

112TH CONGRESS  
1ST SESSION

# S. 1963

To revoke the charters for the Federal National Mortgage Corporation and the Federal Home Loan Mortgage Corporation upon resolution of their obligations, to create a new Mortgage Finance Agency for the securitization of single family and multifamily mortgages, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

DECEMBER 8, 2011

Mr. ISAKSON introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To revoke the charters for the Federal National Mortgage Corporation and the Federal Home Loan Mortgage Corporation upon resolution of their obligations, to create a new Mortgage Finance Agency for the securitization of single family and multifamily mortgages, and for other purposes.

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

3       **SECTION 1. SHORT TITLE; FINDINGS.**

4       (a) **SHORT TITLE.**—This Act may be cited as the  
5       “Mortgage Finance Act of 2011”.

6       (b) **FINDINGS.**—Congress finds that—

1           (1) dependable, transparent, and liquid primary  
2           and secondary markets for high-quality residential  
3           and multifamily mortgages are critical to a safe and  
4           sound housing market;

5           (2) Congress wishes to terminate the Congres-  
6           sional charters and operations of the Federal Na-  
7           tional Mortgage Association and the Federal Home  
8           Loan Mortgage Corporation, and to wind them down  
9           through an orderly receivership process, without dis-  
10          rupting the housing markets;

11          (3) taxpayers have expended billions of dollars  
12          on behalf of the Federal National Mortgage Associa-  
13          tion and the Federal Home Loan Mortgage Corpora-  
14          tion during the period of their conservatorship, and  
15          such expenditures should be recouped;

16          (4) increased participation by the private sector  
17          to provide mortgage market liquidity and credit risk  
18          mitigation is necessary and desirable to reduce de-  
19          pendence on Government guarantees, and to make  
20          remote any future needs for taxpayer assistance;

21          (5) this Act creates a new transitional facility  
22          to guarantee securitizations of high-quality residen-  
23          tial mortgages, to ensure a sound and stable housing  
24          market;

1           (6) multiple layers of private capital and the  
2           creation of an industry-funded Catastrophic Fund  
3           will make future risk to taxpayers highly remote;  
4           and

5           (7) this Act provides for the privatization of the  
6           transitional facility after 10 years, with proceeds  
7           being paid to the United States Treasury.

8 **SEC. 2. DEFINITIONS.**

9           For purposes of this Act, unless the context otherwise  
10          requires, the following definitions shall apply:

11           (1) BOARD OF DIRECTORS.—The term “Board  
12          of Directors” means the Board of Directors of the  
13          MFA.

14           (2) CHARTER.—The term “charter” means—

15                   (A) with respect to the Federal National  
16                   Mortgage Association, the Federal National  
17                   Mortgage Association Charter Act (12 U.S.C.  
18                   1716 et seq.); and

19                   (B) with respect to the Federal Home  
20                   Loan Mortgage Corporation, the Federal Home  
21                   Loan Mortgage Corporation Act (12 U.S.C.  
22                   1451 et seq.).

23           (3) DIRECTOR.—The term “Director”, other  
24          than in the context of the Director of the FHFA,  
25          means the director of the Mortgage Finance Agency.

1           (4) ENTERPRISE.—The term “enterprise”  
2 means—

3           (A) the Federal National Mortgage Asso-  
4 ciation; and

5           (B) the Federal Home Loan Mortgage  
6 Corporation.

7           (5) FHFA.—The term “FHFA” means the  
8 Federal Housing Finance Agency.

9           (6) MORTGAGE FINANCE AGENCY; MFA.—The  
10 terms “Mortgage Finance Agency” and “MFA”  
11 mean the agency established under title II.

12           (7) MFA CERTIFICATION DATE.—The term  
13 “MFA certification date” means the date on which  
14 the Director certifies that the MFA is operational  
15 and able to perform the guarantee function for  
16 qualified mortgage-backed securities collateralized by  
17 qualified residential mortgages, as provided in this  
18 Act, which date shall be not later than 18 months  
19 after the date of enactment of this Act.

20           (8) QUALIFIED ISSUER.—The term “qualified  
21 issuer” means a person who originates or purchases,  
22 and services, a qualified residential mortgage or a  
23 qualified multifamily mortgage, and is approved to  
24 issue securities guaranteed by the MFA, in accord-

1       ance with this Act and with the guidelines issued by  
2       the MFA under section 302.

