

COMMITTEE ON FINANCIAL SERVICES

Protecting American Taxpayers and Homeowners (PATH) Act ***– Section by Section Summary –***

Section 101. Short Title – “Protecting American Taxpayers and Homeowners Act of 2013”

Section 102. Table of Contents

[Title I: Wind-Down of Fannie Mae and Freddie Mac](#)

Section 101. Short Title – “GSE Bailout Elimination and Taxpayer Protection Act”

Section 102. Definitions – Provides for the definition of terms used in this title.

Section 103. Termination of Conservatorship – Five years following the date of enactment, mandates the appointment of the Federal Housing Finance Agency (FHFA) Director to act as receiver for each Enterprise (i.e., Fannie Mae and Freddie Mac) and carry out receivership authority.

Section 104. Limitations on Enterprise Authority – Makes a variety of reforms to the Enterprises to increase competition in their market space and decrease the risk they pose to taxpayers during the transition to a secondary mortgage market based entirely on private capital. Codifies the rate of reduction for the Enterprises’ mortgage portfolios at a rate of 15 percent per year down to no less than \$250 billion. Amends the Enterprises’ conforming loan limits to prevent future increases in high cost areas and allow annual adjustments to reflect recent changes in house prices. The maximum mortgage available for purchase by the Enterprises drops by \$20,000 each year for five years. Requires the FHFA to periodically review Enterprise pricing of their guarantee fees to ensure that the fee for any mortgage guaranteed is at a rate equivalent to what they would charge if the Enterprise were held to the same capital standards as a private financial institution. Repeals the Enterprises’ mandatory affordable housing goals and the Enterprise-funded Housing Trust Fund.

Section 105. Mandatory Risk-Sharing Transactions – Requires the FHFA to require each Enterprise develop and undertake a risk sharing program of at least 10 percent of the annual business of each Enterprise where private market participants share or assume the credit risk associated with mortgage securities. Acceptable risk-sharing transactions may include increased mortgage insurance requirements, credit-linked notes and securities,

senior and subordinated security structures, and such other structures and transactions as the Director considers appropriate to increase private market assumption of credit risk.

Section 106. Limitations of the Enterprise Mortgage Purchases to Qualified Mortgages – Prohibits the Enterprises from purchasing or guaranteeing mortgages other than a “Qualified Mortgage” as defined by the Dodd-Frank Act.

Section 107. Prohibition Relating to the Use of Power of Eminent Domain. -- Prohibits the Enterprises from purchasing or guaranteeing mortgages that are within a jurisdiction that has exercised the power of eminent domain to seize a mortgage loan during the preceding 120 months.

Section 108. Receiver’s Discretionary Authority to Create Receivership Entity – Authorizes the FHFA Director to establish a receivership entity to carry out the terms of the receivership of the Enterprises mandated by section 103 and to transfer assets or liabilities of the Enterprises to the entity.

Section 109. Authority of Receiver to Repeal Enterprise Charter – Provides that five years after the date of enactment, the Enterprises’ charters shall be repealed.

[Title II: FHA Reform](#)

Section 201. Short Title and Table of Contents – “FHA Reform and Modernization Act of 2013”

Section 202. Definitions – Provides for definitions of terms used in this title, such as the Federal Housing Administration (FHA), the FHA Board of Directors, and first-time Homebuyer.

Subtitle A - Organization

Section 211. Establishment – Establishes the FHA as an independent agency and creates the organizational structure of the new agency as an independent government corporation that is fully self-sufficient.

Section 212. Purposes – Establishes the organizational purposes of the independent FHA. The FHA is to provide single-family homeownership to first-time homebuyers, low- and moderate-income homebuyers, and homebuyers in areas subject to counter-cyclical markets or Presidentially-declared disasters. The independent FHA must also provide affordable rental housing opportunities for low and moderate-income Americans.

Section 213. General Powers – Establishes the general powers of the independent FHA. Under the general powers, the independent FHA may use its corporate seal, insure mortgages and provide credit enhancement, acquire, hold, use, improve or dispose of real property, take any action to manage its assets and obligations, assess fees for its insurance products, qualify any person or entity to engage in business with the FHA, and invest in systems and technology to carry out its activities.

