

1 **TITLE IV—HOPE FOR**
2 **HOMEOWNERS**

3 **SEC. 1401. SHORT TITLE.**

4 This title may be cited as the “HOPE for Home-
5 owners Act of 2008”.

6 **SEC. 1402. ESTABLISHMENT OF HOPE FOR HOMEOWNERS**
7 **PROGRAM.**

8 (a) ESTABLISHMENT.—Title II of the National Hous-
9 ing Act (12 U.S.C. 1707 et seq.) is amended by adding
10 at the end the following:

11 **“SEC. 257. HOPE FOR HOMEOWNERS PROGRAM.**

12 “(a) ESTABLISHMENT.—There is established in the
13 Federal Housing Administration a HOPE for Home-
14 owners Program.

15 “(b) PURPOSE.—The purpose of the HOPE for
16 Homeowners Program is—

17 “(1) to create an FHA program, participation
18 in which is voluntary on the part of homeowners and
19 existing loan holders to insure refinanced loans for
20 distressed borrowers to support long-term, sustain-
21 able homeownership;

22 “(2) to allow homeowners to avoid foreclosure
23 by reducing the principle balance outstanding, and
24 interest rate charged, on their mortgages;

1 “(3) to help stabilize and provide confidence in
2 mortgage markets by bringing transparency to the
3 value of assets based on mortgage assets;

4 “(4) to target mortgage assistance under this
5 section to homeowners for their principal residence;

6 “(5) to enhance the administrative capacity of
7 the FHA to carry out its expanded role under the
8 HOPE for Homeowners Program;

9 “(6) to ensure the HOPE for Homeowners Pro-
10 gram remains in effect only for as long as is nec-
11 essary to provide stability to the housing market;
12 and

13 “(7) to provide servicers of delinquent mort-
14 gages with additional methods and approaches to
15 avoid foreclosure.

16 “(c) ESTABLISHMENT AND IMPLEMENTATION OF
17 PROGRAM REQUIREMENTS.—

18 “(1) DUTIES OF THE BOARD.—In order to
19 carry out the purposes of the HOPE for Home-
20 owners Program, the Board shall—

21 “(A) establish requirements and standards
22 for the program; and

23 “(B) prescribe such regulations and pro-
24 vide such guidance as may be necessary or ap-

1 “(B) CURRENT BORROWER DEBT-TO-IN-
2 COME RATIO.—As of March 1, 2008, the mort-
3 gagor shall have had a ratio of mortgage debt
4 to income, taking into consideration all existing
5 mortgages of that mortgagor at such time,
6 greater than 31 percent (or such higher amount
7 as the Board determines appropriate).

8 “(2) DETERMINATION OF PRINCIPAL OBLIGA-
9 TION AMOUNT.—The principal obligation amount of
10 the refinanced eligible mortgage to be insured
11 shall—

12 “(A) be determined by the reasonable abil-
13 ity of the mortgagor to make his or her mort-
14 gage payments, as such ability is determined by
15 the Secretary pursuant to section 203(b)(4) or
16 by any other underwriting standards established
17 by the Board; and

18 “(B) not exceed 90 percent of the ap-
19 praised value of the property to which such
20 mortgage relates.

21 “(3) REQUIRED WAIVER OF PREPAYMENT PEN-
22 ALTIES AND FEES.—All penalties for prepayment or
23 refinancing of the eligible mortgage, and all fees and
24 penalties related to default or delinquency on the eli-
25 gible mortgage, shall be waived or forgiven.

1 “(4) EXTINGUISHMENT OF SUBORDINATE
2 LIENS.—

3 “(A) REQUIRED AGREEMENT.—All holders
4 of outstanding mortgage liens on the property
5 to which the eligible mortgage relates shall
6 agree to accept the proceeds of the insured loan
7 as payment in full of all indebtedness under the
8 eligible mortgage, and all encumbrances related
9 to such eligible mortgage shall be removed. The
10 Secretary may take such actions, subject to
11 standards established by the Board under sub-
12 paragraph (B), as may be necessary and appro-
13 priate to facilitate coordination and agreement
14 between the holders of the existing senior mort-
15 gage and any existing subordinate mortgages,
16 taking into consideration the subordinate lien
17 status of such subordinate mortgages.

