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TEXT OF AMENDMENTS -- (Senate - June 08, 2011)

(b) *Implementation.*--

(1) **IN GENERAL.**--The Director of the Office of Management and Budget shall determine which appropriation accounts the rescission under subsection (a) shall apply to and the amount that each such account shall be reduced by pursuant to such rescission.

(2) **REPORT.**--Not later than 60 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall submit a report to the Secretary of the Treasury and Congress listing the accounts reduced by the rescission in subsection (a) and the amounts rescinded from each such account.

(c) *Exceptions.*--The rescission under subsection (a) shall not apply to the Department of Defense, the Department of Veterans Affairs, or the Social Security Administration.

SA 427. Mr. MERKLEY submitted an amendment intended to be proposed by him to the bill S. 782, to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. __. IDENTIFICATION OF QUALIFIED CENSUS TRACTS BY THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

(a) *Designation of Qualified Census Tracts.*--Not later than 2 weeks after the date on which the Secretary of Housing and Urban Development receives from the Census Bureau the data obtained from each decennial census relating to census tracts, the Secretary of Housing and Urban Development shall identify census tracts that meet the requirements of section 42(d)(5)(B)(ii) of the Internal Revenue Code of 1986 (determined without regard to Secretarial designation) and shall deem such census tracts to be qualified census tracts (as defined in such section) solely for purposes of determining which areas qualify as HUBZones under section 3(p)(1)(A) of the Small Business Act (15 U.S.C. 632(p)(1)(A)).

(b) *Effective Date.*--The Administrator of the Small Business Administration shall designate a date that is not later than 3 months after the date on which the Secretary of Housing and Urban Development identifies qualified census tracts under subsection (a) as the effective date for areas that qualify as HUBZones under section 3(p)(1)(A) of the Small Business Act (15 U.S.C. 632(p)(1)(A)).

(c) *Rule of Construction.*--Nothing in this section may be construed to affect--

(1) the date on which a census tract is designated as a qualified census tract for purposes of section 42 of the Internal Revenue Code of 1986; or

(2) the method used by the Secretary of Housing and Urban Development to designate census tracts as qualified census tracts in a year in which the Secretary of Housing and Urban Development receives no data from the Census Bureau relating to census tract boundaries.

SA 428. Mr. MERKLEY (for himself and Ms. Snowe) proposed an amendment to the bill S. 782, to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE __X--REGULATION OF MORTGAGE SERVICING

SEC. __X1. SHORT TITLE.

This title may be cited as the ``Regulation of Mortgage Servicing Act of 2011''.

SEC. __X2. DEFINITIONS.

In this title, the following definitions shall apply:

(1) **ALTERNATIVE TO FORECLOSURE.**--The term ``alternative to foreclosure''--

(A) means a course of action with respect to a mortgage offered by a servicer to a borrower as an alternative to a covered foreclosure action; and

(B) includes a short sale and a deed in lieu of foreclosure.

(2) **BORROWER.**--The term ``borrower'' means a mortgagor under a mortgage who is in default or at risk of imminent default, as determined by the Director, by rule.

(3) **COVERED FORECLOSURE ACTION.**--The term ``covered foreclosure action'' means a judicial or nonjudicial foreclosure.

(4) **DIRECTOR.**--The term ``Director'' means the Director of the Bureau of Consumer Financial Protection.

(5) **INDEPENDENT REVIEWER.**--The term ``independent reviewer''--

(A) means an entity that has the expertise and capacity to determine whether a borrower is eligible to participate in a loan modification program; and

(B) includes--

(i) an entity that is not a servicer; and

(ii) a division within a servicer that is independent of, and not under the same immediate supervision as, any division that makes determinations with respect to applications for loan modifications or alternatives to foreclosure.

(6) **LOAN MODIFICATION PROGRAM.**--The term ``loan modification program''--

(A) means a program or procedure designed to change the terms of a mortgage in the case of the default, delinquency, or imminent default or delinquency of a mortgagor; and

(B) includes--

(i) a loan modification program established by the Federal Government, including the Home Affordable Modification Program of the Department of the Treasury; and

(ii) a loan modification program established by a servicer.

