

111TH CONGRESS
1ST SESSION

H. R. 1295

To mitigate mortgage foreclosures, facilitate and include fairness in housing recovery, and combat mortgage fraud, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 2009

Mrs. BIGGERT (for herself, Mr. BACHUS, Mr. NEUGEBAUER, Mrs. CAPITO, Ms. GINNY BROWN-WAITE of Florida, Mr. ROGERS of Michigan, Mr. JONES, Mr. SHIMKUS, Mr. ROONEY, Mr. SESSIONS, Mr. TURNER, Mr. SMITH of Texas, Mr. PAULSEN, Mrs. BONO MACK, Mr. LANCE, Mr. BILBRAY, Mr. REICHERT, Mr. CASTLE, Mr. McCAUL, Mr. JOHNSON of Illinois, Mrs. MILLER of Michigan, and Mrs. SCHMIDT) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committees on Ways and Means and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To mitigate mortgage foreclosures, facilitate and include fairness in housing recovery, and combat mortgage fraud, and for other purposes.

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 AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Fairness in Housing Recovery Act of 2009”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

- Sec. 1. Short title and table of contents.
- Sec. 2. Servicer safe harbor for mortgage loan modifications.
- Sec. 3. Replacement of HOPE for Homeowners Program with program for insurance of homeownership retention mortgages.
- Sec. 4. Expanding and preserving homeownership through counseling.
- Sec. 5. Requirements for FHA-approved mortgagees.
- Sec. 6. Commission on the Foreclosure and Mortgage Lending Crisis.
- Sec. 7. Authorization of appropriations for combating mortgage fraud.
- Sec. 8. Enhancement of liquidity and stability of insured depository institutions to ensure availability of credit and reduction of foreclosures.
- Sec. 9. Prohibition on the receipt of common stock and the exercise of stock voting power.
- Sec. 10. Treatment of gain on disposition of subsidized residences.
- Sec. 11. Refundable tax credit for residences purchased during 2009 or 2010.
- Sec. 12. Conditions on mortgage relief.

3 **SEC. 2. SERVICER SAFE HARBOR FOR MORTGAGE LOAN**
 4 **MODIFICATIONS.**

5 (a) SAFE HARBOR.—

6 (1) LOAN MODIFICATIONS AND WORKOUT
 7 PLANS.—Notwithstanding any other provision of
 8 law, and notwithstanding any investment contract
 9 between a servicer and a securitization vehicle or in-
 10 vestor, a servicer that acts consistent with the duty
 11 set forth in section 129A(a) of Truth in Lending Act
 12 (15 U.S.C. 1639a) shall not be liable for entering
 13 into a loan modification, workout, or other loss miti-
 14 gation plan, including, but not limited to, disposi-
 15 tion, including any modification or refinancing un-
 16 dertaken pursuant to standard loan modification,
 17 sale, or disposition guidelines issued by the Sec-
 18 retary of the Treasury or his designee under the

1 Emergency Economic Stabilization Act of 2008, with
2 respect to any such mortgage that meets all of the
3 criteria set forth in paragraph (2)(B) to—

4 (A) any person, based on that person's
5 ownership of a residential mortgage loan or any
6 interest in a pool of residential mortgage loans
7 or in securities that distribute payments out of
8 the principal, interest and other payments in
9 loans on the pool;

10 (B) any person who is obligated pursuant
11 to a derivatives instrument to make payments
12 determined in reference to any loan or any in-
13 terest referred to in subparagraph (A); or

14 (C) any person that insures any loan or
15 any interest referred to in subparagraph (A)
16 under any law or regulation of the United
17 States or any law or regulation of any State or
18 political subdivision of any State.

19 (2) ABILITY TO MODIFY MORTGAGES.—

20 (A) ABILITY.—Notwithstanding any other
21 provision of law, and notwithstanding any in-
22 vestment contract between a servicer and a
23 securitization vehicle or investor, a servicer—

24 (i) shall not be limited in the ability
25 to modify mortgages, the number of mort-

gages that can be modified, the frequency of loan modifications, or the range of permissible modifications; and

(ii) shall not be obligated to repurchase loans from or otherwise make payments to the securitization vehicle on account of a modification, workout, or other loss mitigation plan for a residential mortgage or a class of residential mortgages that constitute a part or all of the mortgages in the securitization vehicle,

if any mortgage so modified meets all of the criteria set forth in subparagraph (B).

(B) CRITERIA.—The criteria under this subparagraph with respect to a mortgage are as follows:

(i) Default on the payment of such mortgage has occurred or is reasonably foreseeable.

(ii) The property securing such mortgage is occupied by the mortgagor of such mortgage.

(iii) The servicer reasonably and in good faith believes that the anticipated recovery on the principal outstanding obliga-

tion of the mortgage under the particular modification or workout plan or other loss mitigation action will exceed, on a net present value basis, the anticipated recovery on the principal outstanding obligation of the mortgage to be realized through foreclosure.

(3) APPLICABILITY.—This subsection shall apply only with respect to modifications, workouts, and other loss mitigation plans initiated before January 1, 2012.

(b) REPORTING.—Each servicer that engages in loan modifications or workout plans subject to the safe harbor in subsection (a) shall report to the Secretary on a regular basis regarding the extent, scope and results of the servicer's modification activities. The Secretary shall prescribe regulations specifying the form, content, and timing of such reports.

(c) LEGAL COSTS.—If an unsuccessful action is brought against a servicer by any person described in subparagraph (A), (B), or (C) of subsection (a)(1), such person shall bear any actual legal costs of the servicer, including reasonable attorney fees and expert witness fees, incurred in good faith in such action, as determined by the court.

1 (d) DEFINITIONS.—For purposes of this section, the
 2 following definitions shall apply:

3 (1) SECRETARY.—The term “Secretary” means
 4 the Secretary of the Treasury.

5 (2) SECURITIZATION VEHICLE.—The term
 6 “securitization vehicle” means a trust, corporation,
 7 partnership, limited liability entity, special purpose
 8 entity, or other structure that—

9 (A) is the issuer, or is created by the
 10 issuer, of mortgage pass-through certificates,
 11 participation certificates, mortgage-backed secu-
 12 rities, or other similar securities backed by a
 13 pool of assets that includes residential mortgage
 14 loans; and

15 (B) holds such mortgages.

16 **SEC. 3. REPLACEMENT OF HOPE FOR HOMEOWNERS PRO-**
 17 **GRAM WITH PROGRAM FOR INSURANCE OF**
 18 **HOMEOWNERSHIP RETENTION MORTGAGES.**

19 (a) REPLACEMENT OF PROGRAM.—Title II of the
 20 National Housing Act (12 U.S.C. 1707 et seq.) is amend-
 21 ed—

22 (1) in section 257 (12 U.S.C. 1715z–23), as
 23 added by section 1402(a) of Public Law 110–289—

24 (A) by striking subsections (a) through
 25 (k); and

1 (B) by striking subsections (n) through
2 (v);

3 (2) by redesignating section 257 (12 U.S.C.
4 1715z-24), as added by section 2124 of Public Law
5 110-289, as section 259; and

6 (3) by inserting before such section 259 (as so
7 redesignated) the following new section:

8 **“SEC. 258. INSURANCE OF HOMEOWNERSHIP RETENTION**
9 **MORTGAGES.**

10 “(a) **AUTHORITY.**—The Secretary shall, subject only
11 to the absence of qualified requests for insurance under
12 this section and to the limitations under sections 257(m)
13 and 531(a), make commitments to insure and insure any
14 mortgage covering a 1- to 4-family residence that is made
15 for the purpose of paying or prepaying outstanding obliga-
16 tions under an existing mortgage or mortgages on the resi-
17 dence if the mortgage being insured under this section
18 meets the requirements of this section, as established by
19 the Secretary. The Secretary shall establish such mortgage
20 insurance products, and requirements and standards, in
21 accordance with this section as the Secretary considers ap-
22 propriate to carry out this section and shall prescribe such
23 regulations and provide such guidance as may be nec-
24 essary or appropriate to implement such products, require-
25 ments, and standards.

1 “(b) REQUIREMENTS OF INSURED MORTGAGE.—To
2 be eligible for insurance under this section, a mortgage
3 to be insured under this section shall comply with all of
4 the following requirements:

5 “(1) PRIMARY RESIDENCE.—The mortgagor
6 under the mortgage to be insured shall provide docu-
7 mentation satisfactory in the determination of the
8 Secretary to prove that the residence covered by the
9 mortgage to be insured under this section is occu-
10 pied by the mortgagor as the primary residence of
11 the mortgagor, and that such residence is the only
12 residence in which the mortgagor has any present
13 ownership interest.

14 “(2) TROUBLED HOMEOWNER.—The mortgagor
15 under the mortgage to be insured shall be the mort-
16 gagor under the existing mortgage to be refinanced
17 by the insured mortgage and shall—

18 “(A) be in default on the mortgagor’s obli-
19 gations under the existing mortgage;

20 “(B) be in danger of defaulting, as deter-
21 mined in accordance with standards established
22 by the Secretary, on the mortgagor’s obligations
23 under the existing mortgage; or

24 “(C) have a remaining principal obligation
25 amount under such existing mortgage that ex-

1 ceeds, at the time of the commitment for mort-
2 gage insurance under this section, the appraised
3 value of the property that is subject to such ex-
4 isting mortgage.

5 “(3) PROHIBITION ON REFINANCING LIAR
6 LOANS.—The Secretary may not insure a mortgage
7 under this section if the mortgagor under such mort-
8 gage has knowingly, or willfully and with actual
9 knowledge, furnished any material information re-
10 garding the income or financial worth of the mort-
11 gagor that is known to be false for the purpose of
12 obtaining the existing mortgage that is to be refi-
13 nanced by the mortgage to be insured under this
14 section.

15 “(4) EXCLUSION OF ZERO DOWN PAYMENT
16 LOANS.—In connection with the origination of the
17 senior existing mortgage to be refinanced with the
18 mortgage insured under this section, the mortgagor
19 shall have made a down payment, in cash or its
20 equivalent, on account of the property purchased
21 under such senior existing mortgage.

