

Strengthen our lawmakers. Help them to heed constructive criticism as You imbue them with the desire and determination to please You. Keep their feet on the right road, inspiring them with a reverence for You. May they strive to tell the truth and to find creative ways of solving the problems of our time.

We pray in the Name of Him whose power and love sustains us. Amen.

#### PLEDGE OF ALLEGIANCE

The Honorable SHERROD BROWN, led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

#### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, December 14, 2007.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SHERROD BROWN, a Senator from the State of Ohio, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. BROWN thereupon assumed the chair as Acting President pro tempore.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

#### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

#### ORDER OF PROCEDURE

Mr. REID. Mr. President, the order now before the Senate indicates we are going to move to the FHA bill as soon as we finish the farm bill. One of the key players on the Republican side is not going to be available this afternoon.

I would therefore ask unanimous consent that we go to the FHA bill before we do the farm bill. There is preliminary work on the farm bill to sort out germane and nongermane amendments anyway.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### SCHEDULE

Mr. REID. Mr. President, we are going to do the farm bill today. I have

gotten a number of inquiries about why did we stop the farm bill from going forward when we did. At the time that occurred, we had 26 pending amendments. Christmas is 1 week from Tuesday. We have to finish our work. We have, even today, a heavy burden having to short circuit this a little bit.

We have the Defense authorization bill; that is something that is essential. In that Defense authorization bill are many things, not the least of which is the wounded warrior aspect of it that PATTY MURRAY worked so hard on.

We have the pay raise for the troops. The troops cannot get the pay raise until we do the Defense authorization bill, even though we have sent to the President and he has signed the Defense appropriations bill.

We are going to come in probably at 11 o'clock on Monday. There will be a cloture vote an hour after that on FISA. People have said: Well, why did you not move? I have gotten some inquiries, especially from some of the blogs saying: Why did you not rule XIV it or something that would make it easier and allow people who do not like the bill to make their position known?

I have stated on the floor—this is the third time—the reason we are going to cloture is because Senators FEINGOLD and DODD want a 60-vote margin on proceeding to the bill.

One of the things I have worked very hard to do in the 3 years I have been Democratic leader, the 1 year I have been the majority leader, is to make sure the committee structure of the Senate is sound and the committee chairs and the committees do their work.

It brings stability to this body. Now, I think what we have to do in regular order, unless I try to short circuit this in some way—and I think it would be not looked upon favorably by the Senate and, frankly, by the American people if I tried to short circuit this. We have a procedure—it does not happen very often—where you have a joint referral. In this instance, on the FISA bill, the controversial but important FISA bill, there are two committees that have jurisdiction, the Intelligence Committee, and after that it is referred to the Judiciary Committee.

They both have done their work and they have done good work. But what some wanted me to do is take the best out of one and the best out of the other and bring it to the floor. I cannot do that unless I trample the system.

Under regular order, I will bring the Intelligence bill to the floor. The first operative action after that is the Judiciary Committee. Senator LEAHY is an experienced, veteran legislator. He has been here longer than I have been here. He certainly knows what to do. The Senate will work its will as to what needs to be done with FISA.

I will guarantee you right now one thing that is going to occur: not everyone will be happy. But people have the obligation to do what they think is

right, and I have an obligation to move the bill to the floor. It is important we have a debate, and that debate will start on Monday.

I also am concerned that not everyone is happy they did not have the opportunity to offer their farm bill amendments. That is always a problem, and certainly there were no individual Senators in mind, Democrats or Republicans, who did not have the opportunity to offer their amendments.

But the culminating factor is when we had an objection to the managers' amendment, with the 26 amendments we had to start dealing with at 8:30 last night, we could not get from here to there.

So I think we are doing the right thing this morning, moving forward to completing FHA today, the farm bill, and Defense authorization; starting on the important FISA bill on Monday and then doing everything within our power to fund the Government for the next year. And we are going to have a debate on war funding. That will take place next week.

So we have our hands full. But I wanted to lay out everything this morning, where we are headed and why we are in the position we are in now.

#### RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

#### COOPERATION

Mr. McCONNELL. Mr. President, I wish to defend the majority leader's decision to go to cloture on the farm bill last night under the consent agreement we had.

He consulted with me, and I share his view that we could have been on that bill into January at the rate we were going. It was time to bring it to conclusion. So I applaud the majority leader for his decision. I think it was the right thing to do.

Secondly, we do have a chance to get additional progress this morning with the FHA matter. There is also the Defense authorization bill. I think we are making good progress this week, and the majority leader will have some excellent cooperation on this side of the aisle in that direction.

#### FHA MODERNIZATION ACT OF 2007

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of S. 2338, which the clerk will report by title.

The assistant legislative clerk read as follows:

A bill (S. 2338) to modernize and update the National Housing Act and enable the Federal Housing Administration to more effectively reach underserved borrowers, and for other purposes.

The ACTING PRESIDENT pro tempore. The Senator from New York.

Mr. SCHUMER. Mr. President, parliamentary inquiry: What is the status of the time situation?

The ACTING PRESIDENT pro tempore. There is 30 minutes of general debate on the bill, equally divided.

Mr. SCHUMER. Thank you. I yield myself 10 minutes.

The ACTING PRESIDENT pro tempore. The Senator may proceed.

Mr. SCHUMER. Mr. President, over the past few months, as the subprime crisis has deepened, I have said time and time again we need to act to help millions of American families at the risk of foreclosure to save their homes.

Until now, we have been blocked in those efforts, which is unfortunate. But I do wish to thank my colleague from Oklahoma who, as always, has agreed to this debate, to a discussion of the issue on the merits. He wanted a careful look, wanted his voice heard but did not want to be dilatory for its own sake, and I very much appreciate that. Now I believe we can move this important legislation forward.

The word “crisis” gets tossed around a lot in Washington. But make no mistake about it, we are in one. Almost a million Americans have lost their homes due to foreclosure this year alone. It seems each week foreclosures reach a new alltime high.

Some people stand by and say: Do nothing. The administration has said: Well, let the market take care of this by itself. They have come up with various plans where they sort of tie themselves in a pretzel to avoid any Government involvement.

But the fact is, if we are going to solve this problem, one thing we do not need is a bailout, but what we need is rational, smart Government involvement to help those at the bottom work their way out of this crisis which will, in a certain sense, trickle up and reassure the credit markets that things are being done and help the entire economy, because we have a triple whammy in this crisis that spreads outward. First are the more than 2 million homes that could be foreclosed upon in the next year and a half, 2 years. Second are declining housing prices. Because even if you paid your mortgage completely or have never missed a payment and are still paying it, if there are foreclosures in your community or foreclosures even in the country, housing prices decline.

That hurts all of us and hurts the economy then, in the third level, in two ways. One, there is a dampening effect on consumer spending, and, two, there are the credit markets, which are right now frozen.

If people cannot borrow, whether they be companies or individuals, it puts a real damper on the economy. The only way out of this is smart Government involvement—not solely. We need the private sector. But when the administration says they are never, ever going to get the Government in-

volved, they have ideological blinders on, they are in an ideological strait-jacket, they hurt those who will be foreclosed, they hurt all homeowners, and they hurt the general economy.

If you talk to people in this country, even conservative Republican business leaders agree we need some careful, rational Government involvement, not a bailout. That is what we are trying to do this morning. The costs of inaction are high. The Joint Economic Committee estimated the spillover from the subprime foreclosure crisis could exceed \$100 billion for homeowners, their neighbors, and the local tax base.

On top of the subprime losses, the continuing housing slump could be a massive blow to the economy. Economists estimate a 10-percent decline in housing prices could lead to a \$2.3 trillion economic loss at a time when our country cannot afford it.

This legislation is the perfect example of the kind of help Americans are looking for. It is moderate, it is thoughtful, and it is directed at the problem.

First, I wish to thank the two sponsors of this legislation, Senator DODD and Senator SHELBY, as well as my colleagues on the Banking Committee, where this passed 20 to 1, for their support.

It is definitely and desperately needed. It has the support of the administration, one of the few areas where the administration has looked at some kind of moderate Government help. The FHA Modernization Act revitalizes an important Government agency that for years, until the rise of unscrupulous subprime lenders, helped thousands of families across the country achieve the American dream, and now in these troubled times, it can be a source of salvation for those families who were tricked into unaffordable loans.

The bill makes a number of important changes to the FHA program, many of which will make it more competitive with subprime lenders, assure its financial help, and protect borrowers who were taken advantage of.

First, and especially in high-cost States such as mine in New York and my colleague across the river in New Jersey, who will speak shortly on this measure, this is vital. For years, this program has been hard to use in our home State. When you go to a place such as Long Island, where the average home price is over \$400,000, more than half the population cannot use FHA. That was never the intent.

The bill also allows FHA to accept lower downpayments. It makes it more attractive to borrowers who could otherwise turn to an irresponsible subprime broker for their loan.

This does entail some additional risk, but the legislation strikes a safe, responsible balance between increasing FHA's competitiveness with those lenders without endangering the program's bottom line.

Finally, the bill expands the eligibility for counseling under the FHA program.

We desperately need counselors. There is another piece of legislation still being blocked by my colleagues on the other side of the aisle, sponsored by the Senator from Pennsylvania, Mr. CASEY, and the Senator from Ohio, Mr. BROWN, and myself, aided by the help of Senator MURRAY, which will put \$200 million into counseling. That is being blocked.

This bill at least will allow the FHA to give counseling to a certain number of people. It is an improvement that not only helps borrowers by letting more of them preserve their homes, but it reduces losses to the insurance funds, which is good for taxpayers as well.

This bill is not a panacea. It is, frankly, a small step—much needed but a small step. There are many more things that have to be done: Money for those who need help in counseling; making sure there is credit for mortgages available, which involves using the agencies, the GSEs such as Fannie and Freddie. Congressman FRANK and I have legislation to deal with that. We also need a protector for the future. Legislation Senator DODD has offered and I have cosponsored and worked with him on for many months would actually prevent this from happening in the future by regulating the small group of mortgage brokers who are unscrupulous, as well as the mortgage lenders, almost all of them nonbanks.

We still have a long way to go, but my hope is, given the magnitude of the crisis, that this first step will not be the last and that this first step represents a coming together of those who are not ideologues, those of us who say, yes, the Government needs to be involved in a smart, careful, and focused way. If that can happen, we cannot solve the subprime crisis, make it go away, but we can greatly mitigate the damage that occurs. We can reassure the markets finally that someone is in charge. The administration is trying to be involved but because of the ideological handcuffs, no Government involvement, and some of their plans get laughed at, and many of their plans are not taken seriously—just about all of them—because they won't deal with the magnitude of the crisis. You have to deal with it head-on.

I am hopeful this is a good first step that will pave the way to other larger and even more necessary steps. I thank Senator DODD, Senator SHELBY, Senator COBURN, and my colleagues on the Banking Committee for their active support and guidance with this legislation.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Florida.

Mr. MARTINEZ. Mr. President, may I learn the current time agreement?

The ACTING PRESIDENT pro tempore. The Senator from New York has

15 minutes, with 6 minutes remaining. The Senator from Florida has 15 minutes, if he is controlling the time.

Mr. MARTINEZ. I yield myself 5 minutes.

Mr. President, I join with the Senator from New York in speaking about this important step we are taking to deal with a serious crisis that America and, frankly, the world is facing with credit. It is particularly important that we think about the many Americans who today feel threatened in their homes as they face the potential prospect of losing their homes because of the current situation. We have a partial answer to this large problem. It isn't the whole answer, but it is a very good first step. It is an important first step that is going to help a number of families stay in their homes.

When I had the privilege of serving as Secretary of Housing and Urban Development, one of the hallmarks of our time was the attempt to put more and more American families into home ownership. It is the culmination of the American dream. That dream today is seriously threatened. The FHA Modernization Act before the Senate is a strong first step in the direction of fixing the problem.

By the summer of 2010, about 600,000 people with subprime loans are expected to lose their homes because they will not be able to make their higher monthly payment. These are people who got into an adjustable rate mortgage, and each and every year or perhaps two or three times a year that mortgage resets at a higher payment and a higher rate. The way to avert that is to allow these folks to find another financing vehicle, and the FHA is the answer.

HUD estimates that more than 200,000 first-time home buyers and current homeowners who need access to capital could obtain FHA-insured mortgages next year if Congress expedites passage of this legislation. That, combined with the administration's FHA Secure Program, will help more than a quarter million Americans avoid foreclosure and stay in their homes. The administration already has implemented a program called HOPE Now. That also is helping about 80,000 Americans to remain in their homes.

The fact is, this is a timely piece of legislation, one that enjoys bipartisan support and one in keeping with the wonderful tradition the FHA has had in the home-ownership story of America.

FHA began in 1934. Since that time, it has always operated in the black by collecting insurance premiums on the mortgages it insures and never burdening the taxpayers with any Government subsidy, and it has managed to help countless millions of Americans reach the dream of that first home.

While I was HUD Secretary, we recognized that FHA was falling behind in market share because it had not been modernized. The rules had not been keeping up with changes in the marketplace. This is a tremendous first

step. It is a step that is long overdue and one I am proud to see come about.

I know some have concerns about the issue of reverse mortgages. I believe that is an issue which also falls well within the purview of FHA and can be safely done, well managed, and, in fact, should not be an impediment to this legislation moving forward.

I don't want to take any more of the time. I believe it is very important that, working together, all of us will move this bill to fruition, helping hundreds of thousands of American families who have tasted the dream of home ownership to maintain the dream, stay in their homes, and work through the FHA program so they can then refinance their mortgages into mortgages they can live with.

I thank Chairman DODD and Ranking Member SHELBY and others on the Banking Committee who have worked so hard to make this moment a reality. I am proud of any role I might have played in it because I think it is truly touching at the heart of where so many American families are today. They have had the dream of home ownership. Let's keep more and more American families in their homes, continuing that dream.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

• Mrs. BOXER. Mr. President, I would like the record to reflect that I would have voted in favor of the FHA Modernization Act today.

California has been at the epicenter of the current foreclosure crisis, and this bill will provide new, safe, and secure financing opportunities both for homeowners currently trapped in abusive loans that are scheduled to reset at rates they no longer can afford, as well as for future borrowers seeking alternatives to the risky and exotic loans that many turned to or were steered toward in the absence of a viable FHA product.

Among its most important features, the bill would raise the current limit on loans the FHA will insure from \$362,000 to \$417,000. In California, where the third quarter median home price was over \$568,000, the ability to access FHA loans has virtually disappeared. According to the Department of Housing and Urban Development, California, which previously led the Nation in FHA loan usage, has seen its FHA loan volume drop from 109,074 in 2001 to just 2,599 in 2006, a decline of 98 percent and a loss of \$13.6 billion.

While the increase in the loan limit provided by this bill will provide welcome relief, the House version goes even farther, permitting the FHA to insure mortgages equal to 125 percent of the median area home price or 175 percent of the Freddie Mac conforming loan limit, whichever is lower. The House bill also would give the Secretary of Housing and Urban Development the authority to raise the new insurance limit by as much as \$100,000 "if market conditions warrant." For Cali-

fornia and other high cost areas, this increase would further enable borrowers to avoid the type of nontraditional and frequently abusive loans that have gotten us into our current mess, and I will be urging conferees to support the higher limits.

Today, however, it is important to recognize the significant step that the Senate has taken in overwhelmingly passing this bill as we seek to restore stability to the housing market and bring assistance to the more than 2 million Americans at risk of losing their homes. •

Mrs. FEINSTEIN. Mr. President, I am pleased that the Senate overwhelmingly passed the Federal Housing Administration, FHA, Modernization Act today. This bill would make much-needed improvements to this important program to give more homebuyers the option to get a FHA government-backed loan instead of the more risky products that have contributed to the current mortgage crisis.

The FHA program is critical to insuring home mortgages for low and middle income borrowers that are unable to obtain financing from conventional mortgage lenders. However, over the past decade, FHA has been priced out of the market.

