

Union Calendar No. 465

108TH CONGRESS
2D SESSION

H. R. 3755

[Report No. 108-748]

To authorize the Secretary of Housing and Urban Development to insure zero-downpayment mortgages for one-unit residences.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 3, 2004

Mr. TIBERI (for himself, Mr. SCOTT of Georgia, Mr. OXLEY, Mr. NEY, Mr. TURNER of Ohio, Mr. GREEN of Wisconsin, Mr. KING of New York, Mr. RENZI, Mr. LUCAS of Kentucky, and Mr. CLAY) introduced the following bill; which was referred to the Committee on Financial Services

OCTOBER 6, 2004

Additional sponsors: Ms. PRYCE of Ohio, Ms. HART, Mr. OTTER, Mr. HINOJOSA, Mr. SHAYS, Mr. FORD, Mr. GRIJALVA, Mr. WILSON of South Carolina, Mr. MILLER of Florida, Mr. MICHAUD, Mr. BACHUS, Mr. LEWIS of Georgia, Mr. BISHOP of Georgia, Ms. MAJETTE, Mr. OWENS, Ms. HARRIS, Mr. PALLONE, Mr. EMANUEL, Mr. MCCOTTER, Mr. DELAHUNT, Mrs. MILLER of Michigan, Mr. PASTOR, Mrs. MALONEY, Mr. FEENEY, Mr. WOLF, Mr. JEFFERSON, Mr. ROSS, Mrs. EMERSON, Ms. BERKLEY, Mr. BRADLEY of New Hampshire, Mr. ABERCROMBIE, Mr. ISRAEL, Mr. SULLIVAN, Mr. STENHOLM, Mr. NETHERCUTT, Mr. FILNER, Mr. NEUGEBAUER, Mr. GORDON, Mr. ALEXANDER, Mr. FOSSELLA, Mr. DAVIS of Alabama, Mr. GONZALEZ, Mr. MANZULLO, Mr. REHBERG, Mr. PLATTS, Ms. NORTON, Mr. CHANDLER, Mr. BACA, Mr. MARSHALL, Mr. MURPHY, Mrs. MCCARTHY of New York, Mr. SIMMONS, Mr. TERRY, Mr. HAYES, Mr. WYNN, Mr. WEINER, Mr. LANGEVIN, and Mrs. KELLY

OCTOBER 6, 2004

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]
[For text of introduced bill, see copy of bill as introduced on February 3, 2004]

A BILL

To authorize the Secretary of Housing and Urban Development to insure zero-downpayment mortgages for one-unit residences.

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

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Zero Downpayment Act*
5 *of 2004”.*

6 **SEC. 2. INSURANCE FOR ZERO-DOWNPAYMENT MORT-**
7 **GAGES.**

8 *(a) MORTGAGE INSURANCE AUTHORITY.—Section 203*
9 *of the National Housing Act (12 U.S.C. 1709) is amended*
10 *by inserting after subsection (k) the following new sub-*
11 *section:*

12 *“(l) ZERO-DOWNPAYMENT MORTGAGES.—*

13 *“(1) INSURANCE AUTHORITY.—The Secretary*
14 *may insure, and commit to insure, under this sub-*
15 *section any mortgage that meets the requirements of*
16 *this subsection and, except as otherwise specifically*
17 *provided in this subsection, of subsection (b).*

1 “(2) *ELIGIBLE SINGLE FAMILY PROPERTY.*—To
2 *be eligible for insurance under this subsection, a*
3 *mortgage shall involve a property upon which there*
4 *is located a dwelling that is designed principally for*
5 *a 1- to 3-family residence and that, notwithstanding*
6 *subsection (g), is to be occupied by the mortgagor as*
7 *his or her principal residence, which shall include—*

8 “(A) *a 1-family dwelling unit in a multi-*
9 *family project and an undivided interest in the*
10 *common areas and facilities which serve the*
11 *project;*

12 “(B) *a 1-family dwelling unit of a coopera-*
13 *tive housing corporation the permanent occu-*
14 *pancy of the dwelling units of which is restricted*
15 *to members of such corporation and in which the*
16 *purchase of such stock or membership entitles the*
17 *purchaser to the permanent occupancy of such*
18 *dwelling unit; and*

19 “(C) *a manufactured home that meets such*
20 *standards as the Secretary has established for*
21 *purposes of subsection (b).*

22 “(3) *MAXIMUM PRINCIPAL OBLIGATION.*—

23 “(A) *LIMITATION.*—*To be eligible for insur-*
24 *ance under this subsection, a mortgage shall in-*
25 *volve a principal obligation in an amount not in*

