

AMENDMENT NO. _____ Calendar No. _____

Purpose: To improve the Committee Print.

IN THE SENATE OF THE UNITED STATES—110th Cong., 2d Sess.

(no.) _____

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. DODD (for
himself and Mr. SHELBY)

Viz:

1 On page 46, strike line 24 and all that follows
2 through page 47, line 23 and insert the following:
3 “(a) IN GENERAL.—The Director shall, by regula-
4 tion, establish criteria governing the portfolio holdings of
5 the enterprises, to ensure that the holdings are backed by
6 sufficient capital and consistent with the mission and the
7 safe and sound operations of the enterprises. In estab-
8 lishing such criteria, the Director shall consider the ability
9 of the enterprises to provide a liquid secondary market
10 through securitization activities, the portfolio holdings in
11 relation to the overall mortgage market, and adherence to
12 the standards specified in section 1313B.”.

1 On page 50, strike line 9 and all that follows through
2 page 53, line 4 and insert the following:

3 **SEC. 111. MINIMUM CAPITAL LEVELS.**

4 Section 1362 of the Federal Housing Enterprises Fi-
5 nancial Safety and Soundness Act of 1992 (12 U.S.C.
6 4612) is amended—

7 (1) in subsection (a), by striking “IN GEN-
8 ERAL” and inserting “ENTERPRISES”; and

9 (2) by striking subsection (b) and inserting the
10 following:

11 “(b) FEDERAL HOME LOAN BANKS.—For purposes
12 of this subtitle, the minimum capital level for each Federal
13 Home Loan Bank shall be the minimum capital required
14 to be maintained to comply with the leverage requirement
15 for the bank established under section 6(a)(2) of the Fed-
16 eral Home Loan Bank Act (12 U.S.C. 1426(a)(2)).

17 “(c) ESTABLISHMENT OF REVISED MINIMUM CAP-
18 ITAL LEVELS.—Notwithstanding subsections (a) and (b)
19 and notwithstanding the capital classifications of the regu-
20 lated entities, the Director may, by regulations issued
21 under section 1319G, establish a minimum capital level
22 for the enterprises, for the Federal Home Loan Banks,
23 or for both the enterprises and the banks, that is higher
24 than the level specified in subsection (a) for the enter-
25 prises or the level specified in subsection (b) for the Fed-

1 eral Home Loan Banks, to the extent needed to ensure
2 that the regulated entities operate in a safe and sound
3 manner.

4 “(d) AUTHORITY TO REQUIRE TEMPORARY IN-
5 CREASE.—

6 “(1) IN GENERAL.—Notwithstanding sub-
7 sections (a) and (b) and any minimum capital level
8 established pursuant to subsection (c), the Director
9 may, by order, increase the minimum capital level
10 for a regulated entity on a temporary basis, when
11 the Director determines that such an increase is nec-
12 essary and consistent with the prudential regulation
13 and the safe and sound operations of a regulated en-
14 tity.

15 “(2) RESCISSION.—The Director shall rescind
16 any temporary minimum capital level established
17 under paragraph (1) when the Director determines
18 that the circumstances or facts no longer justify the
19 temporary minimum capital level.

20 “(3) REGULATIONS REQUIRED.—The Director
21 shall issue regulations establishing—

22 “(A) standards for the imposition of a
23 temporary increase in minimum capital under
24 paragraph (1);

1 “(B) the standards and procedures that
2 the Director will use to make the determination
3 referred to in paragraph (2); and

4 “(C) a reasonable time frame for periodic
5 review of any temporary increase in minimum
6 capital for the purpose of making the deter-
7 mination referred to in paragraph (2).

8 “(e) **AUTHORITY TO ESTABLISH ADDITIONAL CAP-**
9 **ITAL AND RESERVE REQUIREMENTS FOR PARTICULAR**
10 **PURPOSES.**—The Director may, at any time by order or
11 regulation, establish such capital or reserve requirements
12 with respect to any product or activity of a regulated enti-
13 ty, as the Director considers appropriate to ensure that
14 the regulated entity operates in a safe and sound manner,
15 with sufficient capital and reserves to support the risks
16 that arise in the operations and management of the regu-
17 lated entity.

18 “(f) **PERIODIC REVIEW.**—The Director shall periodi-
19 cally review the amount of core capital maintained by the
20 enterprises, the amount of capital retained by the Federal
21 Home Loan Banks, and the minimum capital levels estab-
22 lished for such regulated entities pursuant to this sec-
23 tion.”.

1 On page 54, line 10, strike “Association” and insert
2 “Corporation”.

3 On page 74, line 5, strike “150” and insert “132”.

4 On page 74, line 8, insert before the end quotation
5 marks the following: “Any mortgages purchased with
6 original principal obligations exceeding the general limits
7 established in this section shall not be retained on the
8 portfolio of the Association, either in the form of whole
9 mortgages or mortgage-backed securities, except to the ex-
10 tent that such mortgages are held for the purpose of
11 securitization.”.

12 On page 76, line 4, strike “150” and insert “132”.

13 On page 76, line 6, insert before the end quotation
14 marks the following: “Any mortgages purchased with
15 original principal obligations exceeding the general limits
16 established in this section shall not be retained on the
17 portfolio of the corporation, either in the form of whole
18 mortgages or mortgage-backed securities, except to the ex-
19 tent that such mortgages are held for the purpose of
20 securitization.”.

1 On page 76, line 23, strike “under section 184”.

2 On page 106, line 10, after the period insert the fol-
3 lowing: “In determining whether an enterprise has com-
4 plied with such duty, the Director may consider loans se-
5 cured by both real and personal property.”.

6 On page 123, line 22, strike “of”.

7 On page 129, beginning on line 13, strike “affordable
8 housing block grant program” and insert “Housing Trust
9 Fund”.

10 On page 130, beginning on line 1, strike “affordable
11 housing block grant program” and insert “Housing Trust
12 Fund”.

13 On page 131, beginning on line 8, strike “RESOLU-
14 TION FUNDING CORPORATION” and insert “HOPE RE-
15 SERVE FUND”.

16 On page 131, strike lines 10 through 12 and insert
17 the following: “subsection (a), 25 percent shall be depos-
18 ited into a fund established in the Treasury of the United

1 States by the Secretary of the Treasury for such pur-
2 pose.”.

3 On page 131, beginning on line 19, strike “**AFFORD-**
4 **ABLE HOUSING BLOCK GRANT PROGRAM**” and insert
5 “**HOUSING TRUST FUND**”.

6 On page 131, line 24, strike “an affordable housing
7 block grant program” and insert “a Housing Trust
8 Fund”.

9 On page 132, line 1, after “1337” insert “and any
10 amounts as are or may be appropriated, transferred, or
11 credited to such Housing Trust Fund under any other
12 provisions of law”.

13 On page 132, line 1, strike “block grant program”
14 and insert “Housing Trust Fund”.

15 On page 132, strike line 8 and all that follows
16 through page 138, line 12 and insert the following:

17 (b) ALLOCATIONS FOR HOPE BOND PAYMENTS.—

18 (1) IN GENERAL.—Notwithstanding subsection
19 (c), to help address the mortgage crisis, of the
20 amounts allocated pursuant to clauses (i) and (ii)

1 section 1337(a)(1)(B) and clauses (i) and (ii) of sec-
2 tion 1337(a)(2)(B) in excess of amounts described in
3 section 1337(e)—

4 (A) 100 percent of such excess shall be
5 used to reimburse the Treasury for payments
6 made pursuant to section 257(v)(1)(C) of the
7 National Housing Act in calendar year 2009;

8 (B) 50 percent of such excess shall be used
9 to reimburse the Treasury for such payments in
10 calendar year 2010; and

11 (C) 25 percent of such excess shall be used
12 to reimburse the Treasury for such payments in
13 calendar year 2011.

14 (2) EXCESS FUNDS.—At the termination of the
15 HOPE for Homeowners Program established under
16 section 257 of the National Housing Act, if amounts
17 used to reimburse the Treasury under paragraph (1)
18 exceed the total net cost to the Government of the
19 HOPE for Homeowners Program, such amounts
20 shall be used for their original purpose, as described
21 in paragraphs (1)(B) and (2)(B) of section 1337(a).

22 (3) TREASURY FUND.—The amounts referred
23 to in subparagraphs (A) through (C) of paragraph
24 (1) shall be deposited into a fund established in the

1 Treasury of the United States by the Secretary of
2 the Treasury for such purpose.

3 On page 138, lines 13 and 14, strike “AFFORDABLE
4 HOUSING BLOCK GRANTS” and insert “HOUSING TRUST
5 FUND”.

6 On page 138, lines 17 and 18, strike “affordable
7 housing block grant program” and insert “Housing Trust
8 Fund”.

9 On page 142, line 10, strike “of Housing and Urban
10 Development”.

11 On page 142, line 11, strike “block”.

12 On page 142, lines 23 and 24, strike “an affordable
13 housing block grant” and insert “a grant”.

14 On page 144, line 18, strike “AFFORDABLE HOUSING
15 FUND GRANT” and insert “HOUSING TRUST FUND”.

16 On page 145, strike lines 16 through 18 and insert
17 the following: “that 75 percent of such grant amounts may

1 be used for the benefit only of extremely low-income fami-
2 lies and 25 percent for the benefit only of very low-income
3 families; and”.

