

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3755
OFFERED BY MR. OXLEY

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Zero Downpayment
3 Act of 2004”.

4 SEC. 2. INSURANCE FOR ZERO-DOWNPAYMENT MORT-
5 GAGES.

6 (a) MORTGAGE INSURANCE AUTHORITY.—Section
7 203 of the National Housing Act (12 U.S.C. 1709) is
8 amended by inserting after subsection (k) the following
9 new subsection:

10 “(1) ZERO-DOWNPAYMENT MORTGAGES.—

11 “(1) INSURANCE AUTHORITY.—The Secretary
12 may insure, and commit to insure, under this sub-
13 section any mortgage that meets the requirements of
14 this subsection and, except as otherwise specifically
15 provided in this subsection, of subsection (b).

16 “(2) ELIGIBLE SINGLE FAMILY PROPERTY.—To
17 be eligible for insurance under this subsection, a
18 mortgage shall involve a property upon which there



1 is located a dwelling that is designed principally for
2 a 1- to 3-family residence and that, notwithstanding
3 subsection (g), is to be occupied by the mortgagor
4 as his or her principal residence, which shall
5 include—

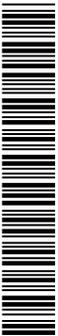
6 “(A) a 1-family dwelling unit in a multi-
7 family project and an undivided interest in the
8 common areas and facilities which serve the
9 project;

10 “(B) a 1-family dwelling unit of a coopera-
11 tive housing corporation the permanent occu-
12 pancy of the dwelling units of which is re-
13 stricted to members of such corporation and in
14 which the purchase of such stock or member-
15 ship entitles the purchaser to the permanent oc-
16 cupancy of such dwelling unit; and

17 “(C) a manufactured home that meets
18 such standards as the Secretary has established
19 for purposes of subsection (b).

20 “(3) MAXIMUM PRINCIPAL OBLIGATION.—

21 “(A) LIMITATION.—To be eligible for in-
22 surance under this subsection, a mortgage shall
23 involve a principal obligation in an amount not
24 in excess of 100 percent of the appraised value
25 of the property plus any initial service charges,



1 appraisal, inspection and other fees in connec-
2 tion with the mortgage as approved by the Sec-
3 retary.

4 “(B) INAPPLICABILITY OF OTHER LOAN-
5 TO-VALUE REQUIREMENTS.—A mortgage in-
6 sured under this subsection shall not be subject
7 to subparagraph (B) of paragraph (2) of sub-
8 section (b) or to the matter in such paragraph
9 that follows such subparagraph.

10 “(4) ELIGIBLE MORTGAGORS.—The mortgagor
11 under a mortgage insured under this subsection
12 shall meet the following requirements:

13 “(A) FIRST-TIME HOMEBUYER.—The
14 mortgagor shall be a first-time homebuyer. The
15 program for mortgage insurance under this
16 subsection shall be considered a Federal pro-
17 gram to assist first-time homebuyers for pur-
18 poses of section 956 of the Cranston-Gonzalez
19 National Affordable Housing Act (42 U.S.C.
20 12713).

21 “(B) COUNSELING.—

22 “(i) REQUIREMENT.—The mortgagor
23 shall have received counseling, prior to ap-
24 plication for the loan involved in the mort-
25 gage, by a third party (other than the



1 mortgagee) who is approved by the Sec-
2 retary, with respect to the responsibilities
3 and financial management involved in
4 homeownership. Such counseling shall be
5 provided to the mortgagor on an individual
6 basis by a representative of the approved
7 third party counseling entity, and shall be
8 provided in person to the maximum extent
9 practicable.

10 “(ii) TOPICS.—Such counseling shall
11 include providing to, and discussing with,
12 the mortgagor—

13 “(I) information regarding home-
14 ownership options other than a mort-
15 gage insured under this subsection,
16 other zero- or low-downpayment mort-
17 gage options that are or may become
18 available to the mortgagor, the finan-
19 cial implications of entering into a
20 mortgage (including a mortgage in-
21 sured under this subsection), and any
22 other information that the Secretary
23 may require; and

24 “(II) a document that sets forth
25 the amount and the percentage by



1 which a property subject to a mort-
2 gage insured under this subsection
3 must appreciate for the mortgagor to
4 recover the principal amount of the
5 mortgage, the costs financed under
6 the mortgage, and the estimated costs
7 involved in selling the property, if the
8 mortgagor were to sell the property on
9 each of the second, fifth, and tenth
10 anniversaries of the mortgage.

11 “(iii) 2- AND 3-FAMILY RESI-
12 DENCES.—In the case of a mortgage in-
13 volving a 2- or 3-family residence, such
14 counseling shall include (in addition to the
15 information required under clause (ii)) in-
16 formation regarding real estate property
17 management.

