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(Original Signature of Member)

116TH CONGRESS
1ST SESSION

H. R. _____

To revise the FHA program for home equity conversion mortgages for elderly homeowners to add safeguards to prevent the displacement of homeowners, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. HECK introduced the following bill; which was referred to the Committee
on _____

A BILL

To revise the FHA program for home equity conversion mortgages for elderly homeowners to add safeguards to prevent the displacement of homeowners, 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 “Preventing Fore-
5 closures on Seniors Act of 2019”.

1 **SEC. 2. SAFEGUARDS TO PREVENT DISPLACEMENT OF**
2 **HOMEOWNER.**

3 Subsection (j) of section 255 of the National Housing
4 Act (12 U.S.C. 1715z–20(j)) is amended—

5 (1) by striking the subsection designation and
6 all that follows through “The Secretary” and insert-
7 ing the following:

8 “(j) SAFEGUARDS TO PREVENT DISPLACEMENT OF
9 HOMEOWNER.—

10 “(1) DEFERRAL OF HOMEOWNER’S OBLIGA-
11 TION.—The Secretary”; and

12 (2) by adding at the end the following new
13 paragraphs:

14 “(2) REQUIREMENT TO ACCEPT ASSIGNMENT
15 OF MORTGAGE UPON DEATH OF BORROWING SPOUSE
16 WITH SURVIVING NON-BORROWING SPOUSE.—

17 “(A) ASSIGNMENT; NOTICE.—If the mort-
18 gagee of a mortgage insured under this section,
19 upon the death of the last surviving borrower
20 under such mortgage who is survived by an eli-
21 gible non-borrowing spouse or at such time that
22 the last surviving borrower permanently ceases
23 residence in such property due to health condi-
24 tions, requests the Secretary to accept assign-
25 ment of such mortgage—

1 “(i) the Secretary shall accept the as-
2 signment of the mortgage; and

3 “(ii) not later than the expiration of
4 the 7-day period beginning upon notice to
5 the mortgagee of the death or cessation of
6 residence of the borrower, as applicable,
7 the mortgagee shall notify the eligible non-
8 borrowing spouse in writing—

9 “(I) of the opportunity, pursuant
10 to subparagraph (B), for the eligible
11 non-borrowing spouse to remain in the
12 property that is subject to the mort-
13 gage; and

14 “(II) that the eligible non-bor-
15 rowing spouse should contact the
16 mortgagee regarding such assignment.

17 “(B) TREATMENT OF ELIGIBLE NON-BOR-
18 ROWING SPOUSE.—After assignment of a mort-
19 gage to the Secretary pursuant to subparagraph
20 (A), the Secretary shall provide the eligible non-
21 borrowing spouse with a deferral of the due and
22 payable status due to the death or cessation of
23 residence of the borrowing spouse, as applica-
24 ble, as long as the eligible non-borrowing spouse
25 qualifies as such pursuant to paragraph (4)(B).

1 “(3) LOSS MITIGATION FOR NEW MORTGAGES
2 IN CASES OF DELINQUENT TAXES OR INSURANCE.—

3 “(A) REQUIREMENTS.—The Secretary
4 shall require that, in the case of a mortgage
5 that is insured under this section, has an FHA
6 Case Number assigned on or after the date of
7 the enactment of this paragraph, and is in de-
8 fault by reason of failure to make payment of
9 taxes or insurance required under the mortgage
10 or homeowners association fees, the mortgagee
11 shall, as a precondition of sending a due and
12 payable request to the Secretary, take the fol-
13 lowing actions:

14 “(i) LOSS MITIGATION.—The mort-
15 gagee shall take appropriate loss mitiga-
16 tion actions, which may include the fol-
17 lowing actions:

18 “(I) Establishing a realistic re-
19 payment plan for the delinquent prop-
20 erty charges.

21 “(II) Assisting the borrower in
22 contacting a HUD-approved Housing
23 Counseling Agency (HCA) to obtain
24 free assistance in finding some viable
25 resolution to the delinquency, or in

1 identifying local resources available to
2 provide funds or homestead exemp-
3 tions.

