

110TH CONGRESS
1ST SESSION

S. 1386

To amend the Housing and Urban Development Act of 1968, to provide better assistance to low- and moderate-income families, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 14, 2007

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

A BILL

To amend the Housing and Urban Development Act of 1968, to provide better assistance to low- and moderate-income families, 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.**

4 This Act may be cited as the “Homeownership Pro-
5 tection and Enhancement Act of 2007”.

6 **SEC. 2. REFORM OF SECTION 106 OF THE HOUSING AND**
7 **URBAN DEVELOPMENT ACT OF 1968.**

8 Section 106 of the Housing and Urban Development
9 Act of 1968 (12 U.S.C. 1701x) is amended—

1 (1) in subsection (c)—

2 (A) in paragraph (3)—

3 (i) in subparagraph (A)(ii), by strik-
4 ing “; and” and inserting “; or”; and

5 (ii) in subparagraph (A)(iii), by strik-
6 ing “involving principal” and all that fol-
7 lows through “the appraised” and insert-
8 ing “in which a homeowner has total eq-
9 uity equal to less than 3 percent of the ap-
10 praised”;

11 (B) in paragraph (4)—

12 (i) in subparagraph (C)—

13 (I) in clause (i), by striking “;
14 or” and inserting a semicolon;

15 (II) in clause (ii), by striking the
16 period at the end and inserting a
17 semicolon;

18 (III) by adding at the end the
19 following:

20 “(iii) a significant reduction in the in-
21 come of the household due to divorce or
22 death; or

23 “(iv) a significant increase in basic ex-
24 penses of the homeowner or an immediate
25 family member of the homeowner (includ-

1 ing the spouse, child, or parent for whom
 2 the homeowner provides substantial care or
 3 financial assistance) due to—

4 “(I) an unexpected or significant
 5 increase in medical expenses;

6 “(II) a divorce;

7 “(III) unexpected and significant
 8 damage to the property, the repair of
 9 which will not be covered by private or
 10 public insurance;

11 “(IV) a large property-tax in-
 12 crease; or

13 “(V) a large increase in condo-
 14 minium or cooperative fees, dues, or
 15 assessments; or”;

16 (ii) by adding at the end the fol-
 17 lowing:

18 “(D) the Secretary of Housing and Urban
 19 Development determines that the annual in-
 20 come of the homeowner is no greater than the
 21 annual income established by the Secretary as
 22 being of low- or moderate-income.”;

23 (C) in paragraph (5)—

1 (i) by striking subparagraph (A) and
2 inserting a new subparagraph (A) as fol-
3 lows:

4 “(A) NOTIFICATION OF AVAILABILITY OF
5 PRE-PURCHASE HOMEOWNERSHIP COUNSELING,
6 HOMEOWNERSHIP COUNSELING, AND HOME-
7 OWNERSHIP PROTECTION CENTER SERVICES.—

8 “(i) NOTIFICATION TO MORTGAGE AP-
9 PPLICANTS AT TIME OF MORTGAGE APPLI-
10 CATION.—

11 “(I) IN GENERAL.—A proposed
12 mortgagee shall provide notice to any
13 applicant for a mortgage described in
14 paragraph (4).

15 “(II) CONTENT OF NOTICE.—
16 The notice required under subclause
17 (I) shall—

18 “(aa) if provided to an eligi-
19 ble mortgage applicant, state
20 that completion of a counseling
21 program is required for insurance
22 pursuant to section 203 of the
23 National Housing Act (12
24 U.S.C.1709);

1 “(bb) notify the mortgage
2 applicant of the availability of
3 homeownership counseling pro-
4 vided by non-profit organizations
5 approved by the Secretary and
6 experienced in the provision of
7 pre-purchase homeownership
8 counseling, or provide the toll-
9 free telephone number estab-
10 lished by the Secretary under
11 subparagraph (D)(i); and

12 “(cc) notify the mortgage
13 applicant or homeowner by a
14 statement or notice, written in
15 plain English by the Secretary of
16 Housing and Urban Develop-
17 ment, in consultation with the
18 Secretary of Defense and the
19 Secretary of the Treasury, ex-
20 plaining the mortgage and fore-
21 closure rights of servicemembers,
22 and the dependents of such
23 servicemembers, under the
24 Servicemembers Civil Relief Act
25 (50 U.S.C. App. 501 et seq.), in-

1 including the toll-free military one
2 source number to call if
3 servicemembers, or the depend-
4 ents of such servicemembers, re-
5 quire further assistance.