3           (9) QUALIFIED MORTGAGE-BACKED SECURI-  
4       TIES.—The term “qualified mortgage-backed securi-  
5       ties” means securities collateralized by qualified resi-  
6       dential mortgages or qualified multifamily mort-  
7       gages, as the case may be, issued by a qualified  
8       issuer and guaranteed by the MFA with respect to  
9       the timely payment of principal and interest, all in  
10      accordance with this Act.

11          (10) QUALIFIED MULTIFAMILY MORTGAGE.—  
12      The term “qualified multifamily mortgage” means a  
13      commercial real estate loan secured by a property  
14      with 5 or more single family units, the primary  
15      source of repayment for which is expected to be de-  
16      rived from the proceeds of the sale, refinancing, or  
17      permanent financing of the property, or rental in-  
18      come generated by the property, that—

19           (A) has been originated with an initial loan  
20           to value ratio of not more than 75 percent and  
21           with an initial debt service coverage ratio of at  
22           least 1.25; or

23           (B) with respect to which, the mortgage  
24           lender retains a pro rata vertical slice of credit

1 risk in an amount to be determined by the  
2 MFA.

3 (11) QUALIFIED RESIDENTIAL MORTGAGE.—

4 The term “qualified residential mortgage” means a  
5 residential real estate loan secured by a property  
6 with 1 to 4 single family units that has been origi-  
7 nated in compliance with the following underwriting  
8 standards and product features:

9 (A) Documentation and verification of the  
10 financial resources relied upon to qualify the  
11 mortgagor.

12 (B) Standards with respect to the income  
13 and scheduled debt payments of the mortgagor,  
14 including—

15 (i) one or more of—

16 (I) the residual income of the  
17 mortgagor after all monthly obliga-  
18 tions;

19 (II) the ratio of the housing pay-  
20 ments of the mortgagor to the month-  
21 ly income of the mortgagor; and

22 (III) the ratio of total monthly  
23 installment payments of the mort-  
24 gagor to the income of the mortgagor;  
25 and

1 (ii) mitigation of the potential for pay-  
2 ment shock on adjustable rate mortgages.

3 (C) Downpayments which shall be equal to  
4 not less than 5 percent of purchase price,  
5 and—

6 (i) in the case of such mortgages with  
7 downpayments equal to not less than 5  
8 percent but less than 30 percent of the  
9 purchase price, the mortgage is covered by  
10 private mortgage insurance purchased at  
11 the time of origination in an amount suffi-  
12 cient to cover each loan to the equivalent  
13 of not less than a 30 percent downpay-  
14 ment; and

15 (ii) such mortgage insurance is issued  
16 by an entity that is subject to regulation as  
17 a mortgage guaranty insurer by the State  
18 of domicile of such entity or by the Federal  
19 Insurance Office (which regulation includes  
20 risk-based capital and reserve require-  
21 ments).

22 (D) Prohibition of or restrictions on the  
23 use of balloon payments, negative amortization,  
24 prepayment penalties, interest-only payments,

1 and other features that have been demonstrated  
2 to exhibit a higher risk of borrower default.

3 (12) SECRETARY.—The term “Secretary”  
4 means the Secretary of the Treasury.

5 **TITLE I—TERMINATION OF**  
6 **FANNIE MAE AND FREDDIE**  
7 **MAC CHARTERS**

8 **SEC. 101. RECEIVERSHIP OF THE ENTERPRISES.**

9 (a) IRREVOCABLE RECEIVERSHIP.—

10 (1) IN GENERAL.—Effective on the MFA cer-  
11 tification date, the FHFA is appointed receiver of  
12 the enterprises, and the enterprises shall be placed  
13 into irrevocable receivership by the FHFA, in ac-  
14 cordance with section 1367 of the Federal Housing  
15 Enterprises Financial Safety and Soundness Act of  
16 1992 (12 U.S.C. 4617), except that—

17 (A) paragraphs (1) through (5) of sub-  
18 section (a) of that section 1367 do not apply  
19 with respect to such appointment; and

20 (B) prior to the MFA certification date,  
21 the enterprises shall be permitted to engage in  
22 the business of guaranteeing the timely pay-  
23 ment of principal and interest on qualified  
24 mortgage-backed securities and to undertake all  
25 functions necessary to carry out such business,



1           to the extent that such guarantees are nec-  
2           essary to provide a dependable, transparent,  
3           and liquid market for high quality mortgages  
4           for securitization.

5           (2) COMMENCEMENT OF LIQUIDATION.—Imme-  
6           diately upon placement of the enterprises into receiv-  
7           ership, the FHFA shall commence liquidation of the  
8           enterprises.

