

107TH CONGRESS
2^D SESSION

H. R. 5572

To amend the Solid Waste Disposal Act to authorize the Secretary of Housing and Urban Development to guarantee loans to homeowners with properties contaminated by leaking underground storage tanks, to assist such homeowners in moving from such properties on a temporary or permanent basis.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 8, 2002

Mr. KANJORSKI introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on the Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Solid Waste Disposal Act to authorize the Secretary of Housing and Urban Development to guarantee loans to homeowners with properties contaminated by leaking underground storage tanks, to assist such homeowners in moving from such properties on a temporary or permanent basis.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Emergency Home Fi-
3 nancing Assistance Act”.

4 **SEC. 2. GUARANTEED LOAN PROGRAM.**

5 (a) AMENDMENT.—Subtitle I of the Solid Waste Dis-
6 posal Act (42 U.S.C. 6991 et seq.) is amended by adding
7 at the end the following new section:

8 “HUD LOAN GUARANTEES FOR OWNERS OF HOMES
9 AFFECTED BY LEAKING UNDERGROUND STORAGE TANKS

10 “SEC. 9011. (a) PROGRAM AUTHORITY.—

11 “(1) IN GENERAL.—In accordance with the pro-
12 visions of this section, the Secretary of Housing and
13 Urban Development (in this section referred to as
14 the ‘Secretary’) may guarantee, and make commit-
15 ments to guarantee, loans made to homeowners
16 whose properties have been contaminated, and re-
17 duced in value, by leaking underground storage
18 tanks to assist such homeowners to obtain other
19 temporary or permanent residences or to obtain the
20 equity in the property for any other purpose.

21 “(2) ADMINISTRATION BY SPECIAL MASTER.—

22 The Secretary shall administer the loan guarantee
23 program under this section through a Special Mas-
24 ter, who shall be appointed by the Secretary. The
25 Special Master shall carry out all functions of the
26 Secretary under this section, including the promul-

1 gation of any substantive and procedural rules for
2 the administration of the program.

3 “(b) ELIGIBLE LOANS.—To be eligible to be guaran-
4 teed under this section, a loan shall meet the following
5 requirements:

6 “(1) USE.—The proceeds of the loan may be
7 used only for the purpose of—

8 “(A) acquiring, by purchase or lease, a
9 property consisting of one to four dwelling
10 units, which shall be occupied as the principal
11 residence of the borrower; or

12 “(B) obtaining the equity in the property
13 for any other purpose.

14 “(2) BORROWER.—The loan shall be made to a
15 borrower who—

16 “(A) has an income not exceeding
17 \$100,000, as such amount may be adjusted for
18 inflation according to an appropriate index, as
19 determined by the Secretary; and

20 “(B) is the owner of a qualified property
21 under subsection (c).

22 “(3) LENDER.—The loan shall be made by a
23 lender approved by and meeting qualifications estab-
24 lished by the Secretary. The following lenders are
25 deemed to be approved under this paragraph:

1 “(A) Any mortgagee approved by the Sec-
2 retary of Housing and Urban Development for
3 participation in the single family mortgage in-
4 surance program under title II of the National
5 Housing Act.

6 “(B) Any lender whose housing loans
7 under chapter 37 of title 38, United States
8 Code, are automatically guaranteed pursuant to
9 section 1802(d) of such title.

10 “(C) Any lender approved by the Secretary
11 of Agriculture to make guaranteed loans for
12 single family housing under the Housing Act of
13 1949.

14 “(D) Any other lender that is supervised,
15 approved, regulated, or insured by any agency
16 of the Federal Government.

17 “(4) SECURITY.—The loan shall be secured by
18 the qualified property of the borrower.

19 “(5) TERMS.—The loan shall—

20 “(A) be made for a term not exceeding 30
21 years;

22 “(B) bear interest (exclusive of the guar-
23 antee fee under subsection (e)(3) and service
24 charges, if any) at a rate agreed upon by the
25 borrower and the lender and determined by the

1 Secretary to be reasonable, which may not ex-
2 ceed the rate generally charged in the area (as
3 determined by the Secretary) for home mort-
4 gage loans not guaranteed or insured by any
5 agency or instrumentality of the Federal Gov-
6 ernment; and

7 “(C) involve a principal obligation not
8 exceeding—

9 “(i) the dollar amount limitation de-
10 termined under section 305(a)(2) of the
11 Federal Home Loan Mortgage Corporation
12 Act for a single-family residence (as such
13 limitation is adjusted annually);

14 “(ii) the amount approved by the Sec-
15 retary under this section; or

16 “(iii) 100 percent of the pre-release
17 fair market value of the qualified property
18 owned by the borrower, as determined by
19 the Secretary.