6 “(ii) NOTIFICATION AT TIME OF
7 CLOSING OF AVAILABILITY OF COUNSELING
8 UPON DELINQUENCY AND SERVICES OF
9 STATE HOMEOWNERSHIP PROTECTION
10 CENTERS.—

11 “(I) IN GENERAL.—At the time
12 of closing, and together with the final
13 signed loan documents, a mortgagee
14 shall provide to the homeowner a
15 plain language statement in con-
16 spicuous 16-point type or larger which
17 shall include the following:

18 “(aa) COUNSELING STATE-
19 MENT.—A counseling statement
20 that reads as follows:

21 ‘If you are more than 30 days
22 late on your mortgage payments,
23 your lender or loan servicer is re-
24 quired by law to notify you of
25 agencies approved by the United

1 States Department of Housing
2 and Urban Development (HUD)
3 that may be able to assist you,
4 including the contact information
5 for your State Homeownership
6 Protection Center if there is one
7 operating in your State. Before
8 you miss another mortgage pay-
9 ment, you are strongly encour-
10 aged to contact your lender or
11 loan servicer or one of the agen-
12 cies on the approved list for as-
13 sistance. If you are more than 60
14 days late on your mortgage pay-
15 ments, your lender or loan
16 servicer is required by law to
17 send you a second notification
18 containing this information. In
19 addition, if you are more than 60
20 days late on your mortgage pay-
21 ment and you are registered with
22 a State Homeownership Protec-
23 tion Center, your lender or loan
24 servicer also will be required to
25 notify the Center, so that the

1 Center can contact you regarding
2 any assistance it may be able to
3 provide.

4 “(bb) COUNSELING AGENCY
5 LISTING.—A listing of at least 5
6 housing counseling agencies ap-
7 proved by the Department of
8 Housing and Urban Develop-
9 ment, at least 1 of which is lo-
10 cated in the State in which the
11 property to be mortgaged is lo-
12 cated.

13 “(cc) TOLL-FREE NUM-
14 BER.—The listing of the toll-free
15 telephone number established by
16 the Secretary under subpara-
17 graph (D)(i).

18 “(dd) CONTACT INFORMA-
19 TION FOR STATE HOMEOWNER-
20 SHIP PROTECTION CENTER.—The
21 contact information, including
22 telephone number, email address,
23 and physical address of the State
24 Homeownership Protection Cen-
25 ter, if such a Center is operating

1 in the State in which the prop-
2 erty to be mortgaged is located.

3 “(ee) NOTICE TO
4 SERVICEMEMBERS OR DEPEND-
5 ENTS OF SERVICEMEMBERS.—A
6 statement, written in plain
7 English, drafted by the Secretary
8 of Housing and Urban Develop-
9 ment, in consultation with the
10 Secretary of Defense and the
11 Secretary of the Treasury, ex-
12 plaining the mortgage and fore-
13 closure rights of servicemembers,
14 and the dependents of such
15 servicemembers, under the
16 Servicemembers Civil Relief Act
17 (50 U.S.C. App. 501 et seq.), in-
18 cluding the toll-free military one
19 source number to call if
20 servicemembers, or the depend-
21 ents of such servicemembers, re-
22 quire further assistance.

23 “(ff) SUMMARY OF DUTY TO
24 ENGAGE IN LOSS MITIGATION.—
25 A brief summary of the obliga-

1 tion of the mortgagee to engage
2 in reasonable loss mitigation ac-
3 tivities for the purpose of pro-
4 viding an alternative to fore-
5 closure, including language in-
6 forming the homeowner that the
7 mortgagee's failure to comply
8 with such loss mitigation require-
9 ments constitutes a defense to
10 the foreclosure.

11 “(II) MANNER OF DISCLO-
12 SURE.—

13 “(aa) 1 DOCUMENT.—At the
14 discretion of the mortgagee, the
15 mortgagee may provide all the in-
16 formation required under clause
17 (I) in one single document.

18 “(bb) REQUIRED DESCRIP-
19 TION OF DOCUMENT AT CLOS-
20 ING.—A mortgagee shall briefly
21 describe the document in item
22 (aa) to the homeowner during
23 closing.

24 “(III) OTHER REQUIREMENTS AT
25 TIME OF CLOSING FOR MORTGAGEES

1 OPERATING IN A STATE WHERE A
2 STATE HOMEOWNERSHIP PROTECTION
3 CENTER IS LOCATED.—

4 “(aa) REGISTRATION WITH
5 STATE HOMEOWNERSHIP PRO-
6 TECTION CENTERS.—In addition
7 to the required documents de-
8 scribed in subclauses (I) and (II),
9 at the time of closing the mort-
10 gagee shall explain in writing and
11 verbally that the homeowner’s
12 name and contact information
13 will be registered with a State
14 Homeownership Protection Cen-
15 ter so that the Center can at-
16 tempt to reach the homeowner if
17 the homeowner is 60 days or
18 more late in making any mort-
19 gage payment.

20 “(bb) BROCHURES.—The
21 mortgagee shall distribute to a
22 homeowner any brochure, pam-
23 phlet, or other brief document
24 prepared by the State Home-
25 ownership Protection Center that

1 describes the services provided by
2 the Center.

3 “(cc) DUTY OF MORTGAGEE
4 TO FORWARD INFORMATION.—

5 The mortgagee shall forward to
6 the State Homeownership Protec-
7 tion Center the contact informa-
8 tion of the mortgage applicant
9 and shall agree to notify the Cen-
10 ter if the mortgage payment of
11 the homeowner is or becomes
12 more than 60 days late so that
13 the Center can attempt to reach
14 the homeowner.

15 “(dd) REQUIRED DISCLO-
16 SURES TO THE HOMEOWNER.—

17 Each homeowner shall be in-
18 formed that being registered with
19 a State Homeownership Protec-
20 tion Center under this subclause
21 may provide easier access to as-
22 sistance in case of financial dif-
23 ficulty and that no information
24 that would make it possible to
25 identify the homeowner will be

1 given to any other entity for any
2 reason without the prior approval
3 of the homeowner.

