

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 1815
OFFERED BY MR. VAN ORDEN OF WISCONSIN

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “VA Home Loan Pro-
3 gram Reform Act”.

4 SEC. 2. AUTHORITY OF THE SECRETARY OF VETERANS AF-
5 FAIRS TO TAKE CERTAIN ACTIONS IN THE
6 CASE OF A DEFAULT ON A HOME LOAN GUAR-
7 ANTEED BY THE SECRETARY.

8 (a) IN GENERAL.—Section 3732 of title 38, United
9 States Code, is amended—

10 (1) in subsection (a)—

11 (A) in paragraph (1), by striking “obliga-
12 tion” each place it appears and inserting
13 “loan”;

14 (B) in paragraph (2)—

15 (i) by amending subparagraph (A) to
16 read as follows:

17 “(A) The Secretary may, under terms and conditions
18 determined by the Secretary—

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

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

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

13 (ii) in subparagraph (B), by striking
14 “obligation” each place it appears and in-
15 serting “housing loan”; and

16 (iii) by adding at the end the fol-
17 lowing new subparagraphs:

18 “(C)(i) Any decision by the Secretary under this
19 paragraph is final and is not subject to judicial review.

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

23 “(D)(i) The Secretary may establish standards for
24 processing payments under this paragraph based on a cer-
25 tification by a holder of a loan guaranteed under this

1 chapter that the holder has complied with all applicable
2 requirements established by the Secretary.

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

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

8 (2) in subsection (c)—

9 (A) in paragraph (1), in the matter pre-
10 ceding subparagraph (A), by striking “sub-
11 section—” and inserting “subsection.”; and

12 (B) in paragraph (10)(B)(i), by striking
13 “forebearance” each place it appears and in-
14 serting “forbearance”; and

15 (3) by adding at the end the following new sub-
16 section:

17 “(d) The Secretary shall prescribe loss mitigation
18 procedures, including a mandatory sequence in which the
19 holder of a loan guaranteed under this chapter shall offer
20 loss mitigation options (including an option to enter into
21 a partial claim agreement under the VA Home Loan Pro-
22 gram Reform Act) to a veteran, to help prevent the fore-
23 closure of such loan. The Secretary may not purchase an
24 entire such loan until the veteran has completed such se-
25 quence.”.

1 (b) RELATIONSHIP TO OTHER POWERS OF SEC-
2 RETARY.—Section 3720 of such title is amended—

3 (1) in subsection (a), by striking “Notwith-
4 standing” and inserting “Except as provided in sub-
5 section (h), notwithstanding”;

6 (2) by redesignating subsections (f) through (h)
7 as subsections (e) through (g), respectively; and

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

10 “(h) The Secretary may not take any action under
11 paragraph (2),(3),(4), or (5) of subsection (a) with respect
12 to a loan guaranteed under this chapter before the comple-
13 tion of the sequence of mitigation options offered to the
14 veteran to whom the loan is made under section 3732(d)
15 of this title.”.

16 **SEC. 3. PARTIAL CLAIM PROGRAM OF THE DEPARTMENT**
17 **OF VETERANS AFFAIRS.**

18 (a) ESTABLISHMENT.—The Secretary of Veterans
19 Affairs shall carry out a program, to be known as the
20 “Partial Claim Program”, under which the Secretary may
21 make a partial claim, described in subsection (b), with re-
22 spect to a loan—

23 (1) guaranteed under chapter 37 of title 38,
24 United States Code;

1 (2) regarding the primary residence of the bor-
2 rower; and

3 (3) that the Secretary determines is in default
4 or at imminent risk of default.

5 (b) PARTIAL CLAIM DESCRIBED.—A partial claim
6 described in this subsection, with respect to a loan de-
7 scribed in subsection (a), is the purchase by the Secretary
8 of a portion of indebtedness under the loan, under which—

9 (1) the Secretary pays the holder of the loan
10 the amount of indebtedness, subject to subsection
11 (c), that the Secretary determines necessary to help
12 prevent or resolve a default; and

13 (2) the Secretary receives a secured interest in
14 the property, subordinate to the first lien guaranteed
15 loan, serving as collateral for the guaranteed loan.

16 (c) ADMINISTRATION OF PARTIAL CLAIM.—

17 (1) AMOUNT OF CLAIM.—The amount of a par-
18 tial claim under this section with respect to a loan
19 guaranteed described in subsection (a) may not ex-
20 ceed 20 percent of the unpaid principal balance of
21 the loan on the date on which the partial claim is
22 made.

23 (2) ONE PARTIAL CLAIM PER LOAN.—The Sec-
24 retary may make only one partial claim per loan.

1 (3) NOT AN ADVANCE.—The Secretary may not
2 structure a partial claim as an advance on a new
3 loan guaranteed under chapter 37 of title 38, United
4 States Code.