9           (b) REPEAL OF GSE CHARTERS.—

10           (1) FANNIE MAE.—The charter of the Federal  
11           National Mortgage Association, is repealed, effective  
12           90 days after the date on which liquidation thereof  
13           is complete, in accordance with this Act.

14           (2) FREDDIE MAC.—The charter of the Federal  
15           Home Loan Mortgage Corporation, is repealed, ef-  
16           fective 90 days after the date on which liquidation  
17           thereof is complete, in accordance with this Act.

18           (c) RULE OF CONSTRUCTION.—For purposes of any  
19           provision of Federal law that refers to or relies on a deci-  
20           sion by the Director of the FHFA to place an enterprise  
21           into receivership, such determination shall be deemed to  
22           have been made by operation of the placement of the en-  
23           terprises into receivership under subsection (a).

1 **SEC. 102. REPAYMENT OF GOVERNMENT ASSISTANCE;**  
2 **MAXIMIZING RETURN TO TAXPAYERS.**

3 (a) IN GENERAL.—After fully satisfying the out-  
4 standing obligations of the enterprises in a manner con-  
5 sistent with their receivership status, all remaining pro-  
6 ceeds from the operations of the enterprises in receivership  
7 shall be paid by the FHFA to the General Fund of the  
8 United States Treasury in repayment of Government as-  
9 sistance provided in connection with ensuring the solvency  
10 and resolution of the enterprises prior to the date of enact-  
11 ment of this Act.

12 (b) MAXIMUM RETURN TO TAXPAYER.—The com-  
13 bined assets of the enterprises, including on-balance sheet  
14 portfolios, shall be managed by the FHFA as receiver to  
15 obtain resolutions that maximize the return for the tax-  
16 payer, to the extent that—

17 (1) such resolutions are consistent with the goal  
18 of supporting a sound, stable, and liquid housing  
19 market; and

20 (2) such resolutions are consistent with applica-  
21 ble law.

22 (c) TRANSFER OF PROCEEDS OF PRIVATIZATION AND  
23 CATASTROPHIC FUND.—The proceeds from privatization  
24 of the MFA upon termination of its authority in accord-  
25 ance with section 304 shall be deposited into the General  
26 Fund of the United States Treasury. Upon such termi-

1 nation of the authority of the MFA, the Catastrophic  
 2 Fund shall be transferred to the General Fund of the  
 3 United States Treasury, and the United States Treasury  
 4 shall assume responsibility for and honor any remaining  
 5 obligations of the MFA, of whatever nature and until such  
 6 time as they are extinguished.

7 **SEC. 103. REPORT TO CONGRESS.**

8       Upon the resolution of all valid claims of the enter-  
 9 prises, the Director of the FHFA shall submit a report  
 10 by the FHFA as receiver of the enterprises to the Com-  
 11 mittee on Banking, Housing, and Urban Affairs of the  
 12 Senate and the Committee Financial Services of the  
 13 House of Representatives, certifying the completion of the  
 14 receivership.

15 **TITLE II—MORTGAGE FINANCE**  
 16 **AGENCY**

17 **SEC. 201. ESTABLISHMENT OF MFA.**

18       There is established the Mortgage Finance Agency,  
 19 which shall be an independent agency of the Federal Gov-  
 20 ernment.

21 **SEC. 202. GOVERNANCE.**

22       (a) DIRECTOR.—

23           (1) IN GENERAL.—The MFA shall be headed,  
 24       on a day-to-day basis, by a Director, appointed by  
 25       the President, by and with the advice and consent

1 of the Senate. Such appointment shall be made not  
2 later than 6 months after the date of enactment of  
3 this Act.

4 (2) REGULATORY AUTHORITY.—The Director  
5 shall have general regulatory authority over the  
6 MFA, and shall exercise such general regulatory au-  
7 thority as necessary to carry out this Act.

8 (3) TERM.—The Director shall serve for a term  
9 of 5 years. An individual may serve as Director after  
10 the expiration of the term for which appointed, until  
11 a successor has been appointed and qualified.

12 (4) VACANCIES.—A vacancy in the office of the  
13 Director shall be filled in the same manner as the  
14 original appointment.

15 (5) COMPENSATION.—The Director shall be  
16 compensated at the rate prescribed for level II of the  
17 Executive Schedule under section 5313 of title 5,  
18 United States Code.

