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”.

(Original Signature of Member)
SEC. 2. SAFEGUARDS TO PREVENT DISPLACEMENT OF HOMEOWNER.

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

(1) by striking the subsection designation and all that follows through “The Secretary” and inserting the following:

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

“(1) DEFERRAL OF HOMEOWNER’S OBLIGATION.—The Secretary”; and

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

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

“(A) ASSIGNMENT; NOTICE.—If the mortgagee of a mortgage insured under this section, upon the death of the last surviving borrower under such mortgage who is survived by an eligible non-borrowing spouse or at such time that the last surviving borrower permanently ceases residence in such property due to health conditions, requests the Secretary to accept assignment of such mortgage—
“(i) the Secretary shall accept the assignment of the mortgage; and

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

“(I) of the opportunity, pursuant to subparagraph (B), for the eligible non-borrowing spouse to remain in the property that is subject to the mortgage; and

“(II) that the eligible non-borrowing spouse should contact the mortgagee regarding such assignment.

“(B) Treatment of Eligible Non-Borrowing Spouse.—After assignment of a mortgage to the Secretary pursuant to subparagraph (A), the Secretary shall provide the eligible non-borrowing spouse with a deferral of the due and payable status due to the death or cessation of residence of the borrowing spouse, as applicable, as long as the eligible non-borrowing spouse qualifies as such pursuant to paragraph (4)(B).
“(3) LOSS MITIGATION FOR NEW MORTGAGES
IN CASES OF DELINQUENT TAXES OR INSURANCE.—

“(A) REQUIREMENTS.—The Secretary shall require that, in the case of a mortgage that is insured under this section, has an FHA Case Number assigned on or after the date of the enactment of this paragraph, and is in default by reason of failure to make payment of taxes or insurance required under the mortgage or homeowners association fees, the mortgagee shall, as a precondition of sending a due and payable request to the Secretary, take the following actions:

“(i) LOSS MITIGATION.—The mortgagee shall take appropriate loss mitigation actions, which may include the following actions:

“(I) Establishing a realistic repayment plan for the delinquent property charges.

“(II) Assisting the borrower in contacting a HUD-approved Housing Counseling Agency (HCA) to obtain free assistance in finding some viable resolution to the delinquency, or in
identifying local resources available to
provide funds or homestead exemp-
tions.

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

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

“(bb) the applicant for refi-
nancing meets the financial as-
sement guidelines of the Sec-
retary.

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

“(V) Refraining from submitting a due and payable request to the Sec-
retary in cases in which the total ar-
rearage for property taxes and hazard insurance is less than $2,000.

“(VI) Such other loss mitigation actions as the Secretary considers appropriate in such cases.

“(ii) Treatment of Non-Borrowing Spouse.—The mortgagee shall treat any eligible non-borrowing spouse as a borrowing spouse for the purposes of loss mitigation.

“(B) Failure to Comply.—In any case of claim for insurance benefits for a mortgage described in subparagraph (A) that is made by a mortgagee who has failed to comply with the requirements of such subparagraph, the Secretary may reduce or deny such benefits based upon such failure.

“(4) Loss Mitigation for Existing Mortgages in Cases of Delinquent Taxes or Insurance.—For any mortgage that is insured under this section, has an FHA Case Number assigned before the date of the enactment of this paragraph, and is in default by reason of failure to make payment of taxes or insurance required under the mortgage or
homeowners association fees, the Secretary shall take the following actions:

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

“(B) The Secretary may not penalize mortgagees who engage in loss mitigation actions through interest curtailment during such loss mitigation review or during the period when a loss mitigation plan is in effect and ending 60 days after any such plan terminates.

“(5) MORTGAGEE OPTIONAL ELECTION ASSIGNMENT.—In implementing the Mortgagee Optional Election Assignment for home equity conversion mortgages insured under this section, the Secretary shall use the definition of ‘eligible non-borrowing spouse’ under paragraph (4) of this subsection in lieu of the definition of ‘eligible surviving non-borrowing spouse’ under the definition provisions of Mortgagee Letter 2015–15 (June 12, 2015) or any other definition.
“(6) CASH FOR KEYS INCENTIVE.—The Secretary shall reimburse the mortgagee for a mortgage insured under this section in the amount of a payment by the mortgagee, but in no case exceeding $3,000, of any of the following incentives:

“(A) An incentive paid to the borrower or other party with a legal right to dispose of the property in association with a deed in lieu of foreclosure transaction, but only if the property subject to the mortgage was deeded to the mortgagee within 6 months of when the mortgagee notified the Secretary, or should have notified the Secretary, that the mortgage is due and payable, or the date that the deferral period ended, or the date the Secretary approved a due and payable request.

“(B) An incentive paid to a bona fide tenant who vacated the property subject to the mortgage before an eviction being initiated by the mortgagee.

“(7) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

“(A) BORROWER.—The term ‘borrower’ means, with respect to a mortgage insured under this section, the original borrower under
the note and mortgage. Such term does not include successors or assigns of a borrower.

“(B) Eligible Non-Borrowing Spouse.—The term ‘eligible non-borrowing spouse’ means, with respect to a borrower under a mortgage insured under this section that was assigned an FHA Case Number before August 4, 2014, a non-borrowing spouse who—

“(i)(I) was legally married, as determined by the law of the State in which the spouse and borrower reside or resided or the State of celebration, to the borrower at the time of loan closing and remained married to the borrower until the borrower’s death or the time that the borrower permanently ceased residence in such property due to health conditions; or

“(II) engaged in a committed relationship with the borrower akin to marriage but was prohibited, at the time of the mortgage loan origination, from legally marrying the borrower based on the gender of both the borrower and non-borrowing spouse, but was legally married, as determined by the law of the State in which the
spouse and borrower reside or resided or
the State of celebration, to the borrower—
“(aa) before the death of the bor-
rower and remained married to the
borrower until the death of the bor-
rower; or
“(bb) before the time that the
borrower permanently ceased resi-
dence in such property due to health
conditions;
“(ii) currently resides and resided in
the property secured by the mortgage in-
sured under this section as his or her prin-
cipal residence at origination of the mort-
gage and throughout the duration of the
borrower’s life; and
“(iii) has obtained or is able to obtain,
pursuant to the death of the last surviving
borrower—
“(I) good, marketable title to or
an ownership interest in the property
subject to the mortgage; or
“(II) a legal or other right (in-
ccluding a will, an executed lease, or
court order) to remain in the property
for life.

“(C) Non-borrowing Spouse.—For pur-
poses of this subsection, the term ‘non-bor-
rowing spouse’ means, with respect to a bor-
rower under a mortgage insured under this sec-
tion, the spouse of such borrower who is not
also a borrower.

“(8) Reporting on Foreclosures.—

“(A) Annual Report to Congress.—
The Secretary shall submit a report to the Con-
gress annually regarding foreclosures on mort-
gages insured under this section that identifies
the overall number of such foreclosures, and the
reasons for such foreclosures, including what
percentage of such foreclosures were due to del-
linquent payments on taxes and insurance.

“(B) Public Data Reports.—

“(i) Requirement.—The Secretary
shall make available publicly on a website
of the Department, and regularly update, a
dataset for mortgages insured under this
section that identifies loan-level origination
and performance data, including origina-
tion, servicing, and termination information.

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

“(I) all of the same types of information regarding such mortgages that was reported by the Secretary under home equity conversion mortgage public data reports, as of discontinuation of such reports in 2011;

“(II) data relating to terminations, including the reasons for such terminations;

“(III) data relating to non-borrowing spouses, including the number of requests for mortgagee optional assignment (MOE), the number of such requests approved and denied, and the reasons for such denials; and

“(IV) data on borrowers in default who were offered loss mitigation, what type of loss mitigation was offered, and to what extent loss mitigation was effective.”.
SEC. 3. COORDINATION WITH BUREAU OF CONSUMER FINANCIAL PROTECTION.

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

(1) by redesignating subsection (r) as subsection (q); and

(2) by adding at the end the following new subsection:

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