4 On page 147, strike lines 10 through 13 and insert
5 the following: “completed a program of independent finan-
6 cial education and counseling from an eligible organization
7 that meets the requirements of section 132 of the Federal
8 Housing Finance Regulatory Reform Act of 2008.”.

9 On page 151, line 6, insert “, including home owner-
10 ship counseling,” after “subsection”.

11 On page 151, lines 15 and 18, strike “Secretary”
12 each place that term appears, and insert “Director”.

13 On page 151, line 16, strike “affordable housing
14 block grant” and insert “grant”.

15 On page 151, line 22, strike “block”.

16 On page 156, line 25, strike “block”.

17 On page 157, line 5, strike “block”.

1 On page 160, line 19, strike “block”.

2 On page 161, line 7, strike “block”.

3 On page 162, line 3, strike “block”.

4 On page 162, line 11, strike “block”.

5 On page 173, strike line 20 and all that follows
6 through page 174, line 16.

7 On page 174, strike lines 17 and 18 and insert the
8 following:

9 **SEC. 132. FINANCIAL EDUCATION AND COUNSELING.**

10 (a) GOALS.—Financial education and counseling
11 under this section shall have the goal of—

12 (1) increasing the financial knowledge and deci-
13 sion making capabilities of prospective homebuyers;

14 (2) assisting prospective homebuyers to develop
15 monthly budgets, build personal savings, finance or
16 plan for major purchases, reduce their debt, improve
17 their financial stability, and set and reach their fi-
18 nancial goals;

1 (3) helping prospective homebuyers understand
2 their credit histories and its relationship to their
3 credit score, so as to improve their credit score; and

4 (4) educating prospective homebuyers about the
5 options available to build savings for short- and
6 long-term goals.

7 (b) GRANTS.—

8 (1) IN GENERAL.—The Secretary of the Treas-
9 ury (in this section referred to as the “Secretary”)
10 shall make grants to eligible organizations to enable
11 such organizations to provide a range of financial
12 education and counseling services to prospective
13 homebuyers.

14 (2) SELECTION.—The Secretary shall select eli-
15 gible organizations to receive assistance under this
16 section based on their experience and ability to pro-
17 vide financial education and counseling services that
18 result in documented positive behavioral changes.

19 (c) ELIGIBLE ORGANIZATIONS.—

20 (1) IN GENERAL.—For purposes of this section,
21 the term “eligible organization” means an organiza-
22 tion that is—

23 (A) certified in accordance with section
24 106(e)(1) of the Housing and Urban Develop-
25 ment Act of 1968 (12 U.S.C. 1701x(e)); or

1 (B) certified by the Office of Financial
2 Education of the Department of the Treasury
3 for purposes of this section, in accordance with
4 paragraph (2).

5 (2) OFE CERTIFICATION.—To be certified by
6 the Office of Financial Education for purposes of
7 this section, an eligible organization shall be—

8 (A) a housing counseling agency certified
9 by the Secretary of Housing and Urban Devel-
10 opment under section 106(e) of the Housing
11 and Urban Development Act of 1968;

12 (B) a State, local, or tribal government
13 agency;

14 (C) a community development financial in-
15 stitution (as defined in section 103(5) of the
16 Community Development Banking and Finan-
17 cial Institutions Act of 1994 (12 U.S.C.
18 4702(5)) or a credit union; or

19 (D) any collaborative effort of entities de-
20 scribed in any of subparagraphs (A) through
21 (C).

22 (d) AUTHORITY FOR PILOT PROJECTS.—

23 (1) IN GENERAL.—The Secretary of Treasury
24 shall authorize not more than 5 pilot project grants

1 to eligible organizations under subsection (c) in
2 order to—

3 (A) carry out the services under this sec-
4 tion; and

5 (B) provide such other services that will
6 improve the financial stability and economic
7 condition of low- and moderate-income and low-
8 wealth individuals.

9 (2) GOAL.—The goal of the pilot projects under
10 this subsection is to—

11 (A) identify successful methods resulting in
12 positive behavioral change for financial em-
13 powerment; and

14 (B) establish program models for organiza-
15 tions to carry out effective counseling services.

16 (e) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated to the Secretary such
18 sums as are necessary to carry out this section and for
19 the provision of additional financial educational services.

20 (f) STUDY AND REPORT ON EFFECTIVENESS AND IM-
21 PACT.—

22 (1) IN GENERAL.—The Comptroller General of
23 the United States shall conduct a study on the effec-
24 tiveness and impact of the grant program estab-
25 lished under this section. Not later than 3 years

1 after the date of enactment of this Act, the Comp-
2 troller General shall submit a report on the results
3 of such study to the Committee on Banking, Hous-
4 ing, and Urban Affairs of the Senate and the Com-
5 mittee on Financial Services of the House of Rep-
6 resentatives.

7 (2) CONTENT OF STUDY.—The study required
8 under paragraph (1) shall include an evaluation of
9 the following:

10 (A) The effectiveness of the grant program
11 established under this section in improving the
12 financial situation of homeowners and prospec-
13 tive homebuyers served by the grant program.

14 (B) The impact of the financial education
15 and counseling services provided under this sec-
16 tion that result in positive behavioral changes.

17 (C) The effectiveness and quality of the eli-
18 gible organizations providing financial education
19 and counseling services under the grant pro-
20 gram.

21 (g) REGULATIONS.—The Secretary is authorized to
22 promulgate such regulations as may be necessary to imple-
23 ment and administer the grant program authorized by this
24 section.

1 **SEC. 133. TRANSFER AND RIGHTS OF CERTAIN HUD EM-**
2 **PLOYEES.**

3 On page 181, line 7, insert “pledged as security”
4 after “collateral”.

5 On page 183, line 7, strike “effective date” and insert
6 “date of enactment”.

7 On page 183, line 11, strike “f this section” and in-
8 sert “this section”.

9 On page 214, line 15, insert “the” after “estates of”.

10 On page 225, line 3, strike “with in” and insert
11 “with”.

12 On page 226, line 10, strike “assets”.

13 On page 264, line 25, strike “tortuous” and insert
14 “tortious”.

15 On page 286, strike the brackets on lines 21 and 23.

1 On page 303, line 6, strike “of title XIII”.

2 On pages 304 and 305, strike the brackets in section
3 154.

4 On page 305, line 10, insert “1313B,” before
5 “1376”.

6 On page 328, strike lines 7 and 8 and insert the fol-
7 lowing:

8 (4) in subsection (c)—

9 (A) by striking “elective” each place that
10 term appears and inserting “member”, ex-
11 cept—

12 (i) in the second sentence, the second
13 place that term appears; and

14 (ii) each place that term appears in
15 the fifth sentence; and

16 (B) in the second sentence—

17 (i) by inserting “(A) except as pro-
18 vided in clause (B) of this sentence,” be-
19 fore “if at any time”; and

20 (ii) by inserting before the period at
21 the end the following: “, and (B) clause
22 (A) of this sentence shall not apply to the

1 directorships of any Federal Home Loan
2 Bank resulting from the merger of any 2
3 or more such Banks”;

4 On page 334, line 9, strike “for each of the next”
5 and insert “for purposes of this section for each of the”.

6 On page 337, line 5, strike “14(c), and 17A” and
7 insert “and 14(c)”.

8 On page 337, line 8, strike “15” and insert “15(d)”.

9 On page 338, line 21, insert after “as applicable,”
10 the following: “is a broker or dealer, as those terms are
11 defined in paragraphs (4) and (5), respectively, of section
12 3(a) of the Securities Exchange Act of 1934, but”.

13 On page 339, strike lines 17 through 20 and insert
14 the following:

15 “(1) IN GENERAL.—The Commission shall pro-
16 mulgate such rules and regulations as may be nec-
17 essary or appropriate in the public interest or in fur-
18 therance of this section and the exemptions provided
19 in this section.”.

1 On page 339, line 21, strike “final”.

2 On page 344, beginning on line 5, strike “by the Fed-
3 eral mortgage enterprises and made available to the pub-
4 lic”.

5 On page 346, line 22, insert “Federal Home Loan”
6 after “of the”.

7 On page 347, strike line 5 and insert the following:
8 “and the cooperative structure of the Federal Home Loan
9 Bank System.”.

10 On page 347, line 15, strike “upon the Director’s
11 analysis” and insert “on the analysis of the Director”.

12 On page 347, between lines 18 and 19, insert the fol-
13 lowing:

14 “(e) DEFINITIONS.—As used in this section, the
15 terms ‘member’, ‘Bank’, and ‘Federal Home Loan Bank’
16 have the same meanings as in section 2 of the Federal
17 Home Loan Bank Act (12 U.S.C. 1422).”.

