

111TH CONGRESS
2D SESSION

S. 3704

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

IN THE SENATE OF THE UNITED STATES

AUGUST 4, 2010

Mr. BEGICH (for himself and Mr. BROWN of Ohio) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “FHA Reform Act of
5 2010”.

6 **SEC. 2. INDEMNIFICATION BY MORTGAGEES.**

7 (a) IN GENERAL.—Section 202 of the National
8 Housing Act (12 U.S.C. 1708) is amended by adding at
9 the end the following new subsection:

10 “(i) INDEMNIFICATION BY MORTGAGEES.—

1 “(1) IN GENERAL.—If the Secretary determines
2 that a mortgage executed by a mortgagee approved
3 by the Secretary under the direct endorsement pro-
4 gram or insured by a mortgagee pursuant to the del-
5 egation of authority under section 256 was not ma-
6 terially originated or underwritten in accordance
7 with the requirements established by the Secretary,
8 as determined by the Secretary, and the Secretary
9 pays an insurance claim with respect to the mort-
10 gage within a reasonable period specified by the Sec-
11 retary, the Secretary shall require the mortgagee ap-
12 proved by the Secretary under the direct endorse-
13 ment program or the mortgagee delegated authority
14 under section 256 to indemnify the Secretary for the
15 loss.

16 “(2) FRAUD OR MISREPRESENTATION.—If
17 fraud or misrepresentation was involved in connec-
18 tion with the origination or underwriting, the Sec-
19 retary may require the mortgagee approved by the
20 Secretary under the direct endorsement program or
21 the mortgagee delegated authority under section 256
22 to indemnify the Secretary for the loss regardless of
23 when an insurance claim is paid.

24 “(3) REQUIREMENTS AND PROCEDURES.—The
25 Secretary shall issue regulations establishing appro-

1 piate requirements and procedures governing the
 2 indemnification of the Secretary by the mortgagee.”.

3 (b) EARLY TERM DEFAULTS.—Section 202(a) of the
 4 National Housing Act (12 U.S.C. 1708(a)) is amended by
 5 adding at the end the following:

6 “(8) INDEMNIFICATION.—The Secretary shall
 7 take any actions required to seek indemnification for
 8 any early term default and claim on a mortgage
 9 which—

10 “(A) is an obligations of the Fund; and

11 “(B) as of the date of origination of the
 12 mortgage, was not in material compliance with
 13 a provision, regulation, or other guideline estab-
 14 lished or promulgated pursuant to this title.

15 “(9) PROGRAMMATIC REVIEW OF DEFAULTS.—
 16 The Secretary shall establish and maintain a pro-
 17 gram—

18 “(A) to review the cause of each early term
 19 default and claim on a mortgage described
 20 under paragraph (8); and

21 “(B) to require indemnification of any
 22 such early term default that did not meet the
 23 guidelines and requirements set forth pursuant
 24 to this section prior to the date of origination.

1 “(10) DEFINITION OF EARLY TERM DE-
 2 FAULT.—For purposes of this subsection, the term
 3 ‘early term default’ means any loan that becomes de-
 4 linquent or that is in default during the 2-year pe-
 5 riod beginning on the date of origination of such
 6 loan.”.

7 **SEC. 3. DELEGATION OF INSURING AUTHORITY.**

8 Section 256 of the National Housing Act (12 U.S.C.
 9 1715z-21) is amended—

- 10 (1) by striking subsection (c);
- 11 (2) in subsection (e), by striking “, including”
- 12 and all that follows through “by the mortgagee”;
- 13 and
- 14 (3) by redesignating subsections (d) and (e) as
- 15 subsections (c) and (d), respectively.

16 **SEC. 4. AUTHORITY TO TERMINATE MORTGAGEE ORIGINA-**
 17 **TION AND UNDERWRITING APPROVAL.**

18 Section 533 of the National Housing Act (12 U.S.C.
 19 1735f-11) is amended—

- 20 (1) in the first sentence of subsection (b), by in-
- 21 serting “or areas or on a nationwide basis” after
- 22 “area” each place such term appears; and
- 23 (2) in subsection (c), by striking “(c)” and all
- 24 that follows through “The Secretary” in the first

1 sentence of paragraph (2) and inserting the fol-
 2 lowing:

3 “(c) TERMINATION OF MORTGAGEE ORIGINATION
 4 AND UNDERWRITING APPROVAL.—

5 “(1) TERMINATION AUTHORITY.—If the Sec-
 6 retary determines, under the comparison provided in
 7 subsection (b), that a mortgagee has a rate of early
 8 defaults and claims that is excessive, the Secretary
 9 may terminate the approval of the mortgagee to
 10 originate or underwrite single family mortgages for
 11 any area, or areas, or on a nationwide basis, not-
 12 withstanding section 202(c) of this Act.

