

The Honorable Carolyn B. Maloney
U.S. House of Representatives
Washington, D.C. 20515

Dear Ms. Maloney:

This responds to your March 18 letter to Secretary Rubin requesting the views of the Department of the Treasury on H.R. 3637, the "Children's Development Commission Act." Since the bill as introduced on April 1 differs from the draft that you sent to us in March, we will confine our comments to the bill as introduced. Your bill has been carefully reviewed within the Administration, and we have consulted widely within the Administration in developing the views set forth here.

The Administration shares your interest in increasing the availability of, and access to, quality child care services. We regret that we cannot support H.R. 3637 as it is currently drafted. We would like to suggest ways in which the bill might be improved.

H.R. 3637 would authorize the Secretary of Housing and Urban Development (HUD) to insure mortgages related to child care and development facilities and to establish a Children's Development Commission. The Commission would be charged with certifying child care and development facilities for insurance and for other purposes. The bill would require the Department of the Treasury to submit three nominees for the Children's Development Commission, submit a report to Congress concerning the possibility of creating a secondary market for child care and development facility loans, and submit a report to Congress after the program's expiration in 2005 that evaluates the need for continued mortgage insurance for child care facilities.

We have doubts about whether potential child care facility operators -- either large or small -- face different capital constraints than other types of businesses of like size. It is therefore unclear whether there exists a credit market imperfection that would warrant the establishment of the proposed credit program. Moreover, full HUD insurance of what are essentially commercial property loans with loan-to-value ratios up to 90 percent may not provide sufficient private sector incentives to underwrite reasonably good credit. Poor underwriting or excessive Federal guarantees would increase the government's potential risk exposure. We note that the Small Business Administration (SBA) achieved favorable loss mitigation results by decreasing its maximum risk exposure from 100 percent to 90 percent, and losses were further decreased when its maximum risk exposure was decreased to 75 percent. Accordingly, we recommend that the degree of government guarantee in this proposal be reconsidered.

The proposed Children's Development Commission raises several concerns. First, by establishing national child care standards for program participants, the Commission could actually increase the cost of child care by creating another layer of regulation. Second, the proposed micro-loan program places all of the credit risk associated with these loans on the government and duplicates other Federal programs (e.g., the SBA's micro-loan program). Third, the proposed research foundation is unlikely to be "independent" of the Federal government, particularly if it ultimately relies on the government for funding. For these reasons, we

recommend that this section of the bill be eliminated:

From a technical perspective, we note that the terms and conditions of the proposed programs do not conform to the principles of OMB Circular No. A-129, "Policies for Federal Credit Programs and Non-Tax Receivables." In keeping with that circular, the proposed guarantees should be limited to a certain percent of the outstanding principal and interest of each loan, as recommended above. The bill also should require a determination that there is a reasonable assurance of repayment before a loan could be guaranteed or made, authorize the collection of guarantee fees, provide a maximum term to maturity for guaranteed loans that is less than the useful life of the physical assets to be financed by such loans, prohibit any guaranteed or direct loan from being subordinated to other debt contracted by a borrower, and prohibit a guaranteed or direct loan from being used to provide significant collateral or security for tax-exempt obligations.

We are also concerned that proposed section 257(c)(1), in authorizing HUD to acquire certain interests in a borrower to facilitate regulatory compliance, would authorize HUD to acquire equity interests in child care and development centers. As a general policy, Treasury opposes the Federal government acquiring equity interests in private businesses.

Several terms and conditions of existing HUD insurance programs would be explicitly applied to the proposed new insurance programs, including the authority of the HUD Secretary to pay default claims by issuing debentures instead of by paying cash. The issuance of such debentures is essentially a form of borrowing by the issuing Federal agency. We oppose such authority because it would be more costly and less efficient than other readily available methods of financing HUD's obligation to make payments under the proposed new insurance programs. We would note that the Federal Credit Reform Act of 1990 gives agencies authority to borrow directly from the Treasury if a program agency lacks funds to honor its obligations under its guarantee contracts.

The Office of Management and Budget has advised us that the views set forth herein are consistent with the Administration's policy.

Sincerely,

1998 SE-003655

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GOVERNMENT REFORM AND
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Congress of the United States

House of Representatives

Washington, DC 20515-3214

March 18, 1998

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Secretary Robert Rubin
Department of the Treasury
1500 Pennsylvania Ave, NW
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Dear Secretary Rubin: *Rob*

Attached please find a copy of a letter I have sent to the President regarding the Kiddie Mac bill about which I spoke with you in New York earlier this month. Shortly I will be submitting it to Congress. As I explained then, this bill would create a government sponsored enterprise to address the growing need for child care facilities using the secondary mortgage market, guarantees, and micro-loans.

I am including for your review the latest draft of the bill and some fact sheets regarding the proposal. Your thoughts, comments and questions would be greatly appreciated.

Sincerely,

CAROLYN B. MALONEY
Member of Congress

cc: Under Secretary John Hawke, Jr.

HR 3637 IH

105th CONGRESS

2d Session

H. R. 3637

To amend the National Housing Act to authorize the Secretary of Housing and Urban Development to insure mortgages for the acquisition, construction, or substantial rehabilitation of child care and development facilities and to establish the Children's Development Commission to certify such facilities for such insurance, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

April 1, 1998

Mrs. MALONEY of New York (for herself, Mr. BAKER, Mr. KANJORSKI, Mr. JACKSON of Illinois, Mrs. MEEK of Florida, Mr. MANTON, Mr. ALLEN, Ms. VALAZQUEZ, Ms. WOOLSEY, and Mrs. TAUSCHER) introduced the following bill; which was referred to the Committee on Banking and Financial Services

A BILL

To amend the National Housing Act to authorize the Secretary of Housing and Urban Development to insure mortgages for the acquisition, construction, or substantial rehabilitation of child care and development facilities and to establish the Children's Development Commission to certify such facilities for such insurance, 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 'Children's Development Commission Act'.

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds the following:

- (1) The need for quality nursery schools, both full-time and part-time child care centers and after-school programs, after school programs, neighborhood-run mothers-day-out programs, and family child care providers has grown among working parents, and parents who stay at home, who want their children to have access to early childhood education.
- (2) All parents should have access to safe, stimulating, and educational early childhood education programs for their children, whether such programs are carried out in a child care center, a part-time nursery school (including a nursery school operated by a religious organization), or a certified child care provider's home.
- (3) The number of available enrollment opportunities for children to receive quality child care services is not meeting the demand for such services.
- (4) In 1995 there were about 21,000,000 children less than 6 years of age, of whom 31

percent were participating in center-based child care services and 14 percent were receiving child care in homes. Between 1992 and 2005 the participation of women 24 to 54 years of age in the labor force is projected to increase from 75 percent to 83 percent.

(5) In States that have set up a mechanism to provide capital improvements for child care facilities, the demand for services of such facilities still has not been met.

(6) The United States is behind other western, industrialized countries when it comes to providing child care services. In France, almost 100 percent of all children 3 to 5 years of age attend nursery school. In Germany this number is 65 to 70 percent. In Japan 90 percent of such children attend some form of preschool care. In all of these countries early childhood care has proven to increase children's development and performance.

SEC. 3. INSURANCE FOR MORTGAGES ON NEW AND REHABILITATED CHILD CARE AND DEVELOPMENT FACILITIES.

Title II of the National Housing Act (12 U.S.C. 1707 et seq.) is amended by adding at the end the following new section:

‘MORTGAGE INSURANCE FOR CHILD CARE AND DEVELOPMENT FACILITIES

‘SEC. 257. (a) **PURPOSE-** The purpose of this section is to facilitate and assist in the provision and development of licensed child care and development facilities.

‘(b) **GENERAL INSURANCE AUTHORITY-** The Secretary may insure mortgages (including advances on such mortgages during construction) in accordance with the provisions of this section and upon such terms and conditions as the Secretary may prescribe and may make commitments for insurance of such mortgages before the date of their execution or disbursement thereon.

‘(c) **ELIGIBLE MORTGAGES-** To carry out the purpose of this section, the Secretary may insure any mortgage that covers a new child care and development facility, including a new addition to an existing child care and development facility (regardless of whether the existing facility is being rehabilitated), or a substantially rehabilitated child care and development facility, including equipment to be used in the operation of the facility, subject to the following conditions:

‘(1) **APPROVED MORTGAGOR-** The mortgage shall be executed by a mortgagor approved by the Secretary. The Secretary may, in the discretion of the Secretary, require any such mortgagor to be regulated or restricted as to charges and methods of financing and, if the mortgagor is a corporate entity, as to capital structure and rate of return. As an aid to the regulation or restriction of any mortgagor with respect to any of the foregoing matters, the Secretary may make such contracts with and acquire for not more than \$100 such stock or interest in

such mortgagor as the Secretary may consider necessary. Any stock or interest so purchased shall be paid for out of the General Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance.

‘(2) **PRINCIPAL OBLIGATION-** The mortgage shall involve a principal obligation in an amount not to exceed 90 percent of the estimated value of the property or project, or 95 percent of the estimated value of the property or project in the case of a mortgagor that is a private nonprofit corporation or association (as such term is defined pursuant to section 221(d)(3)), including--

‘(A) equipment to be used in the operation of the facility when the proposed improvements are completed and the equipment is installed; or

(B) a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a)) or residential energy conservation measures (as defined in subparagraphs (A) through (G) and (I) of section 210(11) of the National Energy Conservation Policy Act), in cases in which the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure.

(3) AMORTIZATION AND INTEREST- The mortgage shall--

(A) provide for complete amortization by periodic payments under such terms as the Secretary shall prescribe;

(B) have a maturity satisfactory to the Secretary, but in no event longer than 25 years; and

(C) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee, and the Secretary shall not issue any regulations or establish any terms or conditions that interfere with the ability of the mortgagor and mortgagee to determine the interest rate.

(d) CERTIFICATION BY CHILDREN'S DEVELOPMENT COMMISSION- The Secretary may not insure a mortgage under this section unless the Children's Development Commission established under section 258 certifies that the facility is in compliance, or will be in compliance not later than 12 months after such certification, with--

(1) any laws, standards, and requirements applicable to such facilities under the laws of the State, municipality, or other unit of general local government in which the facility is or is to be located; and

(2) after the effective date of the standards and requirements established under section 258(c)(2), such standards and requirements.

(e) RELEASE- The Secretary may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage insured under this section upon such terms and conditions as the Secretary may prescribe.

(f) MORTGAGE INSURANCE TERMS- The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (l), and (n) of section 207 shall apply to mortgages insured under this section, except that all references in such subsections to section 207 shall be considered, for purposes of mortgage insurance under this section, to refer to this section.

(g) MORTGAGE INSURANCE FOR FIRE SAFETY EQUIPMENT LOANS-

(1) **AUTHORITY-** The Secretary may, upon such terms and condition as the Secretary may prescribe, make commitments to insure and insure loans made by financial institutions or other approved mortgagees to child care and development facilities to provide for the purchase and installation of fire safety equipment necessary for compliance with the 1967 edition of the Life Safety Code of the National Fire Protection Association (or any subsequent edition specified by the Secretary of Health and Human Services).

(2) **LOAN REQUIREMENTS-** To be eligible for insurance under this subsection a loan shall--

(A) not exceed the Secretary's estimate of the reasonable cost of the equipment fully installed;

(B) bear interest at such rate as may be agreed upon by the mortgagor and the

mortgagee;

(C) have a maturity satisfactory to the Secretary;

(D) be made by a financial institution or other mortgagee approved by the Secretary as eligible for insurance under section 2 or a mortgagee approved under section 203(b)(1);

(E) comply with other such terms, conditions, and restrictions as the Secretary may prescribe; and

(F) be made with respect to a child care and development facility that complies with the requirement under subsection (d).

