

111TH CONGRESS  
1ST SESSION

# S. 1731

To require certain mortgagees to make loan modifications, to establish a grant program for State and local government mediation programs, to create databases on foreclosures, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 30, 2009

Mr. REED (for himself, Mr. DURBIN, Mr. WHITEHOUSE, and Mr. MERKLEY) 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 require certain mortgagees to make loan modifications, to establish a grant program for State and local government mediation programs, to create databases on foreclosures, 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.**

4 This Act may be cited as the “Preserving Homes and  
5 Communities Act of 2009”.

6 **SEC. 2. LOAN MODIFICATION REQUIREMENTS.**

7 (a) DEFINITIONS.—In this section—

8 (1) the term “covered mortgagee” means—

1 (A) a mortgagee under a federally related  
2 mortgage loan; and

3 (B) the agent of a mortgagee under a fed-  
4 erally related mortgage loan;

5 (2) the term “covered mortgagor” means an in-  
6 dividual who is a mortgagor under a federally re-  
7 lated mortgage loan—

8 (A) made by a covered mortgagee;

9 (B) secured by the principal residence of  
10 the mortgagor; and

11 (C) on which the mortgagor cannot make  
12 payments due to financial hardship, as deter-  
13 mined by the Secretary;

14 (3) the term “federally related mortgage loan”  
15 has the same meaning as in section 3 of the Real  
16 Estate Settlement Procedures Act of 1974 (12  
17 U.S.C. 2602);

18 (4) the term “home loan modification protocol”  
19 means a home loan modification protocol that is de-  
20 veloped under a home loan modification program put  
21 into effect by the Secretary of the Treasury or the  
22 Secretary;

23 (5) the term “qualified loan modification”  
24 means a modification to the terms of a mortgage  
25 agreement between a covered mortgagee and a cov-

1       ered mortgagor that is made pursuant to a deter-  
2       mination by the covered mortgagee using a home  
3       loan modification protocol that a modification would  
4       produce a greater net present value than foreclosure  
5       to—

6               (A) the covered mortgagee; or

7               (B) in the aggregate, all persons that hold  
8       an interest in the mortgage agreement; and

9               (6) the term “Secretary” means the Secretary  
10      of Housing and Urban Development.

11      (b) LOAN MODIFICATION REQUIRED.—

12              (1) IN GENERAL.—A covered mortgagee may  
13      not initiate or continue a foreclosure proceeding  
14      against a covered mortgagor that is otherwise au-  
15      thorized under State law unless—

16              (A) the covered mortgagee has determined  
17      whether the covered mortgagor is eligible for a  
18      qualified loan modification;

19              (B) in the case of a covered mortgagor  
20      who the covered mortgagee determines is eligi-  
21      ble for a qualified loan modification, the covered  
22      mortgagee has offered a qualified loan modifica-  
23      tion to the covered mortgagor; and

24              (C) in the case of a covered mortgagor who  
25      the covered mortgagee determines is not eligible

1 for a qualified loan modification, the covered  
2 mortgagee has made available to the covered  
3 mortgagor the note, deed of trust, or any other  
4 document necessary to establish the right of the  
5 mortgagee to foreclose on the mortgage.

6 (2) NO WAIVER OF RIGHTS.—A covered mort-  
7 gagee may not require a covered mortgagor to waive  
8 any right of the covered mortgagor as a condition of  
9 making a qualified loan modification.

10 (3) SALE OF REAL PROPERTY SECURING MORT-  
11 GAGE.—

12 (A) SALE.—A covered mortgagee may not  
13 sell the real property securing the mortgage of  
14 a covered mortgagor unless the covered mort-  
15 gagee submits to the appropriate State entity in  
16 the State in which the real property is located,  
17 a certification that the covered mortgagee has  
18 made a determination under paragraph (1)(A).

