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110TH CONGRESS
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S. 2338

[Report No. 110-227]

To modernize and update the National Housing Act and enable the Federal Housing Administration to more effectively reach underserved borrowers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 13, 2007

Mr. REID (for Mr. DODD) from the Committee on Banking, Housing, and Urban Affairs reported the following original bill; which was read twice and placed on the calendar

A BILL

To modernize and update the National Housing Act and enable the Federal Housing Administration to more effectively reach underserved borrowers, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “FHA Modernization Act of 2007”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 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 down-payment 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.

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.

1 **TITLE I—BUILDING AMERICAN**
2 **HOMEOWNERSHIP**

3 **SEC. 101. SHORT TITLE.**

4 This title may be cited as the “Building American
5 Homeownership Act of 2007”.

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

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

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

11 “(A) not to exceed the lesser of—

12 “(i) in the case of a 1-family resi-
13 dence, the median 1-family house price in
14 the area, as determined by the Secretary;
15 and in the case of a 2-, 3-, or 4-family resi-
16 dence, the percentage of such median
17 price that bears the same ratio to such me-
18 dian price as the dollar amount limitation
19 in effect under section 305(a)(2) of the
20 Federal Home Loan Mortgage Corporation
21 Act (12 U.S.C. 1454(a)(2)) for a 2-, 3-, or
22 4-family residence, respectively, bears to
23 the dollar amount limitation in effect
24 under such section for a 1-family resi-
25 dence; or

1 “(ii) the dollar amount limitation de-
 2 termined under such section 305(a)(2) for
 3 a residence of the applicable size;
 4 except that the dollar amount limitation in ef-
 5 fect for any area under this subparagraph may
 6 not be less than the greater of (I) the dollar
 7 amount limitation in effect under this section
 8 for the area on October 21, 1998, or (II) 65
 9 percent of the dollar limitation determined
 10 under such section 305(a)(2) for a residence of
 11 the applicable size; and

12 “(B) not to exceed 100 percent of the ap-
 13 praised value of the property.”; and

14 (2) in the matter following subparagraph (B),
 15 by striking the second sentence (relating to a defini-
 16 tion of “average closing cost”) and all that follows
 17 through “section 3103A(d) of title 38, United States
 18 Code.”.

19 **SEC. 103. CASH INVESTMENT REQUIREMENT AND PROHIBI-**
 20 **TION OF SELLER-FUNDED DOWNPAYMENT**
 21 **ASSISTANCE.**

22 Paragraph 9 of section 203(b) of the National Hous-
 23 ing Act (12 U.S.C. 1709(b)(9)) is amended to read as fol-
 24 lows:

25 “(9) CASH INVESTMENT REQUIREMENT.—

1 “(A) IN GENERAL.—A mortgage insured
2 under this section shall be executed by a mort-
3 gator who shall have paid, in cash, on account
4 of the property an amount equal to not less
5 than 1.5 percent of the appraised value of the
6 property or such larger amount as the Sec-
7 retary may determine.

8 “(B) FAMILY MEMBERS.—For purposes of
9 this paragraph, the Secretary shall consider as
10 cash or its equivalent any amounts borrowed
11 from a family member (as such term is defined
12 in section 201), subject only to the require-
13 ments that, in any case in which the repayment
14 of such borrowed amounts is secured by a lien
15 against the property, that—

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

18 “(ii) the sum of the principal obliga-
19 tion of the mortgage and the obligation se-
20 cured by such lien may not exceed 100
21 percent of the appraised value of the prop-
22 erty.

23 “(C) PROHIBITED SOURCES.—In no case
24 shall the funds required by subparagraph (A)
25 consist, in whole or in part, of funds provided

1 by any of the following parties before, during,
2 or after closing of the property sale:

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

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

9 **SEC. 104. MORTGAGE INSURANCE PREMIUMS.**

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

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

15 (2) in subparagraph (A)—

16 (A) by striking “2.25 percent” and insert-
17 ing “3 percent”; and

18 (B) by striking “2.0 percent” and inserting
19 “2.75 percent”.

