

H.R.4173

Dodd-Frank Wall Street Reform and Consumer Protection Act (Enrolled Bill [Final as Passed Both House and Senate] - ENR)

Subtitle D--Office of Housing Counseling

SEC. 1441. SHORT TITLE.

This subtitle may be cited as the 'Expand and Preserve Home Ownership Through Counseling Act'.

SEC. 1442. ESTABLISHMENT OF OFFICE OF HOUSING COUNSELING.

Section 4 of the Department of Housing and Urban Development Act (42 U.S.C. 3533) is amended by adding at the end the following new subsection:

`(g) Office of Housing Counseling-

`(1) ESTABLISHMENT- There is established, in the Department, the Office of Housing Counseling.

`(2) DIRECTOR- There is established the position of Director of Housing Counseling. The Director shall be the head of the Office of Housing Counseling and shall be appointed by, and shall report to, the Secretary. Such position shall be a career-reserved position in the Senior Executive Service.

`(3) FUNCTIONS-

`(A) IN GENERAL- The Director shall have primary responsibility within the Department for all activities and matters relating to homeownership counseling and rental housing counseling, including--

`(i) research, grant administration, public outreach, and policy development relating to such counseling; and

`(ii) establishment, coordination, and administration of all regulations, requirements, standards, and performance measures under programs and laws administered by the Department that relate to housing counseling, homeownership counseling (including maintenance of homes), mortgage-related counseling (including home equity conversion mortgages and credit protection options to avoid foreclosure), and rental housing counseling, including the requirements, standards, and performance measures relating to housing counseling.

`(B) SPECIFIC FUNCTIONS- The Director shall carry out the functions assigned to the Director and the Office under this section and any other provisions of law. Such functions shall include establishing rules necessary for--

`(i) the counseling procedures under section 106(g)(1) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(h)(1));

- `(ii) carrying out all other functions of the Secretary under section 106(g) of the Housing and Urban Development Act of 1968, including the establishment, operation, and publication of the availability of the toll-free telephone number under paragraph (2) of such section;
- `(iii) contributing to the distribution of home buying information booklets pursuant to section 5 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604);
- `(iv) carrying out the certification program under section 106(e) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(e));
- `(v) carrying out the assistance program under section 106(a)(4) of the Housing and Urban Development Act of 1968, including criteria for selection of applications to receive assistance;
- `(vi) carrying out any functions regarding abusive, deceptive, or unscrupulous lending practices relating to residential mortgage loans that the Secretary considers appropriate, which shall include conducting the study under section 6 of the Expand and Preserve Home Ownership Through Counseling Act;
- `(vii) providing for operation of the advisory committee established under paragraph (4) of this subsection;
- `(viii) collaborating with community-based organizations with expertise in the field of housing counseling; and
- `(ix) providing for the building of capacity to provide housing counseling services in areas that lack sufficient services, including underdeveloped areas that lack basic water and sewer systems, electricity services, and safe, sanitary housing.

`(4) ADVISORY COMMITTEE-

- `(A) IN GENERAL- The Secretary shall appoint an advisory committee to provide advice regarding the carrying out of the functions of the Director.
- `(B) MEMBERS- Such advisory committee shall consist of not more than 12 individuals, and the membership of the committee shall equally represent the mortgage and real estate industry, including consumers and housing counseling agencies certified by the Secretary.
- `(C) TERMS- Except as provided in subparagraph (D), each member of the advisory committee shall be appointed for a term of 3 years. Members may be reappointed at the discretion of the Secretary.
- `(D) TERMS OF INITIAL APPOINTEES- As designated by the Secretary at the time of appointment, of the members first appointed to the advisory committee, 4 shall be appointed for a term of 1 year and 4 shall be appointed for a term of 2 years.
- `(E) PROHIBITION OF PAY; TRAVEL EXPENSES- Members of the advisory committee shall serve without pay, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

`(F) ADVISORY ROLE ONLY- The advisory committee shall have no role in reviewing or awarding housing counseling grants.

`(5) SCOPE OF HOMEOWNERSHIP COUNSELING- In carrying out the responsibilities of the Director, the Director shall ensure that homeownership counseling provided by, in connection with, or pursuant to any function, activity, or program of the Department addresses the entire process of homeownership, including the decision to purchase a home, the selection and purchase of a home, issues arising during or affecting the period of ownership of a home (including refinancing, default and foreclosure, and other financial decisions), and the sale or other disposition of a home.'

SEC. 1443. COUNSELING PROCEDURES.

(a) In General- Section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x) is amended by adding at the end the following new subsection:

`(g) Procedures and Activities-

`(1) COUNSELING PROCEDURES-

`(A) IN GENERAL- The Secretary shall establish, coordinate, and monitor the administration by the Department of Housing and Urban Development of the counseling procedures for homeownership counseling and rental housing counseling provided in connection with any program of the Department, including all requirements, standards, and performance measures that relate to homeownership and rental housing counseling.

