

115TH CONGRESS
2D SESSION

H. R. 5993

To amend title 31, United States Code, to provide for certain limitations and clarifications on false claims and civil actions related to Federal Housing Administration programs, Veteran Administration, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 1, 2018

Mr. GOTTHEIMER (for himself and Mr. ZELDIN) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on the Judiciary, 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 amend title 31, United States Code, to provide for certain limitations and clarifications on false claims and civil actions related to Federal Housing Administration programs, Veteran Administration, 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 “Fixing Housing Access
5 Act of 2018”.

TITLE I—FALSE CLAIMS

SEC. 101. AMENDMENTS TO THE FALSE CLAIMS ACT.

(a) FALSE CLAIMS PROCEDURE.—Section 3731(b) of title 31, United States Code, is amended—

(1) by striking subsection (b) and inserting the following:

“(b) A civil action under section 3730 may not be brought—

“(1) except as provided in paragraph (2), after the later of more than—

“(A) 6 years after the date on which the violation of section 3729 is committed; or

“(B) 3 years after the date when facts material to the right of action are known or reasonably should have been known by the official of the United States charged with responsibility to act in the circumstances, but in no event more than 10 years after the date on which the violation is committed; or

“(2) in the case of any claim subject to section 3729(e), more than—

“(A) 6 years after the date on which the violation of section 3729 is committed, if such violation occurs in connection with obtaining government insurance or guaranty of a loan or

1 submitting periodic certifications regarding the
2 status of the person or single asset entity; or

3 “(B) 3 years after the date on which the
4 violation of section 3729 is committed, if such
5 violation occurs in connection with obtaining
6 the payment of a claim for government insur-
7 ance or guaranty benefits in respect of a loan,
8 and, in each case, without explicit written con-
9 sent from the Secretary responsible for the gov-
10 ernment guaranty or insurance program.”; and

11 (2) by striking subsection (d) and inserting the
12 following:

13 “(d) In any action brought under section 3730, the
14 United States shall be required to prove all essential ele-
15 ments of the cause of action, including damages, with re-
16 spect to each false claim, by a preponderance of the evi-
17 dence.”.

18 (b) FALSE CLAIMS.—Section 3729 of title 31, United
19 States Codes, is amended by adding at the end the fol-
20 lowing—

21 “(e) CLAIMS.—In the case of any claim arising from
22 the Indian Home Loan Guarantee Program, the Native
23 Hawaiian Housing Loan Guarantee Program, and any
24 program administered by the Federal Housing Adminis-
25 tration, the Department of Veterans Affairs, or the Rural

1 Housing Service of the Department of Agriculture, or any
2 successor thereto, the following apply notwithstanding any
3 other provision of this chapter:

4 “(1) If the violation of section 3729 is based on
5 a false or fraudulent record or statement in connec-
6 tion with obtaining government insurance or guar-
7 anty of a loan, the violation of this section is deemed
8 to have been committed as of the effective date of
9 such insurance or guaranty.

10 “(2) If the violation of section 3729 is based on
11 a false or fraudulent record or statement in connec-
12 tion with obtaining either government insurance or
13 guaranty of a loan or submitting periodic certifi-
14 cations regarding the status of the person or single
15 asset entity, for purposes of such a claim, the term
16 ‘damages’ shall mean the net amount of actual
17 losses after subtracting any net liquidation proceeds
18 received by the Government in disposition of the
19 property giving rise to such damages.

20 “(3) If the violation of section 3729 is based on
21 a false or fraudulent record or statement in connec-
22 tion with obtaining either government insurance or
23 guaranty of a loan or payment of a claim in respect
24 of such insurance or guaranty, the Government will
25 not be considered to have sustained damages be-

1 cause of such false or fraudulent record, statement,
2 or claim to the extent that either the loan would
3 have been eligible for insurance or guaranty or the
4 claim would have been eligible for payment under
5 the applicable government program, even if a false
6 or fraudulent record or statement had not been
7 made or even if the loan would have been eligible if
8 overpaid.

9 “(4) A false or fraudulent record or statement
10 is material to a false or fraudulent claim only if the
11 submission of such record or statement or its related
12 information to the Government—

13 “(A) is expressly required by the Govern-
14 ment program requirements, including loan
15 level certification, implied certifications, and
16 sub-regulatory guidance, as part of the eligi-
17 bility criteria for the Government’s issuance of
18 the applicable insurance or guaranty policy;

19 “(B) is made with respect to an individual
20 loan, including loan level certification; and

21 “(C) influenced the Government’s insur-
22 ance or guaranty, or payment of money or
23 property, based on the proper application of the
24 applicable Government program requirements in
25 connection with such individual claim.”.

