

115TH CONGRESS
2D SESSION

S. 2304

To amend title 38, United States Code, to protect veterans from predatory lending, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 11, 2018

Mr. TILLIS (for himself, Ms. WARREN, Mr. HELLER, Mr. TESTER, Mrs. CAPITO, Mr. MANCHIN, Mr. BURR, Mr. SCHATZ, Mr. SULLIVAN, Mr. VAN HOLLEN, Mr. SCOTT, and Mr. DONNELLY) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to protect veterans from predatory lending, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Veterans
5 from Predatory Lending Act of 2018”.

1 **SEC. 2. PROTECTING VETERANS FROM PREDATORY LEND-**
2 **ING.**

3 (a) IN GENERAL.—Subchapter I of chapter 37 of title
4 38, United States Code, is amended by adding at the end
5 the following new section:

6 **“§ 3709. Refinancing of housing loans**

7 “(a) FEE RECOUPMENT.—Notwithstanding section
8 3703 of this title or any other provision of law, a loan
9 to a veteran for a purpose specified in section 3710 of
10 this title that is refinanced may not be guaranteed or in-
11 sured under this chapter unless—

12 “(1) the issuer of the refinanced loan provides
13 the Secretary with a certification of the recoupment
14 period for fees, closing costs, and any expenses
15 (other than taxes, amounts held in escrow, and fees
16 paid under this chapter) that would be incurred by
17 the borrower in the refinancing of the loan;

18 “(2) all of the fees and incurred costs are
19 scheduled to be recouped on or before the date that
20 is 36 months after the date of loan issuance; and

21 “(3) the recoupment is calculated through lower
22 regular monthly payments as a result of the refi-
23 nanced loan.

24 “(b) NET TANGIBLE BENEFIT TEST.—Notwith-
25 standing section 3703 of this title or any other provision
26 of law, a loan to a veteran for a purpose specified in sec-

1 tion 3710 of this title that is refinanced may not be guar-
2 anteed or insured under this chapter unless—

3 “(1) the issuer of the refinanced loan provides
4 the borrower with a net tangible benefit test;

5 “(2) in a case in which the original loan had a
6 fixed rate mortgage interest rate and the refinanced
7 loan will have a fixed rate mortgage interest rate,
8 the refinanced loan has a mortgage interest rate
9 that is not less than 50 basis points less than the
10 previous loan;

11 “(3) in a case in which the original loan had a
12 fixed rate mortgage interest rate and the refinanced
13 loan will have an adjustable rate mortgage interest
14 rate, the refinanced loan has a mortgage interest
15 rate that is not less than 200 basis points less than
16 the previous loan; and

17 “(4) the lower interest rate is not produced
18 solely from discount points, unless—

19 “(A) such points are paid at closing; and

20 “(B) such points are not added to the
21 principal loan amount, unless the resulting loan
22 balance after any fees and expenses allows the
23 property with respect to which the loan was
24 issued to maintain a loan to value ratio of 90
25 percent or less.

1 “(c) LOAN SEASONING.—Notwithstanding section
2 3703 of this title or any other provision of law, a loan
3 to a veteran for a purpose specified in section 3710 of
4 this title that is refinanced may not be guaranteed or in-
5 sured under this chapter until the date that is the later
6 of—

7 “(1) the date that is 210 days after the date on
8 which the first monthly payment is made on the
9 loan; and

10 “(2) the date on which the sixth monthly pay-
11 ment is made on the loan.”.

12 (b) REGULATIONS.—

13 (1) IN GENERAL.—In prescribing any regula-
14 tion to carry out section 3709 of title 38, United
15 States Code, as added by subsection (a), the Sec-
16 retary may waive the requirements of sections 551
17 through 559 of title 5, United States Code, if—

18 (A) the Secretary determines that urgent
19 or compelling circumstances make compliance
20 with such requirements impracticable or con-
21 trary to the public interest;

22 (B) the Secretary submits to the Com-
23 mittee on Veterans’ Affairs of the Senate and
24 the Committee on Veterans’ Affairs of the
25 House of Representatives, and publishes in the

1 Federal Register, notice of such waiver, includ-
2 ing a description of the determination made
3 under subparagraph (A); and

4 (C) a period of 10 days elapses following
5 the notification under subparagraph (B).