18 “(B) SHARED APPRECIATION.—

19 “(i) IN GENERAL.—The Board shall
20 establish standards and policies that will
21 allow for the payment to the holder of any
22 existing subordinate mortgage of a portion
23 of any future appreciation in the property
24 secured by such eligible mortgage that is

1 owed to the Secretary pursuant to sub-
2 section (k).

3 “(ii) FACTORS.—In establishing the
4 standards and policies required under
5 clause (i), the Board shall take into consid-
6 eration—

7 “(I) the status of any subordi-
8 nate mortgage;

9 “(II) the outstanding principal
10 balance of and accrued interest on the
11 existing senior mortgage and any out-
12 standing subordinate mortgages;

13 “(III) the extent to which the
14 current appraised value of the prop-
15 erty securing a subordinate mortgage
16 is less than the outstanding principal
17 balance and accrued interest on any
18 other liens that are senior to such
19 subordinate mortgage; and

20 “(IV) such other factors as the
21 Board determines to be appropriate.

22 “(C) VOLUNTARY PROGRAM.—This para-
23 graph may not be construed to require any
24 holder of any existing mortgage to participate

1 in the program under this section generally, or
2 with respect to any particular loan.

3 “(5) TERM OF MORTGAGE.—The refinanced eli-
4 gible mortgage to be insured shall—

5 “(A) bear interest at a single rate that is
6 fixed for the entire term of the mortgage; and

7 “(B) have a maturity of not less than 30
8 years from the date of the beginning of amorti-
9 zation of such refinanced eligible mortgage.

10 “(6) MAXIMUM LOAN AMOUNT.—The principal
11 obligation amount of the eligible mortgage to be in-
12 sured shall not exceed 132 percent of the dollar
13 amount limitation in effect for 2007 under section
14 305(a)(2) of the Federal Home Loan Mortgage Cor-
15 poration Act (12 U.S.C. 1454(a)(2)) for a property
16 of the applicable size.

17 “(7) PROHIBITION ON SECOND LIENS.—A
18 mortgagor may not grant a new second lien on the
19 mortgaged property during the first 5 years of the
20 term of the mortgage insured under this section.

21 “(8) APPRAISALS.—Any appraisal conducted in
22 connection with a mortgage insured under this sec-
23 tion shall—

24 “(A) be based on the current value of the
25 property;

1 “(B) be conducted in accordance with title
2 XI of the Financial Institutions Reform, Recov-
3 ery, and Enforcement Act of 1989 (12 U.S.C.
4 3331 et seq.);

5 “(C) be completed by an appraiser who
6 meets the competency requirements of the Uni-
7 form Standards of Professional Appraisal Prac-
8 tice;

9 “(D) be wholly consistent with the ap-
10 praisal standards, practices, and procedures
11 under section 202(e) of this Act that apply to
12 all loans insured under this Act; and

13 “(E) comply with the requirements of sub-
14 section (g) of this section (relating to appraisal
15 independence).

16 “(9) DOCUMENTATION AND VERIFICATION OF
17 INCOME.—In complying with the FHA underwriting
18 requirements under the HOPE for Homeowners
19 Program under this section, the mortgagee under
20 the mortgage shall document and verify the income
21 of the mortgagor by procuring an Internal Revenue
22 Service transcript of the income tax returns of the
23 mortgagor for the 2 most recent years for which the
24 filing deadline for such years has passed and by any
25 other method, in accordance with procedures and

1 standards that the Board or the Secretary shall es-
2 tablish.

3 “(10) MORTGAGE FRAUD.—The mortgagor
4 shall not have been convicted under any provision of
5 Federal or State law for fraud, including mortgage
6 fraud.

