

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 3915) TO AMEND THE TRUTH IN LENDING ACT TO REFORM CONSUMER MORTGAGE PRACTICES AND PROVIDE ACCOUNTABILITY FOR SUCH PRACTICES, TO ESTABLISH LICENSING AND REGISTRATION REQUIREMENTS FOR RESIDENTIAL MORTGAGE ORIGINATORS, TO PROVIDE CERTAIN MINIMUM STANDARDS FOR CONSUMER MORTGAGE LOANS, AND FOR OTHER PURPOSES

NOVEMBER 14, 2007.—Referred to the House Calendar and ordered to be printed

Mr. ARCURI, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 825]

The Committee on Rules, having had under consideration House Resolution 825, by a non-record vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 3915, the Mortgage Reform and Anti-Predatory Lending Act of 2007, under a structured rule. The rule provides one hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Financial Services. The rule waives all points of order against consideration of the bill except clauses 9 and 10 of rule XXI. The rule provides that the amendment in the nature of a substitute recommended by the Committee on Financial Services now printed in the bill shall be considered as an original bill for the purpose of amendment and shall be considered as read. The rule waives all points of order against the amendment in the nature of a substitute except for clause 10 of rule XXI. This waiver does not affect the point of order available under clause 9 of rule XXI (regarding earmark disclosure).

The rule makes in order only those amendments printed in this report. The amendments made in order may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment except as specified in this report, and shall not be sub-

ject to a demand for a division of the question in the House or in the Committee of the Whole. All points of order against the amendments except for clauses 9 and 10 of rule XXI are waived. The rule provides one motion to recommit with or without instructions. The rule provides that, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker.

EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of the bill (except for clauses 9 and 10 of rule XXI) includes a waiver of Section 302(f) of the Congressional Budget Act which prohibits consideration of legislation providing new budget authority in excess of a committee's 302(a) allocation of such authority. The waiver of all points of order against the committee amendment in the nature of a substitute (except for clause 10 of rule XXI) includes a waiver of clause 7 of rule XVI, regarding germaneness.

SUMMARY OF AMENDMENTS MADE IN ORDER

1. Frank (MA)/Bachus (AL): The amendment makes a number of technical and conforming changes as well as enhancements to the bill including the following: (1) clarifies the definition of loan originator; (2) narrows the scope of the preemption provision to make it clear that states cannot use or adopt state laws against securitizers/assignees for violations of the national standards or to impose remedies outside of the unique Federal remedy established in the bill, and to make it clear that actions for fraud, misrepresentation, deception, false advertising or civil rights laws are not preempted; (3) clarifies the registration requirements for the Nationwide Mortgage Licensing System and Registry; (4) allows consumers to obtain a cure from assignee or securitizer if creditor or other assignees cease to exist or go bankrupt; (5) clarifies the incentive compensation provision; and (6) adds a monthly disclosure requirement for mortgages. (10 minutes)

2. Kanjorski (PA)/Biggert (IL)/Capito (WV)/Hodes (NH)/Moore, Gwen (WI): The amendment, reflecting provisions from H.R. 3837 (The Escrow, Appraisal, and Mortgage Servicing Improvements Act), would better consumer protection by improving mortgage servicing, protecting appraiser independence, ensuring better appraisal quality and regulatory oversight, requiring escrows for mortgages for borrowers who might experience difficulty with repayment, and establishing disclosure for consumers who waive escrow accounts. (10 minutes)

3. Maloney (NY): Would require a borrower to receive the option of a mortgage without a prepayment penalty, if they are offered an amendment with a prepayment penalty. Sets the maximum time for a prepayment penalty of 3 years and a maximum prepayment amount of 3% of the loan for the first year, 2% for the second year and 1% for the third year. (10 minutes)

4. Watt (NC)/Miller, Brad (NC): This amendment allows for actual damages in the liability section. (10 minutes)

5. Watt (NC)/Miller, Brad (NC): The amendment requires the assignee to have policies/procedures and to cure the loan to avoid being liable for rescission. (10 minutes)

6. Watt (NC)/Miller, Brad (NC): The amendment changes the irrebuttable presumption under section 203 to a rebuttable presumption for all mortgages that allow a borrower to defer payment of principal or interest. (10 minutes)

7. Hensarling (TX): Amendment would remove the civil liability of a lender and cancel the right of rescission for a borrower in instances when a borrower knowingly lied on their mortgage loan application. (10 minutes)

8. Watt (NC)/Miller, Brad (NC): The second-degree amendment to Hensarling #7 adds that the obligor must have had actual knowledge of the false material information for the exemption from liability to take effect. (10 minutes)

9. Meeks (NY): The amendment provides that the Nationwide Mortgage Licensing System and Registry shall not directly or indirectly offer educational courses for pre-licensure or continuing education for mortgage originators. In approving courses under this Act, the Nationwide Mortgage Licensing System and Registry shall apply reasonable standards in the review and approval of courses. (10 minutes)

10. Putnam (FL): The amendment would direct the GAO to conduct a study to determine the effects the enactment of H.R. 3915 will have on the availability and affordability of credit for homebuyers and mortgage lending, and to submit a report to Congress containing the findings and conclusions within one year of the enactment of the legislation. (10 minutes)

11. Brown-Waite (FL): The amendment excludes loans insured by the Federal Housing Administration from the provisions of the bill. (10 minutes)

12. Garrett (NJ): The amendment would strike the rebuttable presumption under section 203, stating that all qualified safe harbor loans that meet the requirements listed in section 203(c)(3)(C) fall under the safe harbor. (10 minutes)

