To provide for the Director of the Federal Housing Finance Agency to establish prudential management and operations standards for mortgage servicers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M. ______ introduced the following bill; which was referred to the Committee on ____________________________

A BILL

To provide for the Director of the Federal Housing Finance Agency to establish prudential management and operations standards for mortgage servicers, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Homeowner Protection Act of 2019”.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—
(1) mortgage servicing plays a critical role in determining the likelihood that a delinquent borrower will be able to save their home from foreclosure, but homeowners do not have the ability to choose their mortgage servicers;

(2) a 2011 Yale Journal on Regulation article written by Adam Levitin and Tara Twomey, entitled “Mortgage Servicing”, confirmed that borrowers have no control over what bank or non-bank entity services their mortgage loan, whether the servicing rights on their mortgage are transferred to a new entity, or what contractual provisions govern the servicing of their mortgage loan;

(3) a 2011 report entitled “Interagency Review of Foreclosure Policies and Practices” conducted by the Federal Reserve System, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision acknowledged that “a number of supervisory actions and industry reforms are required to address [weaknesses in foreclosure process governance] in a way that will hold servicers accountable for establishing necessary governance and controls”;

(4) there has been abundant evidence since the financial crisis of 2007 to 2009 that has indicated that some single-family housing mortgage servicers
are failing to provide mortgage borrowers with the protections against foreclosure that they are entitled to by law, including failure to provide mortgage borrowers with critical information about the process of applying for foreclosure relief and loan modifications;

(5) multiple congressional hearings have uncovered additional evidence of failures in mortgage servicing, including—

(A) the hearing of the Committee on Financial Services of the House of Representatives entitled “A Review of Mortgage Servicing Practices and Foreclosure Mitigation”, July 25, 2008 (Serial No. 110–132);

(B) the hearing of the Subcommittee on Insurance, Housing, and Community Opportunity of the Committee on Financial Services of the House of Representatives entitled “Robo-Signing, Chain of Title, Loss Mitigation and Other Issues in Mortgage Servicing”, November 18, 2010 (Serial No. 111–166); and

(C) the joint hearing of the Subcommittee on Financial Institutions and Consumer Credit and the Subcommittee on Oversight and Investigations of the Committee on Financial Serv-
ices of the House of Representatives entitled
“Mortgage Servicing: An Examination of the
Role of Federal Regulators in Settlement Nego-
tiations and the Future of Mortgage Servicing
Standards”, July 7, 2011 (Serial No. 112–44);
(6) in view of the heightened reliance by the
Federal National Mortgage Association (Fannie
Mae) and the Federal Home Loan Mortgage Cor-
poration (Freddie Mac) on unilateral reviews of bor-
rowers for loss mitigation in place of reviews of ap-
plications initiated by borrowers, there is an in-
creased need for oversight to bring accountability to
the loss mitigation review process;
(7) mortgage borrowers have also faced other
wide-ranging problems with their mortgage servicers,
including errors that have cost some borrowers
money and have cost others their homes;
(8) such problems have included lapses in basic
mortgage servicing functions, such as inaccurate
monthly statements, improperly credited payments,
improper escrow handling, ignored customer com-
plaints, and improper servicing transfers;
(9) these failures in mortgage servicing are fur-
ther evidenced by enforcement actions initiated by
the Consumer Financial Protection Bureau against
nine different bank and non-bank mortgage servicers
from 2013 through 2017 for “mismanaging the loss
mitigation process”, “mistreating mortgage bor-
rowers who were trying to save their homes from
foreclosure”, and “failing borrowers at every stage
of the mortgage servicing process”;

(10) although some Federal regulators, in par-
ticular the Federal Housing Finance Agency and the
Consumer Financial Protection Bureau, have the au-
thority to take enforcement and supervisory action
against mortgage servicers that harm borrowers,
Federal regulators should take additional action that
will protect homeowners from the types of abuses
that have led to stalled modifications, excess fees,
and even foreclosure; and

(11) to ensure market confidence in the United
States housing system and improve accountability
and transparency, Federal regulators should be em-
powered to fully exercise all statutorily mandated
and implied powers to protect consumers from harm-
ful mortgage servicers.

