

**TITLE 12 - BANKS AND BANKING**  
**CHAPTER 13 - NATIONAL HOUSING**  
**SUBCHAPTER II - MORTGAGE INSURANCE**

**§ 1715z–23. HOPE for Homeowners Program**

**(a) Establishment**

There is established in the Federal Housing Administration a HOPE for Homeowners Program.

**(b) Purpose**

The purpose of the HOPE for Homeowners Program is—

- (1) to create an FHA program, participation in which is voluntary on the part of homeowners and existing loan holders to insure refinanced loans for distressed borrowers to support long-term, sustainable homeownership;
- (2) to allow homeowners to avoid foreclosure by reducing the principle<sup>1</sup> balance outstanding, and interest rate charged, on their mortgages;
- (3) to help stabilize and provide confidence in mortgage markets by bringing transparency to the value of assets based on mortgage assets;
- (4) to target mortgage assistance under this section to homeowners for their principal residence;
- (5) to enhance the administrative capacity of the FHA to carry out its expanded role under the HOPE for Homeowners Program;
- (6) to ensure the HOPE for Homeowners Program remains in effect only for as long as is necessary to provide stability to the housing market; and
- (7) to provide servicers of delinquent mortgages with additional methods and approaches to avoid foreclosure.

**(c) Establishment and implementation of program requirements**

**(1) Duties of the Board**

In order to carry out the purposes of the HOPE for Homeowners Program, the Board shall—

- (A) establish requirements and standards for the program; and
- (B) prescribe such regulations and provide such guidance as may be necessary or appropriate to implement such requirements and standards.

**(2) Duties of the Secretary**

In carrying out any of the program requirements or standards established under paragraph (1), the Secretary may issue such interim guidance and mortgagee letters as the Secretary determines necessary or appropriate.

**(d) Insurance of mortgages**

The Secretary is authorized upon application of a mortgagee to make commitments to insure or to insure any eligible mortgage that has been refinanced in a manner meeting the requirements under subsection (e).

**(e) Requirements of insured mortgages**

To be eligible for insurance under this section, a refinanced eligible mortgage shall comply with all of the following requirements:

**(1) Lack of capacity to pay existing mortgage**

**(A) Borrower certification**

**(i) In general**

The mortgagor shall provide certification to the Secretary that the mortgagor has not intentionally defaulted on the mortgage or any other debt, and has not knowingly, or

willfully and with actual knowledge, furnished material information known to be false for the purpose of obtaining any eligible mortgage.

**(ii) Penalties**

**(I) False statement**

Any certification filed pursuant to clause (i) shall contain an acknowledgment that any willful false statement made in such certification is punishable under section 1001,<sup>2</sup> of title 18 by fine or imprisonment of not more than 5 years, or both.

**(II) Liability for repayment**

The mortgagor shall agree in writing that the mortgagor shall be liable to repay to the Federal Housing Administration any direct financial benefit achieved from the reduction of indebtedness on the existing mortgage or mortgages on the residence refinanced under this section derived from misrepresentations made in the certifications and documentation required under this subparagraph, subject to the discretion of the Secretary.

**(B) Current borrower debt-to-income ratio**

As of March 1, 2008, the mortgagor shall have had, or thereafter is likely to have, due to the terms of the mortgage being reset, a ratio of mortgage debt to income, taking into consideration all existing mortgages of that mortgagor at such time, greater than 31 percent (or such higher amount as the Board determines appropriate).

**(2) Determination of principal obligation amount**

The principal obligation amount of the refinanced eligible mortgage to be insured shall—

**(A)** be determined by the reasonable ability of the mortgagor to make his or her mortgage payments, as such ability is determined by the Secretary pursuant to section 1709 (b)(4) of this title or by any other underwriting standards established by the Board; and

**(B)** not exceed 90 percent of the appraised value of the property to which such mortgage relates (or such higher percentage as the Board determines, in the discretion of the Board).

