II

118TH CONGRESS
1ST SESSION

S. 2296

To cancel recent changes made by the Federal Housing Finance Agency to the up-front loan level pricing adjustments charged by Fannie Mae and Freddie Mac for guarantee of single-family mortgages, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 13, 2023

Mr. BRAUN (for himself, Mr. MARSHALL, Mr. TILLIS, Mrs. HYDE-SMITH, Mr. MORAN, Mr. COTTON, Mr. CORNYN, Mr. BARRASSO, Mr. BUDD, Mr. WICKER, Mr. CRAMER, Mr. THUNE, Mr. RUBIO, Mr. CRUZ, and Mr. SCOTT of Florida) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To cancel recent changes made by the Federal Housing Finance Agency to the up-front loan level pricing adjustments charged by Fannie Mae and Freddie Mac for guarantee of single-family mortgages, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Middle Class Borrower Protection Act of 2023".

SEC. 2. DEFINITIONS.

In this Act:

(1) DIRECTOR.—The term ''Director'' means the Director of the Federal Housing Finance Agency.

(2) ENTERPRISE.—The term ''enterprise'' has the meaning given the term in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4502).

(3) LOAN-LEVEL PRICING ADJUSTMENT FEE.—The term ''loan-level pricing adjustment fee'' means an up-front fee paid by lenders when a mortgage loan is acquired by an enterprise.

(4) RECALIBRATED SINGLE-FAMILY PRICING FRAMEWORK.—The term ''recalibrated single-family pricing framework'' means the loan-level pricing adjustment fee structure as referred to in the announcement of the Federal Housing Finance Agency on January 19, 2023, relating to ''Updates to the Enterprises' Single-Family Pricing Framework'', and set forth in Federal National Mortgage Association Lender Letter LL–2023–01 and Federal Home Loan Mortgage Corporation Bulletin 2023–1.

(5) RISK-BASED PRICING.—The term ''risk-based pricing'' means the calibration of fees based on the expected credit losses to an enterprise of each

single-family mortgage category as defined by an enterprise based on the credit score and loan-to-value ratio characteristics of a mortgage.

(6) STANDARD SINGLE-FAMILY PRICING FRAMEWORK.—The term ''standard single-family pricing framework'' means the loan-level pricing adjustment fee structure in effect on April 30, 2023.

SEC. 3. REPEAL OF RECALIBRATED SINGLE-FAMILY PRICING FRAMEWORK.

Not later than 60 days after the date of the enactment of this Act, the Director shall revise the recalibrated single-family pricing framework charged by the enterprises for the guarantee of mortgages on single-family housing so that such fees are identical to the fees of the standard single-family pricing framework in effect immediately before May 1, 2023.

SEC. 4. RESTRICTIONS ON FHFA ADJUSTMENTS TO SINGLE-FAMILY PRICING FRAMEWORK.

(a) TEMPORARY PROHIBITION ON FURTHER ADJUSTMENTS TO SINGLE-FAMILY PRICING FRAMEWORK.—During the period beginning on the date of the revision of the recalibrated single-family pricing framework pursuant to section 3 and ending on the date that is 90 days after the date on which the Comptroller General of the United States submits to Congress the report required under section 6, the Director may not further revise the single-family pricing framework from the framework in effect pursuant to the revision required by section 3.

(b) ADMINISTRATIVE PROCEDURES FOR ADOPTION OF ADJUSTMENTS TO THE SINGLE-FAMILY PRICING FRAMEWORK.—After the expiration of the period described in subsection (a), when proposing adjustments to the single-family pricing framework, the Director shall follow procedures that are as close as practicable to those requirements for a Federal agency issuing a rule under chapter 5 of title 5, United States Code (commonly referred to as the "Administrative Procedure Act").

(c) FHFA REQUIREMENT FOR THE USE OF RISK-BASED PRICING.—Section 1367(b)(2) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4617(b)(2)) is amended by adding at the end the following:

"(L) ADDITIONAL POWERS AS CONSERVATOR.—The Agency shall, as conservator for an enterprise, to the greatest extent feasible, require that any modifications, including increases, decreases, or eliminations, approved to a loan-level pricing adjustment fee, as is defined in section 2 of the Middle Class Borrower Protection Act of 2023, charged by an enterprise shall be based on the risk posed by the mortgage loan to the enterprise.''.

SEC. 5. PROHIBITION OF LOAN-LEVEL PRICE ADJUSTMENTS BASED ON DEBT-TO-INCOME RATIO.

The Director and the enterprises shall not impose any loan-level pricing adjustment fee that is based on the ratio of the debt of the mortgagor to the income of the mortgagor.

SEC. 6. GAO STUDY.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the revisions made by the Federal Housing Finance Agency to the standard single-family pricing framework under the recalibrated single-family pricing framework to—

(1) analyze—

(A) the methodology, policy considerations, and any other objectives used by the Federal Housing Finance Agency as the basis for those revisions, including the authority cited by the Director under the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 et seq.) to require those revisions;

(B) the data, econometric modeling, and other inputs supplied by the enterprises during the revision process;

(C) the extent to which the revisions comply with the objectives of the Enterprise Regulatory Capital Framework, including the interaction with and treatment of any private mortgage insurance required in connection with a residential mortgage transaction; and

(D) the economic impact of the revisions on various classes of lenders and borrowers affected by the revisions;

(2) determine the extent to which the revisions—

(A) were conducted on the basis of, and how they might deviate from, the principle of risk-based pricing;

(B) deviate from the data, econometric modeling, and other inputs supplied by the enterprises during the revision process;

(C) achieve the objectives of the Enterprise Regulatory Capital Framework, including if the revisions have resulted in either a negative profitability gap or negative rate of return on the targeted rate of return on capital for any business segment under the recalibrated single-family pricing framework; and

(D) represent any increased risks to the safety and soundness of the enterprises;

(3) assess the benefits that would accrue to first-time, low-income homebuyers based on the recalibrated single-family pricing framework taking effect; and

(4) assess the impacts that the recalibrated single-family pricing framework taking effect would have on affordable housing preservation, rural housing, and manufactured housing.

(b) REPORT.—Not later than 14 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress and make publicly available on a website of the Government Accountability Office a report setting forth the findings and conclusions of the study conducted under subsection (a).

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