

*Senate* TITLE II - HOMEOWNERSHIP

*House*

1. **FHA Ceiling**  
Authorizes the current FHA ceilings through 1992. (Sec. 201)  
Permanently reauthorizes the current FHA ceiling. (Sec. 732)
2. **Delegated Processing and Full Insurance for Multifamily Housing**  
Requires the Secretary to establish a delegated processing program to approved mortgagees under the 202, 221, 223, 232, or 241 programs. Requires the Secretary to maintain a full insurance program where all processing is performed at HUD. (Sec. 202)  
Similar provision. Would require the delegate processing program to be used in conjunction with the 207 program and would not include delegate processing in Section 202 of the National Housing Act. (Sec. 202)
3. **Reverse Mortgages**  
Expands the current reverse mortgage insurance program to 25,000 and reauthorizes the program through the end of fiscal year 1993. Allows participants (mortgagors) several different methods to receive payments from the mortgagees including drawing down on lines of credit and monthly payments. Allows mortgagors the ability to alter the method chosen to receive payments, but gives the Secretary the authority to implement regulations limiting the mortgagors ability to convert from one payment method to another method. (Sec. 203)  
Similar provision. Would extend the program through fiscal year 1994. Would give the Secretary the authority to limit the convertability of payment methods by mortgagors. Would require the Secretary to disclose the projected total future loan balance and including the cost for a short-term mortgage and the cost for a mortgage equaling the life expectancy of the mortgagor. (Sec. 745)
4. **First-time Homebuyer Study**  
Requires Secretary to study the actuarial soundness of implementing a program to guarantee downpayments for first-time homebuyers based on downpayment savings accounts and required monthly payment schedules that would equal a percentage of the value of the housing in a housing market at the time of purchase. (Sec. 204)  
Establishes a National Housing Trust within HUD which will provide \$500,000,000 in assistance in 1991 and such sums as appropriate in 1992 and 1993 to assist first-time homebuyers purchase a home. The trust will terminate at the end of fiscal year 1993. The Board of Directors of the Trust will include the Secretary of HUD, the

Secretary of Treasury, the chair of FDIC, the chair of the Federal Housing Finance Board, the chair of Fannie Mae and Freddie Mac and a consumer representative. The Board can hire staff and is allowed travel expenses and a per diem. (Sec. 102)

General Description of the Program. The trust will provide assistance for first-time homebuyers in two ways: an interest rate buydown and downpayment assistance. Interest rate buydowns will ensure that the interest payable on these mortgages would not exceed 6%. Downpayment assistance would include payments for closing costs. To receive downpayment assistance the recipient must provide 1% of the acquisition cost of the property excluding the mortgage insurance premium paid at the time the mortgage is insured. The downpayment assistance is secured by a lien that is subordinate to all mortgages existing on the property when the assistance payment is made. Downpayment assistance must be repaid upon sale of the property unless the sale results in insufficient proceeds to repay the downpayment in which case the Board of Directors can release the borrower from the downpayment obligation. The Board of Directors may require that the downpayment assistance be repaid if at the time of recertification, the family income exceeds 115% of median income or if the property is no longer the principal residence of the family. Downpayment assistance funding would be based upon the need for first-time

homebuyer assistance in one state versus the all other states. (Sec. 103)

Eligibility. Program participants must be first-time homebuyers (which includes displaced homemakers and single parents) whose family income during the year before the application did not exceed 115% of the median income for a family of 4 in the MSA. Property securing the mortgage must be a principal residence of the participant. The maximum mortgage amount does not exceed the FHA maximum. The maximum interest rate is fixed. The mortgage is insured by

FHA or private mortgage insurance. (Sec. 103(b))

Certification. The Board of Directors must certify the income of participating families every 2 years. (Sec. 103(b)(2)) The participating family must certify that they made a good faith effort to obtain a market rate mortgage and were denied because of insufficient income. (sec. 103(b)(3))

The National Housing Trust Fund. All appropriating for this program will be placed in a revolving fund within the Treasury. (Sec. 104)

Regulations. The Board of Directors is empowered to issue regulations to carry out the program. (Sec. 106)

Report. The Board of Directors will submit a report within 90 days of the termination of by the Trust and analyzing the effectiveness of the Trust in assisting first-time homebuyers. (Sec. 107)

5. **Other Home-ownership Demonstration Programs** No similar provision

Overall. The program provides matching loans to eligible recipients to assist in the downpayment of a first home. The Secretary is authorized to provide 20,000,000 for this program in fiscal year 1991. The program has unique definitions for eligible recipients.