13 “(2) PROCEDURE.—The Secretary”.

14 **SEC. 5. DEPUTY ASSISTANT SECRETARY OF FHA FOR RISK**
 15 **MANAGEMENT AND REGULATORY AFFAIRS.**

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

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

20 (2) by adding at the end the following new
 21 paragraph:

22 “(2) There shall be in the Department, within the
 23 Federal Housing Administration, a Deputy Assistant Sec-
 24 retary for Risk Management and Regulatory Affairs, who
 25 shall be appointed by the Secretary and shall be respon-

1 sible to the Federal Housing Commissioner for all matters
 2 relating to managing and mitigating risk to the mortgage
 3 insurance funds of the Department and ensuring the per-
 4 formance of mortgages insured by the Department.”.

5 (b) TERMINATION.—Upon the appointment and con-
 6 firmation of the initial Deputy Assistant Secretary for
 7 Risk Management and Regulatory Affairs pursuant to sec-
 8 tion 4(b)(2) of the Department of Housing and Urban De-
 9 velopment Act, as amended by subsection (a) of this sec-
 10 tion, the position of chief risk officer within the Federal
 11 Housing Administration, filled by appointment by the
 12 Federal Housing Commissioner, is abolished.

13 **SEC. 6. USE OF OUTSIDE CREDIT RISK ANALYSIS SOURCES.**

14 Section 202 of the National Housing Act (12 U.S.C.
 15 1708), as amended by the preceding provisions of this Act,
 16 is further amended by adding at the end the following new
 17 subsection:

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

22 “(1) analyzing credit risk models and practices
 23 employed by the Department in connection with
 24 such mortgages;

1 “(2) evaluating underwriting standards applica-
2 ble to such mortgages insured by the Department;
3 and

4 “(3) analyzing the performance of lenders in
5 complying with, and the Department in enforcing,
6 such underwriting standards.”.

7 **SEC. 7. REVIEW OF MORTGAGEE PERFORMANCE.**

8 Section 533 of the National Housing Act (12 U.S.C.
9 1735f–11) is amended—

10 (1) in subsection (a), by inserting after the pe-
11 riod at the end the following: “For purposes of this
12 subsection, the term ‘early default’ means a default
13 that occurs within 24 months after a mortgage is
14 originated or such alternative appropriate period as
15 the Secretary shall establish.”;

16 (2) in subsection (b), by inserting after the pe-
17 riod at the end of the first sentence the following:
18 “The Secretary shall also identify which mortgagees
19 have had a significant or rapid increase, as deter-
20 mined by the Secretary, in the number or percentage
21 of early defaults and claims on such mortgages, with
22 respect to all mortgages originated by the mortgagee
23 or mortgages on housing located in any particular
24 geographic area or areas.”; and

1 (3) by adding at the end the following new sub-
2 sections:

3 “(d) SUFFICIENT RESOURCES.—There is authorized
4 to be appropriated to the Secretary for each of fiscal years
5 2010 through 2014 the amount necessary to provide addi-
6 tional full-time equivalent positions for the Department,
7 or for entering into such contracts as are necessary, to
8 conduct reviews in accordance with the requirements of
9 this section and to carry out other responsibilities relating
10 to ensuring the safety and soundness of the Mutual Mort-
11 gage Insurance Fund.

12 “(e) REPORTING TO CONGRESS.—Not later than 90
13 days after the date of enactment of the FHA Reform Act
14 of 2010 and not less often than annually thereafter, the
15 Secretary shall make available to the Committee on Finan-
16 cial Services of the House of Representatives and the
17 Committee on Banking, Housing, and Urban Affairs of
18 the Senate any information and conclusions pursuant to
19 the reviews required under subsection (a). Such report
20 shall not include detailed information on the performance
21 of individual mortgages.”.