7 “(11) PRIMARY RESIDENCE.—The mortgagor
8 shall provide documentation satisfactory in the de-
9 termination of the Secretary to prove that the resi-
10 dence covered by the mortgage to be insured under
11 this section is occupied by the mortgagor as the pri-
12 mary residence of the mortgagor, and that such resi-
13 dence is the only residence in which the mortgagor
14 has any present ownership interest.

15 “(f) STUDY OF AUCTION OR BULK REFINANCE PRO-
16 GRAM.—

17 “(1) STUDY.—The Board shall conduct a study
18 of the need for and efficacy of an auction or bulk
19 refinancing mechanism to facilitate refinancing of
20 existing residential mortgages that are at risk for
21 foreclosure into mortgages insured under this sec-
22 tion. The study shall identify and examine various
23 options for mechanisms under which lenders and
24 servicers of such mortgages may make bids for for-

1 ward commitments for such insurance in an expe-
2 dited manner.

3 “(2) CONTENT.—

4 “(A) ANALYSIS.—The study required
5 under paragraph (1) shall analyze—

6 “(i) the feasibility of establishing a
7 mechanism that would facilitate the more
8 rapid refinancing of borrowers at risk of
9 foreclosure into performing mortgages in-
10 sured under this section;

11 “(ii) whether such a mechanism would
12 provide an effective and efficient mecha-
13 nism to reduce foreclosures on qualified ex-
14 isting mortgages;

15 “(iii) whether the use of an auction or
16 bulk refinance program is necessary to sta-
17 bilize the housing market and reduce the
18 impact of turmoil in that market on the
19 economy of the United States;

20 “(iv) whether there are other mecha-
21 nisms or authority that would be useful to
22 reduce foreclosure; and

23 “(v) and any other factors that the
24 Board considers relevant.

1 “(B) DETERMINATIONS.—To the extent
2 that the Board finds that a facility of the type
3 described in subparagraph (A) is feasible and
4 useful, the study shall—

5 “(i) determine and identify any addi-
6 tional authority or resources needed to es-
7 tablish and operate such a mechanism;

8 “(ii) determine whether there is a
9 need for additional authority with respect
10 to the loan underwriting criteria estab-
11 lished in this section or with respect to eli-
12 gibility of participating borrowers, lenders,
13 or holders of liens;

14 “(iii) determine whether such under-
15 writing criteria should be established on
16 the basis of individual loans, in the aggre-
17 gate, or otherwise to facilitate the goal of
18 refinancing borrowers at risk of foreclosure
19 into viable loans insured under this sec-
20 tion.

21 “(3) REPORT.—Not later than the expiration of
22 the 60-day period beginning on the date of the en-
23 actment of this section, the Board shall submit a re-
24 port regarding the results of the study conducted
25 under this subsection to the Committee on Financial

1 Services of the House of Representatives and the
2 Committee on Banking, Housing, and Urban Affairs
3 of the Senate. The report shall include a detailed de-
4 scription of the analysis required under paragraph
5 (2)(A) and of the determinations made pursuant to
6 paragraph (2)(B), and shall include any other find-
7 ings and recommendations of the Board pursuant to
8 the study, including identifying various options for
9 mechanisms described in paragraph (1).

10 “(g) APPRAISAL INDEPENDENCE.—

11 “(1) PROHIBITIONS ON INTERESTED PARTIES
12 IN A REAL ESTATE TRANSACTION.—No mortgage
13 lender, mortgage broker, mortgage banker, real es-
14 tate broker, appraisal management company, em-
15 ployee of an appraisal management company, nor
16 any other person with an interest in a real estate
17 transaction involving an appraisal in connection with
18 a mortgage insured under this section shall improv-
19 erly influence, or attempt to improperly influence,
20 through coercion, extortion, collusion, compensation,
21 instruction, inducement, intimidation, nonpayment
22 for services rendered, or bribery, the development,
23 reporting, result, or review of a real estate appraisal
24 sought in connection with the mortgage.