Section 214. Board of Directors – Establishes the structure, terms, powers, and duties of the independent FHA’s Board of Directors, which would consist of 9 members, including the Secretary of Housing and Urban Development (HUD) (chair), the Secretary of Agriculture, 5 individuals with expertise in mortgage finance and 2 individuals with expertise in affordable Housing. The President shall appoint each board member for a three year term; however, with the exception of the HUD and Agriculture Secretaries, three board members shall initially be appointed for one year terms and four shall be initially appointed for two year terms. The duties of the board include obtaining guidance from FHA participants, assessing the housing needs of consumers, assisting HUD and the Department of Agriculture (USDA) in coordinating Federal housing roles, and obtaining housing finance information to better assess how the FHA can complement the roles of public and private participants in the mortgage market.

Section 215. Officers and Personnel – Authorizes the FHA Board to appoint the following officers of the FHA: President, Vice President, Chief Risk Officer, and Chief Technology Officer. The Board is also authorized to hire (or transfer) employees to the independent FHA and set their compensation without regard to the U.S. Government General Schedule pay rates, but in a manner comparable to the compensation of employees of Ginnie Mae (GNMA), FHFA, the Office of the Comptroller of the Currency (OCC), the Federal Reserve, and the Federal Deposit Insurance Corporation (FDIC).

Section 216. Financial, Underwriting, and Operations Systems – Directs the FHA to develop and maintain its own financial underwriting and operations systems for both the independent FHA and the USDA’s Rural Housing Service (RHS). The RHS shall utilize FHA’s systems for making, insuring or guaranteeing the insurance products within its housing programs.

Section 217. Procurement – Requires the FHA to establish an economical and results-oriented system for the procurement, supply, and disposition of personal property and services. The system shall be consistent with the principles of impartiality and competitiveness.

Section 218. Applicability of Laws – Establishes the independent FHA as a tax exempt agency and stipulates that any mortgage insurance or credit enhancement it provides under the Act shall not be considered assistance within the jurisdiction of HUD.

Section 219. Evaluation – Requires the FHFA Director to submit a report to the President and Congress regarding whether this Act gives sufficient authority to the FHA to accomplish its public purposes efficiently and effectively and whether provisions of the Act appropriately provide that the FHA will be operated in a safe and sound manner.

Section 220. Funding – Authorizes funding for the salaries, expenses, and technology for the management and operations of the independent FHA. Any funding authorized cannot exceed the amount of revenue FHA generates through its premiums, etc.

Section 221. Effective Date – Provides that this subtitle shall take effect on the date of enactment of the Act.

Subtitle B – Business Authority and Requirements

Section 231. Authority to Carry Out FHA and Other Business – Establishes the authority of the independent FHA and terminates the HUD Secretary’s authority over it, after the expiration of the transition period specified in Section 281.

Section 232. Eligible Single-Family Mortgages – Establishes FHA’s mortgage limits, which cannot exceed the following amounts: (1) 100 percent of the appraised value of the property and (2) 115 percent of the Area Median Home Price or 150 percent of the GSE single family loan limit for high-cost areas (maximum of \$625,500), whichever is lower. The minimum FHA loan limit can never go below \$200,000. The section establishes a 5 percent down payment requirement, except in the case of a first-time homebuyer, where the down payment requirement shall be 3.5 percent. Establishes a public purpose requirement for the independent FHA, pursuant to which any mortgage insured by the FHA must meet one of the following criteria: (1) be for a first-time homeowner, (2) be for a borrower having an income that is less than 115 percent of Area Median Income (AMI) or 150 percent of AMI in high-cost areas, defined as an area with an area median home price above \$417,000, (3) be located in a counter-cyclical market (as determined by the FHFA Director and FHA’s Chief Risk Officer), or (4) be within a Presidentially declared disaster area.

Section 233. Risk-Sharing – Creates a new risk-sharing pilot program that would give the independent FHA two years to set the parameters of a new program. Once the program is operational 2 years after date of enactment, the independent FHA would be required to enter into risk-share agreements on 10 percent of its business. The 10 percent portfolio would have to represent a cross-section of the independent FHA’s book of business. FHFA would then have to report on the effectiveness of the program to determine if FHA should expand the risk-sharing program.

Section 234. Limitation on Mortgage Insurance Coverage – Lowers the FHA’s guarantee on individual mortgages to 50 percent of the original principal obligation, over a period of five years, with a reduction of 10 percent annually until it reaches 50 percent in year five.