19 (B) ACTION BY PURCHASER.—A person  
20 that purchases from a covered mortgagee the  
21 real property securing the mortgage of a cov-  
22 ered mortgagor may not recover possession of  
23 the real property unless the covered mortgagee  
24 submits to the appropriate State entity in the  
25 State in which the real property is located, a

1 certification that the covered mortgagee has  
2 made a determination under paragraph (1)(A).

3 (C) CERTIFICATION STANDARDS.—The  
4 Secretary shall establish minimum standards  
5 for the certification required under this para-  
6 graph.

7 (4) DEFENSE TO FORECLOSURE.—Failure to  
8 comply with this subsection shall be a defense to  
9 foreclosure.

10 (5) RULE OF CONSTRUCTION.—Nothing in this  
11 subsection may be construed to prevent a covered  
12 mortgagee from offering or making a loan modifica-  
13 tion with a lower payment, lower interest rate, or  
14 principal reduction beyond that required by a modi-  
15 fication made using a home loan modification pro-  
16 tocol with respect to a covered mortgagor.

17 (c) FEES PROHIBITED.—

18 (1) LOAN MODIFICATION FEES PROHIBITED.—  
19 A covered mortgagee may not charge a fee to a cov-  
20 ered mortgagor for carrying out the requirements  
21 under subsection (b).

22 (2) FORECLOSURE-RELATED FEES.—

23 (A) IN GENERAL.—Except as provided in  
24 subparagraph (B), a mortgagee may not charge

1 a foreclosure-related fee to a mortgagor be-  
2 fore—

3 (i) the mortgagee has made a deter-  
4 mination under subsection (b)(1); and

5 (ii) the mortgagee has entered the fore-  
6 closure process.

7 (B) DELINQUENCY FEES.—A mortgagee  
8 may charge a delinquency fee for late payment  
9 by the mortgagor.

10 (3) FEES NOT IN CONTRACT.—A mortgagee  
11 may charge to a mortgagor only such fees as have  
12 been specified in advance by the mortgage agree-  
13 ment.

14 (4) FEES FOR EXPENSES INCURRED.—A mort-  
15 gagee may charge a fee to a mortgagor only for  
16 services actually performed by the mortgagee or a  
17 third party in relation to the mortgage agreement.  
18 For purposes of this paragraph, the term “third  
19 party” does not include an affiliate or subsidiary of  
20 the mortgagee.

21 (5) PENALTY.—The Secretary shall collect from  
22 any mortgagee that charges a fee in violation of this  
23 subsection an amount equal to \$6,000 for each such  
24 fee.

1 (d) REGULATIONS.—Not later than 3 months after  
 2 the date of enactment of this Act, the Secretary shall issue  
 3 by notice any requirements to carry out this section. The  
 4 Secretary shall subsequently issue, after notice and com-  
 5 ment, final regulations to carry out this section.

6 **SEC. 3. GRANTS TO STATES TO ASSIST HOMEOWNERS IN**  
 7 **DEFAULT.**

8 Section 106 of the Housing and Urban Development  
 9 Act of 1968 (12 U.S.C. 1701x) is amended by adding at  
 10 the end the following:

11 “(g) GRANTS TO STATES TO ASSIST HOMEOWNERS  
 12 IN DEFAULT.—

13 “(1) DEFINITIONS.—In this subsection—

14 “(A) the term ‘eligible agency’ means a  
 15 State housing finance agency or an agency des-  
 16 ignated by the State as an eligible agency;

17 “(B) the term ‘eligible homeowner’ means  
 18 a mortgagor who—

19 “(i) is a permanent resident of the  
 20 State in which the principal residence of  
 21 the mortgagor is located;

22 “(ii) agrees to seek counseling from a  
 23 counseling agency approved by the Sec-  
 24 retary if the eligible homeowner receives a

1 loan or grant made using funds under this  
2 subsection;

3 “(iii) is suffering from financial hard-  
4 ship which is unexpected or due to cir-  
5 cumstances beyond the control of the mort-  
6 gator;

