

111TH CONGRESS
1ST SESSION

H. R. 37

To establish a systematic mortgage modification program at the Federal
Deposit Insurance Corporation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 2009

Ms. WATERS (for herself, Ms. VELAZQUEZ, Mr. CAPUANO, Mrs. MALONEY,
Mr. AL GREEN of Texas, Mr. CLEAVER, Mr. WATT, Mr. BACA, Ms. LEE
of California, Ms. CLARKE, Mr. HINCHEY, and Mr. HODES) introduced
the following bill; which was referred to the Committee on Financial Serv-
ices

A BILL

To establish a systematic mortgage modification program
at the Federal Deposit Insurance Corporation, 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 “Systematic Foreclosure
5 Prevention and Mortgage Modification Act”.

1 **SEC. 2. SYSTEMATIC FORECLOSURE PREVENTION AND**
2 **MORTGAGE MODIFICATION PLAN ESTAB-**
3 **LISHED.**

4 (a) IN GENERAL.—The Chairperson of the Federal
5 Deposit Insurance Corporation shall establish a systematic
6 foreclosure prevention and mortgage modification program
7 by—

8 (1) paying servicers \$1,000 to cover expenses
9 for each loan modified according to the required
10 standards; and

11 (2) sharing up to 50 percent of any losses in-
12 curred if a modified loan should subsequently re-de-
13 fault.

14 (b) PROGRAM COMPONENTS.—The program estab-
15 lished under subsection (a) shall include the following
16 components:

17 (1) ELIGIBLE BORROWERS.—The program shall
18 be limited to loans secured by owner-occupied prop-
19 erties.

20 (2) EXCLUSION FOR EARLY PAYMENT DE-
21 FAULT.—To promote sustainable mortgages, govern-
22 ment loss sharing shall be available only after the
23 borrower has made a minimum of 6 payments on the
24 modified mortgage.

25 (3) STANDARD NET PRESENT VALUE TEST.—In
26 order to promote consistency and simplicity in imple-

1 mentation and audit, a standard test comparing the
2 expected net present value of modifying past due
3 loans compared to the net present value of fore-
4 closing on them will be applied. Under this test,
5 standard assumptions shall be used to ensure that a
6 consistent standard for affordability is provided
7 based on a 31 percent borrower mortgage debt-to-in-
8 come ratio.

9 (4) SYSTEMATIC LOAN REVIEW BY PARTICI-
10 PATING SERVICERS.—Participating servicers shall be
11 required to undertake a systematic review of all of
12 the loans under their management, to subject each
13 loan to a standard net present value test to deter-
14 mine whether it is a suitable candidate for modifica-
15 tion, and to modify all loans that pass this test. The
16 penalty for failing to undertake such a systematic
17 review and to carry out modifications where they are
18 justified would be disqualification from further par-
19 ticipation in the program until such a systematic
20 program was introduced.

21 (5) MODIFICATIONS.—Modifications may in-
22 clude any of the following:

23 (A) Reduction in interest rates and fees.

24 (B) Forbearance of principal.

25 (C) Extension of the term to maturity.

1 (D) Other similar modifications.

2 (6) REDUCED LOSS SHARE PERCENTAGE FOR
3 “UNDERWATER LOANS”.—For loan-to-value ratios
4 above 100 percent, the government loss share shall
5 be progressively reduced from 50 percent to 20 per-
6 cent as the current loan-to-value ratio rises, except
7 that loss sharing shall not be available if the loan-
8 to-value ratio of the first lien exceeds 150 percent.

9 (7) SIMPLIFIED LOSS SHARE CALCULATION.—
10 In order to ensure the administrative efficiency of
11 this program, the calculation of loss share basis
12 would be as simple as possible. In general terms, the
13 calculation shall be based on the difference between
14 the net present value, as defined by the Chairperson
15 of the Federal Deposit Insurance Corporation, of the
16 modified loan and the amount of recoveries obtained
17 in a disposition by refinancing, short sale, or real es-
18 tate owned sale, net of disposal costs as estimated
19 according to industry standards. Interim modifica-
20 tions shall be allowed.

21 (8) DE MINIMIS TEST.—To lower administra-
22 tive costs, a de minimis test shall be used to exclude
23 from loss sharing any modification that does not
24 lower the monthly payment at least 10 percent.

1 (9) 8-YEAR LIMIT ON LOSS SHARING PAY-
2 MENT.—The loss sharing guarantee shall terminate
3 at the end of the 8-year period beginning on the
4 date the modification was consummated.

5 (c) REGULATIONS.—The Corporation shall prescribe
6 such regulations as may be necessary to implement this
7 Act and prevent evasions thereof.

8 (d) TROUBLED ASSETS.—The costs incurred by the
9 Federal Government in carrying out the loan modification
10 program established under this section shall be covered
11 out of the funds made available to the Secretary of the
12 Treasury under section 118 of the Emergency Economic
13 Stabilization Act of 2008.

14 (e) MODIFICATIONS TO PROGRAM.—The Chairperson
15 of the Federal Deposit Insurance Corporation may make
16 any modification to the program established under sub-
17 section (a) that the Chairperson determines are appro-
18 priate for the purpose of maximizing the number of fore-
19 closures prevented.

20 (f) REPORT.—Before the end of the 6-month period
21 beginning on the date of the enactment of this Act, the
22 Chairperson of the Federal Deposit Insurance Corporation
23 shall submit a progress report to the Congress containing
24 such findings and such recommendations for legislative or

- 1 administrative action as the Chairperson may determine
- 2 to be appropriate.

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