

116TH CONGRESS
2D SESSION

S. 4260

To promote access to mortgage credit during the COVID–19 pandemic by preventing restrictions on providing Federal backing for single-family mortgage loans in forbearance, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 22, 2020

Mr. MENENDEZ introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To promote access to mortgage credit during the COVID–19 pandemic by preventing restrictions on providing Federal backing for single-family mortgage loans in forbearance, 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 “Promoting Access to
5 Credit for Homebuyers Act of 2020”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) COVERED PERIOD.—The term “covered pe-
 2 riod” means, with respect to a Federally backed
 3 mortgage loan, the period of time during which the
 4 borrower under the loan may request forbearance on
 5 the loan under section 4022(b) of the CARES Act
 6 (15 U.S.C. 9056(b)).

7 (2) COVID-19 EMERGENCY.—The term
 8 “COVID-19 emergency” has the meaning given the
 9 term in section 4022 of the CARES Act (15 U.S.C.
 10 9056).

11 (3) DIRECTOR.—The term “Director” means
 12 the Director of the Federal Housing Finance Agen-
 13 cy.

14 (4) ENTERPRISE.—The term “enterprise” has
 15 the meaning given the term in section 1303 of the
 16 Housing and Community Development Act of 1992
 17 (12 U.S.C. 4502).

18 (5) FEDERALLY BACKED MORTGAGE LOAN.—
 19 The term “Federally backed mortgage loan” has the
 20 meaning given the term in section 4022 of the
 21 CARES Act (15 U.S.C. 9056).

22 **SEC. 3. FANNIE MAE AND FREDDIE MAC.**

23 (a) PURCHASE REQUIREMENTS.—During the period
 24 beginning on the date that is 5 days after the date of en-
 25 actment of this Act and ending on the date that is 60

1 days after the end of the covered period with respect to
 2 the mortgage, notwithstanding any other provision of law,
 3 an enterprise may not refuse to purchase any single-family
 4 mortgage originated on or after February 1, 2020, that
 5 otherwise would have been eligible for purchase by such
 6 enterprise, solely due to the fact that the borrower has,
 7 for the borrower's previous mortgage or on the mortgage
 8 being purchased—

9 (1) entered into forbearance as a result of a fi-
 10 nancial hardship due, directly or indirectly, to the
 11 COVID–19 emergency;

12 (2) requested forbearance as a result of a finan-
 13 cial hardship due, directly or indirectly, to the
 14 COVID–19 emergency; or

15 (3) inquired as to options related to forbearance
 16 as a result of a financial hardship due, directly or
 17 indirectly, to the COVID–19 emergency.

18 (b) PROHIBITION ON RESTRICTIONS.—With respect
 19 to purchase of single-family mortgages described in sub-
 20 section (a) and specified in any of paragraphs (1) through
 21 (3) of such subsection, an enterprise may not—

22 (1) establish additional restrictions that are not
 23 applicable to similarly situated mortgages under
 24 which the borrower is not in forbearance;

1 (2) charge a higher guarantee fee (within the
2 meaning provided the term in section 1327 of the
3 Housing and Community Development Act of 1992
4 (12 U.S.C. 4547)), or loan level pricing adjustment,
5 or otherwise alter pricing for those mortgages, rel-
6 ative to similarly situated mortgages under which
7 the borrower is not in forbearance;

8 (3) apply repurchase requirements to those
9 mortgages that are more restrictive than repurchase
10 requirements applicable to similarly situated mort-
11 gages under which the borrower is not in forbear-
12 ance; or

13 (4) require lender indemnification of those
14 mortgages, solely due to the fact that the borrower
15 is in forbearance.

16 (c) FRAUD DETECTION.—

17 (1) IN GENERAL.—Nothing in this section may
18 be construed to prevent an enterprise from con-
19 ducting oversight and review of single-family mort-
20 gages purchased when a borrower is in forbearance
21 on the borrower's previous mortgage, or on the
22 mortgage being purchased, for purposes of detecting
23 fraud.

1 (2) REQUIREMENT TO REPORT.—An enterprise
2 shall report any fraud detected as described in para-
3 graph (1) to the Director.

4 (d) ENTERPRISE CAPITAL.—During the period be-
5 ginning on the date that is 5 days after the date of enact-
6 ment of this Act and ending on the date that is 60 days
7 after the end of the covered period with respect to the
8 mortgage, notwithstanding any other provision of law, a
9 forbearance on the mortgage shall not be considered to
10 be a delinquency under the mortgage for purposes of cal-
11 culating capital of an enterprise for any purpose under
12 title XIII of the Housing and Community Development
13 Act of 1992 (12 U.S.C. 4501 et seq.).

14 (e) RULES OF CONSTRUCTION.—

15 (1) PURCHASE PARAMETERS.—Nothing in this
16 section may be construed to require an enterprise to
17 purchase single-family mortgages that do not meet
18 existing or amended purchase parameters, other
19 than parameters related to borrower forbearance, es-
20 tablished by the enterprise.

21 (2) EMPLOYMENT; INCOME.—Nothing in this
22 section may be construed to prevent an enterprise
23 from establishing additional requirements to ensure
24 that a borrower has not lost their job or income
25 prior to a mortgage closing.

1 (f) IMPLEMENTATION.—The Director may issue any
2 guidance, orders, and regulations necessary to carry out
3 this section.

4 **SEC. 4. FHA.**

5 (a) PROHIBITION ON RESTRICTIONS.—During the
6 period beginning on the date that is 5 days after the date
7 of enactment of this Act and ending on the date that is
8 60 days after the end of the covered period with respect
9 to the mortgage, notwithstanding any other provision of
10 law, the Secretary of Housing and Urban Development
11 may not deny the provision of mortgage insurance for a
12 single-family mortgage originated on or after February 1,
13 2020, may not implement additional premiums or other-
14 wise alter pricing for such a mortgage, may not require
15 mortgagee indemnification, and may not establish addi-
16 tional restrictions on such a mortgagor, solely due to the
17 fact that the borrower has—

18 (1) entered into forbearance as a result of a fi-
19 nancial hardship due, directly or indirectly, to the
20 COVID–19 emergency;

21 (2) requested forbearance as a result of a finan-
22 cial hardship due, directly or indirectly, to the
23 COVID–19 emergency; or

1 (3) inquired as to options related to forbearance
 2 as a result of a financial hardship due, directly or
 3 indirectly, to the COVID–19 emergency.

4 (b) RULES OF CONSTRUCTION.—

5 (1) INSURANCE.—Nothing in this section may
 6 be construed to require the Secretary of Housing
 7 and Urban Development to provide insurance on sin-
 8 gle-family mortgages that do not meet existing or
 9 amended insurance parameters, other than param-
 10 eters related to borrower forbearance, established by
 11 the Secretary of Housing and Urban Development.

12 (2) EMPLOYMENT; INCOME.—Nothing in this
 13 section may be construed to prevent the Secretary of
 14 Housing and Urban Development from establishing
 15 additional requirements regarding insurance on sin-
 16 gle-family mortgages to ensure that a borrower has
 17 not lost their job or income prior to a mortgage clos-
 18 ing.

19 **SEC. 5. REPORTING REQUIREMENTS.**

20 (a) FHFA ACTIONS.—During the COVID–19 emer-
 21 gency, the Director may not increase guarantee fees, loan
 22 level pricing adjustments, or any other fees or implement
 23 any restrictions on access to credit unless the Director
 24 provides 48-hour advance notice of such increase or re-
 25 strictions to the Committee on Banking, Housing, and

1 Urban Affairs of the Senate and the Committee on Finan-
2 cial Services of the House of Representatives together with
3 a detailed report of the policy rationale for the decision,
4 including any and all data considered in making such deci-
5 sion.

6 (b) QUARTERLY REPORTS BY ENTERPRISES AND
7 FHA.—

8 (1) REQUIREMENT.—Each enterprise and the
9 Secretary of Housing and Urban Development, with
10 respect to the mortgage insurance programs of the
11 Federal Housing Administration, shall provide re-
12 ports to the Congress, and make such reports pub-
13 licly available, not less frequently than quarterly re-
14 garding the impact of COVID–19 pandemic on the
15 such enterprises’ and program’s ability to meet their
16 charter requirements, civil rights responsibilities,
17 mandates under the CARES Act (Public Law 116–
18 136), and other laws enacted in response to the
19 COVID–19 pandemic, and other requirements under
20 law.

21 (2) DEADLINES.—The first report required
22 under paragraph (1) shall be submitted not later
23 than 3 months after the date of enactment of this
24 Act and the requirement under paragraph (1) to
25 submit those reports shall terminate on the date

that is 2 years after the date on which the COVID-19 emergency terminates.

(3) CONTENT.—Each report required under paragraph (1) shall include the following information for the most recent quarter for which data is available:

(A) ENTERPRISES.—For each report required by an enterprise:

(i) The number of single-family and multi-family residential mortgage loans purchased by the enterprise and the unpaid principal balance of those mortgage loans purchased, disaggregated by—

(I) mortgage loans made to low- and moderate-income borrowers;

(II) mortgage loans made for properties in low- and moderate-income census tracts; and

(III) mortgage loans made for properties in central cities, rural areas, and underserved areas.

(ii) In the single-family residential mortgage market—

(I) the total number, unpaid principal balance, and length of

1 forbearances provided to borrowers,
2 including whether or not the forbear-
3 ance was requested by the borrower;

4 (II) a detailed breakdown of the
5 loan modifications offered to bor-
6 rowers and whether the borrowers ac-
7 cepted the offer, including the total
8 number and unpaid principal balance
9 of loan modifications ultimately made
10 to borrowers;

11 (III) a detailed breakdown of the
12 home retention options offered to bor-
13 rowers and whether the borrowers ac-
14 cepted the offer, including the total
15 number and unpaid principal balance
16 of other home retention options ulti-
17 mately made to borrowers; and

18 (IV) the total number of out-
19 comes that included short-sales, deed-
20 in-lieu of foreclosure, and foreclosure
21 sales.

