

SA 1028. Ms. KLOBUCHAR submitted an amendment intended to be proposed by her to the bill S. 896, supra; which was ordered to lie on the table.

SA 1029. Mr. SCHUMER submitted an amendment intended to be proposed by him to the resolution S. Res. 93, a bill supporting the mission and goals of 2009 National Crime Victim's Rights Week, to increase public awareness of the rights, needs, and concerns of victims and survivors of crime in the United States, and to commemorate the 25th anniversary of the enactment of the Victims of Crime Act of 1984.

#### TEXT OF AMENDMENTS

**SA 1014.** Mr. DURBIN (for himself, Mr. DODD, Mr. REID, Mr. SCHUMER, Mr. WHITEHOUSE, and Mr. HARKIN) proposed an amendment to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; as follows:

At the end of the bill, add the following:

#### **TITLE V—PREVENTION OF MORTGAGE FORECLOSURES**

##### **Subtitle A—Modification of Residential Mortgages**

#### **SEC. 501. DEFINITIONS.**

Section 101 of title 11, United States Code, is amended by inserting after paragraph (43) the following:

“(43A)(A) The term ‘qualified loan modification offer’ means a loan modification agreement that is consistent with the terms described in subparagraph (B) and that is offered—

“(i) in accordance with the guidelines of the Homeowner Affordability and Stability Plan, to a debtor who qualifies for such plan;

“(ii) in accordance with the qualified loan guidelines described in subparagraph (C)(i) for loans insured or guaranteed by the Federal Housing Administration of the Department of Housing and Urban Development, the Department of Veterans Affairs, or the Department of Agriculture, to a debtor for whom a loan is insured or guaranteed under programs of such Government entities; or

“(iii) in accordance with qualified loan guidelines described in subparagraph (C)(ii) to a debtor who does not qualify for the Homeowner Affordability and Stability Plan, for a loan for which the servicer is not a participant in such plan, and for whom a loan is not insured or guaranteed under programs of the Government entities described in subparagraph (A)(ii).

“(B) For purposes of this paragraph, a ‘qualified loan modification offer’—

“(i) requires no fees or charges to be paid by the debtor in order to obtain such modification;

“(ii) permits the debtor to continue to make payments under the modification agreement, notwithstanding the filing of a case under this title, as if such case had not been filed;

“(iii) is offered in good faith to the debtor in writing, not later than 45 days after the date on which the debtor provided to the servicer of such loan, in good faith, all required information, as defined in subparagraph (G), in order to be considered for a qualified loan modification offer or a qualified loan refinancing offer;

“(iv) is presented to the debtor as a firm written offer in a form that can be accepted by the debtor by signing the offer and returning it to the servicer of such loan;

“(v) is offered with respect to a loan for which no foreclosure sale is scheduled, or shall be scheduled, during the time the request for modification is being considered or

is scheduled during the 30-day period beginning on the expiration of the time period specified in clause (iii); and

“(vi) is not revoked by the servicer of such loan for reasons within the control of the debtor before the confirmation of the plan filed under section 1321 or the modification of a plan under section 1323 or 1329.

“(C) For purposes of this paragraph, the term ‘qualified loan guidelines’ describes a loan modification agreement that—

“(i) in the case of a loan that is insured or guaranteed by the Federal Housing Administration, the Department of Veterans Affairs, or the Department of Agriculture and that is secured by the senior security interest in the principal residence of the debtor, modifies the debtor's monthly housing payment for at least a period of 5 years—

“(I) to 31 percent or less of the debtor's monthly gross income at the time of the modification, without any period of negative amortization; or

“(II) before expiration of the 90-day period beginning on the effective date of this paragraph, to the lowest percentage of the debtor's monthly gross income allowed under the applicable program guidelines in effect before the effective date of this paragraph, without any period of negative amortization, if such lowest percentage is greater than 31 percent of the debtor's monthly gross income at the time of the modification, without any period of negative amortization;

“(ii) in the case of a loan for a debtor who does not qualify for the Homeowner Affordability and Stability Plan, or of a loan for which the servicer is not a participant in such plan and for whom a loan is not insured or guaranteed under programs of the Government entities described in subparagraph (A)(ii)—

“(I) modifies the debtor's monthly housing payment for at least a period of 5 years to 31 percent or less of the debtor's monthly gross income at the time of the modification, without any period of negative amortization; and

“(II) provides that, after the initial period of 5 years, the interest rate on the modified loan may increase by not more than 1 percentage point per year until the interest rate reaches (but does not exceed) the prevailing market interest rate on the date on which the modification is finalized, as published by the Federal Home Loan Mortgage Corporation, at which time such maximum interest rate shall be fixed for the remaining loan term.

“(D) For purposes of this paragraph—

“(i) the term ‘debtor's monthly gross income’ means the total income amount before any payroll deductions, and includes wages and salaries, overtime pay, commissions, fees, tips, bonuses, housing allowances, other compensation for personal services, Social Security payments, including Social Security received by adults on behalf of minors or by minors intended for their own support, and monthly income from annuities, insurance policies, retirement funds, pensions, disability or death benefits, unemployment benefits, rental income, and other income. For income from the operation of a business, profession, or farm, monthly gross income shall be the sum of the debtor's gross receipts exclusive of ordinary and necessary business expenses; and

“(ii) the term ‘debtor's monthly housing payment’ includes fixed principal and interest, and payments for real estate taxes, hazard insurance, mortgage insurance premium, homeowners' association dues, ground rent, special assessments, and all other amounts collected by the servicer as part of that payment.

“(E) The term ‘Homeowner Affordability and Stability Plan’ means the loan modifica-

tion plan announced and implemented by the Secretary of the Treasury on March 4, 2009, and any successor thereto.

“(F) For purposes of this paragraph, the term ‘servicer’ means the person responsible for any of master servicing, servicing, or subservicing of a debt secured by the debtor's principal residence (including the person who makes or holds a loan if such person also master services, services, or subservices the loan).

“(G) For purposes of this paragraph, the term ‘required information’ means all information required to be provided to the servicer under the Homeowner Affordability and Stability Plan, or according to a similar standardized list, as issued by the Secretary of the Treasury or the Secretary of the Department of Housing and Urban Development, to allow the servicer to determine the debtor's eligibility for a qualified loan modification offer or a qualified loan refinancing offer made by the holder of the loan. If the servicer fails to notify the debtor within 30 days of the date of submission of information by the debtor that the information is incomplete and specify what further information must be submitted, it shall be conclusively presumed that the information submitted by the debtor satisfies such requirement. For purposes of this subparagraph, required information provided to the servicer by the debtor shall be deemed accurate and complete as of the time it was delivered to the servicer. Material differences not based on a change in the debtor's circumstances between the required information provided under the Homeowner Affordability and Stability Plan or a similar standardized list, as issued by the Secretary of the Treasury or the Secretary of the Department of Housing and Urban Development, and information provided by the debtor in the schedules required under section 521(a), shall give rise to a rebuttable presumption that the debtor is not eligible for a modification under section 1322(b)(11), if such material differences in the required information render the debtor ineligible for a qualified loan modification offer or a qualified loan refinancing offer. The debtor may rebut the presumption by showing that the debtor offered the required information in good faith.

“(43B) The term ‘qualified loan refinancing offer’ means a loan offered in accordance with the HOPE for Homeowners program, as authorized by section 257 of the National Housing Act (12 U.S.C. 1715z–23) that—

“(A) refinances a loan secured by the senior security interest in the principal residence of the debtor, and which is eligible to be refinanced under the HOPE for Homeowners program;

“(B) permits the debtor to continue to make payments under the loan, notwithstanding the filing of a case under this title, as if such case had not been filed; and

“(C) with respect to which the debtor has received a written notice that the debtor's application for such loan was approved by a person or entity authorized by the Secretary of the Department of Housing and Urban Development to serve as a mortgagee, and such loan approval was not revoked by such person or entity before the date of the confirmation of the plan filed under section 1321 or the modification of a plan under section 1323 or 1329.”

#### **SEC. 502. ELIGIBILITY FOR RELIEF.**

Section 109 of title 11, United States Code, is amended—

(1) in subsection (e)—

(A) by inserting “(1)” after “(e)”; and

(B) by adding at the end the following:

“(2) For purposes of this subsection, the computation of debts shall not include the secured or unsecured portions of—

“(A) debts secured by the debtor’s principal residence, if the value of such residence as of the date of the order for relief under chapter 13 is less than the applicable maximum amount of noncontingent, liquidated, secured debts specified in this subsection; or

“(B) debts secured or formerly secured by what was the debtor’s principal residence that was sold in foreclosure or that the debtor surrendered to the creditor, if the value of such real property as of the date of the order for relief under chapter 13 was less than the applicable maximum amount of noncontingent, liquidated, secured debts specified in this subsection.”;

(2) in subsection (h)(1), by striking “and (3)” and inserting “, (3), and (5)”;

(3) in subsection (h), by adding at the end the following:

“(5) With respect to a debtor in a case under chapter 13 who is at least 60 days delinquent with respect to the claim secured by the debtor’s principal residence and submits to the court a certification that the debtor has received written notice that the holder of a claim secured by the debtor’s principal residence may commence a foreclosure on the debtor’s principal residence, the requirements of paragraph (1) shall be considered to be satisfied if the debtor satisfies such requirements not later than the expiration of the 45-day period beginning on the date of the filing of the petition.”.

#### SEC. 503. AUTHORITY TO MODIFY CERTAIN MORTGAGES.

Section 1322 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) by redesignating paragraph (11) as paragraph (12);

(B) in paragraph (10), by striking “and” at the end; and

(C) by inserting after paragraph (10) the following:

“(11) notwithstanding paragraph (2), modify the rights of the holder of a claim for a loan originated before January 1, 2009, with an unpaid principal balance that is not greater than the maximum loan amount provided for in the guidelines of the Homeowner Affordability and Stability Plan, that is at least 60 days delinquent and secured by a security interest in the debtor’s principal residence and, in the case of a claim secured by the senior security interest in such residence that is the subject of a written notice that a foreclosure may be commenced with respect to such loan—

“(A) by providing for payment of the amount of the allowed secured claim, as determined under section 506(a)(1);

“(B) by modifying the terms and conditions of such loan—

“(i) to extend the repayment period for a period that is not longer than the longer of 40 years (reduced by the period for which such loan has been outstanding) or the remaining term of such loan, beginning on the date of the order for relief under this chapter; and

“(ii) to provide for the payment of interest accruing after the date of the order for relief under this chapter at a fixed annual rate equal to the currently applicable average prime offer rate, as of the date of the order for relief under this chapter, corresponding to the repayment term determined under the preceding paragraph, as published by the Federal Financial Institutions Examination Council in its table entitled ‘Average Prime Offer Rates—Fixed’ (or any successor thereto), rounded to the nearest 0.125 percent, plus a reasonable premium for risk; and

“(C) by providing for payments of such modified loan directly to the holder of the claim or, at the discretion of the court, through the trustee during the term of the plan; and”;

(2) by adding at the end the following:

“(g) A claim may be reduced under subsection (b)(11)(A) only on the condition that if the debtor sells the principal residence securing such claim during the pendency of the case under this chapter and receives net proceeds from the sale of such residence—

“(1) the debtor agrees to pay to such holder 50 percent of the amount of the difference between the sale price and the amount of such claim, as originally determined under subsection (b)(11) (plus costs of sale and improvements), but not to exceed the unpaid amount of the allowed secured claim determined as if such claim had not been reduced under such subsection;

“(2) the debtor notifies the holder of such claim (or entity collecting payments on behalf of such holder), not later than 30 days before the closing date of such sale, of the details of sale, including the buyer’s name and address, the buyer’s relationship to the debtor, if any, purchase price, anticipated sale closing date, name and address of the closing agent, and any other relevant information; and

“(3) any amount to be received by the holder is listed in the closing documents.

“(h) With respect to a claim of the kind described in subsection (b)(11) that is secured by the senior security interest in the debtor’s principal residence, the plan may not contain a modification under the authority of subsection (b)(11)—

“(1) in a case commenced under this chapter after the expiration of the 45-day period beginning on the effective date of this subsection, unless the debtor certifies that the debtor sought a qualified loan modification offer or a qualified loan refinancing offer, as those terms are defined in paragraphs (43A) and (43B) of section 101, respectively, and submitted the required information, as that term is defined in section 101(43A)(G);

“(2) in any other case under this chapter, unless the debtor certifies that the debtor sought a qualified loan modification offer or qualified loan refinancing offer, as those terms are so defined, at least 45 days before—

“(A) the date of confirmation of a plan under section 1321 that contains a modification under the authority of subsection (b)(11) of this section; or

“(B) the date of modification of a plan under section 1323 or 1329 to contain a modification under the authority of subsection (b)(11) of this section;

“(3) except as provided in subsection (i)(2), if the debtor’s monthly housing payment prior to loan modification or refinancing is less than 31 percent of the debtor’s gross monthly income (as those terms are defined in section 101(43A)(D)); or

“(4) except as provided in subsection (i)(2), if the debtor has received a qualified loan modification offer or a qualified loan refinancing offer, as those terms are so defined.

“(i)(1) If the debtor’s income at the time at which a petition is filed under this chapter is equal to or greater than 80 percent of the area median income, as published by the Department of Housing and Urban Development, with respect to a claim of the kind described in subsection (b)(11), and if the debtor has received a qualified loan modification offer or a qualified loan refinancing offer (as those terms are defined in paragraphs (43A) and (43B) of section 101, respectively for purposes of this subsection), such debtor may not modify the rights of the holder of a claim that is secured by the senior security interest in the debtor’s principal residence pursuant to subsection (b)(11), regardless of whether the debtor has accepted the offer.

“(2) If the debtor’s income at the time at which a petition is filed under this chapter is not equal to or greater than 80 percent of the area median income, as published by the De-

partment of Housing and Urban Development, the debtor shall be subject to all requirements applicable to other debtors under this section with respect to a claim of the kind described in subsection (b)(11), provided that—

“(A) if the debtor is subject to subsection (h)(3) or (h)(4), such debtor may still modify the rights of the holder of a claim secured by the senior security interest in the debtor’s principal residence pursuant to subsection (b)(11), other than by reduction in the principal balance, if the payments that would be due under a modification implemented by a plan under this chapter permitting payments over a term of 40 years and an interest rate equal to the currently applicable prime offer rate described in subsection (b)(11)(B)(ii) would be less than the payments due under the qualified loan modification offer or a qualified loan refinancing offer; and

“(B) if the debtor has received an otherwise qualified loan modification offer or a qualified loan refinancing offer that reduces the debtor’s monthly housing payment to 25 percent or less of the debtor’s monthly gross income (as those terms are defined in section 101(43A)(D)), such debtor may not modify the rights of the holder of a claim secured by the senior security interest in the debtor’s principal residence pursuant to subsection (b)(11), regardless of whether or not the debtor has accepted the offer.

“(j) In determining the holder’s allowed secured claim under section 506(a)(1) for purposes of subsection (b)(11)(A) of this section, the value of the debtor’s principal residence shall be the fair market value of such residence on the date of the determination of the value of the allowed secured claim and, if the issue of value is contested, the court shall determine such value in accordance with the appraisal rules used by the Federal Housing Administration.