13. Miller, Brad (NC)/Frank (MA)/Watt (NC): Allow regulators to fine mortgage originators, assignees and securitizers who more than occasionally (“pattern or practice”) violate the minimum standards for loans established in the bill at least \$1 million, \$25,000 per loan. Proceeds would be held in trust by the US Treasury for the benefit of borrowers who have no other avenue for obtaining a remedy. (10 minutes)

14. Green, Al (TX): States that educational requirements include instruction on fraud, consumer protection, and fair lending issues. (10 minutes)

15. McHenry (NC): The amendment would strike Title III—High-Cost Mortgages from the bill. (10 minutes)

16. Price, Tom (GA): This amendment would exempt prime loans from the bill. (10 minutes)

17. Van Hollen (MD): The amendment requires that in the case of a residential mortgage loan, closing costs may not exceed by more than 10% any estimate of closing costs disclosed to the consumer in advance of closing. (10 minutes)

18. Sutton (OH): This amendment would require loan creditors or servicers to provide a written notice to consumers with hybrid adjustable rate mortgages six months before their interest rates are due to reset. This notice would state the new interest rate, an explanation of how the new interest rate would be determined, the

creditor's or servicer's good faith estimate of the monthly payment that will apply after the reset, a list of alternatives consumers may pursue before the date of adjustment or reset, and contact information for local HUD-approved housing counseling agencies and the state housing finance authority. (10 minutes)

TEXT OF AMENDMENTS MADE IN ORDER UNDER THE RULE

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE FRANK OF MASSACHUSETTS, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 6, strike line 19 and all that follows through line 22 and insert the following new clause:

(iii) does not include any individual who is not otherwise described in clause (i) or (ii) and who performs purely administrative or clerical tasks on behalf of a person who is described in any such clause.

Page 19, strike line 16 and all that follows through line 24, and insert the following new subparagraph:

(B) personal history and experience, including authorization for the Nationwide Mortgage Licensing System and Registry to obtain information related to any administrative, civil or criminal findings by any governmental jurisdiction.

Page 20, line 1, strike "(b) UNIQUE IDENTIFIER.—The Federal banking agencies" and insert "(b) COORDINATION.—

"(1) UNIQUE IDENTIFIER.—The Federal banking agencies".

Page 20, after line 9, insert the following new paragraph:

(2) NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY DEVELOPMENT.—To facilitate the transfer of information required by subsection (a)(2), the Nationwide Mortgage Licensing System and Registry shall coordinate with the Federal banking agencies, through the Financial Institutions Examination Council, concerning the development and operation, by such System and Registry, of the registration functionality and data requirements for loan originators.

Page 37, line 22, strike the closing quotation marks and the second period.

Page 37, after line 22, insert the following new paragraph:

"(10) SERVICER.—The term 'servicer' has the same meaning as in section 6(i)(2) of the Real Estate Settlement Procedures Act of 1974."

Page 38, beginning on line 12, strike ", registered, and, when required, licensed" and insert "and, when required, registered and licensed".

Page 40, line 22, strike "to repay and" and all that follows through line 25 and insert "to repay and, in the case of a refinancing of an existing residential mortgage loan, receives a net tangible benefit, as determined in accordance with regulations prescribed under subsections (a) and (b) of section 129B."

Page 41, line 20, insert ", the Chairman of the State Liaison Committee to the Financial Institutions Examination Council," after "Secretary".

Page 43, line 13, strike "**ANTI-STEERING**" and insert "**PROHIBITION ON STEERING INCENTIVES**".

Page 43, line 18, strike “IN GENERAL” and insert “AMOUNT OF ORIGINATOR COMPENSATION CANNOT VARY BASED ON TERMS”

Page 43, beginning on line 20, strike “(including yield spread premium)” and insert “, including yield spread premium or any equivalent compensation or gain.”

Page 44, line 1, strike “ANTI-STEERING REGULATIONS” and insert “REGULATIONS”.

Page 44, line 9, insert “(in accordance with regulations prescribed under section 129B(a))” before the semicolon.

Page 44, line 10, insert “in the case of a refinancing of a residential mortgage loan,” after (ii).

Page 44, line 11, insert “(in accordance with regulations prescribed under section 129B(b))” before the semicolon.

Page 45, strike line 6 and all that follows through line 11 and insert the following new subparagraph:

“(B) restricting a consumer’s ability to finance, including through rate or principal, any origination fees or costs permitted under this subsection, or the originator’s ability to receive such fees or costs (including compensation) from any person, so long as such fees or costs were fully and clearly disclosed to the consumer earlier in the application process as required by 129A(a)(1)(C)(ii) and do not vary based on the terms of the loan or the consumer’s decision about whether to finance such fees or costs; or”.

Page 61, after line 15, insert the following new paragraph (and redesignate subsequent paragraphs accordingly):

“(4) ABSENT PARTIES.—

“(A) ABSENT CREDITOR.—Notwithstanding the exemption provided in paragraph (3), if the creditor with respect to a residential mortgage loan made in violation of subsection (a) or (b) has ceased to exist as a matter of law or has filed for bankruptcy protection under title 11, United States Code, or has had a receiver or liquidating agent appointed, a consumer may maintain a civil action against an assignee to cure, but not rescind, the residential mortgage loan, plus the costs and reasonable attorney’s fees incurred in obtaining such remedy.

“(B) ABSENT CREDITOR AND ASSIGNEE.—Notwithstanding the exemption provided in paragraph (3), if the creditor with respect to a residential mortgage loan made in violation of subsection (a) or (b) and each assignee of such loan have ceased to exist as a matter of law or have filed for bankruptcy protection under title 11, United States Code, or have had receivers or liquidating agents appointed, the consumer may maintain the civil action referred to in subparagraph (A) against the securitizer.”.

