erage percentage’ means, with respect to mortgage
24 insurance for a mortgage, the percentage of the total
25 of the outstanding principal balance on the mort-

1 gage, and accrued interest, advances, and reasonable
2 expenses related to property preservation and fore-
3 closure, that is subject to payment in the event of
4 a claim under the mortgage insurance policy pro-
5 vided by a qualified mortgage insurer or under the
6 terms of the mortgage insurance provided by the
7 Secretary.

8 “(3) MANDATORY CANCELLATION OR TERMI-
9 NATION.—The term ‘mandatory cancellation or ter-
10 mination’ means cancellation or termination of mort-
11 gage insurance, as provided in section 3 of the
12 Homeowners Protection Act of 1998 (12 U.S.C.
13 4902) or by a protected State law (as such term is
14 defined in section 9 of such Act).

15 “(4) PRIMARY MORTGAGE INSURANCE.—

16 “(A) IN GENERAL.—The term ‘primary
17 mortgage insurance’ means mortgage insurance
18 that—

19 “(i) is issued by a qualified mortgage
20 insurer;

21 “(ii) guarantees and insures against
22 losses on the mortgage, under standard
23 terms and conditions generally offered in
24 the private mortgage guaranty insurance
25 industry;

1 “(iii) may be canceled or terminated
2 by the mortgagor, issuer, or qualified
3 mortgage insurer only pursuant to manda-
4 tory cancellation or termination; and

5 “(iv) subject to subparagraph (B), has
6 a coverage percentage equal to—

7 “(I) not less than 25 percent, if
8 the principal-to-value ratio for the
9 mortgage is greater than 85 percent
10 and not greater than 90 percent;

11 “(II) not less than 30 percent, if
12 the principal-to-value ratio for the
13 mortgage is greater than 90 percent
14 and not greater than 95 percent; and

15 “(III) not less than 35 percent, if
16 the principal-to-value ratio for the
17 mortgage is greater than 95 percent.

18 “(B) ADJUSTMENT OF PERCENTAGES.—

19 The Association may, by notice to its partici-
20 pating issuers, adjust one or more of the cov-
21 erage percentages specified subparagraph
22 (A)(iv) upon a finding that such coverage per-
23 centage or percentages no longer represent a
24 coverage equal to the risk associated with mort-
25 gages in the appropriate principal-to-value

1 range, as determined by the Association. The
2 Association may not adjust any coverage per-
3 centage to a level that, in the absence of the
4 guarantee by the Association, would not allow
5 the trust certificates or other securities backed
6 by the qualifying privately insured mortgage to
7 be rated in 1 of the 2 highest rating categories
8 by a nationally recognized statistical rating or-
9 ganization.

10 “(5) PRINCIPAL-TO-VALUE RATIO.—The term
11 ‘principal-to-value ratio’ means the ratio of the origi-
12 nal outstanding principal balance of a first mortgage
13 to the value of the property securing the mortgage,
14 as established at the time of origination by appraisal
15 or other reliable indicia of property, conducted or
16 performed not earlier than 6 months prior to the
17 date of origination and not later than the date of
18 origination.

19 “(6) QUALIFIED MORTGAGE INSURER.—The
20 term ‘qualified mortgage insurer’ means a provider
21 of private mortgage insurance (as such term is de-
22 fined in section 2 of the Homeowners Protection Act
23 of 1998 (12 U.S.C. 4901)), that—

24 “(A) is authorized and licensed by a State
25 or instrumentality thereof to transact private

1 mortgage insurance business in the State in
2 which the provider is transacting such business,
3 excluding any entity that is exempt from State
4 licensing requirements;

5 “(B) is rated in 1 of the 2 highest rating
6 categories by not less than 1 nationally recog-
7 nized statistical rating organization; and

8 “(C) meets such additional qualifications
9 as may be determined by the Association.