“(k) If the rights of a holder of a claim of the kind described in subsection (b)(11) have been modified pursuant to subsection (b)(11), the court may not approve, and the debtor may not borrow, any additional funds during the pendency of the case that are secured by a security interest in the debtor’s principal residence that is junior to the lien securing such claim.”.

#### SEC. 504. COMBATING EXCESSIVE FEES.

Section 1322(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking “and” at the end;

(2) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(3) the debtor, the debtor’s property, and property of the estate are not liable for a fee, cost, or charge that is incurred while the case under this chapter is pending and arises from a debt that is secured by the debtor’s principal residence, except to the extent that—

“(A) the holder of the claim for the debt files with the court and serves on the trustee, the debtor, and the debtor’s attorney (annually or, in order to permit filing consistent with clause (ii), more frequently, as the court determines necessary) notice of the fee, cost, or charge before the earlier of—

“(i) 1 year after the date on which the fee, cost, or charge is incurred; or

“(ii) 60 days before the closing of the case under this chapter; and

“(B) the fee, cost, or charge is not unlawful under applicable nonbankruptcy law, and is reasonable and provided for in the applicable security agreement;

“(4) the failure of a party to give notice described in paragraph (3) shall be deemed a waiver of any claim for any fee, cost, or charge described in paragraph (3) for all purposes, and any attempt to collect such a fee,

cost, or charge shall constitute a violation of section 524(a)(2) or, if the violation occurs before the date of discharge, of section 362(a); and

“(5) a plan may provide for the waiver of any prepayment penalty on a claim secured by the debtor’s principal residence.”.

**SEC. 505. CONFIRMATION OF PLAN.**

Section 1325(a) of title 11, United States Code, is amended—

(1) in paragraph (5)—

(A) by inserting “except as otherwise provided in section 1322(b)(11),” after “(5)”; and

(B) in subparagraph (B)(iii)(I), by inserting “(including payments of a claim modified under section 1322(b)(11))” after “payments” the 1st place that term appears;

(2) in paragraph (8), by striking “and” at the end;

(3) in paragraph (9), by striking the period at the end and inserting a semicolon; and

(4) by inserting immediately after paragraph (9) the following:

“(10) notwithstanding paragraph (5)(B)(i)(I), in a case in which the plan modifies a claim in accordance with section 1322(b)(11), the holder of a claim whose rights are modified pursuant to section 1322(b)(11) retains the lien until the full payment of the allowed secured claim of the holder, together with postpetition interest, fees, costs, and charges permitted under section 1322(b)(11) and, if applicable, 1322(c)(3); and

“(11) in a case in which the plan modifies a claim in accordance with section 1322(b)(11), the court—

“(A) finds that the modification is in good faith, which the court may not find if the debtor has no need for relief under section 1322(b)(11) because the debtor can pay all of the debts of the debtor and any payment increases on such debts without difficulty for the foreseeable future, including the positive amortization of mortgage debt; and

“(B) does not find that the debtor has been criminally convicted of actual fraud in obtaining the extension, renewal, or refinancing of credit that gives rise to a modified claim.”.

**SEC. 506. DISCHARGE.**

Section 1328(a) of title 11, United States Code, is amended—

(1) in the matter preceding paragraph (1), by inserting “(other than payments to holders of claims whose rights are modified under section 1322(b)(11))” after “paid”; and

(2) in paragraph (1), by inserting “or, to the extent of the unpaid portion of an allowed secured claim, as provided for under section 1322(b)(11)” after “1322(b)(5)”.

**SEC. 507. STANDING TRUSTEE FEES.**

(a) AMENDMENT TO TITLE 28.—Section 586(e)(1)(B)(i) of title 28, United States Code, is amended—

(1) by inserting “(I) except as provided in subclause (II),” after “(i)”; and

(2) by striking “or” at the end and inserting “and”; and

(3) by adding at the end the following:

“(II) 4 percent, with respect to payments received under section 1322(b)(11) of title 11, by the individual as a result of the operation of section 1322(b)(11)(C) of title 11, unless the bankruptcy court waives all fees with respect to such payments, based on a determination that the individual has income equal to less than 150 percent of the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved, and payment of such fees would render the plan of the debtor infeasible; or”.

(b) APPLICABILITY.—The amendments made by this section shall apply to any trustee to whom the provisions of section 302(d)(3) of

the Bankruptcy Judges, United States Trustee, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) apply.

**SEC. 508. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.**

(a) APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this title shall apply with respect to any case commenced under title 11 of the United States Code before, on, or after the date of enactment of this Act with respect to loans serviced by entities affiliated with entities for which participation in the Homeowner Affordability and Stability Plan announced and implemented by the Secretary of the Treasury on March 4, 2009, (and any successor thereto) is mandatory.

(2) EXCEPTION.—With respect to loans serviced by entities that are unaffiliated with entities for which participation in the Homeowner Affordability and Stability Plan is mandatory, and that have announced and implemented a policy of ceasing all foreclosure activities for 45 days after the date of enactment of this Act, the time period in clause (iii) of section 101(43A)(B) of title 11, United States Code (as added by this title), shall expire on the later of 90 days after the date of enactment of this Act or the date on which it would otherwise expire under that clause.

(3) LIMITATION.—The amendments made by this subtitle shall not apply with respect to any case closed under title 11 of the United States Code as of the date of enactment of this Act that is not pending on appeal in, nor appealable to, any court of the United States.

(b) SUNSET.—The amendments made by sections 501, 503, 505, 506, and 507 shall not apply to any case commenced under title 11 of the United States Code after the later of December 31, 2012 or the expiration of any extension of the Homeowner Affordability and Stability Plan (or any successor thereto).

**SEC. 509. GAO STUDY AND REPORT.**

(a) STUDY.—The Comptroller General of the United States shall carry out a study of—

(1) the number of debtors who filed, during the 1-year period beginning on the date of enactment of this Act, cases under chapter 13 of title 11, United States Code, for the purpose of restructuring a mortgage loan secured by the principal residence of the debtor;

(2) the number of such mortgages restructured under the amendments made by this subtitle that subsequently resulted in default and foreclosure; and

(3) a comparison between the effectiveness of mortgages restructured under programs outside of bankruptcy law, such as Hope Now, the Homeowner Affordability and Stability Plan (as implemented by the Secretary of the Treasury on March 4, 2009), and the HOPE for Homeowners program, and mortgages restructured under the amendments made by this subtitle.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit a report on the results of the study required by subsection (a) to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

**SEC. 510. UNENFORCEABILITY OF CERTAIN PROVISIONS AS BEING CONTRARY TO PUBLIC POLICY.**

(a) CONGRESSIONAL FINDINGS.—Congress finds that—

(1) in conjunction with the amendments made by this subtitle, the enforcement of provisions of certain investment contracts in effect on the date of enactment of this Act,

which require excess bankruptcy losses that exceed a certain dollar amount on residential mortgages to be borne by classes of certificates on a pro rata basis, would affect the parties to those contracts in ways that could not have occurred under the law in effect at the time at which such contracts were entered into, would interfere with the achievement of the purposes of this subtitle, and would have adverse effects on the national economy, potentially including adverse effects on the security of depositors of banking institutions and policyholders of insurance companies operating in interstate commerce; and

(2) to achieve the purposes of this subtitle to avoid preventable foreclosures, avoid unintended and adverse systemic effects on the national economy, and preserve the existing economic expectations of the parties to investment contracts to the extent reasonably possible, it is necessary that such provisions be unenforceable to the extent that such provisions refer to types of bankruptcy losses that could not have been incurred under the law in effect at the time at which such contracts were entered into.

(b) UNENFORCEABILITY OF PROVISIONS.—

(1) IN GENERAL.—Any bankruptcy loss allocation provision in any mortgage-backed securities contract in effect on the date of enactment of this Act shall be unenforceable as contrary to public policy, to the extent that such bankruptcy loss allocation provision allocates to senior classes of mortgage-backed securities of the issuer bankruptcy losses that could not have been incurred under the law in effect on the date on which such mortgage-backed securities contract was entered into, without the consent of the holder of the related residential mortgage or mortgages.

(2) EFFECT OF UNENFORCEABILITY.—Any bankruptcy losses that would have been allocated under a bankruptcy loss allocation provision that is unenforceable under paragraph (1) shall be allocated as if the bankruptcy losses constituted losses (other than bankruptcy losses) under the applicable mortgage-backed securities contract.

(c) COVERED BANKRUPTCY LOSSES.—For purposes of subsection (b), the term “bankruptcy losses that could not have been incurred under the law in effect on the date on which such mortgage-backed securities contract was entered into, without the consent of the holder of the related residential mortgage or mortgages” includes all bankruptcy losses incurred as a result of the application of section 1322(b)(11) of title 11, United States Code, as amended by this title.

(d) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) BANKRUPTCY LOSS ALLOCATION PROVISION.—The term “bankruptcy loss allocation provision” means any provision in a mortgage-backed securities contract that allocates any portion of bankruptcy losses to senior classes of mortgage-backed securities of the issuer before the outstanding principal amount of subordinated classes of the mortgage-backed securities of the issuer has been reduced to zero as a result of the allocation of losses or otherwise.

(2) BANKRUPTCY LOSSES.—The term “bankruptcy losses” means any losses relating to residential mortgages held by a securitization vehicle that arise in a proceeding under title 11 of the United States Code.

(3) MORTGAGE-BACKED SECURITIES.—The term “mortgage-backed securities” means mortgage pass-through certificates, participation certificates, mortgage-backed securities, or other similar securities backed by a pool of assets that includes residential mortgage loans.

(4) MORTGAGE-BACKED SECURITIES CONTRACT.—The term “mortgage-backed securities contract” means a contract or other instrument that governs the terms of mortgage-backed securities.

(5) SECURITIZATION VEHICLE.—The term “securitization vehicle” means a trust, corporation, partnership, limited liability entity, special purpose entity, or other structure that—

(A) is the issuer, or is created by the issuer, of mortgage pass-through certificates, participation certificates, mortgage-backed securities, or other similar securities backed by a pool of assets that includes residential mortgage loans; and

(B) holds such mortgages.

**Subtitle B—Related Mortgage Modification Provisions**

**SEC. 511. ADJUSTMENTS AS A RESULT OF MODIFICATION IN BANKRUPTCY OF HOUSING LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS.**

(a) IN GENERAL.—Section 3732(a)(2) of title 38, United States Code, is amended—

(1) by inserting “(A)” after “(2)”; and

(2) by adding at the end the following new subparagraph:

“(B) In the event that a housing loan guaranteed under this chapter is modified under the authority provided under section 1322(b)(11) of title 11, United States Code, the Secretary shall pay the holder of the obligation the unpaid balance of the obligation due as of the date of the filing of the petition under title 11, United States Code, plus accrued interest, but only upon the assignment, transfer, and delivery to the Secretary (in a form and manner satisfactory to the Secretary) of all rights, interest, claims, evidence, and records with respect to the housing loan.”

(b) MATURITY OF HOUSING LOANS.—Section 3703(d)(1) of title 38, United States Code, is amended by inserting “at the time of origination” after “loan”.

(c) IMPLEMENTATION.—The Secretary of Veterans Affairs may implement the amendments made by this section through notice, procedure notice, or administrative notice.

**SEC. 512. PAYMENT OF FHA MORTGAGE INSURANCE BENEFITS.**

(a) IN GENERAL.—Section 204(a) of the National Housing Act (12 U.S.C. 1710(a)) is amended—

(1) in paragraph (1), by adding at the end the following new subparagraph:

“(E) MODIFICATION OF MORTGAGE IN BANKRUPTCY.—

“(i) AUTHORITY.—If an order is entered under the authority provided under section 1322(b)(11) of title 11, United States Code, that (a) determines the amount of an allowed secured claim under a mortgage in accordance with section 506(a)(1) of title 11, United States Code, and the amount of such allowed secured claim is less than the amount due under the mortgage as of the date of the filing of the petition under title 11, United States Code, or (b) reduces the interest to be paid under a mortgage in accordance with section 1325 of such title, the Secretary shall pay insurance benefits for the mortgage in 1 of the following manners:

“(I) FULL PAYMENT AND ASSIGNMENT.—The Secretary may pay the insurance benefits for the mortgage, but only upon the assignment, transfer, and delivery to the Secretary of all rights, interest, claims, evidence, and records with respect to the mortgage specified in clauses (i) through (iv) of paragraph (1)(A). The insurance benefits shall be paid in the amount equal to the original principal obligation of the mortgage (with such additions and deductions as the Secretary determines are appropriate) which was unpaid

upon the date of the filing by the mortgagor of the petition under title 11 of the United States Code. Nothing in this clause may be construed to prevent the Secretary from providing insurance under this title for a mortgage that has previously been assigned to the Secretary under this subclause.

“(II) ASSIGNMENT OF UNSECURED CLAIM.—The Secretary may make a partial payment of the insurance benefits for any unsecured claim under the mortgage, but only upon the assignment to the Secretary of any unsecured claim of the mortgagee against the mortgagor or others arising out of such order. Such assignment shall be deemed valid irrespective of whether such claim has been or will be discharged under title 11 of the United States Code. The insurance benefits shall be paid in the amount specified in subclause (I) of this clause, as such amount is reduced by the amount of the allowed secured claim. Such allowed secured claim shall continue to be insured under section 203.

“(III) INTEREST PAYMENTS.—The Secretary may make periodic payments, or a one-time payment, of insurance benefits for interest payments that are reduced pursuant to such order, as determined by the Secretary, but only upon assignment to the Secretary of all rights and interest related to such payments.

“(ii) DELIVERY OF EVIDENCE OF ENTRY OF ORDER.—Notwithstanding any other provision of this paragraph, no insurance benefits may be paid pursuant to this subparagraph for a mortgage before delivery to the Secretary of evidence of the entry of the order issued pursuant to title 11, United States Code, in a form satisfactory to the Secretary.”; and

(2) in paragraph (5), in the matter preceding subparagraph (A), by inserting after “section 520, and” the following: “, except as provided in paragraph (1)(E).”

(b) IMPLEMENTATION.—The Secretary of Housing and Urban Development may implement the amendments made by this section through notice or mortgagee letter.