18 “(5) OPTION FOR NOTICE OF FORECLOSURE
19 PREVENTION COUNSELING AVAILABILITY.—

20 “(A) OPTION.—To be eligible for insurance
21 under this section, the mortgagee shall provide
22 mortgagor, at the time of the execution of the
23 mortgage, an optional written agreement which,
24 if signed by the mortgagor, allows, but does not
25 require, the mortgagee to provide notice de-



1 scribed in subparagraph (B) to a housing coun-
2 seling entity that has agreed to provide the no-
3 tice and counseling required under subpara-
4 graph (C) and is approved by the Secretary.

5 “(B) NOTICE TO COUNSELING AGENCY.—

6 The notice described in this subparagraph, with
7 respect to a mortgage, is notice, provided at the
8 earliest time practicable after the mortgagor be-
9 comes 60 days delinquent with respect to any
10 payment due under the mortgage, that the
11 mortgagor is so delinquent and of how to con-
12 tact the mortgagor. Such notice may only be
13 provided once with respect to each delinquency
14 period for a mortgage.

15 “(C) NOTICE TO MORTGAGOR.—Upon no-
16 tice from a mortgagee that a mortgagor is 60
17 days delinquent with respect to payments due
18 under the mortgage, the housing counseling en-
19 tity shall at the earliest time practicable notify
20 the mortgagor of such delinquency, that the en-
21 tity makes available foreclosure prevention
22 counseling that may assist the mortgagor in re-
23 solving the delinquency, and of how to contact
24 the entity to arrange for such counseling.



1 “(D) ABILITY TO CURE.—Failure to pro-
2 vide the optional written agreement required
3 under subparagraph (A) may be corrected by
4 sending such agreement to the mortgagor not
5 later than the earliest time practicable after the
6 mortgagor first becomes 60 days delinquent
7 with respect to payments due under the mort-
8 gage. Insurance provided under this subsection
9 may not be terminated and penalties for such
10 failure may not be prospectively or retroactively
11 imposed if such failure is corrected in accord-
12 ance with this subparagraph.

13 “(E) PENALTIES FOR FAILURE TO PRO-
14 VIDE AGREEMENT.—The Secretary may estab-
15 lish and impose appropriate penalties for failure
16 of a mortgagee to provide the optional written
17 agreement required under subparagraph (A).

18 “(F) LIMITATION ON LIABILITY OF MORT-
19 GAGEE.—A mortgagee shall not incur any li-
20 ability or penalties for any failure of a housing
21 counseling entity to provide notice under sub-
22 paragraph (C).

23 “(G) NO PRIVATE RIGHT OF ACTION.—
24 This section shall not create any private right
25 of action on behalf of the mortgagor.



1 “(H) DELINQUENCY PERIOD.—For pur-
2 poses of this paragraph, the term ‘delinquency
3 period’ means, with respect to a mortgage, a
4 period that begins upon the mortgagor becom-
5 ing delinquent with respect to payments due
6 under the mortgage and ends upon the first
7 subsequent occurrence of such payments under
8 the mortgage becoming current or the property
9 subject to the mortgage being foreclosed or oth-
10 erwise disposed of.

11 “(6) INAPPLICABILITY OF DOWNPAYMENT RE-
12 QUIREMENT.—A mortgage insured under this sub-
13 section shall not be subject to paragraph (9) of sub-
14 section (b) or any other requirement to pay on ac-
15 count of the property, in cash or its equivalent, any
16 amount of the cost of acquisition.

17 “(7) MMIF MONITORING.—In conjunction with
18 the credit subsidy estimation calculated each year
19 pursuant to the Federal Credit Reform Act of 1990
20 (2 U.S.C. 661 et seq.), the Secretary shall review
21 the program performance for mortgages insured
22 under this subsection and make any necessary ad-
23 justments, which may include altering mortgage in-
24 surance premiums subject to subsection (c)(2), ad-
25 justing underwriting standards, and limiting the



1 availability of mortgage insurance under this sub-
2 section, to ensure that the Mutual Mortgage Insur-
3 ance Fund shall continue to generate a negative
4 credit subsidy.

5 “(8) UNDERWRITING.—For a mortgage to be
6 eligible for insurance under this subsection:

7 “(A) IN GENERAL.—The mortgagor’s cred-
8 it and ability to pay the monthly mortgage pay-
9 ments shall have been evaluated using the Fed-
10 eral Housing Administration’s Technology Open
11 To Approved Lenders (TOTAL) Mortgage
12 Scorecard, or a similar standardized credit scor-
13 ing system approved by the Secretary, and in
14 accordance with procedures established by the
15 Secretary.

16 “(B) MULTI-UNIT PROPERTIES.—In the
17 case of a mortgage involving a property upon
18 which there is located a dwelling that is de-
19 signed principally for a 2- or 3-family residence,
20 the mortgagor meets such additional under-
21 writing standards as the Secretary may estab-
22 lish.

23 “(9) APPROVAL OF MORTGAGEES.—To be eligi-
24 ble for insurance under this subsection, a mortgage
25 shall have been made to a mortgagee that meets



1 such criteria as the Secretary shall establish to en-
2 sure that mortgagees meet appropriate standards for
3 participation in the program authorized under this
4 subsection.

