

TO MAKE IMPROVEMENTS IN THE HOPE FOR  
 HOMEOWNERS PROGRAM, AND FOR OTHER PURPOSES

FEBRUARY 10, 2009.—Committed to the Committee of the Whole House on the State  
 of the Union and ordered to be printed

Mr. FRANK of Massachusetts, from the Committee on Financial  
 Services, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 787]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred  
 the bill (H.R. 787) to make improvements in the Hope for Home-  
 owners Program, and for other purposes, having considered the  
 same, report favorably thereon with an amendment and rec-  
 ommend that the bill as amended do pass.

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## AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

### SECTION 1. CHANGES TO HOPE FOR HOMEOWNERS PROGRAM.

Section 257 of the National Housing Act, as added by section 1402(a) of Public Law 110–289, (12 U.S.C. 1715z–23) is amended—

(1) in subsection (e)—

(A) by striking paragraph (1) and inserting the following:

“(1) BORROWER CERTIFICATION.—

“(A) NO INTENTIONAL DEFAULT OR FALSE INFORMATION.—The mortgagor shall provide a certification to the Secretary that the mortgagor has not intentionally defaulted on the existing mortgage or mortgages and has not knowingly, or willfully and with actual knowledge, furnished material information known to be false for the purpose of obtaining any eligible mortgage.

“(B) LIABILITY FOR REPAYMENT.—The mortgagor shall agree in writing that the mortgagor shall be liable to repay to the Secretary any direct financial benefit achieved from the reduction of indebtedness on the existing mortgage or mortgages on the residence refinanced under this section derived from misrepresentations made by the mortgagor in the certifications and documentation required under this paragraph, subject to the discretion of the Oversight Board.”

(B) in paragraph (2)(B), by striking “90 percent” and inserting “93 percent”;

(C) by striking paragraph (7);

(D) in paragraph (9)—

(i) by striking “by procuring (A) an income tax return transcript of the income tax returns of the mortgagor, or(B)” and inserting “in accordance with procedures and standards that the Board shall establish, which may include requiring the mortgagee to procure”; and

(ii) by striking “and by any other method, in accordance with procedures and standards that the Board shall establish”;

(E) by redesignating paragraphs (8), (9), (10), and (11) as paragraphs (7), (8), (9), and (10), respectively; and

(F) by adding after paragraph (10) (as so redesignated by subparagraph (E) of this paragraph) the following new paragraph:

“(11) BAN ON MILLIONAIRES.—The mortgagor shall not have a net worth, as of the date the mortgagor first applies for a mortgage to be insured under the Program under this section, that exceeds \$1,000,000.”;

(2) in subsection (h)(2), by striking “, or in any case in which a mortgagor fails to make the first payment on a refinanced eligible mortgage”;

(3) by striking subsection (i) and inserting the following new subsection:

“(i) ANNUAL PREMIUMS.—

“(1) IN GENERAL.—For each refinanced eligible mortgage insured under this section, the Secretary shall establish and collect an annual premium in an amount equal to not less than 0.55 percent of the amount of the remaining insured principal balance of the mortgage and not more than 0.75 percent of such remaining insured principal balance, as determined according to a schedule established by the Board that assigns such annual premiums based upon the credit risk of the mortgage.

“(2) REDUCTION OR TERMINATION DURING MORTGAGE TERM.—Notwithstanding paragraph (1), the Secretary may provide that the annual premiums charged for refinanced eligible mortgages insured under this section are reduced over the term of the mortgage or that the collection of such premiums is discontinued at some time during the term of the mortgage, in a manner that is consistent with policies for such reduction or discontinuation of annual premiums charged for mortgages in accordance with section 203(c).”;

(4) in subsection (k)—

(A) by striking the subsection heading and inserting “EXIT FEE” ;

(B) in paragraph (1), in the matter preceding subparagraph (A), by striking “such sale or refinancing” and inserting “the mortgage being insured under this section”; and

(C) by striking paragraph (2);

(5) in subsection (s)(3)(A)(ii), by striking “subsection (e)(1)(B) and such other” and inserting “such”;

(6) in subsection (v), by inserting after the period at the end the following: “The Board shall conform documents, forms, and procedures for mortgages insured under this section to those in place for mortgages insured under section 203(b) to the maximum extent possible consistent with the requirements of this section.”;

(7) in subsection (w)(1)(C), by striking “(e)(4)(A)” and inserting “(e)(3)(A)”; and

(8) by adding at the end the following new subsection:

“(x) PAYMENT TO EXISTING LOAN SERVICER.—The Board may establish a payment to the servicer of the existing senior mortgage for every loan insured under the HOPE for Homeowners Program in an amount, for each such loan, that does not exceed \$1,000.”.

