

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

# H. R. 5072

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## AN ACT

To improve the financial safety and soundness of the FHA  
mortgage insurance program.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “FHA Reform Act of  
3 2010”.

4 **SEC. 2. MORTGAGE INSURANCE PREMIUMS.**

5 Subparagraph (B) of section 203(c)(2) of the Na-  
6 tional Housing Act (12 U.S.C. 1709(c)(2)(B)) is amend-  
7 ed—

8 (1) in the matter preceding clause (i)—

9 (A) by striking “shall” and inserting  
10 “may”; and

11 (B) by striking “0.50 percent” and insert-  
12 ing “1.5 percent”; and

13 (2) in clause (ii), by striking “shall be in an  
14 amount not exceeding 0.55 percent” and inserting  
15 “may be in an amount not exceeding 1.55 percent”.

16 **SEC. 3. INDEMNIFICATION BY MORTGAGEES.**

17 Section 202 of the National Housing Act (12 U.S.C.  
18 1708) is amended by adding at the end the following new  
19 subsection:

20 “(i) INDEMNIFICATION BY MORTGAGEES.—

21 “(1) IN GENERAL.—If the Secretary determines  
22 that a mortgage executed by a mortgagee approved  
23 by the Secretary under the direct endorsement pro-  
24 gram or insured by a mortgagee pursuant to the del-  
25 egation of authority under section 256 was not origi-  
26 nated or underwritten in accordance with the re-

1 requirements established by the Secretary, and the  
2 Secretary pays an insurance claim with respect to  
3 the mortgage within a reasonable period specified by  
4 the Secretary, the Secretary may require the mort-  
5 gagee approved by the Secretary under the direct en-  
6 dorsement program or the mortgagee delegated au-  
7 thority under section 256 to indemnify the Secretary  
8 for the loss.

9 “(2) FRAUD OR MISREPRESENTATION.—If  
10 fraud or misrepresentation was involved in connec-  
11 tion with the origination or underwriting, the Sec-  
12 retary may require the mortgagee approved by the  
13 Secretary under the direct endorsement program or  
14 the mortgagee delegated authority under section 256  
15 to indemnify the Secretary for the loss regardless of  
16 when an insurance claim is paid.

17 “(3) REQUIREMENTS AND PROCEDURES.—The  
18 Secretary shall issue regulations establishing appro-  
19 priate requirements and procedures governing the  
20 indemnification of the Secretary by the mortgagee.”.

21 **SEC. 4. DELEGATION OF INSURING AUTHORITY.**

22 Section 256 of the National Housing Act (12 U.S.C.  
23 1715z–21) is amended—

24 (1) by striking subsection (c);



1 any area, or areas, or on a nationwide basis, not-  
2 withstanding section 202(c) of this Act.

3 “(2) PROCEDURE.—The Secretary”.

4 **SEC. 6. DEPUTY ASSISTANT SECRETARY OF FHA FOR RISK**  
5 **MANAGEMENT AND REGULATORY AFFAIRS.**

6 (a) ESTABLISHMENT OF POSITION.—Subsection (b)  
7 of section 4 of the Department of Housing and Urban De-  
8 velopment Act (42 U.S.C. 3533(b)) is amended—

9 (1) by inserting “(1)” after “(b)”; and

10 (2) by adding at the end the following new  
11 paragraph:

12 “(2) There shall be in the Department, within the  
13 Federal Housing Administration, a Deputy Assistant Sec-  
14 retary for Risk Management and Regulatory Affairs, who  
15 shall be appointed by the Secretary and shall be respon-  
16 sible to the Federal Housing Commissioner for all matters  
17 relating to managing and mitigating risk to the mortgage  
18 insurance funds of the Department and ensuring the per-  
19 formance of mortgages insured by the Department.”.

20 (b) TERMINATION.—Upon the appointment and con-  
21 firmation of the initial Deputy Assistant Secretary for  
22 Risk Management and Regulatory Affairs pursuant to sec-  
23 tion 4(b)(2) of the Department of Housing and Urban De-  
24 velopment Act, as amended by subsection (a) of this sec-  
25 tion, the position of chief risk officer within the Federal

1 Housing Administration, filled by appointment by the  
2 Federal Housing Commissioner, is abolished.

3 **SEC. 7. USE OF OUTSIDE CREDIT RISK ANALYSIS SOURCES.**

4 Section 202 of the National Housing Act (12 U.S.C.  
5 1708), as amended by the preceding provisions of this Act,  
6 is further amended by adding at the end the following new  
7 subsection:

8 “(j) USE OF OUTSIDE CREDIT RISK ANALYSIS  
9 SOURCES.—The Secretary may obtain the services of, and  
10 enter into contracts with, private and other entities out-  
11 side of the Department in—

12 “(1) analyzing credit risk models and practices  
13 employed by the Department in connection with  
14 such mortgages;

15 “(2) evaluating underwriting standards applica-  
16 ble to such mortgages insured by the Department;  
17 and

18 “(3) analyzing the performance of lenders in  
19 complying with, and the Department in enforcing,  
20 such underwriting standards.”.

