

113TH CONGRESS  
1ST SESSION

# S. 249

To provide for the expansion of affordable refinancing of mortgages held by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 7, 2013

Mr. MENENDEZ (for himself, Mrs. BOXER, Mr. LEAHY, Mr. LAUTENBERG, Mr. WHITEHOUSE, Mr. REED, Mrs. SHAHEEN, Mr. FRANKEN, Mr. BEGICH, Mr. DURBIN, Ms. STABENOW, Mr. BLUMENTHAL, Mr. SCHUMER, Mr. WYDEN, Mr. LEVIN, Ms. LANDRIEU, Mr. MERKLEY, Mrs. GILLIBRAND, Mr. CARDIN, Mrs. HAGAN, Mr. SANDERS, and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To provide for the expansion of affordable refinancing of mortgages held by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

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 “Responsible Home-  
5 owner Refinancing Act of 2013”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act—

3 (1) the term “current borrower” means a mort-  
4 gator who is current on the subject mortgage at the  
5 time of the refinancing, and has had no late pay-  
6 ments in the preceding 6 months and not more than  
7 1 late payment in the preceding 12 months;

8 (2) the term “eligible mortgage” means any  
9 mortgage, regardless of current loan-to-value, that—

10 (A) is an existing first mortgage that was  
11 made for purchase of, or refinancing of another  
12 first mortgage on, a 1- to 4-family dwelling, in-  
13 cluding a condominium or a share in a coopera-  
14 tive ownership housing association;

15 (B) was originated or refinanced on or be-  
16 fore May 31, 2009, unless that date is extended  
17 by the Director under FHFA’s preexisting au-  
18 thority to do so;

19 (C) is owned or guaranteed by an enter-  
20 prise; and

21 (D) with respect to which, the mortgagor  
22 is a current borrower;

23 (3) the term “enterprise” means the Federal  
24 National Mortgage Association and the Federal  
25 Home Loan Mortgage Corporation;

1           (4) the terms “FHFA” and “Director” mean  
2 the Federal Housing Finance Agency and the Direc-  
3 tor thereof, respectively;

4           (5) the terms “Home Affordable Refinance Pro-  
5 gram” and “Program” mean the Home Affordable  
6 Refinance Program, administered by the FHFA and  
7 the enterprises as part of the Making Home Afford-  
8 able initiative announced on March 4, 2009;

9           (6) the term—

10           (A) “LTV” means loan-to-value, or the  
11 ratio of the amount of the primary mortgage on  
12 a property to the value of that property; and

13           (B) “CLTV” means combined loan-to-  
14 value, or the ratio of all mortgage debt on a  
15 property to the value of the property;

16           (7) the term “same servicer” means a lender  
17 that is providing refinancing for a borrower whose  
18 loan they already service;

19           (8) the term “qualified lender” means a lender  
20 that is participating in the Program;

21           (9) the term “guarantee fee” has the same  
22 meaning as in section 1327(a) of the Housing and  
23 Community Development Act of 1992 (12 U.S.C.  
24 4547(a)); and

1           (10) the term “average fees” means the average  
2           contractual fee rate of single-family guaranty ar-  
3           rangements charged by an enterprise on January 1,  
4           2013, plus the recognition of any up-front cash pay-  
5           ments over an estimated average life, expressed in  
6           terms of basis points, such definition to be inter-  
7           preted in a manner consistent with the annual re-  
8           port on guarantee fees by the FHFA.

9   **SEC. 3. STREAMLINED REFINANCING CRITERIA UNDER**  
10                                   **THE PROGRAM.**

11           (a) **IN GENERAL.**—In carrying out the Home Afford-  
12           able Refinance Program, each enterprise shall adopt and  
13           adhere to the criteria established under this section.