**(3) Required waiver of prepayment penalties and fees**

All penalties for prepayment or refinancing of the eligible mortgage, and all fees and penalties related to default or delinquency on the eligible mortgage, shall be waived or forgiven.

**(4) Extinguishment of subordinate liens**

**(A) Required agreement**

All holders of outstanding mortgage liens on the property to which the eligible mortgage relates shall agree to accept the proceeds of the insured loan and any payments made under this paragraph, as payment in full of all indebtedness under the eligible mortgage, and all encumbrances related to such eligible mortgage shall be removed. The Secretary may take such actions, subject to standards established by the Board under subparagraph (B), as may be necessary and appropriate to facilitate coordination and agreement between the holders of the existing senior mortgage and any existing subordinate mortgages, taking into consideration the subordinate lien status of such subordinate mortgages. Such actions may include making payments, which shall be accepted as payment in full of all indebtedness under the eligible mortgage, to any holder of an existing subordinate mortgage, in lieu of any future appreciation payments authorized under subparagraph (B).

**(B) Shared appreciation**

**(i) In general**

The Board shall establish standards and policies that will allow for the payment to the holder of any existing subordinate mortgage of a portion of any future appreciation in

the property secured by such eligible mortgage that is owed to the Secretary pursuant to subsection (k).

**(ii) Factors**

In establishing the standards and policies required under clause (i), the Board shall take into consideration—

- (I)** the status of any subordinate mortgage;
- (II)** the outstanding principal balance of and accrued interest on the existing senior mortgage and any outstanding subordinate mortgages;
- (III)** the extent to which the current appraised value of the property securing a subordinate mortgage is less than the outstanding principal balance and accrued interest on any other liens that are senior to such subordinate mortgage; and
- (IV)** such other factors as the Board determines to be appropriate.

**(C) Voluntary program**

This paragraph may not be construed to require any holder of any existing mortgage to participate in the program under this section generally, or with respect to any particular loan.

**(5) Term of mortgage**

The refinanced eligible mortgage to be insured shall—

- (A)** bear interest at a single rate that is fixed for the entire term of the mortgage; and
- (B)** have a maturity of not less than 30 years from the date of the beginning of amortization of such refinanced eligible mortgage.

**(6) Maximum loan amount**

The principal obligation amount of the eligible mortgage to be insured shall not exceed 132 percent of the dollar amount limitation in effect for 2007 under section 1454 (a)(2) of this title for a property of the applicable size.

**(7) Prohibition on second liens**

A mortgagor may not grant a new second lien on the mortgaged property during the first 5 years of the term of the mortgage insured under this section, except as the Board determines to be necessary to ensure the maintenance of property standards; and provided that such new outstanding liens

- (A)** do not reduce the value of the Government's equity in the borrower's home; and
- (B)** when combined with the mortgagor's existing mortgage indebtedness, do not exceed 95 percent of the home's appraised value at the time of the new second lien.

**(8) Appraisals**

Any appraisal conducted in connection with a mortgage insured under this section shall—

- (A)** be based on the current value of the property;
- (B)** be conducted in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331 et seq.);
- (C)** be completed by an appraiser who meets the competency requirements of the Uniform Standards of Professional Appraisal Practice;
- (D)** be wholly consistent with the appraisal standards, practices, and procedures under section 1708 (e) of this title that apply to all loans insured under this chapter; and
- (E)** comply with the requirements of subsection (g) of this section (relating to appraisal independence).

**(9) Documentation and verification of income**

In complying with the FHA underwriting requirements under the HOPE for Homeowners Program under this section, the mortgagee shall document and verify the income of the mortgagor or non-filing status by procuring

- (A) an income tax return transcript of the income tax returns of the mortgagor, or
- (B) a copy of the income tax returns from the Internal Revenue Service, for the two most recent years for which the filing deadline for such years has passed and by any other method, in accordance with procedures and standards that the Board shall establish.

**(10) Mortgage fraud**

The mortgagor shall not have been convicted under Federal or State law for fraud during the 10-year period ending upon the insurance of the mortgage under this section.