1 **TITLE II—INCREASED HOUSING**
2 **AND URBAN DEVELOPMENT**
3 **CLARITY AND ENFORCEMENT**

4 **SEC. 201. REPORT AND STUDY ON DEFECT TAXONOMY.**

5 The Secretary of Housing and Urban Development
6 shall, not later than 90 days after the date of enactment,
7 complete a study and report to the Committee on Finan-
8 cial Services of the House of Representatives and the
9 Committee on Banking, Housing, and Urban Affairs of
10 the Senate on the authority and funding needed to ensure
11 enforcement and educational and outreach effort regard-
12 ing the Single Family Housing Loan Quality Assessment
13 Methodology (in this Act referred to as the “defect tax-
14 onomy”).

15 **SEC. 202. GUIDANCE.**

16 The Secretary of Housing and Urban Development
17 shall publish guidance to clarify the remedy and enforce-
18 ment procedures for mortgage defects related to the loan-
19 level mortgagee and underwriter certifications on the
20 HUD Addendum to Uniform Residential Loan Application
21 and the Direct Endorsement Approval for a HUD/FHA-
22 Insured Mortgage in accordance with the defect taxonomy.
23 Such guidance shall include an effective date for such pro-
24 cedures to take effect within a reasonable amount of time

1 after publication, but not later than 6 months after the
2 effective date of this legislation.

3 **SEC. 203. REPORT ON EFFECTS OF ACTIONS.**

4 Not later than 180 days after the issuance of guid-
5 ance under section 202, the Secretary of Housing and
6 Urban Development shall complete a study and submit a
7 report to the committees referred to in section 201 on the
8 effects of any actions taken by the Secretary with regard
9 to—

10 (1) attracting private capital back to the Fed-
11 eral Housing Administration market; and

12 (2) whether Single Family Housing Loan Qual-
13 ity Assessment Methodology adequately ensured the
14 government has resources to prosecute and deter
15 bad actors and protect consumers.

16 **SEC. 204. ADDITIONAL GUIDANCE.**

17 The Secretary of Housing and Urban Development
18 shall publish guidance to ensure lenders are responsible
19 for the taxonomy standards in effect at the time the stand-
20 ards were implemented by the Secretary.

1 **TITLE III—AMENDMENTS TO**
2 **THE FINANCIAL INSTITU-**
3 **TIONS REFORM, RECOVERY,**
4 **AND ENFORCEMENT ACT OF**
5 **1989**

6 **SEC. 301. AMENDMENTS TO THE FINANCIAL INSTITUTIONS**
7 **REFORM, RECOVERY, AND ENFORCEMENT**
8 **ACT OF 1989.**

9 Section 951(h) of the Financial Institutions Reform,
10 Recovery, and Enforcement Act of 1989 (12 U.S.C.
11 1833a(h)) is amended—

12 (1) by striking “A civil action” and inserting
13 the following:

14 “(1) IN GENERAL.—Except as provided in para-
15 graph (2), a civil action”;

16 (2) by moving paragraph (1), as added by sub-
17 section (a), 2 ems to the right; and

18 (3) by adding at the end the following:

19 “(2) EXCEPTION.—In the case of any action
20 under this section arising from the Indian Home
21 Loan Guarantee Program and the Native Hawaiian
22 Housing Loan Guarantee Program or any program
23 pertaining to residential mortgage loans insured or
24 guaranteed by the Federal Housing Administration,
25 the Department of Veterans Affairs or the Rural

1 Housing Service of the Department of Agriculture,
2 or any successor thereto, the action may not be com-
3 menced more than—

4 “(A) 6 years after the date on which the
5 violation of this Act is committed, if such viola-
6 tion occurs in connection with obtaining govern-
7 ment insurance or guaranty of a loan; or

8 “(B) 3 years after the date on which the
9 violation of this Act is committed, if such viola-
10 tion occurs in connection with obtaining the
11 payment of a claim for government insurance or
12 guaranty benefits in respect of a loan, and, in
13 each case, without explicit written consent from
14 the Secretary responsible for the government
15 guaranty or insurance program.”.

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