20 **SEC. 105. REHABILITATION LOANS.**

21 Subsection (k) of section 203 of the National Hous-
22 ing Act (12 U.S.C. 1709(k)) is amended—

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

25 (2) in paragraph (5)—

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

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

7 **SEC. 106. DISCRETIONARY ACTION.**

8 The National Housing Act is amended—

9 (1) in subsection (e) of section 202 (12 U.S.C.
10 1708(e))—

11 (A) in paragraph (3)(B), by striking “sec-
12 tion 202(e) of the National Housing Act” and
13 inserting “this subsection”; and

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

16 (2) by striking paragraph (4) of section 203(s)
17 (12 U.S.C. 1709(s)(4)) and inserting the following
18 new paragraph:

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

20 (3) by transferring subsection (s) of section 203
21 (as amended by paragraph (2) of this section) to
22 section 202, inserting such subsection after sub-
23 section (d) of section 202, and redesignating such
24 subsection as subsection (e).

1 **SEC. 107. INSURANCE OF CONDOMINIUMS.**

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

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

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

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

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

12 (b) DEFINITION OF MORTGAGE.—Section 201(a) of
13 the National Housing Act (12 U.S.C. 1707(a)) is amend-
14 ed—

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

16 (2) by striking “or on a leasehold (1)” and in-
17 serting “(B) a first mortgage on a leasehold on real
18 estate (i)”;

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

21 (4) by inserting before the semicolon the fol-
22 lowing: “, or (C) a first mortgage given to secure the
23 unpaid purchase price of a fee interest in, or long-
24 term leasehold interest in, real estate consisting of
25 a one-family unit in a multifamily project, including
26 a project in which the dwelling units are attached,

1 or are manufactured housing units, semi-detached,
 2 or detached, and an undivided interest in the com-
 3 mon areas and facilities which serve the project”.

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

7 “(g) The term ‘real estate’ means land and all nat-
 8 ural resources and structures permanently affixed to the
 9 land, including residential buildings and stationary manu-
 10 factured housing. The Secretary may not require, for
 11 treatment of any land or other property as real estate for
 12 purposes of this title, that such land or property be treated
 13 as real estate for purposes of State taxation.”.

14 **SEC. 108. MUTUAL MORTGAGE INSURANCE FUND.**

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

18 “(a) MUTUAL MORTGAGE INSURANCE FUND.—

19 “(1) ESTABLISHMENT.—Subject to the provi-
 20 sions of the Federal Credit Reform Act of 1990,
 21 there is hereby created a Mutual Mortgage Insur-
 22 ance Fund (in this title referred to as the ‘Fund’),
 23 which shall be used by the Secretary to carry out the
 24 provisions of this title with respect to mortgages in-
 25 sured under section 203. The Secretary may enter

1 into commitments to guarantee, and may guarantee,
2 such insured mortgages.

3 “(2) LIMIT ON LOAN GUARANTEES.—The au-
4 thority of the Secretary to enter into commitments
5 to guarantee such insured mortgages shall be effec-
6 tive for any fiscal year only to the extent that the
7 aggregate original principal loan amount under such
8 mortgages, any part of which is guaranteed, does
9 not exceed the amount specified in appropriations
10 Acts for such fiscal year.

11 “(3) FIDUCIARY RESPONSIBILITY.—The Sec-
12 retary has a responsibility to ensure that the Mutual
13 Mortgage Insurance Fund remains financially sound.

14 “(4) ANNUAL INDEPENDENT ACTUARIAL
15 STUDY.—The Secretary shall provide for an inde-
16 pendent actuarial study of the Fund to be conducted
17 annually, which shall analyze the financial position
18 of the Fund. The Secretary shall submit a report
19 annually to the Congress describing the results of
20 such study and assessing the financial status of the
21 Fund. The report shall recommend adjustments to
22 underwriting standards, program participation, or
23 premiums, if necessary, to ensure that the Fund re-
24 mains financially sound.

1 “(5) QUARTERLY REPORTS.—During each fiscal
2 year, the Secretary shall submit a report to the Con-
3 gress for each calendar quarter, which shall specify
4 for mortgages that are obligations of the Fund—

5 “(A) the cumulative volume of loan guar-
6 antee commitments that have been made during
7 such fiscal year through the end of the quarter
8 for which the report is submitted;

9 “(B) the types of loans insured, cat-
10 egorized by risk;

11 “(C) any significant changes between ac-
12 tual and projected claim and prepayment activ-
13 ity;

14 “(D) projected versus actual loss rates;
15 and

16 “(E) updated projections of the annual
17 subsidy rates to ensure that increases in risk to
18 the Fund are identified and mitigated by ad-
19 justments to underwriting standards, program
20 participation, or premiums, and the financial
21 soundness of the Fund is maintained.

