AMENDMENT TO H.R. 1106

OFFERED BY MR. GRIJALVA OF ARIZONA

At the end of the bill add the following new title:

TITLE III—RIGHT TO RENT HOME IN CASES OF FORECLOSURE

SEC. 301. RIGHT TO RENT HOME SUBJECT TO FORECLOSURE.

(a) EXERCISE OF RIGHT.—If, at any time after notice under subsection (b) for an eligible mortgage is provided to the eligible mortgagor and before the commencement of the 7-day period that ends on the first date that the foreclosing creditor may first commence or execute such foreclosure pursuant to such notice, the eligible mortgagor under the eligible mortgage that is subject to such foreclosure provides notice in accordance with section 302, notwithstanding such foreclosure or any other interests in the property, the eligible mortgagor may, at the sole option of the eligible mortgagor, continue to occupy the foreclosed property during the 10-year period that begins upon the commencement of such occupancy, subject to the requirements of subsection (c).

1 (b) LIMITATION ON TIMING OF FORECLOSURE; NO-
2 TICE OF DEFAULT AND RIGHT TO RENT.—Notwith-
3 standing any other provision of law or any contract, a
4 foreclosure of an eligible mortgage may not be commenced
5 or executed before the expiration of the 28-day period be-
6 ginning upon the receipt, by the eligible mortgagor, of
7 written notice provided by the foreclosing creditor for the
8 mortgage that—
9 (1) clearly states that—
10 (A) the eligible mortgagor is in default on
11 the mortgage; and
12 (B) foreclosure on the mortgage may or
13 will be commenced on account of such default;
14 (2) clearly states that the eligible mortgagor
15 has the right, notwithstanding foreclosure, to con-
16 tinue to occupy the foreclosed property in accord-
17 ance with this title, and sets forth the terms of such
18 occupancy under subsections (a) and (c); and
19 (3) identifies the first date, pursuant to this
20 section and any other provisions of law and contract,
21 that such foreclosure may be commenced.
22 (c) TERMS OF PERIODIC TENANCY.—Occupancy, by
23 an eligible mortgagor, of a foreclosed property pursuant
24 to subsection (a) shall be under a periodic month-to-month
25 tenancy under which the owner of the property may termi-

1 nate the tenancy for material breach but shall have no
2 authority, at will, to terminate the tenancy during the oc-
3 cupancy pursuant to subsection (a) if the mortgagor—
4 (1) timely pays to the owner of the foreclosed
5 property rent on a monthly basis in the amount of
6 the fair market rent for the property determined in
7 accordance with section 303; and
8 (2) uses property as the principal residence of
9 the mortgagor.
10 **SEC. 302. REQUIRED NOTICE.**
11 With respect to an eligible mortgage for which notice
12 under subsection (b) has been provided, notice in accord-
13 ance with this section is notice that—
14 (1) is made in writing;
15 (2) is submitted to—
16 (A) the court having jurisdiction and venue
17 to conduct the covered foreclosure proceeding
18 for the eligible mortgage or, in the case of non-
19 judicial foreclosure, the court in which an ac-
20 tion is brought pursuant to section 304; and
21 (B) the foreclosing creditor; and
22 (3) states that the eligible mortgagor is exer-
23 cising the authority under section 301(a) to continue
24 to occupy the foreclosed property.

1 **SEC. 303. DETERMINATION OF FAIR MARKET RENT.**

2 (a) INITIAL DETERMINATION.—For purposes of this
3 title, the fair market rent for a foreclosed property in-
4 volved in a covered foreclosure proceeding shall be the
5 amount that is determined by an independent appraiser
6 who is licensed or certified, as applicable, to conduct ap-
7 praisals in the jurisdiction in which the property is lo-
8 cated, who shall be appointed for such purpose by the
9 court conducting such proceeding or hearing an action
10 pursuant to section 304.

11 (b) PERIODIC ADJUSTMENTS.—The fair market rent
12 determined under subsection (a) for a foreclosed property
13 shall be adjusted annually to reflect changes in the owners'
14 equivalent rent of primary residence component, for the
15 appropriate city, region, or class of city, as available, of
16 the Consumer Price Index for All Urban Consumers of
17 the Bureau of Labor Statistics of the Department of
18 Labor.

19 (c) REDETERMINATION.—If the owner of a foreclosed
20 property or the eligible mortgagor under the eligible mort-
21 gage requests the court described in subsection (a) to re-
22 determine the fair market rent for a foreclosed property
23 determined pursuant to this section (as such amount may
24 have been adjusted pursuant to subsection (b)) and agrees
25 to pay any costs of such redetermination (including costs
26 of the appraisal involved), the court shall provide for rede-

1 termination of the fair market rent for the foreclosed
2 property in the manner provided under subsection (a), ex-
3 cept that no such redetermination shall be made pursuant
4 to a request under this subsection made before the expira-
5 tion of the 12-month period beginning upon the most re-
6 cent redetermination conducted at the request of the same
7 party.

