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[Report No. 113-129]

To improve the Federal Housing Administration and to ensure the solvency of the Mutual Mortgage Insurance Fund, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 25, 2013

Mr. JOHNSON of South Dakota (for himself and Mr. CRAPO) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

DECEMBER 19, 2013

Reported by Mr. JOHNSON of South Dakota, with amendments

[Omit the part struck through and insert the part printed in italics]

A BILL

To improve the Federal Housing Administration and to ensure the solvency of the Mutual Mortgage Insurance Fund, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “FHA Solvency Act of 2013”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

- Sec. 1. Short title; table of contents.
 Sec. 2. Mortgage insurance premiums.
Sec. 3. Prohibition on insuring mortgagors with 2 prior foreclosures.
 Sec. ~~3~~4. Indemnification by FHA mortgagees.
 Sec. 45. Review of mortgagee performance.
Sec. 6. Transfer of mortgage servicing duties.
 Sec. ~~5~~7. Easing regulatory burdens; resource guide.
 Sec. 68. Improving underwriting standards.
 Sec. 79. Ensuring adequate capital levels in the Mutual Mortgage Insurance Fund.
Sec. 10. Stress testing of the Mutual Mortgage Insurance Fund.
Sec. 11. Congressional notification of use of certain authorities with respect to the FHA.
 Sec. ~~8~~12. Establishment of Deputy Assistant Secretary and Chief Risk Officer of FHA.
 Sec. ~~9~~13. Disclosure of events.
 Sec. ~~10~~14. GAO study on disclosures.
 Sec. ~~11~~15. Stabilizing the HECM program.
Sec. 16. Principal limit factor for HECM program.
 Sec. ~~12~~17. Publication of final rules relating to limiting seller contributions towards purchase related expenses.
Sec. 18. GAO study on FHA loan limits.

3 **SEC. 2. MORTGAGE INSURANCE PREMIUMS.**

4 (a) IN GENERAL.—Section 203(c) of the National
 5 Housing Act (12 U.S.C. 1709(c)) is amended—

6 (1) in paragraph (2)(B)—

7 (A) in the matter preceding clause (i)—

8 (i) by striking “may” and inserting
 9 “shall”;

10 (ii) by striking “not exceeding 1.5
 11 percent” and inserting “not less than 0.55
 12 percent”; and

13 (iii) by inserting “and not exceeding
 14 2.0 percent of such remaining insured

1 principal balance” before “for the following
2 periods.”; and

3 (B) in clause (ii), by striking “1.55 per-
4 cent” and inserting “2.05 percent”; and

5 (2) by adding at the end the following:

6 “(3) EVALUATION OF UP-FRONT AND ANNUAL
7 PREMIUMS.—

8 “(A) ANNUAL REVIEW.—The Secretary
9 shall, at least annually, review—

10 “(i) the amount of the annual and up-
11 front premiums collected under this sub-
12 section; and

13 “(ii) the expected losses to the Mutual
14 Mortgage Insurance Fund, as such losses
15 are calculated in the annual independent
16 actuarial study required under section
17 202(a)(4).

18 “(B) REQUIRED ADJUSTMENTS.—Upon
19 completion of the review required under sub-
20 paragraph (A), the Secretary shall, for all mort-
21 gages that are to become an obligation of the
22 Mutual Mortgage Insurance Fund after the
23 date that such review is complete, adjust the
24 annual and up-front premiums applied to such
25 mortgages so that the premiums collected over

1 the life of such mortgages will exceed the ex-
 2 pected losses of such mortgages to the Fund
 3 plus amounts sufficient to ensure the capital re-
 4 serve ratio remains at the level required under
 5 section 205(f).

6 “(C) RULE OF CONSTRUCTION.—Nothing
 7 in this paragraph shall permit or be construed
 8 to permit the Secretary to apply different pre-
 9 mium rates to the same mortgage product dur-
 10 ing the same time period based solely on the
 11 characteristics of the mortgagor.”.

12 (b) EFFECTIVE DATE.—The amendments made by
 13 subsection (a) take effect upon the expiration of the 6-
 14 month period beginning on the date of enactment of this
 15 Act.

16 **SEC. 3. PROHIBITION ON INSURING MORTGAGORS WITH 2**
 17 **PRIOR FORECLOSURES.**

18 *Section 203 of the National Housing Act (12 U.S.C.*
 19 *1709) is amended by adding at the end the following:*

20 “(y) **PROHIBITION ON INSURING MORTGAGORS WITH**
 21 **2 PRIOR FORECLOSURES.**—*The Secretary may not insure,*
 22 *or enter into a commitment to insure, a mortgage under*
 23 *this section that is executed by a mortgagor who is the mort-*
 24 *gagor under any two mortgages on 1- to 4-family residen-*
 25 *tial properties that have been previously foreclosed upon.”.*

1 **SEC. 34. INDEMNIFICATION BY FHA MORTGAGEES.**

2 (a) IN GENERAL.—Section 202 of the National
3 Housing Act (12 U.S.C. 1708) is amended by adding at
4 the end the following new subsection:

5 “(i) INDEMNIFICATION BY MORTGAGEES.—

6 “(1) IN GENERAL.—If the Secretary determines
7 that a mortgage executed by a mortgagee approved
8 by the Secretary under the direct endorsement pro-
9 gram or insured by a mortgagee pursuant to the del-
10 egation of authority under section 256 contains a
11 material defect such that the mortgage should not
12 have been approved or endorsed for insurance, and
13 a loan becomes delinquent within 36 months of such
14 approval or endorsement leading to a default or the
15 Secretary pays a claim within 36 months after such
16 approval or endorsement, the Secretary may require
17 the mortgagee approved by the Secretary under the
18 direct endorsement program or the mortgagee dele-
19 gated authority under section 256 to indemnify the
20 Secretary for the loss, irrespective of whether the
21 violation caused the mortgage default.

22 “(2) FRAUD OR MISREPRESENTATION.—If
23 fraud or misrepresentation was involved in connec-
24 tion with the origination, the Secretary shall require
25 the mortgagee approved by the Secretary under the
26 direct endorsement program or the mortgagee dele-

1 gated authority under section 256 to indemnify the
2 Secretary for the loss regardless of when an insur-
3 ance claim is paid, *except if the Secretary determines*
4 *that the fraud or misrepresentation was the result of*
5 *fraud or misrepresentation committed not by the*
6 *mortgagee but by a third party and that the mort-*
7 *gagee had implemented adequate quality control and*
8 *review procedures to deter, detect, and identify such*
9 *fraud or misrepresentation.*

10 “(3) REQUIREMENTS AND PROCEDURES.—The
11 Secretary shall issue regulations establishing—

12 “(A) appropriate requirements and proce-
13 dures governing the indemnification of the Sec-
14 retary by the mortgagee, including public re-
15 porting on—

16 “(i) the number of loans that—

17 “(I) were not originated in ac-
18 cordance with the requirements estab-
19 lished by the Secretary; and

20 “(II) involved fraud or misrepre-
21 sentation in connection with the origi-
22 nation; and

23 “(ii) the financial impact on the Mu-
24 tual Mortgage Insurance Fund when in-
25 demnification is required; and

1 “(B) an appeals process, or making any
2 necessary modifications or revisions to an exist-
3 ing appeals process of the Secretary, to appeal
4 any determination of indemnification made by
5 the Secretary pursuant to paragraph (1) or (2).

6 “(4) APPLICABILITY.—This subsection shall
7 only apply to mortgages insured under this title that
8 were originated on or after the date of enactment of
9 the FHA Solvency Act of 2013.

10 “(5) DEPOSIT IN THE MUTUAL MORTGAGE IN-
11 SURANCE FUND.—The Secretary shall deposit any
12 amounts collected pursuant to this subsection in,
13 and for the use of, the Mutual Mortgage Insurance
14 Fund.”.

15 (b) RULE OF CONSTRUCTION.—Nothing in sub-
16 section (a), or the amendment made by subsection (a),
17 shall be construed to supersede, alter, or in any way affect
18 the authorities granted to the Secretary of Housing and
19 Urban Development under section 256 of the National
20 Housing Act (*12 U.S.C. 1715z–21*).

21 **SEC. 45. REVIEW OF MORTGAGEE PERFORMANCE.**

22 Section 533 of the National Housing Act (12 U.S.C.
23 1735f–11) is amended—

24 (1) by amending subsection (a) to read as fol-
25 lows:

1 “(a) PERIODIC REVIEW OF MORTGAGEE PERFORM-
2 ANCE.—To reduce losses in connection with single family
3 mortgage insurance programs under this Act, at least once
4 a year the Secretary shall review the mortgagees origi-
5 nating or underwriting insured single family mortgages.”;

6 (2) by amending subsection (b) to read as fol-
7 lows:

8 “(b) COMPARISON WITH OTHER MORTGAGEES.—

9 “(1) IN GENERAL.—In conducting the review
10 required under subsection (a), for each mortgagee
11 the Secretary shall compare that mortgagee with
12 other mortgagees originating or underwriting in-
13 sured single family mortgages based on the rates of
14 defaults and claims for insured single family mort-
15 gage loans originated or underwritten by that mort-
16 gagee. The Secretary may also compare that mort-
17 gagee with such other mortgagees based on—

18 “(A) underwriting quality;

19 “(B) geographic area served; or

20 “(C) any commonly used factors the Sec-
21 retary deems necessary for comparing mortgage
22 default risk, provided that such comparison is
23 of factors that the Secretary would expect to re-
24 duce the default risk of mortgages insured by
25 the Secretary.

