[DISCUSSION DRAFT]

112TH CONGRESS
1ST SESSION

H. R. _______

To

IN THE HOUSE OF REPRESENTATIVES

M. ______ introduced the following bill; which was referred to the
Committee on __________________________

____________________

A BILL

To

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 AND TABLE OF CONTENTS.
4 (a) SHORT TITLE.—This Act may be cited as the
5 “FHA-Rural Regulatory Improvement Act of 2011”.
6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Required capital ratios for General and Special Risk Insurance Funds.
Sec. 3. FHA downpayment requirement of 5 percent and prohibition of financ-
ing of closing costs.
Sec. 4. FHA mortgage limits.
Sec. 5. FHA annual mortgage insurance premiums.
Sec. 6. Indemnification by FHA mortgagees.
Sec. 7. Delegation of FHA insuring authority.
Sec. 8. Authority to terminate FHA mortgagee origination and underwriting approval.
Sec. 9. Authorization to participate in the origination of FHA-insured loans.
Sec. 10. Deputy Assistant Secretary of FHA for Risk Management and Regulatory Affairs.
Sec. 11. Report on streamlining FHA programs.
Sec. 12. Establishment of Chief Financial Officer for GNMA.
Sec. 13. HUD management of rural housing programs.

SEC. 2. REQUIRED CAPITAL RATIOS FOR GENERAL AND SPECIAL RISK INSURANCE FUNDS.

(a) SPECIAL RISK INSURANCE FUND.—Subsection (b) of section 238 of the National Housing Act (12 U.S.C. 1715z–3(b)) is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following new paragraph:

"(2)(A) The Secretary shall ensure that the Special Risk Insurance Fund attains a capital ratio of not less than 1.25 percent within 24 months after the date of the enactment of this paragraph, and maintains such ratio thereafter, subject to subparagraph (B).

"(B) The Secretary shall ensure that the Special Risk Insurance Fund attains a capital ratio of not less than 2.0 percent within 5 years after the date of the enactment of this paragraph, and shall ensure that the Fund maintains at least such capital ratio at all times thereafter.

"(C) Upon the expiration of the 24-month period beginning on the date of the enactment of this paragraph, the Secretary shall submit to the Congress a report de-
scribing the actions the Secretary will take to ensure that
the Special Risk Insurance Fund attains the capital ratios
required under subparagraph (B).

“(D) For purposes of this paragraph, the following
definitions shall apply:

“(i) The term ‘capital’ means the economic net
worth of the Special Risk Insurance Fund, as deter-
mined by the Secretary under the annual audit re-
quired under section 538.

“(ii) The term ‘capital ratio’ means the ratio of
capital to unamortized insurance-in-force on out-
standing mortgages that are obligations of the Spe-
cial Risk Insurance Fund.

“(iii) The term ‘economic net worth’ means the
current cash available to the Special Risk Insurance
Fund, plus the net present value of all future cash
inflows and outflows expected to result from the out-
standing mortgages in the Fund.

“(iv) The term ‘unamortized insurance-in-force’
means the remaining obligation on outstanding
mortgages that are obligations of the Special Risk
Insurance Fund, as estimated by the Secretary.”.

(b) GENERAL RISK INSURANCE FUND.—Section 519
of the National Housing Act (12 U.S.C. 1735c) is amend-
ed by adding at the end the following new subsection:
“(g) REQUIRED CAPITAL RATIO.—

“(1) TRANSITION RATIO.—The Secretary shall ensure that the General Insurance Fund attains a capital ratio of not less than 1.25 percent within 24 months after the date of the enactment of this subsection, and maintains such ratio thereafter, subject to paragraph (2).

“(2) PERMANENT RATIO.—The Secretary shall ensure that the General Insurance Fund attains a capital ratio of not less than 2.0 percent within 5 years after the date of the enactment of this subsection, and shall ensure that the Fund maintains at least such capital ratio at all times thereafter.

“(3) REPORT.—Upon the expiration of the 24-month period beginning on the date of the enactment of this subsection, the Secretary shall submit to the Congress a report describing the actions the Secretary will take to ensure that the General Insurance Fund attains the capital ratios required under paragraph (2).