10 “(7) QUALIFYING PRIVATELY INSURED MORT-
11 GAGE.—The term ‘qualifying privately insured mort-
12 gage’ means a first mortgage—

13 “(A) that is not—

14 “(i) insured under title II of this Act,
15 except as specifically provided in this sec-
16 tion;

17 “(ii) insured under title V of the
18 Housing Act of 1949 (42 U.S.C. 1471 et
19 seq.);

20 “(iii) insured or guaranteed under
21 chapter 37 of title 38, United States Code
22 or the Servicemen’s Readjustment Act of
23 1944; or

1 “(iv) made or guaranteed under part
2 B of title V of the Public Health Service
3 Act (42 U.S.C. 290bb et seq.);

4 “(B) that—

5 “(i) is secured by property comprising
6 1- to 4-family dwelling units;

7 “(ii) has a term of not longer than 30
8 years;

9 “(iii) has a principal-to-value ratio of
10 more than 85 percent; and

11 “(iv) has an original principal obliga-
12 tion that does not exceed the conventional
13 mortgage limit;

14 “(C) not more than one payment of which
15 has been delinquent by more than 30 days, and
16 no payment of which has been delinquent by
17 more than 60 days, during the 12-month period
18 that ends upon the issuance of a guaranty
19 under this subsection for a trust certificate or
20 security based on or backed by the mortgage;
21 and

22 “(D) that is covered by primary mortgage
23 insurance and supplemental mortgage insur-
24 ance.

1 “(8) SUPPLEMENTAL MORTGAGE INSURANCE.—

2 The term ‘supplemental mortgage insurance’ means
3 mortgage insurance that—

4 “(A) is issued by the Secretary of Housing
5 and Urban Development pursuant to the au-
6 thority under section 203(l);

7 “(B) guarantees and insures against losses
8 on the mortgage under such terms and condi-
9 tions as are reasonably acceptable to the Asso-
10 ciation;

11 “(C) becomes effective on the date on
12 which a guaranty issued under this subsection
13 for a trust certificate or other security based on
14 or backed by the mortgage becomes effective;
15 and

16 “(D) has a coverage percentage of not
17 more than 10 percent.”.

18 (b) GUARANTY FEE.—Section 306(g)(3)(A) of the
19 National Housing Act (12 U.S.C. 1721(g)(3)(A)) is
20 amended—

21 (1) by inserting “(i)” after “(A)”; and

22 (2) by adding at the end the following new
23 clause:

24 “(ii) Notwithstanding clause (i) of this subparagraph
25 or subparagraph (B), (C), or (E), the Association shall

1 assess and collect a fee on or with regard to each guaranty
 2 issued under subsection (h) in an amount that is suffi-
 3 cient, as determined by the Secretary of Housing and
 4 Urban Development, to generate revenues from such fees
 5 to the Federal Government in an amount not less than
 6 the cost (as such term is defined in section 502 of the
 7 Congressional Budget Act of 1974 (2 U.S.C. 661a)) of
 8 such guarantees, except that such fee shall not in any case
 9 exceed 8 basis points.”.

10 (c) MORTGAGE POOL COMPOSITION.—Section 306 of
 11 the National Housing Act (12 U.S.C. 1721), as amended
 12 by the preceding provisions of this Act, is further amended
 13 by adding at the end the following new subsection:

14 “(j) MORTGAGE POOL COMPOSITION.—Any trust or
 15 pool that is the basis for or backs any trust certificate
 16 or other security guaranteed under this section may in-
 17 clude only—

18 “(1) qualifying privately insured mortgages; or

19 “(2) mortgages described in subsection (g)(1).”.

20 **SEC. 4. TECHNICAL AND CONFORMING AMENDMENTS.**

21 (a) GUARANTEES.—Section 306(g)(1) of the Na-
 22 tional Housing Act (12 U.S.C. 1721(g)(1)) is amended—

23 (1) by inserting “(A)” after “(g)(1)”;

24 (2) in the second sentence—

1 (A) by striking “The Association” and in-
2 serting “Subject to paragraph (3), the Associa-
3 tion”; and

4 (B) by inserting “or subsection (h)” after
5 “this subsection”;

6 (3) in the third sentence, by inserting “or sub-
7 section (h)” after “this subsection” each place such
8 term appears;

9 (4) in the penultimate and last sentences, by in-
10 serting “or subsection (h)” after “this subsection”
11 each place such term appears;

12 (5) by striking “The Association is hereby em-
13 powered,” and all that follows through “against
14 which the guaranteed securities are issued.”; and

15 (6) by adding at the end the following:

16 “(B)(i) The Association may, in connection with any
17 guaranty under this subsection or subsection (h), whether
18 before or after any default by the issuer or any default
19 by the qualified mortgage insurer (in the case of securities
20 based on and backed by qualifying privately insured mort-
21 gages)—

22 “(I) provide by contract with the issuer for the
23 extinguishment, upon default by the issuer, of any
24 redemption, equitable, legal, or other right, title, or
25 interest of the issuer in any mortgage or mortgages

1 constituting the trust or pool against which the
2 guaranteed securities are issued; or

3 “(II) provide by contract with the qualified
4 mortgage insurer for the extinguishment, upon de-
5 fault by the qualified mortgage insurer, of any re-
6 demption, equitable, legal, or other right, title, or in-
7 terest of the qualified mortgage insurer in such
8 mortgage or mortgages, as well as any related pri-
9 mary mortgage insurance or supplemental mortgage
10 insurance coverage or any future premiums and pro-
11 ceeds related thereto.

12 “(ii) With respect to any issue of guaranteed
13 securities—

14 “(I) in the event of default by the issuer, and
15 pursuant otherwise to the terms of the contract, the
16 mortgages that constitute the trust or pool referred
17 to in clause (i) shall become the absolute property of
18 the Association, subject only to the unsatisfied rights
19 of the holders of the securities based on and backed
20 by that trust or pool; and

21 “(II) in the event of default by the qualified
22 mortgage insurer, and pursuant otherwise to the
23 terms of the contract, any right of the qualified
24 mortgage insurer with respect to the mortgages that
25 constitute such trust or pool and any related pri-

1 mary mortgage insurance or supplemental mortgage
2 insurance coverage and any future premiums and
3 proceeds related thereto shall become the absolute
4 property of the Association, subject only to the
5 unsatisfied rights of the holders of the securities
6 based on and backed by such trust or pool and to
7 the unsatisfied rights of any insured issuer with re-
8 spect to any mortgage insurance coverage.

9 “(C) No State, local, or Federal law (except, with re-
10 spect to guarantees under this subsection, Federal law en-
11 acted expressly in limitation of this subsection after Octo-
12 ber 8, 1980, and, with respect to guarantees under sub-
13 section (h), Federal law enacted expressly in limitation of
14 subsection (h) after the date of enactment of the Home
15 Ownership Expansion and Opportunities Act of 2001),
16 shall preclude or limit the exercise by the Association of—

17 “(i) its power to contract with the issuer, or the
18 qualified mortgage insurer on the terms stated in
19 subparagraph (B);

20 “(ii) its rights to enforce any such contract with
21 the issuer or the qualified mortgage insurer; or

22 “(iii) its ownership rights, as provided in sub-
23 paragraph (B), with respect to the mortgages consti-
24 tuting the trust or pool, against which the guaran-
25 teed securities are issued, and with respect to any

1 related primary mortgage insurance or supplemental
2 mortgage insurance coverage and any future pre-
3 miums and proceeds related thereto.”.

4 (b) SUPPLEMENTAL MORTGAGE INSURANCE.—Sec-
5 tion 203 of the National Housing Act (12 U.S.C. 1709)
6 is amended by inserting after subsection (k) the following
7 new subsection:

8 “(l) SUPPLEMENTAL MORTGAGE INSURANCE FOR
9 QUALIFYING PRIVATELY INSURED MORTGAGES.—The
10 Secretary is authorized to provide supplemental mortgage
11 insurance (as such term is defined in section 306(i)) in
12 connection with qualifying privately insured mortgages (as
13 such term is defined in such section), which shall be an
14 obligation of the Mutual Mortgage Insurance Fund estab-
15 lished under section 202.”.

16 **SEC. 5. GUARANTEE FEE.**

17 Section 972 of the Higher Education Amendments of
18 1998 (Public Law 105–244; 112 Stat. 1837) is hereby re-
19 pealed.

20 **SEC. 6. EFFECTIVE DATE.**

21 (a) IN GENERAL.—The Government National Mort-
22 gage Association shall provide for the initial implementa-
23 tion of this Act by notice to its participating issuers.

1 (b) PUBLICATION.—The notice required under sub-
2 section (a) shall be published not later than 60 days after
3 the date of the enactment of this Act.

