

S 1376

FHA Solvency Act of 2013

Congress: 113 (2013–2015, Ended)

Chamber: Senate

Policy Area: Housing and Community Development

Introduced: Jul 25, 2013

Current Status: Placed on Senate Legislative Calendar under General Orders. Calendar No. 275.

Latest Action: Placed on Senate Legislative Calendar under General Orders. Calendar No. 275. (Dec 19, 2013)

Official Text: <https://www.congress.gov/bill/113th-congress/senate-bill/1376>

Sponsor

Name: Sen. Johnson, Tim [D-SD]

Party: Democratic • **State:** SD • **Chamber:** Senate

Cosponsors (1 total)

Cosponsor	Party / State	Role	Date Joined
Sen. Crapo, Mike [R-ID]	R · ID		Jul 25, 2013

Committee Activity

Committee	Chamber	Activity	Date
Banking, Housing, and Urban Affairs Committee	Senate	Reported By	Dec 19, 2013

Subjects & Policy Tags

Policy Area:

Housing and Community Development

Related Bills

Bill	Relationship	Last Action
113 S 469	Related bill	Jun 18, 2013: Committee on Banking, Housing, and Urban Affairs Subcommittee on Housing, Transportation, and Community Development. Hearings held. With printed Hearing: S.Hrg. 113-61.

FHA Solvency Act of 2013 - (Sec. 2) Amends the National Housing Act with respect to mortgage insurance.

Requires the Secretary of Housing and Urban Development (Secretary) (HUD) (who currently is merely authorized) to establish and collect annual premium payments in an amount between 0.55% and 2.0% (currently, not exceeding 1.5%) of the remaining insured principal balance.

Directs the Secretary to review annually the amount of the annual and up-front premiums collected and the expected losses to the Mutual Mortgage Insurance (MMI) Fund.

(Sec. 3) Prohibits the Secretary from insuring, or entering into a commitment to insure, a mortgage executed by a mortgagor who is the mortgagor under any two mortgages on one- to four-family residential properties that have previously been foreclosed upon.

Sec. 4) Authorizes the Secretary to require a mortgagee to indemnify HUD for the loss if a mortgage executed by an approved or insured mortgagee contains such a material defect that the mortgage should not have been approved or endorsed for insurance, and a loan becomes delinquent within 36 months of such approval or endorsement leading to a default, or the Secretary pays a claim within 36 months after such approval or endorsement, regardless of whether the violation caused the mortgage default. Requires the Secretary to deposit any indemnified amounts collected in the MMI Fund .

Directs the Secretary, if fraud or misrepresentation was involved in connection with the origination, to require the mortgagee approved under the direct endorsement program or the mortgagee delegated authority to indemnify the Secretary for the loss regardless of when an insurance claim is paid. Exempts a mortgagee from mandatory indemnification, however, if: (1) the fraud or misrepresentation was committed not by the mortgagee but by a third party; and (2) the mortgagee had implemented adequate quality control and review procedures to deter, detect, and identify such fraud or misrepresentation.

Requires the Secretary to issue regulations establishing: (1) appropriate requirements and procedures governing indemnification by mortgagees, including public reporting; and (2) an appeals process to appeal any determination of indemnification made by the Secretary.

(Sec. 5) Changes the mandatory annual review of the rate of early defaults and claims for insured single family mortgages originated or underwritten by each mortgagee to a mandatory annual review of the mortgagees originating or underwriting insured single family mortgages.

Expands the bases the Secretary uses to compare mortgage performance and authorizes the Secretary to terminate a mortgage's approval on a national basis instead of (as at present) only in a specific geographical area.

(Sec 6) Authorizes the Secretary to issue rules requiring an underperforming servicer to contract with an independent specialty subservicer for a single mortgage or any pool of mortgages.

Limits this rule to: (1) mortgages insured under the National Housing Act that were originated on or after the enactment of this Act, and (2) servicers whose performance condition materially and adversely affects the Secretary's ability to recover any amounts owed to the Secretary.

(Sec. 7) Requires the Secretary to issue a single, uniform resource guide to inform lenders and servicers of the policies,

processes, and procedures applicable to insured mortgages. Directs the Secretary to: (1) evaluate and revise as necessary the underwriting standards for mortgages eligible to be insured, and (2) ensure that the MMI Fund attains a capital ratio of at least 3% (currently 2%) within 10 years after the enactment of this Act and maintains it at all times thereafter. Authorizes appropriations.

(Sec. 8) Directs the Secretary evaluate and revise as necessary, by mortgagee letter or rule, the underwriting standards for mortgages eligible for insurance, which shall: (1) be based on empirically derived, demonstrably and statistically sound models; and (2) include criteria whose evaluation has historically resulted in comparatively low rates of delinquency and default during adverse economic conditions.

(Sec. 9) Directs the Secretary to ensure that the MMI Fund: (1) attains a capital ratio of at least 3.0% within 10 years after enactment of this Act the FHA Solvency Act of 2013, and (2) maintains at least such capital ratio at all times thereafter.

Requires the MMI Fund to be designated as: (1) undercapitalized if the capital reserve ratio falls below 100% but not less than 50%, (2) significantly undercapitalized if it falls below 50% but not less than 0%, and (3) critically undercapitalized if it falls below 0%.

Directs the Secretary to report to Congress updates on the results of the annual independent actuarial study of the MMI Fund required to: (1) reflect the most recently available information; and (2) analyze the Fund's financial position if it is designated as undercapitalized, significantly undercapitalized, or critically undercapitalized until it achieves the capital ratio required to be maintained.