7 “(iv) is unable to correct any delin-  
8 quency on any amounts past due on the  
9 home loan of such mortgagor within a rea-  
10 sonable time without financial assistance;

11 “(v) has requested a loan modification  
12 from the mortgagee;

13 “(vi) is unable to make full payment  
14 on any home loan payment due for all liens  
15 within the 30-day period following the date  
16 of the application by the mortgagor for a  
17 loan or grant using funds under this sub-  
18 section;

19 “(vii) the eligible agency determines  
20 has a reasonable probability of resuming  
21 full payments due for all liens on the mort-  
22 gage of such mortgagor not later than 15  
23 months after the date on which the mort-  
24 gator receives a loan or grant using funds  
25 under this subsection; and

1           “(viii) has not previously received a  
2           loan or grant using funds under this sub-  
3           section; and

4           “(C) the term ‘mortgagor’ means a mort-  
5           gagor under a mortgage—

6           “(i) secured by a 1- to 4-family  
7           owner-occupied residence (including a 1-  
8           family unit in a condominium project and  
9           a membership interest and occupancy  
10          agreement in a cooperative housing  
11          project) that is used as the principal resi-  
12          dence of the mortgagor;

13          “(ii) with an interest rate that does  
14          not exceed the prime rate of interest at the  
15          time of loan origination, as such prime  
16          rate is determined by not less than 75 per-  
17          cent of the 30 largest depository institu-  
18          tions in the United States; and

19          “(iii) for an amount that does not ex-  
20          ceed the conforming loan limit for conven-  
21          tional mortgages, as determined under sec-  
22          tion 302(b)(2) of the Federal National  
23          Mortgage Association Charter Act (12  
24          U.S.C. 1717(b)(2)).

1           “(2) GRANT PROGRAM ESTABLISHED.—The  
2 Secretary shall award grants to eligible agencies, to  
3 enable eligible agencies to provide—

4           “(A) 1-time emergency grants or sub-  
5 sidized loans to eligible homeowners to assist  
6 such eligible homeowners in satisfying any  
7 amounts past due on their home loans;

8           “(B) grants or subsidized loans to eligible  
9 homeowners for a specified number of future  
10 mortgage payments by the eligible homeowners;  
11 and

12           “(C) stipends of not more than \$1,500 to  
13 assist with relocation expenses for homeowners  
14 not eligible for the program.

15           “(3) ADDITIONAL SERVICES PROVIDED BY ELI-  
16 GIBLE AGENCY.—An eligible agency that receives a  
17 grant under this subsection shall provide—

18           “(A) a readily accessible source for infor-  
19 mation on, and referral to, public services avail-  
20 able to assist a homeowner who is in default on  
21 their home loan;

22           “(B) a homeowner with referrals to coun-  
23 seling agencies approved by the Department of  
24 Housing and Urban Development that may be

1 able to assist that homeowner, if that home-  
2 owner is in default on their home loan;

3 “(C) information to homeowners on avail-  
4 able community resources relating to homeown-  
5 ership, including—

6 “(i) public assistance or benefits pro-  
7 grams;

8 “(ii) mortgage assistance programs,  
9 including programs that help homeowners  
10 prepare documents for loan modification  
11 applications;

12 “(iii) home repair assistance pro-  
13 grams;

14 “(iv) legal assistance programs;

15 “(v) utility assistance programs;

16 “(vi) food assistance programs; and

17 “(vii) other Federal, State, or local  
18 government funded social services; and

19 “(D) staff who—

20 “(i) are able to conduct a brief assess-  
21 ment of the situation of a homeowner; and

22 “(ii) based on such assessment, make  
23 appropriate referrals to, and provide appli-  
24 cation information regarding, programs

1           that can provide assistance to such home-  
2           owner.

3           “(4) FORMULA.—Not later than 3 months after  
4           the date of enactment of the Preserving Homes and  
5           Communities Act of 2009, the Secretary shall de-  
6           velop a formula for the award of funds under this  
7           subsection that includes the following factors:

8                   “(A) The population of the State, as deter-  
9                   mined by the Bureau of the Census in most re-  
10                  cent estimate of the resident population of the  
11                  State.