22 The first quarterly report under this paragraph shall
23 be submitted on the last day of the first quarter of
24 fiscal year 2008, or on the last day of the first full
25 calendar quarter following the enactment of the

1 Building American Homeownership Act of 2007,
2 whichever is later.

3 “(6) ADJUSTMENT OF PREMIUMS.—If, pursu-
4 ant to the independent actuarial study of the Fund
5 required under paragraph (4), the Secretary deter-
6 mines that the Fund is not meeting the operational
7 goals established under paragraph (7) or there is a
8 substantial probability that the Fund will not main-
9 tain its established target subsidy rate, the Secretary
10 may either make programmatic adjustments under
11 this title as necessary to reduce the risk to the
12 Fund, or make appropriate premium adjustments.

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

15 “(A) to minimize the default risk to the
16 Fund and to homeowners by among other ac-
17 tions instituting fraud prevention quality con-
18 trol screening not later than 18 months after
19 the date of enactment of the Building American
20 Homeownership Act of 2007; and

21 “(B) to meet the housing needs of the bor-
22 rowers that the single family mortgage insur-
23 ance program under this title is designed to
24 serve.”.

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

3 (1) HOMEOWNERSHIP VOUCHER PROGRAM
4 MORTGAGES.—In section 203(v) (12 U.S.C.
5 1709(v))—

6 (A) by striking “Notwithstanding section
7 202 of this title, the” and inserting “The”; and

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

12 (2) HOME EQUITY CONVERSION MORTGAGES.—
13 Section 255(i)(2)(A) of the National Housing Act
14 (12 U.S.C. 1715z–20(i)(2)(A)) is amended by strik-
15 ing “General Insurance Fund” and inserting “Mu-
16 tual Mortgage Insurance Fund”.

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

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

21 (2) in section 519(e) (12 U.S.C. 1735e(e)), by
22 striking “203(b)” and all that follows through
23 “203(i)” and inserting “203, except as determined
24 by the Secretary”.

1 **SEC. 109. HAWAIIAN HOME LANDS AND INDIAN RESERVA-**
2 **TIONS.**

3 (a) HAWAIIAN HOME LANDS.—Section 247(c) of the
4 National Housing Act (12 U.S.C. 1715z–12(c)) is amend-
5 ed—

6 (1) by striking “General Insurance Fund estab-
7 lished in section 519” and inserting “Mutual Mort-
8 gage Insurance Fund”; and

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

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

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

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

19 **SEC. 110. CONFORMING AND TECHNICAL AMENDMENTS.**

20 (a) REPEALS.—The following provisions of the Na-
21 tional Housing Act are repealed:

22 (1) Subsection (i) of section 203 (12 U.S.C.
23 1709(i)).

24 (2) Subsection (o) of section 203 (12 U.S.C.
25 1709(o)).

1 (3) Subsection (p) of section 203 (12 U.S.C.
2 1709(p)).

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

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

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

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

8 (b) DEFINITION OF AREA.—Section 203(u)(2)(A) of
9 the National Housing Act (12 U.S.C. 1709(u)(2)(A)) is
10 amended by striking “shall” and all that follows and in-
11 serting “means a metropolitan statistical area as estab-
12 lished by the Office of Management and Budget;”.

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

18 **SEC. 111. INSURANCE OF MORTGAGES.**

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

21 (1) in subparagraph (A), by inserting “or sub-
22 ordinate mortgage or” before “lien given”; and

23 (2) in subparagraph (C), by inserting “or sub-
24 ordinate mortgage or” before “lien”.

