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(Original Signature of Member)

112TH CONGRESS
2D SESSION

H. R.

To help ensure the fiscal solvency of the FHA insurance programs of the Secretary of Housing and Urban Development, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mrs. BIGGERT (for herself and Mrs. CAPITO) introduced the following bill; which was referred to the Committee on _____

A BILL

To help ensure the fiscal solvency of the FHA insurance programs of the Secretary of Housing and Urban Development, 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 Emergency Fiscal Solvency Act of 2012”.

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

Sec. 1. Short title and table of contents.

Sec. 2. FHA annual mortgage insurance premiums.

- Sec. 3. Indemnification by FHA mortgagees.
- Sec. 4. Early period delinquencies.
- Sec. 5. Semiannual actuarial studies of MMIF during periods of capital depletion.
- Sec. 6. Delegation of FHA insuring authority.
- Sec. 7. Authority to terminate FHA mortgagee origination and underwriting approval.
- Sec. 8. Authorization to participate in the origination of FHA-insured loans.
- Sec. 9. Deputy Assistant Secretary of FHA for Risk Management and Regulatory Affairs.
- Sec. 10. Establishment of Chief Financial Officer for GNMA.
- Sec. 11. Report on streamlining FHA programs.

1 SEC. 2. FHA ANNUAL MORTGAGE INSURANCE PREMIUMS.

2 (a) IN GENERAL.—Subparagraph (B) of section
3 203(c)(2) of the National Housing Act (12 U.S.C.
4 1709(c)(2)(B)) is amended—

5 (1) in the matter preceding clause (i)—

6 (A) by striking “may” and inserting
7 “shall”;

8 (B) by striking “not exceeding 1.5 per-
9 cent” and inserting “not less than 0.55 per-
10 cent”; and

11 (C) by inserting “and not exceeding 2.0
12 percent of such remaining insured principal bal-
13 ance” before “for the following periods.”; and

14 (2) in clause (ii), by striking “1.55 percent”
15 and inserting “2.05 percent”.

16 (b) EFFECTIVE DATE.—The amendments made by
17 subsection (a) take effect upon the expiration of the 6-
18 month period beginning on the date of the enactment of
19 this Act.

1 **SEC. 3. INDEMNIFICATION BY FHA MORTGAGEES.**

2 Section 202 of the National Housing Act (12 U.S.C.
3 1708) is amended by adding at the end the following new
4 subsection:

5 “(i) INDEMNIFICATION BY MORTGAGEES.—

6 “(1) IN GENERAL.—If the Secretary determines
7 that a mortgage executed by a mortgagee approved
8 by the Secretary under the direct endorsement pro-
9 gram or insured by a mortgagee pursuant to the del-
10 egation of authority under section 256 was not origi-
11 nated or underwritten in accordance with the re-
12 quirements established by the Secretary, and the
13 Secretary pays an insurance claim with respect to
14 the mortgage within a reasonable period specified by
15 the Secretary, the Secretary may require the mort-
16 gagee approved by the Secretary under the direct en-
17 dorsement program or the mortgagee delegated au-
18 thority under section 256 to indemnify the Secretary
19 for the loss.

20 “(2) FRAUD OR MISREPRESENTATION.—If
21 fraud or misrepresentation was involved in connec-
22 tion with the origination or underwriting, the Sec-
23 retary shall require the mortgagee approved by the
24 Secretary under the direct endorsement program or
25 the mortgagee delegated authority under section 256

1 to indemnify the Secretary for the loss regardless of
2 when an insurance claim is paid.

3 “(3) REQUIREMENTS AND PROCEDURES.—The
4 Secretary shall issue regulations establishing appro-
5 priate requirements and procedures governing the
6 indemnification of the Secretary by the mortgagee,
7 including public reporting on—

8 “(A) the number of loans that—

9 “(i) were not originated or under-
10 written in accordance with the require-
11 ments established by the Secretary; and

12 “(ii) involved fraud or misrepresenta-
13 tion in connection with the origination or
14 underwriting; and

15 “(B) the financial impact on the Mutual
16 Mortgage Insurance Fund when indemnification
17 is required.”.

18 **SEC. 4. EARLY PERIOD DELINQUENCIES.**

19 Subsection (a) of section 202 of the National Hous-
20 ing Act (12 U.S.C. 1708(a)) is amended by adding at the
21 end the following new paragraphs:

22 “(8) PROGRAMMATIC REVIEW OF EARLY PE-
23 RIOD DELINQUENCIES.—The Secretary shall estab-
24 lish and maintain a program—

1 “(A) to review the cause of each early pe-
2 riod delinquency on a mortgage that is an obli-
3 gation of the Mutual Mortgage Insurance Fund;

4 “(B) to require indemnification of the Sec-
5 retary for a loss associated with any such early
6 period delinquency that is the result of a mate-
7 rial violation, as determined by the Secretary,
8 of any provision, regulation, or other guideline
9 established or promulgated pursuant to this
10 title; and

11 “(C) to publicly report—

12 “(i) a summary of the results of all
13 early period delinquencies reviewed under
14 subparagraph (A);

15 “(ii) any indemnifications required
16 under subparagraph (B); and

17 “(iii) the financial impact on the Mu-
18 tual Mortgage Insurance Fund of any such
19 indemnifications.

