

118TH CONGRESS
2D SESSION

S. 3728

To amend title 38, United States Code, to modify the administration of housing loans of the Department of Veterans Affairs to prevent or resolve default under such loans, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 1, 2024

Mr. TESTER (for himself and Mr. BROWN) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to modify the administration of housing loans of the Department of Veterans Affairs to prevent or resolve default under such 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 “Veterans Housing Sta-
5 bility Act of 2024”.

1 **SEC. 2. MODIFICATION OF ADMINISTRATION OF HOUSING**
2 **LOANS OF DEPARTMENT OF VETERANS AF-**
3 **FAIRS TO PREVENT OR RESOLVE DEFAULT.**

4 (a) **POWERS OF SECRETARY.**—Section 3720 of title
5 38, United States Code, is amended—

6 (1) in subsection (f), by striking “forebearance”
7 and inserting “forbearance”; and

8 (2) by adding at the end the following new sub-
9 section:

10 “(i)(1) Notwithstanding the provisions of any other
11 law, including section 501(d) of this title, the Secretary
12 may, in response to a national emergency declared by the
13 President under the National Emergencies Act (50 U.S.C.
14 1601 et seq.), a major disaster declared by the President
15 under section 401 of the Robert T. Stafford Disaster Re-
16 lief and Emergency Assistance Act (42 U.S.C. 5170), or
17 a widespread and significant crisis as determined by the
18 Secretary, take any of the following actions as the Sec-
19 retary considers reasonably necessary to further the pur-
20 poses of this chapter:

21 “(A) Impose a moratorium on the foreclosure of
22 any loan guaranteed, insured, made, or held by the
23 Secretary.

24 “(B) Impose a moratorium on any possessory
25 action arising from the foreclosure of any such loan.

1 “(C) Impose a period of forbearance and estab-
2 lish related requirements with respect to any such
3 loan.

4 “(2)(A) No moratorium or period of forbearance may
5 be imposed under paragraph (1) for more than 180 days
6 unless the Secretary extends such moratorium or period
7 of forbearance as provided in subparagraph (A).

8 “(B) The Secretary may extend a moratorium or pe-
9 riod of forbearance imposed under paragraph (1), or any
10 previous extension of such a moratorium or period of for-
11 bearance, if the Secretary, not fewer than 30 days before
12 extending such moratorium, period of forbearance, or pre-
13 vious extension—

14 “(i) notifies Congress of the extension; and

15 “(ii) publishes notice of the extension in the
16 Federal Register.”.

17 (b) PARTIAL CLAIM PROGRAM.—Subchapter III of
18 chapter 37 of such title is amended by inserting after sec-
19 tion 3722 the following new section:

20 **“§ 3723. Partial Claim Program**

21 “(a) IN GENERAL.—The Secretary may establish a
22 program under this section, to be known as the ‘Partial
23 Claim Program’, under which the Secretary may make a
24 partial claim with respect to a loan guaranteed under this

1 chapter if the Secretary determines that such loan is in
2 default or faces imminent default.

3 “(b) PARTIAL CLAIM DEFINED.—In this section, the
4 term ‘partial claim’, with respect to a loan guaranteed
5 under this chapter, means the purchase by the Secretary
6 of a portion of indebtedness under the guaranteed loan,
7 under which—

8 “(1) the Secretary pays the holder of the guar-
9 anteed loan the amount of indebtedness the Sec-
10 retary determines necessary to help prevent or re-
11 solve a default;

12 “(2) the borrower of the guaranteed loan enters
13 into a noninterest-bearing loan agreement to repay
14 the Secretary at the end of the period of the guaran-
15 teed loan; and

16 “(3) the Secretary receives a secured interest in
17 the property, subordinate to the first lien guaranteed
18 loan, serving as collateral for the guaranteed loan.

19 “(c) ADMINISTRATION OF PARTIAL CLAIM.—

20 “(1) AMOUNT OF CLAIM.—The amount of a
21 partial claim under this section with respect to a
22 loan guaranteed under this chapter may not exceed
23 30 percent of the unpaid principal balance of the
24 guaranteed loan as of the date that the initial par-
25 tial claim is made.

1 “(2) APPLICATION OF CLAIM.—A holder of a
2 loan guaranteed under this chapter who receives a
3 partial claim under this section with respect to such
4 loan shall apply the payment first to arrearages, if
5 any, on the guaranteed loan, which may include any
6 additional costs (such as taxes, insurance premiums,
7 or homeowner’s dues) the Secretary determines nec-
8 essary to prevent or resolve a default.

