

111TH CONGRESS  
1ST SESSION

# H. R. 3146

To make improvements to the FHA mortgage insurance programs of the Department of Housing and Urban Development, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 9, 2009

Mr. ADLER of New Jersey (for himself, Mr. LEE of New York, Mr. HIMES, and Mr. LANCE) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To make improvements to the FHA mortgage insurance programs of the Department of Housing and Urban Development, 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 “21 Century FHA  
5 Housing Act of 2009”.

6 **SEC. 2. MORTGAGE INSURANCE FOR CONDOMINIUMS.**

7 Section 203 of the National Housing Act (12 U.S.C.  
8 1709) is amended by adding at the end the following new  
9 subsection:

1       “(y) INAPPLICABILITY OF ENVIRONMENTAL REVIEW  
2 PROVISIONS.—In insuring, under this section, any mort-  
3 gage described in section 201(a)(C), the Secretary shall  
4 not be subject to the conditions of, or review under, the  
5 National Environmental Policy Act of 1969 or any other  
6 provision of law that furthers the purposes of such Act.”.

7 **SEC. 3. ENERGY EFFICIENT MORTGAGES.**

8       Section 106(a)(2)(C) of the Energy Policy Act of  
9 1992 (42 U.S.C. 12712 note) is amended—

10           (1) in clause (i), by inserting “(i)” after “(A)”  
11       each place such term appears; and

12           (2) in clause (ii), by striking “203(b)(2)(B)”  
13       and inserting “203(b)(2)(A)(ii)”.

14 **SEC. 4. MODERNIZATION OF WORKFORCE AND RE-**  
15 **SOURCES.**

16       Section 202 of the National Housing Act (12 U.S.C.  
17 1708) is amended by adding at the end the following new  
18 subsections:

19       “(g) PERSONNEL.—

20           “(1) IN GENERAL.—Notwithstanding section  
21 502(a) of the Housing Act of 1948 (12 U.S.C.  
22 1701c(a)), the Secretary may appoint and fix the  
23 compensation of such officers and employees of the  
24 Department as the Secretary considers necessary to  
25 carry out the functions of the Secretary under this

1 Act and any other functions of the Federal Housing  
2 Administration. Such officers and employees may be  
3 paid without regard to the provisions of chapter 51  
4 and subchapter III of chapter 53 of title 5, United  
5 States Code, relating to classification and General  
6 Schedule pay rates.

7 “(2) COMPARABILITY OF COMPENSATION WITH  
8 FEDERAL FINANCIAL REGULATORY AGENCIES.—In  
9 fixing and directing compensation under paragraph  
10 (1), the Secretary shall consult with, and maintain  
11 comparability with compensation of officers and em-  
12 ployees of the Federal Housing Finance Agency, the  
13 Board of Governors of the Federal Reserve System,  
14 and the Federal Deposit Insurance Corporation.

15 “(3) PERSONNEL OF OTHER FEDERAL AGEN-  
16 CIES.—In carrying out the functions referred to in  
17 paragraph (1), the Secretary may use information,  
18 services, staff, and facilities of any executive agency,  
19 independent agency, or department on a reimburs-  
20 able basis, with the consent of such agency or de-  
21 partment.

22 “(4) OUTSIDE EXPERTS AND CONSULTANTS.—  
23 The Secretary may procure temporary and intermit-  
24 tent services under section 3109(b) of title 5, United  
25 States Code, to assist the work of the Department

1 in carrying out the functions referred to in para-  
2 graph (1).

3 “(h) INFORMATION TECHNOLOGY.—

4 “(1) IN GENERAL.—In carrying out any pro-  
5 gram under this Act or any other program of the  
6 Federal Housing Administration, the Secretary may  
7 utilize any amounts as may be made available for  
8 such programs to ensure that an appropriate level of  
9 investment in information technology is maintained  
10 in order for the Secretary to upgrade the technology  
11 systems of the Department used in carrying out the  
12 functions referred to in subsection (g)(1).

13 “(2) USE OF PREMIUM-GENERATED INCOME.—

14 To the extent that income derived in any fiscal year  
15 from premium fees charged under section 203(c) is  
16 in excess of the level of income estimated for that  
17 such year for such premium fees and assumed in the  
18 baseline projection prepared by the Director of the  
19 Office of Management and Budget for inclusion in  
20 the President’s annual budget request, not more  
21 than \$72,000,000 of such excess amounts may be  
22 used from such amounts for the purpose of carrying  
23 out this subsection.