#### PURPOSE AND SUMMARY

H.R. 787 was introduced on February 2, 2009 by Chairman Frank. The purpose of the bill is to make reasonable changes the “HOPE for Homeowners” program established in the Housing and Economic Recovery Act (P.L. 110–289) (“HERA”) to reduce program fees and remove administration burdens, in order to facilitate broader participation in the Program.

#### BACKGROUND AND NEED FOR LEGISLATION

As the housing and economic crisis has grown, the number of mortgage defaults and foreclosures has also grown. In addition to having a deleterious effect on the personal and financial conditions of the affected homeowner, foreclosures have contributed to declining home prices, declining neighborhoods, and negative repercussions for the broader economy. The response to date to the growing foreclosure crisis has been largely limited to loan modifications voluntarily agreed to by existing lenders. While this has reduced payments for many borrowers, it does not seem to have had any meaningful effect in arresting the growth in foreclosures and the decline in housing markets.

As a result, there has been a need for more systematic approaches to foreclosure prevention, such as refinancing opportunities which involve homeowners having mortgage payments reduced to affordable levels. The HOPE for Homeowners program, as amended by Emergency Economic Stabilization Act (EESA), has been an important step towards such an approach. A wide range of sources, however, including former HUD Secretary Preston, the Federal Reserve, lenders, and consumer groups, have criticized the program because the required fees are too high, the mandatory writedown is excessive, and there are too many administrative requirements that deviate from standard FHA loan requirements. This has prevented optimum use of the program.

This legislation would address the criticisms and make the program easier to use and administer.

#### SUMMARY OF MAJOR PROVISIONS

The HOPE for Homeowners Program was created by HERA as a new voluntary Federal Housing Administration (FHA) single family loan program authorizing \$300 billion for refinancing loans for distressed borrowers. Eligible loans are limited to refinancings for which the home is the borrower’s principal residence. Existing junior lienholders must extinguish their loans, and the existing first mortgage holder must write down the principal to no more

than 90 percent of current market value and must also pay the upfront FHA premium. The program requires the FHA to collect a variety of fees, and imposes a number of additional conditions on the borrower and the underwriter. The EESA made changes to the HOPE for Homeowners program to: (a) allow for a loan to value (LTV) higher than 90 percent, (b) permit upfront payments to existing second lienholders as an option to induce such holders to extinguish their liens, and (c) make the debt to income ratio requirement more flexible. Despite the changes made by EESA, only 25 loans have been made under the program to date.

H.R. 787 would amend the HOPE for Homeowners Program provisions of the National Housing Act to encourage more lenders to participate by reducing the fees and writedowns, provide incentives for mortgage servicers to engage in modifications under the program, and reduce administrative burdens to loan underwriters by making the requirements more consistent with standard FHA practices. Specifically, the bill would make the following changes:

*Fees.* The 3 percent upfront fee is eliminated and the annual premium of 1.5 percent of the amount of the remaining insured principal balance of the mortgage is reduced to a range of between .55 percent and .75 percent, as determined according to a schedule established by the program's Board that assigns the premium based on the credit risk of the mortgage. The elimination of the upfront fee will have a corresponding reduction in the required loan writedown by the lender, thus addressing a significant barrier to program participation. The annual fees are brought more in line with normal FHA standards, making it easier to underwrite borrowers for the program. Finally, the equity sharing provision in the bill is recharacterized as an exit fee, thus ensuring the collection of significant fees for all refinanced loans that succeed.

*Profit Sharing.* The requirement for the government to keep 50 percent of property appreciation is eliminated. This addresses criticisms both that this provision is too onerous to the borrower and that it is excessively burdensome to administer. In particular, inconsistent state laws regarding profit sharing, combined with lack of clarity regarding compliance with federal Truth in Lending Act requirements, have deterred lenders from using the program because of this profit sharing feature. The bill would eliminate this profit sharing requirement (but retain the equity sharing provision, as noted above).