4 “(ee) ADDITIONAL RESPON-
5 SIBILITIES OF MORTGAGEES.—

6 The mortgagee shall note reg-
7 istration with the State Home-
8 ownership Protection Center with
9 the loan information of the home-
10 owner, however such information
11 is stored, and shall ensure that
12 any entity which purchases the
13 loan of the homeowner is aware
14 of where they are registered and
15 the requirement that the State
16 Homeownership Protection Cen-
17 ter be notified if the homeowner
18 is or becomes more than 60 days
19 late on any mortgage payment.

20 “(iii) NOTICE UPON DELINQUENCY OF
21 HOMEOWNER.—

22 “(I) IN GENERAL.—Except as
23 provided in subparagraph (C)—

24 “(aa) if a homeowner be-
25 comes 30 or more days late on

1 any mortgage payment, the mort-
2 gagee shall provide notice in the
3 manner described in clause (iv)
4 to any eligible homeowner who
5 fails to pay any amount within
6 30 days of the date the amount
7 is due under a home loan;

8 “(bb) if a homeowner be-
9 comes 60 or more days late on
10 any mortgage payment, the mort-
11 gagee shall provide notice to the
12 homeowner a second time in the
13 manner described in clause (iv)
14 to any eligible homeowner who
15 fails to pay any amount within
16 60 days of the date the amount
17 is due under a home loan; and

18 “(cc) if a homeowner be-
19 comes 60 or more days late on
20 any mortgage payment, and such
21 homeowner is registered with a
22 State Homeownership Protection
23 Center, the mortgagee shall pro-
24 vide notice to that State Home-
25 ownership Protection Center.

1 “(II) FAILURE TO PROVIDE NO-
2 TICE.—Failure to provide notice to a
3 homeowner or to a State Homeowner-
4 ship Protection Center required under
5 this subsection constitutes a defense
6 to foreclosure.

7 “(iv) CONTENT OF NOTICE UPON DE-
8 LINQUENCY OF HOMEOWNER.—

9 “(I) REGISTERED HOME-
10 OWNERS.—The notice required under
11 clause (iii) for a homeowner registered
12 with a State Homeownership Protec-
13 tion Center shall—

14 “(aa) notify the homeowner
15 of the availability of any home-
16 ownership counseling provided by
17 the mortgagee;

18 “(bb) provide the home-
19 owner a current copy of the
20 statement described in clause
21 (ii)(I) provided to the homeowner
22 at closing; and

23 “(cc) when the homeowner
24 becomes 60 or more days late on
25 any mortgage payment—

1 “(AA) notify the State
2 Homeownership Protection
3 Center with whom the home-
4 owner is registered; and

5 “(BB) provide the Cen-
6 ter with the contact infor-
7 mation of the homeowner.

8 “(II) NON-REGISTERED HOME-
9 OWNERS.—The notice required under
10 clause (iii) for a homeowner not reg-
11 istered with a State Homeownership
12 Protection Center shall—

13 “(aa) notify the homeowner
14 of the availability of any home-
15 ownership counseling provided by
16 the mortgagee; and

17 “(bb) provide the home-
18 owner a current copy of the
19 statement described in clause
20 (ii)(I) provided to the homeowner
21 at closing.

22 “(III) MAILINGS.—When the no-
23 tice required under clause (iii) is sent,
24 the outside of the mailing envelope
25 shall state that such mailing contains

1 federally required information on Fed-
2 eral Government-approved financial
3 counseling agencies.”;

4 (ii) by striking subparagraph (B) and
5 inserting a new subparagraph (B) as fol-
6 lows:

7 “(B) DEADLINE FOR NOTIFICATION.—The
8 notification required in subparagraph (A) shall
9 be made in a manner approved by the Sec-
10 retary.”;

11 (iii) in subparagraph (D)(i)(I), by in-
12 serting “post-purchase” before “home-
13 ownership counseling”; and

14 (iv) by adding at the end the fol-
15 lowing:

16 “(F) NATIONWIDE AVAILABILITY.—The
17 Secretary shall ensure that each State is served
18 by at least one local, regional, or national agen-
19 cy with an office in the State that provides the
20 services described in this paragraph.”;

21 (D) in paragraph (6)(D), by inserting “for
22 a primary residence” before the period;

23 (2) by striking subsection (d) and inserting the
24 following:

1 “(d) GRANTS TO STATES FOR STATE HOMEOWNER-
2 SHIP PROTECTION CENTERS.—

3 “(1) IN GENERAL.—The Secretary shall award
4 grants, on a competitive basis, to State housing fi-
5 nance agencies or any other designated State agen-
6 cy, to enable such agencies to establish and operate
7 State Homeownership Protection Centers.

8 “(2) NOTIFICATION OF FUNDING AVAIL-
9 ABILITY.—The Secretary shall release a Notification
10 of Funding Availability for grants awarded under
11 this subsection for a fiscal year not later than 3
12 months after the date of enactment of the appro-
13 priate Act making appropriations for the Depart-
14 ment of Housing and Urban Development for the
15 fiscal year.