Specifies mandatory corrective actions, including imposition of premium surcharges according to a certain schedule, when the MMI Fund is undercapitalized, significantly undercapitalized, or critically undercapitalized.

(Sec. 10) Requires the Secretary's annual report to Congress on the independent actuarial study of the MMI Fund to include an alternative stress test scenario based on relative assumptions used in the annual Comprehensive Capital Analysis and Review stress tests performed by the Board of Governors of the Federal Reserve System. Requires the Secretary to develop the alternative stress test of the MMI Fund.

(Sec. 11) Directs the Secretary of the Treasury to provide written notice to Congress within 48 hours of exercising any authority under the Federal Credit Reform Act of 1990 to fund reestimates of the MMI Fund, or of certain other HUD or FHA accounts. Directs the Secretary to: (1) provide written notice to Congress within 48 hours of receiving funds pursuant to such authority to cover a downward estimate, and (2) include in any mandatory report to Congress the dollar figure of any amounts owed by HUD to the Treasury as a result of the exercise of such authority.

Requires such notices to be made available to the public and posted on HUD and Treasury websites.

(Sec. 12) Amends the Department of Housing and Urban Development Act to establish, within FHA, a Deputy Assistant Secretary and Chief Risk Officer, appointed by the Secretary and responsible to the Federal Housing Commissioner for all matters relating to managing and mitigating risk to HUD mortgage insurance funds and ensuring the performance of HUD-insured mortgages.

Requires such official to report annually to Congress on underwriting standards for HUD-insured mortgages, including the lowest performing loans.

(Sec. 13) Amends the National Housing Act to require the Secretary to require the independent actuary to disclose any events or circumstances that occur after the annual actuarial study is completed but before it is submitted to Congress, if

such changes are sufficiently significant that a reasonable person would expect them to alter substantially the actuary's forecasts of the economic value of the Fund or any projections relating to the Fund's capital reserve ratio. Requires the Secretary to inform Congress of any such disclosures.

(Sec. 14) Requires the Comptroller General (GAO) to study any relevant FHA information disclosed by the Secretary in conjunction with the release of the annual actuarial report.

(Sec. 15) Amends the National Housing Act with respect to the eligibility requirements for insurance for home equity conversion mortgages (HECMs) (reverse mortgages) for elderly homeowners. Requires a mortgage to contain terms and provisions relating to property maintenance, the establishment of escrow accounts or set-asides, the limiting of amounts of any payment made available under the mortgage, and the performance of financial assessments.

Amends the Reverse Mortgage Stabilization Act of 2013 to authorize the Secretary to establish by notice or mortgage letter requirements pertaining to escrow accounts or set-asides, financial assessments, or mortgage payment limits.

Directs the Secretary to require the establishment of an escrow account or set-aside in any instance where, after a financial assessment of the mortgagor has been completed, such an account or set-aside would mitigate the risk of loss to the mortgagee, the mortgagor, the program, or the MMI Fund.

Terminates the Secretary's authority to change an HECM by mortgage letter 24 months after the enactment of this Act.

Directs the Secretary to issue a notice of proposed rulemaking within 90 days after issuing a notice or mortgagee letter which addresses the same additional or alternative requirements that are the subject of the notice or mortgagee letter. Requires the Secretary then within 24 months after issuing such a notice to: (1) issue a final rule addressing those same additional or alternative requirements, or (2) withdraw the notice or mortgagee letter.

Directs the Secretary to issue a notice of proposed rulemaking that: (1) eliminates the use, issuance, or establishment of any standard fixed-rate full draw product offered under the HECM program; and (2) requires any other fixed-rate draw product offered under the HECM program not subject to such elimination to be based on a financial assessment of the mortgagor.

Directs the Secretary, on a quarterly basis, to report to the Congress on the status and financial condition of each distinct product offered under the HECM program.

Requires the Secretary, if any individual product has a default rate measurably higher than the default rates occurring in any other product or is experiencing losses measurably higher than losses incurred in any other product, to study the product further and include in the next quarterly report: (1) information identifying and enumerating the causes of such higher default rates and the severity of losses, and (2) a detailed description of the actions to be taken to correct such inefficiencies.

(Sec. 16) Revises requirements for insuring an HECM that will be used to purchase a 1- to 4-family dwelling unit, one unit of which the mortgagor will occupy as a primary residence. Prohibits a fixed rate HECM in this circumstance from involving a principal limit with a principal limit factor exceeding .61.

(Sec. 17) Directs the Secretary within 90 days after enactment of this Act to issue the final rule to implement a specified proposed rule entitled "Federal Housing Administration (FHA) Risk Management Initiatives: Revised Seller Concessions." Requires the Secretary to ensure that the final rule: (1) limits seller contributions towards purchase-related expenses of a borrower without reducing the maximum insured amount of an insured mortgage; and (2) defines the acceptable types of

expenses that a seller or interested third party, or both, may contribute, such as closing costs, prepaid expenses, discount points, up-front mortgage insurance premiums, and interest rate buydowns.

(Sec. 18) Directs the Comptroller General to conduct a one-time study to determine the appropriate dollar amount limitation on the maximum original principal obligation of a mortgage that may be insured under the National Housing Act

Actions Timeline

- **Dec 19, 2013:** Committee on Banking, Housing, and Urban Affairs. Reported by Senator Johnson SD, with amendments. With written report No. 113-129.
- **Dec 19, 2013:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 275.
- **Jul 31, 2013:** Committee on Banking, Housing, and Urban Affairs. Ordered to be reported with amendments favorably.
- **Jul 25, 2013:** Introduced in Senate
- **Jul 25, 2013:** Read twice and referred to the Committee on Banking, Housing, and Urban Affairs.