20 “(c) QUALIFIED PROPERTY.—For purposes of this
21 section, a qualified property is a one- to four-family resi-
22 dence that—

23 “(1) is located on real property on any part of
24 which is within an area that is affected by a release

1 from an underground storage tank, as determined
2 by the Secretary;

3 “(2) immediately before the making of the loan
4 guaranteed under this section, is the principal resi-
5 dence of the borrower under the loan (unless the
6 borrower has temporarily relocated to avoid the con-
7 sequences of the release referred to in paragraph
8 (1));

9 “(3) is determined by the Secretary to be cov-
10 ered by an agreement entered into under subsection
11 (d); and

12 “(4) is determined by the Secretary to be eligi-
13 ble for a loan guaranteed under this section.

14 “(d) AGREEMENTS WITH LOCAL HOUSING AGEN-
15 CIES TO MAINTAIN UNOCCUPIED PROPERTIES AND TAKE
16 TITLE.—An agreement under this subsection is a legally
17 binding agreement entered into between the Secretary and
18 a public housing agency (as such term is defined in section
19 3(b) of the United States Housing Act of 1937 (42 U.S.C.
20 1437a(b)) or other entity selected by the Secretary that
21 provides that—

22 “(1) in the case of a loan guaranteed under this
23 section under which the borrower maintains the bor-
24 rower’s interest in a qualified property located with-
25 in the jurisdiction of the public housing agency or

1 other such entity, the public housing agency or other
2 entity shall take any actions necessary to physically
3 maintain the qualified property during the period
4 that such property remains unoccupied by the bor-
5 rower;

6 “(2) in the case of a loan guaranteed under this
7 section under which the borrower does not retain the
8 borrower’s interest in a qualified property located
9 within the jurisdiction of the public housing agency
10 or other such entity, the public housing agency or
11 other entity shall take title to the qualified property
12 and shall take any actions necessary to physically
13 maintain the qualified property during any period
14 that the property remains unoccupied; and

15 “(3) in the event that the Secretary obtains
16 title to a qualified property located within the juris-
17 diction of the public housing agency or other such
18 entity, pursuant to a default on a loan guaranteed
19 under this section, the public housing agency or
20 other entity shall take title to the qualified property
21 from the Secretary and shall take any actions nec-
22 essary to physically maintain the qualified property
23 during any period that the property remains unoccu-
24 pied.

25 “(e) GUARANTEE.—

1 “(1) LIMITATION.—The Secretary may not
2 guarantee, or make a commitment to guarantee, any
3 loan under this section in an amount exceeding 90
4 percent of the principal amount of the loan.

5 “(2) PRIVATE GUARANTEE OR INSURANCE.—To
6 be eligible for a guarantee under this section, any
7 portion of a loan that is not guaranteed by the Sec-
8 retary shall be covered by a guarantee or mortgage
9 insurance provided by a State or local agency or a
10 private mortgage insurer.

11 “(3) FEE.—The Secretary shall fix and collect
12 a guarantee fee for the guarantee of loans under this
13 section, which shall be a percentage of the principal
14 amount of the loan guaranteed under this section
15 that does not exceed the percentage allowable under
16 section 438(c)(2) of the Higher Education Act of
17 1965 (20 U.S.C. 1087–1(c)(2)) to be charged as an
18 origination fee under such section. The fee shall be
19 paid by the lender at time of issuance of the guar-
20 antee and shall be adequate, in the determination of
21 the Secretary, to cover expenses and probable losses.
22 The Secretary shall deposit any fees collected under
23 this subsection in the loan guarantee fund estab-
24 lished under subsection (i) of this section.

1 “(4) LIABILITY.—The liability under a guar-
2 antee provided under this section shall decrease or
3 increase on a pro rata basis according to any de-
4 crease or increase in the amount of the unpaid obli-
5 gation under the provisions of the loan agreement.

6 “(f) CERTIFICATE OF GUARANTEE.—

7 “(1) APPROVAL PROCESS.—Before the Sec-
8 retary approves any loan for guarantee under this
9 section, the lender shall submit the application for
10 the loan to the Secretary for examination. If the
11 Secretary approves the loan for guarantee, the Sec-
12 retary shall issue a certificate under this paragraph
13 as evidence of the guarantee.