**SEC. 513. ADJUSTMENTS AS RESULT OF MODIFICATION OF RURAL SINGLE FAMILY HOUSING LOANS IN BANKRUPTCY.**

(a) GUARANTEED RURAL HOUSING LOANS.—Section 502(h) of the Housing Act of 1949 (42 U.S.C. 1472(h)) is amended—

(1) in paragraph (7)—

(A) in subparagraph (A), by inserting before the semicolon at the end the following: “, unless the maturity date of the loan is modified in a bankruptcy proceeding or authorized at the discretion of the Secretary in accordance with paragraph (15)(A)”; and

(B) in subparagraph (B), by inserting before the semicolon the following: “, unless such rate is modified in a bankruptcy proceeding or as provided in paragraph (14) or (15)”; and

(2) by redesignating paragraphs (13) and (14) as paragraphs (14) and (15), respectively; and

(3) by inserting after paragraph (12) the following new paragraphs:

“(13) PAYMENT OF LOSSES.—To pay for losses incurred by holders or servicers in the event of a modification pursuant to the authority provided under section 1322(b)(11) of title 11, United States Code, that either (1) determines the amount of an allowed secured claim under a mortgage in accordance with section 506(a)(1) of title 11, United States Code, and the amount of such allowed secured claim is less than the amount due under the mortgage as of the date of the filing of the petition under title 11, United States Code, or (2) reduces the interest to be paid under a mortgage in accordance with section 1325 of such title, as follows:

“(A) FULL PAYMENT AND ASSIGNMENT.—The Secretary may pay the guarantee for the mortgage, but only upon the assignment,

transfer, and delivery to the Secretary of all rights, interest, claims, evidence, and records with respect to the mortgage. The guarantee shall be paid in the amount equal to the original principal obligation of the mortgage (with such additions and deductions as the Secretary determines are appropriate) which was unpaid upon the date of the filing by the mortgagor of the petition under title 11 of the United States Code. Nothing in this subparagraph may be construed to prevent the Secretary from providing a guarantee under this subsection for a mortgage that has previously been assigned to the Secretary under this subparagraph.

“(B) ASSIGNMENT OF UNSECURED CLAIM.—The Secretary may make a partial payment of the guarantee for any unsecured claim under the mortgage, but only upon the assignment to the Secretary of any unsecured claim of the mortgagee against the mortgagor or others arising out of such order. Such assignment shall be deemed valid irrespective of whether such claim has been or will be discharged under title 11 of the United States Code. The guarantee shall be paid in the amount specified in subparagraph (A), as such amount is reduced by the amount of the allowed secured claim. Such allowed secured claim shall continue to be insured under section 1472 and 1487, without reduction for any amounts modified.

“(C) INTEREST PAYMENTS.—The Secretary may make periodic payments, or a one-time payment, of guarantees for interest payments that are reduced pursuant to such order, as determined by the Secretary, but only upon assignment to the Secretary of all rights and interest related to such payments.

“(D) DELIVERY OF EVIDENCE OF ENTRY OF ORDER.—Notwithstanding any other provision of this section, no guarantees may be paid pursuant to this paragraph for a mortgage before delivery to the Secretary of evidence of the entry of the order issued pursuant to title 11, United States Code, in a form satisfactory to the Secretary.”

(b) INSURED RURAL HOUSING LOANS.—Section 517(j) of the Housing Act of 1949 (42 U.S.C. 1487(j)) is amended—

(1) by redesignating paragraphs (2) through (7) as paragraphs (3) through (8), respectively; and

(2) by inserting after paragraph (1) the following new paragraph:

“(2) to pay for losses incurred by holders or servicers in the event of a modification pursuant to a bankruptcy proceeding;”

(c) TECHNICAL AMENDMENTS.—Subsection (h) of section 502 of the Housing Act of 1949 (42 U.S.C. 1472(h)) is amended—

(1) in paragraph (5)(A), by striking “(as defined in paragraph (13))” and inserting “(as defined in paragraph (14))”; and

(2) in paragraph (18)(E) (as so redesignated by subsection (a)(2)), by—

(A) striking “paragraphs (3), (6), (7)(A), (8), and (10)” and inserting “paragraphs (3), (6), (7)(A), (8), (10), and (13)”; and

(B) striking “paragraphs (2) through (13)” and inserting “paragraphs (2) through (15)”.

(d) PROCEDURE.—

(1) IN GENERAL.—The promulgation of regulations necessitated and the administration actions required by the amendments made by this section shall be made without regard to—

(A) the notice and comment provisions of section 553 of title 5, United States Code;

(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(C) chapter 35 of title 44, United States Code (commonly known as the “Paperwork Reduction Act”).

(2) CONGRESSIONAL REVIEW OF AGENCY RULE-MAKING.—In carrying out this section, and the amendments made by this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

**SA 1015.** Mr. MERKLEY submitted an amendment intended to be proposed by him to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; which was ordered to lie on the table; as follows:

At the end of title I, add the following:

**SEC. 103. PROHIBITION ON YIELD SPREAD PREMIUMS.**

(a) IN GENERAL.—No person shall provide, and no mortgage originator shall receive, directly or indirectly, any compensation that is based on, or varies with, the terms of any home mortgage loan (other than the amount of the loan).

(b) DEFINITIONS.—For purposes of this section—

(1) the term “home mortgage loan” means a loan secured by a mortgage or lien on residential property;

(2) the term “mortgage originator” means any creditor or other person, including a mortgage broker or bank lender, who, for compensation or in anticipation of compensation, engages either directly or indirectly in the—

(A) acceptance of applications for home mortgage loans;

(B) solicitation of home mortgage loans on behalf of borrowers;

(C) negotiation of terms or conditions of home mortgage loans on behalf of borrowers or lenders; or

(D) negotiation of sales of existing home mortgage loans to institutional or non-institutional lenders; and

(3) the term “residential property” means a 1-4 family, owner-occupied residence, including a 1-family unit in a condominium project, a membership interest and occupancy agreement in a cooperative housing project, and a manufactured home and the lot on which the home is situated.

**SEC. 104. PROHIBITION ON PREPAYMENT PENALTIES.**

The Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended by inserting after section 129A the following new section:

**“SEC. 129B. PROHIBITION ON PREPAYMENT PENALTIES.**

“No prepayment fees or penalties shall be charged or collected under the terms of any consumer credit transaction secured by an owner-occupied principal dwelling of the consumer. Any prepayment penalty in violation of this section shall be unenforceable.”.

**SA 1016.** Mr. VITTER submitted an amendment intended to be proposed to amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . REPAYMENT OF TARP FUNDS.**

Section 111(g) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5221(g)) is amended—

(1) by striking “Subject to” and inserting the following:

“(1) REPAYMENT PERMITTED.—Subject to”;

(2) by inserting “if, subsequent to such repayment, the TARP recipient is well capitalized (as determined by the appropriate Federal banking agency having supervisory authority over the TARP recipient)” after “waiting period.”;

(3) by striking “, and when such assistance is repaid, the Secretary shall liquidate warrants associated with such assistance at the current market price”;

and

(4) by adding at the end the following:

“(2) NO REPAYMENT PRECONDITION FOR WARRANTS.—A TARP recipient that exercises the repayment authority under paragraph (1) shall not be required to repurchase warrants from the Federal Government as a condition of repayment of assistance provided under the TARP. The Secretary shall, at the request of the relevant TARP recipient, repay the proceeds of warrants repurchased before the date of enactment of this paragraph.”.

**SA 1017.** Mr. VITTER submitted an amendment intended to be proposed to amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . DUTIES OF THE FHA.**

(a) DUTY TO MAINTAIN SOLVENCY.—Notwithstanding any other provision of law or of this Act, the primary and foundational responsibility of the Federal Housing Administration shall be to safeguard and preserve the solvency of the Administration.

(b) SUSPENSION OF ACTIVITIES.—If in the determination of the Commissioner of the Federal Housing Administration, any existing Federal requirement, program, or law, or any amendment to such requirement, program, or law made by this Act, threatens the solvency of the Administration or makes the Administration reasonably likely to need a credit subsidy from Congress, the Commissioner shall—

(1) temporary suspend any such requirement, program, or law; and

(2) recommend legislation to the appropriate congressional committees to address such solvency issues.

**SA 1018.** Mr. DODD (for himself and Mr. SHELBY) submitted an amendment intended to be proposed by him to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the “Helping Families Save Their Homes Act of 2009”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is the following:

Sec. 1. Short title; table of contents.

**TITLE I—PREVENTION OF MORTGAGE FORECLOSURES**

Sec. 101. Guaranteed rural housing loans.

Sec. 102. Modification of housing loans guaranteed by the Department of Veterans Affairs.

Sec. 103. Additional funding for HUD programs to assist individuals to better withstand the current mortgage crisis.

Sec. 104. Mortgage modification data collecting and reporting.

**TITLE II—FORECLOSURE MITIGATION AND CREDIT AVAILABILITY**

Sec. 201. Servicer safe harbor for mortgage loan modifications.

Sec. 202. Changes to HOPE for Homeowners Program.

Sec. 203. Requirements for FHA-approved mortgagees.

Sec. 204. Enhancement of liquidity and stability of insured depository institutions to ensure availability of credit and reduction of foreclosures.

Sec. 205. Application of GSE conforming loan limit to mortgages assisted with TARP funds.

Sec. 206. Mortgages on certain homes on leased land.

Sec. 207. Sense of Congress regarding mortgage revenue bond purchases.

**TITLE III—MORTGAGE FRAUD TASK FORCE**

Sec. 301. Sense of the Congress on establishment of a Nationwide Mortgage Fraud Task Force.

**TITLE IV—FORECLOSURE MORATORIUM PROVISIONS**

Sec. 401. Sense of the Congress on foreclosures.

**TITLE I—PREVENTION OF MORTGAGE FORECLOSURES**

**SEC. 101. GUARANTEED RURAL HOUSING LOANS.**  
(a) GUARANTEED RURAL HOUSING LOANS.—Section 502(h) of the Housing Act of 1949 (42 U.S.C. 1472(h)) is amended—

(1) by redesignating paragraphs (13) and (14) as paragraphs (16) and (17), respectively; and

(2) by inserting after paragraph (12) the following new paragraphs:

“(13) LOSS MITIGATION.—Upon default or imminent default of any mortgage guaranteed under this subsection, mortgagees shall engage in loss mitigation actions for the purpose of providing an alternative to foreclosure (including actions such as special forbearance, loan modification, pre-foreclosure sale, deed in lieu of foreclosure, as required, support for borrower housing counseling, subordinate lien resolution, and borrower relocation), as provided for by the Secretary.

“(14) PAYMENT OF PARTIAL CLAIMS AND MORTGAGE MODIFICATIONS.—The Secretary may authorize the modification of mortgages, and establish a program for payment of a partial claim to a mortgagee that agrees to apply the claim amount to payment of a mortgage on a 1- to 4-family residence, for mortgages that are in default or face imminent default, as defined by the Secretary. Any payment under such program directed to the mortgagee shall be made at the sole discretion of the Secretary and on terms and conditions acceptable to the Secretary, except that—

“(A) the amount of the partial claim payment shall be in an amount determined by the Secretary, and shall not exceed an amount equivalent to 30 percent of the unpaid principal balance of the mortgage and any costs that are approved by the Secretary;

“(B) the amount of the partial claim payment shall be applied first to any outstanding indebtedness on the mortgage, including any arrearage, but may also include principal reduction;

“(C) the mortgagor shall agree to repay the amount of the partial claim to the Secretary upon terms and conditions acceptable to the Secretary;

“(D) expenses related to a partial claim or modification are not to be charged to the borrower;

“(E) the Secretary may authorize compensation to the mortgagee for lost income on monthly mortgage payments due to interest rate reduction;

“(F) the Secretary may reimburse the mortgagee from the appropriate guaranty fund in connection with any activities that the mortgagee is required to undertake concerning repayment by the mortgagor of the amount owed to the Secretary;

“(G) the Secretary may authorize payments to the mortgagee on behalf of the borrower, under such terms and conditions as are defined by the Secretary, based on successful performance under the terms of the mortgage modification, which shall be used to reduce the principal obligation under the modified mortgage; and

“(H) the Secretary may authorize the modification of mortgages with terms extended up to 40 years from the date of modification.

“(15) ASSIGNMENT.—

“(A) PROGRAM AUTHORITY.—The Secretary may establish a program for assignment to the Secretary, upon request of the mortgagee, of a mortgage on a 1- to 4-family residence guaranteed under this chapter.

“(B) PROGRAM REQUIREMENTS.—

“(i) IN GENERAL.—The Secretary may encourage loan modifications for eligible delinquent mortgages or mortgages facing imminent default, as defined by the Secretary, through the payment of the guaranty and assignment of the mortgage to the Secretary and the subsequent modification of the terms of the mortgage according to a loan modification approved under this section.

“(ii) ACCEPTANCE OF ASSIGNMENT.—The Secretary may accept assignment of a mortgage under a program under this subsection only if—

“(I) the mortgage is in default or facing imminent default;

“(II) the mortgagee has modified the mortgage or qualified the mortgage for modification sufficient to cure the default and provide for mortgage payments the mortgagor is reasonably able to pay, at interest rates not exceeding current market interest rates; and

“(III) the Secretary arranges for servicing of the assigned mortgage by a mortgagee (which may include the assigning mortgagee) through procedures that the Secretary has determined to be in the best interests of the appropriate guaranty fund.

“(C) PAYMENT OF GUARANTY.—Under the program under this paragraph, the Secretary may pay the guaranty for a mortgage, in the amount determined in accordance with paragraph (2), without reduction for any amounts modified, but only upon the assignment, transfer, and delivery to the Secretary of all rights, interest, claims, evidence, and records with respect to the mortgage, as defined by the Secretary.

“(D) DISPOSITION.—After modification of a mortgage pursuant to this paragraph, and assignment of the mortgage, the Secretary may provide guarantees under this subsection for the mortgage. The Secretary may subsequently—

“(i) re-assign the mortgage to the mortgagee under terms and conditions as are agreed to by the mortgagee and the Secretary;

“(ii) act as a Government National Mortgage Association issuer, or contract with an entity for such purpose, in order to pool the mortgage into a Government National Mortgage Association security; or

“(iii) re-sell the mortgage in accordance with any program that has been established for purchase by the Federal Government of mortgages insured under this title, and the Secretary may coordinate standards for interest rate reductions available for loan modification with interest rates established for such purchase.

“(E) LOAN SERVICING.—In carrying out the program under this subsection, the Secretary may require the existing servicer of a mortgage assigned to the Secretary under the program to continue servicing the mortgage as an agent of the Secretary during the period that the Secretary acquires and holds the mortgage for the purpose of modifying

the terms of the mortgage. If the mortgage is resold pursuant to subparagraph (D)(iii), the Secretary may provide for the existing servicer to continue to service the mortgage or may engage another entity to service the mortgage.”

(b) TECHNICAL AMENDMENTS.—Subsection (h) of section 502 of the Housing Act of 1949 (42 U.S.C. 1472(h)) is amended—

(1) in paragraph (5)(A), by striking “(as defined in paragraph (13))” and inserting “(as defined in paragraph (17))”; and

(2) in paragraph (18)(E)(as so redesignated by subsection (a)(2)), by—

(A) striking “paragraphs (3), (6), (7)(A), (8), and (10)” and inserting “paragraphs (3), (6), (7)(A), (8), (10), (13), and (14))”; and

(B) striking “paragraphs (2) through (13)” and inserting “paragraphs (2) through (15))”.

(c) PROCEDURE.—

(1) IN GENERAL.—The promulgation of regulations necessitated and the administration actions required by the amendments made by this section shall be made without regard to—

(A) the notice and comment provisions of section 553 of title 5, United States Code;

(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(C) chapter 35 of title 44, United States Code (commonly known as the “Paperwork Reduction Act”).