18 On page 349, after line 17, insert the following:

1 **SEC. 217. STUDY ON FEDERAL HOME LOAN BANK AD-**
2 **VANCES.**

3 (a) IN GENERAL.—Not later than 1 year after the
4 date of enactment of this Act, the Director shall conduct
5 a study and submit a report to the Committee on Banking,
6 Housing, and Urban Affairs of the Senate and the Com-
7 mittee on Financial Services of the House or Representa-
8 tives on the extent to which loans and securities used as
9 collateral to support Federal Home Loan Bank advances
10 are consistent with the interagency guidance on nontradi-
11 tional mortgage products.

12 (b) REQUIRED CONTENT.—The study required under
13 subsection (a) shall—

14 (1) consider and recommend any additional reg-
15 ulations, guidance, advisory bulletins, or other ad-
16 ministrative actions necessary to ensure that the
17 Federal Home Loan Banks are not supporting loans
18 with predatory characteristics; and

19 (2) include an opportunity for the public to
20 comment on any recommendations made under para-
21 graph (1).

22 At the appropriate place in title II, insert the fol-
23 lowing:

1 **SEC. 2 ____ . FEDERAL HOME LOAN BANK REFINANCING AU-**
2 **THORITY FOR CERTAIN RESIDENTIAL MORT-**
3 **GAGE LOANS.**

4 Section 10(j)(2) of the Federal Home Loan Bank Act
5 (12 U.S.C. 1430(j)(2)) is amended—

6 (1) in subparagraph (A), by striking “or” at
7 the end;

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

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

11 “(C) during the 2-year period beginning on
12 the date of enactment of this subparagraph, re-
13 finance loans that are secured by a first mort-
14 gage on a primary residence of any family hav-
15 ing an income at or below 80 percent of the me-
16 dian income for the area.”.

17 On page 367, line 25, strike the period and insert
18 the following: “or any other debt, and has not knowingly,
19 or willfully and with actual knowledge, furnished material
20 information known to be false for the purpose of obtaining
21 any eligible mortgage. The mortgagor shall agree in writ-
22 ing that the mortgagor shall be liable to repay to the Fed-
23 eral Housing Administration any direct financial benefit
24 achieved from the reduction of indebtedness on the exist-

1 ing mortgage or mortgages on the residence refinanced
2 under this section derived from misrepresentations made
3 in the certifications and documentation required under
4 this subparagraph, subject to the discretion of the Direc-
5 tor.”

6 On page 373, between lines 3 and 4, insert the fol-
7 lowing:

8 “(9) DOCUMENTATION AND VERIFICATION OF
9 INCOME.—In complying with the FHA underwriting
10 requirements under the HOPE for Homeowners pro-
11 gram under this section, the mortgagee under the
12 mortgage shall document and verify the income of
13 the mortgagor by procuring an Internal Revenue
14 Service transcript of the income tax returns of the
15 mortgagor for the 2 most recent years for which the
16 filing deadline for such years has passed and by any
17 other method, in accordance with procedures and
18 standards that the Board or the Secretary shall es-
19 tablish.

20 “(10) MORTGAGE FRAUD.—The mortgagor
21 shall not have been convicted under any provision of
22 Federal or State law for fraud, including mortgage
23 fraud.

1 “(11) PRIMARY RESIDENCE.—The mortgagor
2 shall provide documentation satisfactory in the de-
3 termination of the Secretary to prove that the resi-
4 dence covered by the mortgage to be insured under
5 this section is occupied by the mortgagor as the pri-
6 mary residence of the mortgagor, and that such resi-
7 dence is the only residence in which the mortgagor
8 has any present ownership interest.”.

9 On page 374, line 11, strike “The Board” and insert
10 the following: “(1) IN GENERAL.—The Board”.

11 On page 374, between lines 16 and 17, insert the fol-
12 lowing:

13 “(2) EXCLUSION FOR VIOLATIONS.—The Board
14 shall prohibit the Secretary from paying insurance
15 benefits to a mortgagee who violates the representa-
16 tions and warranties, as established under para-
17 graph (1), or in any case in which a mortgagor fails
18 to make the first payment on a refinanced eligible
19 mortgage.

20 “(3) OTHER AUTHORITY.—The Board may es-
21 tablish such other standards or policies as necessary
22 to protect against adverse selection, including requir-
23 ing loans identified by the Secretary as higher risk

1 loans to demonstrate payment performance for a
2 reasonable period of time prior to being insured
3 under the program.”.

4 On page 381, strike lines 1 through 11 and insert
5 the following:

6 “The Secretary may not enter into any new
7 commitment to insure any refinanced eligible mort-
8 gage, or newly insure any refinanced eligible mort-
9 gage pursuant to this section before October 1, 2008
10 or after September 30, 2011.”.

11 On page 384, strike lines 14 through 17 and insert
12 the following:

13 “(v) HOPE BONDS.—

14 “(1) ISSUANCE AND REPAYMENT OF BONDS.—
15 Notwithstanding section 504(b) of the Federal Cred-
16 it Reform Act of 1990 (2 U.S.C. 661d(b)), the Sec-
17 retary of the Treasury shall—

18 “(A) subject to such terms and conditions
19 as the Secretary of the Treasury deems nec-
20 essary, issue Federal credit instruments, to be
21 known as ‘HOPE Bonds’, that are callable at
22 the discretion of the Secretary of the Treasury

1 and do not, in the aggregate, exceed the
2 amount specified in subsection (m);

3 “(B) provide the subsidy amounts nec-
4 essary for loan guarantees under the HOPE for
5 Homeowners Program, not to exceed the
6 amount specified in subsection (m), in accord-
7 ance with the provisions of the Federal Credit
8 Reform Act of 1990 (2 U.S.C. 661 et seq.), ex-
9 cept as provided in this paragraph; and

10 “(C) use the proceeds from HOPE Bonds
11 only to pay for the net costs to the Federal
12 Government of the HOPE for Homeowners
13 Program, including administrative costs.

14 “(2) REIMBURSEMENTS TO TREASURY.—Funds
15 received pursuant to section 1338(b) of the Federal
16 Housing Enterprises Regulatory Reform Act of
17 1992 shall be used to reimburse the Secretary of the
18 Treasury for amounts borrowed under paragraph
19 (1).

20 “(3) USE OF RESERVE FUND.—If the net cost
21 to the Federal Government for the HOPE for
22 Homeowners Program exceeds the amount of funds
23 received under paragraph (2), remaining debts of
24 the HOPE for Homeowners Program shall be paid
25 from amounts deposited into the fund established by

1 the Secretary under section 1337(e) of the Federal
2 Housing Enterprises Financial Safety and Sound-
3 ness Act of 1992, remaining amounts in such fund
4 to be used to reduce the National debt.

5 “(4) REDUCTION OF NATIONAL DEBT.—
6 Amounts collected under the HOPE for Home-
7 owners Program in accordance with subsections (i)
8 and (k) in excess of the net cost to the Federal Gov-
9 ernment for such Program shall be used to reduce
10 the National debt.”.

11 On page 386, between lines 10 and 11, insert the fol-
12 lowing:

13 **SEC. 404. REVISED STANDARDS FOR FHA APPRAISERS.**

14 Section 202(e) of the National Housing Act (12
15 U.S.C. 1708(e)) is amended by adding at the end the fol-
16 lowing:

17 “(5) ADDITIONAL APPRAISER STANDARDS.—
18 Beginning on the date of enactment of the Federal
19 Housing Finance Regulatory Reform Act of 2008,
20 any appraiser chosen or approved to conduct ap-
21 praisals for mortgages under this title shall—

22 “(A) be certified—

23 “(i) by the State in which the prop-
24 erty to be appraised is located; or

1 “(ii) by a nationally recognized profes-
2 sional appraisal organization; and
3 “(B) have demonstrated verifiable edu-
4 cation in the appraisal requirements established
5 by the Federal Housing Administration under
6 this subsection.”.

7 On page 386, line 11, strike “**STUDY**” and insert
8 “**STUDIES**”.

9 At the end of title V, add the following:

10 **SEC. 502. STUDY AND REPORT ON DEFAULT RISK EVALUA-**
11 **TION.**

12 (a) **STUDY.**—The Director shall conduct a study of
13 ways to improve the overall default risk evaluation used
14 with respect to residential mortgage loans. Particular at-
15 tention shall be paid to the development and utilization
16 of processes and technologies that provide a means to
17 standardize the measurement of risk.

18 (b) **REPORT.**—The Director shall submit a report on
19 the study conducted under this section to the Committee
20 on Banking, Housing, and Urban Affairs of the Senate
21 and the Committee on Financial Services of the House of
22 Representatives, not later than 1 year after the date of
23 enactment of this Act.

