

113TH CONGRESS  
1ST SESSION

# H. R. 1754

To establish pilot programs to encourage the use of shared appreciation mortgage modifications, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

APRIL 25, 2013

Mr. PETERS of Michigan (for himself, Mr. ROSS, and Mr. ELLISON) introduced the following bill; which was referred to the Committee on Financial Services

---

## A BILL

To establish pilot programs to encourage the use of shared appreciation mortgage modifications, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Preserving American  
5 Homeownership Act of 2013”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) The stability of the economy, housing mar-  
9 ket, and neighborhoods of the United States depends

1 upon reducing the number of foreclosures in the  
2 United States.

3 (2) Homeowners struggling to make payments  
4 on homes with mortgages that are deeply under-  
5 water are some of the most at risk of foreclosure.

6 (3) A properly carried out principal modifica-  
7 tion program will preserve the assets of the govern-  
8 ment-sponsored mortgage enterprises assets and re-  
9 duce taxpayer losses, consistent with the mission of  
10 the Federal Housing Finance Agency as the enter-  
11 prises' conservator, and will help foster a more resil-  
12 ient national housing market.

13 **SEC. 3. SHARED APPRECIATION MORTGAGE MODIFICATION**  
14 **PILOT PROGRAMS.**

15 (a) DEFINITIONS.—In this section—

16 (1) the term “capital improvement” means a  
17 home improvement described in table 4 of Publica-  
18 tion 530 of the Internal Revenue Service, or any  
19 successor thereto;

20 (2) the term “covered mortgage” means a  
21 mortgage—

22 (A) that is—

23 (i) sold to the Federal National Mort-  
24 gage Association, the Government National

1 Mortgage Association, or the Federal  
2 Home Loan Mortgage Corporation; or

3 (ii) insured under title II of the Na-  
4 tional Housing Act (12 U.S.C. 1707 et  
5 seq.);

6 (B) that is secured by real property that is  
7 the primary residence of a homeowner;

8 (C) that has an outstanding principal bal-  
9 ance of an amount that is greater than the ap-  
10 praised value of the real property securing the  
11 mortgage, on or about the date on which the  
12 homeowner is approved to participate in the  
13 pilot program under subsection (b);

14 (D) with respect to which the homeowner  
15 is, both as of the date of the enactment of this  
16 Act and as of the date of the modification  
17 under a pilot program under subsection (b)—

18 (i) not fewer than 60 days delinquent;

19 or

20 (ii) at risk of imminent default; and

21 (E) of a homeowner who has a documented  
22 financial hardship that prevents or will prevent  
23 the homeowner from making mortgage pay-  
24 ments;

1           (3) the term “Director” means the Director of  
2 the Federal Housing Finance Agency;

3           (4) the term “enterprise” has the same mean-  
4 ing as in section 1303 of the Federal Housing En-  
5 terprises Financial Safety and Soundness Act of  
6 1992 (12 U.S.C. 4502);

7           (5) the term “homeowner” means the mort-  
8 gator under a covered mortgage;

9           (6) the term “investor” means—

10           (A) the mortgagee under a covered mort-  
11 gage; or

12           (B) in the case of a covered mortgage that  
13 collateralizes an asset-backed security, as de-  
14 fined in section 3(a) of the Securities Exchange  
15 Act of 1934 (15 U.S.C. 78c(a)), the trustee for  
16 the asset-backed security;

17           (7) the term “pilot program” means a pilot pro-  
18 gram established under subsection (b); and

19           (8) the term “shared appreciation mortgage  
20 modification” means a modification of a covered  
21 mortgage in accordance with subsection (c).

22           (b) PILOT PROGRAMS ESTABLISHED.—The Director  
23 of the Federal Housing Finance Agency and the Federal  
24 Housing Commissioner, in consultation with the Secretary  
25 of the Treasury, shall each establish a pilot program to

1 encourage, through assistance provided under the Home  
2 Affordable Modification Program under the Making Home  
3 Affordable initiative of the Secretary of the Treasury, the  
4 use of shared appreciation mortgage modifications that  
5 are designed to return greater cash flow to investors than  
6 other loss-mitigation activities, including foreclosure, and  
7 result in positive net present value for the investor.

