

111TH CONGRESS
1ST SESSION

H. R. 3146

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 16, 2009

Received; read twice and referred to the Committee on Banking, Housing, and
Urban Affairs

AN ACT

To make improvements to the FHA mortgage insurance programs of the Department of Housing and Urban Development, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “21st Century FHA
3 Housing Act of 2009”.

4 **SEC. 2. MORTGAGE INSURANCE FOR CONDOMINIUMS.**

5 Section 203 of the National Housing Act (12 U.S.C.
6 1709) is amended by adding at the end the following new
7 subsection:

8 “(y) INAPPLICABILITY OF ENVIRONMENTAL REVIEW
9 PROVISIONS.—In insuring, under this section, any mort-
10 gage described in section 201(a)(C), the Secretary shall
11 not be subject to the conditions of, or review under, the
12 National Environmental Policy Act of 1969 or any other
13 provision of law that furthers the purposes of such Act.”.

14 **SEC. 3. ENERGY EFFICIENT MORTGAGES.**

15 Section 106(a)(2)(C) of the Energy Policy Act of
16 1992 (42 U.S.C. 12712 note) is amended—

17 (1) in clause (i), by inserting “(i)” after “(A)”
18 each place such term appears; and

19 (2) in clause (ii), by striking “203(b)(2)(B)”
20 and inserting “203(b)(2)(A)(ii)”.

21 **SEC. 4. MODERNIZATION OF WORKFORCE AND RE-**
22 **SOURCES.**

23 Section 202 of the National Housing Act (12 U.S.C.
24 1708) is amended by adding at the end the following new
25 subsections:

26 “(g) PERSONNEL.—

1 “(1) IN GENERAL.—Notwithstanding section
2 502(a) of the Housing Act of 1948 (12 U.S.C.
3 1701e(a)), the Secretary may appoint and fix the
4 compensation of such officers and employees of the
5 Department as the Secretary considers necessary to
6 carry out the functions of the Secretary under this
7 Act and any other functions of the Federal Housing
8 Administration. Such officers and employees may be
9 paid without regard to the provisions of chapter 51
10 and subchapter III of chapter 53 of title 5, United
11 States Code, relating to classification and General
12 Schedule pay rates.

13 “(2) COMPARABILITY OF COMPENSATION WITH
14 FEDERAL FINANCIAL REGULATORY AGENCIES.—In
15 fixing and directing compensation under paragraph
16 (1), the Secretary shall consult with, and maintain
17 comparability with compensation of officers and em-
18 ployees of the Federal Housing Finance Agency, the
19 Board of Governors of the Federal Reserve System,
20 and the Federal Deposit Insurance Corporation.

21 “(3) PERSONNEL OF OTHER FEDERAL AGEN-
22 CIES.—In carrying out the functions referred to in
23 paragraph (1), the Secretary may use information,
24 services, staff, and facilities of any executive agency,
25 independent agency, or department on a reimburs-

1 able basis, with the consent of such agency or de-
2 partment.

3 “(4) OUTSIDE EXPERTS AND CONSULTANTS.—

4 The Secretary may procure temporary and intermit-
5 tent services under section 3109(b) of title 5, United
6 States Code, to assist the work of the Department
7 in carrying out the functions referred to in para-
8 graph (1).

9 “(h) INFORMATION TECHNOLOGY.—

10 “(1) IN GENERAL.—In carrying out any pro-
11 gram under this Act or any other program of the
12 Federal Housing Administration, the Secretary may
13 utilize any amounts as may be made available for
14 such programs to ensure that an appropriate level of
15 investment in information technology is maintained
16 in order for the Secretary to upgrade the technology
17 systems of the Department used in carrying out the
18 functions referred to in subsection (g)(1).

