
H.R. 3221 HOUSING AND ECONOMIC RECOVERY ACT OF 2008

KEY PROVISIONS

MAXIMUM PRINCIPAL LOAN OBLIGATION

The bill establishes a single national loan limit for HECMs at the maximum principal loan obligation, effectively raising the limit on the size of reverse mortgages FHA can insure to \$417,000.

For HECMs, the FHA loan limit is either \$417,000 or 115% of area median home values, whichever is the greater of the two. To make GSE loans more available in high cost areas, the nationwide ceiling is raised to \$625,500 (150% of \$417,000). High cost areas are based on the Metropolitan Statistical Areas (MSA) defined by the U.S. Office of Management and Budget (OMB), whose standards are reviewed and revised every ten years, prior to each decennial census. Loan limits for all MSAs and counties may be found on [HUD's website](#).

The loan limit may not to exceed 100% of the appraised value of the property. The changes do not take effect until the temporary loan limits created in section 202(a) of the [Economic Stimulus Act of 2008 \(Public Law 110-185; 122 Stat. 620\)](#) expire on December 31, 2008.

ORIGINATION FEES

Establishes limitation on the origination fees that may be charged. Limitations on the Origination Fee:

- 2.0% on the initial maximum claim amount of \$200,000
- 1% on the balance of the maximum claim amount that is greater than \$200,000, with a max. origination fee of \$6,000,
 - The maximum limit may be adjusted to reflect changes in the annual percentage increases in the Consumer Price Index (CPI). Adjustments to the limit would be in increments of \$500 and would only occur when the percentage increase in the CPI produces more than a \$500 increase to the maximum origination fee.
- Subject to a minimum allowable amount
- May be fully financed with the mortgage
- May include any fees paid to HUD approved correspondent mortgagees

The provision is effective concurrently with adjustments to the limitation on the principal obligation.

HECM FOR HOME PURCHASE

The bill authorizes FHA to insure HECMs that are used to purchase a new home. The HECM may be used to purchase a 1- to 4-family dwelling unit where one unit serves as the primary residence of the mortgagor. The HECM loan must provide for any future payments to the mortgagor, based on available

equity and the principal obligation cannot exceed the dollar limitation for a 1-family residence under section 305(a)(2) (12 U.S.C. 1454(a)(2)).

COUNSELING

The bill inserts requirements on counseling protocols, funding and practices that promote independence and quality in counseling.

Expands counseling practices to state that adequate counseling must be provided by an independent third party that is not, either directly or indirectly, associated with or compensated by a party involved in:

- originating or servicing the mortgage
- funding the loan underlying the mortgage
- the sale of annuities, investments, long-term care insurance, or any other type of financial or insurance product

Sect. 255 of National Housing Act (12 U.S.C. 1715z-20(d)(2)(B)) currently reads: “[mortgagor] has received adequate counseling by a third party (other than the lender) as provided in subsection (f) of this section.”

The bill clarifies that Counseling must be provided by counselors that meet qualification standards and follow uniform counseling protocols established by HUD; HUD must establish these qualification standards and counseling protocols within 12 months of enactment of this Act. The protocols required to be discussed with the mortgagor remain unchanged.

A portion of the mortgage insurance premiums (MIP) may be used to adequately fund the counseling and disclosure activities, including counseling for those homeowners who elect not to take out a HECM; use of the MIP must be based upon accepted actuarial principles.

PROHIBITION ON PURCHASE OF ANNUITIES AND OTHER PRODUCTS

The purchase of insurance, annuity, or other similar product may NOT be a requirement or condition of eligibility for a reverse mortgage. However, the purchase of title insurance, hazard, flood, or other peril insurance, or other such products that are customary and normal may be required.

RESTRICTIONS ON CROSS-SELLING OF PRODUCTS

The bill places restrictions around cross-selling financial products. Specifically, anyone participating in the origination of a mortgage may not participate in, be associated with, or employ any party that participates in or is associated with any other financial or insurance activity.

Mortgage Originators must have firewalls and other safeguards in place that demonstrate that they have (1) no involvement with, or incentive to provide the mortgagor with, any other financial or insurance product, and (2) that the mortgagor is not required, either directly or indirectly, to purchase any other financial or insurance product to obtain a reverse mortgage.

