

112TH CONGRESS
2D SESSION

H. R. 4172

To authorize the Secretary of Housing and Urban Development to insure mortgages that provide former homeowners who are a reasonable credit risk a second chance at homeownership.

IN THE HOUSE OF REPRESENTATIVES

MARCH 8, 2012

Mr. HECK introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To authorize the Secretary of Housing and Urban Development to insure mortgages that provide former homeowners who are a reasonable credit risk a second chance at homeownership.

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 “Second Chance at
5 Homeownership Act of 2012”.

1 **SEC. 2. SECOND CHANCE AT HOMEOWNERSHIP MORTGAGE**
2 **INSURANCE PROGRAM.**

3 Title II of the National Housing Act (12 U.S.C. 17)
4 is amended by adding at the end the following new section:

5 **“SEC. 259. SECOND CHANCE AT HOMEOWNERSHIP PRO-**
6 **GRAM.**

7 “(a) ESTABLISHMENT.—There is established in the
8 Federal Housing Administration a Second Chance at
9 Homeownership Program (in this section referred to as
10 the ‘Program’).

11 “(b) PURPOSES.—The purposes of the Program
12 are—

13 “(1) to create an FHA program, participation
14 in which is voluntary on the part of homeowners and
15 eligible lenders, to provide loans for qualified second-
16 chance borrowers and support long-term, sustainable
17 homeownership;

18 “(2) to target mortgage assistance under this
19 section to enable families to become homeowners of
20 their principal residence; and

21 “(3) to ensure the Program remains in effect
22 only for as long as is necessary to provide stability
23 to the housing market.

24 “(c) ESTABLISHMENT AND IMPLEMENTATION OF
25 PROGRAM REQUIREMENTS.—

1 “(1) DUTIES OF SECRETARY.—To carry out the
2 purposes of the Program, the Secretary shall—

3 “(A) establish requirements and standards
4 for the program consistent with section 203(b)
5 to the maximum extent possible; and

6 “(B) prescribe such regulations and pro-
7 vide such guidance as may be necessary or ap-
8 propriate to implement such requirements and
9 standards.

10 “(2) INTERIM GUIDANCE AND MORTGAGEE LET-
11 TERS.—In carrying out any of the program require-
12 ments or standards established under paragraph (1),
13 the Secretary may issue such interim guidance and
14 mortgagee letters as the Secretary determines nec-
15 essary or appropriate.

16 “(d) INSURANCE OF MORTGAGES.—The Secretary
17 may, upon application of a mortgagee, make commitments
18 to insure or may insure any mortgage that meets the re-
19 quirements under subsection (e).

20 “(e) REQUIREMENTS OF INSURED MORTGAGES.—To
21 be eligible for insurance under this section, a mortgage
22 shall comply with all of the following requirements:

23 “(1) MORTGAGOR.—The mortgagor under the
24 mortgage may not have—

1 “(A) been the mortgagor under any other
2 mortgage or had any present ownership interest
3 in any residence after January 1, 2011, except
4 that the Secretary may provide exceptions to
5 such requirement for any mortgagor who has
6 inherited a property;

7 “(B) been delinquent with respect to any
8 of the most recent 12 monthly rental payments
9 due for the rental of the mortgagor’s principal
10 residence;

11 “(C) been convicted under Federal or
12 State law for fraud during the 10-year period
13 ending upon the insurance of the mortgage
14 under this section; and

15 “(D) a net worth, as of the date the mort-
16 gator first applies for a mortgage to be insured
17 under the Program under this section, that ex-
18 ceeds \$1,000,000.

19 “(2) ACQUISITION OF PRINCIPAL RESIDENCE.—

20 The mortgagor shall be made for the purpose of ac-
21 quiring a 1- to 4-family residence that—

22 “(A) is located in the same State as the
23 principal residence of the mortgagor at the time
24 the mortgage is executed; and

1 “(B) shall be occupied by the mortgagor as
2 the principal residence of the mortgagor.

3 “(3) DOWNPAYMENT.—The mortgagor shall
4 have paid on account of the mortgage, in cash or its
5 equivalent, on account of the property an amount
6 equal to not less than 5 percent of the appraised
7 value of the property.

8 “(4) MAXIMUM LOAN AMOUNT.—The mortgage
9 shall—

10 “(A) have principal obligation that does
11 not exceed the dollar amount limitation for a
12 property of the applicable size that is in effect,
13 for the year in which the mortgage is executed,
14 under the sixth sentence of section 305(a)(2) of
15 the Federal Home Loan Mortgage Corporation
16 Act (12 U.S.C. 1454(a)(2)); and

17 “(B) be payable on a monthly basis in an
18 amount that—

19 “(i) is fixed over the entire term of
20 the mortgage; and

21 “(ii) does not exceed the average
22 amount paid by the mortgagor for the
23 most recent 12 monthly rental payments
24 paid by the mortgagor for the rental of the
25 mortgagor’s previous principal residence.