(3) INSURANCE REQUIREMENTS- The provisions of paragraphs (5), (6), (7), (9), and (10) of section 220(h) shall apply to loans insured under this subsection, except that all references in such paragraphs to home improvement loans shall be considered, for purposes of this subsection, to refer to loans under this subsection. The provisions of subsections (c), (d), and (h) of section 2 shall apply to loans insured under this subsection, except that all references in such subsections to 'this section' or 'this title' shall be considered, for purposes of this subsection, to refer to this subsection.

(h) SCHEDULES AND DEADLINES- The Secretary shall establish schedules and deadlines for the processing and approval (or provision of notice of disapproval) of applications for mortgage insurance under this section.

(i) DEFINITIONS- For the purposes of this section, the following definitions shall apply:

(1) CHILD CARE AND DEVELOPMENT FACILITY- The term 'child care and development facility' means a public facility, proprietary facility, or facility of a private nonprofit corporation or association that--

(A) has as its purpose the care and development of children less than 12 years of age; and

(B) is licensed or regulated by the State in which it is located (or, if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located).

The term does not include facilities for school-age children primarily for use during normal school hours. The term includes facilities for training individuals to provide child care and development services.

(2) EQUIPMENT- The term 'equipment' includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and any other items necessary for the functioning of a particular facility as a child care and development facility, including necessary furniture. Such term includes books, curricular, and program materials.

(3) MORTGAGE; FIRST MORTGAGE; MORTGAGEE- The term 'mortgage' means a first mortgage on real estate in fee simple, or on the interest of either the lessor or lessee thereof under a lease having a period of not less than 7 years to run beyond the maturity date of the mortgage. The term 'first mortgage' means such classes of first liens as are commonly given to secure advances (including advances during construction) on, or the unpaid purchase price of, real estate under the laws of the State in which the real estate is located, together with the credit instrument or instruments (if any) secured thereby, and any mortgage may be in the form of one or more trust mortgages or mortgage indentures or deeds of trust, securing notes, bonds, or other credit instruments, and, by the same instrument or by a separate instrument, may create a security interest in initial equipment,

whether or not attached to the realty. The term 'mortgagor' has the meaning given the term in section 207(a).

(j) LIMITATION ON INSURANCE AUTHORITY-

(1) TERMINATION- No mortgage may be insured under this section or section 223(h) after September 30, 2005, except pursuant to a commitment to insure issued on or before such date.

(2) AGGREGATE PRINCIPAL AMOUNT LIMITATION- The aggregate principal amount of mortgages for which the Secretary enters into commitments to insure under this section or section 223(h) on or before the date under paragraph (1) may not exceed \$2,000,000,000. If, upon the date under paragraph (1), the aggregate insurance authority provided under this paragraph has not been fully used, the Secretary of the Treasury shall submit a report to the Congress evaluating the need for continued mortgage insurance under this section.

(k) REGULATIONS- The Secretary shall issue any regulations necessary to carry out this section. In issuing such regulations, the Secretary shall consult with the Secretary of Health and Human Services with respect to any aspects of the regulations regarding child care and development facilities.

SEC. 4. INSURANCE FOR MORTGAGES FOR ACQUISITION OR REFINANCING DEBT OF EXISTING CHILD CARE AND DEVELOPMENT FACILITIES.

Section 223 of the National Housing Act (12 U.S.C. 1715n) is amended by adding at the end the following new subsection:

(h) MORTGAGE INSURANCE FOR PURCHASE OR REFINANCING OF EXISTING CHILD CARE AND DEVELOPMENT FACILITIES-

(1) AUTHORITY- Notwithstanding any other provision of this Act, the Secretary may insure under any section of this title a mortgage executed

in connection with the purchase or refinancing of an existing child care and development facility, the purchase of a structure to serve as a child care and development facility, or the refinancing of existing debt of an existing child care and development facility.

(2) PURCHASE OF EXISTING FACILITIES AND STRUCTURES- In the case of the purchase under this subsection of an existing child care and development facility or purchase of an existing structure to serve as such a facility, the Secretary shall prescribe any terms and conditions that the Secretary considers necessary to ensure that--

(A) the facility or structure purchased continues to be used as a child care and development facility; and

(B) the facility complies with the same requirements applicable under subsections (d) and (e) of section 257 to facilities having mortgages insured under such section.

(3) REFINANCING OF EXISTING FACILITIES- In the case of refinancing of an existing child care and development facility, the Secretary shall prescribe any terms and conditions that the Secretary considers necessary to ensure that--

(A) the refinancing is used to lower the monthly debt service costs (taking into account any fees or charges connected with such refinancing) of the existing facility;

'(B) the proceeds of any refinancing will be employed only to retire the existing indebtedness and pay the necessary cost of refinancing on the existing facility;

'(C) the existing facility is economically viable; and

'(D) the facility complies with the same requirements applicable under section 257(d) to facilities having mortgages insured under such section.

'(4) DEFINITIONS- For purposes of this subsection, the terms defined in section 257(i) shall have the same meanings as provided under such section.

'(5) LIMITATION ON INSURANCE AUTHORITY- The authority of the Secretary to enter into commitments to insure mortgages under this subsection is subject to the limitations under section 257(j).'

SEC. 5. CHILDREN'S DEVELOPMENT COMMISSION.

Title II of the National Housing Act (12 U.S.C. 1707 et seq.) is amended by adding at the end (after section 257, as added by section 3 of this Act) the following new section:

'CHILDREN'S DEVELOPMENT COMMISSION

'SEC. 258. (a) ESTABLISHMENT- There is hereby established a commission to be known as the Children's Development Commission.

'(b) MEMBERSHIP-

'(1) APPOINTMENT- The Commission shall be composed of 7 members appointed by the President, not later than the expiration of the 3-month period beginning upon the enactment of this section, by and with the advice and consent of the Senate, as follows:

'(A) 1 member shall be appointed from among 3 individuals recommended by the Secretary of Housing and Urban Development or the Secretary's designee.

'(B) 1 member shall be appointed from among 3 individuals recommended by the Secretary of Health and Human Services or the Secretary's designee.

'(C) 1 member shall be appointed from among 3 individuals recommended by the Secretary of the Treasury or the Secretary's designee.

'(D) 4 members shall be appointed from among 12 individuals recommended jointly by the Speaker of the House of Representatives, the Majority Leader of the Senate, Minority Leader of the House of Representatives, the Minority Leader of the Senate.

'(2) QUALIFICATIONS OF CONGRESSIONALLY RECOMMENDED MEMBERS- Of the members appointed under paragraph (1)(D)-

'(A) each shall be an individual who actively participates or is employed in the field of child care and has academic, licensing, or other credentials relating to such participation or employment; and

'(B) not more than 2 may be of the same political party.

'(3) TERMS- Each appointed member of the Commission shall serve for a term of 3 years.

'(4) VACANCIES- Any member appointed to fill a vacancy occurring before the expiration

of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) CHAIRPERSON- The chairperson of the Commission shall be designated by the President at the time of appointment.

(6) QUORUM- A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(7) VOTING- Each member of the Commission shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Commission.

(8) PROHIBITION ON ADDITIONAL PAY- Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

(c) FUNCTIONS- The Commission shall carry out the following functions:

(1) CERTIFICATION OF COMPLIANCE- The Commission shall collect such information and make such determinations as may be necessary to determine, for purposes of section 257(d), whether child care and development facilities comply, or will be in compliance within 12 months, with—

(A) any laws, standards, and requirements applicable to such facilities under the laws of the State, municipality, or other unit of general local government in which the facility is or is to be located, and

(B) after the effective date of the standards and requirements established under paragraph (2), such standards and requirements,

and shall issue certifications of such compliance.

(2) ESTABLISHMENT OF STANDARDS-

(A) STUDY- Not later than 12 months after the date on which appointment of initial membership of the Commission is completed, the Commission, in consultation with the Secretary of Housing and Urban Development and the Secretary of Health and Human Services, shall conduct a study to determine the laws, standards, and requirements referred to in paragraph (1)(A) that are applicable in each State. Taking into consideration the findings of the study, the Secretary shall establish standards and requirements regarding child care and development facilities that are designed to ensure that mortgage insurance is provided under section 257 and section 223(h) only for safe, clean, and healthy facilities that provide appropriate care and development services for children.

(B) PUBLICATION- The Commission shall issue regulations providing for the standards and requirements established under subparagraph (A) to take effect, for purposes of sections 257(d)(2) and 223(h)(2)(B) and paragraph (1)(B) of this section, not later than 18 months after the date of the enactment of this section.

(3) SMALL PURPOSE LOANS- The Commission shall, to the extent amounts are made available for such purpose pursuant to subsection (i) and qualified requests are received, make loans, directly or indirectly to providers of child care and development facilities for reconstruction or renovation of such facilities, subject to the following requirements:

(A) Loans under this paragraph shall be made only for such facilities that are

financially and operationally viable, as determined under standards and guidelines to be established by the Commission.

(B) The aggregate amount of loans made under this paragraph to a single borrower may not exceed \$50,000.

(C) A loan made under this paragraph may not have a term to maturity exceeding 7 years.

(D) Loans under this paragraph shall bear interest at rates and be made under such other conditions and terms as the Commission shall provide.

(4) NOTIFICATION- The Commission shall take such actions as may be necessary to publicize the availability of the programs for mortgage insurance under sections 257 and 223(h) and loans under paragraph (3) of this subsection in a manner that ensures that information concerning such programs will be available to child care providers throughout the United States.

(5) LIABILITY INSURANCE- Not later than 12 months after the date on which appointment of initial membership of the Commission is completed, the Commission shall establish standards and guidelines, applicable to mortgage insurance under sections 257 and 223(h) and loans under paragraph (3) of this subsection, requiring child care providers operating child care and development facilities assisted under such provisions to obtain and maintain liability insurance in such amounts and subject to such requirements as the Commission considers appropriate.

(6) RESEARCH FOUNDATION- Not later than 12 months after the date of the enactment of this section, the Commission shall submit a report to the Congress recommending a plan for establishing and funding a foundation that is an entity independent of the Commission (but which maintains association with the Commission), the purpose of which shall be--

(A) to support research relating to child care and development facilities;

(B) to fund pilot programs to test innovative methods for improving child care; and

(C) to engage in activities and publish materials to assist persons interested in mortgage insurance under sections 257 and 223(h) and other assistance provided by the Commission.

(d) NONDISCRIMINATION REQUIREMENT-

(1) IN GENERAL- The Commission may not certify under subsection (c)(1) or carry out any activities of the Commission with respect to any child care and development facility if the provider of the facility discriminates on account of race, color, religion (subject to paragraph (2)), national origin, sex (to the extent provided in title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.)), or handicapping condition.

(2) FACILITIES OF RELIGIOUS ORGANIZATIONS- The prohibition with respect to religion shall not apply to a child care and development facility which is controlled by or which is closely identified with the tenets of a particular religious organization if the application of this subsection would not be consistent with the religious tenets of such organization.

(3) CERTIFICATION- As a condition of certification under subsection (c)(1) and eligibility for a loan under subsection (c)(3), the provider of a child care and development facility shall certify to the Commission that the provider does not discriminate, as required by the provisions of paragraph (1) of this subsection.

(e) POWERS-

(1) ASSISTANCE FROM FEDERAL AGENCIES- The Commission may secure directly from any department or agency of the Federal Government such information as the Commission may require for carrying out its functions. Upon request of the Commission, any such department or agency shall furnish such information.

(2) ASSISTANCE FROM GENERAL SERVICES ADMINISTRATION- The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(3) ASSISTANCE FROM DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT- Upon the request of the Commission, the Secretary of Housing and Urban Development shall, to the extent possible and subject to the discretion of the Secretary, detail any of the personnel of the Department of Housing and Urban Development, on a nonreimbursable basis, to assist the Commission in carrying out its functions under this section.

(4) MAILS- The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(f) STAFF-

(1) EXECUTIVE DIRECTOR- The Commission shall appoint an executive director of the Board, who shall be compensated at a rate fixed by the Commission, but which shall not exceed the rate established for level I of the Executive Schedule under title 5, United States Code.

