

106TH CONGRESS
2D SESSION

H. R. 3617

To prevent fraud under the FHA rehabilitation loan program under section 203(k) of the National Housing Act.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 10, 2000

Mr. LAZIO (for himself, Mr. LEACH, Mr. WALSH, and Mr. ENGLISH) introduced the following bill; which was referred to the Committee on Banking and Financial Services

A BILL

To prevent fraud under the FHA rehabilitation loan program under section 203(k) of the National Housing Act.

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 “Consumers’ Home Im-
5 provement Protection Act”.

6 **SEC. 2. PREVENTING FRAUD IN REHABILITATION LOAN** 7 **PROGRAM.**

8 Section 203(k) of the National Housing Act (12
9 U.S.C. 1709(k)) is amended by adding at the end the fol-
10 lowing new paragraph:

1 “(7) PREVENTION OF FRAUD.—To prevent fraud
2 under the program for loan insurance authorized under
3 this subsection, the Secretary shall, by regulation, take the
4 following actions:

5 “(A) PROHIBITION OF IDENTITY OF INTER-
6 EST.—The Secretary shall prohibit any identity-of-
7 interest, as such term is defined by the Secretary,
8 between any of the following parties involved in a
9 loan insured under this subsection: the borrower (in-
10 cluding, in the case of a borrower that is a nonprofit
11 organization, any member of the board of directors
12 or the staff of the organization), the lender, any con-
13 sultant, any real estate agent, any property inspec-
14 tor, and any appraiser.

15 “(B) NONPROFIT PARTICIPATION.—The Sec-
16 retary shall establish minimum standards for a non-
17 profit organization to participate in the program,
18 which shall include—

19 “(i) requiring such an organization to dis-
20 close to the Secretary its taxpayer identification
21 number and evidence sufficient to indicate that
22 the organization is an organization described in
23 section 501(c) of the Internal Revenue Code of
24 1986 that is exempt from taxation under sub-
25 title A of such Code;

1 “(ii) requiring that the board of directors
2 of such an organization be comprised only of in-
3 dividuals who do not receive any compensation
4 or other thing of value by reason of their serv-
5 ice on the board and who have no personal fi-
6 nancial interest in the rehabilitation project of
7 the organization that is financed with the loan
8 insured under this subsection;

9 “(iii) requiring such an organization to
10 submit to the Secretary financial statements of
11 the organization for the most recent 2 years,
12 which have been prepared by a party that is un-
13 affiliated with the organization;

14 “(iv) limiting to 10 the number of loans
15 that are insured under this subsection, made to
16 any single such organization, and, at any one
17 time, have an outstanding balance of principal
18 or interest, except that the Secretary may in-
19 crease such numerical limitation on a case-by-
20 case basis for good cause shown;

21 “(v) requiring such an organization to post
22 a completion insurance bond in such amount as
23 the Secretary determines appropriate as a con-
24 dition of obtaining insurance under this sub-
25 section; and

1 “(vi) requiring such an organization to
2 have been certified by the Secretary as meeting
3 the requirements under this subsection and oth-
4 erwise eligible to participate in the program not
5 more than 2 years before obtaining a loan in-
6 sured under this section.

7 “(C) COMPLETION OF WORK.—The Secretary
8 shall prohibit any lender making a loan insured
9 under this subsection from disbursing the final pay-
10 ment of loan proceeds unless the lender has received
11 affirmation, from the borrower under the loan, both
12 in writing and pursuant to an interview in person or
13 over the telephone, that the rehabilitation activities
14 financed by the loan have been satisfactorily com-
15 pleted.

16 “(D) CONSULTANT CERTIFICATION.—The Sec-
17 retary shall require that any consultant, as such
18 term is defined by the Secretary, that is involved in
19 a home inspection, site visit, or preparation of bids
20 with respect to any loan insured under this section
21 shall have been certified by the Secretary as ade-
22 quately trained and competent to provide such serv-
23 ice not more than 2 years before conducting any
24 such activity. The Secretary shall establish a train-

1 ing and certification process to carry out this sub-
2 paragraph.

3 “(E) CONTRACTOR QUALIFICATION.—The Sec-
4 retary shall require, in the case of any loan that is
5 insured under this subsection and involves rehabili-
6 tation with a value of \$25,000 or more, that the
7 contractor or other person performing or supervising
8 the rehabilitation activities financed by the loan
9 shall—

10 “(i) be certified by a nationally recognized
11 organization as meeting industry standards for
12 financial soundness, quality of workmanship,
13 training, and continuing education;

14 “(ii) be licensed to conduct such activities
15 by the State or unit of general local government
16 in which the rehabilitation activities are being
17 completed; or

18 “(iii) be bonded in such amount as the
19 Secretary shall require.”.

20 **SEC. 3. REPORT ON ACTIVITY OF NONPROFIT ORGANIZA-**
21 **TIONS UNDER REHABILITATION LOAN PRO-**
22 **GRAM.**

23 Not later than 60 days after the date of the enact-
24 ment of this Act, the Secretary of Housing and Urban
25 Development shall submit a report to the Congress regard-

1 ing the participation of nonprofit organizations under the
2 rehabilitation loan program under section 203(k) of the
3 National Housing Act (12 U.S.C. 1709(k)). The report
4 shall—

5 (1) determine and describe the extent of partici-
6 pation in the program by such organizations;

7 (2) analyze the impact, on such organizations
8 and the program, of prohibiting such organizations
9 from participating in the program; and

10 (3) identify other opportunities for such organi-
11 zations to acquire financing or credit enhancement
12 for rehabilitation activities.

13 **SEC. 4. REGULATIONS.**

14 The Secretary of Housing and Urban Development
15 shall issue final regulations and any other administrative
16 orders or notices necessary to carry out the provisions of
17 this Act and the amendments made by this Act not later
18 than 120 days after the date of the enactment of this Act.

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