1 “(5) TERM OF MORTGAGE.—The mortgage to
2 be insured shall—

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

5 “(B) have a maturity of not less than 30
6 years from the date of the beginning of amorti-
7 zation of such mortgage.

8 “(6) APPRAISALS.—Any appraisal conducted in
9 connection with the mortgage shall—

10 “(A) be based on the current value of the
11 property;

12 “(B) be conducted in accordance with title
13 XI of the Financial Institutions Reform, Recov-
14 ery, and Enforcement Act of 1989 (12 U.S.C.
15 3331 et seq.);

16 “(C) be completed by an appraiser who
17 meets the competency requirements of the Uni-
18 form Standards of Professional Appraisal Prac-
19 tice;

20 “(D) be wholly consistent with the ap-
21 praisal standards, practices, and procedures
22 under section 202(g) of this Act that apply to
23 all loans insured under this Act; and

1 “(E) comply with the requirements of sub-
2 section (f) of this section (relating to appraisal
3 independence).

4 “(7) PROHIBITION ON SECOND LIENS.—The
5 mortgagor under the mortgage may not grant a new
6 second lien on the mortgaged property during the
7 first 5 years of the term of the mortgage insured
8 under this section, except as the Secretary deter-
9 mines to be necessary to ensure the maintenance of
10 property standards and provided that such new out-
11 standing liens (A) do not reduce the value of the
12 Government’s equity in the borrower’s home; and
13 (B) when combined with the mortgagor’s existing
14 mortgage indebtedness, do not exceed 95 percent of
15 the home’s appraised value at the time of the new
16 second lien.

17 “(8) CERTIFICATIONS AND DOCUMENTATION.—

18 “(A) PRINCIPAL RESIDENCE; NO PRESENT
19 OWNERSHIP INTEREST.—The mortgagor shall
20 provide documentation satisfactory in the deter-
21 mination of the Secretary to prove compliance
22 with the requirements under paragraphs (1)(A)
23 and (2)(B).

1 “(B) NO INTENTIONAL DEFAULT OR
2 FALSE INFORMATION.—The mortgagor shall
3 certify to the Secretary that the mortgagor—

4 “(i) has not, during the 10-year pe-
5 riod ending upon the insurance of the
6 mortgage under this section—

7 “(I) intentionally defaulted on
8 any mortgage or any other debt; or

9 “(II) knowingly or willfully fur-
10 nished material information known to
11 be false for the purpose of obtaining
12 any mortgage; and

13 “(ii) is in compliance with the require-
14 ment under paragraph (1)(C) (relating to
15 convictions for fraud).

16 “(C) LIABILITY FOR REPAYMENT.—The
17 mortgagor shall agree in writing that the mort-
18 gagor shall be liable to repay to the Secretary
19 any direct financial benefit achieved from a
20 mortgage insured under this section that is de-
21 rived from misrepresentations made by the
22 mortgagor in the certifications and documenta-
23 tion required under this paragraph, subject to
24 the discretion of the Secretary.

1 “(D) DOCUMENTATION AND VERIFICATION
2 OF INCOME.—In complying with the FHA un-
3 derwriting requirements under the Program
4 under this section, the mortgagee shall docu-
5 ment and verify the income of the mortgagor or
6 non-filing status in accordance with procedures
7 and standards that the Secretary shall establish
8 (provided that such procedures and standards
9 are consistent with section 203(b) to the max-
10 imum extent possible) which may include re-
11 quiring the mortgagee to procure a copy of the
12 income tax returns from the Internal Revenue
13 Service, for the two most recent years for which
14 the filing deadline for such years has passed
15 and by any other method, in accordance with
16 procedures and standards that the Secretary
17 shall establish.

18 “(E) MORTGAGE FRAUD.—The duty of the
19 mortgagee to ensure that the mortgagor is in
20 compliance with paragraph (1)(C) shall be sat-
21 isfied if the mortgagee makes a good faith ef-
22 fort to determine that the mortgagor has not
23 been convicted under Federal or State law for
24 fraud during the period described in such para-
25 graph.