“(4) DEFINITIONS.—For purposes of this paragraph, the following definitions shall apply:

“(A) The term ‘capital’ means the economic net worth of the General Insurance
Fund, as determined by the Secretary under the annual audit required under section 538.

"(B) The term ‘capital ratio’ means the ratio of capital to unamortized insurance-in-force on outstanding mortgages that are obligations of the General Insurance Fund.

"(C) The term ‘economic net worth’ means the current cash available to the General Insurance Fund, plus the net present value of all future cash inflows and outflows expected to result from the outstanding mortgages in the Fund.

"(D) The term ‘unamortized insurance-in-force’ means the remaining obligation on outstanding mortgages that are obligations of the General Insurance Fund, as estimated by the Secretary.”.

SEC. 3. FHA DOWNPAYMENT REQUIREMENT OF 5 PERCENT AND PROHIBITION OF FINANCING OF CLOSING COSTS.

Section 203 of the National Housing Act (12 U.S.C. 1709) is amended—

(1) in subsection (b)(9)(A), by striking “3.5 percent” and inserting “5.0 percent”; and
(2) in subsections (b)(2) and (k)(3)(A), by striking "(including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve)" each place such term appears and inserting "(which may not include any initial service charges, appraisal, inspection, or other fees or closing costs as the Secretary shall prohibit)."

SEC. 4. FHA MORTGAGE LIMITS.

(a) IN GENERAL.—Paragraph (2) of section 203(b) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended—

(1) by striking subparagraph (A) and inserting the following:

"(A) not to exceed the lesser of—

"(i) in the case of a 1-family residence, 125 percent of the median 1-family house price in the county in which the property subject to the mortgage is located, as determined by the Secretary, and in the case of a 2-, 3-, or 4-family residence, such percentage of such median price as the Secretary shall by regulation establish; and

"(ii) 150 percent of the dollar amount limitation specified in the sixth sentence of
section 305(a)(2) of the Federal Home Loan Mortgage Corporation (12 U.S.C. 1454(a)(2)) for a residence of the applicable size, without regard to any annual adjustment provided for in such sentence; and

(2) in the matter following subparagraph (B), by striking "For purposes of the preceding sentence" and all that follows through "highest such median price."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect upon the expiration of the 6-month period beginning on the date of the enactment of this Act.

SEC. 5. FHA ANNUAL MORTGAGE INSURANCE PREMIUMS.

(a) IN GENERAL.—Subparagraph (B) of section 203(c)(2) of the National Housing Act (12 U.S.C. 1709(c)(2)(B)) is amended in the matter preceding clause (i)—

(1) by striking "may" and inserting "shall";

(2) by striking "not exceeding 1.5 percent" and inserting "not less than 0.55 percent"; and

(3) by inserting "and not exceeding 1.5 percent of such remaining insured principal balance" before "for the following periods:".
(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect upon the expiration of the 6-month period beginning on the date of the enactment of this Act.

SEC. 6. INDEMNIFICATION BY FHA MORTGAGEES.

Section 202 of the National Housing Act (12 U.S.C. 1708) is amended by adding at the end the following new subsection:

“(i) INDEMNIFICATION BY MORTGAGEES.—

“(1) IN GENERAL.—If the Secretary determines that a mortgage executed by a mortgagee approved by the Secretary under the direct endorsement program or insured by a mortgagee pursuant to the delegation of authority under section 256 was not originated or underwritten in accordance with the requirements established by the Secretary, and the Secretary pays an insurance claim with respect to the mortgage within a reasonable period specified by the Secretary, the Secretary may require the mortgagee approved by the Secretary under the direct endorsement program or the mortgagee delegated authority under section 256 to indemnify the Secretary for the loss.

“(2) FRAUD OR MISREPRESENTATION.—If fraud or misrepresentation was involved in connec-
tion with the origination or underwriting, the Secretary may require the mortgagee approved by the Secretary under the direct endorsement program or the mortgagee delegated authority under section 256 to indemnify the Secretary for the loss regardless of when an insurance claim is paid.