1 **SEC. 112. HOME EQUITY CONVERSION MORTGAGES.**

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

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

6 (2) in subsection (g)—

7 (A) by striking the first sentence; and

8 (B) by striking “established under section
9 203(b)(2)” and all that follows through “lo-
10 cated” and inserting “limitation established
11 under section 305(a)(2) of the Federal Home
12 Loan Mortgage Corporation Act for a 1-family
13 residence”;

14 (3) in subsection (i)(1)(C), by striking “limita-
15 tions” and inserting “limitation”; and

16 (4) by adding at the end the following new sub-
17 section:

18 “(o) **AUTHORITY TO INSURE HOME PURCHASE**
19 **MORTGAGE.**—

20 “(1) IN GENERAL.—Notwithstanding any other
21 provision of this section, the Secretary may insure,
22 upon application by a mortgagee, a home equity con-
23 version mortgage upon such terms and conditions as
24 the Secretary may prescribe, when the home equity
25 conversion mortgage will be used to purchase a 1- to
26 4-family dwelling unit, one unit of which that the

1 mortgagor will occupy as a primary residence, and
 2 to provide for any future payments to the mort-
 3 gagor, based on available equity, as authorized
 4 under subsection (d)(9).

5 “(2) LIMITATION ON PRINCIPAL OBLIGATION.—
 6 A home equity conversion mortgage insured pursu-
 7 ant to paragraph (1) shall involve a principal obliga-
 8 tion that does not exceed the dollar amount limita-
 9 tion determined under section 305(a)(2) of the Fed-
 10 eral Home Loan Mortgage Corporation Act for a 1-
 11 family residence.”.

12 (b) MORTGAGES FOR COOPERATIVES.—Subsection
 13 (b) of section 255 of the National Housing Act (12 U.S.C.
 14 1715z–20(b)) is amended—

15 (1) in paragraph (4)—

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

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

19 and

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

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

24 (c) LIMITATION ON ORIGINATION FEES.—Section
 25 255 of the National Housing Act (12 U.S.C. 1715z–20),

1 as amended by the preceding provisions of this section,
2 is further amended—

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

6 (2) by inserting after subsection (j) the fol-
7 lowing new subsection:

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

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

15 “(A) the costs to the mortgagor; and

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

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

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

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

1 “(5) have the same effective date as subsection
2 (o)(2) regarding the limitation on principal obliga-
3 tion.”.

4 (d) STUDY REGARDING PROGRAM COSTS AND CRED-
5 IT AVAILABILITY.—

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

13 (2) PURPOSE.—The purpose of the study re-
14 quired under paragraph (1) is to help Congress ana-
15 lyze and determine the effects of limiting the
16 amounts of the costs or fees under the program
17 from the amounts charged under the program as of
18 the date of the enactment of this Act.

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

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

23 (B) the financial soundness of the pro-
24 gram;

1 (C) the availability of credit under the pro-
2 gram; and

3 (D) the costs to elderly homeowners par-
4 ticipating in the program, including—

5 (i) mortgage insurance premiums
6 charged under the program;

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

9 (iii) margin rates charged under the
10 program.

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

19 **SEC. 113. ENERGY EFFICIENT MORTGAGES PROGRAM.**

20 Section 106(a)(2) of the Energy Policy Act of 1992
21 (42 U.S.C. 12712 note) is amended—

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

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

4 “(i) 5 percent of the property value
5 (not to exceed 5 percent of the limit estab-
6 lished under section 203(b)(2)(A)) of the
7 National Housing Act (12 U.S.C.
8 1709(b)(2)(A); or

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

11 and

12 (2) by adding at the end the following:

13 “(D) LIMITATION.—In any fiscal year, the
14 aggregate number of mortgages insured pursu-
15 ant to this section may not exceed 5 percent of
16 the aggregate number of mortgages for 1- to 4-
17 family residences insured by the Secretary of
18 Housing and Urban Development under title II
19 of the National Housing Act (12 U.S.C. 1707
20 et seq.) during the preceding fiscal year.”.

1 **SEC. 114. PILOT PROGRAM FOR AUTOMATED PROCESS FOR**
2 **BORROWERS WITHOUT SUFFICIENT CREDIT**
3 **HISTORY.**

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

7 **“SEC. 257. PILOT PROGRAM FOR AUTOMATED PROCESS**
8 **FOR BORROWERS WITHOUT SUFFICIENT**
9 **CREDIT HISTORY.**

10 “(a) ESTABLISHMENT.—The Secretary shall carry
11 out a pilot program to establish, and make available to
12 mortgagees, an automated process for providing alter-
13 native credit rating information for mortgagors and pro-
14 spective mortgagors under mortgages on 1- to 4-family
15 residences to be insured under this title who have insuffi-
16 cient credit histories for determining their creditworthi-
17 ness. Such alternative credit rating information may in-
18 clude rent, utilities, and insurance payment histories, and
19 such other information as the Secretary considers appro-
20 priate.