(2) OTHER PERSONNEL- In addition to the executive director, the Commission may appoint and fix the compensation of such personnel as the Commission considers necessary, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(g) REPORTS- Not later than March 31 of each year, the Commission shall submit a report to the President and the Congress regarding the operations and activities of the Commission during the preceding calendar year. Each annual report shall include a copy of the Commission's financial statements and such information and other evidence as is necessary to demonstrate that the activities of the Commission during the year for which the report is made. The Commission may also submit reports to the Congress and President at such other times as the Commission deems desirable.

(h) DEFINITIONS- For purposes of this section, the terms defined in section 257(i) shall have the same meanings as provided under such section.

(i) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated to the Commission to carry out this section \$10,000,000 for fiscal year 1999, to remain available until expended, of which not more than \$2,500,000 shall be available for administrative costs of the Commission and the remainder of which shall be available only for loans under subsection (c)(3).'

SEC. 6. STUDY OF AVAILABILITY OF SECONDARY MARKETS FOR MORTGAGES ON CHILD CARE FACILITIES.

The Secretary of the Treasury shall conduct a study of the secondary mortgage markets to determine--

(1) whether such a market exists for purchase of mortgages eligible for insurance under

sections 223(h) and 257 of the National Housing Act (as added by this Act);

(2) whether such a market would affect the availability of credit available for development of child care and development facilities or would lower development costs of such facilities; and

(3) the extent to which such a market or other activities to provide credit enhancement for child care and development facilities loans is needed to meet the demand for such facilities.

The Secretary of the Treasury shall submit to the Congress a report regarding the results of the study conducted under this section not later than the expiration of the 2-year period beginning on the date of the enactment of this Act.

END

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March 19, 1998

President William J. Clinton
The White House
Washington, DC 20500

Dear Mr. President: *Mr. President*

As you may recall, during a conversation we had earlier this month I mentioned to you a piece of legislation I am developing which will address the increasing need for quality child care facilities. The members of the child care community with whom I have spoken about this have called it revolutionary, and a new approach to addressing the needs which exist. This bill will create a new government sponsored enterprise which we are calling "Kiddie Mac," which I hope will do for day care what Fannie Mae and Freddie Mac have done for home ownership. Equally as important, Kiddie Mac will be an incubator for new ways of addressing issues regarding child care and development.

Kiddie Mac will allow working parents, single parents and stay-at-home parents to have access to quality child care. Rep. Richard Baker of Louisiana, chairman of the Subcommittee on Capital Markets, Securities and Government Sponsored Enterprises, has agreed to co-sponsor this legislation with me, making it a bipartisan proposal.

Kiddie Mac will have four basic components. First, it will have child care facilities be part of the secondary mortgage market by selling the paper to Fannie Mae so it can be bundled into their securities they sell on Wall Street, taking advantage of their high volume and lower interest rates. Second, Kiddie Mac will offer guaranty insurance to those who lend to child care facilities, thereby acting as a catalyst for the private sector, reducing the risk and thereby encouraging lending.

Third, for those who are not building or completely rehabilitating facilities, Kiddie Mac will offer micro-loans. These loans can be used for start-up costs, rent payments, or for improvements for facilities which wish to be licensed.

Finally, Kiddie Mac will offer liability insurance to all child care providers so as to make certain that the costs associated with liability are not a factor against the creation of a facility.

Through the profits created from Kiddie Mac's activities, a foundation will be funded. This foundation will focus on researching child care and development, funding projects and pilot programs. It will also develop materials and aids in order to people in accessing, understanding and taking advantage of the Kiddie Mac process.

Certain elements have been added to the bill in order to make certain that Kiddie Mac stays focussed on the task at hand. These include a capped salary structure for executives, an annual report with congressional hearings similar to Humphrey-Hawkins hearings, and a \$2 billion limit on total activity which can be raised by congressional approval.

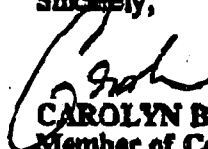
I believe that this approach to addressing the growing need for quality child care is innovative and feasible. Most importantly, Kiddie Mac, after an initial appropriation for its incorporation, is self-financing. It also provides a location within the federal government which focuses solely on child care and child development.

Mr. President, Kiddie Mac adds to your child care program by addressing the lack of quality facilities. It allows both for-profit businesses and not-for-profit organizations, including churches and synagogues, to supply their communities. The passage of this bill will mean greater access to quality child care for all American families.

I am enclosing the latest draft of the bill, though there are still a few items to be worked out. I am also adding an outline of the bill and an information sheet. I hope you find the proposal stimulating and I look forward to any questions and comments you or your staff may have.

Thank you for your commitment to affordable and available child care.

Sincerely,



CAROLYN B. MALONEY
Member of Congress

cc: Vice-President Albert Gore
Secretary Robert Rubin

Enclosures

KIDDIE MAC SUMMARY

Legislation to be introduced by Rep. Carolyn Maloney (NY)

Status as of 3/20/98

GOAL: *To fill the unmet need for quality, affordable child care, the Children's Development Insurance and Mortgage Corporation ("Kiddie Mac"), will be created as a government sponsored enterprise which will be a catalyst for private-sector construction and development lending.*

THE BASIC ELEMENTS:

1. **The Concept:** The private sector now hesitates to provide loans for construction or operation of child care facilities because it perceives a high risk of borrower liability in running such centers. Kiddie Mac will reduce that perceived risk to lenders, thus encouraging loans for the construction and opening of child care facilities.
2. **The Key: the Secondary Mortgage Market:** Kiddie Mac will do for child care and development what Fannie Mae and Freddie Mac have done for home ownership. Kiddie Mac will purchase mortgages and then sell them to Fannie Mae who will bundle them into the securities they sell on Wall Street. This should allow Kiddie Mac to be able to take advantage of the volume of business done in the mortgage market, which leads to lower interest rates.
3. **Guaranty Insurance=Low-Cost Loans:** Kiddie Mac will offer guaranty insurance to commercial banks for potential child care facility builders and operators. Currently, while the private sector appears to want to do something in this area, the perceived risk is too high. A guaranty should be enough security to spur lending with reasonable terms. In order to prevent the cost of insurance from becoming a barrier for starting a facility, Kiddie Mac will also offer reasonably priced liability insurance to qualifying child care providers.
4. **Start-up Costs and Rent:** Besides actual facilities being built or rehabilitated, often what is needed is money for start-up costs and rent. Kiddie Mac will offer mini-loans to qualifying child care providers for these costs. These loans will also be available for a facility which needs to make certain improvements in order to meet licensing standards.

5. **Foundation:** With the money made from its other activities, Kiddie Mac will establish a foundation that will research issues in early childhood development, fund pilot programs and produce educational materials. It will also provide materials and activities to guide applicants through the Kiddie Mac process.

SPECIAL CHARACTERISTICS OF KIDDIE MAC:

1. Executive salaries will be capped.
2. An annual report to Congress and hearings on activities and performance will be required, similar to the Humphrey-Hawkins hearings the banking committees hold with the Federal Reserve Chairman.
3. Total lending and guaranty activity will be limited to \$2 billion. If a need is found beyond this amount, Congress may increase the ceiling.

Common Questions about KIDDIE MAC

1. Why Is Kiddie Mac Necessary?

A: The United States is falling behind in meeting the needs of its children for high-quality care. Other nations understand the critical role that child care plays in early development, but the quality and quantity of child care space in this country are below acceptable levels. While demand is enormous and growing for trustworthy infant and pre-school slots nationwide, the need is not being met.

2. Do we really need another government sponsored enterprise to do this?

A: YES. Such an enterprise is chartered when private-sector market mechanisms fail for some reason to address a major demand. Child care is an example of a broad demand that profit-seeking firms have been unwilling to meet.

Reasons involve lenders' view that loans to child care facilities carry a high risk because of possible liability claims. Such facilities are also regarded as bad risks because they must be constructed or modified to meet strict safety and facility licensing standards, and are therefore seen as inflexible for conversion to other uses.

The result is that too little space is available; most existing space is too expensive for working parents to afford; and much of what is available is of a quality too low to help much in developing children's potential. Government intervention is needed to overcome the startup barriers and get good child care facilities into operation nationwide.

3. How would Kiddie Mac work?

A: It would have two main components:

1. Use of the secondary mortgage market: In this market, Fannie Mae and Freddie Mac buy mortgages, bundle them and sell them as securities on Wall Street. The transactions create additional capital volume, and the mechanism has served to keep interest rates low and home ownership affordable even during market recessions. Kiddie Mac would do the same for child care facilities, buying mortgages for sale to Fannie Mae. In this way it would produce more low-interest capital for child care facilities.

2. Guaranty insurance: Many private lenders want to invest in child care facilities but are uncomfortable with the risks. Kiddie Mac will provide guaranty insurance for mortgages, loans and some other debts, encouraging private lenders to invest in the needs of our children.

4. Will Kiddie Mac help someone who wants to convert a building to child care, add to existing facilities or bring a center up to licensing standards?

A: Yes. Kiddie Mac will provide small-facilities loans for improvements to existing centers for the purpose of meeting licensing standards, or to improve the quality of care and/or increase the number of children who can take part. A family-run child-care home, for example, could qualify for one of these loans to make the changes needed for licensing.

5. Who will pay for Kiddie Mac?

A: After a small appropriation to fund its initial incorporation, Kiddie Mac will offer shares for sale to investors. This stock offering will fund Kiddie Mac startup operations, after which it will become self-financing. never costing the taxpayer anything more.

6. Who will have access to Kiddie Mac?

A: Anyone who is currently licensed or who can demonstrate the ability to be licensed can use Kiddie Mac's services. This includes community organizations, not-for-profit groups, community development financial institutions, for-profit businesses, family-home facilities, churches and other employers.

7. Will those operations be competing against private businesses?

A: Private businesses which want to develop child care facilities, nursery schools or after-school programs are allowed to access Kiddie Mac just like anyone else. As for private lenders, since the problem in child care has been that the needs are not being met by the open market. Kiddie Mac is needed to fill this role.

8. How about churches and synagogues? Aren't they banned from taking government money?

A: Kiddie Mac will be a government-sponsored entity, not part of government itself. If a church or synagogue or any other religious body can qualify to be licensed as a child care provider, Kiddie Mac's services are available.

9. Will Kiddie Mac help in addressing some of the other problems of child care and child development?

A: Yes. Using some of the funds generated by its financial activity, Kiddie Mac will establish a foundation to research problems in child care and child development, fund pilot programs and educational materials, and find ways to make the Kiddie Mac process efficient and accessible to as many people as possible.

Can we target low-income

SBA - 75%
→ programmatic

KIDDIE MAC SUMMARY

Legislation to be introduced by Rep. Carolyn Maloney (NY)

Status as of 3/16/98

GOAL: *To address the unmet need for quality, affordable child care facilities, a government sponsored enterprise will be created to act as a catalyst for private-sector lending to build and develop facilities.*

THE BASIC ELEMENTS:

1. **Secondary Mortgage Market:** Kiddie Mac will do for child care and development what Fannie Mae has done for home ownership. Kiddie Mac will purchase mortgages and then sell them to Fannie Mae who will bundle them into the securities they sell on Wall Street. This should allow Kiddie Mac to be able to take advantage of the volume of business done in the mortgage market, which leads to lower interest rates.
2. **Guaranty Insurance:** By offering guaranty insurance to those who lend to child care facilities, favorable terms for loans should be achieved. Currently, while the private sector appears to want to do something in this area, the perceived risk is too high. A guaranty should be enough security to spur lending with reasonable terms.
3. **Micro-Loans:** Besides actual facilities being built or rehabilitated, often what is needed is money for start-up costs and rent. Kiddie Mac will offer mini-loans to qualifying child care providers for such costs. Also, micro-loans can be used for a facility which needs to make certain improvements in order to become licensed.
4. **Liability Insurance:** In order to prevent the cost of insurance from becoming a barrier for starting a facility, Kiddie Mac will offer reasonably priced liability insurance to qualifying providers.
5. **Foundation:** With the money made from its other activities, Kiddie Mac will fund a foundation which will research issues in child care and development, fund pilot programs and produce educational materials and activities to guide people through the Kiddie Mac process.