Page 61, line 23, insert “and the payment of such additional costs as the obligor may have incurred as a result of the violation and in connection with obtaining a cure of the loan, including a reasonable attorney’s fee” before the period.

Page 62, line 15, insert “OR OBTAIN” after “PROVIDE”.

Page 62, line 16, insert “, or a consumer cannot obtain,” after “cannot provide”.

Page 65, line 6, insert “and the consumer would have had a valid basis for such an action if it had been brought before the end of such period” after “subsection (d)”.

Page 66, beginning on line 21, strike “that insurance premiums” and insert “that—

“(1) insurance premiums”.

Page 66, line 24, strike the period and insert “; and”.

Page 66, after line 24, insert the following new paragraph:

“(2) this subsection shall not apply to credit unemployment insurance for which the unemployment insurance premiums are reasonable and at no additional cost to the consumer, the creditor receives no direct or indirect compensation in connection with the unemployment insurance premiums, and the unemployment insurance premiums are paid pursuant to another insurance contract and not paid to an affiliate of the creditor.”.

Page 69, strike line 1 and all that follows through line 9 and insert the following new subparagraphs:

“(A) the provision, by the successor in interest, of a notice to vacate to any bona fide tenant at least 90 days before the effective date of the notice to vacate.

“(B) the rights of any bona fide tenant, as of the date of such notice of foreclosure—

“(i) under any bona fide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease or the end of the 6-month period beginning on the date of the notice of foreclosure, whichever occurs first, subject to the receipt by the tenant of the 90-day notice under subparagraph (A); or

“(ii) without a lease or with a lease terminable at will under State law, subject to the receipt by the tenant of the 90-day notice under subparagraph (A); and”.

Page 69, after line 12, insert the following new subparagraph (and redesignate subsequent subparagraphs accordingly):

“(A) the mortgagor under the contract is not the tenant;”.

Page 69, beginning on line 15, strike “tenant to pay” and insert “receipt of”.

Page 69, line 19, strike “first-time”.

Page 70, line 17, strike “the consumer” and insert “in the case of a first-time borrower with respect to a residential mortgage loan that is not a qualified mortgage, the first-time borrower”.

Page 71, line 25, insert “or application thereof” after “State law”.

Page 72, strike line 5 and all that follows through line 8, and insert “of such Act or any other State law the terms of which address the specific subject matter of subsection (a) (determination of ability to repay) or (b) (requirement of a net tangible benefit) of such section 129B.”.

Page 72, strike line 9 and all that follows through line 17 and insert the following new subsection:

(b) RULES OF CONSTRUCTION.—No provision of this section shall be construed as limiting—

(1) the application of any State law against a creditor;

(2) the availability of remedies based upon fraud, misrepresentation, deception, false advertising, or civil rights laws—

(A) against any assignee, securitizer, or securitization vehicle for its own conduct relating to the making of a residential mortgage loan to a consumer; or

(B) against any assignee, securitizer, or securitization vehicle in the sale or purchase of residential mortgage loans or securities; or

(3) the application of any other State law against any assignee, securitizer, or securitization vehicle except as specifically provided in subsection (a) of this section.

Page 79, after line 2, insert the following new section (and redesignate the subsequent sections accordingly):

SEC. 212. DISCLOSURES REQUIRED IN MONTHLY STATEMENTS FOR RESIDENTIAL MORTGAGE LOANS.

Section 128 of the Truth in Lending Act (15 U.S.C. 1638) is amended by adding at the end the following new subsection:

“(e) PERIODIC STATEMENTS FOR RESIDENTIAL MORTGAGE LOANS.—

“(1) IN GENERAL.—The creditor, assignee, or servicer with respect to any residential mortgage loan shall transmit to the obligor, for each billing cycle, a statement setting forth each of the following items, to the extent applicable, in a conspicuous and prominent manner:

“(A) The amount of the principal obligation under the mortgage.

“(B) The current interest rate in effect for the loan.

“(C) The date on which the interest rate may next reset or adjust.

“(D) The amount of any prepayment fee to be charged, if any.

“(E) A description of any late payment fees.

“(F) A telephone number and electronic mail address that may be used by the obligor to obtain information regarding the mortgage.

“(G) Such other information as the Board may prescribe in regulations.

“(2) DEVELOPMENT AND USE OF STANDARD FORM.—The Federal banking agencies shall jointly develop and prescribe a standard form for the disclosure required under this subsection, taking into account that the statements required may be transmitted in writing or electronically.”

Page 80, line 23, insert “(10 percentage points, if the dwelling is personal property and the transaction is for less than \$50,000)” after “8 percentage points”.

Page 81, beginning on line 19, strike “(8 percent if the dwelling is personal property)”.

Page 100, line 6, strike “tangible net benefit” and insert “net tangible benefit (as determined in accordance with regulations prescribed under section 129B(b))”.

Page 100, line 10, after the period, insert closing quotation marks and a second period.

Page 100, strike line 11 and all that follows through line 14.

Page 102, line 23, insert “at the end of the 6-month period beginning” before “on the date of”.

Page 102, beginning on line 25, strike “on or after the date” and insert “after the end of such period”.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE KANJORSKI OF PENNSYLVANIA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 134, after line 13 insert the following new titles (and conform the table of contents accordingly):

TITLE VI—MORTGAGE SERVICING

SEC. 601. ESCROW AND IMPOUND ACCOUNTS RELATING TO CERTAIN CONSUMER CREDIT TRANSACTIONS.

(a) IN GENERAL.—Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 129B (as added by section 201) the following new section:

“SEC. 129C. ESCROW OR IMPOUND ACCOUNTS RELATING TO CERTAIN CONSUMER CREDIT TRANSACTIONS.