Section 235. Premiums – Gives the independent FHA the authority to establish and collect premiums. In the case of its annual premiums, the FHA must charge at least 0.55 percent of the loan balance. In addition, the FHA is required to charge a sufficient premium to cover (1) the costs of providing mortgage insurance, (2) the costs for administration, operations, management and technology for the FHA, (3) the costs for adhering to the capital ratio requirement, and (4) the costs for the salaries and expenses for FHA personnel. The independent FHA would also have the authority to charge risk-based premiums.

Section 236. Default and Foreclosure Statement – Requires lenders to provide each borrower at origination a disclosure detailing the likelihood of default for a borrower with a similar risk profile and mortgage product.

Section 237. Occupancy and Rent Limitations for Multifamily Mortgage Insurance – Targets FHA multifamily properties toward low-to-moderate income individuals.

Section 238. Effective Date – Provides that with the exception of Section 233 and 234, this subtitle shall take effect after the transition period specified in Section 281.

Subtitle C – Financial Safety and Soundness

Section 251. Authority of Director – Establishes FHFA as the RHS and FHA regulator for safety and soundness.

Section 252. Budgets and Business Plans – Requires the FHA to prepare and submit an annual budget and annual business plan.

Section 253. Annual Business Plan; Use of GAAP – Requires the independent FHA to follow GAAP accounting standards for any of its financial reports. The FHA’s annual budget and annual plan shall be conducted in accordance with GAAP applicable to the private sector.

Section 254. Examinations, Reports, and Cost Estimates – Gives FHFA the authority to conduct examinations to evaluate the safety and soundness of the FHA’s operations. The FHFA Director may also require the independent FHA and RHS to submit any regular or special report, data or other information needed for the FHFA Director to assess FHA’s safety and soundness. In addition, the FHFA Director shall submit its annual credit subsidy cost estimate to the Office of Management and Budget (OMB) for the President’s budget.

Section 255. Reimbursement of Costs – Requires the FHFA Director to assess and collect fees from the FHA and RHS annually to reimburse the FHFA for costs and expenses.

Section 256. Mutual Mortgage Insurance Fund Capital Reserve – For purposes of determining the capital reserve ratio, establishes separate accounts in the Mutual Mortgage Insurance Fund (MMIF) for FHA’s new business (loans that FHA’s insures after enactment of the Act) and FHA’s existing business. Under the independent FHA, the company must maintain a capital reserve ratio of 4 percent for its new business.

Section 257. Capital Classification and Performance Measures for Mutual Mortgage Insurance Fund – Establishes a classification model for gauging the health of the FHA’s MMIF. The MMIF for new business after enactment is required to hold at least 4 percent of capital in reserve. If the independent FHA’s capital reserve ratio for its new business falls below 4 percent, but remains above 2 percent, the MMIF is classified as “undercapitalized” and the independent FHA is not permitted to insure any mortgage with a principal obligation exceeding 90 percent of the appraised value of the property. If the independent FHA’s capital reserve ratio falls below 2 percent, but remains above 0 percent, the MMIF continues to be classified as “undercapitalized” and the independent FHA is not permitted to insure any mortgage with a principal obligation exceeding 80 percent of the appraised value of the property. And if the FHA’s capital reserve ratio falls below 0 percent, the MMIF is classified as “significantly undercapitalized” and the independent FHA is subject to enforcement actions determined by the FHFA. The FHFA Director shall assess the capital ratio and capital classification every three months. If the MMIF falls

below 4 percent, the FHA must submit to the FHFA a capital restoration plan within 45 days of being notified of the shortfall. The plan must set forth feasible goals for restoring the capital reserve ratio of the MMIF to a level above 4 percent. The section also requires FHFA to conduct a stress test of FHA in times of economic uncertainty.

Section 258. Enforcement – Provides that if the Director of FHFA determines that the independent FHA is significantly undercapitalized or not being managed in a safe and sound manner, the Director may order the independent FHA to cease-and-desist its operations or take corrective or remedial action. Any capital restoration plan submitted by FHA must set forth a feasible plan for restoring capital to the MMIF and describe the actions that FHA intends to take for the MMIF to become adequately capitalized.

Section 259. Capital Reserve Requirements for Other Funds – Requires the FHFA Director to establish a capital reserve fund for the FHA’s multifamily insurance programs and other housing programs under FHA and RHS.