24 “(i) TRAINING AND EDUCATION PROGRAM.—

1           “(1) ESTABLISHMENT.—The Secretary of  
2           Housing and Urban Development shall carry out a  
3           comprehensive training and education program to  
4           improve the service provided by personnel of the De-  
5           partment carrying out functions referred to in sub-  
6           section (g)(1) to users of the mortgage insurance  
7           programs under this Act and any other FHA mort-  
8           gage insurance programs.

9           “(2) TOPICS.—The training and education pro-  
10          gram under this subsection shall—

11                 “(A) have as its primary goal improving  
12                 the quality and consistency of responses pro-  
13                 vided by such personnel of the Department  
14                 headquarters and other offices and centers of  
15                 the Department regarding regulations, hand-  
16                 books, mortgagee letters, and other guidance;  
17                 and

18                 “(B) be designed to—

19                         “(i) ensure that lenders participating  
20                         in the FHA programs may rely on infor-  
21                         mation provided by one office or center of  
22                         the Department when doing business with  
23                         a different office or center; and

24                         “(ii) prevent such lenders from solici-  
25                         tating answers to the same question from

1 different offices or centers of the Depart-  
2 ment in an attempt to obtain an answer  
3 that is satisfactory to the lender, by ensur-  
4 ing consistent responses from different of-  
5 fices and centers.”.

6 **SEC. 5. RISK MANAGEMENT IMPROVEMENTS.**

7 (a) REVIEW OF DELINQUENCIES AND LENDER MON-  
8 ITORING.—Section 202 of the National Housing Act (12  
9 U.S.C. 1708), as amended by the preceding provisions of  
10 this Act, is further amended by adding at the end the fol-  
11 lowing new subsection:

12 “(j) RISK MANAGEMENT IMPROVEMENT.—

13 “(1) REVIEW OF DELINQUENCIES AMONG RE-  
14 CENT ORIGINATIONS.—

15 “(A) IN GENERAL.—The Secretary shall  
16 conduct an ongoing review of mortgages on sin-  
17 gle family housing originated during the pre-  
18 ceding 12 months and insured pursuant to this  
19 Act under which the mortgagor has become 60  
20 or more days delinquent with respect to pay-  
21 ment under the mortgage during the first 90  
22 days of the term of the mortgage to determine  
23 which mortgages should not have been origi-  
24 nated or insured and the characteristics of such

1 mortgages, and which lenders have relatively  
2 high incidences of such delinquent mortgages;

3 “(B) SUFFICIENT RESOURCES.—There is  
4 authorized to be appropriated to the Secretary  
5 for each of fiscal years 2010 through 2014 the  
6 amount necessary to provide 90 additional full-  
7 time equivalent positions for the Department,  
8 or for entering into such contracts as are nec-  
9 essary, to conduct reviews in accordance with  
10 the requirements of this section.

11 “(2) LENDER MONITORING.—In conducting  
12 monitoring and analysis of the performance of lend-  
13 ers for mortgages on single family housing insured  
14 under this Act, the Secretary shall utilize a one-year  
15 period for such monitoring and analysis, to promote  
16 earlier identification of problem lenders and allow  
17 earlier intervention and sanctions.”.

18 (b) ANALYSIS OF MORTGAGE PERFORMANCE.—Sec-  
19 tion 203(g)(2) of the Helping Families Save Their Homes  
20 Act of 2009 (12 U.S.C. 1708 note) is amended—

21 (1) in paragraph (1), by striking “and” at the  
22 end;

23 (2) in paragraph (2)(B), by striking the period  
24 at the end and inserting “; and”; and

1           (3) by adding at the end the following new  
2 paragraph:

3           “(3) analyze the portion of mortgages randomly  
4 reviewed pursuant to subparagraph (B) on the basis  
5 of performance.”.