21 **SEC. 8. REVIEW OF MORTGAGEE PERFORMANCE.**

22 Section 533 of the National Housing Act (12 U.S.C.  
23 1735f–11) is amended—

24 (1) in subsection (a), by inserting after the pe-  
25 riod at the end the following: “For purposes of this

1 subsection, the term ‘early default’ means a default  
2 that occurs within 24 months after a mortgage is  
3 originated or such alternative appropriate period as  
4 the Secretary shall establish.”;

5 (2) in subsection (b), by inserting after the pe-  
6 riod at the end of the first sentence the following:  
7 “The Secretary shall also identify which mortgagees  
8 have had a significant or rapid increase, as deter-  
9 mined by the Secretary, in the number or percentage  
10 of early defaults and claims on such mortgages, with  
11 respect to all mortgages originated by the mortgagee  
12 or mortgages on housing located in any particular  
13 geographic area or areas.”; and

14 (3) by adding at the end the following new sub-  
15 sections:

16 “(d) SUFFICIENT RESOURCES.—There is authorized  
17 to be appropriated to the Secretary for each of fiscal years  
18 2010 through 2014 the amount necessary to provide addi-  
19 tional full-time equivalent positions for the Department,  
20 or for entering into such contracts as are necessary, to  
21 conduct reviews in accordance with the requirements of  
22 this section and to carry out other responsibilities relating  
23 to ensuring the safety and soundness of the Mutual Mort-  
24 gage Insurance Fund.

1       “(e) REPORTING TO CONGRESS.—Not later than 90  
2 days after the date of enactment of the FHA Reform Act  
3 of 2010 and not less often than annually thereafter, the  
4 Secretary shall make available to the Committee on Finan-  
5 cial Services of the House of Representatives and the  
6 Committee on Banking, Housing, and Urban Affairs of  
7 the Senate any information and conclusions pursuant to  
8 the reviews required under subsection (a). Such report  
9 shall not include detailed information on the performance  
10 of individual mortgages.”.

11 **SEC. 9. USE OF NATIONWIDE MORTGAGE LICENSING SYS-**  
12 **TEM AND REGISTRY.**

13       (a) USE BY MORTGAGEES, OFFICERS, AND OWNERS;  
14 USE FOR INSURED MORTGAGES.—

15       (1) MORTGAGEES, OFFICERS, AND OWNERS.—

16       Section 202 of the National Housing Act (12 U.S.C.  
17 1708), as amended by the preceding provisions of  
18 this Act, is further amended by adding at the end  
19 the following new subsections:

20       “(k) USE OF NATIONWIDE MORTGAGE LICENSING  
21 SYSTEM AND REGISTRY FOR MORTGAGEES, OFFICERS,  
22 AND OWNERS.—The Secretary may require, as a condition  
23 for approval of a mortgagee by the Secretary to originate  
24 or underwrite mortgages on single family residences that  
25 are insured by the Secretary, that the mortgagee—

1           “(1) obtain and maintain a unique company  
2           identifier assigned by the Nationwide Mortgage Li-  
3           censing System and Registry, as established by the  
4           Conference of State Bank Supervisors and the  
5           American Association of Residential Mortgage Regu-  
6           lators; and

7           “(2) obtain and maintain, as relates to any and  
8           all officers or owners of the mortgagee who are sub-  
9           ject to the requirements of the S.A.F.E. Mortgage  
10          Licensing Act of 2008, or are otherwise required to  
11          register with the Nationwide Mortgage Licensing  
12          System and Registry, the unique identifier assigned  
13          by the Nationwide Mortgage Licensing System and  
14          Registry, as established by the Conference of State  
15          Bank Supervisors and the American Association of  
16          Residential Mortgage Regulators.”.

17           (2) INSURED MORTGAGES.—Section 203 of the  
18          National Housing Act (12 U.S.C. 1709) is amended  
19          by adding at the end the following new subsection:

20          “(y) USE OF NATIONWIDE MORTGAGE LICENSING  
21          SYSTEM AND REGISTRY FOR INSURED LOANS.—The Sec-  
22          retary may require each mortgage insured under this sec-  
23          tion to include the unique identifier (as such term is de-  
24          fined in section 1503 of the S.A.F.E. Mortgage Licensing  
25          act of 2008 (12 U.S.C. 5102)) and any unique company

1 identifier assigned by the Nationwide Mortgage Licensing  
2 System and Registry, as established by the Conference of  
3 State Bank Supervisors and the American Association of  
4 Residential Mortgage Regulators.”.

