

115TH CONGRESS  
1ST SESSION

# H. R. 4160

To revise the FHA program for home equity conversion mortgages for elderly homeowners to add safeguards to prevent the displacement of homeowners, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 26, 2017

Ms. MAXINE WATERS of California (for herself and Mr. HECK) introduced the following bill; which was referred to the Committee on Financial Services

---

## A BILL

To revise the FHA program for home equity conversion mortgages for elderly homeowners to add safeguards to prevent the displacement of homeowners, and for other purposes.

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 “Preventing Fore-  
5       closures on Seniors Act of 2017”.

1 **SEC. 2. SAFEGUARDS TO PREVENT DISPLACEMENT OF**  
2 **HOMEOWNER.**

3 Subsection (j) of section 255 of the National Housing  
4 Act (12 U.S.C. 1715z-20(j)) is amended—

5 (1) by striking the subsection designation and  
6 all that follows through “The Secretary” and insert-  
7 ing the following:

8 “(j) SAFEGUARDS TO PREVENT DISPLACEMENT OF  
9 HOMEOWNER.—

10 “(1) DEFERRAL OF HOMEOWNER’S OBLIGA-  
11 TION.—The Secretary”; and

12 (2) by adding at the end the following new  
13 paragraphs:

14 “(2) ASSIGNMENT OF MORTGAGE TO HUD UPON  
15 DEATH OF BORROWING SPOUSE WITH SURVIVING  
16 NON-BORROWING SPOUSE.—

17 “(A) ASSIGNMENT; NOTICE.—The Sec-  
18 retary shall require the mortgagee of a mort-  
19 gage insured under this section, upon the death  
20 of the last surviving borrower under such mort-  
21 gage who is survived by an eligible non-bor-  
22 rowing spouse—

23 “(i) to assign the mortgage to the  
24 Secretary; and

25 “(ii) not later than the expiration of  
26 the 7-day period beginning upon notice to

1 the mortgagee of the death of the bor-  
2 rower, to notify the eligible non-borrowing  
3 spouse in writing—

4 “(I) of the opportunity, pursuant  
5 to subparagraph (B), for the eligible  
6 non-borrowing spouse to remain in the  
7 property that is subject to the mort-  
8 gage; and

9 “(II) that the eligible non-bor-  
10 rowing spouse should contact the  
11 mortgagee regarding such assignment.

12 “(B) TREATMENT OF ELIGIBLE NON-BOR-  
13 ROWING SPOUSE.—After assignment of a mort-  
14 gage to the Secretary pursuant to subparagraph  
15 (A), the Secretary shall provide the eligible non-  
16 borrowing spouse with a deferral of the due and  
17 payable status due to the death of the bor-  
18 rowing spouse as long as the eligible non-bor-  
19 rowing spouse qualifies as such pursuant to  
20 paragraph (4)(B).

21 “(3) LOSS MITIGATION IN CASES OF DELIN-  
22 QUENT TAXES OR INSURANCE.—

23 “(A) REQUIREMENT.—The Secretary shall  
24 require that, in the case of a mortgage insured  
25 under this section that is in default by reason

1 of failure to make payment of taxes or insur-  
2 ance required under the mortgage or home-  
3 owners association fees, the mortgagee shall, as  
4 a precondition of sending a due and payable re-  
5 quest to the Secretary, take the following ac-  
6 tions:

7 “(i) LOSS MITIGATION.—The mort-  
8 gagee shall take appropriate loss mitiga-  
9 tion actions, which may include the fol-  
10 lowing actions:

11 “(I) Establishing a realistic re-  
12 payment plan for the delinquent prop-  
13 erty charges.

14 “(II) Assisting the borrower in  
15 contacting a HUD-approved Housing  
16 Counseling Agency (HCA) to obtain  
17 free assistance in finding some viable  
18 resolution to the delinquency, or in  
19 identifying local resources available to  
20 provide funds or homestead exemp-  
21 tions.

22 “(III) Refinancing the delinquent  
23 mortgage into a new home equity con-  
24 version mortgage if—

1           “(aa) there is sufficient eq-  
2           uity to satisfy the existing mort-  
3           gage and outstanding property  
4           charges; and

5           “(bb) the applicant for refi-  
6           nancing meets the financial as-  
7           sessment guidelines of the Sec-  
8           retary.

9           “(IV) Extending the deadlines  
10          for foreclosure in cases in which the  
11          youngest living borrower or spouse is  
12          at least 80 years of age and has crit-  
13          ical circumstances such as a terminal  
14          illness, long-term physical disability,  
15          or a unique occupancy need.