1 At the appropriate place, insert the following:

2 **SEC. ____ . OFFICE OF THE OMBUDSMAN.**

3 Section 1317 of the Federal Housing Enterprises Fi-
4 nancial Safety and Soundness Act of 1992 (12 U.S.C.
5 4517) is amended by adding at the end the following:

6 “(i) OMBUDSMAN.—The Director shall establish, by
7 regulation, an Office of the Ombudsman within the Agen-
8 cy, which shall be responsible for considering complaints
9 and appeals, from any regulated entity and any person
10 that has a business relationship with a regulated entity,
11 regarding any matter relating to the regulation and super-
12 vision of such regulated entity by the Agency. The regula-
13 tion issued by the Director under this subsection shall
14 specify the authority and duties of the Office of the Om-
15 budsman.”.

16 **SEC. ____ . CONVERSION OF HUD CONTRACTS.**

17 (a) IN GENERAL.—Notwithstanding any other provi-
18 sion of law, the Secretary may, at the request of an owner
19 of a multifamily housing project that exceeds 5,000 units
20 to which a contract for project-based rental assistance
21 under section 8 of the United States Housing Act of 1937
22 (“Act”) (42 U.S.C. 1437f) and a Rental Assistance Pay-
23 ment contract is subject, convert such contracts to a con-
24 tract for project-based rental assistance under section 8
25 of the Act.

1 (b) INITIAL RENEWAL.—

2 (1) At the request of an owner under subsection
3 (a) made no later than 90 days prior to a conver-
4 sion, the Secretary may, to the extent sufficient
5 amounts are made available in appropriation Acts
6 and notwithstanding any other law, treat the con-
7 templated resulting contract as if such contract were
8 eligible for initial renewal under section 524(a) of
9 the MultiFamily Assisted Housing Reform and Af-
10 fordability Act of 1997 (42 U.S.C. 1437f note)
11 (“MAHRA”) (42 U.S.C. 1437f note).

12 (2) A request by an owner pursuant to para-
13 graph (1) shall be upon such terms and conditions
14 as the Secretary may require.

15 (c) RESULTING CONTRACT.—The resulting contract
16 shall—

17 (1) be subject to section 524(a) of MAHRA (42
18 U.S.C. 1437f note);

19 (2) be considered for all purposes a contract
20 that has been renewed under section 524(a) of
21 MAHRA (42 U.S.C. 1437f note) for a term not to
22 exceed twenty-years;

23 (3) be subsequently renewable at the request of
24 an owner, under any renewal option for which the

1 project is eligible under MAHRA (42 U.S.C. 1437f
2 note);

3 (4) contain provisions limiting distributions, as
4 the Secretary determines appropriate, not to exceed
5 10 percent of the initial investment of the owner;

6 (5) be subject to the availability of sufficient
7 amounts in appropriation Acts; and

8 (6) be subject to such other terms and condi-
9 tions as the Secretary considers appropriate.

10 (d) INCOME TARGETING.—To the extent that the
11 project serves low-income families as defined in section
12 3(b)(2) of the Act (42 U.S.C. 1437a(b)(2)) it shall be con-
13 sidered to be in compliance with all income targeting re-
14 quirements under the Act (42 U.S.C. 1437 et seq).

15 (e) TENANT ELIGIBILITY.—Notwithstanding any
16 other provision of law, each family residing in an assisted
17 dwelling unit on the date of enactment of this section, sub-
18 ject to the resulting contract under subsection (a), shall
19 be considered to meet the applicable requirements for in-
20 come eligibility and occupancy.

21 (f) DEFINITIONS.—As used in this section—

22 (1) the term “Secretary” means the Secretary
23 of Housing and Urban Development;

24 (2) the term “conversion” means the action
25 under which a contract for project-based rental as-

1 sistance under section 8 of the Act and a Rental As-
2 sistance Payment contract become a contract for
3 project-based rental assistance under section 8 of
4 the Act (42 U.S.C. 1437f) pursuant to subsection
5 (a);

6 (3) the term “resulting contract” means the
7 new contract after a conversion pursuant to sub-
8 section (a); and

9 (4) the term “assisted dwelling unit” means a
10 dwelling unit in a multifamily housing project that
11 exceeds 5,000 units that, on the date of enactment
12 of this section is subject to a contract for project-
13 based rental assistance under section 8 of the Act
14 (42 U.S.C. 1437f) or a Rental Assistance Payment
15 contract.

16 At the end, add the following:

17 **TITLE VI—S.A.F.E. MORTGAGE**
18 **LICENSING ACT**

19 **SEC. 601. SHORT TITLE.**

20 This title may be cited as the “Secure and Fair En-
21 forcement for Mortgage Licensing Act of 2008” or
22 “S.A.F.E. Mortgage Licensing Act of 2008”.

1 **SEC. 602. PURPOSES AND METHODS FOR ESTABLISHING A**
2 **MORTGAGE LICENSING SYSTEM AND REG-**
3 **ISTRY.**

4 In order to increase uniformity, reduce regulatory
5 burden, enhance consumer protection, and reduce fraud,
6 the States, through the Conference of State Bank Super-
7 visors and the American Association of Residential Mort-
8 gage Regulators, are hereby encouraged to establish a Na-
9 tionwide Mortgage Licensing System and Registry for the
10 residential mortgage industry that accomplishes all of the
11 following objectives:

12 (1) Provides uniform license applications and
13 reporting requirements for State-licensed loan origi-
14 nators.

15 (2) Provides a comprehensive licensing and su-
16 pervisory database.

17 (3) Aggregates and improves the flow of infor-
18 mation to and between regulators.

19 (4) Provides increased accountability and track-
20 ing of loan originators.

21 (5) Streamlines the licensing process and re-
22 duces the regulatory burden.

23 (6) Enhances consumer protections and sup-
24 ports anti-fraud measures.

25 (7) Provides consumers with easily accessible
26 information, offered at no charge, utilizing electronic

1 media, including the Internet, regarding the employ-
2 ment history of, and publicly adjudicated discipli-
3 nary and enforcement actions against, loan origina-
4 tors.

5 (8) Establishes a means by which residential
6 mortgage loan originators would, to the greatest ex-
7 tent possible, be required to act in the best interests
8 of the consumer.

9 (9) Facilitates responsible behavior in the
10 subprime mortgage market place and provides com-
11 prehensive training and examination requirements
12 related to subprime mortgage lending.

13 (10) Facilitates the collection and disbursement
14 of consumer complaints on behalf of State and Fed-
15 eral mortgage regulators.

16 **SEC. 603. DEFINITIONS.**

17 For purposes of this title, the following definitions
18 shall apply:

19 (1) **FEDERAL BANKING AGENCIES.**—The term
20 “Federal banking agencies” means the Board of
21 Governors of the Federal Reserve System, the
22 Comptroller of the Currency, the Director of the Of-
23 fice of Thrift Supervision, the National Credit Union
24 Administration, and the Federal Deposit Insurance
25 Corporation.

1 (2) DEPOSITORY INSTITUTION.—The term “de-
2 pository institution” has the same meaning as in
3 section 3 of the Federal Deposit Insurance Act, and
4 includes any credit union.

5 (3) LOAN ORIGINATOR.—

6 (A) IN GENERAL.—The term “loan origi-
7 nator”—

8 (i) means an individual who—

9 (I) takes a residential mortgage
10 loan application; and

11 (II) offers or negotiates terms of
12 a residential mortgage loan for com-
13 pensation or gain;

14 (ii) does not include any individual
15 who is not otherwise described in clause (i)
16 and who performs purely administrative or
17 clerical tasks on behalf of a person who is
18 described in any such clause; and

19 (iii) does not include a person or enti-
20 ty that only performs real estate brokerage
21 activities and is licensed or registered in
22 accordance with applicable State law, un-
23 less the person or entity is compensated by
24 a lender, a mortgage broker, or other loan

1 originator or by any agent of such lender,
2 mortgage broker, or other loan originator.

3 (B) OTHER DEFINITIONS RELATING TO
4 LOAN ORIGINATOR.—For purposes of this sub-
5 section, an individual “assists a consumer in
6 obtaining or applying to obtain a residential
7 mortgage loan” by, among other things, advis-
8 ing on loan terms (including rates, fees, other
9 costs), preparing loan packages, or collecting in-
10 formation on behalf of the consumer with re-
11 gard to a residential mortgage loan.

12 (C) ADMINISTRATIVE OR CLERICAL
13 TASKS.—The term “administrative or clerical
14 tasks” means the receipt, collection, and dis-
15 tribution of information common for the proc-
16 essing or underwriting of a loan in the mort-
17 gage industry and communication with a con-
18 sumer to obtain information necessary for the
19 processing or underwriting of a residential
20 mortgage loan.

21 (D) REAL ESTATE BROKERAGE ACTIVITY
22 DEFINED.—The term “real estate brokerage ac-
23 tivity” means any activity that involves offering
24 or providing real estate brokerage services to
25 the public, including—

1 (i) acting as a real estate agent or
2 real estate broker for a buyer, seller, les-
3 sor, or lessee of real property;

4 (ii) bringing together parties inter-
5 ested in the sale, purchase, lease, rental, or
6 exchange of real property;

7 (iii) negotiating, on behalf of any
8 party, any portion of a contract relating to
9 the sale, purchase, lease, rental, or ex-
10 change of real property (other than in con-
11 nection with providing financing with re-
12 spect to any such transaction);

13 (iv) engaging in any activity for which
14 a person engaged in the activity is required
15 to be registered or licensed as a real estate
16 agent or real estate broker under any ap-
17 plicable law; and

18 (v) offering to engage in any activity,
19 or act in any capacity, described in clause
20 (i), (ii), (iii), or (iv).