8 **SEC. 304. NONJUDICIAL FORECLOSURE PROCEEDINGS.**

9 In the case of any covered foreclosure proceeding that
10 is not conducted or administered by a court, the eligible
11 mortgagor may bring an action in an appropriate court
12 of the State in which the foreclosed property is located
13 for a determination of fair market rent for the foreclosed
14 property for purposes of this title, by filing notice in ac-
15 cordance with section 302 with such court and otherwise
16 complying with the rules of such court.

17 **SEC. 305. NO BAR TO FORECLOSURE.**

18 This title may not be construed to delay, or otherwise
19 modify, affect, or alter any right of a creditor under an
20 eligible mortgage to foreclose on the mortgage and to sell
21 the foreclosed property in connection with such fore-
22 closure, except that the right of any owner of the property
23 to possession of the property shall be subject to the lease-
24 hold interest established pursuant to section 301(c).

1 **SEC. 306. RIGHT TO REINSTATEMENT.**

2 This title may not be construed to affect any right
3 of any eligible mortgagor to reinstatement of an eligible
4 mortgage, including any right established under contract
5 or State law.

6 **SEC. 307. JURISDICTION OF FEDERAL COURTS.**

7 At the option of the eligible mortgagor, a proceeding
8 under section 303 or 304 shall be removed to the appro-
9 priate district court of the United States in accordance
10 with section 1441 of title 28, United States Code.

11 **SEC. 308. EFFECT ON STATE LAW.**

12 This title does not annul, alter, affect, or exempt any
13 person subject to the provisions of this title from com-
14 plying with the laws of any State regarding foreclosure
15 on residential properties, except to the extent that such
16 laws are inconsistent with any provision of this title, and
17 then only to the extent of such inconsistency.

18 **SEC. 309. DEFINITIONS.**

19 For purposes of this title, the following definitions
20 apply:

21 (1) COVERED FORECLOSURE PROCEEDING.—
22 The term "covered foreclosure proceeding" means a
23 foreclosure proceeding with respect to an eligible
24 mortgage, and includes any foreclosure proceeding
25 authorized under the law of the applicable State, in-

1 cluding judicial and non-judicial foreclosure pro-
2 ceedings.
3 (2) ELIGIBLE MORTGAGOR.—The term "eligible
4 mortgagor" means a mortgagor under an eligible
5 mortgage.
6 (3) ELIGIBLE MORTGAGE.—The term "eligible
7 mortgage" means a first mortgage—
8 (A) on property that—
9 (i) is a single family property; and
10 (ii) has been used as the principal res-
11 idence of the eligible mortgagor for a pe-
12 riod of not less than 2 years immediately
13 preceding the initiation of the covered fore-
14 closure proceeding involved;
15 (B) that was made in connection with the
16 purchase of the property by the mortgagor for
17 a purchase price that is less than the median
18 purchase price for residences that are located
19 in—
20 (i) the same metropolitan statistical
21 area; or
22 (ii) if the property is not located in a
23 metropolitan statistical area or information
24 for the area is not available, the same
25 State; and

1 (C) that was originated before July 1,
2 2007.
3 For purposes of subparagraph (B), the median pur-
4 chase price of residences located within a metropoli-
5 tan area or State shall be determined according to
6 information collected and made available by the Na-
7 tional Association of Realtors for such area or State
8 for the most recently completed month for which
9 such information is available.
10 (4) FORECLOSED PROPERTY.—The term ''fore-
11 closed property'' means, with respect to a covered
12 foreclosure proceeding, the single family property
13 that is subject to the eligible mortgage being fore-
14 closed under the proceeding.
15 (5) FORECLOSING CREDITOR.—The term ''fore-
16 closing creditor'' means, with respect to a covered
17 foreclosure proceeding, the creditor that is fore-
18 closing the eligible mortgage through such pro-
19 ceeding.
20 (6) OWNER.—The term ''owner'' means, with
21 respect to a foreclosed property, the person who has
22 title to the property pursuant to the foreclosure pro-
23 ceeding for the property, and any successor or as-
24 sign of such person.

1 (7) SINGLE FAMILY PROPERTY.—The term
2 "single family property" means—
3 (A) a structure consisting of 1 to 4 dwell-
4 ing units;
5 (B) a dwelling unit in a multi-unit condo-
6 minium property together with an undivided in-
7 terest in the common areas and facilities serv-
8 ing the property; or
9 (C) a dwelling unit in a multi-unit project
10 for which purchase of stock or a membership
11 interest entitles the purchaser to permanent oc-
12 cupancy of that unit.

13 **SEC. 310. APPLICABILITY AND SUNSET.**

14 (a) APPLICABILITY.—Subject to subsection (b), this
15 title shall apply to any covered foreclosure proceeding that
16 has not been finally adjudicated as of the date of the en-
17 actment of this Act.
18 (b) SUNSET.—This title shall not apply to any fore-
19 closure proceeding commenced after the expiration of the
20 5-year period beginning on the date of the enactment of
21 this Act.