9 “(3) NO ADVANCE ON LOAN GUARANTY.—The
10 Secretary may not structure a partial claim under
11 this section as an advance on a loan guaranty pro-
12 vided under this chapter.

13 “(4) EXPENSES.—Expenses related to a partial
14 claim under this section, including administrative ex-
15 penses associated with such partial claim, may not
16 be charged to the borrower of the guaranteed loan
17 with respect to which the partial claim is paid.

18 “(d) REQUIREMENTS OF LOAN HOLDER.—

19 “(1) AGENT OF SECRETARY.—The Secretary
20 may require the holder of a loan guaranteed under
21 this chapter who receives a partial claim under this
22 section to service the partial claim as an agent of
23 the Secretary.

24 “(2) ESTABLISHMENT OF CLAIM.—The Sec-
25 retary may require the holder of a loan guaranteed

1 under this chapter who receives a partial claim
2 under this section to take any actions necessary to
3 establish the partial claim, including preparing, exe-
4 cuting, transmitting, receiving, and recording loan
5 documents.

6 “(3) COMPENSATION OF HOLDER.—The Sec-
7 retary shall compensate the holder of a loan guaran-
8 teed under this chapter who receives a partial claim
9 under this section appropriately, as determined by
10 the Secretary, for the services required of such hold-
11 er under this subsection.

12 “(4) EXERCISE OF POWERS.—The Secretary
13 may exercise the authority of the Secretary under
14 this subsection without regard to any other provision
15 of law not enacted expressly in limitation of this sec-
16 tion that would otherwise govern the expenditure of
17 public funds.

18 “(e) DEFAULT AND FORECLOSURE.—

19 “(1) DEFAULT.—

20 “(A) IN GENERAL.—Notwithstanding sec-
21 tion 3703(e) of this title, an individual who de-
22 faults under a partial claim made under this
23 section shall be liable to the Secretary for any
24 loss suffered by the Secretary resulting from
25 such default, and such loss may be recovered in

1 the same manner as any other debt due the
2 United States.

3 “(B) REDUCTION OF ENTITLEMENT.—In
4 the event of default by an individual under a
5 partial claim made under this section, the Sec-
6 retary may reduce the aggregate amount of
7 guaranty or insurance housing loan entitlement
8 available to the individual under this chapter.

9 “(2) FORECLOSURE.—Notwithstanding section
10 2410(e) of title 28, an action to foreclose a lien held
11 by the United States arising under a partial claim
12 made under this section shall follow foreclosure pro-
13 cedures in accordance with State or local law where
14 the property involved is located.

15 “(f) DECISIONS BY THE SECRETARY.—

16 “(1) SOLE DISCRETION.—Any partial claim
17 under this section shall be made in the sole discre-
18 tion of the Secretary and on terms and conditions
19 acceptable to the Secretary that are consistent with
20 this section.

21 “(2) FINAL AND CONCLUSIVE.—Any decision by
22 the Secretary under this section is final and conclu-
23 sive and is not subject to judicial review.

24 “(3) AFFECT ON PROVISION OF BENEFITS.—
25 For purposes of section 511 of this title, any deci-

1 sion under this section shall not be treated as a deci-
2 sion under a law that affects the provision of bene-
3 fits.

4 “(g) COMPLIANCE.—

5 “(1) PROCESSING PAYMENTS.—The Secretary
6 may establish standards for processing payments
7 under this section based on a certification by a hold-
8 er of a loan guaranteed under this chapter that the
9 holder has complied with all applicable requirements
10 established by the Secretary.

11 “(2) AUDITS.—The Secretary shall carry out,
12 on a random-sampling basis, post-payment audits to
13 ensure compliance with all requirements described in
14 paragraph (1).

15 “(h) APPLICATION TO CERTAIN LOANS.—

16 “(1) IN GENERAL.—With respect to loans de-
17 scribed in paragraph (2), the Secretary may—

18 “(A) issue administrative guidance to
19 make partial claims relating to such loans avail-
20 able under this section before prescribing regu-
21 lations; and

22 “(B) establish through such guidance addi-
23 tional requirements applicable to such partial
24 claims, which shall include the prohibition
25 under subsection (c)(4).