Section 260. Authority to Establish Temporary Capital Ratios in Cases of Nationwide Countercyclical Market Adjustment – Authorizes the FHFA Director to suspend the operation of the capital classification regime outlined in Section 257 upon a joint determination by the FHFA Director and the FHA Chief Risk Officer that: (1) available credit throughout the country has contracted significantly, as determined by the credit availability measures published by the OCC, (2) housing prices have declined significantly, or (3) other negative economic conditions exist that impact the availability of capital in housing finance markets.

Section 261. 7-Year Borrower Suspension for Foreclosure – Prohibits any mortgagor from receiving an FHA-insured or RHS-guaranteed loan if that person had been foreclosed upon on any mortgage in the preceding 7 years. The independent FHA would have the ability to waive this requirement, by regulation, for hardship circumstances that materially contributed to the default and foreclosure of the mortgage. The hardship circumstances may include divorce, job or other income loss, health problems, death in the family, and such other situations as the FHA may prescribe.

Section 262. Borrower Ineligibility Upon Second Foreclosure – Permanently disallows a mortgagor from receiving an FHA-insured or RHS-guaranteed mortgage if that person has been subject to multiple foreclosures.

Section 263. Limitation on Seller Concessions – Limits seller concessions on FHA-insured and RHS guaranteed loans to 3 percent.

Section 264. Lender Repurchase Requirement – Requires lenders to take back any FHA loan that defaulted (60 days past due) in the first 24 months of the mortgage.

Section 265. Indemnification by Mortgagees – Directs the FHA to require indemnification from a mortgagee if the FHA determines that the mortgagee knew, or should have known, of a serious or material violation of FHA’s mortgage underwriting standards for FHA loans.

Section 266. Prohibitions Relating to Use of Power of Eminent Domain – Prohibits the FHA from insuring and the RHS from guaranteeing, making, or insuring mortgages that are within a jurisdiction that has exercised the power of eminent domain to seize a mortgage loan during the preceding 120 months.

Section 267. Residual Income Requirement – Establishes that an FHA borrower must have sufficient residual income to cover other recurring obligations and expenses, taking into account the consumer's assets other than the property securing the loan, after paying his or her monthly payments for the covered transaction, any simultaneous loans, mortgage-related obligations, and any current debt obligations.

Section 268. Fair Value Accounting – Requires the use of fair-value accounting for FHA insurance programs in accordance with the guidelines set forth in the Financial Accounting Standards Board's Financial Accounting Standards #157. Specifically, the executive branch and Congress would be required to use fair-value accounting in calculating the costs of FHA insurance programs that consider not only the borrowing costs of the federal government, but also the costs of the market risk the federal government is incurring by issuing FHA mortgage insurance or mortgage insurance commitments.

Section 269. Effective Date – With the exception of Sections 264, 265, 266, 267 and 268, provides that this subtitle shall take effect upon the expiration of the transition period specified in Section 281.

Subtitle D – Transition

Section 281. Transition Period – Provides that the transition period for the independent FHA begins on the date of enactment of this Act and ends upon the earlier of (1) the Director of FHFA determining that the transition period has ended or (2) the expiration of the 5-year period beginning on the date of enactment.

Section 282. Authority During Transition Period – Provides that during the transition period, the FHA may continue to carry out any power or responsibility of the HUD Secretary relating to FHA's mortgage insurance programs and the FHA may engage in any activity consistent with the start-up of the independent FHA.

Section 283. Advisory Board – Directs the Secretary of HUD to establish an advisory board during the transition period to provide advice to the new Board of Directors of the FHA regarding establishing and organizing the FHA, and creating the business plan, premium structure, and product lines of the FHA. The 9 person Advisory Board shall consist of the FHA Commissioner, the RHS Administrator, not less than 5 individuals appointed by the Secretary who are representatives of the mortgage finance industry, and not less than 2 individuals who have expertise in affordable housing serving low- and moderate-income populations. The Advisory Board shall terminate upon the expiration of the transition period.

Section 284. Transfer of HUD Authority – Transfers the functions, authority provided to, and responsibilities of HUD regarding the old FHA's loan insurance programs to the independent FHA.

Section 285. Wind-Up of HUD Affairs – Provides that upon the expiration of the transition period, any old FHA offices and the position of FHA Commissioner are abolished. The FHA may continue to use HUD’s property until such time as is reasonable.

Section 286. Continuation and Coordination of Certain Actions – Provides that all regulations, orders, and determinations made by the HUD Secretary during the five-year transition period shall remain in effect according to the terms set forth in such regulations, orders, and determinations.

