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2d Session
HOUSE OF REPRESENTATIVES
REPORT
111–476

FHA REFORM ACT OF 2010

MAY 6, 2010.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. FRANK of Massachusetts, from the Committee on Financial Services, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 5072]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 5072) to improve the financial safety and soundness of the FHA mortgage insurance program, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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89–006

AMENDMENT

The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "FHA Reform Act of 2010".

SEC. 2. MORTGAGE INSURANCE PREMIUMS.

Subparagraph (B) of section 203(c)(2) of the National Housing Act (12 U.S.C. 1709(c)(2)(B)) is amended—

(1) in the matter preceding clause (i)—

(A) by striking "shall" and inserting "may"; and

(B) by striking "0.50 percent" and inserting "1.5 percent"; and

(2) in clause (ii), by striking "shall be in an amount not exceeding 0.55 percent" and inserting "may be in an amount not exceeding 1.55 percent".

SEC. 3. INDEMNIFICATION BY MORTGAGEES.

Section 202 of the National Housing Act (12 U.S.C. 1708) is amended by adding at the end the following new subsection:

"(i) INDEMNIFICATION BY MORTGAGEES.—

"(1) IN GENERAL.—If the Secretary determines that a mortgage executed by a mortgagee approved by the Secretary under the direct endorsement program or insured by a mortgagee pursuant to the delegation of authority under section 256 was not originated or underwritten in accordance with the requirements established by the Secretary, and the Secretary pays an insurance claim with respect to the mortgage within a reasonable period specified by the Secretary, the Secretary may require the mortgagee approved by the Secretary under the direct endorsement program or the mortgagee delegated authority under section 256 to indemnify the Secretary for the loss.

"(2) FRAUD OR MISREPRESENTATION.—If fraud or misrepresentation was involved in connection with the origination or underwriting, the Secretary may require the mortgagee approved by the Secretary under the direct endorsement program or the mortgagee delegated authority under section 256 to indemnify the Secretary for the loss regardless of when an insurance claim is paid.

"(3) REQUIREMENTS AND PROCEDURES.—The Secretary shall issue regulations establishing appropriate requirements and procedures governing the indemnification of the Secretary by the mortgagee.".

SEC. 4. DELEGATION OF INSURING AUTHORITY.

Section 256 of the National Housing Act (12 U.S.C. 1715z–21) is amended—

(1) by striking subsection (c);

(2) in subsection (e), by striking ", including" and all that follows through "by the mortgagee"; and

(3) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 5. AUTHORITY TO TERMINATE MORTGAGEE ORIGINATION AND UNDERWRITING APPROVAL.

Section 533 of the National Housing Act (12 U.S.C. 1735f–11) is amended—

(1) in the first sentence of subsection (b), by inserting "or areas or on a nationwide basis" after "area" each place such term appears; and

(2) in subsection (c), by striking "(c)" and all that follows through "The Secretary" in the first sentence of paragraph (2) and inserting the following:

"(c) TERMINATION OF MORTGAGEE ORIGINATION AND UNDERWRITING APPROVAL.—

"(1) TERMINATION AUTHORITY.—If the Secretary determines, under the comparison provided in subsection (b), that a mortgagee has a rate of early defaults and claims that is excessive, the Secretary may terminate the approval of the mortgagee to originate or underwrite single family mortgages for any area, or areas, or on a nationwide basis, notwithstanding section 202(c) of this Act.

"(2) PROCEDURE.—The Secretary".

SEC. 6. DEPUTY ASSISTANT SECRETARY OF FHA FOR RISK MANAGEMENT AND REGULATORY AFFAIRS.

(a) ESTABLISHMENT OF POSITION.—Subsection (b) of section 4 of the Department of Housing and Urban Development Act (42 U.S.C. 3533(b)) is amended—

(1) by inserting "(1)" after "(b)"; and

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

"(2) There shall be in the Department, within the Federal Housing Administration, a Deputy Assistant Secretary for Risk Management and Regulatory Affairs, who shall be appointed by the Secretary and shall be responsible to the Federal

Housing Commissioner for all matters relating to managing and mitigating risk to the mortgage insurance funds of the Department and ensuring the performance of mortgages insured by the Department.".

(b) TERMINATION.—Upon the appointment and confirmation of the initial Deputy Assistant Secretary for Risk Management and Regulatory Affairs pursuant to section 4(b)(2) of the Department of Housing and Urban Development Act, as amended by subsection (a) of this section, the position of chief risk officer within the Federal Housing Administration, filled by appointment by the Federal Housing Commissioner, is abolished.

SEC. 7. USE OF OUTSIDE CREDIT RISK ANALYSIS SOURCES.

Section 202 of the National Housing Act (12 U.S.C. 1708), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

"(j) USE OF OUTSIDE CREDIT RISK ANALYSIS SOURCES.—The Secretary may obtain the services of, and enter into contracts with, private and other entities outside of the Department in—

"(1) analyzing credit risk models and practices employed by the Department in connection with such mortgages;

"(2) evaluating underwriting standards applicable to such mortgages insured by the Department; and

"(3) analyzing the performance of lenders in complying with, and the Department in enforcing, such underwriting standards.".

SEC. 8. REVIEW OF MORTGAGEE PERFORMANCE.

Section 533 of the National Housing Act (12 U.S.C. 1735f–11) is amended—

(1) in subsection (a), by inserting after the period at the end the following: "For purposes of this subsection, the term 'early default' means a default that occurs within 24 months after a mortgage is originated or such alternative appropriate period as the Secretary shall establish.";

(2) in subsection (b), by inserting after the period at the end of the first sentence the following: "The Secretary shall also identify which mortgagees have had a significant or rapid increase, as determined by the Secretary, in the number or percentage of early defaults and claims on such mortgages, with respect to all mortgages originated by the mortgagee or mortgages on housing located in any particular geographic area or areas."; and

(3) by adding at the end the following new subsections:

"(d) SUFFICIENT RESOURCES.—There is authorized to be appropriated to the Secretary for each of fiscal years 2010 through 2014 the amount necessary to provide additional full-time equivalent positions for the Department, or for entering into such contracts as are necessary, to conduct reviews in accordance with the requirements of this section and to carry out other responsibilities relating to ensuring the safety and soundness of the Mutual Mortgage Insurance Fund.

"(e) REPORTING TO CONGRESS.—Not later than 90 days after the date of enactment of the FHA Reform Act of 2010 and not less often than annually thereafter, the Secretary shall make available to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate any information and conclusions pursuant to the reviews required under subsection (a). Such report shall not include detailed information on the performance of individual mortgages.".

SEC. 9. USE OF NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.

(a) USE BY MORTGAGEES, OFFICERS, AND OWNERS; USE FOR INSURED MORTGAGES.—

(1) MORTGAGEES, OFFICERS, AND OWNERS.—Section 202 of the National Housing Act (12 U.S.C. 1708), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsections:

"(k) USE OF NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY FOR MORTGAGEES, OFFICERS, AND OWNERS.—The Secretary may require, as a condition for approval of a mortgagee by the Secretary to originate or underwrite mortgages on single family that are insured by the Secretary, that the mortgagee—

"(1) obtain and maintain a unique company identifier assigned by the Nationwide Mortgage Licensing System and Registry, as established by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators; and

"(2) obtain and maintain, as relates to any and all officers or owners of the mortgagee who are subject to the requirements of the S.A.F.E. Mortgage Licensing Act of 2008, or are otherwise required to register with the Nationwide Mortgage Licensing System and Registry, the unique identifier assigned by the Nationwide Mortgage Licensing System and Registry, as established by the Con-

ference of State Bank Supervisors and the American Association of Residential Mortgage Regulators.".

(2) INSURED MORTGAGES.—Section 203 of the National Housing Act (12 U.S.C. 1709) is amended by adding at the end the following new subsection:

"(y) USE OF NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY FOR INSURED LOANS.—The Secretary may require each mortgage insured under this section to include the unique identifier (as such term is defined in section 1503 of the S.A.F.E. Mortgage Licensing act of 2008 (12 U.S.C. 5102)) and any unique company identifier assigned by the Nationwide Mortgage Licensing System and Registry, as established by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators.".

(b) COORDINATION WITH STATE REGULATORY AGENCIES.—Section 202 of the National Housing Act (12 U.S.C. 1708), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

"(l) INFORMATION SHARING WITH STATE REGULATORY AGENCIES.—

"(1) JOINT PROTOCOL ON INFORMATION SHARING.—The Secretary shall, through consultation with State regulatory agencies, pursue protocols for information sharing, including the appropriate treatment of confidential or otherwise restricted information, regarding either actions described in subsection (c)(3) of this section or disciplinary or enforcement actions by a State regulatory agency or agencies against a mortgagee (as such term is defined in subsection (c)(7)).

"(2) COORDINATION.—To the greatest extent possible, the Secretary and appropriate State regulatory agencies shall coordinate disciplinary and enforcement actions involving mortgagees (as such term is defined in subsection (c)(7)).".

SEC. 10. REPORTING OF MORTGAGEE ACTIONS TAKEN AGAINST OTHER MORTGAGEES.

Section 202 of the National Housing Act (12 U.S.C. 1708(e)), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

"(m) NOTIFICATION OF MORTGAGEE ACTIONS.—The Secretary shall require each mortgagee, as a condition for approval by the Secretary to originate or underwrite mortgages on single family or multifamily housing that are insured by the Secretary, if such mortgagee engages in the purchase of mortgages insured by the Secretary and originated by other mortgagees or in the purchase of the servicing rights to such mortgages, and such mortgagee at any time takes action to terminate or discontinue such purchases from another mortgagee based on any determination, evidence, or report of fraud or material misrepresentation in connection with the origination of such mortgages, the mortgagee shall, not later than 15 days after taking such action, shall notify the Secretary of the action taken and the reasons for such action.".

SEC. 11. ANNUAL ACTUARIAL STUDY AND QUARTERLY REPORTS ON MUTUAL MORTGAGE INSURANCE FUND.

Subsection (a) of section 202 of the National Housing Act (12 U.S.C. 1708(a)) is amended—

(1) in the second sentence of paragraph (4), by inserting before the period at the end the following: ", any changes to the current or projected safety and soundness of the Fund since the most recent report under this paragraph or paragraph (5), and any risks to the Fund"; and

(2) in paragraph (5)—

(A) in subparagraph (D), by striking "and" at the end;

(B) in subparagraph (E), by striking the period at the end and inserting "; and";

(C) by adding at the end the following:

"(F) any other factors that are likely to have an impact on the financial status of the Fund or cause any material changes to the current or projected safety and soundness of the Fund since the most recent report under paragraph (4).