14 “(2) STANDARD FOR APPROVAL.—The Sec-
15 retary may approve a loan for guarantee under this
16 section and issue a certificate under this paragraph
17 only if the Secretary determines there is a reason-
18 able prospect of repayment of the loan.

19 “(3) EFFECT.—A certificate of guarantee
20 issued under this paragraph by the Secretary shall
21 be conclusive evidence of the eligibility of the loan
22 for guarantee under the provisions of this section
23 and the amount of such guarantee. Such evidence
24 shall be incontestable in the hands of the bearer and
25 the full faith and credit of the United States is

1 pledged to the payment of all amounts agreed to be
2 paid by the Secretary as security for such obliga-
3 tions.

4 “(4) FRAUD AND MISREPRESENTATION.—This
5 subsection may not be construed to preclude the
6 Secretary from establishing defenses against the
7 original lender based on fraud or material misrepre-
8 sentation or to bar the Secretary from establishing
9 by regulations in effect on the date of issuance or
10 disbursement, whichever is earlier, partial defenses
11 to the amount payable on the guarantee.

12 “(g) TRANSFER AND ASSUMPTION.—Notwith-
13 standing any other provision of law, any loan guaranteed
14 under this section, including the security given for the
15 loan, may be sold or assigned by the lender to any finan-
16 cial institution subject to examination and supervision by
17 an agency of the Federal Government or of any State or
18 the District of Columbia.

19 “(h) PAYMENT UNDER GUARANTEE.—

20 “(1) NOTIFICATION OF DEFAULT.—In the event
21 of default by the borrower on a loan guaranteed
22 under this section, the holder of the guarantee cer-
23 tificate shall provide written notice of the default to
24 the Secretary.

1 “(2) PAYMENT OPTIONS.—Upon providing such
2 notice, the holder of the guarantee certificate shall
3 be entitled to payment under the guarantee (subject
4 to the provisions of this section) and may proceed to
5 obtain payment in one of the following manners:

6 “(A) FORECLOSURE.—The holder of the
7 certificate may initiate foreclosure proceedings
8 (after providing written notice of such action to
9 the Secretary) and upon a final order by the
10 court authorizing foreclosure and submission to
11 the Secretary of a claim for payment under the
12 guarantee, the Secretary shall pay to the holder
13 of the certificate the pro rata portion of the
14 amount guaranteed (as determined pursuant to
15 subsection (e)) plus reasonable fees and ex-
16 penses as approved by the Secretary. The Sec-
17 retary shall be subrogated to the rights of the
18 holder of the guarantee and the lender holder
19 shall assign the obligation and security to the
20 Secretary.

21 “(B) NO FORECLOSURE.—Without seeking
22 foreclosure (or in any case in which a fore-
23 closure proceeding initiated under subparagraph
24 (A) continues for a period in excess of 1 year),
25 the holder of the guarantee may submit to the

1 Secretary a request to assign the obligation and
2 security interest to the Secretary in return for
3 payment of the claim under the guarantee. The
4 Secretary may accept assignment of the loan if
5 the Secretary determines that the assignment is
6 in the best interests of the United States. Upon
7 assignment, the Secretary shall pay to the hold-
8 er of the guarantee the pro rata portion of the
9 amount guaranteed (as determined under sub-
10 section (e)). The Secretary shall be subrogated
11 to the rights of the holder of the guarantee and
12 the holder shall assign the obligation and secu-
13 rity to the Secretary.

14 “(3) REQUIREMENTS FOR PAYMENT.—Before
15 any payment under a guarantee is made under para-
16 graph (2), the holder of the guarantee shall exhaust
17 all reasonable possibilities of collection. Upon pay-
18 ment, in whole or in part, to the holder, the note or
19 judgment evidencing the debt shall be assigned to
20 the United States and the holder shall have no fur-
21 ther claim against the borrower or the United
22 States. The Secretary shall then take such action to
23 collect as the Secretary determines appropriate.

24 “(i) LOAN FORGIVENESS.—

1 “(1) AUTHORITY.—If, upon written application
2 to the Secretary, the Secretary determines that the
3 borrower under a loan guaranteed under this section
4 is unable to continue payments under the loan due
5 to the nature and extent of the release affecting the
6 qualified property, financial hardship, demonstrated
7 adverse health effects, or any other factor that the
8 Secretary determines indicates that loan forgiveness
9 under this section is appropriate, the Secretary may
10 take action under this subsection to forgive all or
11 part of the borrower’s obligation under the loan.