"(3) REQUIREMENTS AND PROCEDURES.—The Secretary shall issue regulations establishing appropriate requirements and procedures governing the indemnification of the Secretary by the mortgagee."

SEC. 7. DELEGATION OF FHA INSURING AUTHORITY.

Section 256 of the National Housing Act (12 U.S.C. 1715z–21) is amended—

(1) by striking subsection (c);

(2) in subsection (e), by striking "including" and all that follows through "by the mortgagee";

and

(3) by redesignating subsections (d) and (e) as subsections (e) and (d), respectively.

SEC. 8. AUTHORITY TO TERMINATE FHA MORTGAGEE ORIGINATION AND UNDERWRITING APPROVAL.

Section 533 of the National Housing Act (12 U.S.C. 1735f–11) is amended—
(1) in the first sentence of subsection (b), by inserting “or areas or on a nationwide basis” after “area” each place such term appears; and

(2) in subsection (e), by striking “(c)” and all that follows through “The Secretary” in the first sentence of paragraph (2) and inserting the following:

“(c) TERMINATION OF MORTGAGEE ORIGINATION AND UNDERWRITING APPROVAL.—

“(1) TERMINATION AUTHORITY.—If the Secretary determines, under the comparison provided in subsection (b), that a mortgagee has a rate of early defaults and claims that is excessive, the Secretary may terminate the approval of the mortgagee to originate or underwrite single family mortgages for any area, or areas, or on a nationwide basis, notwithstanding section 202(c) of this Act.

“(2) PROCEDURE.—The Secretary”.

SEC. 9. AUTHORIZATION TO PARTICIPATE IN THE ORIGINATION OF FHA-INSURED LOANS.

(a) SINGLE FAMILY MORTGAGES.—Section 203(b) of the National Housing Act (12 U.S.C. 1709(b)) is amended by striking paragraph (1) and inserting the following new paragraph:
“(1) Have been made to a mortgagee approved by the Secretary or to a person or entity authorized by the Secretary under section 202(d)(1) to participate in the origination of the mortgage, and be held by a mortgagee approved by the Secretary as responsible and able to service the mortgage properly.”.

(b) Home Equity Conversion Mortgages.—Section 255(d) of the National Housing Act (12 U.S.C. 1715z–20(d)) is amended by striking paragraph (1) and inserting the following new paragraph:

“(1) have been originated by a mortgagee approved by, or by a person or entity authorized under section 202(d)(1) to participate in the origination by, the Secretary;”.

Sec. 10. Deputy Assistant Secretary of FHA for Risk Management and Regulatory Affairs.

(a) Establishment of Position.—Subsection (b) of section 4 of the Department of Housing and Urban Development Act (42 U.S.C. 3533(b)) is amended—

(1) by inserting “(1)” after “(b)”; and

(2) by adding at the end the following new paragraph:

“(2) There shall be in the Department, within the Federal Housing Administration, a Deputy Assistant Sec-
retary for Risk Management and Regulatory Affairs, who
shall be appointed by the Secretary and shall be respon-
sible to the Federal Housing Commissioner for all matters
relating to managing and mitigating risk to the mortgage
insurance funds of the Department and ensuring the per-
formance of mortgages insured by the Department.”.

(b) TERMINATION.—Upon the appointment and con-
firmation of the initial Deputy Assistant Secretary for
Risk Management and Regulatory Affairs pursuant to sec-
tion 4(b)(2) of the Department of Housing and Urban De-
velopment Act, as amended by subsection (a) of this sec-
tion, the position of chief risk officer within the Federal
Housing Administration, filled by appointment by the
Federal Housing Commissioner, is abolished.

SEC. 11. REPORT ON STREAMLINING FHA PROGRAMS.

