

112TH CONGRESS
1ST SESSION

S. 1997

To prohibit the Secretary of the Treasury from providing extra support to the Federal Housing Administration.

IN THE SENATE OF THE UNITED STATES

DECEMBER 15, 2011

Mr. VITTER (for himself, Mr. CRAPO, Mr. JOHANNES, Mr. TOOMEY, Mr. DEMINT, Mr. PAUL, Mr. RISCH, Mr. CORNYN, and Mr. LEE) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To prohibit the Secretary of the Treasury from providing extra support to the Federal Housing Administration.

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 “FHA Bailout Protec-
5 tion Act of 2011”.

6 **SEC. 2. TAXPAYER PROTECTION AT THE FHA.**

7 (a) MUTUAL MORTGAGE INSURANCE FUND.—Sec-
8 tion 205 of the National Housing Act (12 U.S.C. 1711)
9 is amended by adding at the end the following:

1 “(g) TAXPAYER PROTECTION.—

2 “(1) IN GENERAL.—In order to protect the tax-
3 payers of the United States from financial responsi-
4 bility for any obligations of the Mutual Mortgage In-
5 surance Fund (referred to in this subsection as the
6 ‘Fund’), the Secretary shall take all available actions
7 and use all available methods authorized under law
8 to ensure that, not later than 2 years after the date
9 of enactment of this subsection, the Fund attains
10 the capital ratio required under subsection (f)(2)
11 and to ensure that the Fund maintains a capital
12 ratio that is not less than the capital ratio required
13 under subsection (f)(2) thereafter, including—

14 “(A) the authority to increase insurance
15 premiums charged under this title for mort-
16 gages that are obligations of the Fund;

17 “(B) the authority to establish more strin-
18 gent underwriting standards for mortgages de-
19 scribed in subparagraph (A); and

20 “(C) the authority to increase the amount
21 of cash or its equivalent required to be paid on
22 account of the property subject to a mortgage
23 described in subparagraph (A).

1 “(2) USE OF AUTHORITY TO PREVENT BAILOUT
2 OF FUND.—The Secretary shall take the actions re-
3 quired under paragraph (3), if—

4 “(A) the Fund fails to—

5 “(i) attain a capital ratio of 2 percent
6 on the date described in paragraph (1); or

7 “(ii) maintain such capital ratio after
8 the date described in paragraph (1); or

9 “(B) the expected claims rate of the Fund
10 as set forth in the quarterly independent actu-
11 arial study required under section 202(a)(4) is
12 10.0 or higher.

13 “(3) REQUIRED ACTIONS.—The actions re-
14 quired under this paragraph are—

15 “(A) increasing the annual insurance pre-
16 miums for mortgages that are obligations of the
17 Fund to the maximum extent otherwise per-
18 mitted under law, until the date on which the
19 Fund achieves a capital ratio of 2 percent; and

20 “(B) until the date on which the Fund
21 achieves a capital ratio of 2 percent, charging
22 an additional risk-based annual insurance pre-
23 mium for mortgages that are obligations of the
24 Fund having a loan-to-value ratio that is 95
25 percent or greater, in an amount that is—

1 “(i) proportionate to the risk the
2 mortgages pose to the Fund; and

3 “(ii) consistent with the amount of in-
4 surance premiums charged by the private
5 sector with respect to similar mortgages.”.

6 (b) INDEMNIFICATION BY MORTGAGEES.—Section
7 202 of the National Housing Act (12 U.S.C. 1708) is
8 amended by adding at the end the following:

9 “(i) INDEMNIFICATION BY MORTGAGEES.—

10 “(1) IN GENERAL.—If the Secretary determines
11 that a mortgage executed by a mortgagee approved
12 by the Secretary under the direct endorsement pro-
13 gram or insured by a mortgagee pursuant to the del-
14 egation of authority under section 256 was not origi-
15 nated or underwritten in accordance with the re-
16 quirements established by the Secretary, and the
17 Secretary pays an insurance claim with respect to
18 the mortgage within a reasonable period specified by
19 the Secretary, the Secretary shall require the mort-
20 gagee approved by the Secretary under the direct en-
21 dorsement program or the mortgagee delegated au-
22 thority under section 256 to indemnify the Secretary
23 for the loss.