`(B) HOMEOWNERSHIP COUNSELING- For purposes of this subsection and as used in the provisions referred to in this subparagraph, the term 'homeownership counseling' means counseling related to homeownership and residential mortgage loans. Such term includes counseling related to homeownership and residential mortgage loans that is provided pursuant to--

`(i) section 105(a)(20) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(20));

`(ii) in the United States Housing Act of 1937--

`(I) section 9(e) (42 U.S.C. 1437g(e));

`(II) section 8(y)(1)(D) (42 U.S.C. 1437f(y)(1)(D));

`(III) section 18(a)(4)(D) (42 U.S.C. 1437p(a)(4)(D));

`(IV) section 23(c)(4) (42 U.S.C. 1437u(c)(4));

`(V) section 32(e)(4) (42 U.S.C. 1437z-4(e)(4));

`(VI) section 33(d)(2)(B) (42 U.S.C. 1437z-5(d)(2)(B));

`(VII) sections 302(b)(6) and 303(b)(7) (42 U.S.C. 1437aaa-1(b)(6), 1437aaa-2(b)(7)); and

`(VIII) section 304(c)(4) (42 U.S.C. 1437aaa-3(c)(4));

`(iii) section 302(a)(4) of the American Homeownership and Economic Opportunity Act of 2000 (42 U.S.C. 1437f note);

`(iv) sections 233(b)(2) and 258(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12773(b)(2), 12808(b));

- `(v) this section and section 101(e) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x, 1701w(e));
- `(vi) section 220(d)(2)(G) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4110(d)(2)(G));
- `(vii) sections 422(b)(6), 423(b)(7), 424(c)(4), 442(b)(6), and 443(b)(6) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12872(b)(6), 12873(b)(7), 12874(c)(4), 12892(b)(6), and 12893(b)(6));
- `(viii) section 491(b)(1)(F)(iii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11408(b)(1)(F)(iii));
- `(ix) sections 202(3) and 810(b)(2)(A) of the Native American Housing and Self-Determination Act of 1996 (25 U.S.C. 4132(3), 4229(b)(2)(A));
- `(x) in the National Housing Act--
 - `(I) in section 203 (12 U.S.C. 1709), the penultimate undesignated paragraph of paragraph (2) of subsection (b), subsection (c)(2)(A), and subsection (r)(4);
 - `(II) subsections (a) and (c)(3) of section 237 (12 U.S.C. 1715z-2); and
 - `(III) subsections (d)(2)(B) and (m)(1) of section 255 (12 U.S.C. 1715z-20);
- `(xi) section 502(h)(4)(B) of the Housing Act of 1949 (42 U.S.C. 1472(h)(4)(B));
- `(xii) section 508 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-7); and
- `(xiii) section 106 of the Energy Policy Act of 1992 (42 U.S.C. 12712 note).

`(C) RENTAL HOUSING COUNSELING- For purposes of this subsection, the term `rental housing counseling' means counseling related to rental of residential property, which may include counseling regarding future homeownership opportunities and providing referrals for renters and prospective renters to entities providing counseling and shall include counseling related to such topics that is provided pursuant to--

- `(i) section 105(a)(20) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(20));
- `(ii) in the United States Housing Act of 1937--
 - `(I) section 9(e) (42 U.S.C. 1437g(e));
 - `(II) section 18(a)(4)(D) (42 U.S.C. 1437p(a)(4)(D));
 - `(III) section 23(c)(4) (42 U.S.C. 1437u(c)(4));
 - `(IV) section 32(e)(4) (42 U.S.C. 1437z-4(e)(4));
 - `(V) section 33(d)(2)(B) (42 U.S.C. 1437z-5(d)(2)(B)); and
 - `(VI) section 302(b)(6) (42 U.S.C. 1437aaa-1(b)(6));
- `(iii) section 233(b)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12773(b)(2));

`(iv) section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x);

`(v) section 422(b)(6) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12872(b)(6));

`(vi) section 491(b)(1)(F)(iii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11408(b)(1)(F)(iii));

`(vii) sections 202(3) and 810(b)(2)(A) of the Native American Housing and Self-Determination Act of 1996 (25 U.S.C. 4132(3), 4229(b)(2)(A)); and

`(viii) the rental assistance program under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

`(2) STANDARDS FOR MATERIALS- The Secretary, in consultation with the advisory committee established under subsection (g)(4) of the Department of Housing and Urban Development Act, shall establish standards for materials and forms to be used, as appropriate, by organizations providing homeownership counseling services, including any recipients of assistance pursuant to subsection (a)(4).

`(3) MORTGAGE SOFTWARE SYSTEMS-

`(A) CERTIFICATION- The Secretary shall provide for the certification of various computer software programs for consumers to use in evaluating different residential mortgage loan proposals. The Secretary shall require, for such certification, that the mortgage software systems take into account--

`(i) the consumer's financial situation and the cost of maintaining a home, including insurance, taxes, and utilities;

`(ii) the amount of time the consumer expects to remain in the home or expected time to maturity of the loan; and

`(iii) such other factors as the Secretary considers appropriate to assist the consumer in evaluating whether to pay points, to lock in an interest rate, to select an adjustable or fixed rate loan, to select a conventional or government-insured or guaranteed loan and to make other choices during the loan application process.