SPECIAL CHARACTERISTICS OF KIDDIE MAC:

1. Capped Salary Structure for executives.
2. Annual Report and Congressional Hearings on Activities and Performance, similar to the Humphrey-Hawkins hearings the Banking committees hold with the Federal Reserve Chairman.
3. \$2 billion limit on total lending and guaranty activity. If a need is found beyond this amount, Congress may increase the ceiling.

Common Questions about KIDDIE MAC

1. Why is Kiddie Mac Needed?

A: The United States is falling behind in meeting the needs of its children. While other countries understand the critical role that child care plays in early development, the quality and space available in this country is below acceptable and needed levels. While there is increasing demand for excellent infant care and nursery school slots in many parts of the country, the need is not being met.

2. Why a Government Sponsored Enterprise?

A: A Government Sponsored Enterprise (GSE) is chartered when there is some sort of market failure which should be addressed by a profit-seeking company, but instead there are barriers which require some initial government intervention to overcome. Child care is a perfect example of an area with just such barriers.

For whatever reason, the private sector has not been able to meet the needs of parents when it comes providing enough quality child care and nursery schools. Some of the reasons involve the view of lenders that because of costs, loaning to child care facilities is too high a risk as an investment. Also, since these facilities are unique in the way they are built in order to meet licensing standards, the property itself is not considered flexible enough for loan risk. The result is that not enough space is available for children, most existing programs are too expensive for even working parents, and what is available is not good enough to really help in child development.

3. How would Kiddie Mac work?

A: Kiddie Mac would have two main components:

1. Secondary mortgage market-- Fannie Mae and Freddie Mac have done a great job of making home ownership affordable and flexible, even during housing recessions. The reason they can do this is that by buying mortgages, bundling them, and then selling them as securities

on Wall Street, is that more capital is created for home mortgages, increasing the volume of the market and keeping interest rates low. Kiddie Mac would participate in that secondary mortgage market in order to provide more capital for child care and keep interest rates for these facilities low.

2. Guaranty Insurance-- For many private lenders, they want to invest in child care but are uncomfortable with the risk. By providing guaranty insurance for mortgages, loans and some other debts, the private lenders will invest in the needs of our children.

4. What if someone just wanted to add to existing facilities or bring their buildings up to licensing standards?

A: In addition to the two components described above, Kiddie Mac will provide small facilities loans to those who wish to make improvements to their centers in order to meet licensing standards or to make improvements in their facilities which would increase the quality of the care and/or expand the number of children who could participate. In other words, a woman who is taking care of children in her house could get one of these loans to make the necessary changes to become a legitimate care facility.

5. Who will pay for Kiddie Mac?

A: After a small, initial appropriation to fund its incorporation, Kiddie Mac will offer shares for sale to various investors. This stock offering will fund Kiddie Mac through its initial inception. After that, Kiddie Mac's financial activities will make it self-financing, never costing the taxpayer anything.

6. Who can access Kiddie Mac?

A: Anyone who is currently licensed, or who can demonstrate an ability to be licensed, can access Kiddie Mac's services. This includes community organizations, not-for-profit organizations, community development financial institutions, for-profit businesses, family-home facilities, churches and employers.

7. Won't this be competing against private businesses?

A: Private businesses which want to develop child care facilities, nursery

family child care = better child care

Final Draft
has
submitted

KIDDIE MAC SUMMARY

Legislation introduced by Rep. Carolyn Maloney (NY)
and Rep. Richard Baker (LA)
H.R. 3637

GOAL: *To fill the unmet need for quality, affordable child care, the Children's Development Commission ("Kiddie Mac"), will be created as a government entity which will be a catalyst for private-sector construction and development lending.*

THE BASIC ELEMENTS:

1. **The Concept:** The private sector now hesitates to provide loans for construction or operation of child care facilities because it perceives a high risk of borrower liability in running such centers. Kiddie Mac will reduce that perceived risk to lenders, thus encouraging loans for the construction and opening of child care facilities. Using a combination of products, Kiddie Mac will spur private lending to child care providers, give small loans to get facilities up to licensing standards, and provide affordable fire and liability insurance.
2. **Guaranty Insurance = Low-Cost Loans:** Kiddie Mac will, through HUD, offer guaranty insurance to lenders for potential child care facility builders and operators. Currently, while the private sector appears to want to do something in this area, the perceived risk is too high. A guaranty should be enough security to spur lending with reasonable terms. In order to prevent the cost of insurance from becoming a barrier for starting a facility, Kiddie Mac will also offer reasonably priced liability insurance and fire insurance to qualifying child care providers.
3. **Start-up Costs and Rent:** Besides actual facilities being built or rehabilitated, often what is needed is money for start-up costs and rent. Kiddie Mac will offer mini-loans to qualifying child care providers for these costs. These loans will also be available for a facility which needs to make certain improvements in order to meet licensing standards.

4. **Foundation:** With the money made from its other activities, Kiddie Mac will establish a foundation that will research issues in early childhood development, fund pilot programs and produce educational materials. It will also provide materials and activities to guide applicants through the Kiddie Mac process.

SPECIAL CHARACTERISTICS OF KIDDIE MAC:

1. Executive salaries will be capped.
2. An annual report to Congress and hearings on activities and performance will be required, similar to the Humphrey-Hawkins hearings the banking committees hold with the Federal Reserve Chairman.
3. Total lending and guaranty activity will be limited to \$2 billion. If a need is found beyond this amount, Congress may increase the ceiling.

Common Questions about KIDDIE MAC

"Child Development Commission Act"-- H.R. 3637
Introduced by Rep. Carolyn Maloney (NY) and Rep. Richard Baker (LA)

1. Why is Kiddie Mac Necessary?

A: The United States is falling behind in meeting the needs of its children for high-quality care. Other nations understand the critical role that child care plays in early development, but the quality and quantity of child care space in this country are below acceptable levels. While demand is enormous and growing for trustworthy infant and pre-school slots nationwide, the need is not being met.

2. Do we really need federal participation to do this?

A: YES. Such a commission is necessary when private-sector market mechanisms fail for some reason to address a major demand. Child care is an example of a broad demand that profit-seeking firms have been unwilling to meet.

Current market conditions discourage private sector investment in child care facility development. Clearly, with the heightened need for care for America's children, and relief for America's working parents, the capital markets need to be encouraged to contribute toward the care and development of our kids.

Lenders have concerns about risk and the threat these risks pose to safety and soundness to their institutions. Like any financial institution or governmental-sponsored corporation, these institutions need the reliability of the federal government backing them up.

3. How would Kiddie Mac work?

A: Kiddie Mac would certify requests for loans so the Department of Housing and Urban Development (HUD) could then sell *guaranty insurance* to the lenders. Many private lenders want to invest in child care facilities but are uncomfortable with the risks. Kiddie Mac will provide guaranty insurance for mortgages, loans and some other debts, encouraging private lenders to invest in the needs of our children.

4. Will Kiddie Mac help someone who wants to convert a building to child care, add to existing facilities or bring a center up to licensing standards?

A: Yes. Kiddie Mac will provide small-facilities loans for improvements to existing centers for the purpose of meeting licensing standards, or to improve the quality of care and/or increase the number of children who can take part. A family-run child-care home, for example, could qualify for one of these loans to make the changes needed for licensing.

5. Who will pay for Kiddie Mac?

A: After a small appropriation to fund its initial incorporation, Kiddie Mac will be funded by the premiums paid by the lenders who purchase the insurance, *never costing the taxpayer anything more.*

6. Who will have access to Kiddie Mac?

A: Anyone who is currently licensed or who can demonstrate the ability to be licensed can use Kiddie Mac's services. This includes community organizations, not-for-profit groups, community development financial institutions, for-profit businesses, family-home facilities, churches and other employers.

7. Will those operations be competing against private businesses?

A: Private businesses which want to develop child care facilities, nursery schools or after-school programs are allowed to access Kiddie Mac just like anyone else. As for private lenders, since the problem in child care has been that the needs are not being met by the open market. Kiddie Mac is needed to fill this role.

8. How about churches and synagogues? Aren't they banned from taking government money?

A: If a church or synagogue or any other religious body can qualify to be licensed as a child care provider, Kiddie Mac's services are available.

9. Will Kiddie Mac help in addressing some of the other problems of child care and child development?

A: Yes. Using some of the funds generated by its financial activity, Kiddie Mac will establish a foundation to research problems in child care and child development, fund pilot programs and educational materials, and find ways to make the Kiddie Mac process efficient and accessible to as many people as possible.

105TH CONGRESS
2D SESSION

H. R. 3637

IN THE HOUSE OF REPRESENTATIVES

Mrs. MALONEY of New York (for herself and Mr. BAKER) introduced the following bill: which was referred to the Committee on

→ MR. KANJORSKI
MR. JACKSON
MRS. MEEK
MS. WOOLSEY
MR. ALLEN
MS. TAUSCHER
MS. VELAZQUE
MR. MANTON

A BILL

To amend the National Housing Act to authorize the Secretary of Housing and Urban Development to insure mortgages for the acquisition, construction, or substantial rehabilitation of child care and development facilities and to establish the Children's Development Commission to certify such facilities for such insurance, and for other purposes.

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 "Children's Develop-
5 ment Commission Act".

1 **SEC. 2. CONGRESSIONAL FINDINGS.**

2 The Congress finds the following:

3 (1) The need for quality nursery schools, both
4 full-time and part-time child care centers and after-
5 school programs, after school programs, neighbor-
6 hood-run mothers-day-out programs, and family
7 child care providers has grown among working par-
8 ents, and parents who stay at home, who want their
9 children to have access to early childhood education.

10 (2) All parents should have access to safe, stim-
11 ulating, and educational early childhood education
12 programs for their children, whether such programs
13 are carried out in a child care center, a part-time
14 nursery school (including a nursery school operated
15 by a religious organization), or a certified child care
16 provider's home.

17 (3) The number of available enrollment oppor-
18 tunities for children to receive quality child care
19 services is not meeting the demand for such services.

20 (4) In 1995 there were about 21,000,000 chil-
21 dren less than 6 years of age, of whom 31 percent
22 were participating in center-based child care services
23 and 14 percent were receiving child care in homes.
24 Between 1992 and 2005 the participation of women
25 24 to 54 years of age in the labor force is projected
26 to increase from 75 percent to 83 percent.

1 (5) In States that have set up a mechanism to
2 provide capital improvements for child care facilities,
3 the demand for services of such facilities still has
4 not been met.

5 (6) The United States is behind other western,
6 industrialized countries when it comes to providing
7 child care services. In France, almost 100 percent of
8 all children 3 to 5 years of age attend nursery
9 school. In Germany this number is 65 to 70 percent.
10 In Japan 90 percent of such children attend some
11 form of preschool care. In all of these countries early
12 childhood care has proven to increase children's de-
13 velopment and performance.

14 **SEC. 3. INSURANCE FOR MORTGAGES ON NEW AND REHA-**
15 **BILITATED CHILD CARE AND DEVELOPMENT**
16 **FACILITIES.**

17 Title II of the National Housing Act (12 U.S.C. 1707
18 et seq.) is amended by adding at the end the following
19 new section:

20 "MORTGAGE INSURANCE FOR CHILD CARE AND
21 DEVELOPMENT FACILITIES

22 "SEC. 257. (a) PURPOSE.—The purpose of this sec-
23 tion is to facilitate and assist in the provision and develop-
24 ment of licensed child care and development facilities.