“(a) IN GENERAL.—Except as provided in subsection (b) or (c), a creditor, in connection with the formation or consummation of a consumer credit transaction secured by a first lien on the principal dwelling of the consumer, other than a consumer credit transaction under an open end credit plan or a reverse mortgage, shall establish, at the time of the consummation of such transaction, an escrow or impound account for the payment of taxes and hazard insurance, and, if applicable, flood insurance, mortgage insurance, ground rents, and any other required periodic payments or premiums with respect to the property or the loan terms, as provided in, and in accordance with, this section.

“(b) WHEN REQUIRED.—No impound, trust, or other type of account for the payment of property taxes, insurance premiums, or other purposes relating to the property may be required as a condition of a real property sale contract or a loan secured by a first deed of trust or mortgage on the principal dwelling of the consumer, other than a consumer credit transaction under an open end credit plan or a reverse mortgage, except when—

“(1) any such impound, trust, or other type of escrow or impound account for such purposes is required by Federal or State law;

“(2) a loan is made, guaranteed, or insured by a State or Federal governmental lending or insuring agency;

“(3) the consumer’s debt-to-income ratio at the time the home mortgage is established taking into account income from all sources including the consumer’s employment exceeds 50 percent;

“(4) the transaction is secured by a first mortgage or lien on the consumer’s principal dwelling and the annual percentage rate on the credit, at the time of consummation of the transaction, will exceed by more than 3.0 percentage points the yield on Treasury securities having comparable periods of maturity on the 15th day of the month immediately preceding the month in which the application of the extension of credit is received by the creditor;

“(5) a consumer obtains a mortgage referred to in section 103(aa);

“(6) the original principal amount of such loan at the time of consummation of the transaction is—

“(A) 90 percent or more of the sale price, if the property involved is purchased with the proceeds of the loan; or

“(B) 90 percent or more of the appraised value of the property securing the loan;

“(7) the combined principal amount of all loans secured by the real property exceeds 95 percent of the appraised value of the property securing the loans at the time of consummation of the last mortgage transaction;

“(8) the consumer was the subject of a proceeding under title 11, United States Code, at any time during the 7-year period preceding the date of the transaction (as determined on the basis of the date of entry of the order for relief or the date of adjudication, as the case may be, with respect to such proceeding and included in a consumer report on the consumer under the Fair Credit Reporting Act); or

“(9) so required by the Board pursuant to regulation.

“(c) DURATION OF MANDATORY ESCROW OR IMPOUND ACCOUNT.—An escrow or impound account established pursuant to subsection (b), shall remain in existence for a minimum period of 5 years and until such borrower has sufficient equity in the dwelling securing the consumer credit transaction so as to no longer be required to maintain private mortgage insurance, or such other period as may be provided in regulations to address situations such as borrower delinquency, unless the underlying mortgage establishing the account is terminated.

“(d) CLARIFICATION ON ESCROW ACCOUNTS FOR LOANS NOT MEETING STATUTORY TEST.—For mortgages not covered by the requirements of subsection (b), no provision of this section shall be construed as precluding the establishment of an impound, trust, or other type of account for the payment of property taxes, insurance premiums, or other purposes relating to the property—

“(1) on terms mutually agreeable to the parties to the loan;

“(2) at the discretion of the lender or servicer, as provided by the contract between the lender or servicer and the borrower; or

“(3) pursuant to the requirements for the escrowing of flood insurance payments for regulated lending institutions in section 102(d) of the Flood Disaster Protection Act of 1973.

“(e) ADMINISTRATION OF MANDATORY ESCROW OR IMPOUND ACCOUNTS.—

“(1) IN GENERAL.—Except as may otherwise be provided for in this title or in regulations prescribed by the Board, escrow or impound accounts established pursuant to subsection (b) shall be established in a federally insured depository institution.

“(2) ADMINISTRATION.—Except as provided in this section or regulations prescribed under this section, an escrow or impound account subject to this section shall be administered in accordance with—

“(A) the Real Estate Settlement Procedures Act of 1974 and regulations prescribed under such Act;

“(B) the Flood Disaster Protection Act of 1973 and regulations prescribed under such Act; and

“(C) the law of the State, if applicable, where the real property securing the consumer credit transaction is located.

“(3) APPLICABILITY OF PAYMENT OF INTEREST.—If prescribed by applicable State or Federal law, each creditor shall pay interest to the consumer on the amount held in any impound, trust, or escrow account that is subject to this section in the manner as prescribed by that applicable State or Federal law.

“(4) PENALTY COORDINATION WITH RESPA.—Any action or omission on the part of any person which constitutes a violation of the Real Estate Settlement Procedures Act of 1974 or any regulation prescribed under such Act for which the person has paid any fine, civil money penalty, or other damages shall not give rise to any additional fine, civil money penalty, or other damages under this section, unless the action or omission also constitutes a direct violation of this section.

“(f) DISCLOSURES RELATING TO MANDATORY ESCROW OR IMPOUND ACCOUNT.—In the case of any impound, trust, or escrow account that is subject to this section, the creditor shall disclose by written notice to the consumer at least 3 business days before the consummation of the consumer credit transaction giving rise to such account or in accordance with timeframes established in prescribed regulations the following information:

“(1) The fact that an escrow or impound account will be established at consummation of the transaction.

“(2) The amount required at closing to initially fund the escrow or impound account.

“(3) The amount, in the initial year after the consummation of the transaction, of the estimated taxes and hazard insurance, including flood insurance, if applicable, and any other required periodic payments or premiums that reflects, as appropriate, either the taxable assessed value of the real property securing the transaction, including the value of any improvements on the property or to be constructed on the property (whether or not such construction will be financed from the proceeds of the transaction) or the replacement costs of the property.