16 “(3) APPLICATION.—

17 “(A) SUBMISSION TO THE SECRETARY.—
18 To be eligible to receive a grant under this sub-
19 section, a State housing finance agency or any
20 other designated State agency shall submit an
21 application to the Secretary, at such time and
22 in such manner as the Secretary may require,
23 and containing such information as the Sec-
24 retary determines necessary—

1 “(i) to determine the ability of such
2 agency to operate a Center; and

3 “(ii) to establish priorities for funding
4 based on need.

5 “(B) ANNOUNCEMENT OF AWARDS.—The
6 Secretary shall announce, within 4 months after
7 the last date for the submission of applications
8 described in subparagraph (A) for a fiscal year,
9 the grants conditionally awarded under this
10 subsection for that fiscal year.

11 “(4) PURPOSE.—The purpose of any State
12 Homeownership Protection Center established under
13 paragraph (1) shall be—

14 “(A) to provide a centralized location for
15 information on, and referral to, public services
16 available to assist a homeowner who is in de-
17 fault on their home loan;

18 “(B) to provide a homeowner with referrals
19 to counseling agencies approved by the Depart-
20 ment of Housing and Urban Development that
21 may be able to assist that homeowner, if that
22 homeowner is in default on their home loan;
23 and

24 “(C) to attempt to contact each home-
25 owner who is registered with the Center who is

1 more than 60 days late on any mortgage pay-
2 ment with the goal of—

3 “(i) determining—

4 “(I) if such homeowner needs as-
5 sistance in avoiding foreclosure on
6 their home; and

7 “(II) what kind of assistance is
8 needed by such homeowner to avoid
9 foreclosure on their home; and

10 “(ii) providing referrals to any appro-
11 priate programs or entities that may be
12 able to provide any such assistance.

13 “(5) HOMEOWNERSHIP PROTECTION CEN-
14 TERS.—

15 “(A) USE OF FUNDS.—Each State housing
16 finance agency or any other designated State
17 agency, who is a recipient of a grant under
18 paragraph (1) may only use such grant
19 amounts to establish and operate State Home-
20 ownership Protection Centers in that State.

21 “(B) REQUIRED ACTIVITIES.—Each State
22 Homeownership Protection Center established
23 under this section shall, at a minimum—

1 “(i) provide a toll-free number
2 through which any homeowner in financial
3 distress can receive—

4 “(I) information on—

5 “(aa) the Center and its
6 services; and

7 “(bb) public programs that
8 provide assistance to home-
9 owners; and

10 “(II) a listing of counseling agen-
11 cies approved by the Department of
12 Housing and Urban Development;

13 “(ii) provide information to home-
14 owners on available community resources
15 relating to homeownership, including—

16 “(I) public assistance or benefits
17 programs;

18 “(II) mortgage assistance pro-
19 grams;

20 “(III) home repair assistance
21 programs;

22 “(IV) legal assistance programs;

23 “(V) utility assistance programs;

24 “(VI) food assistance programs;

25 and

1 “(VII) other Federal, State, or
2 local government funded social serv-
3 ice;

4 “(iii) provide staff who—

5 “(I) are able to conduct a brief
6 assessment of the situation of a home-
7 owner; and

8 “(II) based on such assessment
9 can—

10 “(aa) make appropriate re-
11 ferrals to, and provide applica-
12 tion information regarding, pro-
13 grams that can provide assist-
14 ance to such homeowner; and

15 “(bb) provide a listing of
16 counseling agencies approved by
17 the Department of Housing and
18 Urban Development; and

19 “(iv) provide to any homeowner in fi-
20 nancial distress access to applications for
21 public assistance or benefits program
22 which may be of assistance to such home-
23 owner.

24 “(C) ADDITIONAL ACTIVITIES.—In addi-
25 tion to the services required under subpara-

1 graph (B), each State Homeownership Protec-
2 tion Center shall—

3 “(i) be technologically capable of—

4 “(I) accepting and recording in a
5 secure database the contact informa-
6 tion of any homeowner forwarded to
7 the Center by a mortgagee pursuant
8 to subsection (c)(5)(A)(ii)(III); and

9 “(II) accessing the contact infor-
10 mation described in subclause (I), if
11 the Center is notified by a mortgagee
12 pursuant to subsection
13 (c)(5)(A)(ii)(III) that the homeowner
14 is 60 or more days late in paying any
15 amount due under the home loan of
16 such homeowner;

17 “(ii) if notified by a mortgagee pursu-
18 ant to subsection (c)(5)(A)(ii)(III) that a
19 homeowner who is registered with the Cen-
20 ter is 60 or more days late in paying any
21 amount due under the home loan of such
22 homeowner, attempt to contact such home-
23 owner to provide assistance or suggest
24 public programs or counseling agencies

1 that may provide assistance to the home-
2 owner; and

3 “(iii) not release to the public or to
4 any third party the name of any home-
5 owner who is registered with the Center, or
6 of any person who visits the Center for as-
7 sistance, or any other information that
8 would make it possible to identify such a
9 person, without the prior written consent
10 of such homeowner or person.