**(11) Primary residence**

The mortgagor shall provide documentation satisfactory in the determination of the Secretary to prove that the residence covered by the mortgage to be insured under this section is occupied by the mortgagor as the primary residence of the mortgagor, and that such residence is the only residence in which the mortgagor has any present ownership interest.

**(f) Study of auction or bulk refinance program**

**(1) Study**

The Board shall conduct a study of the need for and efficacy of an auction or bulk refinancing mechanism to facilitate refinancing of existing residential mortgages that are at risk for foreclosure into mortgages insured under this section. The study shall identify and examine various options for mechanisms under which lenders and servicers of such mortgages may make bids for forward commitments for such insurance in an expedited manner.

**(2) Content**

**(A) Analysis**

The study required under paragraph (1) shall analyze—

- (i) the feasibility of establishing a mechanism that would facilitate the more rapid refinancing of borrowers at risk of foreclosure into performing mortgages insured under this section;
- (ii) whether such a mechanism would provide an effective and efficient mechanism to reduce foreclosures on qualified existing mortgages;
- (iii) whether the use of an auction or bulk refinance program is necessary to stabilize the housing market and reduce the impact of turmoil in that market on the economy of the United States;
- (iv) whether there are other mechanisms or authority that would be useful to reduce foreclosure; and
- (v) and any other factors that the Board considers relevant.

**(B) Determinations**

To the extent that the Board finds that a facility of the type described in subparagraph (A) is feasible and useful, the study shall—

- (i) determine and identify any additional authority or resources needed to establish and operate such a mechanism;
- (ii) determine whether there is a need for additional authority with respect to the loan underwriting criteria established in this section or with respect to eligibility of participating borrowers, lenders, or holders of liens;
- (iii) determine whether such underwriting criteria should be established on the basis of individual loans, in the aggregate, or otherwise to facilitate the goal of refinancing borrowers at risk of foreclosure into viable loans insured under this section.

**(3) Report**

Not later than the expiration of the 60-day period beginning on July 30, 2008, the Board shall submit a report regarding the results of the study conducted under this subsection to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate. The report shall include a detailed description of the analysis required under paragraph (2)(A) and of the determinations made pursuant to paragraph (2)(B), and shall include any other findings and recommendations of the Board pursuant to the study, including identifying various options for mechanisms described in paragraph (1).

**(g) Appraisal independence**

**(1) Prohibitions on interested parties in a real estate transaction**

No mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, nor any other person with an interest in a real estate transaction involving an appraisal in connection with a mortgage insured under this section shall improperly influence, or attempt to improperly influence, through coercion, extortion, collusion, compensation, instruction, inducement, intimidation, nonpayment for services rendered, or bribery, the development, reporting, result, or review of a real estate appraisal sought in connection with the mortgage.

**(2) Civil monetary penalties**

The Secretary may impose a civil money penalty for any knowing and material violation of paragraph (1) under the same terms and conditions as are authorized in section 1735f-14 (a) of this title.

**(h) Standards to protect against adverse selection**

**(1) In general**

The Board shall, by rule or order, establish standards and policies to require the underwriter of the insured loan to provide such representations and warranties as the Board considers necessary or appropriate to enforce compliance with all underwriting and appraisal standards of the HOPE for Homeowners Program.

**(2) Exclusion for violations**

The Board shall prohibit the Secretary from paying insurance benefits to a mortgagee who violates the representations and warranties, as established under paragraph (1), or in any case in which a mortgagor fails to make the first payment on a refinanced eligible mortgage.

**(3) Other authority**

The Board may establish such other standards or policies as necessary to protect against adverse selection, including requiring loans identified by the Secretary as higher risk loans to demonstrate payment performance for a reasonable period of time prior to being insured under the program.