25 "(b) GENERAL INSURANCE AUTHORITY.—The Sec-
26 retary may insure mortgages (including advances on such

1 mortgages during construction) in accordance with the
2 provisions of this section and upon such terms and condi-
3 tions as the Secretary may prescribe and may make com-
4 mitments for insurance of such mortgages before the date
5 of their execution or disbursement thereon.

6 “(c) ELIGIBLE MORTGAGES.—To carry out the pur-
7 pose of this section, the Secretary may insure any mort-
8 gage that covers a new child care and development facility,
9 including a new addition to an existing child care and de-
10 velopment facility (regardless of whether the existing facil-
11 ity is being rehabilitated), or a substantially rehabilitated
12 child care and development facility, including equipment
13 to be used in the operation of the facility, subject to the
14 following conditions:

15 “(1) APPROVED MORTGAGOR.—The mortgage
16 shall be executed by a mortgagor approved by the
17 Secretary. The Secretary may, in the discretion of
18 the Secretary, require any such mortgagor to be reg-
19 ulated or restricted as to charges and methods of fi-
20 nancing and, if the mortgagor is a corporate entity,
21 as to capital structure and rate of return. As an aid
22 to the regulation or restriction of any mortgagor
23 with respect to any of the foregoing matters, the
24 Secretary may make such contracts with and acquire
25 for not more than \$100 such stock or interest in

1 such mortgagor as the Secretary may consider nec-
2 essary. Any stock or interest so purchased shall be
3 paid for out of the General Insurance Fund, and
4 shall be redeemed by the mortgagor at par upon the
5 termination of all obligations of the Secretary under
6 the insurance.

7 “(2) PRINCIPAL OBLIGATION.—The mortgage
8 shall involve a principal obligation in an amount not
9 to exceed 90 percent of the estimated value of the
10 property or project, or 95 percent of the estimated
11 value of the property or project in the case of a
12 mortgagor that is a private nonprofit corporation or
13 association (as such term is defined pursuant to sec-
14 tion 221(d)(3)), including—

15 “(A) equipment to be used in the operation
16 of the facility when the proposed improvements
17 are completed and the equipment is installed; or

18 “(B) a solar energy system (as defined in
19 subparagraph (3) of the last paragraph of sec-
20 tion 2(a)) or residential energy conservation
21 measures (as defined in subparagraphs (A)
22 through (G) and (I) of section 210(11) of the
23 National Energy Conservation Policy Act), in
24 cases in which the Secretary determines that
25 such measures are in addition to those required

1 under the minimum property standards and will
2 be cost-effective over the life of the measure.

3 “(3) AMORTIZATION AND INTEREST.—The
4 mortgage shall—

5 “(A) provide for complete amortization by
6 periodic payments under such terms as the Sec-
7 retary shall prescribe;

8 “(B) have a maturity satisfactory to the
9 Secretary, but in no event longer than 25 years;
10 and

11 “(C) bear interest at such rate as may be
12 agreed upon by the mortgagor and the mortga-
13 gee, and the Secretary shall not issue any regu-
14 lations or establish any terms or conditions that
15 interfere with the ability of the mortgagor and
16 mortgagee to determine the interest rate.

17 “(d) CERTIFICATION BY CHILDREN’S DEVELOPMENT
18 COMMISSION.—The Secretary may not insure a mortgage
19 under this section unless the Children’s Development
20 Commission established under section 258 certifies that
21 the facility is in compliance, or will be in compliance not
22 later than 12 months after such certification, with—

23 “(1) any laws, standards, and requirements ap-
24 plicable to such facilities under the laws of the
25 State, municipality, or other unit of general local

1 government in which the facility is or is to be lo-
2 cated; and

3 “(2) after the effective date of the standards
4 and requirements established under section
5 258(c)(2), such standards and requirements.

6 “(e) RELEASE.—The Secretary may consent to the
7 release of a part or parts of the mortgaged property or
8 project from the lien of any mortgage insured under this
9 section upon such terms and conditions as the Secretary
10 may prescribe.

11 “(f) MORTGAGE INSURANCE TERMS.—The provisions
12 of subsections (d), (e), (g), (h), (i), (j), (k), (l), and (n)
13 of section 207 shall apply to mortgages insured under this
14 section, except that all references in such subsections to
15 section 207 shall be considered, for purposes of mortgage
16 insurance under this section, to refer to this section.

17 “(g) MORTGAGE INSURANCE FOR FIRE SAFETY
18 EQUIPMENT LOANS.—

19 “(1) AUTHORITY.—The Secretary may, upon
20 such terms and condition as the Secretary may pre-
21 scribe, make commitments to insure and insure
22 loans made by financial institutions or other ap-
23 proved mortgagees to child care and development fa-
24 cilities to provide for the purchase and installation
25 of fire safety equipment necessary for compliance

1 with the 1967 edition of the Life Safety Code of the
2 National Fire Protection Association (or any subse-
3 quent edition specified by the Secretary of Health
4 and Human Services).

5 “(2) LOAN REQUIREMENTS.—To be eligible for
6 insurance under this subsection a loan shall—

7 “(A) not exceed the Secretary’s estimate of
8 the reasonable cost of the equipment fully in-
9 stalled;

10 “(B) bear interest at such rate as may be
11 agreed upon by the mortgagor and the mortga-
12 gagee;

13 “(C) have a maturity satisfactory to the
14 Secretary;

15 “(D) be made by a financial institution or
16 other mortgagee approved by the Secretary as
17 eligible for insurance under section 2 or a mort-
18 gagee approved under section 203(b)(1);

19 “(E) comply with other such terms, condi-
20 tions, and restrictions as the Secretary may
21 prescribe; and

22 “(F) be made with respect to a child care
23 and development facility that complies with the
24 requirement under subsection (d).

1 “(3) INSURANCE REQUIREMENTS.—The provi-
2 sions of paragraphs (5), (6), (7), (9), and (10) of
3 section 220(h) shall apply to loans insured under
4 this subsection, except that all references in such
5 paragraphs to home improvement loans shall be con-
6 sidered, for purposes of this subsection, to refer to
7 loans under this subsection. The provisions of sub-
8 sections (c), (d), and (h) of section 2 shall apply to
9 loans insured under this subsection, except that all
10 references in such subsections to ‘this section’ or
11 ‘this title’ shall be considered, for purposes of this
12 subsection, to refer to this subsection.

13 “(h) SCHEDULES AND DEADLINES.—The Secretary
14 shall establish schedules and deadlines for the processing
15 and approval (or provision of notice of disapproval) of ap-
16 plications for mortgage insurance under this section.

17 “(i) DEFINITIONS.—For the purposes of this section,
18 the following definitions shall apply:

19 “(1) CHILD CARE AND DEVELOPMENT FACIL-
20 ITY.—The term ‘child care and development facility’
21 means a public facility, proprietary facility, or facil-
22 ity of a private nonprofit corporation or association
23 that—

1 “(A) has as its purpose the care and devel-
2 opment of children less than 12 years of age;
3 and

4 “(B) is licensed or regulated by the State
5 in which it is located (or, if there is no State
6 law providing for such licensing and regulation
7 by the State, by the municipality or other politi-
8 cal subdivision in which the facility is located).

9 The term does not include facilities for school-age
10 children primarily for use during normal school
11 hours. The term includes facilities for training indi-
12 viduals to provide child care and development serv-
13 ices.

14 “(2) EQUIPMENT.—The term ‘equipment’ in-
15 cludes machinery, utilities, and built-in equipment
16 and any necessary enclosures or structures to house
17 them, and any other items necessary for the func-
18 tioning of a particular facility as a child care and
19 development facility, including necessary furniture.
20 Such term includes books, curricular, and program
21 materials.

22 “(3) MORTGAGE; FIRST MORTGAGE; MORTGA-
23 GEE.—The term ‘mortgage’ means a first mortgage
24 on real estate in fee simple, or on the interest of ei-
25 ther the lessor or lessee thereof under a lease having

1 a period of not less than 7 years to run beyond the
2 maturity date of the mortgage. The term 'first mort-
3 gage' means such classes of first liens as are com-
4 monly given to secure advances (including advances
5 during construction) on, or the unpaid purchase
6 price of, real estate under the laws of the State in
7 which the real estate is located, together with the
8 credit instrument or instruments (if any) secured
9 thereby, and any mortgage may be in the form of
10 one or more trust mortgages or mortgage indentures
11 or deeds of trust, securing notes, bonds, or other
12 credit instruments, and, by the same instrument or
13 by a separate instrument, may create a security in-
14 terest in initial equipment, whether or not attached
15 to the realty. The term 'mortgagor' has the meaning
16 given the term in section 207(a).

17 "(j) LIMITATION ON INSURANCE AUTHORITY.—

18 "(1) TERMINATION.—No mortgage may be in-
19 sured under this section or section 223(h) after Sep-
20 tember 30, 2005, except pursuant to a commitment
21 to insure issued on or before such date.

22 "(2) AGGREGATE PRINCIPAL AMOUNT LIMITA-
23 TION.—The aggregate principal amount of mort-
24 gages for which the Secretary enters into commit-
25 ments to insure under this section or section 223(h)

1 on or before the date under paragraph (1) may not
2 exceed \$2,000,000,000. If, upon the date under
3 paragraph (1), the aggregate insurance authority
4 provided under this paragraph has not been fully
5 used, the Secretary of the Treasury shall submit a
6 report to the Congress evaluating the need for con-
7 tinued mortgage insurance under this section.”

8 “(k) REGULATIONS.—The Secretary shall issue any
9 regulations necessary to carry out this section. In issuing
10 such regulations, the Secretary shall consult with the Sec-
11 retary of Health and Human Services with respect to any
12 aspects of the regulations regarding child care and devel-
13 opment facilities.”

14 **SEC. 4. INSURANCE FOR MORTGAGES FOR ACQUISITION OR**
15 **REFINANCING DEBT OF EXISTING CHILD**
16 **CARE AND DEVELOPMENT FACILITIES.**

17 Section 223 of the National Housing Act (12 U.S.C.
18 1715n) is amended by adding at the end the following new
19 subsection:

20 “(h) MORTGAGE INSURANCE FOR PURCHASE OR RE-
21 FINANCING OF EXISTING CHILD CARE AND DEVELOP-
22 MENT FACILITIES.—

23 “(1) AUTHORITY.—Notwithstanding any other
24 provision of this Act, the Secretary may insure
25 under any section of this title a mortgage executed

1 in connection with the purchase or refinancing of an
2 existing child care and development facility, the pur-
3 chase of a structure to serve as a child care and de-
4 velopment facility, or the refinancing of existing debt
5 of an existing child care and development facility.

6 “(2) PURCHASE OF EXISTING FACILITIES AND
7 STRUCTURES.—In the case of the purchase under
8 this subsection of an existing child care and develop-
9 ment facility or purchase of an existing structure to
10 serve as such a facility, the Secretary shall prescribe
11 any terms and conditions that the Secretary consid-
12 ers necessary to ensure that—

13 “(A) the facility or structure purchased
14 continues to be used as a child care and devel-
15 opment facility; and

16 “(B) the facility complies with the same
17 requirements applicable under subsections (d)
18 and (e) of section 257 to facilities having mort-
19 gages insured under such section.

20 “(3) REFINANCING OF EXISTING FACILITIES.—
21 In the case of refinancing of an existing child care
22 and development facility, the Secretary shall pre-
23 scribe any terms and conditions that the Secretary
24 considers necessary to ensure that—

1 “(A) the refinancing is used to lower the
2 monthly debt service costs (taking into account
3 any fees or charges connected with such refi-
4 nancing) of the existing facility;

5 “(B) the proceeds of any refinancing will
6 be employed only to retire the existing indebted-
7 ness and pay the necessary cost of refinancing
8 on the existing facility;

9 “(C) the existing facility is economically
10 viable; and

11 “(D) the facility complies with the same
12 requirements applicable under section 257(d) to
13 facilities having mortgages insured under such
14 section.