1 “(f) APPRAISAL INDEPENDENCE.—

2 “(1) PROHIBITIONS ON INTERESTED PARTIES
3 IN A REAL ESTATE TRANSACTION.—No mortgage
4 lender, mortgage broker, mortgage banker, real es-
5 tate broker, appraisal management company, em-
6 ployee of an appraisal management company, nor
7 any other person with an interest in a real estate
8 transaction involving an appraisal in connection with
9 a mortgage insured under this section shall improper-
10 ly influence, or attempt to improperly influence,
11 through coercion, extortion, collusion, compensation,
12 instruction, inducement, intimidation, nonpayment
13 for services rendered, or bribery, the development,
14 reporting, result, or review of a real estate appraisal
15 sought in connection with the mortgage.

16 “(2) CIVIL MONETARY PENALTIES.—The Sec-
17 retary may impose a civil money penalty for any
18 knowing and material violation of paragraph (1)
19 under the same terms and conditions as are author-
20 ized in section 536(a) of this Act.

21 “(g) STANDARDS TO PROTECT AGAINST ADVERSE
22 SELECTION.—

23 “(1) IN GENERAL.—The Secretary shall, by
24 rule or order, establish standards and policies to re-
25 quire the underwriter of a mortgage insured under

1 this section to provide such representations and war-
2 ranties as the Secretary considers necessary or ap-
3 propriate to enforce compliance with all underwriting
4 and appraisal standards of the Program.

5 “(2) EXCLUSION FOR VIOLATIONS.—The Sec-
6 retary shall not pay insurance benefits to a mort-
7 gagee who violates the representations and warran-
8 ties, as established under paragraph (1), or in any
9 case in which a mortgagor fails to make the first
10 payment on a mortgage insured under this section.

11 “(3) OTHER AUTHORITY.—The Secretary may
12 establish such other standards or policies as nec-
13 essary to protect against adverse selection, including
14 requiring loans identified by the Secretary as higher
15 risk loans to demonstrate payment performance for
16 a reasonable period of time before being insured
17 under the program under this section.

18 “(h) PREMIUMS.—

19 “(1) ESTABLISHMENT AND COLLECTION.—For
20 each mortgage insured under this section, the Sec-
21 retary shall establish and collect—

22 “(A) at the time of insurance, a single pre-
23 mium payment in an amount that is at least
24 100 basis points greater than the single pre-
25 mium payment that would otherwise be charged

1 pursuant to section 203(c)(2)(A) with respect
2 to the mortgage; and

3 “(B) in addition to the premium required
4 under paragraph (1), an annual premium in an
5 amount that is at least 100 basis points greater
6 than the annual premium payment that would
7 otherwise be charged pursuant to section
8 203(c)(2)(B) with respect to the mortgage.

9 “(2) CONSIDERATIONS.—In setting the pre-
10 mium under this subsection, the Secretary shall con-
11 sider—

12 “(A) the financial integrity of the Pro-
13 gram; and

14 “(B) the purposes of the Program set
15 forth in subsection (b).

16 “(i) ORIGINATION FEES AND INTEREST RATE.—The
17 Secretary shall establish—

18 “(1) a reasonable limitation on origination fees
19 for mortgages insured under this section; and

20 “(2) procedures to ensure that interest rates on
21 such mortgages shall be commensurate with market
22 rate interest rates on such types of loans.

23 “(j) DEFAULT.—Any mortgagor who defaults in re-
24 payment of a mortgage insured under this section shall
25 not be eligible for any mortgage insurance provided by the

1 Secretary for the 10-year period beginning upon such de-
2 fault.

3 “(k) 5-YEAR PHASE-IN FOR EQUITY AS A RESULT
4 OF SALE OR REFINANCING.—For each mortgage insured
5 under this section, the Secretary and the mortgagor of
6 such mortgage shall, upon any sale or disposition of the
7 property to which the mortgage relates, or upon the subse-
8 quent refinancing of such mortgage, be entitled to the fol-
9 lowing with respect to any equity created as a direct result
10 of the mortgage being insured under this section:

11 “(1) If such sale or refinancing occurs during
12 the period that begins on the date that such mort-
13 gage is insured and ends 1 year after such date of
14 insurance, the Secretary shall be entitled to 100 per-
15 cent of such equity.

16 “(2) If such sale or refinancing occurs during
17 the period that begins 1 year after such date of in-
18 surance and ends 2 years after such date of insur-
19 ance, the Secretary shall be entitled to 90 percent of
20 such equity and the mortgagor shall be entitled to
21 10 percent of such equity.

22 “(3) If such sale or refinancing occurs during
23 the period that begins 2 years after such date of in-
24 surance and ends 3 years after such date of insur-
25 ance, the Secretary shall be entitled to 80 percent of

1 such equity and the mortgagor shall be entitled to
2 20 percent of such equity.