The Secretary may include in the report under this paragraph any recommendations not made in the most recent report under paragraph (4) that may be needed to ensure that the Fund remains financially sound.".

SEC. 12. REVIEW OF DOWNPAYMENT REQUIREMENTS.

Section 205 of the National Housing Act (12 U.S.C. 1711) is amended by adding at the end the following new subsection:

"(g) REVIEW OF DOWNPAYMENT REQUIREMENTS.—If, at any time when the capital ratio (as such term is defined in subsection (f)) of the Mutual Mortgage Insurance Fund does not comply with the requirement under subsection (f)(1), the Secretary establishes a cash investment requirement, for all mortgages or mortgagors or with respect to any group of mortgages or mortgagors, that exceeds the minimum per-

centage or amount required under section 203(b)(9), thereafter upon the capital ratio first complying with the requirement under subsection (f)(1) the Secretary shall review such cash investment requirement and, if the Secretary determines that such percentage or amount may be reduced while maintaining such compliance, the Secretary shall subsequently reduce such requirement by such percentage or amount as the Secretary considers appropriate.".

SEC. 13. DEFAULT AND ORIGINATION INFORMATION BY LOAN SERVICER AND ORIGINATING DIRECT ENDORSEMENT LENDER.

(a) COLLECTION OF INFORMATION.—Paragraph (2) of section 540(b) of the National Housing Act (12 U.S.C. 1712 U.S.C. 1735f–18(b)(2)) is amended by adding at the end the following new subparagraph:

"(C) For each entity that services insured mortgages, data on the performance of mortgages originated during each calendar quarter occurring during the applicable collection period, disaggregated by the direct endorsement mortgagee from whom such entity acquired such servicing.".

(b) APPLICABILITY.—Information described in subparagraph (C) of section 540(b)(2) of the National Housing Act, as added by subsection (a) of this section, shall first be made available under such section 540 for the applicable collection period (as such term is defined in such section) relating to the first calendar quarter ending after the expiration of the 12-month period that begins on the date of the enactment of this Act.

SEC. 14. THIRD PARTY SERVICER OUTREACH.

(a) AUTHORITY.—The Secretary of Housing and Urban Development may, to the extent any amounts for fiscal year 2010 or 2011 are made available in advance in appropriation Acts for reimbursements under this section, provide reimbursement to servicers of covered mortgages (as such term is defined in subsection (e)) for costs of obtaining the services of independent third parties meeting the requirements under subsection (b) of this section to make in-person contact with mortgagors under covered mortgages whose payments under such mortgages are 60 or more days past due, solely for the purposes of providing information to such mortgagors regarding—

(1) available counseling by housing counseling agencies approved by the Secretary ; and

(2) available mortgage loan modification, refinance, and assistance programs.

(b) QUALIFIED INDEPENDENT THIRD PARTIES.—An independent third party meets the requirements of this subsection if the third party—

(1) is an entity, including a housing counseling agency approved by the Secretary, that meets standards, qualifications, and requirements (including regarding foreclosure prevention training, quality monitoring, safeguarding of non-public information) established by the Secretary for purposes of this section for in-person contact about available mortgage loan modification, refinance, and assistance programs; and

(2) does not charge any fees or require other payments, directly or indirectly, from any mortgagor for making in-person contact and providing information and documents under this section.

(c) TREATMENT OF PERSONAL, NON-PUBLIC, AND CONFIDENTIAL INFORMATION.—An independent third party whose services are obtained using amounts made available for use under this section and the mortgage servicer obtaining such services shall not use, disclose, or distribute any personal, non-public, or confidential information about a mortgagor obtained during an in-person contact with the mortgagor, except for purposes of engaging in the process of modification or refinance of the covered mortgage.

(d) DATE OF CONTACT AND DISCLOSURES.—Each independent third party whose services are obtained by a mortgage servicer using amounts made available for use under this section shall—

(1) initiate in-person contact with a mortgagor not later than 10 days after the date upon which payments under the covered mortgage of the mortgagor become 60 days past due; and

(2) upon making in-person contact with a mortgagor, provide the mortgagor with a written document that discloses—

(A) the name of, and contact information for, the independent third party and the mortgage servicer;

(B) that the independent third party has contracted with the mortgage servicer to provide the in-person contact at no charge to the mortgagor;

(C) that the independent third party is an agent of the mortgage servicer;

(D) that the in-person contact with the mortgagor consists of providing information about available counseling by a housing counseling agency ap-

proved by the Secretary and available mortgage loan modification, refinance, and assistance programs;

(E) that the independent third party and the mortgage servicer are prohibited from the use, disclosure, or distribution of personal, non-public, and confidential information about the mortgagor, obtained during the in-person contact, except for purposes of engaging in the process of modification or refinance of the covered mortgage;

(F) any other information that the Secretary determines should be disclosed.

(e) DEFINITION OF COVERED MORTGAGE.—For purposes of this section, the term "covered mortgage" means a mortgage on a 1- to 4-family residence insured under the provisions of subsection (b) or (k) of section 203, section 234(c), or 251 of the National Housing Act (12 U.S.C. 1709, 1715y, 1715z–16).

SEC. 15. GAO REPORTS ON FHA AND GINNIE MAE.

Not later than the expiration of the 12-month period beginning on the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Congress the following reports:

(1) FHA REPORT.—A report on the single family mortgage insurance programs of the Secretary of Housing and Urban Development and the Mutual Mortgage Insurance Fund established under section 202(a) of the National Housing Act (12 U.S.C. 1708(a)) that—

(A) analyzes such Fund, the economic net worth, capital ratio, and unamortized insurance-in-force (as such terms are defined in section 205(f)(4) of such Act (12 U.S.C. 1711(f)(4))) of such Fund, the risks to the Fund, how the capital ratio of the Fund affects the mortgage insurance programs under the Fund and the broader housing market, the extent to which the housing markets are more dependent on mortgage insurance provided through the Fund since the financial crisis began in 2008, and the exposure of the taxpayers for obligations of the Fund;

(B) analyzes the methodology of the capital ratio for the Fund under section 205(f) of such Act and examines other alternative methodologies with respect to which methodology is most appropriate to meet the operational goals of the Fund under section 202(a)(7);

(C) analyzes the effects of the increases in the limits on the maximum principal obligation of mortgages made by the FHA Modernization Act of 2008 (title I of division B of Public Law 110–289), section 202 of the Economic Stimulus Act of 2008 (Public Law 110–185; 122 Stat. 620), section 1202 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 225), and section 166 of the Continuing Appropriations Resolution, 2010 (as added by section 104 of division B of Public Law 111–88; 123 Stat. 29723) on—

(i) the risks to and safety and soundness of the Fund;

(ii) the impact on the affordability and availability of mortgage credit for borrowers for loans authorized under such higher loan limits;

(iii) the private market for residential mortgage loans that are not insured by the Secretary of Housing and Urban Development; and

(iv) the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation; and

(D) analyzes the impact on affordability to FHA borrowers, and the impact to the Fund, of seller concessions or contributions to a borrower purchasing a residence using a mortgage that is insured by the Secretary.

(2) GINNIE MAE.—A report on the Government National Mortgage Association that identifies—

(A) the volume and share of the residential mortgage market that consists of mortgages that back securities for which the payment for principal and interest is guaranteed by such Association and how the Association has been affected by the economic recession, credit crisis, and downturn in the housing markets occurring during 2008, 2009, and 2010;

(B) the capacity of the Association to manage the volume of business it conducts and securities it guarantees, particularly with regard to the recent dramatic increase in such volume, including the ability of the Association to conduct appropriate oversight of contractors and issuers of securities for which the payment of principal and interest is guaranteed by the Association and to determine whether the characteristics of various mortgage products constitute appropriate collateral for the federally guaranteed securities for which payment of principal and interest is guaranteed by such Association;

(C) the impacts, if any, resulting from such increased volume of business conducted by the Association and securities it guarantees and the challenges such increased volume poses to the internal controls of the Association; and

(D) the existing capital net worth requirements for aggregators of mortgages that issue securities that are based on or backed by such mortgages and payment of principal and interest on which is guaranteed by such Association and recommends an appropriate required level of net worth for such aggregators and issuers to protect the financial interests of the Federal Government and the taxpayers.

PURPOSE AND SUMMARY

The purpose of H.R. 5072, the "FHA Reform Act of 2010" is consistent with the Operational Goals of the Mutual Mortgage Insurance Fund (MMIF) established under section 205 of the National Housing Act: (a) to minimize the default risk to the MMIF and to homeowners; and (b) to meet the housing needs of the borrowers that the Federal Housing Administration (FHA) single family program is designed to serve.

Specifically, the Act empowers FHA to increase its capital reserves by providing FHA with the authority to raise the annual mortgage insurance premium for new borrowers from the current cap of 0.55 percent to 1.55 percent for borrowers with mortgages at or below 95 percent of value and from 0.50 to 1.50 percent for borrowers with mortgages below 95 percent of value. At the same time, the Act protects the affordability of FHA mortgage insurance by providing that if FHA institutes an increased downpayment requirement for borrowers when the MMIF is below the two percent mandated under section 202 of the National Housing Act, FHA review that requirement when the MMIF again complies with the two percent reserve mandate and subsequently reduce the increased downpayment requirement for borrowers if compliance with section 202 can be maintained.

The Act also provides FHA with enhanced authority to reduce default risk to the MMIF by (a) strengthening FHA's ability to terminate direct endorsement mortgagees' approval to originate or underwrite loans backed by FHA insurance based on poor loan performance; (b) strengthening FHA's ability to require mortgagees to indemnify FHA for improperly underwritten loans; and (c) improving FHA's risk management ability and requiring FHA to provide additional data to the public and to Congress on mortgagee and loan performance.

BACKGROUND AND NEED FOR LEGISLATION

State of the FHA MMIF

In the latter half of 2009, it became clear that the financial position of FHA's MMIF had deteriorated as a result of the economic crisis and a decline in home prices. Specifically, on November 6, 2009, FHA released the fiscal year (FY) 2009 actuarial report, as required under the 1990 Cranston-Gonzalez Act, which was prepared by Integrated Financial Engineering, Inc. (IFE). The report estimated that at the end of FY 2009, the total insurance in force (excluding Home Equity Conversion Mortgages, or HECMs) was $656.012 billion, and that the economic value of the fund (excluding HECMs) was $2.732 billion.

Separately, IBM Global Business Services completed an actuarial analysis of FHA HECM loans, dated October 12, 2009. That report estimated that at the end of FY 2009, the total of all outstanding FHA HECM loans was $28.696 billion, and the economic value of outstanding HECM loans was $909 million.