22 **SEC. 8. USE OF NATIONWIDE MORTGAGE LICENSING SYS-**
23 **TEM AND REGISTRY.**

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

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

2 Section 202 of the National Housing Act (12 U.S.C.
3 1708), as amended by the preceding provisions of
4 this Act, is further amended by adding at the end
5 the following new subsections:

6 “(k) USE OF NATIONWIDE MORTGAGE LICENSING
7 SYSTEM AND REGISTRY FOR MORTGAGEES, OFFICERS,
8 AND OWNERS.—The Secretary may require, as a condition
9 for approval of a mortgagee by the Secretary to originate
10 or underwrite mortgages on single family residences that
11 are insured by the Secretary, that the mortgagee—

12 “(1) obtain and maintain a unique company
13 identifier assigned by the Nationwide Mortgage Li-
14 censing System and Registry, as established by the
15 Conference of State Bank Supervisors and the
16 American Association of Residential Mortgage Regu-
17 lators; and

18 “(2) obtain and maintain, as relates to any and
19 all officers or owners of the mortgagee who are sub-
20 ject to the requirements of the S.A.F.E. Mortgage
21 Licensing Act of 2008, or are otherwise required to
22 register with the Nationwide Mortgage Licensing
23 System and Registry, the unique identifier assigned
24 by the Nationwide Mortgage Licensing System and
25 Registry, as established by the Conference of State

1 Bank Supervisors and the American Association of
2 Residential Mortgage Regulators.”.

3 (2) INSURED MORTGAGES.—Section 203 of the
4 National Housing Act (12 U.S.C. 1709) is amended
5 by adding at the end the following new subsection:
6 “(y) USE OF NATIONWIDE MORTGAGE LICENSING
7 SYSTEM AND REGISTRY FOR INSURED LOANS.—The Sec-
8 retary may require each mortgage insured under this sec-
9 tion to include the unique identifier (as such term is de-
10 fined in section 1503 of the S.A.F.E. Mortgage Licensing
11 act of 2008 (12 U.S.C. 5102)) and any unique company
12 identifier assigned by the Nationwide Mortgage Licensing
13 System and Registry, as established by the Conference of
14 State Bank Supervisors and the American Association of
15 Residential Mortgage Regulators.”.

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

21 “(l) INFORMATION SHARING WITH STATE REGU-
22 LATORY AGENCIES.—

23 “(1) JOINT PROTOCOL ON INFORMATION SHAR-
24 ING.—The Secretary shall, through consultation with
25 State regulatory agencies, pursue protocols for infor-

1 mation sharing, including the appropriate treatment
2 of confidential or otherwise restricted information,
3 regarding either actions described in subsection
4 (c)(3) of this section or disciplinary or enforcement
5 actions by a State regulatory agency or agencies
6 against a mortgagee (as such term is defined in sub-
7 section (c)(7)).

8 “(2) COORDINATION.—To the greatest extent
9 possible, the Secretary and appropriate State regu-
10 latory agencies shall coordinate disciplinary and en-
11 forcement actions involving mortgagees (as such
12 term is defined in subsection (c)(7)).”.

13 **SEC. 9. REPORTING OF MORTGAGEE ACTIONS TAKEN**
14 **AGAINST OTHER MORTGAGEES.**

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

19 “(m) NOTIFICATION OF MORTGAGEE ACTIONS.—The
20 Secretary shall require each mortgagee, as a condition for
21 approval by the Secretary to originate or underwrite mort-
22 gages on single family or multifamily housing that are in-
23 sured by the Secretary, if such mortgagee engages in the
24 purchase of mortgages insured by the Secretary and origi-
25 nated by other mortgagees or in the purchase of the serv-

1 icing rights to such mortgages, and such mortgagee at any
 2 time takes action to terminate or discontinue such pur-
 3 chases from another mortgagee based on any determina-
 4 tion, evidence, or report of fraud or material misrepresen-
 5 tation in connection with the origination of such mort-
 6 gages, the mortgagee shall, not later than 15 days after
 7 taking such action, shall notify the Secretary of the action
 8 taken and the reasons for such action.”.

9 **SEC. 10. ANNUAL ACTUARIAL STUDY AND QUARTERLY RE-**
 10 **PORTS ON MUTUAL MORTGAGE INSURANCE**
 11 **FUND.**

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

14 (1) in paragraph (4)—

15 (A) by striking “The Secretary shall pro-
 16 vide for an independent” and inserting the fol-
 17 lowing:

18 “(A) IN GENERAL.—The Secretary shall
 19 provide for an independent”;

20 (B) in subparagraph (A) (as so designated
 21 by this paragraph), in the second sentence, by
 22 inserting before the period at the end the fol-
 23 lowing: “, any changes to the current or pro-
 24 jected safety and soundness of the Fund since

1 the most recent report under this paragraph or
 2 paragraph (5), and any risks to the Fund”; and