(7) **MORTGAGE.**--The term ``mortgage'' means a federally related mortgage loan, as defined in section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602), that is secured by a first or subordinate lien on residential real property.

(8) **SERVICER.**--The term ``servicer''--

(A) has the same meaning as in section 6(i) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(i)); and

(B) includes a person responsible for servicing a pool of mortgages.

SEC. __X3. SINGLE POINT OF CONTACT.

(a) *Case Manager Required.*--A servicer shall assign 1 case manager to each borrower that seeks a loan modification or an alternative to foreclosure.

(b) *Duties of Case Manager.*--The case manager assigned under subsection (a) shall be an individual who--

(1) manages the communications between the servicer and the borrower;

(2) has the authority to make decisions about the eligibility of the borrower for a loan modification or an alternative to foreclosure;

(3) is available to communicate with the borrower by telephone and email during business hours; and

(4) remains assigned to the borrower until the earliest of--

(A) the date on which the borrower accepts a loan modification or an alternative to foreclosure;

(B) the date on which the servicer forecloses on the mortgage of the borrower; and

(C) the date on which a release of the mortgage of the borrower is recorded in the appropriate land records office, as determined by the Director, by rule.

(c) *Assistance for Case Managers.*--A servicer may assign an employee to assist a case manager assigned under subsection (a), if the case manager remains available to communicate with the borrower by telephone and email.

SEC. __X4. DETERMINATION OF ELIGIBILITY FOR LOAN MODIFICATION PROGRAM OR ALTERNATIVE TO FORECLOSURE REQUIRED BEFORE FORECLOSURE.

(a) *Initiation of Covered Foreclosure Actions.*--A servicer may not initiate a covered foreclosure action against a borrower unless the servicer has--

(1) completed a full review of the file of the borrower to determine whether the borrower is eligible for a loan modification or an alternative to foreclosure;

(2) made a reasonable effort to obtain the information necessary to determine whether the borrower is eligible for a loan modification or an alternative to foreclosure, as described in subsection (c); and

(3) offered the borrower a loan modification or an alternative to foreclosure, if the borrower is eligible for the loan modification or alternative to foreclosure.

(b) *Suspension of Covered Foreclosure Actions.*--

(1) **IN GENERAL.**--A servicer shall suspend a covered foreclosure action that was initiated before the date of enactment of this title until the servicer--

(A) completes a full review of the file of the borrower to determine whether the borrower is eligible for a loan modification or an alternative to foreclosure;

(B) notifies the borrower of the determination under subparagraph (A); and

(C) offers the borrower a loan modification or an alternative to foreclosure, if the borrower is eligible for a loan modification or an alternative to foreclosure.

(2) **SUSPENSION.**--During the period of the suspension under paragraph (1), a servicer may not--

(A) send a notice of foreclosure to a borrower;

(B) conduct or schedule a sale of the real property securing the mortgage of the borrower; or

(C) cause final judgment to be entered against the borrower.

(3) **REASONABLE EFFORTS.**--A servicer is not required to suspend a covered foreclosure action under paragraph (1) if the servicer--

(A) makes a reasonable effort to obtain information necessary to determine whether the borrower is eligible for a loan modification or an alternative to foreclosure, as described in subsection (c); and

(B) has not received information necessary to determine whether the borrower is eligible for a loan modification or an alternative to foreclosure before the end of the applicable period under subsection (c).

(4) **RULE OF CONSTRUCTION.**--Nothing in this section may be construed to require a servicer to delay a foreclosure that results from--

(A) a borrower abandoning the residential real property securing a mortgage; or

(B) the failure of the borrower to qualify for or meet the requirements of a loan modification program.