(b) PURPOSE.—It is the purpose of this Act to ensure
that mortgage borrowers are protected from abusive serv-
ing practices, to end engagement by mortgage servicers
in illegal servicing practices, to keep more people in their
homes whenever possible, to promote servicers' compliance
with the loss mitigation guidelines of Fannie Mae and
Freddie Mac, and to minimize losses to companies and
taxpayers.

SEC. 3. REGULATION AND OVERSIGHT OF MORTGAGE
SERVICERS.

(a) In General.—Subpart A of part 2 of subtitle
A of the Federal Housing Enterprises Financial Safety
and Soundness Act of 1992 (12 U.S.C. 4541 et seq.) is
amended by adding at the end the following new section:

“SEC. 1329. PRUDENTIAL MANAGEMENT AND OPERATIONS
STANDARDS FOR COVERED SERVICERS.

“(a) Definitions.—For purposes of this section, the
following definitions shall apply:

“(1) Director.—The term ‘Director’ has the
meaning given such term in section 1303.

“(2) Covered Servicer.—The term ‘covered
servicer’ means a servicer, as such term is defined
in section 6(i) of the Real Estate Settlement Proce-
dures Act of 1974 (12 U.S.C. 2605(i)), that con-
ducts mortgage servicing with respect to any single-
family mortgage loans owned or guaranteed by any
enterprise.
“(b) STANDARDS.—The Director shall establish standards, by regulation, for covered servicers relating to each of the following:

“(1) Adequacy of internal controls and information systems, taking into account the nature and scale of business operations.

“(2) Independence and adequacy of internal audit systems.

“(3) Overall risk management processes, including adequacy of oversight by senior management and policies to identify, measure, monitor, and control material risks, including data protection and reputational risks.

“(4) Compliance with the mortgage servicing requirements under the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) and the regulations implementing such Act (12 C.F.R. Part 1024; Regulation X), in consultation with the Bureau of Consumer Financial Protection, including a system for solicitation and review of borrower complaints involving servicing of single-family housing mortgage loans owned or guaranteed by an enterprise.

“(5) Documentation and retention of records related to borrower interactions that enable the Di-
rector to evaluate the quality of service given to bor-
rowers, including borrower contact, delinquency
management practices, loan modifications and fore-
closure alternatives, and foreclosure timelines, which
shall provide that in each instance involving a de-
fault under a loan, the covered servicer shall docu-
ment and retain a detailed description of the actions
such servicer took to comply with the enterprises’
loss mitigation review requirements, including efforts
to establish borrower contact, solicit a loss mitiga-
tion application, review the application under the ap-
propriate guidelines, and inform the borrower of the
servicer’s decisions.

“(6) Such other operational and management
standards as the Director determines to be appro-
priate to carry out the purposes of this Act.

“(c) FAILURE TO MEET STANDARDS.—

“(1) PLAN REQUIREMENT.—

“(A) IN GENERAL.—If the Director deter-
mines that a covered servicer fails to meet any
standard established under subsection (b), the
Director shall require the covered servicer to
submit an acceptable plan, in writing, to the
Director within the time allowed under subpara-
graph (C).
“(B) CONTENTS.—Any plan required or authorized under subparagraph (A) shall specify the actions that the covered servicer will take to correct the deficiency.

“(C) DEADLINES FOR SUBMISSION AND REVIEW.—The Director shall by regulation establish deadlines that—

“(i) require a covered servicer to submit a plan required under this subparagraph not later than 30 days after the Director determines that the covered servicer fails to meet any standard established under subsection (a); and

“(ii) require the Director to approve, deny, or otherwise respond to the plan not later than 30 days after the plan is submitted.

