

PROTECTING AFFORDABLE MORTGAGES FOR VETERANS  
 ACT OF 2019

JULY 9, 2019.—Ordered to be printed

Mr. TAKANO, from the Committee on Veterans' Affairs,  
 submitted the following

R E P O R T

[To accompany H.R. 1988]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 1988) to clarify seasoning requirements for certain refinanced mortgage loans, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:  
 Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Protecting Affordable Mortgages for Veterans Act of 2019”.

**SEC. 2. SEASONING REQUIREMENTS FOR CERTAIN REFINANCED MORTGAGE LOANS.**

(a) **GINNIE MAE.**—Paragraph (1) of section 306(g) of the National Housing Act (12 U.S.C. 1721(g)(1)) is amended by striking the second sentence (as added by section 309(b) of Public Law 115–174).

(b) **VETERANS LOANS.**—Section 3709 of title 38, United States Code, is amended by striking subsection (c) and inserting the following:

“(c) **LOAN SEASONING.**—Except as provided in subsection (d) and notwithstanding section 3703 of this title or any other provision of law, a loan to a veteran for a purpose specified in section 3710 of this title that is a refinance may not be guaranteed or insured under this chapter until the date that is the later of—

“(1) the date on which the borrower has made at least six consecutive monthly payments on the loan being refinanced; and

“(2) the date that is 210 days after the first payment due date of the loan being refinanced.”

(c) **RULE OF CONSTRUCTION.**—Nothing in this Act may be construed to restrict or otherwise modify any authority of the Government National Mortgage Association.

**PURPOSE AND SUMMARY**

H.R. 1988, the “Protect Affordable Mortgages for Veterans Act of 2019” was introduced by Representative David Scott, along with Representative Mike Levin, Chairman of the Subcommittee on Economic Opportunity, Representative Andy Barr, and Representative Lee Zeldin, on March 28, 2019. H.R. 1988 clarifies loan seasoning requirements of VA Home Loans, as created by the “Economic Growth, Regulatory Relief, and Consumer Protection Act,” Public Law 115–174.

**BACKGROUND AND NEED FOR LEGISLATION**

The measure clarifies loan seasoning requirements of VA Home Loans, as created by Section 309 of Public Law 115–174. The loan seasoning requirements were created to curb abuses by lenders who were targeting veterans for refinancing their VA Home loan multiple times in quick succession by slightly lowering the interest rate, but adding fees to the loan amount, which ended up costing the veteran more. Unfortunately, the language in PL 115–174 was not specific on when the loan seasoning period started (the day the first payment was due, versus the day the first payment was actually made), so there were about 2,500 loans that were created before the Government National Mortgage Association (GINNIE MAE) issued further guidance, which are in violation of GINNIE MAE regulations.

This bill clarifies PL 115–174, and brings those approximately 2,500 loan into good standing, so that the lenders do not have to call them in, forcing the veterans to find a new home loan, which would be at a higher interest rate than their current loan (because interest rates have gone up.) If this fix does not go into effect by the end of May, the Inspector General with jurisdiction over GINNIE MAE (the U.S. Department of Housing and Urban Development’s Inspector General) has directed that these loans be pulled from the GINNIE MAE mortgage backed securities pools, which would in effect, force the lenders to call in the loans on the veterans.

## HEARINGS

For the purposes of section 103(i) of H. Res. 6 of the 116th Congress—the following hearings and meetings were used to develop or consider H.R. 1988.

On April 9, 2019, the Subcommittee on Economic Opportunity conducted a legislative hearing on various bills introduced during the 116th Congress, including H.R. 1988.

The following witnesses testified:

Ms. Margarita Devlin, Principal Deputy Under Secretary for Benefits, Veterans Benefits Administration, U.S. Department of Veterans Affairs. Ms. Ashlynn Haycock, Deputy Policy Director, Education Support Services, Tragedy Assistance Program for Survivors (TAPS). Mr. Patrick Murray, Deputy Director, National Legislative Service, The Veterans of Foreign Wars. Mr. John Kamin, Credentialing and Education Policy Associate, National Veterans Employment and Education Division, The American Legion. Ms. Rebecca Burgess, Program Manager Citizenship Project, American Enterprise Institute.