(c) *Reasonable Effort To Obtain Necessary Information.*--A servicer shall be deemed to have made a reasonable effort to obtain information necessary to determine whether the borrower is eligible for a loan modification or an alternative to foreclosure if--

(1) during the 30-day period beginning on the date of delinquency of the borrower, the servicer attempts to establish contact with the borrower by--

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(A) making not fewer than 4 telephone calls to the telephone number on record for the borrower, at different times of the day; and

(B) sending not fewer than 2 written notices to the borrower at the address on record for the borrower, at least 1 of which shall be delivered by certified mail, requesting that the borrower contact the servicer;

(2) in the case that the borrower responds in writing or by telephone to an attempt to establish contact under paragraph (1), the servicer--

(A) notifies the borrower, in writing, that the servicer lacks information necessary to determine whether the borrower is eligible for a loan modification or an alternative to foreclosure; and

(B) sends the borrower a written request that the borrower transmit to the servicer all information necessary to determine whether the borrower is eligible for a loan modification or an alternative to foreclosure, not later than 30 days after the date on which the servicer sends the request;

(3) in the case that the servicer receives from the borrower some, but not all, of the information requested under paragraph (2)(B) on or before the date that is 30 days after the date on which the servicer sends the notice under paragraph (2), the servicer sends the borrower a written request that the borrower transmit to the servicer all information necessary to determine whether the borrower is eligible for a loan modification or an alternative to foreclosure, not later than 15 days after the date on which the servicer sends the request; and

(4) in the case that the servicer does not receive from the borrower all information requested under paragraph (3) on or before the date that is 15 days after the date on which the servicer sends the request under paragraph (3), the servicer notifies the borrower that the servicer intends to initiate or continue a covered foreclosure action.

SEC. __X5. THIRD PARTY REVIEW.

Before a servicer notifies a borrower that the borrower is not eligible for a loan modification or an alternative to foreclosure, the servicer shall obtain the services of an independent reviewer to--

(1) review the file of the borrower; and

(2) determine whether the borrower is eligible for a loan modification or an alternative to foreclosure.

SEC. __X6. BAR TO FORECLOSURE ACTIONS.

(a) *In General.*--Subject to subsection (b), a violation of this title shall be a bar to a covered foreclosure action.

(b) *Effect of Subsequent Compliance.*--If a servicer is in compliance with this title, the servicer may bring or proceed with a covered foreclosure action, without regard to a prior violation of this title by the servicer.

SEC. __X7. REGULATIONS.

Not later than 90 days after the date of enactment of this Act, the Director, in consultation with the Secretary of Housing and Urban Development and the Secretary of the Treasury, shall issue regulations to carry out this title.

SEC. __X8. REPORT.

Not later than 1 year after the date of enactment of this Act, the Director shall submit to Congress a report that contains--

(1) an evaluation of the effect of this title on--

(A) State law; and

(B) communication between servicers and borrowers; and

(2) a description of any problems concerning the implementation of this title.

SA 429. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 782, to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 29, after line 20, add the following:

SEC. [2X]. EXEMPTION OF LESSER PRAIRIE CHICKEN FROM ENDANGERED SPECIES ACT OF 1973.

Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) is amended by adding at the end the following:

“(j) *Exemption of Lesser Prairie Chicken.*--This Act shall not apply to the lesser prairie chicken.”.

SA 430. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 782, to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 27, line 6, strike ``\$500,000,000" and insert ``\$300,000,000".

SA 431. Mr. MORAN submitted an amendment intended to be proposed by him to the bill S. 782, to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. __. PRESCRIBED FIRES IN FLINT HILLS REGION.

(a) *Findings.*--Congress finds that--

(1) the Flint Hills Region of Kansas and Oklahoma contains the world's largest share of the remaining tallgrass prairie, and is the only place in which that habitat occurs in landscape proportions;

(2) only 4 percent of the presettlement tallgrass prairie in North America survives to this day, and 80 percent of that prairie is located in Kansas;

(3) the Flint Hills Region is also home to certain declining avian species, such as the greater prairie chicken and Henslow's sparrow, that cannot continue to exist without large expanses of native tallgrass prairie in an original state;

(4) the Flint Hills Region is a significant corridor for migrating shorebirds, such as the American golden plover, the buff-breasted sand-piper, and the upland sandpiper;