6 (2) PUBLIC NOTICE AND COMMENT.—If a regu-
7 lation prescribed pursuant to a waiver made under
8 paragraph (1) is in effect for a period exceeding one
9 year, the Secretary shall provide the public an op-
10 portunity for notice and comment regarding such
11 regulation.

12 (3) EFFECTIVE DATE.—This subsection shall
13 take effect on the date of the enactment of this Act.

14 (4) TERMINATION DATE.—The authorities
15 under this subsection shall terminate on the date
16 that is one year after the date of the enactment of
17 this Act.

18 (c) CLERICAL AMENDMENT.—The table of sections
19 at the beginning of chapter 37 of title 38, United States
20 Code, is amended by inserting after the item relating to
21 section 3708 the following new item:

“3709. Refinancing of housing loans.”.

22 **SEC. 3. LOAN SEASONING FOR GINNIE MAE MORTGAGE-**
23 **BACKED SECURITIES.**

24 Section 306(g)(1) of the National Housing Act (12
25 U.S.C. 1721(g)(1)) is amended by inserting “The Associa-

1 tion may not guarantee the timely payment of principal
 2 and interest on a security that is backed by a mortgage
 3 insured or guaranteed under chapter 37 of title 38, United
 4 States Code, and that was refinanced until the later of
 5 the date that is 210 days after the date on which the first
 6 monthly payment is made on the mortgage being refi-
 7 nanced and the date on which 6 full monthly payments
 8 have been made on the mortgage.” after “Act of 1992.”.

9 **SEC. 4. REPORT ON LIQUIDITY OF THE DEPARTMENT OF**
 10 **VETERANS AFFAIRS HOUSING LOAN PRO-**
 11 **GRAM.**

12 (a) REPORT.—Not later than one year after the date
 13 of the enactment of this Act, the Secretary of Housing
 14 and Urban Development and the President of the Ginnie
 15 Mae shall submit to the appropriate committees of Con-
 16 gress a report on the liquidity of the housing loan program
 17 under chapter 37 of title 38, United States Code, in the
 18 secondary mortgage market, which shall—

19 (1) assess the loans provided under that chap-
 20 ter that collateralize mortgage-backed securities that
 21 are guaranteed by Ginnie Mae; and

22 (2) include recommendations for actions that
 23 Ginnie Mae should take to ensure that the liquidity
 24 of that housing loan program is maintained.

25 (b) DEFINITIONS.—In this section:

1 (1) APPROPRIATE COMMITTEES OF CON-
2 GRESS.—The term “appropriate committees of Con-
3 gress” means—

4 (A) the Committee on Veterans’ Affairs
5 and the Committee on Banking, Housing, and
6 Urban Affairs of the Senate; and

7 (B) the Committee on Veterans’ Affairs
8 and the Committee on Financial Services of the
9 House of Representatives.

10 (2) GINNIE MAE.—The term “Ginnie Mae”
11 means the Government National Mortgage Associa-
12 tion.

13 **SEC. 5. ANNUAL REPORT ON DOCUMENT DISCLOSURE AND**
14 **CONSUMER EDUCATION.**

15 Not less frequently than once each year, the Sec-
16 retary of Veterans Affairs shall issue a publicly available
17 report that—

18 (1) examines, with respect to loans provided to
19 veterans under chapter 37 of title 38, United States
20 Code—

21 (A) the refinancing of fixed-rate mortgage
22 loans to adjustable rate mortgage loans;

23 (B) whether veterans are informed of the
24 risks and disclosures associated with that refi-
25 nancing; and

1 (C) whether advertising materials for that
2 refinancing are clear and do not contain mis-
3 leading statements or assertions; and

4 (2) includes findings based on any complaints
5 received by veterans and on an ongoing assessment
6 of the refinancing market by the Secretary.

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