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

4 “(B) ADDITIONAL REPORTING ON DE-
 5 FAULTS.—The report required under subpara-
 6 graph (A) shall include—

7 “(i) all data, for each of the last pre-
 8 ceding fiscal years, on each default of a
 9 mortgage which is an obligation of the
 10 Fund, including—

11 “(I) the actual number of all
 12 such defaults; and

13 “(II) the percentage of all such
 14 defaults, broken out by quarter for
 15 each such fiscal year;

16 “(ii) all data, for each of the last pre-
 17 ceding fiscal years, on each early term de-
 18 fault of mortgage which is an obligation of
 19 the Fund, including—

20 “(I) the actual number of all
 21 such early term defaults;

22 “(II) the percentage of all such
 23 early term defaults, broken out by
 24 quarter for each such fiscal year; and

1 “(III) a summary of the findings
2 of the causes of such early term de-
3 faults discovered by the program es-
4 tablished under paragraph (9); and

5 “(iii) the results of all known inves-
6 tigations or inquiries concerning defaults
7 on loans insured under this title or any in-
8 surance payments made by the Secretary
9 pursuant to this title, including—

10 “(I) the number of such loans as
11 to which the Secretary made an in-
12 quiry about the reasons for loss or de-
13 fault;

14 “(II) the identity of the direct
15 endorsement underwriter of such loan;

16 “(III) all of the reasons deter-
17 mined to be the cause for each default
18 or insurance payment, including
19 whether such default or payment was
20 due to an underwriting error, bor-
21 rower fraud or misrepresentation,
22 mortgage broker fraud or misrepre-
23 sentation, appraiser fraud or mis-
24 representation, lender fraud or mis-

1 representation, reduced borrower in-
2 come, or reduced property value;

3 “(IV) whether there was an in-
4 surance payment made pursuant to
5 this title in connection with the loan,
6 and if so, the amount of such pay-
7 ment and the date on which such pay-
8 ment was made;

9 “(V) the rate at which such loans
10 are becoming seriously delinquent, as
11 determined by the Secretary;

12 “(VI) whether the rate set for
13 under subclause (V) is increasing or
14 decreasing;

15 “(VII) if there are certain sub-
16 sets of mortgages within the larger set
17 of mortgages which are obligations of
18 the Fund that have great or lesser
19 rates of default; and

20 “(VIII) if a subset of mortgages
21 is identified under subclause (VII),
22 the characteristics of such subset of
23 mortgages and the financial exposure
24 of the Federal Housing Administra-
25 tion created by such subsets.

“(C) TIMING OF REPORTS.—The first annual report, and each annual report thereafter, to include the additional reporting on defaults as required by subparagraph (B), shall be submitted within 90 days of the first day of the next fiscal year, or if such report for the past fiscal year is submitted to Congress prior to the date of enactment of the FHA Reform Act of 2010, such report shall be updated and resubmitted to reflect such additional reporting requirements not later than the last day of the full calendar quarter following the date of enactment of the FHA Reform Act of 2010.”; and (2) in paragraph (5)—

(A) in the matter prior to subparagraph (A), by striking “During each fiscal year” and inserting the following:

“(A) IN GENERAL.—During each fiscal 8 year;”;

(B) by redesignating subparagraphs (A) through (E) as clauses (i) through (v), respectively, and moving the margins 2 ems to the right;

(C) in clause (iv) of subparagraph (A) (as so redesignated), by striking “and” at the end;

1 (D) in clause (v) of subparagraph (A) (as
 2 so redesignated), by striking the period at the
 3 end and inserting “; and”;

4 (E) by adding at the end of subparagraph
 5 (A) the following:

6 “(vi) any other factors that are likely
 7 to have an impact on the financial status
 8 of the Fund or cause any material changes
 9 to the current or projected safety and
 10 soundness of the Fund since the most re-
 11 cent report under paragraph (4).

12 The Secretary may include in the report under
 13 this paragraph any recommendations not made
 14 in the most recent report under paragraph (4)
 15 that may be needed to ensure that the Fund re-
 16 mains financially sound.”; and

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

18 “(B) ADDITIONAL REPORTING ON DE-
 19 FAULTS.—The report required under subpara-
 20 graph (A) shall include—

21 “(i) all data, for each of the last pre-
 22 ceding fiscal years, on each default of
 23 mortgage which is an obligation of the
 24 Fund, including—

1 “(I) the actual number of all
2 such defaults; and

3 “(II) the percentage of all such
4 defaults, broken out by quarter for
5 each such fiscal year;