20 “(9) DEFINITION OF EARLY PERIOD DELIN-
21 QUENCY.—For purposes of this section, the term
22 ‘early period delinquency’ means, with respect to a
23 mortgage, that the mortgage becomes 90 or more
24 days delinquent within 24 months of the origination
25 of such mortgage.”.

1 **SEC. 5. SEMIANNUAL ACTUARIAL STUDIES OF MMIF DUR-**
2 **ING PERIODS OF CAPITAL DEPLETION.**

3 (a) IN GENERAL.—Paragraph (4) of section 202(a)
4 of the National Housing Act (12 U.S.C. 1708(a)(4)) is
5 amended—

6 (1) in the first sentence, by inserting “except as
7 provided in subparagraph (B),” after “to be con-
8 ducted annually,”;

9 (2) in the second sentence, by inserting “, ex-
10 cept as provided in subparagraph (B),” after “annu-
11 ally”;

12 (3) by striking the paragraph designation and
13 heading and all that follows through “The Secretary
14 shall provide” and inserting the following:

15 “(4) INDEPENDENT ACTUARIAL STUDY.—

16 “(A) ANNUAL STUDY.—The Secretary
17 shall provide”; and

18 (4) by adding at the end the following new sub-
19 paragraph:

20 “(B) SEMIANNUAL STUDIES DURING PERI-
21 ODS OF CAPITAL DEPLETION.—During any pe-
22 riod that the Fund fails to maintain sufficient
23 capital to comply with the capital ratio require-
24 ment under section 205(f)(2)—

25 “(i) the independent study required by
26 subparagraph (A) shall be conducted semi-

1 annually and shall analyze the financial po-
2 sition of the Fund as of September 30 and
3 March 31 of each fiscal year during such
4 period; and

5 “(ii) the Secretary shall submit a re-
6 port meeting the requirements of subpara-
7 graph (A) for each such semiannual
8 study.”.

9 (b) ANALYSIS OF QUARTERLY ACTUARIAL STUD-
10 IES.—The Secretary of Housing and Urban Development
11 shall conduct an analysis of the cost and feasibility of pro-
12 viding for an independent actuarial study of the Mutual
13 Mortgage Insurance Fund on a calendar quarterly basis,
14 which shall compare the cost and feasibility of conducting
15 such a study on a quarterly basis as compared to a semi-
16 annual basis and shall determine whether such an actu-
17 arial study can be conducted on a quarterly basis without
18 substantial additional costs to the taxpayers. Not later
19 than the expiration of the 90-day period beginning on the
20 date of the enactment of this Act, the Secretary shall sub-
21 mit a report to the Congress setting forth the findings and
22 conclusion of the analysis conducted pursuant to this sub-
23 section.

1 **SEC. 6. DELEGATION OF FHA INSURING AUTHORITY.**

2 Section 256 of the National Housing Act (12 U.S.C.
3 1715z-21) is amended—

4 (1) by striking subsection (c);

5 (2) in subsection (e), by striking “, including”

6 and all that follows through “by the mortgagee”;

7 and

8 (3) by redesignating subsections (d) and (e) as
9 subsections (c) and (d), respectively.

10 **SEC. 7. AUTHORITY TO TERMINATE FHA MORTGAGEE**
11 **ORIGINATION AND UNDERWRITING AP-**
12 **PROVAL.**

13 Section 533 of the National Housing Act (12 U.S.C.
14 1735f-11) is amended—

15 (1) in the first sentence of subsection (b), by in-
16 serting “or areas or on a nationwide basis” after
17 “area” each place such term appears; and

18 (2) in subsection (c), by striking “(c)” and all
19 that follows through “The Secretary” in the first
20 sentence of paragraph (2) and inserting the fol-
21 lowing:

22 “(c) **TERMINATION OF MORTGAGEE ORIGINATION**
23 **AND UNDERWRITING APPROVAL.—**

24 “(1) **TERMINATION AUTHORITY.—**If the Sec-
25 retary determines, under the comparison provided in
26 subsection (b), that a mortgagee has a rate of early

1 defaults and claims that is excessive, the Secretary
2 may terminate the approval of the mortgagee to
3 originate or underwrite single family mortgages for
4 any area, or areas, or on a nationwide basis, not-
5 withstanding section 202(c) of this Act.

6 “(2) PROCEDURE.—The Secretary”.

