

112TH CONGRESS  
1ST SESSION

# H. R. 1548

To allow homeowners of moderate-value homes who are subject to mortgage foreclosure proceedings to remain in their homes as renters.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 14, 2011

Mr. GRIJALVA (for himself, Ms. BROWN of Florida, Ms. CLARKE of New York, Mr. CONYERS, Mr. CLAY, Mr. ELLISON, Mr. FILNER, Mr. HOLT, Ms. KAPTUR, Mr. KUCINICH, Ms. NORTON, Mr. JACKSON of Illinois, Mr. STARK, and Ms. WOOLSEY) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To allow homeowners of moderate-value homes who are subject to mortgage foreclosure proceedings to remain in their homes as renters.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Right to Rent Act of  
5 2011”.

6 **SEC. 2. RIGHT TO RENT HOME SUBJECT TO FORECLOSURE.**

7 (a) EXERCISE OF RIGHT.—If, at any time after no-  
8 tice under subsection (b) for an eligible mortgage is pro-

1 vided to the eligible mortgagor and before the commence-  
2 ment of the 7-day period that ends on the first date that  
3 the foreclosing creditor may first commence or execute  
4 such foreclosure pursuant to such notice, the eligible mort-  
5 gagor under the eligible mortgage that is subject to such  
6 foreclosure provides notice in accordance with section 3,  
7 notwithstanding such foreclosure or any other interests in  
8 the property, the eligible mortgagor may, at the sole op-  
9 tion of the eligible mortgagor, continue to occupy the fore-  
10 closed property during the 5-year period that begins upon  
11 the commencement of such occupancy, subject to the re-  
12 quirements of subsection (c).

13 (b) LIMITATION ON TIMING OF FORECLOSURE; NO-  
14 TICE OF DEFAULT AND RIGHT TO RENT.—Notwith-  
15 standing any other provision of law or any contract, a  
16 foreclosure of an eligible mortgage may not be commenced  
17 or executed before the expiration of the 25-day period (not  
18 including Saturdays, Sundays, and legal public holidays)  
19 beginning upon the receipt, by the eligible mortgagor, of  
20 written notice provided by the foreclosing creditor for the  
21 mortgage that—

22 (1) clearly states that—

23 (A) the eligible mortgagor is in default on  
24 the mortgage; and

1           (B) foreclosure on the mortgage may or  
2           will be commenced on account of such default;

3           (2) clearly states that the eligible mortgagor  
4           has the right, notwithstanding foreclosure, to con-  
5           tinue to occupy the foreclosed property in accord-  
6           ance with this Act, and sets forth the terms of such  
7           occupancy under subsections (a) and (c); and

8           (3) clearly identifies the first date, pursuant to  
9           this section and any other provisions of law and con-  
10          tract, that such foreclosure may be commenced.

11          (c) TERMS OF PERIODIC TENANCY.—Occupancy, by  
12          an eligible mortgagor, of a foreclosed property pursuant  
13          to subsection (a) shall be under a periodic month-to-month  
14          tenancy under which the owner of the property may termi-  
15          nate the tenancy for material breach but shall have no  
16          authority, at will, to terminate the tenancy during the oc-  
17          cupancy pursuant to subsection (a) if the mortgagor—

18               (1) timely pays to the owner of the foreclosed  
19               property rent on a monthly basis in the amount of  
20               the fair market rent for the property determined in  
21               accordance with section 4; and

22               (2) uses property as the principal residence of  
23               the mortgagor.

1 **SEC. 3. REQUIRED NOTICE.**

2 With respect to an eligible mortgage for which notice  
3 under section 2(b) has been provided, notice in accordance  
4 with this section is notice that—

5 (1) is made in writing;

6 (2) is submitted, by a means under which the  
7 act of delivery is recorded, to—

8 (A) the court having jurisdiction and venue  
9 to conduct the covered foreclosure proceeding  
10 for the eligible mortgage or, in the case of non-  
11 judicial foreclosure, the court in which an ac-  
12 tion is brought pursuant to section 5; and

13 (B) the foreclosing creditor; and

14 (3) states that the eligible mortgagor is exer-  
15 cising the authority under section 2(a) to continue  
16 to occupy the foreclosed property.

