

SECTION BY SECTION SUMMARY OF “FHA REFORM ACT OF 2010”
as passed by Committee, April 27, 2010

Section 1. Short Title

FHA Reform Act of 2010

Section 2. Mortgage Insurance Premiums

(Source: Administration bill. HR 4811 provides for 1.75 percent)

Language amends section 203(c)(2)(B) of the National Housing Act (12 U.S.C. 1709(c)(2)(B)) to make it permissible (rather than mandatory) for the Secretary to establish and collect annual premium payments from FHA-insured borrowers. The amount of the premium cap, currently not to exceed 0.50 percent of the remaining insured principal balance, may be increased to 1.5 percent. For any mortgage involving an original principal obligation that is less than 90 percent of the appraised value of the property, this premium may be required to be paid for the first 11 years of the mortgage. For any mortgage involving an original principal obligation greater than or equal to 90 percent of such value, this premium may be required to be paid for the first 30 years of the mortgage. However, notwithstanding these provisions, for any mortgage involving an original principal obligation greater than 95 percent of such value, the premium may be collected for 30 years and may be in an amount not exceeding 1.55 percent of the remaining insured principal (an increase from the previous 0.55 percent cap).

Section 3. Indemnification by Mortgagees

(Source: Administration bill and HR 4811)

Amends section 202 of the National Housing Act (12 U.S.C. 1708) by adding a new section to help ensure that mortgage lenders are liable to indemnify the Secretary for loss on loans they originate or underwrite. The Secretary may require indemnification if a mortgage approved by the Secretary under the direct endorsement program or insured by a mortgagee pursuant to delegation of authority under section 256 was not originated or underwritten in accordance with requirements established by the Secretary, and the Secretary pays an insurance claim within a reasonable period specified by the Secretary. If fraud or misrepresentation was involved in connection with the origination or underwriting, the Secretary may require the mortgagee to indemnify the Secretary for the loss regardless of when an insurance claim is paid.

Section 4. Delegation of Insurance Authority

(Source: Administration bill and HR 4811)

To implement section 3, this section strikes subsection (c) of section 256 of the National Housing Act (12 U.S.C. 1715z-21), entitled “Enforcement of Insurance Requirements” that formerly provided the authority for the Secretary to address situations in which mortgages were not originated in accordance with requirements established by the Secretary, or where fraud or misrepresentation was involved.

Section 5. Authority to Terminate Mortgagee

Section 5 amends section 533 of the National Housing Act (12 U.S.C. 1735f-11) to give the Secretary enhanced ability to review mortgagee

Origination and Underwriting Approval

(Source: Administration bill and HR 4811)

performance and, if a mortgagee is found to have an excessive rate of early defaults or claims, to terminate the approval of the mortgagee to originate or underwrite single family mortgages in a specified area or areas, or on a nationwide basis.

Section 6. DAS for Risk Management

(Source: HR 4811)

Creates a DAS for Risk Management within FHA, abolishing the Chief Risk Officer

Section 7. Use of Outside Risk Analysis Sources

(Source: HR 4811)

Authorizes the Secretary to obtain the services of and enter into contracts with private and other entities outside of the Department in the following: (1) Analyzing credit risk models and practices employed by the Department; (2) Evaluating underwriting standards for mortgages insured by the Department; and (3) Analyzing the performance of lenders in complying with the Department's enforcement and underwriting standards.

Section 8. Review of Mortgagee Performance

(Source: HR 4811)

Instructs the Secretary to conduct a review of mortgagees that originate or underwrite FHA mortgages to identify the rate of early defaults and insurance claims and make a report to Congress with information and conclusions pursuant to this review.

Section 9. Use of SAFE Identifiers

(Source: HR 4811)

Provides that Secretary may incorporate provisions of the SAFE Act into the FHA program in order to establish protocols for incorporating the unique identifier for each loan originator into FHA origination documents so they can be easily tracked, on national basis, through the Nationwide Mortgage Licensing System and Registry (NMLS)

Section 10. Reporting of Mortgagee Actions Taken Against Other Mortgagees

(Source: HR 4811)

Authorizes the Secretary to require mortgagees, as a condition of FHA mortgagee-approval, to report to FHA within 15 days any adverse actions against corresponding lenders or any other originators based on a report, determination or evidence of fraud or misrepresentation in connection with the origination of loans that were purchased from that entity

Section 11. Annual Actuarial Study and Quarterly Reports on MMI

(Source: HR 4811)

Requires HUD to include in quarterly reports on MMI any changes to the projected safety and soundness of the Fund since the last report and any factors which may impact financial soundness

**Section 12. Review of
Downpayment Requirements**
(Source: Chairwoman Waters)

Requires that if the Secretary increases the downpayment requirement after falling below the mandated amount of capital reserves, that once the reserves return to a level above the mandated amount, that he re-evaluate the downpayment requirement. Further, after the reserves are restored, if the Secretary determines that the reserve amount can be met with a lower downpayment, that the downpayment be decreased

**Section 13. Default and
Origination Information by
Servicer**
(Source: HR 4811)

Amends the FHA reporting requirements of section 540(b) of the National Housing Act to require the Secretary to track mortgage performance by both servicer and originator

**Section 14. GAO Reports, FHA
and GNMA**
(Source: HR 4811)

Requires GAO to submit two reports to Congress, within 12 months of enactment, on the finances of FHA and Ginnie Mae and the impact on taxpayers. Specifically, the FHA report would include an assessment of the capital ratio, the impact of FHA loan limits on the safety and soundness of fund and private market participation and the risks posed to FHA by seller-funded concessions or contributions to the borrower at the time of purchase. The Ginnie Mae section provides for identification of the volume and share of the residential mortgage market that consist of Ginnie Mae guaranteed securities, the capacity of Ginnie Mae and ability to conduct oversight over contractors and issuers. The report will also address the impact of an increase in volume of business on Ginnie Mae, the existing capital net worth of the various Ginnie Mae issuers and recommendations of appropriate net worth requirements.

Amendments to HR 5072 passed by the House Financial Services Committee on April 22, 2010

Klein/Marchant Amendment

Provides authority to the Secretary to reimburse servicers of FHA-insured mortgages for the costs of obtaining the services of qualified third parties to make contact with FHA mortgagors whose payments are 60 or more days past due in order to provide information on available counseling, loan modification, refinance and assistance programs

Waters Amendment

To amend the current Section 14 to provide that GAO include Ginnie Mae's programmatic net worth requirements in its report.