

112TH CONGRESS
1ST SESSION

S. 1963

To revoke the charters for the Federal National Mortgage Corporation and the Federal Home Loan Mortgage Corporation upon resolution of their obligations, to create a new Mortgage Finance Agency for the securitization of single family and multifamily mortgages, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 8, 2011

Mr. ISAKSON introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To revoke the charters for the Federal National Mortgage Corporation and the Federal Home Loan Mortgage Corporation upon resolution of their obligations, to create a new Mortgage Finance Agency for the securitization of single family and multifamily mortgages, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; FINDINGS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Mortgage Finance Act of 2011”.

6 (b) **FINDINGS.**—Congress finds that—

1 (1) dependable, transparent, and liquid primary
2 and secondary markets for high-quality residential
3 and multifamily mortgages are critical to a safe and
4 sound housing market;

5 (2) Congress wishes to terminate the Congres-
6 sional charters and operations of the Federal Na-
7 tional Mortgage Association and the Federal Home
8 Loan Mortgage Corporation, and to wind them down
9 through an orderly receivership process, without dis-
10 rupting the housing markets;

11 (3) taxpayers have expended billions of dollars
12 on behalf of the Federal National Mortgage Associa-
13 tion and the Federal Home Loan Mortgage Corpora-
14 tion during the period of their conservatorship, and
15 such expenditures should be recouped;

16 (4) increased participation by the private sector
17 to provide mortgage market liquidity and credit risk
18 mitigation is necessary and desirable to reduce de-
19 pendence on Government guarantees, and to make
20 remote any future needs for taxpayer assistance;

21 (5) this Act creates a new transitional facility
22 to guarantee securitizations of high-quality residen-
23 tial mortgages, to ensure a sound and stable housing
24 market;

1 (6) multiple layers of private capital and the
2 creation of an industry-funded Catastrophic Fund
3 will make future risk to taxpayers highly remote;
4 and

5 (7) this Act provides for the privatization of the
6 transitional facility after 10 years, with proceeds
7 being paid to the United States Treasury.

8 **SEC. 2. DEFINITIONS.**

9 For purposes of this Act, unless the context otherwise
10 requires, the following definitions shall apply:

11 (1) BOARD OF DIRECTORS.—The term “Board
12 of Directors” means the Board of Directors of the
13 MFA.

14 (2) CHARTER.—The term “charter” means—

15 (A) with respect to the Federal National
16 Mortgage Association, the Federal National
17 Mortgage Association Charter Act (12 U.S.C.
18 1716 et seq.); and

19 (B) with respect to the Federal Home
20 Loan Mortgage Corporation, the Federal Home
21 Loan Mortgage Corporation Act (12 U.S.C.
22 1451 et seq.).

23 (3) DIRECTOR.—The term “Director”, other
24 than in the context of the Director of the FHFA,
25 means the director of the Mortgage Finance Agency.

1 (4) ENTERPRISE.—The term “enterprise”
2 means—

3 (A) the Federal National Mortgage Asso-
4 ciation; and

5 (B) the Federal Home Loan Mortgage
6 Corporation.

7 (5) FHFA.—The term “FHFA” means the
8 Federal Housing Finance Agency.

9 (6) MORTGAGE FINANCE AGENCY; MFA.—The
10 terms “Mortgage Finance Agency” and “MFA”
11 mean the agency established under title II.

12 (7) MFA CERTIFICATION DATE.—The term
13 “MFA certification date” means the date on which
14 the Director certifies that the MFA is operational
15 and able to perform the guarantee function for
16 qualified mortgage-backed securities collateralized by
17 qualified residential mortgages, as provided in this
18 Act, which date shall be not later than 18 months
19 after the date of enactment of this Act.

20 (8) QUALIFIED ISSUER.—The term “qualified
21 issuer” means a person who originates or purchases,
22 and services, a qualified residential mortgage or a
23 qualified multifamily mortgage, and is approved to
24 issue securities guaranteed by the MFA, in accord-

1 ance with this Act and with the guidelines issued by
2 the MFA under section 302.

3 (9) QUALIFIED MORTGAGE-BACKED SECURI-
4 TIES.—The term “qualified mortgage-backed securi-
5 ties” means securities collateralized by qualified resi-
6 dential mortgages or qualified multifamily mort-
7 gages, as the case may be, issued by a qualified
8 issuer and guaranteed by the MFA with respect to
9 the timely payment of principal and interest, all in
10 accordance with this Act.