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

25 “(c) LIMITATION.—In any fiscal year, the aggregate
26 number of mortgages insured pursuant to the automated

1 process established under this section may not exceed 5
2 percent of the aggregate number of mortgages for 1- to
3 4-family residences insured by the Secretary under this
4 title during the preceding fiscal year.

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

11 (b) GAO REPORT.—Not later than the expiration of
12 the two-year period beginning on the date of the enact-
13 ment of this title, the Comptroller General of the United
14 States shall submit to the Congress a report identifying
15 the number of additional mortgagors served using the
16 automated process established pursuant to section 257 of
17 the National Housing Act (as added by the amendment
18 made by subsection (a) of this section) and the impact
19 of such process and the insurance of mortgages pursuant
20 to such process on the safety and soundness of the insur-
21 ance funds under the National Housing Act of which such
22 mortgages are obligations.

23 **SEC. 115. HOMEOWNERSHIP PRESERVATION.**

24 The Secretary of Housing and Urban Development
25 and the Commissioner of the Federal Housing Adminis-

1 tration, in consultation with industry, the Neighborhood
2 Reinvestment Corporation, and other entities involved in
3 foreclosure prevention activities, shall—

4 (1) develop and implement a plan to improve
5 the Federal Housing Administration’s loss mitiga-
6 tion process; and

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

11 **SEC. 116. USE OF FHA SAVINGS FOR IMPROVEMENTS IN**
12 **FHA TECHNOLOGIES, PROCEDURES, PROC-**
13 **ESSES, PROGRAM PERFORMANCE, STAFFING,**
14 **AND SALARIES.**

15 (a) **AUTHORIZATION OF APPROPRIATIONS.**—There is
16 authorized to be appropriated for each of fiscal years 2008
17 through 2012, \$25,000,000, from negative credit subsidy
18 for the mortgage insurance programs under title II of the
19 National Housing Act, to the Secretary of Housing and
20 Urban Development for increasing funding for the purpose
21 of improving technology, processes, program performance,
22 eliminating fraud, and for providing appropriate staffing
23 in connection with the mortgage insurance programs
24 under title II of the National Housing Act.

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

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

12 (A) comply with the requirements of sec-
13 tion 205(f) of such Act (relating to required
14 capital ratio for the Mutual Mortgage Insur-
15 ance Fund); and

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

19 (2) any negative credit subsidy for such fiscal
20 year resulting from such mortgage insurance pro-
21 grams adequately ensures the efficient delivery and
22 availability of such programs.

23 (c) STUDY AND REPORT.—The Secretary of Housing
24 and Urban Development shall conduct a study to obtain
25 recommendations from participants in the private residen-

1 tial (both single family and multifamily) mortgage lending
2 business and the secondary market for such mortgages on
3 how best to update and upgrade processes and tech-
4 nologies for the mortgage insurance programs under title
5 II of the National Housing Act so that the procedures for
6 originating, insuring, and servicing of such mortgages con-
7 form with those customarily used by secondary market
8 purchasers of residential mortgage loans. Not later than
9 the expiration of the 12-month period beginning on the
10 date of the enactment of this Act, the Secretary shall sub-
11 mit a report to the Congress describing the progress made
12 and to be made toward updating and upgrading such proc-
13 esses and technology, and providing appropriate staffing
14 for such mortgage insurance programs.

15 **SEC. 117. POST-PURCHASE HOUSING COUNSELING ELIGI-**
16 **BILITY IMPROVEMENTS.**

17 Section 106(c)(4) of the Housing and Urban Devel-
18 opment Act of 1968 (12 U.S.C. 1701x(c)(4)) is amended:

19 (1) in subparagraph (C)—

20 (A) in clause (i), by striking “; or” and in-
21 serting a semicolon;

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

24 (C) by adding at the end the following:

1 “(iii) a significant reduction in the in-
2 come of the household due to divorce or
3 death; or

4 “(iv) a significant increase in basic ex-
5 penses of the homeowner or an immediate
6 family member of the homeowner (includ-
7 ing the spouse, child, or parent for whom
8 the homeowner provides substantial care or
9 financial assistance) due to—

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

12 “(II) a divorce;

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

17 “(IV) a large property-tax in-
18 crease; or”;

19 (2) by striking the matter that follows subpara-
20 graph (C); and

21 (3) by adding at the end the following:

22 “(D) the Secretary of Housing and Urban
23 Development determines that the annual in-
24 come of the homeowner is no greater than the

1 annual income established by the Secretary as
2 being of low- or moderate-income.”.

