

Union Calendar No. 582

110TH CONGRESS
2D SESSION

H. R. 6694

[Report No. 110-905]

To revise the requirements for seller-financed downpayments for mortgages for single-family housing insured by the Secretary of Housing and Urban Development under title II of the National Housing Act and to authorize risk-based insurance premiums for certain mortgagors under such mortgages.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2008

Mr. AL GREEN of Texas (for himself, Mr. GARY G. MILLER of California, Ms. WATERS, and Mr. SHAYS) introduced the following bill; which was referred to the Committee on Financial Services

OCTOBER 2, 2008

Additional sponsors: Mr. SIRES, Ms. MATSUI, Mr. TERRY, Mr. CARDOZA, Ms. LEE, Mr. TIBERI, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. WILSON of Ohio, Mr. CLAY, Mr. CLEAVER, Mr. CARSON, Mr. ROTHMAN, Mr. PASCRELL, Ms. WASSERMAN SCHULTZ, Mr. BACA, Mr. DANIEL E. LUNGREN of California, Mr. LARSEN of Washington, Ms. ZOE LOFGREN of California, Mr. SHIMKUS, Mr. WALSH of New York, Mr. GORDON of Tennessee, Mr. LINCOLN DIAZ-BALART of Florida, Ms. SUTTON, Mr. TOWNS, and Mr. BERMAN

OCTOBER 2, 2008

Reported from the Committee on Financial Services with an amendment

[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 July 31, 2008]

A BILL

To revise the requirements for seller-financed downpayments for mortgages for single-family housing insured by the Secretary of Housing and Urban Development under title II of the National Housing Act and to authorize risk-based insurance premiums for certain mortgagors under such mortgages.

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 “FHA Seller-Financed*
5 *Downpayment Reform and Risk-Based Pricing Authoriza-*
6 *tion Act of 2008”.*

7 **SEC. 2. FHA SELLER-FINANCED DOWNPAYMENT PROGRAM.**

8 *Paragraph (9) of section 203(b) of the National Hous-*
9 *ing Act (12 U.S.C. 1709(b)(9)) is amended—*

10 *(1) in subparagraph (C), by striking “In no case*
11 *shall the funds required by subparagraph (A)” and*
12 *inserting the following: “Except in the case of a mort-*
13 *gage described in subparagraph (D), the funds re-*
14 *quired by subparagraph (A) shall not”; and*

15 *(2) by adding at the end the following new sub-*
16 *paragraphs:*

1 “(D) *EXCEPTIONS TO PROHIBITED*
2 *SOURCES.—A mortgage described in this sub-*
3 *paragraph is any of the following mortgages:*

4 “(i) *A mortgage under which the mort-*
5 *gagor has a credit score equivalent to a*
6 *FICO score of 680 or greater.*

7 “(ii) *A mortgage under which—*

8 “(I) *the mortgagor has a credit*
9 *score equivalent to a FICO score of at*
10 *least 620 but less than 680; and*

11 “(II) *mortgage insurance pre-*
12 *miums charged are established—*

13 “(aa) *at levels necessary, but*
14 *no higher than needed, to allow*
15 *such class of loans to be insured*
16 *without resulting in a need for an*
17 *appropriation for a credit sub-*
18 *sidy, which may exceed the max-*
19 *imum amount permitted under*
20 *section 203(c)(2)(B);*

21 “(bb) *in the case of the single*
22 *premium collected at the time of*
23 *insurance, in an amount not ex-*
24 *ceeding 3.0 percent of the amount*

1 of the original principal obliga-
2 tion of the mortgage; and

3 “(cc) in the case of the an-
4 nual premium for a mortgage
5 under which the mortgagor has a
6 credit score equivalent to a FICO
7 score of at least 640 but less than
8 680, in an amount not exceeding
9 1.25 percent of the remaining in-
10 sured principal balance (exclud-
11 ing the portion of the remaining
12 balance attributable to the pre-
13 mium collected at the time of in-
14 surance and without taking into
15 account delinquent payments or
16 prepayments).

17 “(iii) For mortgages insured in fiscal
18 year 2010 or thereafter, a mortgage under
19 which the mortgagor has a credit score
20 equivalent to a FICO score of 619 or less,
21 but only if the Secretary certifies that such
22 loans can be insured without resulting in a
23 need for an appropriation for a credit sub-
24 sidy. For such mortgages, the Secretary
25 may charge premiums at levels authorized

1 under items (bb) and (cc) of clause (ii)(II)
2 and may establish a credit or FICO score
3 limitation or impose such other require-
4 ments as are necessary to meet the condi-
5 tions for certification under this clause.

