

AMENDMENT TO H.R. 839, AS REPORTED

OFFERED BY M____.

Add at the end the following new section:

1 SEC. 3. SERVICING STANDARDS.

2 (a) SINGLE ELECTRONIC RECORD AND SINGLE
3 POINT OF CONTACT.—Each servicer participating in the
4 Home Affordable Modification Program shall, with respect
5 to the borrower of a loan being considered for modification
6 under the Home Affordable Modification Program, estab-
7 lish—

8 (1) a single electronic record for each account,
9 the contents of which shall be accessible throughout
10 the servicer, including to the all loss mitigation staff,
11 all foreclosure staff, and all bankruptcy staff and
12 agents; and

13 (2) a single point of contact for the borrower
14 for all loss mitigation activities.

15 (b) LIMITATION ON FORECLOSURE PROCEEDINGS.—

16 (1) INITIATION OF FORECLOSURE.—A servicer
17 participating in the Home Affordable Modification
18 Program may not initiate or continue a nonjudicial
19 foreclosure or a judicial foreclosure against a cov-

1 ered mortgagor that is otherwise authorized under
2 State law, unless—

3 (A) the servicer has determined whether
4 the covered mortgagor is eligible for a qualified
5 loss mitigation plan;

6 (B) in the case of a covered mortgagor
7 who the servicer determines is eligible for a
8 qualified loss mitigation plan, the servicer has
9 offered a qualified loss mitigation plan to the
10 covered mortgagor; and

11 (C) in the case of a covered mortgagor who
12 the servicer determines is not eligible for a
13 qualified loan modification, the servicer has
14 made available to the covered mortgagor docu-
15 mentation of—

16 (i) a loan modification calculation or
17 net present value calculation, including the
18 information necessary to verify and evalu-
19 ate the calculation, made by the servicer in
20 relation to the mortgage using a qualified
21 home loan modification;

22 (ii) the loan origination, including any
23 note, deed of trust, or other document nec-
24 essary to establish the right of the mort-
25 gagee to foreclose on the mortgage, includ-

1 ing proof of assignment of the mortgage to
2 the mortgagee and the right of the mort-
3 gagee to enforce the relevant note under
4 the law of the State in which the real prop-
5 erty securing the mortgage is located;

6 (iii) any pooling and servicing agree-
7 ment that the servicer believes prohibits a
8 qualified loan modification;

9 (iv) the payment history of the cov-
10 ered mortgagor and a detailed accounting
11 of any costs or fees associated with the ac-
12 count of the covered mortgagor; and

13 (v) the specific alternatives to fore-
14 closure considered by the servicer, includ-
15 ing qualified loan modifications, workout
16 agreements, and short sales.

17 (2) FORECLOSURE PROCEEDINGS PER-
18 MITTED.—Notwithstanding paragraph (1), a servicer
19 of a loan modified under the Home Affordable Modi-
20 fication Program may initiate or continue a judicial
21 or nonjudicial foreclosure under State law against a
22 mortgagor if—

23 (A) the servicer—

24 (i) determines that the mortgagor is
25 not eligible for a modification; and

1 (ii) notifies the mortgagor of the de-
2 termination under clause (i), in accordance
3 with the requirements under the qualified
4 loan modification plan; or

5 (B) a mortgagor—

6 (i) declines a modification; or

7 (ii) does not respond to required out-
8 reach under the qualified home loan modi-
9 fication.

10 (3) DEFENSE TO FORECLOSURE.—Failure to
11 comply with the requirements of this subsection shall
12 be a bar to the foreclosure of a mortgage, deed of
13 trust, or substantially similar instrument.

14 (4) DEFINITIONS.—For purposes of this sec-
15 tion:

16 (A) COVERED MORTGAGOR.—The term
17 “covered mortgagor”—

18 (i) means an individual—

19 (I) who—

20 (aa) is a mortgagor under a
21 federally related mortgage loan
22 secured by the principal residence
23 of the mortgagor; or

24 (bb) is eligible to assume a
25 federally related mortgage loan

1 described in item (aa) in a man-
2 ner described in paragraph (3),
3 (5), (6), or (7) of section 341(d)
4 of the Garn-St Germain Deposi-
5 tory Institutions Act of 1982 (12
6 U.S.C. 1701j-3(d)), if the prin-
7 cipal residence of the individual
8 is the principal residence secur-
9 ing the federally related mort-
10 gage loan; and

11 (II) who cannot make payments
12 on a federally related mortgage loan
13 due to financial hardship, as deter-
14 mined by the Secretary, in consulta-
15 tion with the Secretary of the Treas-
16 ury and the Director of the Bureau of
17 Consumer Financial Protection; and

18 (ii) does not include an individual who
19 the Secretary, in consultation with the Sec-
20 retary of the Treasury and the Director of
21 the Bureau of Consumer Financial Protec-
22 tion, determines has abandoned the prin-
23 cipal residence securing the federally re-
24 lated mortgage loan.

1 (B) QUALIFIED LOAN MODIFICATION.—

2 The term “qualified loan modification” means
3 an agreement to reduce the amount of periodic
4 payments under a mortgage note, including any
5 reduction of the principal amount of the mort-
6 gage note, that is reflected in a permanent
7 change to the terms of the mortgage note under
8 such terms as defined by the Home Affordable
9 Modification Program and the pooling and serv-
10 icing agreement protocols of such Program.

11 (c) TARGET AFFORDABLE MONTHLY MORTGAGE
12 PAYMENT NOT ACHIEVED.—

13 (1) IN GENERAL.—With respect to a loan modi-
14 fied under the Home Affordable Modification Pro-
15 gram, if, after reducing mortgage note principal
16 under subsection (a) of section 129A of the Truth
17 in Lending Act (as such section is redesignated by
18 section 1402(a)(1) of the Dodd-Frank Wall Street
19 Reform and Consumer Protection Act), a target af-
20 fordable monthly mortgage note payment has not
21 been achieved, the servicer of a mortgage described
22 in such subsection shall comply with the qualified
23 loan modification plan modification waterfall steps of
24 interest rate reduction, term extension, and principal

1 forbearance or reduction, as necessary to achieve a
2 target affordable monthly mortgage note payment.

3 (2) TARGET AFFORDABLE MONTHLY MORTGAGE
4 NOTE PAYMENT.—The Secretary of the Treasury
5 shall define the term “target affordable monthly
6 mortgage note payment” for purposes of this sub-
7 section.