11 (10) QUALIFIED MULTIFAMILY MORTGAGE.—
12 The term “qualified multifamily mortgage” means a
13 commercial real estate loan secured by a property
14 with 5 or more single family units, the primary
15 source of repayment for which is expected to be de-
16 rived from the proceeds of the sale, refinancing, or
17 permanent financing of the property, or rental in-
18 come generated by the property, that—

19 (A) has been originated with an initial loan
20 to value ratio of not more than 75 percent and
21 with an initial debt service coverage ratio of at
22 least 1.25; or

23 (B) with respect to which, the mortgage
24 lender retains a pro rata vertical slice of credit

1 risk in an amount to be determined by the
2 MFA.

3 (11) QUALIFIED RESIDENTIAL MORTGAGE.—

4 The term “qualified residential mortgage” means a
5 residential real estate loan secured by a property
6 with 1 to 4 single family units that has been origi-
7 nated in compliance with the following underwriting
8 standards and product features:

9 (A) Documentation and verification of the
10 financial resources relied upon to qualify the
11 mortgagor.

12 (B) Standards with respect to the income
13 and scheduled debt payments of the mortgagor,
14 including—

15 (i) one or more of—

16 (I) the residual income of the
17 mortgagor after all monthly obliga-
18 tions;

19 (II) the ratio of the housing pay-
20 ments of the mortgagor to the month-
21 ly income of the mortgagor; and

22 (III) the ratio of total monthly
23 installment payments of the mort-
24 gagor to the income of the mortgagor;
25 and

1 (ii) mitigation of the potential for pay-
2 ment shock on adjustable rate mortgages.

3 (C) Downpayments which shall be equal to
4 not less than 5 percent of purchase price,
5 and—

6 (i) in the case of such mortgages with
7 downpayments equal to not less than 5
8 percent but less than 30 percent of the
9 purchase price, the mortgage is covered by
10 private mortgage insurance purchased at
11 the time of origination in an amount suffi-
12 cient to cover each loan to the equivalent
13 of not less than a 30 percent downpay-
14 ment; and

15 (ii) such mortgage insurance is issued
16 by an entity that is subject to regulation as
17 a mortgage guaranty insurer by the State
18 of domicile of such entity or by the Federal
19 Insurance Office (which regulation includes
20 risk-based capital and reserve require-
21 ments).

22 (D) Prohibition of or restrictions on the
23 use of balloon payments, negative amortization,
24 prepayment penalties, interest-only payments,

1 and other features that have been demonstrated
2 to exhibit a higher risk of borrower default.

3 (12) SECRETARY.—The term “Secretary”
4 means the Secretary of the Treasury.

5 **TITLE I—TERMINATION OF**
6 **FANNIE MAE AND FREDDIE**
7 **MAC CHARTERS**

8 **SEC. 101. RECEIVERSHIP OF THE ENTERPRISES.**

9 (a) IRREVOCABLE RECEIVERSHIP.—

10 (1) IN GENERAL.—Effective on the MFA cer-
11 tification date, the FHFA is appointed receiver of
12 the enterprises, and the enterprises shall be placed
13 into irrevocable receivership by the FHFA, in ac-
14 cordance with section 1367 of the Federal Housing
15 Enterprises Financial Safety and Soundness Act of
16 1992 (12 U.S.C. 4617), except that—

17 (A) paragraphs (1) through (5) of sub-
18 section (a) of that section 1367 do not apply
19 with respect to such appointment; and

20 (B) prior to the MFA certification date,
21 the enterprises shall be permitted to engage in
22 the business of guaranteeing the timely pay-
23 ment of principal and interest on qualified
24 mortgage-backed securities and to undertake all
25 functions necessary to carry out such business,

1 to the extent that such guarantees are nec-
2 essary to provide a dependable, transparent,
3 and liquid market for high quality mortgages
4 for securitization.

5 (2) COMMENCEMENT OF LIQUIDATION.—Imme-
6 diately upon placement of the enterprises into receiv-
7 ership, the FHFA shall commence liquidation of the
8 enterprises.

9 (b) REPEAL OF GSE CHARTERS.—

10 (1) FANNIE MAE.—The charter of the Federal
11 National Mortgage Association, is repealed, effective
12 90 days after the date on which liquidation thereof
13 is complete, in accordance with this Act.

14 (2) FREDDIE MAC.—The charter of the Federal
15 Home Loan Mortgage Corporation, is repealed, ef-
16 fective 90 days after the date on which liquidation
17 thereof is complete, in accordance with this Act.

18 (c) RULE OF CONSTRUCTION.—For purposes of any
19 provision of Federal law that refers to or relies on a deci-
20 sion by the Director of the FHFA to place an enterprise
21 into receivership, such determination shall be deemed to
22 have been made by operation of the placement of the en-
23 terprises into receivership under subsection (a).

1 **SEC. 102. REPAYMENT OF GOVERNMENT ASSISTANCE;**
2 **MAXIMIZING RETURN TO TAXPAYERS.**

3 (a) IN GENERAL.—After fully satisfying the out-
4 standing obligations of the enterprises in a manner con-
5 sistent with their receivership status, all remaining pro-
6 ceeds from the operations of the enterprises in receivership
7 shall be paid by the FHFA to the General Fund of the
8 United States Treasury in repayment of Government as-
9 sistance provided in connection with ensuring the solvency
10 and resolution of the enterprises prior to the date of enact-
11 ment of this Act.

12 (b) MAXIMUM RETURN TO TAXPAYER.—The com-
13 bined assets of the enterprises, including on-balance sheet
14 portfolios, shall be managed by the FHFA as receiver to
15 obtain resolutions that maximize the return for the tax-
16 payer, to the extent that—

17 (1) such resolutions are consistent with the goal
18 of supporting a sound, stable, and liquid housing
19 market; and

20 (2) such resolutions are consistent with applica-
21 ble law.

22 (c) TRANSFER OF PROCEEDS OF PRIVATIZATION AND
23 CATASTROPHIC FUND.—The proceeds from privatization
24 of the MFA upon termination of its authority in accord-
25 ance with section 304 shall be deposited into the General
26 Fund of the United States Treasury. Upon such termi-

1 nation of the authority of the MFA, the Catastrophic
2 Fund shall be transferred to the General Fund of the
3 United States Treasury, and the United States Treasury
4 shall assume responsibility for and honor any remaining
5 obligations of the MFA, of whatever nature and until such
6 time as they are extinguished.

7 **SEC. 103. REPORT TO CONGRESS.**

8 Upon the resolution of all valid claims of the enter-
9 prises, the Director of the FHFA shall submit a report
10 by the FHFA as receiver of the enterprises to the Com-
11 mittee on Banking, Housing, and Urban Affairs of the
12 Senate and the Committee Financial Services of the
13 House of Representatives, certifying the completion of the
14 receivership.

15 **TITLE II—MORTGAGE FINANCE**
16 **AGENCY**

17 **SEC. 201. ESTABLISHMENT OF MFA.**

18 There is established the Mortgage Finance Agency,
19 which shall be an independent agency of the Federal Gov-
20 ernment.

21 **SEC. 202. GOVERNANCE.**

22 (a) DIRECTOR.—

23 (1) IN GENERAL.—The MFA shall be headed,
24 on a day-to-day basis, by a Director, appointed by
25 the President, by and with the advice and consent

1 of the Senate. Such appointment shall be made not
2 later than 6 months after the date of enactment of
3 this Act.

4 (2) REGULATORY AUTHORITY.—The Director
5 shall have general regulatory authority over the
6 MFA, and shall exercise such general regulatory au-
7 thority as necessary to carry out this Act.

8 (3) TERM.—The Director shall serve for a term
9 of 5 years. An individual may serve as Director after
10 the expiration of the term for which appointed, until
11 a successor has been appointed and qualified.

12 (4) VACANCIES.—A vacancy in the office of the
13 Director shall be filled in the same manner as the
14 original appointment.

15 (5) COMPENSATION.—The Director shall be
16 compensated at the rate prescribed for level II of the
17 Executive Schedule under section 5313 of title 5,
18 United States Code.

19 (b) BOARD OF DIRECTORS.—

20 (1) MEMBERS.—The operations of the MFA
21 shall be directed by a 5-member board of directors,
22 including the Director, who shall serve as the chair-
23 person of the Board of Directors, a Vice Chairman,
24 who shall be appointed by the President, the Chair-
25 man of the Securities and Exchange Commission, or

1 a designee thereof, the Secretary of the Department
2 of Housing and Urban Development, or a designee
3 thereof, and the Chairman of the Board of Gov-
4 ernors of the Federal Reserve System, or a designee
5 thereof.

6 (2) MAJORITY VOTE.—A majority vote of all
7 members of the Board of Directors is necessary to
8 resolve all voting issues of the MFA.

9 (3) MEETINGS.—The Board of Directors shall
10 meet at the call of the Director, but in no event less
11 frequently than once in each calendar quarter.

12 (4) FEDERAL EMPLOYEES.—The members of
13 the Board of Directors shall serve without additional
14 pay (or benefits in the nature of compensation) for
15 service as a member of the Board of Directors.

16 (5) TRAVEL EXPENSES.—Members of the
17 Board of Directors shall be entitled to receive travel
18 expenses, including per diem in lieu of subsistence,
19 equivalent to those set forth in subchapter I of chap-
20 ter 57 of title 5, United States Code.

21 (6) BYLAWS.—The Board of Directors may pre-
22 scribe, amend, and repeal such bylaws as may be
23 necessary for carrying out the functions of the
24 Board of Directors.

1 (7) QUORUM.—A majority of the Board of Di-
2 rectors shall constitute a quorum.

3 (c) PRIVATIZATION ADVISORY BOARD.—

4 (1) MEMBERS.—There shall be appointed by
5 the President a 10-member privatization advisory
6 board. To the extent practicable, the President shall
7 seek at all times to have advisory board members
8 with expertise in—

9 (A) single family housing finance;

10 (B) multifamily housing finance;

11 (C) residential real estate development and
12 sales;

13 (D) secondary market structuring and
14 pricing;

15 (E) private mortgage insurance;

16 (F) privatization structuring and execu-
17 tion; and

18 (G) macroeconomic policy.

19 (2) ROLE.—The roles of the advisory board
20 shall be—

21 (A) to advise the Board of Directors on the
22 privatization of the MFA upon termination of
23 its authority under this Act, including how best
24 to facilitate a smooth, efficient, and orderly
25 transition of the guarantee business;

1 (B) to review and opine on the status of
2 the planning for privatization; and

3 (C) concurrently with the plan and annual
4 and quarterly reports presented by the MFA to
5 Congress under section 304(c), to present to
6 Congress its own independent reports on the
7 plan for privatization and the status thereof.

8 (d) INSPECTOR GENERAL.—There shall be within the
9 MFA an Inspector General, who shall be appointed by the
10 President in accordance with section 3(a) of the Inspector
11 General Act of 1978 not later than 6 months after the
12 date of enactment of this Act.

13 **SEC. 203. FUNDING.**

14 Annual appropriations to the MFA shall be based
15 upon a budget submitted to Congress by the MFA and
16 approved by the Board of Directors. In accordance with
17 section 303(a)(2), amounts appropriated shall be recouped
18 through collection of the guarantee fee.

19 **SEC. 204. REGULATIONS; REPORTS.**

20 (a) STARTUP.—Not later than 12 months after the
21 date of the appointment of the Director, the MFA shall
22 issue such regulations, guidelines, orders, requirements,
23 and standards as may be required for the establishment
24 and operation of the MFA.

1 (b) REPORT TO CONGRESS.—Not later than 6
2 months after the date of the appointment of the Director,
3 the Board of Directors shall provide to Congress a
4 progress report on the drafting of regulations and other
5 conditions precedent to the MFA becoming fully oper-
6 ational.

7 **SEC. 205. APPEARANCES BEFORE CONGRESS.**

8 The Director shall appear before Congress annually
9 regarding—

10 (1) the safety and soundness of the MFA and
11 the Catastrophic Fund, including, beginning one
12 year after the date on which the MFA becomes oper-
13 ational, a report by the Inspector General of the
14 MFA, and a report of an independent actuary, re-
15 garding the adequacy of guarantee fees, the ade-
16 quacy of the Catastrophic Fund and the adequacy of
17 the percentage of the guarantee fee that is being al-
18 located to the Catastrophic Fund;

19 (2) any material deficiencies in the conduct of
20 the operations of the MFA;

21 (3) the overall operational status of the MFA;

22 (4) operations, resources, and performance of
23 the Board of Directors; and

24 (5) such other relevant matters relating to the
25 Board of Directors and the MFA.

1 **SEC. 206. STAFF, EXPERTS, AND CONSULTANTS.**

2 (a) COMPENSATION.—

3 (1) IN GENERAL.—The MFA may appoint and
4 fix the compensation of such officers, attorneys,
5 economists, examiners, and other employees as may
6 be necessary for carrying out its functions. The
7 MFA shall appoint a Chief Risk Officer not later
8 than 90 days after the date of the appointment of
9 the Director.

10 (2) RATES OF PAY.—Rates of basic pay for all
11 employees of the MFA may be set and adjusted by
12 the MFA without regard to the provisions of chapter
13 51 or subchapter III of chapter 53 of title 5, United
14 States Code.

15 (3) PARITY.—The MFA may provide additional
16 compensation and benefits to employees of the MFA,
17 if the same type of compensation or benefits are
18 then being provided by any agency referred to under
19 section 1206 of the Financial Institutions Reform,
20 Recovery, and Enforcement Act of 1989 (12 U.S.C.
21 1833b) or, if not then being provided, could be pro-
22 vided by such an agency under applicable provisions
23 of law, rule, or regulation. In setting and adjusting
24 the total amount of compensation and benefits for
25 employees, the MFA shall consult with, and seek to
26 maintain comparability with, the agencies referred to

1 under section 1206 of the Financial Institutions Re-
2 form, Recovery, and Enforcement Act of 1989 (12
3 U.S.C. 1833b).

4 (b) **DETAIL OF GOVERNMENT EMPLOYEES.**—Upon
5 request of the Director, any Federal Government employee
6 may be detailed to the MFA or the Board of Directors
7 without reimbursement, and such detail shall be without
8 interruption or loss of civil service status or privilege.

9 (c) **EXPERTS AND CONSULTANTS.**—The Director
10 shall procure the services of experts and consultants as
11 the Director considers necessary or appropriate.

12 **TITLE III—DUTIES AND** 13 **RESPONSIBILITIES OF THE MFA**

14 **SEC. 301. MFA RESPONSIBILITIES.**

15 The MFA is authorized—

16 (1) to guarantee securities issued by qualified
17 issuers and collateralized by pools of qualified resi-
18 dential mortgages in order to provide a dependable,
19 transparent, and liquid market for high quality
20 mortgages for securitization;

21 (2) to guarantee securities issued by qualified
22 issuers and collateralized by pools of qualified multi-
23 family mortgages, in order to provide a dependable,
24 transparent, and liquid market for high quality mul-
25 tifamily mortgages for securitization;

1 (3) to charge and collect a guarantee fee suffi-
2 cient to protect the MFA and the United States
3 Treasury from the risks of guaranteeing the timely
4 payment of principal and interest on qualified mort-
5 gage-backed securities;

6 (4) to establish and maintain a Catastrophic
7 Fund to minimize the burden on the Federal Gov-
8 ernment, by setting aside amounts that will be avail-
9 able solely to pay obligations under the MFA guar-
10 antee in the event of any future mortgage market
11 collapse; and

12 (5) to purchase supplemental insurance cov-
13 erage, as provided in section 303(d).

14 **SEC. 302. MFA GUARANTEE BUSINESS.**

15 (a) IN GENERAL.—The MFA shall guarantee the
16 timely payment of principal and interest to holders of
17 qualified mortgage-backed securities. In the event of a
18 payment default on a mortgage that collateralizes a quali-
19 fied mortgage-backed security, the MFA guarantee shall
20 cover any shortfalls to security holders after giving effect
21 to proceeds, if any, from liquidation of the property secur-
22 ing the mortgage and from claims paid pursuant to any
23 private mortgage insurance coverage (including supple-
24 mental insurance coverage, if any). The MFA guarantee
25 of timely payment of principal and interest on qualified

1 mortgage-backed securities shall be backed by the full
2 faith and credit of the United States Government. The
3 MFA shall charge a fee for such guarantee in accordance
4 with section 303.

5 (b) QUALIFIED RESIDENTIAL MORTGAGES AND
6 QUALIFIED MULTIFAMILY MORTGAGES.—The MFA shall
7 issue guidelines consistent with this Act specifying the
8 terms and conditions of mortgages that satisfy—

9 (1) the definition of a qualified residential
10 mortgage, not later than 6 months after the date of
11 confirmation of the Director; and

12 (2) the definition of a qualified multifamily
13 mortgage, not later than 1 year after the date of
14 confirmation of the Director.

15 (c) GUIDELINES.—

16 (1) IN GENERAL.—Not later than 12 months
17 after the date of confirmation of the Director, the
18 MFA shall issue guidelines designed to oversee the
19 financial condition and origination and servicing
20 standards of qualified issuers and servicers of quali-
21 fied residential mortgages and qualified multifamily
22 mortgages that collateralize qualified mortgage-
23 backed securities.

24 (2) INCLUSIONS.—Guidelines issued under this
25 subsection shall—

1 (A) include specific financial and oper-
2 ational standards for such qualified issuers and
3 such servicers; and

4 (B) ensure—

5 (i) broad participation in the issuance
6 of qualified mortgage-backed securities by
7 community banks, credit unions, national
8 banks and State-licensed mortgage lenders;

9 (ii) that qualified issuers bear the risk
10 of noncompliance with representations and
11 warranties made in connection with the
12 issuance of qualified mortgage-backed se-
13 curities; and

14 (iii) that qualified issuers have the fi-
15 nancial resources to support any obliga-
16 tions arising from any violations of rep-
17 resentations and warranties made in con-
18 nection with the issuance of qualified mort-
19 gage-backed securities.

20 (d) LIMITATIONS.—

21 (1) QUALIFIED RESIDENTIAL MORTGAGE LOAN
22 LIMITS.—The MFA shall set loan limits for qualified
23 residential mortgages that secure qualified mort-
24 gage-backed securities. Such loan limits shall be cal-
25 culated and set annually, on a by-county basis, at an

1 amount equal to not more than 150 percent of the
2 area median home price for the preceding year, and
3 not less than the national median home price for
4 such year, in each case calculated using home price
5 data compiled by FHFA or, if FHFA no longer
6 compiles such data, by the MFA. In no event shall
7 the loan limits in effect under this section in any
8 county be lower than amounts applicable to single
9 family mortgages insured by the Federal Housing
10 Administration in such county.

11 (2) QUALIFIED MULTIFAMILY MORTGAGE LOAN
12 LIMITS.—The MFA, in consultation with the Board
13 of Directors, shall consider setting loan limits for
14 qualified multifamily mortgages that secure qualified
15 mortgage-backed securities, if such limits would fos-
16 ter competition between the MFA and private
17 issuers in advance of the privatization of the MFA.

18 (3) PROHIBITION ON INVESTMENT PORT-
19 FOLIO.—The MFA shall not invest in mortgage-
20 backed securities or otherwise maintain an invest-
21 ment portfolio, other than to the extent necessary
22 for the MFA to carry out its responsibilities as guar-
23 antor of qualified mortgage-backed securities.

1 **SEC. 303. GUARANTEE FEES; CATASTROPHIC FUND; SUP-**
2 **PLEMENTAL INSURANCE.**

3 (a) **GUARANTEE FEES.—**

4 (1) **GUARANTEE FEES.—**The MFA shall charge
5 a guarantee fee under this section in connection with
6 any guarantee issued by the MFA of timely payment
7 of principal and interest on the qualified mortgage-
8 backed securities. At all times, the guarantee fee
9 shall be set at an equal amount for all qualified
10 issuers. The amount of the guarantee fee shall be
11 adjusted periodically, as necessary to fulfill the pur-
12 poses described in paragraph (2).

13 (2) **PURPOSES.—**The purposes of the guarantee
14 fees are—

- 15 (A) to fund the operations of the MFA;
16 (B) to capitalize the Catastrophic Fund;
17 (C) to cover any losses; and
18 (D) to purchase supplemental insurance
19 coverage, as provided in subsection (d).

20 (3) **APPROVAL.—**The Board of Directors shall
21 approve the amount of guarantee fees and any ad-
22 justments thereto, and shall determine the percent-
23 age of the guarantee fees, if any, that will be allo-
24 cated to the Catastrophic Fund in accordance with
25 subsection (b). Such percentage may be adjusted by
26 the Board of Directors semiannually, as necessary to

1 ensure that the Catastrophic Fund is adequately
2 capitalized.

3 (b) CREATION OF CATASTROPHIC FUND.—

4 (1) ESTABLISHMENT.—There is established in
5 the Treasury of the United States a fund to be
6 known as the “Catastrophic Fund”, which the MFA
7 shall—

8 (A) maintain and administer; and

9 (B) use to carry out its insurance and
10 guarantee functions, in the manner provided by
11 this Act; and

12 (C) invest in accordance with subsection
13 (c).

14 (2) DEPOSITS.—The Catastrophic Fund shall
15 be credited with—

16 (A) the amount of guarantee fees, if any,
17 that the Board of Directors determines should
18 be allocated to the Catastrophic Fund to pro-
19 tect against catastrophic losses;

20 (B) any amounts earned on investments of
21 the Catastrophic Fund, other than as needed in
22 connection with the routine operation of the
23 guarantee business; and

1 (C) such other amounts as may otherwise
2 be credited to the Catastrophic Fund by the
3 Board of Directors.

4 (3) USES.—The Catastrophic Fund shall be
5 solely available to the MFA for use by the MFA to
6 satisfy obligations under its guarantee in accordance
7 with this Act. Amounts remaining in the Cata-
8 strophic Fund following the repayment of all quali-
9 fied mortgage-backed securities shall be distributed
10 to the United States Treasury in accordance with
11 section 102(c).

12 (c) ACTUARIAL REVIEW.—Beginning one year after
13 the date on which the MFA becomes fully operational, and
14 each year thereafter, the Board of Directors shall commis-
15 sion an independent actuarial study to determine the ade-
16 quacy of the guarantee fees and of the capitalization of
17 the Catastrophic Fund, the results of which study shall
18 be made available to the public by the Board of Directors.
19 The Board of Directors shall rely on such study to deter-
20 mine the amount of the guarantee fee that shall be
21 charged and the percentage of the guarantee fees that
22 shall be allocated to the Catastrophic Fund.

23 (d) INVESTMENTS.—

24 (1) AUTHORITY.—Amounts in the Catastrophic
25 Fund that are not otherwise employed shall be in-

1 vested in obligations of the United States or in obli-
2 gations guaranteed as to principal and interest by
3 the United States.

4 (2) LIMITATION.—The MFA shall not sell or
5 purchase any obligations described in paragraph (1)
6 for its own account, at any one time aggregating in
7 excess of \$1,000,000, without the approval of the
8 Secretary of the Treasury. The Secretary may ap-
9 prove a transaction or class of transactions subject
10 to the provisions of this paragraph under such con-
11 ditions as the Secretary may determine.

12 (e) SUPPLEMENTAL COVERAGE.—

13 (1) IN GENERAL.—The MFA may use a portion
14 of the guarantee fee to purchase supplemental insur-
15 ance coverage on offerings of qualified mortgage-
16 backed securities. The guarantee fee shall be set in
17 an amount that is sufficient to cover the cost of such
18 supplemental insurance, in addition to the other pur-
19 poses set forth in subsection (a)(2). The supple-
20 mental insurance shall insure against losses, if any,
21 after giving effect to the primary, first loss mortgage
22 insurance coverage on mortgages collateralizing the
23 mortgage-backed securities.

24 (2) REDUCED EXPOSURE.—The supplemental
25 insurance shall be structured to further reduce the

1 exposure of the United States Government to losses
2 arising under its guarantee on qualified mortgage-
3 backed securities that are covered by supplemental
4 insurance. Separate insurance coverage shall be pro-
5 vided for each new offering of qualified mortgage-
6 backed securities.

7 (3) PURCHASE OF SUPPLEMENTAL COVERAGE
8 REQUIRED.—

9 (A) IN GENERAL.—Not later than 1 year
10 after the MFA certification date, the Board of
11 Directors shall issue guidelines to determine
12 whether supplemental coverage—

13 (i) is being offered on commercially
14 reasonable terms; and

15 (ii) is reasonably likely to mitigate the
16 risk that the MFA will have to make any
17 payment pursuant to its guarantee.

18 (B) COVERAGE REQUIRED.—Beginning not
19 later than 3 years after the MFA certification
20 date, the MFA shall purchase supplemental cov-
21 erage for each offering of qualified mortgage-
22 backed securities if the MFA determines that
23 the supplemental coverage meets the guidelines
24 issued by the Board of Directors under sub-
25 paragraph (A).

1 (4) **AUTHORITY TO PURCHASE SUPPLEMENTAL**
2 **COVERAGE.**—The MFA shall be authorized to pur-
3 chase supplemental coverage from any mortgage in-
4 surance company authorized to provide mortgage in-
5 surance on a qualified residential mortgage, or from
6 any other licensed insurance company with com-
7 parable regulatory oversight, capital, and reserve re-
8 quirements.

9 **SEC. 304. NO LIMIT ON PRIVATE SECTOR INVOLVEMENT;**
10 **TERMINATION OF AUTHORITY.**

11 (a) **PRIVATE ENTITIES ENCOURAGED.**—Nothing in
12 this Act may be construed as preventing the private sector
13 from securitizing qualified residential mortgages, qualified
14 multifamily mortgages, or other non-qualified residential
15 single family or multifamily mortgages. Robust competi-
16 tion between the MFA and private issuers shall be encour-
17 aged to facilitate the soonest possible privatization of the
18 MFA.

19 (b) **TERMINATION OF AUTHORITY.**—The authority
20 granted to the MFA under this Act shall expire 10 years
21 after the date of enactment of this Act, and the MFA shall
22 be terminated on that date. The MFA, in consultation
23 with the Board of Directors, shall begin planning for such
24 termination during the third year following the date of en-
25 actment of this Act.

1 (c) PERIODIC REPORTS ON PRIVATIZATION.—

2 (1) INITIAL REPORT.—During the 5th year fol-
 3 lowing the date of enactment of this Act, the MFA
 4 shall present to Congress a detailed plan for privat-
 5 ization of the MFA upon termination of its authority
 6 in accordance with subsection (b).

7 (2) REGULAR REPORTS.—To ensure the trans-
 8 fer to privatization, the MFA shall report to Con-
 9 gress on the implementation of the detailed plan for
 10 privatization submitted under paragraph (1)—

11 (A) annually through the 7th year fol-
 12 lowing the date of enactment of this Act; and

13 (B) quarterly, beginning in the 8th year
 14 following the date of enactment of this Act.

15 **TITLE IV—CONFORMING** 16 **AMENDMENTS**

17 **SEC. 401. AMENDMENTS TO DODD-FRANK ACT.**

18 Section 15G of the Securities Exchange Act of 1934
 19 (15 U.S.C. 78o–11) is amended—

20 (1) in subsection (a)—

21 (A) by redesignating paragraphs (3) and
 22 (4) as paragraphs (4) and (5), respectively; and

23 (B) by inserting after paragraph (2) the
 24 following:

1 “(3) the term ‘qualified residential mortgage’
 2 has the same meaning as in section 2 of the Mort-
 3 gage Finance Act of 2011;” and

4 (2) by adding at the end the following:

5 “(j) EXEMPTION FOR QUALIFIED MORTGAGE-
 6 BACKED SECURITIES.—Qualified mortgage-backed securi-
 7 ties, as defined in section 2 of the Mortgage Finance Act
 8 of 2011, and any other securitizations of qualified residen-
 9 tial mortgages, shall be exempt from the risk retention
 10 provisions of subsection (c)(1)(B)(i).”.

11 **SEC. 402. FEDERAL HOUSING ENTERPRISES FINANCIAL**
 12 **SAFETY AND SOUNDNESS ACT OF 1992.**

13 (a) DEFINITIONS.—Section 1303(20) of the Federal
 14 Housing Enterprises Financial Safety and Soundness Act
 15 of 1992 (12 U.S.C. 4502(20)) is amended by striking
 16 “means—” and all that follows through “(C) any” and
 17 inserting “means any”.

18 (b) TRANSFER OF FUNCTIONS.—All functions of the
 19 FHFA with respect to the enterprises, as that term is de-
 20 fined in section 1303 of the Federal Housing Enterprises
 21 Financial Safety and Soundness Act of 1992, other than
 22 any function related to receivership of the enterprises, are
 23 transferred to the MFA, effective 90 days after the date

1 on which liquidation of the enterprises is complete, in ac-
2 cordance with this Act.

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