15 “(4) DEFINITIONS.—For purposes of this sub-
16 section, the terms defined in section 257(i) shall
17 have the same meanings as provided under such sec-
18 tion.

19 “(5) LIMITATION ON INSURANCE AUTHOR-
20 ITY.—The authority of the Secretary to enter into
21 commitments to insure mortgages under this sub-
22 section is subject to the limitations under section
23 257(j).”.

1 **SEC. 5. CHILDREN'S DEVELOPMENT COMMISSION.**

2 Title II of the National Housing Act (12 U.S.C. 1707
3 et seq.) is amended by adding at the end (after section
4 257, as added by section 3 of this Act) the following new
5 section:

6 "CHILDREN'S DEVELOPMENT COMMISSION

7 "SEC. 258. (a) ESTABLISHMENT.—There is hereby
8 established a commission to be known as the Children's
9 Development Commission.

10 "(b) MEMBERSHIP.—

11 "(1) APPOINTMENT.—The Commission shall be
12 composed of 7 members appointed by the President,
13 not later than the expiration of the 3-month period
14 beginning upon the enactment of this section, by and
15 with the advice and consent of the Senate, as fol-
16 lows:

17 "(A) 1 member shall be appointed from
18 among 3 individuals recommended by the Sec-
19 retary of Housing and Urban Development or
20 the Secretary's designee.

21 "(B) 1 member shall be appointed from
22 among 3 individuals recommended by the Sec-
23 retary of Health and Human Services or the
24 Secretary's designee.

25 "(C) 1 member shall be appointed from
26 among 3 individuals recommended by the Sec-

1 retary of the Treasury or the Secretary's des-
2 ignee.

3 “(D) 4 members shall be appointed from
4 among 12 individuals recommended jointly by
5 the Speaker of the House of Representatives,
6 the Majority Leader of the Senate, Minority
7 Leader of the House of Representatives, the
8 Minority Leader of the Senate.

9 “(2) QUALIFICATIONS OF CONGRESSIONALLY
10 RECOMMENDED MEMBERS.—Of the members ap-
11 pointed under paragraph (1)(D)—

12 “(A) each shall be an individual who ac-
13 tively participates or is employed in the field of
14 child care and has academic, licensing, or other
15 credentials relating to such participation or em-
16 ployment; and

17 “(B) not more than 2 may be of the same
18 political party.

19 “(3) TERMS.—Each appointed member of the
20 Commission shall serve for a term of 3 years.

21 “(4) VACANCIES.—Any member appointed to
22 fill a vacancy occurring before the expiration of the
23 term for which the member's predecessor was ap-
24 pointed shall be appointed only for the remainder of
25 that term. A member may serve after the expiration

1 of that member's term until a successor has taken
2 office. A vacancy in the Commission shall be filled
3 in the manner in which the original appointment was
4 made.

5 "(5) CHAIRPERSON.—The chairperson of the
6 Commission shall be designated by the President at
7 the time of appointment.

8 "(6) QUORUM.—A majority of the members of
9 the Commission shall constitute a quorum for the
10 transaction of business.

11 "(7) VOTING.—Each member of the Commis-
12 sion shall be entitled to 1 vote, which shall be equal
13 to the vote of every other member of the Commis-
14 sion.

15 "(8) PROHIBITION ON ADDITIONAL PAY.—
16 Members of the Commission shall serve without
17 compensation, but shall be reimbursed for travel,
18 subsistence, and other necessary expenses incurred
19 in the performance of their duties as members of the
20 Commission.

21 "(c) FUNCTIONS.—The Commission shall carry out
22 the following functions:

23 "(1) CERTIFICATION OF COMPLIANCE.—The
24 Commission shall collect such information and make
25 such determinations as may be necessary to deter-

1 mine, for purposes of section 257(d), whether child
2 care and development facilities comply, or will be in
3 compliance within 12 months, with—

4 “(A) any laws, standards, and require-
5 ments applicable to such facilities under the
6 laws of the State, municipality, or other unit of
7 general local government in which the facility is
8 or is to be located, and

9 “(B) after the effective date of the stand-
10 ards and requirements established under para-
11 graph (2), such standards and requirements,
12 and shall issue certifications of such compliance.

13 “(2) ESTABLISHMENT OF STANDARDS.—

14 “(A) STUDY.—Not later than 12 months
15 after the date on which appointment of initial
16 membership of the Commission is completed,
17 the Commission, in consultation with the Sec-
18 retary of Housing and Urban Development and
19 the Secretary of Health and Human Services,
20 shall conduct a study to determine the laws,
21 standards, and requirements referred to in
22 paragraph (1)(A) that are applicable in each
23 State. Taking into consideration the findings of
24 the study, the Secretary shall establish stand-
25 ards and requirements regarding child care and

1 development facilities that are designed to en-
2 sure that mortgage insurance is provided under
3 section 257 and section 223(h) only for safe,
4 clean, and healthy facilities that provide appro-
5 priate care and development services for chil-
6 dren.

7 “(B) PUBLICATION.—The Commission
8 shall issue regulations providing for the stand-
9 ards and requirements established under sub-
10 paragraph (A) to take effect, for purposes of
11 sections 257(d)(2) and 223(h)(2)(B) and para-
12 graph (1)(B) of this section, not later than 18
13 months after the date of the enactment of this
14 section.

15 “(3) SMALL PURPOSE LOANS.—The Commis-
16 sion shall, to the extent amounts are made available
17 for such purpose pursuant to subsection (i) and
18 qualified requests are received, make loans, directly
19 or indirectly to providers of child care and develop-
20 ment facilities for reconstruction or renovation of
21 such facilities, subject to the following requirements:

22 “(A) Loans under this paragraph shall be
23 made only for such facilities that are financially
24 and operationally viable, as determined under

1 standards and guidelines to be established by
2 the Commission.

3 “(B) The aggregate amount of loans made
4 under this paragraph to a single borrower may
5 not exceed \$50,000.

6 “(C) A loan made under this paragraph
7 may not have a term to maturity exceeding 7
8 years.

9 “(D) Loans under this paragraph shall
10 bear interest at rates and be made under such
11 other conditions and terms as the Commission
12 shall provide.

13 “(4) NOTIFICATION.—The Commission shall
14 take such actions as may be necessary to publicize
15 the availability of the programs for mortgage insur-
16 ance under sections 257 and 223(h) and loans under
17 paragraph (3) of this subsection in a manner that
18 ensures that information concerning such programs
19 will be available to child care providers throughout
20 the United States.

21 “(5) LIABILITY INSURANCE.—Not later than 12
22 months after the date on which appointment of ini-
23 tial membership of the Commission is completed, the
24 Commission shall establish standards and guidelines,
25 applicable to mortgage insurance under sections 257

1 and 223(h) and loans under paragraph (3) of this
2 subsection, requiring child care providers operating
3 child care and development facilities assisted under
4 such provisions to obtain and maintain liability in-
5 surance in such amounts and subject to such re-
6 quirements as the Commission considers appro-
7 priate.

8 “(6) RESEARCH FOUNDATION.—Not later than
9 12 months after the date of the enactment of this
10 section, the Commission shall submit a report to the
11 Congress recommending a plan for establishing and
12 funding a foundation that is an entity independent
13 of the Commission (but which maintains association
14 with the Commission), the purpose of which shall
15 be—

16 “(A) to support research relating to child
17 care and development facilities;

18 “(B) to fund pilot programs to test innova-
19 tive methods for improving child care; and

20 “(C) to engage in activities and publish
21 materials to assist persons interested in mort-
22 gage insurance under sections 257 and 223(h)
23 and other assistance provided by the Commis-
24 sion.

25 “(d) NONDISCRIMINATION REQUIREMENT.—

1 “(1) IN GENERAL.—The Commission may not
2 certify under subsection (c)(1) or carry out any ac-
3 tivities of the Commission with respect to any child
4 care and development facility if the provider of the
5 facility discriminates on account of race, color, reli-
6 gion (subject to paragraph (2)), national origin, sex
7 (to the extent provided in title IX of the Education
8 Amendments of 1972 (20 U.S.C. 1681 et seq.)), or
9 handicapping condition.

10 “(2) FACILITIES OF RELIGIOUS ORGANIZA-
11 TIONS.—The prohibition with respect to religion
12 shall not apply to a child care and development facil-
13 ity which is controlled by or which is closely identi-
14 fied with the tenets of a particular religious organi-
15 zation if the application of this subsection would not
16 be consistent with the religious tenets of such orga-
17 nization.

18 “(3) CERTIFICATION.—As a condition of certifi-
19 cation under subsection (c)(1) and eligibility for a
20 loan under subsection (c)(3), the provider of a child
21 care and development facility shall certify to the
22 Commission that the provider does not discriminate,
23 as required by the provisions of paragraph (1) of
24 this subsection.

25 “(e) POWERS.—

1 “(1) ASSISTANCE FROM FEDERAL AGENCIES.—

2 The Commission may secure directly from any de-
3 partment or agency of the Federal Government such
4 information as the Commission may require for car-
5 rying out its functions. Upon request of the Com-
6 mission, any such department or agency shall fur-
7 nish such information.

8 “(2) ASSISTANCE FROM GENERAL SERVICES
9 ADMINISTRATION.—The Administrator of General
10 Services shall provide to the Commission, on a reim-
11 bursable basis, such administrative support services
12 as the Commission may request.

13 “(3) ASSISTANCE FROM DEPARTMENT OF
14 HOUSING AND URBAN DEVELOPMENT.—Upon the re-
15 quest of the Commission, the Secretary of Housing
16 and Urban Development shall, to the extent possible
17 and subject to the discretion of the Secretary, detail
18 any of the personnel of the Department of Housing
19 and Urban Development, on a nonreimbursable
20 basis, to assist the Commission in carrying out its
21 functions under this section.

22 “(4) MAILS.—The Commission may use the
23 United States mails in the same manner and under
24 the same conditions as other Federal agencies.

25 “(f) STAFF.—

1 “(1) EXECUTIVE DIRECTOR.—The Commission
2 shall appoint an executive director of the Board, who
3 shall be compensated at a rate fixed by the Commis-
4 sion, but which shall not exceed the rate established
5 for level I of the Executive Schedule under title 5,
6 United States Code.

7 “(2) OTHER PERSONNEL.—In addition to the
8 executive director, the Commission may appoint and
9 fix the compensation of such personnel as the Com-
10 mission considers necessary, in accordance with the
11 provisions of title 5, United States Code, governing
12 appointments to the competitive service, and the
13 provisions of chapter 51 and subchapter III of chap-
14 ter 53 of such title, relating to classification and
15 General Schedule pay rates.

16 “(g) REPORTS.—Not later than March 31 of each
17 year, the Commission shall submit a report to the Presi-
18 dent and the Congress regarding the operations and activi-
19 ties of the Commission during the preceding calendar year.
20 Each annual report shall include a copy of the Commis-
21 sion’s financial statements and such information and other
22 evidence as is necessary to demonstrate that the activities
23 of the Commission during the year for which the report
24 is made. The Commission may also submit reports to the

1 Congress and President at such other times as the Com-
2 mission deems desirable.

3 “(h) DEFINITIONS.—For purposes of this section, the
4 terms defined in section 257(i) shall have the same mean-
5 ings as provided under such section.

6 “(i) AUTHORIZATION OF APPROPRIATIONS.—There
7 are authorized to be appropriated to the Commission to
8 carry out this section \$10,000,000 for fiscal year 1999,
9 to remain available until expended, of which not more than
10 \$2,500,000 shall be available for administrative costs of
11 the Commission and the remainder of which shall be avail-
12 able only for loans under subsection (c)(3).”.

