

103^D CONGRESS
1ST SESSION

H. R. 3296

To amend the National Housing Act to authorize the Secretary of Housing and Urban Development to insure mortgages given to secure loans that are made to refinance single family homes having appraised values that are less than the outstanding principal obligations refinanced.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 15, 1993

Mr. KENNEDY introduced the following bill; which was referred to the Committee on Banking, Finance and Urban Affairs

A BILL

To amend the National Housing Act to authorize the Secretary of Housing and Urban Development to insure mortgages given to secure loans that are made to refinance single family homes having appraised values that are less than the outstanding principal obligations refinanced.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Home Refinancing As-
5 sistance Act of 1993”.

1 **SEC. 2. INSURANCE FOR MORTGAGES TO REFINANCE UN-**
2 **DERWATER MORTGAGES.**

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

6 “INSURANCE OF ‘UNDERWATER’ SINGLE FAMILY
7 MORTGAGES

8 “SEC. 266. (a) INSURANCE AUTHORITY.—The Sec-
9 retary may, upon application by a mortgagee, insure any
10 refinancing mortgage eligible for insurance under this sec-
11 tion to the extent authorized by this section, upon such
12 terms and conditions as the Secretary may prescribe, and
13 may make commitments for the insurance of such refi-
14 nancing mortgages before the date of the execution of such
15 mortgages.

16 “(b) EXTENT OF INSURANCE.—The Secretary may
17 provide insurance under this section, and make commit-
18 ments to provide such insurance, only with respect to the
19 portion of the original principal obligation (including such
20 initial service charges, appraisal, inspection, and other fees
21 approved by the Secretary) of an eligible refinancing mort-
22 gage that exceeds 95 percent of the appraised value of the
23 property subject to the mortgage, as of the date the refi-
24 nancing mortgage is accepted for insurance under this sec-
25 tion, as determined by the Secretary.

1 “(c) ELIGIBILITY REQUIREMENTS.—The Secretary
2 may insure a refinancing mortgage under this section only
3 if the mortgage complies with the following requirements:

4 “(1) MORTGAGEE.—The refinancing mortgage
5 has been made to, and held by, a mortgagee ap-
6 proved by the Secretary as responsible and able to
7 service the mortgage properly.

8 “(2) MORTGAGOR.—The mortgagor under the
9 refinancing mortgage—

10 “(A) is the mortgagor under the underly-
11 ing mortgage being refinanced;

12 “(B)(i) has made regular payments on a
13 timely basis on the underlying mortgage (and,
14 if applicable, any other previous mortgage on
15 the property), as required by the applicable
16 mortgage agreement, for a period of not less
17 than 36 months, or (ii) has been determined
18 under subsection (d) to be an acceptable credit
19 risk; and

20 “(C) has a gross income that meets such
21 standards as the Secretary shall establish under
22 this section to ensure that the mortgagor will be
23 able (i) to make the periodic payments required
24 by the mortgage insured under this section, and

1 (ii) to meet other long-term obligations of the
2 mortgagor.

3 “(3) UNDERLYING MORTGAGE.—The proceeds
4 of the refinancing mortgage are used for satisfaction
5 of the outstanding balance owed under an underly-
6 ing mortgage that—

7 “(A) is a first mortgage on a dwelling that
8 is—

9 “(i) designed principally for a 1- to 4-
10 family residence;

11 “(ii) occupied by the mortgagor under
12 the refinancing mortgage who is also the
13 mortgagor under the underlying mortgage;
14 and

15 “(iii) located in a real estate market
16 area that the Secretary has determined is
17 no longer subject to substantially decreas-
18 ing property values that will result in an
19 unreasonable risk of losses to the Federal
20 Government under mortgage insurance
21 provided under this section;

22 “(B) is not delinquent;

23 “(C) involves an outstanding principal obli-
24 gation (including such initial service charges,
25 appraisal, inspection, and other fees approved

1 by the Secretary) that exceeds 95 percent of the
2 appraised value of the property subject to the
3 mortgage, as of the date the refinancing mort-
4 gage is accepted for insurance under this sec-
5 tion, as determined by the Secretary;

6 “(D) in the case of an underlying mort-
7 gage on a condominium unit in a project that
8 was converted from rental housing—

9 “(i) was executed more than 1 year
10 after the conversion of the project;

11 “(ii) has as a mortgagor or
12 comortgagor a tenant of the rental hous-
13 ing; or

14 “(iii) covers a unit in a project for
15 which the conversion is sponsored by a
16 bona fide tenants organization representing
17 a majority of the households in the project;
18 and

19 “(E) meets any other requirements as the
20 Secretary may provide.