Statements for the record were submitted by:

Disabled American Veterans.

## SUBCOMMITTEE CONSIDERATION

On May 1, 2019, the Subcommittee on Economic Opportunity met in an open markup session, a quorum being present, and ordered H.R. 1988 reported favorably to the Committee on Veterans' Affairs by voice vote.

During the May 1, 2019 consideration, the Subcommittee considered H.R. 1988 as introduced. No amendments were offered.

## COMMITTEE CONSIDERATION

On May 8, 2019, the Committee on Veterans' Affairs met in an open markup session, a quorum being present, and ordered H.R. 1988, as amended, reported favorably to the House of Representatives by voice vote.

During the May 8, 2019 consideration, the Subcommittee considered H.R. 1988 as an amendment in the nature of a substitute to correct drafting errors. No other amendments were offered.

## COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report the legislation and amendments thereto. There were no recorded votes taken on amendments or in connection with ordering H.R. 1988 reported to the House. A motion by Ranking Member Phil Roe of Tennessee to report H.R. 1988 favorably to the House of Representatives was agreed to by voice vote.

## COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

## STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are to clarify loan seasoning requirements of VA Home Loans, as created by Section 309 of Public Law 115-174.

## NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

## EARMARKS AND TAX AND TARIFF BENEFITS

H.R. 1988 does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the Rules of the House of Representatives.

## COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate on H.R. 1988 prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested and received a cost estimate for this bill from the Director of Congressional Budget Office. The Congressional Budget Office cost estimate finds that the legislation results in additional offsetting collections from Ginnie Mae's program of \$3 million in 2019 and would have no significant net effect on the federal budget.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, June 5, 2019.*

Hon. MARK TAKANO,  
*Chairman, Committee on Veterans' Affairs,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1988, the Protecting Affordable Mortgages for Veterans Act of 2019.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Robert Reese.

Sincerely,

PHILLIP L. SWAGEL,  
*Director.*

Enclosure.

At a Glance			
H.R. 1988, Protecting Affordable Mortgages for Veterans Act of 2019			
As ordered reported by the House Committee on Veterans' Affairs on May 8, 2019			
By Fiscal Year, Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	-3	-3	-3
Revenues	0	0	0
Deficit Effect	-3	-3	-3
Spending Subject to Appropriation (Outlays)	0	0	0
Pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
<b>The bill would</b>			
<ul style="list-style-type: none"> <li>Authorize the Government National Mortgage Association to guarantee securities that contain certain mortgages refinanced by the Department of Veterans Affairs mortgage guarantee program</li> </ul>			
<b>Estimated budgetary effects would primarily stem from</b>			
<ul style="list-style-type: none"> <li>Fees collected by Government National Mortgage Association to guarantee securities for about 2,500 mortgages</li> </ul>			
Detailed estimate begins on the next page.			

Bill summary: H.R. 1988 would authorize the Government National Mortgage Association (Ginnie Mae) to guarantee securities that contain certain mortgages refinanced by the Department of Veterans Affairs (VA) mortgage guarantee program.

Estimated Federal cost: The estimated budgetary effect of H.R. 1988 is shown in Table 1. The costs of the legislation fall within budget function 370 (commerce and housing credit).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 1988

	By fiscal year, millions of dollars—													
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2019–2024	2019–2029	
Decreases in Direct Spending														
Estimated Budget Authority .....	-3	0	0	0	0	0	0	0	0	0	0	0	0	-3
Estimated Outlays .....	-3	0	0	0	0	0	0	0	0	0	0	0	0	-3

Basis of estimate: For this estimate, CBO assumes that H.R. 1988 will be enacted near the end of fiscal year 2019 and that Ginnie Mae will securitize the additional VA mortgages in fiscal year 2019.