3 **SEC. 118. PRE-PURCHASE HOMEOWNERSHIP COUNSELING**
4 **DEMONSTRATION.**

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

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

- 16 (1) telephone counseling;
17 (2) individualized in-person counseling;
18 (3) web-based counseling;
19 (4) counseling classes; or
20 (5) any other form or type of counseling that
21 the Secretary may, in his discretion, determine ap-
22 propriate.

23 (c) **SIZE OF PROGRAM.**—The Secretary shall make
24 available the pre-purchase homeownership counseling de-

1 scribed in subsection (b) to not more than 3,000 eligible
2 homebuyers in any given year.

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

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

13 (f) REPORT TO CONGRESS.—The Secretary of Hous-
14 ing and Urban Development shall report to the Committee
15 on Banking, Housing, and Urban Affairs of the Senate
16 and the Committee on Financial Services of the House of
17 Representative—

18 (1) on an annual basis, on the progress and re-
19 sults of the demonstration program established
20 under subsection (a); and

21 (2) for the period beginning on the date of en-
22 actment of this Act and ending on the date that is
23 5 years after such date of enactment, on the pay-
24 ment history and delinquency rates of eligible home-

1 buyers who participated in the demonstration pro-
2 gram.

3 **SEC. 119. FRAUD PREVENTION.**

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

6 (1) by inserting “the Federal Housing Adminis-
7 tration” before “the Farm Credit Administration”;
8 and

9 (2) by striking “commitment, or loan” and in-
10 sserting “commitment, loan, or insurance agreement
11 or application for insurance or a guarantee”.

12 **SEC. 120. LIMITATION ON MORTGAGE INSURANCE PRE-**
13 **MIUM INCREASES.**

14 (a) IN GENERAL.—Notwithstanding any other provi-
15 sion of law, including any provision of this Act and any
16 amendment made by this Act—

17 (1) for the period beginning on the date of the
18 enactment of this Act and ending on October 1,
19 2009, the premiums charged for mortgage insurance
20 under multifamily housing programs under the Na-
21 tional Housing Act may not be increased above the
22 premium amounts in effect under such program on
23 October 1, 2006, unless the Secretary of Housing
24 and Urban Development determines that, absent
25 such increase, insurance of additional mortgages

1 under such program would, under the Federal Credit
2 Reform Act of 1990, require the appropriation of
3 new budget authority to cover the costs (as such
4 term is defined in section 502 of the Federal Credit
5 Reform Act of 1990 (2 U.S.C. 661a) of such insur-
6 ance; and

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

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

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

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

23 **SEC. 121. SAVINGS PROVISION.**

24 Any mortgage insured under title II of the National
25 Housing Act before the date of enactment of this title shall

1 continue to be governed by the laws, regulations, orders,
2 and terms and conditions to which it was subject on the
3 day before the date of the enactment of this title.

4 **SEC. 122. IMPLEMENTATION.**

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

9 **TITLE II—MANUFACTURED**
10 **HOUSING LOAN MODERNIZA-**
11 **TION**

12 **SEC. 201. SHORT TITLE.**

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

15 **SEC. 202. PURPOSES.**

16 The purposes of this title are—

17 (1) to provide adequate funding for FHA-in-
18 sured manufactured housing loans for low- and mod-
19 erate-income homebuyers during all economic cycles
20 in the manufactured housing industry;

21 (2) to modernize the FHA title I insurance pro-
22 gram for manufactured housing loans to enhance
23 participation by Ginnie Mae and the private lending
24 markets; and

1 the FHA Manufactured Housing Loan Moderniza-
2 tion Act of 2007 by the Secretary shall be conclusive
3 evidence of the eligibility of such financial institution
4 for insurance, and the validity of any contract of in-
5 surance so executed shall be incontestable in the
6 hands of the bearer from the date of the execution
7 of such contract, except for fraud or misrepresenta-
8 tion on the part of such institution.”.

