

Summary of H.R. 5830 (FHA Housing Stabilization and Homeowner Retention Act of 2008)
(as approved by the House Financial Services Committee 5/1/2008)

The bill (1) establishes a new two-year FHA program to insure \$300 billion in refinanced mortgages where holders of existing mortgages agree to reduce outstanding debt to no more than 85% of a property's appraised value; (2) increases funding for housing counseling in FY2008 and FY2009, (3) creates a new HUD Office of Housing Counseling and revises requirements regarding HUD RESPA booklet, (4) requires a HUD study of barriers to lender refinancing of mortgages and (5) temporarily raises the maximum VA loan guaranty.

I. FHA Insurance of Homeownership Retention Mortgages

Section 3 of the bill authorizes a new FHA insurance program by adding a new section (Section 257) to Title II of the National Housing Act.

Oversight Board A Refinance Program Oversight Board (HUD and Treasury Secretaries and the Federal Reserve Board chair) would be responsible for designing program requirements, underwriting criteria, premium structures, etc. and monitoring program performance.

Eligible Borrowers Insurance is limited to refinance loans for owner-occupants of single family (1-4 unit) homes with a mortgage originated before 12/31/2007 and a current mortgage debt to income ratio over 35% (as of 3/1/2008). The Oversight Board may set a lower ratio if it decides such is appropriate for some groups or all borrowers.

- Borrowers are ineligible if they knowingly gave false information to obtain existing mortgage or have been convicted of mortgage fraud in 7 years prior to the refinance. (The new lender must conduct electronic database search for such convictions and may charge borrower a search fee as allowed by the Oversight Board. Oversight Board must develop procedures to allow borrowers to challenge, correct findings regarding fraud convictions).
- Borrower must certify that he/she did not intentionally default on existing mortgage and agree to repay to the FHA any direct financial benefit achieved from reducing mortgage(s) on the refinanced property due to misrepresentations.
- The new lender must document and verify borrower income by obtaining IRS transcript of income tax filing for two most recent years and other methods.

New Mortgage Requirements The refinance mortgage principal – including initial service charges, appraisal, inspection and other fees HUD approves:

- can't exceed 90% of the current appraised value of the property.
- can't exceed current the FHA loan limits (e.g. 125% of area median price for a 1-unit home),
- must be fixed rate for entire term, and
- must result in "substantially reduced" debt service, through reduced debt, lower interest rate, extension of loan term or any combination of these approaches.

New Mortgage Underwriting/Premiums Oversight Board must establish flexible criteria that:

- insure borrowers have reasonable ability to repay loans
- will not result in a denial solely on basis of borrower's current FICO or other credit scores or any delinquency or default under existing mortgage
- permit a total debt to income ratio of up to 43% generally and up to 50% for borrowers who have made on time payments of at least such amount in past 6 months. It can also set different debt to income ratios for some classes of borrowers as appropriate to meet purposes of Act
- The Board must also establish reasonable origination fees and mortgage interest rates.

Mortgage premiums Oversight shall establish premiums for each mortgage including:

- an upfront premium of 3% of the mortgage (to be paid by holder of prior mortgage)
- an annual premium of 1.5% of unpaid mortgage balance
- an exit premium of at least 3% of original insured mortgage principal

Write-down and Discharge of Existing Mortgage Debt Current mortgage holders must “substantially reduce” the current amount of mortgage debt (Oversight Board may set a minimum percentage). All current holders of mortgage liens on a property must agree to write down the debt to no more than 85% of appraised value and accept the proceeds of the refinance loan as payment in full of all debt. The reduction must (1) provide for a refinancing where the new mortgage principal is $\leq 90\%$ of current appraised value, (2) pay the full loan origination fee and closing costs (up to an amount equal to 2% of the refinance mortgage) and (3) pay for a single premium equal to 3% of the refinance mortgage to serve as a loan loss reserve. The mortgage holder must also agree to waive any/all penalties and fees related to prepayment, default or delinquency to current mortgage.

The bills leaves the question of how to distribute the refinance proceeds in cases where there is more than one lien on a property to the Oversight Board, allowing it to adopt one of two approaches with regard to all or some classes of mortgages:

- Fixed price – lien holders agree to follow Oversight Board rules regarding amounts to be paid to subordinate lienholders (Board may allow a period of negotiation first)
- Shared equity – may require lender to share a portion of any future equity with holders of current subordinate mortgages using a formula to be established by the Board. The formula must consider current market value of such liens and if current outstanding balance on senior mortgage equals or exceeds current appraised value, formula-allowed payment on subordinate lien can’t exceed 1% of the current appraised value of property.

All payments on subordinate liens must come from senior lender or, in case of shared equity approach, from the borrower.

Appraisals must follow requirements of title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. Interested parties cannot try to improperly influence.

Exit premium Upon sale, refinancing or other disposition of property covered by insured refinance mortgage, homeowners shall pay an exit fee (secured by a HUD lien) out of any proceeds remaining after deducting the remaining insured principle balance. The “exit premium” shall be *the greater of*:

- 3% of the original insured mortgage principal or
- 60-100% of the net proceeds if disposition/refinance occurs with 1-3 years
- 50% of the net proceeds after that

In all cases, the amount due shall be reduced by all fees FHA has collected prior to such refinancing, sale, etc.