6 “(ii) all data, for each of the last pre-
7 ceding fiscal years, on each early term de-
8 fault of mortgage which is an obligation of
9 the Fund, including—

10 “(I) the actual number of all
11 such early term defaults;

12 “(II) the percentage of all such
13 early term defaults, broken out by
14 quarter for each such fiscal year; and

15 “(III) a summary of the findings
16 of the causes of such early term de-
17 faults discovered by the program es-
18 tablished under paragraph (9); and

19 “(iii) the results of all known inves-
20 tigations or inquiries concerning defaults
21 on loans insured under this title or any in-
22 surance payments made by the Secretary
23 pursuant to this title, including—

24 “(I) the number of such loans as
25 to which the Secretary made an in-

1 quiry about the reasons for loss or de-
2 fault;

3 “(II) the identity of the direct
4 endorsement underwriter of such loan;

5 “(III) all the reasons determined
6 to be the cause for each default or in-
7 surance payment, including whether
8 such default or payment was due to
9 an underwriting error, borrower fraud
10 or misrepresentation, mortgage broker
11 fraud or misrepresentation, appraiser
12 fraud or misrepresentation, lender
13 fraud or misrepresentation, reduced
14 borrower income, or reduced property
15 value;

16 “(IV) whether there was an in-
17 surance payment made pursuant to
18 this title in connection with the loan,
19 and if so, the amount of such pay-
20 ment and the date on which such pay-
21 ment was made;

22 “(V) the rate at which such loans
23 are becoming seriously delinquent, as
24 determined by the Secretary;

1 “(VI) whether the rate set for
 2 under subclause (V) is increasing or
 3 decreasing;

4 “(VII) if there are certain sub-
 5 sets of mortgages within the larger set
 6 of mortgages which are obligations of
 7 the Fund that have great or lesser
 8 rates of default; and

9 “(VIII) if a subset of mortgages
 10 is identified under subclause (VII),
 11 the characteristics of such subset of
 12 mortgages and the financial exposure
 13 of the Federal Housing Administra-
 14 tion created by such subsets.”.

15 **SEC. 11. REVIEW OF DOWNPAYMENT REQUIREMENTS.**

16 Section 205 of the National Housing Act (12 U.S.C.
 17 1711) is amended by adding at the end the following new
 18 subsection:

19 “(g) REVIEW OF DOWNPAYMENT REQUIREMENTS.—
 20 If, at any time when the capital ratio (as such term is
 21 defined in subsection (f)) of the Mutual Mortgage Insur-
 22 ance Fund does not comply with the requirement under
 23 subsection (f)(1), the Secretary establishes a cash invest-
 24 ment requirement, for all mortgages or mortgagors or with
 25 respect to any group of mortgages or mortgagors, that ex-

ceeds the minimum percentage or amount required under section 203(b)(9), thereafter upon the capital ratio first complying with the requirement under subsection (f)(1) the Secretary shall review such cash investment requirement and, if the Secretary determines that such percentage or amount may be reduced while maintaining such compliance, the Secretary may subsequently reduce such requirement by such percentage or amount as the Secretary considers appropriate.”.

SEC. 12. AUTHORIZATION TO PARTICIPATE IN THE ORIGINATION OF FHA-INSURED LOANS.

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

“(1) Have been made to a mortgagee approved by the Secretary or to a person or entity authorized by the Secretary under section 202(d)(1) to participate in the origination of the mortgage, and be held by a mortgagee approved by the Secretary as responsible and able to service the mortgage properly.”.

(b) HOME EQUITY CONVERSION MORTGAGES.—Section 255(d) of the National Housing Act (12 U.S.C.

1 1715z–20(d)) is amended by striking paragraph (1) and
 2 inserting the following new paragraph:

3 “(1) have been originated by a mortgagee ap-
 4 proved by, or by a person or entity authorized under
 5 section 202(d)(1) to participate in the origination
 6 by, the Secretary;”.

7 **SEC. 13. DEFAULT AND ORIGINATION INFORMATION BY**
 8 **LOAN SERVICER AND ORIGINATING DIRECT**
 9 **ENDORSEMENT LENDER.**

10 (a) COLLECTION OF INFORMATION.—Paragraph (2)
 11 of section 540(b) of the National Housing Act (12 U.S.C.
 12 1712 U.S.C. 1735f–18(b)(2)) is amended by adding at the
 13 end the following new subparagraph:

14 “(C) For each entity that services insured
 15 mortgages, data on the performance of mort-
 16 gages originated during each calendar quarter
 17 occurring during the applicable collection pe-
 18 riod, disaggregated by the direct endorsement
 19 mortgagee from whom such entity acquired
 20 such servicing.”.