In California alone, FHA loans have dropped from 109,074 in 2000 to just 2,599 in 2006—resulting in a decline of 98 percent in 6 years.

Furthermore, the current crisis in the subprime lending market has put more than 500,000 American homeowners into foreclosure this year.

My State of California has been especially hit hard.

More than 50,000 California homes went into foreclosure in just the month of October. This equates to one foreclosure filing for every 258 households in the state—about double the national foreclosure rate.

The bill passed by the Senate today takes an important step to help American families who face the threat of losing their homes and those who want to buy a new home with a safe and affordable mortgage—it modernizes the FHA program and expands the financing options available to homebuyers.

Specifically, this bill would:

Increase the maximum size of mortgages that FHA can insure in expensive housing areas to \$417,000 from the current level of \$362,790.

This increase in the loan limit is a step in the right direction, but more needs to be done. It is my hope that the final bill signed by the President further increases the loan limit to over \$500,000, as included in the House-passed version of the FHA bill.

This is essential so that more homebuyers in states like California, where the average cost of a home is over \$490,000, can be helped.

Reduce the downpayment requirement to 1.5 percent from the current requirement of 3 percent under the FHA program—allowing FHA to compete with subprime lenders.

Require the secretary of the Housing and Urban Development, HUD, and the FHA Commissioner to work with the mortgage industry and non-profit organizations to improve the FHA loss mitigation process so more troubled homeowners can keep their homes.

Increase consumer protections by requiring the secretary of HUD to prohibit unfair or deceptive practices that may be used with FHA-insured manufactured housing loans.

Improve housing counseling assistance by creating a pre-purchase counseling pilot program to test the effectiveness of various counseling options.

It also expands the eligibility for post-purchase counseling for low and moderate income homeowners who are having trouble making their mortgage payments.

It is crucial that we help make homeownership more affordable and accessible to American families and provide relief to those facing the threat of losing their homes.

The Senate's approval of this legislation today is an important step to help achieve this.

Thank you very much.

Mr. President, I yield the floor.

I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from New York.

AMENDMENT NO. 3853

Mr. SCHUMER. Mr. President, under the order governing this bill, I call up the Dodd-Shelby amendment and ask unanimous consent that it be adopted.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk:

The Senator from New York [Mr. SCHUMER], for Mr. DODD and Mr. SHELBY, proposes an amendment numbered 3853.

Mr. SCHUMER. I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require a 12-month moratorium on the implementation of risk-based premiums for FHA insured mortgages)

At the end of title I, insert the following:

**SEC. 123. MORATORIUM ON IMPLEMENTATION OF RISK-BASED PREMIUMS.**

For the 12-month period beginning on the date of enactment of this Act, the Secretary of Housing and Urban Development shall not enact, execute, or take any action to make effective the planned implementation of risk-based premiums, which are designed for mortgage lenders to offer borrowers an FHA-insured product that provides a range of mortgage insurance premium pricing, based on the risk the insurance contract represents, as such planned implementation was set forth in the Notice published in the Federal Register on September 20, 2007 (Vol. 72, No. 182, Page 53872).

The ACTING PRESIDENT pro tempore. Without objection, the amendment is agreed to.

The amendment (No. 3853) was agreed to.

Mr. SCHUMER. I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SCHUMER. I yield 5 minutes to my distinguished colleague from New Jersey, a member of the Banking Committee who has worked long and hard on the subprime issue.

Mr. MENENDEZ. Mr. President, I thank my distinguished colleague from New York for his leadership, along with the chairman of the full committee and the ranking member, on this issue of the FHA. It is something I have been advocating for quite some time.

In March of this year, at some of the first hearings of the Banking Committee about what we were envisioning as it related to the subprime crisis, I said that we were going to be facing a tsunami of foreclosures. Some people said that was an overestimation. Unfortunately, we have not even seen the full effect of that tsunami as we have hundreds of thousands of mortgages reset every quarter for the next 2 years, and at the rate of default and foreclosures, the numbers will grow dramatically. Of course, that has a consequence to all of those American families for which the American dream becomes the American nightmare. It has a consequence to neighborhoods and communities where those properties, if they go into foreclosure, have a negative effect on the values of the adjoining properties and, obviously, on those communities as it relates to the consequence of property values that continue to take a nosedive. Therefore, it has an enormous impact on the lives of people across our country. It also has a very significant impact as it relates to the economy of our Nation.

I am glad, working in the committee, that we are here today to pass this important bill, the FHA Modernization Act. We clearly need to pass FHA reform.

I spoke then about the need to raise the FHA loan limits in order to give borrowers more options. In my State of New Jersey, which is not unique, 13 of the 21 counties are at or over the FHA ceiling of \$362,000, and 75 percent of New Jerseyans live in these 13 counties. Unless this bill passes, the FHA means absolutely nothing for the overwhelming part of the 9 million people who live in New Jersey as a vehicle, an opportunity to achieve home ownership and to be good borrowers, people who work hard, obey the rules, follow the law, serve in their communities, worship, but ultimately would not have the wherewithal to pay but for the type of loans the FHA can guarantee.

I believe, in the wake of the tsunami of foreclosures, these are critical options to new homeowners and maybe even to some who will ultimately refinance. The legislation before us today will bring more attractive FHA mortgages into the subprime marketplace so borrowers looking to refinance or first-time homeowners have a realistic opportunity to choose an FHA loan instead of a risky mortgage.

I knew then what I know now. This legislation is long overdue. Homeowners need more options than just the subprime market. That is why I am pleased we will be finally passing this critical bill. I hope we give it a very strong sendoff from the Senate. I know this is something for which we are in agreement with the administration. It should receive broad bipartisan support. It is only one of many tools necessary to deal with the challenges the Nation faces on the subprime and the crisis of foreclosures, but it is an important one.

I urge its passage and yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I support this FHA initiative. As the Senator from New Jersey so appropriately noted, this is another tool which is absolutely critical in this area, as is an amendment which I have pending to the farm bill which, regrettably, as a result of last night's cloture motion, will be ruled nongermane and therefore will not be allowed to be brought up. This amendment says essentially that if a person's home is foreclosed on, they don't then get hit with an IRS tax lien for the amount of the foreclosure which is not recovered. In other words, if you own a home and, regrettably, you can't meet your payments because of a subprime event, and your loan was, say, \$100,000, and they foreclose, take it away from you, and then they sell your home but they don't get \$100,000—let's say they get \$50,000 of that loan paid—you get hit with a tax bill for the additional \$50,000. Or if there is a restructuring, where the lenders actually rewrite your loan so you can make your payments, and that represents a writedown in the value of the loan, you get hit with a tax bill.

So the irony of the event is, it is pretty devastating to people. First, their home gets taken. Then the IRS agent shows up and gives them a tax bill and hits them with a tax lien. That, obviously, is not fair, and it is not appropriate. It is a quirk of our Internal Revenue law. This amendment would eliminate that. It would eliminate that event.

I do think it is important. I think it is an important element of moving forward in a way that tries to work us through this subprime meltdown which is having a deleterious effect on our economy and, obviously, is having a very tremendous personal impact on people who are affected by the interest rates on their loans jumping to a point where they can no longer pay them.

So I regret this amendment was ruled out of order for all intents and purposes by the cloture motion. I believe there was very strong bipartisan support. In fact, I have not met anybody so far who is opposed to this concept. I hope it can be included in a final package, either under unanimous consent or because nobody objects to it, or, alternatively, that the Finance Committee,

which I know is working on this issue, can come forward and offer a unanimous consent request to move this free standing.

I think it is important we do it now. I do not think we can wait. These loans are being foreclosed on now. The people who are getting hit with these tax liens are getting these liens today. So it is very important we move promptly.

So I wished to highlight this issue also as one of the issues which is raised relative to resolving this question or at least mitigating the question of how we deal with this subprime meltdown.

I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Florida.

Mr. MARTINEZ. Mr. President, how much time is remaining?

The ACTING PRESIDENT pro tempore. The Senator from Florida has 7 minutes 14 seconds; the Senator from New York has 1 minute 28 seconds remaining.

The Senator from New York.

Mr. SCHUMER. Mr. President, I would like to yield 5 minutes to my colleague and friend—our majority whip—from Illinois, Mr. DURBIN, our remaining time on this and then 5 minutes from the time against the Coburn amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Florida.

Mr. MARTINEZ. Mr. President, from our side I would like to yield to Senator ISAKSON from Georgia 5 minutes of the remaining 7 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The assistant majority leader is recognized.

Mr. DURBIN. Thank you, Mr. President. I will defer to the Senator from Georgia if he wants to speak at this moment.

Mr. ISAKSON. I will be happy to.

The ACTING PRESIDENT pro tempore. The Senator from Georgia is recognized.

Mr. ISAKSON. Mr. President, I rise to commend the authors of this legislation on what they have done. This is an outstanding piece of work. I spent 33 years of my life in the single family housing business. When I got started in 1967, I cut my teeth selling houses on FHA and VA loans. For all those years—and it has now been 40 years—the FHA and VA have served the United States of America well.

The first thing the American public needs to understand is the current mortgage crisis in America is not an FHA problem, from a standpoint of poor underwriting or poor loans. FHA does a good job of underwriting, a good job of servicing, a good job of appraising. They have good standards.

The subprime market problem is an irresponsible lending practice in the conventional market, particularly when it comes to the underwriting.

However, because that crisis does exist, FHA is going to be looked to as the savior in many cases. As conventional capital restricts and credit is reduced, it is going to be more important than ever for the FHA to be able to meet those demands.

But during the deliberations of this and during the writing of this bill, Senator SHELBY and Senator DODD did some great things the American public needs to understand. They realized one of the problems in the subprime markets was they were starting to make 100 percent loans—interest only—for 3 or 4 years, with a bullet at the end.

This bill specifically ensures that every FHA loan, every FHA loan that is made will have at least a downpayment of 1.5 percent. So there is not going to be any 100 percent lending. You will have some skin in the game.

Statistically, you always know in the housing business when a borrower has to put equity in a house, it is an insurance policy that loan is going to be paid. That is the insurance that ensures FHA they have a very low risk on the taxpayers' money.

Secondly, this recognizes the rising values in America and raises the cap on the amount of an FHA loan that can be made. This is going to allow FHA to meet a lot of demand that is going to be created by failures in the subprime market.

Another point on the subprime market is, FHA loans have not ever been, nor are they now, subprime loans. They are intended to be loans for those entering the housing system of the United States of America.

My dear friend, the Senator from Oklahoma, is going to offer an amendment later on which I will comment on for a second. He and I have had some discussions on it.

There is a section of the bill that deals with what is known as reverse mortgages, and probably most people in here would not know what that is. But basically that means, if you pay for your house and you get in your senior years and you want to draw on the equity and value of that house, then you can take out a mortgage against your house, and instead of making payments every month to pay it off, you receive payments every month up to a percentage of the appraised value of the property.

So for people reaching their latter years or their senior years, who need to be able to supplement their income to exist, they can use the equity in that house to continue to have an income and a cash flow.

FHA can make that loan and insure it. So can the conventional markets. The question the Senator from Oklahoma has is whether the FHA should raise the limit on the number of those loans it makes, which is at \$275,000 right now. Talking to FHA, they are at that cap.

There is a provision in the bill that calls on CBO to make a study to determine what that cap should be. But in

the meantime, we should not be capping the number of loans. So the bill is appropriate to raise the cap, and it is appropriate to call for the study. I reluctantly oppose the amendment, but I do so mainly because I wish to ensure every American senior who has paid for their home, who has it mortgage free, has the opportunity to leverage that home to have income in their later years, safe and secure by the underwriting process of the FHA.

But I conclude with the way I began: This is a great bill for the United States of America. It is not a reaction to bad practices on the part of FHA, but it is a reaction to say that because of our good practices, because of the capital that is available because of FHA, it is important for us to recognize the demand that will come to us as a byproduct of the subprime market.

I commend Senator CRAPO, Senator SHELBY, Senator DODD, Senator SCHUMER, and all those who have worked on it, and I commend it to my colleagues for a favorable vote.

I yield back.

The ACTING PRESIDENT pro tempore. The assistant majority leader is recognized.

Mr. DURBIN. Mr. President, first, I wish to thank my colleague, Senator SCHUMER from New York, for his leadership on this issue and Senator MARTINEZ of Florida and Senator CARPER, who played an important role in making certain this bill came to the floor. It is timely. It is important.

Back the late 1920s, the United States faced an overwhelming housing crisis. The values of homes were plummeting, and the availability of credit to buy homes was in jeopardy. At that time, President Franklin Roosevelt and others stepped in, in 1932 and beyond, to make a massive commitment to restoring the American dream for thousands, if not millions, of American families.

One of the means by which it was restored was the creation of the Federal Housing Administration. This Government agency stepped into the process of mortgages and said: We will provide backing and guarantee and assurance it is safe to buy a home, and it is safe to loan the money.

That started to restore the confidence of the American consumers in our housing market—a confidence which led to the dramatic expansion of home ownership in America, the expansion of personal wealth, as families invested in their homes and saw their assets grow, and then the investment of the growth of America's communities, neighborhoods, and towns. It is part of the American dream.

Not a single one of us will forget the first home we ever purchased. Moving from being a renter to a homeowner is a watershed in anyone's life. Your feeling about where you live and what you want to put into where you live changes when you become a homeowner.

Now we are involved in another housing crisis. It is a crisis which many

want to minimize. But they should not. The fact that 2.2 million Americans face foreclosure is not just your neighbor's misfortune, it is a misfortune for your neighborhood. It is a misfortune for our Nation.

That is why this bill is so important. We are trying to find ways to bring that same type of confidence and liquidity back into the housing market. That is why this bill is timely and should be passed on an emergency basis.

When the Federal Housing Administration, the FHA, steps up and increases the loan limits, it means it is a realistic appraisal of today's housing market, so they are relevant to the needs of average families who pay higher costs now for housing than they did a few years ago. When we reduce the downpayments, it means some families will have their chance to move into a home even earlier in their earning years, rather than waiting and renting and perhaps missing that opportunity.

I am heartened by the fact that this bill includes counseling—not only counseling for the purchase of a home but counseling when a family is troubled and worried about whether they can continue to make their mortgage payments.

All of these are moves in the right direction. I can tell you many think this housing crisis is an isolated crisis in America. It is not. Mr. President, 2.2 million foreclosures will lead to the reduction in value of 44 million single family residences, condos, and other units of home ownership. Forty-four million homes will lose value because of foreclosures. I have seen it on the West Side of Chicago, where gentrification and modernization have taken neighborhoods that were nothing more than vacant lots and turned them into town homes and row houses that are worth hundreds of thousands of dollars. Now one of the houses on the block is boarded up, facing foreclosure and an auction, realizing at the auction the asking price is likely to be at least 20 percent to 30 percent lower than the value that was originally assessed on the home. That means every home in the neighborhood takes a hit.

What does it mean when 44 million homes lose value in America? It means 1 out of 3 homeowners in America will see a decline in the value of their home. It is not just the house you are living in, it is also the most important asset in most family's lives. That is why this bill is needed. That is why we need to move forward as quickly as possible.

Let me say, even with this bill, even with Secretary Paulson's proposal 2 weeks ago, these are modest steps that need to be built upon. It is not enough. It is good. I want to see it move. It is important. We need to do more. This housing crisis has become an economic crisis in America, and we need to face it squarely. Franklin Roosevelt did in the 1930s. We need to do that today.

Let me add a word too. I want to change the bankruptcy law so a family facing foreclosure, going into bankruptcy, has one last chance in the bankruptcy court to renegotiate the terms of their mortgage. You can do that today if you take a vacation home into your bankruptcy or your family farm into a bankruptcy. But the law prohibits the renegotiation of the terms of your mortgage for your principal residence. That makes no sense whatsoever. A foreclosure can cost the parties involved up to \$50,000. The ultimate sale of the home, after foreclosure, can bring maybe 70 percent or 80 percent of the actual value of the home. Now what we need to do is look at a comprehensive approach to deal with the housing crisis which threatens our economy.