Prohibition of new second liens Borrowers will not be allowed to grant new second liens during first five years of the refinance loan term except as the Oversight Board determines necessary to ensure appropriate maintenance of the property

FHA Capacity/ Program Monitoring/ Reports to Congress

- Appropriates \$150 million a year for FY2008 and FY2009 for HUD to take all actions needed to design, implement and monitor program and to contract for independent review of quality of underwriting, appraisals and fraud detection.
- Requires HUD and Oversight Board to monitor underwriter performance, including delinquency and claim rates and terminate those who don’t meet minimum performance

standards. Requires Oversight Board to submit monthly reports to Congress on the new program, including the numbers of new mortgages insured and race, ethnicity, gender and income of borrowers by census tract, the aggregate principal insured, average amounts by which mortgages were discounted and debt service payments reduced, premium revenue, claim and loss rates.

GNMA Backing Authorizes the Government National Mortgage Association to guarantee these mortgages.

Sunset FHA authority to commit to insure new mortgages under this program shall expire 2 years from the date of bill enactment except that the Oversight Board can extend for a maximum of two more years. Any such extension shall be for six months at a time and the Board must notify Congress and publish a notice in the Federal Register at least 3 months before the extension.

Study of Auction or Bulk Refinance The Federal Reserve, in conjunction with the Oversight Board, must analyze study the need for mechanisms to facilitate more rapid refinancing of borrowers into this program and report to Congress study within 60 days of bill enactment on its findings and implementation recommendations.

II. Foreclosure Counseling Grants

The bill authorizes new appropriation of \$400 million (\$200 million/year in FY2008 and FY2009) for the Neighborhood Reinvestment Corporation for foreclosure loss mitigation counseling grants to aid owners of 1-4 unit residences. Requires that:

- at least 15% of the funds be for programs that target neighborhoods with high concentrations of minority and low-income homeowners and
- that \$30 million must be allocated to counseling intermediaries and legal organizations to provide attorneys to assist homeowners with foreclosure mitigation activities, with priority to funding given to the 100 MSAs with the highest home foreclosure rates and capacity to use funds quickly.
- At least 2% of the funding must be used to identify and contact borrowers who are eligible for the new FHA program and HUD must give priority in awarding funds to groups with history of outreach in minority communities
- Some of the funding must be made available to the HUD IG to audit this counseling program and report quarterly to Congress on findings starting 3/31/2009. Reports shall detail spending, number of eligible owners, numbers participating and their status.
- In awarding remaining funds, NRC must give priority consideration to entities with an effective plan in place to make contact, including personal contract, with defaulted borrowers (entities can use third parties for this).

III. Office of Housing Counseling

The bill also authorizes the creation of a HUD Office of Housing Counseling {using the language from Title IV of H.R. 3915 - the mortgage reform bill - approved last November by the House.

- The new Office is to be responsible for all owner and rental housing counseling activities including research, grant administration, HECM counseling, regulations, standards, RESPA booklets for consumers, etc. *provided in connection with any HUD program*, Appropriates \$45 million a year for FY2008-FY2011 for the Office and for grants to states, local governments and non-profits for counseling programs.
- HUD Secretary must appoint a 12 person board (with equal representation from mortgage and real estate industry and consumers) to advise the Office Director.

Among other things, the bill also requires the Office to (1) certify software systems for consumers to evaluate mortgage options; (2) establish a toll-free number and develop and implement a media

campaign to publicize availability of housing counseling programs, including help for those facing foreclosure and underserved populations (the bill appropriates \$3 million a year for FY2008, FY2009 and FY2010 for this purpose) and (3) provide technical assistance to states regarding creation and operation of education programs

The bill also:

- modifies current counseling certification requirements slightly, requiring that all counseling agency staff providing counseling meet HUD certification requirements,
- requires HUD to conduct “an extensive study of the root causes of default and foreclosure of home loans” and examine role of escrow accounts in helping borrowers avoid defaults. HUD must submit a preliminary report to Congress within 12 months of bill enactment and a final report with recommendations, including counseling targeting, within 24 months of bill enactment, and
- revises the requirements regarding the RESPA information booklet HUD is required to distribute to all lenders to give to all mortgage applicants,
 - requiring HUD to must update the booklet at least every five years and that content must be in plain and understandable language
 - expanding what the booklet must cover, including information on the mortgage process, with specific information on balloon payments, prepayment penalties and the trade-off between closing costs and interest rate over the life of the loan; a list and explanation of questions mortgage applicants should ask about loans; an explanation of rescission rights, escrow accounts, etc.
 - Requiring that lenders give applicants a list of HUD certified counseling agencies when they provide the RESPA booklet

IV. Other Provisions

Study of Impact of Current Accounting Standards and Capital Requirements on Lender Ability to offer Refinance Mortgages Requires the Federal Reserve to study the impact of mark-to-market accounting standards applicable to depository institutions with respect to mortgages at risk of foreclosure and the effect of these standards, along with capital requirements, on the ability of such lenders to refinance borrowers at risk of foreclosure. The study must examine the feasibility of modifying these standards and requirements during periods of “market fluctuation” so institutions can continue to carry these mortgages and have sufficient capital to offer refinances to borrowers at risk of foreclosure. Federal Reserve must submit report and recommendations to Congress within 90 days of bill enactment.

Temporary Increase in Maximum VA Loan Guaranty Allows a maximum guaranty of 125% of the area median price single family residence (but no more than 175% of current guaranty limit) for all loans originated between the date of bill enactment and 12/31/2008.