**(i) Premiums**

For each refinanced eligible mortgage insured under this section, the Secretary shall establish and collect—

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

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

**(j) Origination fees and interest rate**

The Board shall establish—

- (1) a reasonable limitation on origination fees for refinanced eligible mortgages insured under this section; and
- (2) procedures to ensure that interest rates on such mortgages shall be commensurate with market rate interest rates on such types of loans.

**(k) Equity and appreciation**

**(1) Five-year phase-in for equity as a result of sale or refinancing**

For each eligible mortgage insured under this section, the Secretary and the mortgagor of such mortgage shall, upon any sale or disposition of the property to which such mortgage relates, or upon the subsequent refinancing of such mortgage, be entitled to the following with respect to any equity created as a direct result of such sale or refinancing:

- (A) If such sale or refinancing occurs during the period that begins on the date that such mortgage is insured and ends 1 year after such date of insurance, the Secretary shall be entitled to 100 percent of such equity.
- (B) If such sale or refinancing occurs during the period that begins 1 year after such date of insurance and ends 2 years after such date of insurance, the Secretary shall be entitled to 90 percent of such equity and the mortgagor shall be entitled to 10 percent of such equity.
- (C) If such sale or refinancing occurs during the period that begins 2 years after such date of insurance and ends 3 years after such date of insurance, the Secretary shall be entitled to 80 percent of such equity and the mortgagor shall be entitled to 20 percent of such equity.
- (D) If such sale or refinancing occurs during the period that begins 3 years after such date of insurance and ends 4 years after such date of insurance, the Secretary shall be entitled to 70 percent of such equity and the mortgagor shall be entitled to 30 percent of such equity.
- (E) If such sale or refinancing occurs during the period that begins 4 years after such date of insurance and ends 5 years after such date of insurance, the Secretary shall be entitled to 60 percent of such equity and the mortgagor shall be entitled to 40 percent of such equity.
- (F) If such sale or refinancing occurs during any period that begins 5 years after such date of insurance, the Secretary shall be entitled to 50 percent of such equity and the mortgagor shall be entitled to 50 percent of such equity.

**(2) Appreciation in value**

For each eligible mortgage insured under this section, the Secretary and the mortgagor of such mortgage shall, upon any sale or disposition of the property to which such mortgage relates, each be entitled to 50 percent of any appreciation in value of the appraised value of such property that has occurred since the date that such mortgage was insured under this section.

**(l) Establishment of HOPE Fund**

**(1) In general**

There is established in the Federal Housing Administration a revolving fund to be known as the Home Ownership Preservation Entity Fund, which shall be used by the Board for carrying out the mortgage insurance obligations under this section.

**(2) Management of Fund**

The HOPE Fund shall be administered and managed by the Secretary, who shall establish reasonable and prudent criteria for the management and operation of any amounts in the HOPE Fund.

**(m) Limitation on aggregate insurance authority**

The aggregate original principal obligation of all mortgages insured under this section may not exceed \$300,000,000,000.

**(n) Reports by the Board**

The Board shall submit monthly reports to the Congress identifying the progress of the HOPE for Homeowners Program, which shall contain the following information for each month:

- (1) The number of new mortgages insured under this section, including the location of the properties subject to such mortgages by census tract.
- (2) The aggregate principal obligation of new mortgages insured under this section.
- (3) The average amount by which the principle<sup>1</sup> balance outstanding on mortgages insured this section was reduced.
- (4) The amount of premiums collected for insurance of mortgages under this section.
- (5) The claim and loss rates for mortgages insured under this section.
- (6) Any other information that the Board considers appropriate.

**(o) Required outreach efforts**

The Secretary shall carry out outreach efforts to ensure that homeowners, lenders, and the general public are aware of the opportunities for assistance available under this section.

**(p) Enhancement of FHA capacity**

Under the direction of the Board, the Secretary shall take such actions as may be necessary to—

- (1) contract for the establishment of underwriting criteria, automated underwriting systems, pricing standards, and other factors relating to eligibility for mortgages insured under this section;
- (2) contract for independent quality reviews of underwriting, including appraisal reviews and fraud detection, of mortgages insured under this section or pools of such mortgages; and
- (3) increase personnel of the Department as necessary to process or monitor the processing of mortgages insured under this section.