Section 287. Transfer and Rights of HUD Employees – Provides that each employee under the old FHA (ultimately employed by HUD) shall be transferred to the independent FHA for employment no later than the expiration of the transition period. Each employee transferred to the independent FHA shall be guaranteed his/her same position, employee benefits and pay rate for a period of 12 months beginning on the date of the transfer.

Section 288. Transfer of Property and Facilities – Provides that upon expiration of the transition period, all HUD property relating to the mortgage insurance programs transferred shall transfer to the independent FHA.

Section 289. Effective Date – Provides that this subtitle shall take effect on the date of enactment.

Subtitle E – Related Amendment and Provisions

Section 291. GNMA Authority – Amends the GNMA charter to ensure that GNMA continues to guarantee principal and interest payments on GNMA securities backed by new FHA loans.

Section 292. Repeal of Certain FHA Programs – Phases out the FHA’s HECM (Reverse Mortgages, Section 255 of the National Housing Act) and Hospital (Section 242 of the National Housing Act) mortgage insurance programs within 2 years of enactment.

Section 293. Conforming Amendments – Makes technical and conforming amendments to ensure the independent FHA adheres to current provisions of law that are intended to prevent fraudulently misappropriated mortgage proceeds and equity skimming.

Section 294. Rule of Construction – Expresses the intent of Congress that the provisions of the Act shall be construed broadly to achieve the purposes of the Act.

Section 295. Effective Date – Provides that the effective date of this title shall take effect upon expiration of the transition period specified in Section 281.

Title III: Building a New Market Structure

Subtitle A – National Mortgage Market Utility

Section 301. Short Title – “National Mortgage Market Utility Act of 2013”

Section 302. Findings and Purposes – Provides for findings and purposes of this title.

Section 303. Definitions – Provides for the definition of terms used in this title.

Part 1 – Establishment and Authority of the Utility

Section 311. Establishment – Requires the FHFA Director to issue a charter for a National Mortgage Market Utility (Utility) not later than 2 years after enactment. The Utility shall be organized and operated as a not-for-profit entity. The recipient of the charter to operate the Utility will be determined through an application process. The charter recipient must meet a series of criteria including demonstrating competence and experience necessary to operate the Utility in a safe and sound manner; demonstrating sufficient financial resources necessary to operate the Utility in a safe and sound manner; and providing the Director with assurances that it will operate the securitization infrastructure platform (Platform) currently being developed by the GSEs (ownership of which is transferred to the Utility under Section 313) in an open-access manner that does not discriminate against eligible loan originators, aggregators, or qualified issuers. The Utility shall not be deemed a government entity. The Utility shall be subject to the exclusive supervision of the FHFA. The Utility is generally exempt from federal, state and local taxes. The Utility shall be governed by a Board of Directors.

Section 312. General Powers; Authorized and Prohibited Activities – Authorizes the Utility to develop standards relating to servicing, pooling and securitizing residential mortgage loans; operate and maintain the Platform; and establish a Repository for registration and use of mortgage-related documents. The Utility shall not originate, service, insure or guarantee any residential mortgage or other financial instrument associated with a residential mortgage; discriminate against eligible loan originators, aggregators, or qualified issuers; or perform any activity other than those authorized by this title.

Section 313. Transfer of Ownership of Platform – Requires that six months after enactment, the FHFA Director shall determine a valuation of the proprietary securitization Platform currently being developed by the GSEs under the authority of FHFA. Not later than one year after the Utility is chartered, the Director shall transfer ownership of the Platform from the Enterprises to the Utility. The value of the Platform shall be repaid to the Treasury within 10 years.

Section 314. Funding; Capital Fund – Authorizes \$150 million to be appropriated for the establishment and initial oversight and supervision of the Utility. The Utility shall repay such funds to the Treasury within 10 years. The Utility shall be paid for by fees collected on services provided by the Utility. The Utility shall set the fee schedule, with approval from the Director.

Section 315. Regulation, Supervision, and Enforcement – Authorizes the FHFA Director to act as primary regulator over the Utility. The Director shall collect an annual assessment from the Utility for reasonable costs of the FHFA related to its oversight of the Utility.

Section 316. Civil and Criminal Liability – Provides that only the respective entities are authorized to use the terms “National Mortgage Market Utility,” “Common Securitization Platform,” and “National Mortgage Data Repository.” The Utility has exclusive rights to operate a national repository of mortgage-related documents.