Background: Ginnie Mae guarantees securities backed by pools of mortgages that are insured by federal agencies such as VA. Typically, 98 percent of VA mortgages are pooled into mortgage-backed securities (MBSs) and guaranteed by Ginnie Mae in the first few months after they are originated. In May 2018 the Congress enacted legislation (Public Law 115–174) that prohibited VA from re-

financing existing VA mortgages until they were determined to be seasoned and also prohibited Ginnie Mae from guaranteeing MBSs containing such mortgages. A mortgage is considered to be seasoned when the borrower has made six months of payments or when 210 days have passed since the first monthly payment was made; whichever occurs later.

In the weeks before P.L. 115–174 was enacted, CBO estimates about 2,500 unseasoned mortgages with a total value of about \$630 million were refinanced under VA’s mortgage program. According to Ginnie Mae, because those VA mortgages were unseasoned when they were refinanced they are not eligible to be included in MBSs guaranteed by Ginnie Mae.

Direct spending: H.R. 1988 would authorize Ginnie Mae to guarantee MBSs containing those unseasoned mortgages from the weeks before P.L. 115–174 was enacted. Under the bill, CBO estimates that 98 percent of those mortgages, with a value of about \$620 million, would be included in Ginnie Mae’s MBS program in 2019. After 2019, no additional mortgage guarantees would stem from enacting H.R. 1988 because the seasoning restrictions for mortgages refinanced by VA would still apply.

In exchange for the Ginnie Mae guarantee, issuers pay a fee on the pooled mortgages that back those securities. CBO estimates that the net present value of the fees collected by Ginnie Mae will exceed the cost of any default losses on those securities in each year. Using the methodology specified in the Federal Credit Reform Act (FCRA), CBO estimates that Ginnie Mae’s MBS program will have a subsidy rate of –0.44 percent in 2019. A negative subsidy for a federal credit program can occur if the net present value of the up-front and annual fees charged for a loan guarantee is greater than the estimated default costs associated with that guarantee.<sup>1</sup> Multiplying the \$620 million in mortgages that CBO estimates would be guaranteed by Ginnie Mae under H.R. 1988 by the subsidy rate of –0.44 percent results in additional offsetting collections (which are recorded in the budget as reductions in direct spending) from Ginnie Mae’s MBS program of \$3 million in 2019.

Alternative budgetary treatment: The estimated cost of H.R. 1988 depends on the method used to calculate the subsidy rate for MBSs guaranteed by Ginnie Mae. Under current law, the budgetary effects of Ginnie Mae’s program are measured in the budget according to the procedures established in FCRA. However, as required by S. Con. Res 71, the Concurrent Resolution on the Budget for Fiscal Year 2018, CBO also has prepared a cost estimate for H.R. 1988 using a fair-value approach to estimating the budgetary effect on Ginnie Mae.

The fair-value approach is an alternative to the approach specified in FCRA. Both approaches rely on the same projections of future cash flows for guarantee programs, and both account for the lifetime cost of the new guarantees made in a given year (including the expected cost of losses net of fees collected). The fair-value estimates differ from FCRA estimates by recognizing that the govern-

<sup>1</sup> A present value expresses a flow of past and future income or payments as a single amount received or paid at a specific time. The value depends on the rate of interest, known as the discount rate, used to translate past and future cash flows into current dollars at that time. Under current law, the budgetary effects for Ginnie Mae’s guarantees are calculated under procedures specified in FCRA. Under FCRA, projected future cash flows are discounted to the present using interest rates on Treasury Securities.

ment's assumption of financial risk has a cost that exceeds the average amount of losses that would be expected from defaults. The higher financial risk is reflected in higher fees private entities charge for similar guarantees on the basis of market prices. In practice, the main difference between FCRA estimates and fair-value estimates is the discount rate used to calculate the present value of estimated future guarantee costs and receipts. Fair-value estimates use higher discount rates that incorporate a premium for market risk.

Using the fair-value approach, CBO estimates that the subsidy rate for Ginnie Mae guarantees is effectively zero because Ginnie Mae's fees are similar to what a private entity would charge for guaranteeing the same MBSs. Thus, under the fair-value method of estimating the subsidy rate for Ginnie Mae H.R. 1988 would have no significant net effect on the federal budget.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays (−\$3 million in 2019) that are subject to those pay-as-you-go procedures are shown in Table 1.

