

110TH CONGRESS  
2D SESSION

# S. 3686

To establish an Office of Foreclosure Evaluation to coordinate the responsibilities of the Department of the Treasury, the Department of Housing and Urban Development, the Federal Housing Administration, the Federal Housing Finance Agency, the Neighborhood Reinvestment Corporation, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, and other Federal Government entities regarding foreclosure prevention, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 17 (legislative day, SEPTEMBER 17), 2008

Mr. SPECTER 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 establish an Office of Foreclosure Evaluation to coordinate the responsibilities of the Department of the Treasury, the Department of Housing and Urban Development, the Federal Housing Administration, the Federal Housing Finance Agency, the Neighborhood Reinvestment Corporation, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, and other Federal Government entities regarding foreclosure prevention, 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; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Foreclosure Diversion and Residential Mortgage Loan  
4 Modification Act”.

5 (b) TABLE OF CONTENTS.—The table of contents for  
6 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Office of Foreclosure Evaluation.
- Sec. 4. Working group on foreclosure prevention.
- Sec. 5. Authorization of appropriations.
- Sec. 6. Definitions.
- Sec. 7. Modification of existing programs to prevent foreclosure.
- Sec. 8. Sunset.

7 **SEC. 2. FINDINGS.**

8 Congress finds that—

9 (1) for the second quarter of 2008, foreclosure  
10 filings nationwide had increased 121 percent over  
11 the second quarter of 2007, and in the same time  
12 period, nearly 250,000 properties were foreclosed;

13 (2) in both the prime and subprime markets,  
14 seriously delinquent residential mortgage loans have  
15 been rising at an alarming rate, increasing 3-fold  
16 since early 2006;

17 (3) the number of adjustable rate mortgages  
18 that are seriously delinquent has more than quad-  
19 rupled since early 2006, and nationwide, it is esti-  
20 mated that 2,200,000 families with subprime mort-  
21 gage loans have lost or will lose their homes to fore-  
22 closure over the next several years;

1           (4) renters suffer as well, as they may be evicted  
2           ed from foreclosed homes with little or no notice, de-  
3           spite being up to date on rent payments;

4           (5) neighborhoods are deteriorating as fore-  
5           closed homes are left vacant, depressing neighboring  
6           property values, and leading to higher crime rates;

7           (6) crafting affordable and sustainable loan  
8           modifications for distressed homeowners is labor in-  
9           tensive;

10          (7) securitization has brought many benefits  
11          but also leads to greater complexity in finding solu-  
12          tions;

13          (8) under many mortgage pooling and servicing  
14          agreements, additional labor costs incurred by  
15          servicers who engage in the modification process are  
16          not compensated by the loan owner, but servicers  
17          are paid a fee to foreclose on a homeowner, and  
18          servicers may be permitted to retain ancillary fees,  
19          such as late fees and loan collection fees;

20          (9) under such a cost and incentive structure,  
21          servicers may continue to push homeowners into less  
22          labor intensive repayment plans, often with higher  
23          monthly payment obligations, or towards foreclosure;

24          (10) despite widespread efforts since early 2007  
25          to encourage voluntary residential mortgage loan

1 modifications, the pace of affordable and sustainable  
2 modifications has not been sufficient to achieve the  
3 scale necessary to contain broad harm to commu-  
4 nities and the economy;

5 (11) there is a need to focus more Federal re-  
6 sources on foreclosure prevention efforts, including  
7 court supervised mediation programs, that have  
8 proven to be effective and that are handled on a  
9 mortgage-by-mortgage basis; and

10 (12) to prevent foreclosures where avoidable,  
11 there is a need to ensure that—

12 (A) there are substantive communications  
13 between servicers and homeowners, that  
14 servicers have authority to answer questions  
15 and resolve issues related to loss mitigation ac-  
16 tivities, and that servicers and loan owners con-  
17 sider or offer reasonable loss mitigation, pri-  
18 marily through reduction in monthly payments  
19 by lowering interest rates or extending the pay-  
20 ment period prior to foreclosure; and

21 (B) homeowners are responding to  
22 servicers' communications, meeting with feder-  
23 ally certified housing counselors and trained pro  
24 bono attorneys, and availing themselves of State

1           and local housing finance and foreclosure pre-  
2           vention programs.