Part 2 – Standards for Qualified Securities

Section 321. Qualified Securities – Defines a “Qualified Security” as one that is collateralized by a class of residential mortgages; is issued in accordance with standard form securitization agreements; is issued by a qualified issuer; is issued through the Platform; and is not guaranteed in whole or in part by the U.S. government.

Section 322. Standards for Qualified Securities – Requires the Utility to develop and adopt classifications for residential mortgages having various degrees of credit risk. For each classification, the Utility shall establish standards for each of the following: debt-to-income ratio, loan-to-value ratio, credit history, loan documentation, occupancy, credit enhancement, and loan payment term which shall include a 30-year fixed interest rate mortgage. Requires the Utility to develop and adopt standard form mortgage agreements and guidelines covering loan level data disclosures; pooling and servicing; representations and warranties; indemnification and remedies; and trustee responsibilities. Any mortgage-related document associated with a Qualified Security shall be registered with the Repository. The Utility shall develop and adopt standards for servicing, servicer reporting, aggregators, qualified issuers, trustees, mandatory arbitration disputes, data standards, and disclosure standards.

Section 323. Liability for Misleading Statements – Subjects any person who makes misleading statements in any document filed with the FHFA or the Utility to liability for damages.

Section 324. Unlawful representation – Makes it unlawful for any person to represent or imply in any manner that any action or failure to act by the Agency or Utility means the Agency or Utility has in any way passed upon the merits of, or given approval to, any trustee, indenture, or security, or any transaction or transactions.

Section 325. Contrary stipulations void – Provides that any condition, stipulation, or provision binding any person to waive compliance with any provision of this title or with any rule, regulation, or order thereunder shall be void.

Part 3 – National Mortgage Data Repository

Section 331. Organization and Operation – Directs the Utility to organize and operate a national Repository for mortgage data. The Utility shall establish standards for

qualifications of any depositor of mortgage-related documents to the Repository and various activities related to mortgage-related documents.

Section 332. Legal Effect of Registration with Repository – Provides that notwithstanding state or federal law to the contrary, by registering with the Repository, any holder of an interest in any mortgage-related note shall satisfy any requirement for demonstration of a right to act regarding such a note.

Section 333. Grants to States, Repayment – Authorizes \$50 million to be appropriated for states to facilitate participation in the Repository.

Section 334. Judicial Review – Provides the Repository with immunity from lawsuits other than those brought by the FHFA Director and the U.S. Justice Department.

Section 335. Transition Provisions – Directs the FHFA to provide for a transition period to permit efficient implementation of the Repository. Allows for the Repository initially to accept both electronic and paper-based submissions. Upon the expiration of the ten year period following enactment (with a possible extension of up to five additional years), requires that the Repository only accept electronic submissions.

Part 4 – Conforming Amendments

Section 341. Conforming Amendment to Federal Home Loan Bank Act – Authorizes any Federal Home Loan Bank (FHLB) to aggregate residential mortgage loans originated by any of its members for securitization through the Platform.

Section 342. Conforming Amendments to the Dodd-Frank Wall Street Reform and Consumer Protection Act – Designates FHFA as the exclusive supervisor of the Utility.

Section 343. Conforming Amendments to the Securities Act of 1933 – Exempts Qualified Securities from Section 3(a) of the Securities Act of 1933.

Section 344. Conforming Amendment to Title 18, US Code – Protects the name “National Mortgage Data Repository” from false advertising or misuse. Making false statements or representations regarding any mortgage-related documents is prohibited.

Subtitle B – Covered Bonds

Section 351. Short Title – “United States Covered Bond Act of 2013”

Section 352. Definitions – Provides for the definition of terms used in this title.

Section 353. Regulatory Oversight of Covered Bond Programs Established – Directs the Secretary of the Treasury, in consultation with other relevant federal financial regulators, to issue regulations establishing a covered bond regulatory oversight program. Directs a covered bond regulator to set a cap on covered bond issuance, consistent with safety and soundness considerations, for each issuer as a percentage of the issuer’s total assets. Requires the Secretary to maintain a public registry of approved covered bond

programs. Requires each cover pool securing covered bonds to satisfy an asset coverage test.