1 “(2) IMPLEMENTATION.—In carrying out the
2 comparisons required under paragraph (1), the Sec-
3 retary shall implement such comparisons by regula-
4 tion, notice, or mortgagee letter.”; and

5 (3) in subsection (c)—

6 (A) by striking paragraph (1) and insert-
7 ing the following:

8 “(1) TERMINATION AUTHORITY.—

9 “(A) IN GENERAL.—Notwithstanding sec-
10 tion 202(c), the Secretary may terminate the
11 approval of a mortgagee to originate or under-
12 write single family mortgages if the Secretary
13 determines that the mortgage loans originated
14 or underwritten by the mortgagee present an
15 unacceptable risk to the insurance funds.

16 “(B) BASIS FOR DETERMINING UNACCEPT-
17 ABLE RISK.—For purposes of subparagraph
18 (A), a mortgagee may present an unacceptable
19 risk to the insurance funds based on—

20 “(i) a comparison of any of the fac-
21 tors set forth in subsection (b); or

22 “(ii) a determination that the mort-
23 gagee engaged in fraud or misrepresenta-
24 tion.”;

1 (B) by redesignating paragraph (2) as
2 paragraph (3);

3 (C) by inserting after paragraph (1) the
4 following:

5 “(2) APPLICABILITY AND ENFORCEMENT.—The
6 authority granted to the Secretary under paragraph
7 (1) shall—

8 “(A) apply for any specified area or areas,
9 or on a nationwide basis; and

10 “(B) be made in accordance with any regu-
11 lation, notice, or mortgagee letter issued by the
12 Secretary.”; and

13 (D) in paragraph (3) (as so redesi-
14 gnated)—

15 (i) by striking “(3) The Secretary
16 shall give” and inserting “(3) NOTICE AND
17 RIGHT TO INFORMAL CONFERENCE.—The
18 Secretary shall give”; and

19 (ii) in the fourth sentence, by striking
20 “excessive default and claim rate” and in-
21 sserting “finding of an unacceptable risk to
22 the insurance funds”.

1 **SEC. 6. TRANSFER OF MORTGAGE SERVICING DUTIES.**

2 (a) *IN GENERAL.*—*Title II of the National Housing*
3 *Act (12 U.S.C. 1707 et seq.) is amended by adding at the*
4 *end the following new section:*

5 **“SEC. 259. TRANSFER OF MORTGAGE SERVICING DUTIES.**

6 “(a) *TRANSFER OF MORTGAGE SERVICING DUTIES.*—

7 “(1) *IN GENERAL.*—*For any mortgage or pool of*
8 *mortgages insured under this title and in accordance*
9 *with rules promulgated by the Secretary, the Sec-*
10 *retary may require the servicer of any such mortgage*
11 *or pool of mortgages to enter into a subservicing ar-*
12 *rangement with any independent specialty servicer*
13 *approved by the Secretary.*

14 “(2) *RULES.*—*The rules required under para-*
15 *graph (1) shall—*

16 “(A) *set forth with clarity the performance*
17 *conditions of a servicer that would warrant or*
18 *necessitate the use of the authority granted to the*
19 *Secretary under this section;*

20 “(B) *require that the performance condition*
21 *warranting or necessitating the use of such au-*
22 *thority be of such type or character so as to ma-*
23 *terially and adversely affect the Secretary’s abil-*
24 *ity to recover any amounts owed to the Sec-*
25 *retary;*

1 “(C) for purposes of subparagraph (B), de-
2 fine the term ‘materially and adversely affect’;

3 “(D) require that any servicer whose serv-
4 icing duties are subject to this section be pro-
5 vided a reasonable amount of time, provided that
6 such time does not present a risk to the Mutual
7 Mortgage Insurance Fund, to rebut, address, or
8 correct any determination of the Secretary re-
9 garding a performance condition described under
10 subparagraph (A);

11 “(E) only permit the Secretary to carry out
12 the authority granted under this section upon ex-
13 piration of the time-period allowed under sub-
14 paragraph (D);

15 “(F) limit the scope of any such authority
16 to mortgages that share similar underwriting,
17 borrower, and performance characteristics;

18 “(G) ensure that the scope of any such au-
19 thority is not applied broadly and without fur-
20 ther limitation; and

21 “(H) notwithstanding subparagraphs (B)
22 through (G), provide that a servicer may be sub-
23 ject to more extensive programmatic discipline or
24 correction measures, as determined by the Sec-
25 retary, if, during any 5-year period—

1 II of the National Housing Act (12 U.S.C. 1707 et seq.),
2 including, but not limited to, the policies, processes, and
3 procedures of the Secretary relating to any indemnifica-
4 tion authority of the Secretary, including any criteria the
5 Secretary considers to be a material defect for purposes
6 of executing such authority.

7 (b) CONTENT.—The resource guide required under
8 subsection (a) shall aggregate all forms, policies, and other
9 related information set forth in any handbooks, mortgagee
10 letters, guidebooks, notices, or bulletins issued by the Sec-
11 retary.

12 (c) UPDATING.—Beginning on the expiration of the
13 date set forth under subsection (a), whenever the Sec-
14 retary issues any new policy, process, or procedure, or re-
15 vises or otherwise amends any existing policy, process, or
16 procedure contained in the resource guide required under
17 subsection (a), such addition, revision, or amendment shall
18 be issued as an amendment to the resource guide.

19 (d) PUBLIC AVAILABILITY; WEBSITE ACCESS.—The
20 resource guide required under subsection (a) shall be made
21 available to the public and posted on the website of the
22 Department of the Housing and Urban Development.

23 (e) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated such sums as are nec-
25 essary to carry out this section.

1 **SEC. 68. IMPROVING UNDERWRITING STANDARDS.**

2 (a) IN GENERAL.—Not later than 180 days after the
3 date of enactment of this Act, the Secretary of Housing
4 and Urban Development shall, by mortgagee letter or rule,
5 evaluate and revise as necessary the underwriting stand-
6 ards for mortgages eligible to be insured under title II of
7 the National Housing Act (12 U.S.C. 1707 et seq.), which
8 shall—

9 (1) be based on empirically derived, demon-
10 strably and statistically sound models; and

11 (2) include criteria, the evaluation of which has
12 historically resulted in comparatively low rates of de-
13 linquency and default during adverse economic con-
14 ditions.

15 (b) CRITERIA.—The underwriting standards under
16 subsection (a) shall include an evaluation of—

17 (1) the current or reasonably expected income
18 and financial resources of a borrower;

19 (2) the employment status of a borrower, if in-
20 come used under paragraph (1) is employment in-
21 come;

22 (3) the monthly payment of a borrower under
23 the terms of a mortgage;

24 (4) the monthly payment for any other loan
25 held by the borrower;

1 (5) the monthly payment for any obligations re-
2 lated to the mortgage;

3 (6) any other debt obligations of a borrower, in-
4 cluding alimony and child support;

5 (7) the monthly debt-to-income ratio or residual
6 income of a borrower;

7 (8) the credit history of a borrower; and

8 (9) any other risk factor or criteria, as deter-
9 mined appropriate by the Secretary.

10 **SEC. 79. ENSURING ADEQUATE CAPITAL LEVELS IN THE**
11 **MUTUAL MORTGAGE INSURANCE FUND.**

12 Section 205 of the National Housing Act (12 U.S.C.
13 1711(f)) is amended—

14 (1) in subsection (f)—

15 (A) in paragraph (2), by striking “~~shall en-~~
16 ~~sure that the Fund~~ maintains at least such cap-
17 ital ratio at all times thereafter” and inserting
18 “maintains such ratio thereafter, subject to
19 paragraph (3)”; and

20 (B) by amending paragraph (3) to read as
21 follows:

22 “(3) The Secretary shall ensure that the Mu-
23 tual Mortgage Insurance Fund attains a capital
24 ratio of not less than 3.0 percent within 10 years
25 after the date of enactment of the FHA Solvency

1 Act of 2013, and shall ensure that the Fund main-
 2 tains at least such capital ratio at all times there-
 3 after.”; and

4 (2) by adding at the end the following:

5 “(g) ENSURING ADEQUATE CAPITAL LEVELS IN THE
 6 MUTUAL MORTGAGE INSURANCE FUND.—

7 “(1) EFFECTIVE DATE.—

8 “(A) IN GENERAL.—Except as provided in
 9 subparagraph (B), this subsection shall take ef-
 10 fect on the date of enactment of the FHA Sol-
 11 vency Act of 2013.