3 **SEC. 3. OFFICE OF FORECLOSURE EVALUATION.**

4           (a) ESTABLISHMENT OF OFFICE.—Section 109 of  
5 the Emergency Economic Stabilization Act of 2008 (divi-  
6 sion A of Public Law 110–343) is amended by adding at  
7 the end the following new subsection:

8           “(d) OFFICE OF FORECLOSURE EVALUATION.—

9           “(1) ESTABLISHMENT.—There is established,  
10          in the Office of Domestic Finance of the Depart-  
11          ment of the Treasury, the Office of Foreclosure  
12          Evaluation (hereafter in this section referred to as  
13          the ‘Office’).

14          “(2) DIRECTOR.—

15                 “(A) IN GENERAL.—The Office shall be  
16                 headed by the Director of Foreclosure Evalua-  
17                 tion (hereafter in this section referred to as the  
18                 ‘Director’), who shall be an Assistant Secretary  
19                 of the Treasury, appointed by the President, by  
20                 and with the advice and consent of the Senate,  
21                 except that an interim Assistant Secretary may  
22                 be appointed by the Secretary notwithstanding  
23                 such advice and consent.

24                 “(B) APPOINTMENT.—The Director shall  
25                 be appointed from among individuals who are

1 citizens of the United States, have a dem-  
2 onstrated understanding of financial manage-  
3 ment or oversight, and have a demonstrated un-  
4 derstanding of mortgage securities markets and  
5 housing finance.

6 “(3) FUNCTIONS OF THE DIRECTOR.—

7 “(A) IN GENERAL.—The Director shall  
8 have ultimate responsibility within the Depart-  
9 ment of the Treasury, except for the Secretary,  
10 for all activities and matters relating to fore-  
11 closure evaluation and prevention, including—

12 “(i) research, grant administration,  
13 public outreach, and policy development re-  
14 lating to foreclosure prevention; and

15 “(ii) establishment, coordination, and  
16 administration of requirements, standards,  
17 and performance measures under programs  
18 and laws administered by the Department  
19 of the Treasury that relate to housing fore-  
20 closure prevention.

21 “(B) OTHER SPECIFIC FUNCTIONS.—The  
22 Director shall carry out the functions assigned  
23 to the Director and the Office under this sub-  
24 section and any other provisions of law, includ-  
25 ing—

1           “(i) serving as the Chairperson of the  
2 Working Group on Foreclosure Prevention  
3 established under subsection (e);

4           “(ii) coordinating the responsibilities  
5 of the Department of the Treasury, the  
6 Department of Housing and Urban Devel-  
7 opment, the Federal Housing Administra-  
8 tion, the Federal Housing Finance Agency,  
9 the Neighborhood Reinvestment Corpora-  
10 tion, the Federal Deposit Insurance Cor-  
11 poration, the Board of Governors of the  
12 Federal Reserve System, and other Federal  
13 Government entities regarding foreclosure  
14 prevention;

15           “(iii) collaborating in foreclosure pre-  
16 vention efforts with State and local govern-  
17 ment agencies, State and local courts, com-  
18 munity based nonprofit organizations and  
19 counselors with expertise in the field of  
20 housing counseling, and State and local  
21 bar associations;

22           “(iv) certifying qualified foreclosure  
23 prevention programs, as provided in para-  
24 graph (4);

1 “(v) responding to inquiries and ren-  
 2 dering opinions as to the reasonableness of  
 3 the foreclosure mitigation actions of  
 4 servicers, as provided in paragraph (5);

5 “(vi) conducting the National Public  
 6 Service Multimedia Campaign To Promote  
 7 Foreclosure Prevention Programs created  
 8 under paragraph (6);

9 “(vii) working with and gathering  
 10 data from the mortgage and real estate in-  
 11 dustries to ensure that servicers are engag-  
 12 ing in reasonable mitigation and fore-  
 13 closure prevention actions;

14 “(viii) encouraging servicers to use  
 15 technology that would standardize the in-  
 16 come to expense and loan resolution proc-  
 17 ess; and

18 “(ix) considering payment of incen-  
 19 tives to servicers for modifications com-  
 20 pleted within certain periods of time.