5 (b) COORDINATION WITH STATE REGULATORY  
6 AGENCIES.—Section 202 of the National Housing Act (12  
7 U.S.C. 1708), as amended by the preceding provisions of  
8 this Act, is further amended by adding at the end the fol-  
9 lowing new subsection:

10 “(1) INFORMATION SHARING WITH STATE REGU-  
11 LATORY AGENCIES.—

12 “(1) JOINT PROTOCOL ON INFORMATION SHAR-  
13 ING.—The Secretary shall, through consultation with  
14 State regulatory agencies, pursue protocols for infor-  
15 mation sharing, including the appropriate treatment  
16 of confidential or otherwise restricted information,  
17 regarding either actions described in subsection  
18 (c)(3) of this section or disciplinary or enforcement  
19 actions by a State regulatory agency or agencies  
20 against a mortgagee (as such term is defined in sub-  
21 section (c)(7)).

22 “(2) COORDINATION.—To the greatest extent  
23 possible, the Secretary and appropriate State regu-  
24 latory agencies shall coordinate disciplinary and en-



1 **SEC. 11. ANNUAL ACTUARIAL STUDY AND QUARTERLY RE-**  
2 **PORTS ON MUTUAL MORTGAGE INSURANCE**  
3 **FUND.**

4 Subsection (a) of section 202 of the National Hous-  
5 ing Act (12 U.S.C. 1708(a)) is amended—

6 (1) in the second sentence of paragraph (4), by  
7 inserting before the period at the end the following:  
8 “, any changes to the current or projected safety  
9 and soundness of the Fund since the most recent re-  
10 port under this paragraph or paragraph (5), and  
11 any risks to the Fund”; and

12 (2) in paragraph (5)—

13 (A) in subparagraph (D), by striking  
14 “and” at the end;

15 (B) in subparagraph (E), by striking the  
16 period at the end and inserting “; and”;

17 (C) by adding at the end the following:

18 “(F) any other factors that are likely to  
19 have an impact on the financial status of the  
20 Fund or cause any material changes to the cur-  
21 rent or projected safety and soundness of the  
22 Fund since the most recent report under para-  
23 graph (4).

24 The Secretary may include in the report under this  
25 paragraph any recommendations not made in the  
26 most recent report under paragraph (4) that may be

1       needed to ensure that the Fund remains financially  
2       sound.”.

3       **SEC. 12. REVIEW OF DOWNPAYMENT REQUIREMENTS.**

4       Section 205 of the National Housing Act (12 U.S.C.  
5       1711) is amended by adding at the end the following new  
6       subsection:

7       “(g) REVIEW OF DOWNPAYMENT REQUIREMENTS.—  
8       If, at any time when the capital ratio (as such term is  
9       defined in subsection (f)) of the Mutual Mortgage Insur-  
10      ance Fund does not comply with the requirement under  
11      subsection (f)(1), the Secretary establishes a cash invest-  
12      ment requirement, for all mortgages or mortgagors or with  
13      respect to any group of mortgages or mortgagors, that ex-  
14      ceeds the minimum percentage or amount required under  
15      section 203(b)(9), thereafter upon the capital ratio first  
16      complying with the requirement under subsection (f)(1)  
17      the Secretary shall review such cash investment require-  
18      ment and, if the Secretary determines that such percent-  
19      age or amount may be reduced while maintaining such  
20      compliance, the Secretary shall subsequently reduce such  
21      requirement by such percentage or amount as the Sec-  
22      retary considers appropriate.”.

1 **SEC. 13. AUTHORIZATION TO PARTICIPATE IN THE ORIGI-**  
2 **NATION OF FHA-INSURED LOANS.**

3 (a) SINGLE FAMILY MORTGAGES.—Section 203(b) of  
4 the National Housing Act (12 U.S.C. 1709(b)) is amended  
5 by striking paragraph (1) and inserting the following new  
6 paragraph:

7 “(1) Have been made to a mortgagee approved  
8 by the Secretary or to a person or entity authorized  
9 by the Secretary under section 202(d)(1) to partici-  
10 pate in the origination of the mortgage, and be held  
11 by a mortgagee approved by the Secretary as re-  
12 sponsible and able to service the mortgage prop-  
13 erly.”.

14 (b) HOME EQUITY CONVERSION MORTGAGES.—Sec-  
15 tion 255(d) of the National Housing Act (12 U.S.C.  
16 1715z–20(d)) is amended by striking paragraph (1) and  
17 inserting the following new paragraph:

18 “(1) have been originated by a mortgagee ap-  
19 proved by, or by a person or entity authorized under  
20 section 202(d)(1) to participate in the origination  
21 by, the Secretary;”.

22 **SEC. 14. DEFAULT AND ORIGINATION INFORMATION BY**  
23 **LOAN SERVICER AND ORIGINATING DIRECT**  
24 **ENDORSEMENT LENDER.**

25 (a) COLLECTION OF INFORMATION.—Paragraph (2)  
26 of section 540(b) of the National Housing Act (12 U.S.C.

1 1712 U.S.C. 1735f–18(b)(2)) is amended by adding at the  
2 end the following new subparagraph:

3           “(C) For each entity that services insured  
4 mortgages, data on the performance of mort-  
5 gages originated during each calendar quarter  
6 occurring during the applicable collection pe-  
7 riod, disaggregated by the direct endorsement  
8 mortgagee from whom such entity acquired  
9 such servicing.”.