21 “(4) LIMITATION ON AMOUNT.—The refinanc-
22 ing mortgage involves a principal obligation in an
23 amount that does not to exceed—

24 “(A) 125 percent of the appraised value of
25 the property subject to the mortgage; and

1 “(B) the outstanding balance owed under
2 the underlying mortgage, plus such initial serv-
3 ice charges, appraisal, inspection, and other
4 fees as the Secretary shall approve.

5 “(5) MONTHLY PAYMENT AMOUNT.—The
6 amount of each monthly payment due under the re-
7 financing mortgage is less than that due under the
8 underlying mortgage for the month in which the re-
9 financing mortgage is executed.

10 “(6) INTEREST.—The refinancing mortgage
11 bears interest at such rate as may be agreed upon
12 by the mortgagor and the mortgagee.

13 “(7) MATURITY.—The refinancing mortgage
14 has a maturity satisfactory to the Secretary that
15 does not, in any event, exceed 35 years from the
16 date of the beginning of the amortization of the
17 mortgage, and the Secretary may provide under this
18 paragraph for limitations on the maturity of re-
19 financing mortgages based on the unexpired terms of
20 the underlying mortgages being refinanced.

21 “(8) OTHER TERMS.—The refinancing mort-
22 gage has such terms regarding maturity, amortiza-
23 tion, periodic payments and application of such pay-
24 ments to principal, insurance, repairs, alterations,
25 payment of taxes, default reserves, delinquency

1 charges, foreclosure proceedings, anticipation of ma-
2 turity, additional and subordinate liens, and other
3 matters as the Secretary may provide.

4 “(d) HARDSHIP PROVISIONS.—A mortgagor failing
5 to meet the requirements of subsection (c)(2)(B)(i) shall
6 be considered to be an acceptable credit risk for purposes
7 of subsection (c)(2)(B)(ii) if the Secretary determines
8 that—

9 “(1) the failure was caused by circumstances
10 beyond the control of the mortgagor that rendered
11 the mortgagor temporarily unable to make such reg-
12 ular payments on the underlying mortgage;

13 “(2) before such circumstances, the mortgagor
14 had made regular payments on a timely basis on the
15 underlying mortgage (and, if applicable, any other
16 previous mortgage on the property), as required by
17 the applicable mortgage agreement for such period
18 as the Secretary considers appropriate for purposes
19 of this subsection;

20 “(3) the circumstances causing such failure
21 have been alleviated, or the income of the mortgagor
22 has increased, to the extent necessary to allow the
23 mortgagor to make regular payments under the refi-
24 nancing mortgage; and

1 “(4) the mortgagor meets such other require-
2 ments as the Secretary may reasonably require to
3 ensure that the mortgagor will meet the obligations
4 under the refinancing mortgage.

5 “(e) GENERAL INSURANCE FUND.—The insurance of
6 refinancing mortgages under this section shall be the obli-
7 gation of the General Insurance Fund established under
8 section 519.

9 “(f) PREMIUMS.—

10 “(1) ESTABLISHMENT.—The Secretary may fix
11 a premium charge for the insurance under this sec-
12 tion of refinancing mortgages, which shall be an
13 amount equivalent to a percentage per annum, de-
14 termined by the Secretary, of the amount of the por-
15 tion of outstanding principal obligation of the refi-
16 nancing mortgage that is insured under this section,
17 without taking into account delinquent payments or
18 prepayments. Any such premiums received shall be
19 credited to the General Insurance Fund.