1 “(2) LOAN DESCRIBED.—A loan described in
2 this paragraph is a loan that the Secretary deter-
3 mines was in default as of the date of the enactment
4 of the Veterans Housing Stability Act of 2024.

5 “(3) TERMINATION.—The Secretary may not
6 accept a request for a partial claim under this sub-
7 section after December 31, 2025.

8 “(i) RULE OF CONSTRUCTION.—Nothing in this sec-
9 tion shall be construed to limit the authority of the Sec-
10 retary under subsections (a) and (d) of section 3732 of
11 this title.”.

12 (c) CIVIL PENALTIES.—Such subchapter is further
13 amended by inserting after section 3723, as added by sub-
14 section (b), the following new section:

15 “§ 3724. **Civil penalties with respect to loan holders**

16 “(a) IN GENERAL.—Any holder of a loan guaranteed
17 under this chapter that knowingly and materially makes
18 a false statement under section 3723 or 3732 of this title
19 shall be liable to the United States Government for a civil
20 penalty equal to the greater of—

21 “(1) two times the amount of the loss suffered
22 by the Secretary; or

23 “(2) another appropriate amount determined by
24 the Secretary, not to exceed \$27,894.

1 “(b) RECOVERY.—A civil penalty under this section
2 may be recovered in the same manner as any other debt
3 due the United States.

4 “(c) ADDITIONAL CHARGES.—In assessing a civil
5 penalty under this section, the Secretary may charge ad-
6 ministrative costs, fees, and interest, as appropriate, in a
7 manner similar to the interest and administrative costs
8 charged under section 5315 of this title.

9 “(d) DETERMINATIONS.—All determinations nec-
10 essary to carry out this section shall be made by the Sec-
11 retary.”.

12 (d) PROCEDURE ON DEFAULT.—Section 3732 of
13 such title is amended—

14 (1) in subsection (a)—

15 (A) in paragraph (1), by striking “obliga-
16 tion” each place it appears and inserting
17 “loan”;

18 (B) in paragraph (2)—

19 (i) by amending subparagraph (A) to
20 read as follows:

21 “(A) The Secretary may, upon such terms and condi-
22 tions as determined by the Secretary—

23 “(i) pay the holder of a loan guaranteed under
24 this chapter an amount necessary to avoid the fore-
25 closure of such loan;

1 “(ii) require the holder of the loan and the vet-
2 eran obligated on the loan to execute all documents
3 necessary to ensure the Secretary obtains a secured
4 interest in the property covered by the loan; and

5 “(iii) require the holder of the loan to take any
6 actions necessary to carry out this paragraph, in-
7 cluding preparing, executing, transmitting, receiving,
8 and recording documents, and requiring the holder
9 of the loan to place the loan in forbearance.”;

10 (ii) in subparagraph (B), by striking
11 “obligation” each place it appears and in-
12 serting “housing loan”; and

13 (iii) by adding at the end the fol-
14 lowing new subparagraphs:

15 “(C)(i) Any decision by the Secretary under this
16 paragraph is final and conclusive and is not subject to ju-
17 dicial review.

18 “(ii) For purposes of section 511 of this title, any
19 decision under this paragraph shall not be treated as a
20 decision under a law that affects the provision of benefits.

21 “(D)(i) The Secretary may establish standards for
22 processing payments under this paragraph based on a cer-
23 tification by a holder of a loan guaranteed under this
24 chapter that the holder has complied with all applicable
25 requirements established by the Secretary.

1 “(ii) The Secretary shall carry out, on a random-sam-
2 pling basis, post-payment audits to ensure compliance
3 with all requirements described in clause (i).”; and

4 (C) in paragraph (5), by striking “obliga-
5 tion” and inserting “loan”;

6 (2) in subsection (c)(10)(B)(i), by striking
7 “forebearance” each place it appears and inserting
8 “forbearance”; and

9 (3) by adding at the end the following new sub-
10 section:

11 “(d) The Secretary may prescribe loss mitigation pro-
12 cedures, including a mandatory sequence in which the
13 holder of a loan guaranteed under this chapter shall offer
14 loss mitigation options to veterans, to help prevent the
15 foreclosure of any such loan.”.

16 (e) CLERICAL AMENDMENTS.—The table of sections
17 at the beginning of chapter 37 of title 38, United States
18 Code, is amended by inserting after the item relating to
19 section 3722 the following new items:

“3723. Partial Claim Program.

“3724. Civil penalties with respect to loan holders.”.

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