10       (b) **APPLICABILITY.**—Information described in sub-  
11 paragraph (C) of section 540(b)(2) of the National Hous-  
12 ing Act, as added by subsection (a) of this section, shall  
13 first be made available under such section 540 for the ap-  
14 plicable collection period (as such term is defined in such  
15 section) relating to the first calendar quarter ending after  
16 the expiration of the 12-month period that begins on the  
17 date of the enactment of this Act.

18 **SEC. 15. THIRD PARTY SERVICER OUTREACH.**

19       (a) **AUTHORITY.**—The Secretary of Housing and  
20 Urban Development may, to the extent any amounts for  
21 fiscal year 2010 or 2011 are made available in advance  
22 in appropriation Acts for reimbursements under this sec-  
23 tion, provide reimbursement to servicers of covered mort-  
24 gages (as such term is defined in subsection (f)) for costs  
25 of obtaining the services of independent third parties

1 meeting the requirements under subsection (b) of this sec-  
2 tion to make in-person contact with mortgagors under cov-  
3 ered mortgages whose payments under such mortgages are  
4 60 or more days past due, solely for the purposes of pro-  
5 viding information to such mortgagors regarding—

6 (1) available counseling by housing counseling  
7 agencies approved by the Secretary;

8 (2) available mortgage loan modification, refi-  
9 nance, and assistance programs; and

10 (3) available counseling regarding financial  
11 management and credit risk.

12 (b) QUALIFIED INDEPENDENT THIRD PARTIES.—An  
13 independent third party meets the requirements of this  
14 subsection if the third party—

15 (1) is an entity, including a housing counseling  
16 agency approved by the Secretary, that meets stand-  
17 ards, qualifications, and requirements (including re-  
18 garding foreclosure prevention training, quality mon-  
19 itoring, safeguarding of non-public information) es-  
20 tablished by the Secretary for purposes of this sec-  
21 tion for in-person contact about available mortgage  
22 loan modification, refinance, and assistance pro-  
23 grams; and

24 (2) does not charge any fees or require other  
25 payments, directly or indirectly, from any mortgagor

1 for making in-person contact and providing informa-  
2 tion and documents under this section.

3 (c) TREATMENT OF PERSONAL, NON-PUBLIC, AND  
4 CONFIDENTIAL INFORMATION.—An independent third  
5 party whose services are obtained using amounts made  
6 available for use under this section and the mortgage  
7 servicer obtaining such services shall not use, disclose, or  
8 distribute any personal, non-public, or confidential infor-  
9 mation about a mortgagor obtained during an in-person  
10 contact with the mortgagor, except for purposes of engag-  
11 ing in the process of modification or refinance of the cov-  
12 ered mortgage.

13 (d) DATE OF CONTACT AND DISCLOSURES.—Each  
14 independent third party whose services are obtained by a  
15 mortgage servicer using amounts made available for use  
16 under this section shall—

17 (1) initiate in-person contact with a mortgagor  
18 not later than 10 days after the date upon which  
19 payments under the covered mortgage of the mort-  
20 gagor become 60 days past due; and

21 (2) upon making in-person contact with a mort-  
22 gagor, provide the mortgagor with a written docu-  
23 ment that discloses—

1 (A) the name of, and contact information  
2 for, the independent third party and the mort-  
3 gage servicer;

4 (B) that the independent third party has  
5 contracted with the mortgage servicer to pro-  
6 vide the in-person contact at no charge to the  
7 mortgagor;

8 (C) that the independent third party is an  
9 agent of the mortgage servicer;

10 (D) that the in-person contact with the  
11 mortgagor consists of providing information  
12 about available counseling by a housing coun-  
13 seling agency approved by the Secretary and  
14 available mortgage loan modification, refinance,  
15 and assistance programs;

16 (E) that the independent third party and  
17 the mortgage servicer are prohibited from the  
18 use, disclosure, or distribution of personal, non-  
19 public, and confidential information about the  
20 mortgagor, obtained during the in-person con-  
21 tact, except for purposes of engaging in the  
22 process of modification or refinance of the cov-  
23 ered mortgage;

24 (F) any other information that the Sec-  
25 retary determines should be disclosed.

1 (e) PRIORITY.—In providing reimbursements under  
2 this section, the Secretary of Housing and Urban Develop-  
3 ment shall provide priority to independent third parties  
4 serving mortgagors under covered mortgages in areas ex-  
5 periencing a mortgage foreclosure rate and unemployment  
6 rate higher than the national average for the most recent  
7 12-month period for which satisfactory data are available.

8 (f) DEFINITION OF COVERED MORTGAGE.—For pur-  
9 poses of this section, the term “covered mortgage” means  
10 a mortgage on a 1- to 4-family residence insured under  
11 the provisions of subsection (b) or (k) of section 203, sec-  
12 tion 234(e), or 251 of the National Housing Act (12  
13 U.S.C. 1709, 1715y, 1715z–16).