19 “(2) USE OF PREMIUM-GENERATED INCOME.—

20 To the extent that income derived in any fiscal year
21 from premium fees charged under section 203(c) is
22 in excess of the level of income estimated for that
23 such year for such premium fees and assumed in the
24 baseline projection prepared by the Director of the
25 Office of Management and Budget for inclusion in

1 the President's annual budget request and subject to
2 approval in advance in an appropriation Act, not
3 more than \$72,000,000 of such excess amounts may
4 be used from such amounts for the purpose of car-
5 rying out this subsection.

6 “(i) TRAINING AND EDUCATION PROGRAM.—

7 “(1) ESTABLISHMENT.—The Secretary of
8 Housing and Urban Development shall carry out a
9 comprehensive training and education program to
10 improve the service provided by personnel of the De-
11 partment carrying out functions referred to in sub-
12 section (g)(1) to users of the mortgage insurance
13 programs under this Act and any other FHA mort-
14 gage insurance programs.

15 “(2) TOPICS.—The training and education pro-
16 gram under this subsection shall—

17 “(A) have as its primary goal improving
18 the quality and consistency of responses pro-
19 vided by such personnel of the Department
20 headquarters and other offices and centers of
21 the Department regarding regulations, hand-
22 books, mortgagee letters, and other guidance;
23 and

24 “(B) be designed to—

1 “(i) ensure that lenders participating
2 in the FHA programs may rely on infor-
3 mation provided by one office or center of
4 the Department when doing business with
5 a different office or center; and

6 “(ii) prevent such lenders from solici-
7 ting answers to the same question from
8 different offices or centers of the Depart-
9 ment in an attempt to obtain an answer
10 that is satisfactory to the lender, by ensur-
11 ing consistent responses from different of-
12 fices and centers.”.

13 **SEC. 5. RISK MANAGEMENT IMPROVEMENTS.**

14 (a) **REVIEW OF DELINQUENCIES AND LENDER MON-**
15 **ITORING.**—Section 202 of the National Housing Act (12
16 U.S.C. 1708), as amended by the preceding provisions of
17 this Act, is further amended by adding at the end the fol-
18 lowing new subsection:

19 “(j) **RISK MANAGEMENT IMPROVEMENT.**—

20 “(1) **REVIEW OF DELINQUENCIES AMONG RE-**
21 **CENT ORIGINATIONS.**—

22 “(A) **IN GENERAL.**—The Secretary shall
23 conduct an ongoing review of mortgages on sin-
24 gle family housing originated during the pre-
25 ceding 12 months and insured pursuant to this

1 Act under which the mortgagor has become 60
2 or more days delinquent with respect to pay-
3 ment under the mortgage during the first 90
4 days of the term of the mortgage to determine
5 which mortgages should not have been origi-
6 nated or insured and the characteristics of such
7 mortgages, and which lenders have relatively
8 high incidences of such delinquent mortgages;

9 “(B) REPORTING TO CONGRESS.—Not
10 later than 90 days after the date of enactment
11 of the 21st Century FHA Housing Act of 2009,
12 the Secretary shall make available to the Com-
13 mittee on Financial Services of the House of
14 Representatives and the Committee on Bank-
15 ing, Housing, and Urban Affairs of the Senate
16 any information and conclusions pursuant to
17 the review required under subparagraph (A).

18 “(C) SUFFICIENT RESOURCES.—There is
19 authorized to be appropriated to the Secretary
20 for each of fiscal years 2010 through 2014 the
21 amount necessary to provide 90 additional full-
22 time equivalent positions for the Department,
23 or for entering into such contracts as are nec-
24 essary, to conduct reviews in accordance with
25 the requirements of this section.

1 “(2) LENDER MONITORING.—In conducting
2 monitoring and analysis of the performance of lend-
3 ers for mortgages on single family housing insured
4 under this Act, the Secretary shall utilize a one-year
5 period for such monitoring and analysis, to promote
6 earlier identification of problem lenders and allow
7 earlier intervention and sanctions.”.