9 (b) APPLICABILITY.—The amendment made by sub-
10 section (a) shall only apply to loans that are registered
11 or endorsed for insurance after the date of the enactment
12 of this Act.

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

14 (a) DOLLAR AMOUNTS.—Paragraph (1) of section
15 2(b) of the National Housing Act (12 U.S.C. 1703(b)(1))
16 is amended—

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

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

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

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

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

5 (b) ANNUAL INDEXING.—Subsection (b) of section 2
6 of the National Housing Act (12 U.S.C. 1703(b)), as
7 amended by the preceding provisions of this Act, is further
8 amended by adding at the end the following new para-
9 graph:

10 “(9) ANNUAL INDEXING OF MANUFACTURED
11 HOUSING LOANS.—The Secretary shall develop a
12 method of indexing in order to annually adjust the
13 loan limits established in subparagraphs (A)(ii), (C),
14 (D), and (E) of this subsection. Such index shall be
15 based on the manufactured housing price data col-
16 lected by the United States Census Bureau. The
17 Secretary shall establish such index no later than 1
18 year after the date of the enactment of the FHA
19 Manufactured Housing Loan Modernization Act of
20 2007.”

21 (c) TECHNICAL AND CONFORMING CHANGES.—Para-
22 graph (1) of section 2(b) of the National Housing Act (12
23 U.S.C. 1703(b)(1)) is amended—

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

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

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

11 **SEC. 206. INSURANCE PREMIUMS.**

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

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

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

18 “(2) MANUFACTURED HOME LOANS.—Notwith-
19 standing paragraph (1), in the case of a loan, advance of
20 credit, or purchase in connection with a manufactured
21 home or a lot on which to place such a home (or both),
22 the premium charge for the insurance granted under this
23 section shall be paid by the borrower under the loan or
24 advance of credit, as follows:

1 “(A) At the time of the making of the loan, ad-
2 vance of credit, or purchase, a single premium pay-
3 ment in an amount not to exceed 2.25 percent of the
4 amount of the original insured principal obligation.

5 “(B) In addition to the premium under sub-
6 paragraph (A), annual premium payments during
7 the term of the loan, advance, or obligation pur-
8 chased in an amount not exceeding 1.0 percent of
9 the remaining insured principal balance (excluding
10 the portion of the remaining balance attributable to
11 the premium collected under subparagraph (A) and
12 without taking into account delinquent payments or
13 prepayments).

14 “(C) Premium charges under this paragraph
15 shall be established in amounts that are sufficient,
16 but do not exceed the minimum amounts necessary,
17 to maintain a negative credit subsidy for the pro-
18 gram under this section for insurance of loans, ad-
19 vances of credit, or purchases in connection with a
20 manufactured home or a lot on which to place such
21 a home (or both), as determined based upon risk to
22 the Federal Government under existing underwriting
23 requirements.

24 “(D) The Secretary may increase the limita-
25 tions on premium payments to percentages above

1 those set forth in subparagraphs (A) and (B), but
 2 only if necessary, and not in excess of the minimum
 3 increase necessary, to maintain a negative credit
 4 subsidy as described in subparagraph (C).”.

5 **SEC. 207. TECHNICAL CORRECTIONS.**

6 (a) DATES.—Subsection (a) of section 2 of the Na-
 7 tional Housing Act (12 U.S.C. 1703(a)) is amended—

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

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

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

15 “(c) HANDLING AND DISPOSAL OF PROPERTY.—

16 “(1) AUTHORITY OF SECRETARY.—Notwith-
 17 standing any other provision of law, the Secretary
 18 may—

19 “(A) deal with, complete, rent, renovate,
 20 modernize, insure, or assign or sell at public or
 21 private sale, or otherwise dispose of, for cash or
 22 credit in the Secretary’s discretion, and upon
 23 such terms and conditions and for such consid-
 24 eration as the Secretary shall determine to be
 25 reasonable, any real or personal property con-

1 veyed to or otherwise acquired by the Secretary,
2 in connection with the payment of insurance
3 heretofore or hereafter granted under this title,
4 including any evidence of debt, contract, claim,
5 personal property, or security assigned to or
6 held by him in connection with the payment of
7 insurance heretofore or hereafter granted under
8 this section; and

9 “(B) pursue to final collection, by way of
10 compromise or otherwise, all claims assigned to
11 or held by the Secretary and all legal or equi-
12 table rights accruing to the Secretary in con-
13 nection with the payment of such insurance, in-
14 cluding unpaid insurance premiums owed in
15 connection with insurance made available by
16 this title.