*Loan to Value (LTV).* The 90 percent LTV limitation, which now applies under to the majority of prospective borrowers, is increased to 93 percent. This, in combination with the upfront fee elimination, should have a meaningful impact in addressing a major factor inhibiting program participation—the significant required writedown of the loan.

*Payments to Servicers for Successful Refinancings.* A number of loan modification programs, including the proposed Federal Deposit Insurance Corporation plan, recognize the importance of adequately compensating and incentivizing mortgage servicers for the work necessary to restructure loans. Therefore, this legislation authorizes payments to servicers for successful refinances under HOPE for Homeowners, subject to a cap of \$1,000 per loan.

*Administrative Burdens.* The legislation includes general language requiring the program's Board to make documents, forms

and procedures conform to those under normal FHA practice to the maximum extent possible consistent with statutory requirements. The purpose is to reduce paperwork, software changes, and other administrative deviations from standard FHA underwriting procedures. The legislation also eliminates a non-affordability requirement that imposed an administrative underwriting burden and excluded borrowers experiencing job loss or other impairment of income. Finally, the bill eliminates other statutory requirements that would not otherwise apply to FHA loans, such as liability for first payment default and a certification requirement that the borrower had not intentionally defaulted under any other non-mortgage debt.

#### HEARINGS

The Committee on Financial Services held a hearing on February 3, 2009, entitled "Promoting Liquidity and Lending Through Deposit Insurance, HOPE for Homeowners, and Other Enhancements." The following witnesses testified: Mr. John Bovenzi, Chief Operating Officer, Federal Deposit Insurance Corporation; Ms. Meg Burns, Director of the Office of Single Family Program Development, U.S. Department of Housing and Urban Development; Mr. Edward L. Yingling, President and Chief Executive Officer, American Bankers Association; Mr. R. Michael S. Menzies, Sr., President and Chief Executive Officer, Easton Bank and Trust Company, on behalf of The Independent Community Bankers of America; Mr. John Taylor, President and Chief Executive, National Community Reinvestment Coalition; Mr. John A. Courson, President and Chief Executive Officer, Mortgage Bankers Association; Mr. Mike Calhoun, President and Chief Operating Officer, Center for Responsible Lending; Mrs. Robin Staudt; and Mr. Edward R. Morrison, Professor of Law, Columbia Law School.

#### COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on February 4, 2009, and ordered H.R. 787, to make improvements in the HOPE for Homeowners Program, as amended, favorably reported to the House by a voice vote.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. No record votes were taken in conjunction with the consideration of this legislation. A motion by Mr. Frank to report the bill, as amended, to the House with a favorable recommendation was agreed to by a voice vote.

During consideration of the bill, the following amendments were considered:

An amendment by Mr. Adler, No. 1, putting a limit on payment to existing loan servicers, was agreed to by voice vote.

An amendment by Mrs. Capito, No. 2, regarding protection of FHA, VA, and RHS loans appreciation, was offered and withdrawn.

An amendment by Mr. Frank, No. 3, regarding borrower certification, was agreed to by a voice vote.

An amendment by Mr. Neugebauer, No. 4, terminating the HOPE for Homeowners Program, was not agreed to by a voice vote.

An amendment by Mr. Hensarling, No. 5, regarding suspension of new commitments to insure mortgages, was not agreed to by a voice vote.

An amendment by Mr. Hensarling, No. 6, regarding mortgagor net worth limitation of \$1,000,000, was agreed to by a voice vote.

An amendment by Mr. Hensarling, No. 7, regarding exclusion of no-doc loans, exclusion of zero downpayment loans, and maximum income for loan considered, was not agreed to by a voice vote.

An amendment by Mr. Hensarling, No. 8, on appreciation, was offered and withdrawn.

An amendment by Ms. Bean, No. 9, reinstating prohibition on second mortgages, was offered and withdrawn.

#### COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held a hearing and made findings that are reflected in this report.

#### PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

Due to excessive fee levels and unnecessary administrative burdens required by the program's statute, few HOPE for Homeowners loans have been closed to date. H.R. 787 would reduce excessive program fees and remove unnecessary administration burdens, in order to increase program participation more in line with the expectations when the program was initially enacted.

#### NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

#### COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

#### CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, February 9, 2009.*

Hon. BARNEY FRANK,  
*Chairman, Committee on Financial Services,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 787, a bill to make improvements in the Hope of Homeowners program, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Chad Chirico.

Sincerely,

DOUGLAS W. ELMENDORF,  
*Director.*

Enclosure.