11 “(6) GRANTS TO STATES WITH HOMEOWNER-
12 SHIP PROTECTION CENTERS TO ASSIST HOME-
13 OWNERS IN DEFAULT.—

14 “(A) GRANT AUTHORITY.—The Secretary
15 shall award competitive grants to State housing
16 finance agencies, or to any other designated
17 State agency, located in a State with a State
18 Homeownership Protection Center established
19 under paragraph (1), to enable such agencies in
20 partnership with State Homeownership Protec-
21 tion Centers to provide 1-time emergency
22 grants or subsidized loans to eligible home-
23 owners to assist such homeowners in satisfying
24 any amounts past due on their home loans.

1 “(B) NOTIFICATION OF FUNDING AVAIL-
2 ABILITY.—The Secretary shall release a Notifi-
3 cation of Funding Availability for grants award-
4 ed under this paragraph for a fiscal year not
5 later than 3 months after the date of enactment
6 of the appropriate Act making appropriations
7 for the Department of Housing and Urban De-
8 velopment for the fiscal year.

9 “(C) APPLICATION.—

10 “(i) SUBMISSION TO THE SEC-
11 RETARY.—To be eligible to receive a grant
12 under this paragraph a State housing fi-
13 nance agency or any other designated
14 State agency located in a State where a
15 State Homeownership Protection Center is
16 located, shall submit an application to the
17 Secretary at such time and in such manner
18 as the Secretary may require, and con-
19 taining such information as the Secretary
20 determines necessary—

21 “(I) to determine compliance
22 with the requirements and criteria
23 under this paragraph; and

24 “(II) to establish priorities for
25 funding based on need.

1 “(ii) ANNOUNCEMENT OF AWARDS.—

2 The Secretary shall announce, within 4
3 months after the last date for the submis-
4 sion of applications described in this para-
5 graph for a fiscal year, the grants condi-
6 tionally awarded under this paragraph for
7 that fiscal year.

8 “(D) OTHER REQUIREMENTS.—

9 “(i) SEPARATE ACCOUNTS.—To be eli-
10 gible to receive any amounts awarded
11 under this paragraph and prior to pro-
12 viding any emergency grants or subsidized
13 loans, a State housing finance agency or
14 any other designated State agency shall es-
15 tablish a separate account in which such
16 amounts are to be held.

17 “(ii) LIMITED USE.—Any amounts
18 made available for purposes of this para-
19 graph in any appropriations Act shall be
20 used only to provide 1-time emergency
21 grants or subsidized loans to eligible home-
22 owners to assist such homeowners in satis-
23 fying any amounts past due on their home
24 loan as authorized under subparagraph
25 (A).

1 “(iii) REPAYMENT OF LOANS.—Any
2 amounts repaid on a subsidized loan made
3 under this paragraph shall be deposited
4 back into the separate account established
5 under clause (i) from which the loan funds
6 originated.

7 “(iv) OTHER FUNDING.—Amounts do-
8 nated or otherwise directed to be used for
9 purposes of this paragraph may be depos-
10 ited in any separate account established
11 under clause (i) to help capitalize such ac-
12 count.

13 “(E) PROGRAM REQUIREMENTS.—

14 “(i) IN GENERAL.—Each State hous-
15 ing finance agency or any other designated
16 State agency that is a recipient of a grant
17 to assist homeowners in default under this
18 paragraph, in cooperation with the State
19 Homeownership Protection Centers in such
20 State, shall develop program requirements
21 for eligible homeowners seeking a 1-time
22 emergency grant or subsidized loan under
23 this paragraph.

24 “(ii) REQUIRED CONTENT.—The pro-
25 gram requirements developed under clause

1 (i) shall, at a minimum, include the fol-
2 lowing:

3 “(I) That any loan or grant
4 under this paragraph may be provided
5 for up to a four-family owner-occupied
6 residence, including one-family units
7 in a condominium project or a mem-
8 bership interest and occupancy agree-
9 ment in a cooperative housing project,
10 that is used as the principal residence
11 of the applicant seeking such grant or
12 loan.

13 “(II) That each applicant for a
14 loan or grant shall be a permanent
15 resident of the State in which the
16 principal residence of such applicant
17 is located.

18 “(III) That each applicant—

19 “(aa) provide documentation
20 that such applicant either—

21 “(AA) is suffering from
22 financial hardship which is
23 unexpected or due to cir-
24 cumstances beyond the con-
25 trol of the applicant; or

1 “(BB) is eligible for
2 homeownership counseling
3 under subsection (c)(4); and

4 “(bb) offer proof that such
5 applicant is unable, without fi-
6 nancial assistance—

7 “(AA) to correct any
8 delinquency on any amounts
9 past due on the home loan
10 of such applicant within a
11 reasonable time; and

12 “(BB) to make full
13 payment on any home loan
14 payment due within the next
15 30 days.

16 “(IV) That a State Homeowner-
17 ship Protection Center, State housing
18 finance agency, or any other des-
19 ignated State agency, or its designee,
20 has determined, in its discretion, that
21 there is a reasonable prospect that
22 any applicant for a grant or loan
23 under this paragraph will be able to
24 resume full payments on the home
25 loan of such applicant not later than

1 12 months after the date on which
2 such applicant will first receive any
3 grant or loan amounts under this
4 paragraph.

5 “(V) That the applicant has not,
6 at any point prior, and with respect to
7 the same real property, previously re-
8 ceived a grant or loan under this
9 paragraph.