14           (b) **BORROWER ELIGIBILITY.**—The enterprises shall  
15           include as eligible borrowers in the Home Affordable Refi-  
16           nance Program all current borrowers who have an eligible  
17           mortgage and meet those underwriting requirements for  
18           eligibility for same servicer refinancing in the Program as  
19           of January 1, 2013, except that the enterprises may not  
20           disqualify or impose varying rules within the Program for  
21           borrowers based on LTV, CLTV, employment status or  
22           income.

23           (c) **ADDITIONAL RELIEF FROM REPRESENTATIONS**  
24           **AND WARRANTIES.**—The enterprises shall not require of

1 any qualified lender executing a loan under the Program  
2 any representations or warranties—

3 (1) for the value, marketability, condition, or  
4 property type of the loan, as such loan characteris-  
5 tics are evidenced by an appraisal or alternative  
6 valuation method, provided that the lender complies  
7 with the enterprises' required methods and stand-  
8 ards for ordering an appraisal under the Program;  
9 or

10 (2) that are not required of same servicers  
11 under the Program as of January 1, 2013, whether  
12 that loan is manually underwritten or underwritten  
13 through an automated system, except that, under no  
14 circumstances shall greater representations and war-  
15 ranties be required for a loan that is manually un-  
16 derwritten than for one that is underwritten through  
17 an automated system.

18 (d) PROHIBITION ON UP-FRONT FEES.—In carrying  
19 out the Program, the enterprises may not charge the  
20 qualified lender any loan level price adjustment, post set-  
21 tlement delivery fee, adverse delivery charge, or other simi-  
22 lar up-front fee.

23 (e) APPRAISALS.—The enterprises shall develop and  
24 allow alternative streamlined methods to determine the  
25 value of the property for which refinancing is sought

1 through the Program that eliminate the costs to the bor-  
2 rower and qualified lender associated with such determina-  
3 tion. Until such time as such method is developed, and  
4 when the existing automated valuation models of the en-  
5 terprises are unable to determine the value of a certain  
6 property for which refinancing is sought through the Pro-  
7 gram, the enterprises shall bear the costs associated with  
8 the use of manual appraisal of that property, without  
9 passing on such costs to the borrower or qualified lender.

10 (f) LIMITATION.—Notwithstanding any provision of  
11 the Federal National Mortgage Association Charter Act  
12 (12 U.S.C. 1716 et seq.) or the Federal Home Loan Mort-  
13 gage Corporation Act (12 U.S.C. 1451 et seq.), an enter-  
14 prise may purchase or guarantee any new mortgage result-  
15 ing from the refinancing of an eligible mortgage pursuant  
16 to this section, if at the time of origination of the eligible  
17 mortgage, the eligible mortgage complied with the applica-  
18 ble limitation governing the maximum original principal  
19 obligation on conventional mortgages that may be pur-  
20 chased or guaranteed by that enterprise.

21 (g) GUARANTEE FEES.—

22 (1) IN GENERAL.—

23 (A) AVERAGE FEE.—On each mortgage re-  
24 financed under the Program in accordance with  
25 this section, the enterprises shall set the aver-

1           age fee required under this Act, as determined  
2           by the Director in an amount not less than the  
3           average fees charged by the enterprises as of  
4           January 1, 2013, for such guarantees. The Di-  
5           rector shall prohibit an enterprise from offset-  
6           ting the cost of the fee to the mortgage origina-  
7           tors, borrowers, and investors by decreasing  
8           other charges, fees, or premiums, or in any  
9           other manner.

10           (B) AUTHORITY TO LIMIT OFFER OF  
11           GUARANTEE.—The Director shall prohibit an  
12           enterprise from consummating any offer for a  
13           guarantee to a qualified lender for mortgage-  
14           backed securities, if the guarantee is incon-  
15           sistent with the requirements of this section.