6 “(E) REQUIREMENTS FOR DOWNPAYMENT
7 ASSISTANCE ENTITIES.—Any entity partici-
8 pating in a program that provides downpayment
9 assistance for a mortgage described in subpara-
10 graph (D) pursuant to the exception under sub-
11 paragraph (C), which programs shall include
12 programs of governmental agencies and private
13 nonprofit organizations, shall, before the closing
14 for the loan involved in the mortgage in connec-
15 tion with which such assistance is provided—

16 “(i) offer to make available, to the
17 mortgagor, counseling regarding the respon-
18 sibilities and financial management in-
19 volved in homeownership;

20 “(ii) if such offer is accepted by the
21 mortgagor, make such counseling available
22 for the mortgagor; and

23 “(iii) in the case of any such entity
24 that is a private nonprofit organization,
25 implement a conflict of interest policy that

1 prohibits directors, officers, employees, and
2 immediate family members from receiving
3 financial benefits from any entity that is
4 providing the program with goods or serv-
5 ices other than the homeownership assist-
6 ance program entity itself or its wholly
7 owned affiliate.

8 “(F) CIVIL MONEY PENALTIES FOR IMPROP-
9 ERLY INFLUENCING APPRAISALS.—The Secretary
10 may impose a civil money penalty, in the same
11 manner and to the same extent as for a violation
12 under section 536, for compensating, instructing,
13 inducing, coercing, or intimidating any person
14 who conducts an appraisal of the property to be
15 subject to a mortgage described in subparagraph
16 (D) and under which any part of the funds re-
17 quired by subparagraph (A) are provided to a
18 party described in subparagraph (C), or at-
19 tempting to compensate, instruct, induce, coerce,
20 or intimidate such a person, for the purpose of
21 causing the appraised value assigned to the
22 property under the appraisal to be based on any
23 other factor other than the independent judgment
24 of such person exercised in accordance with ap-
25 plicable professional standards.”.

1 **SEC. 3. LIMITATIONS ON RISK-BASED PRICING.**

2 *Section 203(c) of the National Housing Act (12 U.S.C.*
3 *1709(c)) is amended by adding at the end the following new*
4 *paragraphs:*

5 *“(3) LIMITATIONS ON RISK-BASED PRICING.—*
6 *Except as provided in paragraph (4), the Secretary*
7 *of Housing and Urban Development shall not take*
8 *any action on or after October 1, 2008, to implement*
9 *or carry out—*

10 *“(A) risk-based premiums, which are de-*
11 *signed for mortgage lenders to offer borrowers an*
12 *FHA-insured product that provides a range of*
13 *mortgage insurance premium pricing, based on*
14 *the risk that the insurance contract represents,*
15 *as set forth in the Notice published in the Fed-*
16 *eral Register on May 13, 2008 (Vol. 73, No. 93,*
17 *Pages 27703 through 27711) (effective July 14,*
18 *2008); or*

19 *“(B) any other risk-based premium product*
20 *related to the insurance of any mortgage on a*
21 *single family residence under this title, where the*
22 *premium price for such new product is based in*
23 *whole or in part on a borrower’s Decision Credit*
24 *Score, as that term is defined in the Notice re-*
25 *ferred to in subparagraph (A), or any successor*
26 *thereto.*

1 “(4) *FLEXIBLE RISK-BASED PREMIUMS.*—Not-
2 withstanding paragraph (3) of this subsection and
3 section 2133 of the *FHA Modernization Act of 2008*
4 (*Public Law 110–289*):

5 “(A) *AUTHORITY.*—In the case only of a
6 mortgage under which the mortgagor has a credit
7 score equivalent to a *FICO* score of less than 600,
8 the Secretary may establish a mortgage insur-
9 ance premium structure involving a single pre-
10 mium payment collected prior to the insurance
11 of the mortgage or annual payments (which may
12 be collected on a periodic basis), or both, under
13 which the rate of premiums for such a mortgage
14 may vary according to the credit risk associated
15 with the mortgagor and the rate of any annual
16 premium for such a mortgage may vary accord-
17 ing to such credit risk during the mortgage term
18 as long as the basis for determining the variable
19 rate is established before the execution of the
20 mortgage. The Secretary may change a premium
21 structure established under this subparagraph
22 but only to the extent that such change is not ap-
23 plied to any mortgage already executed.

24 “(B) *ESTABLISHMENT AND ALTERATION OF*
25 *PREMIUM STRUCTURE.*—A premium structure

1 *shall be established or changed under subpara-*
2 *graph (A) only by providing notice to mortga-*
3 *gees and to the Congress, at least 30 days before*
4 *the premium structure is established or changed.*

5 “(C) *ANNUAL REPORT REGARDING PRE-*
6 *MIUMS.—The Secretary shall submit a report to*
7 *the Congress annually setting forth the rate*
8 *structures and rates established and altered pur-*
9 *suant to this paragraph during the preceding 12-*
10 *month period and describing how such rates were*
11 *determined.*

12 “(D) *CONSIDERATIONS FOR PREMIUM*
13 *STRUCTURE.—When establishing and collecting*
14 *premiums for mortgages insured under a pre-*
15 *mium structure established under this para-*
16 *graph, the Secretary shall consider the following:*