1 “(2) CIVIL MONETARY PENALTIES.—The Sec-
2 retary may impose a civil money penalty for any
3 knowing and material violation of paragraph (1)
4 under the same terms and conditions as are author-
5 ized in section 536(a) of this Act.

6 “(h) STANDARDS TO PROTECT AGAINST ADVERSE
7 SELECTION.—

8 “(1) IN GENERAL.—The Board shall, by rule or
9 order, establish standards and policies to require the
10 underwriter of the insured loan to provide such rep-
11 resentations and warranties as the Board considers
12 necessary or appropriate to enforce compliance with
13 all underwriting and appraisal standards of the
14 HOPE for Homeowners Program.

15 “(2) EXCLUSION FOR VIOLATIONS.—The Board
16 shall prohibit the Secretary from paying insurance
17 benefits to a mortgagee who violates the representa-
18 tions and warranties, as established under para-
19 graph (1), or in any case in which a mortgagor fails
20 to make the first payment on a refinanced eligible
21 mortgage.

22 “(3) OTHER AUTHORITY.—The Board may es-
23 tablish such other standards or policies as necessary
24 to protect against adverse selection, including requir-
25 ing loans identified by the Secretary as higher risk

1 loans to demonstrate payment performance for a
2 reasonable period of time prior to being insured
3 under the program.

4 “(i) PREMIUMS.—For each refinanced eligible mort-
5 gage insured under this section, the Secretary shall estab-
6 lish and collect—

7 “(1) at the time of insurance, a single premium
8 payment in an amount equal to 3 percent of the
9 amount of the original insured principal obligation of
10 the refinanced eligible mortgage, which shall be paid
11 from the proceeds of the mortgage being insured
12 under this section, through the reduction of the
13 amount of indebtedness that existed on the eligible
14 mortgage prior to refinancing; and

15 “(2) in addition to the premium required under
16 paragraph (1), an annual premium in an amount
17 equal to 1.5 percent of the amount of the remaining
18 insured principal balance of the mortgage.

19 “(j) ORIGINATION FEES AND INTEREST RATE.—The
20 Board shall establish—

21 “(1) a reasonable limitation on origination fees
22 for refinanced eligible mortgages insured under this
23 section; and

1 “(2) procedures to ensure that interest rates on
2 such mortgages shall be commensurate with market
3 rate interest rates on such types of loans.

4 “(k) EQUITY AND APPRECIATION.—

5 “(1) FIVE-YEAR PHASE-IN FOR EQUITY AS A
6 RESULT OF SALE OR REFINANCING.—For each eligi-
7 ble mortgage insured under this section, the Sec-
8 retary and the mortgagor of such mortgage shall,
9 upon any sale or disposition of the property to which
10 such mortgage relates, or upon the subsequent refi-
11 nancing of such mortgage, be entitled to the fol-
12 lowing with respect to any equity created as a direct
13 result of such sale or refinancing:

14 “(A) If such sale or refinancing occurs
15 during the period that begins on the date that
16 such mortgage is insured and ends 1 year after
17 such date of insurance, the Secretary shall be
18 entitled to 100 percent of such equity.

19 “(B) If such sale or refinancing occurs
20 during the period that begins 1 year after such
21 date of insurance and ends 2 years after such
22 date of insurance, the Secretary shall be enti-
23 tled to 90 percent of such equity and the mort-
24 gagor shall be entitled to 10 percent of such eq-
25 uity.

1 “(C) If such sale or refinancing occurs
2 during the period that begins 2 years after such
3 date of insurance and ends 3 years after such
4 date of insurance, the Secretary shall be enti-
5 tled to 80 percent of such equity and the mort-
6 gator shall be entitled to 20 percent of such eq-
7 uity.

