

110TH CONGRESS  
1ST SESSION

# H. R. 2475

To amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to guarantee home equity conversion mortgages for elderly veteran homeowners.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 24, 2007

Mr. MICHAUD (for himself and Ms. GINNY BROWN-WAITE of Florida) introduced the following bill; which was referred to the Committee on Veterans' Affairs, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to guarantee home equity conversion mortgages for elderly veteran homeowners.

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 "Veteran Home Equity  
5 Conversion Mortgage Act of 2007".

1 **SEC. 2. DEPARTMENT OF VETERANS AFFAIRS GUARANTEE**  
2 **OF HOME EQUITY CONVERSION MORTGAGES**  
3 **FOR ELDERLY VETERAN HOMEOWNERS.**

4 (a) LOAN GUARANTEE AUTHORIZED.—Subchapter II  
5 of chapter 37 of title 38, United States Code, is amended  
6 by adding at the end the following new section:

7 **“§ 3715. Guarantee of home equity conversion mort-**  
8 **gages for elderly veteran homeowners**

9 “(a) LOAN GUARANTEE.—Upon receiving an applica-  
10 tion by a covered mortgagee and under such terms and  
11 conditions as the Secretary may prescribe, the Secretary  
12 may guarantee any home equity conversion mortgage that  
13 is made to an elderly veteran homeowner pursuant to the  
14 provisions of this section and conforms with all applicable  
15 provisions of this title.

16 “(b) STANDARDS FOR COMMITMENT.—The Secretary  
17 shall establish standards under which the Secretary will  
18 commit to guarantee such home equity conversion mort-  
19 gage made to an elderly veteran homeowner before the  
20 date on which the mortgage is executed, if the Secretary  
21 determines that the mortgage—

22 “(1) is likely to improve the financial situation  
23 or otherwise meet the special needs of the elderly  
24 veteran homeowner;

1           “(2) will include appropriate safeguards for the  
2 elderly veteran homeowner to offset the special risks  
3 associated with the mortgage; and

4           “(3) has such terms as the Secretary may es-  
5 tablish to ensure that it is accepted in the secondary  
6 mortgage market.

7           “(c) MORTGAGE ELIGIBILITY.—A home equity con-  
8 version mortgage may be guaranteed under this section  
9 if it—

10           “(1) is secured by a dwelling, farm residence,  
11 one-family residential unit in a condominium hous-  
12 ing development or project, or manufactured home  
13 permanently affixed to a lot, that is owned and occu-  
14 pied by the eligible elderly veteran homeowner;

15           “(2) has been executed by an elderly veteran  
16 homeowner who—

17           “(A) has discussed with a loan counselor  
18 approved by the Secretary—

19           “(i) options other than a home equity  
20 conversion mortgage that are available to  
21 the homeowner, including other housing,  
22 social service, health, and financial options;

23           “(ii) other home equity conversion op-  
24 tions that are or may become available to  
25 the homeowner, such as sale-leaseback fi-

1           nancing, deferred payment loans, and  
2           property tax deferral; and

3           “(iii) the financial implications of en-  
4           tering into a home equity conversion mort-  
5           gage; and

6           “(iv) any other information that the  
7           Secretary may require;

8           “(B) has received a disclosure that a home  
9           equity conversion mortgage may have tax con-  
10          sequences, affect eligibility for assistance under  
11          Federal and State programs, and have an im-  
12          pact on the heirs and estate of the homeowner;

13          “(C) has received the full disclosure de-  
14          scribed in subsection (e)(1); and

15          “(D) meets any additional requirements  
16          prescribed by the Secretary;

17          “(3) provides that prepayment, in whole or in  
18          part, may be made at any time during the period of  
19          the mortgage, without penalty;

20          “(4) provides for a fixed or variable interest  
21          rate or future sharing between the veteran and the  
22          covered mortgagee of the appreciation in the value  
23          of the property, as agreed upon by the veteran and  
24          the mortgagee;

1           “(5) provides for the satisfaction of the obliga-  
2           tion in a manner satisfactory to the Secretary;

3           “(6) provides that the eligible elderly veteran  
4           homeowner is not liable for any difference between  
5           the net amount of remaining indebtedness under the  
6           mortgage and the amount recovered by the covered  
7           mortgagee from the net sales proceeds from the  
8           dwelling that is subject to the mortgage (based upon  
9           the amount of the accumulated equity selected by  
10          the veteran to be subject to the mortgage, as agreed  
11          upon by the veteran and the mortgagee);