Section 354. Resolution upon Default or Insolvency – Creates an estate comprised of the cover pool that secures the covered bond in the event an uncured default occurs on a covered bond before the issuer of a covered bond enters bankruptcy. Vests the FDIC with responsibilities and authority regarding the covered bonds should it be appointed conservator or receiver for an issuer. Requires a study by the Government Accountability Office on whether Federal Reserve banks should be authorized to lend funds to an estate.

Section 355. Securities Law Provisions – Clarifies that covered bonds are securities but not asset-backed securities.

Section 356. Miscellaneous Provisions – Provides that any estate created with respect to a covered bond program shall not be treated as an entity subject to taxation separate from the owner of the residual interest for a maximum of 30 years or 180 days following final payment on the last covered bond that is secured by the cover pool. No portion of any covered bond estate shall be treated as a taxable mortgage pool. An excise tax is imposed on the creation of an estate equal to 1 percent of the principal amount of the covered bonds. The tax is to be paid by the issuer of the covered bonds. In the event of failure by the issuer 5 years after the creation of the covered bonds estate, the excise tax is refunded to the issuer.

[Title IV: Removing Barriers to New Investment](#)

Section 401. Mandatory Delay of Basel III Implementation and Study of Basel III Impact – Requires a study of the Basel III rule finalized by the Federal Reserve Board on July 2, 2103. For community banks, delays the effective date of this rule until two years after date of enactment or one year after the federal banking agencies promulgate revised rules following the study.

Section 402. Basel III Liquidity Coverage Ratio Amendments – In implementing the Basel III Liquidity Coverage Ratio amendments, prohibits regulators from discriminating against residential mortgage-backed securities collateralized by mortgages that do not qualify as full recourse mortgage loans as a condition for status as a high quality liquid asset.

Section 403. Definition of Points and Fees – Incorporates provisions from bipartisan legislation (H.R. 1077) to increase the number of mortgages that qualify as a “Qualified Mortgage”. Excludes from the QM cap on points and fees: (1) affiliated title charges, (2) double counting of loan officer compensation, (3) escrow charges for taxes and insurance, (4) lender-paid compensation to a correspondent bank, credit union or mortgage brokerage firm, and (5) loan-level price adjustments which is an upfront fee that the Enterprises charge to offset loan-specific risk factors such as a borrower’s credit score and the loan-to-value ratio.

Section 404. Exclusion of ABS from Covered Funds – Amends the Bank Holding Company Act of 1956 to exempt issuers of asset backed securities (ABS) from the proposed

definition of “Covered Funds,” which is the list of private investment funds and vehicles in which banks are restricted from investing. Adopting a broad definition for Covered Funds to include ABS issuers would render impossible many beneficial types of securitization for banks.

Section 405. Suspension of Regulation AB II rulemaking – Ensures that the SEC’s implementation of its Reg AB, which imposes requirements for the registration, disclosure and reporting of all publicly registered asset-backed securities, including mortgage-backed securities, does not negatively impact ABS issuances.

Section 406. Effective Date of Certain Mortgage Reform Regulations – To ensure that community financial institutions have time to comply with the thousands of pages of new mortgage regulations, delays the mandatory implementation of all Dodd-Frank mortgage rules for an additional year.

Section 407. Repeal of Credit Risk Retention Regulations – Repeals Section 941 of the Dodd-Frank Act, which requires securitizers of asset-backed securities to retain an economic interest in a portion of the credit risk. Prohibits federal regulators from issuing any rule or regulation to require risk retention, the creation or maintenance of a premium capture cash reserve account, or any similar mechanism unless directed to by an act of Congress.

Section 408. Mortgages in Qualified Securities – Exempts any residential mortgage loan that is used as collateral for a Qualified Security from certain Dodd-Frank provisions.

Section 409. Mortgage Loans Held in Portfolio – Exempts any residential mortgage originated by a creditor and held on its balance sheet from certain Dodd-Frank provisions.

Section 410. Repeal of Certain Mortgage-Related Provisions – Repeals Sections 1413, 1431, and 1432 of the Dodd-Frank Act.

Section 411. Amendments to the Truth in Lending Act – To ensure that consumers can access a variety of mortgage products, permits a mortgage of a duration of 40 years or less to be considered a Qualified Mortgage. To ensure that a consumer is not precluded from closing a mortgage because of a legal technicality, protects the right of a consumer to waive the requirement that certain mortgage disclosures be provided to the consumer 3 business days before closing. To safeguard access to mortgage credit by a consumer located in a rural community, encourages the development of online and telephone-operated counseling resources.