12 “(B) EXCEPTION FOR IMPOSITION OF SUR-
 13 CHARGES.—

14 “(i) IN GENERAL.—Paragraphs
 15 (4)(D), (5)(D), and (6)(D) of this sub-
 16 section—

17 “(I) shall not have any force or
 18 effect during the 2-year period begin-
 19 ning on the date of enactment of the
 20 FHA Solvency Act of 2013; and

21 “(II) shall take effect upon the
 22 earlier of—

23 “(aa) the expiration of the
 24 2-year period set forth under
 25 subclause (I), if in any annual

1 independent actuarial study re-
2 quired under section 202(a)(4)
3 the Mutual Mortgage Insurance
4 Fund is designated as critically
5 undercapitalized pursuant to
6 paragraph (6);

7 “(bb) the date the inde-
8 pendent actuary commissioned to
9 carry out the annual independent
10 actuarial study required under
11 section 202(a)(4) submits the re-
12 sults of the fiscal year 2016
13 study to the Secretary, if such
14 study finds that the Mutual
15 Mortgage Insurance Fund has
16 not achieved the capital ratio re-
17 quired to be maintained under
18 subsection (f)(1);

19 “(cc) any date occurring
20 after the date set forth under
21 item (bb), but prior to any date
22 set forth under items (dd) or
23 (ee), if in any annual inde-
24 pendent actuarial study required
25 under section 202(a)(4) the inde-

1 pendent actuary commissioned to
2 carry out the study finds—

3 “(AA) that in compari-
4 son to the independent actu-
5 arial study submitted in the
6 most recent prior fiscal year,
7 the capital ratio of the Fund
8 has decreased; and

9 “(BB) the market
10 share for mortgages insured
11 under this title has not been
12 concurrently reduced thus
13 contributing to the decrease
14 in the capital ratio described
15 under subitem (AA);

16 “(dd) the date on which the
17 Mutual Mortgage Insurance
18 Fund attains a capital ratio of
19 3.0 percent; or

20 “(ee) the date that is 10
21 years after the date of enactment
22 of the FHA Solvency Act of
23 2013.

24 “(ii) RULE OF CONSTRUCTION.—For
25 purposes of this subsection, any finding

1 made under item (cc) of clause (i)(II) shall
2 be deemed to mean that the Mutual Mort-
3 gage Insurance Fund is undercapitalized
4 pursuant to paragraph (4) and that not-
5 withstanding the provisions of paragraph
6 (4)(D)(iv), the Secretary shall begin or
7 continue to collect any surcharge set forth
8 under paragraph (4)(D), until the earlier
9 of the date on which—

10 “(I) the next report of the Sec-
11 retary on the annual independent ac-
12 tuarial study required under section
13 202(a)(4) finds that in comparison to
14 the independent actuarial study sub-
15 mitted in the most recent prior fiscal
16 year, the capital ratio of the Fund has
17 increased;

18 “(II) the report of the Secretary
19 required under paragraph (3)(A) finds
20 that in comparison to the independent
21 actuarial study submitted in the most
22 recent prior fiscal year, the capital
23 ratio of the Fund has increased; or

24 “(III) the Mutual Mortgage In-
25 surance Fund has been designated *as*

1 significantly undercapitalized pursu-
2 ant to paragraph (5) or critically
3 undercapitalized pursuant to para-
4 graph (6) and the premium surcharge
5 applicable to any such designation has
6 taken effect.

7 “(2) DUTY OF CHIEF RISK OFFICER.—Fol-
8 lowing the receipt by the Deputy Assistant Secretary
9 and Chief Risk Officer of the final completed report
10 for the fiscal year of the independent actuary com-
11 missioned to carry out the annual independent actu-
12 arial study required under section 202(a)(4) ana-
13 lyzing the capital ratio of the Mutual Mortgage In-
14 surance Fund, the Deputy Assistant Secretary and
15 Chief Risk Officer shall, as part of that individual’s
16 regularly assigned duties and responsibilities, have a
17 duty to notify, within 24 hours, the Secretary of any
18 failure to maintain the capital ratio of the Mutual
19 Mortgage Insurance Fund as required under sub-
20 section (f).

21 “(3) STUDIES AND REPORTS.—

22 “(A) FOR WHEN FUND IS UNDERCAPITAL-
23 IZED OR SIGNIFICANTLY UNDERCAPITALIZED.—
24 If the Mutual Mortgage Insurance Fund is des-
25 ignated as undercapitalized or significantly

1 undercapitalized pursuant to paragraphs (4) or
2 (5), respectively, then not later than 180 days
3 after date on which the Secretary submits the
4 report on the annual independent actuarial
5 study required under section 202(a)(4), and an-
6 nually thereafter until such time as the Mutual
7 Mortgage Insurance Fund achieves the capital
8 ratio required to be maintained under sub-
9 section (f), the Secretary shall provide a report
10 to the Committee on Banking, Housing, and
11 Urban Affairs of the Senate and the Committee
12 on Financial Services of the House of Rep-
13 resentatives updating the results of the inde-
14 pendent actuarial study required under section
15 202(a)(4) to reflect the most recently available
16 information and analyzing the financial position
17 of the Fund.

18 “(B) FOR WHEN FUND IS CRITICALLY
19 UNDERCAPITALIZED.—If the Mutual Mortgage
20 Insurance Fund is designated as critically
21 undercapitalized pursuant to paragraph (6),
22 then not later than the last day of the current
23 fiscal quarter in which the Congress is informed
24 of such events pursuant to paragraph (6)(A),
25 and every fiscal quarter thereafter until such

1 time as the Mutual Mortgage Insurance Fund
2 achieves the capital ratio required to be main-
3 tained under subsection (f) or is designated as
4 undercapitalized or significantly undercapital-
5 ized pursuant to paragraphs (4) or (5), respec-
6 tively, the Secretary shall provide a report to
7 the Committee on Banking, Housing, and
8 Urban Affairs of the Senate and the Committee
9 on Financial Services of the House of Rep-
10 resentatives updating the results of the inde-
11 pendent actuarial study required under section
12 202(a)(4) to reflect the most recently available
13 information and analyzing the financial position
14 of the Fund.

15 “(C) FAILURE TO COMPLY WITH RE-
16 QUIRED TIMELINES.—If the Secretary fails to
17 comply with any timeline required under sub-
18 paragraphs (A) or (B), the Secretary shall ap-
19 pear before the Committee on Banking, Hous-
20 ing, and Urban Affairs of the Senate and the
21 Committee on Financial Services of the House
22 of Representatives within 7 days of the last day
23 of that deadline to provide testimony explaining
24 the failure to comply.

1 “(4) CORRECTIVE ACTIONS WHEN FUND IS
2 UNDERCAPITALIZED.—

3 “(A) NOTICE TO CONGRESS.—Not later
4 than 7 days after the date on which the Sec-
5 retary is informed that the Mutual Mortgage
6 Insurance Fund has a capital ratio of not less
7 than 50 percent but less than 100 percent of
8 the capital ratio required to be maintained
9 under subsection (f), the Secretary shall notify
10 the Chair and Ranking Member of the Com-
11 mittee on Banking, Housing, and Urban Affairs
12 of the Senate and the Chair and Ranking Mem-
13 ber of the Committee on Financial Services of
14 the House of Representatives of such shortfall,
15 and the exact date on which the Secretary was
16 informed of such shortfall.

17 “(B) SUBMISSION OF CAPITAL RESTORA-
18 TION PLAN.—Not later than 30 days after the
19 date on which notice is provided under subpara-
20 graph (A), the Secretary shall submit to the
21 Chair and Ranking Member of the Committee
22 on Banking, Housing, and Urban Affairs of the
23 Senate and the Chair and Ranking Member of
24 the Committee on Financial Services of the
25 House of Representatives a capital restoration

1 plan, including a timeline for implementation of
2 such plan, to achieve the capital ratio required
3 to be maintained under subsection (f). The plan
4 required under this subparagraph shall be re-
5 vised annually until such time as the Mutual
6 Mortgage Insurance Fund achieves the capital
7 ratio required to be maintained under sub-
8 section (f).

9 “(C) CONGRESSIONAL TESTIMONY.—Not
10 later than 45 days after the date on which no-
11 tice is provided under subparagraph (A), and
12 annually thereafter until such time as the Mu-
13 tual Mortgage Insurance Fund achieves the
14 capital ratio required to be maintained under
15 subsection (f), the Secretary shall provide testi-
16 mony to the Committee on Banking, Housing,
17 and Urban Affairs of the Senate and the Com-
18 mittee on Financial Services of the House of
19 Representatives on the capital status of the
20 Fund and the performance or projected per-
21 formance of the plan submitted under subpara-
22 graph (B).

23 “(D) IMPOSITION OF PREMIUM SUR-
24 CHARGE.—

1 “(i) IN GENERAL.—Notwithstanding
2 any limitation on the amount of any pre-
3 mium payment set forth under section
4 203(c), in addition to the premiums col-
5 lected under subparagraphs (A), (B), and
6 (C) of paragraph (2) of section 203(c), if
7 the Mutual Mortgage Insurance Fund is
8 designated as undercapitalized pursuant to
9 this paragraph, the Secretary shall estab-
10 lish and collect annual premium payments
11 for any newly insured mortgage for which
12 the Secretary collects an annual premium
13 payment under section 203(c), except for
14 those mortgages insured pursuant to sec-
15 tion 255, in an amount described in clause
16 (ii).

17 “(ii) AMOUNT OF SURCHARGE.—With
18 respect to a mortgage, the amount de-
19 scribed in this clause is 10 basis points of
20 the remaining insured principal balance
21 (excluding the portion of the remaining
22 balance attributable to the premium col-
23 lected under paragraph (2)(A) of section
24 203(c) and without taking into account de-
25 linquent payments or prepayments).

1 “(iii) EFFECTIVE DATE.—

2 “(I) IN GENERAL.—Subject to
3 subclause (II), the requirement to col-
4 lect the annual premium payment set
5 forth under this subparagraph shall
6 take effect on the date that is 180
7 days after the date on which notice is
8 provided to Congress under subpara-
9 graph (A).