22 “(5) EXCLUSION OF NO-DOC LOANS.—The ex-
23 isting senior mortgage to be refinanced with the
24 mortgage insured under this section shall have been
25 originated only pursuant to the mortgagor providing

1 documentation sufficient to verify the amount and
2 source of the mortgagor's income.

3 “(6) PROHIBITION ON REFINANCING ZERO-
4 DOWN LOANS AND LOANS WITH EQUITY RE-
5 MOVED.—The Secretary may not insure a mortgage
6 under this section if—

7 “(A) under the existing mortgage to be re-
8 financed, the mortgagor did not make any pay-
9 ment on account of the property (or any pay-
10 ment exceeding such nominal amount as the
11 Secretary may establish), in cash or its equiva-
12 lent, in connection with acquisition of the prop-
13 erty; or

14 “(B) during the term of the existing mort-
15 gage to be refinanced, the mortgagor withdrew
16 all, or substantially all (in accordance with such
17 standards and guidelines as the Secretary shall
18 establish) of any equity of the mortgagor in the
19 property subject to such existing mortgage.

20 “(7) TERMS.—The mortgage to be insured
21 under this section shall have such terms and condi-
22 tions as the Secretary shall provide, except that such
23 mortgage shall—

24 “(A) have a term to maturity not exceed-
25 ing 40 years; and

1 “(B) bear interest at an annual rate that
2 is fixed for the entire term of the mortgage.

3 “(8) REQUIRED WAIVER OF PREPAYMENT PEN-
4 ALTIES AND FEES.—All penalties for prepayment or
5 refinancing of the existing mortgage, and all fees
6 and penalties related to default or delinquency on
7 the existing mortgage, shall be waived or forgiven.

8 “(9) SHARED APPRECIATION.—The Secretary
9 shall provide that, with respect to each mortgage in-
10 sured under this section, upon any sale or disposi-
11 tion of the property subject to such mortgage occur-
12 ring during the 5-year period beginning on the date
13 of the insurance of the mortgage, to the extent of
14 any principal write-down or interest rate subsidy
15 provided in connection with the mortgage, the Sec-
16 retary and the mortgagee shall be entitled to a per-
17 centage of any appreciation in value of such prop-
18 erty that has occurred since the date that such
19 mortgage was insured under this section, which per-
20 centage shall decrease over time, and the mortgagor
21 shall be entitled to the remainder of any such appre-
22 ciation.

23 “(10) MAXIMUM LOAN AMOUNT.—The principal
24 obligation amount of the mortgage to be insured
25 under this section shall not exceed the applicable

1 dollar amount limitation in effect under section
2 305(a)(2) of the Federal Home Loan Mortgage Cor-
3 poration (12 U.S.C. 1452(a)(2)) for a property of
4 the applicable size for the area in which the property
5 is located .

6 “(11) TERM; INTEREST RATE.—The refinanced
7 eligible mortgage to be insured shall—

8 “(A) bear interest at a single rate that is
9 fixed for the entire term of the mortgage; and

10 “(B) have a maturity of not less than 30
11 years from the date of the beginning of amorti-
12 zation of such refinanced eligible mortgage.

13 “(c) EXIT FEE.—The Secretary may establish a fee,
14 charge, or other mechanism for recovering, upon sale or
15 other disposition of the property that is subject to the
16 mortgage insured under this section or upon the subse-
17 quent refinancing of the mortgage, a portion of the equity
18 or appreciation in the property.

19 “(d) GNMA PRICING.—In order to facilitate favor-
20 able pricing for loans insured under this section, the
21 Board of Governors of the Federal Reserve System, the
22 Secretary of the Treasury, the Federal National Mortgage
23 Association, and the Federal Home Loan Mortgage Cor-
24 poration are authorized to purchase mortgage-backed se-
25 curities guaranteed by the Government National Mortgage

1 Association that are backed by loans originated under this
 2 section or whole loans originated and purchased under this
 3 section. The Government National Mortgage Association
 4 is authorized to hold, sell, and securitize whole loans origi-
 5 nated under this section.

6 “(e) DEFINITIONS.—For purposes of this section, the
 7 following definitions shall apply:

8 “(1) EXISTING MORTGAGE.—The term ‘existing
 9 mortgage’ means, with respect to a mortgage in-
 10 sured under this section, a mortgage that is to be
 11 extinguished, and paid or prepaid, from the proceeds
 12 of the mortgage insured under this section.

13 “(2) SENIOR EXISTING MORTGAGE.—The term
 14 ‘senior existing mortgage’ means, with respect to a
 15 mortgage insured under this section, the existing
 16 mortgage that has superior priority.

17 “(f) SUNSET.—The Secretary may not enter into any
 18 new commitment to insure any refinanced eligible mort-
 19 gage, or newly insure any refinanced eligible mortgage
 20 pursuant to this section after the expiration of the 3-year
 21 period beginning upon the date of the enactment of this
 22 section.”.

23 (b) USE OF AGGREGATE INSURANCE AUTHORITY
 24 AND FUNDS UNDER HOPE FOR HOMEOWNERS PRO-
 25 GRAM.—Section 257 of the National Housing Act (12

1 U.S.C. 1715z–24), as added by section 1402(a) of Public
 2 Law 110–289), is amended—

3 (1) in subsection (l)(1), by striking “this sec-
 4 tion” and inserting “section 258”;

5 (2) in subsection (m), by striking “this section”
 6 and inserting “section 258”;

7 (3) in subsection (w)—

8 (A) in paragraphs (1) and (3), by striking
 9 “HOPE for Homeowners Program” each place
 10 such term appears and inserting “mortgage in-
 11 surance program under section 258”; and

12 (B) in paragraph (4) by striking “HOPE
 13 for Homeowners Program in accordance with
 14 subsections (i) and (k)” and inserting “mort-
 15 gage insurance program under section 258”;

16 (4) by redesignating subsections (l), (m), and
 17 (w) as subsections (a), (b), and (c), respectively; and

18 (5) by striking the section heading and insert-
 19 ing the following: “**HOPE FUND AND HOPE**
 20 **BONDS.**”

21 (c) REDUCING TARP FUNDS TO OFFSET COSTS OF
 22 PROGRAM.—Paragraph (3) of section 115(a) of the Emer-
 23 gency Economic Stabilization Act of 2008 (12 U.S.C.
 24 5225) is amended by inserting “, as such amount is re-
 25 duced by \$1,000,000,000,” after “\$700,000,000,000”.

1 **SEC. 4. EXPANDING AND PRESERVING HOMEOWNERSHIP**
2 **THROUGH COUNSELING.**

3 (a) ESTABLISHMENT OF OFFICE OF HOUSING COUN-
4 SELING.—Section 4 of the Department of Housing and
5 Urban Development Act (42 U.S.C. 3533) is amended by
6 adding at the end the following new subsection:

7 “(g) OFFICE OF HOUSING COUNSELING.—

8 “(1) ESTABLISHMENT.—There is established,
9 in the Office of the Secretary, the Office of Housing
10 Counseling.

11 “(2) DIRECTOR.—There is established the posi-
12 tion of Director of Housing Counseling. The Direc-
13 tor shall be the head of the Office of Housing Coun-
14 seling and shall be appointed by the Secretary. Such
15 position shall be a career-reserved position in the
16 Senior Executive Service.

17 “(3) FUNCTIONS.—

18 “(A) IN GENERAL.—The Director shall
19 have ultimate responsibility within the Depart-
20 ment, except for the Secretary, for all activities
21 and matters relating to homeownership coun-
22 seling and rental housing counseling, includ-
23 ing—

24 “(i) research, grant administration,
25 public outreach, and policy development re-
26 lating to such counseling; and

1 “(ii) establishment, coordination, and
2 administration of all regulations, require-
3 ments, standards, and performance meas-
4 ures under programs and laws adminis-
5 tered by the Department that relate to
6 housing counseling, homeownership coun-
7 seling (including maintenance of homes),
8 mortgage-related counseling (including
9 home equity conversion mortgages and
10 credit protection options to avoid fore-
11 closure), and rental housing counseling, in-
12 cluding the requirements, standards, and
13 performance measures relating to housing
14 counseling.

15 “(B) SPECIFIC FUNCTIONS.—The Director
16 shall carry out the functions assigned to the Di-
17 rector and the Office under this section and any
18 other provisions of law. Such functions shall in-
19 clude establishing rules necessary for—

20 “(i) the counseling procedures under
21 section 106(g)(1) of the Housing and
22 Urban Development Act of 1968 (12
23 U.S.C. 1701x(h)(1));

24 “(ii) carrying out all other functions
25 of the Secretary under section 106(g) of

1 the Housing and Urban Development Act
2 of 1968, including the establishment, oper-
3 ation, and publication of the availability of
4 the toll-free telephone number under para-
5 graph (2) of such section;

6 “(iii) carrying out section 5 of the
7 Real Estate Settlement Procedures Act of
8 1974 (12 U.S.C. 2604) for home buying
9 information booklets prepared pursuant to
10 such section;

11 “(iv) carrying out the certification
12 program under section 106(e) of the Hous-
13 ing and Urban Development Act of 1968
14 (12 U.S.C. 1701x(e));

15 “(v) carrying out the assistance pro-
16 gram under section 106(a)(4) of the Hous-
17 ing and Urban Development Act of 1968,
18 including criteria for selection of applica-
19 tions to receive assistance;

20 “(vi) carrying out any functions re-
21 garding abusive, deceptive, or unscrupulous
22 lending practices relating to residential
23 mortgage loans that the Secretary con-
24 sider appropriate, which shall include con-

ducting the study under section 4(e) of the
Fairness in Housing Recovery Act of 2009;

“(vii) providing for operation of the
advisory committee established under para-
graph (4) of this subsection;

“(viii) collaborating with community-
based organizations with expertise in the
field of housing counseling; and

“(ix) providing for the building of ca-
pacity to provide housing counseling serv-
ices in areas that lack sufficient services.

“(4) ADVISORY COMMITTEE.—

“(A) IN GENERAL.—The Secretary shall
appoint an advisory committee to provide advice
regarding the carrying out of the functions of
the Director.

“(B) MEMBERS.—Such advisory committee
shall consist of not more than 12 individuals,
and the membership of the committee shall
equally represent all aspects of the mortgage
and real estate industry, including consumers.