17 **SEC. 4. DETERMINATION OF FAIR MARKET RENT.**

18 (a) INITIAL DETERMINATION.—For purposes of this  
19 Act, the fair market rent for a foreclosed property involved  
20 in a covered foreclosure proceeding shall be the amount  
21 that is determined by the court conducting such pro-  
22 ceeding or hearing an action pursuant to section 5.

23 (b) PERIODIC ADJUSTMENTS.—The fair market rent  
24 determined under subsection (a) for a foreclosed property  
25 shall be adjusted annually to reflect changes in the owners'  
26 equivalent rent of primary residence component, for the

1 appropriate city, region, or class of city, as available, of  
2 the Consumer Price Index for All Urban Consumers of  
3 the Bureau of Labor Statistics of the Department of  
4 Labor.

5 (c) REDETERMINATION.—If the owner of a foreclosed  
6 property or the eligible mortgagor under the eligible mort-  
7 gage requests the court described in subsection (a) to re-  
8 determine the fair market rent for a foreclosed property  
9 determined pursuant to this section (as such amount may  
10 have been adjusted pursuant to subsection (b)) and agrees  
11 to pay any costs of such redetermination (including costs  
12 of the appraisal involved), the court shall provide for rede-  
13 termination of the fair market rent for the foreclosed  
14 property in the manner provided under subsection (a), ex-  
15 cept that no such redetermination shall be made pursuant  
16 to a request under this subsection made before the expira-  
17 tion of the 12-month period beginning upon the most re-  
18 cent redetermination conducted at the request of the same  
19 party.

20 **SEC. 5. NONJUDICIAL FORECLOSURE PROCEEDINGS.**

21 In the case of any covered foreclosure proceeding that  
22 is not conducted or administered by a court, the eligible  
23 mortgagor may bring an action in an appropriate court  
24 of the State in which the foreclosed property is located  
25 for a determination of fair market rent for the foreclosed

1 property for purposes of this Act, by filing notice in ac-  
2 cordance with section 3 with such court and otherwise  
3 complying with the rules of such court.

4 **SEC. 6. NO BAR TO FORECLOSURE.**

5 This Act may not be construed to delay, or otherwise  
6 modify, affect, or alter any right of a creditor under an  
7 eligible mortgage to foreclose on the mortgage and to sell  
8 the foreclosed property in connection with such fore-  
9 closure, except that the right of any owner of the property  
10 to possession of the property shall be subject to the lease-  
11 hold interest established pursuant to section 2(c).

12 **SEC. 7. RIGHT TO REINSTATEMENT.**

13 This Act may not be construed to affect any right  
14 of any eligible mortgagor to reinstatement of an eligible  
15 mortgage, including any right established under contract  
16 or State law.

17 **SEC. 8. JURISDICTION OF FEDERAL COURTS.**

18 At the option of the eligible mortgagor, a proceeding  
19 under section 4 or 5 shall be removed to the appropriate  
20 district court of the United States in accordance with sec-  
21 tion 1441 of title 28, United States Code.

22 **SEC. 9. EFFECT ON STATE LAW.**

23 (a) FORECLOSURE LAWS.—This Act does not annul,  
24 alter, affect, or exempt any person subject to the provi-  
25 sions of this Act from complying with the laws of any

1 State regarding foreclosure on residential properties, ex-  
2 cept to the extent that such laws are inconsistent with any  
3 provision of this Act, and then only to the extent of such  
4 inconsistency.

5 (b) LANDLORD-TENANT LAWS.—Nothing in this Act  
6 may be construed to not annul, alter, affect, or exempt  
7 any such tenancy created pursuant to section 2(c) from  
8 any applicable State or local laws regarding the rights or  
9 responsibilities of landlords or tenants.