1 *excess of 100 percent of the appraised value of*
2 *the property plus any initial service charges, ap-*
3 *praisal, inspection and other fees in connection*
4 *with the mortgage as approved by the Secretary.*

5 “(B) *INAPPLICABILITY OF OTHER LOAN-TO-*
6 *VALUE REQUIREMENTS.—A mortgage insured*
7 *under this subsection shall not be subject to sub-*
8 *paragraph (B) of paragraph (2) of subsection (b)*
9 *or to the matter in such paragraph that follows*
10 *such subparagraph.*

11 “(4) *ELIGIBLE MORTGAGORS.—The mortgagor*
12 *under a mortgage insured under this subsection shall*
13 *meet the following requirements:*

14 “(A) *FIRST-TIME HOMEBUYER.—The mort-*
15 *gagor shall be a first-time homebuyer. The pro-*
16 *gram for mortgage insurance under this sub-*
17 *section shall be considered a Federal program to*
18 *assist first-time homebuyers for purposes of sec-*
19 *tion 956 of the Cranston-Gonzalez National Af-*
20 *fordable Housing Act (42 U.S.C. 12713).*

21 “(B) *COUNSELING.—*

22 “(i) *REQUIREMENT.—The mortgagor*
23 *shall have received counseling, prior to ap-*
24 *plication for the loan involved in the mort-*
25 *gage, by a third party (other than the mort-*

1 gatee) who is approved by the Secretary,
2 with respect to the responsibilities and fi-
3 nancial management involved in home-
4 ownership. Such counseling shall be pro-
5 vided to the mortgagor on an individual
6 basis by a representative of the approved
7 third party counseling entity, and shall be
8 provided in person to the maximum extent
9 practicable.

10 “(ii) TOPICS.—Such counseling shall
11 include providing to, and discussing with,
12 the mortgagor—

13 “(I) information regarding home-
14 ownership options other than a mort-
15 gage insured under this subsection,
16 other zero- or low-downpayment mort-
17 gage options that are or may become
18 available to the mortgagor, the finan-
19 cial implications of entering into a
20 mortgage (including a mortgage in-
21 sured under this subsection), and any
22 other information that the Secretary
23 may require; and

24 “(II) a document that sets forth
25 the amount and the percentage by

1 *which a property subject to a mortgage*
2 *insured under this subsection must ap-*
3 *preciate for the mortgagor to recover*
4 *the principal amount of the mortgage,*
5 *the costs financed under the mortgage,*
6 *and the estimated costs involved in*
7 *selling the property, if the mortgagor*
8 *were to sell the property on each of the*
9 *second, fifth, and tenth anniversaries of*
10 *the mortgage.*

11 “(iii) 2- AND 3-FAMILY RESIDENCES.—
12 *In the case of a mortgage involving a 2- or*
13 *3-family residence, such counseling shall in-*
14 *clude (in addition to the information re-*
15 *quired under clause (ii)) information re-*
16 *garding real estate property management.*

17 “(5) OPTION FOR NOTICE OF FORECLOSURE PRE-
18 VENTION COUNSELING AVAILABILITY.—

19 “(A) OPTION.—*To be eligible for insurance*
20 *under this subsection, the mortgagee shall pro-*
21 *vide mortgagor, at the time of the execution of*
22 *the mortgage, an optional written agreement*
23 *which, if signed by the mortgagor, allows, but*
24 *does not require, the mortgagee to provide notice*
25 *described in subparagraph (B) to a housing*

1 *counseling entity that has agreed to provide the*
2 *notice and counseling required under subpara-*
3 *graph (C) and is approved by the Secretary.*

4 “(B) *NOTICE TO COUNSELING AGENCY.—*
5 *The notice described in this subparagraph, with*
6 *respect to a mortgage, is notice, provided at the*
7 *earliest time practicable after the mortgagor be-*
8 *comes 60 days delinquent with respect to any*
9 *payment due under the mortgage, that the mort-*
10 *gagor is so delinquent and of how to contact the*
11 *mortgagor. Such notice may only be provided*
12 *once with respect to each delinquency period for*
13 *a mortgage.*

14 “(C) *NOTICE TO MORTGAGOR.—Upon notice*
15 *from a mortgagee that a mortgagor is 60 days*
16 *delinquent with respect to payments due under*
17 *the mortgage, the housing counseling entity shall*
18 *at the earliest time practicable notify the mort-*
19 *gagor of such delinquency, that the entity makes*
20 *available foreclosure prevention counseling that*
21 *may assist the mortgagor in resolving the delin-*
22 *quency, and of how to contact the entity to ar-*
23 *range for such counseling.*