4 “(III) Refinancing the delinquent
5 mortgage into a new home equity con-
6 version mortgage if—

7 “(aa) there is sufficient eq-
8 uity to satisfy the existing mort-
9 gage and outstanding property
10 charges; and

11 “(bb) the applicant for refi-
12 nancing meets the financial as-
13 sessment guidelines of the Sec-
14 retary.

15 “(IV) Extending the deadlines
16 for foreclosure in cases in which the
17 youngest living borrower or spouse is
18 at least 80 years of age and has crit-
19 ical circumstances such as a terminal
20 illness, long-term physical disability,
21 or a unique occupancy need.

22 “(V) Refraining from submitting
23 a due and payable request to the Sec-
24 retary in cases in which the total ar-

1 rearage for property taxes and hazard
2 insurance is less than \$2,000.

3 “(VI) Such other loss mitigation
4 actions as the Secretary considers ap-
5 propriate in such cases.

6 “(ii) TREATMENT OF NON-BOR-
7 ROWING SPOUSE.—The mortgagee shall
8 treat any eligible non-borrowing spouse as
9 a borrowing spouse for the purposes of loss
10 mitigation.

11 “(B) FAILURE TO COMPLY.—In any case
12 of claim for insurance benefits for a mortgage
13 described in subparagraph (A) that is made by
14 a mortgagee who has failed to comply with the
15 requirements of such subparagraph, the Sec-
16 retary may reduce or deny such benefits based
17 upon such failure.

18 “(4) LOSS MITIGATION FOR EXISTING MORT-
19 GAGES IN CASES OF DELINQUENT TAXES OR INSUR-
20 ANCE.—For any mortgage that is insured under this
21 section, has an FHA Case Number assigned before
22 the date of the enactment of this paragraph, and is
23 in default by reason of failure to make payment of
24 taxes or insurance required under the mortgage or

1 homeowners association fees, the Secretary shall
2 take the following actions:

3 “(A) The Secretary shall expand the loss
4 mitigation options available to mortgagees to
5 include at least all the loss mitigation actions
6 and options required with respect to mortgages
7 having case numbers assigned on or after the
8 date of the enactment of this paragraph.

9 “(B) The Secretary may not penalize
10 mortgagees who engage in loss mitigation ac-
11 tions through interest curtailment during such
12 loss mitigation review or during the period
13 when a loss mitigation plan is in effect and end-
14 ing 60 days after any such plan terminates.

15 “(5) MORTGAGEE OPTIONAL ELECTION ASSIGN-
16 MENT.—In implementing the Mortgagee Optional
17 Election Assignment for home equity conversion
18 mortgages insured under this section, the Secretary
19 shall use the definition of ‘eligible non-borrowing
20 spouse’ under paragraph (4) of this subsection in
21 lieu of the definition of ‘eligible surviving non-bor-
22 rowing spouse’ under the definition provisions of
23 Mortgagee Letter 2015–15 (June 12, 2015) or any
24 other definition.

1 “(6) CASH FOR KEYS INCENTIVE.—The Sec-
2 retary shall reimburse the mortgagee for a mortgage
3 insured under this section in the amount of a pay-
4 ment by the mortgagee, but in no case exceeding
5 \$3,000, of any of the following incentives:

6 “(A) An incentive paid to the borrower or
7 other party with a legal right to dispose of the
8 property in association with a deed in lieu of
9 foreclosure transaction, but only if the property
10 subject to the mortgage was deeded to the
11 mortgagee within 6 months of when the mort-
12 gagee notified the Secretary, or should have no-
13 tified the Secretary, that the mortgage is due
14 and payable, or the date that the deferral pe-
15 riod ended, or the date the Secretary approved
16 a due and payable request.

17 “(B) An incentive paid to a bona fide ten-
18 ant who vacated the property subject to the
19 mortgage before an eviction being initiated by
20 the mortgagee.

21 “(7) DEFINITIONS.—For purposes of this sub-
22 section, the following definitions shall apply:

23 “(A) BORROWER.—The term ‘borrower’
24 means, with respect to a mortgage insured
25 under this section, the original borrower under

1 the note and mortgage. Such term does not in-
2 clude successors or assigns of a borrower.