19 (b) BOARD OF DIRECTORS.—

20 (1) MEMBERS.—The operations of the MFA  
21 shall be directed by a 5-member board of directors,  
22 including the Director, who shall serve as the chair-  
23 person of the Board of Directors, a Vice Chairman,  
24 who shall be appointed by the President, the Chair-  
25 man of the Securities and Exchange Commission, or

1 a designee thereof, the Secretary of the Department  
2 of Housing and Urban Development, or a designee  
3 thereof, and the Chairman of the Board of Gov-  
4 ernors of the Federal Reserve System, or a designee  
5 thereof.

6 (2) MAJORITY VOTE.—A majority vote of all  
7 members of the Board of Directors is necessary to  
8 resolve all voting issues of the MFA.

9 (3) MEETINGS.—The Board of Directors shall  
10 meet at the call of the Director, but in no event less  
11 frequently than once in each calendar quarter.

12 (4) FEDERAL EMPLOYEES.—The members of  
13 the Board of Directors shall serve without additional  
14 pay (or benefits in the nature of compensation) for  
15 service as a member of the Board of Directors.

16 (5) TRAVEL EXPENSES.—Members of the  
17 Board of Directors shall be entitled to receive travel  
18 expenses, including per diem in lieu of subsistence,  
19 equivalent to those set forth in subchapter I of chap-  
20 ter 57 of title 5, United States Code.

21 (6) BYLAWS.—The Board of Directors may pre-  
22 scribe, amend, and repeal such bylaws as may be  
23 necessary for carrying out the functions of the  
24 Board of Directors.

1           (7) QUORUM.—A majority of the Board of Di-  
2           rectors shall constitute a quorum.

3           (c) PRIVATIZATION ADVISORY BOARD.—

4           (1) MEMBERS.—There shall be appointed by  
5           the President a 10-member privatization advisory  
6           board. To the extent practicable, the President shall  
7           seek at all times to have advisory board members  
8           with expertise in—

9                   (A) single family housing finance;

10                   (B) multifamily housing finance;

11                   (C) residential real estate development and  
12           sales;

13                   (D) secondary market structuring and  
14           pricing;

15                   (E) private mortgage insurance;

16                   (F) privatization structuring and execu-  
17           tion; and

18                   (G) macroeconomic policy.

19           (2) ROLE.—The roles of the advisory board  
20           shall be—

21                   (A) to advise the Board of Directors on the  
22           privatization of the MFA upon termination of  
23           its authority under this Act, including how best  
24           to facilitate a smooth, efficient, and orderly  
25           transition of the guarantee business;

1 (B) to review and opine on the status of  
2 the planning for privatization; and

3 (C) concurrently with the plan and annual  
4 and quarterly reports presented by the MFA to  
5 Congress under section 304(c), to present to  
6 Congress its own independent reports on the  
7 plan for privatization and the status thereof.

8 (d) INSPECTOR GENERAL.—There shall be within the  
9 MFA an Inspector General, who shall be appointed by the  
10 President in accordance with section 3(a) of the Inspector  
11 General Act of 1978 not later than 6 months after the  
12 date of enactment of this Act.

13 **SEC. 203. FUNDING.**

14 Annual appropriations to the MFA shall be based  
15 upon a budget submitted to Congress by the MFA and  
16 approved by the Board of Directors. In accordance with  
17 section 303(a)(2), amounts appropriated shall be recouped  
18 through collection of the guarantee fee.

19 **SEC. 204. REGULATIONS; REPORTS.**

20 (a) STARTUP.—Not later than 12 months after the  
21 date of the appointment of the Director, the MFA shall  
22 issue such regulations, guidelines, orders, requirements,  
23 and standards as may be required for the establishment  
24 and operation of the MFA.

1 (b) REPORT TO CONGRESS.—Not later than 6  
2 months after the date of the appointment of the Director,  
3 the Board of Directors shall provide to Congress a  
4 progress report on the drafting of regulations and other  
5 conditions precedent to the MFA becoming fully oper-  
6 ational.

7 **SEC. 205. APPEARANCES BEFORE CONGRESS.**

8 The Director shall appear before Congress annually  
9 regarding—

10 (1) the safety and soundness of the MFA and  
11 the Catastrophic Fund, including, beginning one  
12 year after the date on which the MFA becomes oper-  
13 ational, a report by the Inspector General of the  
14 MFA, and a report of an independent actuary, re-  
15 garding the adequacy of guarantee fees, the ade-  
16 quacy of the Catastrophic Fund and the adequacy of  
17 the percentage of the guarantee fee that is being al-  
18 located to the Catastrophic Fund;

19 (2) any material deficiencies in the conduct of  
20 the operations of the MFA;

21 (3) the overall operational status of the MFA;

22 (4) operations, resources, and performance of  
23 the Board of Directors; and

24 (5) such other relevant matters relating to the  
25 Board of Directors and the MFA.