*H.R. 787—A bill to make improvements in the Hope for Homeowners program, and for other purposes*

Summary: H.R. 787 would modify the Hope for Homeowners loan guarantee program authorized by the Housing and Economic Recovery Act of 2008. The effects on direct spending and revenues over the 2009–2013 and 2009–2018 periods are relevant for enforcing pay-as-you-go rules under the current budget resolution. CBO estimates that enacting this legislation would increase deficits by \$675 million over the five-year period from 2009 through 2013, and by an equal amount over the 2009–2018 period. Implementing H.R. 787 would not affect spending subject to appropriation.

H.R. 787 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated cost of H.R. 787 is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit).

	By fiscal year in millions of dollars—													2009–2014	2009–2019
	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019				
CHANGES IN DIRECT SPENDING															
Estimated Budget Authority .....	304	225	146	0	0	0	0	0	0	0	0	0	675	675	
Estimated Outlays ..	274	233	154	15	0	0	0	0	0	0	0	0	675	675	

Basis of estimate: H.R. 787 would make certain changes to the Hope for Homeowners loan guarantee program authorized by the Housing and Economic Recovery Act of 2008. Those changes, which are aimed at increasing the number of loans refinanced through the program, include:

- Eliminating the payment of an up-front insurance premium;
- Reducing the annual insurance premium;
- Increasing the maximum loan-to-value ratio of the refinanced mortgage to 93 percent;
- Eliminating the government's share of any appreciation in the homes' value at sale; and

- Authorizing a payment to the servicer of the existing mortgage.

The Federal Credit Reform Act requires the federal budget to record the up-front cost of subsidizing loan guarantees on a net-present-value basis. CBO estimates that enacting this legislation, which would directly appropriate the subsidy cost of loan guarantees, would increase direct spending by \$675 million over the 2009–2019 period.

To determine this subsidy cost, CBO estimated the volume of loans that would be refinanced under this voluntary program and the likelihood that borrowers would default on their refinanced mortgages. Based on participation in the current Hope for Homeowners program, the FHA Secure program, and information from mortgage industry participants, CBO estimates that as many as 25,000 additional loans could be refinanced as a result of the proposed changes, representing a loan volume of about \$5 billion over the next four years. (As of February 3, 2009, only 25 loans have been guaranteed under the Hope for Homeowners program. In addition, about 4,000 delinquent borrowers refinanced their loans under FHA Secure over the 16-month lifetime of the program.)

CBO estimates that the program, as modified by the bill, would have a subsidy rate of about 15 percent of the loan value. This estimated subsidy rate assumes that the cumulative default rate for the program would be about 40 percent and that recoveries on defaulted mortgages would be about 60 percent of the outstanding loan amount. Those rates reflect CBO's view that mortgage holders would have an incentive to direct their highest-risk loans to the program, and are based on the expectation that the underwriting standards established for the new program would be less restrictive than those currently in place for FHA's single-family loan-guarantee program, thereby allowing FHA to insure loans with a greater risk of default.

Intergovernmental and private-sector impact: H.R. 787 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Previous CBO estimate: On January 13, 2009, CBO transmitted a cost estimate for H.R. 384, the TARP Reform and Accountability Act, as introduced in the House of Representatives on January 9, 2009. H.R. 787 is similar to the HOPE for Homeowner provisions in title V of H.R. 384, and the estimated costs are the same.

Estimate prepared by: Federal Costs: Susanne Mehlman and Chad Chirico; Impact on State, Local, and Tribal Governments: Lisa Ramirez-Branum; Impact on the Private Sector: Patrick Bernhardt.

Estimate approved by: Peter H. Fontaine, Assistant Director for Budget Analysis.

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.



## ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

## CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional Authority of Congress to enact this legislation is provided by Article 1, section 8, clause 1 (relating to the general welfare of the United States) and clause 3 (relating to the power to regulate interstate commerce).

## APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

## EARMARK IDENTIFICATION

H.R. 787 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

## SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

*Section 1. Changes to HOPE for Homeowners Program*

This section amends Section 257 of the National Housing Act, which authorized the HOPE for Homeowners program to:

1. Remove a requirement that the borrower certify that the borrower has not at any time intentionally defaulted on any other non-mortgage debt;
2. Eliminate a requirement that the borrower must have had a debt-to-income ratio greater than 31 percent as of March 1, 2008;
3. Raise the minimum percentage that the program's Board can establish as the maximum loan to value from 90 percent to 93 percent;
4. Eliminate language prohibiting second liens during the first five years of a HOPE for Homeowners loan, except as necessary to ensure maintenance of property standards;
5. Prohibit loans to borrowers with a net worth of more than \$1,000,000;
6. Eliminate liability of an FHA underwriter for loan losses on loans to borrowers that default on their first payment;
7. Eliminate the 3 percent upfront FHA premium;
8. Reduce the annual FHA premium from 1.5 percent of the amount of the remaining insured principal balance of the mortgage to a range of between .55 percent and .75 percent, as determined according to a schedule that assigns the premium based on the credit risk of the mortgage;
9. Eliminate 50/50 profit sharing of property appreciation over the current market value;

10. Recharacterize as an exit fee the federal government percentage of the equity created by the refinance, on a scale declining 100 percent for sale or refinance in year 1, to 50 percent after 5 years.

11. Require the program's Board to conform documents, forms, and procedures to those in place for mortgages insured under Section 203(b) to the maximum extent possible, consistent with the requirements of this legislation; and

12. Authorize payments to servicers of existing loans for successful refinances of such loans under the program, subject to a cap of \$1,000 per loan.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**NATIONAL HOUSING ACT**

\* \* \* \* \*

**TITLE II—MORTGAGE INSURANCE**

\* \* \* \* \*

**SEC. 257. HOPE FOR HOMEOWNERS PROGRAM.**

(a) \* \* \*

\* \* \* \* \*

(e) **REQUIREMENTS OF INSURED MORTGAGES.**—To be eligible for insurance under this section, a refinanced eligible mortgage shall comply with all of the following requirements:

[(1) **LACK OF CAPACITY TO PAY EXISTING MORTGAGE.**—

[(A) **BORROWER CERTIFICATION.**—

[(i) **IN GENERAL.**—The mortgagor shall provide certification to the Secretary that the mortgagor has not intentionally defaulted on the mortgage or any other debt, and has not knowingly, or willfully and with actual knowledge, furnished material information known to be false for the purpose of obtaining any eligible mortgage.

[(ii) **PENALTIES.**—

[(I) **FALSE STATEMENT.**—Any certification filed pursuant to clause (i) shall contain an acknowledgment that any willful false statement made in such certification is punishable under section 1001, of title 18, United States Code, by fine or imprisonment of not more than 5 years, or both.

[(II) **LIABILITY FOR REPAYMENT.**—The mortgagor shall agree in writing that the mortgagor shall be liable to repay to the Federal Housing Administration any direct financial benefit achieved from the reduction of indebtedness on the existing mortgage or mortgages on the residence refinanced under this section derived from misrepresenta-

tions made in the certifications and documentation required under this subparagraph, subject to the discretion of the Secretary.

[(B) CURRENT BORROWER DEBT-TO-INCOME RATIO.—As of March 1, 2008, the mortgagor shall have had, or thereafter is likely to have, due to the terms of the mortgage being reset, a ratio of mortgage debt to income, taking into consideration all existing mortgages of that mortgagor at such time, greater than 31 percent (or such higher amount as the Board determines appropriate).]

(1) BORROWER CERTIFICATION.—

(A) NO INTENTIONAL DEFAULT OR FALSE INFORMATION.—*The mortgagor shall provide a certification to the Secretary that the mortgagor has not intentionally defaulted on the existing mortgage or mortgages and has not knowingly, or willfully and with actual knowledge, furnished material information known to be false for the purpose of obtaining any eligible mortgage.*

(B) LIABILITY FOR REPAYMENT.—*The mortgagor shall agree in writing that the mortgagor shall be liable to repay to the Secretary any direct financial benefit achieved from the reduction of indebtedness on the existing mortgage or mortgages on the residence refinanced under this section derived from misrepresentations made by the mortgagor in the certifications and documentation required under this paragraph, subject to the discretion of the Oversight Board.*

(2) DETERMINATION OF PRINCIPAL OBLIGATION AMOUNT.—The principal obligation amount of the refinanced eligible mortgage to be insured shall—

(A) \* \* \*

(B) not exceed [90 percent] 93 percent of the appraised value of the property to which such mortgage relates (or such higher percentage as the Board determines, in the discretion of the Board).

