

116TH CONGRESS  
1ST SESSION

# H. R. 3958

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.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2019

Ms. WATERS (for herself, Mrs. CAROLYN B. MALONEY of New York, Mr. CLAY, Ms. TLAIB, Mr. FOSTER, and Mr. CLEAVER) introduced the following bill; which was referred to the Committee on Financial Services

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## 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.

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 Foreclosure Pre-  
5 vention Act of 2019”.

1 **SEC. 2. DOCUMENTATION OF LOSS MITIGATION EFFORTS.**

2 Subsection (a) of section 204 of the National Hous-  
3 ing Act (12 U.S.C. 1710(a)) is amended by adding at the  
4 end the following new paragraph:

5 “(10) DOCUMENTATION OF LOSS MITIGATION  
6 EFFORTS.—Notwithstanding any other provision of  
7 this title, the Secretary may not pay insurance bene-  
8 fits to any mortgagee of a single family mortgage in-  
9 sured under this Act unless the mortgagee or other  
10 servicer for the mortgage has provided documenta-  
11 tion to the Secretary that is sufficient to dem-  
12 onstrate compliance with any requirements of the  
13 Secretary applicable to such mortgage relating to  
14 loss mitigation. This paragraph may not be con-  
15 strued to limit the authority of the Secretary to im-  
16 pose civil monetary penalties.”.

17 **SEC. 3. HUD OVERSIGHT OF SERVICERS.**

18 Section 533 of the National Housing Act (12 U.S.C.  
19 1735f–11) is amended by adding at the end the following  
20 new subsection:

21 “(d) OVERSIGHT OF MORTGAGE SERVICERS.—

22 “(1) OVERSIGHT.—

23 “(A) IN GENERAL.—The Secretary shall  
24 conduct oversight of servicers of single family  
25 mortgages insured under this Act on a regular  
26 and ongoing basis and in a manner designed to

1 ensure that such servicers comply with the re-  
2 quirements of this Act and the standards and  
3 guidelines established by the Secretary for serv-  
4 icing of such mortgages and to identify systemic  
5 problems and trends with such compliance.

6 “(B) LOSS MITIGATION REQUIREMENTS.—  
7 Such oversight shall include oversight designed  
8 to ensure that such servicers comply with the  
9 requirements under this Act, and the standards  
10 and guidelines established by the Secretary, for  
11 loss mitigation, and shall include appropriate  
12 sampling and review of such servicer compli-  
13 ance, including direct information collection  
14 through generally accepted means from bor-  
15 rowers whose files were sampled, such as sur-  
16 veys, focus groups, interview, or other similar  
17 measures.

18 “(2) CORRECTIVE ACTION.—The Secretary  
19 shall take such actions as may be necessary to rem-  
20 edy failures by servicers of single family mortgages  
21 insured under this Act to comply with the require-  
22 ments of this Act and the standards and guidelines  
23 established by the Secretary for servicing of such  
24 mortgages, including ordering non-compliant servi-  
25 cers to take corrective actions, including barring

1 foreclosure and cancelling from the borrowers ac-  
2 count balance and from any insurance claim any in-  
3 terest and other fees that accrued during periods of  
4 noncompliance.”.

5 **SEC. 4. COMPLAINT PROCEDURE REGARDING LOSS MITI-**  
6 **GATION.**

7 Title V of the National Housing Act (12 U.S.C.  
8 1731a et seq.) is amended by adding at the end the fol-  
9 lowing new section:

10 **“SEC. 543. COMPLAINT PROCEDURE REGARDING LOSS**  
11 **MITIGATION.**

12 “(a) COMPLAINT PROCEDURE FOR BORROWERS.—

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

24 “(2) ATTEMPT TO RESOLVE.—For each com-  
25 plaint registered under the procedure established

1       pursuant to this subsection, the Secretary shall re-  
2       view the complaint and any response by the servicer  
3       and shall seek to resolve any dispute between the  
4       mortgagor and the servicer and make a determina-  
5       tion with regard to complaint.

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

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

20              “(c) APPEALS PROCEDURE.—

21               “(1) ESTABLISHMENT.—The Secretary shall  
22      provide a procedure for mortgagors to appeal an ad-  
23      verse determination by the Secretary regarding a  
24      complaint registered under the procedure established  
25      pursuant to subsection (a), and, if appropriate, may

1 take action pursuant to section 533(d)(2) pursuant  
2 to a decision on such an appeal.

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

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

15 “(e) REPORTING.—The Secretary shall submit a re-  
16 port to the Congress annually regarding complaints re-  
17 ceived under the procedure maintained pursuant to sub-  
18 section (a), which shall specify the number of complaints  
19 received, disaggregated by types of complaints, status of  
20 complaints, geographic distribution of complaints, and av-  
21 erage times for resolution of complaints, shall include rel-  
22 evant information submitted by servicers, and shall in-  
23 clude any other information that the Secretary considers  
24 relevant. Such report shall comply with any applicable pri-  
25 vacy protections.”.

1 **SEC. 5. NOTICE TO BORROWERS OF LOSS MITIGATION STA-**  
2 **TUS AND DECISIONS.**

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

7 “(11) NOTICE TO BORROWERS OF LOSS MITIGA-  
8 TION STATUS AND DECISIONS.—

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

14 “(i) a summary explaining how the  
15 servicer applied the loss mitigation option  
16 priority analysis established by the Sec-  
17 retary, including the loss mitigation review  
18 waterfall under section III.A.2.j.iii of the  
19 Secretary’s Handbook 4000.1 or any suc-  
20 cessor provision, and setting forth the ac-  
21 tual information entered in applying such  
22 analysis;

23 “(ii) with respect to any mortgage for  
24 which the servicer did not conduct the  
25 analysis referred to in clause (i) because  
26 the servicer determined that the mortgagor

1 did not express any interest in loss mitiga-  
2 tion or provide appropriate documents—

3 “(I) a statement of such deter-  
4 mination;

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

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

13 “(iii) a statement setting forth the re-  
14 sults of the servicers’ monthly loss mitiga-  
15 tion evaluations for the mortgage required  
16 under section 203.605(a) of the Sec-  
17 retary’s regulations (24 C.F.R.  
18 203.605(a)) or any successor provision;

19 “(iv) with respect to any loss mitiga-  
20 tion action for which the mortgagor was  
21 determined to be ineligible, an explanation  
22 of, and documentation showing, why the  
23 mortgagor was determined to be ineligible;

24 “(v) a statement informing the bor-  
25 rower that, upon the request of the bor-

1           rower, the Secretary will provide the bor-  
2           rower with all loss mitigation evaluation  
3           documentation required by the Secretary  
4           with respect to the mortgage, including  
5           monthly evaluations referred to in clause  
6           (iii); and

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

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

20 **SEC. 6. RULE OF CONSTRUCTION.**

21           Nothing in this Act may be construed to supercede,  
22           or exempt any person from complying with, any provision  
23           of the Real Estate Settlement Procedures Act of 1974 (12

1 U.S.C. 2601 et seq.) or the regulations issued under such  
2 Act.

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