(2) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, and the amendments made by this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

**SEC. 102. MODIFICATION OF HOUSING LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS.**

(a) MATURITY OF HOUSING LOANS.—Section 3703(d)(1) of title 38, United States Code, is amended by inserting “at the time of origination” after “loan”.

(b) IMPLEMENTATION.—The Secretary of Veterans Affairs may implement the amendments made by this section through notice, procedure notice, or administrative notice.

**SEC. 103. ADDITIONAL FUNDING FOR HUD PROGRAMS TO ASSIST INDIVIDUALS TO BETTER WITHSTAND THE CURRENT MORTGAGE CRISIS.**

(a) ADDITIONAL APPROPRIATIONS FOR ADVERTISING TO INCREASE PUBLIC AWARENESS OF MORTGAGE SCAMS AND COUNSELING ASSISTANCE.—In addition to any amounts that may be appropriated for each of the fiscal years 2010 and 2011 for such purpose, there is authorized to be appropriated to the Secretary of Housing and Urban Development, to remain available until expended, \$10,000,000 for each of the fiscal years 2010 and 2011 for purposes of providing additional resources to be used for advertising to raise awareness of mortgage fraud and to support HUD programs and approved counseling agencies, provided that such amounts are used to advertise in the 100 metropolitan statistical areas with the highest rate of home foreclosures, and provided, further that up to \$5,000,000 of such amounts are used for advertisements designed to reach and inform broad segments of the community.

(b) ADDITIONAL APPROPRIATIONS FOR THE HOUSING COUNSELING ASSISTANCE PROGRAM.—In addition to any amounts that may be appropriated for each of the fiscal years 2010 and 2011 for such purpose, there is authorized to be appropriated to the Secretary of Housing and Urban Development, to remain available until expended, \$50,000,000 for each of the fiscal years 2010 and 2011 to carry out the Housing Counseling Assistance Program established within the Department of Housing

and Urban Development, provided that such amounts are used to fund HUD-certified housing-counseling agencies located in the 100 metropolitan statistical areas with the highest rate of home foreclosures for the purpose of assisting homeowners with inquiries regarding mortgage-modification assistance and mortgage scams.

(c) ADDITIONAL APPROPRIATIONS FOR PERSONNEL AT THE OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY.—In addition to any amounts that may be appropriated for each of the fiscal years 2010 and 2011 for such purpose, there is authorized to be appropriated to the Secretary of Housing and Urban Development, to remain available until expended, \$5,000,000 for each of the fiscal years 2010 and 2011 for purposes of hiring additional personnel at the Office of Fair Housing and Equal Opportunity within the Department of Housing and Urban Development, provided that such amounts are used to hire personnel at the local branches of such Office located in the 100 metropolitan statistical areas with the highest rate of home foreclosures.

**SEC. 104. MORTGAGE MODIFICATION DATA COLLECTING AND REPORTING.**

(a) REPORTING REQUIREMENTS.—Not later than 120 days after the date of the enactment of this Act, and quarterly thereafter, the Comptroller of the Currency and the Director of the Office of Thrift Supervision, shall jointly submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Financial Services of the House of Representatives on the volume of mortgage modifications reported to the Office of the Comptroller of the Currency and the Office of Thrift Supervision, under the mortgage metrics program of each such Office, during the previous quarter, including the following:

(1) A copy of the data collection instrument currently used by the Office of the Comptroller of the Currency and the Office of Thrift Supervision to collect data on loan modifications.

(2) The total number of mortgage modifications resulting in each of the following:

- (A) Additions of delinquent payments and fees to loan balances.
- (B) Interest rate reductions and freezes.
- (C) Term extensions.
- (D) Reductions of principal.
- (E) Deferrals of principal.
- (F) Combinations of modifications described in subparagraph (A), (B), (C), (D), or (E).

(3) The total number of mortgage modifications in which the total monthly principal and interest payment resulted in the following:

- (A) An increase.
- (B) Remained the same.
- (C) Decreased less than 10 percent.
- (D) Decreased between 10 percent and 20 percent.
- (E) Decreased 20 percent or more.

(4) The total number of loans that have been modified and then entered into default, where the loan modification resulted in—

- (A) higher monthly payments by the homeowner;
- (B) equivalent monthly payments by the homeowner;
- (C) lower monthly payments by the homeowner of up to 10 percent;
- (D) lower monthly payments by the homeowner of between 10 percent to 20 percent;
- (E) lower monthly payments by the homeowner of more than 20 percent.

(b) DATA COLLECTION.—

(1) REQUIRED.—

(A) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Comptroller of the Currency and the Director of the Office of Thrift Supervision,

shall issue mortgage modification data collection and reporting requirements to institutions covered under the reporting requirement of the mortgage metrics program of the Comptroller or the Director.

(B) **INCLUSIVENESS OF COLLECTIONS.**—The requirements under subparagraph (A) shall provide for the collection of all mortgage modification data needed by the Comptroller of the Currency and the Director of the Office of Thrift Supervision to fulfill the reporting requirements under subsection (a).

(2) **REPORT.**—The Comptroller of the Currency shall report all requirements established under paragraph (1) to each committee receiving the report required under subsection (a).

## TITLE II—FORECLOSURE MITIGATION AND CREDIT AVAILABILITY

### SEC. 201. SERVICER SAFE HARBOR FOR MORTGAGE LOAN MODIFICATIONS.

(a) **CONGRESSIONAL FINDINGS.**—Congress finds the following:

(1) Increasing numbers of mortgage foreclosures are not only depriving many Americans of their homes, but are also destabilizing property values and negatively affecting State and local economies as well as the national economy.

(2) In order to reduce the number of foreclosures and to stabilize property values, local economies, and the national economy, servicers must be given—

(A) authorization to—

(i) modify mortgage loans and engage in other loss mitigation activities consistent with applicable guidelines issued by the Secretary of the Treasury or his designee under the Emergency Economic Stabilization Act of 2008; and

(ii) refinance mortgage loans under the Hope for Homeowners program; and

(B) a safe harbor to enable such servicers to exercise these authorities.

(b) **SAFE HARBOR.**—Section 129A of the Truth in Lending Act (15 U.S.C. 1639a) is amended to read as follows:

#### “SEC. 129. DUTY OF SERVICERS OF RESIDENTIAL MORTGAGES.

“(a) **IN GENERAL.**—Notwithstanding any other provision of law, whenever a servicer of residential mortgages agrees to enter into a qualified loss mitigation plan with respect to 1 or more residential mortgages originated before the date of enactment of the Helping Families Save Their Homes Act of 2009, including mortgages held in a securitization or other investment vehicle—

“(1) to the extent that the servicer owes a duty to investors or other parties to maximize the net present value of such mortgages, the duty shall be construed to apply to all such investors and parties, and not to any individual party or group of parties; and

“(2) the servicer shall be deemed to have satisfied the duty set forth in paragraph (1) if, before December 31, 2012, the servicer implements a qualified loss mitigation plan that meets the following criteria:

“(A) Default on the payment of such mortgage has occurred, is imminent, or is reasonably foreseeable, as such terms are defined by guidelines issued by the Secretary of the Treasury or his designee under the Emergency Economic Stabilization Act of 2008.

“(B) The mortgagor occupies the property securing the mortgage as his or her principal residence.

“(C) The servicer reasonably determined, consistent with the guidelines issued by the Secretary of the Treasury or his designee, that the application of such qualified loss mitigation plan to a mortgage or class of mortgages will likely provide an anticipated recovery on the outstanding principal mortgage debt that will exceed the anticipated recovery through foreclosures.

“(b) **NO LIABILITY.**—A servicer that is deemed to be acting in the best interests of all investors or other parties under this section shall not be liable to any party who is owed a duty under subsection (a)(1), and shall not be subject to any injunction, stay, or other equitable relief to such party, based solely upon the implementation by the servicer of a qualified loss mitigation plan.

“(c) **STANDARD INDUSTRY PRACTICE.**—The qualified loss mitigation plan guidelines issued by the Secretary of the Treasury under the Emergency Economic Stabilization Act of 2008 shall constitute standard industry practice for purposes of all Federal and State laws.

“(d) **SCOPE OF SAFE HARBOR.**—Any person, including a trustee, issuer, and loan originator, shall not be liable for monetary damages or be subject to an injunction, stay, or other equitable relief, based solely upon the cooperation of such person with a servicer when such cooperation is necessary for the servicer to implement a qualified loss mitigation plan that meets the requirements of subsection (a).

“(e) **REPORTING.**—Each servicer that engages in qualified loss mitigation plans under this section shall regularly report to the Secretary of the Treasury the extent, scope, and results of the servicer’s modification activities. The Secretary of the Treasury shall prescribe regulations or guidance specifying the form, content, and timing of such reports.

“(f) **DEFINITIONS.**—As used in this section—

“(1) the term ‘qualified loss mitigation plan’ means—

“(A) a residential loan modification, workout, or other loss mitigation plan, including to the extent that the Secretary of the Treasury determines appropriate, a loan sale, real property disposition, trial modification, pre-foreclosure sale, and deed in lieu of foreclosure, that is described or authorized in guidelines issued by the Secretary of the Treasury or his designee under the Emergency Economic Stabilization Act of 2008; and

“(B) a refinancing of a mortgage under the Hope for Homeowners program;

“(2) the term ‘servicer’ means the person responsible for the servicing for others of residential mortgage loans (including of a pool of residential mortgage loans); and

“(3) the term ‘securitization vehicle’ means a trust, special purpose entity, or other legal structure that is used to facilitate the issuing of securities, participation certificates, or similar instruments backed by or referring to a pool of assets that includes residential mortgages (or instruments that are related to residential mortgages such as credit-linked notes).”

#### SEC. 202. CHANGES TO HOPE FOR HOMEOWNERS PROGRAM.

(a) **PROGRAM CHANGES.**—Section 257 of the National Housing Act (12 U.S.C. 1715z–23) is amended—

(1) in subsection (c)—

(A) in the heading for paragraph (1), by striking “THE BOARD” and inserting “SECRETARY”;

(B) in paragraph (1), by striking “Board” inserting “Secretary, after consultation with the Board.”;

(C) in paragraph (1)(A), by inserting “consistent with section 203(b) to the maximum extent possible” before the semicolon; and

(D) by adding after paragraph (2) the following:

“(3) **DUTIES OF BOARD.**—The Board shall advise the Secretary regarding the establishment and implementation of the HOPE for Homeowners Program.”;

(2) by striking “Board” each place such term appears in subsections (e), (h)(1), (h)(3), (j), (l), (n), (s)(3), and (v) and inserting “Secretary”;

(3) in subsection (e)—

(A) by striking paragraph (1) and inserting the following:

“(1) **BORROWER CERTIFICATION.**—

“(A) **NO INTENTIONAL DEFAULT OR FALSE INFORMATION.**—The mortgagor shall provide a certification to the Secretary that the mortgagor has not intentionally defaulted on the existing mortgage or mortgages or any other substantial debt within the last 5 years and has not knowingly, or willfully and with actual knowledge, furnished material information known to be false for the purpose of obtaining the eligible mortgage to be insured and has not been convicted under Federal or State law for fraud during the 10-year period ending upon the insurance of the mortgage under this section.

“(B) **LIABILITY FOR REPAYMENT.**—The mortgagor shall agree in writing that the mortgagor shall be liable to repay to the Secretary any direct financial benefit achieved from the reduction of indebtedness on the existing mortgage or mortgages on the residence refinanced under this section derived from misrepresentations made by the mortgagor in the certifications and documentation required under this paragraph, subject to the discretion of the Secretary.

“(C) **CURRENT BORROWER DEBT-TO-INCOME RATIO.**—As of the date of application for a commitment to insure or insurance under this section, the mortgagor shall have had, or thereafter is likely to have, due to the terms of the mortgage being reset, a ratio of mortgage debt to income, taking into consideration all existing mortgages of that mortgagor at such time, greater than 31 percent (or such higher amount as the Secretary determines appropriate).”;

(B) in paragraph (4)—

(i) in subparagraph (A), by striking “, subject to standards established by the Board under subparagraph (B).”;

(ii) in subparagraph (B)(i), by striking “shall” and inserting “may”;

(C) in paragraph (7), by striking “; and provided that” and all that follows through “new second lien”;

(D) in paragraph (9)—

(i) by striking “by procuring (A) an income tax return transcript of the income tax return of the mortgagor, or (B)” and inserting “in accordance with procedures and standards that the Secretary shall establish (provided that such procedures and standards are consistent with section 203(b) to the maximum extent possible) which may include requiring the mortgagee to procure”;

(ii) by striking “and by any other method, in accordance with procedures and standards that the Board shall establish”;

(E) in paragraph (10)—

(i) by striking “The mortgagor shall not” and inserting the following:

“(A) **PROHIBITION.**—The mortgagor shall not”;

(ii) by adding at the end the following:

“(B) **DUTY OF MORTGAGEE.**—The duty of the mortgagee to ensure that the mortgagor is in compliance with the prohibition under subparagraph (A) shall be satisfied if the mortgagee makes a good faith effort to determine that the mortgagor has not been convicted under Federal or State law for fraud during the period described in subparagraph (A).”;

(F) in paragraph (11), by inserting before the period at the end the following: “, except that the Secretary may provide exceptions to such latter requirement (relating to present ownership interest) for any mortgagor who has inherited a property”;

(G) by adding at the end:

“(12) **BAN ON MILLIONAIRES.**—The mortgagor shall not have a net worth, as of the

date the mortgagor first applies for a mortgage to be insured under the Program under this section, that exceeds \$1,000,000.”;

(4) in subsection (h)(2), by striking “The Board shall prohibit the Secretary from paying” and inserting “The Secretary shall not pay”; and

(5) in subsection (i)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and adjusting the margins accordingly;

(B) in the matter preceding subparagraph (A), as redesignated by this paragraph, by striking “For each” and inserting the following:

“(1) PREMIUMS.—For each”;

(C) in subparagraph (A), as redesignated by this paragraph, by striking “equal to 3 percent” and inserting “not more than 3 percent”; and

(D) in subparagraph (B), as redesignated by this paragraph, by striking “equal to 1.5 percent” and inserting “not more than 1.5 percent”;

(E) by adding at the end the following:

“(2) CONSIDERATIONS.—In setting the premium under this subsection, the Secretary shall consider—

“(A) the financial integrity of the HOPE for Homeowners Program; and

“(B) the purposes of the HOPE for Homeowners Program described in subsection (b).”;

(6) in subsection (k)—

(A) by striking the subsection heading and inserting “EXIT FEE”;

(B) in paragraph (1), in the matter preceding subparagraph (A), by striking “such sale or refinancing” and inserting “the mortgage being insured under this section”;

(C) in paragraph (2), by striking “and the mortgagor” and all that follows through the end and inserting “may, upon any sale or disposition of the property to which the mortgage relates, be entitled to up to 50 percent of appreciation, up to the appraised value of the home at the time when the mortgage being refinanced under this section was originally made. The Secretary may share any amounts received under this paragraph with the holder of the existing senior mortgage on the eligible mortgage, the holder of any existing subordinate mortgage on the eligible mortgage, or both.”;

(7) in the heading for subsection (n), by striking “THE BOARD” and inserting “SECRETARY”;

(8) in subsection (p), by striking “Under the direction of the Board, the” and inserting “The”;

(9) in subsection (s)—

(A) in the first sentence of paragraph (2), by striking “Board of Directors of” and inserting “Advisory Board for”;

(B) in paragraph (3)(A)(ii), by striking “subsection (e)(1)(B) and such other” and inserting “such”;

(10) in subsection (v), by inserting after the period at the end the following: “The Secretary shall conform documents, forms, and procedures for mortgages insured under this section to those in place for mortgages insured under section 203(b) to the maximum extent possible consistent with the requirements of this section.”; and

(11) by adding at the end the following new subsections:

“(x) PAYMENTS TO SERVICERS AND ORIGINATORS.—The Secretary may establish a payment to the—

“(1) servicer of the existing senior mortgage for every loan insured under the HOPE for Homeowners Program; and

“(2) originator of each new loan insured under the HOPE for Homeowners Program.

