

111TH CONGRESS
2^D SESSION

H. R. 6562

To revitalize home ownership by establishing a shared equity appreciation
homeownership pilot program.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 21, 2010

Ms. CORRINE BROWN of Florida introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To revitalize home ownership by establishing a shared equity
appreciation homeownership pilot program.

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 “American Residential
5 Housing Recovery Act of 2010”.

6 **SEC. 2. DECLARATION OF PURPOSE.**

7 The Congress hereby declares that a national emer-
8 gency exists that is producing widespread disruption of the
9 owned residential real estate markets, which burdens

1 interstate and foreign commerce, affects the public wel-
2 fare, and undermines the standard of living of the Amer-
3 ican people. The Congress hereby declares a national pol-
4 icy to remove obstructions to the free flow of interstate
5 and foreign commerce in the owned residential housing
6 sector of the American economy; and to provide for the
7 general welfare by promoting the flow of equity capital
8 into the residential housing sector through innovative
9 methods, including the use of shared equity appreciation
10 financing methods.

11 **SEC. 3. SHARED EQUITY APPRECIATION PILOT PROGRAM.**

12 (a) ESTABLISHMENT.—The Secretary of the Treas-
13 ury (in this section referred to as the “Secretary”) shall
14 carry out a shared equity appreciation financing pilot pro-
15 gram under this section to analyze the effectiveness, in-
16 cluding as a step in the economic recovery of the United
17 States, of shared equity finance methods that stimulate
18 the flow of private equity capital into the housing sector,
19 while mitigating risk to borrowers.

20 (b) STRUCTURE.—Under the pilot program under
21 this section, the Secretary shall—

22 (1) provide for entities, individuals, and govern-
23 mental agencies to assist homeowners to acquire, re-
24 finance, or maintain ownership of 1- to 4-family
25 residences with funding provided through shared eq-

1 uity appreciation arrangements under which private
2 or public sector investors, or both, invest equity
3 funds for such residences and thereby share in the
4 equity appreciation of such residences;

5 (2) encourage public and private sector invest-
6 ment in such shared equity appreciation arrange-
7 ments through—

8 (A) provision of upfront financial assist-
9 ance to participants in the pilot program, in-
10 including payments for administrative expenses
11 and operating capital;

12 (B) insurance under subsection (h) of risks
13 of loss to private investors in such arrange-
14 ments;

15 (C) direct investment by public investors in
16 contracts for such arrangements; and

17 (D) tax credits to private investors in such
18 arrangements under section 45S of the Internal
19 Revenue Code of 1986 (as added by subsection
20 (g)); and

21 (3) evaluate the effectiveness of whether the ac-
22 tions taken by the Secretary under the pilot program
23 pursuant to paragraph (2) encourage investment in
24 shared equity appreciation arrangements.

25 (c) APPLICATION AND SELECTION.—

1 (1) ELIGIBILITY AND APPLICATIONS.—The Sec-
2 retary shall establish eligibility requirements for fi-
3 nancial institutions, nonprofit organizations, housing
4 associations, investment pools, and other appropriate
5 public and private capital sources and individuals to
6 participate in the pilot program under this section
7 and originate agreements for shared equity apprecia-
8 tion arrangements under the program, and shall pro-
9 vide for eligible entities and individuals to apply to
10 the Secretary for such participation. Such applica-
11 tions shall include such information as the Secretary
12 considers appropriate.

13 (2) SELECTION; CRITERIA.—Not later than 180
14 days after the date of the enactment of this Act, the
15 Secretary shall select participants in the pilot pro-
16 gram, from among persons applying for such partici-
17 pation, using criteria established by the Secretary,
18 which shall include—

19 (A) whether, under the pilot program, the
20 applicant—

21 (i) can provide relief to homeowners
22 without modifying the original mortgage
23 and securitization;

1 (ii) can provide homeowners with a
2 long-term stimulus for as long as the
3 shared equity arrangement is in effect;

4 (iii) will empower homeowners to have
5 a stake in the solution;

6 (iv) has a streamlined process for
7 originating and servicing contracts under
8 the pilot program for shared equity appre-
9 ciation arrangements;

10 (v) can materially reduce default and
11 foreclosure risk on mortgages of home-
12 owners;

13 (vi) can effectively reduce interest
14 rates on mortgages of homeowners;

15 (vii) can effectively reduce debt-to-in-
16 come ratios and re-default rates on mort-
17 gages of homeowners;

18 (viii) will credit homeowners with 100
19 percent of the increase in the value of
20 homeowners' residences resulting from im-
21 provements made to their properties;