10 “(II) DELAY.—The effective date
11 of the requirement to collect the an-
12 nual premium payment set forth
13 under this subparagraph may be ex-
14 tended for an additional 180 days, if
15 prior to the expiration of the initial
16 180-day time period described under
17 subclause (I), the report of the Sec-
18 retary required under paragraph
19 (3)(A)—

20 “(aa) is submitted to Con-
21 gress; and

22 “(bb) finds that the Mutual
23 Mortgage Insurance Fund has
24 achieved the capital ratio re-

1 required to be maintained under
2 subsection (f).

3 “(III) REINSTITUTION OF SUR-
4 CHARGE.—Notwithstanding sub-
5 clauses (I) and (II), if the next report
6 of the Secretary on the annual inde-
7 pendent actuarial study required
8 under section 202(a)(4) that is sub-
9 mitted after the report of the Sec-
10 retary described in subclause (II)
11 finds that the Mutual Mortgage In-
12 surance Fund has not achieved the
13 capital ratio required to be main-
14 tained under subsection (f), then the
15 effective date of the requirement to
16 collect the annual premium payment
17 set forth under this subparagraph
18 shall be the date that is 30 days after
19 the date on which such report is sub-
20 mitted to Congress.

21 “(iv) CESSATION OF APPLICATION.—
22 The Secretary shall not be required to col-
23 lect the annual premium payment set forth
24 under this subparagraph, if, at any time

1 after the date on which such requirement
2 has gone into effect, either—

3 “(I) the report of the Secretary
4 on the annual independent actuarial
5 study required under section
6 202(a)(4) finds that the Mutual Mort-
7 gage Insurance Fund has achieved the
8 capital ratio required to be main-
9 tained under subsection (f);

10 “(II) the report of the Secretary
11 required under paragraph (3) (A)
12 finds that the Mutual Mortgage In-
13 surance Fund has achieved the capital
14 ratio required to be maintained under
15 subsection (f); or

16 “(III) the Mutual Mortgage In-
17 surance Fund has been designated
18 significantly undercapitalized pursu-
19 ant to paragraph (5) or critically
20 undercapitalized pursuant to para-
21 graph (6) and the premium surcharge
22 applicable to any such designation has
23 taken effect.

24 “(5) CORRECTIVE ACTIONS WHEN FUND IS SIG-
25 NIFICANTLY UNDERCAPITALIZED.—

1 “(A) NOTICE TO CONGRESS.—Not later
2 than 7 days after the date on which the Sec-
3 retary is informed that the Mutual Mortgage
4 Insurance Fund has a capital ratio of not less
5 than 0 percent but less than 50 percent of the
6 capital ratio required to be maintained under
7 subsection (f), the Secretary shall notify the
8 Chair and Ranking Member of the Committee
9 on Banking, Housing, and Urban Affairs of the
10 Senate and the Chair and Ranking Member of
11 the Committee on Financial Services of the
12 House of Representatives of such shortfall, and
13 the date on which the Secretary was informed
14 of such shortfall.

15 “(B) SUBMISSION OF REVISED CAPITAL
16 RESTORATION PLAN.—Not later than 30 days
17 after the date on which notice is provided under
18 subparagraph (A), the Secretary shall submit to
19 the Chair and Ranking Member of the Com-
20 mittee on Banking, Housing, and Urban Affairs
21 of the Senate and the Chair and Ranking Mem-
22 ber of the Committee on Financial Services of
23 the House of Representatives a capital restora-
24 tion plan, or a revised capital restoration plan,
25 including a timeline for implementation of such

1 plan or revised plan, to achieve the capital ratio
2 required to be maintained under subsection (f).
3 The plan required under this subparagraph
4 shall be revised annually until such time as the
5 Mutual Mortgage Insurance Fund achieves the
6 capital ratio required to be maintained under
7 subsection (f).

8 “(C) CONGRESSIONAL TESTIMONY.—Not
9 later than 45 days after the date on which no-
10 tice is provided under subparagraph (A), and
11 every 180 days thereafter until such time as the
12 Mutual Mortgage Insurance Fund achieves the
13 capital ratio required to be maintained under
14 subsection (f), the Secretary shall provide testi-
15 mony to the Committee on Banking, Housing,
16 and Urban Affairs of the Senate and the Com-
17 mittee on Financial Services of the House of
18 Representatives on the capital status of the
19 Fund and the performance or projected per-
20 formance of the revised capital restoration plan
21 submitted under subparagraph (B).

22 “(D) IMPOSITION OF PREMIUM SUR-
23 CHARGE.—

24 “(i) IN GENERAL.—Notwithstanding
25 any limitation on the amount of any pre-

1 mium payment set forth under section
2 203(c), in addition to the premiums col-
3 lected under subparagraphs (A), (B), and
4 (C) of paragraph (2) of section 203(c), if
5 the Mutual Mortgage Insurance Fund is
6 designated as significantly undercapitalized
7 pursuant to this paragraph, the Secretary
8 shall establish and collect annual premium
9 payments for any newly insured mortgage
10 for which the Secretary collects an annual
11 premium payment under section 203(c),
12 except for those mortgages insured pursu-
13 ant to section 255, in an amount described
14 in clause (ii).

15 “(ii) AMOUNT OF SURCHARGE.—With
16 respect to a mortgage, the amount de-
17 scribed in this clause is 20 basis points of
18 the remaining insured principal balance
19 (excluding the portion of the remaining
20 balance attributable to the premium col-
21 lected under paragraph (2)(A) of section
22 203(c) and without taking into account de-
23 linquent payments or prepayments).

24 “(iii) EFFECTIVE DATE.—

1 “(I) IN GENERAL.—Subject to
2 subclause (II), the requirement to col-
3 lect the annual premium payment set
4 forth under this subparagraph shall
5 take effect on the date that is 180
6 days after the date on which notice is
7 provided to Congress under subpara-
8 graph (A).

9 “(II) DELAY.—The effective date
10 of the requirement to collect the an-
11 nual premium payment set forth
12 under this subparagraph shall be ex-
13 tended for an additional 180 days, if
14 prior to the expiration of the initial
15 180-day time period described under
16 subclause (I), the report of the Sec-
17 retary required under paragraph
18 (3)(A)—

19 “(aa) is submitted to Con-
20 gress; and

21 “(bb) finds that the Mutual
22 Mortgage Insurance Fund—

23 “(AA) has achieved the
24 capital ratio required to be

1 maintained under subsection
2 (f); or

3 “(BB) has a capital
4 ratio of not less than 50
5 percent but less than 100
6 percent of the capital ratio
7 required to be maintained
8 under subsection (f), at
9 which point the provisions of
10 paragraph (4)(D) shall be
11 applicable, except that the
12 provisions of clause (iii) of
13 such paragraph (4)(D) shall
14 not be applicable and that
15 the premium surcharge ap-
16 plicable to such paragraph
17 shall take effect within 30
18 days of the issuance of such
19 report.

20 “(III) REINSTITUTION OF SUR-
21 CHARGE.—Notwithstanding sub-
22 clauses (I) and (II), if the next report
23 of the Secretary on the annual inde-
24 pendent actuarial study required
25 under section 202(a)(4) that is sub-

1 mitted after the report of the Sec-
2 retary described in subclause (II)
3 finds that the Mutual Mortgage In-
4 surance Fund has a capital ratio of
5 not less than 0 percent but less than
6 50 percent of the capital ratio re-
7 quired to be maintained under sub-
8 section (f), then the effective date of
9 the requirement to collect the annual
10 premium payment set forth under this
11 subparagraph shall be the date that is
12 30 days after the date on which such
13 report is submitted to Congress.

14 “(iv) CESSATION OF APPLICATION.—
15 The Secretary shall not be required to col-
16 lect the annual premium payment set forth
17 under this subparagraph, if, at any time
18 after the date on which such requirement
19 has gone into effect, either—

20 “(I) the report of the Secretary
21 on the annual independent actuarial
22 study required under section
23 202(a)(4) finds that the Mutual Mort-
24 gage Insurance Fund—

1 “(aa) has achieved the cap-
2 ital ratio required to be main-
3 tained under subsection (f); or

4 “(bb) has a capital ratio of
5 not less than 50 percent but less
6 than 100 percent of the capital
7 ratio required to be maintained
8 under subsection (f), at which
9 point the provisions of paragraph
10 (4)(D) shall be applicable, except
11 that the provisions of clause (iii)
12 of such paragraph (4)(D) shall
13 not be applicable and that the
14 premium surcharge applicable to
15 such paragraph shall take effect
16 within 30 days of the issuance of
17 such report;

18 “(II) the report of the Secretary
19 required under paragraph (3)(A) finds
20 that the Mutual Mortgage Insurance
21 Fund—

22 “(aa) has achieved the cap-
23 ital ratio required to be main-
24 tained under subsection (f); or

1 “(bb) has a capital ratio of
2 not less than 50 percent but less
3 than 100 percent of the capital
4 ratio required to be maintained
5 under subsection (f), at which
6 point the provisions of paragraph
7 (4)(D) shall be applicable, except
8 that the provisions of clause (iii)
9 of such paragraph (4)(D) shall
10 not be applicable and that the
11 premium surcharge applicable to
12 such paragraph shall take effect
13 within 30 days of the issuance of
14 such report; or

15 “(III) the Mutual Mortgage In-
16 surance Fund has been designated *as*
17 critically undercapitalized pursuant to
18 paragraph (6) and the premium sur-
19 charge applicable to any such designa-
20 tion has taken effect.