3 “(4) If such sale or refinancing occurs during
4 the period that begins 3 years after such date of in-
5 surance and ends 4 years after such date of insur-
6 ance, the Secretary shall be entitled to 70 percent of
7 such equity and the mortgagor shall be entitled to
8 30 percent of such equity.

9 “(5) If such sale or refinancing occurs during
10 the period that begins 4 years after such date of in-
11 surance and ends 5 years after such date of insur-
12 ance, the Secretary shall be entitled to 60 percent of
13 such equity and the mortgagor shall be entitled to
14 40 percent of such equity.

15 “(6) If such sale or refinancing occurs during
16 any period that begins 5 years after such date of in-
17 surance, the Secretary shall be entitled to 50 percent
18 of such equity and the mortgagor shall be entitled
19 to 50 percent of such equity.

20 “(l) LIMITATION ON AGGREGATE INSURANCE AU-
21 THORITY.—The aggregate original principal obligation of
22 all mortgages insured under this section may not exceed
23 \$200,000,000,000.

24 “(m) REPORTS BY SECRETARY.—The Secretary shall
25 submit monthly reports to the Congress identifying the

1 progress of the Program, which shall contain the following
2 information for each month:

3 “(1) The number of new mortgages insured
4 under this section, including the location of the
5 properties subject to such mortgages by census
6 tract.

7 “(2) The aggregate principal obligation of new
8 mortgages insured under this section.

9 “(3) The amount of premiums collected for in-
10 surance of mortgages under this section.

11 “(4) The claim and loss rates for mortgages in-
12 sured under this section.

13 “(5) Any other information that the Secretary
14 considers appropriate.

15 Upon submitting each monthly report required under this
16 subsection, the Secretary shall make such report publicly
17 available on the World Wide Web site of the Department
18 of Housing and Urban Development.

19 “(n) REQUIRED OUTREACH EFFORTS.—The Sec-
20 retary shall carry out outreach efforts to ensure that
21 homeowners, lenders, and the general public are aware of
22 the opportunities for assistance available under this sec-
23 tion.

24 “(o) ENHANCEMENT OF FHA CAPACITY.—The Sec-
25 retary shall take such actions as may be necessary to—

1 “(1) contract for the establishment of under-
2 writing criteria, automated underwriting systems,
3 pricing standards, and other factors relating to eligi-
4 bility for mortgages insured under this section;

5 “(2) contract for independent quality reviews of
6 underwriting, including appraisal reviews and fraud
7 detection, of mortgages insured under this section or
8 pools of such mortgages; and

9 “(3) increase personnel of the Department as
10 necessary to process or monitor the processing of
11 mortgages insured under this section.

12 “(p) GNMA COMMITMENT AUTHORITY.—

13 “(1) GUARANTEES.—The Secretary shall take
14 such actions as may be necessary to ensure that se-
15 curities based on and backed by a trust or pool com-
16 posed of mortgages insured under this section are
17 available to be guaranteed by the Government Na-
18 tional Mortgage Association as to the timely pay-
19 ment of principal and interest.

20 “(2) GUARANTEE AUTHORITY.—To carry out
21 the purposes of section 306 of the National Housing
22 Act (12 U.S.C. 1721), the Government National
23 Mortgage Association may enter into new commit-
24 ments to issue guarantees of securities based on or
25 backed by mortgages insured under this section, not

1 exceeding \$200,000,000,000. The amount of author-
2 ity provided under the preceding sentence to enter
3 into new commitments to issue guarantees is in ad-
4 dition to any amount of authority to make new com-
5 mitments to issue guarantees that is provided to the
6 Association under any other provision of law.

7 “(q) SUNSET.—The Secretary may not enter into any
8 new commitment to insure any mortgage pursuant to this
9 section before October 1, 2012 or after September 30,
10 2015.

11 “(r) RULE OF CONSTRUCTION RELATING TO VOL-
12 UNTARY NATURE OF PROGRAM.—This section shall not
13 be construed to require that any financial institution or
14 mortgagee approved by the Secretary under section 203
15 as responsible and able to service mortgages responsibly
16 participate in any activity authorized under this section.

17 “(s) RULE OF CONSTRUCTION RELATING TO INSUR-
18 ANCE OF MORTGAGES.—Except as otherwise provided for
19 in this section or by action of the Secretary, the provisions
20 and requirements of section 203(b) shall apply with re-
21 spect to the insurance of any mortgage under this section.
22 The Secretary shall conform documents, forms, and proce-
23 dures for mortgages insured under this section to those
24 in place for mortgages insured under section 203(b) to the

- 1 maximum extent possible consistent with the requirements
- 2 of this section.”.

