

111TH CONGRESS
2D SESSION

H. R. 6460

To prohibit Fannie Mae, Freddie Mac, and Ginnie Mae from owning or guaranteeing any mortgage that is assigned to the Mortgage Electronic Registration Systems or for which MERS is the mortgagee of record.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 30, 2010

Ms. KAPTUR introduced the following bill; which was referred to the
Committee on Financial Services

A BILL

To prohibit Fannie Mae, Freddie Mac, and Ginnie Mae from owning or guaranteeing any mortgage that is assigned to the Mortgage Electronic Registration Systems or for which MERS is the mortgagee of record.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Transparency and Se-
5 curity in Mortgage Registration Act of 2010”.

6 **SEC. 2. PROHIBITION ON GUARANTEEING MERS MORT-**
7 **GAGES.**

8 (a) FANNIE MAE AND FREDDIE MAC.—

1 (1) FANNIE MAE.—Section 302(b) of the Na-
2 tional Housing Act (12 U.S.C. 1717(b)) is amended
3 by adding at the end the following new paragraph:

4 “(6)(A) After the date of the enactment of the Trans-
5 parency and Security in Mortgage Registration Act of
6 2010, the corporation may not purchase, acquire, newly
7 lend on the security of, newly invest in securities con-
8 sisting of, or otherwise newly deal in any MERS mortgage
9 or mortgages.

10 “(B) After the expiration of the period under sub-
11 paragraph (C), MERS shall not be the named mortgagee
12 or mortgagee of record on any mortgage owned, guaran-
13 teed, or securitized by the corporation. Not later than the
14 expiration of such period, the corporation shall require
15 that all mortgage loans owned, guaranteed, or securitized
16 at such time by the corporation and on which MERS is
17 the named mortgagee or mortgagee of record shall be as-
18 signed to the servicer, holder, or creditor, as defined by
19 the guidelines of the corporation. The corporation shall
20 not reimburse the servicer, holder, or creditor for any ex-
21 pense incurred in the carrying out or recording such an
22 assignment.

23 “(C)(i) Except as provided in clause (ii), the period
24 under this subparagraph is the 6-month period beginning

1 on the date of the enactment of the Transparency and Se-
2 curity in Mortgage Registration Act of 2010.

3 “(ii) In the case of any mortgage owned, guaranteed,
4 or securitized by the corporation for which the servicer,
5 holder, or creditor has demonstrated to the corporation,
6 in accordance with standards established by the Director
7 of the Federal Housing Finance Agency, that compliance
8 with subparagraph (B) by the expiration of such 6-month
9 period will cause a severe threat to the continued financial
10 viability of such entity, the period under this subpara-
11 graph shall be the period that begins on such date of en-
12 actment and has such duration as determined by the cor-
13 poration, in accordance with standards established by the
14 Director, but in no case has a duration longer than 12
15 months.

16 “(D) Not later than the expiration of the 6-month
17 period referred to in subparagraph (C)(i), the corporation
18 shall submit a report detailing its compliance with sub-
19 paragraph (B) to the Congress, the Director of the Fed-
20 eral Housing Finance Agency, the Financial Stability
21 Oversight Council, and the Director of the Bureau of Con-
22 sumer Financial Protection of the Federal Reserve Sys-
23 tem, which shall describe any extensions of the period for
24 compliance with subparagraph (B) granted pursuant to
25 subparagraph (C).

1 “(E) For purposes of this paragraph, the following
2 definitions shall apply:

3 “(i) The term ‘MERS’ means the Mortgage
4 Electronic Registration Systems, Inc., or any suc-
5 cessor entity of such corporation.

6 “(ii) The term ‘MERS mortgage’ means any
7 mortgage—

8 “(I) for which the MERS is, or was at any
9 time, the original or nominal mortgagee or
10 mortgagee of record under the mortgage;

11 “(II) that is, or was at any time, assigned
12 to or recorded in the MERS; or

13 “(III) for which the MERS is, or was at
14 any time, acting as nominee in the county land
15 records for the lender or servicer of the mort-
16 gage.”.

17 (2) FREDDIE MAC.—Section 305(a) of the Fed-
18 eral Home Loan Mortgage Corporation Act (12
19 U.S.C. 1454(a)) is amended by adding at the end
20 the following new paragraph:

21 “(6)(A) After the date of the enactment of the Trans-
22 parency and Security in Mortgage Registration Act of
23 2010, the Corporation may not purchase, acquire, newly
24 lend on the security of, newly invest in securities con-

1 sisting of, or otherwise newly deal in any MERS mortgage
2 or mortgages.