1 **SEC. 206. STAFF, EXPERTS, AND CONSULTANTS.**

2 (a) COMPENSATION.—

3 (1) IN GENERAL.—The MFA may appoint and  
4 fix the compensation of such officers, attorneys,  
5 economists, examiners, and other employees as may  
6 be necessary for carrying out its functions. The  
7 MFA shall appoint a Chief Risk Officer not later  
8 than 90 days after the date of the appointment of  
9 the Director.

10 (2) RATES OF PAY.—Rates of basic pay for all  
11 employees of the MFA may be set and adjusted by  
12 the MFA without regard to the provisions of chapter  
13 51 or subchapter III of chapter 53 of title 5, United  
14 States Code.

15 (3) PARITY.—The MFA may provide additional  
16 compensation and benefits to employees of the MFA,  
17 if the same type of compensation or benefits are  
18 then being provided by any agency referred to under  
19 section 1206 of the Financial Institutions Reform,  
20 Recovery, and Enforcement Act of 1989 (12 U.S.C.  
21 1833b) or, if not then being provided, could be pro-  
22 vided by such an agency under applicable provisions  
23 of law, rule, or regulation. In setting and adjusting  
24 the total amount of compensation and benefits for  
25 employees, the MFA shall consult with, and seek to  
26 maintain comparability with, the agencies referred to

1 under section 1206 of the Financial Institutions Re-  
2 form, Recovery, and Enforcement Act of 1989 (12  
3 U.S.C. 1833b).

4 (b) **DETAIL OF GOVERNMENT EMPLOYEES.**—Upon  
5 request of the Director, any Federal Government employee  
6 may be detailed to the MFA or the Board of Directors  
7 without reimbursement, and such detail shall be without  
8 interruption or loss of civil service status or privilege.

9 (c) **EXPERTS AND CONSULTANTS.**—The Director  
10 shall procure the services of experts and consultants as  
11 the Director considers necessary or appropriate.

## 12 **TITLE III—DUTIES AND** 13 **RESPONSIBILITIES OF THE MFA**

### 14 **SEC. 301. MFA RESPONSIBILITIES.**

15 The MFA is authorized—

16 (1) to guarantee securities issued by qualified  
17 issuers and collateralized by pools of qualified resi-  
18 dential mortgages in order to provide a dependable,  
19 transparent, and liquid market for high quality  
20 mortgages for securitization;

21 (2) to guarantee securities issued by qualified  
22 issuers and collateralized by pools of qualified multi-  
23 family mortgages, in order to provide a dependable,  
24 transparent, and liquid market for high quality mul-  
25 tifamily mortgages for securitization;

1           (3) to charge and collect a guarantee fee suffi-  
2           cient to protect the MFA and the United States  
3           Treasury from the risks of guaranteeing the timely  
4           payment of principal and interest on qualified mort-  
5           gage-backed securities;

6           (4) to establish and maintain a Catastrophic  
7           Fund to minimize the burden on the Federal Gov-  
8           ernment, by setting aside amounts that will be avail-  
9           able solely to pay obligations under the MFA guar-  
10          antee in the event of any future mortgage market  
11          collapse; and

12          (5) to purchase supplemental insurance cov-  
13          erage, as provided in section 303(d).

14 **SEC. 302. MFA GUARANTEE BUSINESS.**

15          (a) IN GENERAL.—The MFA shall guarantee the  
16          timely payment of principal and interest to holders of  
17          qualified mortgage-backed securities. In the event of a  
18          payment default on a mortgage that collateralizes a quali-  
19          fied mortgage-backed security, the MFA guarantee shall  
20          cover any shortfalls to security holders after giving effect  
21          to proceeds, if any, from liquidation of the property secur-  
22          ing the mortgage and from claims paid pursuant to any  
23          private mortgage insurance coverage (including supple-  
24          mental insurance coverage, if any). The MFA guarantee  
25          of timely payment of principal and interest on qualified

1 mortgage-backed securities shall be backed by the full  
2 faith and credit of the United States Government. The  
3 MFA shall charge a fee for such guarantee in accordance  
4 with section 303.