8 “(D) If such sale or refinancing occurs
9 during the period that begins 3 years after such
10 date of insurance and ends 4 years after such
11 date of insurance, the Secretary shall be enti-
12 tled to 70 percent of such equity and the mort-
13 gator shall be entitled to 30 percent of such eq-
14 uity.

15 “(E) If such sale or refinancing occurs
16 during the period that begins 4 years after such
17 date of insurance and ends 5 years after such
18 date of insurance, the Secretary shall be enti-
19 tled to 60 percent of such equity and the mort-
20 gator shall be entitled to 40 percent of such eq-
21 uity.

22 “(F) If such sale or refinancing occurs
23 during any period that begins 5 years after
24 such date of insurance, the Secretary shall be
25 entitled to 50 percent of such equity and the

1 mortgagor shall be entitled to 50 percent of
2 such equity.

3 “(2) APPRECIATION IN VALUE.—For each eligi-
4 ble mortgage insured under this section, the Sec-
5 retary and the mortgagor of such mortgage shall,
6 upon any sale or disposition of the property to which
7 such mortgage relates, each be entitled to 50 percent
8 of any appreciation in value of the appraised value
9 of such property that has occurred since the date
10 that such mortgage was insured under this section.

11 “(1) ESTABLISHMENT OF HOPE FUND.—

12 “(1) IN GENERAL.—There is established in the
13 Federal Housing Administration a revolving fund to
14 be known as the Home Ownership Preservation En-
15 tity Fund, which shall be used by the Board for car-
16 rying out the mortgage insurance obligations under
17 this section.

18 “(2) MANAGEMENT OF FUND.—The HOPE
19 Fund shall be administered and managed by the
20 Secretary, who shall establish reasonable and pru-
21 dent criteria for the management and operation of
22 any amounts in the HOPE Fund.

23 “(m) LIMITATION ON AGGREGATE INSURANCE AU-
24 THORITY.—The aggregate original principal obligation of

1 all mortgages insured under this section may not exceed
2 \$300,000,000,000.

3 “(n) REPORTS BY THE BOARD.—The Board shall
4 submit monthly reports to the Congress identifying the
5 progress of the HOPE for Homeowners Program, which
6 shall contain the following information for each month:

7 “(1) The number of new mortgages insured
8 under this section, including the location of the
9 properties subject to such mortgages by census
10 tract.

11 “(2) The aggregate principal obligation of new
12 mortgages insured under this section.

13 “(3) The average amount by which the principle
14 balance outstanding on mortgages insured this sec-
15 tion was reduced.

16 “(4) The amount of premiums collected for in-
17 surance of mortgages under this section.

18 “(5) The claim and loss rates for mortgages in-
19 sured under this section.

20 “(6) Any other information that the Board con-
21 siders appropriate.

22 “(o) REQUIRED OUTREACH EFFORTS.—The Sec-
23 retary shall carry out outreach efforts to ensure that
24 homeowners, lenders, and the general public are aware of

1 the opportunities for assistance available under this sec-
2 tion.

3 “(p) ENHANCEMENT OF FHA CAPACITY.—Under
4 the direction of the Board, the Secretary shall take such
5 actions as may be necessary to—

6 “(1) contract for the establishment of under-
7 writing criteria, automated underwriting systems,
8 pricing standards, and other factors relating to eligi-
9 bility for mortgages insured under this section;

10 “(2) contract for independent quality reviews of
11 underwriting, including appraisal reviews and fraud
12 detection, of mortgages insured under this section or
13 pools of such mortgages; and

14 “(3) increase personnel of the Department as
15 necessary to process or monitor the processing of
16 mortgages insured under this section.

17 “(q) GNMA COMMITMENT AUTHORITY.—

18 “(1) GUARANTEES.—The Secretary shall take
19 such actions as may be necessary to ensure that se-
20 curities based on and backed by a trust or pool com-
21 posed of mortgages insured under this section are
22 available to be guaranteed by the Government Na-
23 tional Mortgage Association as to the timely pay-
24 ment of principal and interest.