21 “(4) CERTIFICATION AND PROMOTION OF  
 22 FORECLOSURE PREVENTION PROGRAMS.—

23 “(A) REQUIREMENT FOR ASSISTANCE.—

24 An organization may not receive assistance for  
 25 foreclosure preventions programs under this

1 subsection, unless the organization has been  
2 certified by the Office for such purpose, in ac-  
3 cordance with this paragraph.

4 “(B) STANDARDS AND PROCEDURES.—The  
5 Director shall, by regulation, establish stand-  
6 ards and procedures for the certification of  
7 foreclosure prevention programs, which shall re-  
8 quire that any such program involves, at a min-  
9 imum—

10 “(i) efforts to identify, contact, and  
11 provide counseling to homeowners facing  
12 foreclosure or at significant risk of fore-  
13 closure;

14 “(ii) efforts to facilitate conciliation,  
15 mediation, or negotiation between home-  
16 owners and servicers at minimal or no ad-  
17 ditional cost to homeowners; and

18 “(iii) performance measures to docu-  
19 ment or demonstrate the success of the  
20 program in preventing or mitigating fore-  
21 closures.

22 “(C) PROMOTION OF CONCILIATION AND  
23 MEDIATION.—The Director shall, in jurisdic-  
24 tions with judicial foreclosure laws—

1           “(i) promote the adoption of fore-  
2           closure prevention programs that require  
3           court supervised conciliation or mediation  
4           conferences between lenders or servicers or  
5           their legal representatives and homeowners  
6           or borrowers or their legal representatives;  
7           and

8           “(ii) promote the use of pro bono legal  
9           counsel to represent homeowners or bor-  
10          rowers in such conciliation or mediation  
11          conferences.

12          “(D) CONSISTENCY WITH EXISTING PRO-  
13          GRAMS.—The certification standards and proce-  
14          dures established under this paragraph shall, to  
15          the extent practical, be consistent with the cer-  
16          tification procedures for housing counselors  
17          under section 106(e) of the Housing and Urban  
18          Development Act of 1968 (12 U.S.C. 1701x(e)).

19          “(E) CONSULTATION WITH WORKING  
20          GROUP.—The certification standards and proce-  
21          dures established under this paragraph shall be  
22          developed in consultation with the Working  
23          Group established under subsection (e).

24          “(F) GRANTS.—The Director, in consulta-  
25          tion with the Working Group, shall identify and

1 promote Federal grant opportunities for cer-  
2 tified foreclosure prevention programs. To the  
3 extent necessary to establish or build the capac-  
4 ity of certified foreclosure prevention programs,  
5 the Director may award grants directly to such  
6 programs.

7 “(5) ADMINISTRATIVE PREREQUISITES RE-  
8 LATED TO CLAIMS BASED ON RESIDENTIAL MORT-  
9 GAGE LOAN MODIFICATIONS.—

10 “(A) IN GENERAL.—

11 “(i) LIMITATION.—No civil action or  
12 complaint to recover damages resulting  
13 from a case-by-case residential mortgage  
14 loan modification or loss mitigation action,  
15 including delaying foreclosure, changing  
16 the interest rate on a prospective basis,  
17 capitalizing arrearages, extending the ma-  
18 turity date, extending the time for pay-  
19 ment, accepting partial payments, or par-  
20 tially discharging principal, occurring from  
21 January 1, 2008 through January 1,  
22 2010, and allegedly in violation of a pool-  
23 ing and servicing agreement, or equivalent  
24 claims, whether in tort or in contract, shall  
25 be filed unless the attorney or party filing

1 the action has made a reasonable inquiry  
2 with the Office to determine that there are  
3 grounds for a good faith belief that the  
4 servicer has failed to comply with the duty  
5 described in section 119(b).