10 “(F) LOAN REQUIREMENTS.—

11 “(i) RATE OF INTEREST.—Any loan
12 under this section shall carry a simple an-
13 nual percentage rate of interest which shall
14 not exceed the prime rate of interest, as
15 such prime rate is determined from time to
16 time by at least 75 percent of the 30 larg-
17 est depository institutions in the Nation.

18 “(ii) NO COMPOUNDING.—Interest on
19 the outstanding principal balance of any
20 loan under this section shall not com-
21 pound.

22 “(iii) BALANCE DUE.—

23 “(I) IN GENERAL.—The principal
24 of any loan made under this para-
25 graph, including any interest accrued

1 on such principal, shall not be due
2 and payable unless—

3 “(aa) the real property se-
4 curing such loan is sold or trans-
5 ferred; or

6 “(bb) the last surviving
7 homeowner of such real property
8 dies.

9 “(II) DEPOSIT OF BALANCE
10 DUE.—If either event described in
11 subclause (I) occurs, the principal of
12 any loan made under this paragraph,
13 including any interest accrued on such
14 principal, shall immediately become
15 due and payable to the State entity
16 from which the loan originated.

17 “(iv) NO PENALTY FOR PREPAY-
18 MENT.—Any homeowner who receives a
19 loan under this paragraph may repay the
20 loan in full, without penalty, by lump sum
21 or by installment payments, at any time
22 prior to the loan becoming due and pay-
23 able.

24 “(v) CAP ON LOAN AMOUNT.—The
25 amount of any loan to any 1 homeowner

1 under this section shall not exceed 20 per-
2 cent of the original mortgage amount bor-
3 rowed by the homeowner.

4 “(vi) SUBORDINATION PERMITTED.—
5 Any loan made under this paragraph will
6 be subordinated to any refinancing of the
7 first mortgage, any preexisting subordinate
8 financing, any purchase money mortgage,
9 or subordinated for any other reason, as
10 determined by the State.

11 “(G) EXISTING LOAN FUNDS.—Any State
12 or State housing finance agency with a pre-
13 viously existing fund established to make loans
14 to assist homeowners in satisfying any amounts
15 past due on their home loan may use funds ap-
16 propriated for purposes of this section for that
17 existing loan fund, even if the eligibility, appli-
18 cation, program, or use requirements for that
19 loan program differ from the eligibility, applica-
20 tion, program, and use requirements of this
21 paragraph, unless such use is expressly deter-
22 mined by the Secretary to be inappropriate.”;

23 (3) in subsection (f)(2)(A), by striking “and
24 rental counselors.” and inserting “counselors in both

1 pre-purchase and post-purchase counseling and in
2 training rental counselors.”; and

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

4 “(g) DUTY TO ENGAGE IN LOSS MITIGATION.—

5 “(1) IN GENERAL.—Upon default of any feder-
6 ally related mortgage, as defined in section 3(1)(B)
7 of the Real Estate Settlement Procedures Act of
8 1974 (12 U.S.C. 2202(1)(B)), a mortgagee shall en-
9 gage in reasonable loss mitigation activities for the
10 purpose of providing an alternative to foreclosure.

11 “(2) DEFENSE TO FORECLOSURE.—A mortga-
12 gee’s failure to comply with the requirements of
13 paragraph (1) constitutes a defense to the fore-
14 closure.

15 “(3) NO FORECLOSURE IF NOTICE OF APPLICA-
16 TION FOR HOME PRESERVATION LOAN.—A mort-
17 gagee shall not initiate or continue a foreclosure—

18 “(A) upon receipt of a written confirma-
19 tion that the homeowner has applied for a home
20 preservation loan under subsection (d)(6); and

21 “(B) for the period of 1 month after re-
22 ceipt of such written confirmation or until the
23 mortgagee is informed, in writing, that the
24 homeowner is not eligible for a home preserva-
25 tion loan, whichever occurs first.

1 “(4) DEFINITION OF LOSS MITIGATION ACTIVI-
2 TIES.—

3 “(A) IN GENERAL.—As used in this sub-
4 section, the term ‘loss mitigation activities’
5 means activities that minimize the potential
6 losses to a homeowner or investor that may re-
7 sult from—

8 “(i) a homeowner’s inability to pay
9 the mortgage payments due on a home
10 loan; and

11 “(ii) any subsequent foreclosure ac-
12 tion.

13 “(B) ALTERNATIVE TO FORECLOSURE.—
14 Loss mitigation activities provide alternatives to
15 foreclosure whenever possible and reasonably
16 ensure the long-term affordability of any mort-
17 gage retained pursuant to such activities.

18 “(C) PROCESS OF MITIGATION.—

19 “(i) IN GENERAL.—Loss mitigation
20 activities involve reasonably analyzing the
21 borrower’s financial situation, evaluating
22 the property value of the property to be
23 mortgaged, and assessing the feasibility of
24 measures including—

1 “(I) waiver of any late payment
2 charge or, if applicable, penalty inter-
3 est;

4 “(II) forbearance pursuant to a
5 written agreement between the bor-
6 rower and the servicer providing for a
7 temporary reduction in monthly pay-
8 ments followed by a reamortization
9 and new repayment schedule including
10 the arrearage;

11 “(III) waiver, modification, or
12 variation of any term of a mortgage,
13 including modifications that change
14 the mortgage rate, forgive the pay-
15 ment of principal or interest, extend
16 the final maturity date of such mort-
17 gage, or begin to include an escrow
18 for taxes and insurance;

19 “(IV) acceptance of payment
20 from the homeowner of an amount
21 less than the stated principal balance
22 in final satisfaction of such mortgage;

23 “(V) assumption;

24 “(VI) pre-foreclosure sale; and

25 “(VII) deed in lieu of foreclosure.