1 “(2) GUARANTEE AUTHORITY.—To carry out
2 the purposes of section 306 of the National Housing
3 Act (12 U.S.C. 1721), the Government National
4 Mortgage Association may enter into new commit-
5 ments to issue guarantees of securities based on or
6 backed by mortgages insured under this section, not
7 exceeding \$300,000,000,000. The amount of author-
8 ity provided under the preceding sentence to enter
9 into new commitments to issue guarantees is in ad-
10 dition to any amount of authority to make new com-
11 mitments to issue guarantees that is provided to the
12 Association under any other provision of law.

13 “(r) SUNSET.—The Secretary may not enter into any
14 new commitment to insure any refinanced eligible mort-
15 gage, or newly insure any refinanced eligible mortgage
16 pursuant to this section before October 1, 2008 or after
17 September 30, 2011.

18 “(s) DEFINITIONS.—For purposes of this section, the
19 following definitions shall apply:

20 “(1) APPROVED FINANCIAL INSTITUTION OR
21 MORTGAGEE.—The term ‘approved financial institu-
22 tion or mortgagee’ means a financial institution or
23 mortgagee approved by the Secretary under section
24 203 as responsible and able to service mortgages re-
25 sponsibly.

1 “(2) BOARD.—The term ‘Board’ means the
2 Board of Directors of the HOPE for Homeowners
3 Program. The Board shall be composed of the Sec-
4 retary, the Secretary of the Treasury, the Chair-
5 person of the Board of Governors of the Federal Re-
6 serve System, and the Chairperson of the Board of
7 Directors of the Federal Deposit Insurance Corpora-
8 tion.

9 “(3) ELIGIBLE MORTGAGE.—The term ‘eligible
10 mortgage’ means a mortgage—

11 “(A) the mortgagor of which—

12 “(i) occupies such property as his or
13 her principal residence; and

14 “(ii) cannot, subject to subsection
15 (e)(1)(B) and such other standards estab-
16 lished by the Board, afford his or her
17 mortgage payments; and

18 “(B) originated on or before January 1,
19 2008.

20 “(4) EXISTING SENIOR MORTGAGE.—The term
21 ‘existing senior mortgage’ means, with respect to a
22 mortgage insured under this section, the existing
23 mortgage that has superior priority.

24 “(5) EXISTING SUBORDINATE MORTGAGE.—The
25 term ‘existing subordinate mortgage’ means, with re-

1 spect to a mortgage insured under this section, an
2 existing mortgage that has subordinate priority to
3 the existing senior mortgage.

4 “(6) HOPE FOR HOMEOWNERS PROGRAM.—
5 The term ‘HOPE for Homeowners Program’ means
6 the program established under this section.

7 “(7) SECRETARY.—The term ‘Secretary’ means
8 the Secretary of Housing and Urban Development,
9 except where specifically provided otherwise.

10 “(t) REQUIREMENTS RELATED TO THE BOARD.—

11 “(1) COMPENSATION, ACTUAL, NECESSARY,
12 AND TRANSPORTATION EXPENSES.—

13 “(A) FEDERAL EMPLOYEES.—A member
14 of the Board who is an officer or employee of
15 the Federal Government shall serve without ad-
16 ditional pay (or benefits in the nature of com-
17 pensation) for service as a member of the
18 Board.

19 “(B) TRAVEL EXPENSES.—Members of the
20 Board shall be entitled to receive travel ex-
21 penses, including per diem in lieu of subsist-
22 ence, equivalent to those set forth in subchapter
23 I of chapter 57 of title 5, United States Code.

1 “(2) BYLAWS.—The Board may prescribe,
2 amend, and repeal such bylaws as may be necessary
3 for carrying out the functions of the Board.

4 “(3) QUORUM.—A majority of the Board shall
5 constitute a quorum.

