H. R.

To make necessary reforms to improve compliance with loss mitigation requirements by servicers of mortgages for single family housing insured by the FHA and to prevent foreclosures on FHA borrowers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. Waters introduced the following bill; which was referred to the Committee on ___________________________

A BILL

To make necessary reforms to improve compliance with loss mitigation requirements by servicers of mortgages for single family housing insured by the FHA and to prevent foreclosures on FHA borrowers, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “FHA Foreclosure Prevention Act of 2019”.

SEC. 2. DOCUMENTATION OF LOSS MITIGATION EFFORTS.

Subsection (a) of section 204 of the National Housing Act (12 U.S.C. 1710(a)) is amended by adding at the end the following new paragraph:

“(10) Documentation of loss mitigation efforts.—Notwithstanding any other provision of this title, the Secretary may not pay insurance benefits to any mortgagee of a single family mortgage insured under this Act unless the mortgagee or other servicer for the mortgage has provided documentation to the Secretary that is sufficient to demonstrate compliance with any requirements of the Secretary applicable to such mortgage relating to loss mitigation. This paragraph may not be construed to limit the authority of the Secretary to impose civil monetary penalties.”.

SEC. 3. HUD OVERSIGHT OF SERVICERS.

Section 533 of the National Housing Act (12 U.S.C. 1735f–11) is amended by adding at the end the following new subsection:

“(d) Oversight of mortgage servicers.—

“(1) Oversight.—

“(A) In general.—The Secretary shall conduct oversight of servicers of single family mortgages insured under this Act on a regular and ongoing basis and in a manner designed to
ensure that such servicers comply with the requirements of this Act and the standards and guidelines established by the Secretary for servicing of such mortgages and to identify systemic problems and trends with such compliance.

“(B) LOSS MITIGATION REQUIREMENTS.—

Such oversight shall include oversight designed to ensure that such servicers comply with the requirements under this Act, and the standards and guidelines established by the Secretary, for loss mitigation, and shall include appropriate sampling and review of such servicer compliance, including direct information collection through generally accepted means from borrowers whose files were sampled, such as surveys, focus groups, interview, or other similar measures.

“(2) CORRECTIVE ACTION.—The Secretary shall take such actions as may be necessary to remedy failures by servicers of single family mortgages insured under this Act to comply with the requirements of this Act and the standards and guidelines established by the Secretary for servicing of such mortgages, including ordering non-compliant servicers to take corrective actions, including barring
foreclosure and cancelling from the borrowers ac-
count balance and from any insurance claim any in-
terest and other fees that accrued during periods of
noncompliance.”.

SEC. 4. COMPLAINT PROCEDURE REGARDING LOSS MITI-
GATION.

Title V of the National Housing Act (12 U.S.C.
1731a et seq.) is amended by adding at the end the fol-
lowing new section:

“SEC. 543. COMPLAINT PROCEDURE REGARDING LOSS
MITIGATION.

“(a) COMPLAINT PROCEDURE FOR BORROWERS.—

“(1) FEATURES.—The Secretary shall establish
and maintain a procedure for mortgagors under sin-
gle family mortgages insured under this Act to reg-
ister complaints with the Secretary regarding serv-
icing, including loss mitigation actions, which shall
include making available to the public a website of
the Department, an e-mail address, a phone number,
and a mailing address for such purpose. Such proce-
dure shall provide an opportunity for servicers to re-
spond to such complaints and submit information re-
garding complaints.

“(2) ATTEMPT TO RESOLVE.—For each com-
plaint registered under the procedure established
pursuant to this subsection, the Secretary shall re-
view the complaint and any response by the servicer
and shall seek to resolve any dispute between the
mortgagor and the servicer and make a determina-
tion with regard to complaint.

“(3) USE OF INFORMATION.—In making any
determinations regarding servicers’ compliance with
the requirements, standards, and guidelines for serv-
ing, including in identifying systemic problems and
trends with servicing, the Secretary shall take into
consideration information obtained under the com-
plaint procedure under this subsection.