The IFE report on the Fund noted that the economic value of the Fund (excluding HECMs) of $2.732 billion declined from FY 2008's level of $12.908 billion. The report noted that "the decrease is driven mainly by a much more pessimistic national housing market forecast," including a projected decline in the nationwide price average of 9.37 percent over the next year and a slower subsequent recovery rate.

The IFE report also revealed that the combined economic value from all FHA loans outstanding at the end of FY 2009 (including HECMs) was $3.641 billion—which represents a capital ratio of 0.53 percent (this "capital ratio" is defined as the "economic net worth" of the Fund under the annual audit, expressed as a percentage of total FHA insurance in force. 'Economic net worth" is in turn defined as the current cash available to the Fund, plus the net present value of all future expected FHA cash inflows and outflows). This capital ratio of 0.53 percent did not meet the requirements provided at section 202 of the National Housing Act, which states that the MMIF must maintain a capital ratio of at least two percent.

Though currently the MMIF is below the required two percent ratio, the actuarial report projected that the economic value of the MMIF (excluding HECMs) would increase from $2.732 billion in FY 2009 to $7.882 billion at the end of FY 2010, and to $41.068 billion by the end of FY 2016. The separate HECM actuarial analysis projects that the economic value of HECMs will increase from $909 million in FY 2009 to $19.83 billion at the end of FY 2016. Under such projections, the combined economic value of $60.898 billion in FY 2016 would represent a capital ratio of 3.57 percent.

These calculations represent baseline projections made by IFE. However, IFE also projected fund performance under five alternative economic scenarios to assess the sensitivity of results to key assumptions. Under two of these alternative scenarios, the current economic value of the MMIF (excluding HECMs) was significantly higher, in both cases exceeding $10 billion, but under the three other more pessimistic scenarios, the economic value of the MMIF was negative. Under the most adverse economic scenario, the current economic value of the fund would be negative $17.09 billion. However, even under this most pessimistic economic scenario, the value of the MMIF was projected to become positive in FY 2012.

Section 205 of the National Housing Act provides that if the annual actuarial study determines that the Fund is not meeting its Operational Goals or if there is a substantial probability that the Fund will not meet its established target subsidy rate, the HUD Secretary may either make programmatic adjustments as necessary to reduce Fund risk or make appropriate premium adjustments.

Actions to restore the MMIF

Using existing authority, FHA has taken a number of administrative and regulatory steps to reduce risks to the Fund and meet

the requirement for the MMIF to maintain a capital ratio of at least two percent. First, for FHA loans for which a case number was assigned on or after April 5, 2010, the upfront mortgage insurance premium was increased 50 basis points from 1.75 percent to 2.25 of the loan balance.

Additional steps taken by FHA include the appointment of a Chief Risk Officer; stricter streamlined refinance procedures, including new requirements for seasoning, payment history, income verification, and capping maximum loan-to-value ratios at 125 percent; new appraisal controls, including provisions to strengthen appraiser independence and shorten the appraisal validity period; raising the net worth requirement of approved mortgagees from $250,000 to $1 million (immediately for new lender approvals and within one year for existing lenders), and at least $1 million plus one percent of total loan volume in excess of $25 million within 3 years (with a small business lender exemption from this rule, with small lenders now required to have a net worth of $500,000); and strengthening lender approval requirements, by requiring FHA-approved mortgagees to assume liability for all the loans they originate or underwrite, including taking responsibility for broker-originated loans. FHA has also announced its intention to pursue a 10 percent downpayment requirement for borrowers with FICO scores below 580 (instead of the standard 3.5 percent downpayment requirement established under the Housing and Economic Recovery Act of 2008, P.L. 110–289) and to reduce seller concessions from 6 percent to 3 percent.

In addition to these administrative and regulatory actions, FHA also requested the new legislative authority provided under the FHA Reform Act of 2010, which would permit FHA to adjust their premium structure in a manner that would increase the capital reserve ratio while minimizing the impact on borrowers. FHA indicates that they would use the authority provided under the Act to raise the annual mortgage insurance premium for new borrowers with mortgages at or below 95 percent of value from the current cap of 0.55 percent to 1.55 percent and from 0.50 to 1.50 percent for borrowers with mortgages below 95 percent of value. FHA would, at the same time, lower the upfront mortgage insurance premium from the interim level of 2.25 percent of the loan balance to 1.0 percent.

The Act also seeks to reduce the risk of defaults and claims to the MMIF by permitting FHA to provide reimbursements to servicers for the costs of obtaining the services of independent third parties to make in-person contact with mortgagors that are 60 or more days past due under covered mortgages, for the purposes of providing information to mortgagors regarding the availability of housing counseling, loan modifications and refinancing.

FHA also has recently increased mortgagee enforcement, taking action on more than six times as many mortgagees in FY 2009 than over the FY 2000 to 2008 period combined. Along with increased enforcement under FHA's current authority, FHA seeks the additional authority provided under the FHA Reform Act of 2010 to enforce FHA originating and underwriting requirements. Specifically, the Act provides FHA with the authority to enforce origination and underwriting requirements for direct endorsement lenders and would provide FHA with the authority to terminate originating

or underwriting approval of a mortgagee nationwide on the basis of the performance of one of the mortgagee's regional branches.

The FHA Reform Act of 2010 also requires FHA to improve its internal reporting systems to better manage risk and to provide transparent data to the public and to Congress. This includes improving monitoring of early defaults and claims, tracking mortgage information by loan servicer, providing FHA with the ability to contract out for additional credit risk analysis, requiring mortgagees to report to FHA when they stop buying loans from other mortgagees and requiring a Government Accountability Office study on FHA and Ginnie Mae. The bill also creates a new Deputy Assistant Secretary at FHA for Risk Management and Regulatory Affairs.

Taken together, the provisions in the FHA Reform Act of 2010 seek to strike the right balance between increasing FHA's capital reserves and continuing to provide access to all borrowers, including minority and first-time homebuyers and individuals in underserved communities, along with supporting the nation's housing and economic recovery.

HEARINGS

The Subcommittee on Housing and Community Opportunity held a hearing on October 8, 2009, on "The Future of the Federal Housing Administration's Capital Reserves: Assumptions, Predictions and Implications for Homebuyers". The following witnesses testified:

PANEL ONE

- The Honorable David Stevens, Assistant Secretary for Housing and Federal Housing Administration Commissioner, U.S. Department of Housing and Urban Development

PANEL TWO

- Mr. Patrick Newport, U.S. Economist, IHS Global Insight
- Mr. Edward Pinto, Real Estate Financial Services Consultant
- Mr. Boyd Campbell, Member, Executive Board of the Maryland Association of Realtors, GSE Presidential Advisory Group, National Association of Realtors
- Mr. David Kittle, Chairman, Mortgage Bankers Association
- Mr. John L. Councilman, CMC, CRMS, Federal Housing Committee Chair, National Association of Mortgage Brokers
- Mr. Peter Bell, President, National Reverse Mortgage Lenders Association
- Ms. Teresa Bryce, President, Radian Guaranty Inc. on behalf of the Mortgage Insurance Companies of America

The Committee on Financial Services held a hearing on December 2, 2009, on "FY09 FHA Actuarial Report". The following witnesses testified:

PANEL ONE

- The Honorable Shaun Donovan, Secretary, U.S. Department of Housing and Urban Development

PANEL TWO

- Ms. Ann B. Schnare, Partner, Empiris, LLC

• Ms. Janis Bowdler, Deputy Director, Wealth-Building Policy Project, National Council of La Raza
• Ms. Vicki Cox Golder, President, National Association of Realtors
• Mr. Robert E. Story, Jr., CMB, Chairman, Mortgage Bankers Association

The Subcommittee on Housing and Community Opportunity held a hearing on March 11, 2010, on "The FHA Reform Act of 2010". The following witnesses testified:

PANEL ONE

• The Honorable David Stevens, Assistant Secretary for Housing and Federal Housing Administration Commissioner, U.S. Department of Housing and Urban Development

PANEL TWO

• Mr. Mike Anderson, President, Essential Mortgage and Vice Chair of Government Affairs, National Association of Mortgage Brokers
• Ms. Graciela Aponte, Legislative Analyst, Wealth Building Policy Project, National Council of La Raza
• Mr. Andrew Caplin, Professor of Economics, Co-Director of the Center for Experimental Social Science, New York University
• Mr. John A. Courson, President and Chief Executive Officer, Mortgage Bankers Association
• Mr. Charles McMillan, President, National Association of Realtors
• Mr. John Taylor, President and Chief Executive Officer, National Community Reinvestment Coalition
• Mr. Mark Alston, First Vice President, Consolidated Board of Realtors on behalf of the National Association of Real Estate Brokers

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on April 22, 2010, and on April 27, 2010, ordered H.R. 5072, the FHA Reform Act of 2010, as amended, favorably reported to the House by a voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. During the consideration of the bill, the following amendments were disposed of by record votes. The names of Members voting for and against follow:

An amendment by Mr. Garrett (NJ), no. 4, regarding a downpayment requirement of 5 percent and prohibition of financing of closing costs, was not agreed to by a record vote of 12 yeas and 52 nays (Record vote no. FC–106):

RECORD VOTE NO. FC–106

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Frank		X		Mr. Bachus	X		

RECORD VOTE NO. FC–106—Continued

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Kanjorski		X		Mr. Castle		X	
Ms. Waters				Mr. King (NY)	X		
Mrs. Maloney		X		Mr. Royce	X		
Mr. Gutierrez				Mr. Lucas	X		
Ms. Velázquez				Mr. Paul	X		
Mr. Watt		X		Mr. Manzullo		X	
Mr. Ackerman		X		Mr. Jones		X	
Mr. Sherman		X		Mrs. Biggert		X	
Mr. Meeks		X		Mr. Miller (CA)		X	
Mr. Moore (KS)		X		Mrs. Capito		X	
Mr. Capuano		X		Mr. Hensarling	X		
Mr. Hinojosa		X		Mr. Garrett (NJ)	X		
Mr. Clay		X		Mr. Barrett (SC)			
Mrs. McCarthy		X		Mr. Gerlach		X	
Mr. Baca		X		Mr. Neugebauer	X		
Mr. Lynch		X		Mr. Price (GA)			
Mr. Miller (NC)		X		Mr. McHenry	X		
Mr. Scott		X		Mr. Campbell	X		
Mr. Green		X		Mr. Putnam	X		
Mr. Cleaver		X		Mrs. Bachmann	X		
Ms. Bean		X		Mr. Marchant		X	
Ms. Moore (WI)				Mr. McCotter		X	
Mr. Hodes				Mr. McCarthy		X	
Mr. Ellison		X		Mr. Posey		X	
Mr. Klein		X		Ms. Jenkins		X	
Mr. Wilson		X		Mr. Lee		X	
Mr. Perlmutter		X		Mr. Paulsen		X	
Mr. Donnelly		X		Mr. Lance		X	
Mr. Foster		X					
Mr. Carson		X					
Ms. Speier		X					
Mr. Childers		X					
Mr. Minnick		X					
Mr. Adler		X					
Ms. Kilroy		X					
Mr. Driehaus		X					
Ms. Kosmas		X					
Mr. Grayson		X					
Mr. Himes		X					
Mr. Peters		X					
Mr. Maffei		X					