14 **SEC. 16. GAO REPORT ON FHA.**

15 Not later than the expiration of the 12-month period  
16 beginning on the date of the enactment of this Act, the  
17 Comptroller General of the United States shall submit to  
18 the Congress a report on the single family mortgage insur-  
19 ance programs of the Secretary of Housing and Urban De-  
20 velopment and the Mutual Mortgage Insurance Fund es-  
21 tablished under section 202(a) of the National Housing  
22 Act (12 U.S.C. 1708(a)) that—

23 (1) analyzes such Fund, the economic net  
24 worth, capital ratio, and unamortized insurance-in-  
25 force (as such terms are defined in section 205(f)(4)

1 of such Act (12 U.S.C. 1711(f)(4)) of such Fund,  
2 the risks to the Fund, how the capital ratio of the  
3 Fund affects the mortgage insurance programs  
4 under the Fund and the broader housing market,  
5 the extent to which the housing markets are more  
6 dependent on mortgage insurance provided through  
7 the Fund since the financial crisis began in 2008,  
8 and the exposure of the taxpayers for obligations of  
9 the Fund;

10 (2) analyzes the methodology for determining  
11 the Fund's capital ratio under section 205(f) of such  
12 Act and examines alternative methods for assessing  
13 the Fund's financial condition and their potential  
14 impacts on the Fund's ability to meet the oper-  
15 ational goals under section 202(a)(7) of such Act;

16 (3) analyzes the potential effects of the in-  
17 creases in the limits on the maximum principal obli-  
18 gation of mortgages made by the FHA Moderniza-  
19 tion Act of 2008 (title I of division B of Public Law  
20 110–289), section 202 of the Economic Stimulus  
21 Act of 2008 (Public Law 110–185; 122 Stat. 620),  
22 section 1202 of division A of the American Recovery  
23 and Reinvestment Act of 2009 (Public Law 111–5;  
24 123 Stat. 225), and section 166 of the Continuing  
25 Appropriations Resolution, 2010 (as added by sec-

1 tion 104 of division B of Public Law 111–88; 123  
2 Stat. 29723) on—

3 (A) the risks to and safety and soundness  
4 of the Fund;

5 (B) the impact on the affordability and  
6 availability of mortgage credit for borrowers for  
7 loans authorized under such higher loan limits;

8 (C) the private market for residential  
9 mortgage loans that are not insured by the Sec-  
10 retary of Housing and Urban Development; and

11 (D) the Federal National Mortgage Asso-  
12 ciation and the Federal Home Loan Mortgage  
13 Corporation; and

14 (4) analyzes the impact on affordability to FHA  
15 borrowers, and the impact to the Fund, of seller  
16 concessions or contributions to a borrower pur-  
17 chasing a residence using a mortgage that is insured  
18 by the Secretary.

19 **SEC. 17. AUTHORITY TO ESTABLISH HIGHER MINIMUM**  
20 **CASH INVESTMENT REQUIREMENT.**

21 (a) **AUTHORITY.**—Paragraph (9) of section 203(b) of  
22 the National Housing Act (12 U.S.C. 1709(b)(9)) is  
23 amended by adding at the end the following new subpara-  
24 graph:

1           “(D) AUTHORITY TO ESTABLISH HIGHER  
2           MINIMUM REQUIREMENT.—The Secretary may  
3           establish a higher minimum cash investment re-  
4           quirement than the minimum requirement  
5           under subsection (a), for all mortgagors or a  
6           certain class or classes of mortgagors, which  
7           may be based on criteria related to borrowers’  
8           credit scores or other industry standards re-  
9           lated to borrowers’ financial soundness. In es-  
10          tablishing such a higher minimum cash invest-  
11          ment requirement, the Secretary shall take into  
12          consideration the findings of the most recent  
13          annual report to the Congress on minimum  
14          cash investments pursuant to section 16(b) of  
15          the FHA Reform Act of 2010.”.

16          (b) REPORT.—Not later than the expiration of the  
17          12-month period beginning on the date of the enactment  
18          of this Act and annually thereafter, the Secretary of Hous-  
19          ing and Urban Development shall submit to the Com-  
20          mittee on Financial Services of the House of Representa-  
21          tives and the Committee on Banking, Housing, and Urban  
22          Affairs of the Senate a report detailing the implementa-  
23          tion of the minimum cash investment requirements under  
24          section 203(b)(9) of the National Housing Act (12 U.S.C.  
25          1709(b)(9)) and discussing and analyzing options for pro-

1 posed changes to such requirements, including changes  
2 that would take into account borrowers' credit scores or  
3 other industry standards related to borrowers' financial  
4 soundness. Such report shall—

5 (1) analyze the impacts that any actual or pro-  
6 posed such changes are projected to have on—

7 (A) the financial soundness of the Mutual  
8 Mortgage Insurance Fund;

9 (B) the housing finance market of the  
10 United States; and

11 (C) the number of borrowers served by the  
12 Federal Housing Administration;

13 (2) explain the reasons for any actual or pro-  
14 posed such changes in the such requirements made  
15 since the last report under this subsection;

16 (3) evaluate the impact of any actual or pro-  
17 posed such changes in such requirements on the Mu-  
18 tual Mortgage Insurance Fund;

19 (4) evaluate the impacts of any actual or pro-  
20 posed such changes on potential mortgagors under  
21 mortgages on one- to four-family dwellings insured  
22 by the Secretary under the National Housing Act;  
23 and

1           (5) evaluate the impact of any actual or pro-  
2           posed such changes on the soundness of the housing  
3           market in the United States.