12 “(2) ASSIGNMENT.—Upon a determination pur-
13 suant to paragraph (1), the Secretary shall require
14 the holder of the guarantee to assign the obligation
15 and security interest to the Secretary in return for
16 payment of the claim under the guarantee equal to
17 the pro rata portion of the amount guaranteed (as
18 determined under subsection (e)). The Secretary
19 shall be subrogated to the rights of the holder of the
20 guarantee.

21 “(3) FORGIVENESS.—Pursuant to assignment
22 under paragraph (2), the Secretary shall cancel such
23 portion of the borrower’s obligation as the Secretary
24 considers appropriate.

25 “(j) LOAN GUARANTEE FUND.—

1 “(1) ESTABLISHMENT.—There is established in
2 the Treasury of the United States a loan guarantee
3 fund for the purpose of providing loan guarantees
4 under this section.

5 “(2) CREDITS.—The guarantee fund shall be
6 credited with—

7 “(A) any amounts, claims, notes, mort-
8 gages, and contracts acquired by the Secretary
9 under this section, and any collections and pro-
10 ceeds therefrom;

11 “(B) any amounts appropriated under
12 paragraph (7);

13 “(C) any guarantee fees collected under
14 subsection (e)(3); and

15 “(D) any interest or earnings on amounts
16 invested under paragraph (4).

17 “(3) USE.—Amounts in the guarantee fund
18 shall be available, to the extent provided in appro-
19 priation Acts, for—

20 “(A) fulfilling any obligations of the Sec-
21 retary with respect to loans guaranteed under
22 this section, including the costs (as such term
23 is defined in section 502 of the Congressional
24 Budget Act of 1974) of such loans;

1 “(B) paying taxes, insurance, prior liens,
2 expenses necessary to make fiscal adjustment in
3 connection with the application and transmittal
4 of collections, and other expenses and advances
5 to protect the Secretary for loans which are
6 guaranteed under this section or held by the
7 Secretary;

8 “(C) acquiring such security property at
9 foreclosure sales or otherwise; and

10 “(D) paying administrative expenses in
11 connection with this section.

12 “(4) INVESTMENT.—Any amounts in the guar-
13 antee fund that the Secretary determines are in ex-
14 cess of amounts currently required to carry out this
15 section may be invested in obligations of the United
16 States.

17 “(5) LIMITATION ON COMMITMENTS TO GUAR-
18 ANTEE LOANS AND MORTGAGES.—

19 “(A) REQUIREMENT OF APPROPRIA-
20 TIONS.—The authority of the Secretary to enter
21 into commitments to guarantee loans under this
22 section shall be effective for any fiscal year to
23 the extent or in such amounts as are or have
24 been provided in appropriation Acts, without re-

1 gard to the fiscal year for which such amounts
2 were appropriated.

3 “(B) LIMITATIONS ON COSTS OF GUARAN-
4 TEES.—The authority of the Secretary to enter
5 into commitments to guarantee loans under this
6 section shall be effective for any fiscal year only
7 to the extent that amounts in the guarantee
8 fund are or have been made available in appro-
9 priation Acts to cover the costs (as such term
10 is defined in section 502 of the Congressional
11 Budget Act of 1974) of such loan guarantees
12 for such fiscal year. Any amounts appropriated
13 pursuant to this subparagraph shall remain
14 available until expended.

15 “(C) LIMITATION ON OUTSTANDING AG-
16 GREGATE PRINCIPAL AMOUNT.—Subject to the
17 limitations in subparagraphs (A) and (B), the
18 Secretary may enter into commitments to guar-
19 antee loans under this section in each fiscal
20 year with an aggregate outstanding principal
21 amount not exceeding such amount as may be
22 provided in appropriation Acts for such fiscal
23 year.

24 “(6) LIABILITIES.—All liabilities and obliga-
25 tions of the assets credited to the guarantee fund

1 under paragraph (2)(A) shall be liabilities and obli-
2 gations of the guarantee fund.

3 “(7) AUTHORIZATION OF APPROPRIATIONS.—

4 There are authorized to be appropriated to the guar-
5 antee fund such sums as may be necessary to carry
6 out this section.”.

7 (b) TABLE OF CONTENTS AMENDMENT.—The table
8 of contents for subtitle I of the Solid Waste Disposal Act
9 is amended by adding at the end the following new item:

“Sec. 9011. HUD loan guarantees for owners of homes affected by leaking un-
derground storage tanks.”.

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