

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 2767
OFFERED BY MR. FOSTER OF ILLINOIS AND MR.
PETERS OF MICHIGAN**

Add at the end of title III the following new subtitle:

1 **Subtitle C—TBA Market and**
2 **Guarantee**

3 **SEC. 360. FUNCTIONING OF “TO-BE-ANNOUNCED” MAR-**
4 **KETS.**

5 (a) REPORT.—After the end of the 1-year period be-
6 ginning on the date the utility is chartered under section
7 311, the Director, the Secretary of the Treasury, and the
8 Board of Governors of the Federal Reserve System shall
9 jointly issue a report to Congress on whether the “to-be-
10 announced” markets for securities is functioning in a
11 manner comparable to the market on the date of the en-
12 actment of this Act that has enabled the markets, lenders,
13 or borrowers to—

- 14 (1) price mortgages;
- 15 (2) provide for the ability to lock in mortgage
16 rates a reasonable time prior to closing a loan; and
- 17 (3) perform such other roles as are necessary
18 for the efficient working of the mortgage markets.

1 (b) EFFECT OF DETERMINATION.—If the Director,
2 Secretary, and the Board jointly determine that the “to-
3 be-announced” market is no longer able to serve the pur-
4 poses intended to preserve the functioning of the mortgage
5 markets, they shall invoke the authority in this section to
6 restore a Federal guarantee to the mortgage markets.

7 (c) GUARANTEE FACILITY.—Notwithstanding any
8 other provision of this title, if the Director, Secretary, and
9 Board make the finding described under subsection (b),
10 they may jointly authorize the establishment of a guar-
11 antee facility, as follows:

12 (1) GUARANTEE.—The guarantee facility shall
13 be within the Agency and shall provide guarantees
14 of principal and interest on qualified securities. Such
15 guarantee shall be paid only if the issuer of the se-
16 curities is unable to pay the principal and interest
17 on the securities, under such standards as may be
18 established by the Director.

19 (2) STANDARDS FOR SECURITIES.—Securities
20 eligible for the guarantee under this subsection—

21 (A) may include both single family and
22 multi-family loans;

23 (B) shall meet such standards as the Di-
24 rector may specify; and

1 (C) may include only loans that meet the
2 size limitation and loan-to-value requirements
3 established in section 302 of the Federal Na-
4 tional Mortgage Association Charter Act (12
5 U.S.C. 1717).

6 (3) FHFA AUTHORITY.—The Director shall
7 have authority to establish—

8 (A) guarantee fees to be paid to the guar-
9 antee facility, which may vary depending on the
10 historical performance of loans from an issuer
11 or originator;

12 (B) reserves to be maintained by the guar-
13 antee facility;

14 (C) standards for when the guarantee will
15 be paid, including in the case of the bank-
16 ruptcy, conservatorship, or receivership of the
17 issuer;

18 (D) rights of the guarantor to collateral to
19 the guaranteed security;

20 (E) capital standards applicable to the
21 issuer;

22 (F) underwriting standards, in addition to
23 those described under paragraph (2), applicable
24 to loans in eligible securitizations;

1 (G) rules applicable to the aggregation of
2 loans for issuance, particularly to facilitate the
3 participation of smaller institutions.

4 (4) CREDIT RISK.—The Director may establish
5 requirements for additional mortgage insurance or
6 other means of placing credit risk in the private
7 markets by the issuers or by the guarantee facility.
8 Such means may include credit-linked note and
9 other means of retaining or otherwise placing credit
10 risk in the private markets. If the Director deter-
11 mines that such requirements are raising the costs
12 to borrowers by over 90 basis points, the Director
13 may waive such requirements or adjust the require-
14 ments to lower the cost to borrowers.

15 (5) GUARANTEE FACILITY STRUCTURE.— The
16 guarantee facility shall be a separate fund which
17 shall hold reserves against its guarantee obligations.
18 The facility shall be authorized to place credit risk
19 in the private markets under such rules as are estab-
20 lished by the Director.