I urge strong support for this legislation.

I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. MARTINEZ. Mr. President, could I inquire as to the remaining time?

The ACTING PRESIDENT pro tempore. There is 3 minutes remaining for general debate on the bill on the Republican side.

Mr. MARTINEZ. Mr. President, I yield 2 minutes on the bill itself from the time remaining to the Senator from Colorado.

The ACTING PRESIDENT pro tempore. The Senator from Colorado.

Mr. ALLARD. Mr. President, I thank the Senator from Florida for yielding me the time. I will make my comments very briefly.

First of all, I rise in support of this FHA reform package. I do not think this is the time for us to take choices away from homeowners and consumers. This helps provide additional choices for homeowners with some safeguards.

The FHA reverse mortgage program contains some important safeguards for borrowers such as mandatory counseling and limits on fees that can be charged. For those very rare instances in which reverse mortgages were used as part of a predatory or fraudulent scheme, I support vigorous enforcement against the perpetrators. The problem is with the perpetrators, not with the reverse mortgage program.

The bill also provides some provisions restricting seller-financed home equity plans. There are some provisions which I think are good. There are provisions for the energy efficiency mortgages. I am cochair on the Renewable Energy and Efficiency Caucus, and I want to seek every opportunity we can to have structures that promote energy efficiency. I think that is a good part of the bill. I thank Chairman DODD and Senator SHELBY, as well as Senator MARTINEZ and Senator SCHUMER, for their work on this bill. I am pleased this reform package also includes title I manufactured housing, which is something I have worked on with Senator BAYH.

So there are some important reforms to be offered on this bill, and I think

they are offering opportunities for affordable home ownership. So I am rising in support of this particular piece of legislation.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Florida is recognized.

Mr. MARTINEZ. Mr. President, with the remaining time, I simply wanted to say I think it is wonderful when we come together, Republicans and Democrats, to tackle one of America's problems. The subprime crisis, the loss of home ownership by so many American families, the threat of it, is particularly an acute problem at this time in our history. It is good that in this season of Christmas we have made a downpayment on this problem. The Government will not be able to fix all of the problems out there in the credit community; however, this is a good step, a good first step, and a good bipartisan step.

Senator SHELBY, the ranking member of the subcommittee, has played an integral part of us getting to this point today, and I thank him.

I yield back the remainder of my time.

Mr. SHELBY. Mr. President, I join my colleagues in urging passage of S. 2338, the FHA Modernization Act of 2007.

The Banking Committee has invested a considerable amount of effort and time to reach agreement on this bill.

Legislating can be a difficult process that requires not only patience but also a willingness to compromise. The Banking Committee has been able to compromise in a way that achieves a balanced bill.

The bill makes the necessary changes to the FHA program so that it can meet the needs of today's mortgage marketplace. The bill also provides protections for the American taxpayer who ultimately bears the financial risks of the program.

The end of a legislative session on the eve of an election year can be a very difficult time to reach consensus on just about anything. When we are able to come together, it is incumbent upon us to seize that opportunity and move forward.

With that in mind, I commend Chairman DODD's efforts to craft a bipartisan bill and I encourage all my colleagues, on both sides of the Hill, to support final passage of S. 2338 as passed by the Senate.

The ACTING PRESIDENT pro tempore. All time for general debate has expired.

The Senator from Oklahoma is recognized.

AMENDMENT NO. 3854

Mr. COBURN. Mr. President, I call up amendment No. 3854 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 3854.

Mr. COBURN. I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

AMENDMENT NO. 3854

(Purpose: To ensure the cap on Home Equity Conversion Mortgages is not permanently eliminated before a study regarding program costs and credits is submitted to Congress)

On page 20, between lines 18 and 19, insert the following:

(e) EFFECTIVE DATE.—The amendment made by subsection (a)(2)(A) shall not take effect until the study and report required under subsection (d) has been submitted to Congress.

Mr. COBURN. Mr. President, I don't disagree we have to take action to help those people who are in a bind now based on both the economics, as well as probably a pretty severe bubble that has occurred. The real fact is some people are going to lose their homes. I have agreed to this debate, not because I was trying to stop all of the FHA modernization, but because I am markedly concerned that in this component what we are doing has nothing to do with the crisis that we see today, but, in fact, will put the next two generations in obligation for a sum somewhere between \$50 billion and \$60 billion in terms of reverse mortgages.

Now, the question I would ask, which has not been asked, is where are the metrics to measure the market forces in reverse mortgages in this country? There are none. As a matter of fact, this bill looks at that by asking for a study. But the other intent of the bill is that we ask for a study, but we eliminate the cap which the study is supposed to help us determine.

There are some other concerns the American taxpayer should have, one of which is FHA has what is called a qualified audit. They have two material weaknesses we wouldn't accept from any other corporation in this country in which we would entrust our money or invest our assets. When they are audited, there are two material weaknesses in their ability to control what they are doing, measure what they are doing, and assess what they are doing. We ought to be concerned about that.

We are simply asking with this amendment that before we raise the cap on the noncritical area in the home mortgage market, we, in fact, study to know what we are doing. The idea for the study is great, but the study is going to have limited value if, in fact, we move all reverse mortgages to the Government. That is going to be the ultimate impact of this bill.

The crisis is in the mortgage industry, not the reverse mortgage industry. But we are applying and using that crisis to absolutely ensure that in the future, our children are going to be hooked for the guarantee for all of the reverse mortgages in this country. We are going to limit the private reinsur-

ance equity reverse mortgage in this country by what we do.

I think the other thing we ought to think about as we do this is some "what-ifs." What if we don't get a good handle on this subprime credit and the debt situation that is going on? What if we end up becoming the true guarantor of all of these loans? What if they get to the point where they can't be repaid? It is not going to be the Presiding Officer and me who are going to pay this; it is going to be the next couple of generations.

So this amendment is just designed for prudence. It says, if we are going to study this, let's study it and then make a decision. There is no credible source that says there is a shortage of access of credit for reverse mortgages in this country. It is not in the committee report. It is not in the report. So why are we doing this? Because it works and because people—we are doing it because that is the way everybody will go if you can get a Government-guaranteed loan. The banks make more money on it. It is easier—you evidently have to qualify, but conventional reverse mortgages will go out the window. So what have we done with that? We have shifted the risk for all of the reverse mortgages in this country to our kids. If that was where we had a crisis, then I would be in agreement that maybe we should go there, but that is not where it is.

What we are attempting to do with the FHA Modernization Act is to help those who are in a crisis now. Probably, had we done this 3 years ago, many of the people who are in subprime loans would have been in FHA, and we wouldn't see the extent of the crisis we have today.

So what I would ask is that our colleagues stop for a minute and say: Do we really want at this time to do this? I understand that I am going to be opposed on this by members of the Banking Committee, but I would ask them to show me the data that says there truly is a dent in this aspect of the reverse mortgage market.

Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. SCHUMER. Mr. President, I yield 7 minutes to the distinguished Senator from Maryland.

The ACTING PRESIDENT pro tempore. The Senator from Maryland is recognized for 7 minutes.

Mr. CARDIN. Mr. President, I rise to speak on behalf of thousands of families in my home State of Maryland.

For them, the American dream has turned into a nightmare.

I am referring to the phenomenon called the "credit crunch," the "mortgage meltdown," or the "subprime crisis."

Regardless of which name we choose to attach to it, the situation threatens to upset the financial stability of individual homeowners and neighborhoods.

The latest projections show that, nationwide, millions of Americans may

lose their homes, and the ripple effect on our economy will be felt by all.

There may be no more powerful symbol of the American dream than home ownership.

For most American families, their largest asset is their home, and it serves as their primary tool for building wealth.

Buying a home ranks among the top motivations for saving. Owning a home gives a family a stake in their communities. It provides a hedge against an inflationary rental market; it provides tax benefits; it provides a source of revenue for emergency expenses, and it provides security in old age.

In our communities, higher levels of home ownership improve the appearance and stability of neighborhoods, and result in better schools, more civic participation, and lower crime rates.

Many public and private entities have committed their energies to increasing home ownership. Much progress had been made, with the rates of home ownership among every racial and ethnic group of Americans reaching new highs every year since 1995.

That is precisely why the crisis that is spreading through our Nation is so alarming.

The Mortgage Bankers Association has just released its National Delinquency Survey for the second quarter of 2007. Rates of mortgage delinquency have reached their highest point in twenty years. Foreclosure rates are at the highest level ever.

It is now estimated that up to 2.2 million Americans who took out subprime mortgages between 1998 and 2006 could lose their homes during the next 2 to 3 years.

As the fallout from this situation continues, we are learning more and more about the factors leading to the crisis. One key factor is the category of loans known as "subprime."

Subprime loans usually have interest rates 3 percentage points or more higher than prime loans, which are typically offered to applicants with credit scores of 650 or higher. Subprimes can be either "fixed rate" loans, where payments stay the same over the life of the loan, or they can be adjustable rate mortgages, known as ARMs.

ARMs come in many forms: some begin with very low "teaser" rates that then rise steadily as prime interest rates increase. Others, such as 2/28 loans, offer very low rates for a brief period, and then reset sharply higher, regardless of the prime interest rate, for the remaining term of the loan. Many borrowers choosing those loans were told that because their homes were certain to increase in value, they would be able to refinance later and get better terms before their interest rates rose.

They assumed that the rapid escalation of prices that occurred in the first part of this decade would continue. I have heard from borrowers who took out 2/28 or 3/27 loans erroneously believing that as long as prime interest

rates remained low, their own mortgage rates would also. They are now facing huge increases in their monthly payments, some as much as 40 percent higher.

Some borrowers are also facing foreclosure because they could not afford the third or fourth year payments, and were not able to refinance because of missed payments or because the value of their home was less than the outstanding debt. Many regret ever purchasing a home and blame themselves for entering into a raw deal. But a 2005 Federal Trade Commission study showed that many borrowers did not understand the costs and terms of their own recently obtained mortgages. Many had loans that were significantly more costly than they believed, or contained significant restrictions, such as prepayment penalties, of which they were unaware.

For a while, as problems became evident in other areas of the country, such as Florida and Nevada, analysts said that the Washington metropolitan area and the surrounding region would not be affected. They said that the presence of the Federal Government as a major employer and associated contracting opportunities would prop up housing prices and sustain the market. It didn't turn out that way. This area is now very much affected by the mortgage mess. Northern Virginia is experiencing some of the sharpest declines in home values in the Nation.

The Mortgage Bankers Association has reported that 24 States have already seen decreased revenues directly attributable to changes in the housing sector. This is for two reasons: first declining home values have led to reduced property tax revenues. Second, fewer sales have resulted in lower revenues from transfer taxes—the fees that are paid when homeownership is transferred from sellers to buyers.

Maryland is one of those 24 States. Let's look at what is happening in Maryland.

The top chart shows the percentage of loans that are seriously delinquent in Maryland and in the United States. Seriously delinquent loans are more than 3 months delinquent or in the process of foreclosure. The percentage of prime loans is relatively small—under 2 percent. But in the subprime category, the rates are much higher—for fixed rate loans, it is more than 4 percent in Maryland and nearly 6 percent nationwide. For subprime ARMs, it is nearly 8 percent in Maryland and more than 12 percent nationwide.

This tells us that nearly 1 in 15 Maryland mortgage holders with a subprime loan are in imminent danger of losing their homes. For borrowers with subprime adjustable rate mortgages, the rate rises to nearly 1 in 10.

The bottom chart shows how the situation has worsened over the past 3 years in Maryland with respect to delinquent loans. These are loans that are 30 to 60 days past due with no payments being made. Since the fourth

quarter of 2004, the rate of delinquent prime loans has increased marginally from 1.7 percent to 2.06 percent. But the rate of delinquent subprime loans has increased by more than 50 percent—from 8.56 percent at the end of 2004 to 13.76 percent today.

If no comprehensive plan is put into effect to address this problem, these loans will become seriously delinquent and lead to foreclosure.

Foreclosures affect entire neighborhoods, as the repossessed homes often stay vacant for extended periods. Some are boarded up, the lawns go untended, the neighborhoods become undesirable places to live, and the value of the surrounding homes is depressed.

According to the Center for Responsible Lending, in 2005 and 2006, 186,000 subprime loans were issued in Maryland. They accounted for nearly one-third of all home loans originated in the State during those 2 years. It is projected now that because of ballooning interest rates that borrowers will not be able to afford, more than 38,300 Maryland homes will be lost to foreclosure.

This phenomenon is hitting hardest in the communities least able to weather the storm. Some groups—African Americans, Latinos, and the elderly—are disproportionately affected.

In recent years, minorities have markedly increased their rates of homeownership, helping to increase wealth and improve economic stability.

These gains are now very much at risk.

This is because statistics show that nationwide in 2005, more than 54 percent of loans to African Americans and 46 percent of loans to Latinos were subprime loans.

But minorities did not necessarily receive subprime loans because of lower credit scores or lower incomes. Five years ago, the Center for Community Change, a nonprofit consumer advocacy group, issued a report entitled, "Risk or Race?" It demonstrated that subprime lenders target minority communities and that African Americans and Latinos pay higher loan rates than Whites with similar incomes.

When it comes to buying a home, when incomes and credit scores were the same, African Americans were 3.2 times more likely than Whites to get a higher rate loan. Latinos were 2.7 times more likely to get a higher rate loan.

When it comes to refinancing, African Americans were 2.3 times more likely than Whites to get a higher rate loan, and Latinos were 1.6 times more likely.

Here's something that is even more surprising: the disparity between Whites and minorities increases as incomes rise. Minorities with higher incomes are more likely than those with lower incomes to be offered a higher rate loan.

So minorities are more likely to have subprime loans, and subprime loans are

more likely to go into foreclosure, now at alarming rates.

On average, minority households have median net worth that is less than one-tenth that of White households. Of the wealth that African Americans and Latinos possess, two-thirds is in home equity. So the mortgage crisis is placing not just homes, but also the economic stability of minority communities, in serious jeopardy.

This crisis will have a profoundly negative effect on the future of these communities.

An article earlier this week in the Washington Post featured Caprise Coppedge, who works as a housing counselor at United Communities Against Poverty in Capitol Heights, MD. Capitol Heights sits right on the border between Washington, DC, and Maryland in Prince George's County. Ms. Coppedge spoke of the increased volume of people coming to her for relief, most directly as a result of mortgage problems. She said that her caseload of people who need help with mortgage payments has increased from one person a week to three a day. She said, "There's been a shockingly sharp increase of people in need of help in the past 6 months. It's unreal." Last year, her caseload consisted primarily of renters behind in their payments, and the rare homeowner who fell behind in payments had experienced job loss or some other infrequent event.

She continued, "Then in midsummer, we felt the tide turning. People started trickling in. First they came in to express concern about their loans and gathered information. Then by September, everything picked up speed and suddenly, people were telling us they were behind on their mortgages."

The Post reported that in Prince George's County, 127 out of every 10,000 homes are in foreclosure. It is the highest rate in Maryland and one of the highest in the region. There are now approximately 57,000 subprime loans being serviced in Prince George's County—41 percent of all loans in the county. Federal Reserve Data compiled by the Consumer Federation of America showed that 43 percent of people buying homes in Prince George's County in 2005 used high-cost loans, compared with 20 percent in the region overall.

Similar trends are evident in Baltimore City and Montgomery County. These are the areas that have the most to lose as the subprime crisis deepens.

Prince George's County Executive Jack Johnson has pledged \$10 million in foreclosure assistance to help keep people in their homes. This effort will help many families, but the magnitude of the problem demands resources that only the Federal Government can bring to bear.

Finally, there is another set of statistics that should raise the antenna of every Senator. Conventional thought has always held that your credit score affects your mortgage rate.