16           (2) INFORMATION COLLECTION AND ANAL-  
17           YSIS.—The Director shall require each enterprise to  
18           provide to the Director, as part of its annual report  
19           submitted to Congress, for loans refinanced under  
20           the Program—

21           (A) a description of changes made to up-  
22           front fees and annual fees as part of the guar-  
23           antee fees negotiated with qualified lenders; and

1           (B) an assessment of how the changes in  
2           the guarantee fees described in subparagraph  
3           (A) met the requirements of paragraph (1).

4           (h) REGULATIONS.—Not later than 30 days after the  
5           date of enactment of this Act, the Director shall issue any  
6           regulations or guidance necessary to carry out the changes  
7           to the Program established under this section, which regu-  
8           lations or guidance shall be put into effect not later than  
9           90 days after the date of enactment of this Act.

10          (i) TERMINATION.—The Program shall expire on De-  
11          cember 31, 2014 and the requirements of this section shall  
12          expire concurrent with the expiration of the Program. Not-  
13          withstanding the prior sentence, the Director, at his or  
14          her discretion, may extend the Program and the require-  
15          ments established under this section shall apply during  
16          any such extension.

17          (j) RULE OF CONSTRUCTION.—

18                (1) IN GENERAL.—Nothing in this section shall  
19                be construed to supersede, preempt, or otherwise  
20                nullify the requirement that a loan refinanced under  
21                the Program must benefit the borrower.

22                (2) DEFINITION.—For purposes of paragraph  
23                (1), a loan refinanced under the Program benefits  
24                the borrower, if the refinanced loan results in—

25                        (A) reduction in payment;



1 (B) reduction in interest rate;

2 (C) movement to a more stable product,  
3 such as from an adjustable rate mortgage to a  
4 fixed rate mortgage; or

5 (D) reduction in amortization term.

6 **SEC. 4. INFORMATION FOR BORROWERS ON ELIGIBILITY**  
7 **FOR THE PROGRAM.**

8 (a) NOTICE TO BORROWERS.—Not later than 60  
9 days after the date of enactment of this Act, the enter-  
10 prises shall notify all borrowers with a mortgage owned  
11 or guaranteed by an enterprise about the Program and  
12 its eligibility criteria, and inform borrowers of the website  
13 required under subsection (b).

14 (b) PUBLIC ACCESS TO ELIGIBILITY CRITERIA.—The  
15 Director shall establish, and the enterprises shall display  
16 a link on their homepages to, a single website where bor-  
17 rowers may—

18 (1) determine their potential eligibility for par-  
19 ticipation in the Program;

20 (2) see a complete list of and links to qualified  
21 lenders;

22 (3) use a mortgage refinance calculator to cal-  
23 culate potential payment savings based on different  
24 interest rates; and

25 (4) obtain tips on refinancing their loan.

1 **SEC. 5. CONSISTENT REFINANCING GUIDELINES RE-**  
2 **QUIRED.**

3 Not later than 60 days after the date of enactment  
4 of this Act, the Director shall issue guidance to require  
5 the enterprises to make their refinancing guidelines con-  
6 sistent to ease the compliance requirements of qualified  
7 lenders, and in particular with respect to loans with less  
8 than an 80 percent loan-to-value ratio and closing cost  
9 policies of the enterprises, which regulations or guidance  
10 shall be put into effect not later than 90 days after the  
11 date of enactment of this Act.

12 **SEC. 6. PROGRESS REPORTS.**

13 The Director shall provide to Congress monthly re-  
14 ports on the progress of the Program, and each enterprise  
15 shall include and disclose, as part of its filings with the  
16 Securities and Exchange Commission on Form 10-Q,  
17 Form 10-K, or any successors thereto, detailed informa-  
18 tion on each enterprise's progress and results in imple-  
19 menting and executing the Program.

20 **SEC. 7. SEVERABILITY.**

21 If any portion of this Act or the application thereof  
22 to any person or circumstance is held invalid, such inva-  
23 lidity shall not affect the portions or applications of this  
24 Act which can be given effect without the invalid portion  
25 or application.

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