“(y) AUCTIONS.—The Secretary, with the concurrence of the Board, shall, if feasible, establish a structure and organize proce-

dures for an auction to refinance eligible mortgages on a wholesale or bulk basis.”.

(b) REDUCING TARP FUNDS TO OFFSET COSTS OF PROGRAM CHANGES.—Paragraph (3) of section 115(a) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5225) is amended by inserting “, as such amount is reduced by \$2,316,000,000,” after “\$700,000,000”.

(c) TECHNICAL CORRECTION.—The second section 257 of the National Housing Act (Public Law 110-289; 122 Stat. 2839; 12 U.S.C. 1715z-24) is amended by striking the section heading and inserting the following:

**“SEC. 258. PILOT PROGRAM FOR AUTOMATED PROCESS FOR BORROWERS WITHOUT SUFFICIENT CREDIT HISTORY.”.**  
**SEC. 203. REQUIREMENTS FOR FHA-APPROVED MORTGAGEES.**

(a) MORTGAGEE REVIEW BOARD.—

(1) IN GENERAL.—Section 202(c)(2) of the National Housing Act (12 U.S.C. 1708(c)) is amended—

(A) in subparagraph (E), by inserting “and” after the semicolon;

(B) in subparagraph (F), by striking “; and” and inserting “or their designees.”; and

(C) by striking subparagraph (G).

(2) PROHIBITION AGAINST LIMITATIONS ON MORTGAGEE REVIEW BOARD’S POWER TO TAKE ACTION AGAINST MORTGAGEES.—Section 202(c) of the National Housing Act (12 U.S.C. 1708(c)) is amended by adding at the end the following new paragraph:

“(9) PROHIBITION AGAINST LIMITATIONS ON MORTGAGEE REVIEW BOARD’S POWER TO TAKE ACTION AGAINST MORTGAGEES.—No State or local law, and no Federal law (except a Federal law enacted expressly in limitation of this subsection after the effective date of this sentence), shall preclude or limit the exercise by the Board of its power to take any action authorized under paragraphs (3) and (6) of this subsection against any mortgagee.”.

(b) LIMITATIONS ON PARTICIPATION AND MORTGAGEE APPROVAL AND USE OF NAME.—Section 202 of the National Housing Act (12 U.S.C. 1708) is amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(2) by inserting after subsection (c) the following new subsection:

“(d) LIMITATIONS ON PARTICIPATION IN ORIGINATION AND MORTGAGEE APPROVAL.—

“(1) REQUIREMENT.—Any person or entity that is not approved by the Secretary to serve as a mortgagee, as such term is defined in subsection (c)(7), shall not participate in the origination of an FHA-insured loan except as authorized by the Secretary.

“(2) ELIGIBILITY FOR APPROVAL.—In order to be eligible for approval by the Secretary, an applicant mortgagee shall not be, and shall not have any officer, partner, director, principal, manager, supervisor, loan processor, loan underwriter, or loan originator of the applicant mortgagee who is—

“(A) currently suspended, debarred, under a limited denial of participation (LDP), or otherwise restricted under part 25 of title 24 of the Code of Federal Regulations, 2 Code of Federal Regulations, part 180 as implemented by part 2424, or any successor regulations to such parts, or under similar provisions of any other Federal agency;

“(B) under indictment for, or has been convicted of, an offense that reflects adversely upon the applicant’s integrity, competence or fitness to meet the responsibilities of an approved mortgagee;

“(C) subject to unresolved findings contained in a Department of Housing and Urban Development or other governmental audit, investigation, or review;

“(D) engaged in business practices that do not conform to generally accepted practices

of prudent mortgagees or that demonstrate irresponsibility;

“(E) convicted of, or who has pled guilty or nolo contendere to, a felony related to participation in the real estate or mortgage loan industry—

“(i) during the 7-year period preceding the date of the application for licensing and registration; or

“(ii) at any time preceding such date of application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering;

“(F) in violation of provisions of the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.) or any applicable provision of State law; or

“(G) in violation of any other requirement as established by the Secretary.

(3) RULEMAKING AND IMPLEMENTATION.—The Secretary shall conduct a rulemaking to carry out this subsection. The Secretary shall implement this subsection not later than the expiration of the 60-day period beginning upon the date of the enactment of this subsection by notice, mortgagee letter, or interim final regulations, which shall take effect upon issuance.”; and

(3) by adding at the end the following new subsection:

“(h) USE OF NAME.—The Secretary shall, by regulation, require each mortgagee approved by the Secretary for participation in the FHA mortgage insurance programs of the Secretary—

“(1) to use the business name of the mortgagee that is registered with the Secretary in connection with such approval in all advertisements and promotional materials, as such terms are defined by the Secretary, relating to the business of such mortgagee in such mortgage insurance programs; and

“(2) to maintain copies of all such advertisements and promotional materials, in such form and for such period as the Secretary requires.”.

(c) PAYMENT FOR LOSS MITIGATION.—Section 204(a)(2) of the National Housing Act (12 U.S.C. 1710(a)(2)) is amended—

(1) by inserting “or faces imminent default, as defined by the Secretary” after “default”;

(2) by inserting “support for borrower housing counseling, partial claims, borrower incentives, preforeclosure sale,” after “loan modification.”; and

(3) by striking “204(a)(1)(A)” and inserting “subsection (a)(1)(A) or section 203(c)”.

(d) PAYMENT OF FHA MORTGAGE INSURANCE BENEFITS.—

(1) ADDITIONAL LOSS MITIGATION ACTIONS.—Section 230(a) of the National Housing Act (12 U.S.C. 1715u(a)) is amended—

(A) by inserting “or imminent default, as defined by the Secretary” after “default”;

(B) by striking “loss” and inserting “loan”;

(C) by inserting “preforeclosure sale, support for borrower housing counseling, subordinate lien resolution, borrower incentives,” after “loan modification.”;

(D) by inserting “as required,” after “deeds in lieu of foreclosure.”; and

(E) by inserting “or section 230(c),” before “as provided”.

(2) AMENDMENT TO PARTIAL CLAIM AUTHORITY.—Section 230(b) of the National Housing Act (12 U.S.C. 1715u(b)) is amended to read as follows:

“(b) PAYMENT OF PARTIAL CLAIM.—

“(1) ESTABLISHMENT OF PROGRAM.—The Secretary may establish a program for payment of a partial claim to a mortgagee that agrees to apply the claim amount to payment of a mortgage on a 1- to 4-family residence that is in default or faces imminent default, as defined by the Secretary.

“(2) PAYMENTS AND EXCEPTIONS.—Any payment of a partial claim under the program established in paragraph (1) to a mortgagee shall be made in the sole discretion of the Secretary and on terms and conditions acceptable to the Secretary, except that—

“(A) the amount of the payment shall be in an amount determined by the Secretary, not to exceed an amount equivalent to 30 percent of the unpaid principal balance of the mortgage and any costs that are approved by the Secretary;

“(B) the amount of the partial claim payment shall first be applied to any arrearage on the mortgage, and may also be applied to achieve principal reduction;

“(C) the mortgagor shall agree to repay the amount of the insurance claim to the Secretary upon terms and conditions acceptable to the Secretary;

“(D) the Secretary may permit compensation to the mortgagee for lost income on monthly payments, due to a reduction in the interest rate charged on the mortgage;

“(E) expenses related to the partial claim or modification may not be charged to the borrower;

“(F) loans may be modified to extend the term of the mortgage to a maximum of 40 years from the date of the modification; and

“(G) the Secretary may permit incentive payments to the mortgagee, on the borrower’s behalf, based on successful performance of a modified mortgage, which shall be used to reduce the amount of principal indebtedness.

“(3) PAYMENTS IN CONNECTION WITH CERTAIN ACTIVITIES.—The Secretary may pay the mortgagee, from the appropriate insurance fund, in connection with any activities that the mortgagee is required to undertake concerning repayment by the mortgagor of the amount owed to the Secretary.”

(3) ASSIGNMENT.—Section 230(c) of the National Housing Act (12 U.S.C. 1715u(c)) is amended—

(A) by inserting “(1)” after “(c)”;

(B) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(C) in paragraph (1)(B) (as so redesignated)—

(i) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(ii) in the matter preceding clause (i) (as so redesignated), by striking “under a program under this subsection” and inserting “under this paragraph”; and

(iii) in clause (i) (as so redesignated), by inserting “or facing imminent default, as defined by the Secretary” after “default”;

(D) in paragraph (1)(C) (as so redesignated), by striking “under a program under this subsection” and inserting “under this paragraph”; and

(E) by adding at the end the following:

“(2) ASSIGNMENT AND LOAN MODIFICATION.—

“(A) AUTHORITY.—The Secretary may encourage loan modifications for eligible delinquent mortgages or mortgages facing imminent default, as defined by the Secretary, through the payment of insurance benefits and assignment of the mortgage to the Secretary and the subsequent modification of the terms of the mortgage according to a loan modification approved by the mortgagee.

“(B) PAYMENT OF BENEFITS AND ASSIGNMENT.—In carrying out this paragraph, the Secretary may pay insurance benefits for a mortgage, in the amount determined in accordance with section 204(a)(5), without reduction for any amounts modified, but only upon the assignment, transfer, and delivery to the Secretary of all rights, interest, claims, evidence, and records with respect to

the mortgage specified in clauses (i) through (iv) of section 204(a)(1)(A).

“(C) DISPOSITION.—After modification of a mortgage pursuant to this paragraph, the Secretary may provide insurance under this title for the mortgage. The Secretary may subsequently—

“(i) re-assign the mortgage to the mortgagee under terms and conditions as are agreed to by the mortgagee and the Secretary;

“(ii) act as a Government National Mortgage Association issuer, or contract with an entity for such purpose, in order to pool the mortgage into a Government National Mortgage Association security; or

“(iii) re-sell the mortgage in accordance with any program that has been established for purchase by the Federal Government of mortgages insured under this title, and the Secretary may coordinate standards for interest rate reductions available for loan modification with interest rates established for such purchase.

“(D) LOAN SERVICING.—In carrying out this paragraph, the Secretary may require the existing servicer of a mortgage assigned to the Secretary to continue servicing the mortgage as an agent of the Secretary during the period that the Secretary acquires and holds the mortgage for the purpose of modifying the terms of the mortgage, provided that the Secretary compensates the existing servicer appropriately, as such compensation is determined by the Secretary consistent, to the maximum extent possible, with section 203(b). If the mortgage is resold pursuant to subparagraph (C)(iii), the Secretary may provide for the existing servicer to continue to service the mortgage or may engage another entity to service the mortgage.”

(4) IMPLEMENTATION.—The Secretary of Housing and Urban Development may implement the amendments made by this subsection through notice or mortgagee letter.

(e) CHANGE OF STATUS.—The National Housing Act is amended by striking section 532 (12 U.S.C. 1735f-10) and inserting the following new section:

**“SEC. 532. CHANGE OF MORTGAGEE STATUS.**

“(a) NOTIFICATION.—Upon the occurrence of any action described in subsection (b), an approved mortgagee shall immediately submit to the Secretary, in writing, notification of such occurrence.

“(b) ACTIONS.—The actions described in this subsection are as follows:

“(1) The debarment, suspension or a Limited Denial of Participation (LDP), or application of other sanctions, other exclusions, fines, or penalties applied to the mortgagee or to any officer, partner, director, principal, manager, supervisor, loan processor, loan underwriter, or loan originator of the mortgagee pursuant to applicable provisions of State or Federal law.

“(2) The revocation of a State-issued mortgage loan originator license issued pursuant to the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.) or any other similar declaration of ineligibility pursuant to State law.”

(f) CIVIL MONEY PENALTIES.—Section 536 of the National Housing Act (12 U.S.C. 1735f-14) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by inserting “or any of its owners, officers, or directors” after “mortgagee or lender”;

(ii) in subparagraph (H), by striking “title I” and all that follows through “under this Act.” and inserting “title I or II of this Act, or any implementing regulation, handbook, or mortgagee letter that is issued under this Act.”; and

(iii) by inserting after subparagraph (J) the following:

“(K) Violation of section 202(d) of this Act (12 U.S.C. 1708(d)).

“(L) Use of ‘Federal Housing Administration’, ‘Department of Housing and Urban Development’, ‘Government National Mortgage Association’, ‘Ginnie Mae’, the acronyms ‘HUD’, ‘FHA’, or ‘GNMA’, or any official seal or logo of the Department of Housing and Urban Development, except as authorized by the Secretary.”;

(B) in paragraph (2)—

(i) in subparagraph (B), by striking “or” at the end;

(ii) in subparagraph (C), by striking the period at the end and inserting “; or”; and

(iii) by adding at the end the following new subparagraph:

“(D) causing or participating in any of the violations set forth in paragraph (1) of this subsection.”; and

(C) by amending paragraph (3) to read as follows:

“(3) PROHIBITION AGAINST MISLEADING USE OF FEDERAL ENTITY DESIGNATION.—The Secretary may impose a civil money penalty, as adjusted from time to time, under subsection (a) for any use of ‘Federal Housing Administration’, ‘Department of Housing and Urban Development’, ‘Government National Mortgage Association’, ‘Ginnie Mae’, the acronyms ‘HUD’, ‘FHA’, or ‘GNMA’, or any official seal or logo of the Department of Housing and Urban Development, by any person, party, company, firm, partnership, or business, including sellers of real estate, closing agents, title companies, real estate agents, mortgage brokers, appraisers, loan correspondents, and dealers, except as authorized by the Secretary.”; and

(2) in subsection (g), by striking “The term” and all that follows through the end of the sentence and inserting “For purposes of this section, a person acts knowingly when a person has actual knowledge of acts or should have known of the acts.”