21 “(E) REQUIRED EXAMINATION OF UNDER-
22 WRITING REQUIREMENTS.—If the Mutual Mort-
23 gage Insurance Fund is designated as signifi-
24 cantly undercapitalized pursuant to this para-
25 graph, the Secretary shall—

1 “(i) not later than 30 days after the
2 date on which notice is provided under
3 subparagraph (A), examine all of its prod-
4 uct lines, product or insurance features,
5 and underwriting criteria for ways to
6 strengthen and enhance such products,
7 features, or criteria to limit losses to the
8 Mutual Mortgage Insurance Fund;

9 “(ii) in carrying out the requirement
10 under clause (i), undertake such examina-
11 tion actions as are necessary to reduce the
12 financial vulnerability of the Mutual Mort-
13 gage Insurance Fund from those risk char-
14 acteristics or product lines that most con-
15 tribute to the default of mortgages insured
16 under section 202, including by reviewing
17 the underwriting and servicing standards
18 for mortgages to be insured by the Sec-
19 retary, including, but not limited to, a re-
20 view of—

21 “(I) the amount of cash or its
22 equivalent required to be paid on ac-
23 count of the property subject to a
24 mortgage that is an obligation of the
25 Fund;

1 “(II) servicer compliance with
2 any loan servicing or loss mitigation
3 guidelines of the Secretary; and

4 “(III) economic conditions
5 present in the housing market, pro-
6 vided there is a demonstrated likeli-
7 hood that the policies of the Secretary
8 would impact those economic condi-
9 tions; and

10 “(iii) submit to the Committee on
11 Banking, Housing, and Urban Affairs of
12 the Senate and the Committee on Finan-
13 cial Services of the House of Representa-
14 tives any analysis, findings, or rec-
15 ommendations used or made by the Sec-
16 retary to carry out the requirements of this
17 subparagraph.

18 “(6) CORRECTIVE ACTIONS WHEN FUND IS
19 CRITICALLY UNDERCAPITALIZED.—

20 “(A) NOTICE TO CONGRESS.—Not later
21 than 7 days after the date on which the Sec-
22 retary is informed that the Mutual Mortgage
23 Insurance Fund has a capital ratio of less than
24 0 percent of the capital ratio required to be
25 maintained under subsection (f), the Secretary

1 shall notify the Chair and Ranking Member of
2 the Committee on Banking, Housing, and
3 Urban Affairs of the Senate and the Chair and
4 Ranking Member of the Committee on Finan-
5 cial Services of the House of Representatives of
6 such shortfall, and the date on which the Sec-
7 retary was informed of such shortfall.

8 “(B) SUBMISSION OF FURTHER REVISED
9 CAPITAL RESTORATION PLAN.—Not later than
10 30 days after the date on which notice is pro-
11 vided under subparagraph (A), the Secretary
12 shall jointly submit with the Secretary of the
13 Treasury to the Chair and Ranking Member of
14 the Committee on Banking, Housing, and
15 Urban Affairs of the Senate and the Chair and
16 Ranking Member of the Committee on Finan-
17 cial Services of the House of Representatives a
18 capital restoration plan, or a revised capital res-
19 toration plan, including a timeline for imple-
20 mentation of such plan, to achieve the capital
21 ratio required to be maintained under sub-
22 section (f). The plan required under this sub-
23 paragraph shall be revised and submitted annu-
24 ally with the Secretary of the Treasury, until
25 such time as the Mutual Mortgage Insurance

1 Fund achieves the capital ratio required to be
2 maintained under subsection (f).

3 “(C) CONGRESSIONAL TESTIMONY.—Not
4 later than 45 days after the date on which no-
5 tice is provided under subparagraph (A), and
6 every 180 days thereafter until such time as the
7 Mutual Mortgage Insurance Fund achieves the
8 capital ratio required to be maintained under
9 subsection (f), the Secretary and the Secretary
10 of the Treasury shall each provide testimony to
11 the Committee on Banking, Housing, and
12 Urban Affairs of the Senate and the Committee
13 on Financial Services of the House of Rep-
14 resentatives on the capital status of the Fund
15 and the success or failure of the further revised
16 capital restoration plan submitted under sub-
17 paragraph (B).

18 “(D) IMPOSITION OF PREMIUM SUR-
19 CHARGE.—

20 “(i) IN GENERAL.—Notwithstanding
21 any limitation on the amount of any pre-
22 mium payment set forth under section
23 203(c), in addition to the premiums col-
24 lected under subparagraphs (A), (B), and
25 (C) of paragraph (2) of section 203(c), if

1 the Mutual Mortgage Insurance Fund is
2 designated as critically undercapitalized
3 pursuant to this paragraph, the Secretary
4 shall establish and collect annual premium
5 payments for any newly insured mortgage
6 for which the Secretary collects an annual
7 premium payment under section 203(c),
8 except for those mortgages insured pursu-
9 ant to section 255, in an amount described
10 in clause (ii).

11 “(ii) AMOUNT OF SURCHARGE.—With
12 respect to a mortgage, the amount de-
13 scribed in this clause is 30 basis points of
14 the remaining insured principal balance
15 (excluding the portion of the remaining
16 balance attributable to the premium col-
17 lected under paragraph (2)(A) of section
18 203(c) and without taking into account de-
19 linquent payments or prepayments).

20 “(iii) EFFECTIVE DATE.—

21 “(I) IN GENERAL.—Subject to
22 subclause (II), the requirement to col-
23 lect the annual premium payment set
24 forth under this subparagraph shall
25 take effect on the date that is 180

1 days after the date on which notice is
2 provided to Congress under subpara-
3 graph (A).

4 “(II) DELAY.—The effective date
5 of the requirement to collect the an-
6 nual premium payment set forth
7 under this subparagraph shall be ex-
8 tended for an additional 180 days, if
9 prior to the expiration of the initial
10 180-day time period described under
11 subclause (I), the report of the Sec-
12 retary required under paragraph
13 (3)(B)—

14 “(aa) is submitted to Con-
15 gress; and

16 “(bb) finds that the Mutual
17 Mortgage Insurance Fund—

18 “(AA) has achieved the
19 capital ratio required to be
20 maintained under subsection
21 (f);

22 “(BB) has a capital
23 ratio of not less than 50
24 percent but less than 100
25 percent of the capital ratio

1 required to be maintained
2 under subsection (f), at
3 which point the provisions of
4 paragraph (4)(D) shall be
5 applicable, except that the
6 provisions of clause (iii) of
7 such paragraph (4)(D) shall
8 not be applicable and that
9 the premium surcharge ap-
10 plicable to such paragraph
11 shall take effect within 30
12 days of the issuance of such
13 report; or

14 “(CC) has a capital
15 ratio of not less than 0 per-
16 cent but less than 50 per-
17 cent of the capital ratio re-
18 quired to be maintained
19 under subsection (f), at
20 which point the provisions of
21 paragraph (5)(D) shall be
22 applicable, except that the
23 provisions of clause (iii) of
24 such paragraph (5)(D) shall
25 not be applicable and that

1 the premium surcharge ap-
2 plicable to such paragraph
3 shall take effect within 30
4 days of the issuance of such
5 report.

6 “(III) REINSTITUTION OF SUR-
7 CHARGE.—Notwithstanding sub-
8 clauses (I) and (II), if within 1 cal-
9 endar year any report of the Secretary
10 required under paragraph (3)(B)
11 finds that the Mutual Mortgage In-
12 surance Fund has a capital ratio of
13 less than 0 percent of the capital ratio
14 required to be maintained under sub-
15 section (f), then the effective date of
16 the requirement to collect the annual
17 premium payment set forth under this
18 subparagraph shall be the date that is
19 30 days after the date on which such
20 report is submitted to Congress.

21 “(iv) CESSATION OF APPLICATION.—
22 The Secretary shall not be required to col-
23 lect the annual premium payment set forth
24 under this subparagraph, if, at any time

1 after the date on which such requirement
2 has gone into effect, either—

3 “(I) the report of the Secretary
4 on the annual independent actuarial
5 study required under section
6 202(a)(4) finds that the Mutual Mort-
7 gage Insurance Fund—

8 “(aa) has achieved the cap-
9 ital ratio required to be main-
10 tained under subsection (f);

11 “(bb) has a capital ratio of
12 not less than 50 percent but less
13 than 100 percent of the capital
14 ratio required to be maintained
15 under subsection (f), at which
16 point the provisions of paragraph
17 (4)(D) shall be applicable, except
18 that the provisions of clause (iii)
19 of such paragraph (4)(D) shall
20 not be applicable and that the
21 premium surcharge applicable to
22 such paragraph shall take effect
23 within 30 days of the issuance of
24 such report; or

1 “(cc) has a capital ratio of
2 not less than 0 percent but less
3 than 50 percent of the capital
4 ratio required to be maintained
5 under subsection (f), at which
6 point the provisions of paragraph
7 (5)(D) shall be applicable, except
8 that the provisions of clause (iii)
9 of such paragraph (5)(D) shall
10 not be applicable and that the
11 premium surcharge applicable to
12 such paragraph shall take effect
13 within 30 days of the issuance of
14 such report; or

15 “(II) the report of the Secretary
16 required under paragraph (3)(B)
17 finds that the Mutual Mortgage In-
18 surance Fund—

19 “(aa) has achieved the cap-
20 ital ratio required to be main-
21 tained under subsection (f);

22 “(bb) has a capital ratio of
23 not less than 50 percent but less
24 than 100 percent of the capital
25 ratio required to be maintained

1 under subsection (f), at which
2 point the provisions of paragraph
3 (4)(D) shall be applicable, except
4 that the provisions of clause (iii)
5 of such paragraph (4)(D) shall
6 not be applicable and that the
7 premium surcharge applicable to
8 such paragraph shall take effect
9 within 30 days of the issuance of
10 such report; or

11 “(cc) has a capital ratio of
12 not less than 0 percent but less
13 than 50 percent of the capital
14 ratio required to be maintained
15 under subsection (f), at which
16 point the provisions of paragraph
17 (5)(D) shall be applicable, except
18 that the provisions of clause (iii)
19 of such paragraph (5)(D) shall
20 not be applicable and that the
21 premium surcharge applicable to
22 such paragraph shall take effect
23 within 30 days of the issuance of
24 such report.