8 (c) SHARED APPRECIATION MORTGAGE MODIFICA-  
9 TION.—For purposes of the pilot program, a shared appre-  
10 ciation mortgage modification shall—

11 (1) reduce the loan-to-value ratio of a covered  
12 mortgage—

13 (A) to 115 percent immediately upon such  
14 modification, by immediately reducing the  
15 amount of principal under the covered mortgage  
16 accordingly; and

17 (B) to 95 percent within 3 years, by reduc-  
18 ing the amount of principal under the covered  
19 mortgage by  $\frac{1}{3}$  at the end of each year for 3  
20 years;

21 (2) reduce the interest rate for a covered mort-  
22 gage, if a reduction of principal under paragraph (1)  
23 would not result in a reduced monthly payment that  
24 is affordable to the homeowner;

1           (3) reduce the amount of any periodic payment  
2           required to be made by the homeowner, so that the  
3           amount payable by the homeowner is equal to the  
4           amount that would be payable by the homeowner if,  
5           on the date on which the shared appreciation mort-  
6           gage modification takes effect—

7                   (A) all reductions of the amount of prin-  
8                   cipal under paragraph (1) had been made; and

9                   (B) any reduction in the interest rate  
10                  under paragraph (2) for which the covered  
11                  mortgage is eligible had been made;

12           (4) require the homeowner to pay to the inves-  
13           tor after refinancing or selling the real property se-  
14           curing a covered mortgage a percentage of the  
15           amount of any increase (not to exceed 50 percent of  
16           such increase) in the value of the real property dur-  
17           ing the period beginning on the date on which the  
18           homeowner was approved to participate in the pilot  
19           program and ending on the date of the refinancing  
20           or sale that is equal to the percentage by which the  
21           investor reduced the amount of principal under the  
22           covered mortgage under paragraph (1); and

23           (5) result in a positive net present value for the  
24           investor after taking into account the principal re-

1       duction under paragraph (1) and, if necessary, any  
2       interest rate reduction under paragraph (2).

3       (d) DETERMINATION OF VALUE OF HOME.—

4           (1) IN GENERAL.—For purposes of this section,  
5       the value of real property securing a covered mort-  
6       gage shall be determined by a licensed appraiser who  
7       is independent of and does not otherwise do business  
8       with the homeowner, servicer, investor, or an affil-  
9       iate of the homeowner, servicer, or investor, except  
10      that, where available, such value may be determined  
11      using a reliable estimate of value provided by an  
12      automated valuation model of an enterprise.

13          (2) TIME FOR DETERMINATION.—The value of  
14      real property securing a covered mortgage shall be  
15      determined on a date that is as close as practicable  
16      to the date on which a homeowner begins to partici-  
17      pate in a pilot program.

18          (3) COST.—

19           (A) RESPONSIBILITY FOR COST.—

20           (i) INITIAL COST.—The investor shall  
21      pay the cost of an appraisal or other deter-  
22      mination of value under paragraph (1).

23           (ii) DEDUCTION FROM HOMEOWNER  
24      SHARE.—At the option of the investor, the  
25      cost of an appraisal or other determination

1 of value under paragraph (1) may be  
2 added to the amount paid by the home-  
3 owner to the investor under subsection  
4 (c)(4).

5 (B) REASONABLENESS OF COST.—The  
6 cost of an appraisal or other determination of  
7 value under paragraph (1) shall be reasonable,  
8 as determined by the Director and the Federal  
9 Housing Commissioner.

10 (4) SECOND APPRAISAL.—At the time of refi-  
11 nancing or sale of real property securing a covered  
12 mortgage, the investor may request a second ap-  
13 praisal of the value of the real property, at the ex-  
14 pense of the investor, by a licensed appraiser who is  
15 independent of and does not otherwise do business  
16 with the homeowner, servicer, investor, or an affil-  
17 iate of the homeowner, servicer, or investor, if the  
18 investor believes that the sale price or claimed value  
19 at the time of the refinancing is not an accurate re-  
20 flection of the fair market value of the real property.

