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.

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

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.

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Be it enacted by the Senate and House of Representa-
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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”.

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 account balance and from any insurance claim any interest and other fees that accrued during periods of noncompliance.”

SEC. 4. COMPLAINT PROCEDURE REGARDING LOSS MITIGATION.

Title V of the National Housing Act (12 U.S.C. 1731a et seq.) is amended by adding at the end the following 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 single family mortgages insured under this Act to register complaints with the Secretary regarding servicing, 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 procedure shall provide an opportunity for servicers to respond to such complaints and submit information regarding complaints.

“(2) Attempt to resolve.—For each complaint 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-
icing, 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 subsection may not provide an appeal for any complaint that was previously appealed under such procedure.

“(d) PROHIBITION ON FORECLOSURE.—The Secretary shall prohibit the foreclosure of a mortgage during any period that a complaint or appeal regarding such mortgage is pending under the procedures established pursuant 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 report to the Congress annually regarding complaints received under the procedure maintained pursuant to subsection (a), which shall specify the number of complaints received, disaggregated by types of complaints, status of complaints, geographic distribution of complaints, and average times for resolution of complaints, shall include relevant information submitted by servicers, and shall include any other information that the Secretary considers relevant. Such report shall comply with any applicable privacy 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 III.A.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 borrower 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 procedure under section 543(a) for registering complaints regarding loss mitigation and the procedure under section 543(c) for appealing 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 regarding ongoing loss mitigation reviews and standards 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.