An amendment by Mr. Garrett (NJ), no. 5, regarding a downpayment requirement for higher-risk borrowers, was not agreed to by a record vote of 16 yeas and 49 nays (Record vote no. FC–107):

RECORD VOTE NO. FC–107

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Frank		X		Mr. Bachus	X		
Mr. Kanjorski		X		Mr. Castle		X	
Ms. Waters		X		Mr. King (NY)	X		
Mrs. Maloney		X		Mr. Royce	X		
Mr. Gutierrez				Mr. Lucas	X		
Ms. Velázquez				Mr. Paul	X		
Mr. Watt		X		Mr. Manzullo		X	
Mr. Ackerman		X		Mr. Jones	X		
Mr. Sherman		X		Mrs. Biggert		X	
Mr. Meeks		X		Mr. Miller (CA)		X	
Mr. Moore (KS)		X		Mrs. Capito		X	
Mr. Capuano		X		Mr. Hensarling	X		
Mr. Hinojosa		X		Mr. Garrett (NJ)	X		
Mr. Clay		X		Mr. Barrett (SC)			

RECORD VOTE NO. FC–107—Continued

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mrs. McCarthy		X		Mr. Gerlach		X	
Mr. Baca		X		Mr. Neugebauer	X		
Mr. Lynch		X		Mr. Price (GA)			
Mr. Miller (NC)		X		Mr. McHenry	X		
Mr. Scott		X		Mr. Campbell	X		
Mr. Green		X		Mr. Putnam	X		
Mr. Cleaver		X		Mrs. Bachmann	X		
Ms. Bean		X		Mr. Marchant		X	
Ms. Moore (WI)				Mr. McCotter		X	
Mr. Hodes				Mr. McCarthy	X		
Mr. Ellison		X		Mr. Posey		X	
Mr. Klein		X		Ms. Jenkins	X		
Mr. Wilson		X		Mr. Lee		X	
Mr. Perlmutter		X		Mr. Paulsen		X	
Mr. Donnelly		X		Mr. Lance	X		
Mr. Foster		X					
Mr. Carson		X					
Ms. Speier		X					
Mr. Childers		X					
Mr. Minnick		X					
Mr. Adler		X					
Ms. Kilroy		X					
Mr. Driehaus		X					
Ms. Kosmas		X					
Mr. Grayson		X					
Mr. Himes		X					
Mr. Peters		X					
Mr. Maffei		X					

An amendment by Mr. Garrett (NJ), no. 7, regarding a downpayment requirement during periods when MMIF does not comply with capital ratio requirement, was not agreed to by a record vote of 22 yeas and 43 nays (Record vote no. FC–108):

RECORD VOTE NO. FC–108

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Frank		X		Mr. Bachus	X		
Mr. Kanjorski		X		Mr. Castle		X	
Ms. Waters		X		Mr. King (NY)	X		
Mrs. Maloney		X		Mr. Royce	X		
Mr. Gutierrez				Mr. Lucas	X		
Ms. Velázquez				Mr. Paul	X		
Mr. Watt		X		Mr. Manzullo	X		
Mr. Ackerman		X		Mr. Jones	X		
Mr. Sherman		X		Mrs. Biggert		X	
Mr. Meeks		X		Mr. Miller (CA)	X		
Mr. Moore (KS)		X		Mrs. Capito		X	
Mr. Capuano		X		Mr. Hensarling	X		
Mr. Hinojosa		X		Mr. Garrett (NJ)	X		
Mr. Clay		X		Mr. Barrett (SC)			
Mrs. McCarthy		X		Mr. Gerlach	X		
Mr. Baca		X		Mr. Neugebauer	X		
Mr. Lynch		X		Mr. Price (GA)			
Mr. Miller (NC)		X		Mr. McHenry	X		
Mr. Scott		X		Mr. Campbell	X		
Mr. Green		X		Mr. Putnam	X		
Mr. Cleaver		X		Mrs. Bachmann	X		
Ms. Bean		X		Mr. Marchant	X		
Ms. Moore (WI)				Mr. McCotter	X		
Mr. Hodes				Mr. McCarthy	X		
Mr. Ellison		X		Mr. Posey		X	
Mr. Klein		X		Ms. Jenkins	X		

RECORD VOTE NO. FC–108—Continued

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Wilson		X		Mr. Lee		X	
Mr. Perlmutter		X		Mr. Paulsen	X		
Mr. Donnelly		X		Mr. Lance	X		
Mr. Foster		X					
Mr. Carson		X					
Ms. Speier		X					
Mr. Childers		X					
Mr. Minnick		X					
Mr. Adler		X					
Ms. Kilroy		X					
Mr. Driehaus		X					
Ms. Kosmas		X					
Mr. Grayson		X					
Mr. Himes		X					
Mr. Peters		X					
Mr. Maffei		X					

An amendment by Mr. Garrett (NJ), no. 8, regarding a prohibition on financing up-front premiums, was not agreed to by a record vote of 26 yeas and 39 nays (Record vote no. FC–109):

RECORD VOTE NO. FC–109

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Frank		X		Mr. Bachus	X		
Mr. Kanjorski		X		Mr. Castle	X		
Ms. Waters		X		Mr. King (NY)	X		
Mrs. Maloney		X		Mr. Royce	X		
Mr. Gutierrez				Mr. Lucas	X		
Ms. Velázquez				Mr. Paul	X		
Mr. Watt		X		Mr. Manzullo	X		
Mr. Ackerman		X		Mr. Jones	X		
Mr. Sherman		X		Mrs. Biggert		X	
Mr. Meeks		X		Mr. Miller (CA)	X		
Mr. Moore (KS)		X		Mrs. Capito	X		
Mr. Capuano		X		Mr. Hensarling	X		
Mr. Hinojosa		X		Mr. Garrett (NJ)	X		
Mr. Clay		X		Mr. Barrett (SC)			
Mrs. McCarthy		X		Mr. Gerlach	X		
Mr. Baca		X		Mr. Neugebauer	X		
Mr. Lynch		X		Mr. Price (GA)			
Mr. Miller (NC)		X		Mr. McHenry	X		
Mr. Scott		X		Mr. Campbell	X		
Mr. Green		X		Mr. Putnam	X		
Mr. Cleaver		X		Mrs. Bachmann	X		
Ms. Bean		X		Mr. Marchant	X		
Ms. Moore (WI)				Mr. McCotter	X		
Mr. Hodes				Mr. McCarthy	X		
Mr. Ellison		X		Mr. Posey	X		
Mr. Klein		X		Ms. Jenkins	X		
Mr. Wilson		X		Mr. Lee	X		
Mr. Perlmutter		X		Mr. Paulsen	X		
Mr. Donnelly		X		Mr. Lance	X		
Mr. Foster		X					
Mr. Carson		X					
Ms. Speier		X					
Mr. Childers		X					
Mr. Minnick		X					
Mr. Adler		X					
Ms. Kilroy		X					
Mr. Driehaus		X					
Ms. Kosmas		X					
Mr. Grayson		X					

RECORD VOTE NO. FC–109—Continued

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Himes		X					
Mr. Peters		X					
Mr. Maffei		X					

An amendment by Mr. Garrett (NJ), no. 9, regarding a risk-sharing requirement, was not agreed to by a record vote of 22 yeas and 43 nays (Record vote no. FC–110):

RECORD VOTE NO. FC–110

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Frank		X		Mr. Bachus	X		
Mr. Kanjorski		X		Mr. Castle	X		
Ms. Waters		X		Mr. King (NY)	X		
Mrs. Maloney		X		Mr. Royce	X		
Mr. Gutierrez				Mr. Lucas	X		
Ms. Velázquez				Mr. Paul	X		
Mr. Watt		X		Mr. Manzullo		X	
Mr. Ackerman		X		Mr. Jones	X		
Mr. Sherman		X		Mrs. Biggert		X	
Mr. Meeks		X		Mr. Miller (CA)		X	
Mr. Moore (KS)		X		Mrs. Capito		X	
Mr. Capuano		X		Mr. Hensarling	X		
Mr. Hinojosa		X		Mr. Garrett (NJ)	X		
Mr. Clay		X		Mr. Barrett (SC)			
Mrs. McCarthy		X		Mr. Gerlach	X		
Mr. Baca		X		Mr. Neugebauer	X		
Mr. Lynch		X		Mr. Price (GA)			
Mr. Miller (NC)		X		Mr. McHenry	X		
Mr. Scott		X		Mr. Campbell	X		
Mr. Green		X		Mr. Putnam	X		
Mr. Cleaver		X		Mrs. Bachmann	X		
Ms. Bean		X		Mr. Marchant		X	
Ms. Moore (WI)				Mr. McCotter	X		
Mr. Hodes				Mr. McCarthy	X		
Mr. Ellison		X		Mr. Posey	X		
Mr. Klein		X		Ms. Jenkins	X		
Mr. Wilson		X		Mr. Lee	X		
Mr. Perlmutter		X		Mr. Paulsen	X		
Mr. Donnelly		X		Mr. Lance	X		
Mr. Foster		X					
Mr. Carson		X					
Ms. Speier		X					
Mr. Childers		X					
Mr. Minnick		X					
Mr. Adler		X					
Ms. Kilroy		X					
Mr. Driehaus		X					
Ms. Kosmas		X					
Mr. Grayson		X					
Mr. Himes		X					
Mr. Peters		X					
Mr. Maffei		X					

The following other amendments were also considered by the Committee:

An amendment by Mr. Kanjorski, no. 1, regarding increased loan limits for designated counties, was offered and withdrawn.

An amendment by Mr. Miller (CA), no. 2, regarding a shared equity pilot program, was offered and withdrawn.

An amendment by Mr. Klein (and Mr. Marchant), no. 3, regarding third party servicer outreach, was agreed to by a voice vote.