(a) EXAMINATION.—The Secretary of Housing and
Urban Development shall conduct an examination of the
mortgage insurance and any other programs of the Fed-
eral Housing Administration to identify—

(1) the level of use and need for such programs;
(2) any such programs that are unused or
underused; and
(3) methods for streamlining, consolidating,
simplifying, increasing the efficiency of, and reduc-
ing the number of such programs.
(b) REPORT.—Not later than the expiration of the
12-month period that begins upon the date of the enact-
ment of this Act, the Secretary shall submit a report to
the Congress on the results of the examination conducted
pursuant to subsection (a), including recommendations for
any administrative and legislative actions to streamline,
consolidate, simplify, increase the efficiency of, and reduce
the number of such programs.

SEC. 12. ESTABLISHMENT OF CHIEF FINANCIAL OFFICER
FOR GNMA.

Section 4 of the Department of Housing and Urban
Development Act (42 U.S.C. 3533) is amended by adding
after subsection (g), as added by section 1442 of the Dodd
Frank Wall Street Reform and Consumer Protection Act
(Public Law 111–203; 124 Stat. 2163), the following new
subsection:

“(h) There shall be in the Department a Chief Finan-
cial Office for the Government National Mortgage Asso-
ciation, who shall—

“(1) be designated by the Secretary;

“(2) have the same authority, responsibilities,
and functions with respect to such Association as a
Chief Financial Officer of an agency referred to in
subsection 901(b)(2) of title 31, United States Code,
has under section 902 of such title with respect to such agency;

"(3) be in the competitive service or the senior executive service;

"(4) be a career appointee;

"(5) be designated from among individuals who possess demonstrated ability in general management of, and knowledge of and extensive practical experience in financial management practices in large governmental or business entities;

"(6) shall not be required to obtain the prior approval, comment, or review of any officer or agency of the United States before submitting to the Congress, or any committee or subcommittee thereof, any reports, recommendations, testimony, or comments if such submission include a statement indicating that the views expressed therein are those of the Chief Financial Officer of the Government National Mortgage Association and do not necessarily represent the views of the Secretary.”.

SEC. 13. HUD MANAGEMENT OF RURAL HOUSING PROGRAMS.

(a) DEFINITIONS.—For purposes of this section, the following definitions shall apply:
(1) DEPARTMENT.—The term “Department” means the Department of Housing and Urban Development.

(2) SERVICE.—The term “Service” means the Rural Housing Service of the Department of Agriculture, including any office, organizational unit, program, and function of such Service.

(3) SECRETARY.—The term “Secretary” means the Secretary of Housing and Urban Development.

(4) TRANSITION PERIOD.—The term “transition period” means the 18-month period beginning on the date of the enactment of this Act.

(b) ESTABLISHMENT OF DEPUTY ASSISTANT SECRETARY FOR RURAL HOUSING.—Section 4 of the Department of Housing and Urban Development Act (42 U.S.C. 3533), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

“(i) There shall be in the Department a Deputy Assistant Secretary for Rural Housing, who shall be designated by the Secretary, shall be located within the Office of Housing, and shall administer, under the supervision and direction of the Secretary and the Assistant Secretary responsible for housing, all departmental programs relating to rural housing, including all programs transferred to
the Department by section 7 of the FHA-Rural Regulatory Improvement Act of 2011.”

c) TRANSFER OF FUNCTIONS.—Not later than the expiration of the transition period and in accordance with this section, there shall be transferred to the Secretary of Housing and Urban Development all functions, personnel, assets, and liabilities of the Rural Housing Service of the Department of Agriculture, including all functions of the Secretary of Agriculture relating thereto and all functions of the Secretary of Agriculture under the following provisions of law:

(1) Title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.).

(2) Section 925(b) of the Housing and Community Development Act of 1992 (42 U.S.C. 1471 note).


d) TRANSFER PLAN.—

(1) SUBMISSION OF PLAN.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Housing and Urban Development shall
transmit to the Congress a reorganization plan regarding the following:

(A) The transfer of the Service pursuant to subsection (c).

(B) Any consolidation, reorganization, or streamlining of the Service transferred to the Department of Housing and Urban Development pursuant to this subsection (c).

(2) PLAN ELEMENTS.—The plan transmitted under paragraph (1) shall contain such elements as the Secretary deems appropriate, including the following:

(A) Identification of any functions of the Service transferred to the Department pursuant to this section that will not be transferred to the Department under the plan.