7 **SEC. 8. AUTHORIZATION TO PARTICIPATE IN THE ORIGINA-**
8 **TION OF FHA-INSURED LOANS.**

9 (a) SINGLE FAMILY MORTGAGES.—Section 203(b) of
10 the National Housing Act (12 U.S.C. 1709(b)) is amended
11 by striking paragraph (1) and inserting the following new
12 paragraph:

13 “(1) Have been made to a mortgagee approved
14 by the Secretary or to a person or entity authorized
15 by the Secretary under section 202(d)(1) to partici-
16 pate in the origination of the mortgage, and be held
17 by a mortgagee approved by the Secretary as re-
18 sponsible and able to service the mortgage prop-
19 erly.”.

20 (b) HOME EQUITY CONVERSION MORTGAGES.—Sec-
21 tion 255(d) of the National Housing Act (12 U.S.C.
22 1715z–20(d)) is amended by striking paragraph (1) and
23 inserting the following new paragraph:

24 “(1) have been originated by a mortgagee ap-
25 proved by, or by a person or entity authorized under

1 section 202(d)(1) to participate in the origination
2 by, the Secretary;”.

3 **SEC. 9. DEPUTY ASSISTANT SECRETARY OF FHA FOR RISK**
4 **MANAGEMENT AND REGULATORY AFFAIRS.**

5 (a) ESTABLISHMENT OF POSITION.—Subsection (b)
6 of section 4 of the Department of Housing and Urban De-
7 velopment Act (42 U.S.C. 3533(b)) is amended—

8 (1) by inserting “(1)” after “(b)”; and

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

11 “(2) There shall be in the Department, within the
12 Federal Housing Administration, a Deputy Assistant Sec-
13 retary for Risk Management and Regulatory Affairs, who
14 shall be appointed by the Secretary and shall be respon-
15 sible to the Federal Housing Commissioner for all matters
16 relating to managing and mitigating risk to the mortgage
17 insurance funds of the Department and ensuring the per-
18 formance of mortgages insured by the Department.”.

19 (b) TERMINATION.—Upon the appointment of the
20 initial Deputy Assistant Secretary for Risk Management
21 and Regulatory Affairs pursuant to section 4(b)(2) of the
22 Department of Housing and Urban Development Act, as
23 amended by subsection (a) of this section, the position of
24 chief risk officer within the Federal Housing Administra-

1 tion, filled by appointment by the Federal Housing Com-
2 missioner, is abolished.

3 **SEC. 10. ESTABLISHMENT OF CHIEF FINANCIAL OFFICER**
4 **FOR GNMA.**

5 Section 4 of the Department of Housing and Urban
6 Development Act (42 U.S.C. 3533) is amended by adding
7 after subsection (g), as added by section 1442 of the
8 Dodd-Frank Wall Street Reform and Consumer Protec-
9 tion Act (Public Law 111–203; 124 Stat. 2163), the fol-
10 lowing new subsection:

11 “(h) There shall be in the Department a Chief Finan-
12 cial Office for the Government National Mortgage Asso-
13 ciation, who shall—

14 “(1) be designated by the Secretary;

15 “(2) have the same authority, responsibilities,
16 and functions with respect to such Association as a
17 Chief Financial Officer of an agency referred to in
18 subsection 901(b)(2) of title 31, United States Code,
19 has under section 902 of such title with respect to
20 such agency;

21 “(3) be in the competitive service or the senior
22 executive service;

23 “(4) be a career appointee;

24 “(5) be designated from among individuals who
25 possess demonstrated ability in general management

1 of, and knowledge of and extensive practical experi-
2 ence in financial management practices in large gov-
3 ernmental or business entities;

4 “(6) shall not be required to obtain the prior
5 approval, comment, or review of any officer or agen-
6 cy of the United States before submitting to the
7 Congress, or any committee or subcommittee there-
8 of, any reports, recommendations, testimony, or
9 comments if such submission include a statement in-
10 dicating that the views expressed therein are those
11 of the Chief Financial Officer of the Government
12 National Mortgage Association and do not nec-
13 essarily represent the views of the Secretary.”.

14 **SEC. 11. REPORT ON STREAMLINING FHA PROGRAMS.**

15 (a) EXAMINATION.—The Secretary of Housing and
16 Urban Development shall conduct an examination of the
17 mortgage insurance and any other programs of the Fed-
18 eral Housing Administration to identify—

19 (1) the level of use and need for such programs;

20 (2) any such programs that are unused or
21 underused; and

22 (3) methods for streamlining, consolidating,
23 simplifying, increasing the efficiency of, and reduc-
24 ing the number of such programs.

1 (b) REPORT.—Not later than the expiration of the
2 12-month period that begins upon the date of the enact-
3 ment of this Act, the Secretary shall submit a report to
4 the Congress on the results of the examination conducted
5 pursuant to subsection (a), including recommendations for
6 any administrative and legislative actions to streamline,
7 consolidate, simplify, increase the efficiency of, and reduce
8 the number of such programs.