10 **SEC. 10. OVERSIGHT BY HUD.**

11 The Secretary of Housing and Urban Development  
12 shall—

13 (1) monitor compliance with the requirements  
14 under this Act;

15 (2) make available, and provide, appropriate as-  
16 sistance to eligible mortgagors in exercising their  
17 rights under this Act;

18 (3) conduct outreach activities appropriate to  
19 inform eligible mortgagors of the provisions of this  
20 Act; and

21 (4) submit to the Congress, not less than annu-  
22 ally, reports describing the implementation of this  
23 Act, the extent to which this Act is utilized by eligi-  
24 ble mortgagors, and any issues regarding such im-  
25 plementation or utilization.

1 **SEC. 11. DEFINITIONS.**

2 For purposes of this Act, the following definitions  
3 apply:

4 (1) COVERED FORECLOSURE PROCEEDING.—

5 The term “covered foreclosure proceeding” means a  
6 foreclosure proceeding with respect to an eligible  
7 mortgage, and includes any foreclosure proceeding  
8 authorized under the law of the applicable State, in-  
9 cluding judicial and non-judicial foreclosure pro-  
10 ceedings.

11 (2) ELIGIBLE MORTGAGOR.—The term “eligible  
12 mortgagor” means a mortgagor under an eligible  
13 mortgage.

14 (3) ELIGIBLE MORTGAGE.—The term “eligible  
15 mortgage” means a first or subordinate mortgage—

16 (A) on a property that—

17 (i) is a single family property;

18 (ii) has been used as the principal res-  
19 idence of the eligible mortgagor for a pe-  
20 riod of not less than 2 years immediately  
21 preceding the initiation of the covered fore-  
22 closure proceeding involved; and

23 (iii) had a purchase price, at the time  
24 purchased by the eligible mortgagor, that  
25 is less than the median purchase price for  
26 residences that are located in—



1 (I) the same metropolitan statis-  
2 tical area; or

3 (II) if the property is not located  
4 in a metropolitan statistical area or  
5 information for the area is not avail-  
6 able, the same State; and

7 (B) that was originated before July 1,  
8 2007.

9 For purposes of subparagraph (A)(iii), the median  
10 purchase price of residences located within a metro-  
11 politan area or State shall be determined according  
12 to information collected and made available by the  
13 National Association of Realtors for such area or  
14 State for the most recently completed month for  
15 which such information is available.

16 (4) FORECLOSED PROPERTY.—The term “fore-  
17 closed property” means, with respect to a covered  
18 foreclosure proceeding, the single family property  
19 that is subject to the eligible mortgage being fore-  
20 closed under the proceeding.

21 (5) FORECLOSING CREDITOR.—The term “fore-  
22 closing creditor” means, with respect to a covered  
23 foreclosure proceeding, the creditor that is fore-  
24 closing the eligible mortgage through such pro-  
25 ceeding.

1           (6) OWNER.—The term “owner” means, with  
2           respect to a foreclosed property, the person who has  
3           title to the property pursuant to the foreclosure pro-  
4           ceeding for the property, and any successor or as-  
5           sign of such person.

6           (7) SINGLE FAMILY PROPERTY.—The term  
7           “single family property” means—

8                   (A) a structure consisting of 1 to 4 dwell-  
9                   ing units;

10                   (B) a dwelling unit in a multi-unit condo-  
11                   minium property together with an undivided in-  
12                   terest in the common areas and facilities serv-  
13                   ing the property; or

14                   (C) a dwelling unit in a multi-unit project  
15                   for which purchase of stock or a membership  
16                   interest entitles the purchaser to permanent oc-  
17                   cupancy of that unit.

18 **SEC. 12. APPLICABILITY AND SUNSET.**

19           (a) APPLICABILITY.—Subject to subsection (b), this  
20 Act shall apply to any covered foreclosure proceeding that  
21 has not been finally adjudicated as of the date of the en-  
22 actment of this Act.

23           (b) SUNSET.—This Act shall not apply to any fore-  
24 closure proceeding commenced after the expiration of the

1 5-year period beginning on the date of the enactment of  
2 this Act.

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