“(C) TERMS.—Except as provided in sub-
paragraph (D), each member of the advisory
committee shall be appointed for a term of 3

1 years. Members may be reappointed at the dis-
2 cretion of the Secretary.

3 “(D) TERMS OF INITIAL APPOINTEES.—As
4 designated by the Secretary at the time of ap-
5 pointment, of the members first appointed to
6 the advisory committee, 4 shall be appointed for
7 a term of 1 year and 4 shall be appointed for
8 a term of 2 years.

9 “(E) PROHIBITION OF PAY; TRAVEL EX-
10 PENSES.—Members of the advisory committee
11 shall serve without pay, but shall receive travel
12 expenses, including per diem in lieu of subsist-
13 ence, in accordance with applicable provisions
14 under subchapter I of chapter 57 of title 5,
15 United States Code.

16 “(F) ADVISORY ROLE ONLY.—The advi-
17 sory committee shall have no role in reviewing
18 or awarding housing counseling grants.

19 “(5) SCOPE OF HOMEOWNERSHIP COUN-
20 SELING.—In carrying out the responsibilities of the
21 Director, the Director shall ensure that homeowner-
22 ship counseling provided by, in connection with, or
23 pursuant to any function, activity, or program of the
24 Department addresses the entire process of home-
25 ownership, including the decision to purchase a

1 home, the selection and purchase of a home, issues
 2 arising during or affecting the period of ownership
 3 of a home (including refinancing, default and fore-
 4 closure, and other financial decisions), and the sale
 5 or other disposition of a home.”.

6 (b) COUNSELING PROCEDURES.—

7 (1) IN GENERAL.—Section 106 of the Housing
 8 and Urban Development Act of 1968 (12 U.S.C.
 9 1701x) is amended by adding at the end the fol-
 10 lowing new subsection:

11 “(g) PROCEDURES AND ACTIVITIES.—

12 “(1) COUNSELING PROCEDURES.—

13 “(A) IN GENERAL.—The Secretary shall
 14 establish, coordinate, and monitor the adminis-
 15 tration by the Department of Housing and
 16 Urban Development of the counseling proce-
 17 dures for homeownership counseling and rental
 18 housing counseling provided in connection with
 19 any program of the Department, including all
 20 requirements, standards, and performance
 21 measures that relate to homeownership and
 22 rental housing counseling.

23 “(B) HOMEOWNERSHIP COUNSELING.—

24 For purposes of this subsection and as used in
 25 the provisions referred to in this subparagraph,

1 the term ‘homeownership counseling’ means
2 counseling related to homeownership and resi-
3 dential mortgage loans. Such term includes
4 counseling related to homeownership and resi-
5 dential mortgage loans that is provided pursu-
6 ant to—

7 “(i) section 105(a)(20) of the Housing
8 and Community Development Act of 1974
9 (42 U.S.C. 5305(a)(20));

10 “(ii) in the United States Housing
11 Act of 1937—

12 “(I) section 9(e) (42 U.S.C.
13 1437g(e));

14 “(II) section 8(y)(1)(D) (42
15 U.S.C. 1437f(y)(1)(D));

16 “(III) section 18(a)(4)(D) (42
17 U.S.C. 1437p(a)(4)(D));

18 “(IV) section 23(c)(4) (42 U.S.C.
19 1437u(c)(4));

20 “(V) section 32(e)(4) (42 U.S.C.
21 1437z-4(e)(4));

22 “(VI) section 33(d)(2)(B) (42
23 U.S.C. 1437z-5(d)(2)(B));

1 “(VII) sections 302(b)(6) and
2 303(b)(7) (42 U.S.C. 1437aaa–
3 1(b)(6), 1437aaa–2(b)(7)); and

4 “(VIII) section 304(c)(4) (42
5 U.S.C. 1437aaa–3(c)(4));

6 “(iii) section 302(a)(4) of the Amer-
7 ican Homeownership and Economic Oppor-
8 tunity Act of 2000 (42 U.S.C. 1437f note);

9 “(iv) sections 233(b)(2) and 258(b) of
10 the Cranston-Gonzalez National Affordable
11 Housing Act (42 U.S.C. 12773(b)(2),
12 12808(b));

13 “(v) this section and section 101(e) of
14 the Housing and Urban Development Act
15 of 1968 (12 U.S.C. 1701x, 1701w(e));

16 “(vi) section 220(d)(2)(G) of the Low-
17 Income Housing Preservation and Resident
18 Homeownership Act of 1990 (12 U.S.C.
19 4110(d)(2)(G));

20 “(vii) sections 422(b)(6), 423(b)(7),
21 424(c)(4), 442(b)(6), and 443(b)(6) of the
22 Cranston-Gonzalez National Affordable
23 Housing Act (42 U.S.C. 12872(b)(6),
24 12873(b)(7), 12874(c)(4), 12892(b)(6),
25 and 12893(b)(6));

1 “(viii) section 491(b)(1)(F)(iii) of the
2 McKinney-Vento Homeless Assistance Act
3 (42 U.S.C. 11408(b)(1)(F)(iii));

4 “(ix) sections 202(3) and
5 810(b)(2)(A) of the Native American
6 Housing and Self-Determination Act of
7 1996 (25 U.S.C. 4132(3), 4229(b)(2)(A));

8 “(x) in the National Housing Act—

9 “(I) in section 203 (12 U.S.C.
10 1709), the penultimate undesignated
11 paragraph of paragraph (2) of sub-
12 section (b), subsection (c)(2)(A), and
13 subsection (r)(4);

14 “(II) subsections (a) and (c)(3)
15 of section 237 (12 U.S.C. 1715z–2);
16 and

17 “(III) subsections (d)(2)(B) and
18 (m)(1) of section 255 (12 U.S.C.
19 1715z–20);

20 “(xi) section 502(h)(4)(B) of the
21 Housing Act of 1949 (42 U.S.C.
22 1472(h)(4)(B)); and

23 “(xii) section 508 of the Housing and
24 Urban Development Act of 1970 (12
25 U.S.C. 1701z–7).

1 “(C) RENTAL HOUSING COUNSELING.—

2 For purposes of this subsection, the term ‘rent-
 3 al housing counseling’ means counseling related
 4 to rental of residential property, which may in-
 5 clude counseling regarding future homeowner-
 6 ship opportunities and providing referrals for
 7 renters and prospective renters to entities pro-
 8 viding counseling and shall include counseling
 9 related to such topics that is provided pursuant
 10 to—

11 “(i) section 105(a)(20) of the Housing
 12 and Community Development Act of 1974
 13 (42 U.S.C. 5305(a)(20));

14 “(ii) in the United States Housing
 15 Act of 1937—

16 “(I) section 9(e) (42 U.S.C.
 17 1437g(e));

18 “(II) section 18(a)(4)(D) (42
 19 U.S.C. 1437p(a)(4)(D));

20 “(III) section 23(c)(4) (42
 21 U.S.C. 1437u(c)(4));

22 “(IV) section 32(e)(4) (42 U.S.C.
 23 1437z-4(e)(4));

24 “(V) section 33(d)(2)(B) (42
 25 U.S.C. 1437z-5(d)(2)(B)); and

1 “(VI) section 302(b)(6) (42
2 U.S.C. 1437aaa–1(b)(6));

3 “(iii) section 233(b)(2) of the Cran-
4 ston-Gonzalez National Affordable Housing
5 Act (42 U.S.C. 12773(b)(2));

6 “(iv) section 106 of the Housing and
7 Urban Development Act of 1968 (12
8 U.S.C. 1701x);

9 “(v) section 422(b)(6) of the Cran-
10 ston-Gonzalez National Affordable Housing
11 Act (42 U.S.C. 12872(b)(6));

12 “(vi) section 491(b)(1)(F)(iii) of the
13 McKinney-Vento Homeless Assistance Act
14 (42 U.S.C. 11408(b)(1)(F)(iii));

15 “(vii) sections 202(3) and
16 810(b)(2)(A) of the Native American
17 Housing and Self-Determination Act of
18 1996 (25 U.S.C. 4132(3), 4229(b)(2)(A));
19 and

20 “(viii) the rental assistance program
21 under section 8 of the United States Hous-
22 ing Act of 1937 (42 U.S.C. 1437f).

23 “(2) STANDARDS FOR MATERIALS.—The Sec-
24 retary, in conjunction with the advisory committee
25 established under section 4(g)(4) of the Department

1 of Housing and Urban Development Act (42 U.S.C.
2 3533(g)(4), shall establish standards for materials
3 and forms to be used, as appropriate, by organiza-
4 tions providing homeownership counseling services,
5 including any recipients of assistance pursuant to
6 subsection (a)(4).

7 “(3) MORTGAGE SOFTWARE SYSTEMS.—

8 “(A) CERTIFICATION.—The Secretary shall
9 provide for the certification of various computer
10 software programs for consumers to use in eval-
11 uating different residential mortgage loan pro-
12 posals. The Secretary shall require, for such
13 certification, that the mortgage software sys-
14 tems take into account—

15 “(i) the consumer’s financial situation
16 and the cost of maintaining a home, in-
17 cluding insurance, taxes, and utilities;

18 “(ii) the amount of time the consumer
19 expects to remain in the home or expected
20 time to maturity of the loan; and

21 “(iii) such other factors as the Sec-
22 retary considers appropriate to assist the
23 consumer in evaluating whether to pay
24 points, to lock in an interest rate, to select
25 an adjustable or fixed rate loan, to select

1 a conventional or government-insured or
2 guaranteed loan and to make other choices
3 during the loan application process.

4 If the Secretary determines that available exist-
5 ing software is inadequate to assist consumers
6 during the residential mortgage loan application
7 process, the Secretary shall arrange for the de-
8 velopment by private sector software companies
9 of new mortgage software systems that meet
10 the Secretary's specifications.

11 “(B) USE AND INITIAL AVAILABILITY.—
12 Such certified computer software programs
13 shall be used to supplement, not replace, hous-
14 ing counseling. The Secretary shall provide that
15 such programs are initially used only in connec-
16 tion with the assistance of housing counselors
17 certified pursuant to subsection (e).