13 **SEC. 6. STUDY OF AVAILABILITY OF SECONDARY MARKETS**
14 **FOR MORTGAGES ON CHILD CARE FACILI-**
15 **TIES.**

16 The Secretary of the Treasury shall conduct a study
17 of the secondary mortgage markets to determine—

18 (1) whether such a market exists for purchase
19 of mortgages eligible for insurance under sections
20 223(h) and 257 of the National Housing Act (as
21 added by this Act);

22 (2) whether such a market would affect the
23 availability of credit available for development of
24 child care and development facilities or would lower
25 development costs of such facilities; and

1 (3) the extent to which such a market or other
2 / activities to provide credit enhancement for child
3 care and development facilities loans is needed to
4 meet the demand for such facilities.

5 The Secretary of the Treasury shall submit to the Con-
6 gress a report regarding the results of the study conducted
7 under this section not later than the expiration of the 2-
8 year period beginning on the date of the enactment of this
9 Act.

[INCOMPLETE DISCUSSION DRAFT]

MARCH 17, 1998

105TH CONGRESS
2D SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

Mrs. MALONEY of New York (for herself and _____) introduced
the following bill; which was referred to the Committee on

A BILL

To provide for the establishment of the Children's Development Insurance and Mortgage Corporation for the purpose of expanding the availability of child care services.

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 "Kiddie Mac Act of
5 1998".

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1 (1) The need for quality nursery schools, both
2 full-time and part-time child care centers, after
3 school programs, neighborhood-run mothers-day-out
4 programs, and family child care providers has grown
5 among working parents, and parents who stay at
6 home, who want their children to have access to
7 early childhood education.

8 (2) All parents in the labor force should have
9 access to safe, stimulating, and educational early
10 childhood education programs for their children,
11 whether such programs are carried out in a child
12 care center, a part-time nursery school (including a
13 nursery school operated by a religious organization),
14 or a family child care provider's home.

15 (3) The number of available enrollment oppor-
16 tunities for children to receive quality child care
17 services is not meeting the demand for such services
18 due to several factors. Child care facilities are tai-
19 lored to meet specific regulations, so banks are con-
20 cerned that if they acquire such facilities as a result
21 of foreclosure, such facilities will be unusable for
22 other purposes. Because the profit margin for child
23 care providers is so small, lenders are concerned
24 about the viability of such providers, even though de-
25 faults have historically been low for such providers.

1 (4) In 1995 there were about 21,000,000 chil-
2 dren less than 6 years of age, of whom 31 percent
3 were participating in center-based child care services
4 and 14 percent were receiving child care in homes.
5 Between 1992 and 2005 the participation of women
6 24 to 54 years of age in the labor force is projected
7 to increase from 75 percent to 83 percent.

8 (5) In States that have set up a mechanism to
9 provide capital improvements for child care facilities,
10 the demand for services of such facilities still has
11 not been met. [In New Hampshire, a program set
12 up with a \$10,000,000 grant from Providence Bank
13 received requests every 30 minutes and ran out of
14 money solely through funding rehabilitation of such
15 facilities, failing to even begin funding the construc-
16 tion of new child care facilities.]

17 (6) The United States is behind other western,
18 industrialized countries when it comes to providing
19 child care services. In France, virtually 100 percent
20 of all children 3 to 5 years of age attend nursery
21 school. In Germany this number is 65 to 70 percent.
22 In Japan 90 percent of such children attend some
23 form of preschool care. In all of these countries early
24 childhood care has proven to increase children's de-
25 velopment and performance.

1 **SEC. 3. CONGRESSIONAL DECLARATION OF PURPOSE; DEF-**
2 **INITION; INCORPORATION.**

3 (a) **PURPOSE.**—The Congress hereby declares that it
4 is the purpose of this Act to authorize participation of the
5 United States Government and the Federal National
6 Mortgage Association in a private, for profit corporation
7 to be known as the Children's Development Insurance and
8 Mortgage Corporation (in this Act referred to as the "Cor-
9 poration") which will, directly or indirectly, alone or in
10 collaboration with others—

11 (1) guarantee, insure, and reinsure bonds, de-
12 bentsures, notes, evidences of debt, loans, and inter-
13 ests therein, the proceeds of which are to be used for
14 a child care and development facilities purpose;

15 (2) guarantee and insure leases of personal,
16 real, or mixed property to be used for a child care
17 and development facilities purpose;

18 (3) issue letters of credit and undertake obliga-
19 tions and commitments as the Corporation deems
20 necessary to carry out the purposes described in
21 paragraphs (1) and (2);

22 (4) make loans, directly or indirectly, to child
23 care providers for reconstruction or renovation of fa-
24 cilities described in section 13(1)(A) for the purpose
25 of bringing such facilities into compliance with State
26 and local safety requirements;

1 (5) sell, subject to State law applicable to the
2 business of insurance, liability insurance against
3 risks arising from providing child care services for
4 compensation; and

5 (6) establish a nonprofit foundation—

6 (A) to carry out research relating to child
7 care and development facilities purposes; and

8 (B) to conduct pilot programs to test inno-
9 vative methods for improving child care and de-
10 velopment facilities purposes.

11 (b) STATUS AS NONGOVERNMENTAL ENTITY.—The
12 Corporation shall not be an agency, instrumentality, or es-
13 tablishment of the United States Government and shall
14 not be a “Government corporation” nor a “Government
15 controlled corporation” as defined in section 103 of title
16 5, United States Code. No action under section 1491 of
17 title 28, United States Code (commonly known as the
18 Tucker Act) shall be allowable against the United States
19 based on the actions of the Corporation.

20 (c) CORPORATE POWERS AND LIMITATIONS.—The
21 Corporation shall be subject to the provisions of this Act
22 and, to the extent not inconsistent with this Act, to the
23 District of Columbia Business Corporation Act. The busi-
24 ness activities of the Corporation shall always be limited
25 to the purposes set forth in subsection (a) of this section.

1 It shall have the powers conferred upon a corporation by
2 the District of Columbia Business Corporation Act as
3 from time to time in effect in order to conduct its cor-
4 porate affairs and to carry out its purposes and activities
5 incidental thereto.

6 (d) SPECIFIC LIMITATIONS.—

7 (1) MAXIMUM COMPENSATION.—The Corpora-
8 tion may not pay to any officer or employee com-
9 pensation the exceeds the maximum rate of com-
10 pensation payable from time to time under section
11 5312 of title 5 of

12 (2) MAXIMUM AGGREGATE OUTSTANDING
13 AMOUNT OF LOANS AND GUARANTEES.—The maxi-
14 mum aggregate outstanding amount of all loans and
15 guarantees made by the Corporation may not exceed
16 \$2,000,000,000.

17 (3) LOANS MADE FOR RECONSTRUCTION AND REN-
18 OVATION.—(1) The aggregate amount of loans made
19 under subsection (a)(4) to a single borrower may not ex-
20 ceed \$50,000.

21 (2) The term of a loan made under such subsection
22 may not exceed 15 years.

23 **SEC. 4. CRITERIA FOR GUARANTEES AND INSURANCE.**

24 (a) GENERAL RULE.—The Corporation shall provide
25 direct insurance, guarantees, and reinsurance on obliga-

1 tions issued for child care and development facilities pur-
2 poses only in accordance with the requirements of this sec-
3 tion.

4 (b) DIRECT INSURANCE AND GUARANTEE ACTIVI-
5 TIES; LIMITATIONS.—(1) All of the assets and obligations
6 directly covered by primary insurance or guarantees issued
7 by the Corporation shall be assets or obligations of child
8 care providers.

9 (2) At least the percentages specified in paragraph
10 (3) of the aggregate dollar amount of the assets and obli-
11 gations reinsured, insured, and guaranteed by the Cor-
12 poration under this section shall be in the direct insurance
13 and guarantee activities specified in this subsection.

14 (3) For the purpose of paragraph (2) of this para-
15 graph, the percentages specified in this paragraph shall
16 be—

17 (A) 10 percent for the first full year of oper-
18 ation of the Corporation;

19 (B) 30 percent for the second full year of such
20 operation; and

21 (C) 50 percent for the third full year of such
22 operation and thereafter.

23 (4) For the purpose of paragraph (1), the assets and
24 obligations which may be directly covered by primary in-
25 surance or guarantees issued by the Corporation are—

1 (A) bonds, debentures, notes, evidences of debt,
2 loans, and interests therein, the proceeds of which
3 are to be used for a child care and development fa-
4 cilities purpose; and

5 (B) leases of personal, real, or mixed property
6 to be used for a child care and development facilities
7 purpose.

8 (5) Notwithstanding paragraph (1), the Corporation
9 may issue primary insurance or guarantees covering the
10 assets or obligations of child care providers, subject to all
11 of the following conditions and limitations:

12 (A) The proposed transaction shall have been
13 declined for coverage by all unaffiliated monoline in-
14 surers that are authorized to write financial guaran-
15 tee insurance and that, in the previous year, pro-
16 vided primary insurance or guarantees on child care
17 and development facility obligations. The Secretary
18 shall publish by January 31 of each year a list of
19 all such insurers.

20 (B) Within 2 business days of receiving com-
21 plete documentation concerning a proposed trans-
22 action by an child care provider seeking insurance
23 from the Corporation pursuant to this paragraph, an
24 insurer shall offer to provide coverage or execute an
25 affidavit of declination, or its failure to respond shall

1 be deemed a declination. The child care provider
2 seeking insurance from the Corporation shall file
3 with the Corporation the affidavits from all declining
4 insurers, as well as an affidavit of the child care pro-
5 vider's financial advisor specifically identifying the
6 pertinent terms of the proposed transaction, the re-
7 quested insurance coverage, and the date on which
8 complete documentation concerning the proposed
9 transaction was submitted to each insurer and cer-
10 tifying that such information was provided to each
11 insurer that declined coverage.

12 (C) The proceeds of the assets or obligations in-
13 sured or guaranteed by the Corporation pursuant to
14 this paragraph shall be used exclusively for the ren-
15 ovation, repair, replacement, or construction of child
16 care and development facilities.

17 (D) The aggregate par value of assets and obli-
18 gations insured or guaranteed by the Corporation
19 under this paragraph shall not exceed—

20 (i) \$100,000,000 per year during calendar
21 years 1999, 2000, and 2001; or

22 (ii) \$150,000,000 per year during calendar
23 years 2002 and 2003.

24 (E) The aggregate dollar amount of trans-
25 actions under this paragraph shall not exceed—

1 (i) in calendar year 1999, 2000, or 2001,
2 10 percent of the aggregate dollar amount of
3 assets and obligations directly covered by pri-
4 mary insurance or guarantees issued by the
5 Corporation under this section in such year; or

6 (ii) in calendar year 2002 or 2003, 15 per-
7 cent of the aggregate dollar amount of assets
8 and obligations directly covered by primary in-
9 surance or guarantees issued by the Corpora-
10 tion under this section in such year.

11 (d) NOTICE OF SERVICES.—The Corporation shall
12 take such steps as may be necessary to publicize the avail-
13 ability of its insurance and reinsurance programs under
14 this section in a manner that assures that information
15 concerning such programs will be available to child care
16 providers throughout the United States.

17 (e) NONDISCRIMINATION REQUIRED.—(1) The Cor-
18 poration may not carry out any activities with respect to
19 any child care and development facilities purpose of a par-
20 ticipating child care provider if the child care provider dis-
21 criminate on account of race, color, religion (subject to
22 paragraph (2)), national origin, sex (to the extent provided
23 in title IX of the Education Amendments of 1972 (20
24 U.S.C. 1681 et seq.)), or handicapping condition.

1 (2) The prohibition with respect to religion shall not
2 apply to a child care and development facility which is con-
3 trolled by or which is closely identified with the tenets of
4 a particular religious organization if the application of this
5 section would not be consistent with the religious tenets
6 of such organization.

7 (3) Each participating child care provider shall cer-
8 tify to the Corporation that the child care provider does
9 not discriminate as required by the provisions of para-
10 graph (1).