17 “(2) ADVERTISEMENTS FOR PROPOSALS.—Sec-
18 tion 3709 of the Revised Statutes shall not be con-
19 strued to apply to any contract of hazard insurance
20 or to any purchase or contract for services or sup-
21 plies on account of such property if the amount
22 thereof does not exceed \$25,000.

23 “(3) DELEGATION OF AUTHORITY.—The power
24 to convey and to execute in the name of the Sec-
25 retary, deeds of conveyance, deeds of release, assign-

1 ments and satisfactions of mortgages, and any other
2 written instrument relating to real or personal prop-
3 erty or any interest therein heretofore or hereafter
4 acquired by the Secretary pursuant to the provisions
5 of this title may be exercised by an officer appointed
6 by the Secretary without the execution of any ex-
7 press delegation of power or power of attorney.
8 Nothing in this subsection shall be construed to pre-
9 vent the Secretary from delegating such power by
10 order or by power of attorney, in the Secretary's dis-
11 cretion, to any officer or agent the Secretary may
12 appoint.”.

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

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

18 “(10) FINANCIAL SOUNDNESS OF MANUFAC-
19 TURED HOUSING PROGRAM.—The Secretary shall es-
20 tablish such underwriting criteria for loans and ad-
21 vances of credit in connection with a manufactured
22 home or a lot on which to place a manufactured
23 home (or both), including such loans and advances
24 represented by obligations purchased by financial in-
25 stitutions, as may be necessary to ensure that the

1 program under this title for insurance for financial
2 institutions against losses from such loans, advances
3 of credit, and purchases is financially sound.”.

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

12 **SEC. 209. PROHIBITION AGAINST KICKBACKS AND UN-**
13 **EARNED FEES.**

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

16 **“SEC. 10. PROHIBITION AGAINST KICKBACKS AND UN-**
17 **EARNED FEES.**

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

1 “(b) AUTHORITY OF THE SECRETARY.—The Sec-
2 retary is authorized to determine the manner and extent
3 to which the provisions of sections 3, 8, 16, 17, 18, and
4 19 of the Real Estate Settlement Procedures Act of 1974
5 (12 U.S.C. 2601 et seq.) may reasonably be applied to
6 the transactions described in subsection (a), and to grant
7 such exemptions as may be necessary to achieve the pur-
8 poses of this section.

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

18 “(2) the term ‘real estate settlement service’ as
19 used in sections 3, 8, 16, 17, 18, and 19 of the Real
20 Estate Settlement Procedures Act of 1974 (12
21 U.S.C. 2601 et seq.) shall include any service ren-
22 dered in connection with a loan or extension of cred-
23 it insured by the Federal Housing Administration
24 for the purchase of a manufactured home.

1 “(d) UNFAIR AND DECEPTIVE PRACTICES.—In con-
2 nection with the purchase of a manufactured home fi-
3 nanced with a loan or extension of credit insured by the
4 Federal Housing Administration under this title, the Sec-
5 retary shall prohibit acts or practices in connection with
6 loans or extensions of credit that the Secretary finds to
7 be unfair, deceptive, or otherwise not in the interests of
8 the borrower.”.

9 **SEC. 210. LEASEHOLD REQUIREMENTS.**

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

14 “(11) LEASEHOLD REQUIREMENTS.—No insur-
15 ance shall be granted under this section to any such
16 financial institution with respect to any obligation
17 representing any such loan, advance of credit, or
18 purchase by it, made for the purposes of financing
19 a manufactured home which is intended to be situ-
20 ated in a manufactured home community pursuant
21 to a lease, unless such lease—

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

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

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

Calendar No. 481

110TH CONGRESS
1ST Session

S. 2338

[Report No. 110-227]

A BILL

To modernize and update the National Housing Act and enable the Federal Housing Administration to more effectively reach underserved borrowers, and for other purposes.

NOVEMBER 13, 2007

Read twice and placed on the calendar