“(2) REQUIRED ORDER UPON FAILURE TO SUBMIT OR IMPLEMENT PLAN.—If a covered servicer fails to submit an acceptable plan within the time allowed under paragraph (1)(C), or fails in any material respect to implement a plan accepted by the Director, the following shall apply:
“(A) REQUIRED CORRECTION OF DEFICIENCY.—The Director shall, by order, require the covered servicer to correct the deficiency.

“(B) OTHER AUTHORITY.—The Director may, by order, take one or more of the following actions until the deficiency is corrected:

“(i) Impose a civil monetary penalty upon the covered servicer in an amount not to exceed $10,000 for each day during which such deficiency continues.

“(ii) Mandate the transfer of loan servicing rights without providing compensation to the covered servicer.

“(iii) Limit or prohibit the covered servicer from conducting business with the enterprises.

“(iv) Require the covered servicer to take any other action that the Director determines will better carry out the purposes of this section than any of the actions described in this subparagraph.

“(3) MANDATORY RESTRICTIONS.—In complying with paragraph (2), the Director shall take one or more of the actions described in clauses (i) through (iv) of paragraph (2)(B) if—
“(A) the Director determines that the covered servicer fails to meet any standard prescribed under subsection (b); and

“(B) the covered servicer has not corrected the deficiency within a reasonable period or within a period established by the Director.

“(d) Other Enforcement Authority Not Affected.—The authority of the Director under this section is in addition to any other authority of the Director and does not limit the additional or concurrent authority of the Bureau of Consumer Financial Protection as established in title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5481 et seq.).

“(e) Oversight.—The Director shall conduct oversight of covered servicers on a regular and ongoing basis and in a manner designed to ensure that such servicers comply with the requirements of this Act and the regulations established by the Director for servicing of such mortgages and to identify systemic problems and trends with such compliance.

“(f) Examinations.—

“(1) Authority.—The Director shall have power to make a thorough examination of any covered servicer whenever the Director determines an
examination of any such servicer is necessary to carry out the purposes of this section.

“(2) MANUALS.—The Director may issue and revise examination manuals as necessary to carry out paragraph (1).

“(g) REGULATORY FEES.—

“(1) AUTHORIZATION.—The Director may assess and collect from covered servicers a reasonable fee, in an amount not exceeding the amount sufficient to provide for reasonable costs (including administrative costs) and expenses incurred by the Director in connection with carrying out the responsibilities of the Director under this section.

“(2) ESTABLISHMENT.—The Director shall establish the amount of fees under this subsection for a fiscal year so as to generate a total revenue amount not exceeding the Director’s estimate of 100 percent of the costs of the Agency in carrying out the responsibilities under this section during such year.

“(3) AVAILABILITY.—Fees authorized under paragraph (1) for a fiscal year shall be available for obligation only—

“(A) to the extent and in the amount provided in advance in appropriations Acts; and
“(B) to pay the costs of the Agency in carrying out the responsibilities under this section during such fiscal year.

“(h) ISSUANCE OF REGULATIONS.—The Director shall issue such regulations as may be necessary to enable the Director to administer or to carry out the purposes of this section and to prevent evasions thereof.”.

(b) TIMING.—The Director of the Federal Housing Finance Agency shall issue final regulations, as required by section 1329 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (as added by subsection (a) of this section), not later than the expiration of the 12-month period beginning on the date of the enactment of this Act.

SEC. 4. REGULATION OF SERVICE PROVIDERS BY FHFA.

Subpart A of part 2 of subtitle A of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4541 et seq.), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new section:

“SEC. 1330. REGULATION OF SERVICE PROVIDERS.

“Whenever a Federal Home Loan Bank or enterprise (or any subsidiary or affiliate of such a Bank or enterprise) causes to be performed for itself, by contract or otherwise, any services, whether on or off its premises—
“(1) such performance shall be subject to regulation and examination by the Director to the same extent as if such services were being performed by such Bank or enterprise itself on its own premises; and

“(2) the Bank or enterprise shall notify the Director of the existence of the service relationship within thirty days after the making of such service contract or the performance of the service, whichever occurs first.”