5 “(10) DISCLOSURE OF INCREMENTAL COSTS.—

6 “(A) REQUIRED DISCLOSURE.—For a
7 mortgage to be eligible for insurance under this
8 subsection, the mortgagee shall provide to the
9 mortgagor, at the time of the application for
10 the loan involved in the mortgage, a written dis-
11 closure, as the Secretary shall require, that
12 specifies the effective cost to a mortgagor of
13 borrowing the amount by which the maximum
14 amount that could be borrowed under a mort-
15 gage insured under this subsection exceeds the
16 maximum amount that could be borrowed under
17 a mortgage insured under subsection (b), based
18 on average closing costs with respect to such
19 amount, as determined by the Secretary. Such
20 cost shall be expressed as an annual interest
21 rate over the first 5 years of a mortgage.

22 “(B) COORDINATION.—The disclosure re-
23 quired under this paragraph may be provided in
24 conjunction with the notice required under sub-
25 section (f).

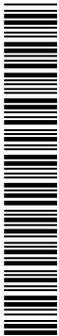


1 “(11) LOSS MITIGATION.—

2 “(A) IN GENERAL.—Upon the default of
3 any mortgage insured under this subsection, the
4 mortgagee shall engage in loss mitigation ac-
5 tions for the purpose of providing an alternative
6 to foreclosure to the same extent as is required
7 of other mortgages insured under this title pur-
8 suant to the regulations issued under section
9 230(a).

10 “(B) ANNUAL REPORTING.—Not later
11 than 90 days after the end of each fiscal year,
12 the Secretary shall submit a report to the Con-
13 gress that compares the rates of default and
14 foreclosure during such fiscal year for mort-
15 gages insured under this subsection, for single-
16 family mortgages insured under this title (other
17 than under this subsection), and for mortgages
18 for housing purchased with assistance provided
19 under the downpayment assistance initiative
20 under section 271 of the Cranston-Gonzalez
21 National Affordable Housing Act (42 U.S.C.
22 12821).

23 “(12) ADDITIONAL REQUIREMENTS.—The Sec-
24 retary may establish any additional requirements for



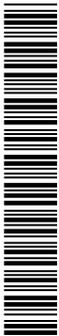
1 mortgage insurance under this subsection as may be
2 necessary or appropriate.

3 “(13) LIMITATION.—The aggregate number of
4 mortgages insured under this section in any fiscal
5 year may not exceed 10 percent of the aggregate
6 number of mortgages and loans insured by the Sec-
7 retary under this title during the preceding fiscal
8 year.

9 “(14) PROGRAM SUSPENSION.—

10 “(A) IN GENERAL.—Subject to subpara-
11 graph (C), the authority under paragraph (1) to
12 insure mortgages shall be suspended if at any
13 time the claim rate described in subparagraph
14 (B) exceeds 3.5 percent. A suspension under
15 this subparagraph shall remain in effect until
16 such time as such claim rate is 3.5 percent or
17 less.

18 “(B) FHA TOTAL SINGLE-FAMILY ANNUAL
19 CLAIM RATE.—The claim rate described in this
20 subparagraph, for any particular time, is the
21 ratio of the number of claims during the 12
22 months preceding such time on mortgages on 1-
23 to 4-family residences insured pursuant to this
24 title to the number of mortgages on such resi-



1 dences having such insurance in-force at that
2 time.

3 “(C) APPLICABILITY.—A suspension under
4 subparagraph (A) shall not preclude the Sec-
5 retary from endorsing or insuring any mortgage
6 that was duly executed before the date of such
7 suspension.

8 “(15) SUNSET.—No mortgage may be insured
9 under this section after September 30, 2009, except
10 that the Secretary may endorse or insure any mort-
11 gage that was duly executed before such date.

12 “(16) GAO REPORTS.—The Comptroller Gen-
13 eral of the United States shall submit a report to
14 the Congress not later than 2 years after the date
15 of the enactment of this subsection, and annually
16 thereafter, regarding the performance of mortgages
17 insured under this subsection.

18 “(17) IMPLEMENTATION.—The Secretary may
19 implement this subsection on an interim basis by
20 issuing an interim rule, except that the Secretary
21 shall solicit public comments upon publication of
22 such interim rule and shall issue a final rule imple-
23 menting this subsection after consideration of the
24 comments submitted. ”.



1 (b) MORTGAGE INSURANCE PREMIUMS.—The second
2 sentence of subparagraph (A) of section 203(c)(2) of the
3 National Housing Act (12 U.S.C. 1709(c)(2)(A)) is
4 amended by striking “In” and inserting “Except with re-
5 spect to a mortgage insured under subsection (l), in”.

6 (c) GENERAL INSURANCE FUND.—Section 519(e) of
7 the National Housing Act (12 U.S.C. 1735c(e)) is amend-
8 ed by striking “and 203(i)” and inserting “, 203(i), and
9 203(l)”.