\* \* \* \* \*

[(7) PROHIBITION ON SECOND LIENS.—A mortgagor may not grant a new second lien on the mortgaged property during the first 5 years of the term of the mortgage insured under this section, except as the Board determines to be necessary to ensure the maintenance of property standards; and provided that such new outstanding liens (A) do not reduce the value of the Government’s equity in the borrower’s home; and (B) when combined with the mortgagor’s existing mortgage indebtedness, do not exceed 95 percent of the home’s appraised value at the time of the new second lien.]

[(8)] (7) APPRAISALS.—Any appraisal conducted in connection with a mortgage insured under this section shall—

(A) \* \* \*

\* \* \* \* \*

[(9)] (8) DOCUMENTATION AND VERIFICATION OF INCOME.—In complying with the FHA underwriting requirements under the HOPE for Homeowners Program under this section, the mortgagee shall document and verify the income of the mortgagor or non-filing status [by procuring (A) an income tax return

transcript of the income tax returns of the mortgagor, or(B)] *in accordance with procedures and standards that the Board shall establish, which may include requiring the mortgagee to procure a copy of the income tax returns from the Internal Revenue Service, for the two most recent years for which the filing deadline for such years has passed [and by any other method, in accordance with procedures and standards that the Board shall establish].*

[(10)] (9) MORTGAGE FRAUD.—The mortgagor shall not have been convicted under Federal or State law for fraud during the 10-year period ending upon the insurance of the mortgage under this section.

[(11)] (10) PRIMARY RESIDENCE.—The mortgagor shall provide documentation satisfactory in the determination of the Secretary to prove that the residence covered by the mortgage to be insured under this section is occupied by the mortgagor as the primary residence of the mortgagor, and that such residence is the only residence in which the mortgagor has any present ownership interest.

(11) BAN ON MILLIONAIRES.—*The mortgagor shall not have a net worth, as of the date the mortgagor first applies for a mortgage to be insured under the Program under this section, that exceeds \$1,000,000.*

\* \* \* \* \*

(h) STANDARDS TO PROTECT AGAINST ADVERSE SELECTION.—

(1) \* \* \*

(2) EXCLUSION FOR VIOLATIONS.—The Board shall prohibit the Secretary from paying insurance benefits to a mortgagee who violates the representations and warranties, as established under paragraph (1)[, or in any case in which a mortgagor fails to make the first payment on a refinanced eligible mortgage].

\* \* \* \* \*

[(i)] PREMIUMS.—For each refinanced eligible mortgage insured under this section, the Secretary shall establish and collect—

[(1)] at the time of insurance, a single premium payment in an amount equal to 3 percent of the amount of the original insured principal obligation of the refinanced eligible mortgage, which shall be paid from the proceeds of the mortgage being insured under this section, through the reduction of the amount of indebtedness that existed on the eligible mortgage prior to refinancing; and

[(2)] in addition to the premium required under paragraph (1), an annual premium in an amount equal to 1.5 percent of the amount of the remaining insured principal balance of the mortgage.]

(i) ANNUAL PREMIUMS.—

(1) IN GENERAL.—*For each refinanced eligible mortgage insured under this section, the Secretary shall establish and collect an annual premium in an amount equal to not less than 0.55 percent of the amount of the remaining insured principal balance of the mortgage and not more than 0.75 percent of such remaining insured principal balance, as determined according*

to a schedule established by the Board that assigns such annual premiums based upon the credit risk of the mortgage.

(2) *REDUCTION OR TERMINATION DURING MORTGAGE TERM.*—Notwithstanding paragraph (1), the Secretary may provide that the annual premiums charged for refinanced eligible mortgages insured under this section are reduced over the term of the mortgage or that the collection of such premiums is discontinued at some time during the term of the mortgage, in a manner that is consistent with policies for such reduction or discontinuation of annual premiums charged for mortgages in accordance with section 203(c).