3 “(B) ELIGIBLE NON-BORROWING
4 SPOUSE.—The term ‘eligible non-borrowing
5 spouse’ means, with respect to a borrower
6 under a mortgage insured under this section
7 that was assigned an FHA Case Number before
8 August 4, 2014, a non-borrowing spouse who—

9 “(i)(I) was legally married, as deter-
10 mined by the law of the State in which the
11 spouse and borrower reside or resided or
12 the State of celebration, to the borrower at
13 the time of loan closing and remained mar-
14 ried to the borrower until the borrower’s
15 death or the time that the borrower perma-
16 nently ceased residence in such property
17 due to health conditions; or

18 “(II) engaged in a committed relation-
19 ship with the borrower akin to marriage
20 but was prohibited, at the time of the
21 mortgage loan origination, from legally
22 marrying the borrower based on the gender
23 of both the borrower and non-borrowing
24 spouse, but was legally married, as deter-
25 mined by the law of the State in which the

1 spouse and borrower reside or resided or
2 the State of celebration, to the borrower—

3 “(aa) before the death of the bor-
4 rower and remained married to the
5 borrower until the death of the bor-
6 rower; or

7 “(bb) before the time that the
8 borrower permanently ceased resi-
9 dence in such property due to health
10 conditions;

11 “(ii) currently resides and resided in
12 the property secured by the mortgage in-
13 sured under this section as his or her prin-
14 cipal residence at origination of the mort-
15 gage and throughout the duration of the
16 borrower’s life; and

17 “(iii) has obtained or is able to obtain,
18 pursuant to the death of the last surviving
19 borrower—

20 “(I) good, marketable title to or
21 an ownership interest in the property
22 subject to the mortgage; or

23 “(II) a legal or other right (in-
24 cluding a will, an executed lease, or

1 court order) to remain in the property
2 for life.

3 “(C) NON-BORROWING SPOUSE.—For pur-
4 poses of this subsection, the term ‘non-bor-
5 rowing spouse’ means, with respect to a bor-
6 rower under a mortgage insured under this sec-
7 tion, the spouse of such borrower who is not
8 also a borrower.

9 “(8) REPORTING ON FORECLOSURES.—

10 “(A) ANNUAL REPORT TO CONGRESS.—
11 The Secretary shall submit a report to the Con-
12 gress annually regarding foreclosures on mort-
13 gages insured under this section that identifies
14 the overall number of such foreclosures, and the
15 reasons for such foreclosures, including what
16 percentage of such foreclosures were due to de-
17 linquent payments on taxes and insurance.

18 “(B) PUBLIC DATA REPORTS.—

19 “(i) REQUIREMENT.—The Secretary
20 shall make available publicly on a website
21 of the Department, and regularly update, a
22 dataset for mortgages insured under this
23 section that identifies loan-level origination
24 and performance data, including origina-

1 tion, servicing, and termination informa-
2 tion.

3 “(ii) INCLUDED INFORMATION.— The
4 dataset shall include—

5 “(I) all of the same types of in-
6 formation regarding such mortgages
7 that was reported by the Secretary
8 under home equity conversion mort-
9 gage public data reports, as of dis-
10 continuation of such reports in 2011;

11 “(II) data relating to termi-
12 nations, including the reasons for
13 such terminations;

14 “(III) data relating to non-bor-
15 rowing spouses, including the number
16 of requests for mortgagee optional as-
17 signment (MOE), the number of such
18 requests approved and denied, and the
19 reasons for such denials; and

20 “(IV) data on borrowers in de-
21 fault who were offered loss mitigation,
22 what type of loss mitigation was of-
23 fered, and to what extent loss mitiga-
24 tion was effective.”.

1 **SEC. 3. COORDINATION WITH BUREAU OF CONSUMER FI-**
2 **NANCIAL PROTECTION.**

3 Section 255 of the National Housing Act (12 U.S.C.
4 1715z-20) is amended—

5 (1) by redesignating subsection (r) as sub-
6 section (q); and

7 (2) by adding at the end the following new sub-
8 section:

9 “(r) COORDINATION WITH CFPB.—The Secretary
10 and the Bureau shall enter into an information sharing
11 agreement to carry out effective monitoring of compliance
12 with consumer protection laws with respect to the program
13 for insuring mortgages under this section.”.