4 **SEC. 18. MORTGAGE INSURANCE PREMIUM REFUNDS.**

5           (a) **AUTHORITY.**—The Secretary of Housing and  
6 Urban Development shall, to the extent that amounts are  
7 made available pursuant to subsection (c), provide refunds  
8 of unearned premium charges paid at the time of insur-  
9 ance for mortgage insurance under title II of the National  
10 Housing Act (12 U.S.C. 1707 et seq.) to or on behalf of  
11 mortgagors under mortgages described in subsection (b).

12           (b) **ELIGIBLE MORTGAGES.**—A mortgage described  
13 in this section is a mortgage on a one- to four-family  
14 dwelling that—

15                   (1) was insured under title II of the National  
16 Housing Act (12 U.S.C. 1707 et seq.);

17                   (2) is otherwise eligible, under the last sentence  
18 of subparagraph (A) of section 203(c)(2) of such Act  
19 (12 U.S.C. 1709(c)(2)(A)), for a refund of all un-  
20 earned premium charges paid on the mortgage pur-  
21 suant to such subparagraph, except that the mort-  
22 gage—

23                           (A) was closed before December 8, 2004;

24                           and

25                           (B) was endorsed on or after such date.

1 (c) AUTHORIZATION OF APPROPRIATIONS.—There is  
2 authorized to be appropriated for each fiscal year such  
3 sums as may be necessary to provide refunds of unearned  
4 mortgage insurance premiums pursuant to this section.

5 **SEC. 19. MAXIMUM MORTGAGE AMOUNT LIMITS FOR MUL-**  
6 **TIFAMILY HOUSING.**

7 (a) ELEVATOR-TYPE STRUCTURES.—

8 (1) AMENDMENTS.—The National Housing Act  
9 is amended in each of the provisions specified in  
10 paragraph (2)—

11 (A) by inserting “with sound standards of  
12 construction and design” after “elevator-type  
13 structures” the first place such term appears;  
14 and

15 (B) by striking “to not to exceed” and all  
16 that follows through “sound standards of con-  
17 struction and design” each place such terms ap-  
18 pear and inserting “by not more than 50 per-  
19 cent of the amounts specified for each unit  
20 size”.

21 (2) PROVISIONS AMENDED.—The provisions of  
22 the National Housing Act specified in this para-  
23 graph are as follows:

24 (A) Subparagraph (A) of section 207(c)(3)  
25 (12 U.S.C. 1713(c)(3)(A)).

1 (B) Subparagraph (A) of section 213(b)(2)  
2 (12 U.S.C. 1715e(b)(2)(A)).

3 (C) Subclause (I) of section  
4 220(d)(3)(B)(iii) (12 U.S.C.  
5 1715k(d)(3)(B)(iii)(I)).

6 (D) In section 221(d) (12 U.S.C.  
7 1715l(d))—

8 (i) subclause (I) of paragraph (3)(ii);

9 and

10 (ii) subclause (I) of paragraph (4)(ii).

11 (E) Subparagraph (A) of section 231(e)(2)  
12 (12 U.S.C. 1715v(e)(2)(A)).

13 (F) Subparagraph (A) of section 234(e)(3)  
14 (12 U.S.C. 1715y(e)(3)(A)).

15 (b) EXTREMELY HIGH-COST AREAS.—Section 214 of  
16 the National Housing Act (12 U.S.C. 1715d) is amend-  
17 ed—

18 (1) in the first sentence—

19 (A) by inserting “, or with respect to  
20 projects consisting of more than four dwelling  
21 units located in an extremely high-cost area as  
22 determined by the Secretary” after “or the Vir-  
23 gin Islands” the first place such term appears;

24 (B) by inserting “, or to construct projects  
25 consisting of more than four dwelling units on

1 property located in an extremely high-cost area  
2 as determined by the Secretary” after “or the  
3 Virgin Islands” the second place such term ap-  
4 pears; and

5 (C) by inserting “, or with respect to  
6 projects consisting of more than four dwelling  
7 units located in an extremely high-cost area as  
8 determined by the Secretary” after “or the Vir-  
9 gin Islands” the third place such term appears;  
10 (2) in the second sentence—

11 (A) by inserting “, or with respect to a  
12 project consisting of more than four dwelling  
13 units located in an extremely high-cost area as  
14 determined by the Secretary,” after “or the Vir-  
15 gin Islands” the first place such term appears;  
16 and

17 (B) by inserting “, or in the case of a  
18 project consisting of more than four dwelling  
19 units in an extremely high-cost area as deter-  
20 mined by the Secretary, in such extremely high-  
21 cost area,” after “or the Virgin Islands” the  
22 second place such term appears; and

23 (3) in the section heading, by striking “AND  
24 THE VIRGIN ISLANDS” and inserting “THE VIRGIN  
25 ISLANDS, AND EXTREMELY HIGH-COST AREAS”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to mortgages insured under title  
3 II of the National Housing Act after September 30, 2010.