16          “(V) Refraining from submitting  
17          a due and payable request to the Sec-  
18          retary in cases in which the total ar-  
19          rearage for property taxes and hazard  
20          insurance is less than \$2,000.

21          “(VI) Such other loss mitigation  
22          actions as the Secretary considers ap-  
23          propriate in such cases.

24          “(ii) TREATMENT OF NON-BOR-  
25          ROWING SPOUSE.—The mortgagee shall

1            treat any non-borrowing spouse as a bor-  
2            rowing spouse for the purposes of loss  
3            mitigation.

4            “(B) FAILURE TO COMPLY.—In any case  
5            of claim for insurance benefits for a mortgage  
6            insured under this section made by a mortgagee  
7            who has failed to comply with the requirements  
8            under subparagraph (A), the Secretary may re-  
9            duce or deny such benefits based upon such  
10           failure.

11           “(4) DEFINITIONS.—For purposes of this sub-  
12           section, the following definitions shall apply:

13           “(A) BORROWER.—The term ‘borrower’  
14           means, with respect to a mortgage insured  
15           under this section, the original borrower under  
16           the note and mortgage. Such term does not in-  
17           clude successors or assigns of a borrower.

18           “(B) ELIGIBLE NON-BORROWING  
19           SPOUSE.—The term ‘eligible non-borrowing  
20           spouse’ means a non-borrowing spouse of a bor-  
21           rower under a mortgage insured under this sec-  
22           tion that was assigned an FHA Case Number  
23           before August 4, 2014, who—

24           “(i)(I) was legally married, as deter-  
25           mined by the law of the State in which the

1 spouse and borrower reside or resided or  
2 the State of celebration, to the borrower at  
3 the time of loan closing and who remained  
4 married to the borrower until the bor-  
5 rower's death; or

6 “(II) engaged in a committed relation-  
7 ship with the borrower akin to marriage  
8 but was prohibited, at the time of the  
9 mortgage loan origination, from legally  
10 marrying the borrower based on the gender  
11 of both the borrower and non-borrowing  
12 spouse, but was legally married before the  
13 death of the borrower, as determined by  
14 the law of the State in which the spouse  
15 and borrower reside or resided or the State  
16 of celebration, to the borrower and re-  
17 mained married until the death of the bor-  
18 rower;

19 “(ii) currently resides and resided in  
20 the property secured by the mortgage in-  
21 sured under this section as his or her prin-  
22 cipal residence at origination of the mort-  
23 gage and throughout the duration of the  
24 borrower's life; and

1           “(iii) has obtained or is able to obtain,  
2           before the date of foreclosure on the mort-  
3           gage pursuant to the death of the last sur-  
4           viving borrower—

5                   “(I) good, marketable title to or  
6                   an ownership interest in the property  
7                   subject to the mortgage; or

8                   “(II) a legal or other right (in-  
9                   cluding a will, an executed lease, or  
10                  court order) to remain in the property  
11                  for life.

12                  “(C) NON-BORROWING SPOUSE.—For pur-  
13                  poses of this subsection, the term ‘non-bor-  
14                  rowing spouse’ means, with respect to a bor-  
15                  rower under a mortgage insured under this sec-  
16                  tion, the spouse of such borrower who is not  
17                  also a borrower.

18                  “(5) MORTGAGEE OPTIONAL ELECTION ASSIGN-  
19                  MENT.—In implementing the Mortgagee Optional  
20                  Election Assignment for home equity conversion  
21                  mortgages insured under this section, the Secretary  
22                  shall use the definition of ‘eligible non-borrowing  
23                  spouse’ under paragraph (4) of this subsection in  
24                  lieu of the definition of ‘eligible surviving non-bor-  
25                  rowing spouse’ under the definition provisions of



1 Mortgagee Letter 2015–15 (June 12, 2015) or any  
2 other definition.”.

3 **SEC. 3. CONSULTATION WITH BUREAU OF CONSUMER FI-**  
4 **NANCIAL PROTECTION.**

5 Section 255 of the National Housing Act (12 U.S.C.  
6 1715z–20) is amended—

7 (1) by redesignating subsection (r) as sub-  
8 section (q); and

9 (2) by adding at the end the following new sub-  
10 section:

11 “(r) CONSULTATION WITH CFPB.—In carrying out  
12 the program for insuring mortgages under this section, the  
13 Secretary shall consult with the Bureau of Consumer Fi-  
14 nancial Protection of the Federal Reserve System on mat-  
15 ters involving consumer protections.”.

○