21 (4) LOAN PROCESSOR OR UNDERWRITER.—

22 (A) IN GENERAL.—The term “loan proc-
23 essor or underwriter” means an individual who
24 performs clerical or support duties at the direc-

1 tion of and subject to the supervision and in-
2 struction of—

3 (i) a State-licensed loan originator; or

4 (ii) a registered loan originator.

5 (B) CLERICAL OR SUPPORT DUTIES.—For
6 purposes of subparagraph (A), the term “cler-
7 ical or support duties” may include—

8 (i) the receipt, collection, distribution,
9 and analysis of information common for
10 the processing or underwriting of a resi-
11 dential mortgage loan; and

12 (ii) communicating with a consumer
13 to obtain the information necessary for the
14 processing or underwriting of a loan, to the
15 extent that such communication does not
16 include offering or negotiating loan rates
17 or terms, or counseling consumers about
18 residential mortgage loan rates or terms.

19 (5) NATIONWIDE MORTGAGE LICENSING SYS-
20 TEM AND REGISTRY.—The term “Nationwide Mort-
21 gage Licensing System and Registry” means a mort-
22 gage licensing system developed and maintained by
23 the Conference of State Bank Supervisors and the
24 American Association of Residential Mortgage Regu-
25 lators for the State licensing and registration of

1 State-licensed loan originators and the registration
2 of registered loan originators or any system estab-
3 lished by the Secretary under section 609.

4 (6) NONTRADITIONAL MORTGAGE PRODUCT.—
5 The term “nontraditional mortgage product” means
6 any mortgage product other than a 30-year fixed
7 rate mortgage.

8 (7) REGISTERED LOAN ORIGINATOR.—The term
9 “registered loan originator” means any individual
10 who—

11 (A) meets the definition of loan originator
12 and is an employee of a depository institution
13 or a wholly-owned subsidiary of a depository in-
14 stitution; and

15 (B) is registered with, and maintains a
16 unique identifier through, the Nationwide Mort-
17 gage Licensing System and Registry.

18 (8) RESIDENTIAL MORTGAGE LOAN.—The term
19 “residential mortgage loan” means any loan pri-
20 marily for personal, family, or household use that is
21 secured by a mortgage, deed of trust, or other equiv-
22 alent consensual security interest on a dwelling (as
23 defined in section 103(v) of the Truth in Lending
24 Act) or residential real estate upon which is con-

1 structured or intended to be constructed a dwelling (as
2 so defined).

3 (9) SECRETARY.—The term “Secretary” means
4 the Secretary of Housing and Urban Development.

5 (10) STATE-LICENSED LOAN ORIGINATOR.—
6 The term “State-licensed loan originator” means
7 any individual who—

8 (A) is a loan originator;

9 (B) is not an employee of a depository in-
10 stitution or any wholly-owned subsidiary of a
11 depository institution; and

12 (C) is licensed by a State or by the Sec-
13 retary under section 608 and registered as a
14 loan originator with, and maintains a unique
15 identifier through, the Nationwide Mortgage Li-
16 censing System and Registry.

17 (11) UNIQUE IDENTIFIER.—

18 (A) IN GENERAL.—The term “unique iden-
19 tifier” means a number or other identifier
20 that—

21 (i) permanently identifies a loan origi-
22 nator;

23 (ii) is assigned by protocols estab-
24 lished by the Nationwide Mortgage Licens-
25 ing System and Registry and the Federal

1 banking agencies to facilitate electronic
2 tracking of loan originators and uniform
3 identification of, and public access to, the
4 employment history of and the publicly ad-
5 judged disciplinary and enforcement ac-
6 tions against loan originators; and

7 (iii) shall not be used for purposes
8 other than those set forth under this title.

9 (B) RESPONSIBILITY OF STATES.—To the
10 greatest extent possible and to accomplish the
11 purpose of this title, States shall use unique
12 identifiers in lieu of social security numbers.

13 **SEC. 604. LICENSE OR REGISTRATION REQUIRED.**

14 (a) IN GENERAL.—An individual may not engage in
15 the business of a loan originator without first—

16 (1) obtaining, and maintaining annually—

17 (A) a registration as a registered loan
18 originator; or

19 (B) a license and registration as a State-
20 licensed loan originator; and

21 (2) obtaining a unique identifier.

22 (b) LOAN PROCESSORS AND UNDERWRITERS.—

23 (1) SUPERVISED LOAN PROCESSORS AND UN-
24 DERWRITERS.—A loan processor or underwriter who
25 does not represent to the public, through advertising

1 or other means of communicating or providing infor-
2 mation (including the use of business cards, sta-
3 tionery, brochures, signs, rate lists, or other pro-
4 motional items), that such individual can or will per-
5 form any of the activities of a loan originator shall
6 not be required to be a State-licensed loan originator
7 or a registered loan originator.

8 (2) INDEPENDENT CONTRACTORS.—An inde-
9 pendent contractor may not engage in residential
10 mortgage loan origination activities as a loan proc-
11 essor or underwriter unless such independent con-
12 tractor is a State-licensed loan originator or a reg-
13 istered loan originator.

14 **SEC. 605. STATE LICENSE AND REGISTRATION APPLICA-**
15 **TION AND ISSUANCE.**

16 (a) BACKGROUND CHECKS.—In connection with an
17 application to any State for licensing and registration as
18 a State-licensed loan originator, the applicant shall, at a
19 minimum, furnish to the Nationwide Mortgage Licensing
20 System and Registry information concerning the appli-
21 cant's identity, including—

22 (1) fingerprints for submission to the Federal
23 Bureau of Investigation, and any governmental
24 agency or entity authorized to receive such informa-

1 tion for a State and national criminal history back-
2 ground check; and

3 (2) personal history and experience, including
4 authorization for the System to obtain—

5 (A) an independent credit report obtained
6 from a consumer reporting agency described in
7 section 603(p) of the Fair Credit Reporting
8 Act; and

9 (B) information related to any administra-
10 tive, civil or criminal findings by any govern-
11 mental jurisdiction.

12 (b) ISSUANCE OF LICENSE.—The minimum stand-
13 ards for licensing and registration as a State-licensed loan
14 originator shall include the following:

15 (1) The applicant has never had a loan origi-
16 nator license revoked in any governmental jurisdic-
17 tion.

18 (2) The applicant has never been convicted of,
19 or pled guilty or nolo contendere to, a felony in a do-
20 mestic, foreign, or military court.

21 (3) The applicant has demonstrated financial
22 responsibility, character, and general fitness such as
23 to command the confidence of the community and to
24 warrant a determination that the loan originator will

1 operate honestly, fairly, and efficiently within the
2 purposes of this title.

3 (4) The applicant has completed the pre-licens-
4 ing education requirement described in subsection
5 (c).

6 (5) The applicant has passed a written test that
7 meets the test requirement described in subsection
8 (d).

9 (6) The applicant has met either a net worth or
10 surety bond requirement, as required by the State
11 pursuant to section 608(d)(6).

12 (c) PRE-LICENSING EDUCATION OF LOAN ORIGINA-
13 TORS.—

14 (1) MINIMUM EDUCATIONAL REQUIREMENTS.—

15 In order to meet the pre-licensing education require-
16 ment referred to in subsection (b)(4), a person shall
17 complete at least 20 hours of education approved in
18 accordance with paragraph (2), which shall include
19 at least—

20 (A) 3 hours of Federal law and regula-
21 tions;

22 (B) 3 hours of ethics, which shall include
23 instruction on fraud, consumer protection, and
24 fair lending issues; and

1 (C) 2 hours of training related to lending
2 standards for the nontraditional mortgage prod-
3 uct marketplace.

4 (2) APPROVED EDUCATIONAL COURSES.—For
5 purposes of paragraph (1), pre-licensing education
6 courses shall be reviewed, and approved by the Na-
7 tionwide Mortgage Licensing System and Registry.

8 (3) LIMITATION AND STANDARDS.—

9 (A) LIMITATION.—To maintain the inde-
10 pendence of the approval process, the Nation-
11 wide Mortgage Licensing System and Registry
12 shall not directly or indirectly offer pre-licen-
13 sure educational courses for loan originators.

14 (B) STANDARDS.—In approving courses
15 under this section, the Nationwide Mortgage Li-
16 censing System and Registry shall apply rea-
17 sonable standards in the review and approval of
18 courses.