1 “(E) REQUIRED ENHANCEMENTS TO UN-
2 DERWRITING REQUIREMENTS.—If the Mutual
3 Mortgage Insurance Fund is designated as
4 critically undercapitalized pursuant to this
5 paragraph, the Secretary shall—

6 “(i) not later than 30 days after the
7 date on which notice is provided under
8 subparagraph (A), take such actions as
9 necessary to revise its product lines, prod-
10 uct or insurances features, or underwriting
11 criteria in order to strengthen and enhance
12 such products, features, or criteria to limit
13 losses to the Mutual Mortgage Insurance
14 Fund;

15 “(ii) in carrying out the requirement
16 under clause (i), undertake such actions as
17 are necessary to reduce the financial vul-
18 nerability of the Mutual Mortgage Insur-
19 ance Fund from those risk characteristics
20 or product lines that most contribute to
21 the default of mortgages insured under
22 section 202, such actions—

23 “(I) may include, but are not
24 limited to, a revision of the—

1 “(aa) amount of cash or its
2 equivalent required to be paid on
3 account of the property subject
4 to a mortgage that is an obliga-
5 tion of the Fund;

6 “(bb) servicer standards for
7 compliance with any loan serv-
8 icing or loss mitigation guidelines
9 of the Secretary; and

10 “(cc) treatment of loan
11 modification requests made by
12 borrowers having insurance pro-
13 vided under this title seeking as-
14 sistance under a modification
15 program of the Secretary; and

16 “(II) shall take into consideration
17 economic conditions present in the
18 housing market, provided there is a
19 demonstrated likelihood that the poli-
20 cies of the Secretary would impact
21 those economic conditions; and

22 “(iii) submit to the Committee on
23 Banking, Housing, and Urban Affairs of
24 the Senate and the Committee on Finan-
25 cial Services of the House of Representa-

1 tives any relevant final analysis used by
2 the Secretary to carry out the require-
3 ments of this subparagraph.

4 “(7) MANDATORY REEVALUATION.—Upon the
5 Mutual Mortgage Insurance Fund achieving the cap-
6 ital ratio required to be maintained under subsection
7 (f), the Secretary—

8 “(A) shall review any actions taken pursu-
9 ant to this subsection;

10 “(B) shall examine and determine wheth-
11 er—

12 “(i) the need to maintain such action
13 is necessary; and

14 “(ii) the repeal, revision, or amend-
15 ment of any such action can be carried out
16 without having any adverse effect on the
17 ability of the Fund to maintain the capital
18 ratio required under subsection (f); and

19 “(C) may, pursuant to any determination
20 under subparagraph (B) that no such adverse
21 effects exist, repeal, revise, or amend any such
22 action as the Secretary determines appro-
23 priate.”.

1 **SEC. 10. STRESS TESTING OF THE MUTUAL MORTGAGE IN-**
2 **SURANCE FUND.**

3 *Section 202(a)(4) of the National Housing Act (12*
4 *U.S.C. 1708(a)(4)) is amended by inserting after the last*
5 *sentence the following: “The report shall also include an al-*
6 *ternative stress test scenario of the Fund based on relevant*
7 *assumptions used in the annual Comprehensive Capital*
8 *Analysis and Review stress tests performed by the Board*
9 *of Governors of the Federal Reserve System. The alternative*
10 *stress test scenario of the Fund shall be developed by the*
11 *Secretary, in consultation with the Board of Governors of*
12 *the Federal Reserve System, and appropriately tailored for*
13 *purposes of assessing the financial status of the Fund. A*
14 *summary of the results of the alternative stress test scenario*
15 *of the Fund, as well as any other stress test scenario of the*
16 *Fund that may be utilized, shall be included in the report.”.*

17 **SEC. 11. CONGRESSIONAL NOTIFICATION OF USE OF CER-**
18 **TAIN AUTHORITIES WITH RESPECT TO THE**
19 **FHA.**

20 *(a) NOTICE BY TREASURY.—The Secretary of the*
21 *Treasury shall provide written notice to the Committee on*
22 *Banking, Housing, and Urban Affairs of the Senate and*
23 *the Committee on Financial Services of the House of Rep-*
24 *resentatives within 48 hours of the exercise of any authority*
25 *granted under section 504(f) of the Federal Credit Reform*
26 *Act of 1990 (2 U.S.C. 661c(f)) to carry out any transaction*

1 *to fund any account established for the benefit of the De-*
2 *partment of Housing and Development, the Federal Hous-*
3 *ing Administration, or the Mutual Mortgage Insurance*
4 *Fund established under section 202 of the National Housing*
5 *Act (12 U.S.C. 1708).*

6 (b) *NOTICE BY HUD.*—*The Secretary of Housing and*
7 *Urban Development shall provide written notice to the*
8 *Committee on Banking, Housing, and Urban Affairs of the*
9 *Senate and the Committee on Financial Services of the*
10 *House of Representatives within 48 hours of the receipt of*
11 *any amounts described under subsection (a).*

12 (c) *INCLUSION IN REQUIRED REPORTS.*—*The Sec-*
13 *retary of Housing and Urban Development shall include,*
14 *in any report required by law to be submitted to Congress,*
15 *including any annual, quarterly, actuarial, or other report*
16 *required to be submitted to the Committee on Banking,*
17 *Housing, and Urban Affairs of the Senate and the Com-*
18 *mittee on Financial Services of the House of Representative,*
19 *the dollar amount of any amounts owed by the Secretary*
20 *of Housing and Urban Development to the Treasury as a*
21 *result of the exercise of any authority granted under section*
22 *504(f) of the Federal Credit Reform Act of 1990 (2 U.S.C.*
23 *661c(f)).*

24 (d) *PUBLIC AVAILABILITY.*—

1 (1) *TREASURY*.—As soon as is practicable, the
2 notice required by subsection (a) shall be made avail-
3 able to the public and posted on the website of the De-
4 partment of the Treasury.

5 (2) *HUD*.—As soon as is practicable, the notice
6 required by subsection (b) shall be made available to
7 the public and posted on the website of the Depart-
8 ment of Housing and Urban Development.

9 **SEC. 812. ESTABLISHMENT OF DEPUTY ASSISTANT SEC-**
10 **RETARY AND CHIEF RISK OFFICER OF FHA.**

11 (a) *IN GENERAL*.—Subsection (b) of section 4 of the
12 Department of Housing and Urban Development Act (42
13 U.S.C. 3533(b)) is amended—

14 (1) by striking “There shall be” and inserting
15 the following:

16 “(1) *ESTABLISHMENT OF COMMISSIONER*.—
17 There shall be”; and

18 (2) by adding at the end the following:

19 “(2) *ESTABLISHMENT OF DEPUTY ASSISTANT*
20 *SECRETARY AND CHIEF RISK OFFICER*.—

21 “(A) *APPOINTMENT*.—There shall be in
22 the Department, within the Federal Housing
23 Administration, a Deputy Assistant Secretary
24 and Chief Risk Officer, who shall be appointed
25 by the Secretary and shall be responsible to the

1 Federal Housing Commissioner for all matters
2 relating to managing and mitigating risk to the
3 mortgage insurance funds of the Department
4 and ensuring the performance of mortgages in-
5 sured by the Department to protect borrowers
6 and taxpayers.

7 “(B) RESPONSIBILITIES.—The Deputy As-
8 sistant Secretary and Chief Risk Officer estab-
9 lished under subparagraph (A) shall have—

10 “(i) comprehensive risk management
11 and regulatory knowledge in key risks, in-
12 cluding credit, interest rate, and oper-
13 ational risk;

14 “(ii) a sound understanding of the
15 tools and methodologies used to measure
16 and quantify risk, including the use of sta-
17 tistical models; and

18 “(iii) a broad understanding and
19 knowledge of mortgage industry best prac-
20 tices for risk management.

21 “(C) UNDERWRITING REPORT.—

22 “(i) IN GENERAL.—Not later than 1
23 year after the date of enactment of the
24 FHA Solvency Act of 2013, and annually
25 thereafter, the Deputy Assistant Secretary

1 and Chief Risk Officer (or, if not yet ap-
2 pointed, the Commissioner of the Federal
3 Housing Administration) shall prepare a
4 report on the underwriting standards for
5 mortgages insured under title II of the Na-
6 tional Housing Act (12 U.S.C. 1707 et
7 seq.), which shall be submitted by the Sec-
8 retary to—

9 “(I) the Committee on Banking,
10 Housing, and Urban Affairs of the
11 Senate; and

12 “(II) the Committee on Financial
13 Services of the House of Representa-
14 tives.