(g) EXPANDED REVIEW OF FHA MORTGAGEE APPLICANTS AND NEWLY APPROVED MORTGAGEES.—Not later than the expiration of the 3-month period beginning upon the date of the enactment of this Act, the Secretary of Housing and Urban Development shall—

(1) expand the existing process for reviewing new applicants for approval for participation in the mortgage insurance programs of the Secretary for mortgages on 1- to 4-family residences for the purpose of identifying applicants who represent a high risk to the Mutual Mortgage Insurance Fund; and

(2) implement procedures that, for mortgagees approved during the 12-month period ending upon such date of enactment—

(A) expand the number of mortgages originated by such mortgagees that are reviewed for compliance with applicable laws, regulations, and policies; and

(B) include a process for random reviews of such mortgagees and a process for reviews that is based on volume of mortgages originated by such mortgagees.

**SEC. 204. ENHANCEMENT OF LIQUIDITY AND STABILITY OF INSURED DEPOSITORY INSTITUTIONS TO ENSURE AVAILABILITY OF CREDIT AND REDUCTION OF FORECLOSURES.**

(a) TEMPORARY INCREASE IN DEPOSIT INSURANCE EXTENDED.—Section 136 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5241) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “December 31, 2009” and inserting “December 31, 2013”;

(B) by striking paragraph (2);

(C) by redesignating paragraph (3) as paragraph (2); and

(D) in paragraph (2), as so redesignated, by striking “December 31, 2009” and inserting “December 31, 2013”; and

(2) in subsection (b)—

(A) in paragraph (1), by striking “December 31, 2009” and inserting “December 31, 2013”;

(B) by striking paragraph (2);

(C) by redesignating paragraph (3) as paragraph (2); and

(D) in paragraph (2), as so redesignated, by striking “December 31, 2009” and inserting “December 31, 2013”; and

(b) EXTENSION OF RESTORATION PLAN PERIOD.—Section 7(b)(3)(E)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(3)(E)(ii)) is amended by striking “5-year period” and inserting “8-year period”.

(c) FDIC AND NCUA BORROWING AUTHORITY.—

(1) FDIC.—Section 14(a) of the Federal Deposit Insurance Act (12 U.S.C. 1824(a)) is amended—

(A) by striking “\$30,000,000,000” and inserting “\$100,000,000,000”;

(B) by striking “The Corporation is authorized” and inserting the following:

“(1) IN GENERAL.—The Corporation is authorized”;

(C) by striking “There are hereby” and inserting the following:

“(2) FUNDING.—There are hereby”; and

(D) by adding at the end the following:

“(3) TEMPORARY INCREASES AUTHORIZED.—

“(A) RECOMMENDATIONS FOR INCREASE.—During the period beginning on the date of enactment of this paragraph and ending on December 31, 2010, if, upon the written recommendation of the Board of Directors (upon a vote of not less than two-thirds of the members of the Board of Directors) and the Board of Governors of the Federal Reserve System (upon a vote of not less than two-thirds of the members of such Board), the Secretary of the Treasury (in consultation with the President) determines that additional amounts above the \$100,000,000,000 amount specified in paragraph (1) are necessary, such amount shall be increased to the amount so determined to be necessary, not to exceed \$500,000,000,000.

“(B) REPORT REQUIRED.—If the borrowing authority of the Corporation is increased above \$100,000,000,000 pursuant to subparagraph (A), the Corporation shall promptly submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives describing the reasons and need for the additional borrowing authority and its intended uses.

“(C) RESTRICTION ON USAGE.—The Corporation may not borrow pursuant to subparagraph (A) to fund obligations of the Corporation incurred as a part of a program established by the Secretary of the Treasury pursuant to the Emergency Economic Stabilization Act of 2008 to purchase or guarantee assets.”.

(2) NCUA.—Section 203(d)(1) of the Federal Credit Union Act (12 U.S.C. 1783(d)(1)) is amended to read as follows:

“(1) If, in the judgment of the Board, a loan to the insurance fund, or to the stabilization fund described in section 217 of this title, is required at any time for purposes of this subchapter, the Secretary of the Treasury shall make the loan, but loans under this paragraph shall not exceed in the aggregate \$6,000,000,000 outstanding at any one time. Except as otherwise provided in this subsection, section 217, and in subsection (e) of this section, each loan under this paragraph shall be made on such terms as may be fixed by agreement between the Board and the Secretary of the Treasury.”.

(3) TEMPORARY INCREASES OF BORROWING AUTHORITY FOR NCUA.—Section 203(d) of the

Federal Credit Union Act (12 U.S.C. 1783(d)) is amended by adding at the end the following:

“(4) TEMPORARY INCREASES AUTHORIZED.—

“(A) RECOMMENDATIONS FOR INCREASE.—During the period beginning on the date of enactment of this paragraph and ending on December 31, 2010, if, upon the written recommendation of the Board (upon a vote of not less than two-thirds of the members of the Board) and the Board of Governors of the Federal Reserve System (upon a vote of not less than two-thirds of the members of such Board), the Secretary of the Treasury (in consultation with the President) determines that additional amounts above the \$6,000,000,000 amount specified in paragraph (1) are necessary, such amount shall be increased to the amount so determined to be necessary, not to exceed \$30,000,000,000.

“(B) REPORT REQUIRED.—If the borrowing authority of the Board is increased above \$6,000,000,000 pursuant to subparagraph (A), the Board shall promptly submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives describing the reasons and need for the additional borrowing authority and its intended uses.”.

(d) EXPANDING SYSTEMIC RISK SPECIAL ASSESSMENTS.—Section 13(c)(4)(G)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(4)(G)(ii)) is amended to read as follows:

“(i) REPAYMENT OF LOSS.—

“(I) IN GENERAL.—The Corporation shall recover the loss to the Deposit Insurance Fund arising from any action taken or assistance provided with respect to an insured depository institution under clause (i) from 1 or more special assessments on insured depository institutions, depository institution holding companies (with the concurrence of the Secretary of the Treasury with respect to holding companies), or both, as the Corporation determines to be appropriate.

“(II) TREATMENT OF DEPOSITORY INSTITUTION HOLDING COMPANIES.—For purposes of this clause, sections 7(c)(2) and 18(h) shall apply to depository institution holding companies as if they were insured depository institutions.

“(III) REGULATIONS.—The Corporation shall prescribe such regulations as it deems necessary to implement this clause. In prescribing such regulations, defining terms, and setting the appropriate assessment rate or rates, the Corporation shall establish rates sufficient to cover the losses incurred as a result of the actions of the Corporation under clause (i) and shall consider: the types of entities that benefit from any action taken or assistance provided under this subparagraph; economic conditions, the effects on the industry, and such other factors as the Corporation deems appropriate and relevant to the action taken or the assistance provided. Any funds so collected that exceed actual losses shall be placed in the Deposit Insurance Fund.”.

(e) ESTABLISHMENT OF A NATIONAL CREDIT UNION SHARE INSURANCE FUND RESTORATION PLAN PERIOD.—Section 202(c)(2) of the Federal Credit Union Act (12 U.S.C. 1782(c)(2)) is amended by adding at the end the following new subparagraph:

“(D) FUND RESTORATION PLANS.—

“(i) IN GENERAL.—Whenever—

“(I) the Board projects that the equity ratio of the Fund will, within 6 months of such determination, fall below the minimum amount specified in subparagraph (C); or

“(II) the equity ratio of the Fund actually falls below the minimum amount specified in subparagraph (C) without any determination under sub-clause (I) having been made,

the Board shall establish and implement a restoration plan within 90 days that meets the requirements of clause (ii) and such other conditions as the Board determines to be appropriate.

“(ii) REQUIREMENTS OF RESTORATION PLAN.—A restoration plan meets the requirements of this clause if the plan provides that the equity ratio of the Fund will meet or exceed the minimum amount specified in subparagraph (C) before the end of the 8-year period beginning upon the implementation of the plan (or such longer period as the Board may determine to be necessary due to extraordinary circumstances).

“(iii) TRANSPARENCY.—Not more than 30 days after the Board establishes and implements a restoration plan under clause (i), the Board shall publish in the Federal Register a detailed analysis of the factors considered and the basis for the actions taken with regard to the plan.”.

(f) TEMPORARY CORPORATE CREDIT UNION STABILIZATION FUND.—

(1) ESTABLISHMENT OF STABILIZATION FUND.—Title II of the Federal Credit Union Act (12 U.S.C. 1781 et seq.) is amended by adding at the end the following new section: “SEC. 217. TEMPORARY CORPORATE CREDIT UNION STABILIZATION FUND.

“(a) ESTABLISHMENT OF STABILIZATION FUND.—There is hereby created in the Treasury of the United States a fund to be known as the ‘Temporary Corporate Credit Union Stabilization Fund.’ The Board will administer the Stabilization Fund as prescribed by section 209.

“(b) EXPENDITURES FROM STABILIZATION FUND.—Money in the Stabilization Fund shall be available upon requisition by the Board, without fiscal year limitation, for making payments for the purposes described in section 203(a), subject to the following additional limitations:

“(1) All payments other than administrative payments shall be connected to the conservatorship, liquidation, or threatened conservatorship or liquidation, of a corporate credit union.

“(2) Prior to authorizing each payment the Board shall—

“(A) certify that, absent the existence of the Stabilization Fund, the Board would have made the identical payment out of the National Credit Union Share Insurance Fund (Insurance Fund); and

“(B) report each such certification to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

“(c) AUTHORITY TO BORROW.—

“(1) IN GENERAL.—The Stabilization Fund is authorized to borrow from the Secretary of the Treasury from time-to-time as deemed necessary by the Board. The maximum outstanding amount of all borrowings from the Treasury by the Stabilization Fund and the National Credit Union Share Insurance Fund, combined, is limited to the amount provided for in section 203(d)(1), including any authorized increases in that amount.

“(2) REPAYMENT OF ADVANCES.—

“(A) IN GENERAL.—The advances made under this section shall be repaid by the Stabilization Fund, and interest on such advance shall be paid, to the General fund of the Treasury.

“(B) VARIABLE RATE OF INTEREST.—The Secretary of the Treasury shall make the first rate determination at the time of the first advance under this section and shall reset the rate again for all advances on each anniversary of the first advance. The interest rate shall be equal to the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity equal to 12 months.

“(3) REPAYMENT SCHEDULE.—The Stabilization Fund shall repay the advances on a first-in, first-out basis, with interest on the amount repaid, at times and dates determined by the Board at its discretion. All advances shall be repaid not later than the date of the seventh anniversary of the first advance to the Stabilization Fund, unless the Board extends this final repayment date. The Board shall obtain the concurrence of the Secretary of the Treasury on any proposed extension, including the terms and conditions of the extended repayment.

“(d) ASSESSMENT TO REPAY ADVANCES.—At least 90 days prior to each repayment described in subsection (c)(3), the Board shall set the amount of the upcoming repayment and determine if the Stabilization Fund will have sufficient funds to make the repayment. If the Stabilization Fund might not have sufficient funds to make the repayment, the Board shall assess each federally insured credit union a special premium due and payable within 60 days in an aggregate amount calculated to ensure the Stabilization Fund is able to make the repayment. The premium charge for each credit union shall be stated as a percentage of its insured shares as represented on the credit union's previous call report. The percentage shall be identical for each credit union. Any credit union that fails to make timely payment of the special premium is subject to the procedures and penalties described under subsections (d), (e), and (f) of section 202.

“(e) DISTRIBUTIONS FROM INSURANCE FUND.—At the end of any calendar year in which the Stabilization Fund has an outstanding advance from the Treasury, the Insurance Fund is prohibited from making the distribution to insured credit unions described in section 202(c)(3). In lieu of the distribution described in that section, the Insurance Fund shall make a distribution to the Stabilization Fund of the maximum amount possible that does not reduce the Insurance Fund's equity ratio below the normal operating level and does not reduce the Insurance Fund's available assets ratio below 1.0 percent.

“(f) INVESTMENT OF STABILIZATION FUND ASSETS.—The Board may request the Secretary of the Treasury to invest such portion of the Stabilization Fund as is not, in the Board's judgment, required to meet the current needs of the Stabilization Fund. Such investments shall be made by the Secretary of the Treasury in public debt securities, with maturities suitable to the needs of the Stabilization Fund, as determined by the Board, and bearing interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.

“(g) REPORTS.—The Board shall submit an annual report to Congress on the financial condition and the results of the operation of the Stabilization Fund. The report is due to Congress within 30 days after each anniversary of the first advance made under subsection (c)(1). Because the Fund will use advances from the Treasury to meet corporate stabilization costs with full repayment of borrowings to Treasury at the Board's discretion not due until 7 years from the initial advance, to the extent operating expenses of the Fund exceed income, the financial condition of the Fund may reflect a deficit. With planned and required future repayments, the Board shall resolve all deficits prior to termination of the Fund.

“(h) CLOSING OF STABILIZATION FUND.—Within 90 days following the seventh anniversary of the initial Stabilization Fund advance, or earlier at the Board's discretion, the Board shall distribute any funds, property, or other assets remaining in the Sta-

bilization Fund to the Insurance Fund and shall close the Stabilization Fund. If the Board extends the final repayment date as permitted under subsection (c)(3), the mandatory date for closing the Stabilization Fund shall be extended by the same number of days.”

(2) CONFORMING AMENDMENT.—Section 202(c)(3)(A) of the Federal Credit Union Act (12 U.S.C. 1782(c)(3)(A)) is amended by inserting “, subject to the requirements of section 217(e),” after “The Board shall”.

**SEC. 205. APPLICATION OF GSE CONFORMING LOAN LIMIT TO MORTGAGES ASSISTED WITH TARP FUNDS.**

In making any assistance available to prevent and mitigate foreclosures on residential properties, including any assistance for mortgage modifications, using any amounts made available to the Secretary of the Treasury under title I of the Emergency Economic Stabilization Act of 2008, the Secretary shall provide that the limitation on the maximum original principal obligation of a mortgage that may be modified, refinanced, made, guaranteed, insured, or otherwise assisted, using such amounts shall not be less than the dollar amount limitation on the maximum original principal obligation of a mortgage that may be purchased by the Federal Home Loan Mortgage Corporation that is in effect, at the time that the mortgage is modified, refinanced, made, guaranteed, insured, or otherwise assisted using such amounts, for the area in which the property involved in the transaction is located.

**SEC. 206. MORTGAGES ON CERTAIN HOMES ON LEASED LAND.**

Section 255(b)(4) of the National Housing Act (12 U.S.C. 1715z–20(b)(4)) is amended by striking subparagraph (B) and inserting:

“(B) under a lease that has a term that ends no earlier than the minimum number of years, as specified by the Secretary, beyond the actuarial life expectancy of the mortgagor or comortgagor, whichever is the later date.”

**SEC. 207. SENSE OF CONGRESS REGARDING MORTGAGE REVENUE BOND PURCHASES.**

It is the sense of the Congress that the Secretary of the Treasury should use amounts made available in this Act to purchase mortgage revenue bonds for single-family housing issued through State housing finance agencies and through units of local government and agencies thereof.

**TITLE III—MORTGAGE FRAUD TASK FORCE**

**SEC. 301. SENSE OF CONGRESS ON ESTABLISHMENT OF A NATIONWIDE MORTGAGE FRAUD TASK FORCE.**

(a) IN GENERAL.—It is the sense of the Congress that the Department of Justice establish a Nationwide Mortgage Fraud Task Force (hereinafter referred to in this section as the “Task Force”) to address mortgage fraud in the United States.