1 “(ii) PRIORITY.—Activities described
2 in subclauses (V), (VI), and (VII) shall
3 only be pursued after a reasonable evalua-
4 tion of the feasibility of activities described
5 in subclause (I), (II), (III), and (IV),
6 based upon the homeowner’s cir-
7 cumstances.

8 “(h) OVERSIGHT OF PUBLIC AND PRIVATE EFFORTS
9 TO REDUCE MORTGAGE DEFAULTS AND FORE-
10 CLOSURES.—

11 “(1) MONITORING OF HOME LOANS.—The Sec-
12 retary, in consultation with the Department of
13 Housing and Urban Development, the Office of the
14 Comptroller of the Currency, the Board of Gov-
15 ernors of the Federal Reserve System, the Federal
16 Deposit Insurance Corporation, the National Credit
17 Union Administration, and the Office of Thrift Su-
18 pervision, shall develop and implement a plan to
19 monitor—

20 “(A) conditions and trends in the mort-
21 gage industry in order to predict, as best as
22 possible, likely future trends in foreclosures;
23 and

24 “(B) the effectiveness of public efforts to
25 reduce mortgage defaults and foreclosures.

1 “(2) ANNUAL REPORT TO CONGRESS ON MONI-
2 TORING OF HOME LOANS.—Not later than 1 year
3 after the development of the plan under paragraph
4 (1), and every year thereafter, the Secretary shall
5 submit a report to Congress that—

6 “(A) summarizes and describes the find-
7 ings of the monitoring required under that sub-
8 paragraph; and

9 “(B) includes recommendations or pro-
10 posals for legislative or administrative action—

11 “(i) to increase the authority of the
12 Secretary to levy penalties against any
13 mortgagee, or other person or entity, who
14 fails to comply with the requirements de-
15 scribed in this section; and

16 “(ii) to improve coordination between
17 various public and private initiatives to re-
18 duce the overall rate of mortgage defaults
19 and foreclosures.

20 “(3) COMPLIANCE PLAN AND REPORT.—The
21 Secretary, in consultation with the Department of
22 Housing and Urban Development, the Office of the
23 Comptroller of the Currency, the Board of Gov-
24 ernors of the Federal Reserve System, the Federal
25 Deposit Insurance Corporation, the National Credit

1 Union Administration, and the Office of Thrift Su-
2 pervision, shall—

3 “(A) develop a plan to monitor the compli-
4 ance with the requirements established in this
5 section by mortgagees and other persons or en-
6 tities; and

7 “(B) report such plan to Congress.

8 “(4) DEVELOPMENT OF A NATIONAL DATABASE
9 ON DEFAULTS AND FORECLOSURES.—

10 “(A) IN GENERAL.—The Secretary, in con-
11 sultation with the Department of Housing and
12 Urban Development, the Office of the Comp-
13 troller of the Currency, the Board of Governors
14 of the Federal Reserve System, the Federal De-
15 posit Insurance Corporation, the National Cred-
16 it Union Administration, and the Office of
17 Thrift Supervision, shall develop recommenda-
18 tions for a national database on mortgage de-
19 faults and foreclosures.

20 “(B) GOALS OF NATIONAL DATABASE.—In
21 developing the recommendations under subpara-
22 graph (A), the Secretary shall consider the
23 goals of such a national database, which are as
24 follows:

1 “(i) To provide Federal regulatory
2 agencies with information on—

3 “(I) mortgagees that generate
4 home loans which go into default or
5 foreclosure at a rate significantly
6 higher than the national average for
7 such mortgagees; and

8 “(II) the various factors associ-
9 ated with those higher rates.

10 “(ii) To provide information to the
11 Federal Government on loans, defaults,
12 foreclosures, and sheriff sales—

13 “(I) which is not otherwise read-
14 ily available;

15 “(II) which would allow for a
16 better understanding of local, re-
17 gional, and national trends in delin-
18 quencies, defaults, and foreclosures;
19 and

20 “(III) so that public policies to
21 reduce defaults and foreclosures may
22 be improved.

23 “(C) REPORT ON OUTCOMES OF HOME
24 LOANS.—

1 “(i) IN GENERAL.—In order to satisfy
2 the requirement set forth in this paragraph
3 and paragraph (1), the Secretary shall pro-
4 mulgate rules within 18 months of the date
5 of enactment of the Homeownership Pro-
6 tection and Enhancement Act of 2007 re-
7 quiring each lender who has originated 100
8 or more loans in the previous calendar year
9 on behalf of itself or another person or en-
10 tity, or each person or entity that has serv-
11 iced 100 or more loans in the previous cal-
12 endar year on behalf of itself or another
13 entity, to report to the Secretary, on an
14 annual basis, whatever data the Secretary,
15 in consultation with the Department of
16 Housing and Urban Development, the Of-
17 fice of the Comptroller of the Currency,
18 the Board of Governors of the Federal Re-
19 serve System, the Federal Deposit Insur-
20 ance Corporation, the National Credit
21 Union Administration, and the Office of
22 Thrift Supervision, deems sufficient to
23 meet the requirements set forth in sub-
24 paragraph (B).