12          “(7) contains such terms and provisions with  
13          respect to insurance, repairs, alterations, payment of  
14          taxes, default reserve, delinquency charges, fore-  
15          closure proceedings, anticipation of maturity, addi-  
16          tional and secondary liens, and other matters as the  
17          Secretary may prescribe;

18          “(8) provides for future payments to the vet-  
19          eran, based on accumulated equity (minus any appli-  
20          cable fees and charges), that are calculated accord-  
21          ing one of the following methods chosen by the  
22          homeowner:

23                  “(A) payment based upon a line of credit;

24                  “(B) payment on a monthly basis over a  
25                  term specified by the homeowner;

1           “(C) payment on a monthly basis over a  
2           term specified by the homeowner and based  
3           upon a line of credit;

4           “(D) payment on a monthly basis over the  
5           tenure of the homeowner;

6           “(E) payment on a monthly basis over the  
7           tenure of the homeowner and based upon a line  
8           of credit; or

9           “(F) payment on any other basis that the  
10          Secretary considers appropriate;

11          “(9) provides that the homeowner may convert  
12          the method of payment chosen under paragraph (8)  
13          to any other method under such paragraph during  
14          the term of the loan, except that in the case of a  
15          fixed-rate home equity conversion mortgage, the Sec-  
16          retary may, by regulation, limit such convertibility;

17          “(10) contains such restrictions as the Sec-  
18          retary may determine are appropriate to ensure that  
19          the homeowner does not fund any unnecessary or ex-  
20          cessive costs for obtaining the mortgage, including  
21          any costs of estate planning, financial advice, or  
22          other related services; and

23          “(11) satisfies any other requirements pre-  
24          scribed by the Secretary.

1       “(d) CONDITIONS OF GUARANTEE.—(1) The Sec-  
2 retary shall require the covered mortgagee of a home eq-  
3 uity conversion mortgage guaranteed under this section to  
4 make available to the elderly veteran homeowner—

5           “(A) at the time of the application for the loan  
6 in connection with the mortgage, a written list of the  
7 names and addresses of third-party information  
8 sources who are approved by the Secretary as re-  
9 sponsible and able to provide the information re-  
10 quired by subsection (e);

11          “(B) by not later than 10 days before closing  
12 on the loan, a statement informing the elderly vet-  
13 eran homeowner of such homeowner’s limited liabil-  
14 ity under the mortgage, as well as the homeowner’s  
15 rights, obligations, and remedies with respect to  
16 temporary absences from the home, late payments,  
17 and payment default by the lender, along with any  
18 conditions requiring satisfaction of the loan obliga-  
19 tion and any other information that the Secretary  
20 may require;

21          “(C) by not later than January 31 of each year,  
22 an annual statement summarizing for the preceding  
23 calendar year the total principal amount paid to the  
24 homeowner under the loan secured by the home eq-  
25 uity conversion mortgage, the total amount of de-

1       ferred interest added to the principal, and the out-  
2       standing loan balance at the end of that year; and

3               “(D) before closing on the loan, a statement of  
4       the projected total cost of the mortgage to the vet-  
5       eran homeowner based upon the projected total fu-  
6       ture loan balance (such cost expressed as a single  
7       average annual interest rate for at least two dif-  
8       ferent appreciation rates for the term of the mort-  
9       gage) for not less than two projected loan terms, as  
10      determined by the Secretary, which shall include—

11               “(i) the cost for a short-term home equity  
12              conversion mortgage; and

13               “(ii) the cost for a loan term equaling the  
14              actuarial life expectancy of the veteran.

15      “(2) The Secretary may not guarantee a home equity  
16      conversion mortgage under this section unless such mort-  
17      gage provides that the elderly veteran homeowner’s re-  
18      sponsibility to satisfy the loan obligation is deferred until  
19      the homeowners death, the sale of the home, or the occur-  
20      rence of certain other events specified in regulations by  
21      the Secretary.

22      “(e) INFORMATION PROVIDED TO HOMEOWNER.—  
23      (1) The Secretary shall provide or arrange, before exe-  
24      cuting on a home equity conversion mortgage under this  
25      section, for a third-party to provide to the elderly veteran

1 homeowner under the mortgage a full disclosure that  
2 clearly states—

3           “(A) all of the costs charged to the homeowner,  
4           including the costs of estate planning, financial ad-  
5           vice, and other services that are related to the mort-  
6           gage but are not required to obtain the mortgage;  
7           and

8           “(B) which of the costs under subparagraph  
9           (A) are required to obtain the mortgage and which  
10          are not required to obtain the mortgage; and

11          “(2) The Secretary may, in lieu of carrying out para-  
12          graph (1), adopt an alternative approach to educating an  
13          elderly veteran homeowner, but only if such alternative ap-  
14          proach provides to the homeowner all of the information  
15          specified such paragraphs. For the purpose of carrying out  
16          the preceding sentence, the Secretary shall consult with  
17          industry representatives, consumer groups, representatives  
18          of counseling organizations, and other interested parties  
19          to identify alternative approaches to providing to the el-  
20          derly veteran homeowner the information required under  
21          this subsection that may be feasible and desirable for  
22          home equity conversion mortgages guaranteed under this  
23          section.