An amendment by Ms. Waters, no. 6, a technical amendment, was agreed to by a voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held hearings and made findings that are reflected in this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

The purpose of H.R. 5072 is to minimize the default risk to the MMIF and to homeowners and to meet the housing needs of the borrowers that the FHA single family program is designed to serve by empowering the FHA to increase the annual mortgage insurance premium for new borrowers and with enhanced authority to reduce default risk to the MMIF.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

MAY 6, 2010.

Hon. BARNEY FRANK,
Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5072, the FHA Reform Act of 2010.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susanne S. Mehlman.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 5072—FHA Reform Act of 2010

Summary: H.R. 5072 would raise the cap on the annual premiums charged to borrowers under the Federal Housing Administration's (FHA's) single-family mortgage-guarantee program. This legislation also would authorize an appropriation of the necessary amount for 2011 to reimburse mortgage-loan servicers for the cost of providing financial counseling to borrowers with delinquent loans. In addition, H.R. 5072 would make other changes to current law aimed at improving the financial safety and soundness of FHA's single-family program.

CBO estimates that implementing H.R. 5072 would result in a net decrease in discretionary spending of about $2.5 billion over the 2011–2015 period, assuming enactment of appropriation laws over that period necessary to implement FHA's single-family program and the Mortgage-Backed Securities (MBS) program of the Government National Mortgage Association (GNMA).

Pay-as-you-go procedures do not apply to this legislation because it would not affect direct spending or revenues.

H.R. 5072 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 5072 is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit).

	By fiscal year, in millions of dollars—					
	2011	2012	2013	2014	2015	2011–2015
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Additional FHA Offsetting Collections:						
Estimated Authorization Level	−902	−800	−510	−280	−100	−2,592
Estimated Outlays	−902	−800	−510	−280	−100	−2,592
Loss of GNMA Offsetting Collections:						
Estimated Authorization Level	16	0	0	0	0	16
Estimated Outlays	16	0	0	0	0	16
Third-Party Servicer Outreach:						
Estimated Authorization Level	53	0	0	0	0	53
Estimated Outlays	40	13	0	0	0	53
Other Costs:						
Estimated Authorization Level	*	*	*	*	*	2
Estimated Outlays	*	*	*	*	*	2
Total Changes:						
Estimated Authorization Level	−833	−800	−510	−280	−100	−2,521
Estimated Outlays	−846	−787	−510	−280	−100	−2,521

Note: * = less than $500,000.

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted near the beginning of fiscal year 2011 and that the authority to guarantee new loans for the FHA single-family program and for GNMA to guarantee payment by pools of those loans sold to investors as securities will be provided in appropriation acts each year.

Under the Federal Credit Reform Act (FCRA), funds must be appropriated in advance to cover the estimated subsidy cost of providing loan guarantees on a present-value basis. (The subsidy cost is the estimated long-term cost to the government of a direct loan or loan guarantee calculated on a net-present-value-basis, exclud-

ing administrative costs.) For credit programs that are estimated to result in a net savings to the government, no appropriation of credit subsidy is required; however, for such programs, appropriation acts must specify the aggregate amount of loans that may be guaranteed. That figure is known as the annual commitment authority.

Increasing annual premiums

CBO estimates that amending the premium that FHA may charge borrowers for participating in its mortgage-guarantee program would affect offsetting collections generated by FHA and by GNMA.

Additional FHA Offsetting Collections. Under this legislation, the cap on annual premiums for the single-family program would increase from 0.55 percent to 1.55 percent of the loan balance. The average borrower currently pays a fee equal to 0.52 percent of the remaining balance on their mortgage to FHA. Based on information from FHA, CBO expects that under the bill, FHA would charge borrowers, on average, 0.88 percent of their loan balance amount annually. In addition, CBO expects that FHA would lower the up-front premium from 2.25 percent to 1 percent of the mortgage amount, though this action would not be required under this legislation. CBO estimates that those changes to the premium structure would change the estimated credit subsidy rate for the program from −0.4 percent to −0.8 percent. We estimate that under this revised premium structure, the volume of loan guarantees handled by FHA in 2011 would decrease slightly from $240 billion to $232 billion because the increase in the annual premium would deter some borrowers from participating in the single-family program. On balance, we estimate that the revised premium structure would increase offsetting collections (a credit against discretionary spending) from the program by $900 million in 2011, assuming the appropriation action to establish the 2011 commitment authority for the FHA single-family program.

Over the 2011–2015 period, CBO estimates that about $2.6 billion in additional net offsetting collections would be realized under this provision. This estimate assumes, based on information from FHA, that after 2011, upfront and annual premiums charged by FHA would start to revert to the lower levels charged today.

Loss of GNMA Offsetting Collection. Through its MBS program, GNMA is responsible for guaranteeing securities backed by pools of mortgages that are insured by federal agencies such as FHA. In exchange for a fee paid by lenders or issuers of the securities, GNMA guarantees the timely payment of scheduled principal and interest due on the pooled mortgages that back those securities. Because the value of the fees collected by GNMA is estimated to exceed the cost of loan defaults in each year, the Administration estimates that under current law, the GNMA MBS program will have a subsidy rate of −0.24 percent in 2011, resulting in net receipt collections to the federal government.

CBO estimates that each year about 90 percent of the new mortgage loan guarantees made by FHA would be included in GNMA's MBS program. Because CBO estimates that changes in FHA's premium structure under H.R. 5072 would reduce FHA's 2011 loan-guarantee volume by $8 billion, we estimate that the GNMA MBS

program would realize a loss of about $16 million in offsetting collections in 2011. After 2011, CBO expects that the new FHA premium structure would have a negligible impact on the volume of loan guarantees provided by FHA, and thus the legislation would have no further impact on GNMA collections.

Third-Party servicer outreach

H.R. 5072 would authorize the appropriation of whatever sums are necessary in 2011 for the Department of Housing and Urban Development to reimburse servicers of single-family loans insured by FHA for the cost of providing financial counseling to borrowers whose mortgage payments are 60 days past due. Based on information from FHA, CBO expects that in 2011 about 700,000 loans could become 60 or more days delinquent, and that about 50 percent of the borrowers holding such loans would require counseling to help them become current on their loans. According to FHA, such credit counseling costs about $150 per loan. Thus, CBO estimates that implementing this provision would cost $53 million over the 2011–2012 period.

Other costs

Enacting this legislation would make various changes to the processes used by FHA to oversee the single-family loan program, such as requiring the review of mortgages that default within 24 months of being originated and requiring lenders to use certain identifiers when processing a loan to ensure that lenders can be easily tracked nationally through the existing Nationwide Mortgage Licensing System and Registry. In addition, H.R. 5072 would establish the position of Deputy Assistant Secretary for Risk Management and Regulatory Affairs within FHA.

Based on information from FHA, CBO estimates that enacting those provisions and other provisions associated with improving and streamlining FHA's oversight of loans would not result in significant additional costs. According to FHA, existing resources would be used to meet the vast majority of the requirements under this legislation.

H.R. 5072 also would require the Government Accountability Office within one year of enactment to produce a report on the safety and soundness of FHA's single-family program and a report on the safety and soundness of GNMA's MBS program. CBO estimates that such reports would each cost less than $500,000 over the 2011–2015 period.

In total, CBO estimates that performing those other activities would cost about $2 million over the 2011–2015 period, subject to the availability of appropriated funds.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: H.R. 5072 contains no intergovernmental or private-sector mandates as defined in UMRA. The bill would benefit housing finance agencies by authorizing reimbursements for servicers that provide counseling for delinquent borrowers. Any costs to those agencies of participating in the program would be incurred voluntarily.

Estimate prepared by: Federal costs: Susanne S. Mehlman; Impact on state, local, and tribal governments: Elizabeth Cove Delisle; Impact on the private sector: Paige Piper/Bach.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional Authority of Congress to enact this legislation is provided by Article 1, section 8, clause 1 (relating to the general welfare of the United States) and clause 3 (relating to the power to regulate interstate commerce).

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

H.R. 5072 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

The Act may be cited as the "FHA Reform Act of 2010".

Section 2. Annual mortgage insurance premium

Section 2 amends section 203(c)(2)(B) of the National Housing Act (12 U.S.C. 1709(c)(2)(B)) to raise the maximum allowable annual mortgage insurance premium (a) for mortgages below 95 percent of value from the current 0.50 percent to 1.5 percent; and (b) for mortgages at or above 95 percent of value from the current 0.55 percent to 1.55 percent.

Section 3. Indemnification by mortgagees

Section 3 amends section 202 of the National Housing Act (12 U.S.C. 1708) by adding a new section to strengthen provisions under which mortgage lenders are liable to indemnify the Secretary for loss on certain loans they originate or underwrite. The Secretary may require indemnification if a mortgage approved by the Secretary under the direct endorsement program or insured by a mortgagee pursuant to delegation of authority under section 256 was not originated or underwritten in accordance with require-

ments established by the Secretary, and the Secretary pays an insurance claim within a reasonable period specified by the Secretary. If fraud or misrepresentation was involved in connection with the origination or underwriting, the Secretary may require the mortgagee to indemnify the Secretary for the loss regardless of when an insurance claim is paid.

Section 4. Delegation of insuring authority

To implement Section 3 of this Act, Section 4 also strikes subsection (c) of section 256 of the National Housing Act (12 U.S.C. 1715z–21), entitled "Enforcement of Insurance Requirements" that formerly provided the authority for the Secretary to address situations in which mortgages were not originated in accordance with requirements established by the Secretary, or where fraud or misrepresentation was involved.

Section 5. Authority to terminate mortgagee origination and underwriting approval

Section 5 amends section 533 of the National Housing Act (12 U.S.C. 1735f–11) to give the Secretary enhanced ability to review mortgagee performance and, if a mortgagee is found to have an excessive rate of early defaults or claims, to terminate the approval of the mortgagee to originate or underwrite single family mortgages in a specified area(s) or on a nationwide basis.

Section 6. Deputy Assistant Secretary of FHA for Risk Management and Regulatory Affairs

Section 6 creates a new position in FHA for a "Deputy Assistant Secretary for Risk Management and Regulatory Affairs," who will be appointed by the Secretary and report to the FHA Commissioner and will be responsible for matters relating to managing and mitigating risk to the mortgage insurance funds.

Section 7. Use of outside credit risk analysis sources

Section 7 authorizes the Secretary to obtain the services of and enter into contracts with private and other entities outside of the Department for the following: (1) analyzing credit risk models and practices employed by the Department; (2) evaluating underwriting standards for FHA-insured mortgages; and (3) analyzing the performance of lenders in complying with, and HUD in enforcing, such underwriting standards.