“(4) The estimated monthly amount payable to be escrowed for taxes, hazard insurance (including flood insurance, if applicable) and any other required periodic payments or premiums.

“(5) The fact that, if the consumer chooses to terminate the account at the appropriate time in the future, the consumer will become responsible for the payment of all taxes, hazard insurance, and flood insurance, if applicable, as well as any other required periodic payments or premiums on the property unless a new escrow or impound account is established.

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

“(1) FLOOD INSURANCE.—The term ‘flood insurance’ means flood insurance coverage provided under the national flood insurance program pursuant to the National Flood Insurance Act of 1968.

“(2) HAZARD INSURANCE.—The term ‘hazard insurance’ shall have the same meaning as provided for ‘hazard insurance’, ‘casualty insurance’, ‘homeowner’s insurance’, or other similar

term under the law of the State where the real property securing the consumer credit transaction is located.”.

(b) IMPLEMENTATION.—

(1) REGULATIONS.—The Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, (hereafter in this Act referred to as the “Federal banking agencies”) and the Federal Trade Commission shall prescribe, in final form, such regulations as determined to be necessary to implement the amendments made by subsection (a) before the end of the 180-day period beginning on the date of the enactment of this Act.

(2) EFFECTIVE DATE.—The amendments made by subsection (a) shall only apply to covered mortgage loans consummated after the end of the 1-year period beginning on the date of the publication of final regulations in the Federal Register.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 129B (as added by section 201) the following new item:

“129C. Escrow or impound accounts relating to certain consumer credit transactions.”.

SEC. 602. DISCLOSURE NOTICE REQUIRED FOR CONSUMERS WHO WAIVE ESCROW SERVICES.

(a) IN GENERAL.—Section 129C of the Truth in Lending Act (as added by section 601) is amended by adding at the end the following new subsection:

“(h) DISCLOSURE NOTICE REQUIRED FOR CONSUMERS WHO WAIVE ESCROW SERVICES.—

“(1) IN GENERAL.—If—

“(A) an impound, trust, or other type of account for the payment of property taxes, insurance premiums, or other purposes relating to real property securing a consumer credit transaction is not established in connection with the transaction; or

“(B) a consumer chooses, at any time after such an account is established in connection with any such transaction and in accordance with any statute, regulation, or contractual agreement, to close such account, the creditor or servicer shall provide a timely and clearly written disclosure to the consumer that advises the consumer of the responsibilities of the consumer and implications for the consumer in the absence of any such account.

“(2) DISCLOSURE REQUIREMENTS.—Any disclosure provided to a consumer under paragraph (1) shall include the following:

“(A) Information concerning any applicable fees or costs associated with either the non-establishment of any such account at the time of the transaction, or any subsequent closure of any such account.

“(B) A clear and prominent notice that the consumer is responsible for personally and directly paying the non-escrowed items, in addition to paying the mortgage loan payment, in the absence of any such account, and the fact

that the costs for taxes, insurance, and related fees can be substantial.

“(C) A clear explanation of the consequences of any failure to pay non-escrowed items, including the possible requirement for the forced placement of insurance by the creditor or servicer and the potentially higher cost (including any potential commission payments to the servicer) or reduced coverage for the consumer in the event of any such creditor-placed insurance.”.

(b) IMPLEMENTATION.—

(1) REGULATIONS.—The Federal banking agencies and the Federal Trade Commission shall prescribe, in final form, such regulations as such agencies determine to be necessary to implement the amendments made by subsection (a) before the end of the 180-day period beginning on the date of the enactment of this Act.

(2) EFFECTIVE DATE.—The amendments made by subsection (a) shall only apply in accordance with the regulations established in paragraph (1) and beginning on the date occurring 180-days after the date of the publication of final regulations in the Federal Register.

SEC. 603. REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974 AMENDMENTS.

(a) SERVICER PROHIBITIONS.—Section 6 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605) is amended by adding at the end the following new subsections:

“(k) SERVICER PROHIBITIONS.—

“(1) IN GENERAL.—A servicer of a federally related mortgage shall not—

“(A) obtain force-placed hazard insurance unless there is a reasonable basis to believe the borrower has failed to comply with the loan contract’s requirements to maintain property insurance;

“(B) charge fees for responding to valid qualified written requests (as defined in regulations which the Secretary shall prescribe) under this section;

“(C) fail to take timely action to respond to a borrower’s requests to correct errors relating to allocation of payments, final balances for purposes of paying off the loan, or avoiding foreclosure, or other standard servicer’s duties;

“(D) fail to respond within 10 business days to a request from a borrower to provide the identity, address, and other relevant contact information about the owner assignee of the loan; or

“(E) fail to comply with any other obligation found by the Secretary, by regulation, to be appropriate to carry out the consumer protection purposes of this Act.

“(2) FORCE-PLACED INSURANCE DEFINED.—For purposes of this subsection and subsections (l) and (m), the term ‘force-placed insurance’ means hazard insurance coverage obtained by a servicer of a federally related mortgage when the borrower has failed to maintain or renew hazard insurance on such property as required of the borrower under the terms of the mortgage.

“(1) REQUIREMENTS FOR FORCE-PLACED INSURANCE.—A servicer of a federally related mortgage shall not be construed as having a reasonable basis for obtaining force-placed insurance unless the requirements of this subsection have been met.