15 “(ii) CONTENTS.—The report required
16 under clause (i) shall include—

17 “(I) for all mortgages insured
18 under title II of the National Housing
19 Act that were made not less than 6
20 months and not more than 36 months
21 before the date of the report, an iden-
22 tification of the default risk character-
23 istics as such characteristics existed at
24 the time of origination of the mort-
25 gage based on risk factors that are

1 commonly used in evaluating mort-
2 gage default risk, including—

3 “(aa) the current or reason-
4 ably expected income and finan-
5 cial resources of a borrower;

6 “(bb) the employment status
7 of a borrower, if income used
8 under item (aa) is employment
9 income;

10 “(cc) the monthly mortgage
11 payment of a borrower under the
12 terms of a mortgage;

13 “(dd) the monthly payment
14 for any other loan held by the
15 borrower;

16 “(ee) the monthly payment
17 for any obligations related to the
18 mortgage;

19 “(ff) any other debt obliga-
20 tions of a borrower, including ali-
21 mony and child support;

22 “(gg) the monthly debt-to-
23 income ratio or residual income
24 of a borrower;

1 “(hh) the credit history of a
2 borrower; and

3 “(ii) any other risk factor,
4 as determined appropriate by the
5 Secretary;

6 “(II) in tabular format, the num-
7 ber of mortgages insured under title
8 II of the National Housing Act that
9 are in default and the rate of default
10 for—

11 “(aa) each for the character-
12 istics described in subclause (I);

13 “(bb) any multi-way com-
14 bination of the characteristics in
15 subclause (I) as determined ap-
16 propriate by the Secretary; and

17 “(cc) any additional multi-
18 way combination of the charac-
19 teristics in subclause (I) as may
20 be requested by the Chair or
21 Ranking Member of the Com-
22 mittee on Banking, Housing, and
23 Urban Affairs of the Senate or
24 the Chair or Ranking Member of
25 the Committee on Financial

1 Services of the House of Rep-
2 resentatives, provided that the
3 Deputy Assistant Secretary and
4 Chief Risk Officer (or, if not yet
5 appointed, the Commissioner of
6 the Federal Housing Administra-
7 tion) shall be provided an addi-
8 tional 30 days from the date of
9 receipt of such request to satisfy
10 such request;

11 “(III) an analysis of mortgages
12 insured under title II of the National
13 Housing Act that were made not less
14 than 6 months and not more than 36
15 months before the date of the report
16 and are in the lowest quartile and
17 decile of loan performance, which
18 shall include—

19 “(aa) a description of the
20 characteristics described in sub-
21 clause (I) for mortgages in the
22 lowest quartile and decile of loan
23 performance; and

24 “(bb) a comparison of the
25 characteristics described in sub-

1 clause (I) between mortgages in
2 the lowest quartile and decile of
3 loan performance and all other
4 mortgages insured under title II
5 of the National Housing Act;

6 “(IV) recommendations by the
7 Deputy Assistant Secretary and Chief
8 Risk Officer for revisions to the un-
9 derwriting standards of the Secretary
10 for mortgages eligible to be insured
11 under title II of the National Housing
12 Act based on the findings of the re-
13 port, and a response to those rec-
14 ommendations from the Secretary;
15 and

16 “(V) a quantitative analysis of
17 the effects of any revisions to the un-
18 derwriting standards made by the
19 Secretary in response to the findings
20 of a prior report, and any rec-
21 ommendations of the Deputy Assist-
22 ant Secretary and Chief Risk Officer
23 in response to those revisions.”.

24 (b) CONFORMING AMENDMENT.—Section 202(a)(4)
25 of the National Housing Act (12 U.S.C. 1708(a)(4)) is

1 amended by inserting after the first sentence the fol-
2 lowing: “The independent actuary commissioned to carry
3 out the annual independent actuarial study required under
4 this paragraph shall submit such study to the Deputy As-
5 sistant Secretary and Chief Risk Officer.”.

6 **SEC. 913. DISCLOSURE OF EVENTS.**

7 Section 202(a)(4) of the National Housing Act (12
8 U.S.C. 1708(a)(4)) is amended—

9 (1) by striking “The Secretary shall” and in-
10 sserting the following:

11 “(1) IN GENERAL.—The Secretary shall”; and

12 (2) by adding at the end the following:

13 “(2) DISCLOSURE OF UNFORESEEN EVENTS.—

14 “(A) IN GENERAL.—Prior to the submis-
15 sion of any report of the Secretary under para-
16 graph (1), the Secretary shall require that the
17 independent actuary commissioned to perform
18 the study required under paragraph (1) disclose
19 to the Secretary any events or circumstances
20 that occur after the study is completed but be-
21 fore the report is submitted to Congress and
22 that would have resulted in changes to the in-
23 puts or assumptions the actuary used to make
24 forecasts about the financial position of the
25 Fund, if such changes are sufficiently signifi-

1 cant that a reasonable person would expect
2 them to substantially alter the actuary’s fore-
3 casts of the economic value of the Fund or the
4 actuary’s projections relating to the capital re-
5 serve ratio of the Fund.

6 “(B) INFORMING CONGRESS.—The Sec-
7 retary shall inform Congress of any disclosures
8 required under subparagraph (A) either by—

9 “(i) the submission of an addendum
10 to the report of the Secretary required
11 under paragraph (1); or

12 “(ii) a letter from the Secretary ad-
13 dressed to the Committee on Banking,
14 Housing, and Urban Affairs of the Senate
15 and the Committee on Financial Services
16 of the House of Representatives.”.

17 **SEC. 1014. GAO STUDY ON DISCLOSURES.**

18 (a) IN GENERAL.—Not later than 180 days after the
19 date of enactment of this Act, the Comptroller General
20 of the United States shall conduct a one-time study of the
21 relevant information disclosed by the Secretary of Housing
22 and Urban Development in conjunction with the release
23 of the annual actuarial report of the Secretary required
24 under section 202(a)(4) of the National Housing Act (12
25 U.S.C. 1708(a)(4)).

1 (b) REQUIRED CONSULTATION.—In conducting the
2 study required under subsection (a), the Comptroller Gen-
3 eral shall consult, as appropriate, with prominent United
4 States academics with national recognition and significant
5 depth of experience in the housing market and the per-
6 formance of high loan-to-value lending.

7 (c) REQUIRED REVIEW.—In carrying out the study
8 required under subsection (a), the Comptroller General
9 shall review and make recommendations regarding—

10 (1) if a reasonable amount of relevant data and
11 analyses are being disclosed by the Secretary of
12 Housing and Urban Development to the public, for
13 research, in conjunction with the release of the an-
14 nual actuarial report of the Secretary required under
15 section 202(a)(4) of the National Housing Act (12
16 U.S.C. 1708(a)(4)); and

17 (2) the disclosure by the Secretary of additional
18 relevant data and analyses to the public, for re-
19 search purposes.

20 (d) FOLLOW UP.—Not later than 12 months after the
21 release of the study required under subsection (a), the
22 Comptroller General shall conduct an additional report re-
23 garding the actions of the Secretary of Housing and
24 Urban Development in carrying out any recommendations

1 of the Comptroller General made pursuant to subsection
2 (c)(2).

3 **SEC. 1115. STABILIZING THE HECM PROGRAM.**

4 (a) IN GENERAL.—Section 255 of the National
5 Housing Act (12 U.S.C. 1715z–20) is amended—

6 (1) in subsection (d)(8)—

7 (A) by inserting “property maintenance,”
8 before “insurance”; and

9 ~~(B) by inserting “, including matters that~~
10 ~~set forth terms and provisions for establishing~~
11 ~~escrow accounts, performing financial assess-~~
12 ~~ments, or limiting the amount of any payment~~
13 ~~made available under the mortgage” before the~~
14 ~~semicolon; and~~

15 (B) by inserting “the establishment of es-

16 crow accounts or set-asides, the limiting of

17 amounts of any payment made available under

18 the mortgage,” after “payment of taxes”;

19 (C) by striking “may” and inserting
20 “shall”; and

21 (D) by inserting “, including matters that

22 set forth the terms and provisions for performing

23 financial assessments” before the semicolon;

24 ~~(2) in subsection (h)—~~

1 (A) in paragraph (1), by striking “; and”
2 and inserting a semicolon;

3 (B) in paragraph (2), by striking the pe-
4 riod and inserting “; and”; and

5 (C) by adding at the end the following new
6 paragraph:

7 “~~(3)~~ by notice or mortgagee letter, establish any
8 additional or alternative requirements that the Sec-
9 retary, in his or her discretion, determines necessary
10 to more effectively carry out the purposes of the pro-
11 gram authorized under this section, and any such
12 notice or mortgagee letter shall take effect upon
13 issuance and expire not later than 24 months after
14 the date of issuance of the notice or mortgagee let-
15 ter.”.