Section 412. Financial Institutions Examination Fairness and Reform – Incorporates provisions from bipartisan legislation (H.R. 1553) to provide financial institutions with a more stable and fair examination environment, which promotes economic growth and increases financial institutions’ willingness to extend consumer loans, including mortgages.

Section 413. Notice of Junior Mortgage or Lien – Requires notification by a creditor of a junior mortgage to the servicer of a senior mortgage of the existence of the new lien.

Section 414. Limitation on Mortgages Held by Loan Servicers – Prohibits a servicer of a residential mortgage from holding an interest in any other security interest on the same dwelling.

Title V: Miscellaneous Provisions

Section 501. Preserving Access to Manufactured Housing – Implements a portion of HR 1779, which would modify the definition of “Mortgage Originator” to exempt certain retailers of manufactured homes.

Section 502. Common Sense Economic Recovery – Implements H.R. 927, which would permit certain current loans that would otherwise be treated as non-accrual loans as accrual loans, and require the Financial Stability Oversight Council (FSOC) to conduct a study of how best to prevent contradictory guidance from being issued by Federal banking agencies.

Section 503. Technical Amendments to Federal Home Loan Bank Act – Clarifies the annual reporting requirement on collateral, which was established under the Housing and Economic Recovery Act of 2008 (HERA). Eliminates the community support requirement and the requirement that the FHLB take members’ performance under the Community Reinvestment Act and record of lending to first-time homebuyers into account when determining if a member may continue to have access to long-term advances.

Section 504. Preservation of Attorney-Client Privilege for Information Provided to FHFA – Clarifies that information submitted by any person or entity to FHFA (e.g., when requested by FHFA for purposes of an examination or other supervisory process) retains any privilege that may be asserted by the submitting person or entity under Federal or State law as to any person or entity other than FHFA, which is consistent with the treatment of information given to the Federal banking agencies.

Section 505. FHFA Liaison Membership in Federal Financial Institutions Examination Council – Makes the FHFA a liaison member to the Federal Financial Institutions Examination Council in the same manner as representatives of State agencies that supervise financial institutions.

Section 506. Recognition of FHFA Enforcement Authority with Regard to Regulated Entities – Provides the FHFA the authority to enforce the regulations associated with the automated valuation models used in appraisals over the Enterprises and each Federal Home Loan Bank, providing enforcement parity with the Federal banking agencies.

Section 507. Exception from Right to Financial Privacy Act for FHFA as Conservator or Receiver – Extends the Right to Financial Privacy exception for examination by or disclosure to any supervisory agency of any financial institution, in the agency’s exercise of its supervisory, regulatory, or monetary functions, to the FHFA. Recognizes the similarity of FHFA’s authorities and functions to the agencies already

subject to the exception, and permits FHFA to carry out its functions more effectively and efficiently.

Section 508. Technical Amendment to Federal Housing Enterprises Financial Safety and Soundness Act of 1992 – Corrects the name of the House Financial Services Committee in the Federal Housing Enterprises Safety and Soundness Act.

Section 509. Application of Presumption to Enterprise Streamlined Refinancings – Provides the FHFA the same authority to issue rules defining a “Qualified Mortgage” that has already been provided to other agencies that administer federal programs related to administering, insuring or guaranteeing residential mortgage loans.

Section 510. FHFA Authority to Regulate and Examine Contractual Counterparties – Authorizes the FHFA to regulate and examine any party with which the Enterprises, a Federal Home Loan Bank or the Office of Finance contracts for the provision of services; and requires the Enterprises, a Federal Home Loan Bank or the Office of Finance to notify the Director of the FHFA when entering into such contracts. This provides parity with the Federal banking agencies.

Section 511. Election of Directors of a Merged Federal Home Loan Bank – Establishes new requirements regarding the size and composition of, and the election of directors to, the board of any FHLB created as a result of a merger or other combination of two or more FHLBs or the liquidation or reorganization of any FHLB. Authorizes the Director of FHFA to establish a board of no more than 15 directors. Retains existing statutory requirements that the member directorships be at least a majority of the board and the independent directorships be at least 40 percent of the board. Retains the existing concept of allocating member directorships to particular states based upon the relative amount of required stock held by the members located in each state. Establishes special requirements for the election of persons to fill any member directorship representing more than one state. Establishes requirements regarding the composition of the initial board of a combined FHLB including that all directors must have been a director of one of the predecessor FHLBs.