**(q) GNMA commitment authority**

**(1) Guarantees**

The Secretary shall take such actions as may be necessary to ensure that securities based on and backed by a trust or pool composed of mortgages insured under this section are available to be guaranteed by the Government National Mortgage Association as to the timely payment of principal and interest.

**(2) Guarantee authority**

To carry out the purposes of section 1721 of this title, the Government National Mortgage Association may enter into new commitments to issue guarantees of securities based on or backed by mortgages insured under this section, not exceeding \$300,000,000,000. The amount of authority provided under the preceding sentence to enter into new commitments to issue guarantees is in addition to any amount of authority to make new commitments to issue guarantees that is provided to the Association under any other provision of law.

**(r) Sunset**

The Secretary may not enter into any new commitment to insure any refinanced eligible mortgage, or newly insure any refinanced eligible mortgage pursuant to this section before October 1, 2008<sup>3</sup> or after September 30, 2011.

**(s) Definitions**

For purposes of this section, the following definitions shall apply:

**(1) Approved financial institution or mortgagee**

The term “approved financial institution or mortgagee” means a financial institution or mortgagee approved by the Secretary under section 1709 of this title as responsible and able to service mortgages responsibly.

**(2) Board**

The term “Board” means the Board of Directors of the HOPE for Homeowners Program. The Board shall be composed of the Secretary, the Secretary of the Treasury, the Chairperson of the Board of Governors of the Federal Reserve System, and the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation, or their designees.

**(3) Eligible mortgage**

The term “eligible mortgage” means a mortgage—

(A) the mortgagor of which—

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

(ii) cannot, subject to subsection (e)(1)(B) and such other standards established by the Board, afford his or her mortgage payments; and

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

**(4) Existing senior mortgage**

The term “existing senior mortgage” means, with respect to a mortgage insured under this section, the existing mortgage that has superior priority.

**(5) Existing subordinate mortgage**

The term “existing subordinate mortgage” means, with respect to a mortgage insured under this section, an existing mortgage that has subordinate priority to the existing senior mortgage.

**(6) HOPE for Homeowners Program**

The term “HOPE for Homeowners Program” means the program established under this section.

**(7) Secretary**

The term “Secretary” means the Secretary of Housing and Urban Development, except where specifically provided otherwise.

**(t) Requirements related to the Board**

**(1) Compensation, actual, necessary, and transportation expenses**

**(A) Federal employees**

A member of the Board who is an officer or employee of the Federal Government shall serve without additional pay (or benefits in the nature of compensation) for service as a member of the Board.

**(B) Travel expenses**

Members of the Board shall be entitled to receive travel expenses, including per diem in lieu of subsistence, equivalent to those set forth in subchapter I of chapter 57 of title 5.

**(2) Bylaws**

The Board may prescribe, amend, and repeal such bylaws as may be necessary for carrying out the functions of the Board.

**(3) Quorum**

A majority of the Board shall constitute a quorum.

**(4) Staff; experts and consultants**

**(A) Detail of Government employees**

Upon request of the Board, any Federal Government employee may be detailed to the Board without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

**(B) Experts and consultants**

The Board shall procure the services of experts and consultants as the Board considers appropriate.

**(u) Rule of construction related to voluntary nature of the program**

This section shall not be construed to require that any approved financial institution or mortgagee participate in any activity authorized under this section, including any activity related to the refinancing of an eligible mortgage.

**(v) Rule of construction related to insurance of mortgages**

Except as otherwise provided for in this section or by action of the Board, the provisions and requirements of section 1709 (b) of this title shall apply with respect to the insurance of any eligible mortgage under this section.