11 **SEC. 5. PROCESS OF ORGANIZATION.**

12 The Secretary of the Treasury, the Secretary, the
13 Secretary of Housing and Urban Development, and the
14 Federal National Mortgage Association shall each appoint
15 2 persons to be incorporators of the Corporation. The
16 incorporators so appointed shall each sign the articles of
17 incorporation and shall serve as the initial Board of Direc-
18 tors until the members of the first regular Board of Direc-
19 tors shall have been appointed and elected. Such
20 incorporators shall take whatever actions are necessary or
21 appropriate to establish the Corporation, including the fil-
22 ing of articles of incorporation.

1 **SEC. 6. OPERATION AND ELECTION OF BOARD OF DIREC-**
2 **TORS.**

3 (a) IN GENERAL.—(1) The Corporation shall have a
4 Board of Directors which shall consist of 13 members, of
5 whom 1 shall be elected annually by the Board to serve
6 as chairman. Directors shall serve for terms of 3 years
7 or until their successors have been appointed and quali-
8 fied, and any member so appointed to fill a vacancy shall
9 be appointed only for the unexpired term of the Director
10 whom he succeeds.

11 (2) Two Directors shall be appointed by the Sec-
12 retary; 2 directors shall be appointed by the Secretary of
13 the Treasury; 2 Directors shall be appointed by the Sec-
14 retary of Housing and Urban Development; 3 Directors
15 shall be appointed by the Federal National Mortgage As-
16 sociation; and the remaining 4 Directors shall be elected
17 by the holders of the Corporation's voting common stock
18 at least 2 of whom shall be chief executive officers of orga-
19 nizations that are primarily engaged in child care and de-
20 velopment purposes.

21 (3) The failure of the Secretary, the Secretary of the
22 Treasury, or the Secretary of Housing and Urban Devel-
23 opment to make 1 or more appointments to the Board
24 of Directors of the Corporation shall not affect or diminish
25 the right and power of—

1 (A) the other directors who have been appointed
2 or elected to assume and carry out their duties as
3 directors; and

4 (B) the Board so constituted to act for all pur-
5 poses as the full Board of the Corporation.

6 (b) CUMULATIVE VOTING.—The articles of incorpo-
7 ration of the Corporation shall provide for cumulative vot-
8 ing under section 27(d) of the District of Columbia Busi-
9 ness Corporation Act (D.C. Code, sec. 29-327(d)).

10 **SEC. 7. INITIAL CAPITAL.**

11 (a) AUTHORITY TO ISSUE COMMON STOCK.—The
12 Corporation shall issue shares of voting common stock of
13 no par value at such time within 6 months of its incorpo-
14 ration as shall be designated by the initial Board of Direc-
15 tors, and from time to time thereafter.

16 (b) SUBSCRIPTION BY SECRETARY.—The Secretary
17 is authorized and directed to subscribe to and purchase,
18 in each of the 5 years following the incorporation of the
19 Corporation, voting common stock of the Corporation hav-
20 ing an aggregate purchase price of not more than
21 \$20,000,000, subject to availability of appropriations.

22 (c) SUBSCRIPTION BY ASSOCIATION.—The Federal
23 National Mortgage Association is authorized to subscribe
24 to and purchase during the 5 years following the incorpo-
25 ration of the Corporation voting common stock of the Cor-

1 poration having an aggregate purchase price of
2 \$25,000,000 or more.

3 (d) ANNUAL ISSUANCE.—The Corporation is author-
4 ized to offer for subscription and purchase to the general
5 public during the 5 years following the incorporation of
6 the Corporation, voting common stock having an aggre-
7 gate purchase price of \$125,000,000.

8 **SEC. 8. ISSUE OF NONVOTING STOCK AND DEBT TO THE**
9 **PUBLIC.**

10 The Corporation may issue, without limitation as to
11 amount or restriction as to ownership, such nonvoting
12 common, preferred, and preference stock, debt, and such
13 other securities and obligations, in such amounts, at such
14 times, and having such terms and conditions as may be
15 deemed necessary or appropriate by its Board of Direc-
16 tors.

17 **SEC. 9. OBLIGATIONS NOT FEDERALLY GUARANTEED; NO**
18 **FEDERAL PRIORITY.**

19 No obligation which is insured, guaranteed, or other-
20 wise backed by the Corporation, shall be deemed to be an
21 obligation which is guaranteed by the full faith and credit
22 of the United States. No obligation which is insured, guar-
23 anteed, or otherwise backed by the Corporation shall be
24 deemed to be an obligation which is guaranteed by the
25 Federal National Mortgage Association. This section shall

1 not affect the determination of whether such obligation is
2 guaranteed for purposes of Federal income taxes.

3 **SEC. 10. AUTHORITY OF SECRETARY TO SELL COMMON**
4 **STOCK; RIGHT OF FIRST REFUSAL.**

5 (a) **AUTHORITY TO SELL.**—The Secretary may, at
6 any time after a date which is 5 years after the date of
7 incorporation of the Corporation, sell (in one or more
8 transactions) the voting common stock of the Corporation
9 owned by the Secretary. Prior to offering such common
10 stock for sale to any other person, the Secretary shall offer
11 such stock to the Federal National Mortgage Association
12 at the price determined pursuant to subsection (b). Not
13 later than 30 days prior to the sale of such stock, the Sec-
14 retary shall advise, in writing, the Committee on Banking,
15 Housing, and Urban Affairs of the Senate and the Com-
16 mittee on Banking and Financial Services of the House
17 of Representatives of plans of the Secretary.

18 (b) **PURCHASE PRICE.**—The price at which the Sec-
19 retary may sell the voting common stock of the Corpora-
20 tion under subsection (a) shall be the market value of such
21 shares as determined by the Secretary, on the basis of an
22 independent appraisal, but shall not be less than the value
23 of such shares as shown on the books of account of the
24 Corporation as of the date of closing of such purchase.

1 In no event shall the purchase price be less than the origi-
2 nal issuance price.

3 (c) RIGHT OF FIRST REFUSAL TO ASSOCIATION.—

4 Until such time as the Federal National Mortgage Asso-
5 ciation acquires all of the voting common stock owned by
6 the Secretary, the Federal National Mortgage Association
7 shall have the right to purchase all, or any lesser portion
8 it shall select, of each of the issues of equity securities
9 or other securities convertible into equity of the Corpora-
10 tion as the Corporation may issue from time to time, on
11 the same terms and conditions as such securities are to
12 be offered to other persons.

13 (d) AUTHORITY OF ASSOCIATION WITH RESPECT TO

14 CORPORATION.—The Federal National Mortgage Associa-
15 tion is authorized and empowered to purchase stock and
16 to carry out such other activities as are necessary and ap-
17 propriate for carrying out the Association's obligations
18 and responsibilities with respect to the Corporation. The
19 Federal National Mortgage Association is also authorized
20 to enter into such other transactions with the Corporation,
21 including the acquisition of securities and obligations of
22 the Corporation referred to in this section and sections
23 7 and 8, and arrangements for the provision of manage-
24 ment and other services to the Corporation, as shall be

1 approved by the Federal National Mortgage Association
2 and the Corporation.

3 **SEC. 11. USE OF STOCK SALE PROCEEDS.**

4 The proceeds received by the Secretary upon the sale
5 of any shares of the Corporation to the Federal National
6 Mortgage Association or any other person shall be depos-
7 ited in the general fund of the Treasury.

8 **SEC. 12. AUDITS; REPORTS TO THE PRESIDENT AND THE**
9 **CONGRESS.**

10 (a) **ACCOUNTING.**—The books of account of the Cor-
11 poration shall be maintained in accordance with generally
12 accepted accounting principles and shall be subject to an
13 annual audit by an independent public accountant.

14 (b) **REPORTS.**—The Corporation shall transmit to the
15 President and the Congress, annually and at such other
16 times as it deems desirable, a report of its operations and
17 activities under this Act, which annual report shall include
18 a copy of the Corporation's financial statements and the
19 opinion with respect thereto prepared by the independent
20 public accountant reviewing such statements and a copy
21 of any report made on an audit conducted under sub-
22 section (a). The annual reports shall include such informa-
23 tion and other evidence as is necessary to demonstrate
24 that the Corporation has complied with the requirements
25 of section 4.

1 (c) APPEARANCE REQUIRED.—Not later than Sep-
2 tember 30 of each year, the chief executive officer of the
3 Corporation shall appear before the Committee on Bank-
4 ing and Financial Services of the House of Representa-
5 tives and the Committee on Finance of the Senate, and
6 shall present the report required by subsection (b).

7 **SEC. 13. DEFINITIONS.**

8 For purposes of this Act:

9 (1) CHILD CARE AND DEVELOPMENT FACILI-
10 TIES PURPOSE.—As used in this section, a “child
11 care and development facilities purpose” includes
12 any activity (including activities related to the pay-
13 ment of financing or transaction costs) relating to
14 the construction, reconstruction, renovation, acquisi-
15 tion, or purchase of—

16 (A) facilities for the care and development
17 of children less than 12 years of age, excluding
18 facilities for school-age children primarily for
19 use during normal school hours and including
20 facilities for training individuals to provide child
21 care and development services;

22 (B) any underlying real property or any in-
23 terest therein;

1 (C) furniture, fixtures, and equipment to
2 be used in connection with any facilities de-
3 scribed in subparagraph (A); and

4 (D) instructional equipment and research
5 instrumentation including site preparation for
6 such equipment and instrumentation.

7 (2) CHILD CARE AND DEVELOPMENT FACIL-
8 ITY.—The term “child care and development facil-
9 ity” does not include a facility or institution of any
10 agency of the United States.

11 (3) CONSTRUCTION.—(A) The term “construc-
12 tion” means—

13 (i) erection of new or expansion of existing
14 structures, and the acquisition and installation
15 of initial equipment therefor;

16 (ii) acquisition of existing structures not
17 owned by the child care provider involved; or

18 (iii) a combination of either of the fore-
19 going.

20 (B) For the purpose of subparagraph (A)—

21 (i) the term “equipment” includes, in addi-
22 tion to machinery, utilities, and built-in equip-
23 ment and any necessary enclosures or struc-
24 tures to house them, all other items necessary
25 for the functioning of a particular facility as an

1 child care and development facility, including
2 necessary furniture, but not including books,
3 curricular, and program materials, and items of
4 current and operating expense such as supplies
5 and the like;

6 (ii) the term "initial equipment" means
7 equipment acquired and installed in connection
8 with construction; and

9 (iii) the terms "equipment", "initial equip-
10 ment", and "built-in equipment", shall be more
11 particularly defined by the Secretary by regula-
12 tion.

13 (4) MAINTENANCE.—The term "maintenance",
14 with respect to instructional and research equipment
15 obtained with funding under this title, shall mean
16 the care necessary to the optimal functioning of such
17 equipment. With respect to the equipment and struc-
18 tural changes related to obtaining and sustaining the
19 necessary environment (ventilation, etc.) for proper
20 functioning of instructional and research equipment,
21 "maintenance" shall mean that portion of care above
22 and beyond normal overhead costs.

23 (5) RECONSTRUCTION OR RENOVATION.—The
24 term "reconstruction or renovation" means rehabili-
25 tation, alteration, conversion, or improvement (in-

1 including the acquisition and installation of initial
2 equipment, or modernization or replacement of such
3 equipment) of existing structures. For the purpose
4 of the preceding sentence—

5 (A) the term “equipment” includes, in ad-
6 dition to machinery, utilities, and built-in equip-
7 ment and any necessary enclosures or struc-
8 tures to house them, all other items necessary
9 for the functioning of a particular facility as an
10 child care and development facility, including
11 necessary furniture, but not including books,
12 curricular, and program materials, and items of
13 current and operating expense such as fuel,
14 supplies, and the like;

15 (B) the term “initial equipment” means
16 equipment acquired and installed either in con-
17 nection with construction as defined in para-
18 graph (3)(A), or as part of the rehabilitation,
19 alteration, conversion, or improvement of an ex-
20 isting structure, which structure would other-
21 wise not be adequate for use as an child care
22 and development facility;

23 (C) the terms “equipment”, “initial equip-
24 ment”, and “built-in equipment” shall be more