For fixed-rate loans, the highest FICO scores translate to the lowest interest rates and the lowest monthly payments. However, Fannie Mae, a government-sponsored loan buyer, has estimated that up to half of subprime borrowers actually had credit ratings that could have qualified them for prime rates. Another study by First American Loan Performance, a San Francisco research firm, says that this proportion reached 61 percent in 2006.

How could this have happened? There are many factors involved: I will mention just a few: lack of consumer education; the brokerage industry; the advertising industry; and predatory lending, which I have already discussed.

First, the lack of consumer education: a Mortgage Banker Association survey from 10 years ago indicated that nearly one-third of homebuyers never met with anyone except their real estate agent when they bought a home. The numbers may have changed somewhat, but the extent of the current crisis suggests that the picture may have not changed much.

A more recent borrower survey by the Mortgage Bankers found that half of borrowers who had purchased a home in the previous 12 months couldn't recall the terms of their mortgage.

Second is the brokerage industry: There is a term called "yield-spread-premium," or YSP. Simply put, it is the amount that mortgage brokers are paid by lenders for originating a loan.

Some brokers have reportedly received up to 5 points for every subprime loan they originate—that works out to \$10,000 on a \$200,000 mortgage. On a prime loan, the margin is about one percent, or \$2,000. The Wall Street Journal reported that a March 2007 rate sheet from New Century Financial Corporation told brokers they could earn a "yield spread premium" equal to 2 percent of the loan if the borrower's interest rate was an extra 1.25 percentage points higher than the listed rates.

The tiny print at the bottom of the document read, "For Wholesale Use only. Not for distribution to the general public." New Century Financial is now in bankruptcy protection and no longer issuing subprime loans.

Where do the extra payments to the broker come from? They are financed by charging the borrower a higher rate. So the monetary incentives are in place for brokers to steer would-be borrowers to the riskiest and most costly loans. About 70 percent of subprime loans are originated by mortgage brokers who get paid with these YSPs.

Third, even with the intense media attention paid to this crisis, you can still open any newspaper and see advertisements for new housing developments. The developers are offering balloon mortgages that are more likely to lead to foreclosure for many borrowers. Also in many community papers you will find ads from subprime lenders touting how borrowers can get loans

with no documentation of income, no down payments, and little or no credit history.

The crisis is national and we need a national response. The President and Treasury Secretary Paulson have put forth a proposal that is voluntary and, by many estimates, will help only about one in five of the subprime borrowers whose rates are set to increase over the next year. It is limited to borrowers who took out loans only since 2005 and only those with lower credit scores who are up-to-date on their payments.

Residents of heavily affected counties in Maryland and many other counties across the Nation would no doubt say that a more comprehensive and inclusive solution is required. Several bills have been introduced in the House and Senate, including S. 2338, the FHA Modernization Act, which we are considering today. This measure will increase the FHA's loan limits for single families to 100 percent of the median home price in an area, up from 95 percent, and it will reduce the FHA's down payment requirements from three to 1.5 percent. This bill will also authorize \$200 million for foreclosure-prevention counseling for low- and moderate-income homeowners who are having trouble making their mortgage payments. I support the reforms included in this bill and I look forward to working with my colleagues on additional solutions.

We must work to repair the damage that has been done, and change the laws so that prospective homebuyers can secure affordable and fair loans. People in our communities are looking to us for leadership and we must provide it. The sooner we act, the more families' dreams will be preserved.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Florida is recognized.

Mr. MARTINEZ. Mr. President, we have reached an understanding to use the remaining time. At this time, I yield, in opposition to the amendment, 8 minutes to Senator CRAPO.

The ACTING PRESIDENT pro tempore. Off whose time?

Mr. MARTINEZ. Off the time in opposition.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. MARTINEZ. It will go back to the remaining speakers on the Democratic side.

Mr. CRAPO. Mr. President, I rise in opposition to the Coburn amendment. This amendment calls into question how we are going to modernize the FHA reversion mortgage program, often called the HECM, or home equity conversion mortgage program. I have long been a supporter of the program, and I have worked with a number of members of the Banking Committee, a bipartisan group, to remove the volume limit on the amount of reverse mortgages the FHA may insure. I especially

thank the other Senators who have worked on this: Senators DODD, SHELBY, REED, and ALLARD.

I understand the concerns my colleague from Oklahoma is raising about the need to further understand and be able to evaluate the development of the reverse mortgage industry.

Although I support the report that is in the bill that will help us to do that, it is very important to understand why this amendment is the wrong approach to getting a better handle on understanding reverse mortgages.

There has been a cap imposed on the number of reverse mortgages that can be issued by the FHA and by HUD. That cap has already been reached. So if we don't lift the cap while we are conducting the study, the program essentially terminates.

The reason we must not allow that to happen is the very reason the Senator from Oklahoma has been talking about: We need to have further ability to study and evaluate this program and refine its effectiveness. That is what the study is in place for. We need a program for the study to continue to be effective.

What does the report that we included in the bill do? It requires that the GAO help Congress analyze and determine the effects of limiting the amounts of the costs or fees under the program from the amounts charged under the program as of the date of enactment. It goes through a number of requirements; for example, requiring that we focus on the cost to mortgagors for participating in the program, the financial soundness of the program, the availability of credit under the program, the cost to the elderly homeowners under the program, particularly evaluating mortgage insurance premiums charged under the program, the upfront fees, and the margin rates charged under the program.

I went through that on purpose because I think it is important that we understand there are issues here about reverse mortgages that we are studying. But the issues right now focus most significantly on making sure that the elderly who are participating in this program don't pay significantly high or overly high upfront fees.

The program is very successful in terms of protecting the taxpayer. Over the next 5 years, it is estimated that not only will this program not cost the taxpayers any money, it is estimated to generate about \$1.5 billion in revenues to the Treasury over the next 5 years because of the fees that are being charged as these mortgages are entered.

I think it is important to note, because it is going to be critical for the future of this program, and understand what the level of these should be, what the level of the mortgage premium should be, and have the ability to work effectively as we move forward in refinancing the program.

A reverse mortgage is a unique loan that enables a senior to remain in their

home and to remain financially independent by converting part of the equity in their home into tax-free income, without having to sell the home, give up title, or take on a new monthly mortgage payment.

The reverse mortgage is aptly named because the payment stream is reversed. Instead of making monthly payments to the lender, as one would do with a regular mortgage, the lender makes payments to the homeowner.

This HECM program was created to serve our seniors who are “cash poor” but “equity rich.” They need to have a cashflow and they have significant equity in their home that they have built up over the years. The majority of the recipients are elderly widows. The funds from a reverse mortgage can be used for anything, such as daily living expenses, home repairs or modifications, health care expenses, prescription drugs, in-home care, existing debts, prevention of foreclosure, or any other needs that the elderly may have.

As reverse mortgages have become more understood and the real-life success stories have been told, this HECM program has grown. There is a significantly increased interest in it. Clearly, this sector of industry is going to continue to grow as baby boomers get older and the consumers’ acceptance and understanding of the program increases. Increased lender participation led to competition that has already resulted in mortgage fee reductions across the country.

The point I am leading to here is simply this: This is a program we must not stop dead in its tracks by simply reimposing the cap. It is critical that the legislation we put together that lists the cap, while we are conducting this study, makes sure that we better understand how to approach defining the level of support for the program and that it is able to continue. Rather, what the amendment would do is simply reimpose the cap and essentially stop the program. There would be nothing further to study then, because the program would be ended.

I think we can all agree we need to develop these kinds of unique and helpful programs for those in our country who have reached the point in their lives where they have significant equity but don’t have the cashflow they need to meet their critical life needs. This program is one that helps them in a way that preserves their dignity, their ability to live in their own home, and assures that they have an opportunity for a cashflow that will enable them to live out their lives in a way that doesn’t put them in a position of constantly wondering how they are going to make next month’s payments.

With that, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. SCHUMER. Mr. President, I yield 3 minutes to the Senator from Missouri.

Mrs. McCASKILL. Mr. President, I am very interested in this legislation. I

do support the bill. I think the reverse mortgage is an important tool for many elderly in order to live out their days with basic needs.

However, this week, with the assistance and support of Senator KOHL, the chairman of the Aging Committee, I was given the opportunity to chair a hearing on reverse mortgages, where, frankly, I was shocked to learn some of the predatory practices that are going on. Senator CRAPO is exactly right; there are, in fact, mostly elderly widows who are accessing these reverse mortgages. That is why it is so important that we protect them with counseling and with aggressive oversight and that the predatory marketing that is now beginning to go on is brought to a close.

I will give some examples. Some very bad companies are now advertising: Come sell reverse mortgages and, by the way, you can double your commission if you sell an annuity at the right time.

We heard testimony from a family where, in fact, an elderly widow who had a home equity line of credit had money in the bank, was brought into the confidence of a salesman, who then ended up selling her a reverse mortgage she didn’t need and a deferred annuity she didn’t need, and she was over 80 years old. It was a tragedy. We have to make sure the counseling being given—by the way, the counseling being given now is being paid for by the lending industry, because HUD only gave \$3 million for counseling—\$3 million. We are talking about a program that will generate about \$1.7 billion under this bill for the Federal Government, and more than \$3 million is needed to help the elderly widows understand what is going on. \$3 million is outrageous.

There is a piece of legislation I will introduce, along with Senator KOHL, that I will, I hope, have an opportunity to add to this bill before it gets to the President. It is going to do some important things. It is going to raise the amount of money for counseling to cover the need, only about \$24 million a year. It is going to make sure that counseling is independent and that, in fact, these people getting the counseling are assessed as to whether they are suitable for a reverse mortgage. Many of the elderly are not suitable for it, and they are going to get themselves into a trap they cannot get out of.

The other thing is making sure that we build a wall between the deferred annuity salesman and the people who are selling reverse mortgages. It is unconscionable that these salesmen might prey on these elderly people and sell them complicated financial products they don’t need.

I support the bill. I think the amendment Senator COBURN offered—I get what he is trying to do and I appreciate it. I think we need to pass this bill with these important safeguards in place, it is my hope they are added before the President signs.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, it is interesting. I will ask a couple of questions. Where is the study that shows the Federal Government ought to be in the reverse mortgage market? It is not there. Where is the study that shows what will happen to the private mortgage market? It is not there. So what we are doing is moving all reverse mortgages and the obligations thereof to our kids.

We ought to let private markets work some. We ought to create that ability. We are going to eliminate that ability. There is no question that reverse mortgages are advantageous for a lot of people. As you heard, there are going to be people preying on widows out there, saying: Here is the FHA, and I can sell you this annuity if you want to reverse mortgage your home. There is not going to be any balance on that.

So we are going to shift an entire industry, which should be private, with FHA reserve, for those who need it to help them, to the Government. The long-term consequence by the auditors’ report is that it is going to be \$45 billion that is going to get shifted to debt to our kids. That is the exposure there.

I am not against reverse mortgages. I am not against us trying to do everything we can in terms of the real crisis out there, which is associated with the subprime mortgages. This is a totally different category. What we are doing is expanding a program, unlimited. What if the GAO report comes back and says you should not do that, there is a market out there? Every banker in this country, if you give them an option of a conventional mortgage or an FHA-guaranteed mortgage, is going to go to the FHA. What will happen? There is a lower qualification for it. They make more money off of it. Consequently, we are going to direct a whole industry into a Government-backed program by what we are doing in this bill.

I am not even opposed to reverse mortgages through FHA. I am opposed to us overreacting and creating only one market, taking the private market totally out of it and putting our kids on the hook for it.

Nobody answered the questions about FHA in their audit. No large corporation would still be on the New York Stock Exchange, NASDAQ, or any other exchange, if they had three significantly qualified areas to their financial statements. They have two of the three that are material weaknesses, inability to even watch the programs we have. We are going to ignore all that today. I understand that. We are going to ignore the fact that there are no metrics, no study to tell us what we are doing is right. But we are going to do it.

Somebody has to protect and think about the future. So this amendment is common sense. It says, wait—we can

wait a short period of time; it will not take GAO all that long. What is the pressure on this? The pressure is the money generation. We are going to collect \$1.5 billion from these same elderly people in insurance, who are going to be scammed by people who will sell them annuities. So they are going to get less money out of their reverse mortgage than they would have gotten in the private sector. They are going to get less. And then we are going to say we did something.

I am surprised it has not been raised, but what we are doing is a credit card scam. We are being the credit card scam. We are going to enable people to get scammed. We don't know what we are doing. The study is important to do.

I will work with the authors of the bill to raise the cap somewhat, but to raise it unlimited, never to have a cap regardless of what the GAO report says? When are we going to come back and fix it? What if they say: You shouldn't be doing this; maybe this ought to be in the private market. There isn't a need for our children to take on the additional risk of these reverse mortgages.

What are we going to do? There is no mechanism for what we are doing in the FHA Modernization Act if that comes to fruition. The reason for the amendment is to pause and ask the question: Where are the metrics that say we need to do it? Where is the market failure that says the Federal Government ought to be doing it?

This was a pilot. We are now converting a pilot into a full-grown program. Shouldn't we know what we are doing? Shouldn't we assess whether there is a true market failure in reverse mortgages before we do this? No. 2, shouldn't we consider some of the safeguards for a lot of the people who are going to be taken advantage of through this program? Finally, No. 3, with our debt growing \$1 million a minute, \$1.3 billion a day—and every child now who is born in this country is inheriting \$400,000 in unfunded liabilities—do we have an obligation to be maybe a little more prudent and say: Wait a minute, let's fix the subprime, but let's be more prudent on this issue until we really know what we are doing.

I understand it is a good idea. For me, it will be great when I retire. I probably will do a reverse mortgage. But we don't know what the markets are. We don't know where they are. And we don't know the 5-year future right now, especially given the subprime crisis in front of us, and we are going to add more to that?

What if somebody comes to their elderly mother and says: I want you to do a reverse mortgage on your home so I cannot default on my private one? Is that why we are doing this? Or what if somebody says: I want to sell you the best thing you ever had; I am going to give you an annuity. Sounds good. You have a home, you are an elderly fe-

male, no husband, and you buy it, only to find out later you could have bought an annuity that would have given you \$300 or \$400 more a month if you had been in the private market with checks and balances rather than be scammed.

I ask unanimous consent to have printed in the RECORD a summary of the independent auditors' report—Urbach Kahn & Werlin—from this past year on the Federal Housing Administration.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### INDEPENDENT AUDITORS' REPORT

Inspector General—United States Department of Housing and Urban Development  
Commissioner—Federal Housing Administration

We have audited the accompanying consolidated balance sheets of the Federal Housing Administration (FHA), a wholly owned government corporation within the United States Department of Housing and Urban Development (HUD), as of September 30, 2007 and 2006, and the related consolidated statements of net cost, changes in net position, and the combined statements of budgetary resources (Principal Financial Statements) for the years then ended. The objective of our audits was to express an opinion on these financial statements. In connection with our audits, we also considered FHA's internal control over financial reporting and tested FHA's compliance with laws and regulations that could have a direct and material effect on its financial statements.

#### SUMMARY

We concluded that FHA's Principal Financial Statements are presented fairly, in all material respects, in conformity with accounting principles generally accepted in the United States of America.

Our consideration of internal control over financial reporting resulted in the following matters being identified as significant deficiencies: A risk assessment and systems development plan are needed for FHA's Home Equity Conversion Mortgage systems and transaction controls; HECM credit subsidy cash flow model needs improvement; and FHA system security controls need to be strengthened.

We consider the first two findings to be material weaknesses. We found no reportable instances of noncompliance with laws and regulations.

This report (including Appendices A through D) discusses: (1) these conclusions and our conclusions relating to other information presented in the Annual Management Report, (2) management's responsibilities, (3) our objectives, scope and methodology, (4) management's response and our evaluation of their response, and (5) the current status of prior year findings and recommendations.

Mr. COBURN. Mr. President, I remind my colleagues, the FHA has significant problems if they cannot pass an audit. That has not been addressed in this bill at all in terms of the audit defects FHA has.