20 “(2) MANNER AND TIMING.—The premium
21 charges shall be payable by the mortgagee either in
22 cash or in debentures (at par plus accrued interest)
23 issued by the Secretary as obligations of the General
24 Insurance Fund, in the manner prescribed by the
25 Secretary, except that the Secretary may not require

1 the payment of any such premium charges at the
2 time the refinancing mortgage is insured. In fixing
3 the premium charges, the Secretary shall take into
4 consideration the risk involved in insuring the por-
5 tion of a mortgage that exceeds the appraised value
6 of the property subject to the mortgage.

7 “(3) ACCEPTANCE.—If the Secretary finds
8 upon presentation of a refinancing mortgage for in-
9 surance that the mortgage complies with the provi-
10 sions of this section, the mortgage may be accepted
11 for insurance by endorsement or otherwise as the
12 Secretary may prescribe.

13 “(4) REFUND OF UNEARNED PREMIUMS.—In
14 the event the portion of the principal obligation of
15 any refinancing mortgage insured under this section
16 is paid in full prior to the maturity date, the Sec-
17 retary may refund to the mortgagee for the account
18 of the mortgagor all of the current unearned pre-
19 mium charges theretofore paid or such portion of
20 the unearned premiums as the Secretary determines
21 to be equitable.

22 “(g) RIGHT TO INSURANCE BENEFITS.—The mort-
23 gagee shall be entitled to receive the benefits of the insur-
24 ance, in accordance with regulations prescribed by the
25 Secretary upon—

1 “(1) the sale of the insured property—

2 “(A) at foreclosure, if such sale is for at
3 least the fair market value of the property (with
4 appropriate adjustments), as determined by the
5 Secretary; or

6 “(B) by the mortgagor after default, if—

7 “(i) the sale has been approved by the
8 Secretary;

9 “(ii) the mortgagee receives an
10 amount at least equal to the fair market
11 value of the property (with appropriate ad-
12 justments), as determined by the Sec-
13 retary; and

14 “(iii) the mortgagor has received ap-
15 propriate homeownership counseling, as de-
16 termined by the Secretary; and

17 “(2) assignment to the Secretary of all claims
18 of the mortgagee against the mortgagor or others to
19 any proceeds of such sale in excess of the amount
20 equal to the portion of the unpaid principal balance
21 of the loan not insured under this section that arise
22 out of the mortgage transaction or foreclosure pro-
23 ceedings, except any claims that have been released
24 with the consent of the Secretary.

25 “(h) PAYMENT OF INSURANCE.—

1 “(1) IN GENERAL.—Upon the sale of insured
2 property and assignment of claims referred to in
3 subsection (g), the obligation of the mortgagee to
4 pay the premium charges for insurance shall cease
5 and the Secretary shall—

6 “(A) pay to the mortgagee cash in an
7 amount equal to the value of the portion of the
8 mortgage insured under this section, as deter-
9 mined by the Secretary; or

10 “(B) issue to the mortgagee debentures
11 having a par value equal to the cash amount
12 under subparagraph (A).

13 “(2) CASH PAYMENTS.—If the insurance pay-
14 ment is made in cash, there shall be included in the
15 payment an amount equivalent to the interest that
16 the debentures would have earned if such payment
17 were made in debentures, computed to a date estab-
18 lished pursuant to regulations issued by the Sec-
19 retary.

20 “(i) DEBENTURES.—

21 “(1) EXECUTION.—Debentures issued under
22 this section shall be executed in the name of the
23 General Insurance Fund as obligor, shall be nego-
24 tiable, and, if in book entry form, transferable, in
25 the manner provided by the Secretary in regulations,

1 and shall be dated as of the date the insured prop-
2 erty is sold under subsection (g) and shall bear in-
3 terest from such date.