5 (b) QUALIFIED RESIDENTIAL MORTGAGES AND  
6 QUALIFIED MULTIFAMILY MORTGAGES.—The MFA shall  
7 issue guidelines consistent with this Act specifying the  
8 terms and conditions of mortgages that satisfy—

9 (1) the definition of a qualified residential  
10 mortgage, not later than 6 months after the date of  
11 confirmation of the Director; and

12 (2) the definition of a qualified multifamily  
13 mortgage, not later than 1 year after the date of  
14 confirmation of the Director.

15 (c) GUIDELINES.—

16 (1) IN GENERAL.—Not later than 12 months  
17 after the date of confirmation of the Director, the  
18 MFA shall issue guidelines designed to oversee the  
19 financial condition and origination and servicing  
20 standards of qualified issuers and servicers of quali-  
21 fied residential mortgages and qualified multifamily  
22 mortgages that collateralize qualified mortgage-  
23 backed securities.

24 (2) INCLUSIONS.—Guidelines issued under this  
25 subsection shall—

1 (A) include specific financial and oper-  
2 ational standards for such qualified issuers and  
3 such servicers; and

4 (B) ensure—

5 (i) broad participation in the issuance  
6 of qualified mortgage-backed securities by  
7 community banks, credit unions, national  
8 banks and State-licensed mortgage lenders;

9 (ii) that qualified issuers bear the risk  
10 of noncompliance with representations and  
11 warranties made in connection with the  
12 issuance of qualified mortgage-backed se-  
13 curities; and

14 (iii) that qualified issuers have the fi-  
15 nancial resources to support any obliga-  
16 tions arising from any violations of rep-  
17 resentations and warranties made in con-  
18 nection with the issuance of qualified mort-  
19 gage-backed securities.

20 (d) LIMITATIONS.—

21 (1) QUALIFIED RESIDENTIAL MORTGAGE LOAN  
22 LIMITS.—The MFA shall set loan limits for qualified  
23 residential mortgages that secure qualified mort-  
24 gage-backed securities. Such loan limits shall be cal-  
25 culated and set annually, on a by-county basis, at an

1 amount equal to not more than 150 percent of the  
2 area median home price for the preceding year, and  
3 not less than the national median home price for  
4 such year, in each case calculated using home price  
5 data compiled by FHFA or, if FHFA no longer  
6 compiles such data, by the MFA. In no event shall  
7 the loan limits in effect under this section in any  
8 county be lower than amounts applicable to single  
9 family mortgages insured by the Federal Housing  
10 Administration in such county.

11 (2) QUALIFIED MULTIFAMILY MORTGAGE LOAN  
12 LIMITS.—The MFA, in consultation with the Board  
13 of Directors, shall consider setting loan limits for  
14 qualified multifamily mortgages that secure qualified  
15 mortgage-backed securities, if such limits would fos-  
16 ter competition between the MFA and private  
17 issuers in advance of the privatization of the MFA.

18 (3) PROHIBITION ON INVESTMENT PORT-  
19 FOLIO.—The MFA shall not invest in mortgage-  
20 backed securities or otherwise maintain an invest-  
21 ment portfolio, other than to the extent necessary  
22 for the MFA to carry out its responsibilities as guar-  
23 antor of qualified mortgage-backed securities.

1 **SEC. 303. GUARANTEE FEES; CATASTROPHIC FUND; SUP-**  
2 **PLEMENTAL INSURANCE.**

3 (a) **GUARANTEE FEES.**—

4 (1) **GUARANTEE FEES.**—The MFA shall charge  
5 a guarantee fee under this section in connection with  
6 any guarantee issued by the MFA of timely payment  
7 of principal and interest on the qualified mortgage-  
8 backed securities. At all times, the guarantee fee  
9 shall be set at an equal amount for all qualified  
10 issuers. The amount of the guarantee fee shall be  
11 adjusted periodically, as necessary to fulfill the pur-  
12 poses described in paragraph (2).

13 (2) **PURPOSES.**—The purposes of the guarantee  
14 fees are—

- 15 (A) to fund the operations of the MFA;  
16 (B) to capitalize the Catastrophic Fund;  
17 (C) to cover any losses; and  
18 (D) to purchase supplemental insurance  
19 coverage, as provided in subsection (d).