24          “(f) LIMITATION ON AMOUNT OF BENEFITS.—In no  
25          case may the benefit from a guarantee of a mortgage

1 under this section exceed the maximum guarantee amount  
2 under section 3703 of this title.

3 “(g) ADDITIONAL AUTHORITY.—(1) To further the  
4 purposes of this section, the Secretary shall take any ac-  
5 tion necessary—

6 “(A) to provide any elderly veteran homeowner  
7 with funds to which the homeowner is entitled under  
8 a mortgage guaranteed under this section, but that  
9 the homeowner has not received because of the de-  
10 fault of the party responsible for payment;

11 “(B) to obtain repayment from any source of  
12 any amount provided to a homeowner under sub-  
13 paragraph (A); and

14 “(C) to provide a covered mortgagee with funds  
15 to which the mortgagee is entitled under the terms  
16 of a mortgage guaranteed under this section.

17 “(2) Actions under paragraph (1) may include—

18 “(A) disbursing funds to the elderly veteran  
19 homeowner or covered mortgagee from the Veterans  
20 Housing Benefit Program Fund;

21 “(B) accepting an assignment of the guaran-  
22 teed mortgage, notwithstanding that the homeowner  
23 is not in default under the terms of the mortgage,  
24 and calculating the amount and making the payment  
25 of a claim on such assigned mortgage;

1           “(C) requiring a subordinate mortgage from the  
2 homeowner at any time in order to secure repay-  
3 ments of any funds previously advanced or to be ad-  
4 vanced to the homeowner;

5           “(D) requiring a subrogation to the Secretary  
6 of the rights of any parties to the transaction  
7 against any defaulting parties; and

8           “(E) imposing premium charges.

9           “(h) EXEMPTION FROM CERTAIN PROVISIONS OF  
10 LAW.—Section 137(b) of the Truth in Lending Act (15  
11 U.S.C. 1647(b)) and any implementing regulations issued  
12 by the Board of Governors of the Federal Reserve System  
13 shall not apply to a mortgage guaranteed under this sec-  
14 tion.

15           “(i) AUTHORITY TO GUARANTEE MORTGAGES FOR  
16 REFINANCING.—(1) The Secretary may, upon application  
17 by a covered mortgagee, guarantee any mortgage given to  
18 refinance an existing home equity conversion mortgage  
19 guaranteed under this section.

20           “(2) As a condition of guaranteeing a mortgage  
21 under this subsection, the Secretary shall require that the  
22 covered mortgagee of a home equity conversion mortgage  
23 guaranteed under this subsection provide to the elderly  
24 veteran homeowner, within an appropriate period of time  
25 and in a manner, a good faith estimate of—

1           “(A) the total cost of the refinancing; and

2           “(B) the increase in the homeowner’s principal  
3           limit as measured by the estimated initial principal  
4           limit on the mortgage to be guaranteed under this  
5           subsection, less the current principal limit on the  
6           home equity conversion mortgage that is being refi-  
7           nanced and guaranteed under this subsection.

8           “(3) The amount of the loan fee for a mortgage refi-  
9           nanced under this subsection shall be determined by the  
10          Secretary under section 3729 of this title.

11          “(4) In the case of an elderly veteran homeowner who  
12          applies for refinancing under this subsection, the Sec-  
13          retary may waive the requirement that the homeowner re-  
14          ceive information under subsection (e), but only if—

15               “(A) the increase in the principal limit exceeds  
16               the amount of the total cost of refinancing by an  
17               amount to be determined by the Secretary; and

18               “(B) the time between the closing of the origi-  
19               nal home equity conversion mortgage being refi-  
20               nanced through the mortgage guaranteed under this  
21               subsection and the application for a refinancing  
22               mortgage guaranteed under this subsection does not  
23               exceed five years.