“(1) WRITTEN NOTICES TO BORROWER.—A servicer may not impose any charge on any borrower for force-placed insurance with respect to any property securing a federally related mortgage unless—

“(A) the servicer has sent, by first-class mail, a written notice to the borrower containing—

“(i) a reminder of the borrower’s obligation to maintain hazard insurance on the property securing the federally related mortgage;

“(ii) a statement that the servicer does not have evidence of insurance coverage of such property;

“(iii) a clear and conspicuous statement of the procedures by which the borrower may demonstrate that the borrower already has insurance coverage; and

“(iv) a statement that the servicer may obtain such coverage at the borrower’s expense if the borrower does not provide such demonstration of the borrower’s existing coverage in a timely manner;

“(B) the servicer has sent, by first-class mail, a second written notice, at least 30 days after the mailing of the notice under subparagraph (A) that contains all the information described in each clause of such subparagraph; and

“(C) the servicer has not received from the borrower any demonstration of hazard insurance coverage for the property securing the mortgage by the end of the 15-day period beginning on the date the notice under subparagraph (B) was sent by the servicer.

“(2) SUFFICIENCY OF DEMONSTRATION.—A servicer of a federally related mortgage shall accept any reasonable form of written confirmation from a borrower of existing insurance coverage, which shall include the existing insurance policy number along with the identity of, and contact information for, the insurance company or agent.

“(3) TERMINATION OF FORCE-PLACED INSURANCE.—Within 15 days of the receipt by a servicer of confirmation of a borrower’s existing insurance coverage, the servicer shall—

“(A) terminate the force-placed insurance; and

“(B) refund to the consumer all force-placed insurance premiums paid by the borrower during any period during which the borrower’s insurance coverage and the force-placed insurance coverage were each in effect, and any related fees charged to the consumer’s account with respect to the force-placed insurance during such period.

“(4) CLARIFICATION WITH RESPECT TO FLOOD DISASTER PROTECTION ACT.—No provision of this section shall be construed as prohibiting a servicer from providing simultaneous or concurrent notice of a lack of flood insurance pursuant to section 102(e) of the Flood Disaster Protection Act of 1973.

“(m) LIMITATIONS ON FORCE-PLACED INSURANCE CHARGES.—All charges for force-placed insurance premiums shall be bona fide and reasonable in amount.

“(n) PROMPT CREDITING OF PAYMENTS REQUIRED.—

“(1) IN GENERAL.—All amounts received by a lender or a servicer on a home loan at the address where the borrower has been instructed to make payments shall be accepted and credited, or treated as credited, on the business day received, to the extent that the borrower has made the full contractual payment and has provided sufficient information to credit the account.

“(2) SCHEDULED METHOD.—If a servicer uses the scheduled method of accounting, any regularly scheduled payment made prior to the scheduled due date shall be credited no later than the due date.

“(3) NOTICE OF NONCREDIT.—If any payment is received by a lender or a servicer on a home loan and not credited, or treated as credited, the borrower shall be notified within 10 business days by mail at the borrower’s last known address of the disposition of the payment, the reason the payment was not credited, or treated as credited to the account, and any actions necessary by the borrower to make the loan current.”

(b) INCREASE IN PENALTY AMOUNTS.—Section 6(f) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(f)) is amended—

(1) in paragraphs (1)(B) and (2)(B), by striking “\$1,000” each place such term appears and inserting “\$2,000”; and

(2) in paragraph (2)(B)(i), by striking “\$500,000” and inserting “\$1,000,000”.

(c) DECREASE IN RESPONSE TIMES.—Section 6(e) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(e)) is amended—

(1) in paragraph (1)(A), by striking “20 days” and inserting “10 days”;

(2) in paragraph (2), by striking “60 days” and inserting “30 days”; and

(3) by adding at the end the following new paragraph:

“(4) LIMITED EXTENSION OF RESPONSE TIME.—The 30-day period described in paragraph (2) may be extended for not more than 30 days if, before the end of such 30-day period, the servicer notifies the borrower of the extension and the reasons for the delay in responding.”

(d) REQUESTS FOR PAY-OFF AMOUNTS.—Section 6(e) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(e)) is amended by inserting after paragraph (4) (as added by subsection (c) of this section) the following new paragraph:

“(5) REQUESTS FOR PAY-OFF AMOUNTS.—A creditor or servicer shall send a payoff balance within 7 business days of the receipt of a written request for such balance from or on behalf of the borrower.”

(e) PROMPT REFUND OF ESCROW ACCOUNTS UPON PAYOFF.—Section 6(g) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(g)) is amended by adding at the end the following new sentence: “Any balance in any such account that is within the servicer’s control at the time the loan is paid off shall be promptly returned to the borrower within 20 business days or credited to a similar account for a new mortgage loan to the borrower with the same lender.”

SEC. 604. MORTGAGE SERVICING STUDIES REQUIRED.**(a) MORTGAGE SERVICING PRACTICES.—**

(1) **STUDY.**—The Secretary of Housing and Urban Development, in consultation with the Federal banking agencies, and the Federal Trade Commission, shall conduct a comprehensive study on mortgage servicing practices and their potential for fraud and abuse.

(2) **ISSUES TO BE INCLUDED.**—In addition to other issues the Secretary of Housing and Urban Development, the Federal banking agencies, and the Federal Trade Commission may determine to be appropriate and possibly pertinent to the study conducted under paragraph (1), the study shall include the following issues:

(A) A survey of the industry in order to examine the issue of the timely or effective posting of payments by servicers.

(B) The employment of daily interest when payments are made after a due date.

(C) The charging of late fees on the entire outstanding principal.

(D) The charging of interest on servicing fees.

(E) The utilization of collection practices that failed to comply with the Fair Debt Collection Practices Act.

(F) The charging of prepayment penalties when not authorized by either the note or law.

(G) The employment of unconscionable forbearance agreements.

(H) Foreclosure abuses.