22 (ix) will provide periodic payments
23 based on current home value to the home-
24 owners or to the homeowners' lenders on
25 behalf of the homeowner;

1 (x) will make equity-sharing payments
2 available to new home purchasers to in-
3 crease the percentage of approved loan ap-
4 plications; and

5 (xi) will make equity-sharing pay-
6 ments available to senior homeowners to
7 reduce the rate of forced sales of their
8 properties;

9 (B) whether investors in mortgage-backed
10 securities deem equity-sharing payments to
11 homeowners under the applicant's program as
12 an incentive to providing principal forbearance;

13 (C) whether mortgage loan servicers deem
14 equity-sharing payments to homeowners under
15 the applicant's program as a suitable loss miti-
16 gation tool;

17 (D) whether institutions regulated under
18 the Community Reinvestment Act of 1977 (12
19 U.S.C. 2901) and the Federal financial super-
20 visory agencies deem equity-sharing payments
21 to homeowners as an investment eligible for
22 credit under such Act; and

23 (E) whether providing Government-spon-
24 sored insurance against loss in property value

1 under the applicant's program will increase par-
2 ticipation by private investors.

3 (d) LIMITATION TO PRINCIPAL RESIDENCE.—Only
4 mortgages for residences that are occupied as the principal
5 residence of the mortgagee shall be eligible under the pilot
6 program under this section.

7 (e) RIGHTS OF PARTIES.—The Secretary shall estab-
8 lish the rights, privileges and responsibilities of the respec-
9 tive parties to transactions under the pilot program under
10 this section.

11 (f) GEOGRAPHIC DIVERSITY.—The Secretary shall
12 carry out the pilot program on a regional basis in five re-
13 gional areas of the United States, as follows:

14 (1) NORTHEAST.—The Northeast region, con-
15 sisting of the States of Connecticut, Delaware,
16 Maine, Maryland, Massachusetts, New Hampshire,
17 New Jersey, New York, Pennsylvania, Rhode Island
18 and Vermont.

19 (2) SOUTHEAST.—The Southeast region, con-
20 sisting of the States of Alabama, Florida, Georgia,
21 Mississippi, North Carolina, South Carolina, Ten-
22 nessee, Virginia, and West Virginia, and the District
23 of Columbia.

24 (3) CENTRAL.—The Central region, consisting
25 of the States of Arkansas, Illinois, Indiana, Iowa,

1 Kansas, Kentucky, Louisiana, Michigan, Missouri,
2 Nebraska, Ohio, and Wisconsin.

3 (4) SOUTHWEST.—The Southwest region, con-
4 sisting of the States of Arizona, California, Colo-
5 rado, Hawaii, Nevada, New Mexico, Oklahoma, and
6 Texas.

7 (5) NORTHWEST.—The Northwest region, con-
8 sisting of the States of Alaska, Idaho, Minnesota,
9 Montana, North Dakota, Oregon, South Dakota,
10 Utah, Washington, and Wyoming.

11 (g) TAX CREDIT FOR PRIVATE INVESTMENT IN
12 SHARED EQUITY APPRECIATION CONTRACTS.—

13 (1) IN GENERAL.—Subpart D of part IV of
14 subchapter A of chapter 1 of the Internal Revenue
15 Code of 1986 is amended by adding at the end the
16 following new section:

17 **“SEC. 45S. CREDIT FOR PRIVATE INVESTMENT IN SHARED**
18 **EQUITY APPRECIATION CONTRACTS.**

19 “For purposes of section 38, the shared equity appre-
20 ciation contract credit determined under this section for
21 the taxable year is 39 percent of the aggregate amount
22 paid or incurred by the taxpayer during such taxable year
23 as an investment in any shared appreciation contract of
24 a participant in the pilot program under the American
25 Residential Housing Recovery Act of 2010.”.

1 (2) CREDIT TO BE PART OF GENERAL BUSI-
2 NESS CREDIT.—Subsection (b) of section 38 of such
3 Code is amended by striking “plus” at the end of
4 paragraph (35), by striking the period at the end of
5 paragraph (36) and inserting “, plus” , and by add-
6 ing at the end the following new paragraph:

7 “(37) the shared equity appreciation contract
8 credit determined under section 45S(a).”.

9 (3) CLERICAL AMENDMENT.—The table of sec-
10 tions for subpart D of part IV of subchapter A of
11 chapter 1 of such Code is amended by adding at the
12 end the following new item:

“Sec. 45S. Credit for private investment in shared equity appreciation con-
tracts.”.

13 (4) EFFECTIVE DATE.—The amendments made
14 by this subsection shall apply to taxable years end-
15 ing after the date of the enactment of this Act.