21 (b) APPLICABILITY.—Information described in sub-
 22 paragraph (C) of section 540(b)(2) of the National Hous-
 23 ing Act, as added by subsection (a) of this section, shall
 24 first be made available under such section 540 for the ap-
 25 plicable collection period (as such term is defined in such

1 section) relating to the first calendar quarter ending after
 2 the expiration of the 12-month period that begins on the
 3 date of the enactment of this Act.

4 **SEC. 14. THIRD PARTY SERVICER OUTREACH.**

5 (a) **AUTHORITY.**—The Secretary of Housing and
 6 Urban Development may, to the extent any amounts for
 7 fiscal year 2010 or 2011 are made available in advance
 8 in appropriation Acts for reimbursements under this sec-
 9 tion, provide reimbursement to servicers of covered mort-
 10 gages (as such term is defined in subsection (f)) for costs
 11 of obtaining the services of independent third parties
 12 meeting the requirements under subsection (b) of this sec-
 13 tion to make in-person contact with mortgagors under cov-
 14 ered mortgages whose payments under such mortgages are
 15 60 or more days past due, solely for the purposes of pro-
 16 viding information to such mortgagors regarding—

17 (1) available counseling by housing counseling
 18 agencies approved by the Secretary;

19 (2) available mortgage loan modification, refi-
 20 nance, and assistance programs; and

21 (3) available counseling regarding financial
 22 management and credit risk.

23 (b) **QUALIFIED INDEPENDENT THIRD PARTIES.**—An
 24 independent third party meets the requirements of this
 25 subsection if the third party—

1 (1) is an entity, including a housing counseling
2 agency approved by the Secretary, that meets stand-
3 ards, qualifications, and requirements (including re-
4 garding foreclosure prevention training, quality mon-
5 itoring, safeguarding of non-public information) es-
6 tablished by the Secretary for purposes of this sec-
7 tion for in-person contact about available mortgage
8 loan modification, refinance, and assistance pro-
9 grams; and

10 (2) does not charge any fees or require other
11 payments, directly or indirectly, from any mortgagor
12 for making in-person contact and providing informa-
13 tion and documents under this section.

14 (c) TREATMENT OF PERSONAL, NON-PUBLIC, AND
15 CONFIDENTIAL INFORMATION.—An independent third
16 party whose services are obtained using amounts made
17 available for use under this section and the mortgage
18 servicer obtaining such services shall not use, disclose, or
19 distribute any personal, non-public, or confidential infor-
20 mation about a mortgagor obtained during an in-person
21 contact with the mortgagor, except for purposes of engag-
22 ing in the process of modification or refinance of the cov-
23 ered mortgage.

24 (d) DATE OF CONTACT AND DISCLOSURES.—Each
25 independent third party whose services are obtained by a

1 mortgage servicer using amounts made available for use
2 under this section shall—

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

7 (2) upon making in-person contact with a mort-
8 gagor, provide the mortgagor with a written docu-
9 ment that discloses—

10 (A) the name of, and contact information
11 for, the independent third party and the mort-
12 gage servicer;

13 (B) that the independent third party has
14 contracted with the mortgage servicer to pro-
15 vide the in-person contact at no charge to the
16 mortgagor;

17 (C) that the independent third party is an
18 agent of the mortgage servicer;

19 (D) that the in-person contact with the
20 mortgagor consists of providing information
21 about available counseling by a housing coun-
22 seling agency approved by the Secretary and
23 available mortgage loan modification, refinance,
24 and assistance programs;

1 (E) that the independent third party and
2 the mortgage servicer are prohibited from the
3 use, disclosure, or distribution of personal, non-
4 public, and confidential information about the
5 mortgagor, obtained during the in-person con-
6 tact, except for purposes of engaging in the
7 process of modification or refinance of the cov-
8 ered mortgage; and

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

11 (e) PRIORITY.—In providing reimbursements under
12 this section, the Secretary of Housing and Urban Develop-
13 ment shall provide priority to independent third parties
14 serving mortgagors under covered mortgages in areas ex-
15 periencing a mortgage foreclosure rate and unemployment
16 rate higher than the national average for the most recent
17 12-month period for which satisfactory data are available.