18 “(C) AVAILABILITY.—After a period of ini-
19 tial availability under subparagraph (B) as the
20 Secretary considers appropriate, the Secretary
21 shall take reasonable steps to make mortgage
22 software systems certified pursuant to this
23 paragraph widely available through the Internet
24 and at public locations, including public librar-
25 ies, senior-citizen centers, public housing sites,

1 offices of public housing agencies that admin-
2 ister rental housing assistance vouchers, and
3 housing counseling centers.

4 “(4) NATIONAL PUBLIC SERVICE MULTIMEDIA
5 CAMPAIGNS TO PROMOTE HOUSING COUNSELING.—

6 “(A) IN GENERAL.—The Director of Hous-
7 ing Counseling shall develop, implement, and
8 conduct national public service multimedia cam-
9 paigns designed to make persons facing mort-
10 gage foreclosure, persons considering a
11 subprime mortgage loan to purchase a home, el-
12 derly persons, persons who face language bar-
13 riers, low-income persons, and other potentially
14 vulnerable consumers aware that it is advisable,
15 before seeking or maintaining a residential
16 mortgage loan, to obtain homeownership coun-
17 seling from an unbiased and reliable sources
18 and that such homeownership counseling is
19 available, including through programs spon-
20 sored by the Secretary of Housing and Urban
21 Development.

22 “(B) CONTACT INFORMATION.—Each seg-
23 ment of the multimedia campaign under sub-
24 paragraph (A) shall publicize the toll-free tele-
25 phone number and web site of the Department

1 of Housing and Urban Development through
2 which persons seeking housing counseling can
3 locate a housing counseling agency in their
4 State that is certified by the Secretary of Hous-
5 ing and Urban Development and can provide
6 advice on buying a home, renting, defaults,
7 foreclosures, credit issues, and reverse mort-
8 gages.

9 “(C) AUTHORIZATION OF APPROPRIA-
10 TIONS.—There are authorized to be appro-
11 priated to the Secretary, not to exceed
12 \$3,000,000 for fiscal years 2009, 2010, and
13 2011, for the development, implementation, and
14 conducting of national public service multimedia
15 campaigns under this paragraph.

16 “(5) EDUCATION PROGRAMS.—The Secretary
17 shall provide advice and technical assistance to
18 States, units of general local government, and non-
19 profit organizations regarding the establishment and
20 operation of, including assistance with the develop-
21 ment of content and materials for, educational pro-
22 grams to inform and educate consumers, particularly
23 those most vulnerable with respect to residential
24 mortgage loans (such as elderly persons, persons
25 facing language barriers, low-income persons, and

1 other potentially vulnerable consumers), regarding
 2 home mortgages, mortgage refinancing, home equity
 3 loans, and home repair loans.”.

4 (2) CONFORMING AMENDMENTS TO GRANT PRO-
 5 GRAM FOR HOMEOWNERSHIP COUNSELING ORGANI-
 6 ZATIONS.—Section 106(c)(5)(A)(ii) of the Housing
 7 and Urban Development Act of 1968 (12 U.S.C.
 8 1701x(c)(5)(A)(ii)) is amended—

9 (A) in subclause (III), by striking “and” at
 10 the end;

11 (B) in subclause (IV) by striking the pe-
 12 riod at the end and inserting “; and”; and

13 (C) by inserting after subclause (IV) the
 14 following new subclause:

15 “(V) notify the housing or mort-
 16 gage applicant of the availability of
 17 mortgage software systems provided
 18 pursuant to subsection (g)(3).”.

19 (c) GRANTS FOR HOUSING COUNSELING ASSIST-
 20 ANCE.—Section 106(a) of the Housing and Urban Devel-
 21 opment Act of 1968 (12 U.S.C. 1701x(a)(3)) is amended
 22 by adding at the end the following new paragraph:

23 “(4) HOMEOWNERSHIP AND RENTAL COUNSELING
 24 ASSISTANCE.—

1 “(A) IN GENERAL.—The Secretary shall make
2 financial assistance available under this paragraph
3 to States, units of general local governments, and
4 nonprofit organizations providing homeownership or
5 rental counseling (as such terms are defined in sub-
6 section (g)(1)).

7 “(B) QUALIFIED ENTITIES.—The Secretary
8 shall establish standards and guidelines for eligibility
9 of organizations (including governmental and non-
10 profit organizations) to receive assistance under this
11 paragraph.

12 “(C) DISTRIBUTION.—Assistance made avail-
13 able under this paragraph shall be distributed in a
14 manner that encourages efficient and successful
15 counseling programs.

16 “(D) AUTHORIZATION OF APPROPRIATIONS.—
17 There are authorized to be appropriated
18 \$45,000,000 for each of fiscal years 2009 through
19 2012 for—

20 “(i) the operations of the Office of Hous-
21 ing Counseling of the Department of Housing
22 and Urban Development;

23 “(ii) the responsibilities of the Secretary
24 under paragraphs (2) through (5) of subsection
25 (g); and

1 “(iii) assistance pursuant to this para-
2 graph for entities providing homeownership and
3 rental counseling.”.

4 (d) REQUIREMENTS TO USE HUD-CERTIFIED
5 COUNSELORS UNDER HUD PROGRAMS.—Section 106(e)
6 of the Housing and Urban Development Act of 1968 (12
7 U.S.C. 1701x(e)) is amended—

8 (1) by striking paragraph (1) and inserting the
9 following new paragraph:

10 “(1) REQUIREMENT FOR ASSISTANCE.—An or-
11 ganization may not receive assistance for counseling
12 activities under subsection (a)(1)(iii), (a)(2), (a)(4),
13 (c), or (d) of this section, or under section 101(e),
14 unless the organization, or the individuals through
15 which the organization provides such counseling, has
16 been certified by the Secretary under this subsection
17 as competent to provide such counseling.”;

18 (2) in paragraph (2)—

19 (A) by inserting “and for certifying organi-
20 zations” before the period at the end of the
21 first sentence; and

22 (B) in the second sentence by striking “for
23 certification” and inserting “, for certification
24 of an organization, that each individual through
25 which the organization provides counseling shall

1 demonstrate, and, for certification of an indi-
2 vidual,”;

3 (3) in paragraph (3), by inserting “organiza-
4 tions and” before “individuals”;

5 (4) by redesignating paragraph (3) as para-
6 graph (5); and

7 (5) by inserting after paragraph (2) the fol-
8 lowing new paragraphs:

9 “(3) REQUIREMENT UNDER HUD PROGRAMS.—
10 Any homeownership counseling or rental housing
11 counseling (as such terms are defined in subsection
12 (g)(1)) required under, or provided in connection
13 with, any program administered by the Department
14 of Housing and Urban Development shall be pro-
15 vided only by organizations or counselors certified by
16 the Secretary under this subsection as competent to
17 provide such counseling.

18 “(4) OUTREACH.—The Secretary shall take
19 such actions as the Secretary considers appropriate
20 to ensure that individuals and organizations pro-
21 viding homeownership or rental housing counseling
22 are aware of the certification requirements and
23 standards of this subsection and of the training and
24 certification programs under subsection (f).”.

1 (e) STUDY OF DEFAULTS AND FORECLOSURES.—

2 The Secretary of Housing and Urban Development shall
3 conduct an extensive study of the root causes of default
4 and foreclosure of home loans, using as much empirical
5 data as are available. The study shall also examine the
6 role of escrow accounts in helping prime and nonprime
7 borrowers to avoid defaults and foreclosures. Not later
8 than 12 months after the date of the enactment of this
9 Act, the Secretary shall submit to the Congress a prelimi-
10 nary report regarding the study. Not later than 24 months
11 after such date of enactment, the Secretary shall submit
12 a final report regarding the results of the study, which
13 shall include any recommended legislation relating to the
14 study, and recommendations for best practices and for a
15 process to identify populations that need counseling the
16 most.

17 (f) DEFINITIONS FOR COUNSELING-RELATED PRO-
18 GRAMS.—Section 106 of the Housing and Urban Develop-
19 ment Act of 1968 (12 U.S.C. 1701x), as amended by the
20 preceding provisions of this section, is further amended
21 by adding at the end the following new subsection:

22 “(h) DEFINITIONS.—For purposes of this section:

23 “(1) NONPROFIT ORGANIZATION.—The term
24 ‘nonprofit organization’ has the meaning given such
25 term in section 104(5) of the Cranston-Gonzalez Na-

1 tional Affordable Housing Act (42 U.S.C.
2 12704(5)), except that subparagraph (D) of such
3 section shall not apply for purposes of this section.

4 “(2) STATE.—The term ‘State’ means each of
5 the several States, the Commonwealth of Puerto
6 Rico, the District of Columbia, the Commonwealth
7 of the Northern Mariana Islands, Guam, the Virgin
8 Islands, American Samoa, the Trust Territories of
9 the Pacific, or any other possession of the United
10 States.

11 “(3) UNIT OF GENERAL LOCAL GOVERN-
12 MENT.—The term ‘unit of general local government’
13 means any city, county, parish, town, township, bor-
14 ough, village, or other general purpose political sub-
15 division of a State.”.

16 (g) UPDATING AND SIMPLIFICATION OF MORTGAGE
17 INFORMATION BOOKLET.—Section 5 of the Real Estate
18 Settlement Procedures Act of 1974 (12 U.S.C. 2604) is
19 amended—

20 (1) in the section heading, by striking “SPE-
21 CIAL” and inserting “HOME BUYING”;

22 (2) by striking subsections (a) and (b) and in-
23 serting the following new subsections:

24 “(a) PREPARATION AND DISTRIBUTION.—The Sec-
25 retary shall prepare, at least once every 5 years, a booklet

1 to help consumers applying for federally related mortgage
2 loans to understand the nature and costs of real estate
3 settlement services. The Secretary shall prepare the book-
4 let in various languages and cultural styles, as the Sec-
5 retary determines to be appropriate, so that the booklet
6 is understandable and accessible to homebuyers of dif-
7 ferent ethnic and cultural backgrounds. The Secretary
8 shall distribute such booklets to all lenders that make fed-
9 erally related mortgage loans. The Secretary shall also dis-
10 tribute to such lenders lists, organized by location, of
11 homeownership counselors certified under section 106(e)
12 of the Housing and Urban Development Act of 1968 (12
13 U.S.C. 1701x(e)) for use in complying with the require-
14 ment under subsection (c) of this section.