5 (4) APPLICATION OF CLAIM.—A holder of a
6 loan guaranteed under such chapter for which the
7 Secretary makes a partial claim under this section
8 shall apply the amount paid by the Secretary for the
9 partial claim first to arrearages, if any, on the guar-
10 anteed loan. Such arrearages may include any addi-
11 tional costs (such as taxes, insurance premiums, or
12 homeowner's dues) the Secretary determines nec-
13 essary to prevent or resolve a default.

14 (5) AUTHORITY TO CONTRACT.—The Secretary
15 may enter into a contract with an entity for service
16 of a partial claim made by the Secretary under this
17 section. Any such contract shall provide that such
18 entity shall provide quarterly statements to the hold-
19 er of the loan for which the Secretary makes the
20 partial claim.

21 (d) REQUIREMENTS OF LOAN HOLDER.—

22 (1) ESTABLISHMENT OF CLAIM.—The Sec-
23 retary may require the holder of a loan for which the
24 Secretary makes a partial claim under this section to
25 take any actions necessary to establish the partial

1 claim, including preparing, executing, transmitting,
2 receiving, and recording loan documents.

3 (2) COMPENSATION OF HOLDER.—The Sec-
4 retary shall compensate the holder of such a loan
5 appropriately, as determined by the Secretary, for
6 the services required of such holder under this sub-
7 section.

8 (3) EXERCISE OF POWERS.—The Secretary
9 may exercise the authority of the Secretary under
10 this subsection without regard to any other provision
11 of law not enacted expressly in limitation of this sec-
12 tion that would otherwise govern the expenditure of
13 public funds.

14 (e) DEFAULT AND FORECLOSURE.—

15 (1) DEFAULT.—

16 (A) IN GENERAL.—Notwithstanding sec-
17 tion 3703(e) of title 38, United States Code, an
18 individual who defaults on a loan for which the
19 Secretary makes a partial claim made under
20 this section shall be liable to the Secretary for
21 any loss suffered by the Secretary resulting
22 from such default. Such a loss may be recov-
23 ered in the same manner as any other debt due
24 the United States.

1 (B) REDUCTION OF ENTITLEMENT.—In
2 the event of default by an individual on a loan
3 for which the Secretary makes a partial claim
4 made under this section, the Secretary may re-
5 duce the aggregate amount of guaranty or in-
6 surance housing loan entitlement available to
7 the individual under chapter 37 of title 38,
8 United States Code.

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

16 (f) DECISIONS BY THE SECRETARY.—

17 (1) SOLE DISCRETION.—Any partial claim
18 made under this section shall be made in the sole
19 discretion of the Secretary and on terms and condi-
20 tions acceptable to the Secretary that are consistent
21 with this section.

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

1 (3) EFFECT ON PROVISION OF BENEFITS.—For
2 purposes of section 511 of title 38, United States
3 Code, any decision under this section shall not be
4 treated as a decision under a law that affects the
5 provision of benefits.

6 (g) COMPLIANCE.—

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

13 (2) AUDITS.—The Secretary shall carry out, on
14 a random-sampling basis, post-payment audits to en-
15 sure compliance with all requirements under para-
16 graph (1).

17 (h) GUIDANCE WITH RESPECT TO CERTAIN
18 LOANS.—

19 (1) IN GENERAL.—With respect to a loan de-
20 scribed in paragraph (2), the Secretary may—

21 (A) before prescribing regulations, issue
22 administrative guidance regarding the making
23 of a partial claim relating to such loan; and

1 (B) establish, through such guidance, addi-
2 tional requirements applicable to such a partial
3 claim.

4 (2) LOAN DESCRIBED.—A loan described in this
5 paragraph is a loan that the Secretary determines
6 was in default on the date of the enactment of this
7 Act.

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 title 38, United States Code, as amended by section 2 of
12 this Act.

13 (j) TERMINATION.—The Secretary may not make a
14 partial claim under this section after the date that is three
15 years after the date of the enactment of this Act.

16 **SEC. 4. STRATEGY OF THE SECRETARY OF VETERANS AF-**
17 **FAIRS REGARDING THE EFFECT OF CERTAIN**
18 **LITIGATION.**

19 Not later than 90 days after the date of the enact-
20 ment of this Act, the Secretary of Veterans Affairs shall
21 submit to the Committees on Veterans' Affairs of the Sen-
22 ate and House of Representatives a report on the strategy
23 of the Secretary to ensure that a veteran who seeks to
24 purchase a home with a loan guaranteed under chapter
25 37 of title 38, United States Code, is not at a disadvan-

1 tage when attempting to secure representation by a real
2 estate agent or broker. Such strategy may include amend-
3 ments to section 36.4313 of title 38, Code of Federal Reg-
4 ulations.

