



FINANCIAL SERVICES COMMITTEE DEMOCRATS

THE FORECLOSURE PREVENTION ACT OF 2018

This bill is supported by the following organizations: the National Housing Law Project (NHLP) and the National Consumer Law Center (NCLC) on behalf of its low income clients

Background on the FHA: The Federal Housing Administration (FHA) is a critical part of our housing market today, helping to promote access to homeownership for underserved borrowers -- including first-time homebuyers and minority borrowers who would not otherwise have been served by the conventional mortgage market -- through the provision of government-backed mortgage insurance.

Background on Loss Mitigation: FHA's loss mitigation requirements ensure that servicers follow certain steps when a borrower defaults on their mortgage in order to provide opportunities for the borrower to become current on their payments. In the aftermath of a devastating foreclosure crisis, which occurred on the heels of the worst financial crisis we've seen since the Great Depression, we continue to see significant deficiencies in servicer compliance with the FHA's loss mitigation requirements that unnecessarily put borrowers at risk of foreclosure. On September 14, 2017, the U.S. Department of Housing and Urban Development's (HUD's) Office of Inspector General (OIG) issued a report entitled "HUD Did Not Have Adequate Controls to Ensure that Servicers Properly Engaged in Loss Mitigation," which outlined significant problems with HUD's oversight of servicers' compliance with FHA's loss mitigation requirements. Specifically, the HUD OIG found that 26 of the 90 statistically sampled claims that it reviewed had significant servicing deficiencies, resulting in increased risk of foreclosures, as well as increased overall risk to the program of a projected \$120.9 million. The HUD OIG's findings corroborate the experience of consumer advocates who have responded to this report with several common sense recommendations for reform. This legislation seeks to implement those common sense reforms in order to help strengthen compliance with the FHA's loss mitigation requirements, and ultimately help to ensure that every FHA borrower is given a fair chance at avoiding foreclosure.

Section-by-Section:

- **Section 1.** This section establishes the short title of the bill: the "FHA Foreclosure Prevention Act of 2018"
- **Section 2.** This section prohibits the Secretary of HUD from paying FHA insurance benefits to any lender unless it has provided documentation on its compliance with loss mitigation requirements.
- **Section 3.** This section requires the Secretary of HUD to conduct oversight of servicers, which must include appropriate sampling and review of such compliance and direct information collection from borrowers whose files were sampled.
- **Section 4.** This section establishes a robust complaint and appeals process for borrowers who believe they have been subject to unfair treatment related to noncompliance with FHA's servicing requirement, including its loss mitigation requirements. This section also requires the Secretary of HUD to report annually to Congress regarding the types and volume of complaints received through this process.
- **Section 5.** This section requires a servicer to provide borrowers with notification of the results of the servicer's loss mitigation review before initiating foreclosure proceedings. This section specifies that the notice must include several components to help the borrower understand their rights, and their ability to file a complaint through the process established in Section 4 of this bill.
- **Section 6.** This section clarifies that nothing in this bill should be construed to limit a borrower's remedies under the Real Estate Settlement Procedures Act of 1974.