(B) Specification of the actions to be taken by the Secretary to organize the offices, organizational units, programs, and functions of the Service within the Department of Housing and Urban Development, including the delegation or assignment of functions transferred to the Department among officers of the Department in order to permit the Department to carry out the functions transferred under the plan.
(C) Specification of the funds available to the Service that will be transferred to the Department as a result of transfers under the plan.

(D) Specification of the proposed allocations within the Department of unexpended funds transferred in connection with transfers under the plan.

(E) Specification of any proposed disposition of property, facilities, contracts, records, and other assets and obligations of the Service transferred under the plan.

(F) Specification of the proposed allocations within the Department of the functions of the Service that are not related directly to rural housing assistance.

3 MODIFICATION OF PLAN.—The President may, on the basis of consultations with the appropriate congressional committees, modify or revise any part of the plan under this subsection until that part of the plan takes effect in accordance with paragraph (4).

4 EFFECTIVE DATE.—

(A) IN GENERAL.—The reorganization plan described in this subsection, including any
modifications or revisions of the plan pursuant to paragraph (3), shall become effective for the Service on the earlier of—

(i) the date specified in the plan (or the plan as modified pursuant to paragraph (3)), except that such date may not be earlier than 90 days after the date the President has transmitted the reorganization plan to the appropriate congressional committees pursuant to paragraph (1); or

(ii) the end of the transition period.

(B) RULE OF CONSTRUCTION.—Nothing in this paragraph may be construed to require the transfer of functions, personnel, records, balances of appropriations, or other assets of the service on a single date.

(C) INAPPLICABILITY OF EXECUTIVE REORGANIZATION PROVISION.—Subparagraph (A) shall apply notwithstanding section 905(b) of title 5, United States Code.

(e) TRANSITIONAL AUTHORITIES.—

(1) PROVISION OF ASSISTANCE BY OFFICIALS.—Until the transfer of the Service to the Department, any official having authority over or functions relating to the Service immediately before the
effective date of this section shall provide to the Sec-
retary such assistance, including the use of person-
nel and assets, as the Secretary may request in
preparing for the transfer and integration of the
Service into the Department.

(2) SERVICES AND PERSONNEL.—During the
transition period, upon the request of the Secretary,
the head of any executive agency may, on a reim-
bursement basis, provide services or detail personnel to
assist with the transition.

(3) ACTING OFFICIALS.—Nothing in this sec-
section shall be construed to require the advice and
consent of the Senate to the appointment by the
President to a position in the Department of any of-
icer of the Service and whose duties following such
transfer are germane to those performed before such
transfer.

(4) TRANSFER OF PERSONNEL, ASSETS, OBLI-
GATIONS, AND FUNCTIONS.—Upon the transfer of
the Service to the Department—

(A) the personnel, assets, and obligations
held by or available in connection with the
Service shall be transferred to the Secretary
for appropriate allocation, subject to the ap-
proval of the Director of the Office of Manage-
ment and Budget and in accordance with the provisions of section 1531(a)(2) of title 31, United States Code; and

(B) the Secretary shall have all functions relating to the Service that any other official could by law exercise in relation to the Service immediately before such transfer, and shall have in addition all functions vested in the Secretary by this section or other law.

(f) Savings Provisions.—

(1) Completed administrative actions.—

(A) In general.—Completed administrative actions of the Service shall not be affected by the enactment of this section or the transfer of the service to the Department, but shall continue in effect according to their terms until amended, modified, superseded, terminated, set aside, or revoked in accordance with law by an officer of the United States or a court of competent jurisdiction, or by operation of law.

(B) Definition.—For purposes of sub-paragraph (A), the term "completed administrative action" includes orders, determinations, rules, regulations, personnel actions, permits,
agreements, grants, contracts, certificates, licenses, registrations, and privileges.

