

114TH CONGRESS
1ST SESSION

S. _____

To establish pilot programs to encourage the use of shared equity mortgage modifications, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. MENENDEZ introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To establish pilot programs to encourage the use of shared equity mortgage modifications, 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 “Preserving American
5 Homeownership Act of 2015”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) High national, regional, or local foreclosure
9 rates destabilize the economy, housing market, and
10 neighborhoods of the United States.

1 (2) Shared equity mortgage modifications can
2 provide alternatives to foreclosures that benefit both
3 underwater homeowners and mortgage investors.

4 **SEC. 3. SHARED EQUITY MORTGAGE MODIFICATION PILOT**
5 **PROGRAMS.**

6 (a) DEFINITIONS.—In this section—

7 (1) the term “covered mortgage” means a
8 mortgage—

9 (A) that is—

10 (i) purchased by, guaranteed by, or
11 otherwise sold to the Federal National
12 Mortgage Association, the Government Na-
13 tional Mortgage Association, or the Fed-
14 eral Home Loan Mortgage Corporation; or

15 (ii) insured under title II of the Na-
16 tional Housing Act (12 U.S.C. 1707 et
17 seq.);

18 (B) that is secured by real property that is
19 the primary or secondary residence of a home-
20 owner;

21 (C) that is in an amount that is greater
22 than the appraised value of the real property
23 securing the mortgage on or about the date on
24 which the homeowner is approved to participate
25 in the pilot program under subsection (b);

1 (D) with respect to which the home-
2 owner—

3 (i) is not fewer than 90 days delin-
4 quent; or

5 (ii) is at risk of imminent default;

6 (E) of a homeowner who has a documented
7 financial hardship that prevents or will prevent
8 the homeowner from making mortgage pay-
9 ments; and

10 (F) that may, at the discretion of the Di-
11 rector of the Federal Housing Finance Agency
12 with respect to mortgage-backed securities or
13 participation certificates issued by an enterprise
14 or of the Secretary of Housing and Urban De-
15 velopment with respect to mortgage-backed se-
16 curities issued by the Government National
17 Mortgage Association, respectively, be made
18 part of any security instrument that may com-
19 bine or separate the mortgage note and equity
20 position in the real property securing the mort-
21 gage;

22 (2) the term “enterprise” has the meaning
23 given that term in section 1303 of the Federal
24 Housing Enterprises Financial Safety and Sound-
25 ness Act of 1992 (12 U.S.C. 4502);

1 (3) the term “equity value of the real property”
2 means, with respect to a covered mortgage, the dif-
3 ference between the value of the real property secur-
4 ing the covered mortgage upon the time of sale (or
5 refinance) and the initial principal obligation amount
6 owed on the covered mortgage, less any transaction
7 costs associated with the sale or refinancing, pro-
8 vided that if the equity value is negative at time of
9 sale (or refinance), no payment is due to the inves-
10 tor;

11 (4) the term “homeowner” means the mort-
12 gator under a covered mortgage;

13 (5) the term “investor” means—

14 (A) the mortgagee under a covered mort-
15 gage; or

16 (B) in the case of a covered mortgage that
17 collateralizes an asset-backed security, as de-
18 fined in section 3(a) of the Securities Exchange
19 Act of 1934 (15 U.S.C. 78c(a)), the trustee for
20 the asset-backed security;

21 (6) the term “pilot program” means a pilot pro-
22 gram established under subsection (b); and

23 (7) the term “shared equity mortgage modifica-
24 tion” means a modification of a covered mortgage in
25 accordance with subsection (c).

1 (b) PILOT PROGRAMS ESTABLISHED.—Not later
2 than 1 year after the date of enactment of this Act, the
3 Director of the Federal Housing Finance Agency and the
4 Federal Housing Commissioner shall each establish a pilot
5 program to encourage the use of shared equity mortgage
6 modifications that are designed to return greater net
7 present value to investors than other loss-mitigation activi-
8 ties, including foreclosure.

9 (c) SHARED EQUITY MORTGAGE MODIFICATION.—
10 For purposes of a pilot program, a shared equity mortgage
11 modification shall—

12 (1) reduce the loan-to-value ratio of a covered
13 mortgage to 100 percent or less within 3 years, by
14 reducing the difference between the initial original
15 principal obligation amount owed on the covered
16 mortgage and the reduced principal obligation
17 amount determined by the targeted loan-to-value
18 ratio set forth in this paragraph by $\frac{1}{3}$ at the end
19 of each year for 3 years;

20 (2) reduce the interest rate for a covered mort-
21 gage, if a reduction of principal under paragraph (1)
22 would not result in a reduced monthly payment that
23 is affordable to the homeowner;

24 (3) reduce the amount of any periodic payment
25 required to be made by the homeowner, so that the

1 amount payable by the homeowner is equal to the
2 amount that would be payable by the homeowner if,
3 on the date on which the shared equity mortgage
4 modification takes effect—

5 (A) all reductions of the amount of prin-
6 cipal under paragraph (1) had been made; and

7 (B) any reduction in the interest rate
8 under paragraph (2) for which the covered
9 mortgage is eligible had been made;

10 (4) require the homeowner to pay to the inves-
11 tor upon refinancing or selling the real property se-
12 curing a covered mortgage, a percentage (not to ex-
13 ceed 50 percent) of the equity value of such real
14 property, provided that—

15 (A) the dollar amount due to the investor
16 upon such sale or refinance shall not exceed an
17 amount that is equal to twice the largest dollar
18 amount of the principal reduction that the
19 homeowner achieved as a result of the principal
20 reduction under paragraph (1);