24          “(j) ORIGINATION FEE.—The Secretary may estab-  
25          lish a limit on the origination fee that may be charged

1 to an elderly veteran homeowner for a mortgage guaran-  
2 teed under this section, except that such limitation shall  
3 provide that the origination fee may be fully financed with  
4 the mortgage and shall include any fees paid to cor-  
5 respondent mortgagees approved by the Secretary.

6 “(k) FEE WAIVER.—(1) Notwithstanding section  
7 3729 of this title, in the case of a mortgage guaranteed  
8 under this section for which the total amount (except as  
9 provided under paragraph (2)) of all future payments de-  
10 scribed in subsection (l)(4)(B) are to be used only to fund  
11 the cost of a qualified long-term care insurance contract  
12 that covers the elderly veteran homeowner or a member  
13 of the homeowner’s household residing in the property  
14 subject to the mortgage, the Secretary may not charge or  
15 collect the loan fee otherwise required under subparagraph  
16 (a) of such section.

17 “(2) A mortgage described in paragraph (1) may pro-  
18 vide for financing of any amount used to satisfy out-  
19 standing mortgage obligations (in accordance with such  
20 limitations as the Secretary shall prescribe) and any  
21 amount used for initial service charges, appraisal, inspec-  
22 tion, and other fees (as approved by the Secretary) in con-  
23 nection with such mortgage, and the amount of future  
24 payments shall be reduced accordingly.

1       “(3) For purposes of this subsection, the term ‘quali-  
2 fied long-term care insurance contract’ has the meaning  
3 given such term in section 7702B of the Internal Revenue  
4 Code of 1986 (26 U.S.C. 7702B), except that such con-  
5 tract shall also meet the requirements of—

6           “(A) sections 9 (relating to disclosure), 24 (re-  
7 lating to suitability), and 26 (relating to contingent  
8 nonforfeiture) of the long-term care insurance model  
9 regulation promulgated by the National Association  
10 of Insurance Commissioners (as adopted as of Sep-  
11 tember 2000); and

12           “(B) section 8 (relating to contingent nonfor-  
13 feiture) of the long-term care insurance model Act  
14 promulgated by the National Association of Insur-  
15 ance Commissioners (as adopted as of September  
16 2000).

17       “(1) DEFINITIONS.—For the purposes this section:

18           “(1) The term ‘elderly veteran homeowner’  
19 means any homeowner who is, or whose spouse is,  
20 a veteran who is eligible for housing loan benefits  
21 under this title and who is at least 62 years of age  
22 or such higher age as the Secretary may prescribe.

23           “(2) The term ‘mortgage’ means a first mort-  
24 gage or first lien—

25           “(A) on real estate, in fee simple;

1           “(B) on all stock allocated to a dwelling in  
2           a residential cooperative housing corporation; or

3           “(C) on a leasehold that is—

4                   “(i) under a lease for not less than 99  
5                   years that is renewable; or

6                   “(ii) under a lease having a period of  
7                   not less than 10 years to run beyond the  
8                   maturity date of the mortgage.

9           “(3) The term ‘first mortgage’ means a first  
10          lien that is given to secure an advance on, or the un-  
11          paid purchase price of, real estate or all stock allo-  
12          cated to a dwelling unit in a residential cooperative  
13          housing corporation, under the laws of the State in  
14          which the real estate or dwelling unit is located, to-  
15          gether with any credit instruments secured for such  
16          purpose.

17          “(4) The term ‘home equity conversion mort-  
18          gage’ means a housing loan, as defined in section  
19          3701 of this chapter that—

20                   “(A) is secured by a first mortgage;

21                   “(B) provides for future payments to the  
22          homeowner based on accumulated equity; and

23                   “(C) is made by—

24                           “(i) a Federal land bank, National  
25                           bank, State bank, private bank, building

1 and loan association, insurance company,  
2 credit union, or mortgage and loan com-  
3 pany, that is subject to examination and  
4 supervision by an agency of the United  
5 States or of any State; or

6 “(ii) a State; or

7 “(iii) a lender or mortgage broker ap-  
8 proved by the Secretary pursuant to stand-  
9 ards established by the Secretary.”.

10 (b) CONFORMING AMENDMENT.—Section 3701(a) of  
11 such title is amended by striking “sections 3710(a) and  
12 3712(a)(1)” and inserting “sections 3710(a), 3712(a)(1),  
13 and 3715”.

14 (c) CLERICAL AMENDMENT.—The table of sections  
15 at the beginning of such chapter is amended by inserting  
16 after the items relating to subchapter II the following new  
17 item:

“3715. Guarantee of home equity conversion mortgages for elderly veteran  
homeowners.”.

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