24 “(D) *ABILITY TO CURE.—Failure to provide*
25 *the optional written agreement required under*

1 *subparagraph (A) may be corrected by sending*
2 *such agreement to the mortgagor not later than*
3 *the earliest time practicable after the mortgagor*
4 *first becomes 60 days delinquent with respect to*
5 *payments due under the mortgage. Insurance*
6 *provided under this subsection may not be termi-*
7 *nated and penalties for such failure may not be*
8 *prospectively or retroactively imposed if such*
9 *failure is corrected in accordance with this sub-*
10 *paragraph.*

11 *“(E) PENALTIES FOR FAILURE TO PROVIDE*
12 *AGREEMENT.—The Secretary may establish and*
13 *impose appropriate penalties for failure of a*
14 *mortgagee to provide the optional written agree-*
15 *ment required under subparagraph (A).*

16 *“(F) LIMITATION ON LIABILITY OF MORT-*
17 *GAGEE.—A mortgagee shall not incur any liabil-*
18 *ity or penalties for any failure of a housing*
19 *counseling entity to provide notice under sub-*
20 *paragraph (C).*

21 *“(G) NO PRIVATE RIGHT OF ACTION.—This*
22 *paragraph shall not create any private right of*
23 *action on behalf of the mortgagor.*

24 *“(H) DELINQUENCY PERIOD.—For purposes*
25 *of this paragraph, the term ‘delinquency period’*

1 *means, with respect to a mortgage, a period that*
2 *begins upon the mortgagor becoming delinquent*
3 *with respect to payments due under the mortgage*
4 *and ends upon the first subsequent occurrence of*
5 *such payments under the mortgage becoming*
6 *current or the property subject to the mortgage*
7 *being foreclosed or otherwise disposed of.*

8 “(6) *INAPPLICABILITY OF DOWNPAYMENT RE-*
9 *QUIREMENT.—A mortgage insured under this sub-*
10 *section shall not be subject to paragraph (9) of sub-*
11 *section (b) or any other requirement to pay on ac-*
12 *count of the property, in cash or its equivalent, any*
13 *amount of the cost of acquisition.*

14 “(7) *MMIF MONITORING.—In conjunction with*
15 *the credit subsidy estimation calculated each year*
16 *pursuant to the Federal Credit Reform Act of 1990 (2*
17 *U.S.C. 661 et seq.), the Secretary shall review the pro-*
18 *gram performance for mortgages insured under this*
19 *subsection and make any necessary adjustments,*
20 *which may include altering mortgage insurance pre-*
21 *miums subject to subsection (c)(2), adjusting under-*
22 *writing standards, and limiting the availability of*
23 *mortgage insurance under this subsection, to ensure*
24 *that the Mutual Mortgage Insurance Fund shall con-*
25 *tinue to generate a negative credit subsidy.*

1 “(8) *UNDERWRITING.*—*For a mortgage to be eli-*
2 *gible for insurance under this subsection:*

3 “(A) *IN GENERAL.*—*The mortgagor’s credit*
4 *and ability to pay the monthly mortgage pay-*
5 *ments shall have been evaluated using the Fed-*
6 *eral Housing Administration’s Technology Open*
7 *To Approved Lenders (TOTAL) Mortgage Score-*
8 *card, or a similar standardized credit scoring*
9 *system approved by the Secretary, and in ac-*
10 *cordance with procedures established by the Sec-*
11 *retary.*

12 “(B) *MULTI-UNIT PROPERTIES.*—*In the case*
13 *of a mortgage involving a property upon which*
14 *there is located a dwelling that is designed prin-*
15 *cipally for a 2- or 3-family residence, the mort-*
16 *gagor meets such additional underwriting stand-*
17 *ards as the Secretary may establish.*

18 “(9) *APPROVAL OF MORTGAGEES.*—*To be eligible*
19 *for insurance under this subsection, a mortgage shall*
20 *have been made to a mortgagee that meets such cri-*
21 *teria as the Secretary shall establish to ensure that*
22 *mortgagees meet appropriate standards for participa-*
23 *tion in the program authorized under this subsection.*

24 “(10) *DISCLOSURE OF INCREMENTAL COSTS.*—

1 “(A) *REQUIRED DISCLOSURE.*—*For a mort-*
2 *gage to be eligible for insurance under this sub-*
3 *section, the mortgagee shall provide to the mort-*
4 *gagor, at the time of the application for the loan*
5 *involved in the mortgage, a written disclosure, as*
6 *the Secretary shall require, that specifies the ef-*
7 *fective cost to a mortgagor of borrowing the*
8 *amount by which the maximum amount that*
9 *could be borrowed under a mortgage insured*
10 *under this subsection exceeds the maximum*
11 *amount that could be borrowed under a mortgage*
12 *insured under subsection (b), based on average*
13 *closing costs with respect to such amount, as de-*
14 *termined by the Secretary. Such cost shall be ex-*
15 *pressed as an annual interest rate over the first*
16 *5 years of a mortgage.*