20 (3) **APPROVAL.**—The Board of Directors shall  
21 approve the amount of guarantee fees and any ad-  
22 justments thereto, and shall determine the percent-  
23 age of the guarantee fees, if any, that will be allo-  
24 cated to the Catastrophic Fund in accordance with  
25 subsection (b). Such percentage may be adjusted by  
26 the Board of Directors semiannually, as necessary to

1 ensure that the Catastrophic Fund is adequately  
2 capitalized.

3 (b) CREATION OF CATASTROPHIC FUND.—

4 (1) ESTABLISHMENT.—There is established in  
5 the Treasury of the United States a fund to be  
6 known as the “Catastrophic Fund”, which the MFA  
7 shall—

8 (A) maintain and administer; and

9 (B) use to carry out its insurance and  
10 guarantee functions, in the manner provided by  
11 this Act; and

12 (C) invest in accordance with subsection  
13 (c).

14 (2) DEPOSITS.—The Catastrophic Fund shall  
15 be credited with—

16 (A) the amount of guarantee fees, if any,  
17 that the Board of Directors determines should  
18 be allocated to the Catastrophic Fund to pro-  
19 tect against catastrophic losses;

20 (B) any amounts earned on investments of  
21 the Catastrophic Fund, other than as needed in  
22 connection with the routine operation of the  
23 guarantee business; and



1           (C) such other amounts as may otherwise  
2           be credited to the Catastrophic Fund by the  
3           Board of Directors.

4           (3) USES.—The Catastrophic Fund shall be  
5           solely available to the MFA for use by the MFA to  
6           satisfy obligations under its guarantee in accordance  
7           with this Act. Amounts remaining in the Cata-  
8           strophic Fund following the repayment of all quali-  
9           fied mortgage-backed securities shall be distributed  
10          to the United States Treasury in accordance with  
11          section 102(c).

12          (c) ACTUARIAL REVIEW.—Beginning one year after  
13          the date on which the MFA becomes fully operational, and  
14          each year thereafter, the Board of Directors shall commis-  
15          sion an independent actuarial study to determine the ade-  
16          quacy of the guarantee fees and of the capitalization of  
17          the Catastrophic Fund, the results of which study shall  
18          be made available to the public by the Board of Directors.  
19          The Board of Directors shall rely on such study to deter-  
20          mine the amount of the guarantee fee that shall be  
21          charged and the percentage of the guarantee fees that  
22          shall be allocated to the Catastrophic Fund.

23          (d) INVESTMENTS.—

24                 (1) AUTHORITY.—Amounts in the Catastrophic  
25          Fund that are not otherwise employed shall be in-

1 vested in obligations of the United States or in obli-  
2 gations guaranteed as to principal and interest by  
3 the United States.

4 (2) LIMITATION.—The MFA shall not sell or  
5 purchase any obligations described in paragraph (1)  
6 for its own account, at any one time aggregating in  
7 excess of \$1,000,000, without the approval of the  
8 Secretary of the Treasury. The Secretary may ap-  
9 prove a transaction or class of transactions subject  
10 to the provisions of this paragraph under such con-  
11 ditions as the Secretary may determine.

12 (e) SUPPLEMENTAL COVERAGE.—

13 (1) IN GENERAL.—The MFA may use a portion  
14 of the guarantee fee to purchase supplemental insur-  
15 ance coverage on offerings of qualified mortgage-  
16 backed securities. The guarantee fee shall be set in  
17 an amount that is sufficient to cover the cost of such  
18 supplemental insurance, in addition to the other pur-  
19 poses set forth in subsection (a)(2). The supple-  
20 mental insurance shall insure against losses, if any,  
21 after giving effect to the primary, first loss mortgage  
22 insurance coverage on mortgages collateralizing the  
23 mortgage-backed securities.

24 (2) REDUCED EXPOSURE.—The supplemental  
25 insurance shall be structured to further reduce the

1 exposure of the United States Government to losses  
2 arising under its guarantee on qualified mortgage-  
3 backed securities that are covered by supplemental  
4 insurance. Separate insurance coverage shall be pro-  
5 vided for each new offering of qualified mortgage-  
6 backed securities.

7 (3) PURCHASE OF SUPPLEMENTAL COVERAGE  
8 REQUIRED.—

9 (A) IN GENERAL.—Not later than 1 year  
10 after the MFA certification date, the Board of  
11 Directors shall issue guidelines to determine  
12 whether supplemental coverage—

13 (i) is being offered on commercially  
14 reasonable terms; and

15 (ii) is reasonably likely to mitigate the  
16 risk that the MFA will have to make any  
17 payment pursuant to its guarantee.