6 “(ii) PROCEDURAL REQUIREMENTS.—  
7 With respect to an action or complaint de-  
8 scribed in clause (i)—

9 “(I) the complaint or initial  
10 pleading shall contain a certification  
11 by the attorney or party filing the ac-  
12 tion that an inquiry required by  
13 clause (i) has been made and a signed  
14 opinion from the Office that the ac-  
15 tions of the servicer were unreason-  
16 able and inconsistent with accepted  
17 servicing practices, or not permitted  
18 by the restrictions on real estate  
19 mortgage investment conduits under  
20 sections 860A through 860G of the  
21 Internal Revenue Code of 1986;

22 “(II) such opinion shall be ad-  
23 missible but not conclusive; and

24 “(III) the failure to obtain and  
25 file the written opinion from the Of-

1                    fice shall be grounds for the dismissal  
2                    of the action.

3                    “(B) LIMITATION ON ENFORCEMENT OF  
4                    CONTRACT TERMS.—For residential mortgage  
5                    loan modification occurring between January 1,  
6                    2008 and January 1, 2010, limitations in a  
7                    pooling and servicing agreement as to the total  
8                    number of loans that may be modified to a  
9                    specified percentage are unenforceable, to the  
10                    extent that the actual number of loans modified  
11                    by the servicer is less than 25 percent of the  
12                    total.

13                    “(C) STATUTE OF LIMITATIONS AND DE-  
14                    TERMINATION OF THE DATE ON WHICH A  
15                    CLAIM ACCRUES.—The date on which the stat-  
16                    ute of limitations begins to run on any claim  
17                    described in this paragraph shall be the later  
18                    of—

19                    “(i) the date of the issuance of the  
20                    opinion of the Office, as required under  
21                    subparagraph (A); or

22                    “(ii) the date on which the cause of  
23                    action accrues.

1           “(6) NATIONAL PUBLIC SERVICE MULTIMEDIA  
2           CAMPAIGN TO PROMOTE FORECLOSURE PREVENTION  
3           PROGRAMS.—

4                   “(A) IN GENERAL.—The Director shall de-  
5           velop, implement, and conduct a national public  
6           service multimedia campaign designed to make  
7           homeowners facing default or mortgage fore-  
8           closure aware of certified foreclosure prevention  
9           programs.

10                   “(B) CONTACT INFORMATION.—Each seg-  
11           ment of the multimedia campaign under sub-  
12           paragraph (A) shall publicize the toll-free tele-  
13           phone number and website of State or local pro-  
14           grams that assist homeowners facing default or  
15           foreclosure.

16           “(7) EDUCATION PROGRAMS.—The Director  
17           shall provide advice and technical assistance to the  
18           States, units of general local government, and non-  
19           profit organizations regarding the establishment and  
20           operation of foreclosure prevention programs that  
21           assist homeowners in obtaining assistance from  
22           housing counselors certified by the Department of  
23           Housing and Urban Development, community legal  
24           services organizations, pro bono attorneys, and State  
25           court programs that coordinate conciliation con-

1       ferences before foreclosures and sheriff sales may  
2       proceed.

3               “(8) STUDY AND REPORT BY THE DIRECTOR ON  
4       LOSS MITIGATION ACTIVITY.—

5               “(A) STUDY REQUIRED.—The Director  
6       shall conduct a study of the barriers to reason-  
7       able and timely residential mortgage loan modi-  
8       fications to prevent foreclosure of home loans,  
9       as well as the success of programs designed to  
10      prevent foreclosures, using as much empirical  
11      data as are available. The study shall include,  
12      among other relevant data, an assessment of  
13      whether the fee structure of typical loan serv-  
14      icing agreements creates a disincentive for  
15      servicers to engage in activities to mitigate or  
16      prevent foreclosure.