17 “(B) *COORDINATION.*—*The disclosure re-*
18 *quired under this paragraph may be provided in*
19 *conjunction with the notice required under sub-*
20 *section (f).*

21 “(11) *LOSS MITIGATION.*—

22 “(A) *IN GENERAL.*—*Upon the default of*
23 *any mortgage insured under this subsection, the*
24 *mortgagee shall engage in loss mitigation actions*
25 *for the purpose of providing an alternative to*

1 *foreclosure to the same extent as is required of*
2 *other mortgages insured under this title pursu-*
3 *ant to the regulations issued under section*
4 *230(a).*

5 “(B) *ANNUAL REPORTING.*—*Not later than*
6 *90 days after the end of each fiscal year, the Sec-*
7 *retary shall submit a report to the Congress that*
8 *compares the rates of default and foreclosure dur-*
9 *ing such fiscal year for mortgages insured under*
10 *this subsection, for single-family mortgages in-*
11 *sured under this title (other than under this sub-*
12 *section), and for mortgages for housing pur-*
13 *chased with assistance provided under the down-*
14 *payment assistance initiative under section 271*
15 *of the Cranston-Gonzalez National Affordable*
16 *Housing Act (42 U.S.C. 12821).*

17 “(12) *ADDITIONAL REQUIREMENTS.*—*The Sec-*
18 *retary may establish any additional requirements for*
19 *mortgage insurance under this subsection as may be*
20 *necessary or appropriate.*

21 “(13) *LIMITATION.*—*The aggregate number of*
22 *mortgages insured under this subsection in any fiscal*
23 *year may not exceed 10 percent of the aggregate num-*
24 *ber of mortgages and loans insured by the Secretary*
25 *under this title during the preceding fiscal year.*

1 “(14) *PROGRAM SUSPENSION.*—

2 “(A) *IN GENERAL.*—Subject to subpara-
3 graph (C), the authority under paragraph (1) to
4 insure mortgages shall be suspended if at any
5 time the claim rate described in subparagraph
6 (B) exceeds 3.5 percent. A suspension under this
7 subparagraph shall remain in effect until such
8 time as such claim rate is 3.5 percent or less.

9 “(B) *FHA TOTAL SINGLE-FAMILY ANNUAL*
10 *CLAIM RATE.*—The claim rate described in this
11 subparagraph, for any particular time, is the
12 ratio of the number of claims during the 12
13 months preceding such time on mortgages on 1-
14 to 4-family residences insured pursuant to this
15 title to the number of mortgages on such resi-
16 dences having such insurance in force at that
17 time.

18 “(C) *APPLICABILITY.*—A suspension under
19 subparagraph (A) shall not preclude the Sec-
20 retary from endorsing or insuring any mortgage
21 that was duly executed before the date of such
22 suspension.

23 “(15) *SUNSET.*—No mortgage may be insured
24 under this subsection after September 30, 2009, except

1 that the Secretary may endorse or insure any mort-
2 gage that was duly executed before such date.

3 “(16) *GAO REPORTS.*—The Comptroller General
4 of the United States shall submit a report to the Con-
5 gress not later than 2 years after the date of the en-
6 actment of this subsection, and annually thereafter,
7 regarding the performance of mortgages insured under
8 this subsection.

9 “(17) *IMPLEMENTATION.*—The Secretary may
10 implement this subsection on an interim basis by
11 issuing an interim rule, except that the Secretary
12 shall solicit public comments upon publication of such
13 interim rule and shall issue a final rule imple-
14 menting this subsection after consideration of the
15 comments submitted.”.

16 (b) *MORTGAGE INSURANCE PREMIUMS.*—The second
17 sentence of subparagraph (A) of section 203(c)(2) of the Na-
18 tional Housing Act (12 U.S.C. 1709(c)(2)(A)) is amended
19 by striking “In” and inserting “Except with respect to a
20 mortgage insured under subsection (l), in”.

21 (c) *GENERAL INSURANCE FUND.*—Section 519(e) of
22 the National Housing Act (12 U.S.C. 1735c(e)) is amended
23 by striking “and 203(i)” and inserting “, 203(i), and
24 203(l)”.

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