Increase in long-term deficits: None.

Mandates: None.

Previous CBO estimate: On June 5, 2019, CBO transmitted a cost estimate for H.R. 1988, the Protecting Affordable Mortgages for Veterans Act of 2019, as ordered reported by the House Committee on Financial Services on May 8, 2019. The two versions of the bill are similar and their estimated costs are the same.

Estimate prepared by: Federal costs: Robert Reese; Mandates: Rachel Austin.

Estimate reviewed by: Kim P. Cawley, Chief, Natural and Physical Resources Cost Estimates Unit; H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates regarding H.R. 1988 prepared by the Director of the Congressional Budget Office pursuant to Section 423 of the Unfunded Mandates Reform Act.

#### ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act would be created by H.R. 1988.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to Article I, section 8 of the United States Constitution, H.R. 1988 is authorized by Congress' power to "provide for the common Defense and general Welfare of the United States."

#### APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that H.R. 1988 does not relate to the terms and conditions of employment or access to public services or accommodations within the legislative branch.

## STATEMENT ON DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R. 1988 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

## DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to clause 3(c)(5) of rule XIII, the Committee estimates that H.R. 1988 contains no directed rule making that would require the Secretary to prescribe regulations.

## SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

*Section 1: Short title**Section 2: Clarifies that the date a VA Home Loan can be refinanced is the later of:*

- (1) the date on which the borrower has made at least six consecutive monthly payments on the loan being refinanced; and
- (2) the date that is 210 days after the first payment due date of the loan being refinanced.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

**NATIONAL HOUSING ACT**

\* \* \* \* \*

**TITLE III—NATIONAL MORTGAGE ASSOCIATIONS**

\* \* \* \* \*

MANAGEMENT AND LIQUIDATION FUNCTIONS—GOVERNMENT  
NATIONAL MORTGAGE ASSOCIATION

SEC. 306. (a) To carry out the purposes set forth in paragraph (c) of section 301, the Association is authorized and directed, as of the close of the cutoff date determined by the Association pursuant to



section 303(d) of this title, to establish separate accountability for all of its assets and liabilities (exclusive of capital, surplus, surplus reserves, and undistributed earnings to be evidenced by preferred stock as provided in section 303(d) hereof, but inclusive of all rights and obligations under any outstanding contracts), and to maintain such separate accountability for the management and orderly liquidation of such assets and liabilities as provided in this section.

(b) For the purposes of this section and to assure that, to the maximum extent, and as rapidly as possible, private financing will be substituted for Treasury borrowings otherwise required to carry mortgages held under the aforesaid separate accountability, the Association is authorized to issue, upon the approval of the Secretary of the Treasury, and have outstanding at any one time obligations having such maturities and bearing such rate or rates of interest as may be determined by the Association with the approval of the Secretary of the Treasury, to be redeemable at the option, of the Association before maturity in such manner as may be stipulated in such obligations; but in no event shall any such obligations be issued if, at the time of such proposed issuance, and as a consequence thereof, the resulting aggregate amount of its outstanding obligations under this subsection would exceed the amount of the Association's ownership under the aforesaid separate accountability, free from any liens or encumbrances, of cash, mortgages, and obligations of the United States or guaranteed thereby, or obligations, participations, or other instruments which are lawful investments for fiduciary, trust, or public funds. The proceeds of any private financing effected under this subsection shall be paid to the Secretary of the Treasury in reduction of the indebtedness of the Association to the Secretary of the Treasury under the aforesaid separate accountability. The Association shall insert appropriate language in all of its obligations issued under this subsection clearly indicating that such obligations, together with the interest thereon, are not guaranteed by the United States and do not constitute a debt or obligation of the United States or of any agency or instrumentality thereof other than the Association. The Association is authorized to purchase in the open market any of its obligations outstanding under this subsection at any time and at any price.