(3) **REPORT.**—Before the end of the 12-month period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit a report on the study conducted under this subsection to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(b) MORTGAGE SERVICING IMPROVEMENTS.—

(1) **STUDY.**—The Secretary of Housing and Urban Development, in consultation with the Federal banking agencies, and the Federal Trade Commission, shall conduct a comprehensive study on means to improve the best practices of the mortgage servicing industry, and Federal and State laws governing such industry.

(2) **REPORT.**—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit a report on the study conducted under this subsection to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, together with such recommendations for administrative or legislative action as the Secretary, in consultation with the Board and the Commission, may determine to be appropriate.

SEC. 605. ESCROWS INCLUDED IN REPAYMENT ANALYSIS.

(a) **IN GENERAL.**—Section 128(b) of the Truth in Lending Act (15 U.S.C. 1638(b)) is amended by adding at the end the following new paragraph:

“(4) REPAYMENT ANALYSIS REQUIRED TO INCLUDE ESCROW PAYMENTS.—

“(A) IN GENERAL.—In the case of any consumer credit transaction secured by a first mortgage or lien on the principal dwelling of the consumer, other than a consumer credit transaction under an open end credit plan or a reverse mortgage, for which an impound, trust, or other type of account has been or will be established in connection with the transaction for the payment of property taxes, hazard and flood (if any) insurance premiums, or other periodic payments or premiums with respect to the property, the information required to be provided under subsection (a) with respect to the number, amount, and due dates or period of payments scheduled to repay the total of payments shall take into account the amount of any monthly payment to such account for each such repayment in accordance with section 10(a)(2) of the Real Estate Settlement Procedures Act of 1974.

“(B) ASSESSMENT VALUE.—The amount taken into account under subparagraph (A) for the payment of property taxes, hazard and flood (if any) insurance premiums, or other periodic payments or premiums with respect to the property shall reflect the taxable assessed value of the real property securing the transaction after the consummation of the transaction, including the value of any improvements on the property or to be constructed on the property (whether or not such construction will be financed from the proceeds of the transaction), if known, and the replacement costs of the property for hazard insurance, in the initial year after the transaction.”.

TITLE VII—APPRAISAL ACTIVITIES

SEC. 701. PROPERTY APPRAISAL REQUIREMENTS.

Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (u) (as added by section 303(f)) the following new subsection:

“(v) PROPERTY APPRAISAL REQUIREMENTS.—

“(1) IN GENERAL.—A creditor may not extend credit in the form of a mortgage referred to in section 103(aa) to any consumer without first obtaining a written appraisal of the property to be mortgaged prepared in accordance with the requirements of this subsection.

“(2) APPRAISAL REQUIREMENTS.—

“(A) PHYSICAL PROPERTY VISIT.—An appraisal of property to be secured by a mortgage referred to in section 103(aa) does not meet the requirement of this subsection unless it is performed by a qualified appraiser who conducts a physical property visit of the interior of the mortgaged property.

“(B) SECOND APPRAISAL UNDER CERTAIN CIRCUMSTANCES.—

“(i) IN GENERAL.—If the purpose of a mortgage referred to in section 103(aa) is to finance the purchase

or acquisition of the mortgaged property from a person within 180 days of the purchase or acquisition of such property by that person at a price that was lower than the current sale price of the property, the creditor shall obtain a second appraisal from a different qualified appraiser. The second appraisal shall include an analysis of the difference in sale prices, changes in market conditions, and any improvements made to the property between the date of the previous sale and the current sale.

“(ii) NO COST TO CONSUMER.—The cost of any second appraisal required under clause (i) may not be charged to the consumer.

“(C) QUALIFIED APPRAISER DEFINED.—For purposes of this subsection, the term ‘qualified appraiser’ means a person who—

“(i) is certified or licensed by the State in which the property to be appraised is located; and

“(ii) performs each appraisal in conformity with the Uniform Standards of Professional Appraisal Practice and title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and the regulations prescribed under such title, as in effect on the date of the appraisal.

“(3) FREE COPY OF APPRAISAL.—A creditor shall provide 1 copy of each appraisal conducted in accordance with this subsection in connection with a mortgage referred to in section 103(aa) to the consumer without charge, and at least 3 days prior to the transaction closing date.

“(4) CONSUMER NOTIFICATION.—At the time of the initial mortgage application, the consumer shall be provided with a statement by the creditor that any appraisal prepared for the mortgage is for the sole use of the creditor, and that the consumer may choose to have a separate appraisal conducted at their own expense.

“(5) VIOLATIONS.—In addition to any other liability to any person under this title, a creditor found to have willfully failed to obtain an appraisal as required in this subsection shall be liable to the consumer for the sum of \$2,000.”.

SEC. 702. UNFAIR AND DECEPTIVE PRACTICES AND ACTS RELATING TO CERTAIN CONSUMER CREDIT TRANSACTIONS.

(a) IN GENERAL.—Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 129C (as added by section 601) the following new section:

“SEC. 129D. UNFAIR AND DECEPTIVE PRACTICES AND ACTS RELATING TO CERTAIN CONSUMER CREDIT TRANSACTIONS.

“(a) IN GENERAL.—It shall be unlawful, in providing any services for a consumer credit transaction secured by the principal dwelling of the consumer, to engage in any unfair or deceptive act or practice as described in or pursuant to regulations prescribed under this section.

“(b) APPRAISAL INDEPENDENCE.—For purposes of subsection (a), unfair and deceptive practices shall include—

“(1) any appraisal of a property offered as security for repayment of the consumer credit transaction that is conducted in

connection with such transaction in which a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes, or intimidates a person conducting or involved in an appraisal, or attempts, to compensate, coerce, extort, collude, instruct, induce, bribe, or intimidate such a person, for the purpose of causing the appraised value assigned, under the appraisal, to the property to be based on any factor other than the independent judgment of the appraiser;

“(2) mischaracterizing, or suborning any mischaracterization of, the appraised value of the property securing the extension of the credit;

“(3) seeking to influence an appraiser or otherwise to encourage a targeted value in order to facilitate the making or pricing of the transaction; and

“(4) failing to timely compensate an appraiser for a completed appraisal regardless of whether the transaction closes.