19 (d) TESTING OF LOAN ORIGINATORS.—

20 (1) IN GENERAL.—In order to meet the written
21 test requirement referred to in subsection (b)(5), an
22 individual shall pass, in accordance with the stand-
23 ards established under this subsection, a qualified
24 written test developed by the Nationwide Mortgage

1 Licensing System and Registry and administered by
2 an approved test provider.

3 (2) QUALIFIED TEST.—A written test shall not
4 be treated as a qualified written test for purposes of
5 paragraph (1) unless the test adequately measures
6 the applicant’s knowledge and comprehension in ap-
7 propriate subject areas, including—

8 (A) ethics;

9 (B) Federal law and regulation pertaining
10 to mortgage origination;

11 (C) State law and regulation pertaining to
12 mortgage origination;

13 (D) Federal and State law and regulation,
14 including instruction on fraud, consumer pro-
15 tection, the nontraditional mortgage market-
16 place, and fair lending issues.

17 (3) MINIMUM COMPETENCE.—

18 (A) PASSING SCORE.—An individual shall
19 not be considered to have passed a qualified
20 written test unless the individual achieves a test
21 score of not less than 75 percent correct an-
22 swers to questions.

23 (B) INITIAL RETESTS.—An individual may
24 retake a test 3 consecutive times with each con-

1 secutive taking occurring at least 30 days after
2 the preceding test.

3 (C) SUBSEQUENT RETESTS.—After failing
4 3 consecutive tests, an individual shall wait at
5 least 6 months before taking the test again.

6 (D) RETEST AFTER LAPSE OF LICENSE.—
7 A State-licensed loan originator who fails to
8 maintain a valid license for a period of 5 years
9 or longer shall retake the test, not taking into
10 account any time during which such individual
11 is a registered loan originator.

12 (e) MORTGAGE CALL REPORTS.—Each mortgage li-
13 censee shall submit to the Nationwide Mortgage Licensing
14 System and Registry reports of condition, which shall be
15 in such form and shall contain such information as the
16 Nationwide Mortgage Licensing System and Registry may
17 require.

18 **SEC. 606. STANDARDS FOR STATE LICENSE RENEWAL.**

19 (a) IN GENERAL.—The minimum standards for li-
20 cense renewal for State-licensed loan originators shall in-
21 clude the following:

22 (1) The loan originator continues to meet the
23 minimum standards for license issuance.

1 (2) The loan originator has satisfied the annual
2 continuing education requirements described in sub-
3 section (b).

4 (b) CONTINUING EDUCATION FOR STATE-LICENSED
5 LOAN ORIGINATORS.—

6 (1) IN GENERAL.—In order to meet the annual
7 continuing education requirements referred to in
8 subsection (a)(2), a State-licensed loan originator
9 shall complete at least 8 hours of education ap-
10 proved in accordance with paragraph (2), which
11 shall include at least—

12 (A) 3 hours of Federal law and regula-
13 tions;

14 (B) 2 hours of ethics, which shall include
15 instruction on fraud, consumer protection, and
16 fair lending issues; and

17 (C) 2 hours of training related to lending
18 standards for the nontraditional mortgage prod-
19 uct marketplace.

20 (2) APPROVED EDUCATIONAL COURSES.—For
21 purposes of paragraph (1), continuing education
22 courses shall be reviewed, and approved by the Na-
23 tionwide Mortgage Licensing System and Registry.

24 (3) CALCULATION OF CONTINUING EDUCATION
25 CREDITS.—A State-licensed loan originator—

1 (A) may only receive credit for a con-
2 tinuing education course in the year in which
3 the course is taken; and

4 (B) may not take the same approved
5 course in the same or successive years to meet
6 the annual requirements for continuing edu-
7 cation.

8 (4) INSTRUCTOR CREDIT.—A State-licensed
9 loan originator who is approved as an instructor of
10 an approved continuing education course may receive
11 credit for the originator’s own annual continuing
12 education requirement at the rate of 2 hours credit
13 for every 1 hour taught.

14 (5) LIMITATION AND STANDARDS.—

15 (A) LIMITATION.—To maintain the inde-
16 pendence of the approval process, the Nation-
17 wide Mortgage Licensing System and Registry
18 shall not directly or indirectly offer any con-
19 tinuing education courses for loan originators.

20 (B) STANDARDS.—In approving courses
21 under this section, the Nationwide Mortgage Li-
22 censing System and Registry shall apply rea-
23 sonable standards in the review and approval of
24 courses.

1 **SEC. 607. SYSTEM OF REGISTRATION ADMINISTRATION BY**
2 **FEDERAL BANKING AGENCIES.**

3 (a) DEVELOPMENT.—

4 (1) IN GENERAL.—The Federal banking agen-
5 cies shall jointly, through the Federal Financial In-
6 stitutions Examination Council, develop and main-
7 tain a system for registering employees of depository
8 institutions or subsidiaries of depository institutions
9 as registered loan originators with the Nationwide
10 Mortgage Licensing System and Registry. The sys-
11 tem shall be implemented before the end of the 1-
12 year period beginning on the date of the enactment
13 of this title.

14 (2) REGISTRATION REQUIREMENTS.—In con-
15 nection with the registration of any loan originator
16 who is an employee of a depository institution or a
17 wholly-owned subsidiary of a depository institution
18 with the Nationwide Mortgage Licensing System and
19 Registry, the appropriate Federal banking agency
20 shall, at a minimum, furnish or cause to be fur-
21 nished to the Nationwide Mortgage Licensing Sys-
22 tem and Registry information concerning the
23 employees's identity, including—

24 (A) fingerprints for submission to the Fed-
25 eral Bureau of Investigation, and any govern-
26 mental agency or entity authorized to receive

1 such information for a State and national
2 criminal history background check; and

3 (B) personal history and experience, in-
4 cluding authorization for the Nationwide Mort-
5 gage Licensing System and Registry to obtain
6 information related to any administrative, civil
7 or criminal findings by any governmental juris-
8 diction.

9 (b) COORDINATION.—

10 (1) UNIQUE IDENTIFIER.—The Federal bank-
11 ing agencies, through the Financial Institutions Ex-
12 amination Council, shall coordinate with the Nation-
13 wide Mortgage Licensing System and Registry to es-
14 tablish protocols for assigning a unique identifier to
15 each registered loan originator that will facilitate
16 electronic tracking and uniform identification of, and
17 public access to, the employment history of and pub-
18 licly adjudicated disciplinary and enforcement ac-
19 tions against loan originators.

20 (2) NATIONWIDE MORTGAGE LICENSING SYS-
21 TEM AND REGISTRY DEVELOPMENT.—To facilitate
22 the transfer of information required by subsection
23 (a)(2), the Nationwide Mortgage Licensing System
24 and Registry shall coordinate with the Federal bank-
25 ing agencies, through the Financial Institutions Ex-

1 amination Council, concerning the development and
2 operation, by such System and Registry, of the reg-
3 istration functionality and data requirements for
4 loan originators.

5 (c) CONSIDERATION OF FACTORS AND PROCE-
6 DURES.—In establishing the registration procedures under
7 subsection (a) and the protocols for assigning a unique
8 identifier to a registered loan originator, the Federal bank-
9 ing agencies shall make such de minimis exceptions as
10 may be appropriate to paragraphs (1)(A) and (2) of sec-
11 tion 604(a), shall make reasonable efforts to utilize exist-
12 ing information to minimize the burden of registering loan
13 originators, and shall consider methods for automating the
14 process to the greatest extent practicable consistent with
15 the purposes of this title.

16 **SEC. 608. SECRETARY OF HOUSING AND URBAN DEVELOP-**
17 **MENT BACKUP AUTHORITY TO ESTABLISH A**
18 **LOAN ORIGINATOR LICENSING SYSTEM.**

19 (a) BACK UP LICENSING SYSTEM.—If, by the end of
20 the 1-year period, or the 2-year period in the case of a
21 State whose legislature meets only biennially, beginning
22 on the date of the enactment of this title or at any time
23 thereafter, the Secretary determines that a State does not
24 have in place by law or regulation a system for licensing
25 and registering loan originators that meets the require-

1 ments of sections 605 and 606 and subsection (d) of this
2 section, or does not participate in the Nationwide Mort-
3 gage Licensing System and Registry, the Secretary shall
4 provide for the establishment and maintenance of a system
5 for the licensing and registration by the Secretary of loan
6 originators operating in such State as State-licensed loan
7 originators.

8 (b) LICENSING AND REGISTRATION REQUIRE-
9 MENTS.—The system established by the Secretary under
10 subsection (a) for any State shall meet the requirements
11 of sections 605 and 606 for State-licensed loan origina-
12 tors.

13 (c) UNIQUE IDENTIFIER.—The Secretary shall co-
14 ordinate with the Nationwide Mortgage Licensing System
15 and Registry to establish protocols for assigning a unique
16 identifier to each loan originator licensed by the Secretary
17 as a State-licensed loan originator that will facilitate elec-
18 tronic tracking and uniform identification of, and public
19 access to, the employment history of and the publicly adju-
20 dicated disciplinary and enforcement actions against loan
21 originators.

22 (d) STATE LICENSING LAW REQUIREMENTS.—For
23 purposes of this section, the law in effect in a State meets
24 the requirements of this subsection if the Secretary deter-

1 mines the law satisfies the following minimum require-
2 ments:

3 (1) A State loan originator supervisory author-
4 ity is maintained to provide effective supervision and
5 enforcement of such law, including the suspension,
6 termination, or nonrenewal of a license for a viola-
7 tion of State or Federal law.