(c) No mortgage shall be purchased by the Association in its operations under this section except pursuant to and in accordance with the terms of a contract or commitment to purchase the same made prior to the cutoff date provided for in section 303(d), which contract or commitment became a part of the aforesaid separate accountability, and the total amount of mortgages and commitments held by the Association under this section shall not, in any event, exceed \$3,350,000,000: *Provided*, That such maximum amount shall be progressively reduced by the amount of cash realizations on account of principal of mortgages held under the aforesaid separate accountability and by cancellation of any commitments to purchase mortgages thereunder, as reflected by the books of the Association, with the objective that the entire aforesaid maximum amount shall be eliminated with the orderly liquidation of all mortgages held under the aforesaid separate accountability: *And provided further*, That nothing in this subsection shall preclude the Association from granting such usual and customary increases in the amounts of outstanding commitments (resulting from increased

costs or otherwise) as have theretofore been covered by like increases in commitments granted by the agencies of the Federal Government insuring or guaranteeing the mortgages. There shall be excluded from the total amounts set forth in this subsection the amounts of any mortgages which, subsequent to May 31, 1954, are transferred by law to the Association and held under the aforesaid separate accountability.

(d) The Association may issue to the Secretary of the Treasury its obligations in an amount outstanding at any one time sufficient to enable the Association to carry out its functions under this section, such obligations to mature not more than five years from their respective dates of issue, to be redeemable at the option of the Association before maturity in such manner as may be stipulated in such obligations. Each such obligation shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the issuance of the obligation of the Association. The Secretary of the Treasury is authorized to purchase any obligations of the Association to be issued under this section, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under chapter 31 of title 31, United States Code, are extended to include any purchases of the Association's obligations hereunder.

(e) Notwithstanding any other provision of law, the Association is authorized, under the aforesaid separate accountability, to make commitments to purchase, and to purchase, service, or sell any obligations offered to it by the Secretary of Housing and Urban Development, or any mortgages covering residential property offered to it by any Federal instrumentality, or the head thereof. There shall be excluded from the total amounts set forth in subsection (c) the amounts of any obligations or mortgages purchased by the Association pursuant to this subsection.

(f) Notwithstanding any of the provisions of this Act or of any other law, an amount equal to the net decrease for the preceding fiscal year in the aggregate principal amount of all mortgages owned by the Association under this section shall, as of July 1 of each of the years 1961 through 1964, be transferred to and merged with the authority provided under section 305(a), and the amount of such authority as specified in section 305(c) shall be increased by an amount so transferred.

(g)(1) The Association is authorized, upon such terms and conditions as it may deem appropriate, to guarantee the timely payment of principal of and interest on such trust certificates or other securities as shall (i) be issued by the corporation under section 304(d), or by any other issuer approved for the purposes of this subsection by the Association, and (ii) be based on and backed by a trust or pool composed of mortgages which are insured under the National Housing Act, or which are insured or guaranteed under the Servicemen's Readjustment Act of 1944, title V of the Housing Act of 1949, or chapter 37 of title 38, United States Code; or guaranteed under section 184 of the Housing and Community Development Act of 1992. [The Association may not guarantee the timely payment

of principal and interest on a security that is backed by a mortgage insured or guaranteed under chapter 37 of title 38, United States Code, and that was refinanced until the later of the date that is 210 days after the date on which the first monthly payment is made on the mortgage being refinanced and the date on which 6 full monthly payments have been made on the mortgage being refinanced.] The Association shall collect from the issuer a reasonable fee for any guaranty under this subsection and shall make such charges as it may determine to be reasonable for the analysis of any trust or other security arrangement proposed by the issuer. In the event the issuer is unable to make any payment of principal of or interest on any security guaranteed under this subsection, the Association shall make such payment as and when due in cash, and thereupon shall be subrogated fully to the rights satisfied by such payment. In any case in which (I) Federal law requires the reduction of the interest rate on any mortgage backing a security guaranteed under this subsection, (II) the mortgagor under the mortgage is a person in the military service, and (III) the issuer of such security fails to receive from the mortgagor the full amount of interest payment due, the Association may make payments of interest on the security in amounts not exceeding the difference between the amount payable under the interest rate on the mortgage and the amount of interest actually paid by the mortgagor. The Association is hereby empowered, in connection with any guaranty under this subsection, whether before or after any default, to provide by contract with the issuer for the extinguishment, upon default by the issuer, of any redemption, equitable, legal, or other right, title, or interest of the issuer in any mortgage or mortgages constituting the trust or pool against which the guaranteed securities are issued; and with respect to any issue of guaranteed securities, in the event of default and pursuant otherwise to the terms of the contract, the mortgages that constitute such trust or pool shall become the absolute property of the Association subject only to the unsatisfied rights of the holders of the securities based on and backed by such trust or pool. No State or local law, and no Federal law (except Federal law enacted expressly in limitation of this subsection after the effective date of this sentence), shall preclude or limit the exercise by the Association of (A) its power to contract with the issuer on the terms stated in the preceding sentence, (B) its rights to enforce any such contract with the issuer, or (C) its ownership rights, as provided in the preceding sentence, in the mortgages constituting the trust or pool against which the guaranteed securities are issued. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guaranty under this subsection. There shall be excluded from the total amounts set forth in subsection (c) the amounts of any mortgages acquired by the Association as a result of its operations under this subsection.

(2) Notwithstanding any other provision of law and subject only to the absence of qualified requests for guarantees, to the authority provided in this subsection, and to the extent of or in such amounts as any funding limitation approved in appropriation Acts, the Association shall enter into commitments to issue guarantees under this subsection in an aggregate amount of \$110,000,000,000 during fiscal year 1996. There are authorized to be appropriated to cover

the costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of guarantees issued under this Act by the Association such sums as may be necessary for fiscal year 1996.

(3)(A) No fee or charge in excess of 6 basis points may be assessed or collected by the United States (including any executive department, agency, or independent establishment of the United States) on or with regard to any guaranty of the timely payment of principal or interest on securities or notes based on or backed by mortgages that are secured by 1- to 4-family dwellings and (i) insured by the Federal Housing Administration under title II of the National Housing Act; or (ii) insured or guaranteed under the Serviceman's Readjustment Act of 1944, chapter 37 of title 38, United States Code, or title V of the Housing Act of 1949.

(B) The fees charged for the guaranty of securities or on notes based on or backed by mortgages not referred to in subparagraph (A), as authorized by other provisions of law, shall be set by the Association at a level not more than necessary to create reserves sufficient to meet anticipated claims based upon actuarial analysis, and for no other purpose.

(C) Fees or charges for the issuance of commitments or miscellaneous administrative fees of the Association shall not be on a competitive auction basis and shall remain at the level set for such fees or charges as of September 1, 1985, except that such fees or charges may be increased if reasonably related to the cost of administering the program, and for no other purpose.

(D) Not less than 90 days before increasing any fee or charge under subparagraph (B) or (C), the Secretary shall submit to the Congress a certification that such increase is solely for the purpose specified in such subparagraph.

(E)(i) Notwithstanding subparagraphs (A) through (D), fees charged for the guarantee of, or commitment to guarantee, multiclass securities backed by a trust or pool of securities or notes guaranteed by the Association under this subsection, and other related fees shall be charged by the Association in an amount the Association deems appropriate. The Association shall take such action as may be necessary to reasonably assure that such portion of the benefit, resulting from the Association's multiclass securities program, as the Association determines is appropriate accrues to mortgagors who execute eligible mortgages after the date of the enactment of this subparagraph.

(ii) The Association shall provide for the initial implementation of the program for which fees are charged under the first sentence of clause (i) by notice published in the Federal Register. The notice shall be effective upon publication and shall provide an opportunity for public comment. Not later than 12 months after publication of the notice, the Association shall issue regulations for such program based on the notice, comments received, and the experience of the Association in carrying out the program during such period.

(iii) The Association shall consult with persons or entities in such manner as the Association deems appropriate to ensure the efficient commencement and operation of the multiclass securities program.

(iv) No State or local law, and no Federal law (except Federal law enacted expressly in limitation of this clause after the effective date of this subparagraph) shall preclude or limit the exercise by

the Association of its power to contract with persons or entities, and its rights to enforce such contracts, for the purpose of ensuring the efficient commencement and continued operation of the multiclass securities program.

\* \* \* \* \*

**TITLE 38, UNITED STATES CODE**

\* \* \* \* \*

**PART III—READJUSTMENT AND RELATED BENEFITS**

\* \* \* \* \*

**CHAPTER 37—HOUSING AND SMALL BUSINESS LOANS**

\* \* \* \* \*

**SUBCHAPTER I—GENERAL**

\* \* \* \* \*

**§ 3709. Refinancing of housing loans**

(a) **FEE RECOUPMENT.**—Except as provided in subsection (d) and notwithstanding section 3703 of this title or any other provision of law, a loan to a veteran for a purpose specified in section 3710 of this title that is being refinanced may not be guaranteed or insured under this chapter unless—

- (1) the issuer of the refinanced loan provides the Secretary with a certification of the recoupment period for fees, closing costs, and any expenses (other than taxes, amounts held in escrow, and fees paid under this chapter) that would be incurred by the borrower in the refinancing of the loan;
- (2) all of the fees and incurred costs are scheduled to be recouped on or before the date that is 36 months after the date of loan issuance; and
- (3) the recoupment is calculated through lower regular monthly payments (other than taxes, amounts held in escrow, and fees paid under this chapter) as a result of the refinanced loan.

(b) **NET TANGIBLE BENEFIT TEST.**—Except as provided in subsection (d) and notwithstanding section 3703 of this title or any other provision of law, a loan to a veteran for a purpose specified in section 3710 of this title that is refinanced may not be guaranteed or insured under this chapter unless—

- (1) the issuer of the refinanced loan provides the borrower with a net tangible benefit test;
- (2) in a case in which the original loan had a fixed rate mortgage interest rate and the refinanced loan will have a fixed rate mortgage interest rate, the refinanced loan has a mortgage interest rate that is not less than 50 basis points less than the previous loan;
- (3) in a case in which the original loan had a fixed rate mortgage interest rate and the refinanced loan will have an adjust-

able rate mortgage interest rate, the refinanced loan has a mortgage interest rate that is not less than 200 basis points less than the previous loan; and

(4) the lower interest rate is not produced solely from discount points, unless—

(A) such points are paid at closing; and

(B) such points are not added to the principal loan amount, unless—

(i) for discount point amounts that are less than or equal to one discount point, the resulting loan balance after any fees and expenses allows the property with respect to which the loan was issued to maintain a loan to value ratio of 100 percent or less; and

(ii) for discount point amounts that are greater than one discount point, the resulting loan balance after any fees and expenses allows the property with respect to which the loan was issued to maintain a loan to value ratio of 90 percent or less.

[(c) LOAN SEASONING.—Except as provided in subsection (d) and notwithstanding section 3703 of this title or any other provision of law, a loan to a veteran for a purpose specified in section 3710 of this title that is refinanced may not be guaranteed or insured under this chapter until the date that is the later of—

[(1) the date that is 210 days after the date on which the first monthly payment is made on the loan; and

[(2) the date on which the sixth monthly payment is made on the loan.]

*(c) LOAN SEASONING.—Except as provided in subsection (d) and notwithstanding section 3703 of this title or any other provision of law, a loan to a veteran for a purpose specified in section 3710 of this title that is a refinance may not be guaranteed or insured under this chapter until the date that is the later of—*

*(1) the date on which the borrower has made at least six consecutive monthly payments on the loan being refinanced; and*

*(2) the date that is 210 days after the first payment due date of the loan being refinanced.*

(d) CASH-OUT REFINANCES.—(1) Subsections (a) through (c) shall not apply in a case of a loan refinancing in which the amount of the principal for the new loan to be guaranteed or insured under this chapter is larger than the payoff amount of the refinanced loan.

(2) Not later than 180 days after the date of the enactment of this section, the Secretary shall promulgate such rules as the Secretary considers appropriate with respect to refinancing described in paragraph (1) to ensure that such refinancing is in the financial interest of the borrower, including rules relating to recoupment, seasoning, and net tangible benefits.

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