Definitions. (1) Buyer contribution means the sum of funds deposited by an eligible buyer in a HOME savings certificate account in any year and any interest accrued. (2) Depository institution is a financial institution that accepts deposits and is insured by the FDIC or NCUA. (3) Displaced Homemaker is an adult who has not worked full-time in the labor force for a number of years but has worked without remuneration to care for the family and home, has depended upon public assistance or spouse's income or is a parent whose youngest dependent child will become ineligible to receive AFDC within 2 years after submission by the individual of an application for assistance, is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment. (4) Eligible buyer is a person who has not individually or jointly with 1 or more persons had any present ownership interest in a principal or secondary residence during the 3-year period ending on the date of the establishment of a HOME savings certificate income does not exceed 120% of the State median gross income. The term eligible buyer will not exclude displaced homemakers as previously defined or single parents ( a person who is unmarried or legally separated and has custody or joint custody of 1 or more

minor children or who is pregnant) who owned a home while married. (5) HOME savings certificate accounts are time deposit accounts established at depository institutions where buyer contributions are deposited. (6) Matching contribution certificates are nontransferable certificates issued by the Secretary of HUD representing the total amount of funds to be made available to an eligible buyer to purchase a residence. (Sec. 121)

Matching Contributions. The Secretary will have the authority to issue matching contributions to eligible buyers. The matching contribution will be a multiple of the buyer contribution to the certificate account. The government match will be based upon the income of the buyer. If the buyers income is 50 percent or less of state median gross income the government will match \$4.00 for every \$1 the buyer contributes to the certificate account. If buyer income is 51-80 percent of state median gross income the government match is \$3.00. If buyer income is 81-100 percent, the government match is \$2.00. If buyer income is 101-120 percent the government match is \$1.00. (Sec. 122 (c)(1))

Buyer can contribute no more than 5% of income to the fund to be eligible for government matching funds. During the first year after the regulations implementing this program take effect the buyer can contribute 15% of its income for matching purposes, and

during the next year can contribute 10% of his/her income for a match. (Sec. 122(c)(2))

The matching contribution certificates can not exceed 40% of the average State median income. (Sec. 122(c)(3))

If the buyers income exceeds the 120% threshold, the buyer may not receive a matching contribution certificate for that year. (Sec. 122(d))

Secretary is to reserve 20 percent of the Appropriated amounts for the matching contribution certificates for buyers earning 80% of the State gross median income and below. (Sec. 122(d)(2))

Use of Matching Contribution Certificates.  
Certificates can be used only to provide for the payment of downpayment and closing costs. (Sec. 123)

Matching certificates can be used only to purchase a residence for which the obligation incurred under the mortgage, the amounts received from the certificates and the amount secured by any subordinated lien does not exceed 95 percent of the purchase price or the appraised value whichever is less. (Sec. 123 (c))

Certificates have a 7 year redemption period (Sec. 124) Certificates are reduced if redeemed before the 3-year period is completed. (Sec. 124(c)).

The contribution certificate becomes a lien on the property subordinate only to the primary mortgage. The matching contribution is to be repaid in monthly installments.

Eligible buyers must establish a HOME savings certificate account before September 30, 1991. (Sec. 132)

#### **6. Second Mortgages for First-Time Homebuyers**

No similar provision.

Overall. Secretary may make grants to local governments and nonprofit organizations for home ownership, counseling and second mortgages. (Sec. 141)

Second Mortgage Eligibility. These are deferred payment loans which are secured by a second mortgage for first-time homebuyers. The loans can no exceed 30 percent of the acquisition price of the residence and repayment must begin within 5 years of the homebuyer acquiring the residence. The local government or nonprofit organization will establish an interest rate of not less than 4% and not more than market rate. The loan must be repaid within 15 years.