17              “(B) SUBMISSION TO CONGRESS.—Not  
18      later than—

19              “(i) 6 months after the date of enact-  
20      ment of this subsection, the Director shall  
21      submit to Congress a preliminary report  
22      regarding the study required by this para-  
23      graph; and

24              “(ii) 12 months after such date of en-  
25      actment, the Director shall submit a final

1 report regarding the results of the study,  
2 including any recommendations for legisla-  
3 tion, for best practices, and for processes  
4 to identify and effectively assist home-  
5 owners who can avoid foreclosure.

6 “(9) REPORTING BY SERVICERS.—

7 “(A) IN GENERAL.—Each servicer that  
8 participates in a certified foreclosure prevention  
9 program shall report regularly, but not less fre-  
10 quently than monthly, to the Director on the  
11 extent and scope of the loss mitigation activities  
12 of the mortgage owner.

13 “(B) REPORT CONTENTS.—The report re-  
14 quired by subparagraph (B) shall include—

15 “(i) the number of residential mort-  
16 gage loans receiving loss mitigation that  
17 have become performing loans;

18 “(ii) the number of residential mort-  
19 gage loans receiving loss mitigation that  
20 have proceeded to foreclosure;

21 “(iii) the total number of foreclosures  
22 initiated during the reporting period;

23 “(iv) data on loss mitigation activities  
24 disaggregated to reflect whether the loss  
25 mitigation was—

1           “(I) waiver of any late payment  
2 charge, penalty interest, or any other  
3 fees or charges, or any combination  
4 thereof;

5           “(II) establishment of a repay-  
6 ment plan under which the home-  
7 owner resumes regularly scheduled  
8 payments and pays additional  
9 amounts at scheduled intervals to cure  
10 the delinquency;

11           “(III) forbearance under the loan  
12 that provides for a temporary reduc-  
13 tion in or cessation of monthly pay-  
14 ments followed by a reamortization of  
15 the amounts due under the loan, in-  
16 cluding arrearage, and a new schedule  
17 of repayment amounts;

18           “(IV) waiver, modification, or  
19 variation of any material term of the  
20 loan, including short-term, long-term,  
21 or life-of-loan modification that  
22 changes the interest rate, forgives the  
23 payment of principal or interest, or  
24 extends the final maturity date of the  
25 loan;

1           “(V) short refinancing of the  
2           loan consisting of acceptance of pay-  
3           ment from or on behalf of the home-  
4           owner of an amount less than the  
5           amount alleged to be due and owing  
6           under the loan, including principal, in-  
7           terest, and fees, in full satisfaction of  
8           the obligation under such loan and as  
9           part of a refinance transaction in  
10          which the property is intended to re-  
11          main the principal residence of the  
12          homeowner;

13           “(VI) acquisition of the property  
14          by the owner or servicer by deed in  
15          lieu of foreclosure;

16           “(VII) short sale of the principal  
17          residence that is subject to the lien se-  
18          curing the loan;

19           “(VIII) assumption of the home-  
20          owner’s obligation under the loan by a  
21          third party;

22           “(IX) cancellation or postpone-  
23          ment of a foreclosure sale to allow the  
24          homeowner additional time to sell the  
25          property; or

1                   “(X) any other loss mitigation  
2                   activity not covered; and

3                   “(v) such other information as the Di-  
4                   rector determines to be relevant.

5                   “(10) ADDITIONAL REPORTING REQUIRE-  
6                   MENTS.—The Director shall consult with the Sec-  
7                   retary of the Treasury and the Secretary of Housing  
8                   and Urban Development to amend, as necessary, the  
9                   reporting requirements applicable to federally related  
10                  mortgage loans to ensure that such reporting re-  
11                  quirements capture data necessary for the Director  
12                  to satisfy the reporting requirements of this sub-  
13                  section.”.

14                  (b) CLERICAL AMENDMENTS.—

15                  (1) TITLE 5.—Section 5315 of title 5, United  
16                  States Code, is amended in the item relating to As-  
17                  sistant Secretaries of the Treasury, by striking  
18                  “(10)” and inserting “(11)”.

19                  (2) TITLE 31.—Section 301(e) of title 31,  
20                  United States Code, is amended by striking “10”  
21                  and inserting “11”.

22 **SEC. 4. WORKING GROUP ON FORECLOSURE PREVENTION.**

23                  Section 109 of the Emergency Economic Stabilization  
24                  Act of 2008 (division A of Public Law 110–343), as

1 amended by this Act, is amended by adding at the end  
2 the following new subsection:

3 “(e) WORKING GROUP ON FORECLOSURE PREVEN-  
4 TION.—

5 “(1) ESTABLISHMENT.—There is established a  
6 Working Group on Foreclosure Prevention (in this  
7 subsection referred to as the ‘Working Group’).

8 “(2) COMPOSITION.—The Working Group shall  
9 be composed of senior representatives of—

10 “(A) the Department of the Treasury;

11 “(B) the Department of Housing and  
12 Urban Development;

13 “(C) the Federal Housing Administration;

14 “(D) the Federal Housing Finance Agen-  
15 cy;

16 “(E) the Neighborhood Reinvestment Cor-  
17 poration;

18 “(F) the Federal Deposit Insurance Cor-  
19 poration;

20 “(G) the Board of Governors of the Fed-  
21 eral Reserve System; and

22 “(H) such other Federal Government enti-  
23 ties engaged in foreclosure prevention activities  
24 as may be designated by the Chairperson of the  
25 Working Group.

1           “(3) CHAIRPERSON.—The Director of the Of-  
2           fice of Foreclosure Evaluation shall serve as the  
3           Chairperson of the Working Group.

4           “(4) PURPOSE AND FUNCTIONS.—The Working  
5           Group shall—

6                   “(A) improve coordination of Federal Gov-  
7                   ernment efforts to prevent foreclosure and per-  
8                   mit homeowners to remain in their homes;

9                   “(B) build the capacity of Federal entities,  
10                  as well as State and local entities and nonprofit  
11                  organizations to offer housing counseling and  
12                  pro bono legal services to homeowners in areas  
13                  that lack sufficient services;

14                  “(C) share information and best practices  
15                  concerning foreclosure prevention programs;  
16                  and

17                  “(D) review and provide input regarding  
18                  the criteria used by the Chairperson, as the Di-  
19                  rector of the Office of Foreclosure Evaluation,  
20                  to certify foreclosure prevention programs.

21           “(5) ADMINISTRATION.—The Director shall  
22           provide the Working Group with such administrative  
23           and support services as may be necessary for the  
24           performance of the functions of the Working Group.

1           “(6) COOPERATION OF OTHER AGENCIES.—The  
2 heads of executive departments, agencies, and inde-  
3 pendent instrumentalities shall, to the extent per-  
4 mitted by law, provide the Working Group with such  
5 information as the Working Group requires to carry  
6 out this subsection.

7           “(7) CONSULTATION.—The Working Group  
8 shall consult, as appropriate, with representatives of  
9 financial institutions, government entities, and non-  
10 profit organizations engaged in foreclosure preven-  
11 tion programs, and representatives of the general  
12 public.”.

13 **SEC. 5. AUTHORIZATIONS.**

14       Section 109 of the Emergency Economic Stabilization  
15 Act of 2008 (division A of Public Law 110–343), as  
16 amended by this Act, is amended by adding at the end  
17 the following new subsection:

18       “(f) AUTHORIZATION OF APPROPRIATIONS.—The au-  
19 thorization limitations established under section 115(a)  
20 shall be reduced by the amounts necessary to carry out  
21 the education and outreach campaigns and other activities  
22 described in this section.”.

23 **SEC. 6. DEFINITIONS.**

24       Section 109 of the Emergency Economic Stabilization  
25 Act of 2008 (division A of Public Law 110–343), as

1 amended by this Act, is amended by adding at the end  
2 the following new subsection:

3 “(g) DEFINITIONS.—As used in this section—

4 “(1) the term ‘Federally related mortgage loan’  
5 has the same meaning as in section 3 of the Real  
6 Estate Settlement Procedure Act of 1974 (12 U.S.C.  
7 2602).

8 “(2) the term ‘homeowner’ means a person  
9 who—

10 “(A) has resided at the property secured  
11 by a mortgage since the mortgage transaction  
12 was entered into;

13 “(B) intends to reside at such property  
14 during the period of the loan; and

15 “(C) treats the property as his or her pri-  
16 mary residence;

17 “(3) the term ‘residential mortgage loan’ means  
18 any extension of credit primarily for personal, fam-  
19 ily, or household use that is secured by a mortgage,  
20 deed of trust, or other equivalent consensual security  
21 interest on a dwelling (as defined in section 103(v)  
22 of the Truth in Lending Act) or residential real es-  
23 tate on which is constructed or intended to be con-  
24 structed a dwelling (as so defined); and

1           “(4) the term ‘servicer’ has the same meaning  
2           as in section 6(i)(2) of the Real Estate Settlement  
3           Procedures Act of 1974 (12 U.S.C. 2605(i)(2)).”.

4 **SEC. 7. MODIFICATION OF EXISTING PROGRAMS TO PRE-**  
5 **VENT FORECLOSURE.**

6           The Housing and Economic Recovery Act of 2008  
7 (Public Law 110–289) is amended—

8           (1) in section 2301(c)(3) (42 U.S.C. 5301  
9           note)—

10           (A) in subparagraph (D), by striking  
11           “and” at the end;

12           (B) in subparagraph (E), by striking the  
13           period at the end and inserting “; and”; and

14           (C) by adding at the end the following:

15           “(F) fund State and local mortgage fore-  
16           closure prevention programs that support or re-  
17           quire counseling, conciliation, and mediation  
18           prior to sheriff sale or foreclosure.”;

19           (2) in section 1132(c)(1) (12 U.S.C. 1701x  
20           note)—

21           (A) in subparagraph (A)—

22           (i) by striking “or” at the end; and

23           (ii) by inserting “(1)” after “(e)” the  
24           second place it appears;

1 (B) in subparagraph (B), by striking the  
2 period at the end and inserting “; or”; and

3 (C) by adding at the end the following:

4 “(C) certified by the Office of Foreclosure  
5 Evaluation of the Department of the Treasury,  
6 in accordance with section 109(d)(4) of the  
7 Emergency Economic Stabilization Act of 2008  
8 (Public Law 110–343).”; and

9 (3) in the fourth undesignated proviso of sec-  
10 tion 2305 (42 U.S.C. 5301 note), by inserting after  
11 “civil litigation” the following: “, except with respect  
12 to the representation of a homeowner in foreclosure  
13 litigation”.

14 **SEC. 8. SUNSET.**

15 (a) IN GENERAL.—Except as provided in subsections  
16 (b) and (c), this Act and the amendments made by this  
17 Act shall cease to have effect on December 31, 2012, and  
18 the Office of Foreclosure Evaluation and the Working  
19 Group on Foreclosure Prevention shall terminate on that  
20 date.

21 (b) EXCEPTION.—Notwithstanding subsection (a),  
22 the provisions of section 109(d)(5) of the Emergency Eco-  
23 nomic Stabilization Act of 2008 (Public Law 110–343),  
24 regarding administrative prerequisites related to claims

1 based on loan modifications, as added by this Act, shall  
2 remain in effect after December 31, 2012.

3 (c) DISCHARGE OF DUTIES.—After December 31,  
4 2012, the duties and responsibilities assigned to the Direc-  
5 tor of the Office of Foreclosure Evaluation by section  
6 109(d)(5) of the Emergency Economic Stabilization Act  
7 of 2008 (Public Law 110–343), as added by this Act, shall  
8 be discharged by the Under Secretary for Domestic Fi-  
9 nance or an Assistant Secretary of the Treasury des-  
10 ignated for such purpose by the Under Secretary.

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