15 “(b) CONTENTS.—Each booklet shall be in such form
16 and detail as the Secretary shall prescribe and, in addition
17 to such other information as the Secretary may provide,
18 shall include in plain and understandable language the fol-
19 lowing information:

20 “(1) A description and explanation of the na-
21 ture and purpose of the costs incident to a real es-
22 tate settlement or a federally related mortgage loan.
23 The description and explanation shall provide gen-
24 eral information about the mortgage process as well
25 as specific information concerning, at a minimum—

1 “(A) balloon payments;

2 “(B) prepayment penalties; and

3 “(C) the trade-off between closing costs
4 and the interest rate over the life of the loan.

5 “(2) An explanation and sample of the uniform
6 settlement statement required by section 4.

7 “(3) A list and explanation of lending practices,
8 including those prohibited by the Truth in Lending
9 Act or other applicable Federal law, and of other un-
10 fair practices and unreasonable or unnecessary
11 charges to be avoided by the prospective buyer with
12 respect to a real estate settlement.

13 “(4) A list and explanation of questions a con-
14 sumer obtaining a federally related mortgage loan
15 should ask regarding the loan, including whether the
16 consumer will have the ability to repay the loan,
17 whether the consumer sufficiently shopped for the
18 loan, whether the loan terms include prepayment
19 penalties or balloon payments, and whether the loan
20 will benefit the borrower.

21 “(5) An explanation of the right of rescission as
22 to certain transactions provided by sections 125 and
23 129 of the Truth in Lending Act.

24 “(6) A brief explanation of the nature of a vari-
25 able rate mortgage and a reference to the booklet

1 entitled ‘Consumer Handbook on Adjustable Rate
2 Mortgages’, published by the Board of Governors of
3 the Federal Reserve System pursuant to section
4 226.19(b)(1) of title 12, Code of Federal Regula-
5 tions, or to any suitable substitute of such booklet
6 that such Board of Governors may subsequently
7 adopt pursuant to such section.

8 “(7) A brief explanation of the nature of a
9 home equity line of credit and a reference to the
10 pamphlet required to be provided under section
11 127A of the Truth in Lending Act.

12 “(8) Information about homeownership coun-
13 seling services made available pursuant to section
14 106(a)(4) of the Housing and Urban Development
15 Act of 1968 (12 U.S.C. 1701x(a)(4)), a rec-
16 ommendation that the consumer use such services,
17 and notification that a list of certified providers of
18 homeownership counseling in the area, and their
19 contact information, is available.

20 “(9) An explanation of the nature and purpose
21 of escrow accounts when used in connection with
22 loans secured by residential real estate and the re-
23 quirements under section 10 of this Act regarding
24 such accounts.

1 “(10) An explanation of the choices available to
2 buyers of residential real estate in selecting persons
3 to provide necessary services incidental to a real es-
4 tate settlement.

5 “(11) An explanation of a consumer’s respon-
6 sibilities, liabilities, and obligations in a mortgage
7 transaction.

8 “(12) An explanation of the nature and purpose
9 of real estate appraisals, including the difference be-
10 tween an appraisal and a home inspection.

11 “(13) Notice that the Office of Housing of the
12 Department of Housing and Urban Development has
13 made publicly available a brochure regarding loan
14 fraud and a World Wide Web address and toll-free
15 telephone number for obtaining the brochure.

16 The booklet prepared pursuant to this section shall take
17 into consideration differences in real estate settlement pro-
18 cedures that may exist among the several States and terri-
19 tories of the United States and among separate political
20 subdivisions within the same State and territory.”;

21 (3) in subsection (c), by inserting at the end
22 the following new sentence: “Each lender shall also
23 include with the booklet a reasonably complete or
24 updated list of homeownership counselors who are
25 certified pursuant to section 106(e) of the Housing

1 and Urban Development Act of 1968 (12 U.S.C.
 2 1701x(e)) and located in the area of the lender.”;
 3 and

4 (4) in subsection (d), by inserting after the pe-
 5 riod at the end of the first sentence the following:
 6 “The lender shall provide the HUD-issued booklet in
 7 the version that is most appropriate for the person
 8 receiving it.”.

9 **SEC. 5. REQUIREMENTS FOR FHA-APPROVED MORTGA-**
 10 **GEES.**

11 (a) MORTGAGEE REVIEW BOARD.—Paragraph (2) of
 12 section 202(c) of the National Housing Act (12 U.S.C.
 13 1708(c)) is amended—

14 (1) in subparagraph (E), by inserting “and”
 15 after the semicolon;

16 (2) in subparagraph (F), by striking “; and”
 17 and inserting a period; and

18 (3) by striking subparagraph (G).

19 (b) LIMITATIONS ON PARTICIPATION AND MORT-
 20 GAGEE APPROVAL AND USE OF NAME.—Section 202 of
 21 the National Housing Act (12 U.S.C. 1708) is amended—

22 (1) by redesignating subsections (d), (e), and
 23 (f) as subsections (e), (f), and (g), respectively;

24 (2) by inserting after subsection (c) the fol-
 25 lowing new subsection:

1 “(d) LIMITATIONS ON PARTICIPATION IN ORIGINA-
2 TION AND MORTGAGEE APPROVAL.—

3 “(1) REQUIREMENT.—Any person or entity
4 that is not approved by the Secretary to serve as a
5 mortgagee, as such term is defined in subsection
6 (c)(7), shall not participate in the origination of an
7 FHA-insured loan except as authorized by the Sec-
8 retary.

9 “(2) ELIGIBILITY FOR APPROVAL.—In order to
10 be eligible for approval by the Secretary, an appli-
11 cant mortgagee shall not be, and shall not have any
12 officer, partner, director, principal, manager, super-
13 visor, loan processor, loan underwriter, or loan origi-
14 nator of the applicant mortgagee who is—

15 “(A) currently suspended, debarred, under
16 a limited denial of participation (LDP), or oth-
17 erwise restricted under part 24 or 25 of title 24
18 of the Code of Federal Regulations, or any suc-
19 cessor regulations to such parts, or under simi-
20 lar provisions of any other Federal agency;

21 “(B) under indictment for, or has been
22 convicted of, an offense that reflects adversely
23 upon the applicant’s integrity, competence or
24 fitness to meet the responsibilities of an ap-
25 proved mortgagee;

1 “(C) subject to unresolved findings con-
2 tained in a Department of Housing and Urban
3 Development or other governmental audit, in-
4 vestigation, or review;

5 “(D) engaged in business practices that do
6 not conform to generally accepted practices of
7 prudent mortgagees or that demonstrate irre-
8 sponsibility;

9 “(E) convicted of, or who has pled guilty
10 or nolo contendere to, a felony related to partici-
11 pation in the real estate or mortgage loan in-
12 dustry—

13 “(i) during the 7-year period pre-
14 ceding the date of the application for li-
15 censing and registration; or

16 “(ii) at any time preceding such date
17 of application, if such felony involved an
18 act of fraud, dishonesty, or a breach of
19 trust, or money laundering;

20 “(F) in violation of provisions of the
21 S.A.F.E. Mortgage Licensing Act of 2008 (12
22 U.S.C. 5101 et seq.) or any applicable provision
23 of State law; or

24 “(G) in violation of any other requirement
25 as established by the Secretary.

1 “(3) RULEMAKING AND IMPLEMENTATION.—

2 The Secretary shall conduct a rulemaking to carry
3 out this subsection. The Secretary shall implement
4 this subsection not later than the expiration of the
5 60-day period beginning upon the date of the enact-
6 ment of this subsection by notice, mortgagee letter,
7 or interim final regulations, which shall take effect
8 upon issuance.”; and

9 (3) by adding at the end the following new sub-
10 section:

11 “(h) USE OF NAME.—The Secretary shall, by regula-
12 tion, require each mortgagee approved by the Secretary
13 for participation in the FHA mortgage insurance pro-
14 grams of the Secretary—

15 “(1) to use the business name of the mortgagee
16 that is registered with the Secretary in connection
17 with such approval in all advertisements and pro-
18 motional materials, as such terms are defined by the
19 Secretary, relating to the business of such mort-
20 gagee in such mortgage insurance programs; and

21 “(2) to maintain copies of all such advertise-
22 ments and promotional materials, in such form and
23 for such period as the Secretary requires.”.

1 (c) CHANGE OF STATUS.—The National Housing Act
2 is amended by striking section 532 (12 U.S.C. 1735f–10)
3 and inserting the following new section:

4 **“SEC. 532. CHANGE OF MORTGAGEE STATUS.**

5 “(a) NOTIFICATION.—Upon the occurrence of any ac-
6 tion described in subsection (b), an approved mortgagee
7 shall immediately submit to the Secretary, in writing, noti-
8 fication of such occurrence.

9 “(b) ACTIONS.—The actions described in this sub-
10 section are as follows:

11 “(1) The debarment, suspension of a Limited
12 Denial of Participation (LDP), or application of
13 other sanctions, fines, or penalties applied to the
14 mortgagee or to any officer, partner, director, prin-
15 cipal, manager, supervisor, loan processor, loan un-
16 derwriter, or loan originator of the mortgagee pursu-
17 ant to applicable provisions of State or Federal law.

18 “(2) The revocation of a State-issued mortgage
19 loan originator license issued pursuant to the
20 S.A.F.E. Mortgage Licensing Act of 2008 (12
21 U.S.C. 5101 et seq.) or any other similar declaration
22 of ineligibility pursuant to State law.”.

23 (d) CIVIL MONEY PENALTIES.—Section 536 of the
24 National Housing Act (12 U.S.C. 1735f–14) is amend-
25 ed—

1 (1) in subsection (b)—

2 (A) in paragraph (1)—

3 (i) in the matter preceding subpara-
4 graph (A), by inserting “or any of its own-
5 ers, officers, or directors” after “mort-
6 gagee or lender”;

7 (ii) in subparagraph (H), by striking
8 “title I” and all that follows through “Act
9 of 1989)” and inserting “title I or II”; and

10 (iii) by inserting after subparagraph
11 (J) the following:

12 “(K) Violation of section 202(d) of this
13 Act (12 U.S.C. 1708(d)).”; and

14 (B) in paragraph (2)—

15 (i) in subparagraph (B), by striking
16 “or” at the end;

17 (ii) in subparagraph (C), by striking
18 the period at the end and inserting “; or”;
19 and

20 (iii) by adding at the end the fol-
21 lowing new subparagraph:

22 “(D) causing or participating in any of the
23 violations set forth in paragraph (1) of this sub-
24 section.”; and

1 (2) in subsection (g), by striking “The term”
2 and all that follows through the end of the sentence
3 and inserting “For purposes of this section, a person
4 acts knowingly when a person has actual knowledge
5 of acts or should have known of the acts.”.