24 “(2) FRAUD OR MISREPRESENTATION.—If
25 fraud or misrepresentation was involved in connec-

1 tion with the origination or underwriting, the Sec-
2 retary shall require the mortgagee approved by the
3 Secretary under the direct endorsement program or
4 the mortgagee delegated authority under section 256
5 to indemnify the Secretary for the loss regardless of
6 when an insurance claim is paid.

7 “(3) REQUIREMENTS AND PROCEDURES.—The
8 Secretary shall issue regulations establishing appro-
9 priate requirements and procedures governing the
10 indemnification of the Secretary by the mortgagee,
11 including public reporting on—

12 “(A) the number of loans that—

13 “(i) were not originated or under-
14 written in accordance with the require-
15 ments established by the Secretary; and

16 “(ii) involved fraud or misrepresenta-
17 tion in connection with the origination or
18 underwriting; and

19 “(B) the financial impact on the Mutual
20 Mortgage Insurance Fund when indemnification
21 is required.”.

22 (c) EARLY TERM DELINQUENCIES.—Section 202(a)
23 of the National Housing Act (12 U.S.C. 1708(a)) is
24 amended by adding at the end the following:

1 “(8) INDEMNIFICATION.—The Secretary shall
2 take any actions required to seek indemnification for
3 any early term delinquency on a mortgage which—

4 “(A) is an obligation of the Mutual Mort-
5 gage Insurance Fund; and

6 “(B) at the time of origination of the
7 mortgage was not in compliance with any provi-
8 sion, regulation, or other guideline established
9 or promulgated pursuant to this title.

10 “(9) PROGRAMMATIC REVIEW OF DELIN-
11 QUENCIES.—The Secretary shall establish and main-
12 tain a program—

13 “(A) to review the cause of each early term
14 delinquency on a mortgage described under
15 paragraph (8);

16 “(B) to require indemnification of any
17 such early term delinquency that did not meet
18 the guidelines and requirements set forth pur-
19 suant to this section prior to origination; and

20 “(C) to publicly report—

21 “(i) the results of all early term delin-
22 quencies reviewed under subparagraph (A);
23 and

24 “(ii) if indemnification is required
25 under subparagraph (B), the financial im-

1 pact on the Mutual Mortgage Insurance
2 Fund of the indemnification.

3 “(10) DEFINITION OF EARLY TERM DELIN-
4 QUENCY.—For purposes of this section, the term
5 ‘early term delinquency’ means any loan that be-
6 comes delinquent or that is in default within 24
7 months of the origination of such loan.”.

8 **SEC. 3. ANNUAL ACTUARIAL STUDY AND QUARTERLY RE-**
9 **PORTS ON MUTUAL MORTGAGE INSURANCE**
10 **FUND.**

11 Section 202(a)(4) of the National Housing Act (12
12 U.S.C. 1708(a)(4)) is amended—

13 (1) in the heading, by striking “ANNUAL” and
14 inserting “QUARTERLY”;

15 (2) in the first sentence, by striking “annually”
16 and inserting “quarterly”;

17 (3) in the second sentence, by striking “such
18 studies” and inserting “each study conducted under
19 the preceding sentence during the preceding year”;
20 and

21 (4) by adding at the end the following: “Each
22 report shall include a calculation of the claims rate
23 for the Fund for each of the 3 preceding quarters
24 and the expected claims rate for the Fund for each
25 of the 3 subsequent quarters.”.

1 **SEC. 4. PROHIBITION ON TAXPAYER BAILOUT OF FHA.**

2 Section 505(c) of the Federal Credit Reform Act of
3 1990 (2 U.S.C. 661d(c)) is amended—

4 (1) by striking “The Secretary of the Treasury
5 shall borrow” and inserting the following:

6 “(1) IN GENERAL.—Except as provided in para-
7 graph (2), the Secretary of the Treasury shall bor-
8 row”; and

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

10 “(2) EXCEPTION.—The Secretary of the Treas-
11 ury may not enter into a transaction under this sub-
12 section with the Mutual Mortgage Insurance Fund
13 established under section 202 of the National Hous-
14 ing Act (12 U.S.C. 1708).”.

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