3 “(B) After the expiration of the period under sub-
4 paragraph (C), MERS shall not be the named mortgagee
5 or mortgagee of record on any mortgage owned, guaran-
6 teed, or securitized by the Corporation. Not later than the
7 expiration of such period, the Corporation shall require
8 that all mortgage loans owned, guaranteed, or securitized
9 at such time by the Corporation and on which MERS is
10 the named mortgagee or mortgagee of record shall be as-
11 signed to the servicer, holder, or creditor, as defined by
12 the guidelines of the Corporation. The Corporation shall
13 not reimburse the servicer, holder, or creditor for any ex-
14 pense incurred in the carrying out or recording such an
15 assignment.

16 “(C)(i) Except as provided in clause (ii), the period
17 under this subparagraph is the 6-month period beginning
18 on the date of the enactment of the Transparency and Se-
19 curity in Mortgage Registration Act of 2010.

20 “(ii) In the case of any mortgage owned, guaranteed,
21 or securitized by the Corporation for which the servicer,
22 holder, or creditor has demonstrated to the Corporation,
23 in accordance with standards established by the Director
24 of the Federal Housing Finance Agency, that compliance
25 with subparagraph (B) by the expiration of such 6-month

1 period will cause a severe threat to the continued financial
2 viability of such entity, the period under this subpara-
3 graph shall be the period that begins on such date of en-
4 actment and has such duration as determined by the Cor-
5 poration, in accordance with standards established by the
6 Director, but in no case has a duration longer than 12
7 months.

8 “(D) Not later than the expiration of the 6-month
9 period referred to in subparagraph (C)(i), the Corporation
10 shall submit a report detailing its compliance with sub-
11 paragraph (B) to the Congress, the Director of the Fed-
12 eral Housing Finance Agency, the Financial Stability
13 Oversight Council, and the Director of the Bureau of Con-
14 sumer Financial Protection of the Federal Reserve Sys-
15 tem, which shall describe any extensions of the period for
16 compliance with subparagraph (B) granted pursuant to
17 subparagraph (C).

18 “(E) For purposes of this paragraph, the following
19 definitions shall apply:

20 “(i) The term ‘MERS’ means the Mortgage
21 Electronic Registration Systems, Inc., or any suc-
22 cessor entity of such corporation.

23 “(ii) The term ‘MERS mortgage’ means any
24 mortgage—

1 “(I) for which the MERS is, or was at any
2 time, the original or nominal mortgagee or
3 mortgagee of record under the mortgage;

4 “(II) that is, or was at any time, assigned
5 to or recorded in the MERS; or

6 “(III) for which the MERS is, or was at
7 any time, acting as nominee in the county land
8 records for the lender or servicer of the mort-
9 gage.”.

10 (3) REGULATIONS.—Not later than the expira-
11 tion of the 90-day period beginning on the date of
12 the enactment of this Act, the Director of the Fed-
13 eral Housing Finance Agency shall issue any regula-
14 tions necessary to carry out the amendments made
15 by paragraphs (1) and (2). In issuing such regula-
16 tions, the Director shall consult and coordinate with
17 the Secretary of Housing and Urban Development to
18 ensure that the regulations issued by the Director
19 and the regulations issued by the Secretary pursuant
20 to subsection (b)(2) of this section are uniform and
21 consistent to maximum extent possible.

22 (b) GINNIE MAE.—

23 (1) PROHIBITION.—Section 302(c) of the Na-
24 tional Housing Act (12 U.S.C. 1717(c)) is amended
25 by adding at the end the following new paragraph:

1 “(6)(A) After the date of the enactment of the Trans-
2 parency and Security in Mortgage Registration Act of
3 2010, the Association may not newly guarantee the pay-
4 ment of principal of or interest on any trust certificate
5 or other security based or backed by a trust or pool that
6 contains, or purchase or acquire, any MERS mortgage.

7 “(B)(i) After the expiration of the period under sub-
8 paragraph (C), MERS shall not be the named mortgagee
9 or mortgagee of record on any mortgage owned or held
10 by the Association or on any mortgage contained in a pool
11 backing or on which is based any trust certificate or other
12 security the payment of principal of or interest on which
13 is guaranteed by the Association.

14 “(ii) Not later than the expiration of such period, the
15 Association shall require that all mortgage loans that are
16 owned or held at such time by the Association, or that
17 at such time are contained in a trust or pool backing or
18 on which is based a trust certificate or other security the
19 payment of principal of or interest on which is guaranteed
20 by the Association, and on which MERS is the named
21 mortgagee or mortgagee of record, shall be assigned to
22 the servicer, holder, or creditor, as defined by the guide-
23 lines of the Association. The Association shall not reim-
24 burse the servicer, holder, or creditor for any expense in-

1 curred in the carrying out or recording such an assign-
2 ment.