12                  “(B) The rate of mortgages in the State  
13                  that are delinquent more than 90 days.

14                  “(C) The ratio of foreclosures to owner-oc-  
15                  cupied households in the State.

16                  “(D) The change, if any, in the rate of un-  
17                  employment in the State between 2007 and  
18                  2008.

19           “(5) PROGRAM REQUIREMENTS.—

20                   “(A) SELECTION CRITERIA.—

21                           “(i) IN GENERAL.—Each eligible enti-  
22                           ty that receives a grant under this sub-  
23                           section shall develop selection criteria for  
24                           eligible homeowners seeking a grant or  
25                           subsidized loan under this subsection.

1           “(ii) INCOME REPORTING.—A mort-  
2           gagor that receives a grant or subsidized  
3           loan under this subsection shall be re-  
4           quired, in accordance with criteria pre-  
5           scribed by the eligible agency, to report  
6           any increase in income.

7           “(B) LOAN REQUIREMENTS.—

8           “(i) INTEREST RATE.—Any loan made  
9           using a grant under this subsection shall  
10          carry a simple annual percentage rate of  
11          interest which shall not exceed the prime  
12          rate of interest, as such prime rate is de-  
13          termined from time to time by not less  
14          than 75 percent of the 30 largest deposi-  
15          tory institutions in the United States.

16          “(ii) COMPOUND INTEREST PROHIB-  
17          ITED.—Interest on the outstanding prin-  
18          cipal balance of any loan under this sub-  
19          section shall not compound.

20          “(iii) BALANCE DUE.—

21          “(I) IN GENERAL.—The principal  
22          of any loan made under this para-  
23          graph, including any interest accrued  
24          on such principal, shall not be due  
25          and payable unless the real property

1           securing such loan is sold or trans-  
2           ferred.

3                   “(II) DEPOSIT OF BALANCE  
4           DUE.—If an event described in sub-  
5           clause (I) occurs, the principal of any  
6           loan made under this subsection, in-  
7           cluding any interest accrued on such  
8           principal, shall immediately become  
9           due and payable to the eligible agency  
10          from which the loan originated.

11                   “(iv) PREPAYMENT.—Any eligible  
12          homeowner who receives a loan using a  
13          grant made under this subsection may  
14          repay the loan in full, without penalty, by  
15          lump sum or by installment payments, at  
16          any time prior to the loan becoming due  
17          and payable.

18                   “(v) MAXIMUM AMOUNT.—The  
19          amount of any loan to any 1 eligible home-  
20          owner under this subsection may not ex-  
21          ceed 20 percent of the original mortgage  
22          amount borrowed by the eligible home-  
23          owner.

24                   “(vi) SUBORDINATION.—Any loan  
25          made using a grant under this subsection

1 will be subordinated to any refinancing of  
2 the first mortgage, any preexisting subor-  
3 dinate financing, any purchase money  
4 mortgage, or subordinated for any other  
5 reason, as determined by the eligible agen-  
6 cy.

7 “(6) SEPARATE ACCOUNT.—

8 “(A) SEPARATE ACCOUNT.—An eligible  
9 agency that receives a grant under this sub-  
10 section shall establish a separate account in  
11 which to hold amounts received under this sub-  
12 section.

13 “(B) REPAYMENT OF LOANS.—Any  
14 amounts repaid on a subsidized loan made  
15 under this subsection shall be deposited in the  
16 account established under subparagraph (A).

17 “(C) OTHER FUNDING.—Amounts donated  
18 or otherwise directed to be used for purposes of  
19 this subsection may be deposited in the account  
20 established under subparagraph (A) to help  
21 capitalize such account.

22 “(7) USE OF GRANT FUNDS.—

23 “(A) IN GENERAL.—Subject to subpara-  
24 graph (B), any amounts made available for pur-

1           poses of this subsection may be used only for  
2           the purposes described in paragraph (2).

3           “(B) EXCEPTION FOR ADMINISTRATIVE  
4           COSTS.—An eligible agency may use not more  
5           than 5 percent of any funds received under this  
6           subsection for administrative costs relating to  
7           activities carried out under paragraph (2).

8           “(8) EXISTING LOAN FUNDS.—Any eligible  
9           agency with a previously existing fund established to  
10          make loans to assist homeowners in satisfying any  
11          amounts past due on their home loan or for future  
12          payments may use funds appropriated for purposes  
13          of this subsection for that existing loan fund, even  
14          if the eligibility, application, program, or use re-  
15          quirements for that loan program differ from the eli-  
16          gibility, application, program, and use requirements  
17          of this subsection, unless such use is expressly deter-  
18          mined by the Secretary to be inappropriate.

19          “(9) AUTHORIZATION OF APPROPRIATIONS.—  
20          There are authorized to be appropriated to carry out  
21          this section—

22                  “(A) \$6,375,000,000 for fiscal year 2010;  
23                  and

24                  “(B) such sums as may be necessary for  
25                  each of fiscal years 2011 through 2013.”.

1 **SEC. 4. MEDIATION INITIATIVES.**

2 (a) DEFINITIONS.—In this section—

3 (1) the term “mortgagee” includes the agent of  
4 a mortgagee; and

5 (2) the term “Secretary” means the Secretary  
6 of Housing and Urban Development.

7 (b) GRANT PROGRAM ESTABLISHED.—The Secretary  
8 shall establish a grant program to make competitive  
9 grants to State and local governments to establish medi-  
10 ation programs that assist mortgagors facing foreclosure.

11 (c) MEDIATION PROGRAMS.—A mediation program  
12 established using a grant under this section shall—

13 (1) require participation in the program by—

14 (A) any mortgagee that initiates a fore-  
15 closure proceeding; and

16 (B) any mortgagor who is subject to a  
17 foreclosure proceeding;

18 (2) require any mortgagee or mortgagor re-  
19 quired to participate in the program to make a good  
20 faith effort to resolve issues relating to foreclosure  
21 proceedings through mediation;

22 (3) if mediation is not made available to the  
23 mortgagor before a foreclosure proceeding is initi-  
24 ated, allow the mortgagor to request mediation at  
25 any time before a foreclosure sale;

26 (4) provide for—

1 (A) supervision by a State court (or a  
2 State court in conjunction with an agency or  
3 department of a State or local government) of  
4 the mediation program;

5 (B) selection and training of neutral, third-  
6 party mediators by a State court (or an agency  
7 or department of the State or local govern-  
8 ment);

9 (C) penalties to be imposed by a State  
10 court, or an agency or department of a State or  
11 local government, if a mortgagee fails to comply  
12 with an order to participate in mediation; and

13 (D) consideration by a State court (or an  
14 agency or department of a State or local gov-  
15 ernment) of recommendations by a mediator re-  
16 lating to penalties for failure to fulfill the re-  
17 quirements of the mediation program;

18 (5) require that each mortgagee that partici-  
19 pates in the mediation program make available to  
20 the mortgagor, before and during participation in  
21 the mediation program, documentation of—

22 (A) a loan modification calculation or net  
23 present value calculation made by the mort-  
24 gagee in relation to the mortgage using a home  
25 loan modification protocol—

1 (i) developed under a home loan modi-  
2 fication program put into effect by the  
3 Secretary of the Treasury or the Secretary;  
4 or

5 (ii) approved by the Secretary;

6 (B) the loan origination, including any  
7 note, deed of trust, or other document nec-  
8 essary to establish the right of the mortgagee to  
9 foreclose on the mortgage;

10 (C) any pooling and servicing agreement  
11 that the mortgagee believes prohibits a loan  
12 modification;

13 (D) the payment history of the mortgagor  
14 and a detailed accounting of any costs or fees  
15 associated with the account of the mortgagor;  
16 and

17 (E) the specific alternatives to foreclosure  
18 considered by the mortgagee, including loan  
19 modifications, workout agreements, and short  
20 sales;

21 (6) prohibit a mortgagee from shifting the costs  
22 of participation in the mediation program, including  
23 the attorney's fees of the mortgagee, to a mortgagor;

24 (7) provide that—

1           (A) any holder of a junior lien against the  
2           property that secures a mortgage that is the  
3           subject of a mediation—

4                   (i) be notified of the mediation; and

5                   (ii) be permitted to participate in the  
6           mediation; and

7           (B) any proceeding initiated by a holder of  
8           a junior lien against the property that secures  
9           a mortgage that is the subject of a mediation  
10          be stayed pending the mediation;

11          (8) provide information to mortgagors about  
12          housing counselors approved by the Secretary; and

13          (9) be free of charge to the mortgagor and  
14          mortgagee.

15          (d) RECORDKEEPING.—A State or local government  
16          that receives a grant under this section shall keep a record  
17          of the outcome of each mediation carried out under the  
18          mediation program, including the nature of any loan modi-  
19          fication made as a result of participation in the mediation  
20          program.

21          (e) TARGETING.—A State that receives a grant under  
22          this section may establish—

23                   (1) a State-wide mediation program; or

1           (2) a mediation program in a specific locality  
2           that the State determines has a high need for such  
3           program due to—

4                   (A) the number of foreclosures in the local-  
5           ity; or

6                   (B) other characteristics of the locality  
7           that contribute to the number of foreclosures in  
8           the locality.

9           (f) FEDERAL SHARE.—The Federal share of the cost  
10          of a mediation program established using a grant under  
11          this section may not exceed 50 percent.

12          (g) AUTHORIZATION OF APPROPRIATIONS.—There  
13          are authorized to be appropriated to carry out this sec-  
14          tion—

15                   (1) \$80,000,000 for fiscal year 2010; and

16                   (2) such sums as may be necessary for each of  
17          fiscal years 2011 through 2013.

18          **SEC. 5. OVERSIGHT OF PUBLIC AND PRIVATE EFFORTS TO**  
19                   **REDUCE MORTGAGE DEFAULTS AND FORE-**  
20                   **CLOSURES.**

21          (a) DEFINITIONS.—In this section—

22                   (1) the term “heads of appropriate agencies”  
23          means the Comptroller of the Currency, the Board  
24          of Governors of the Federal Reserve System, the  
25          Federal Deposit Insurance Corporation, the National

1 Credit Union Administration, the Director of the Of-  
2 fice of Thrift Supervision, and a representative of  
3 State banking regulators selected by the Secretary of  
4 Housing and Urban Development;

5 (2) the term “mortgagee” means—

6 (A) an original lender under a mortgage;

7 (B) any servicers, affiliates, agents, sub-  
8 sidiaries, successors, or assignees of an original  
9 lender; and

10 (C) any subsequent purchaser, trustee, or  
11 transferee of any mortgage or credit instrument  
12 issued by an original lender;

13 (3) the term “Secretary” means the Secretary  
14 of Housing and Urban Development; and

15 (4) the term “servicer” means any person who  
16 collects on a home loan, whether such person is the  
17 owner, the holder, the assignee, the nominee for the  
18 loan, or the beneficiary of a trust, or any person act-  
19 ing on behalf of such person.

20 (b) MONITORING OF HOME LOANS.—

21 (1) IN GENERAL.—The Secretary, in consulta-  
22 tion with the heads of appropriate agencies, shall de-  
23 velop and implement a plan to monitor—

24 (A) conditions and trends in homeowner-  
25 ship and the mortgage industry, in order to pre-

1 dict trends in foreclosures to better understand  
2 other critical aspects of the mortgage market;  
3 and

4 (B) the effectiveness of public efforts to re-  
5 duce mortgage defaults and foreclosures.

6 (2) REPORT TO CONGRESS.—Not later than 1  
7 year after the development of the plan under para-  
8 graph (1), and each year thereafter, the Secretary  
9 shall submit a report to Congress that—

10 (A) summarizes and describes the findings  
11 of the monitoring required under paragraph  
12 (1); and

13 (B) includes recommendations or proposals  
14 for legislative or administrative action nec-  
15 essary—

16 (i) to increase the authority of the  
17 Secretary to levy penalties against any  
18 mortgagee, or other person or entity, who  
19 fails to comply with the requirements de-  
20 scribed in this section;

21 (ii) to improve coordination between  
22 public and private initiatives to reduce the  
23 overall rate of mortgage defaults and fore-  
24 closures; and

1 (iii) to improve coordination between  
2 initiatives undertaken by Federal, State,  
3 and local governments.

4 (c) NATIONAL DATABASE ON DEFAULTS AND FORE-  
5 CLOSURES.—

6 (1) IN GENERAL.—The Secretary, in consulta-  
7 tion with the heads of appropriate agencies, shall de-  
8 velop recommendations for a national database on  
9 mortgage defaults and foreclosures that—

10 (A) provide information to Federal regu-  
11 latory agencies on—

12 (i) mortgagees that generate home  
13 loans that go into default or foreclosure at  
14 a rate significantly higher than the na-  
15 tional average for such mortgagees;

16 (ii) the factors associated with such  
17 higher rates; and

18 (iii) other factors and indicators that  
19 the Secretary determines are critical to  
20 monitoring the mortgage markets; and

21 (B) provide information to Federal, State,  
22 and local governments on loans, defaults, fore-  
23 closure initiations, foreclosure completions, and  
24 sheriff sales that—

25 (i) is not otherwise readily available;

1                   (ii) would allow for a better under-  
2                   standing of local, regional, and national  
3                   trends in delinquencies, defaults, and fore-  
4                   closures; and

5                   (iii) helps improve public policies that  
6                   reduce defaults and foreclosures.

7                   (2) CONSIDERATIONS.—In developing the rec-  
8                   ommendations under paragraph (1), the Secretary  
9                   shall take into consideration privacy concerns and  
10                  legal issues relating to such concerns, including the  
11                  advisability of establishing rules relating to access to  
12                  information obtained under subsection (d).

13                  (3) REPORT TO CONGRESS ON NATIONAL DATA-  
14                  BASE.—Not later than 12 months after the date of  
15                  enactment of this Act, the Secretary shall submit a  
16                  report to Congress that contains—

17                         (A) the recommendations developed under  
18                         paragraph (1); and

19                         (B) an estimate of the cost of maintaining  
20                         the database described in paragraph (1).

21                  (d) PROVISION OF DATA.—

22                         (1) DATA REPORT REQUIRED.—Not later than  
23                         18 months after the date of enactment of this Act,  
24                         the Secretary, in consultation with the heads of ap-  
25                         propriate agencies, shall issue final rules that re-

1       quire each mortgagee or servicer that originates or  
2       services not fewer than 100 loans in a calendar year  
3       (or any other person that the Secretary determines  
4       can effectively provide the data described in para-  
5       graph (2)) to submit a report to the Secretary not  
6       less frequently than once each quarter that contains  
7       data the Secretary determines are necessary to carry  
8       out this section.

9               (2) CONTENTS OF REPORT.—Each report sub-  
10       mitted under paragraph (1) shall contain data  
11       that—

12               (A) for each loan, use the identification re-  
13       quirements that are established under the  
14       Home Mortgage Disclosure Act (12 U.S.C.  
15       2801 et seq.) for data reporting, including—

16                       (i) the year of origination;

17                       (ii) the agency code of the originator;

18                       (iii) the respondent identification  
19       number of the originator; and

20                       (iv) the identifying number for the  
21       loan;

22               (B) describe the characteristics of each  
23       home loan originated in the preceding 12  
24       months by the mortgagee or servicer (or, in the  
25       case of the first report required to be submitted

1 under this subsection, all active loans originated  
2 by the mortgagee or servicer), including—

3 (i) the loan-to-value ratio at the time  
4 of origination for each mortgage on the  
5 property;

6 (ii) the type of mortgage, such as a  
7 fixed-rate or adjustable-rate mortgage; and

8 (iii) any other loan or loan under-  
9 writing characteristics determined by the  
10 Secretary to be necessary in order to meet  
11 the requirements of paragraph (1) and  
12 that are not already available to the Sec-  
13 retary through a national mortgage data-  
14 base;

15 (C) include the performance outcome of  
16 each home loan originated in the preceding 12  
17 months by the mortgagee or servicer (or, in the  
18 case of the first report required to be submitted  
19 under this subsection, all active loans originated  
20 by the mortgagee or servicer), including—

21 (i) whether such home loan was in de-  
22 linquency at any point in such 12-month  
23 period; and

1                   (ii) whether any foreclosure pro-  
2                   ceeding was initiated on such home loan  
3                   during such 12-month period;

4                   (D) are sufficient to establish for each  
5                   home loan that at any point during the pre-  
6                   ceding 12 months had become 60 or more days  
7                   delinquent with respect to a payment on any  
8                   amount due under the home loan, or for which  
9                   a foreclosure proceeding was initiated, the in-  
10                  terest rate on such home loan at the time of  
11                  such delinquency or foreclosure;

12                  (E) include information relating to fore-  
13                  closures, including—

14                       (i) the date of all foreclosures initi-  
15                       ated by the mortgagee or servicer; and

16                       (ii) the combined loan-to-value ratio of  
17                       all mortgages on a home at the time fore-  
18                       closure proceedings were initiated;

19                  (F) for a home loan that is in foreclosure,  
20                  include information on all actions, including  
21                  loan modifications, taken to resolve the problem  
22                  that led to the initiation of foreclosure pro-  
23                  ceedings and all actions undertaken prior to ini-  
24                  tiation of a foreclosure proceeding to resolve a  
25                  delinquency or default;

1 (G) identify each home loan for which a  
2 foreclosure proceeding was completed in the  
3 preceding 12 months, including—

4 (i) foreclosure proceedings initiated in  
5 such 12-month period; and

6 (ii) the date of the foreclosure comple-  
7 tion; and

8 (H) include any other information that the  
9 Secretary determines is necessary to carry out  
10 this section.

11 (3) COMPLIANCE PLAN AND REPORT.—The  
12 Secretary, in consultation with the heads of appro-  
13 priate agencies, shall—

14 (A) develop a plan to monitor the compli-  
15 ance with the requirements established in this  
16 subsection by mortgagees and servicers; and

17 (B) submit to Congress a report on such  
18 plan.

19 (e) CONSOLIDATED DATABASE.—The Federal Finan-  
20 cial Institutions Examination Council shall create a con-  
21 solidated database that establishes a connection between  
22 the data provided under the Home Mortgage Disclosure  
23 Act (12 U.S.C. 2801 et seq.) and the data provided under  
24 this subsection.

1 (f) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated to carry out this sec-  
3 tion—

4 (1) \$5,000,000 for fiscal year 2010; and

5 (2) such sums as may be necessary for each of  
6 fiscal years 2011 through 2013.

7 **SEC. 6. HOUSING TRUST FUND.**

8 From funds received by the Secretary of the Treasury  
9 from the sale of warrants under title I of the Emergency  
10 Economic Stabilization Act of 2008 (12 U.S.C. 5211 et  
11 seq.), the Secretary of the Treasury shall transfer and  
12 credit \$1,000,000,000 to the Housing Trust Fund estab-  
13 lished under section 1338 of the Federal Housing Enter-  
14 prises Financial Safety and Soundness Act of 1992 (12  
15 U.S.C. 4568) for use in accordance with such section.

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