Eligible recipients must have income of 80% and below area median income. (Sec. 142 (d))

#### **7. Energy Efficiency**

Requires the Secretary of HUD and Energy within 2 years of passage of the National Affordable Housing Act to promulgate a uniform plan to make housing more

Gives the Secretary the authority to compare state and local building codes with model building codes or model energy codes with model building codes or model energy codes

## **8. Disposition of Foreclosed Properties**

affordable through mortgage financing incentives for energy efficiency. (Sec. 205(1))

Requires the Secretary of HUD to form a task force to make recommendations on financing energy efficiency in private mortgages. (Sec. 205(2))

to determine which code achieves the greatest energy efficiency and is cost-effective. (Sec. 743)

Requires the Secretary to implement regulations on energy efficiency standards within 1 year of enactment of the Housing and Community Development Act of 1990. (Sec. 743 (b))

HUD must submit a report to Congress within 60 days of the enactment of the National Affordable Housing Act, containing strategies and action plans to assist in the disposition of HUD foreclosed properties. Special emphasis must be placed on properties within the HUD inventory for over 1 year. (Sec. 206)

Disapproves HUD regulation entitled "Disposition of HUD-Acquired Single Family Property published in the Federal Register on January 11, 1990. Prohibits the Secretary from publishing a final rule based on this provision.

The report must contain mechanisms for local governments, nonprofits, housing finance authorities and community housing development organizations to work with families to purchase homes. The report must also include methods for: evaluating the rehabilitation costs of properties; involving non-federal entities in the sale and rehabilitation of the properties; and ways to make the older stock readily available. (Sec. 206 (b))

The report must also include proposals for very-low, low and moderate income families

## 9. Actuarial Soundness of the FHA Program

who the assistance non-federal entities may provide to foster purchase.

Requires the Secretary to ensure within 18 months of enactment of the National Affordable Housing Act that the MMI fund attain and maintain a capital ratio of at least 1.25%. If the Secretary determines that the capital ratio is below 1.25%, the Secretary must report at least annual to the Congress on the financial status of the MMI fund and advise Congress of any administrative measures being taken and any legislative recommendations to attain and maintain the minimum capital ratio. (Sec. 207)

The Secretary shall endeavor to ensure that the MMI fund attains and maintains a capital ratio of at least 2%. Beginning 3 years after the enactment of this section, the Secretary must annually report to Congress on the financial status of the MMI fund and efforts to attain the 2% capital ratio. (Sec. 207)

The Secretary must annually conduct an independent actuarial study of the MMI fund. If the study finds the MMI fund is not:

- 1) maintaining an adequate capital ratio

Requires the Secretary to ensure that the MMI fund attains a capital ratio of not less than 1.25% within 2 years after the enactment of this subsection. (Sec. 738)

The Secretary must ensure that the MMI fund attains and maintains at least a 2% capital ratio within 10 years of the enactment of this subsection. (Sec. 738)

Similar provision. If the study finds the MMI fund is not:

- 1) maintaining an adequate capital ratio;
- 2) meeting the needs of homebuyers with low downpayments and first-time homebuyers by providing access to mortgage credit; and

2) meeting the needs of first-time homebuyers by providing access to mortgage credit;

3) avoiding the problems of adverse selection by establishing premiums related to the probability of homeowner default; and

4) minimizing the risk to the fund and to homeowners from homeowner default; the Secretary may propose and implement any adjustment to the insurance premiums or any other program requirements established by the Secretary to achieve the 4 principals stated above. As soon as the Secretary determines that a premium or other change is appropriate or other change is appropriate, the Secretary must notify Congress of the proposed change and the reasons for it. Premium changes can not take effect earlier than 90 days following the notification, unless Congress acts during such time to prevent the change. (Sec. 207)

Risk-Based Premium. Secretary may require an additional periodic premium on mortgages insured in the MMI fund to be consistent with sound actuarial practice and taking into account high LTVs. Such a determination must be in accordance with findings of the annual actuarial study of the MMI fund. The additional premium may not exceed .5% per year and may be required for up to 15 years on mortgages with LTVs greater than 95%; for up to 10 years on LTVs between 93% and 95%; up to 4 years on mortgages with LTVs between 90% and 93%. The Secretary has the authority to establish a premium higher than these rates if necessary

3) minimizing the risk to the Fund and to homeowners from homeowner default; the Secretary may not issue distribution and may, by regulation, propose and implement any adjustments to the insurance premiums or any other program requirements established by the Secretary necessary to achieve such goals. (Notice to Congress requirements are the same) (Sec. 738)

No risk based premium. The Secretary may require payment on all mortgages that are obligations of the MMI fund an additional premium charged on a periodic basis to be consistent with sound actuarial practice. The determination to charge a periodic premium must be in accordance with the findings of the annual actuarial study of the MMI fund. The additional premium may not exceed .5% per year. (Sec. 739)

Mortgage Insurance Premium. The Secretary can not refund more than 50% of the unearned premium upon prepayment of the principal obligation insured after the effective date of this act. (Sec. 734(a)(2)(A))

to achieve actuarial soundness. The Secretary can not require an additional premium where the LTV is less than 90%. The premium charges can not be included in the determination of the initial LTV ratio of the mortgage. (Sec. 208)

Mortgagor Equity. No FHA mortgage can exceed 98% of the appraised value of the property if the mortgage is \$50,000 or less or 97% if the mortgage is in excess of \$50,000 plus the amount of the mortgage insurance premium paid at the time the mortgage is insured. (Sec. 209)

Distributive Shares. The Secretary is required to take into account the actuarial status of the entire MMI fund in determining whether there is a surplus for distribution to mortgagors. (Sec. 210)

The Secretary must establish and collect at the time of insurance, a premium payment of 1.35% on the original insured mortgage which may be financed as part of the mortgage loan. The Secretary must collect a periodic premium payment of .6% of the remaining insured principal balance and must refund any portion of the periodic premium in the case of prepayment of the mortgage. (Sec. 734(a)(B)(ii))

The changes to the premium structure will take effect on October 1, 1995. Mortgages originated in fiscal years 1991-1996 will be payable as follows:  
1991-'92 -- 3.75% up front and .24% in periodic payments;  
1993-'95 -- 2.15% up front and .48% in periodic payments;  
1996 -- 1.35% up front and .60% in periodic payments. (Sec. 734(b)(1))

Generally, the Secretary can not refund more than 50% of the unearned premium upon prepayment of a mortgage that was insured at any time prior to October 1, 1995. (Sec. 734 (b)(2)(A)) The Secretary is prohibited from refunding 1.35% of the premium paid at the time of the mortgage origination for mortgages issued during fiscal years 1991-1995. In addition, the Secretary can not refund more than 50% of any unearned premium in excess of the 1.35% for mortgages originated in fiscal years 1991-1995. (Sec. 734(b)(2)(B))

No similar provision.

Mortgagor Equity. Beginning on October 1, 1992, in no case may the insured mortgage (including initial service charges, appraisal, inspection, mortgage insurance premiums, and other fees as the Secretary approves) exceed the appraised value of the property. (Sec. 732(b)(1))

No similar provision.

Distributive Shares. Same as Senate provision.

No similar provision.

Disclosure of Interest Due on Mortgage Prepayment. Each mortgagee or servicer of a mortgage under Section 203 of the National Housing Act must at least annually provide each mortgagor written notice of the outstanding amount for prepayment of the mortgage and describing any requirement the mortgagor must fulfill to prevent the accrual of any interest on the principal amount after the date of any prepayment. (Sec. 735 (a))



Each mortgagee or servicer of a mortgage under the Section 203 of the National Housing Act at or before closing provide the mortgagor with written notice describing any requirements the mortgagor must fulfill upon prepayment of the principal amount of the mortgage to prevent the accrual of any interest on the principal amount after prepayment. The Secretary must prescribe through regulation the written notice that mortgagees or servicers must provide to mortgagors within 90 days of enactment of this Act. (Sec. 735(a))

These requirements will apply to any insured mortgage outstanding upon the expiration of the 90 day period beginning upon the issuance of final regulations and to any mortgage insured after such date. (Sec. 735(b))

Prohibition on Basing Mortgage Costs and Interest on Amount of Loan. No mortgagee

No similar provision.

may make or hold mortgages insured under this section if the customary lending practices of such mortgagee as determined by the Secretary, provide for variations in interest rate, level of discount points, loan origination fee, or any other amount charged to a mortgagor with respect to a mortgage on the basis of the initial principal amount of the insured loan made by such mortgagee. (Sec. 737(a))

No similar provision.

Examination of Mortgagees. In examining any mortgage approved by the Secretary pursuant to this Act, the Secretary must assess the performance of the mortgagee in meeting the lending needs of the community in which it does business with respect to residential housing lending (including neighborhoods of predominantly low and moderate income families), the consistency of the lending programs of the mortgagee with safe and sound lending practices and the record of defaults on insured mortgage loans originated and serviced by the mortgagee. The Secretary must consider this information in determining whether to permit the mortgagee to continue in its approved status and to other wise participate in programs involving mortgage insurance administered by the Secretary. If any examination of an approved mortgage discloses that the mortgagee has failed to meet the lending needs of the community served by the mortgagee with respect to residential housing lending, the Secretary may require that the mortgagee develop and submit a plan for remedying such deficiencies. The plan must

be filed with the Secretary and the Secretary must publish it in the Federal Register. The mortgagee must publish the plan in at least one newspaper of general circulation in each community in which the approved mortgagee engages in the solicitation, origination, or servicing of residential mortgage loans. The Secretary must provide for a 60-day public comment period on the adequacy of the plan. If the Secretary approves the plan, the mortgagee must be considered a mortgagee approved for participation in the mortgage insurance programs. If any approved mortgagee fails to comply with the provisions of any approved plan, the Secretary may withdraw the approval of the mortgagee for participation in the mortgage insurance programs or limit the participation and may prohibit the mortgagee from engaging in any direct endorsement or similar program. Within 90 days of the passage of the Act, the Secretary must promulgate regulations to establish a procedure to allow for persons to file a request for an examination of the extent to which an approved mortgagee is meeting the lending needs of the community with respect to residential housing lending. The regulations must provide an expedited procedure to allow for anyone to obtain a written report of the results of any requested examination, or of the results of any other examination of an approved mortgagee by the Secretary. The Secretary must submit at least annually a report regarding any actions taken to carry out this section. The report must include a list of all requests filed for

No similar provision.

examination of approved mortgagees. (Sec. 737)

Counseling for Delinquent Mortgages.  
Requires the Secretary to use the MIMI fund to provide counseling directly or through third parties to delinquent mortgagors insured by the Section 203 program. (Sec. 740)

No similar provision.

Insurance of Mortgages on Property in Virgin Islands. Adds the Virgin Islands to the areas of super high cost areas in which the Secretary has the authority to provide mortgage limits above the current high cost area ceiling. (Sec. 741)

No similar provision.

Reports on Early defaults and Foreclosures on Insured Mortgages. The Secretary must provide to the public a quarterly report entitled "FHA Default Report". The report must be published within 30 days of the conclusion of the calendar quarter relating to each period. The first report must cover the first quarter ending after the expiration of the 6 month period beginning on the enactment of this Act.

The report must contain for each mortgagee originating mortgages during the reporting period 1) the name of the lender and the number of each designated census tract in which the lender originated 1 or more mortgages during the reporting period; 2) the number of mortgages originated by a mortgagee in each census tract during the reporting period and during the year; 3) the

number of defaults and foreclosures on each mortgage in the census tract of operation (or "designated census tract") for the quarter and for the year; 4) a census tract breakdown on the percentage of each lender's total insured mortgages originated during each year of the applicable reporting period on which defaults or foreclosures have occurred during the applicable reporting period; 5) the total of all originations, defaults and foreclosures on insured mortgages originated by the lender during the quarter for all designated census tracts and the percentage of the total number of the lender's insured mortgage originations on which defaults or foreclosures have occurred during the applicable reporting period; 6) the total number of insured mortgages originated by the lender secured by properties not located in a designated census tract and the total number of defaults and foreclosures on these mortgages and the percentage of these mortgages originated on which defaults or foreclosures occurred during the applicable reporting period; 7) for each designated census tract, the total number of mortgages originated during the applicable reporting period ~~that~~ are insured pursuant to section 203, the number of defaults and foreclosures occurring on such mortgages during such period, and the percentage of the total insured mortgage originations during the period on which defaults or foreclosures occurred. (Sec. 744)

No similar provision.

Appraisal Services. Any direct endorsement mortgage for the single family program may contract with an appraiser chosen at his/her

discretion to perform appraisals for mortgages insured by the mortgagee. Such appraisers may include appraisal companies organized as corporations, partnerships or sole proprietorships. The Secretary will establish the qualifications for appraisers. The appraisers may utilize the assistance of others. The individual responsible for the appraisal shall personally approve and sign any appraisal report.

Any individual who is an employee of an appraisal company and who meets the qualifications or standards for appraisers and inclusion on appraiser fee panels established by the Secretary, shall be eligible for assignment to conduct appraisals for mortgages under this title in the same manner and on the same basis as other approved appraisers. (Sec. 746)

No similar provision.

Increase in Loan Limits for Property Improvement Loan Insurance. Increases to \$30,000 the loans that may be insured for financing alterations, repairs, and improvements upon or in connection with existing single-family structures. Allows for the Secretary to have the discretion to provide for high cost area adjustments for property improvement loans.

Allows for loan terms of 20 years and 32 days for single family improvement loans. (Sec. 747)

No similar provision.

Limitation on GNMA Guarantees of MBS. GNMA must not enter into commitments to

No similar provision.

issue guarantees above \$81,713,500,000 during fiscal year 1990 and \$84,982,040,000 during fiscal year 1991. Conversely, in FY 1988 GNMA could issue commitments to guarantee up to \$150,000,000,000 and \$156,000,000,000 for FY 1989. (Sec. 749)

Section 235 Program. Extends the assistance payment authority, insurance authority and housing stimulus authority of the Section 235 program through September 30, 1991. (Sec. 751)

No similar provision.

Servicing of Mortgage Loans and Administration of Escrow Accounts. Any person making a federally related mortgage loan must disclose to each applicant for any such loan, at the time of application for the loan: 1) whether the servicing for the loan may be assigned, sold or transferred to any person while the loan is outstanding; 2) for the most recent 3 years completed, the percentage to the nearest 10% of loans made by such person for which the servicing has been assigned, sold, or transferred except during the first year after the passage of the Act, the information may be for only the most recent year completed and for any loan application during the 2nd year after the enactment of this Act, the disclosure need only be for the most recent 2 calendar years. (Loans assigned, or transferred to an affiliate or subsidiary are not to be included.); 3) that the person originating the loan has the capacity to service loans and the best estimate (0-25%; 26-50%; 51-75%; 76-100%) of all loans made by the person for which the

servicing will be assigned, sold, or transferred (excluding servicing assigned, sold, or transferred to an affiliate or subsidiary) during the 12-month period beginning upon the origination. The Secretary must develop a model disclosure statement and a written statement to be signed by the applicant within 90 days of the passage of the Act that notifies the applicant that the best available estimate is a prediction, subject to change, and applies to all of the loan originations made by the lender and not the particular loan of the individual applicant; and 4) if the person who makes the loan does not engage in the servicing of any federally related mortgages that there is a present intent to assign, sell, or transfer the servicing of such loans to another.

Each servicer of any federally related mortgage loan shall notify the borrower in writing of any assignment, sale or transfer of the servicing of the loan to another person. Generally the notice must be made to the borrower within 15 days of the date of transfer of servicing of the mortgage. The notice required must be made within 30 days after the assignment, sale or transfer of the servicing in any case in which the assignment, sale or servicing is preceded by termination of the contract for servicing the loan for cause; commencement of bankruptcy proceeding for the servicer or commencement of proceeding by the FDIC or the RTC for conservatorship or receivership of the servicer or an entity by which the servicer is owned

or controlled. The 15 day rule will also be waived if the originator provides a written notice at settlement of the transfer. The written notice must include: the effective date of transfer of the servicing; the name, address, and toll-free or collect call number of the transferee servicer; a toll-free or collect call number for an individual employed by the transferor servicer, that can be contacted by the borrower to answer transferring inquiries.

Mortgagees or servicers must notify the borrower of the date in which the transferor servicer will cease to accept payments relating the loan and the date on which the transferee servicer will begin to accept the payments.

Servicers must provide any information concerning the effect the transfer may have on the terms of or the continued availability of mortgage life or disability insurance or any other type of optional insurance and what action, if any, the borrower must take to maintain coverage.

Servicers must provide a statement that the assignment, sale or transfer of the servicing of the mortgage does not affect any term or condition of the security instruments other than items directly related to the servicing of the loan.

Generally, each transferee servicer to whom the servicing of any federally related mortgage is assigned, sold, or transferred

must notify the borrower of the action within 15 days after the effective date of transfer. The transferee has up to 30 days where the transfer is preceded by termination of the contract for servicing the loan for cause; the commencement of proceeding for bankruptcy of the servicer or the commencement of proceedings by the FDIC or RTC for conservatorship or receivership of the servicer or an entity by which the servicer is owned or controlled. The time disclosure requirements (15 or 30 days) will not apply if written notice is provided at settlement.

During the 60 days beginning on the effective date of transfer of the servicing of any federally related mortgage, a late fee may not be imposed on the borrower and no payment may be treated as late if the payment is received by the transferor servicer before the due date applicable to such payment.

If any servicer of a federally related mortgage loan receives a qualified written request from the borrower for information relating to the servicing of such loan, the servicer must provide a written response acknowledging receipt of the correspondence within 20 days unless the action requested is taken within such period. A qualified written request must be a written correspondence other than notice on a payment coupon or other payment medium supplied by the servicer that includes or otherwise enables the servicer to identify the name and account of the borrower; and

includes a statement of the reasons for the belief of the borrower, to the extent applicable that the account is in error or provides sufficient detail to the servicer regarding other information sought by the borrower. Within 60 days of receiving the qualified written request, the servicer must make appropriate corrections in the account of the borrower, including crediting late charges or penalties and after completing an investigation, transmitting to the borrower a written notification of the correction; provide borrower with a written explanation or clarification that includes reasons for which the servicer believes the account of the borrower is correct, the name and telephone number of an individual who can provide assistance to the borrower. In the alternative, the servicer can provide a written explanation or clarification that includes information requested by the borrower or an explanation of why the information requested is unavailable or cannot be obtained by the servicer and the telephone number of an individual or office or department of the servicer who can provide assistance to the borrower.

During the 60 day period beginning on the date of the servicer's receipt from any borrower of a qualified written request a servicer may not provide information regarding any overdue payment owed to any credit agency.

Noncompliance with these provisions can result in actual damages to the borrower

plus additional damages up to \$1,000. The same damages are available for the entire class in the case of a class action suit. No class action may exceed the lesser of \$500,000 or 1% net worth of the servicer. The court may award attorney's fees. Servicer is not liable (transferor or transferee) if within 60 days after discovering an error and before the commencement of an action the servicer notifies the concerned party of the error and makes the necessary adjustments in the appropriate account to ensure that the person will not be required to pay an excess amount.

No similar provision.

This section preempts state laws. (Sec. 764)

Mortgage Escrow Accounts. If a borrower is required to make payments to the servicer of the loan for deposit into an escrow account for taxes, insurance premiums and other charges the servicer shall notify the borrower at least annually of any shortage of funds in the escrow account.

Servicers establishing an escrow account must provide to a borrower a statement itemizing the estimated taxes, insurance premiums, and other anticipated charges to be paid from the account during the first year after the establishment and the anticipated dates of the payments. Statement must be submitted to the borrower at closing or not later than 45 days on the date of the establishment of the escrow account.

Escrow statements can be incorporated into the uniform settlement statement. Secretary must issue regulations within 90 days of the enactment of this Act prescribing any changes necessary to the uniform settlement statement that specify how this statement will be incorporated.

Any servicer establishing an escrow account must submit to the borrower at least annually a statement itemizing the borrower's current monthly payment, the portion of the monthly payment being placed in the escrow account, the total amount paid in to the account, the total amount paid out of the escrow account during the period for taxes, insurance premiums, and other charges and the balance in the account at the end of the period.

Each failure to submit a statement to the borrower will result in a \$50 fine but no lenders total penalties can exceed \$100,000. If the failure to notify is an intentional disregard, the penalty imposed shall be \$100 and the \$100,000 penalty will not apply. (Sec. 765)

No similar provision.

National Institute of Building Sciences. The National Institute of Building Sciences is appropriated \$512,000 in fiscal year 1991 and \$512,000 in fiscal year 1992. (Sec. 767)



**10. Sense of the  
Senate Regarding  
IRAs for First-time  
Homebuyers**

Sense of the Senate that owners of IRA accounts should be allowed to withdraw from their IRAs for a first-time home purchase without incurring a penalty and appropriate changes in law should be considered as part of tax legislation in the next session of Congress. (Sec. 211)

No similar provision.