6 “(4) STAFF; EXPERTS AND CONSULTANTS.—

7 “(A) DETAIL OF GOVERNMENT EMPLOY-
8 EES.—Upon request of the Board, any Federal
9 Government employee may be detailed to the
10 Board without reimbursement, and such detail
11 shall be without interruption or loss of civil
12 service status or privilege.

13 “(B) EXPERTS AND CONSULTANTS.—The
14 Board shall procure the services of experts and
15 consultants as the Board considers appropriate.

16 “(u) RULE OF CONSTRUCTION RELATED TO VOL-
17 UNTARY NATURE OF THE PROGRAM.—This section shall
18 not be construed to require that any approved financial
19 institution or mortgagee participate in any activity author-
20 ized under this section, including any activity related to
21 the refinancing of an eligible mortgage.

22 “(v) RULE OF CONSTRUCTION RELATED TO INSUR-
23 ANCE OF MORTGAGES.—Except as otherwise provided for
24 in this section or by action of the Board, the provisions
25 and requirements of section 203(b) shall apply with re-

1 spect to the insurance of any eligible mortgage under this
2 section.

3 “(w) HOPE BONDS.—

4 “(1) ISSUANCE AND REPAYMENT OF BONDS.—

5 Notwithstanding section 504(b) of the Federal Cred-
6 it Reform Act of 1990 (2 U.S.C. 661d(b)), the Sec-
7 retary of the Treasury shall—

8 “(A) subject to such terms and conditions
9 as the Secretary of the Treasury deems nec-
10 essary, issue Federal credit instruments, to be
11 known as ‘HOPE Bonds’, that are callable at
12 the discretion of the Secretary of the Treasury
13 and do not, in the aggregate, exceed the
14 amount specified in subsection (m);

15 “(B) provide the subsidy amounts nec-
16 essary for loan guarantees under the HOPE for
17 Homeowners Program, not to exceed the
18 amount specified in subsection (m), in accord-
19 ance with the provisions of the Federal Credit
20 Reform Act of 1990 (2 U.S.C. 661 et seq.), ex-
21 cept as provided in this paragraph; and

22 “(C) use the proceeds from HOPE Bonds
23 only to pay for the net costs to the Federal
24 Government of the HOPE for Homeowners
25 Program, including administrative costs.

1 “(2) REIMBURSEMENTS TO TREASURY.—Funds
2 received pursuant to section 1338(b) of the Federal
3 Housing Enterprises Regulatory Reform Act of
4 1992 shall be used to reimburse the Secretary of the
5 Treasury for amounts borrowed under paragraph
6 (1).

7 “(3) USE OF RESERVE FUND.—If the net cost
8 to the Federal Government for the HOPE for
9 Homeowners Program exceeds the amount of funds
10 received under paragraph (2), remaining debts of
11 the HOPE for Homeowners Program shall be paid
12 from amounts deposited into the fund established by
13 the Secretary under section 1337(e) of the Federal
14 Housing Enterprises Financial Safety and Sound-
15 ness Act of 1992, remaining amounts in such fund
16 to be used to reduce the National debt.

17 “(4) REDUCTION OF NATIONAL DEBT.—
18 Amounts collected under the HOPE for Home-
19 owners Program in accordance with subsections (i)
20 and (k) in excess of the net cost to the Federal Gov-
21 ernment for such Program shall be used to reduce
22 the National debt.”.

1 **SEC. 1403. FIDUCIARY DUTY OF SERVICERS OF POOLED**
2 **RESIDENTIAL MORTGAGE LOANS.**

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

6 **“SEC. 129A. FIDUCIARY DUTY OF SERVICERS OF POOLED**
7 **RESIDENTIAL MORTGAGES.**

8 “(a) IN GENERAL.—Except as may be established in
9 any investment contract between a servicer of pooled resi-
10 dential mortgages and an investor, a servicer of pooled res-
11 idential mortgages—

12 “(1) owes any duty to maximize the net present
13 value of the pooled mortgages in an investment to all
14 investors and parties having a direct or indirect in-
15 terest in such investment, not to any individual
16 party or group of parties; and

17 “(2) shall be deemed to act in the best interests
18 of all such investors and parties if the servicer
19 agrees to or implements a modification or workout
20 plan, including any modification or refinancing un-
21 dertaken pursuant to the HOPE for Homeowners
22 Act of 2008, for a residential mortgage or a class of
23 residential mortgages that constitute a part or all of
24 the pooled mortgages in such investment, provided
25 that any mortgage so modified meets the following
26 criteria:

1 “(A) Default on the payment of such mort-
2 gage has occurred or is reasonably foreseeable.