**(w) HOPE Bonds****(1) Issuance and repayment of bonds**

Notwithstanding section 504(b) of the Federal Credit Reform Act of 1990 [2 U.S.C. 661c (b)], the Secretary of the Treasury shall—

(A) subject to such terms and conditions as the Secretary of the Treasury deems necessary, issue Federal credit instruments, to be known as “HOPE Bonds”, that are callable at the discretion of the Secretary of the Treasury and do not, in the aggregate, exceed the amount specified in subsection (m);

(B) provide the subsidy amounts necessary for loan guarantees under the HOPE for Homeowners Program, not to exceed the amount specified in subsection (m), in accordance with the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.), except as provided in this paragraph; and

(C) use the proceeds from HOPE Bonds only to pay for the net costs to the Federal Government of the HOPE for Homeowners Program, including administrative costs and payments pursuant to subsection (e)(4)(A).

**(2) Reimbursements to Treasury**

Funds received pursuant to section 4568 (b) of this title shall be used to reimburse the Secretary of the Treasury for amounts borrowed under paragraph (1).

**(3) Use of reserve fund**

If the net cost to the Federal Government for the HOPE for Homeowners Program exceeds the amount of funds received under paragraph (2), remaining debts of the HOPE for Homeowners Program shall be paid from amounts deposited into the fund established by the Secretary under section 4567 (e) of this title, remaining amounts in such fund to be used to reduce the National debt.

**(4) Reduction of National debt**

Amounts collected under the HOPE for Homeowners Program in accordance with subsections (i) and (k) in excess of the net cost to the Federal Government for such Program shall be used to reduce the National debt.

**Footnotes**

<sup>1</sup> So in original. Probably should be “principal”.

<sup>2</sup> So in original. The comma probably should not appear.

<sup>3</sup> So in original. Probably should be followed by a comma.

(June 27, 1934, ch. 847, title II, § 257, as added Pub. L. 110–289, div. A, title IV, § 1402(a), July 30, 2008, 122 Stat. 2800; amended Pub. L. 110–343, div. A, title I, § 124, Oct. 3, 2008, 122 Stat. 3791.)

**References in Text**

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989, referred to in subsec. (e)(8)(B), is Pub. L. 101–73, Aug. 9, 1989, 103 Stat. 183. Title XI of the Act is classified principally to chapter 34A (§ 3331 et seq.) of

*NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscpri.html>).*

this title. For complete classification of this Act to the Code, see Short Title of 1989 Amendment note set out under section 1811 of this title and Tables.

The Federal Credit Reform Act of 1990, referred to in subsec. (w)(1)(B), is title V of Pub. L. 93–344, as added by Pub. L. 101–508, title XIII, § 13201(a), Nov. 5, 1990, 104 Stat. 1388–609, which is classified generally to subchapter III (§ 661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

Section 4568 (b) of this title, referred to in subsec. (w)(2), was in the original “section 1338(b) of the Federal Housing Enterprises Regulatory Reform Act of 1992”, and was translated as meaning section 1338(b) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, which is classified to section 4568 (b) of this title, to reflect the probable intent of Congress.

### **Codification**

Another section 257 of act June 27, 1934, ch. 847, is classified to section 1715z–24 of this title.

### **Amendments**

2008—Subsec. (e)(1)(B). Pub. L. 110–343, § 124(1)(A), inserted “, or thereafter is likely to have, due to the terms of the mortgage being reset,” before “a ratio”.

Subsec. (e)(2)(B). Pub. L. 110–343, § 124(1)(B), inserted “(or such higher percentage as the Board determines, in the discretion of the Board)” before period at end.

Subsec. (e)(4)(A). Pub. L. 110–343, § 124(1)(C), inserted “and any payments made under this paragraph,” after “insured loan” and inserted “Such actions may include making payments, which shall be accepted as payment in full of all indebtedness under the eligible mortgage, to any holder of an existing subordinate mortgage, in lieu of any future appreciation payments authorized under subparagraph (B).” at end.

Subsec. (w)(1)(C). Pub. L. 110–343, § 124(2), inserted “and payments pursuant to subsection (e)(4)(A)” before period at end.