(2) PENDING PROCEEDINGS.—Subject to the authority of the Secretary under this section and other law—

(A) pending proceedings in the Service, including notices of proposed rulemaking, and applications for licenses, permits, certificates, grants, and financial assistance, shall continue notwithstanding the enactment of this section or the transfer of the Service to the Department, unless discontinued or modified under the same terms and conditions and to the same extent that such discontinuance could have occurred if such enactment or transfer had not occurred; and

(B) orders issued in such proceedings, and appeals therefrom, and payments made pursuant to such orders, shall issue in the same manner and on the same terms as if this section had not been enacted or the Service had not been transferred, and any such orders shall continue in effect until amended, modified, superseded, terminated, set aside, or revoked by an
officer of the United States or a court of competent jurisdiction, or by operation of law.

(3) PENDING CIVIL ACTIONS.—Subject to the authority of the Secretary under this section and other law, pending civil actions shall continue notwithstanding the enactment of this section or the transfer of the Service to the Department, and in such civil actions, proceedings shall be had, appeals taken, and judgments rendered and enforced in the same manner and with the same effect as if such enactment or transfer had not occurred.

(4) REFERENCES.—References relating to the Service in statutes, Executive orders, rules, regulations, directives, or delegations of authority that precede such transfer or the effective date of this section shall be deemed to refer, as appropriate, to the Department, to its officers, employees, or agents, or to its corresponding organizational units or functions. Statutory reporting requirements that applied in relation to the Service immediately before the effective date of this section shall continue to apply following such transfer if such requirements refer to the Service by name.

(5) EMPLOYMENT PROVISIONS.—
(A) AUTHORITY OF SECRETARY.—Notwithstanding the generality of the foregoing (including paragraphs (1) and (4)), in and for the Department the Secretary may, in regulations prescribed jointly with the Director of the Office of Personnel Management, adopt the rules, procedures, terms, and conditions, established by statute, rule, or regulation before the effective date of this section, relating to employment in the Service.

(B) TERMS OF EMPLOYMENT.—Except as otherwise provided in this section, or under authority granted by this section, the transfer pursuant to this section of personnel shall not alter the terms and conditions of employment, including compensation, of any employee so transferred.

(g) TERMINATIONS.—Except as otherwise provided in this section, whenever all the functions vested by or pursuant to law in the Service have been transferred pursuant to this section, each position and office the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V, of the Executive Schedule, shall terminate.
(h) CONTINUITY OF INSPECTOR GENERAL OVER-
SIGHT.—Upon the transfer of the Service to the Depart-
ment pursuant to this section, the Inspector General for
the Department of Housing and Urban Development shall
assume oversight of the Service.

(i) INCIDENTAL TRANSFERS.—The Director of the
Office of Management and Budget, in consultation with
the Secretary of Housing and Urban Development, is au-
thorized and directed to make such additional incidental
dispositions of personnel, assets, and liabilities held, used,
arising from, available, or to be made available, in connec-
tion with the functions transferred by this section, as the
Director may determine necessary to accomplish the pur-
poses of this section.

(j) REFERENCE.—With respect to any function
transferred by this section (a) and exercised on or after
the effective date of this section, reference in any other
Federal law to the Department of Agriculture or the Rural
Housing Service or Farmers Home Administration), or to
the Secretary of Agriculture or any officer the functions
of which are so transferred shall be deemed to refer to
the Department of Housing and Urban Development, or
to the Secretary of Housing and Urban Development or
other official to whom such function is so transferred.
SEC. 14. GUARANTEE FEES FOR RURAL MULTIFAMILY RENTAL HOUSING LOANS.

Subsection (g) of section 538 of the Housing Act of 1949 (42 U.S.C. 1490p–2(g)) is amended to read as follows:

“(g) GUARANTEE FEES.—With respect to each loan guaranteed under this section, the Secretary shall collect from the lender—

“(1) at the time of issuance of the guarantee, a fee equal to 1 percent of the principal obligation of the loan; and

“(2) during the term of the loan, an annual fee equal to 0.5 percent of the outstanding principal obligation of the loan or, if such amount is not sufficient to cover the costs (as such term is defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) of loan guarantees under this section, such other amount as the Secretary determines is sufficient to cover such costs.”.