Section 8. Review of mortgagee performance

Section 8 amends section 533 of the National Housing Act (12 U.S.C. 1735f–11), which requires HUD to review the rate of early defaults and claims for insured single-family mortgages, to define "early default" as occurring within 24 months of origination or such alternative period as the Secretary shall establish. It also requires the Secretary to identify which mortgagees have had a significant or rapid increase in the number of early defaults and claims. Section 8 also authorizes appropriations through FY 2014 in an amount necessary to provide additional staff, or to enter into contracts, to conduct such reviews and to carry out other activities to ensure the safety and soundness of the MMIF. Ninety days after enactment of the bill, and not less than annually thereafter, the

Secretary shall make any information or conclusions pursuant to the reviews available to Congress.

Section 9. Use of Nationwide Mortgage Licensing System and registry

Section 9 of the Act amends section 202 of the National Housing Act (12 U.S.C. 1708) to provide that the Secretary may require FHA mortgagees (both companies and individuals and officers) to obtain and maintain unique identifiers assigned by the Nationwide Mortgage Licensing System (NMLS). The Secretary may also require each mortgage insured under section 203 of the National Housing Act (12 U.S.C. 1709) to include an NMLS unique identifier, and any unique company identifier assigned by the NMLS. The Section also provides that the Secretary shall pursue protocols for information sharing and coordination with appropriate State regulatory agencies.

Section 10. Reporting of mortgagee actions taken against other mortgagees

Section 10 instructs the Secretary to require mortgagees, as a condition of FHA mortgagee-approval, to report to FHA any actions to terminate or discontinue purchases from other mortgagees based on a determination of fraud or material misrepresentation.

Section 11. Annual actuarial study and quarterly reports on Mutual Mortgage Insurance Fund

In addition to the Annual Actuarial FHA study, the Housing and Economic Recovery Act of 2008 established new HUD quarterly reporting requirements on the FHA program. Section 11 amends section 202 of the National Housing Act (12 U.S.C. 1708(a)) to require that these quarterly reports also include an assessment of any changes to the current or projected safety and soundness of the Mutual Mortgage Insurance Fund since the most recent quarterly report. The Secretary may include in this report any recommendations to restore the safety and soundness of the Fund not made in the preceding quarterly report.

Section 12. Review of downpayment requirements

Section 12 amends section 205 of the National Housing Act (12 U.S.C. 1711) to provide that if FHA institutes any increased downpayment requirement for borrowers when the MMIF is below the 2 percent mandated under section 202 of the National Housing Act, the Secretary must review that requirement when the MMIF again complies with the 2 percent reserve mandate and subsequently reduce the increased downpayment requirement for borrowers, in such amount or percentage that the Secretary considers appropriate, if compliance with section 202 can be maintained.

Section 13. Default and origination information by loan servicer and originating direct endorsement lender

Section 13 amends the FHA reporting requirements of section 540(b) of the National Housing Act (12 U.S.C. 1712 U.S.C. 1735f–18(b)(2)) to require the Secretary to track mortgage performance by servicer.

Section 14. Third party servicer outreach

Section 14 states that the Secretary may use funds (to the extent they are available in advance in appropriation Acts for fiscal year 2010 or 2011 for this section) to provide reimbursements to servicers for the costs of obtaining the services of independent third parties to make in-person contact with mortgagors that are 60 or more days past due under covered mortgages, solely for the purposes of providing information to mortgagors regarding the availability of housing counseling, loan modifications and refinancing (covered mortgages are on one to four family residences insured by FHA under subsections (b) or (k) of section 203, section 234(c) or section 251 of the National Housing Act (12 U.S.C. 1709, 1715y, 1715z–16). The independent third parties must protect the confidentiality of mortgagor information, and must provide adequate disclosures to mortgagors, including the name of and contact information for the mortgage servicer, the fact that the independent third party's services will come at no cost to the mortgagor, the fact that the independent third party is an agent of the servicer, the fact that the in-person contact is for the purposes of providing information to the mortgagor regarding the availability of housing counseling, loan modifications and refinancing, and the fact that the independent third party and the servicer are prohibited from using, disclosing or distributing confidential information about the mortgagor except for the purposes of engaging in a loan modification or refinance.

Section 15. GAO reports on FHA and Ginnie Mae

Section 15 requires two reports from the General Accountability Office within 12 months of bill enactment:

1) An assessment of (a) the FHA Mutual Mortgage Insurance Fund (including the economic net worth, capital ratio and unamortized insurance-in-force of the Fund), risks to the Fund and exposure of taxpayers for obligations of the Fund, how the capital ratio affects mortgage insurance premiums, and the extent to which housing markets are more dependent on mortgage insurance provided through the Fund since the start of the financial crisis; (b) the methodology for calculating the capital ratio of the Fund, including other alternative methodologies that could meet the operational goals of the Fund; (c) the impact the increase in maximum loan limits has on the safety and soundness of the Fund, the affordability and availability of mortgage credit, the private market for residential mortgage insurance, and Fannie Mae and Freddie Mac; and (d) the impact of seller concessions on mortgage affordability and the Fund.

2) An assessment of the Government National Mortgage Association (Ginnie Mae) that (a) identifies the volume and share of the mortgage-backed securities market for which Ginnie Mae provides insurance and explains how Ginnie Mae has been impacted by the financial crisis; (b) examines the capacity of Ginnie Mae to manage their increased volume of business; (c) describes the impact of this increased volume of business and the challenges this increase poses to internal controls; and (d) provides recommendations for appropriate net worth requirements for the issuers of securities backed by Ginnie Mae insurance.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

NATIONAL HOUSING ACT

* * * * * * *

TITLE II—MORTGAGE INSURANCE

* * * * * * *

FEDERAL HOUSING ADMINISTRATION OPERATIONS

SEC. 202. (a) MUTUAL MORTGAGE INSURANCE FUND.—

(1) * * *

* * * * * * *

(4) ANNUAL INDEPENDENT ACTUARIAL STUDY.—The Secretary shall provide for an independent actuarial study of the Fund to be conducted annually, which shall analyze the financial position of the Fund. The Secretary shall submit a report annually to the Congress describing the results of such study and assessing the financial status of the Fund*, any changes to the current or projected safety and soundness of the Fund since the most recent report under this paragraph or paragraph (5), and any risks to the Fund*. The report shall recommend adjustments to underwriting standards, program participation, or premiums, if necessary, to ensure that the Fund remains financially sound. The report shall also include an evaluation of the quality control procedures and accuracy of information utilized in the process of underwriting loans guaranteed by the Fund. Such evaluation shall include a review of the risk characteristics of loans based not only on borrower information and performance, but on risks associated with loans originated or funded by various entities or financial institutions.

(5) QUARTERLY REPORTS.—During each fiscal year, the Secretary shall submit a report to the Congress for each calendar quarter, which shall specify for mortgages that are obligations of the Fund—

(A) * * *

* * * * * * *

(D) projected versus actual loss rates; [and]

(E) updated projections of the annual subsidy rates to ensure that increases in risk to the Fund are identified and mitigated by adjustments to underwriting standards, program participation, or premiums, and the financial soundness of the Fund is maintained[.]*; and*

(F) any other factors that are likely to have an impact on the financial status of the Fund or cause any material changes to the current or projected safety and soundness of the Fund since the most recent report under paragraph (4).

The Secretary may include in the report under this paragraph any recommendations not made in the most recent report under paragraph (4) that may be needed to ensure that the Fund remains financially sound. The first quarterly report under this paragraph shall be submitted on the last day of the first quarter of fiscal year 2008, or on the last day of the first full calendar quarter following the enactment of the Building American Homeownership Act of 2008, whichever is later.

* * * * * * *

(i) INDEMNIFICATION BY MORTGAGEES.—

(1) IN GENERAL.—If the Secretary determines that a mortgage executed by a mortgagee approved by the Secretary under the direct endorsement program or insured by a mortgagee pursuant to the delegation of authority under section 256 was not originated or underwritten in accordance with the requirements established by the Secretary, and the Secretary pays an insurance claim with respect to the mortgage within a reasonable period specified by the Secretary, the Secretary may require the mortgagee approved by the Secretary under the direct endorsement program or the mortgagee delegated authority under section 256 to indemnify the Secretary for the loss.

(2) FRAUD OR MISREPRESENTATION.—If fraud or misrepresentation was involved in connection with the origination or underwriting, the Secretary may require the mortgagee approved by the Secretary under the direct endorsement program or the mortgagee delegated authority under section 256 to indemnify the Secretary for the loss regardless of when an insurance claim is paid.

(3) REQUIREMENTS AND PROCEDURES.—The Secretary shall issue regulations establishing appropriate requirements and procedures governing the indemnification of the Secretary by the mortgagee.

(j) USE OF OUTSIDE CREDIT RISK ANALYSIS SOURCES.—The Secretary may obtain the services of, and enter into contracts with, private and other entities outside of the Department in—

(1) analyzing credit risk models and practices employed by the Department in connection with such mortgages;

(2) evaluating underwriting standards applicable to such mortgages insured by the Department; and

(3) analyzing the performance of lenders in complying with, and the Department in enforcing, such underwriting standards.

(k) USE OF NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY FOR MORTGAGEES, OFFICERS, AND OWNERS.—The Secretary may require, as a condition for approval of a mortgagee by the Secretary to originate or underwrite mortgages on single family that are insured by the Secretary, that the mortgagee—

(1) obtain and maintain a unique company identifier assigned by the Nationwide Mortgage Licensing System and Registry, as established by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators; and

(2) obtain and maintain, as relates to any and all officers or owners of the mortgagee who are subject to the requirements of the S.A.F.E. Mortgage Licensing Act of 2008, or are otherwise required to register with the Nationwide Mortgage Licensing

System and Registry, the unique identifier assigned by the Nationwide Mortgage Licensing System and Registry, as established by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators.

(l) INFORMATION SHARING WITH STATE REGULATORY AGENCIES.—

(1) JOINT PROTOCOL ON INFORMATION SHARING.—The Secretary shall, through consultation with State regulatory agencies, pursue protocols for information sharing, including the appropriate treatment of confidential or otherwise restricted information, regarding either actions described in subsection (c)(3) of this section or disciplinary or enforcement actions by a State regulatory agency or agencies against a mortgagee (as such term is defined in subsection (c)(7)).

(2) COORDINATION.—To the greatest extent possible, the Secretary and appropriate State regulatory agencies shall coordinate disciplinary and enforcement actions involving mortgagees (as such term is defined in subsection (c)(7)).