4 **SEC. 20. SPECIAL FORBEARANCE FOR MORTGAGORS WITH**  
5 **CHINESE DRYWALL.**

6 The provisions of Mortgagee Letter 2002–17 of the  
7 Secretary of Housing and Urban Development (regarding  
8 “Special Forbearance: Program Changes and Updates”)  
9 relating to Type I Special Forbearance shall apply, until  
10 the conclusion of fiscal year 2011 and may not be revoked,  
11 annulled, repealed, or rescinded during such period, with  
12 respect to mortgagees of mortgages insured under title II  
13 of the National Housing Act that are secured by one- to  
14 four-family dwellings that have problem or damaging  
15 drywall products.

16 **SEC. 21. INCREASED LOAN LIMITS FOR DESIGNATED COUN-**  
17 **TIES.**

18 (a) AUTHORITY.—Notwithstanding any other provi-  
19 sion of law, the Secretary of Housing and Urban Develop-  
20 ment (in this section referred to as the “Secretary”) may  
21 increase the dollar amount limitations on the principal ob-  
22 ligation of mortgages otherwise determined under section  
23 203(b)(2) of the National Housing Act for any county that  
24 is designated under this section.

25 (b) PROCEDURE.—

1           (1) FEDERAL REGISTER NOTICE.—Any designa-  
2           tion of a county under this section shall be made  
3           only pursuant to application by the county for such  
4           designation, in accordance with procedures that the  
5           Secretary may establish. The Secretary may estab-  
6           lish such procedures only by publication in the Fed-  
7           eral Register not later than 60 days after the date  
8           of the enactment of this Act.

9           (2) FINAL DETERMINATION.—If the Secretary  
10          establishes procedures for applications under para-  
11          graph (1) and receives a completed application for  
12          designation under this section of a county in accord-  
13          ance with such procedures, the Secretary shall issue  
14          a final determination regarding such application for  
15          designation, based on the criteria under subsection  
16          (c), not later than 60 days after such receipt.

17          (c) DETERMINATION CRITERIA.—The Secretary may  
18          designate an applicant county under this section only if  
19          the county is located within a micropolitan area (as such  
20          term is defined by the Director of the Office of Manage-  
21          ment and Budget) and meets the following criteria:

22               (1) More than 70 percent of the border of the  
23               applicant county abuts two or more metropolitan  
24               statistical areas (as such term is defined by the Di-  
25               rector of the Office of Management and Budget) for

1       which each dollar amount limitation on the principal  
2       obligation of a mortgage that may be insured under  
3       section 203 of the National Housing Act, in effect  
4       at the time of such determination, is at least 40 per-  
5       cent greater than the dollar amount limitation for  
6       the same size residence for the applicant county. For  
7       purposes of such calculation, the dollar amount limi-  
8       tations of such abutting counties shall not include  
9       any increase attributable to the authority under this  
10      section.

11           (2) The applicant county has experienced sig-  
12      nificant population growth, as evidenced by an in-  
13      crease of 15 percent or more during the 10 years  
14      preceding the application, according to statistics of  
15      the United States Census Bureau or such other ap-  
16      propriate criteria as the Secretary shall establish.

17           (3) The dollar amount limitation on the prin-  
18      cipal obligation of a mortgage on housing in the ap-  
19      plicant county that may be insured under section  
20      203 of the National Housing Act, in effect at the  
21      time of such application, is the minimum such dollar  
22      amount limitation allowable under the matter that  
23      follows clause (ii) in section 203(b)(2)(A) of the Na-  
24      tional Housing Act.

1           (d) ESTABLISHMENT OF LOAN LIMITS.—For a coun-  
2 ty designated under this section, the Secretary may in-  
3 crease the maximum dollar amount limitations on the  
4 principal obligation of mortgages otherwise determined  
5 under section 203(b)(2) of the National Housing Act to  
6 such levels as are appropriate, taking into consideration  
7 the criteria established for such designation, but not to  
8 exceed the dollar amount limitations for the abutting met-  
9 ropolitan statistical area meeting the requirements of sub-  
10 section (c)(1) that has the lowest such dollar amount limi-  
11 tations.

12           (e) EFFECTIVE DATE AND TERM OF DESIGNATION  
13 OF NEW COUNTYWIDE LOAN LIMITS.—A designation of  
14 a county under this section, and the maximum dollar  
15 amount limitations for such county pursuant to subsection  
16 (d), shall—

17                 (1) take effect upon the expiration of the 60-  
18 day period that begins upon the final determination  
19 for the county referred to in subsection (b)(2); and

20                 (2) remain in effect until the end of the cal-  
21 endar year in which such designation takes effect.

