

109TH CONGRESS
1ST SESSION

H. R. 3043

To authorize the Secretary of Housing and Urban Development to carry out a pilot program to insure zero-downpayment mortgages for one-unit residences.

IN THE HOUSE OF REPRESENTATIVES

JUNE 23, 2005

Mr. TIBERI (for himself and Mr. SCOTT of Georgia) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To authorize the Secretary of Housing and Urban Development to carry out a pilot program to insure zero-downpayment mortgages for one-unit residences.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Zero Downpayment
5 Pilot Program Act of 2005”.

6 **SEC. 2. PILOT PROGRAM FOR INSURANCE FOR ZERO-DOWN-**
7 **PAYMENT MORTGAGES.**

8 (a) MORTGAGE INSURANCE AUTHORITY.—Section
9 203 of the National Housing Act (12 U.S.C. 1709) is

1 amended by inserting after subsection (k) the following
2 new subsection:

3 “(1) ZERO-DOWNPAYMENT MORTGAGES PILOT PRO-
4 GRAM.—

5 “(1) INSURANCE AUTHORITY.—The Secretary
6 may insure, and commit to insure, under this sub-
7 section any mortgage that meets the requirements of
8 this subsection and, except as otherwise specifically
9 provided in this subsection, of subsection (b).

10 “(2) ELIGIBLE SINGLE FAMILY PROPERTY.—To
11 be eligible for insurance under this subsection, a
12 mortgage shall involve a property upon which there
13 is located a dwelling that is designed principally for
14 a 1- to 3-family residence and that, notwithstanding
15 subsection (g), is to be occupied by the mortgagor
16 as his or her principal residence, which shall in-
17 clude—

18 “(A) a 1-family dwelling unit in a multi-
19 family project and an undivided interest in the
20 common areas and facilities which serve the
21 project;

22 “(B) a 1-family dwelling unit of a coopera-
23 tive housing corporation the permanent occu-
24 pancy of the dwelling units of which is re-
25 stricted to members of such corporation and in

1 which the purchase of such stock or member-
2 ship entitles the purchaser to the permanent oc-
3 cupancy of such dwelling unit; and

4 “(C) a manufactured home that meets
5 such standards as the Secretary has established
6 for purposes of subsection (b).

7 “(3) MAXIMUM PRINCIPAL OBLIGATION.—

8 “(A) LIMITATION.—To be eligible for in-
9 surance under this subsection, a mortgage shall
10 involve a principal obligation in an amount not
11 in excess of 100 percent of the appraised value
12 of the property plus any initial service charges,
13 appraisal, inspection and other fees in connec-
14 tion with the mortgage as approved by the Sec-
15 retary.

16 “(B) INAPPLICABILITY OF OTHER LOAN-
17 TO-VALUE REQUIREMENTS.—A mortgage in-
18 sured under this subsection shall not be subject
19 to subparagraph (B) of paragraph (2) of sub-
20 section (b) or to the matter in such paragraph
21 that follows such subparagraph.

22 “(4) ELIGIBLE MORTGAGORS.—The mortgagor
23 under a mortgage insured under this subsection
24 shall meet the following requirements:

1 “(A) FIRST-TIME HOMEBUYER.—The
2 mortgagor shall be a first-time homebuyer. The
3 program for mortgage insurance under this
4 subsection shall be considered a Federal pro-
5 gram to assist first-time homebuyers for pur-
6 poses of section 956 of the Cranston-Gonzalez
7 National Affordable Housing Act (42 U.S.C.
8 12713).

9 “(B) COUNSELING.—

10 “(i) REQUIREMENT.—The mortgagor
11 shall have received counseling, prior to ap-
12 plication for the loan involved in the mort-
13 gage, by a third party (other than the
14 mortgagee) who is approved by the Sec-
15 retary, with respect to the responsibilities
16 and financial management involved in
17 homeownership. Such counseling shall be
18 provided to the mortgagor on an individual
19 basis by a representative of the approved
20 third party counseling entity, and shall be
21 provided in person to the maximum extent
22 practicable.

23 “(ii) TOPICS.—Such counseling shall
24 include providing to, and discussing with,
25 the mortgagor—

1 “(I) information regarding home-
2 ownership options other than a mort-
3 gage insured under this subsection,
4 other zero- or low-downpayment mort-
5 gage options that are or may become
6 available to the mortgagor, the finan-
7 cial implications of entering into a
8 mortgage (including a mortgage in-
9 sured under this subsection), and any
10 other information that the Secretary
11 may require; and

12 “(II) a document that sets forth
13 the amount and the percentage by
14 which a property subject to a mort-
15 gage insured under this subsection
16 must appreciate for the mortgagor to
17 recover the principal amount of the
18 mortgage, the costs financed under
19 the mortgage, and the estimated costs
20 involved in selling the property, if the
21 mortgagor were to sell the property on
22 each of the second, fifth, and tenth
23 anniversaries of the mortgage.

24 “(iii) 2- AND 3-FAMILY RESI-
25 DENCES.—In the case of a mortgage in-

1 volving a 2- or 3-family residence, such
2 counseling shall include (in addition to the
3 information required under clause (ii)) in-
4 formation regarding real estate property
5 management.

6 “(5) OPTION FOR NOTICE OF FORECLOSURE
7 PREVENTION COUNSELING AVAILABILITY.—

8 “(A) OPTION.—To be eligible for insurance
9 under this subsection, the mortgagee shall pro-
10 vide mortgagor, at the time of the execution of
11 the mortgage, an optional written agreement
12 which, if signed by the mortgagor, allows, but
13 does not require, the mortgagee to provide no-
14 tice described in subparagraph (B) to a housing
15 counseling entity that has agreed to provide the
16 notice and counseling required under subpara-
17 graph (C) and is approved by the Secretary.

18 “(B) NOTICE TO COUNSELING AGENCY.—
19 The notice described in this subparagraph, with
20 respect to a mortgage, is notice, provided at the
21 earliest time practicable after the mortgagor be-
22 comes 60 days delinquent with respect to any
23 payment due under the mortgage, that the
24 mortgagor is so delinquent and of how to con-
25 tact the mortgagor. Such notice may only be

1 provided once with respect to each delinquency
2 period for a mortgage.

3 “(C) NOTICE TO MORTGAGOR.—Upon no-
4 tice from a mortgagee that a mortgagor is 60
5 days delinquent with respect to payments due
6 under the mortgage, the housing counseling en-
7 tity shall at the earliest time practicable notify
8 the mortgagor of such delinquency, that the en-
9 tity makes available foreclosure prevention
10 counseling that may assist the mortgagor in re-
11 solving the delinquency, and of how to contact
12 the entity to arrange for such counseling.

13 “(D) ABILITY TO CURE.—Failure to pro-
14 vide the optional written agreement required
15 under subparagraph (A) may be corrected by
16 sending such agreement to the mortgagor not
17 later than the earliest time practicable after the
18 mortgagor first becomes 60 days delinquent
19 with respect to payments due under the mort-
20 gage. Insurance provided under this subsection
21 may not be terminated and penalties for such
22 failure may not be prospectively or retroactively
23 imposed if such failure is corrected in accord-
24 ance with this subparagraph.

1 “(E) PENALTIES FOR FAILURE TO PRO-
2 VIDE AGREEMENT.—The Secretary may estab-
3 lish and impose appropriate penalties for failure
4 of a mortgagee to provide the optional written
5 agreement required under subparagraph (A).

6 “(F) LIMITATION ON LIABILITY OF MORT-
7 GAGEE.—A mortgagee shall not incur any li-
8 ability or penalties for any failure of a housing
9 counseling entity to provide notice under sub-
10 paragraph (C).

11 “(G) NO PRIVATE RIGHT OF ACTION.—
12 This paragraph shall not create any private
13 right of action on behalf of the mortgagor.

14 “(H) DELINQUENCY PERIOD.—For pur-
15 poses of this paragraph, the term ‘delinquency
16 period’ means, with respect to a mortgage, a
17 period that begins upon the mortgagor becom-
18 ing delinquent with respect to payments due
19 under the mortgage and ends upon the first
20 subsequent occurrence of such payments under
21 the mortgage becoming current or the property
22 subject to the mortgage being foreclosed or oth-
23 erwise disposed of.

24 “(6) INAPPLICABILITY OF DOWNPAYMENT RE-
25 QUIREMENT.—A mortgage insured under this sub-

1 section shall not be subject to paragraph (9) of sub-
2 section (b) or any other requirement to pay on ac-
3 count of the property, in cash or its equivalent, any
4 amount of the cost of acquisition.

5 “(7) MMIF MONITORING.—In conjunction with
6 the credit subsidy estimation calculated each year
7 pursuant to the Federal Credit Reform Act of 1990
8 (2 U.S.C. 661 et seq.), the Secretary shall review
9 the program performance for mortgages insured
10 under this subsection and make any necessary ad-
11 justments, which may include altering mortgage in-
12 surance premiums subject to subsection (c)(2), ad-
13 justing underwriting standards, and limiting the
14 availability of mortgage insurance under this sub-
15 section, to ensure that the Mutual Mortgage Insur-
16 ance Fund shall continue to generate a negative
17 credit subsidy.

18 “(8) UNDERWRITING.—For a mortgage to be
19 eligible for insurance under this subsection:

20 “(A) IN GENERAL.—The mortgagor’s cred-
21 it and ability to pay the monthly mortgage pay-
22 ments shall have been evaluated using the Fed-
23 eral Housing Administration’s Technology Open
24 To Approved Lenders (TOTAL) Mortgage
25 Scorecard, or a similar standardized credit scor-

1 ing system approved by the Secretary, and in
2 accordance with procedures established by the
3 Secretary.

4 “(B) MULTI-UNIT PROPERTIES.—In the
5 case of a mortgage involving a property upon
6 which there is located a dwelling that is de-
7 signed principally for a 2- or 3-family residence,
8 the mortgagor meets such additional under-
9 writing standards as the Secretary may estab-
10 lish.

11 “(9) APPROVAL OF MORTGAGEES.—To be eligi-
12 ble for insurance under this subsection, a mortgage
13 shall have been made to a mortgagee that meets
14 such criteria as the Secretary shall establish to en-
15 sure that mortgagees meet appropriate standards for
16 participation in the program authorized under this
17 subsection.

18 “(10) DISCLOSURE OF INCREMENTAL COSTS.—

19 “(A) REQUIRED DISCLOSURE.—For a
20 mortgage to be eligible for insurance under this
21 subsection, the mortgagee shall provide to the
22 mortgagor, at the time of the application for
23 the loan involved in the mortgage, a written dis-
24 closure, as the Secretary shall require, that
25 specifies the effective cost to a mortgagor of

1 borrowing the amount by which the maximum
2 amount that could be borrowed under a mort-
3 gage insured under this subsection exceeds the
4 maximum amount that could be borrowed under
5 a mortgage insured under subsection (b), based
6 on average closing costs with respect to such
7 amount, as determined by the Secretary. Such
8 cost shall be expressed as an annual interest
9 rate over the first 5 years of a mortgage.

10 “(B) COORDINATION.—The disclosure re-
11 quired under this paragraph may be provided in
12 conjunction with the notice required under sub-
13 section (f).

14 “(11) LOSS MITIGATION.—

15 “(A) IN GENERAL.—Upon the default of
16 any mortgage insured under this subsection, the
17 mortgagee shall engage in loss mitigation ac-
18 tions for the purpose of providing an alternative
19 to foreclosure to the same extent as is required
20 of other mortgages insured under this title pur-
21 suant to the regulations issued under section
22 230(a).

23 “(B) ANNUAL REPORTING.—Not later
24 than 90 days after the end of each fiscal year,
25 the Secretary shall submit a report to the Con-

1 gress that compares the rates of default and
2 foreclosure during such fiscal year for mort-
3 gages insured under this subsection, for single-
4 family mortgages insured under this title (other
5 than under this subsection), and for mortgages
6 for housing purchased with assistance provided
7 under the downpayment assistance initiative
8 under section 271 of the Cranston-Gonzalez
9 National Affordable Housing Act (42 U.S.C.
10 12821).

11 “(12) ADDITIONAL REQUIREMENTS.—The Sec-
12 retary may establish any additional requirements for
13 mortgage insurance under this subsection as may be
14 necessary or appropriate.

15 “(13) PILOT PROGRAM LIMITATIONS.—

16 “(A) ANNUAL.—In any fiscal year, the ag-
17 gregate number of mortgages insured under
18 this subsection may not exceed 10 percent of
19 the aggregate number of mortgages and loans
20 insured by the Secretary under this title during
21 the preceding fiscal year.

22 “(B) TERM OF PROGRAM.—The aggregate
23 number of mortgages insured under this sub-
24 section may not exceed 50,000.

25 “(14) PROGRAM SUSPENSION.—

1 “(A) IN GENERAL.—Subject to subpara-
2 graph (C), the authority under paragraph (1) to
3 insure mortgages shall be suspended if at any
4 time the claim rate described in subparagraph
5 (B) exceeds 3.5 percent. A suspension under
6 this subparagraph shall remain in effect until
7 such time as such claim rate is 3.5 percent or
8 less.

9 “(B) FHA TOTAL SINGLE-FAMILY ANNUAL
10 CLAIM RATE.—The claim rate described in this
11 subparagraph, for any particular time, is the
12 ratio of the number of claims during the 12
13 months preceding such time on mortgages on 1-
14 to 4-family residences insured pursuant to this
15 title to the number of mortgages on such resi-
16 dences having such insurance in force at that
17 time.

18 “(C) APPLICABILITY.—A suspension under
19 subparagraph (A) shall not preclude the Sec-
20 retary from endorsing or insuring any mortgage
21 that was duly executed before the date of such
22 suspension.

23 “(15) SUNSET.—No mortgage may be insured
24 under this subsection after September 30, 2010, ex-

1 cept that the Secretary may endorse or insure any
2 mortgage that was duly executed before such date.

3 “(16) GAO REPORTS.—The Comptroller Gen-
4 eral of the United States shall submit a report to
5 the Congress not later than 2 years after the date
6 of the enactment of this subsection, and annually
7 thereafter, regarding the performance of mortgages
8 insured under this subsection.

9 “(17) IMPLEMENTATION.—The Secretary may
10 implement this subsection on an interim basis by
11 issuing an interim rule, except that the Secretary
12 shall solicit public comments upon publication of
13 such interim rule and shall issue a final rule imple-
14 menting this subsection after consideration of the
15 comments submitted.”.

16 (b) MORTGAGE INSURANCE PREMIUMS.—The second
17 sentence of subparagraph (A) of section 203(c)(2) of the
18 National Housing Act (12 U.S.C. 1709(c)(2)(A)) is
19 amended by striking “In” and inserting “Except with re-
20 spect to a mortgage insured under subsection (l), in”.

21 (c) GENERAL INSURANCE FUND.—Section 519(e) of
22 the National Housing Act (12 U.S.C. 1735c(e)) is amend-
23 ed by striking “and 203(i)” and inserting “, 203(i), and
24 203(l)”.

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