(b) SUPPORT.—If the Department of Justice establishes the Task Force referred to in subsection (a), it is the sense of the Congress that the Attorney General should provide the Task Force with the appropriate staff, administrative support, and other resources necessary to carry out the duties of the Task Force.

(c) MANDATORY FUNCTIONS.—If the Department of Justice establishes the Task Force referred to in subsection (a), it is the sense of the Congress that the Attorney General should—

(1) establish coordinating entities, and solicit the voluntary participation of Federal, State, and local law enforcement and prosecutorial agencies in such entities, to organize initiatives to address mortgage fraud,

including initiatives to enforce State mortgage fraud laws and other related Federal and State laws;

(2) provide training to Federal, State, and local law enforcement and prosecutorial agencies with respect to mortgage fraud, including related Federal and State laws;

(3) collect and disseminate data with respect to mortgage fraud, including Federal, State, and local data relating to mortgage fraud investigations and prosecutions; and

(4) perform other functions determined by the Attorney General to enhance the detection of, prevention of, and response to mortgage fraud in the United States.

(d) OPTIONAL FUNCTIONS.—If the Department of Justice establishes the Task Force referred to in subsection (a), it is the sense of the Congress that the Task Force should—

(1) initiate and coordinate Federal mortgage fraud investigations and, through the coordinating entities described under subsection (c), State and local mortgage fraud investigations;

(2) establish a toll-free hotline for—

(A) reporting mortgage fraud;

(B) providing the public with access to information and resources with respect to mortgage fraud; and

(C) directing reports of mortgage fraud to the appropriate Federal, State, and local law enforcement and prosecutorial agency, including to the appropriate branch of the Task Force established under subsection (d);

(3) create a database with respect to suspensions and revocations of mortgage industry licenses and certifications to facilitate the sharing of such information by States;

(4) make recommendations with respect to the need for and resources available to provide the equipment and training necessary for the Task Force to combat mortgage fraud; and

(5) propose legislation to Federal, State, and local legislative bodies with respect to the elimination and prevention of mortgage fraud, including measures to address mortgage loan procedures and property appraiser practices that provide opportunities for mortgage fraud.

**TITLE IV—FORECLOSURE MORATORIUM PROVISIONS**

**SEC. 401. SENSE OF THE CONGRESS ON FORECLOSURES.**

(a) IN GENERAL.—It is the sense of the Congress that mortgage holders, institutions, and mortgage servicers should not initiate a foreclosure proceeding or a foreclosure sale on any homeowner until the foreclosure mitigation provisions, like the Hope for Homeowners program, as required under title II, and the President's “Homeowner Affordability and Stability Plan” have been implemented and determined to be operational by the Secretary of Housing and Urban Development and the Secretary of the Treasury.

(b) SCOPE OF MORATORIUM.—The foreclosure moratorium referred to in subsection (a) should apply only for first mortgages secured by the owner's principal dwelling.

(c) FHA-REGULATED LOAN MODIFICATION AGREEMENTS.—If a mortgage holder, institution, or mortgage servicer to which subsection (a) applies reaches a loan modification agreement with a homeowner under the auspices of the Federal Housing Administration before any plan referred to in such subsection takes effect, subsection (a) shall cease to apply to such institution as of the effective date of the loan modification agreement.

(d) DUTY OF CONSUMER TO MAINTAIN PROPERTY.—Any homeowner for whose benefit any foreclosure proceeding or sale is barred under subsection (a) from being instituted, continued, or consummated with respect to

any homeowner mortgage should not, with respect to any property securing such mortgage, destroy, damage, or impair such property, allow the property to deteriorate, or commit waste on the property.

(e) **DUTY OF CONSUMER TO RESPOND TO REASONABLE INQUIRIES.**—Any homeowner for whose benefit any foreclosure proceeding or sale is barred under subsection (a) from being instituted, continued, or consummated with respect to any homeowner mortgage should respond to reasonable inquiries from a creditor or servicer during the period during which such foreclosure proceeding or sale is barred.

**SA 1019.** Mr. CORKER submitted an amendment intended to be proposed to amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; as follows:

On page 17, strike line 1 and all that follows through page 18, line 4 and insert the following:

“(1) to the extent that the servicer owes a duty to investors or other parties to maximize the net present value of such mortgages, the duty shall be construed to apply to all such investors or group of investors; and

“(2) the servicer shall be deemed to have satisfied the duty set forth in paragraph (1) if, before December 31, 2012, the servicer implements a qualified loss mitigation plan that meets the following criteria:

“(A) Default on the payment of such mortgage has occurred, is imminent, or is reasonably foreseeable, as such terms are defined by guidelines issued by the Secretary of the Treasury or his designee under the Emergency Economic Stabilization Act of 2008.

“(B) The mortgagor occupies the property securing the mortgage as his or her principal residence.

“(C) The servicer reasonably determined, in good faith, consistent with the guidelines issued by the Secretary of the Treasury or his designee, that the application of such qualified loss mitigation plan to a mortgage or class of mortgages will likely provide an anticipated recovery on the outstanding principal mortgage debt that will exceed the anticipated recovery through foreclosures or other resolution.

**SA 1020.** Mr. GRASSLEY (for himself, Mr. BAUCUS, and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

**TITLE V—ENHANCED OVERSIGHT OF THE TROUBLED ASSET RELIEF PROGRAM**

**SEC. 501. ENHANCED OVERSIGHT OF THE TROUBLED ASSET RELIEF PROGRAM.**

Section 116 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5226) is amended—

(1) in subsection (a)(1)(A)—

(A) in clause (iii), by striking “and” at the end;

(B) in clause (iv), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(v) public accountability for the exercise of such authority, including with respect to actions taken by those entities participating in programs established under this Act.”; and

(2) in subsection (a)(2)—

(A) by redesignating subparagraph (C) as subparagraph (E); and

(B) by striking subparagraph (B) and inserting the following:

“(B) ACCESS TO RECORDS.—

“(i) **IN GENERAL.**—Notwithstanding any other provision of law, and for purposes of reviewing the performance of the TARP, the Comptroller General shall have access, upon request, to any information, data, schedules, books, accounts, financial records, reports, files, electronic communications, or other papers, things, or property belonging to or in use by the TARP, any entity established by the Secretary under this Act, or any entity participating in a program established under the authority of this Act, and to the officers, employees, directors, independent public accountants, financial advisors and any and all other agents and representatives thereof, at such time as the Comptroller General may request.

“(ii) **VERIFICATION.**—The Comptroller General shall be afforded full facilities for verifying transactions with the balances or securities held by, among others, depositories, fiscal agents, and custodians.

“(iii) **COPIES.**—The Comptroller General may make and retain copies of such books, accounts, and other records as the Comptroller General deems appropriate.

“(C) **AGREEMENT BY ENTITIES.**—Each contract, term sheet, or other agreement between the Secretary or the TARP (or any TARP vehicle, officer, director, employee, independent public accountant, financial advisor, or other TARP agent or representative) and an entity participating in a program established under this Act shall provide for access by the Comptroller General in accordance with this section.

“(D) **RESTRICTION ON PUBLIC DISCLOSURE.**—

“(i) **IN GENERAL.**—The Comptroller General may not publicly disclose proprietary or trade secret information obtained under this section.

“(ii) **EXCEPTION FOR CONGRESSIONAL COMMITTEES.**—This subparagraph does not limit disclosures to congressional committees or members thereof having jurisdiction over any private or public entity participating in a program established under this Act.

“(iii) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to alter or amend the prohibitions against the disclosure of trade secrets or other information prohibited by section 1905 of title 18, United States Code, or other applicable provisions of law.”.

**SA 1021.** Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

**TITLE \_\_\_\_\_ COMPTROLLER GENERAL ADDITIONAL AUDIT AUTHORITIES**

**SEC. \_\_\_\_ . COMPTROLLER GENERAL ADDITIONAL AUDIT AUTHORITIES.**

(a) **DEFINITION OF AGENCY.**—Section 714(a) of title 31, United States Code, is amended by striking “Federal Reserve Board,” and inserting “Board of Governors of the Federal Reserve System (in this section referred to as the ‘Board’), the Federal Open Market Committee, the Federal Advisory Council,”.

(b) **AUDITS OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM AND THE FEDERAL RESERVE BANKS.**—Section 714(b) of title 31, United States Code, is amended by striking the second sentence.

(c) **CONFIDENTIAL INFORMATION.**—Section 714(c) of title 31, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following:

“(2)(A) Except as provided under paragraph (4), an officer or employee of the Government Accountability Office may not provide to any person outside the Government Accountability Office any document or name described under subparagraph (B) if that document or name is maintained as confidential by the Board, the Federal Open Market Committee, the Federal Advisory Council, or any Federal reserve bank.

“(B) The documents and names referred to under subparagraph (A) are—

“(i) any document relating to—

“(I) transactions for or with a foreign central bank, government of a foreign country, or nonprivate international financing organization;

“(II) deliberations, decisions, or actions on monetary policy matters, including discount window operations, reserves of member banks, securities credit, interest on deposits, and open market operations; or

“(III) transactions made under the direction of the Federal Open Market Committee; or

“(ii) the name of any foreign central bank, government of a foreign country, or non-private international financing organization associated with a transaction described under clause (i)(I).”; and

(3) by striking paragraph (4) (as redesignated by this subsection) and inserting the following:

“(4) This subsection shall not—

“(A) authorize an officer or employee of an agency to withhold information from any committee or subcommittee of jurisdiction of Congress, or any member of such committee or subcommittee; or

“(B) limit any disclosure by the Government Accountability Office to any committee or subcommittee of jurisdiction of Congress, or any member of such committee or subcommittee.”.

(d) **ACCESS TO RECORDS.**—

(1) **ACCESS TO RECORDS.**—Section 714(d)(1) of title 31, United States Code, is amended—

(A) in the first sentence, by inserting “or any entity established by an agency” after “an agency”; and

(B) by inserting “The Comptroller General shall have access to the officers, employees, contractors, and other agents and representatives of an agency or any entity established by an agency at any reasonable time as the Comptroller General may request. The Comptroller General may make and retain copies of such books, accounts, and other records as the Comptroller General determines appropriate.” after the first sentence.

(2) **UNAUTHORIZED ACCESS.**—Section 714(d)(2) of title 31, United States Code, is amended by inserting “, copies of any record,” after “records”.

(e) **AVAILABILITY OF DRAFT REPORTS FOR COMMENT.**—Section 718(a) of title 31, United States Code, is amended by striking “Federal Reserve Board,” and inserting “Board of Governors of the Federal Reserve System, the Federal Open Market Committee, the Federal Advisory Council,”.

**SA 1022.** Mr. CASEY submitted an amendment intended to be proposed by him to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; which was ordered to lie on the table; as follows:

At the end of title I of the amendment, add the following:

**SEC. 105. NEIGHBORHOOD STABILIZATION PROGRAM REFINEMENTS.**

(a) IN GENERAL.—Section 2301(c) of the Foreclosure Prevention Act of 2008 (42 U.S.C. 5301 note) is amended by adding at the end the following:

“(4) FORECLOSURE PREVENTION.—For any amounts appropriated under the heading ‘Community Development Fund’ of title XII of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 217), each State and unit of general local government that receives an allocation of any such amounts pursuant to section 2302 may use up to 10 percent of such amounts for foreclosure prevention programs, activities, and services, as such programs, activities, and services are defined by the Secretary, provided that the State or unit of general local government discloses, in its application for such amounts, its intentions to use such amounts for such foreclosure prevention purposes.”

(b) RETROACTIVE EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted on the date of enactment of the American Recovery and Reinvestment Act of 2009.

**SA 1023.** Mr. KOHL submitted an amendment intended to be proposed to amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; which was ordered to lie on the table; as follows:

At the end of title I of the amendment, add the following:

**SEC. 105. WARNINGS TO HOMEOWNERS OF FINANCIAL SCAMS.**

(a) IN GENERAL.—If a loan servicer finds that a homeowner has failed to make 2 consecutive payments on a residential mortgage loan and such loan is at risk of being foreclosed upon, the loan servicer shall notify such homeowner of the dangers of fraudulent activities associated with foreclosure.

(b) NOTICE REQUIREMENTS.—Each notice provided under subsection (a) shall—

(1) be in writing;

(2) be included with a mailing of account information;

(3) have the heading “Notice Required by Federal Law” in a 14-point boldface type in English and Spanish at the top of such notice; and

(4) contain the following statement in English and Spanish: “Mortgage foreclosure is a complex process. Some people may approach you about saving your home. You should be careful about any such promises. There are government and nonprofit agencies you may contact for helpful information about the foreclosure process. Contact your lender immediately at [\_\_\_\_], call the Department of Housing and Urban Development Housing Counseling Line at (800) 569-4287 to find a housing counseling agency certified by the Department to assist you in avoiding foreclosure, or visit the Department’s Tips for Avoiding Foreclosure website at <http://www.hud.gov/foreclosure> for additional assistance.” (the blank space to be filled in by the loan servicer and successor telephone numbers and Uniform Resource Locators (URLs) for the Department of Housing and Urban Development Housing Counseling Line and Tips for Avoiding Foreclosure website, respectively.)

(c) LOAN SERVICER.—As used in this section, the term “loan servicer” has the same meaning as the term “servicer” in section 6(i)(2) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(i)(2)).

(d) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—

(1) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—A failure to comply with any provision of this section shall be treated as a violation of a rule defining an unfair or deceptive act or practice promulgated under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(2) ACTIONS BY THE FEDERAL TRADE COMMISSION.—The Federal Trade Commission shall enforce the provisions of this section in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made part of this section.

**SA 1024.** Mr. KERRY (for himself, Mrs. BOXER, Mrs. GILLIBRAND, and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

**TITLE V—PROTECTING TENANTS AT FORECLOSURE ACT****SEC. 501. SHORT TITLE.**

This title may be cited as the “Protecting Tenants at Foreclosure Act of 2009”.

**SEC. 502. EFFECT OF FORECLOSURE ON PRE-EXISTING TENANCY.**

(a) IN GENERAL.—In the case of any foreclosure on any dwelling or residential real property after the date of enactment of this title, any immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to—

(1) the provision, by such successor in interest of a notice to vacate to any bona fide tenant at least 90 days before the effective date of such notice; and

(2) the rights of any bona fide tenant, as of the date of such notice of foreclosure—

(A) under any bona fide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease, except that a successor in interest may terminate a lease effective on the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, subject to the receipt by the tenant of the 90 day notice under paragraph (1); or

(B) without a lease or with a lease terminable at will under State law, subject to the receipt by the tenant of the 90 day notice under subsection (1),

except that nothing under this section shall affect the requirements for termination of any Federal- or State-subsidized tenancy or of any State or local law that provides longer time periods or other additional protections for tenants.

(b) BONA FIDE LEASE OR TENANCY.—For purposes of this section, a lease or tenancy shall be considered bona fide only if—

(1) the mortgagor under the contract is not the tenant;

(2) the lease or tenancy was the result of an arms-length transaction; or

(3) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property.