I reserve the remainder of my time and ask how much time is remaining?

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma has 17 minutes remaining. Opponents to the Coburn amendment have 9 minutes remaining.

Mr. SCHUMER. Mr. President, I yield 4 minutes to a distinguished member of

the Banking Committee, the Senator from Delaware.

The ACTING PRESIDENT pro tempore. The Senator from Delaware is recognized.

Mr. CARPER. Mr. President, I thank the Senator for his leadership on this issue to bring us to this day and my friend from Oklahoma who offered the amendment before us. He raises a good point, and it is one that should be addressed in the conference to follow. My hope is that some of the concerns he raised will be addressed. I don't know that his amendment will be approved today, but the points he made are not without value.

We have had FHA for 70 years. The reason we have it is because in the Great Depression, we realized we needed to encourage home ownership in this country, and we still do. For many years, FHA was the go-to guy, if you will, for folks who had marginal credit, maybe were not homeowners, were first-time homeowners and they needed help to get them in position to qualify for loans and become homeowners.

There are all kinds of virtues that flow from home ownership. I will not get into them all. They are many and valid.

In recent years, we have seen people who normally would have gone to the FHA, first-time home buyers or people with marginal credit, to get a guaranteed home loan—in recent years, instead of 15 percent of American loans being purchased through FHA mortgage, we see the trend down. Today, it is roughly 5 percent. That difference is 10 percent of the people. A lot of people have gone to subprime lenders. A lot have gone to mortgages that, frankly, in the long run don't make sense. They might get a teaser rate the first couple of years of 3 or 4 percent and then see the rate go up to 7 percent, 8 percent, or 10 percent and find themselves in a mortgage vehicle they cannot get out of because there is no ability to escape.

We need to get that 5 percent of loans, home mortgages guaranteed by FHA, back up closer to 15 percent. We are not going to do it with the FHA of the 20th century. We have to bring the FHA into the 21st century. That is what we do with this legislation. We bring it into the era in which we live today.

I wish to mention a couple of the changes that are made possible with this legislation. Among them is loan limits. Today, it is about \$365,000. They are going to go up to roughly \$415,000 to reflect the change in the marketplace.

The downpayment FHA required of home buyers for years is 3 percent. If you buy a home for \$200,000, the downpayment is \$6,000. We cut that in half to 1.5 percent. So the downpayment for a \$200,000 house will be about \$3,000 to make home ownership within reach.

Also, the legislation removes the caps on reversible mortgages from currently \$150,000 to really to no cap. We are going to consider that and we

should consider that in conference, I hope with the input from the GAO.

Finally, the bill creates—and I think this is important and speaks to the concern raised by Senator McCASKILL—it creates a prepurchasing counseling program.

I am convinced it is not strong enough. Senator McCASKILL authored legislation—and I suppose some of us will join her in sponsoring that legislation—to strengthen this provision to make sure, if you or I qualify through FHA, we want to make sure the folks going to the FHA making that loan are getting the kind of counseling they need and not somebody who is there to set them up and take advantage of them.

This is not the only step we need to take to get us through the subprime lending morass for home mortgages. The Paulson freeze announced last week is a good idea. Interest rates would be frozen for 5 years for folks in these adjustable rate mortgages that are about to reset and raise the rates. That is a good first step. This is a good second step.

A good third step is to ban predatory lending practices. Legislation passed the House and is about to be considered in the Senate.

Last point. This is what Senator SCHUMER and I are interested in: GSA reform. That is the last piece. It would include a low-income affordable home program too.

The ACTING PRESIDENT pro tempore. The Senator's time has expired. Who yields time?

Mr. SCHUMER. I yield 3 minutes to someone who has been a genuine leader on this issue, a cosponsor of this legislation—just like you and me, Mr. President—on subprime counseling, the Senator from Pennsylvania, Mr. CASEY.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

Mr. CASEY. Mr. President, I thank Senator SCHUMER for his leadership on these issues. I rise today, like so many this morning, to talk about something we refer to by way of acronym. In case someone is just tuning in, when we are talking about FHA, we are talking about the Federal Housing Administration. We are talking about home ownership, the dream of home ownership which is so much a part of the American dream, and today we have an opportunity to pass legislation, a modernization bill for the FHA, which will reform FHA lending programs to make them a more viable alternative for borrowers looking to purchase or to refinance a home.

By way of history, back in the depths and the darkness of the Depression in 1934, a single-family FHA mortgage insurance program was created to help spur the housing market and increase home ownership—just what we are trying to do today in 2007. FHA made the low-downpayment, 30-year fixed-rate loan the standard product of the United States and has traditionally

played a role in providing home purchase financing to minority, first-time, and lower income home buyers.

This bill does a number of things. We have heard them, but I will go through the list again briefly.

First, increasing loan limits. This is so important at this present time to help the middle class of America.

Second, this legislation streamlines the borrowing process to make it faster and more efficient. Everyone here has been through the process of borrowing money. It is complicated enough. Anything we can do to streamline that will help consumers and future homeowners.

Third, it increases prepurchase counseling for borrowers so they know how much they can afford before they buy a home. This is a part of the subprime crisis. Not nearly enough attention and resources are dedicated to counseling. This legislation helps in the context of the FHA counseling homeowners.

Finally, it improves and expands the availability of reverse mortgages so that older citizens can stay in their homes longer and safely tap into the equity they built up in their home.

I don't need to go into the details of the subprime crisis; we all know about it. Senators BROWN, SCHUMER, and I authored legislation, the Borrowers Protection Act. We also have money in the budget the President is talking about vetoing, \$200 million for counseling. It will be a big mistake for the President to do that. But this modernization bill of our housing programs is focused on home-ownership preservation and providing borrowers with responsible, stable alternatives to subprime mortgages.

We know we need other alternatives. Right now, the credit markets across the country and across the world remain tight, and even borrowers with good credit are having a hard time borrowing. So this bill provides realistic alternatives for hundreds of thousands of borrowers right at the time they need it.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. CARPER). The Senator's time has expired. Who yields time?

Mr. SCHUMER. Mr. President, does my colleague from Oklahoma wish to speak?

The PRESIDING OFFICER. Those in favor of the amendment have 17 minutes. Those opposed have 1½ minutes.

Mr. SCHUMER. Mr. President, may I ask unanimous consent to borrow a minute and a half from my colleague from Oklahoma?

Mr. COBURN. In my normal magnanimous state, I would normally be happy to do that and will do that.

Mr. SCHUMER. I yield 3 minutes to the Senator from Ohio.

Mr. BROWN. Mr. President, I thank Senator SCHUMER, and I thank Senator COBURN for always being generous with his time. I thank the Senator from Delaware.

Over the past few years, our country's problem has not been lack of

credit; it has been too much bad credit, too many unscrupulous opportunists looking to take advantage of a situation. Nowhere is that more true than in the State of Ohio. As State and Federal regulators ignored the problems, predatory lending mushroomed. We have the highest rate of foreclosed homes in the country. Whole neighborhoods have been devastated because of foreclosures. It is not an isolated event. When homes are foreclosed, they affect the value of homes nearby, the crime rate, city tax revenues—the entire fabric of Slavic Village, Garfield Heights or Cincinnati or all over the State. These communities stretch across my State. Of the 30 cities hardest hit in the Nation, 6 are in Ohio.

By providing loans program at a fair price, the FHA program can give tens of thousands of families an alternative to the decidedly unfair loans they are caught in today. We need to act quickly, as Senator SCHUMER and Senator MARTINEZ said. We need to work out our differences with the House. We need to get this legislation to the President.

Every day in Akron, Cincinnati, Cleveland, Dayton, Columbus, and Toledo, in addition to smaller cities in Ohio, 200 families in Ohio lose their homes. Every month, thousands and thousands of these predatory loans are resetting at rates that will quickly become unaffordable to more and more families.

This legislation, needless to say, is only part of the solution. We need to do several things. We need to ensure that additional resources for counseling, as Senator CASEY and Senator SCHUMER worked so hard on and that were included in the housing appropriations bills, are signed into law. We need to enact reasonable protection for borrowers so they are not preyed upon when it comes time to refinance loans. We need to change policies, as Senator GREGG, Senator STABENOW, and Senator VOINOVICH said, so families forced to sell their homes at a loss do not find themselves slapped with a tax bill. We need to change our bankruptcy laws, as Senator DURBIN advocated, so that homeowners have the same rights in bankruptcy as vacation homeowners do. And we need to champion the interests of homeowners.

Next week, the Federal Reserve will consider and I hope adopt rules to strengthen the protection against deceptive mortgage lending practices. I commend Senators DODD, SHELBY, SCHUMER, CASEY, and all those who have worked hard on this legislation and want to take further steps to deal with this problem better than we have.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. COBURN. Mr. President, how much time remains?

The PRESIDING OFFICER. There is 16 minutes remaining.

Mr. COBURN. Mr. Speaker, I yield 3 minutes to Senator MARTINEZ in opposition to my amendment.

Mr. MARTINEZ. Mr. President, I thank the Senator from Oklahoma for being magnanimous even with his own colleagues. I appreciate it very much.

I understand the concerns of the Senator from Oklahoma. Anytime we are looking at an expansion of a Federal Government program, it gives one pause. Having been the Secretary of HUD, I understand that. But I must say it is important for folks to understand when we talk about any burden on the Federal Government, this is a program that is an insurance program, and since 1934 has never lost a dime of the American taxpayers' money. In fact, it has a surplus today of over \$20 billion.

What they do at FHA is look at the risk in the mortgage. Then they will insure it accordingly and the mortgagee pays a premium accordingly. The same takes place in the reverse mortgage. HUD facilitates a larger reverse mortgage program through the FHA's home equity conversion mortgage, which is an industry leader, accounting for 90 percent of all reverse mortgages. So when we talk about the private sector, today, out of 14 million mortgage transactions in 2006, only 100,000 were reverse mortgages, of which 90 percent were handled by the FHA. That has the Good Housekeeping Seal of approval.

The problems the Senator from Oklahoma talks about occur on that 10 percent in the private market. The HUD-insured, FHA-run HECM Program is one that allows a certain amount of comfort to those elderly who seek to have a reverse mortgage. There have been instances of predatory practices. Although these have generally not been a problem with the HUD mortgages, we always must be vigilant of those, and I support efforts to try to curtail any predatory practices.

What we are looking to do is make positive changes that will enhance the product availability but, more importantly, lower the cost going forward to America's elderly who seek to use this program. It will help us to better understand the evolving financial needs of seniors. I am proud this bipartisan legislation is something that will help America's seniors.

Reverse mortgage programs are an important tool used by many Floridians. In fact, in the last fiscal year alone, Florida witnessed a 116-percent increase in the number of reverse mortgages, and these products continue to increase in popularity. Congress has the responsibility to ensure that our elderly are properly protected but still give them every opportunity to be able to make good personal financial decisions for themselves.

Now, my dear friend from Oklahoma has raised concerns, but the growth of this program is projected to be only 109,000 from 100,000 in the year 2007; and in 2008, 166,000. So there is going to be a gradual growth of this program.

Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator's 3 minutes has ex-

pired, but the Senator from Oklahoma controls 12 minutes 30 seconds.

Mr. COBURN. Mr. President, I yield the Senator an additional 1 minute.

Mr. MARTINEZ. I thank the Chair, and I thank the Senator from Oklahoma for his courtesy.

Mr. President, I just want to point out that the study the Senator talks about is an important study, and it is a part of what this bill contains. However, the study will be useful to us once the program has been expanded and we have the opportunity to see what the experience is on the program. So rather than not study it, it is going to study it, but it has to study it in the future based on the growth and expansion of the program because for the past we have the statistical data available and the history of this program. The bottom line on the audit issue, which I know is a concern, is the historical data will give us a fuller understanding of what the experience is, rather than the management assumptions that are made through the current audit.

Mr. President, I think this is a good program for America's seniors. The concerns raised by the Senator from Oklahoma are valid and should be kept in mind, but we should vote for this good amendment today.

The ACTING PRESIDENT pro tempore. The Senator's time has expired. Who yields time?

Mr. COBURN. Mr. President, I will note for my colleagues' benefit that I do not plan to ask for a recorded vote on this amendment. I also will not demand a recorded vote on the bill itself, so colleagues would not have to come to the floor.

Let me summarize. What we are trying to do with FHA modernization is good. We have a crisis. There is no crisis in reverse mortgages. As a matter of fact, there is not hardly any private sector anymore. The reverse mortgages that are growing, I would advise the Senator from Florida, are growing at 60 percent a year at FHA. That is not slow growth. If we take 60 percent a year over the next 10 years, instead of 109,000, we will have 800,000. So that is why GAO estimates that we are talking about \$56 billion in new obligations that our kids are going to have to come up with if anything happens.

So, again, nobody has answered the question: Is there a crisis in reverse mortgages? There is not. Nobody has answered the question: Where are the metrics in terms of the marketplace, saying there is not adequate credit out there in the private marketplace, not guaranteed by our children? We are not going to guarantee it, our children are. Nobody has answered those two questions. And nobody has said: Here is what the data shows on the market now that we are going to do 130,000-plus, I believe, this year, and how does that impact with the total number of mortgages that are out there this year in the very difficult market that we find ourselves in with the tight credit.

So I would ask for a voice vote on this amendment, and then I will not

object to a voice vote or a consent after that on the underlying bill.

Mr. President, I yield the remainder of my time.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (No. 3854) was rejected.

Mr. SCHUMER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, it is my understanding that the time has expired on the debate relating to this matter, the FHA Modernization Act.

The ACTING PRESIDENT pro tempore. The majority leader is correct.

Mr. REID. I will use my leader time to speak, and I rise to express my optimism for the bill we are about to pass—and it will pass—and my appreciation that we have reached the point that we can get this done for the American people.

Mr. President, every day the mortgage crisis grows worse. We have reached a point where hundreds of families have either lost their homes or may lose them, and soon that will be in the tens of thousands. As bad as the crisis is now, there is reason to believe we are only in the early stages.

Some may say: If a borrower gets into financial trouble, it is their obligation, and their obligation alone, to find a way out. But that isn't the way it works. The cost of a foreclosed home has an impact on all of us—not just the borrower but all of us. Families lose the roof over their heads and the equity they have gained. Neighborhoods suffer the loss of property values. Cities and towns lose taxes. Lenders and their shareholders lose too. And it is no exaggeration to say the entire national economy is put at risk.

We are seeing those effects in Nevada, with the number of foreclosures since August of 2006 up by more than 200 percent, and another 21,000 homes at risk by 2009. We have been working hard to alleviate this problem at home. Last month, I organized a roundtable discussion in Reno with lenders, mortgage services, housing counseling agencies, and other Federal and local officials. And we followed that up with mobile resource centers to bring foreclosure information into the neighborhoods where people need them.

Taking these steps is a crucial part of the solution, but we need new laws at the Federal level to give lenders the tools and flexibility to help people find ways to keep their homes. As grim as things look today, they could get far worse. That is why it is important we act now.

I am glad to see my Republican colleagues have finally heard the call and joined us to support this legislation. Let's be clear. The Government can't solve this problem alone, but we certainly can help. When this bill becomes law, it will accomplish two main things: It will increase FHA loan limits on both the high and low ends, and it will reduce downpayment requirements. The result will be better loan options for families who are having trouble keeping up with their exploding mortgage payments resulting from teaser rate mortgages. They will have the option of refinancing through an FHA bank loan, with the peace of mind that comes with it.

For future home buyers, a fully backed FHA loan with honest, upfront terms, will help prevent a crisis like we now face and ensure that more American families will experience all the safety, comfort, and stability that comes with home ownership. The past decade has seen remarkable growth in American home ownership. What is more, these gains have been enjoyed from coast to coast and among groups that have traditionally been shut out. The bill we are about to pass will help ensure this progress continues. It is an accomplishment for the Senate and an important step forward for the American people.