8 (2) The State loan originator supervisory au-
9 thority ensures that all State-licensed loan origina-
10 tors operating in the State are registered with Na-
11 tionwide Mortgage Licensing System and Registry.

12 (3) The State loan originator supervisory au-
13 thority is required to regularly report violations of
14 such law, as well as enforcement actions and other
15 relevant information, to the Nationwide Mortgage
16 Licensing System and Registry.

17 (4) The State loan originator supervisory au-
18 thority has a process in place for challenging infor-
19 mation contained in the Nationwide Mortgage Li-
20 censing System and Registry.

21 (5) The State loan originator supervisory au-
22 thority has established a mechanism to assess civil
23 money penalties for individuals acting as mortgage
24 originators in their State without a valid license or
25 registration.

1 (6) The State loan originator supervisory au-
2 thority has established minimum net worth or surety
3 bonding requirements that reflect the dollar amount
4 of loans originated by a residential mortgage loan
5 originator.

6 (e) TEMPORARY EXTENSION OF PERIOD.—The Sec-
7 retary may extend, by not more than 24 months, the 1-
8 year or 2-year period, as the case may be, referred to in
9 subsection (a) for the licensing of loan originators in any
10 State under a State licensing law that meets the require-
11 ments of sections 605 and 606 and subsection (d) if the
12 Secretary determines that such State is making a good
13 faith effort to establish a State licensing law that meets
14 such requirements, license mortgage originators under
15 such law, and register such originators with the Nation-
16 wide Mortgage Licensing System and Registry.

17 (f) CONTRACTING AUTHORITY.—The Secretary may
18 enter into contracts with qualified independent parties, as
19 necessary to efficiently fulfill the obligations of the Sec-
20 retary under this section.

21 **SEC. 609. BACKUP AUTHORITY TO ESTABLISH A NATION-**
22 **WIDE MORTGAGE LICENSING AND REGISTRY**
23 **SYSTEM.**

24 If at any time the Secretary determines that the Na-
25 tionwide Mortgage Licensing System and Registry is fail-

1 ing to meet the requirements and purposes of this title
2 for a comprehensive licensing, supervisory, and tracking
3 system for loan originators, the Secretary shall establish
4 and maintain such a system to carry out the purposes of
5 this title and the effective registration and regulation of
6 loan originators.

7 **SEC. 610. FEES.**

8 The Federal banking agencies, the Secretary, and the
9 Nationwide Mortgage Licensing System and Registry may
10 charge reasonable fees to cover the costs of maintaining
11 and providing access to information from the Nationwide
12 Mortgage Licensing System and Registry, to the extent
13 that such fees are not charged to consumers for access
14 to such system and registry.

15 **SEC. 611. BACKGROUND CHECKS OF LOAN ORIGINATORS.**

16 (a) ACCESS TO RECORDS.—Notwithstanding any
17 other provision of law, in providing identification and
18 processing functions, the Attorney General shall provide
19 access to all criminal history information to the appro-
20 priate State officials responsible for regulating State-li-
21 censed loan originators to the extent criminal history
22 background checks are required under the laws of the
23 State for the licensing of such loan originators.

24 (b) AGENT.—For the purposes of this section and in
25 order to reduce the points of contact which the Federal

1 Bureau of Investigation may have to maintain for pur-
2 poses of subsection (a), the Conference of State Bank Su-
3 pervisors or a wholly owned subsidiary may be used as
4 a channeling agent of the States for requesting and dis-
5 tributing information between the Department of Justice
6 and the appropriate State agencies.

7 **SEC. 612. CONFIDENTIALITY OF INFORMATION.**

8 (a) **SYSTEM CONFIDENTIALITY.**—Except as other-
9 wise provided in this section, any requirement under Fed-
10 eral or State law regarding the privacy or confidentiality
11 of any information or material provided to the Nationwide
12 Mortgage Licensing System and Registry or a system es-
13 tablished by the Secretary under section 609, and any
14 privilege arising under Federal or State law (including the
15 rules of any Federal or State court) with respect to such
16 information or material, shall continue to apply to such
17 information or material after the information or material
18 has been disclosed to the system. Such information and
19 material may be shared with all State and Federal regu-
20 latory officials with mortgage industry oversight authority
21 without the loss of privilege or the loss of confidentiality
22 protections provided by Federal and State laws.

23 (b) **NONAPPLICABILITY OF CERTAIN REQUIRE-**
24 **MENTS.**—Information or material that is subject to a

1 privilege or confidentiality under subsection (a) shall not
2 be subject to—

3 (1) disclosure under any Federal or State law
4 governing the disclosure to the public of information
5 held by an officer or an agency of the Federal Gov-
6 ernment or the respective State; or

7 (2) subpoena or discovery, or admission into
8 evidence, in any private civil action or administrative
9 process, unless with respect to any privilege held by
10 the Nationwide Mortgage Licensing System and
11 Registry or the Secretary with respect to such infor-
12 mation or material, the person to whom such infor-
13 mation or material pertains waives, in whole or in
14 part, in the discretion of such person, that privilege.

15 (c) COORDINATION WITH OTHER LAW.—Any State
16 law, including any State open record law, relating to the
17 disclosure of confidential supervisory information or any
18 information or material described in subsection (a) that
19 is inconsistent with subsection (a) shall be superseded by
20 the requirements of such provision to the extent State law
21 provides less confidentiality or a weaker privilege.

22 (d) PUBLIC ACCESS TO INFORMATION.—This section
23 shall not apply with respect to the information or material
24 relating to the employment history of, and publicly adju-
25 dicated disciplinary and enforcement actions against, loan

1 originators that is included in Nationwide Mortgage Li-
2 censing System and Registry for access by the public.

3 **SEC. 613. LIABILITY PROVISIONS.**

4 The Secretary, any State official or agency, any Fed-
5 eral banking agency, or any organization serving as the
6 administrator of the Nationwide Mortgage Licensing Sys-
7 tem and Registry or a system established by the Secretary
8 under section 609, or any officer or employee of any such
9 entity, shall not be subject to any civil action or proceeding
10 for monetary damages by reason of the good-faith action
11 or omission of any officer or employee of any such entity,
12 while acting within the scope of office or employment, re-
13 lating to the collection, furnishing, or dissemination of in-
14 formation concerning persons who are loan originators or
15 are applying for licensing or registration as loan origina-
16 tors.

17 **SEC. 614. ENFORCEMENT UNDER HUD BACKUP LICENSING**
18 **SYSTEM.**

19 (a) **SUMMONS AUTHORITY.**—The Secretary may—

20 (1) examine any books, papers, records, or
21 other data of any loan originator operating in any
22 State which is subject to a licensing system estab-
23 lished by the Secretary under section 608; and

24 (2) summon any loan originator referred to in
25 paragraph (1) or any person having possession, cus-

1 today, or care of the reports and records relating to
2 such loan originator, to appear before the Secretary
3 or any delegate of the Secretary at a time and place
4 named in the summons and to produce such books,
5 papers, records, or other data, and to give testi-
6 mony, under oath, as may be relevant or material to
7 an investigation of such loan originator for compli-
8 ance with the requirements of this title.

9 (b) EXAMINATION AUTHORITY.—

10 (1) IN GENERAL.—If the Secretary establishes
11 a licensing system under section 608 for any State,
12 the Secretary shall appoint examiners for the pur-
13 poses of administering such section.

14 (2) POWER TO EXAMINE.—Any examiner ap-
15 pointed under paragraph (1) shall have power, on
16 behalf of the Secretary, to make any examination of
17 any loan originator operating in any State which is
18 subject to a licensing system established by the Sec-
19 retary under section 608 whenever the Secretary de-
20 termines an examination of any loan originator is
21 necessary to determine the compliance by the origi-
22 nator with this title.

23 (3) REPORT OF EXAMINATION.—Each examiner
24 appointed under paragraph (1) shall make a full and

1 detailed report of examination of any loan originator
2 examined to the Secretary.

3 (4) ADMINISTRATION OF OATHS AND AFFIRMA-
4 TIONS; EVIDENCE.—In connection with examinations
5 of loan originators operating in any State which is
6 subject to a licensing system established by the Sec-
7 retary under section 608, or with other types of in-
8 vestigations to determine compliance with applicable
9 law and regulations, the Secretary and examiners
10 appointed by the Secretary may administer oaths
11 and affirmations and examine and take and preserve
12 testimony under oath as to any matter in respect to
13 the affairs of any such loan originator.

14 (5) ASSESSMENTS.—The cost of conducting any
15 examination of any loan originator operating in any
16 State which is subject to a licensing system estab-
17 lished by the Secretary under section 608 shall be
18 assessed by the Secretary against the loan originator
19 to meet the Secretary's expenses in carrying out
20 such examination.