6 **SEC. 6. SENSE OF CONGRESS REGARDING ADEQUATE CAP-**  
7 **ITAL FLOW FOR MORTGAGE LOANS.**

8           (a) CONGRESSIONAL FINDINGS.—The Congress finds  
9 that—

10           (1) warehouse lending, which provides short-  
11 term lines of credit to non-depository lenders for  
12 mortgage loans that are eventually sold into the sec-  
13 ondary market to Fannie Mae, Freddie Mac and  
14 Ginnie Mae, is a critical link in the housing finance  
15 chain;

16           (2) according to data obtained pursuant to the  
17 Home Mortgage Disclosure Act of 1975, nondeposi-  
18 tory lenders that utilize warehouse lines of credit ac-  
19 count for as much as 40 percent of all residential  
20 mortgage loans in the United States, and nearly 55  
21 percent of FHA loans, which are increasingly pop-  
22 ular;

23           (3) it is estimated that since 2006 warehouse  
24 lending capacity available to the mortgage lending  
25 industry has declined by nearly 90 percent to the



1 current level of approximately \$20 billion to \$25 bil-  
2 lion;

3 (4) based upon projected 2009 lending volume,  
4 there could be a shortfall of hundreds of billions of  
5 dollars in home mortgage availability caused by a  
6 lack of warehouse lending capacity; and

7 (5) unless Federal regulators promptly address  
8 the issue, borrowers seeking to take advantage of to-  
9 day's low interest rates will face rising costs and re-  
10 duced credit access, which could undermine the  
11 housing market recovery.

12 (b) SENSE OF THE CONGRESS.—It is the sense of  
13 the Congress that—

14 (1) the Secretary of the Treasury, the Secretary  
15 of Housing and Urban Development, and the Direc-  
16 tor of the Federal Housing Finance Agency should  
17 use their existing authorities under the Emergency  
18 Economic Stabilization Act of 2008, the Housing  
19 and Economic Recovery Act of 2008, and other stat-  
20 utory and regulatory authorities to provide financial  
21 support and assistance to facilitate increased ware-  
22 house credit capacity by qualified warehouse lenders;

23 (2) such financial support and assistance  
24 should—

1           (A) be used only to expand the amount of  
2           credit or lending capacity made available to  
3           qualified mortgage lenders by qualified ware-  
4           house lenders for the purpose of funding resi-  
5           dential mortgage loans;

6           (B) be provided in such form and manner  
7           as such Secretaries or the Director, as applica-  
8           ble, consider appropriate, which might include  
9           direct loans, guarantees, credit enhancement,  
10          and other incentives; and

11          (C) comply with other requirements estab-  
12          lished by such Secretaries or the Director, as  
13          applicable.

14          (c) DEFINITIONS.—For purposes of this section, the  
15          following definitions shall apply:

16           (1) QUALIFIED MORTGAGE LENDER.—The term  
17          “qualified mortgage lender” means an entity that—

18           (A) is engaged in the business of making  
19           mortgage loans for one- to four-family resi-  
20           dences that are—

21           (i) insured under title II of the Na-  
22           tional Housing Act (12 U.S.C. 1707 et  
23           seq.);

1 (ii) guaranteed, insured, or made  
2 under chapter 37 of title 38, United States  
3 Code;

4 (iii) made, guaranteed, or insured  
5 under title V of the Housing Act of 1949  
6 (42 U.S.C. 1471 et seq.); or

7 (iv) eligible for purchase by the Fed-  
8 eral National Mortgage Association or the  
9 Federal Home Loan Mortgage Corpora-  
10 tion; and

11 (B) is not a depository institution.

12 (2) QUALIFIED WAREHOUSE LENDER.—The  
13 term “qualified warehouse lender” means an entity  
14 that extends credit to qualified mortgage lenders for  
15 the purpose of originating mortgage loans described  
16 in paragraph (1)(A), or that otherwise facilitates the  
17 origination of such loans by a qualified mortgage  
18 lender.

19 **SEC. 7. FORECLOSURE AVOIDANCE INITIATIVES.**

20 Section 230 of the National Housing Act (12 U.S.C.  
21 1715u) is amended by inserting after subsection (d) the  
22 following new subsection:

23 “(e) FORECLOSURE AVOIDANCE DEMONSTRATION  
24 PROGRAMS.—The Secretary may carry out such dem-  
25 onstration programs as the Secretary from time to time

1 determines are appropriate to demonstrate the effective-  
2 ness of alternative methods of avoiding foreclosure on  
3 mortgages insured under this title, including methods in-  
4 volving short sales and deeds in lieu of foreclosure, and  
5 such methods may involve partial or full payment of insur-  
6 ance benefits to the mortgagee.”.

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