**SEC. 503. EFFECT OF FORECLOSURE ON SECTION 8 TENANCIES.**

Section 8(o)(7) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(7)) is amended—

(1) by inserting before the semi-colon in subparagraph (C) the following: “and in the case of an owner who is an immediate successor in interest pursuant to foreclosure—

“(i) during the initial term of the lease vacating the property prior to sale shall not constitute other good cause; and

“(ii) in subsequent lease terms, vacating the property prior to sale may constitute good cause if the property is unmarketable while occupied, or if such owner will occupy the unit as a primary residence”;

(2) by inserting at the end of subparagraph (F) the following: “In the case of any foreclosure on any residential real property in which a recipient of assistance under this subsection resides, the immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to the lease between the prior owner and the tenant and to the housing assistance payments contract between the prior owner and the public housing agency for the occupied unit, except that this provision and the provisions related to foreclosure in subparagraph (C) shall not affect any State or local law that provides longer time periods or other additional protections for tenants.”

**SA 1025.** Mr. THUNE submitted an amendment intended to be proposed by him to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

**TITLE V—TARP REDUCTION PRIORITY ACT****SEC. 501. SHORT TITLE.**

This title may be cited as the “TARP Reduction Priority Act”.

**SEC. 502. FINDINGS.**

Congress finds the following:

(1) On October 7, 2008, Congress established the Troubled Assets Relief Program (TARP) as part of the Emergency Economic Stabilization Act (Public Law 110-343; 122 Stat. 3765) and allocated \$700,000,000,000 for the purchase of toxic assets from banks with the goal of restoring liquidity to the financial sector and restarting the flow of credit in our markets.

(2) The Department of Treasury, without consultation with Congress, changed the purpose of TARP and began injecting capital into financial institutions through a program called the Capital Purchase Program (CPP) rather than purchasing toxic assets.

(3) Lending by financial institutions was not noticeably increased with the implementation of the CPP and the expenditure of \$218,000,000,000 of TARP funds, despite the goal of the program.

(4) The recipients of amounts under the CPP are now faced with additional restrictions related to accepting those funds.

(5) A number of community banks and large financial institutions have expressed their desire to return their CPP funds to the Department of Treasury and the Department has begun the process of accepting receipt of such funds.

(6) The Department of the Treasury should not reuse returned funds for additional lending for financial assistance.

(7) The United States Constitution provided Congress with the power of the purse hence any future spending of TARP funds, or other financial assistance, should be determined by Congress.

**SEC. 503. TARP AUTHORIZATION REDUCTION.**

Section 115(a)(3) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211 et seq.) is amended by inserting “minus any aggregate amounts received by the Secretary for repayment of the principal of financial assistance by an entity that has received financial assistance under the TARP or any

program enacted by the Secretary under the authorities granted to the Secretary under this Act," before "outstanding at any one time."

**SA 1026.** Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ LIMITATION ON USE OF TARP FUNDS.**

Notwithstanding any other provision of law, on and after April 22, 2009, no funds made available to carry out the Troubled Asset Relief Program may be used for the acquisition of ownership of the common stock of any financial institution assisted under title I of the Emergency Economic Stabilization Act of 2008, either directly or through a conversion of preferred stock or future direct capital purchases.

**SA 1027.** Mr. ISAKSON submitted an amendment intended to be proposed by him to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; which was ordered to lie on the table; as follows:

At the end, insert the following:

**TITLE V—TAX PROVISIONS**

**SEC. 501. CREDIT FOR CERTAIN HOME PURCHASES.**

(a) ALLOWANCE OF CREDIT.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 25D the following new section:

**"SEC. 25E. CREDIT FOR CERTAIN HOME PURCHASES.**

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of an individual who is a purchaser of a principal residence during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to 10 percent of the purchase price of the residence.

"(2) DOLLAR LIMITATION.—The amount of the credit allowed under paragraph (1) shall not exceed \$15,000.

"(3) ALLOCATION OF CREDIT AMOUNT.—At the election of the taxpayer, the amount of the credit allowed under paragraph (1) (after application of paragraph (2)) may be equally divided among the 2 taxable years beginning with the taxable year in which the purchase of the principal residence is made.

"(b) LIMITATIONS.—

"(1) DATE OF PURCHASE.—The credit allowed under subsection (a) shall be allowed only with respect to purchases made—

"(A) after March 30, 2009, and

"(B) before April 1, 2010.

"(2) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this subpart (other than this section) for the taxable year.

"(3) ONE-TIME ONLY.—

"(A) IN GENERAL.—If a credit is allowed under this section in the case of any individual (and such individual's spouse, if married) with respect to the purchase of any principal residence, no credit shall be allowed under this section in any taxable year with respect to the purchase of any other principal residence by such individual or a spouse of such individual.

"(B) JOINT PURCHASE.—In the case of a purchase of a principal residence by 2 or more unmarried individuals or by 2 married individuals filing separately, no credit shall be allowed under this section if a credit under this section has been allowed to any of such individuals in any taxable year with respect to the purchase of any other principal residence.

"(C) PRINCIPAL RESIDENCE.—For purposes of this section, the term 'principal residence' has the same meaning as when used in section 121.

"(D) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any purchase for which a credit is allowed under section 36 or section 1400C.

"(e) SPECIAL RULES.—

"(1) JOINT PURCHASE.—

"(A) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of 2 married individuals filing separately, subsection (a) shall be applied to each such individual by substituting '\$7,500' for '\$15,000' in subsection (a)(1).

"(B) UNMARRIED INDIVIDUALS.—If 2 or more individuals who are not married purchase a principal residence, the amount of the credit allowed under subsection (a) shall be allocated among such individuals in such manner as the Secretary may prescribe, except that the total amount of the credits allowed to all such individuals shall not exceed \$15,000.

"(2) PURCHASE.—In defining the purchase of a principal residence, rules similar to the rules of paragraphs (2) and (3) of section 1400C(e) (as in effect on the date of the enactment of this section) shall apply.

"(3) REPORTING REQUIREMENT.—Rules similar to the rules of section 1400C(f) (as so in effect) shall apply.

"(f) RECAPTURE OF CREDIT IN THE CASE OF CERTAIN DISPOSITIONS.—

"(1) IN GENERAL.—In the event that a taxpayer—

"(A) disposes of the principal residence with respect to which a credit was allowed under subsection (a), or

"(B) fails to occupy such residence as the taxpayer's principal residence,

at any time within 24 months after the date on which the taxpayer purchased such residence, then the tax imposed by this chapter for the taxable year during which such disposition occurred or in which the taxpayer failed to occupy the residence as a principal residence shall be increased by the amount of such credit.

"(2) EXCEPTIONS.—

"(A) DEATH OF TAXPAYER.—Paragraph (1) shall not apply to any taxable year ending after the date of the taxpayer's death.

"(B) INVOLUNTARY CONVERSION.—Paragraph (1) shall not apply in the case of a residence which is compulsorily or involuntarily converted (within the meaning of section 1033(a)) if the taxpayer acquires a new principal residence within the 2-year period beginning on the date of the disposition or cessation referred to in such paragraph. Paragraph (1) shall apply to such new principal residence during the remainder of the 24-month period described in such paragraph as if such new principal residence were the converted residence.

"(C) TRANSFERS BETWEEN SPOUSES OR INCIDENT TO DIVORCE.—In the case of a transfer of a residence to which section 1041(a) applies—

"(i) paragraph (1) shall not apply to such transfer, and

"(ii) in the case of taxable years ending after such transfer, paragraph (1) shall apply to the transferee in the same manner as if such transferee were the transferor (and shall not apply to the transferor).

"(D) RELOCATION OF MEMBERS OF THE ARMED FORCES.—Paragraph (1) shall not

apply in the case of a member of the Armed Forces of the United States on active duty who moves pursuant to a military order and incident to a permanent change of station.

"(3) JOINT RETURNS.—In the case of a credit allowed under subsection (a) with respect to a joint return, half of such credit shall be treated as having been allowed to each individual filing such return for purposes of this subsection.

"(4) RETURN REQUIREMENT.—If the tax imposed by this chapter for the taxable year is increased under this subsection, the taxpayer shall, notwithstanding section 6012, be required to file a return with respect to the taxes imposed under this subtitle.

"(g) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to the purchase of any residence, the basis of such residence shall be reduced by the amount of the credit so allowed.

"(h) ELECTION TO TREAT PURCHASE IN PRIOR YEAR.—In the case of a purchase of a principal residence after December 31, 2009, and before April 1, 2010, a taxpayer may elect to treat such purchase as made on December 31, 2009, for purposes of this section."

(b) CONFORMING AMENDMENTS.—

(1) Section 24(b)(3)(B) of the Internal Revenue Code of 1986 is amended by striking "and 25B" and inserting ", 25B, and 25E".

(2) Section 25(e)(1)(C)(ii) of such Code is amended by inserting "25E," after "25D,".

(3) Section 25B(g)(2) of such Code is amended by striking "section 23" and inserting "sections 23 and 25E".

(4) Section 904(i) of such Code is amended by striking "and 25B" and inserting "25B, and 25E".

(5) Section 1016(a) of such Code is amended by striking "and" at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting ", and", and by adding at the end the following new paragraph:

"(38) to the extent provided in section 25E(g)."

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25D the following new item:

"Sec. 25E. Credit for certain home purchases."

(d) SUNSET OF CURRENT FIRST-TIME HOME-BUYER CREDIT.—

(1) IN GENERAL.—Subsection (h) of section 36 of the Internal Revenue Code of 1986 is amended by striking "December 1, 2009" and inserting "April 1, 2009".

(2) ELECTION TO TREAT PURCHASE IN PRIOR YEAR.—Subsection (g) of section 36 of such Code is amended by striking "December 1, 2009" and inserting "April 1, 2009".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to purchases after the date of the enactment of this Act.

**SA 1028.** Ms. KLOBUCHAR submitted an amendment intended to be proposed by her to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ PROHIBITION ON STEERING.**

(a) IN GENERAL.—The Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended by inserting after section 129 the following new section:

**“SEC. 129A. PROHIBITION ON STEERING WITH RESPECT TO HOME MORTGAGE LOANS.**

“(a) IN GENERAL.—In connection with a home mortgage loan, a mortgage broker or creditor may not—

“(1) steer, counsel, or direct a consumer to rates, charges, principal amount, or prepayment terms that are more expensive for that which the consumer qualifies; or

“(2) make, provide, or arrange for any consumer credit transaction secured by a consumer’s principal dwelling that is more expensive than that for which the consumer qualifies.

“(b) DUTIES TO CONSUMERS.—If unable to suggest, offer, or recommend to a consumer a home loan that is not more expensive than that for which the consumer qualifies, a mortgage originator shall—

“(1) based on the information reasonably available and using the skill, care, and diligence reasonably expected for a mortgage originator, originate or otherwise facilitate a suitable home mortgage loan by another creditor to a consumer, if permitted by and in accordance with all otherwise applicable law; or

“(2) disclose to a consumer—

“(A) that the creditor does not offer a home mortgage loan that is not more expensive than a loan for which the consumer qualifies, but that other creditors may offer such a loan; and

“(B) the reasons that the products and services offered by the mortgage originator are not available to or reasonably advantageous for the consumer.

“(c) PROHIBITED CONDUCT.—In connection with a home mortgage loan, a mortgage originator may not—

“(1) mischaracterize the credit history of a consumer or the home loans available to a consumer;

“(2) mischaracterize or suborn the mischaracterization of the appraised value of the property securing the extension of credit; and

“(3) if unable to suggest, offer, or recommend to a consumer a loan that is not more expensive than a loan for which the consumer qualifies, discourage a consumer from seeking a home mortgage loan from another creditor or with another mortgage originator.

“(d) MORTGAGE BROKER DEFINED.—For purposes of this section, the term ‘mortgage broker’ means any person who is defined as a mortgage broker under applicable State law.”.

(b) CLERICAL AMENDMENT.—The table of sections for the Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended by inserting after the item relating to section 129 the following new item:

“Sec. 129A. Prohibition on steering with respect to home mortgage loans.”.

**SA 1029.** Mr. SCHUMER submitted an amendment intended to be proposed by him to the resolution S. Res. 93, a bill supporting the mission and goals of 2009 National Crime Victim’s Rights Week, to increase public awareness of the rights, needs, and concerns of victims and survivors of crime in the United States, and to commemorate the 25th anniversary of the enactment of the Victims of Crime Act of 1984; as follows:

Strike all after the resolving clause and insert the following:

That the Senate—

(1) supports the mission and goals of 2009 National Crime Victims’ Rights Week to increase public awareness of the impact of

crime on victims and survivors, and of the constitutional and statutory rights and needs of victims; and

(2) recognizes the 25th anniversary of the enactment of the Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.).

## NOTICES OF HEARINGS

## COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Thursday, May 7, 2009, at 10:00 a.m., in room SD-366 of the Dirksen Senate office building.

The purpose of the hearing is to receive testimony on a Joint Staff draft related to cybersecurity and critical electricity infrastructure.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, US Senate, Washington, DC 20510-6150, or by e-mail to Gina\_Weinstock@energy.senate.gov.

For further information, please contact Leon Lowery at (202) 224-2209 or Gina Weinstock at (202) 224-5684.

## SUBCOMMITTEE ON ENERGY

Mr. BINGAMAN. Mr. President, this is to advise you that a hearing has been scheduled before the Subcommittee on Energy of the Senate Committee on Energy and Natural Resources. The hearing will be held on Thursday, May 7, 2009, at 2:30 p.m., in room SD-366 of the Dirksen Senate office building.

The purpose of the hearing is to receive testimony on net metering, interconnection standards, and other policies that promote the deployment of distributed generation to improve grid reliability, increase clean energy deployment, enable consumer choice, and diversify our Nation’s energy supply.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, US Senate, Washington, DC 20510-6150, or by email to rachel\_pasternack@energy.senate.gov.

For further information, please contact Alicia Jackson at (202) 224-3607 or Rachel Pasternack at (202) 224-0883.

## AUTHORITY FOR COMMITTEES TO MEET

## COMMITTEE ON ARMED SERVICES

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, April 30, 2009, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, April 30, 2009, at 2:30 p.m., in room SD-366 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMITTEE ON FINANCE

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, April 30, 2009, at 10 a.m., in room 215 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMITTEE ON FOREIGN RELATIONS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 30, 2009, at 2:30 p.m., to hold a hearing entitled “Confronting Piracy off the Somali Coast.”

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet, during the session of the Senate, to conduct a hearing entitled “Primary Health Care Access Reform: Community Health Centers and the National Health Service Corps” on Thursday, April 30, 2009. The hearing will commence at 10 a.m. in room 430 of the Dirksen Senate office building.

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Thursday, April 30, 2009, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMITTEE ON INDIAN AFFAIRS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on Thursday, April 30, 2009 at 9:30 a.m. in Room 628 of the Dirksen Senate office building.

The PRESIDING OFFICER. Without objection, it is so ordered.

## SELECT COMMITTEE ON INTELLIGENCE

Mr. DODD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 30, 2009 at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

## SUBCOMMITTEE ON AIRLAND

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee