

118TH CONGRESS
2D SESSION

S. 3784

To provide requirements for the bulk auction or group sale of certain non-performing loans, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 8 (legislative day, FEBRUARY 7), 2024

Mr. REED (for himself, Mr. BROWN, Ms. SMITH, Mr. WYDEN, and Mr. MERKLEY) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To provide requirements for the bulk auction or group sale of certain non-performing loans, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Preserving Homes and
5 Communities Act of 2024”.

6 **SEC. 2. SALE OF FHA NON-PERFORMING SINGLE FAMILY**
7 **MORTGAGE LOANS.**

8 (a) IN GENERAL.—Title II of the National Housing
9 Act (12 U.S.C. 1707 et seq.) is amended by adding at
10 the end the following:

1 **“SEC. 259. SALE OF NON-PERFORMING SINGLE FAMILY**
2 **MORTGAGE LOANS.**

3 “(a) SINGLE FAMILY SALES.—The Secretary may
4 conduct sales of 1 or more single family non-performing
5 residential mortgage loans insured under this title only if
6 the following requirements are met:

7 “(1) The Secretary determines that no other
8 reasonable measures other than a sale are available
9 to restore the Fund to, or keep the Fund above, the
10 minimum capital requirements under section
11 205(f)(4).

12 “(2) The Secretary establishes a system that
13 provides priority to Federal, State, local, or Tribal
14 governments or nonprofit organizations that have
15 the capacity and experience required for buying,
16 servicing, and resolving single family mortgage loans
17 in a manner that promotes affordable housing, fair
18 housing, affordable homeownership, housing coun-
19 seling, or neighborhood stabilization.

20 “(3) Applicable loss mitigation required under
21 section 230 is exhausted before any loan is placed
22 into the loan sale.

23 “(4) Clear, written notice is sent by certified
24 and first-class mail by the servicer to the borrower
25 of the loan, all owners of record, and any applicable
26 estate of the borrower with a copy sent to the Sec-

1 retary, not less than 90 days before the inclusion of
2 the loan in any single family sale—

3 “(A) stating that the loan will be included
4 in a single family sale of non-performing loans;
5 and

6 “(B) describing the sale process, includ-
7 ing—

8 “(i) the loss mitigation or other pro-
9 tections available to the borrower and
10 other owners of record both before and
11 after the sale;

12 “(ii) the status of any loss mitigation
13 actions offered by the mortgagee with re-
14 spect to the loan, including decisions on all
15 loss mitigation reviews, descriptions of any
16 loss mitigation options offered or denied,
17 and supporting documentation for the
18 most recent evaluation; and

19 “(iii) the obligations of the servicer of
20 the loan before and after the sale, includ-
21 ing loss mitigation requirements.

22 “(5) Purchasers take loans subject to the fol-
23 lowing requirements:

24 “(A) The provision of loss mitigation op-
25 tions to all eligible borrowers that offer terms

1 and protections at least as favorable as those
2 available under loss mitigation guidelines of the
3 Federal Housing Administration, including the
4 absence of fees for loss mitigation and loan
5 modifications that reduce payments to an af-
6 fordable level.

7 “(B) The provision of a deferral program
8 that offers terms and protections at least as fa-
9 vorable as those provided by a partial claim
10 available under loss mitigation guidelines of the
11 Federal Housing Administration, including the
12 absence of fees, to borrowers who can afford
13 their pre-hardship mortgage payment.

14 “(C) Written, public disclosure of post-sale
15 loss mitigation options.

16 “(D) Failure by the purchaser to follow
17 the established loss mitigation guidelines shall
18 serve as a defense to a judicial foreclosure and
19 a basis to enjoin or otherwise stay a non-judi-
20 cial foreclosure.

21 “(E) Data reporting as provided under
22 subsection (d)(1).

23 “(F) Maintenance of vacant and aban-
24 doned property, including the payment of local
25 property taxes, until such time as title is trans-

1 ferred to a nonprofit organization or the prop-
2 erty is sold to a bona fide third-party pur-
3 chaser.

4 “(G) Where a property becomes vacant,
5 the purchaser shall not release the lien until the
6 property is sold or donated.

7 “(H) Use of contract for deed, lease to
8 own, or a land installment contract to sell or
9 otherwise transfer any property that is secured
10 by a purchased loan shall be prohibited unless
11 the tenant or purchaser is a nonprofit organiza-
12 tion.

13 “(I) For all non-performing loans where a
14 home retention loss mitigation option is not
15 possible and the purchaser acquires the prop-
16 erty through foreclosure sale, 75 percent of
17 those properties shall be—

18 “(i) sold at the current fair market
19 value to an owner occupant;

20 “(ii) sold or donated to a non-profit or
21 local government entity that will commit to
22 1 of the outcomes described in clause (i) or
23 (iii);

24 “(iii) for not less than the 10-year pe-
25 riod beginning on the date on which any

1 entity initially leases the property, and
2 with respect to any new lease beginning
3 within such 10-year period, leased to a ten-
4 ant with income that is not more than 100
5 percent of the area median income at the
6 time the tenant initially leases the prop-
7 erty, with monthly rents that are not more
8 than 30 percent of the monthly household
9 income, provided that the property owner
10 accepts as rental payment any legal source
11 of income, including—

12 “(I) a housing voucher under sec-
13 tion 8 of the United States Housing
14 Act of 1937 (42 U.S.C. 1437f) and
15 any form of Federal, State, or local
16 housing assistance provided to a per-
17 son or family or provided to a housing
18 owner on behalf of a person or family,
19 including—

20 “(aa) rental vouchers;

21 “(bb) rental assistance;

22 “(cc) rental subsidies from
23 nongovernmental organizations;
24 and

1 “(dd) homeownership sub-
2 sidies;

3 “(II) income received as a
4 monthly benefit under title II of the
5 Social Security Act (42 U.S.C. 401 et
6 seq.), as a supplemental security in-
7 come benefit under title XVI of the
8 Social Security Act (42 U.S.C. 1381
9 et seq.), or as a benefit under the
10 Railroad Retirement Act of 1974 (45
11 U.S.C. 231 et seq.), including any
12 such benefit to which the individual is
13 entitled for which payment is made to
14 a representative payee;

15 “(III) income received by court
16 order, including spousal support and
17 child support;

18 “(IV) any payment from a trust,
19 guardian, conservator, cosigner, or
20 relative; and

21 “(V) any other lawful source of
22 income or funds, including savings ac-
23 counts and investments; or

24 “(iv) for any property that is not hab-
25 itable, demolished or donated to a land

1 bank with a cash donation to cover demoli-
2 tion costs.

3 “(b) DIRECT LOAN SALES.—The Secretary may per-
4 mit direct loan sales of single family non-performing resi-
5 dential loans insured under this title only if—

6 “(1) the loans are sold to municipalities, land
7 banks, or nonprofit organizations that work in af-
8 fordable housing, housing counseling, or neighbor-
9 hood stabilization;

10 “(2) the purchaser complies with the require-
11 ments under paragraph (5) of subsection (a); and

12 “(3) the pricing reasonably reflects the costs of
13 complying with the requirements under paragraphs
14 (3) through (5) of subsection (a).

15 “(c) FORBEARANCE.—The Secretary may not sell—

16 “(1) a single family non-performing residential
17 loan insured under this Title while the loan is in a
18 forbearance plan.

19 “(2) a single family non-performing residential
20 loan insured under this title that is not more than
21 90 days from the end of a forbearance plan.

22 “(d) DATA AND REPORTING.—

23 “(1) PURCHASER REPORTING.—During the 4-
24 year period following any single family sale of non-
25 performing residential single family mortgage loans

1 under subsection (a) or (b), the Secretary shall re-
2 quire each purchaser of such a loan, including any
3 subsequent purchaser of the loan, to provide to the
4 Secretary quarterly loan-level data regarding the
5 treatment and outcome of the loan, including—

6 “(A) loan characteristics, including loan
7 type, remaining loan term, loan to value ratio,
8 number of months in arrears, loss mitigation
9 status, and foreclosure status at time of sale;

10 “(B) loss mitigation data, including wheth-
11 er loss mitigation was provided by the pur-
12 chaser, debt-to-income ratio and percent pay-
13 ment reduction for any modified loans, fore-
14 closures begun or completed, and performance
15 of modified loans;

16 “(C) demographic data for the borrower
17 and any co-borrower, including race, national
18 origin, sex, ZIP Code, and census tract, and, if
19 available, disability status and veteran status;
20 and

21 “(D) other purchaser actions, including
22 charge offs and resales of loans and dates for
23 such actions.

24 “(2) SEMIANNUAL REPORTS TO CONGRESS.—

25 The Secretary shall submit to Congress, and make

1 publicly available at no cost to the public in a format
2 that is readily accessible on the website of the De-
3 partment of Housing and Urban Development, semi-
4 annual reports to Congress on—

5 “(A) loans sold in a single family sale
6 under subsection (a), disaggregated by pool, in-
7 cluding—

8 “(i) the number of loans and types of
9 loans;

10 “(ii) mean and median delinquency
11 and loan to value ratios at the time of the
12 sale;

13 “(iii) the number and percentage of
14 owner-occupied properties;

15 “(iv) the number and percentage of
16 loans modified prior to the sale;

17 “(v) the number and percentage of
18 loans in foreclosure proceedings at the
19 time of the sale; and

20 “(vi) demographic and geographic
21 data, including property locations by cen-
22 sus tract or larger geographic location if
23 necessary to protect personally identifiable
24 information;

1 “(B) the performance of loans after a sin-
2 gle family sale under subsection (a),
3 disaggregated by loan pool, including the initial
4 purchaser, current owner, current servicer, data
5 summarizing any alternatives to foreclosure of-
6 fered and enacted, and data summarizing the
7 data collected under paragraph (1);

8 “(C) the results of a fair lending analysis
9 conducted based on the data in paragraph (1)
10 to identify any discriminatory impacts or out-
11 comes associated with the sales; and

12 “(D) claims paid through the Claims With-
13 out Conveyance of Title program under section
14 204(a)(1)(C), including the number of third
15 party sales by ZIP Code, whether purchasers
16 are owner-occupants, nonprofit organizations,
17 government entities, or investors, and the
18 source of funds or financing used by pur-
19 chasers.

20 “(e) PENALTIES FOR NONCOMPLIANCE.—The Sec-
21 retary may—

22 “(1) forcibly retain loans or properties, without
23 providing compensation, from purchasers that do not
24 meet the requirements under subsection (a)(5); and

1 “(2) enact additional penalties for purchasers
2 described in paragraph (1) that the Secretary deter-
3 mines have repeatedly not complied with the require-
4 ments under subsection (a)(5), including monetary
5 penalties and prohibition from participating in single
6 family sales under this section.

7 “(f) REGULATIONS.—The Secretary shall issue regu-
8 lations related to single family sales in accordance with
9 the requirements in this section.

10 **“SEC. 260. CLAIMS WITHOUT CONVEYANCE OF TITLE FIRST**
11 **LOOK PROGRAM.**

12 “(a) CLAIMS WITHOUT CONVEYANCE OF TITLE
13 FIRST LOOK PROGRAM.—With respect to a third party
14 sale of properties foreclosed upon and put up for sale in
15 accordance with section 204(a)(1)(C), the Secretary shall
16 maintain an exclusive right for eligible buyers to purchase
17 these properties at a price at or below the fair market
18 value of the property (with appropriate adjustments) for
19 a specified period of time at the start of post-foreclosure
20 sale efforts.

21 “(b) ELIGIBLE BUYERS.—The right to purchase a
22 property under subsection (a) shall be offered to—

23 “(1) homebuyers who will occupy the property
24 as a principal residence;

25 “(2) nonprofit organizations that—

1 “(A) commit in advance to rehabilitate the
2 property and dispose of the property for an al-
3 lowable use and within a time period to be des-
4 ignated by the Secretary by regulation;

5 “(B) are pre-approved for participation by
6 the Secretary or a designee thereof to ensure
7 that the organization—

8 “(i) maintains active tax-exempt sta-
9 tus under section 501(c)(3) of the Internal
10 Revenue Code;

11 “(ii) has a primary mission related
12 to—

13 “(I) affordable housing; or

14 “(II) community revitalization
15 through housing-related activities; and

16 “(iii) has demonstrated not less than
17 2 years of direct experience with real es-
18 tate project development as an organiza-
19 tional entity; and

20 “(3) Federal, State, local, or Tribal government
21 agencies or instrumentalities that meet the require-
22 ments of subparagraph (A) and clauses (ii) and (iii)
23 of subparagraph (B) of paragraph (2).

24 “(c) ALLOWABLE USES.—An allowable use described
25 in this subsection shall include—

1 “(1) renovation and sale, or, if the property al-
2 ready meets the minimum property standards set by
3 the Assistant Secretary for Housing and Federal
4 Housing Commissioner, sale without renovation, to
5 an owner-occupant with an income that is not more
6 than 120 percent of the area median income;

7 “(2) renovation and creation of affordable
8 homeownership or, if the property already meets the
9 minimum property standards set by the Assistant
10 Secretary for Housing and Federal Housing Com-
11 missioner, creation of affordable homeownership
12 without renovation, by a community land trust or
13 shared equity homeownership program;

14 “(3) renovation and rental to tenants with an
15 income that is not more than 100 percent of the
16 area median income at the time the tenant initially
17 leases the property, with monthly rents that are not
18 more than 30 percent of the monthly household in-
19 come, for not less than the 10-year period beginning
20 on the date on which any entity initially leases the
21 property, and with respect to any new lease begin-
22 ning within such 10-year period, provided that the
23 property owner accepts as rental payment any legal
24 source of income, including—

1 “(A) a housing voucher under section 8 of
2 the United States Housing Act of 1937 (42
3 U.S.C. 1437f) and any form of Federal, State,
4 or local housing assistance provided to a person
5 or family or provided to a housing owner on be-
6 half of a person or family, including—

7 “(i) rental vouchers;

8 “(ii) rental assistance;

9 “(iii) rental subsidies from nongovern-
10 mental organizations; and

11 “(iv) homeownership subsidies;

12 “(B) income received as a monthly benefit
13 under title II of the Social Security Act (42
14 U.S.C. 401 et seq.), as a supplemental security
15 income benefit under title XVI of the Social Se-
16 curity Act (42 U.S.C. 1381 et seq.), or as a
17 benefit under the Railroad Retirement Act of
18 1974 (45 U.S.C. 231 et seq.), including any
19 such benefit to which the individual is entitled
20 for which payment is made to a representative
21 payee;

22 “(C) income received by court order, in-
23 cluding spousal support and child support;

24 “(D) any payment from a trust, guardian,
25 conservator, cosigner, or relative; and

1 “(E) any other lawful source of income or
2 funds, including savings accounts and invest-
3 ments; and

4 “(4) demolition, but only if the property is va-
5 cant or uninhabitable and if the demolition is part
6 of a strategy that incorporates rehabilitation, new
7 construction, or designation of the land for use as a
8 public amenity.

9 “(d) REPORTING REQUIREMENTS.—

10 “(1) IN GENERAL.—Each purchaser of a prop-
11 erty under this section, other than an owner-occu-
12 pant, shall, on an annual basis until the purchaser
13 completes the allowable use of the property under
14 subsection (c), report to the Secretary—

15 “(A) the start date and completion date of
16 any rehabilitation;

17 “(B) the scope of work for and the total
18 cost of any rehabilitation;

19 “(C) the end-use of the property, including
20 sale to owner-occupant, use in a land trust or
21 other shared equity program, or affordable
22 rental;

23 “(D) the demographics of the end-user of
24 the property, whether an owner-occupant or a
25 tenant, including race, national origin, sex, ZIP

1 Code, and census tract, and, if available, dis-
2 ability status and veteran status; and

3 “(E) the approximate income of the end-
4 user of the property expressed as a percentage
5 of the area median income.

6 “(2) AVAILABILITY.—The Secretary shall, on
7 an annual basis, make the information collected
8 under paragraph (1) publicly available at no cost to
9 the public in a readily accessible format on the
10 website of the Department of Housing and Urban
11 Development.

12 “(e) USE OF THIRD PARTY VENDORS.—The Sec-
13 retary may contract with a third-party vendor to assist
14 in carrying out the provisions of this section, including
15 to—

16 “(1) pre-approve nonprofit organizations for
17 participation in the Claims Without Conveyance of
18 Title First Look program;

19 “(2) monitor compliance with allowable uses
20 and time periods designated by the Secretary by reg-
21 ulation; and

22 “(3) facilitate reporting to the Secretary.

23 “(f) ACCESS.—The Secretary shall ensure that any
24 eligible buyer seeking to purchase a property under this

1 section can easily access and inspect the property prior
2 to making a commitment to purchase the property.”.

3 (b) REGULATIONS.—Not later than 18 months after
4 the date of enactment of this Act, the Secretary of Hous-
5 ing and Urban Development shall promulgate regulations
6 to carry out the amendments made by this section.

7 **SEC. 3. SALE OF FANNIE MAE AND FREDDIE MAC NON-PER-**
8 **FORMING LOANS.**

9 The Federal Housing Enterprises Financial Safety
10 and Soundness Act of 1992 (12 U.S.C. 4501 et seq.) is
11 amended by inserting after section 1328 (12 U.S.C. 4548)
12 the following:

13 **“SEC. 1329. SALE OF NON-PERFORMING LOANS.**

14 “(a) BULK AUCTION OR GROUP SALES.—An enter-
15 prise may not conduct bulk auctions or other group sales
16 of single family non-performing residential loans unless
17 the following requirements are met:

18 “(1) The enterprise establishes a system that
19 provides priority to Federal, State, local, or Tribal
20 governments or nonprofit organizations that have
21 the capacity and experience required for buying,
22 servicing, and resolving single family mortgage loans
23 in a manner that promotes affordable housing, fair
24 housing, affordable homeownership, provision of
25 housing counseling, or neighborhood stabilization

1 “(2) Applicable loss mitigation is exhausted be-
2 fore a loan may be placed into the bulk auction or
3 group sale.

4 “(3) Clear, written notice is sent by the enter-
5 prise or servicer through certified and first-class
6 mail to the borrower and all owners of record, with
7 a copy sent to the enterprise if sent by the servicer,
8 not less than 90 days before the inclusion of the
9 loan in any proposed sale—

10 “(A) stating that the loan will be included
11 in a bulk auction or group sale of non-per-
12 forming loans; and

13 “(B) describing the bulk auction or group
14 sale process, including—

15 “(i) the loss mitigation or other pro-
16 tections available to the borrower and
17 other owners of record both before and
18 after the auction or sale;

19 “(ii) the status of any loss mitigation
20 actions offered by the mortgagee with re-
21 spect to the loan, including decisions on all
22 loss mitigation reviews, descriptions of any
23 loss mitigation options offered or denied,
24 and supporting documentation for the
25 most recent evaluation; and

1 “(iii) the obligations of the servicer of
2 the loan before and after the auction or
3 sale, including loss mitigation require-
4 ments.

5 “(4) The enterprise requires in the terms of the
6 bulk auction or group sale that purchasers take
7 loans subject to the following requirements:

8 “(A) The purchaser is required to provide
9 loss mitigation options to all eligible borrowers
10 that offer terms and protections at least as fa-
11 vorable as those available under loss mitigation
12 guidelines of the enterprise, including the ab-
13 sence of fees for loss mitigation and loan modi-
14 fications that reduce payments to an affordable
15 level.

16 “(B) The purchaser is required to offer a
17 deferral program that offers terms and protec-
18 tions at least as favorable as those available
19 under loss mitigation guidelines of the enter-
20 prise, including the absence of fees, to bor-
21 rowers who can afford their pre-hardship mort-
22 gage payment.

23 “(C) The purchaser is required to provide
24 written, public disclosure of post-sale loss miti-

1 gation options that the purchaser makes avail-
2 able to eligible borrowers.

3 “(D) Failure by the purchaser to follow
4 the established loss mitigation guidelines shall
5 serve as a defense to a judicial foreclosure and
6 a basis to enjoin or otherwise stay a non-judi-
7 cial foreclosure.

8 “(E) Data reporting as provided under
9 subsection (c)(1).

10 “(F) If a property becomes vacant, the
11 purchaser shall not release the lien until the
12 property is sold or donated.

13 “(G) Use of contract for deed, lease to
14 own, or a land installment contract to sell or
15 otherwise transfer any property that is secured
16 by a purchased loan shall be prohibited unless
17 the tenant or purchaser is a nonprofit organiza-
18 tion.

19 “(H) For all non-performing loans where a
20 home-retention loss mitigation option is not
21 possible and the purchaser acquires the prop-
22 erty through foreclosure sale, 75 percent of
23 those properties shall be—

24 “(i) sold at the current fair market
25 value to an owner-occupant;

1 “(ii) sold or donated to a nonprofit or
2 local government entity that will commit to
3 1 of the outcomes described in clause (i) or
4 (iii);

5 “(iii) for not less than the 10-year pe-
6 riod beginning on the date on which any
7 entity initially leases the property, and
8 with respect to any new lease beginning
9 within such 10-year period, leased to a ten-
10 ant with an income that is not more than
11 100 percent of the area median income at
12 the time the tenant initially leases the
13 property, with monthly rents that are not
14 more than 30 percent of the monthly
15 household income, provided that the prop-
16 erty owner accepts as rental payment any
17 legal source of income, including—

18 “(I) a housing voucher under sec-
19 tion 8 of the United States Housing
20 Act of 1937 (42 U.S.C. 1437f) and
21 any form of Federal, State, or local
22 housing assistance provided to a per-
23 son or family or provided to a housing
24 owner on behalf of a person or family,
25 including—

- 1 “(aa) rental vouchers;
- 2 “(bb) rental assistance;
- 3 “(cc) rental subsidies from
- 4 nongovernmental organizations;
- 5 and
- 6 “(dd) homeownership sub-
- 7 sidies;
- 8 “(II) income received as a
- 9 monthly benefit under title II of the
- 10 Social Security Act (42 U.S.C. 401 et
- 11 seq.), as a supplemental security in-
- 12 come benefit under title XVI of the
- 13 Social Security Act (42 U.S.C. 1381
- 14 et seq.), or as a benefit under the
- 15 Railroad Retirement Act of 1974 (45
- 16 U.S.C. 231 et seq.), including any
- 17 such benefit to which the individual is
- 18 entitled for which payment is made to
- 19 a representative payee;
- 20 “(III) income received by court
- 21 order, including spousal support and
- 22 child support;
- 23 “(IV) any payment from a trust,
- 24 guardian, conservator, cosigner, or
- 25 relative; and

1 “(V) any other lawful source of
2 income or funds, including savings ac-
3 counts and investments; or

4 “(iv) for any property that is not hab-
5 itable, demolished or donated to a land
6 bank with a cash donation to cover demoli-
7 tion costs.

8 “(5) The enterprise maintains vacant and aban-
9 doned property until such time as title is transferred
10 to a nonprofit organization or the property is sold to
11 a bona fide third-party purchaser.

12 “(b) FORBEARANCE.—An enterprise may not sell—

13 “(1) a single family non-performing residential
14 loan while the loan is in a forbearance plan;

15 “(2) a single family non-performing residential
16 loan that is not more than 90 days removed from
17 the end of a forbearance plan.

18 “(c) DATA AND REPORTING.—

19 “(1) PURCHASER REPORTING.—During the 4-
20 year period following any auction or sale of single
21 family non-performing residential loans under sub-
22 section (a), the Director shall require the enterprise
23 to collect from each purchaser of such loans, includ-
24 ing any subsequent purchaser of a loan, quarterly

1 loan-level data regarding the treatment and outcome
2 of the loan, including—

3 “(A) loan characteristics, including loan
4 type, remaining loan term, loan to value ratio,
5 number of months in arrears, loss mitigation
6 status, and foreclosure status at time of sale;

7 “(B) loss mitigation data, including wheth-
8 er loss mitigation was provided by the pur-
9 chaser, debt-to-income ratio and percent pay-
10 ment reduction for any modified loans, fore-
11 closures begun or completed, and performance
12 of modified loans;

13 “(C) demographic data for each borrower
14 and any co-borrower, including race, national
15 origin, sex, ZIP Code, and census tract, and, if
16 available, disability status and veteran status;
17 and

18 “(D) other purchaser actions, including
19 charge offs and resales of loans and dates for
20 such actions.

21 “(2) SEMIANNUAL REPORTS TO CONGRESS.—

22 The Director shall submit to Congress, and make
23 publicly available at no cost to the public in a readily
24 accessible format on the website of the Agency,
25 semi-annual reports on—

1 “(A) loans sold in an auction or sale under
2 subsection (a) by each enterprise, disaggregated
3 by pool, including—

4 “(i) the number of loans and types of
5 loans;

6 “(ii) mean and median delinquency
7 and loan to value ratios at the time of the
8 sale;

9 “(iii) the number and percentage of
10 owner-occupied properties;

11 “(iv) the number and percentage of
12 loans modified prior to auction or sale;

13 “(v) the number and percentage of
14 loans in foreclosure proceedings at the
15 time of auction or sale; and

16 “(vi) demographic and geographic
17 data, including property locations by cen-
18 sus tract or larger geographic location if
19 necessary to protect personally identifiable
20 information;

21 “(B) the performance of loans after an
22 auction or sale under subsection (a),
23 disaggregated by loan pool, including the initial
24 purchaser, current owner, current servicer, data
25 summarizing any alternatives to foreclosure of-

1 ferred and enacted, and data summarizing the
2 data collected under subparagraph (A); and

3 “(C) the results of a fair lending analysis
4 conducted based on the data in subparagraphs
5 (A) and (B) to identify any discriminatory im-
6 pacts or outcomes associated with the auctions
7 or sales.

8 “(d) PENALTIES FOR NONCOMPLIANCE.—The enter-
9 prises may—

10 “(1) forcibly retain loans or properties, without
11 providing compensation, from purchasers that do not
12 meet the requirements under subsection (a)(4); and

13 “(2) enact additional penalties for purchasers
14 described in paragraph (1) that the Director deter-
15 mines have repeatedly not complied with the require-
16 ments under subsection (a)(5), including monetary
17 penalties and prohibition from participating in sales
18 under this section.

19 “(e) REGULATIONS.—The Director shall issue regula-
20 tions defining the terms of permissible auctions or sales
21 in accordance with the requirements in this section.

22 **“SEC. 1330. SALE OF RE-PERFORMING LOANS.**

23 “(a) BULK AUCTION OR GROUP SALES.—An enter-
24 prise may not conduct bulk auctions or other group sales

1 of single family re-performing residential loans unless the
2 following requirements are met:

3 “(1) The enterprise establishes a system that
4 provides priority to Federal, State, local, or Tribal
5 governments or nonprofit organizations that have
6 the capacity and experience required for buying,
7 servicing, and resolving single family mortgage loans
8 in a manner that promotes affordable housing, fair
9 housing, affordable homeownership, provision of
10 housing counseling, or neighborhood stabilization.

11 “(2) Clear, written notice is sent by the enter-
12 prise or servicer through certified and first-class
13 mail to the borrower and all owners of record, with
14 a copy sent to the enterprise if sent by the servicer,
15 not less than 90 days before the inclusion of the
16 loan in any proposed sale—

17 “(A) stating that the loan will be included
18 in a bulk auction or group sale of re-performing
19 loans; and

20 “(B) describing the bulk auction or group
21 sale process, including—

22 “(i) the loss mitigation or other pro-
23 tections available to the borrower and
24 other owners of record both before and
25 after the auction or sale; and

1 “(ii) the obligations of the servicer of
2 the loan before and after the auction or
3 sale, including loss mitigation require-
4 ments.

5 “(3) The enterprise requires in the terms of the
6 bulk auction or group sale that purchasers take
7 loans subject to the following requirements:

8 “(A) The purchaser is required to offer
9 targeted payment relief options to borrowers
10 that become more than 60 days delinquent on
11 their mortgage after their loan is sold that in-
12 cludes deferral of principal and term extension
13 options that reduce payments to an affordable
14 level.

15 “(B) The purchaser is required to offer a
16 deferral program to borrowers that become
17 more than 60 days delinquent on their mort-
18 gage after their loan is sold that offers terms
19 and protections at least as favorable as those
20 available under loss mitigation guidelines of the
21 enterprise, including the absence of fees, to bor-
22 rowers who can afford their pre-hardship mort-
23 gage payment.

24 “(C) Failure by the purchaser to follow the
25 established loss mitigation guidelines shall serve

1 as a defense to a judicial foreclosure and a
2 basis to enjoin or otherwise stay a non-judicial
3 foreclosure.

4 “(D) Data reporting as provided under
5 subsection (b)(1).

6 “(E) If a property becomes vacant, the
7 purchaser shall not release the lien until the
8 property is sold or donated.

9 “(F) Use of contract for deed, lease to
10 own, or a land installment contract to sell or
11 otherwise transfer any property that is secured
12 by a purchased loan shall be prohibited unless
13 the tenant or purchaser is a nonprofit organiza-
14 tion.

15 “(b) DATA AND REPORTING.—

16 “(1) PURCHASER REPORTING.—During the 4-
17 year period following any auction or sale of single
18 family re-performing residential mortgage loans
19 under subsection (a), the Director shall require the
20 enterprise to collect from each purchaser of such
21 loans, including any subsequent purchaser of a loan,
22 quarterly loan-level data regarding the treatment
23 and outcome of the loan, including—

1 “(A) loan characteristics, including loan
2 type, remaining loan term, loan to value ratio,
3 number of months in arrears, and loan status;

4 “(B) loss mitigation data, including wheth-
5 er loss mitigation was provided by the pur-
6 chaser, debt-to-income ratio and percent pay-
7 ment reduction for any modified loans, and per-
8 formance of modified loans;

9 “(C) demographic data for each borrower
10 and any co-borrower, including race, national
11 origin, sex, ZIP Code, and census tract, and, if
12 available, disability status and veteran status;
13 and

14 “(D) other purchaser actions, including
15 charge offs and resales of loans and dates for
16 such actions.

17 “(2) SEMIANNUAL REPORTS TO CONGRESS.—
18 The Director shall submit to Congress, and make
19 publicly available at no cost to the public in a readily
20 accessible format on the website of the Agency,
21 semi-annual reports on—

22 “(A) loans sold in an auction or sale under
23 subsection (a) by each enterprise, disaggregated
24 by pool, including—

1 “(i) the number of loans and types of
2 loans;

3 “(ii) mean and median delinquency
4 and loan to value ratios at the time of the
5 sale;

6 “(iii) the number and percentage of
7 loans modified prior to auction or sale; and

8 “(iv) demographic and geographic
9 data, including property locations by cen-
10 sus tract or larger geographic location if
11 necessary to protect personally identifiable
12 information.

13 “(B) the performance of loans after an
14 auction or sale under subsection (a),
15 disaggregated by loan pool, including the initial
16 purchaser, current owner, current servicer, data
17 summarizing any alternatives to foreclosure of-
18 fered and enacted, and data summarizing the
19 data collected under subparagraph (A); and

20 “(C) the results of a fair lending analysis
21 conducted based on the data in subparagraphs
22 (A) and (B) to identify any discriminatory im-
23 pacts or outcomes associated with the auctions
24 or sales.

1 “(c) PENALTIES FOR NONCOMPLIANCE.—The enter-
2 prises may forcibly retain loans or properties, without pro-
3 viding compensation, from purchasers that do not meet
4 the requirements under subsection (a)(3).

5 “(d) REGULATIONS.—The Director shall issue regu-
6 lations defining the terms of permissible auctions or sales
7 in accordance with the requirements in this section.”.

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