18 (B) COVERAGE REQUIRED.—Beginning not  
19 later than 3 years after the MFA certification  
20 date, the MFA shall purchase supplemental cov-  
21 erage for each offering of qualified mortgage-  
22 backed securities if the MFA determines that  
23 the supplemental coverage meets the guidelines  
24 issued by the Board of Directors under sub-  
25 paragraph (A).

1           (4) AUTHORITY TO PURCHASE SUPPLEMENTAL  
2           COVERAGE.—The MFA shall be authorized to pur-  
3           chase supplemental coverage from any mortgage in-  
4           surance company authorized to provide mortgage in-  
5           surance on a qualified residential mortgage, or from  
6           any other licensed insurance company with com-  
7           parable regulatory oversight, capital, and reserve re-  
8           quirements.

9   **SEC. 304. NO LIMIT ON PRIVATE SECTOR INVOLVEMENT;**  
10                           **TERMINATION OF AUTHORITY.**

11           (a) PRIVATE ENTITIES ENCOURAGED.—Nothing in  
12           this Act may be construed as preventing the private sector  
13           from securitizing qualified residential mortgages, qualified  
14           multifamily mortgages, or other non-qualified residential  
15           single family or multifamily mortgages. Robust competi-  
16           tion between the MFA and private issuers shall be encour-  
17           aged to facilitate the soonest possible privatization of the  
18           MFA.

19           (b) TERMINATION OF AUTHORITY.—The authority  
20           granted to the MFA under this Act shall expire 10 years  
21           after the date of enactment of this Act, and the MFA shall  
22           be terminated on that date. The MFA, in consultation  
23           with the Board of Directors, shall begin planning for such  
24           termination during the third year following the date of en-  
25           actment of this Act.

1 (c) PERIODIC REPORTS ON PRIVATIZATION.—

2 (1) INITIAL REPORT.—During the 5th year fol-  
 3 lowing the date of enactment of this Act, the MFA  
 4 shall present to Congress a detailed plan for privat-  
 5 ization of the MFA upon termination of its authority  
 6 in accordance with subsection (b).

7 (2) REGULAR REPORTS.—To ensure the trans-  
 8 fer to privatization, the MFA shall report to Con-  
 9 gress on the implementation of the detailed plan for  
 10 privatization submitted under paragraph (1)—

11 (A) annually through the 7th year fol-  
 12 lowing the date of enactment of this Act; and

13 (B) quarterly, beginning in the 8th year  
 14 following the date of enactment of this Act.

## 15 **TITLE IV—CONFORMING** 16 **AMENDMENTS**

17 **SEC. 401. AMENDMENTS TO DODD-FRANK ACT.**

18 Section 15G of the Securities Exchange Act of 1934  
 19 (15 U.S.C. 78o–11) is amended—

20 (1) in subsection (a)—

21 (A) by redesignating paragraphs (3) and  
 22 (4) as paragraphs (4) and (5), respectively; and

23 (B) by inserting after paragraph (2) the  
 24 following:

1           “(3) the term ‘qualified residential mortgage’  
2           has the same meaning as in section 2 of the Mort-  
3           gage Finance Act of 2011;” and

4           (2) by adding at the end the following:

5           “(j) EXEMPTION FOR QUALIFIED MORTGAGE-  
6           BACKED SECURITIES.—Qualified mortgage-backed securi-  
7           ties, as defined in section 2 of the Mortgage Finance Act  
8           of 2011, and any other securitizations of qualified residen-  
9           tial mortgages, shall be exempt from the risk retention  
10          provisions of subsection (c)(1)(B)(i).”.

11       **SEC. 402. FEDERAL HOUSING ENTERPRISES FINANCIAL**  
12                               **SAFETY AND SOUNDNESS ACT OF 1992.**

13          (a) DEFINITIONS.—Section 1303(20) of the Federal  
14          Housing Enterprises Financial Safety and Soundness Act  
15          of 1992 (12 U.S.C. 4502(20)) is amended by striking  
16          “means—” and all that follows through “(C) any” and  
17          inserting “means any”.

18          (b) TRANSFER OF FUNCTIONS.—All functions of the  
19          FHFA with respect to the enterprises, as that term is de-  
20          fined in section 1303 of the Federal Housing Enterprises  
21          Financial Safety and Soundness Act of 1992, other than  
22          any function related to receivership of the enterprises, are  
23          transferred to the MFA, effective 90 days after the date

1 on which liquidation of the enterprises is complete, in ac-  
2 cordance with this Act.

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