H. R. 115th Congress 1st Session

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

Ms. MAXINE WATERS of California (for herself and 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-

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 2017”.

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) ASSIGNMENT OF MORTGAGE TO HUD UPON DEATH OF BORROWING SPOUSE WITH SURVIVING NON-BORROWING SPOUSE.—

“(A) ASSIGNMENT; NOTICE.—The Secretary shall require 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—

“(i) to assign the mortgage to the Secretary; and

“(ii) not later than the expiration of the 7-day period beginning upon notice to
the mortgagee of the death of the borrower, to 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 of the borrowing spouse as long as the eligible non-borrowing spouse qualifies as such pursuant to paragraph (4)(B).

“(3) Loss Mitigation in Cases of Delinquent Taxes or Insurance.—

“(A) Requirement.—The Secretary shall require that, in the case of a mortgage insured under this section that 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 exemptions.

“(III) Refinancing the delinquent mortgage into a new home equity conversion mortgage if—
“(aa) there is sufficient equity to satisfy the existing mortgage and outstanding property charges; and

“(bb) the applicant for refinancing meets the financial assessment guidelines of the Secretary.

“(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 critical 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 Secretary in cases in which the total arrearage 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 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 insured under this section made by a mortgagor who has failed to comply with the requirements under subparagraph (A), the Secretary may reduce or deny such benefits based upon such failure.

“(4) 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 a non-borrowing spouse of an borrower under a mortgage insured under this section that was assigned an FHA Case Number before August 4, 2014, 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 who remained
married to the borrower until the bor-
rower’s death; or

“(II) engaged in a committed relation-
ship 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 before the
death of the borrower, 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 and re-
mained married until the death of the bor-
rower;

“(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, before the date of foreclosure on the mortgage 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 (including a will, an executed lease, or court order) to remain in the property for life.

“(C) NON-BORROWING SPOUSE.—For purposes of this subsection, the term ‘non-borrowing spouse’ means, with respect a borrower under a mortgage insured under this section, the spouse of such borrower who is not also a borrower.

“(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.’’.

SEC. 3. CONSULTATION 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) CONSULTATION WITH CFPB.—In carrying out the program for insuring mortgages under this section, the Secretary shall consult with the Bureau of Consumer Financial Protection of the Federal Reserve System on matters involving consumer protections.’’.