6 (e) EXPANDED REVIEW OF FHA MORTGAGEE AP-
7 PLICANTS AND NEWLY APPROVED MORTGAGEES.—Not
8 later than the expiration of the 3-month period beginning
9 upon the date of the enactment of this Act, the Secretary
10 of Housing and Urban Development shall—

11 (1) expand the existing process for reviewing
12 new applicants for approval for participation in the
13 mortgage insurance programs of the Secretary for
14 mortgages on 1- to 4-family residences for the pur-
15 pose of identifying applicants who represent a high
16 risk to the Mutual Mortgage Insurance Fund; and

17 (2) implement procedures that, for mortgagees
18 approved during the 12-month period ending upon
19 such date of enactment—

20 (A) expand the number of mortgages origi-
21 nated by such mortgagees that are reviewed for
22 compliance with applicable laws, regulations,
23 and policies; and

24 (B) include a process for random reviews
25 of such mortgagees and a process for reviews

1 that is based on volume of mortgages originated
2 by such mortgagees.

3 **SEC. 6. COMMISSION ON THE FORECLOSURE AND MORT-**
4 **GAGE LENDING CRISIS.**

5 (a) ESTABLISHMENT OF COMMISSION.—There is es-
6 tablished in the legislative branch a commission to be
7 known as the “Commission on the Foreclosure and Mort-
8 gage Lending Crisis” (in this section referred to as the
9 “Commission”).

10 (b) FINDINGS AND PURPOSE.—

11 (1) FINDINGS.—Congress finds the following:

12 (A) The United States is experiencing a
13 steady increase in foreclosures and mortgage
14 lending problems that have impacted home-
15 owners, families, communities, the United
16 States economy and the global credit markets.

17 (B) In 2006, there were an estimated
18 1,300,000 foreclosures in the United States.

19 (C) This number increased by 79 percent
20 in 2007, bringing the estimated number of fore-
21 closures nationwide to 2,200,000.

22 (D) In 2008, an estimated 3,200,000 fore-
23 closures were reported.

24 (E) Estimates suggest that this trend is
25 likely to continue with millions more Americans

1 potentially losing their homes to foreclosure in
2 the next 4 years.

3 (2) PURPOSE.—The purpose of this section is
4 to establish a commission to undertake a comprehen-
5 sive analysis and review of the origins and causes of
6 the current foreclosure and mortgage lending crisis
7 and to issue a report of its findings to the Congress.
8 The Commission shall also recommend legislative
9 and regulatory changes that will prohibit the kinds
10 of lending practices that contributed to the increased
11 foreclosure rate and the current mortgage lending
12 crisis.

13 (c) COMPOSITION.—

14 (1) MEMBERS.—The Commission shall be com-
15 posed of 10 members as follows:

16 (A) 2 members shall be appointed by the
17 Speaker of the House of Representatives.

18 (B) 2 members shall be appointed by the
19 minority leader of the House of Representa-
20 tives.

21 (C) 2 members shall be appointed by the
22 majority leader of the Senate.

23 (D) 2 members shall be appointed by the
24 minority leader of the Senate.

1 (E) The Secretary of the Treasury or his
2 designee.

3 (F) The chairman of the Board of Gov-
4 ernors of the Federal Reserve System or his
5 designee.

6 (2) DEADLINE FOR APPOINTMENT.—All mem-
7 bers of the Commission shall be appointed not later
8 than 30 days after the date of the enactment of this
9 Act.

10 (3) CO-CHAIRMEN.—Of the members appointed
11 to the Commission under subparagraphs (A)
12 through (D) of paragraph (1), 2 shall be designated
13 as the co-chairmen of the Commission. One co-chair-
14 man shall be designated by the Speaker of the
15 House of Representatives in consultation with the
16 majority leader of the Senate and the other co-chair-
17 man shall be designated by the minority leader of
18 the House of Representatives in consultation with
19 the minority leader of the Senate.

20 (4) VACANCIES.—Any vacancy in the Commis-
21 sion shall not affect its powers, but shall be filled in
22 the same manner in which the original appointment
23 was made.

24 (5) COMPENSATION.—

1 (A) IN GENERAL.—Members of the Com-
2 mission shall serve without pay.

3 (B) TRAVEL EXPENSES.—While away from
4 their homes or regular places of business in the
5 performance of services for the Commission,
6 members of the Commission shall be allowed
7 travel expenses, including per diem in lieu of
8 subsistence, in the same manner as persons em-
9 ployed intermittently in the Government service
10 are allowed expenses under section 5703(b) of
11 title 5, United States Code.

12 (6) INITIAL MEETING; RULES OF PROCEDURE;
13 QUORUM.—

14 (A) INITIAL MEETING.—The Commission
15 shall meet and begin the operations of the Com-
16 mission not later than 60 days after the date of
17 the enactment of this Act.

18 (B) MEETINGS.—After its initial meeting,
19 the Commission shall meet upon the call of the
20 co-chairmen or a majority of its members.

21 (C) QUORUM.—A majority of the members
22 of the Commission shall constitute a quorum.

23 (D) RULES OF PROCEDURE.—The Com-
24 mission may establish rules for the conduct of

1 the Commission's business, if such rules are
2 consistent with this Act or other applicable law.

3 (d) DUTIES.—

4 (1) IN GENERAL.—The Commission shall—

5 (A) study and assess the current legal and
6 regulatory framework governing the housing
7 mortgage lending markets and investigate how
8 the such framework contributed to the in-
9 creased foreclosure rate, including—

10 (i) refinancing practices;

11 (ii) loan to value ratios; and

12 (iii) the prevalence of fraudulent in-
13 dustry practices;

14 (B) recommend changes to the current
15 legal and regulatory framework to prohibit
16 lending practices that have contributed to the
17 mortgage lending crisis;

18 (C) review the impact of subprime abuses
19 and predatory lending practices;

20 (D) assess the role of States in enacting
21 policies to reduce predatory lending practices
22 and abuses in the subprime markets;

23 (E) assess the impact of mortgage backed
24 securities and Fannie Mae and Freddie Mac on
25 the mortgage lending crisis; and

1 (F) assess the impact of the Community
2 Reinvestment Act on the mortgage lending cri-
3 sis.

4 (2) FINAL REPORT.—Not later than 12 months
5 after the date of enactment of this Act, the Commis-
6 sion shall submit to the Congress a final report con-
7 taining such findings, conclusions, and recommenda-
8 tions as have been agreed to by a majority of Com-
9 mission members. If, at the conclusion of such 12
10 month period, a majority of the Commission deter-
11 mines it necessary, the Commission may be granted
12 a 6 month extension for submission of its final re-
13 port upon written notification to the Congress.

14 (e) POWERS OF THE COMMISSION.—

15 (1) HEARINGS AND EVIDENCE.—The Commis-
16 sion, or on the authority of the Commission or any
17 subcommittee or member thereof, may, for the pur-
18 pose of carrying out this title—

19 (A) hold such hearings and sit and act at
20 such times and places, take such testimony, re-
21 ceive such evidence, administer such oaths; and

22 (B) subject to paragraph (2)(A), subpoena
23 or otherwise require, the attendance and testi-
24 mony of such witnesses and the production of
25 such books, records, correspondence, memo-

1 randa, papers, and documents as the Commis-
2 sion or such designated subcommittee or des-
3 ignated member may determine advisable.

4 (2) SUBPOENAS.—

5 (A) ISSUANCE.—

6 (i) IN GENERAL.—A subpoena may be
7 issued under this subsection only—

8 (I) by a co-chairman; or

9 (II) by the affirmative vote of a
10 majority of the members of the Com-
11 mission.

12 (ii) SIGNATURE.—Subject to clause
13 (i), subpoenas issued under this subpara-
14 graph may be issued under the signature
15 of a co-chairman or any member des-
16 ignated by a majority of the Commission,
17 may be served by any person designated by
18 the co-chairmen or by a member des-
19 ignated by a majority of the Commission.

20 (B) ENFORCEMENT.—

21 (i) IN GENERAL.—In the case of con-
22 tumacy or failure to obey a subpoena
23 issued under subparagraph (A), the United
24 States district court for the judicial district
25 in which the subpoenaed person resides, is

1 served, or may be found, or where the sub-
2 poena is returnable, may issue an order re-
3 quiring such person to appear at any des-
4 ignated place to testify or to produce docu-
5 mentary or other evidence. Any failure to
6 obey the order of the court may be pun-
7 ished by the court as a contempt of that
8 court.

9 (ii) ADDITIONAL ENFORCEMENT.—In
10 the case of any failure of any witness to
11 comply with any subpoena or to testify
12 when summoned under authority of this
13 section, the Commission may, by majority
14 vote, certify a statement of fact consti-
15 tuting such failure to the appropriate
16 United States attorney, who may bring the
17 matter before the grand jury for its action,
18 under the same statutory authority and
19 procedures as if the United States attorney
20 had received as certification under section
21 102 through 104 of the Revised Statutes
22 of the United States (2 U.S.C. 192
23 through 194).

24 (3) CONTRACT AUTHORITY.—The Commission
25 may, to such extent and in such amounts as are pro-

1 vided in appropriation Acts, enter into contracts to
2 enable the Commission to discharge its duties under
3 this section.

4 (4) INFORMATION FROM FEDERAL AGENCIES.—

5 (A) IN GENERAL.—The Commission is au-
6 thorized to secure directly from any executive
7 department, bureau, agency, board, commission,
8 office, independent establishment, or instrumen-
9 tality of the Government, information, sugges-
10 tions, estimates, and statistics for the purposes
11 of this section. Each department, bureau, agen-
12 cy, board, commission, office, independent es-
13 tablishment, or instrumentality shall, to the ex-
14 tent authorized by law, furnish such informa-
15 tion, suggestions, estimates, and statistics di-
16 rectly to the Commission, upon request made by
17 the co-chairmen of any subcommittee created by
18 a majority of the Commission, or any member
19 designated by a majority of the Commission.