22           (f) LOAN LIMITS FOR SUCCEEDING YEARS.—With  
23 respect to each calendar year immediately following the  
24 calendar year in which a county is designated under this  
25 subsection, the Secretary may, notwithstanding any other

1 provision of law, continue or adjust the dollar amount limi-  
2 tations in effect pursuant to this section for such des-  
3 ignated county for such preceding year, as appropriate,  
4 consistent with the criteria under this section.

5 **SEC. 22. IDENTIFICATION REQUIREMENTS FOR BOR-**  
6 **ROWERS.**

7 Section 203 of the National Housing Act (12 U.S.C.  
8 1709), as amended by the preceding provisions of this Act,  
9 is further amended by adding at the end the following new  
10 subsection:

11 “(z) IDENTIFICATION REQUIREMENTS FOR BOR-  
12 ROWERS.—No mortgage on a 1- to 4-family dwelling may  
13 be insured under this title unless the mortgagor under  
14 such mortgage—

15 “(1) provides a valid Social Security Number;  
16 and

17 “(2) is (A) a United States citizen, (B) a lawful  
18 permanent resident alien, or (C) a non-permanent  
19 resident alien who legally resides in and is author-  
20 ized to work in the United States.

21 The Secretary shall establish policies under which mortga-  
22 gees verify compliance with the requirements under this  
23 subsection.”.

1 **SEC. 23. REQUIRED CERTIFICATIONS.**

2 Section 203 of the National Housing Act (12 U.S.C.  
3 1709), as amended by the preceding provisions of this Act,  
4 is further amended by adding at the end the following new  
5 subsection:

6 “(z) **REQUIRED CERTIFICATIONS.**—Notwithstanding  
7 any other provision of law, the Secretary may not insure  
8 any mortgage secured by a one- to four-family dwelling  
9 unless the mortgagor under such mortgage certifies, under  
10 penalty of perjury, that the mortgagor has not been con-  
11 victed of a sex offense against a minor (as such terms are  
12 defined in section 111 of the Sex Offender Registration  
13 and Notification Act (42 U.S.C. 16911)).”

14 **SEC. 24. PROHIBITION ON USE OF FUNDS FOR CERTAIN**  
15 **FEDERAL EMPLOYEES.**

16 None of the funds authorized under this Act or any  
17 amendment made by this Act may be used to pay the sal-  
18 ary of any individual engaged in activities related to title  
19 II of the National Housing Act who has been officially  
20 disciplined for violations of subpart G of the Standards  
21 of Ethical Conduct for Employees of the Executive Branch  
22 for viewing, downloading, or exchanging pornography, in-  
23 cluding child pornography, on a Federal Government com-  
24 puter or while performing official Federal Government du-  
25 ties.

1 **SEC. 25. PROHIBITION OF MORTGAGE INSURANCE FOR**  
2 **BORROWERS WITH STRATEGIC DEFAULTS.**

3 Section 203 of the National Housing Act (12 U.S.C.  
4 1709), as amended by the preceding provisions of this Act,  
5 is further amended by adding at the end the following new  
6 subsection:

7 “(z) PROHIBITION OF MORTGAGE INSURANCE FOR  
8 BORROWERS WITH STRATEGIC DEFAULTS.—

9 “(1) PROHIBITION.—The Secretary may not  
10 newly insure any mortgage under this title that is  
11 secured by a 1- to 4-family dwelling unless the mort-  
12 gagee has determined, in accordance with such  
13 standards and requirements established by the Sec-  
14 retary, that the mortgagor under such mortgage has  
15 not previously engaged in any strategic default with  
16 respect to any residential mortgage loan.

17 “(2) STRATEGIC DEFAULT.—For purposes of  
18 this subsection, the term ‘strategic default’ means,  
19 with respect to a residential mortgage loan, an in-  
20 tentional default having such characteristics or  
21 under such circumstances as the Secretary shall, by  
22 regulation, provide.”.

23 **SEC. 26. PROHIBITION ON TAXPAYER BAILOUT OF FHA**  
24 **PROGRAM.**

25 Section 205 of the National Housing Act (12 U.S.C.  
26 1711), as amended by the preceding provisions of this Act,

1 is further amended by adding at the end the following new  
2 subsection:

3       “(h) TAXPAYER PROTECTION.—The Secretary shall  
4 use all available actions and methods authorized under law  
5 to ensure compliance with subsection (f)(2) and to protect  
6 the taxpayers of the United States from financial responsi-  
7 bility for any obligations of the Fund, including authority  
8 to increase insurance premiums charged under this title  
9 for mortgages that are obligations of the Fund, authority  
10 to establish more stringent underwriting standards for  
11 such mortgages, and authority to increase the amount of  
12 cash or its equivalent required to be paid on account of  
13 the property subject to such a mortgage.”.

Passed the House of Representatives June 10, 2010.

Attest:

*Clerk.*

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

**H. R. 5072**

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**AN ACT**

To improve the financial safety and soundness of  
the FHA mortgage insurance program.