21 (c) CEASE AND DESIST PROCEEDING.—

22 (1) AUTHORITY OF SECRETARY.—If the Sec-
23 retary finds, after notice and opportunity for hear-
24 ing, that any person is violating, has violated, or is
25 about to violate any provision of this title, or any

1 regulation thereunder, with respect to a State which
2 is subject to a licensing system established by the
3 Secretary under section 608, the Secretary may pub-
4 lish such findings and enter an order requiring such
5 person, and any other person that is, was, or would
6 be a cause of the violation, due to an act or omission
7 the person knew or should have known would con-
8 tribute to such violation, to cease and desist from
9 committing or causing such violation and any future
10 violation of the same provision, rule, or regulation.
11 Such order may, in addition to requiring a person to
12 cease and desist from committing or causing a viola-
13 tion, require such person to comply, or to take steps
14 to effect compliance, with such provision or regula-
15 tion, upon such terms and conditions and within
16 such time as the Secretary may specify in such
17 order. Any such order may, as the Secretary deems
18 appropriate, require future compliance or steps to
19 effect future compliance, either permanently or for
20 such period of time as the Secretary may specify,
21 with such provision or regulation with respect to any
22 loan originator.

23 (2) HEARING.—The notice instituting pro-
24 ceedings pursuant to paragraph (1) shall fix a hear-
25 ing date not earlier than 30 days nor later than 60

1 days after service of the notice unless an earlier or
2 a later date is set by the Secretary with the consent
3 of any respondent so served.

4 (3) TEMPORARY ORDER.—Whenever the Sec-
5 retary determines that the alleged violation or
6 threatened violation specified in the notice insti-
7 tuting proceedings pursuant to paragraph (1), or the
8 continuation thereof, is likely to result in significant
9 dissipation or conversion of assets, significant harm
10 to consumers, or substantial harm to the public in-
11 terest prior to the completion of the proceedings, the
12 Secretary may enter a temporary order requiring the
13 respondent to cease and desist from the violation or
14 threatened violation and to take such action to pre-
15 vent the violation or threatened violation and to pre-
16 vent dissipation or conversion of assets, significant
17 harm to consumers, or substantial harm to the pub-
18 lic interest as the Secretary deems appropriate pend-
19 ing completion of such proceedings. Such an order
20 shall be entered only after notice and opportunity for
21 a hearing, unless the Secretary determines that no-
22 tice and hearing prior to entry would be impracti-
23 cable or contrary to the public interest. A temporary
24 order shall become effective upon service upon the
25 respondent and, unless set aside, limited, or sus-

1 pended by the Secretary or a court of competent ju-
2 risdiction, shall remain effective and enforceable
3 pending the completion of the proceedings.

4 (4) REVIEW OF TEMPORARY ORDERS.—

5 (A) REVIEW BY SECRETARY.—At any time
6 after the respondent has been served with a
7 temporary cease-and-desist order pursuant to
8 paragraph (3), the respondent may apply to the
9 Secretary to have the order set aside, limited,
10 or suspended. If the respondent has been served
11 with a temporary cease-and-desist order entered
12 without a prior hearing before the Secretary,
13 the respondent may, within 10 days after the
14 date on which the order was served, request a
15 hearing on such application and the Secretary
16 shall hold a hearing and render a decision on
17 such application at the earliest possible time.

18 (B) JUDICIAL REVIEW.—Within—

19 (i) 10 days after the date the respond-
20 ent was served with a temporary cease-
21 and-desist order entered with a prior hear-
22 ing before the Secretary; or

23 (ii) 10 days after the Secretary ren-
24 ders a decision on an application and hear-
25 ing under paragraph (1), with respect to

1 any temporary cease-and-desist order en-
2 tered without a prior hearing before the
3 Secretary,

4 the respondent may apply to the United States
5 district court for the district in which the re-
6 spondent resides or has its principal place of
7 business, or for the District of Columbia, for an
8 order setting aside, limiting, or suspending the
9 effectiveness or enforcement of the order, and
10 the court shall have jurisdiction to enter such
11 an order. A respondent served with a temporary
12 cease-and-desist order entered without a prior
13 hearing before the Secretary may not apply to
14 the court except after hearing and decision by
15 the Secretary on the respondent's application
16 under subparagraph (A).

17 (C) NO AUTOMATIC STAY OF TEMPORARY
18 ORDER.—The commencement of proceedings
19 under subparagraph (B) shall not, unless spe-
20 cifically ordered by the court, operate as a stay
21 of the Secretary's order.

22 (5) AUTHORITY OF THE SECRETARY TO PRO-
23 HIBIT PERSONS FROM SERVING AS LOAN ORIGINA-
24 TORS.—In any cease-and-desist proceeding under
25 paragraph (1), the Secretary may issue an order to

1 prohibit, conditionally or unconditionally, and per-
2 manently or for such period of time as the Secretary
3 shall determine, any person who has violated this
4 title or regulations thereunder, from acting as a loan
5 originator if the conduct of that person dem-
6 onstrates unfitness to serve as a loan originator.

7 (d) **AUTHORITY OF THE SECRETARY TO ASSESS**
8 **MONEY PENALTIES.—**

9 (1) **IN GENERAL.—**The Secretary may impose a
10 civil penalty on a loan originator operating in any
11 State which is subject to licensing system established
12 by the Secretary under section 608, if the Secretary
13 finds, on the record after notice and opportunity for
14 hearing, that such loan originator has violated or
15 failed to comply with any requirement of this title or
16 any regulation prescribed by the Secretary under
17 this title or order issued under subsection (c).

18 (2) **MAXIMUM AMOUNT OF PENALTY.—**The
19 maximum amount of penalty for each act or omis-
20 sion described in paragraph (1) shall be \$25,000.

21 **SEC. 615. STATE EXAMINATION AUTHORITY.**

22 In addition to any authority allowed under State law
23 a State licensing agency shall have the authority to con-
24 duct investigations and examinations as follows:

1 (1) For the purposes of investigating violations
2 or complaints arising under this title, or for the pur-
3 poses of examination, the State licensing agency may
4 review, investigate, or examine loan originator li-
5 censed or required to be licensed under this title, as
6 often as necessary in order to carry out the purposes
7 of this title.

8 (2) Each such loan originator shall make avail-
9 able upon request to the State licensing agency the
10 books and records relating to the operations of such
11 originator. The State licensing agency may have ac-
12 cess to such books and records and interview the of-
13 ficers, principals, loan originators, employees, inde-
14 pendent contractors, agents, and customers of the li-
15 censee concerning their business.

16 (3) The authority of this section shall remain in
17 effect, whether such a loan originator acts or claims
18 to act under any licensing or registration law of such
19 State, or claims to act without such authority.

20 (4) No person subject to investigation or exam-
21 ination under this section may knowingly withhold,
22 abstract, remove, mutilate, destroy, or secrete any
23 books, records, computer records, or other informa-
24 tion.

1 **SEC. 616. PREEMPTION OF STATE LAW.**

2 Nothing in this title may be construed to preempt the
3 law of any State, to the extent that such State law pro-
4 vides greater protection to consumers than is provided
5 under this title.

6 **SEC. 617. REPORTS AND RECOMMENDATIONS TO CON-**
7 **GRESS.**

8 (a) ANNUAL REPORTS.—Not later than 1 year after
9 the date of enactment of this title, and annually there-
10 after, the Secretary shall submit a report to Congress on
11 the effectiveness of the provisions of this title, including
12 legislative recommendations, if any, for strengthening con-
13 sumer protections, enhancing examination standards,
14 streamlining communication between all stakeholders in-
15 volved in residential mortgage loan origination and proc-
16 essing, and establishing performance based bonding re-
17 quirements for mortgage originators or institutions that
18 employ such brokers.

19 (b) LEGISLATIVE RECOMMENDATIONS.—Not later
20 than 6 months after the date of enactment of this title,
21 the Secretary shall make recommendations to Congress on
22 legislative reforms to the Real Estate Settlement Proce-
23 dures Act of 1974, that the Secretary deems appropriate
24 to promote more transparent disclosures, allowing con-
25 sumers to better shop and compare mortgage loan terms
26 and settlement costs.

1 **SEC. 618. STUDY AND REPORTS ON DEFAULTS AND FORE-**
2 **CLOSURES.**

3 (a) **STUDY REQUIRED.**—The Secretary shall conduct
4 an extensive study of the root causes of default and fore-
5 closure of home loans, using as much empirical data as
6 is available.

7 (b) **PRELIMINARY REPORT TO CONGRESS.**—Not later
8 than 6 months after the date of enactment of this title,
9 the Secretary shall submit to Congress a preliminary re-
10 port regarding the study required by this section.

11 (c) **FINAL REPORT TO CONGRESS.**—Not later than
12 12 months after the date of enactment of this title, the
13 Secretary shall submit to Congress a final report regard-
14 ing the results of the study required by this section, which
15 shall include any recommended legislation relating to the
16 study, and recommendations for best practices and for a
17 process to provide targeted assistance to populations with
18 the highest risk of potential default or foreclosure.

19 Amend the table of contents accordingly.