Finally, Mr. President, during this vote I hope we can clear a consent request that I will offer to go forward on the Defense authorization bill. It is late in the year, and the President can't pay the troops the pay raise they deserve until we pass this bill. Waiting until next week will not do the trick. We must finish this today.

I certainly hope we can work this out in the next few minutes to go forward on this as soon as we complete this bill. Senator LEVIN and Senator WARNER have worked very hard on this legislation, as have many others, and I hope we can move forward on it very quickly.

The ACTING PRESIDENT pro tempore. All time is expired.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The ACTING PRESIDENT pro tempore. The bill having been read the third time, the question is on the passage of the bill, as amended.

Mr. SCHUMER. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from California (Mrs. BOXER), the Senator from New York (Mrs. CLINTON), the Senator from Connecticut (Mr. DODD), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. LOTT. The following Senator is necessarily absent: the Senator from Arizona (Mr. McCAIN).

The PRESIDING OFFICER (Ms. KLOBUCHAR). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 1, as follows:

[Rollcall Vote No. 432 Leg.]

YEAS—93

Akaka	Dorgan	McConnell
Alexander	Durbin	Menendez
Allard	Ensign	Mikulski
Barrasso	Enzi	Murkowski
Baucus	Feingold	Murray
Bayh	Feinstein	Nelson (FL)
Bennett	Graham	Nelson (NE)
Bingaman	Grassley	Pryor
Bond	Gregg	Reed
Brown	Hagel	Reid
Brownback	Harkin	Roberts
Bunning	Hatch	Rockefeller
Burr	Hutchison	Salazar
Byrd	Inhofe	Sanders
Cantwell	Inouye	Schumer
Cardin	Isakson	Sessions
Carper	Johnson	Shelby
Casey	Kennedy	Smith
Chambliss	Kerry	Snowe
Coburn	Klobuchar	Specter
Cochran	Kohl	Stabenow
Coleman	Landrieu	Stevens
Collins	Lautenberg	Sununu
Conrad	Leahy	Tester
Corker	Levin	Thune
Cornyn	Lieberman	Vitter
Craig	Lincoln	Voinovich
Crapo	Lott	Warner
DeMint	Lugar	Webb
Dole	Martinez	Whitehouse
Domenici	McCaskill	Wyden

NAYS—1

Kyl

NOT VOTING—6

Biden	Clinton	McCain
Boxer	Dodd	Obama

The bill (S. 2338), as amended, was passed, as follows:

S. 2338

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the ‘‘FHA Modernization Act of 2007’’.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

**TITLE I—BUILDING AMERICAN HOMEOWNERSHIP**

Sec. 101. Short title.

Sec. 102. Maximum principal loan obligation.

Sec. 103. Cash investment requirement and prohibition of seller-funded downpayment assistance.

Sec. 104. Mortgage insurance premiums.

Sec. 105. Rehabilitation loans.

Sec. 106. Discretionary action.

Sec. 107. Insurance of condominiums.

Sec. 108. Mutual Mortgage Insurance Fund.

Sec. 109. Hawaiian home lands and Indian reservations.

Sec. 110. Conforming and technical amendments.

Sec. 111. Insurance of mortgages.

Sec. 112. Home equity conversion mortgages.

Sec. 113. Energy efficient mortgages program.

Sec. 114. Pilot program for automated process for borrowers without sufficient credit history.

Sec. 115. Homeownership preservation.

Sec. 116. Use of FHA savings for improvements in FHA technologies, procedures, processes, program performance, staffing, and salaries.

Sec. 117. Post-purchase housing counseling eligibility improvements.

Sec. 118. Pre-purchase homeownership counseling demonstration.

Sec. 119. Fraud prevention.

Sec. 120. Limitation on mortgage insurance premium increases.

Sec. 121. Savings provision.

Sec. 122. Implementation.

Sec. 123. Moratorium on implementation of risk-based premiums.

**TITLE II—MANUFACTURED HOUSING LOAN MODERNIZATION**

Sec. 201. Short title.

Sec. 202. Purposes.

Sec. 203. Exception to limitation on financial institution portfolio.

Sec. 204. Insurance benefits.

Sec. 205. Maximum loan limits.

Sec. 206. Insurance premiums.

Sec. 207. Technical corrections.

Sec. 208. Revision of underwriting criteria.

Sec. 209. Prohibition against kickbacks and unearned fees.

Sec. 210. Leasehold requirements.

**TITLE I—BUILDING AMERICAN HOMEOWNERSHIP**

**SEC. 101. SHORT TITLE.**

This title may be cited as the ‘‘Building American Homeownership Act of 2007’’.

**SEC. 102. MAXIMUM PRINCIPAL LOAN OBLIGATION.**

Paragraph (2) of section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended—

(1) by amending subparagraphs (A) and (B) to read as follows:

“(A) not to exceed the lesser of—

“(i) in the case of a 1-family residence, the median 1-family house price in the area, as determined by the Secretary; and in the case of a 2-, 3-, or 4-family residence, the percentage of such median price that bears the same ratio to such median price as the dollar amount limitation in effect under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) for a 2-, 3-, or 4-family residence, respectively, bears to the dollar amount limitation in effect under such section for a 1-family residence; or

“(ii) the dollar amount limitation determined under such section 305(a)(2) for a residence of the applicable size;

except that the dollar amount limitation in effect for any area under this subparagraph may not be less than the greater of (I) the dollar amount limitation in effect under this section for the area on October 21, 1998, or (II) 65 percent of the dollar limitation determined under such section 305(a)(2) for a residence of the applicable size; and

“(B) not to exceed 100 percent of the appraised value of the property.”; and

(2) in the matter following subparagraph (B), by striking the second sentence (relating to a definition of ‘‘average closing cost’’) and all that follows through ‘‘section 3103A(d) of title 38, United States Code.’’.

**SEC. 103. CASH INVESTMENT REQUIREMENT AND PROHIBITION OF SELLER-FUNDED DOWNPAYMENT ASSISTANCE.**

Paragraph 9 of section 203(b) of the National Housing Act (12 U.S.C. 1709(b)(9)) is amended to read as follows:

“(9) CASH INVESTMENT REQUIREMENT.—

“(A) IN GENERAL.—A mortgage insured under this section shall be executed by a mortgagor who shall have paid, in cash, on account of the property an amount equal to not less than 1.5 percent of the appraised value of the property or such larger amount as the Secretary may determine.

“(B) FAMILY MEMBERS.—For purposes of this paragraph, the Secretary shall consider as cash or its equivalent any amounts borrowed from a family member (as such term is

defined in section 201), subject only to the requirements that, in any case in which the repayment of such borrowed amounts is secured by a lien against the property, that—

“(i) such lien shall be subordinate to the mortgage; and

“(ii) the sum of the principal obligation of the mortgage and the obligation secured by such lien may not exceed 100 percent of the appraised value of the property.

“(C) PROHIBITED SOURCES.—In no case shall the funds required by subparagraph (A) consist, in whole or in part, of funds provided by any of the following parties before, during, or after closing of the property sale:

“(i) The seller or any other person or entity that financially benefits from the transaction.

“(ii) Any third party or entity that is reimbursed, directly or indirectly, by any of the parties described in clause (i).”.

#### SEC. 104. MORTGAGE INSURANCE PREMIUMS.

Section 203(c)(2) of the National Housing Act (12 U.S.C. 1709(c)(2)) is amended—

(1) in the matter preceding subparagraph (A), by striking “or of the General Insurance Fund” and all that follows through “section 234(c),”; and

(2) in subparagraph (A)—

(A) by striking “2.25 percent” and inserting “3 percent”; and

(B) by striking “2.0 percent” and inserting “2.75 percent”.

#### SEC. 105. REHABILITATION LOANS.

Subsection (k) of section 203 of the National Housing Act (12 U.S.C. 1709(k)) is amended—

(1) in paragraph (1), by striking “on” and all that follows through “1978”; and

(2) in paragraph (5)—

(A) by striking “General Insurance Fund” the first place it appears and inserting “Mutual Mortgage Insurance Fund”; and

(B) in the second sentence, by striking the comma and all that follows through “General Insurance Fund”.

#### SEC. 106. DISCRETIONARY ACTION.

The National Housing Act is amended—

(1) in subsection (e) of section 202 (12 U.S.C. 1708(e))—

(A) in paragraph (3)(B), by striking “section 202(e) of the National Housing Act” and inserting “this subsection”; and

(B) by redesignating such subsection as subsection (f);

(2) by striking paragraph (4) of section 203(s) (12 U.S.C. 1709(s)(4)) and inserting the following new paragraph:

“(4) the Secretary of Agriculture;”; and

(3) by transferring subsection (s) of section 203 (as amended by paragraph (2) of this section) to section 202, inserting such subsection after subsection (d) of section 202, and redesignating such subsection as subsection (e).

#### SEC. 107. INSURANCE OF CONDOMINIUMS.

(a) IN GENERAL.—Section 234 of the National Housing Act (12 U.S.C. 1715y) is amended—

(1) in subsection (c), in the first sentence—

(A) by striking “and” before “(2)”; and

(B) by inserting before the period at the end the following: “, and (3) the project has a blanket mortgage insured by the Secretary under subsection (d)”; and

(2) in subsection (g), by striking “, except that” and all that follows and inserting a period.

(b) DEFINITION OF MORTGAGE.—Section 201(a) of the National Housing Act (12 U.S.C. 1707(a)) is amended—

(1) before “a first mortgage” insert “(A)”; and

(2) by striking “or on a leasehold (1)” and inserting “(B) a first mortgage on a leasehold on real estate (i)”; and

(3) by striking “or (2)” and inserting “, or (ii)”; and

(4) by inserting before the semicolon the following: “, or (C) a first mortgage given to secure the unpaid purchase price of a fee interest in, or long-term leasehold interest in, real estate consisting of a one-family unit in a multifamily project, including a project in which the dwelling units are attached, or are manufactured housing units, semi-detached, or detached, and an undivided interest in the common areas and facilities which serve the project”.

(c) DEFINITION OF REAL ESTATE.—Section 201 of the National Housing Act (12 U.S.C. 1707) is amended by adding at the end the following new subsection:

“(g) The term ‘real estate’ means land and all natural resources and structures permanently affixed to the land, including residential buildings and stationary manufactured housing. The Secretary may not require, for treatment of any land or other property as real estate for purposes of this title, that such land or property be treated as real estate for purposes of State taxation.”.

#### SEC. 108. MUTUAL MORTGAGE INSURANCE FUND.

(a) IN GENERAL.—Subsection (a) of section 202 of the National Housing Act (12 U.S.C. 1708(a)) is amended to read as follows:

“(a) MUTUAL MORTGAGE INSURANCE FUND.—

(1) ESTABLISHMENT.—Subject to the provisions of the Federal Credit Reform Act of 1990, there is hereby created a Mutual Mortgage Insurance Fund (in this title referred to as the ‘Fund’), which shall be used by the Secretary to carry out the provisions of this title with respect to mortgages insured under section 203. The Secretary may enter into commitments to guarantee, and may guarantee, such insured mortgages.

(2) LIMIT ON LOAN GUARANTEES.—The authority of the Secretary to enter into commitments to guarantee such insured mortgages shall be effective for any fiscal year only to the extent that the aggregate original principal loan amount under such mortgages, any part of which is guaranteed, does not exceed the amount specified in appropriations Acts for such fiscal year.

(3) FIDUCIARY RESPONSIBILITY.—The Secretary has a responsibility to ensure that the Mutual Mortgage Insurance Fund remains financially sound.

(4) ANNUAL INDEPENDENT ACTUARIAL STUDY.—The Secretary shall provide for an independent actuarial study of the Fund to be conducted annually, which shall analyze the financial position of the Fund. The Secretary shall submit a report annually to the Congress describing the results of such study and assessing the financial status of the Fund. The report shall recommend adjustments to underwriting standards, program participation, or premiums, if necessary, to ensure that the Fund remains financially sound.

(5) QUARTERLY REPORTS.—During each fiscal year, the Secretary shall submit a report to the Congress for each calendar quarter, which shall specify for mortgages that are obligations of the Fund—

(A) the cumulative volume of loan guarantee commitments that have been made during such fiscal year through the end of the quarter for which the report is submitted;

(B) the types of loans insured, categorized by risk;

(C) any significant changes between actual and projected claim and prepayment activity;

(D) projected versus actual loss rates; and

(E) updated projections of the annual subsidy rates to ensure that increases in risk to the Fund are identified and mitigated by adjustments to underwriting standards, program participation, or premiums, and the financial soundness of the Fund is maintained.

The first quarterly report under this paragraph shall be submitted on the last day of the first quarter of fiscal year 2008, or on the last day of the first full calendar quarter following the enactment of the Building American Homeownership Act of 2007, whichever is later.

(6) ADJUSTMENT OF PREMIUMS.—If, pursuant to the independent actuarial study of the Fund required under paragraph (4), the Secretary determines that the Fund is not meeting the operational goals established under paragraph (7) or there is a substantial probability that the Fund will not maintain its established target subsidy rate, the Secretary may either make programmatic adjustments under this title as necessary to reduce the risk to the Fund, or make appropriate premium adjustments.

(7) OPERATIONAL GOALS.—The operational goals for the Fund are—

(A) to minimize the default risk to the Fund and to homeowners by among other actions instituting fraud prevention quality control screening not later than 18 months after the date of enactment of the Building American Homeownership Act of 2007; and

(B) to meet the housing needs of the borrowers that the single family mortgage insurance program under this title is designed to serve.”.

(b) OBLIGATIONS OF FUND.—The National Housing Act is amended as follows:

(1) HOMEOWNERSHIP VOUCHER PROGRAM MORTGAGES.—In section 203(v) (12 U.S.C. 1709(v))—

(A) by striking “Notwithstanding section 202 of this title, the” and inserting “The”; and

(B) by striking “General Insurance Fund” the first place such term appears and all that follows through the end of the subsection and inserting “Mutual Mortgage Insurance Fund.”.

(2) HOME EQUITY CONVERSION MORTGAGES.—Section 255(i)(2)(A) of the National Housing Act (12 U.S.C. 1715z-20(i)(2)(A)) is amended by striking “General Insurance Fund” and inserting “Mutual Mortgage Insurance Fund”.

(c) CONFORMING AMENDMENTS.—The National Housing Act is amended—

(1) in section 205 (12 U.S.C. 1711), by striking subsections (g) and (h); and

(2) in section 519(e) (12 U.S.C. 1735c(e)), by striking “203(b)”; and all that follows through “203(i)” and inserting “203, except as determined by the Secretary”.

#### SEC. 109. HAWAIIAN HOME LANDS AND INDIAN RESERVATIONS.

(a) HAWAIIAN HOME LANDS.—Section 247(c) of the National Housing Act (12 U.S.C. 1715z-12(c)) is amended—

(1) by striking “General Insurance Fund established in section 519” and inserting “Mutual Mortgage Insurance Fund”; and

(2) in the second sentence, by striking “(1) all references” and all that follows through “and (2)”.

(b) INDIAN RESERVATIONS.—Section 248(f) of the National Housing Act (12 U.S.C. 1715z-13(f)) is amended—

(1) by striking “General Insurance Fund” the first place it appears through “519” and inserting “Mutual Mortgage Insurance Fund”; and

(2) in the second sentence, by striking “(1) all references” and all that follows through “and (2)”.

#### SEC. 110. CONFORMING AND TECHNICAL AMENDMENTS.

(a) REPEALS.—The following provisions of the National Housing Act are repealed:

(1) Subsection (i) of section 203 (12 U.S.C. 1709(i)).

(2) Subsection (o) of section 203 (12 U.S.C. 1709(o)).

(3) Subsection (p) of section 203 (12 U.S.C. 1709(p)).

(4) Subsection (q) of section 203 (12 U.S.C. 1709(q)).

(5) Section 222 (12 U.S.C. 1715m).