If the Secretary determines that available existing software is inadequate to assist consumers during the residential mortgage loan application process, the Secretary shall arrange for the development by private sector software companies of new mortgage software systems that meet the Secretary's specifications.

`(B) USE AND INITIAL AVAILABILITY- Such certified computer software programs shall be used to supplement, not replace, housing counseling. The Secretary shall provide that such programs are initially used only in connection with the assistance of housing counselors certified pursuant to subsection (e).

`(C) AVAILABILITY- After a period of initial availability under subparagraph (B) as the Secretary considers appropriate, the Secretary shall take reasonable steps to make mortgage software systems certified pursuant to this paragraph widely available through the Internet and at

public locations, including public libraries, senior-citizen centers, public housing sites, offices of public housing agencies that administer rental housing assistance vouchers, and housing counseling centers.

`(D) BUDGET COMPLIANCE- This paragraph shall be effective only to the extent that amounts to carry out this paragraph are made available in advance in appropriations Acts.

`(4) NATIONAL PUBLIC SERVICE MULTIMEDIA CAMPAIGNS TO PROMOTE HOUSING COUNSELING-

`(A) IN GENERAL- The Director of Housing Counseling shall develop, implement, and conduct national public service multimedia campaigns designed to make persons facing mortgage foreclosure, persons considering a subprime mortgage loan to purchase a home, elderly persons, persons who face language barriers, low-income persons, minorities, and other potentially vulnerable consumers aware that it is advisable, before seeking or maintaining a residential mortgage loan, to obtain homeownership counseling from an unbiased and reliable sources and that such homeownership counseling is available, including through programs sponsored by the Secretary of Housing and Urban Development.

`(B) CONTACT INFORMATION- Each segment of the multimedia campaign under subparagraph (A) shall publicize the toll-free telephone number and website of the Department of Housing and Urban Development through which persons seeking housing counseling can locate a housing counseling agency in their State that is certified by the Secretary of Housing and Urban Development and can provide advice on buying a home, renting, defaults, foreclosures, credit issues, and reverse mortgages.

`(C) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated to the Secretary, not to exceed \$3,000,000 for fiscal years 2009, 2010, and 2011, for the development, implementation, and conduct of national public service multimedia campaigns under this paragraph.

`(D) FORECLOSURE RESCUE EDUCATION PROGRAMS-

`(i) IN GENERAL- Ten percent of any funds appropriated pursuant to the authorization under subparagraph (C) shall be used by the Director of Housing Counseling to conduct an education program in areas that have a high density of foreclosure. Such program shall involve direct mailings to persons living in such areas describing--

`(I) tips on avoiding foreclosure rescue scams;

`(II) tips on avoiding predatory lending mortgage agreements;

`(III) tips on avoiding for-profit foreclosure counseling services; and

`(IV) local counseling resources that are approved by the Department of Housing and Urban Development.

`(ii) PROGRAM EMPHASIS- In conducting the education program described under clause (i), the Director of Housing Counseling shall also place an emphasis on serving communities that have a high percentage of retirement communities or a high percentage of low-income minority communities.

`(iii) TERMS DEFINED- For purposes of this subparagraph:

`(I) HIGH DENSITY OF FORECLOSURES- An area has a `high density of foreclosures' if such area is one of the metropolitan statistical areas (as that term is defined by the Director of the Office of Management and Budget) with the highest home foreclosure rates.

`(II) HIGH PERCENTAGE OF RETIREMENT COMMUNITIES- An area has a `high percentage of retirement communities' if such area is one of the metropolitan statistical areas (as that term is defined by the Director of the Office of Management and Budget) with the highest percentage of residents aged 65 or older.

`(III) HIGH PERCENTAGE OF LOW-INCOME MINORITY COMMUNITIES- An area has a `high percentage of low-income minority communities' if such area contains a higher-than-normal percentage of residents who are both minorities and low-income, as defined by the Director of Housing Counseling.

`(5) EDUCATION PROGRAMS- The Secretary shall provide advice and technical assistance to States, units of general local government, and nonprofit organizations regarding the establishment and operation of, including assistance with the development of content and materials for, educational programs to inform and educate consumers, particularly those most vulnerable with respect to residential mortgage loans (such as elderly persons, persons facing language barriers, low-income persons, minorities, and other potentially vulnerable consumers), regarding home mortgages, mortgage refinancing, home equity loans, home repair loans, and where appropriate by region, any requirements and costs associated with obtaining flood or other disaster-specific insurance coverage.'.

(b) Conforming Amendments to Grant Program for Homeownership Counseling Organizations- Section 106(c)(5)(A)(ii) of the Housing and Urban Development Act of 1968 (12 U.S.C.