21 (B) the cap established under subpara-
22 graph (A) shall, on February 1 of the year fol-
23 lowing the year of enactment of this Act, and
24 each February 1 thereafter, be adjusted for in-
25 flation, by multiplying the prior year's cap

1 amount by the ratio of the annual average of
2 the Consumer Price Index for All Urban Con-
3 sumers (CPI-U), or a BLS-designated suc-
4 cessor to CPI-U, for the prior calendar year to
5 its annual average for the calendar year 2 years
6 prior; and

7 (C) the investor is permitted to structure
8 the equity-sharing interest that the investor is
9 entitled to receive under this paragraph to be
10 transferrable, including by structuring such in-
11 terest for future sale to other investors;

12 (5) be designed to deliver maximal net present
13 value to the investor, taking into account—

14 (A) the principal reduction under para-
15 graph (1);

16 (B) any interest rate reductions under
17 paragraph (2);

18 (C) expected reductions in foreclosure and
19 in any other costs that may reduce net present
20 value; and

21 (D) the value of the equity sharing interest
22 determined under paragraph (4);

23 (6) be based on factors including the percentage
24 value of any principal reduction under paragraph
25 (1), the amount of any such principal reduction, and

1 any other factors as determined appropriate by the
2 Director of the Federal Housing Finance Agency or
3 the Federal Housing Commissioner, respectively;
4 and

5 (7) require disclosure to the homeowner, before
6 entering into the shared equity mortgage modifica-
7 tion, of—

8 (A) the estimated net present value of the
9 equity sharing interest to be determined under
10 paragraph (4); and

11 (B) any other information as determined
12 appropriate by the Director of the Federal
13 Housing Finance Agency or the Federal Hous-
14 ing Commissioner, respectively.

15 (d) DETERMINATION OF VALUE OF HOME.—

16 (1) IN GENERAL.—For purposes of this section,
17 the value of real property securing a covered mort-
18 gage shall be determined by a licensed appraiser who
19 is independent of and does not otherwise do business
20 with the homeowner, servicer, investor, or an affil-
21 iate of the homeowner, servicer, or investor.

22 (2) TIME FOR DETERMINATION.—The value of
23 real property securing a covered mortgage shall be
24 determined on a date that is as close as practicable

1 to the date on which a homeowner begins to partici-
2 pate in a pilot program.

3 (3) COST.—

4 (A) RESPONSIBILITY FOR COST.—

5 (i) INITIAL COST.—The investor shall
6 pay the cost of an appraisal under para-
7 graph (1).

8 (ii) DEDUCTION FROM HOMEOWNER
9 SHARE.—At the option of the investor, up
10 to one-half of the cost of an appraisal
11 under paragraph (1) may be added to the
12 amount paid by the homeowner to the in-
13 vestor under subsection (c)(4).

14 (B) REASONABLENESS OF COST.—The
15 cost of an appraisal under paragraph (1) shall
16 be reasonable, as determined by the Director of
17 the Federal Housing Finance Agency or the
18 Federal Housing Commissioner, respectively,
19 and consistent with any rule, interpretive guide-
20 line, or general statement of policy issued pur-
21 suant to section 129E of the Truth in Lending
22 Act (15 U.S.C. 1639e).

23 (4) SECOND APPRAISAL.—At the time of refi-
24 nancing or sale of real property securing a covered
25 mortgage, the investor may request a second ap-

1 praisal of the value of the real property, at the ex-
2 pense of the investor, by a licensed appraiser se-
3 lected by the Director of the Federal Housing Fi-
4 nance Agency or the Federal Housing Commis-
5 sioner, respectively, who is independent of and does
6 not otherwise do business with the homeowner,
7 servicer, investor, or an affiliate of the homeowner,
8 servicer, or investor, if the investor believes that the
9 sale price or claimed value at the time of the refi-
10 nancing is not an accurate reflection of the fair mar-
11 ket value of the real property.

12 (e) ELIGIBILITY FOR REDUCTION OF PRINCIPAL.—
13 Each pilot program shall provide that a homeowner is not
14 eligible for a reduction in the amount of principal under
15 a covered mortgage under a shared equity mortgage modi-
16 fication if, after the homeowner begins participating in the
17 pilot program, the homeowner—

18 (1) is delinquent on more than 3 payments
19 under the shared equity mortgage modification dur-
20 ing any of the 3 successive 1-year periods beginning
21 on the date on which the shared equity mortgage
22 modification is made; and

23 (2) fails to be current with all payments de-
24 scribed in paragraph (1) before the end of each 1-
25 year period described in paragraph (1).

1 (f) PARTICIPATION BY SERVICERS.—The Director of
2 the Federal Housing Finance Agency shall require each
3 enterprise to require that any servicer of a covered mort-
4 gage in which the enterprise is an investor participate in
5 the pilot program of the Federal Housing Finance Agency
6 by offering shared equity mortgage modifications to a ran-
7 dom and statistically significant sampling of homeowners
8 with covered mortgages.

9 (g) STUDIES AND REPORTS.—The Director of the
10 Federal Housing Finance Agency and the Federal Hous-
11 ing Commissioner shall—

12 (1) conduct annual studies of the pilot program
13 of the Federal Housing Finance Agency and the
14 Federal Housing Administration, respectively;

15 (2) submit a report to Congress containing the
16 results of each study at the end of each of the 3 suc-
17 cessive 1-year periods beginning on the date on
18 which the pilot program is established; and

19 (3) make publicly available to the maximum ex-
20 tent possible, consistent with the protection of any
21 personal information, and in a timely manner any
22 data generated by the pilot program.