17 “(i) *The effect of the proposed pre-*
18 *miums or structure on the Secretary’s abil-*
19 *ity to meet the operational goals of the Mu-*
20 *tual Mortgage Insurance Fund as provided*
21 *in section 202(a).*

22 “(ii) *Underwriting variables.*

23 “(iii) *The extent to which new pricing*
24 *under the proposed premiums or structure*

1 *has potential for acceptance in the private*
2 *market.*

3 “(iv) *The administrative capability of*
4 *the Secretary to administer the proposed*
5 *premiums or structure.*

6 “(v) *The effect of the proposed pre-*
7 *miums or structure on the Secretary’s abil-*
8 *ity to maintain the availability of mortgage*
9 *credit and provide stability to mortgage*
10 *markets.*

11 “(E) *AUTHORITY TO BASE PREMIUM PRICES*
12 *ON PRODUCT RISK.—*

13 “(i) *AUTHORITY.—In establishing pre-*
14 *mium rates under this title, the Secretary*
15 *may provide for variations in such rates ac-*
16 *ording to the credit risk associated with the*
17 *type of mortgage product that is being in-*
18 *sured under this title, which may include*
19 *providing that premium rates differ between*
20 *fixed-rate mortgages and adjustable-rate*
21 *mortgages insured pursuant to section 251,*
22 *between mortgages for condominiums and*
23 *mortgages for other interests in properties,*
24 *between mortgages having different ratios of*
25 *the principal obligation under the mortgage*

1 to the appraised value of the property, and
2 between such other products as the Sec-
3 retary considers appropriate.

4 “(F) PAYMENT INCENTIVES.—

5 “(i) AUTHORITY.—With respect to
6 mortgages for which insured the Secretary
7 is authorized to establish a premium struc-
8 ture under this paragraph, the Secretary
9 shall provide that the payment incentive
10 under subparagraph (ii) applies upon the
11 expiration of the 5-year period beginning
12 upon the time of insurance of such a mort-
13 gage, and the Secretary may provide that
14 the payment incentive under clause (ii) ap-
15 plies upon the expiration of the 3-year pe-
16 riod beginning upon the time of insurance
17 of such a mortgage. The Secretary may
18 limit such discretionary authority to mort-
19 gages prepaid or paid in full during the 2-
20 year period beginning 3 years after the time
21 of insurance of such a mortgage.

22 “(ii) PAYMENT INCENTIVE.—In the
23 case of any mortgage to which the payment
24 incentive under this subparagraph applies,
25 if, during the period referred to in clause

1 *(i), all mortgage payments, including insur-*
2 *ance premiums, for such mortgage have*
3 *been paid on a timely basis, upon the expi-*
4 *ration of such period the Secretary shall re-*
5 *fund to the mortgagor, upon payment in*
6 *full of the obligation of the mortgage, all or*
7 *a portion of—*

8 *“(I) the amount by which the sin-*
9 *gle premium payment for such mort-*
10 *gage collected at the time of insurance*
11 *exceeded the amount of the single pre-*
12 *mium payment chargeable under para-*
13 *graph (2) at the time of insurance for*
14 *a mortgage of the same product type*
15 *having the same terms, but for which*
16 *the mortgagor has a credit score equiv-*
17 *alent to a FICO score of 600 or more;*
18 *and*

19 *“(II) in the case only of mortgages*
20 *for which annual premiums are estab-*
21 *lished and collected under subpara-*
22 *graph (G), the amount by which the*
23 *cumulative amount of annual pre-*
24 *miums paid exceeded the amount of the*
25 *maximum annual premium that other-*

1 *wise may be established and collected*
2 *notwithstanding such subparagraph.*

3 “(G) *OPTION FOR HIGHER ANNUAL PRE-*
4 *MIUM IN LIEU OF HIGHER UP-FRONT PRE-*
5 *MIUM.—In the case only of mortgages for which*
6 *the Secretary is authorized to establish a pre-*
7 *mium structure under this paragraph, notwith-*
8 *standing paragraph (2)(B) of this subsection, the*
9 *Secretary may establish and collect, for a period*
10 *not exceeding the first 5 years of the term of the*
11 *mortgage, annual premium payments in an*
12 *amount not exceeding 0.75 percent of the re-*
13 *maining insured principal balance of the mort-*
14 *gage (excluding the portion of the remaining bal-*
15 *ance attributable to the premium collected under*
16 *paragraph (2)(A) and without taking into ac-*
17 *count delinquent payments or prepayments), ex-*
18 *cept that—*

19 “(i) *the Secretary may utilize such au-*
20 *thority only for such classes of mortgagors*
21 *that the Secretary determines would other-*
22 *wise be subject to a single premium pay-*
23 *ment collected at the time of insurance ex-*
24 *ceeding 2.25 percent of the amount of the*

1 *original insured principal obligation of the*
2 *mortgage; and*

3 “*(ii) for such mortgages, the Secretary*
4 *may not establish or collect a single pre-*
5 *mium payment collected at the time of in-*
6 *surance exceeding 2.25 percent of such*
7 *original insured principal obligation.*”

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