(5) beginning in the mid-19th century, cattlemen understood that the richness of the Flint Hills grasses depended on a good spring burn--something they learned from the Native Americans;

(6) fire still thrives in the Flint Hills because the ranchers, and others using the land, understand that the natural ecosystem depends on fire;

(7) ranchers, landowners, and conservation groups use prescribed burns to mimic the seasonal fires that have shaped the tallgrass prairie for thousands of years;

(8) areas not burned for several years develop mature grasses and thicker, thatch-like vegetation, a habitat that is preferred by invasive species;

(9) the Flint Hills Region is a place in the United States that is an example of the prevailing agricultural system working essentially in tandem with an ancestral native ecosystem, preserving most of the complexity and the dynamic processes that helped shape the area; and

(10) due to the uniqueness of the Flint Hills tallgrass prairie and the historic manner in which the tallgrass prairie has been managed by fire--

(A) prescribed burn practices used as of the date of enactment of this Act to manage the Flint Hills tallgrass prairie should be allowed to continue; and

(B) ambient air data resulting from fires used for that management should be not be included in determinations of compliance with the Clean Air Act (42 U.S.C. 7401 et seq.).

(b) *Prescribed Fires.*--The Clean Air Act is amended by inserting after section 329 (42 U.S.C. 7628) the following:

SEC. 330. PRESCRIBED FIRES IN FLINT HILLS REGION.

(a) *Definitions.*--In this section:

(1) **FLINT HILLS REGION.**--

(A) **IN GENERAL.**--The term 'Flint Hills Region' means the band of hills located in eastern Kansas and north-central Oklahoma.

(B) **INCLUSIONS.**--The term 'Flint Hills Region' includes--

(i) Butler, Chase, Chautauqua, Clay, Cowley, Dickinson, Elk, Geary, Greenwood, Harvey, Jackson, Lyon, Marion, Marshall, Morris, Ottawa, Pottawatomie, Riley, Saline, Shawnee, Wabaunsee, Washington, and Woodson Counties in the State of Kansas; and

(ii) Osage, Tulsa, and Washington counties in the State of Oklahoma.

(2) **PRESCRIBED FIRE.**--The term 'prescribed fire' means a fire that is set or managed by a person with the goal of enhancing a fire-dependent ecosystem or enhancing the productivity of agricultural grazing land, irrespective of the frequency with which the burn occurs.

(b) *Exclusion of Data.*--In determining whether, with respect to a specific air pollutant, an exceedance or violation of a national ambient air quality standard has occurred, or for any other purpose under this Act, a State and the Administrator shall exclude data from a particular air quality monitoring location if emissions from 1 or more prescribed fires in the Flint Hills Region cause a concentration of the air pollutant at the location to be in excess of the standard.

(c) *Specific Limitations.*--If emission data is excluded under subsection (b) from a particular air quality monitoring station because of emissions from 1 or more prescribed fires in the Flint Hills Region--

(1) the Administrator shall not, as a result of the emissions, find under section 113 that a State has failed to enforce, or that a person has violated, a State implementation plan (for national primary or secondary ambient air quality standards) under section 110; and

(2) a State shall not, as a result of the emissions, find that a person has violated, or bring an enforcement action for violation of, a State implementation plan (for national primary or secondary ambient air quality standards) under section 110.

``(d) *Prohibition Against Smoke Management Plans.*--The Administrator shall not require, and a State shall not adopt, a smoke management plan under this Act in connection with any prescribed fire in the Flint Hills Region.

``(e) *Not a Stationary Source.*--No building, structure, facility, or installation may be treated as a stationary source under this Act as a result of 1 or more prescribed fires in the Flint Hills Region.

``(f) *No Title V Permit Required.*--No person shall be required to obtain or modify a permit under title V in connection with a prescribed fire in the Flint Hills Region.".

SA 432. Mr. CASEY submitted an amendment intended to be proposed by him to the bill S. 782, to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; which was ordered to lie on the table; as follows:

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