20 (B) RECEIPT, HANDLING, STORAGE, AND
21 DISSEMINATION.—Information shall only be re-
22 ceived, handled, stored, and disseminated by
23 members of the Commission and its staff con-
24 sistent with all applicable statutes, regulations,
25 and Executive orders.

1 (5) ASSISTANCE FROM FEDERAL AGENCIES.—

2 (A) GENERAL SERVICES ADMINISTRA-
3 TION.—The Administrator of General Services
4 shall provide to the Commission on a reimburs-
5 able basis administrative support and other
6 services for the performance of the Commis-
7 sion's functions.

8 (B) OTHER DEPARTMENTS AND AGEN-
9 CIES.—In addition to the assistance described
10 in subparagraph (A), departments and agencies
11 of the United States may provide to the Com-
12 mission such services, funds, facilities, staff,
13 and other support services as they may deter-
14 mine advisable and as may be authorized by
15 law.

16 (6) POSTAL SERVICES.—The Commission may
17 use the United States mails in the same manner and
18 under the same conditions as departments and agen-
19 cies of the United States.

20 (f) STAFF.—

21 (1) IN GENERAL.—

22 (A) APPOINTMENT AND COMPENSATION.—
23 The co-chairman, in accordance with rules
24 agreed upon by the Commission, may appoint
25 and fix the compensation of a staff director and

1 such other personnel as may be necessary to en-
2 able the Commission to carry out its duties,
3 without regard to the provisions of title 5,
4 United States Code, governing appointments in
5 the competitive service, and without regard to
6 the provisions of chapter 51 and subchapter III
7 of chapter 53 of such title relating to classifica-
8 tion and General Schedule pay rates, except
9 that no rate of pay fixed under this subsection
10 may exceed the equivalent of that payable for a
11 position at level IV of the Executive Schedule
12 under section 5316 of title 5, United States
13 Code.

14 (B) PERSONNEL AS FEDERAL EMPLOY-
15 EES.—

16 (i) IN GENERAL.—The executive di-
17 rector and any personnel of the Commis-
18 sion who are employees shall be employees
19 under section 2105 of title 5, United
20 States Code, for purposes of chapters 63,
21 81, 83, 84, 85, 87, 89, and 90 of that title.

22 (ii) MEMBERS OF THE COMMISSION.—
23 Clause (i) shall not apply to members of
24 the Commission.

1 (2) DETAILEES.—Any Federal Government em-
2 ployee may be detailed to the Commission without
3 reimbursement from the Commission, and such
4 detailee shall retain the rights, status, and privileges
5 of his or her regular employment without interrup-
6 tion.

7 (3) EXPERT AND CONSULTANT SERVICES.—The
8 Commission is authorized to procure the services of
9 experts and consultants in accordance with section
10 3109 of title 5, United States Code, but at rates not
11 to exceed the daily rate paid to a person occupying
12 a position at level IV of the Executive Schedule
13 under section 5315 of title 5, United States Code.

14 (4) VOLUNTEER SERVICES.—Notwithstanding
15 section 1342 of title 31, United States Code, the
16 Commission may accept and use voluntary and un-
17 compensated services as the Commission determines
18 necessary.

19 (g) NONAPPLICABILITY OF FEDERAL ADVISORY
20 COMMITTEE ACT.—

21 (1) IN GENERAL.—The Federal Advisory Com-
22 mittee Act (5 U.S.C. App.) shall not apply to the
23 Commission.

1 (2) PUBLIC MEETINGS AND RELEASE OF PUB-
2 LIC VERSIONS OF REPORTS.—The Commission
3 shall—

4 (A) hold public hearings and meetings to
5 the extent appropriate; and

6 (B) release public versions of the report re-
7 quired under subsection (d)(2).

8 (3) PUBLIC HEARINGS.—Any public hearings of
9 the Commission shall be conducted in a manner con-
10 sistent with the protection of information provided
11 to or developed for or by the Commission as re-
12 quired by any applicable statute, regulations, or Ex-
13 ecutive order.

14 (h) TERMINATION.—

15 (1) IN GENERAL.—The Commission and all the
16 authorities of this section, shall terminate not later
17 than 60 days after the date on which the final report
18 is submitted under subsection (d)(2).

19 (2) ADMINISTRATIVE ACTIVITIES BEFORE TER-
20 MINATION.—The Commission may use the 60-day
21 period referred to in paragraph (1) for the purpose
22 of concluding its activities, including providing testi-
23 mony to committees of Congress concerning its re-
24 port and disseminating the final report.

1 (i) AUTHORIZATION OF APPROPRIATION.—There are
2 authorized to be appropriated such sums as necessary to
3 carry out this section.

4 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS FOR COM-**
5 **BATING MORTGAGE FRAUD.**

6 For fiscal years 2009, 2010, 2011, 2012, and 2013,
7 there are authorized to be appropriated to the Attorney
8 General a total of—

9 (1) \$31,250,000 to support the employment of
10 30 additional agents of the Federal Bureau of Inves-
11 tigation and 2 additional dedicated prosecutors at
12 the Department of Justice to coordinate prosecution
13 of mortgage fraud efforts with the offices of the
14 United States Attorneys; and

15 (2) \$750,000 to support the operations of inter-
16 agency task forces of the Federal Bureau of Inves-
17 tigation in the areas with the 15 highest concentra-
18 tions of mortgage fraud.

19 **SEC. 8. ENHANCEMENT OF LIQUIDITY AND STABILITY OF**
20 **INSURED DEPOSITORY INSTITUTIONS TO EN-**
21 **SURE AVAILABILITY OF CREDIT AND REDUC-**
22 **TION OF FORECLOSURES.**

23 (a) PERMANENT INCREASE IN DEPOSIT INSUR-
24 ANCE.—

1 (1) AMENDMENTS TO FEDERAL DEPOSIT IN-
2 SURANCE ACT.—Effective upon the date of the en-
3 actment of this Act, section 11(a) of the Federal De-
4 posit Insurance Act (12 U.S.C. 1821(a)) is amend-
5 ed—

6 (A) in paragraph (1)(E), by striking
7 “\$100,000” and inserting “\$250,000”;

8 (B) in paragraph (1)(F)(i), by striking
9 “2010” and inserting “2015”;

10 (C) in subclause (I) of paragraph
11 (1)(F)(i), by striking “\$100,000” and inserting
12 “\$250,000”;

13 (D) in subclause (II) of paragraph
14 (1)(F)(i), by striking “the calendar year pre-
15 ceding the date this subparagraph takes effect
16 under the Federal Deposit Insurance Reform
17 Act of 2005” and inserting “calendar year
18 2008”; and

19 (E) in paragraph (3)(A), by striking “, ex-
20 cept that \$250,000 shall be substituted for
21 \$100,000 wherever such term appears in such
22 paragraph”.

23 (2) AMENDMENT TO FEDERAL CREDIT UNION
24 ACT.—Section 207(k) of the Federal Credit Union
25 Act (12 U.S.C. 1787(k)) is amended—

1 (A) in paragraph (3)—

2 (i) by striking the opening quotation
3 mark before “\$250,000”;

4 (ii) by striking “, except that
5 \$250,000 shall be substituted for \$100,000
6 wherever such term appears in such sec-
7 tion”; and

8 (iii) by striking the closing quotation
9 mark after the closing parenthesis; and

10 (B) in paragraph (5), by striking
11 “\$100,000” and inserting “\$250,000”.

12 (3) REPEAL OF EESA PROVISION.—Section 136
13 of the Emergency Economic Stabilization Act (12
14 U.S.C. 5241) is hereby repealed.

15 (b) EXTENSION OF RESTORATION PLAN PERIOD.—
16 Section 7(b)(3)(E)(ii) of the Federal Deposit Insurance
17 Act (12 U.S.C. 1817(b)(3)(E)(ii)) is amended by striking
18 “5-year period” and inserting “8-year period”.

19 (c) FDIC AND NCUA BORROWING AUTHORITY.—

20 (1) FDIC.—Section 14(a) of the Federal De-
21 posit Insurance Act (12 U.S.C. 1824(a)) is amended
22 by striking “\$30,000,000,000” and inserting
23 “\$100,000,000,000”.

24 (2) NCUA.—Section 203(d)(1) of the Federal
25 Credit Union Act (12 U.S.C. 1783(d)(1)) is amend-

1 ed by striking “\$100,000,000” and inserting
2 “\$6,000,000,000”.

3 (d) EXPANDING SYSTEMIC RISK SPECIAL ASSESS-
4 MENTS.—Section 13(c)(4)(G)(ii) of the Federal Deposit
5 Insurance Act (12 U.S.C. 1823(c)(4)(G)(ii)) is amended
6 to read as follows:

7 “(ii) REPAYMENT OF LOSS.—

8 “(I) IN GENERAL.—The Corpora-
9 tion shall recover the loss to the De-
10 posit Insurance Fund arising from
11 any action taken or assistance pro-
12 vided with respect to an insured de-
13 pository institution under clause (i)
14 from 1 or more special assessments on
15 insured depository institutions, deposi-
16 tory institution holding companies
17 (with the concurrence of the Secretary
18 of the Treasury with respect to hold-
19 ing companies), or both, as the Cor-
20 poration determines to be appropriate.

21 “(II) TREATMENT OF DEPOSI-
22 TORY INSTITUTION HOLDING COMPA-
23 NIES.—For purposes of this clause,
24 sections 7(c)(2) and 18(h) shall apply
25 to depository institution holding com-

panies as if they were insured depository institutions.

“(III) REGULATIONS.—The Corporation shall prescribe such regulations as it deems necessary to implement this clause. In prescribing such regulations, defining terms, and setting the appropriate assessment rate or rates, the Corporation shall establish rates sufficient to cover the losses incurred as a result of the actions of the Corporation under clause (i) and shall consider: the types of entities that benefit from any action taken or assistance provided under this subparagraph; economic conditions, the effects on the industry, and such other factors as the Corporation deems appropriate and relevant to the action taken or the assistance provided. Any funds so collected that exceed actual losses shall be placed in the Deposit Insurance Fund.”.