3 “(B) The property securing such mortgage
4 is occupied by the mortgagor of such mortgage.

5 “(C) The anticipated recovery on the prin-
6 cipal outstanding obligation of the mortgage
7 under the modification or workout plan exceeds,
8 on a net present value basis, the anticipated re-
9 covery on the principal outstanding obligation
10 of the mortgage through foreclosure.

11 “(b) DEFINITION.—As used in this section, the term
12 ‘servicer’ has the same meaning as in section 6(i)(2) of
13 the Real Estate Settlement Procedures Act of 1974 (12
14 U.S.C. 2605(i)(2)).”.

15 **SEC. 1404. REVISED STANDARDS FOR FHA APPRAISERS.**

16 Section 202(e) of the National Housing Act (12
17 U.S.C. 1708(e)) is amended by adding at the end the fol-
18 lowing:

19 “(5) ADDITIONAL APPRAISER STANDARDS.—
20 Beginning on the date of enactment of the Federal
21 Housing Finance Regulatory Reform Act of 2008,
22 any appraiser chosen or approved to conduct ap-
23 praisals for mortgages under this title shall—

24 “(A) be certified—

1 “(i) by the State in which the prop-
2 erty to be appraised is located; or

3 “(ii) by a nationally recognized profes-
4 sional appraisal organization; and

5 “(B) have demonstrated verifiable edu-
6 cation in the appraisal requirements established
7 by the Federal Housing Administration under
8 this subsection.”.

9 **TITLE V—S.A.F.E. MORTGAGE**
10 **LICENSING ACT**

11 **SEC. 1501. SHORT TITLE.**

12 This title may be cited as the “Secure and Fair En-
13 forcement for Mortgage Licensing Act of 2008” or
14 “S.A.F.E. Mortgage Licensing Act of 2008”.

15 **SEC. 1502. PURPOSES AND METHODS FOR ESTABLISHING A**
16 **MORTGAGE LICENSING SYSTEM AND REG-**
17 **ISTRY.**

18 In order to increase uniformity, reduce regulatory
19 burden, enhance consumer protection, and reduce fraud,
20 the States, through the Conference of State Bank Super-
21 visors and the American Association of Residential Mort-
22 gage Regulators, are hereby encouraged to establish a Na-
23 tionwide Mortgage Licensing System and Registry for the
24 residential mortgage industry that accomplishes all of the
25 following objectives:

1 (1) Provides uniform license applications and
2 reporting requirements for State-licensed loan origi-
3 nators.

4 (2) Provides a comprehensive licensing and su-
5 pervisory database.

6 (3) Aggregates and improves the flow of infor-
7 mation to and between regulators.

8 (4) Provides increased accountability and track-
9 ing of loan originators.

10 (5) Streamlines the licensing process and re-
11 duces the regulatory burden.

12 (6) Enhances consumer protections and sup-
13 ports anti-fraud measures.

14 (7) Provides consumers with easily accessible
15 information, offered at no charge, utilizing electronic
16 media, including the Internet, regarding the employ-
17 ment history of, and publicly adjudicated discipli-
18 nary and enforcement actions against, loan origina-
19 tors.

20 (8) Establishes a means by which residential
21 mortgage loan originators would, to the greatest ex-
22 tent possible, be required to act in the best interests
23 of the consumer.

24 (9) Facilitates responsible behavior in the
25 subprime mortgage market place and provides com-