16 (2) in subsection (h)(3), as added by the Reverse
17 Mortgage Stabilization Act of 2013 (Public Law 113-
18 29), by striking “any additional or alternative re-
19 quirements” and inserting “requirements pertaining
20 to escrow accounts or set-asides, financial assessments,
21 or limiting the amount of any payment made avail-
22 able under the mortgage, as authorized under sub-
23 section (d)(8),”; and

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

1 “(s) *ESCROW ACCOUNTS OR SET-ASIDES.*—*In car-*
 2 *rying out the program authorized under this section, the*
 3 *Secretary shall require the establishment of an escrow ac-*
 4 *count or set-aside in any instance where the Secretary de-*
 5 *termines, after a financial assessment of the mortgagor has*
 6 *been completed, that such an account or set-aside would*
 7 *mitigate the risk of loss to the mortgagee, the mortgagor,*
 8 *the program, or the Mutual Mortgage Insurance Fund.”.*

9 (b) *LIMITATION ON AUTHORITY.*—*The authority of the*
 10 *Secretary of Housing and Urban Development to issue any*
 11 *notice or mortgagee letter pursuant to section 255(h)(3) of*
 12 *the National Housing Act, as added by the Reverse Mort-*
 13 *gage Stabilization Act of 2013 (Public Law 113–29) shall*
 14 *expire not later than 24 months after the date of enactment*
 15 *of this Act.*

16 (b̄c) *RULEMAKING.*—

17 (1) *IN GENERAL.*—*In carrying out the author-*
 18 *ity provided to the Secretary of Housing and Urban*
 19 *Development under section 255(h)(3) of the Na-*
 20 *tional Housing Act, as added by subsection (a) as*
 21 *added by the Reverse Mortgage Stabilization Act of*
 22 *2013 (Public Law 113–29), the Secretary shall—*

23 (A) *not later than 90 days after the*
 24 *issuance of the notice or mortgagee letter pur-*
 25 *suant to such section, issue a notice of proposed*

1 rulemaking addressing the same additional or
2 alternative requirements that are the subject of
3 the notice or mortgagee letter; and

4 (B) not later than 24 months after the
5 issuance of the notice of proposed rulemaking
6 required under subparagraph (A)—

7 (i) issue a final rule addressing the
8 same additional or alternative require-
9 ments that are the subject of the notice or
10 mortgagee letter; or

11 (ii) withdraw the notice or mortgagee
12 letter.

13 (2) FAILURE TO COMPLY.—If the Secretary of
14 Housing and Urban Development fails to issue a
15 final rule by the end of the period described under
16 paragraph (1)(B)—

17 (A) the provisions of the notice or mort-
18 gagee letter at issue shall become null and void;

19 (B) the Secretary—

20 (i) shall not have authority to reissue
21 such notice or mortgagee letter; and

22 (ii) may only address the require-
23 ments that are the subject of the notice or
24 mortgagee letter at issue through the pro-
25 mulgation of a regulation pursuant to the

1 rulemaking requirements of title 5, United
2 States Code; and

3 (C) the Secretary and the Director of *the*
4 Office of Management and Budget shall appear
5 before the Committee on Banking, Housing,
6 and Urban Affairs of the Senate and the Com-
7 mittee on Financial Services of the House of
8 Representatives to provide testimony explaining
9 the failure to comply with the requirements of
10 this subsection.

11 *(d) ADDITIONAL RULEMAKING RELATING TO FIXED-*
12 *RATE FULL DRAW PRODUCTS.—Not later than 1 year after*
13 *the date of enactment of this Act, the Secretary of Housing*
14 *and Urban Development shall issue a notice of proposed*
15 *rulemaking that—*

16 *(1) eliminates the use, issuance, or establishment*
17 *of any standard fixed-rate full draw product offered*
18 *under the home equity conversion mortgage program*
19 *authorized by section 255 of the National Housing*
20 *Act (12 U.S.C. 1715z-20); and*

21 *(2) requires any other fixed-rate full draw prod-*
22 *uct offered under the home equity conversion mortgage*
23 *program authorized by section 255 of the National*
24 *Housing Act not subject to elimination under para-*

1 *graph (1) to be based on a financial assessment of the*
2 *mortgagor.*

3 *(e) REPORT.—*

4 *(1) IN GENERAL.—The Secretary of Housing and*
5 *Urban Development, on a quarterly basis, shall report*
6 *to the Committee on Banking, Housing, and Urban*
7 *Affairs of the Senate and the Committee on Financial*
8 *Services of the House of Representatives on the status*
9 *and financial condition of each distinct product of-*
10 *ferred under the home equity conversion mortgage pro-*
11 *gram authorized by section 255 of the National Hous-*
12 *ing Act, including the HECM Standard Adjustable,*
13 *HECM Saver Fixed, and HECM Saver Adjustable*
14 *products.*

15 *(2) CONTENTS OF REPORT.—The report required*
16 *under paragraph (1) shall set forth, for each product*
17 *the—*

18 *(A) default rates under the product;*

19 *(B) rate of foreclosure on loans insured pur-*
20 *suant to each product; and*

21 *(C) severity and extent of losses incurred on*
22 *loans insured pursuant to each product.*

23 *(3) FURTHER STUDY.—Upon review of the infor-*
24 *mation collected pursuant to this subsection, if the*
25 *Secretary of Housing and Urban Development deter-*

1 *mines that any individual product has a default rate*
2 *measurably higher than the default rates occurring in*
3 *any other product or is experiencing losses measur-*
4 *ably higher than losses incurred in any other product,*
5 *the Secretary shall further study the product and in-*
6 *clude in the next quarterly report due under para-*
7 *graph (1)—*

8 *(A) information identifying and enumer-*
9 *ating the causes of such higher default rates and*
10 *severity of losses; and*

11 *(B) a detailed description of the actions to*
12 *be taken by the Secretary to correct such ineffi-*
13 *ciencies.*

14 **SEC. 16. PRINCIPAL LIMIT FACTOR FOR HECM PROGRAM.**

15 *Section 255(m)(2) of the National Housing Act (12*
16 *U.S.C. 1715z–20(m)(2)) is amended—*

17 *(1) by striking “paragraph (1) shall” and insert-*
18 *ing “paragraph (1)—”*

19 *“(A) shall”;*

20 *(2) in subparagraph (A), as so designated, by*
21 *striking the period at the end and inserting “; and”;*
22 *and*

23 *(3) by adding at the end the following:*

24 *“(B) in the case of a fixed rate mortgage,*
25 *may not involve a principal limit (as defined in*

1 *section 206.3 of title 24, Code of Federal Regula-*
2 *tions) with a principal limit factor in excess of*
3 *.61.”.*

4 **SEC. 1217. PUBLICATION OF FINAL RULES RELATING TO**
5 **LIMITING SELLER CONTRIBUTIONS TOWARDS**
6 **PURCHASE RELATED EXPENSES.**

7 (a) **REQUIRED COMPLETION OF RULE.**—Not later
8 than 90 days after the date of enactment of this Act, the
9 Secretary of Housing and Urban Development shall—

10 (1) issue and publish its final rule to implement
11 the proposed rule entitled “Federal Housing Admin-
12 istration (FHA) Risk Management Initiatives: Re-
13 vised Seller Concessions” (77 Fed. Reg. 10695
14 (February 23, 2012)); and

15 (2) ensure that the final rule required under
16 paragraph (1)—

17 (A) limits the amount a seller or interested
18 third party, or both, may contribute towards
19 the purchase-related expenses of a borrower
20 without reducing the maximum insured amount
21 of a mortgage insured under title II of the Na-
22 tional Housing Act (12 U.S.C. 1707 et seq.);
23 and

24 (B) defines the acceptable types of ex-
25 penses that a seller or interested third party, or

1 both, may contribute under subparagraph (A),
2 such as closing costs, prepaid expenses, dis-
3 count points, up-front mortgage insurance pre-
4 miums, and interest rate buydowns.

5 (b) FAILURE TO COMPLY.—If the Secretary of Hous-
6 ing and Urban Development fails to issue a final rule by
7 the end of the period described under subsection (a), the
8 Secretary and the Director of Office of Management and
9 Budget shall appear before the Committee on Banking,
10 Housing, and Urban Affairs of the Senate and the Com-
11 mittee on Financial Services of the House of Representa-
12 tives to provide testimony explaining the failure to comply
13 with the requirements of this section.

14 **SEC. 18. GAO STUDY ON FHA LOAN LIMITS.**

15 (a) *IN GENERAL.*—*The Comptroller General of the*
16 *United States shall conduct a one-time study to determine*
17 *the appropriate dollar amount limitation on the maximum*
18 *original principal obligation of a mortgage that may be in-*
19 *sured under title II of the National Housing Act (12 U.S.C.*
20 *1701 et seq.).*

21 (b) *REQUIRED REVIEW.*—*In carrying out the study re-*
22 *quired under subsection (a), the Comptroller General shall*
23 *review and make recommendations regarding the appro-*
24 *priate methodology for further adjustments to the dollar*
25 *amount limitation, including adjustments for inflation,*

1 *varying home prices across different regions of the United*
2 *States, and the effects of economic downturns.*

3 (c) *REPORT.*—*Not later than 1 year after the date of*
4 *enactment of this Act, the Comptroller General shall submit*
5 *a report to the Committee on Banking, Housing, and Urban*
6 *Affairs of the Senate and the Committee on Financial Serv-*
7 *ices of the House of Representatives on the results of the*
8 *study conducted pursuant to subsection (a), including its*
9 *reasons justifying its determination.*

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[Report No. 113-129]

A BILL

To improve the Federal Housing Administration and to ensure the solvency of the Mutual Mortgage Insurance Fund, and for other purposes.

DECEMBER 19, 2013

Reported with amendments