8 (b) ANALYSIS OF MORTGAGE PERFORMANCE.—Sec-
9 tion 203(g)(2) of the Helping Families Save Their Homes
10 Act of 2009 (12 U.S.C. 1708 note) is amended—

11 (1) in paragraph (1), by striking “and” at the
12 end;

13 (2) in paragraph (2)(B), by striking the period
14 at the end and inserting “; and”; and

15 (3) by adding at the end the following new
16 paragraph:

17 “(3) analyze the portion of mortgages randomly
18 reviewed pursuant to subparagraph (B) on the basis
19 of performance.”.

20 **SEC. 6. SENSE OF CONGRESS REGARDING ADEQUATE CAP-**
21 **ITAL FLOW FOR MORTGAGE LOANS.**

22 (a) CONGRESSIONAL FINDINGS.—The Congress finds
23 that—

24 (1) warehouse lending, which provides short-
25 term lines of credit to non-depository lenders for

1 mortgage loans that are eventually sold into the sec-
2 ondary market to Fannie Mae, Freddie Mac and
3 Ginnie Mae, is a critical link in the housing finance
4 chain;

5 (2) according to data obtained pursuant to the
6 Home Mortgage Disclosure Act of 1975, nondeposi-
7 tory lenders that utilize warehouse lines of credit ac-
8 count for as much as 40 percent of all residential
9 mortgage loans in the United States, and nearly 55
10 percent of FHA loans, which are increasingly pop-
11 ular;

12 (3) it is estimated that since 2006 warehouse
13 lending capacity available to the mortgage lending
14 industry has declined by nearly 90 percent to the
15 current level of approximately \$20 billion to \$25 bil-
16 lion;

17 (4) based upon projected 2009 lending volume,
18 there could be a shortfall of hundreds of billions of
19 dollars in home mortgage availability caused by a
20 lack of warehouse lending capacity; and

21 (5) unless Federal regulators promptly address
22 the issue, borrowers seeking to take advantage of to-
23 day's low interest rates will face rising costs and re-
24 duced credit access, which could undermine the
25 housing market recovery.

1 (b) SENSE OF THE CONGRESS.—It is the sense of
2 the Congress that—

3 (1) the Secretary of the Treasury, the Secretary
4 of Housing and Urban Development, and the Direc-
5 tor of the Federal Housing Finance Agency should
6 use their existing authorities under the Emergency
7 Economic Stabilization Act of 2008, the Housing
8 and Economic Recovery Act of 2008, and other stat-
9 utory and regulatory authorities to provide financial
10 support and assistance to facilitate increased ware-
11 house credit capacity by qualified warehouse lenders;

12 (2) such financial support and assistance
13 should—

14 (A) be used only to expand the amount of
15 credit or lending capacity made available to
16 qualified mortgage lenders by qualified ware-
17 house lenders for the purpose of funding resi-
18 dential mortgage loans;

19 (B) be provided in such form and manner
20 as such Secretaries or the Director, as applica-
21 ble, consider appropriate, which might include
22 direct loans, guarantees, credit enhancement,
23 and other incentives; and

1 (C) comply with other requirements estab-
2 lished by such Secretaries or the Director, as
3 applicable.

4 (c) DEFINITIONS.—For purposes of this section, the
5 following definitions shall apply:

6 (1) QUALIFIED MORTGAGE LENDER.—The term
7 “qualified mortgage lender” means an entity that—

8 (A) is engaged in the business of making
9 mortgage loans for one- to four-family resi-
10 dences that are—

11 (i) insured under title II of the Na-
12 tional Housing Act (12 U.S.C. 1707 et
13 seq.);

14 (ii) guaranteed, insured, or made
15 under chapter 37 of title 38, United States
16 Code;

17 (iii) made, guaranteed, or insured
18 under title V of the Housing Act of 1949
19 (42 U.S.C. 1471 et seq.); or

20 (iv) eligible for purchase by the Fed-
21 eral National Mortgage Association or the
22 Federal Home Loan Mortgage Corpora-
23 tion; and

24 (B) is not a depository institution.