(6) Section 237 (12 U.S.C. 1715z-2).

(7) Section 245 (12 U.S.C. 1715z-10).

(b) DEFINITION OF AREA.—Section 203(u)(2)(A) of the National Housing Act (12 U.S.C. 1709(u)(2)(A)) is amended by striking “shall” and all that follows and inserting “means a metropolitan statistical area as established by the Office of Management and Budget.”.

(c) DEFINITION OF STATE.—Section 201(d) of the National Housing Act (12 U.S.C. 1707(d)) is amended by striking “the Trust Territory of the Pacific Islands” and inserting “the Commonwealth of the Northern Mariana Islands”.

#### SEC. 111. INSURANCE OF MORTGAGES.

Subsection (n)(2) of section 203 of the National Housing Act (12 U.S.C. 1709(n)(2)) is amended—

(1) in subparagraph (A), by inserting “or subordinate mortgage or” before “lien given”; and

(2) in subparagraph (C), by inserting “or subordinate mortgage or” before “lien”.

#### SEC. 112. HOME EQUITY CONVERSION MORTGAGES.

(a) IN GENERAL.—Section 255 of the National Housing Act (12 U.S.C. 1715z-20) is amended—

(1) in subsection (b)(2), insert “real estate,” after “mortgagor”;;

(2) in subsection (g)—

(A) by striking the first sentence; and

(B) by striking “established under section 203(b)(2)” and all that follows through “located” and inserting “limitation established under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a 1-family residence”;

(3) in subsection (i)(1)(C), by striking “limitations” and inserting “limitation”; and

(4) by adding at the end the following new subsection:

#### “(o) AUTHORITY TO INSURE HOME PURCHASE MORTGAGE.—

“(1) IN GENERAL.—Notwithstanding any other provision of this section, the Secretary may insure, upon application by a mortgagor, a home equity conversion mortgage upon such terms and conditions as the Secretary may prescribe, when the home equity conversion mortgage will be used to purchase a 1- to 4-family dwelling unit, one unit of which that the mortgagor will occupy as a primary residence, and to provide for any future payments to the mortgagor, based on available equity, as authorized under subsection (d)(9).

“(2) LIMITATION ON PRINCIPAL OBLIGATION.—A home equity conversion mortgage insured pursuant to paragraph (1) shall involve a principal obligation that does not exceed the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a 1-family residence.”.

(b) MORTGAGES FOR COOPERATIVES.—Subsection (b) of section 255 of the National Housing Act (12 U.S.C. 1715z-20(b)) is amended—

(1) in paragraph (4)—

(A) by inserting “a first or subordinate mortgage or lien” before “on all stock”;

(B) by inserting “unit” after “dwelling”; and

(C) by inserting “a first mortgage or first lien” before “on a leasehold”; and

(2) in paragraph (5), by inserting “a first or subordinate lien on” before “all stock”.

(c) LIMITATION ON ORIGINATION FEES.—Section 255 of the National Housing Act (12 U.S.C. 1715z-20), as amended by the preceding provisions of this section, is further amended—

(1) by redesignating subsections (k), (l), and (m) as subsections (l), (m), and (n), respectively; and

(2) by inserting after subsection (j) the following new subsection:

“(k) LIMITATION ON ORIGINATION FEES.—The Secretary shall establish limits on the origination fee that may be charged to a mortgagor under a mortgage insured under this section, which limitations shall—

“(1) equal 1.5 percent of the maximum claim amount of the mortgage unless adjusted thereafter on the basis of—

“(A) the costs to the mortgagor; and

“(B) the impact of such fees on the reverse mortgage market;

“(2) be subject to a minimum allowable amount;

“(3) provide that the origination fee may be fully financed with the mortgage;

“(4) include any fees paid to correspondent mortgagees approved by the Secretary; and

“(5) have the same effective date as subsection (o)(2) regarding the limitation on principal obligation.”.

#### (d) STUDY REGARDING PROGRAM COSTS AND CREDIT AVAILABILITY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study regarding the costs and availability of credit under the home equity conversion mortgages for elderly homeowners program under section 255 of the National Housing Act (12 U.S.C. 1715z-20) (in this subsection referred to as the “program”).

(2) PURPOSE.—The purpose of the study required under paragraph (1) is to help Congress analyze and determine the effects of limiting the amounts of the costs or fees under the program from the amounts charged under the program as of the date of the enactment of this Act.

(3) CONTENT OF REPORT.—The study required under paragraph (1) should focus on—

(A) the cost to mortgagors of participating in the program;

(B) the financial soundness of the program;

(C) the availability of credit under the program; and

(D) the costs to elderly homeowners participating in the program, including—

(i) mortgage insurance premiums charged under the program;

(ii) up-front fees charged under the program; and

(iii) margin rates charged under the program.

(4) TIMING OF REPORT.—Not later than 12 months after the date of the enactment of this Act, the Comptroller General shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives setting forth the results and conclusions of the study required under paragraph (1).

#### SEC. 113. ENERGY EFFICIENT MORTGAGES PROGRAM.

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

(1) by amending subparagraph (C) to read as follows:

“(C) COSTS OF IMPROVEMENTS.—The cost of cost-effective energy efficiency improvements shall not exceed the greater of—

“(i) 5 percent of the property value (not to exceed 5 percent of the limit established under section 203(b)(2)(A) of the National Housing Act (12 U.S.C. 1709(b)(2)(A)); or

“(ii) 2 percent of the limit established under section 203(b)(2)(B) of such Act.”; and

(2) by adding at the end the following:

“(D) LIMITATION.—In any fiscal year, the aggregate number of mortgages insured pursuant to this section may not exceed 5 percent of the aggregate number of mortgages for 1- to 4-family residences insured by the Secretary of Housing and Urban Develop-

ment under title II of the National Housing Act (12 U.S.C. 1707 et seq.) during the preceding fiscal year.”.

#### SEC. 114. PILOT PROGRAM FOR AUTOMATED PROCESS FOR BORROWERS WITHOUT SUFFICIENT CREDIT HISTORY.

(a) ESTABLISHMENT.—Title II of the National Housing Act (12 U.S.C. 1707 et seq.) is amended by adding at the end the following new section:

#### “SEC. 257. PILOT PROGRAM FOR AUTOMATED PROCESS FOR BORROWERS WITHOUT SUFFICIENT CREDIT HISTORY.

“(a) ESTABLISHMENT.—The Secretary shall carry out a pilot program to establish, and make available to mortgagees, an automated process for providing alternative credit rating information for mortgagors and prospective mortgagors under mortgages on 1- to 4-family residences to be insured under this title who have insufficient credit histories for determining their creditworthiness. Such alternative credit rating information may include rent, utilities, and insurance payment histories, and such other information as the Secretary considers appropriate.

“(b) SCOPE.—The Secretary may carry out the pilot program under this section on a limited basis or scope, and may consider limiting the program to first-time homebuyers.

“(c) LIMITATION.—In any fiscal year, the aggregate number of mortgages insured pursuant to the automated process established under this section may not exceed 5 percent of the aggregate number of mortgages for 1- to 4-family residences insured by the Secretary under this title during the preceding fiscal year.

“(d) SUNSET.—After the expiration of the 5-year period beginning on the date of the enactment of the Building American Homeownership Act of 2007, the Secretary may not enter into any new commitment to insure any mortgage, or newly insure any mortgage, pursuant to the automated process established under this section.”.

(b) GAO REPORT.—Not later than the expiration of the two-year period beginning on the date of the enactment of this title, the Comptroller General of the United States shall submit to the Congress a report identifying the number of additional mortgagors served using the automated process established pursuant to section 257 of the National Housing Act (as added by the amendment made by subsection (a) of this section) and the impact of such process and the insurance of mortgages pursuant to such process on the safety and soundness of the insurance funds under the National Housing Act of which such mortgages are obligations.

#### SEC. 115. HOMEOWNERSHIP PRESERVATION.

The Secretary of Housing and Urban Development and the Commissioner of the Federal Housing Administration, in consultation with industry, the Neighborhood Reinvestment Corporation, and other entities involved in foreclosure prevention activities, shall—

(1) develop and implement a plan to improve the Federal Housing Administration’s loss mitigation process; and

(2) report such plan to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

#### SEC. 116. USE OF FHA SAVINGS FOR IMPROVEMENTS IN FHA TECHNOLOGIES, PROCEDURES, PROCESSES, PROGRAM PERFORMANCE, STAFFING, AND SALARIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for each of fiscal years 2008 through 2012, \$25,000,000, from negative credit subsidy for the mortgage insurance programs under title II of the National Housing Act, to the Secretary of Housing and Urban Development

for increasing funding for the purpose of improving technology, processes, program performance, eliminating fraud, and for providing appropriate staffing in connection with the mortgage insurance programs under title II of the National Housing Act.

(b) CERTIFICATION.—The authorization under subsection (a) shall not be effective for a fiscal year unless the Secretary of Housing and Urban Development has, by rulemaking in accordance with section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section), made a determination that—

(1) premiums being, or to be, charged during such fiscal year for mortgage insurance under title II of the National Housing Act are established at the minimum amount sufficient to—

(A) comply with the requirements of section 205(f) of such Act (relating to required capital ratio for the Mutual Mortgage Insurance Fund); and

(B) ensure the safety and soundness of the other mortgage insurance funds under such Act; and

(2) any negative credit subsidy for such fiscal year resulting from such mortgage insurance programs adequately ensures the efficient delivery and availability of such programs.

(c) STUDY AND REPORT.—The Secretary of Housing and Urban Development shall conduct a study to obtain recommendations from participants in the private residential (both single family and multifamily) mortgage lending business and the secondary market for such mortgages on how best to update and upgrade processes and technologies for the mortgage insurance programs under title II of the National Housing Act so that the procedures for originating, insuring, and servicing of such mortgages conform with those customarily used by secondary market purchasers of residential mortgage loans. Not later than the expiration of the 12-month period beginning on the date of the enactment of this Act, the Secretary shall submit a report to the Congress describing the progress made and to be made toward updating and upgrading such processes and technology, and providing appropriate staffing for such mortgage insurance programs.

#### SEC. 117. POST-PURCHASE HOUSING COUNSELING ELIGIBILITY IMPROVEMENTS.

Section 106(c)(4) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(4)) is amended:

(1) in subparagraph (C)—

(A) in clause (i), by striking “; or” and inserting a semicolon;

(B) in clause (ii), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(iii) a significant reduction in the income of the household due to divorce or death; or

“(iv) a significant increase in basic expenses of the homeowner or an immediate family member of the homeowner (including the spouse, child, or parent for whom the homeowner provides substantial care or financial assistance) due to—

“(I) an unexpected or significant increase in medical expenses;

“(II) a divorce;

“(III) unexpected and significant damage to the property, the repair of which will not be covered by private or public insurance; or

“(IV) a large property-tax increase; or”;

(2) by striking the matter that follows subparagraph (C); and

(3) by adding at the end the following:

“(D) the Secretary of Housing and Urban Development determines that the annual income of the homeowner is no greater than the annual income established by the Sec-

retary as being of low- or moderate-income.”.

#### SEC. 118. PRE-PURCHASE HOMEOWNERSHIP COUNSELING DEMONSTRATION.

(a) ESTABLISHMENT OF PROGRAM.—For the period beginning on the date of enactment of this Act and ending on the date that is 3 years after such date of enactment, the Secretary of Housing and Urban Development shall establish and conduct a demonstration program to test the effectiveness of alternative forms of pre-purchase homeownership counseling for eligible homebuyers.

(b) FORMS OF COUNSELING.—The Secretary of Housing and Urban Development shall provide to eligible homebuyers pre-purchase homeownership counseling under this section in the form of—

- (1) telephone counseling;
- (2) individualized in-person counseling;
- (3) web-based counseling;
- (4) counseling classes; or

(5) any other form or type of counseling that the Secretary may, in his discretion, determine appropriate.

(c) SIZE OF PROGRAM.—The Secretary shall make available the pre-purchase homeownership counseling described in subsection (b) to not more than 3,000 eligible homebuyers in any given year.

(d) INCENTIVE TO PARTICIPATE.—The Secretary of Housing and Urban Development may provide incentives to eligible homebuyers to participate in the demonstration program established under subsection (a). Such incentives may include the reduction of any insurance premium charges owed by the eligible homebuyer to the Secretary.

(e) ELIGIBLE HOMEBUYER DEFINED.—For purposes of this section an “eligible homebuyer” means a first-time homebuyer who has been approved for a home loan with a loan-to-value ratio between 97 percent and 98.5 percent.

(f) REPORT TO CONGRESS.—The Secretary of Housing and Urban Development shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representative—

(1) on an annual basis, on the progress and results of the demonstration program established under subsection (a); and

(2) for the period beginning on the date of enactment of this Act and ending on the date that is 5 years after such date of enactment, on the payment history and delinquency rates of eligible homebuyers who participated in the demonstration program.

#### SEC. 119. FRAUD PREVENTION.

Section 1014 of title 18, United States Code, is amended in the first sentence—

(1) by inserting “the Federal Housing Administration” before “the Farm Credit Administration”; and

(2) by striking “commitment, or loan” and inserting “commitment, loan, or insurance agreement or application for insurance or a guarantee”.

#### SEC. 120. LIMITATION ON MORTGAGE INSURANCE PREMIUM INCREASES.

(a) IN GENERAL.—Notwithstanding any other provision of law, including any provision of this Act and any amendment made by this Act—

(1) for the period beginning on the date of the enactment of this Act and ending on October 1, 2009, the premiums charged for mortgage insurance under multifamily housing programs under the National Housing Act may not be increased above the premium amounts in effect under such program on October 1, 2006, unless the Secretary of Housing and Urban Development determines that, absent such increase, insurance of additional mortgages under such program would, under the Federal Credit Reform Act of 1990, re-

quire the appropriation of new budget authority to cover the costs (as such term is defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a) of such insurance; and

(2) a premium increase pursuant to paragraph (1) may be made only if not less than 30 days prior to such increase taking effect, the Secretary of Housing and Urban Development—

(A) notifies the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of such increase; and

(B) publishes notice of such increase in the Federal Register.

(b) WAIVER.—The Secretary of Housing and Urban Development may waive the 30-day notice requirement under subsection (a)(2), if the Secretary determines that waiting 30-days before increasing premiums would cause substantial damage to the solvency of multifamily housing programs under the National Housing Act.

#### SEC. 121. SAVINGS PROVISION.

Any mortgage insured under title II of the National Housing Act before the date of enactment of this title shall continue to be governed by the laws, regulations, orders, and terms and conditions to which it was subject on the day before the date of the enactment of this title.

#### SEC. 122. IMPLEMENTATION.

The Secretary of Housing and Urban Development shall by notice establish any additional requirements that may be necessary to immediately carry out the provisions of this title. The notice shall take effect upon issuance.

#### SEC. 123. MORATORIUM ON IMPLEMENTATION OF RISK-BASED PREMIUMS.

For the 12-month period beginning on the date of enactment of this Act, the Secretary of Housing and Urban Development shall not enact, execute, or take any action to make effective the planned implementation of risk-based premiums, which are designed for mortgage lenders to offer borrowers an FHA-insured product that provides a range of mortgage insurance premium pricing, based on the risk the insurance contract represents, as such planned implementation was set forth in the Notice published in the Federal Register on September 20, 2007 (Vol. 72, No. 182, Page 53872).

### TITLE II—MANUFACTURED HOUSING LOAN MODERNIZATION

#### SEC. 201. SHORT TITLE.

This title may be cited as the “FHA Manufactured Housing Loan Modernization Act of 2007”.

#### SEC. 202. PURPOSES.

The purposes of this title are—

(1) to provide adequate funding for FHA-insured manufactured housing loans for low- and moderate-income homebuyers during all economic cycles in the manufactured housing industry;

(2) to modernize the FHA title I insurance program for manufactured housing loans to enhance participation by Ginnie Mae and the private lending markets; and

(3) to adjust the low loan limits for title I manufactured home loan insurance to reflect the increase in costs since such limits were last increased in 1992 and to index the limits to inflation.

#### SEC. 203. EXCEPTION TO LIMITATION ON FINANCIAL INSTITUTION PORTFOLIO.

The second sentence of section 2(a) of the National Housing Act (12 U.S.C. 1703(a)) is amended—

(1) by striking “In no case” and inserting “Other than in connection with a manufactured home or a lot on which to place such a home (or both), in no case”; and

(2) by striking “: *Provided*, That with” and inserting “. With”.

**SEC. 204. INSURANCE BENEFITS.**

(a) IN GENERAL.—Subsection (b) of section 2 of the National Housing Act (12 U.S.C. 1703(b)), is amended by adding at the end the following new paragraph:

“(8) INSURANCE BENEFITS FOR MANUFACTURED HOUSING LOANS.—Any contract of insurance with respect to loans, advances of credit, or purchases in connection with a manufactured home or a lot on which to place a manufactured home (or both) for a financial institution that is executed under this title after the date of the enactment of the FHA Manufactured Housing Loan Modernization Act of 2007 by the Secretary shall be conclusive evidence of the eligibility of such financial institution for insurance, and the validity of any contract of insurance so executed shall be uncontested in the hands of the bearer from the date of the execution of such contract, except for fraud or misrepresentation on the part of such institution.”

(b) APPLICABILITY.—The amendment made by subsection (a) shall only apply to loans that are registered or endorsed for insurance after the date of the enactment of this Act.

**SEC. 205. MAXIMUM LOAN LIMITS.**

(a) DOLLAR AMOUNTS.—Paragraph (1) of section 2(b) of the National Housing Act (12 U.S.C. 1703(b)(1)) is amended—

(1) in clause (ii) of subparagraph (A), by striking “\$17,500” and inserting “\$25,090”;

(2) in subparagraph (C) by striking “\$48,600” and inserting “\$69,678”;

(3) in subparagraph (D) by striking “\$64,800” and inserting “\$92,904”;

(4) in subparagraph (E) by striking “\$16,200” and inserting “\$23,226”; and

(5) by realigning subparagraphs (C), (D), and (E) 2 ems to the left so that the left margins of such subparagraphs are aligned with the margins of subparagraphs (A) and (B).

(b) ANNUAL INDEXING.—Subsection (b) of section 2 of the National Housing Act (12 U.S.C. 1703(b)), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new paragraph:

“(9) ANNUAL INDEXING OF MANUFACTURED HOUSING LOANS.—The Secretary shall develop a method of indexing in order to annually adjust the loan limits established in subparagraphs (A)(ii), (C), (D), and (E) of this subsection. Such index shall be based on the manufactured housing price data collected by the United States Census Bureau. The Secretary shall establish such index no later than 1 year after the date of the enactment of the FHA Manufactured Housing Loan Modernization Act of 2007.”

(c) TECHNICAL AND CONFORMING CHANGES.—Paragraph (1) of section 2(b) of the National Housing Act (12 U.S.C. 1703(b)(1)) is amended—

(1) by striking “No” and inserting “Except as provided in the last sentence of this paragraph, no”; and

(2) by adding after and below subparagraph (G) the following:

“The Secretary shall, by regulation, annually increase the dollar amount limitations in subparagraphs (A)(ii), (C), (D), and (E) (as such limitations may have been previously adjusted under this sentence) in accordance with the index established pursuant to paragraph (9).”

**SEC. 206. INSURANCE PREMIUMS.**

Subsection (f) of section 2 of the National Housing Act (12 U.S.C. 1703(f)) is amended—

(1) by inserting “(1) PREMIUM CHARGES.—” after “(f)”; and

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

“(2) MANUFACTURED HOME LOANS.—Notwithstanding paragraph (1), in the case of a

loan, advance of credit, or purchase in connection with a manufactured home or a lot on which to place such a home (or both), the premium charge for the insurance granted under this section shall be paid by the borrower under the loan or advance of credit, as follows:

“(A) At the time of the making of the loan, advance of credit, or purchase, a single premium payment in an amount not to exceed 2.25 percent of the amount of the original insured principal obligation.

“(B) In addition to the premium under subparagraph (A), annual premium payments during the term of the loan, advance, or obligation purchased in an amount not exceeding 1.0 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments).

“(C) Premium charges under this paragraph shall be established in amounts that are sufficient, but do not exceed the minimum amounts necessary, to maintain a negative credit subsidy for the program under this section for insurance of loans, advances of credit, or purchases in connection with a manufactured home or a lot on which to place such a home (or both), as determined based upon risk to the Federal Government under existing underwriting requirements.

“(D) The Secretary may increase the limitations on premium payments to percentages above those set forth in subparagraphs (A) and (B), but only if necessary, and not in excess of the minimum increase necessary, to maintain a negative credit subsidy as described in subparagraph (C).”

**SEC. 207. TECHNICAL CORRECTIONS.**

(a) DATES.—Subsection (a) of section 2 of the National Housing Act (12 U.S.C. 1703(a)) is amended—

(1) by striking “on and after July 1, 1939,” each place such term appears; and

(2) by striking “made after the effective date of the Housing Act of 1954”.

(b) AUTHORITY OF SECRETARY.—Subsection (c) of section 2 of the National Housing Act (12 U.S.C. 1703(c)) is amended to read as follows:

“(c) HANDLING AND DISPOSAL OF PROPERTY.—

“(1) AUTHORITY OF SECRETARY.—Notwithstanding any other provision of law, the Secretary may—

“(A) deal with, complete, rent, renovate, modernize, insure, or assign or sell at public or private sale, or otherwise dispose of, for cash or credit in the Secretary’s discretion, and upon such terms and conditions and for such consideration as the Secretary shall determine to be reasonable, any real or personal property conveyed to or otherwise acquired by the Secretary, in connection with the payment of insurance heretofore or hereafter granted under this title, including any evidence of debt, contract, claim, personal property, or security assigned to or held by him in connection with the payment of insurance heretofore or hereafter granted under this section; and

“(B) pursue to final collection, by way of compromise or otherwise, all claims assigned to or held by the Secretary and all legal or equitable rights accruing to the Secretary in connection with the payment of such insurance, including unpaid insurance premiums owed in connection with insurance made available by this title.

“(2) ADVERTISEMENTS FOR PROPOSALS.—Section 3709 of the Revised Statutes shall not be construed to apply to any contract of hazard insurance or to any purchase or contract for services or supplies on account of such property if the amount thereof does not exceed \$25,000.

“(3) DELEGATION OF AUTHORITY.—The power to convey and to execute in the name of the Secretary, deeds of conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real or personal property or any interest therein heretofore or hereafter acquired by the Secretary pursuant to the provisions of this title may be exercised by an officer appointed by the Secretary without the execution of any express delegation of power or power of attorney. Nothing in this subsection shall be construed to prevent the Secretary from delegating such power by order or by power of attorney, in the Secretary’s discretion, to any officer or agent the Secretary may appoint.”

**SEC. 208. REVISION OF UNDERWRITING CRITERIA.**

(a) IN GENERAL.—Subsection (b) of section 2 of the National Housing Act (12 U.S.C. 1703(b)), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new paragraph:

“(10) FINANCIAL SOUNDNESS OF MANUFACTURED HOUSING PROGRAM.—The Secretary shall establish such underwriting criteria for loans and advances of credit in connection with a manufactured home or a lot on which to place a manufactured home (or both), including such loans and advances represented by obligations purchased by financial institutions, as may be necessary to ensure that the program under this title for insurance for financial institutions against losses from such loans, advances of credit, and purchases is financially sound.”

(b) TIMING.—Not later than the expiration of the 6-month period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall revise the existing underwriting criteria for the program referred to in paragraph (10) of section 2(b) of the National Housing Act (as added by subsection (a) of this section) in accordance with the requirements of such paragraph.

**SEC. 209. PROHIBITION AGAINST KICKBACKS AND UNEARNED FEES.**

Title I of the National Housing Act is amended by adding at the end of section 9 the following new section:

**“SEC. 10. PROHIBITION AGAINST KICKBACKS AND UNEARNED FEES.**

“(a) IN GENERAL.—Except as provided in subsection (b), the provisions of sections 3, 8, 16, 17, 18, and 19 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) shall apply to each sale of a manufactured home financed with an FHA-insured loan or extension of credit, as well as to services rendered in connection with such transactions.

“(b) AUTHORITY OF THE SECRETARY.—The Secretary is authorized to determine the manner and extent to which the provisions of sections 3, 8, 16, 17, 18, and 19 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) may reasonably be applied to the transactions described in subsection (a), and to grant such exemptions as may be necessary to achieve the purposes of this section.

“(c) DEFINITIONS.—For purposes of this section—

“(1) the term ‘federally related mortgage loan’ as used in sections 3, 8, 16, 17, 18, and 19 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) shall include an FHA-insured loan or extension of credit made to a borrower for the purpose of purchasing a manufactured home that the borrower intends to occupy as a personal residence; and

“(2) the term ‘real estate settlement service’ as used in sections 3, 8, 16, 17, 18, and 19 of the Real Estate Settlement Procedures

Act of 1974 (12 U.S.C. 2601 et seq.) shall include any service rendered in connection with a loan or extension of credit insured by the Federal Housing Administration for the purchase of a manufactured home.

“(d) UNFAIR AND DECEPTIVE PRACTICES.—In connection with the purchase of a manufactured home financed with a loan or extension of credit insured by the Federal Housing Administration under this title, the Secretary shall prohibit acts or practices in connection with loans or extensions of credit that the Secretary finds to be unfair, deceptive, or otherwise not in the interests of the borrower.”.

#### SEC. 210. LEASEHOLD REQUIREMENTS.

Subsection (b) of section 2 of the National Housing Act (12 U.S.C. 1703(b)), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new paragraph:

“(11) LEASEHOLD REQUIREMENTS.—No insurance shall be granted under this section to any such financial institution with respect to any obligation representing any such loan, advance of credit, or purchase by it, made for the purposes of financing a manufactured home which is intended to be situated in a manufactured home community pursuant to a lease, unless such lease—

“(A) expires not less than 3 years after the origination date of the obligation;

“(B) is renewable upon the expiration of the original 3 year term by successive 1 year terms; and

“(C) requires the lessor to provide the lessee written notice of termination of the lease not less than 180 days prior to the expiration of the current lease term in the event the lessee is required to move due to the closing of the manufactured home community, and further provides that failure to provide such notice to the mortgagor in a timely manner will cause the lease term, at its expiration, to automatically renew for an additional 1 year term.”.

Mr. REID. Madam President, I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

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#### UNANIMOUS-CONSENT AGREEMENT—H.R. 1585

Mr. REID. Madam President, I ask unanimous consent that upon disposition, which it has been disposed of, this bill, S. 2338, the Senate proceed to the conference report to accompany H.R. 1585, the most important Department of Defense authorization bill; that it be considered under a limitation of 60 minutes for debate with respect to the conference report, with the time equally divided and controlled between the chairman and ranking member of the Armed Services Committee; that upon the use of yielding back of time, the Senate proceed to vote on adoption of the conference report; that upon adoption of the conference report, the Senate proceed to H. Con. Res. 269, a correcting resolution; that the concurrent resolution be considered, agreed to and the motion to reconsider be laid on the table; all the above occurring without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDER OF BUSINESS

Mr. REID. Madam President, we are going to then move and complete work today on the farm bill. We hope the two managers can work through whatever minor problems exist. The sooner people determine what they want to do, the more quickly we can dispose of the bill.

As I indicated earlier, we are going to file cloture this evening, this afternoon, on the Foreign Intelligence Surveillance Act. It is an extremely important piece of legislation. There are some strong feelings on both sides of the issue. We are going to come in around 11 o'clock on Monday morning. There will be a vote around noon on Monday. The managers of this bill, this important bill, should be ready to start legislating Monday afternoon. We do not have a lot of time.

This is an important piece of legislation. There are a significant number of amendments people want to offer. A week from Tuesday is Christmas. So I would hope we can work our way through this. We hope there are some other issues we can complete. Late in the session like this, they have to be agreed upon.

Senator McCONNELL and I have had a number of conversations the last couple of days on the way we are going to end the session regarding funding, other issues relating to funding. The one good thing is both my office and his office have kept quiet about it. As a result of that, things are moving fairly quietly.

That is the way we want it. No one will be surprised about anything. Everyone will know exactly what is going to happen. At this stage, it appears the House will take up the spending matter, the omnibus, on Monday. They will send it to us on Tuesday. That is the glidepath we have now. The path we hope is a smooth one, but in this world we live in, you never know, but it is looking pretty good.

The PRESIDING OFFICER. The Republican leader.

Mr. McCONNELL. Madam President, let me briefly add, I am hoping there will not be a need for this hour of debate on the Defense conference report. I think we all know what is in it at this point. Hopefully, we can yield back time. There are a number of Members who have travel plans. If we can expedite the consideration of the remaining issues, it would be appreciated by a great many of our Members.

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#### DEPARTMENT OF DEFENSE APPROPRIATIONS ACT—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of the conference report to accompany H.R. 1585. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the

amendment of the Senate to the bill (H.R. 1585), to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment and the Senate agree to the same, signed by a majority of the conferees on the part of both Houses.

The PRESIDING OFFICER. Under the previous order there are 60 minutes of debate equally divided.

Mr. LEVIN. Madam President, I ask unanimous consent that the following named staff members of the Committee on Armed Services be granted the privilege of the floor at all times during consideration of and a vote relating to this conference report.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Borawski, June M.; Brewer, Leah C.; Bryan, Joseph M.; Caniano, William M.; Carrillo, Pablo E.; Clark, Jonathan D.; Cohen, Ilona R.; Collins, David G.; Cork, Fletcher L.; Cowart, Christine E.; Cox, Jr., Daniel J.; Creedon, Madelyn R.; Cronin, Kevin A.; DeBoses, Richard D.; Dickinson, Marie Fabrizio; Eisen, Gabriella; Farkas, Evelyn N.; Fieldhouse, Richard W.; Forbes, Diana Tabler; Greene, Creighton;

Howard, Gary J.; Hutton, IV, Paul C.; Jacobson, Mark R.; Kiley, Gregory T.; Kingston, Jessica L.; Kostiw, Michael V.; Kuiken, Michael J.; Leeling, Gerald J.; Levine, Peter K.; Maurer, Derek J.; McConnell, Thomas K.; McCord, Michael J.; Monahan, William G.P.; Morriss, David M.; Niemeyer, Lucian L.; Noblet, Michael J.; Parker, Bryan D.; Pasha, Ali Z.; Paul, Christopher J.; Pearson, Cindy; Pollock, David;

Quirk V. John H.; Rubin, Benjamin L.; Rusten, Lynn F.; Sebold, Brian F.; Seraphin, Arun A.; Smith, Travis E.; Soofer, Robert M.; Stackley, Sean G.; Svinicki, Kristine L.; Sutey, William K.; Wagner, Mary Louise; Walsh, Richard F.; Wells, Breon N.; White, Dana W.;

Mr. WARNER. If the chairman would yield for a minute, I would invite my colleagues on this side of the aisle on the Armed Services Committee to indicate to me if they desire to speak. You have heard the Republican leader urge that we move along as quickly as possible. But I will try to accommodate all those who wish to speak within the 30 minutes allocated on this side.

Mr. LEVIN. Madam President, I make the same request for Senators on this side of the aisle. If they wish to speak during this brief period, let us know. We will try to fit in as many as possible.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Madam President, I urge the adoption of this conference report for the Defense Department. Every year since 1961 there has been a Defense authorization bill enacted. This year conferees and staff have worked extraordinarily hard, with bipartisan cooperation, and we are proud to be keeping up our four-and-one-half decades-long tradition with this conference report.

The great men and women of our Armed Forces are making the most difficult sacrifices. They are putting their