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

1 **SEC. 15. GAO REPORT ON FHA.**

2 Not later than the expiration of the 12-month period
3 beginning on the date of the enactment of this Act, the
4 Comptroller General of the United States shall submit to
5 the Congress a report on the single family mortgage insur-
6 ance programs of the Secretary of Housing and Urban De-
7 velopment and the Mutual Mortgage Insurance Fund es-
8 tablished under section 202(a) of the National Housing
9 Act (12 U.S.C. 1708(a)) that—

10 (1) analyzes such Fund, the economic net
11 worth, capital ratio, and unamortized insurance-in-
12 force (as such terms are defined in section 205(f)(4)
13 of such Act (12 U.S.C. 1711(f)(4))) of such Fund,
14 the risks to the Fund, how the capital ratio of the
15 Fund affects the mortgage insurance programs
16 under the Fund and the broader housing market,
17 the extent to which the housing markets are more
18 dependent on mortgage insurance provided through
19 the Fund since the financial crisis began in 2008,
20 and the exposure of the taxpayers for obligations of
21 the Fund;

22 (2) analyzes the methodology for determining
23 the Fund's capital ratio under section 205(f) of such
24 Act and examines alternative methods for assessing
25 the Fund's financial condition and their potential

1 impacts on the Fund's ability to meet the oper-
2 ational goals under section 202(a)(7) of such Act;

3 (3) analyzes the potential effects of the in-
4 creases in the limits on the maximum principal obli-
5 gation of mortgages made by the FHA Moderniza-
6 tion Act of 2008 (title I of division B of Public Law
7 110–289), section 202 of the Economic Stimulus
8 Act of 2008 (Public Law 110–185; 122 Stat. 620),
9 section 1202 of division A of the American Recovery
10 and Reinvestment Act of 2009 (Public Law 111–5;
11 123 Stat. 225), and section 166 of the Continuing
12 Appropriations Resolution, 2010 (as added by sec-
13 tion 104 of division B of Public Law 111–88; 123
14 Stat. 29723) on—

15 (A) the risks to and safety and soundness
16 of the Fund;

17 (B) the impact on the affordability and
18 availability of mortgage credit for borrowers for
19 loans authorized under such higher loan limits;

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

23 (D) the Federal National Mortgage Asso-
24 ciation and the Federal Home Loan Mortgage
25 Corporation; and

1 (4) analyzes the impact on affordability to FHA
 2 borrowers, and the impact to the Fund, of seller
 3 concessions or contributions to a borrower pur-
 4 chasing a residence using a mortgage that is insured
 5 by the Secretary.

6 **SEC. 16. AUTHORITY TO ESTABLISH HIGHER MINIMUM**
 7 **CASH INVESTMENT REQUIREMENT.**

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

12 “(D) **AUTHORITY TO ESTABLISH HIGHER**
 13 **MINIMUM REQUIREMENT.**—The Secretary may
 14 establish a higher minimum cash investment re-
 15 quirement than the minimum requirement
 16 under subsection (a), for all mortgagors or a
 17 certain class or classes of mortgagors, which
 18 may be based on criteria related to borrowers’
 19 credit scores or other industry standards re-
 20 lated to borrowers’ financial soundness. In es-
 21 tablishing such a higher minimum cash invest-
 22 ment requirement, the Secretary shall take into
 23 consideration the findings of the most recent
 24 annual report to the Congress on minimum

1 cash investments pursuant to section 16(b) of
 2 the FHA Reform Act of 2010.”.

3 (b) REPORT.—Not later than the expiration of the
 4 12-month period beginning on the date of the enactment
 5 of this Act and annually thereafter, the Secretary of Hous-
 6 ing and Urban Development shall submit to the Com-
 7 mittee on Financial Services of the House of Representa-
 8 tives and the Committee on Banking, Housing, and Urban
 9 Affairs of the Senate a report detailing the implementa-
 10 tion of the minimum cash investment requirements under
 11 section 203(b)(9) of the National Housing Act (12 U.S.C.
 12 1709(b)(9)) and discussing and analyzing options for pro-
 13 posed changes to such requirements, including changes
 14 that would take into account borrowers’ credit scores or
 15 other industry standards related to borrowers’ financial
 16 soundness. Such report shall—

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

19 (A) the financial soundness of the Mutual
 20 Mortgage Insurance Fund;

21 (B) the housing finance market of the
 22 United States; and

23 (C) the number of borrowers served by the
 24 Federal Housing Administration;

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

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

7 (4) evaluate the impacts of any actual or pro-
8 posed such changes on potential mortgagors under
9 mortgages on one- to four-family dwellings insured
10 by the Secretary under the National Housing Act;
11 and

12 (5) evaluate the impact of any actual or pro-
13 posed such changes on the soundness of the housing
14 market in the United States.