4 “(2) TERMS.—Debentures issued under this
5 section shall—

6 “(A) bear interest at a rate, established by
7 the Secretary pursuant to section 224, payable
8 semiannually on the 1st day of January and the
9 1st day of July of each year;

10 “(B) have such maturity as the Secretary
11 shall provide;

12 “(C) be exempt from taxation as provided
13 in section 207(i) with respect to debentures is-
14 sued under such section;

15 “(D) be in such form and amounts, subject
16 to such terms and conditions, and include such
17 provisions for redemption, if any, as may be
18 prescribed by the Secretary of Housing and
19 Urban Development, with the approval of the
20 Secretary of the Treasury, and may be in book
21 entry or certificated registered form, or such
22 other form as the Secretary of Housing and
23 Urban Development may prescribe in regula-
24 tions;

1 “(E) be paid out of the General Insurance
2 Fund, which shall be primarily liable therefor;
3 and

4 “(F) be fully and unconditionally guaran-
5 teed as to principal and interest by the United
6 States, and, in the case of debentures issued in
7 certificated registered form, the guaranty shall
8 be expressed on the face of the debentures.

9 “(3) OBLIGATION OF TREASURY.—In the event
10 the General Insurance Fund fails to pay upon de-
11 mand, when due, the principal of or interest on any
12 debentures so guaranteed, the Secretary of the
13 Treasury shall pay the holders the amount of the de-
14 bentures, which is hereby authorized to be appro-
15 priated, and upon such payment the Secretary of the
16 Treasury shall succeed to all the rights of the hold-
17 ers of such debentures, to the extent of the amount
18 paid.

19 “(j) OTHER POWERS OF SECRETARY.—The provi-
20 sions of subsections (c), (d), and (h) of section 2 shall
21 apply to refinancing mortgages insured under this sub-
22 section and, for the purposes of this subsection, references
23 in subsections (c), (d), and (h) of section 2 to ‘this section’
24 or ‘this title’ shall be construed to refer to this section.

1 “(k) PROTECTION OF SECRETARY’S INTEREST.—
2 Notwithstanding any other provisions of this Act, the Sec-
3 retary may—

4 “(1) make expenditures and advances out of
5 funds made available by this Act to preserve and
6 protect the interest of the Secretary in any security
7 for, or the lien or priority of the lien under, any
8 mortgage or other indebtedness insured by or owing
9 to the Secretary under this section; and

10 “(2) bid for and purchase at any foreclosure or
11 other sale or otherwise acquire property pledged,
12 mortgaged, conveyed, attached, or levied upon to se-
13 cure the payment of any indebtedness owing to the
14 Secretary under this section.

15 The authority conferred by this subsection may be exer-
16 cised as provided in the last sentence of section 204(g).

17 “(l) REFINANCING.—A refinancing mortgage insured
18 under this section may be refinanced and extended in ac-
19 cordance with such terms and conditions as the Secretary
20 may prescribe, but in no event for an additional amount
21 or term which exceeds the maximum provided for pursu-
22 ant to this subsection.

23 “(m) DEFINITIONS.—For purposes of this section:

24 “(1) The terms ‘mortgage’, ‘mortgagee’, ‘mort-
25 gator’, and ‘first mortgage’ have the meanings given

1 such terms in section 201, except that the term
2 ‘mortgage’ includes—

3 “(A) a first mortgage given to secure the
4 unpaid purchase price of a fee interest in, or
5 long-term leasehold interest in, a one-family
6 unit in a multifamily project, including a
7 project in which the dwelling units are attached,
8 semi-detached, or detached, and an undivided
9 interest in the common areas and facilities
10 which serve the project; and

11 “(B) a first lien given to secure a loan
12 made to finance the purchase of stock or mem-
13 bership in a cooperative ownership housing cor-
14 poration the permanent occupancy of the dwell-
15 ing units of which is restricted to members of
16 such corporation, where the purchase of such
17 stock or membership will entitle the purchaser
18 to the permanent occupancy of one of such
19 units.

20 “(2) The term ‘underlying mortgage’ means,
21 with respect to a refinancing mortgage, the first
22 mortgage on the same dwelling that is subject to the
23 refinancing mortgage.

24 “(3) The term ‘refinancing mortgage’ means a
25 subordinate lien on a dwelling securing a loan, the

1 proceeds of which are used for the satisfaction of ad-
2 vances on, or the unpaid purchase price, of the
3 dwelling, which are secured by a first mortgage on
4 the same dwelling.”.

○

HR 3296 IH——2