All parties that participate in the origination of a reverse mortgage must be approved by HUD.

CONSUMER PROTECTION STUDY

The bill requires the HUD Secretary to conduct a study examining consumer protections and underwriting standards. The specific focus will be to determine whether the use of reverse mortgage funds to purchase insurance, annuities, or similar financial products is appropriate for the consumer. The Secretary is required to consult diverse groups ranging from consumer advocates (including recognized experts in consumer protection), industry representatives, representatives of counseling organizations, and other interested parties.

STUDY ON COSTS & AVAILABILITY OF REVERSE MORTGAGES

The bill requires the Comptroller General conduct a study into the program costs and availability of credit under the HECM program. This report is to be completed and submitted to the Senate Committee on Banking, Housing, and Urban Affairs and the House Financial Services Committee within 12 months from the bills enactment.

The stated purpose is to analyze the impact limiting the current costs or fees associated with HECM loans would have on the program. The study would examine:

- the cost to mortgagors
- the financial soundness of the program
- the availability of credit under the program
- the costs to elderly homeowners, including—
 - MIPs charged
 - up-front fees
 - margin rates

HECM FOR COOPERATIVES

The bill includes product provisions that allow HECMs to be used for Cooperatives.

NO ELIMINATION OF THE CAP

There is no elimination to the cap on the number of mortgages that FHA can insure.

The elimination of the cap that had been addressed in the House bill passed on April 8, 2008 was removed.

H.R. 3221 E.A.H. p. 44, line 23:

"(c) FHA Reverse Mortgage Program--Section 255(g) of the National Housing Act (12 U.S.C. 1715z-20(g)) is amended by striking the first sentence."

Sect. 255(g) of National Housing Act (12 U.S.C. 1715z-20(g)) remains unchanged and reads:

"Limitation on insurance authority. The aggregate number of mortgages insured under this section may not exceed 275,000. In no case may the benefits of insurance under this section exceed the maximum dollar amount established under section 1709(b)(2) of this title for 1-family residences in the area in which the dwelling is subject to the mortgage under this section is located."

OTHER NOTABLE PROVISIONS

H.R. 3221 is a comprehensive package that aims to stabilize the housing finance market, ensure the availability of affordable home loans, and provide the stand-by authority to permit temporary federal intervention. Some of these measures include mortgage refinancing assistance to prevent the foreclosure of homes, as well as the creation of a permanent Housing Trust Fund to increase and preserve the supply of rental housing and homeownership opportunities for low and very low income families. Additional major provisions have been noted below.

S.A.F.E. MORTGAGE LICENSING ACT SEC. TITLE 5 SEC. 1501

Establishes and sets minimum standards for nationwide loan originator licensing and registration system for loan originator licensing to improve the oversight of mortgage brokers and bank loan officers.

The bill encourages the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators to establish a Nationwide Mortgage Licensing System and Registry for the residential mortgage industry. Accordingly, when an individual applies to any State for licensing and registration as a State-licensed loan originator they should minimally supply personal information to the Nationwide Mortgage Licensing System and Registry to conduct background checks, which should include authorization to obtain credit reports as well as fingerprints for submission to the F.B.I., or other authorized government agencies.

The minimum standards for licensing and registration as a State-licensed loan originator are to include:

- no previous revocations of a loan originator licenses
- a clean record for 7 years preceding application, and at no point prior, may the applicant have any indications of a felony involving acts of fraud, dishonesty, breach of trust, or money laundering in their past
- a pre-licensing education requirements must be met; the education requirements are established by the Nationwide Mortgage Licensing System and Registry and include, but are not limited to, education on Federal law and regulations, ethics (fraud, consumer protection, fair lending issues), and training related to lending standards for nontraditional mortgage products
- a written test is required and must be passed with a minimum of 75% correct
- the applicant must meet either a net worth or surety bond requirement, or paid into a State fund, as required by the State

STRENGTHENS FANNIE MAE AND FREDDIE MAC

The Secretary of the Treasury given the authority to increase already existing lines of credit to Fannie and Freddie for the next 18 months and provides the Treasury Department the authority to buy stock in the organizations.

The bill creates a new independent agency, the Federal Housing Finance Agency (FHFA), to oversee GSE operations and provides FHFA with the flexible authority to establish minimum and risk-based capital requirements.