\* \* \* \* \*

(k) **【EQUITY AND APPRECIATION.—】** *EXIT FEE.*—

(1) *FIVE-YEAR PHASE-IN FOR EQUITY AS A RESULT OF SALE OR REFINANCING.*—For each eligible mortgage insured under this section, the Secretary and the mortgagor of such mortgage shall, upon any sale or disposition of the property to which such mortgage relates, or upon the subsequent refinancing of such mortgage, be entitled to the following with respect to any equity created as a direct result of **【such sale or refinancing】** *the mortgage being insured under this section:*

(A) \* \* \*

\* \* \* \* \*

**【(2) APPRECIATION IN VALUE.**—For each eligible mortgage insured under this section, the Secretary and the mortgagor of such mortgage shall, upon any sale or disposition of the property to which such mortgage relates, each be entitled to 50 percent of any appreciation in value of the appraised value of such property that has occurred since the date that such mortgage was insured under this section.**】**

\* \* \* \* \*

(s) *DEFINITIONS.*—For purposes of this section, the following definitions shall apply:

(1) \* \* \*

\* \* \* \* \*

(3) *ELIGIBLE MORTGAGE.*—The term “eligible mortgage” means a mortgage—

(A) the mortgagor of which—

(i) \* \* \*

(ii) cannot, subject to **【subsection (e)(1)(B) and such other】** *such* standards established by the Board, afford his or her mortgage payments; and

\* \* \* \* \*

(v) *RULE OF CONSTRUCTION RELATED TO INSURANCE OF MORTGAGES.*—Except as otherwise provided for in this section or by action of the Board, the provisions and requirements of section 203(b) shall apply with respect to the insurance of any eligible mortgage under this section. *The Board shall conform documents, forms, and procedures for mortgages insured under this section to those in place for mortgages insured under section 203(b) to the maximum extent possible consistent with the requirements of this section.*

(w) *HOPE BONDS.*—

(1) ISSUANCE AND REPAYMENT OF BONDS.—Notwithstanding section 504(b) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661d(b)), the Secretary of the Treasury shall—

(A) \* \* \*

\* \* \* \* \*

(C) use the proceeds from HOPE Bonds only to pay for the net costs to the Federal Government of the HOPE for Homeowners Program, including administrative costs and payments pursuant to subsection **[(e)(4)(A)] (e)(3)(A)**.

\* \* \* \* \*

*(x) PAYMENT TO EXISTING LOAN SERVICER.—The Board may establish a payment to the servicer of the existing senior mortgage for every loan insured under the HOPE for Homeowners Program in an amount, for each such loan, that does not exceed \$1,000.*

\* \* \* \* \*

## MINORITY VIEWS

Last July, Congress passed—over the objections of the majority of House Republicans—legislation creating the Hope for Homeowners program (P.L. 110–289). We were told at the time by its sponsors that this legislation would help hundreds of thousands of struggling borrowers with negative equity obtain more sustainable mortgages guaranteed by the Federal Housing Administration (FHA), thereby turning the tide of foreclosures and stabilizing housing markets. Some six months later, the Hope for Homeowners program has fallen far short of the expectations of its proponents, receiving some 400 applications and closing on a mere 25 loans.

H.R. 787, as now estimated by CBO, would improve the efficacy of the HOPE for Homeowners program by serving 25,000 distressed households but at a cost of \$670 million dollars, or \$27,000 per assisted family. We believe that Congress should eliminate this program because it is ineffective, costly and does not maximize the taxpayer's investment in providing foreclosures mitigation to distressed homeowners. Instead, we believe that Congress should start anew with private and existing public initiatives that have a proven record and will not expose taxpayers to costly remedies while doing little to improve conditions in the housing market.

H.R. 787 attempts to “fix” the Hope for Homeowners program (H4H) and make it a more attractive option for lenders and borrowers. But in doing so, the bill negates key provisions in the original legislation that were designed to protect taxpayers from bearing huge losses when mortgages re-worked under the program default. For example, H.R. 787 strikes the payment of upfront premiums paid to the Federal Housing Administration for providing the government guarantee; increases permissible loan-to-value ratios; and cancels the government's share of profits in the event of long-term home price appreciation. House Republicans believe that before we expose taxpayers to the losses that we know are inevitable from a government-run foreclosure prevention program, we should carefully consider alternatives that do not involve taxpayer subsidies or offend the sense of fair play of those millions of Americans who have met their obligations.

Since its inception, we have raised concerns about the effectiveness of the Hope for Homeowners program, and as predicted this program has been a failure by virtually every metric. Rather than cut taxpayer losses, this legislation aims to fix a fundamentally unfixable program while abandoning key taxpayer safeguards. To further compound the problem, the Majority has indicated that it intends to “marry” H.R. 787 with bankruptcy cram-down legislation recently approved by the House Judiciary Committee. Cram-down proposals, coupled with the Hope for Homeowners program, will place the future of the FHA program in jeopardy and do nothing to resolve our current housing crisis.

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