1 “(ii) CONTENT OF REPORT.—At a
2 minimum, each report required under
3 clause (i) shall include data—

4 “(I) using the same identification
5 requirements for each loan for which
6 information is submitted as are estab-
7 lished under the Home Mortgage Dis-
8 closure Act (12 U.S.C. 2801 et seq.)
9 for data reporting, namely—

10 “(aa) year of origination;

11 “(bb) agency code of origi-
12 nator;

13 “(cc) respondent identifica-
14 tion number of originator; and

15 “(dd) the identifying num-
16 ber for the loan;

17 “(II) regarding the characteris-
18 tics of each home loan originated in
19 the preceding 12 months by the lend-
20 er, person, or entity, including—

21 “(aa) loan-to-value ratio at
22 the time of origination for each
23 mortgage on the property;

1 “(bb) whether or not there
2 is an escrow account for taxes
3 and insurance;

4 “(cc) the type of mortgage,
5 such as a fixed-rate or adjust-
6 able-rate mortgage; and

7 “(dd) any other loan or loan
8 underwriting characteristics de-
9 termined by the Secretary, and
10 the regulators with whom the
11 Secretary consults under the
12 terms of subparagraph (C)(i), to
13 be necessary in order to meet the
14 requirements of subparagraph
15 (B) and that are not already
16 available to the Secretary
17 through a national mortgage
18 database;

19 “(III) regarding the performance
20 outcomes of each home loan origi-
21 nated in the preceding 12 months by
22 the lender, person, or entity, includ-
23 ing—

1 “(aa) if such home loan was
2 in delinquency at any point in
3 such 12-month period; and

4 “(bb) if any foreclosure pro-
5 ceeding was initiated on such
6 home loan during such 12-month
7 period;

8 “(IV) sufficient to establish for
9 each home loan that at any point dur-
10 ing the preceding 12 months had be-
11 come 60 or more days delinquent with
12 respect to a payment on any amount
13 due under the home loan, or for which
14 a foreclosure proceeding was initiated,
15 the interest rate on such home loan at
16 the time of such delinquency or fore-
17 closure;

18 “(V) regarding foreclosures, in-
19 cluding—

20 “(aa) the date of all fore-
21 closures initiated by the lender,
22 person, or entity; and

23 “(bb) the combined loan-to-
24 value ratio of all mortgages on a

1 home at the time foreclosure pro-
2 ceedings were initiated; and

3 “(VI) indicating each home loan
4 for which a foreclosure proceeding was
5 completed in the preceding 12
6 months, including—

7 “(aa) foreclosure pro-
8 ceedings initiated in such 12-
9 month period; and

10 “(bb) the date of the fore-
11 closure completion.

12 “(D) REQUIREMENT OF FEDERAL FINAN-
13 CIAL INSTITUTIONS EXAMINATION COUNCIL TO
14 CREATE A CONSOLIDATED DATABASE.—The
15 Federal Financial Institutions Examination
16 Council shall create a consolidated database
17 that establishes a connection between the data
18 provided under the Home Mortgage Disclosure
19 Act (12 U.S.C. 2801 et seq.) and the data pro-
20 vided under this subsection.

21 “(E) REPORT TO CONGRESS ON NATIONAL
22 DATABASE.—Not later than 12 months after
23 the date of enactment of the Homeownership
24 Protection and Enhancement Act of 2007, the
25 Secretary shall report to Congress the rec-

1 ommendations required under subparagraph
2 (A).

3 “(i) RULE OF CONSTRUCTION REGARDING MORTGA-
4 GEES.—As used in this section—

5 “(1) the term ‘mortgagee’—

6 “(A) means the original lender under a
7 mortgage; and

8 “(B) includes—

9 “(i) any servicers, affiliates, agents,
10 subsidiaries, successors, or assignees of
11 such lender; and

12 “(ii) any subsequent purchaser, trust-
13 ee, or transferee of any mortgage or credit
14 instrument issued by such lender; and

15 “(2) the term ‘servicer’ means any person who
16 collects on a home loan, whether they are the owner,
17 the holder, the assignee, the nominee for the loan,
18 or the beneficiary of a trust, or any person acting
19 on behalf of such person.

20 “(j) AUTHORIZATION OF APPROPRIATIONS.—There
21 are authorized to be appropriated to carry out this sec-
22 tion—

23 “(1) \$615,000,000 for fiscal year 2008, of
24 which—

1 “(A) \$300,000,000 shall be for grants to
2 counseling organizations under subsection (e);

3 “(B) \$260,000,000 shall be for competitive
4 grants to States to establish revolving loan
5 funds under subsection (d)(6);

6 “(C) \$50,000,000 shall be for grants to es-
7 tablish and operate State Homeownership Pro-
8 tection Centers under subsection (d)(1); and

9 “(D) \$5,000,000 shall be to create the
10 Federal database under subsection (h)(4);

11 “(2) \$635,000,000 for fiscal year 2009; and

12 “(3) such sums as necessary for each of fiscal
13 years 2010 through 2012.”.

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