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A BILL

To modernize and update the National Housing Act and enable the Federal Housing Administration to use risk based pricing to more effectively reach underserved borrowers, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE I— SINGLE FAMILY MORTGAGE INSURANCE REFORM

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SEC. 101. SHORT TITLE.

This title may be cited as the “FHA Modernization Act of 2006”.

SEC. 102. FINDINGS AND PURPOSES.

(a) Findings- The Congress finds that--

(1) One of the Federal Housing Administration's (FHA) primary missions is to reach borrowers underserved or not served by the existing conventional marketplace;

(2) FHA has a long history of innovation and has pioneered the 30-year self-amortizing mortgage and a safe-to-seniors reverse mortgage product, both of which were once thought too risky to private lenders;

(3) the FHA single family mortgage insurance program has traditionally been a major provider of mortgage insurance for home purchases;

(4) the FHA mortgage insurance premium structure, as well as FHA's product offerings, should be revised to reflect FHA's enhanced ability to determine risk at the loan level and to allow FHA to better respond to changes in the mortgage market;

(5) during past recessions, including the oil-patch downturns in the mid-1980's, FHA remained a viable credit enhancer and was therefore instrumental in preventing a more catastrophic collapse in housing markets and a greater loss of homeowner equity; and

(6) as housing price appreciation slows and interest rates rise, many homeowners and prospective homebuyers will need the less-expensive, safer financing alternative that FHA mortgage insurance provides.

(b) Purposes- The purposes of this Act are--

(1) to provide flexibility to FHA to allow for the insurance of housing loans for low- and moderate-income homebuyers during all economic cycles in the mortgage market;

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(2) to modernize the FHA single family mortgage insurance program by making it more reflective of enhancements to loan-level risk assessments and changes to the mortgage market; and

(3) to adjust the loan limits for the single family mortgage insurance program to reflect rising house prices and the increased costs associated with new construction.

SEC. 103. CONFORMING LOAN LIMITS AND MAXIMUM PRINCIPAL LOAN OBLIGATION.

Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended—

(a) by striking subparagraph (A)(i) and inserting the following:

"(i) the median house price in the area, as determined by the Secretary; or";

(b) in subparagraph (A)(ii)—

(1) by striking "87 percent of"; and

(2) by striking "48" and inserting "65";

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

"(B) not to exceed the appraised value of the property, plus any initial service charges, appraisal, inspection and other fees in connection with the mortgage as approved by the Secretary."

(d) in the first undesignated paragraph, by striking the semi-colon and all that follows through the end of the paragraph and inserting a period; and

(e) by striking the last undesignated paragraph.

SEC. 104. EXTENSION OF MORTGAGE TERM.

Section 203(b)(3) of the National Housing Act (12 U.S.C. 1709(b)(3)) is amended by striking "thirty-five" and inserting "forty" and by striking the parenthetical.

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SEC. 105. CASH INVESTMENT REQUIREMENT.

Section 203(b)(9) of the National Housing Act (12 U.S.C. 1709(b)(9)) is amended—

(a) by striking the first parenthical and all that follows through "amount" and inserting "an amount, if any,;

(b) by striking the comma after "determine" and inserting "based on factors determined by the Secretary and commensurate with the likelihood of default";

(c) by striking "of the Secretary's" and all that follows through "insured)";

(d) by striking the first colon and inserting a period;

(e) by striking the first proviso; and

(f) by striking "Provided further, That for" and inserting "For".

SEC. 106. MORTGAGE INSURANCE PREMIUMS.

Section 203(c) of the National Housing Act (12 U.S.C. 1709(c)(2)) is amended by adding at the end the following:

"(3)(A) For mortgages insured by the Secretary under this title that are secured by 1- to 4-family dwellings and for which the loan application is received by the mortgagor on or after October 1, 2006, the Secretary may establish a mortgage insurance premium structure involving a single premium collected prior to the insurance of the mortgage or periodic payments, or both, without regard to any maximum or minimum premium amounts set forth in this subsection. The rate of premium for a mortgage may vary during the mortgage term as long as the basis for determining the variable rate is determined prior to the execution of the mortgage. The Secretary may change a premium structure established under this subparagraph if the change is not applied to any mortgage already executed.

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"(B) A premium structure shall be established or changed under subparagraph (A) by providing notice to mortgagees and by providing notice to Congress at least 30 days before the premium structure is established or changed.

"(C) The Secretary shall consider the following when establishing a premium structure under subparagraph (A) or when changing such a premium structure--

"(i) the effect on the Secretary's ability to meet the operational goals of the Mutual Mortgage Insurance Fund as provided in section 202(a);

"(ii) underwriting variables;

"(iii) the extent to which new pricing has potential for acceptance on the private market;

"(iv) the administrative capability of the Secretary to administer the proposed premium structure; and

"(v) the effect on the Secretary's ability to maintain the availability of mortgage credit and provide stability to mortgage markets."

SEC. 107. REHABILITATION LOANS.

Section 203(k) of the National Housing Act (12 U.S.C. 1709(k)) is amended—

(a) in paragraph (1), by striking "on" and all that follows through "1978";

(b) in paragraph (5) by striking "General Insurance Fund" the first place it appears and inserting "Mutual Mortgage Insurance Fund"; and

(c) in paragraph (5) in the second sentence, by striking the comma and all that follows and inserting a period.

SEC. 108. DISCRETIONARY ACTION.

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(a) Section 203 of the National Housing Act (12 U.S.C. 1709) is amended by striking subsection (s);

(b) Section 202 of the National Housing Act (12 U.S.C. 1708) is amended by and

(1) redesignating subsection (e) as subsection (f); and

(2) inserting a new subsection (e) as follows:

"(e) NOTICE OF DISCRETIONARY ACTION.—

Whenever the Secretary has taken any discretionary action to suspend or revoke the approval of any mortgagee to participate in any mortgage insurance program under this subchapter, the Secretary shall provide prompt notice of the action and a statement of the reasons for the action to—

(1) the Secretary of Veterans Affairs;

(2) the chief executive officer of the Federal National Mortgage Association;

(3) the chief executive officer of the Federal Home Loan Mortgage Corporation;

(4) the Administrator of the Rural Housing Service;

(5) if the mortgagee is a national bank, or a subsidiary or affiliate of such a bank, the Comptroller of the Currency;

(6) if the mortgagee is a State bank that is a member of the Federal Reserve System or a subsidiary or affiliate of such a bank, or a bank holding company or a subsidiary or affiliate of such a company, the Board of Governors of the Federal Reserve System;

(7) if the mortgagee is a State bank that is not a member of the Federal Reserve System or is a subsidiary or affiliate of such a bank, the Board of Directors of the Federal Deposit Insurance Corporation; and

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(8) if the mortgagee is a Federal or State savings association or a subsidiary or affiliate of a savings association, the Director of the Office of Thrift Supervision."

SEC. 109. INSURANCE OF CONDOMINIUMS.

(a) Section 234 of the National Housing Act (12 U.S.C. 1715y) is amended—

(1) in subsection (c)—

(A) in the first sentence, by striking the period and inserting a comma and by inserting after "comortagors" the following "and (3) the project has a blanket mortgage insured by the Secretary under subsection (d)."; and

(B) by striking "thirty-five" and inserting "forty".

(2) in subsection (g) by striking ", except" and all that follows and inserting a period;

(b) Section 201(a) of the National Housing Act (12 U.S.C. 1707(a)) is amended by striking the semi-colon and inserting "or (3) a first mortgage given to secure the unpaid purchase price of a fee interest in, or long-term leasehold interest in, a one-family unit in a multifamily project, including a project in which the dwelling units are attached, semi-detached, or detached, and an undivided interest in the common areas and facilities which serve the project;"

SEC. 110. MUTUAL MORTGAGE INSURANCE FUND.

(a) Section 202(a) of the National Housing Act (12 U.S.C. 1708) is amended to read as follows:

"(a) **MUTUAL MORTGAGE INSURANCE FUND.**—Subject to the provisions of the Federal Credit Reform Act of 1990, there is hereby created a Mutual Mortgage Insurance Fund ("the Fund"), which shall be used by the Secretary to carry out the provisions of this title with

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respect to mortgages insured under section 203. The Secretary is authorized to guarantee such insured mortgages.

"(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary for the cost of loan guarantees authorized in this subsection, and such sums as are necessary for the costs of administering such loan guarantees.

"(2) LIMIT ON LOAN GUARANTEES.—Commitments to guarantee loans may be made by the Secretary only to the extent that total loan principal, any part of which is guaranteed, does not exceed the amount specified in annual appropriations acts each year.

"(3) ANNUAL INDEPENDENT ACTUARIAL STUDY.—

The Secretary shall provide for an independent actuarial study of the Fund to be conducted annually and shall report annually to the Congress regarding the financial status of the Fund. The study shall analyze the financial position of the Fund and recommend adjustments to underwriting standards, program participation, or premiums, if necessary, to ensure that the Fund remains financially sound. The Secretary has a responsibility to ensure that the Fund remains financially sound. The Secretary shall submit a report to Congress each quarter, with the first report submitted the last day of the first quarter of fiscal year 2007, or 90 days after enactment of this subsection, whichever is later, detailing the cumulative volume of loan guarantee commitments made for the fiscal year; the types of loans insured, categorized by risk; significant changes between actual and projected claim and prepayment activity; projected versus actual loss rates; and updated projections of the annual subsidy rates to ensure that increases in risk to the Fund are identified and mitigated by adjustments to underwriting standards, program participation, or premiums, and the Fund's financial soundness is maintained.

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"(4) ADJUSTMENT OF PREMIUMS.—

(A) If, pursuant to the independent actuarial study of the Fund required under paragraph (3) of this subsection, the Secretary determines that the Fund is not meeting the operational goals established under subparagraph (B) or there is a substantial probability that the Fund will not maintain its established target subsidy rate, the Secretary may either make programmatic adjustments under section 203 as necessary to reduce the risk to the Fund, or make appropriate premium adjustments.

(B) The operational goals are—

- (i) charging borrowers an appropriate premium for the risk that they pose to the Fund;
- (ii) minimizing the default risk to the Fund and to homeowners;
- (iii) curtailing the impact of adverse selection on the Fund; and
- (iv) meeting the housing needs of its target mortgagors.";

(b) Section 205 of the National Housing Act (12 U.S.C. 1711) is amended by striking subsections (g) and (h);

(c) Section 203(v) of the National Housing Act (12 U.S.C. 1709(v)) is amended by—

- (1) striking "Notwithstanding section 202 of this title,";
- (2) capitalizing "the" the first place it appears;
- (3) striking "General Insurance Fund" and all that follows and inserting "Mutual

Mortgage Insurance Fund.";

(d) Section 519(e) of the National Housing Act (12 U.S.C. 1735c(e)) is amended by—

- (1) striking "203(b)" and inserting "203"; and

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(2) striking "(except" through "203(i)" and inserting "except as determined by the Secretary.";

(e) Section 255(i)(2)(A) of the National Housing Act (12 U.S.C. 1715z-20(i)(2)A)) is amended by striking "General Insurance Fund" and inserting "Mutual Mortgage Insurance Fund";

SEC. 111. HAWAIIAN HOME LANDS AND INDIAN RESERVATIONS.

(a) Section 247(c) of the National Housing Act (12 U.S.C. 1715z-12) is amended—

(1) by striking "General Insurance Fund" the first place that it appears and all that follows through "519" and inserting "Mutual Mortgage Insurance Fund"; and

(2) in the second sentence, by striking the comma and all that follows and inserting "except that all references in section 204 to section 203 shall be construed to refer to the section under which the mortgage is insured.";

(b) Section 248(f) of the National Housing Act (12 U.S.C. 1715z-13) is amended—

(1) by striking "General Insurance Fund" the first place it appears through "519" and inserting "Mutual Mortgage Insurance Fund"; and

(2) in the second sentence, by striking the comma and all that follows and inserting "except that all references in section 204 to section 203 shall be construed to refer to the section under which the mortgage is insured.";

SEC. 112. CONFORMING AND TECHNICAL AMENDMENTS.

(a) The following sections of the National Housing Act are repealed:

(1) Section 203(i) (12 U.S.C. 1709(i));

(2) Section 203(o) (12 U.S.C. 1709(o));

(3) Section 203(p) (12 U.S.C. 1709(p));

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(4) Section 203(q) (12 U.S.C. 1709(q));

(5) Section 222 (12 U.S.C. 1715m);

(6) Section 237 (12 U.S.C. 1715z-2);

(7) Section 245 (12 U.S.C. 1715z-10);

(b) Section 203(u)(2)(A) of the National Housing Act (12 U.S.C. 1709(u)(2)(A)) is amended by striking "shall" and all that follows and inserting "means a metropolitan statistical area as established by the Office of Management and Budget;"

(c) Section 201(d) of the National Housing Act (12 U.S.C. 1707(d)) is amended by striking "the Trust Territory of the Pacific Islands" and inserting "the Northern Marianas Islands".

SEC. 113. HOME EQUITY CONVERSION MORTGAGES.

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

(a) in subsection (g)—

(1) by striking the first sentence; and

(2) by striking "section 203(b)(2)" and inserting "section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act";

(b) in subsection (i)(1)(C), by striking "limitations" and inserting "limitation"; and

(c) adding a new subsection as follows:

"(n)(1) AUTHORITY FOR HOME PURCHASE.—Notwithstanding any other provision in this section, the Secretary may insure, upon application by a mortgagee, a home equity conversion mortgage upon such terms and conditions as the Secretary may prescribe, when the primary purpose of the home equity conversion mortgage is to enable an elderly mortgagor to purchase a 1-to 4 family dwelling in which the mortgagor will

occupy or occupies one of the units.

(2) A home equity conversion mortgage insured under paragraph (1) shall involve a principal obligation that does not exceed the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a residence of the applicable size."

SEC. 114. CONFORMING LOAN LIMIT IN DISASTER AREAS.

Section 203(h) of the National Housing Act (12 U.S.C. 1709) is amended—

(a) by inserting after "property" the following: "plus any initial service charges, appraisal, inspection and other fees in connection with the mortgage as approved by the Secretary"; and

(b) by adding at the end the following: "In any case in which the single family residence to be insured under this subsection is within a jurisdiction in which the President has declared a major disaster to have occurred, the Secretary is authorized for a temporary period not to exceed 36 months from the date of such Presidential declaration, to enter into agreements to insure a mortgage which involves a principal obligation of up to 100 percent of the dollar limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a single family residence, and not in excess of 100 per centum of the appraised value of the property plus any initial service charges, appraisal, inspection and other fees in connection with the mortgage as approved by the Secretary."

SEC. 115. SAVINGS PROVISION.

Any mortgage insured under title II of the National Housing Act before the date of enactment of this title shall continue to be governed by the laws, regulations, orders and terms

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and conditions to which it was subject to on the day prior to the date of enactment of this title.

SEC. 116. IMPLEMENTATION.

This title shall take effect on the date of enactment of this Act. The Secretary shall by notice establish any additional requirements that may be necessary to immediately carry out the provisions of this title. The notice shall take effect upon issuance.

TITLE II—MANUFACTURED HOUSING MORTGAGE INSURANCE

SEC. 201. SHORT TITLE.

This title may be cited as the "FHA Manufactured Housing Loan Modernization Act of 2006".

SEC. 202. FINDINGS AND PURPOSES.

(a) Findings- The Congress finds that--

- (1) manufactured housing plays a vital role in providing housing for low- and moderate-income families in the United States;
- (2) the FHA title I insurance program for manufactured home loans traditionally has been a major provider of mortgage insurance for home-only transactions;
- (3) the manufactured housing market is in the midst of a prolonged downturn which has resulted in a severe contraction of traditional sources of private lending for manufactured home purchases;
- (4) during past downturns the FHA title I insurance program for manufactured homes has filled the lending void by providing stability until the private markets could recover;
- (5) in 1992, during the manufactured housing industry's last major recession, over 30,000 manufactured home loans were insured under title I;
- (6) in 2004, fewer than 2,000 manufactured housing loans were insured under Title I;
- (7) the loan limits for title I manufactured housing loans have not been adjusted for inflation since 1992; and
- (8) these problems with the title I program have resulted in an atrophied market for manufactured housing loans, leaving American families who have the most difficulty

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achieving homeownership without adequate financing options for home-only manufactured home purchases.

(b) Purposes- The purposes of this Act are--

(1) to provide adequate funding for FHA-insured manufactured housing loans for low- and moderate-income homebuyers during all economic cycles in the manufactured housing industry;

(2) to modernize the FHA Title I insurance program for manufactured housing loans to enhance participation by Ginnie Mae and the private lending markets; and

(3) to adjust the low loan limits for title I manufactured home loan insurance to reflect the increase in costs since such limits were last increased in 1992 and to index the limits to inflation.

SEC. 203. EXCEPTION TO LIMITATION ON FINANCIAL INSTITUTION PORTFOLIO.

(a) The second sentence of section 2(a) of the National Housing Act (12 U.S.C. 1703(a)) is amended by striking "In no case" and inserting the following: "Other than in connection with a manufactured home or a lot on which to place such a home (or both), in no case" and by striking the colon and inserting a period; and

(b) The proviso in section 2(a) of the National Housing Act (12 U.S.C. 1703(a)) is amended by striking "*Provided, that with*" and inserting "With".

SEC. 204. INSURANCE BENEFITS.

(a) Subsection (b) of section 2 of the National Housing Act (12 U.S.C. 1703(b)), is amended by adding at the end the following new paragraph:

"(8) Insurance Benefits for Manufactured Housing Loans- Any contract of insurance with respect to loans, advances of credit, or purchases in connection with a manufactured home or a lot on which to place a manufactured home (or both) for a financial institution that is executed under this title after the date of the enactment of this provision by the Secretary shall be conclusive evidence of the eligibility of such financial institution for insurance, and the validity of any contract of insurance so executed shall be incontestable in the hands of the bearer from the date of the execution of such contract, except for fraud or misrepresentation on the part of such institution.";

(b) Applicability—The provisions of this section shall only apply to loans that are registered or endorsed for insurance after the date of enactment of this section.

SEC. 205. MAXIMUM LOAN LIMITS.

(a) Dollar Amounts- Paragraph (1) of section 2(b) of the National Housing Act (12 U.S.C. 1703(b)(1)) is amended--

(1) in clause (ii) of subparagraph (A), by striking "\$17,500" and inserting "\$24,500";

(2) in subparagraph (C) by striking "\$48,600" and inserting "\$68,040";

(3) in subparagraph (D) by striking "\$64,800" and inserting "\$90,720";

(4) in subparagraph (E) by striking "\$16,200" and inserting "\$22,680"; and

(5) by realigning subparagraphs (C), (D), and (E) 2 ems to the left so that the left margins of such subparagraphs are aligned with the margins of subparagraphs (A) and (B).

(b) Annual Indexing-

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Subsection (b) of section 2 of the National Housing Act (12 U.S.C. 1703(b)), as amended by the preceding provisions of this Act, is further amended by adding a new paragraph at the end as follows:

"(9) The Secretary shall develop a method of indexing in order to annually adjust the loan limits established in subparagraphs (A)(ii), (C), (D), and (E) of this subsection. Such index shall be based on the manufactured housing price data collected by the United States Census Bureau. The Secretary shall establish such index no later than one year after the date of enactment of this provision."

(3) TECHNICAL AND CONFORMING CHANGES- Paragraph (1) of section 2(b) of the National Housing Act (12 U.S.C. 1703(b)(1)) is amended--

(A) by striking "No" and inserting "Except as provided in the last sentence of this paragraph, no"; and

(B) by adding after and below subparagraph (G) the following:

"The Secretary shall, by regulation, increase the dollar amount limitations in subparagraphs (A)(ii), (C), (D), and (E) according to the index established in paragraph (9) in this subsection."

SEC. 206. INSURANCE PREMIUMS.

Subsection (f) of section 2 of the National Housing Act (12 U.S.C. 1703(f)) is amended--

(1) by inserting "(1)" after "(f)";

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

"(2) MANUFACTURED HOME LOANS- Notwithstanding paragraph (1), in the case of a loan, advance of credit, or purchase in connection with a manufactured home or a lot on which to place such a home (or both), the Secretary may establish a mortgage insurance

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premium structure involving a single premium collected prior to the insurance of the mortgage or periodic payments, or both. The rate of premium for a mortgage may vary during the mortgage term as long as the basis for determining the variable rate is determined prior to the execution of the mortgage. The Secretary may change a premium structure established under this paragraph if the change is not applied to any mortgage already executed. A premium structure shall be established or changed under this paragraph by providing notice to lenders and by providing notice to Congress at least 30 days before the premium structure is established or changed."

SEC. 207. TECHNICAL CORRECTIONS.

(a) Subsection (a) of section 2 of the National Housing Act (12 U.S.C. 1703(a)) is amended by striking "on and after July 1, 1939," and by striking "made after August 2, 1954"; and

(b) Subsection (c) of section 2 of the National Housing Act (12 U.S.C. 1703(c)) is amended to read as follows:

"(c) Notwithstanding any other provision of law, the Secretary is authorized: (1) to deal with, complete, rent, renovate, modernize, insure, or assign or sell at public or private sale, or otherwise dispose of, for cash or credit in his discretion, and upon such terms and conditions and for such consideration as the Secretary shall determine to be reasonable, any real or personal property conveyed to or otherwise acquired by him, in connection with the payment of insurance heretofore or hereafter granted under this title, including any evidence of debt, contract, claim, personal property, or security assigned to or held by him in connection with the payment of insurance heretofore or hereafter granted under this section; and (2) to pursue to final collection, by way of compromise or otherwise, all claims assigned to or held by him and all legal or equitable rights accruing to him in connection with the

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payment of such insurance, including unpaid insurance premiums owed in connection with insurance made available by this title. Section 3709 of the Revised Statutes shall not be construed to apply to any contract of hazard insurance or to any purchase or contract for services or supplies on account of such property if the amount thereof does not exceed \$25,000. The power to convey and to execute in the name of the Secretary, deeds of conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real or personal property or any interest therein heretofore or hereafter acquired by the Secretary pursuant to the provisions of this title may be exercised by an officer appointed by him without the execution of any express delegation of power or power of attorney. Nothing in this paragraph shall be construed to prevent the Secretary from delegating such power by order or by power of attorney, in his discretion, to any officer or agent he may appoint."