15 **SEC. 17. MORTGAGE INSURANCE PREMIUM REFUNDS.**

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

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

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

3 (2) is otherwise eligible, under the last sentence
4 of subparagraph (A) of section 203(c)(2) of such Act
5 (12 U.S.C. 1709(c)(2)(A)), for a refund of all un-
6 earned premium charges paid on the mortgage pur-
7 suant to such subparagraph, except that the mort-
8 gage—

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

10 and

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

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

16 **SEC. 18. MAXIMUM MORTGAGE AMOUNT LIMITS FOR MUL-**
17 **TIFAMILY HOUSING.**

18 (a) ELEVATOR-TYPE STRUCTURES.—

19 (1) AMENDMENTS.—The National Housing Act
20 is amended in each of the provisions specified in
21 paragraph (2)—

22 (A) by inserting “with sound standards of
23 construction and design” after “elevator-type
24 structures” the first place such term appears;
25 and

1 (B) by striking “to not to exceed” and all
 2 that follows through “sound standards of con-
 3 struction and design” each place such terms ap-
 4 pear and inserting “by not more than 50 per-
 5 cent of the amounts specified for each unit
 6 size”.

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

10 (A) Subparagraph (A) of section 207(c)(3)
 11 (12 U.S.C. 1713(c)(3)(A)).

12 (B) Subparagraph (A) of section 213(b)(2)
 13 (12 U.S.C. 1715e(b)(2)(A)).

14 (C) Subclause (I) of section
 15 220(d)(3)(B)(iii) (12 U.S.C.
 16 1715k(d)(3)(B)(iii)(I)).

17 (D) In section 221(d) (12 U.S.C.
 18 1715l(d))—

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

20 and

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

22 (E) Subparagraph (A) of section 231(c)(2)
 23 (12 U.S.C. 1715v(c)(2)(A)).

24 (F) Subparagraph (A) of section 234(e)(3)
 25 (12 U.S.C. 1715y(e)(3)(A)).

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

4 (1) in the first sentence—

5 (A) 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 first place such term appears;

10 (B) by inserting “, or to construct projects
11 consisting of more than four dwelling units on
12 property located in an extremely high-cost area
13 as determined by the Secretary” after “or the
14 Virgin Islands” the second place such term ap-
15 pears; and

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

21 (2) in the second sentence—

22 (A) by inserting “, or with respect to a
23 project consisting of more than four dwelling
24 units located in an extremely high-cost area as
25 determined by the Secretary,” after “or the Vir-

1 gin Islands” the first place such term appears;
2 and

3 (B) by inserting “, or in the case of a
4 project consisting of more than four dwelling
5 units in an extremely high-cost area as deter-
6 mined by the Secretary, in such extremely high-
7 cost area,” after “or the Virgin Islands” the
8 second place such term appears; and

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

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

15 **SEC. 19. SPECIAL FORBEARANCE FOR MORTGAGORS WITH**
16 **CHINESE DRYWALL.**

17 The provisions of Mortgagee Letter 2002–17 of the
18 Secretary of Housing and Urban Development (regarding
19 “Special Forbearance: Program Changes and Updates”)
20 relating to Type I Special Forbearance shall apply, until
21 the conclusion of fiscal year 2011 and may not be revoked,
22 annulled, repealed, or rescinded during such period, with
23 respect to mortgagees of mortgages insured under title II
24 of the National Housing Act that are secured by one- to

1 four-family dwellings that have problem or damaging
 2 drywall products.

3 **SEC. 20. MORTGAGE INSURANCE FOR CONDOMINIUMS.**

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

7 “(y) INAPPLICABILITY OF ENVIRONMENTAL REVIEW
 8 PROVISIONS.—In insuring, under this section, any mort-
 9 gage described in section 201(a)(C), the Secretary shall
 10 not be subject to the conditions of, or review under, the
 11 National Environmental Policy Act of 1969 or any other
 12 provision of law that furthers the purposes of such Act.”.

13 **SEC. 21. ENERGY EFFICIENT MORTGAGES.**

14 Section 106(a)(2)(C) of the Energy Policy Act of
 15 1992 (42 U.S.C. 12712 note) is amended—

16 (1) in clause (i), by inserting “(i)” after “(A)”
 17 each place such term appears; and

18 (2) in clause (ii), by striking “203(b)(2)(B)”
 19 and inserting “203(b)(2)(A)(ii)”.

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