22 (iii) A description of any efforts by
23 the enterprise to provide assistance and
24 support to consumers who are not pro-
25 ficient in English.

1 (iv) A description of any other efforts
2 by the enterprise to provide assistance to
3 low- and moderate-income communities,
4 central cities, rural areas, and other under-
5 served areas, such as financial literacy and
6 education or support of fair housing and
7 housing counseling agencies.

8 (v) A description of any other assist-
9 ance provided by the enterprise to con-
10 sumers in response to the COVID–19 pan-
11 demic.

12 (B) FHA.—For each report required with
13 respect to the mortgage insurance programs of
14 the Federal Housing Administration:

15 (i) The number and unpaid principal
16 balance for all residential mortgage loans,
17 disaggregated by type, insured under those
18 programs.

19 (ii) The total number, unpaid prin-
20 cipal balance, and length of forbearances
21 provided to borrowers, including whether
22 or not the forbearance was requested by
23 the borrower.

24 (iii) A detailed breakdown of the loan
25 modifications offered to borrowers and

1 whether the borrowers accepted the offer,
2 including the total number and unpaid
3 principal balance of loan modifications ultimately
4 made to borrowers.

5 (iv) A detailed breakdown of the home
6 retention options offered to borrowers and
7 whether the borrowers accepted the offer,
8 including the total number and unpaid
9 principal balance of other home retention
10 options ultimately made to borrowers.

11 (v) A description of any efforts under
12 those programs to provide assistance and
13 support to consumers who are not proficient
14 in English.

15 (vi) A description of any other efforts
16 under those programs to provide assistance
17 to low- and moderate-income communities,
18 central cities, rural areas, and other underserved
19 areas, such as financial literacy and
20 education or support of fair housing and
21 housing counseling agencies.

22 (vii) A description of any other assistance
23 provided under those programs to
24 consumers in response to the COVID-19
25 pandemic.

1 (C) PROVISIONS TO BE INCLUDED IN ALL
2 REPORTS.—Each report required under para-
3 graph (1) shall include, to the degree reason-
4 ably possible, the following information:

5 (i) An analysis of all loan level data
6 required by subparagraphs (A) and (B)
7 disaggregated by race, national origin, gen-
8 der, disability status, whether or not the
9 borrower seeking or obtaining assistance
10 speaks English as a second language, the
11 preferred language of the borrower, debt-
12 to-income level of the borrower, loan-to-
13 value ratio of the loan, and credit score of
14 the borrower.

15 (ii) A geographical analysis at the
16 census tract level, but if information is not
17 available at the census tract level for any
18 of the items required by subparagraphs
19 (A) and (B), the geographical analysis
20 shall be provided at the zip code level for
21 the item for which a census tract analysis
22 was not possible.

23 (iii) A description of any policy
24 changes made by the enterprise or Sec-
25 retary of Housing and Urban Develop-

1 ment, as appropriate, in response to the
2 COVID–19 pandemic and analysis of ac-
3 tions taken to ensure that those policy
4 changes were in compliance with all rel-
5 evant civil rights responsibilities, including
6 the Fair Housing Act (42 U.S.C. 3601 et
7 seq.), including the Affirmatively Fur-
8 thering Fair Housing provision, the Equal
9 Credit Opportunity Act (15 U.S.C. 1691 et
10 seq.), the Community Reinvestment Act of
11 1977 (12 U.S.C. 2901 et seq.), the Federal
12 Housing Enterprises Financial Safety and
13 Soundness Act of 1992 (12 U.S.C. 4501 et
14 seq.), the Housing and Economic Recovery
15 Act of 2008 (Public Law 110–289; 122
16 Stat. 2654), the Federal Home Loan Bank
17 Act (12 U.S.C. 1421 et seq.), Executive
18 Orders 11063 and 12892, the Federal Na-
19 tional Mortgage Association Charter Act
20 (12 U.S.C. 1716 et seq.), and the Federal
21 Home Loan Mortgage Corporation Act (12
22 U.S.C. 1451 et seq.).

23 (c) REPORT BY GAO.—Not later than 120 days after
24 the date on which the COVID–19 emergency terminates,

1 the Comptroller General of the United States shall submit
2 to Congress and make publicly available a report on—

3 (1) the extent to which the enterprises and the
4 mortgage insurance programs of the Federal Hous-
5 ing Administration provided loan products, forbear-
6 ances, loan modifications, and COVID–19-related
7 assistance to consumers;

8 (2) the availability and type of any such assist-
9 ance provided post-forbearance; and

10 (3) the overall ability of the enterprises and the
11 mortgage insurance programs to successfully meet
12 their charter requirements, civil rights responsibil-
13 ities, and other requirements under law.

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