(m) NOTIFICATION OF MORTGAGEE ACTIONS.—The Secretary shall require each mortgagee, as a condition for approval by the Secretary to originate or underwrite mortgages on single family or multifamily housing that are insured by the Secretary, if such mortgagee engages in the purchase of mortgages insured by the Secretary and originated by other mortgagees or in the purchase of the servicing rights to such mortgages, and such mortgagee at any time takes action to terminate or discontinue such purchases from another mortgagee based on any determination, evidence, or report of fraud or material misrepresentation in connection with the origination of such mortgages, the mortgagee shall, not later than 15 days after taking such action, shall notify the Secretary of the action taken and the reasons for such action.

INSURANCE OF MORTGAGES

SEC. 203. (a) * * *

* * * * * * *

(c)(1) * * *

(2) Notwithstanding any other provision of this section, each mortgage secured by a 1- to 4-family dwelling that is an obligation of the Mutual Mortgage Insurance Fund shall be subject to the following requirements:

(A) * * *

(B) In addition to the premium under subparagraph (A), the Secretary **[**shall**]** *may* establish and collect annual premium payments in an amount not exceeding **[**0.50 percent**]** *1.5 percent* of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments) for the following periods:

(i) * * *

(ii) For any mortage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is greater than or equal to 90 percent of such value, for the first 30 years of the mortgage term; except that notwithstanding the matter preceding clause (i),

for any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is greater than 95 percent of such value, the annual premium collected during the 30-year period under this clause [shall be in an amount not exceeding 0.55 percent] *may be in an amount not exceeding 1.55 percent* of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments).

* * * * * * *

(y) USE OF NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY FOR INSURED LOANS.—The Secretary may require each mortgage insured under this section to include the unique identifier (as such term is defined in section 1503 of the S.A.F.E. Mortgage Licensing act of 2008 (12 U.S.C. 5102)) and any unique company identifier assigned by the Nationwide Mortgage Licensing System and Registry, as established by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators.

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CLASSIFICATION OF MORTGAGES AND INSURANCE FUND

SEC. 205. (a) * * *

* * * * * * *

(g) REVIEW OF DOWNPAYMENT REQUIREMENTS.—If, at any time when the capital ratio (as such term is defined in subsection (f)) of the Mutual Mortgage Insurance Fund does not comply with the requirement under subsection (f)(1), the Secretary establishes a cash investment requirement, for all mortgages or mortgagors or with respect to any group of mortgages or mortgagors, that exceeds the minimum percentage or amount required under section 203(b)(9), thereafter upon the capital ratio first complying with the requirement under subsection (f)(1) the Secretary shall review such cash investment requirement and, if the Secretary determines that such percentage or amount may be reduced while maintaining such compliance, the Secretary shall subsequently reduce such requirement by such percentage or amount as the Secretary considers appropriate.

* * * * * * *

DELEGATION OF INSURING AUTHORITY TO DIRECT ENDORSEMENT MORTGAGEES

SEC. 256. (a) * * *

* * * * * * *

[(c) ENFORCEMENT OF INSURANCE REQUIREMENTS.—

[(1) IN GENERAL.—If the Secretary determines that a mortgage insured by a mortgagee pursuant to delegation of authority under this section was not originated in accordance with the requirements established by the Secretary, and the Secretary pays an insurance claim with respect to the mortgage within a reasonable period specified by the Secretary, the Sec-

retary may require the mortgagee approved under this section to indemnify the Secretary for the loss.

[(2) FRAUD OR MISREPRESENTATION.—If fraud or misrepresentation was involved in connection with the origination, the Secretary may require the mortgagee approved under this section to indemnify the Secretary for the loss regardless of when an insurance claim is paid.]

[(d)] *(c)* TERMINATION OF MORTGAGEE'S AUTHORITY.—If a mortgagee to which the Secretary has made a delegation under this section violates the requirements and procedures established by the Secretary or the Secretary determines that other good cause exists, the Secretary may cancel a delegation of authority under this section to the mortgagee by giving notice to the mortgagee. Such a cancellation shall be effective upon receipt of the notice by the mortgagee or at a later date specified by the Secretary. A decision by the Secretary to cancel a delegation shall be final and conclusive and shall not be subject to judicial review.

[(e)] *(d)* REQUIREMENTS AND PROCEDURES.—Before approving a delegation under this section, the Secretary shall issue regulations establishing appropriate requirements and procedures[, including requirements and procedures governing the indemnification of the Secretary by the mortgagee].

* * * * * * *

TITLE V—MISCELLANEOUS

* * * * * * *

SEC. 533. REVIEW OF MORTGAGEE PERFORMANCE AND AUTHORITY TO TERMINATE.—

(a) PERIODIC REVIEW OF MORTGAGEE PERFORMANCE.—To reduce losses in connection with single family mortgage insurance programs under this Act, at least once a year the Secretary shall review the rate of early defaults and claims for insured single family mortgages originated or underwritten by each mortgagee. *For purposes of this subsection, the term "early default" means a default that occurs within 24 months after a mortgage is originated or such alternative appropriate period as the Secretary shall establish.*

(b) COMPARISON WITH OTHER MORTGAGEES.—For each mortgagee, the Secretary shall compare the rate of early defaults and claims for insured single family mortgage loans originated or underwritten by the mortgagee in an area *or areas or on a nationwide basis* with the rate of early defaults and claims for other mortgagees originating or underwriting insured single family mortgage loans in the area *or areas or on a nationwide basis. The Secretary shall also identify which mortgagees have had a significant or rapid increase, as determined by the Secretary, in the number or percentage of early defaults and claims on such mortgages, with respect to all mortgages originated by the mortgagee or mortgages on housing located in any particular geographic area or areas.* For purposes of this section, the term "area" means each geographic area in which the mortgagee is authorized by the Secretary to originate insured single family mortgages.

[(c) TERMINATION OF MORTGAGEE ORIGINATION APPROVAL.—(1) Notwithstanding section 202(c) of this Act, the Secretary may terminate the approval of a mortgagee to originate or underwrite sin-

gle family mortgages if the Secretary determines that the mortgage loans originated or underwritten by the mortgagee present an unacceptable risk to the insurance funds. The determination shall be based on the comparison required under subsection (b) and shall be made in accordance with regulations of the Secretary. The Secretary may rely on existing regulations published before this section takes effect.

[(2) The Secretary]

(c) TERMINATION OF MORTGAGEE ORIGINATION AND UNDERWRITING APPROVAL.—

(1) TERMINATION AUTHORITY.—If the Secretary determines, under the comparison provided in subsection (b), that a mortgagee has a rate of early defaults and claims that is excessive, the Secretary may terminate the approval of the mortgagee to originate or underwrite single family mortgages for any area, or areas, or on a nationwide basis, notwithstanding section 202(c) of this Act.

(2) PROCEDURE.—The Secretary shall give a mortgagee at least 60 days prior written notice of any termination under this subsection. The termination shall take effect at the end of the notice period, unless the Secretary withdraws the termination notice or extends the notice period. If requested in writing by the mortgagee within 30 days of the date of the notice, the mortgagee shall be entitled to an informal conference with the official authorized to issue termination notices on behalf of the Secretary (or a designee of that official). At the informal conference, the mortgagee may present for consideration specific factors that it believes were beyond its control and that caused the excessive default and claim rate.

(d) SUFFICIENT RESOURCES.—There is authorized to be appropriated to the Secretary for each of fiscal years 2010 through 2014 the amount necessary to provide additional full-time equivalent positions for the Department, or for entering into such contracts as are necessary, to conduct reviews in accordance with the requirements of this section and to carry out other responsibilities relating to ensuring the safety and soundness of the Mutual Mortgage Insurance Fund.

(e) REPORTING TO CONGRESS.—Not later than 90 days after the date of enactment of the FHA Reform Act of 2010 and not less often than annually thereafter, the Secretary shall make available to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate any information and conclusions pursuant to the reviews required under subsection (a). Such report shall not include detailed information on the performance of individual mortgages.

* * * * * * *

INFORMATION REGARDING EARLY DEFAULTS AND FORECLOSURES ON INSURED MORTGAGES

SEC. 540. (a) * * *

(b) CONTENTS.—

(1) * * *

(2) OTHER INFORMATION.—Information collected under this section shall also include the following:

(A) * * *

* * * * * * *

(C) For each entity that services insured mortgages, data on the performance of mortgages originated during each calendar quarter occurring during the applicable collection period, disaggregated by the direct endorsement mortgagee from whom such entity acquired such servicing.

* * * * * * *

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ACT

* * * * * * *

UNDER SECRETARY AND OTHER OFFICERS AND OFFICES

SEC. 4. (a) * * *

(b)*(1)* There shall be in the Department a Federal Housing Commissioner, who shall be one of the Assistant Secretaries, who shall head a Federal Housing Administration within the Department, who shall have such duties and powers as may be prescribed by the Secretary, and who shall administer, under the supervision and direction of the Secretary, departmental programs relating to the private mortgage market. The Secretary shall ensure, to the extent practicable, that managers of Federal Housing Administration programs, at each level of the Department, shall be accountable for program operation, risk management, management of cash and other Federal assets, and program financing related to activities over which such managers have responsibility.

(2) There shall be in the Department, within the Federal Housing Administration, a Deputy Assistant Secretary for Risk Management and Regulatory Affairs, who shall be appointed by the Secretary and shall be responsible to the Federal Housing Commissioner for all matters relating to managing and mitigating risk to the mortgage insurance funds of the Department and ensuring the performance of mortgages insured by the Department.

* * * * * * *

ADDITIONAL VIEWS

H.R. 5072, the FHA Reform Act of 2010, is both necessary and important legislation. It makes changes to the Federal Housing Administration (FHA) single-family mortgage insurance program administered by the Department of Housing and Urban Development (HUD) that will improve the insurance fund's financial condition and enhance certain enforcement tools to protect against fraudulent or poorly-underwritten and insured loans.

The bill incorporates a majority of the provisions in Ranking Member Capito's legislation, H.R. 4811, the FHA Safety and Soundness and Taxpayer Protection Act, and goes further than the proposals recommended by the Administration. The provisions from the Capito legislation that were incorporated in H.R. 5072 provide additional enforcement, fiscal and risk-assessment tools necessary to adequately administer the program, detect fraud and abuse, strengthen underwriting standards, and protect the taxpayer. In addition, H.R. 5072 authorizes FHA to increase annual insurance premiums, requires indemnification by lenders for loss on loans they originate, and gives authority to the Secretary to require FHA compliance with the SAFE Act. The Secretary is authorized to require FHA mortgagees (both companies and individuals and officers) to obtain and maintain unique identifiers assigned by the Nationwide Mortgage Licensing System (NMLS). The Secretary may also require each mortgage insured under section 203 of the National Housing Act (12 U.S.C. 1709) to include an NMLS unique identifier, and any unique company identifier assigned by the NMLS.