(e) ESTABLISHMENT OF A NATIONAL CREDIT UNION

SHARE INSURANCE FUND RESTORATION PLAN PE-

1 RIOD.—Section 202(c)(2) of the Federal Credit Union Act
2 (12 U.S.C. 1782(c)(2)) is amended by adding at the end
3 the following new subparagraph:

4 “(D) FUND RESTORATION PLANS.—

5 “(i) IN GENERAL.—Whenever—

6 “(I) the Board projects that the
7 equity ratio of the Fund will, within 6
8 months of such determination, fall
9 below the minimum amount specified
10 in subparagraph (C) for the des-
11 ignated equity ratio; or

12 “(II) the equity ratio of the Fund
13 actually falls below the minimum
14 amount specified in subparagraph (C)
15 for the equity ratio without any deter-
16 mination under sub-clause (I) having
17 been made,

18 the Board shall establish and implement a
19 Share Insurance Fund restoration plan
20 within 90 days that meets the require-
21 ments of clause (ii) and such other condi-
22 tions as the Board determines to be appro-
23 priate.

24 “(ii) REQUIREMENTS OF RESTORA-
25 TION PLAN.—A Share Insurance Fund res-

toration plan meets the requirements of this clause if the plan provides that the equity ratio of the Fund will meet or exceed the minimum amount specified in subparagraph (C) for the designated equity ratio before the end of the 5-year period beginning upon the implementation of the plan (or such longer period as the Board may determine to be necessary due to extraordinary circumstances).

“(iii) TRANSPARENCY.—Not more than 30 days after the Board establishes and implements a restoration plan under clause (i), the Board shall publish in the Federal Register a detailed analysis of the factors considered and the basis for the actions taken with regard to the plan.”.

**SEC. 9. PROHIBITION ON THE RECEIPT OF COMMON STOCK
AND THE EXERCISE OF STOCK VOTING
POWER.**

Title I of the Emergency Economic Stabilization Act of 2008 is amended by adding at the end the following new section:

1 **“SEC. 137. PROHIBITION ON THE RECEIPT OF COMMON**
2 **STOCK AND THE EXERCISE OF STOCK VOT-**
3 **ING POWER.**

4 “(a) IN GENERAL.—Notwithstanding any other pro-
5 vision of this title, in carrying out this title the Secretary
6 shall not make any purchase for which the Secretary re-
7 ceives control-diluting stock.

8 “(b) APPLICATION.—Subsection (a) shall apply to
9 purchases made by the Secretary under this title on or
10 after the date of the enactment of this section.

11 “(c) CONVERSION OF CERTAIN SECURITIES RE-
12 CEIVED BY THE SECRETARY.—Notwithstanding any other
13 provision of this title, the Secretary shall not convert any
14 security received by the Secretary under this title, other
15 than a warrant, into control-diluting stock.

16 “(d) CONTROL-DILUTING STOCK DEFINED.—For
17 purposes of this section, the term ‘control-diluting stock’
18 means—

19 “(1) common stock of a financial institution;

20 “(2) any other voting stock of a financial insti-
21 tution, other than voting stock that the Secretary
22 agrees not to exercise the voting power of such
23 stock; or

24 “(3) a warrant giving the right to the Secretary
25 to receive stock described in paragraph (1) or (2).”.

1 **SEC. 10. TREATMENT OF GAIN ON DISPOSITION OF SUB-**
2 **SIDIZED RESIDENCES.**

3 (a) IN GENERAL.—In the case any taxpayer who
4 holds (at the time of the provision of the relief or assist-
5 ance described in subsection (b)) any interest in a sub-
6 sidized residence—

7 (1) section 121 of the Internal Revenue Code of
8 1986 (relating to exclusion of gain from sale of prin-
9 cipal residence) shall not apply to any gain from the
10 sale or exchange of such interest, and

11 (2) the rate of tax under section 1 of such Code
12 on such gain shall be twice the rate which would
13 otherwise apply.

14 (b) SUBSIDIZED RESIDENCE.—For purposes of this
15 section, the term “subsidized residence” means any resi-
16 dence that is subject to a mortgage with respect to which
17 relief or assistance is provided under this Act or any
18 amendment made by this Act, under any authority or pro-
19 gram established or amended by this Act, or by any finan-
20 cial institution subject to the amendments made by section
21 204.

22 **SEC. 11. REFUNDABLE TAX CREDIT FOR RESIDENCES PUR-**
23 **CHASED DURING 2009 OR 2010.**

24 (a) IN GENERAL.—Subpart C of part IV of sub-
25 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 (relating to refundable credits) is amended by insert-
2 ing after section 36 the following new section:

3 **“SEC. 36A. GENERAL HOMEBUYER CREDIT FOR RESI-**
4 **DENCES PURCHASED DURING 2009 OR 2010.**

5 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
6 dividual who makes an eligible purchase during the taxable
7 year, there shall be allowed as a credit against the tax
8 imposed by this subtitle for such taxable year an amount
9 equal to so much of the purchase price as does not exceed
10 the applicable amount.

11 “(b) APPLICABLE AMOUNT.—For purposes of sub-
12 section (a), the applicable amount is—

13 “(1) \$10,000 in the case of an eligible purchase
14 where the down payment is at least 15 percent of
15 the purchase price,

16 “(2) \$5,000 in the case of an eligible purchase
17 where the down payment is at least 10 percent of
18 the purchase price,

19 “(3) \$2,000 in the case of an eligible purchase
20 where the down payment is at least 5 percent of the
21 purchase price, and

22 “(4) zero in any other case.

23 “(c) DEFINITIONS.—For purposes of this section—

1 “(1) ELIGIBLE PURCHASE.—The term ‘eligible
2 purchase’ means the purchase of a residence for the
3 taxpayer if—

4 “(A) such residence is located in the
5 United States,

6 “(B) the construction of such residence
7 began before 2009, and

8 “(C) such purchase is made by the tax-
9 payer during 2009 or 2010.

10 “(2) OTHER DEFINITIONS.—The terms ‘pur-
11 chase’ and ‘purchase price’ have the respective
12 meanings given such terms by section 26(c).

13 “(d) EXCEPTIONS.—No credit shall be allowed under
14 subsection (a) to any taxpayer for any taxable year with
15 respect to the purchase of a residence if—

16 “(1) credit under section 36 (relating to first-
17 time homebuyer credit) or 1400C (relating to first-
18 time homebuyer in the District of Columbia) is al-
19 lowed to the taxpayer (or the taxpayer’s spouse) for
20 such taxable year or any prior taxable year,

21 “(2) the residence is financed by the proceeds
22 of a qualified mortgage issue the interest on which
23 is exempt from tax under section 103,

24 “(3) the taxpayer is a nonresident alien, or

1 “(4) the taxpayer disposes of such residence (or
2 such residence ceases to be a residence of the tax-
3 payer (or, if married, the taxpayer’s spouse)) before
4 the close of such taxable year.

5 “(e) OTHER RULES TO APPLY.—

6 “(1) RELATED PERSONS.—Rules similar to the
7 rules of section 26(c)(5) shall apply for purposes of
8 this section.

9 “(2) MARRIED INDIVIDUALS FILING SEPARATE
10 RETURNS, ETC.—Rules similar to the rules of sub-
11 paragraphs (B) and (C) of section 26(b)(1) shall
12 apply for purposes of this section.

13 “(3) REPORTING.—Rules similar to the rules of
14 section 26(e) shall apply for purposes of this section.

15 “(f) RECAPTURE OF CREDIT.—Rules similar to the
16 rules of section 26(f) shall apply for purposes of this sec-
17 tion, except that—

18 “(1) paragraph (1) thereof shall be applied by
19 substituting ‘33 $\frac{1}{3}$ percent’ for ‘6 $\frac{2}{3}$ percent’, and

20 “(2) paragraph (7) thereof shall be applied by
21 substituting ‘3 years’ for ‘15 years’.”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) Section 26(b)(2) of such Code is amended—

24 (A) in subparagraph (W)—

1 (i) by striking “homebuyer credit”
 2 and inserting “first-time homebuyer cred-
 3 it”, and

4 (ii) by striking “and”,

5 (B) by striking the period at the end of
 6 subparagraph (X) and inserting “, and”, and

7 (C) by inserting after subparagraph (X)
 8 the following new subparagraph:

9 “(Y) section 36A(f) (relating to recapture
 10 of general homebuyer credit)”.

11 (2) Section 6211(b)(4)(A) of such Code is
 12 amended by inserting “36A,” after “36,”.

13 (3) Section 1324(b)(2) of title 31, United
 14 States Code, is amended by inserting “36A,” after
 15 “36,”.

16 (4) The table of sections for subpart C of part
 17 IV of subchapter A of chapter 1 of such Code is
 18 amended by inserting after the item relating to sec-
 19 tion 36 the following new item:

“Sec. 36A. General homebuyer credit for residences purchased during 2009 or
 2010.”.

20 (c) EFFECTIVE DATE.—The amendments made by
 21 this section shall apply to residences purchased after De-
 22 cember 31, 2008, in taxable years ending after such date.

1 **SEC. 12. CONDITIONS ON MORTGAGE RELIEF.**

2 Notwithstanding any other provision of this Act or
3 any amendment made by this Act, no relief or assistance
4 may be provided under this Act or any such amendment,
5 under any authority or program established or amended
6 by this Act, or by any financial institution subject to the
7 amendments made by section 8 of this Act, to or on behalf
8 of any mortgagor unless, before such assistance is pro-
9 vided the agency or entity providing such relief or assist-
10 ance makes a determination that—

11 (1) the mortgagor's income was accurately stat-
12 ed on the application for the original mortgage in
13 connection with which such relief or assistance is
14 being provided;

15 (2) the residential property that is subject to
16 the original mortgage in connection with such relief
17 or assistance is being provided is the principal resi-
18 dence of the mortgagor;

19 (3) the mortgagor has never been convicted
20 under Federal or State law for financial fraud; and

21 (4) the mortgagor is a citizen or national of the
22 United States or an alien lawfully admitted for per-
23 manent residence in the United States.

○