16 (h) INSURANCE OF RISKS TO INVESTORS.—From any
17 amounts made available for carrying out the pilot program
18 under this section, the Secretary shall set aside amounts
19 sufficient to insure investments of private funds in shared
20 equity appreciation arrangements fully against any losses
21 arising from participation in the pilot program.

22 (i) MONITORING AND REPORTING.—

23 (1) MONITORING.—The Secretary shall provide
24 for such monitoring under the pilot program under

1 this section as may be necessary and appropriate to
2 determine its effectiveness, and the structure and re-
3 quirements of such monitoring.

4 (2) REPORTS TO CONGRESS.—Not later than
5 the expiration of the 18-month period beginning on
6 the date of the enactment of this Act, the Comp-
7 troller General of the United States shall submit a
8 report to the Congress analyzing effectiveness of the
9 pilot program under this section and making rec-
10 ommendations regarding expansion or improvements
11 thereof.

12 (j) WAIVER.—The Secretary may waive, or specify al-
13 ternative requirements for, any provision of any statute,
14 regulation, or guideline that the Secretary administers
15 upon a determination by the Secretary that such waiver
16 is appropriate to carry out the pilot program under this
17 section.

18 (k) AUTHORIZATION OF APPROPRIATIONS.—There is
19 authorized to be appropriated for assistance under the
20 pilot program under this section and any costs of carrying
21 out this section such sums as may be necessary for each
22 of fiscal years 2010 through 2015.

1 **SEC. 4. REGULATORY OVERSIGHT OF SHARED EQUITY AP-**
2 **PRECIATION CONTRACTS BY BUREAU OF**
3 **CONSUMER FINANCIAL PROTECTION.**

4 (a) TREATMENT AS CONSUMER FINANCIAL PROD-
5 UCT.—Section 1002 of the Dodd-Frank Wall Street Re-
6 form and Consumer Protection Act (12 U.S.C. 5481) is
7 amended—

8 (1) in paragraph (5)—

9 (A) in subparagraph (A), by striking “or”
10 at the end;

11 (B) in subparagraph (B), by striking the
12 period at the end and inserting “or”; and

13 (C) by adding at the end the following new
14 subparagraph:

15 “(C) is a shared equity appreciation con-
16 tract”;

17 (2) by redesignating paragraphs (27) through
18 (29) as paragraphs (28) through (30), respectively;
19 and

20 (3) by inserting after paragraph (26) the fol-
21 lowing new paragraph:

22 “(27) SHARED EQUITY APPRECIATION CON-
23 TRACT.—The term ‘shared equity appreciation con-
24 tract’ means an agreement between private or public
25 sector investors, or both, and homeowners under
26 which such investors provide funds to assist the

1 homeowners to acquire, refinance, or maintain own-
2 ership of 1- to 4-family residences and under which
3 the investors share in the equity appreciation of such
4 residence.”.

5 (b) OVERSIGHT.—Subtitle C of title X of the Dodd-
6 Frank Wall Street Reform and Consumer Protection Act
7 is amended—

8 (1) by redesignating section 1037 (12 U.S.C.
9 5531 note) as section 1038; and

10 (2) by inserting after section 1036 (12 U.S.C.
11 5536) the following new section:

12 **“SEC. 1037. SHARED EQUITY APPRECIATION CONTRACTS.**

13 “In carrying out its duties under this title with re-
14 spect to shared equity appreciation contracts, the Bureau
15 shall issue and enforce regulations governing the establish-
16 ment and servicing of shared appreciation contracts to en-
17 sure that—

18 “(1) consumers receive clear and balanced in-
19 formation about the risks and benefits of shared eq-
20 uity appreciation financing, including information
21 about available alternatives;

22 “(2) appropriate eligibility and underwriting
23 guidelines are applied;

24 “(3) consumers demonstrate they understand
25 their rights and obligations, as well as the risks and

1 benefits, before entering into shared equity apprecia-
2 tion contracts;

3 “(4) consumers receive qualified independent
4 counseling before entering into shared equity appreci-
5 ation contracts;

6 “(5) the terms of such contracts, including pric-
7 ing, homeowner payments and percentage of equity
8 shared, are not predatory;

9 “(6) consumers are protected from being sold
10 shared equity contracts to fund inappropriate annu-
11 ities, investments, and other financial products,

12 “(7) contract portfolio and individual loan level
13 audit review standards are established and followed;
14 and

15 “(8) shared equity appreciation contract pro-
16 viders are certified for financial strength, comply
17 with rules and regulations promulgated by the Bu-
18 reau, and follow procurement policies consistent with
19 public sector practice.”.

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