21 (e) ELIGIBILITY FOR REDUCTION OF PRINCIPAL.—  
22 Each pilot program shall provide that a homeowner is not  
23 eligible for a reduction in the amount of principal under  
24 a covered mortgage under a shared appreciation mortgage

1 modification if, after the homeowner begins participating  
2 in the pilot program, the homeowner—

3 (1)(A) is delinquent on more than 3 payments  
4 under the shared appreciation mortgage modification  
5 during any of the 3 successive 1-year periods begin-  
6 ning on the date on which the shared appreciation  
7 mortgage modification is made; and

8 (B) fails to be current with all payments de-  
9 scribed in paragraph (1) before the end of each 1-  
10 year period described in paragraph (1); or

11 (2) obtains a mortgage, loan, or credit, or in-  
12 curs any other debt, that creates any additional lien  
13 on the residence that is subject to the covered mort-  
14 gage for which the shared appreciation mortgage  
15 modification or for which such residence is used as  
16 collateral.

17 The Director shall require, as a condition for participation  
18 in a pilot program by a homeowner, that the homeowner  
19 enter into such agreements as the Director considers nec-  
20 essary to ensure compliance with this subsection.

21 (f) NOTIFICATION.—

22 (1) IN GENERAL.—Each pilot program shall re-  
23 quire that the servicer of a covered mortgage trans-  
24 mit to each homeowner participating in the pilot  
25 program written notice, in clear and simple lan-

1 guage, of how to maintain and submit any docu-  
2 mentation of capital improvements that is necessary  
3 to ensure that the shares of any increase in the  
4 value of the real property securing the covered mort-  
5 gage to which the investor and the homeowner are  
6 entitled are determined accurately.

7 (2) TIMING.—The pilot program shall require  
8 that a servicer provide the notice described in para-  
9 graph (1)—

10 (A) before the homeowner accepts a shared  
11 appreciation mortgage modification; and

12 (B) before the homeowner sells or refi-  
13 nances the real property securing the covered  
14 mortgage.

15 (g) PARTICIPATION BY SERVICERS.—The Director  
16 shall require each enterprise to require that any servicer  
17 of a covered mortgage in which the enterprise is an inves-  
18 tor participate in the pilot program of the Federal Hous-  
19 ing Finance Agency by offering shared appreciation mort-  
20 gage modifications to a random and statistically signifi-  
21 cant sampling of homeowners with covered mortgages.

22 (h) MORTGAGE INSURANCE.—The Director shall—

23 (1) provide that an enterprise may negotiate re-  
24 garding a shared appreciation mortgage modification  
25 of a covered mortgage with any provider of mortgage

1 insurance for a mortgage on the property subject to  
2 the covered mortgage; and

3 (2) allow advance claim agreements with re-  
4 spect to such mortgage insurance policies.

5 (i) MAINTENANCE OF LIEN STATUS.—A shared ap-  
6 preciation mortgage modification of a covered mortgage  
7 under a pilot program under this section shall not impair  
8 the priority status of liens on the residence that is subject  
9 to the mortgage.

10 (j) STUDIES AND REPORTS.—The Director and the  
11 Federal Housing Commissioner shall—

12 (1) conduct annual studies of the pilot pro-  
13 grams of the Federal Housing Finance Agency and  
14 the Federal Housing Administration, respectively;  
15 and

16 (2) submit a report to the Congress containing  
17 the results of each study at the end of each of the  
18 3 successive 1-year periods beginning on the date on  
19 which the pilot program is established.

20 (k) TERMINATION.—On and after the date that is 2  
21 years after the date of enactment of this Act, the Director  
22 and the Federal Housing Commissioner may not enter  
23 into any agreement under the pilot program with respect  
24 to a shared appreciation mortgage modification.

○