3 “(C)(i) Except as provided in clause (ii), the period
4 under this subparagraph is the 6-month period beginning
5 on the date of the enactment of the Transparency and Se-
6 curity in Mortgage Registration Act of 2010.

7 “(ii) In the case of any mortgage owned or held by
8 the Association, or contained in a trust or pool backing
9 or on which is based a trust certificate or other security
10 the payment of principal of or interest on which is guaran-
11 teed by the Association, for which the servicer, holder, or
12 creditor has demonstrated to the Association, in accord-
13 ance with standards established by the Secretary, that
14 compliance with subparagraph (B) by the expiration of
15 such 6-month period will cause a severe threat to the con-
16 tinued financial viability of such entity, the period under
17 this subparagraph shall be the period that begins on such
18 date of enactment and has such duration as determined
19 by the Association, in accordance with standards estab-
20 lished by the Secretary, but in no case has a duration
21 longer than 12 months.

22 “(D) Not later than the expiration of the 6-month
23 period described in subparagraph (C)(i), the Association
24 submit a report detailing its compliance with subpara-
25 graph (B) to the Congress, the Secretary, the Financial

1 Stability Oversight Council, and the Director of the Bu-
2 reau of Consumer Financial Protection of the Federal Re-
3 serve System, which shall describe any extensions of the
4 period for compliance with subparagraph (B) granted pur-
5 suant to subparagraph (C).

6 “(E) For purposes of this paragraph, the following
7 definitions shall apply:

8 “(i) The term ‘MERS’ means the Mortgage
9 Electronic Registration Systems, Inc., or any suc-
10 cessor entity of such corporation.

11 “(ii) The term ‘MERS mortgage’ means any
12 mortgage—

13 “(I) for which the MERS is, or was at any
14 time, the original or nominal mortgagee or
15 mortgagee of record under the mortgage;

16 “(II) that is, or was at any time, assigned
17 to or recorded in the MERS; or

18 “(III) for which the MERS is, or was at
19 any time, acting as nominee in the county land
20 records for the lender or servicer of the mort-
21 gage.”.

22 (2) REGULATIONS.—Not later than the expira-
23 tion of the 90-day period beginning on the date of
24 the enactment of this Act, the Secretary of Housing
25 and Urban Development shall issue any regulations

1 necessary to carry out the amendments made by
2 paragraphs (1) and (2). In issuing such regulations,
3 the Secretary shall consult and coordinate with the
4 Director of the Federal Housing Finance Agency to
5 ensure that the regulations issued by the Secretary
6 and the regulations issued by the Director pursuant
7 to subsection (a)(3) of this section are uniform and
8 consistent to maximum extent possible

9 **SEC. 3. HUD STUDY.**

10 (a) **STUDY.**—The Secretary of Housing and Urban
11 Development, in consultation with the Comptroller Gen-
12 eral of the United States, shall conduct a study to analyze
13 and determine—

14 (1) the impacts of the lack of electronic records
15 and uniform standards found in local land title rec-
16 ordation systems currently used in the various
17 States;

18 (2) any progress States have made in devel-
19 oping electronic land title recordation systems for
20 their localities that contain uniform standards, and
21 any findings and conclusions and best practices re-
22 sulting from such development;

23 (3) the current oversight role of the Federal
24 Government in the transfer and recordation of land
25 titles;

1 (4) opportunities, and the feasibility of such op-
2 portunities, that may be present to leverage progress
3 made by some States and localities to create an elec-
4 tronic land title recordation system, including
5 through—

6 (A) a system that would maintain all pre-
7 vious records of the land-property without in-
8 validating, interfering with, or preempting State
9 real property law governing the transfer and
10 perfection of land title; and

11 (B) further actions by the States or by the
12 Federal Government, or coordinated actions of
13 both; and

14 (5) the feasibility of creating a Federal land
15 title recordation system for property transfers that
16 would maintain all previous records of the land-prop-
17 erty without invalidating, interfering with, or pre-
18 empting State real property law governing the trans-
19 fer and perfection of land title.

20 (b) REPORT.—Not later than the expiration of the
21 12-month period beginning on the date of the enactment
22 of this Act, the Secretary of Housing and Urban Develop-
23 ment, in consultation with the Comptroller General of the
24 United States, shall submit to the Congress a report on

- 1 the results and findings of the study conducted under this
- 2 section.