“(b) NOTIFICATION OF OPPORTUNITY TO APPEAL.—
Upon making a determination with respect to a complaint,
the Secretary shall notify the complainant of such deter-
mination, of the opportunity for the complainant to appeal
an adverse determination under the procedure established
pursuant to subsection (a), and the requirements for and
how to initiate such an appeal.

“(c) APPEALS PROCEDURE.—

“(1) ESTABLISHMENT.—The Secretary shall
provide a procedure for mortgagors to appeal an ad-
verse determination by the Secretary regarding a
complaint registered under the procedure established
pursuant to subsection (a), and, if appropriate, may
take action pursuant to section 533(d)(2) pursuant
to a decision on such an appeal.

“(2) LIMITATION.—The Secretary shall provide
that the procedure established pursuant to this sub-
section may not provide an appeal for any complaint
that was previously appealed under such procedure.

“(d) PROHIBITION ON FORECLOSURE.—The Sec-
retary shall prohibit the foreclosure of a mortgage during
any period that a complaint or appeal regarding such
mortgage is pending under the procedures established pur-
suant to this section and during a reasonable period after
a complainant is notified of a determination regarding a
complaint that provides the complainant an opportunity
to appeal such decision.

“(e) REPORTING.—The Secretary shall submit a re-
port to the Congress annually regarding complaints re-
ceived under the procedure maintained pursuant to sub-
section (a), which shall specify the number of complaints
received, disaggregated by types of complaints, status of
complaints, geographic distribution of complaints, and av-
erage times for resolution of complaints, shall include rel-
evant information submitted by servicers, and shall in-
clude any other information that the Secretary considers
relevant. Such report shall comply with any applicable pri-
vacy protections.”.
SEC. 5. NOTICE TO BORROWERS OF LOSS MITIGATION STATUS AND DECISIONS.

Subsection (a) of section 204 of the National Housing Act (12 U.S.C. 1710(a)), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new paragraph:

“(11) NOTICE TO BORROWERS OF LOSS MITIGATION STATUS AND DECISIONS.—

“(A) REQUIRED NOTICE.—The Secretary shall require that before any acceleration of the indebtedness due under a mortgage, the servicer for the mortgage shall provide written notice to the mortgagor that includes—

“(i) a summary explaining how the servicer applied the loss mitigation option priority analysis established by the Secretary, including the loss mitigation review waterfall under section IIIA.2.j.iii of the Secretary’s Handbook 4000.1 or any successor provision, and setting forth the actual information entered in applying such analysis;

“(ii) with respect to any mortgage for which the servicer did not conduct the analysis referred to in clause (i) because the servicer determined that the mortgagor
did not express any interest in loss mitigation or provide appropriate documents—

“(I) a statement of such determination;

“(II) a description of the actions that the servicer took to solicit the borrower for loss mitigation review and obtain appropriate documents; and

“(III) a statement of the dates that the servicer took such actions; and

“(iii) a statement setting forth the results of the servicers’ monthly loss mitigation evaluations for the mortgage required under section 203.605(a) of the Secretary’s regulations (24 C.F.R. 203.605(a)) or any successor provision;

“(iv) with respect to any loss mitigation action for which the mortgagor was determined to be ineligible, an explanation of, and documentation showing, why the mortgagor was determined to be ineligible;

“(v) a statement informing the borrower that, upon the request of the bor-
rower, the Secretary will provide the bor-
rower with all loss mitigation evaluation
documentation required by the Secretary
with respect to the mortgage, including
monthly evaluations referred to in clause
(iii); and

“(vi) information describing the proce-
dure under section 543(a) for registering
complaints regarding loss mitigation and
the procedure under section 543(c) for ap-
pealing a servicer’s decisions regarding loss
mitigation actions.

“(B) REFERENCES.—Such notice shall
contain references to the applicable provisions
of applicable handbook of the Secretary regard-
ing ongoing loss mitigation reviews and stand-
dards for such reviews and shall identify how
such provisions may be accessed on a publicly
accessible website of the Department.”.

SEC. 6. RULE OF CONSTRUCTION.

Nothing in this Act may be construed to supercede,
or exempt any person from complying with, any provision
of the Real Estate Settlement Procedures Act of 1974 (12
U.S.C. 2601 et seq.) or the regulations issued under such
Act.