As private sector lenders have scaled back their activities in the wake of the serious housing downturn that began two years ago, the FHA has significantly increased its share of the single-family mortgage market from less than 5 percent to more than 30 percent. With higher market share has come increased taxpayer exposure. Elevated levels of delinquencies and foreclosures across the nation have had a detrimental effect on the financial health of the FHA program. An independent actuarial report released on November 12, 2009, showed that the capital reserve ratio for the Mutual Mortgage Insurance Fund (MMIF) dropped below the Congressionally-mandated threshold of two percent to a less-than-expected 0.53 percent. The actuarial review also indicated that the economic value of the FHA declined over 75 percent from last year, to $2.73 billion. In light of these facts, it is essential that Congress enact reforms to ensure that a taxpayer bailout of the FHA will not be necessary.

The provisions in this bill represent an important step in providing HUD with the tools it needs to supervise and monitor the FHA program and assess risk. While we support this legislation, we believe that Congress and the Administration must be ever-vigi-

lant in their oversight of this program to make certain that the program is adequately capitalized and is run in a safe and sound manner that protects the taxpayer from the need for another bail-out. Finally, as the housing market begins to stabilize, we must look for ways to decrease reliance on Federal government guarantees and encourage the re-entry of private capital and investment in the mortgage market.

SPENCER BACHUS.
RANDY NEUGEBAUER.
LYNN JENKINS.
GARY G. MILLER.
JEB HENSARLING.
CHRISTOPHER LEE.
SHELLEY MOORE CAPITO.
SCOTT GARRETT.
JIM GERLACH.
JUDY BIGGERT.
KENNY MARCHANT.
THADDEUS MCCOTTER.

ADDITIONAL VIEWS

As the private housing market has collapsed, the FHA has drastically increased its volume of total insured mortgages and has fallen below its congressionally mandated 2 percent capital reserve ratio to an all time low of 0.5 percent. Many economists believe low down payments, coupled with falling home prices, have proved to be one of the biggest predictors of defaults. As a result, the Housing and Economic Recovery Act of 2008 (P.L. 110–289) included language that increased the required FHA down payment from 3 percent to 3.5 percent.

H.R. 5072, the FHA Reform Act, with the changes my Republican colleagues made to the bill prior to its introduction, goes a long way to improving the financial condition of the Federal Housing Administration (FHA) single-family mortgage insurance program. However, given FHA's rising default rates and weakened reserve ratio, Congress needs to do more to protect the taxpayer from yet another bailout. For this reason, I offered several amendments during Committee consideration of H.R. 5072 aimed at increasing the downpayment requirement for FHA and promoting greater accountability on the part of the FHA borrowers and lenders.

Higher down payment requirements will protect the FHA's Mutual Mortgage Insurance Fund (MMIF) because mortgages with lower loan-to-value ratios are more likely to perform over time. Better performing loans mean fewer claims for the FHA fund to pay. The five Garret amendments are explained below:

1. Raise the FHA down payment requirement from 3.5 percent to 5 percent and prohibit closing costs from being rolled in to the loan;
2. Require borrowers with credit score below 580 to have a 10 percent down payment (HUD has already announced it will require 10 percent down for all borrowers with credit scores below 580). In addition, borrowers with credit score between 580 and 620 would be required to have a 5% down payment;
3. Raise the FHA down payment requirement from 3.5% to 5% whenever FHA's Capital Reserve Ratio drops below the statutorily required 2%—(There is a 6-month delay after enactment of the legislation to provide more time for the housing market to improve);
4. Prohibit the Up-Front Premium from being financed into the loan amount. This would ensure that the borrower's Loan to Value (LTV) ratio will be a true 96.5% as intended by Congress when it changed the down payment requirement from 3 percent to 3.5 percent as part of HERA;
5. Reduce the 100 percent government guarantee of FHA loans to 95 percent and require FHA-approved lenders to retain 5 percent of the risk of each FHA loans they underwrite.

Homeownership is a noble goal and we must continue to look for ways to stabilize our housing market after a recent financial collapse. However, the benefits with promoting homeownership using government subsidies must be balanced against the potential risk of insuring less creditworthy borrowers and exposing the American taxpayer to that risk. The recent housing bust has taught us the importance of proper underwriting and ensuring potential homebuyers have the appropriate amount of personal funds invested in the transaction.

As we wait for the private housing market to improve, it is essential that Congress takes steps to ensure that the FHA program remains viable and available to potential homeowners. The provisions in H.R. 5072 represent an important step toward addressing the shortfall in the FHA's insurance fund. However, we should do more to protect the taxpayer from having to suffer the consequences of bailing out another government housing program similar to Fannie Mae and Freddie Mac. The Garrett amendments simply ask lenders and borrowers to have more "skin in the game." More skin in the game requires greater accountability. It's the very least we can do to protect the taxpayer.

SCOTT GARRETT.
ED ROYCE.
RANDY NEUGEBAUER.
SPENCER BACHUS.
JEB HENSARLING.

ADDITIONAL VIEWS

The FHA program is in dire need of real reform. I applaud Administrator Stevens for submitting changes to Congress; however, H.R. 5072, the FHA Reform Act of 2010 does not do enough to ensure the stability of the FHA program so it never reaches the tipping point of a future taxpayer bailout. To further illustrate my views on FHA reform, I have included the text of an article I wrote for Investor's Business Daily which was published on February 18, 2010. H.R. 5072, the FHA Reform Act of 2010, stops short of the necessary reforms I would like to see made to the FHA program.

[From Investor's Business Daily, Feb. 18, 2010]

RISKY MORTGAGE PRACTICES LIVE ON AT FEDERAL HOUSING ADMINISTRATION

(By Representative Tom Price)

Current economic and fiscal challenges demand a critical review of all federal programs with an eye toward positive, responsible reform. The Federal Housing Administration is one such program crying out for oversight and assessment. By every accounting measure, those used by private industry as well as government auditors, the FHA is bankrupt.

If the FHA were treated like a bank, it would be labeled as "critically undercapitalized" and folded up. By law, the agency is required to hold a 2% capital reserve. Yet according to its most recent actuarial review, it currently holds just a quarter of that, 0.53%.

The FHA, however, is not a bank, and we all know the White House would never allow it to fail. This is because the FHA is a key cog in today's government-monopolized housing industry, serving as one of the primary tools wielded by the administration in its mortgage modification efforts.

It's clear that the White House has not learned much from the mortgage meltdown, because rather than working to tamp down risky borrowing and mortgage practices, it is using the FHA to place them under the growing umbrella of federal backstops.

A look back at the rise and bust of the housing market reveals that the danger of the over-leveraging which we had hoped would be tempered is now increasingly taking place at the FHA, on the taxpayers' dime and watch.

The FHA serves as a federally backed mortgage insurance program. It does not originate loans, but instead guarantees 100% of loan principal for borrowers and lenders. It insures loans up to a whopping $729,750, and re-

quires a mortgage insurance premium, but only asks for a 3.5% down payment. If a borrower fails to pay his mortgage, the FHA steps in and pays the lender for the loss on the property.

During the housing boom, the FHA saw a decrease in its market share, as borrowers could get more-attractive loan terms, for less money, from a private lender. And during this time, as more-qualified borrowers moved away from the FHA, less-qualified borrowers replaced them.

From 2004 through 2007, those with FICO scores below 620, generally considered subprime borrowers, made up 35% to 45% of the FHA's entire loan portfolio. Conversely, borrowers with a strong FICO score of 700 or higher represented just 10% to 15% of its portfolio.

In recent years, as the deterioration of the housing market became evident, private lenders began requiring higher down payments from borrowers and implemented more stringent underwriting standards. This could have been a helpful cleansing of bad practices. Instead, borrowers flocked to the FHA with its 3.5% down payment and 100% federal guarantee.

In a response, which one could only deem a "day late and a dollar short," last month FHA Director David Stevens announced measures to strengthen the FHA's capital reserves. Borrowers with FICO scores under 580—below subprime—will now be required to have a 10% down payment, an embarrassingly timid response.

It raises the question, after all that's happened, should the government really be in the business of guaranteeing mortgages at subprime and below?

At the end of the 2009 fiscal year, the FHA guaranteed $685 billion and now insures an enormous 30% of all new home loan originations and 20% of refinanced loans. Plus, given the current conditions in the housing market, an unbelievable 80% of new borrowers with FHA guaranteed loans are first-time homebuyers.

And with FHA dabbling in the riskiest of loans and heavily leveraged, we sadly expect the FHA's troubles to get worse before they get better. Astoundingly, as heard recently in testimony before the House Financial Services Committee, the agency has not accurately calculated borrowers who are already behind on mortgage payments into FHA's loss projections.

But the really devastating inevitability is that taxpayers are in store for another open-ended bailout. As currently structured, excess premiums taken in by FHA are returned to the U.S. Treasury. But if the FHA's loan guarantee losses exceed its premiums, then the Treasury covers the difference.

FHA's recent actuarial report notes that there is likely to be a continued decline in its portfolio through 2011. According to testimony before the House Financial Services Committee, the bailout of the FHA could reach $54 billion or more. So taxpayers who are already enraged by the era

of stimulus and bailouts need look no further than this agency for the next episode of federal intervention.

Put simply, it is time for a change in how the FHA operates. The agency must not compromise its underwriting standards in good times because private industry can offer a better product at a more competitive price. The FHA was not designed to replace the private loan market.

Additionally, Congress must do its part to ensure that the FHA does not put the taxpayer at unnecessary and avoidable risk. This includes appropriately increasing the FHA down payment requirement to be more aligned with the risk its borrowers pose to the taxpayer.

Most importantly, lenders should no longer be given a free, government-guaranteed ride with a 100% loss guarantee. As the FHA has rightly recognized, a 100% government guarantee with no lender "skin in the game" has eroded the solvency of FHA's balance sheet. While the agency has made some efforts to get tougher on lenders, the damage has already been done.

Moving forward, in addition to an increase in down payment by borrowers, lenders must be subject to more stringent and regular oversight, and losses must first be taken by the lender before the government guarantee begins.

Americans are calling for an end to the era of stimulus and bailouts. It's time for Washington to get tough with the FHA and straighten out its balance sheet. Failure to do so will only prolong the economic difficulties facing the housing sector and our great nation.

TOM PRICE.

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