“(c) EXCEPTIONS.—The requirements of subsection (b) shall not be construed as prohibiting a mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, or any other person with an interest in a real estate transaction from asking an appraiser to provide 1 or more of the following services:

“(1) Consider additional, appropriate property information, including the consideration of additional comparable properties to make or support an appraisal.

“(2) Provide further detail, substantiation, or explanation for the appraiser’s value conclusion.

“(3) Correct errors in the appraisal report.

“(d) RULEMAKING PROCEEDINGS.—The Board, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, and the Federal Trade Commission—

“(1) shall, for purposes of this section, jointly prescribe regulations defining with specificity acts or practices which are unfair or deceptive in the provision of mortgage lending services for a consumer credit transaction secured by the principal dwelling of the consumer or mortgage brokerage services for such a transaction and defining any terms in this section or such regulations; and

“(2) may jointly issue interpretive guidelines and general statements of policy with respect to unfair or deceptive acts or practices in the provision of mortgage lending services for a consumer credit transaction secured by the principal dwelling of the consumer and mortgage brokerage services for such a transaction, within the meaning of subsections (a), (b), and (c).

“(e) PENALTIES.—

“(1) FIRST VIOLATION.—In addition to the enforcement provisions referred to in section 130, each person who violates this section shall forfeit and pay a civil penalty of not more than \$10,000 for each day any such violation continues.

“(2) SUBSEQUENT VIOLATIONS.—In the case of any person on whom a civil penalty has been imposed under paragraph (1), paragraph (1) shall be applied by substituting ‘\$20,000’ for ‘\$10,000’ with respect to all subsequent violations.

“(3) ASSESSMENT.—The agency referred to in subsection (a) or (c) of section 108 with respect to any person described in paragraph (1) shall assess any penalty under this subsection to which such person is subject.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 129C (as added by section 601) the following new item:

“129D. Unfair and deceptive practices and acts relating to certain consumer credit transactions.”.

SEC. 703. APPRAISAL SUBCOMMITTEE OF FIEC, APPRAISER INDEPENDENCE, AND APPROVED APPRAISER EDUCATION.

(a) CONSUMER PROTECTION MISSION.—

(1) PURPOSE.—A purpose for the establishment and operation of the Appraisal Subcommittee of the Financial Institutions Examination Council (hereafter in this section referred to as the “Appraisal Subcommittee”) shall be to establish a consumer protection mandate.

(2) FUNCTIONS OF APPRAISAL SUBCOMMITTEE.—It shall be a function of the Appraisal Subcommittee to protect the consumer from improper appraisal practices and the predations of unlicensed appraisers.

(3) THRESHOLD LEVELS.—In establishing a threshold level under section 1112(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3341(b)), each agency shall determine in writing that the threshold level provides reasonable protection for consumers who purchase 1-4 unit single-family residences.

(b) ANNUAL REPORT OF APPRAISAL SUBCOMMITTEE.—The annual report of the Appraisal Subcommittee under section 1103(a)(4) of Financial Institutions Reform, Recovery, and Enforcement Act of 1989 shall detail the activities of the Appraisal Subcommittee, including the results of all audits of State appraiser regulatory agencies, and provide an accounting of disapproved actions and warnings taken in the previous year, including a description of the conditions causing the disapproval.

(c) OPEN MEETINGS.—All meetings of the Appraisal Subcommittee shall be held in public session after notice in the Federal Register.

(d) REGULATIONS.—The Appraisal Subcommittee may prescribe regulations after notice and opportunity for comment. Any regulations prescribed by the Appraisal Subcommittee shall (unless otherwise provided in this section or title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989) be limited to the following functions: temporary practice, national registry, information sharing, and enforcement. For purposes of prescribing regulations, the Appraisal Subcommittee shall establish an advisory committee of industry participants, including appraisers, lenders, consumer advocates, and government agencies, and hold regular meetings.

(e) FIELD APPRAISALS AND APPRAISAL REVIEWS.—All field appraisals performed at a property within a State shall be prepared by appraisers licensed in the State where the property is located. All Uniform Standards of Professional Appraisal Practice-compliant

appraisal reviews shall be performed by an appraiser who is duly licensed by a State appraisal board.

(f) STATE AGENCY REPORTING REQUIREMENT.—Each State with an appraiser certifying and licensing agency whose certifications and licenses comply with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 shall transmit reports on sanctions, disciplinary actions, license and certification revocations, and license and certification suspensions on a timely basis to the national registry of the Appraisal Subcommittee.

(g) REGISTRY FEES MODIFIED.—

(1) IN GENERAL.—The annual registry fees for persons performing appraisals in federally related transactions shall be increased from \$25 to \$40. The maximum amount up to which the Appraisal Subcommittee may adjust any registry fees shall be increased from \$50 to \$80 per annum. The Appraisal Subcommittee shall consider at least once every 5 years whether to adjust the dollar amount of the registry fees to account for inflation. In implementing any change in registry fees, the Appraisal Subcommittee shall provide flexibility to the States for multi-year certifications and licenses already in place, as well as a transition period to implement the changes in registry fees.

(2) INCREMENTAL REVENUES.—Incremental revenues collected pursuant to the increases required by this section shall be placed in a separate account at the United States Treasury, entitled the Appraisal Subcommittee Account.

(h) GRANTS AND REPORTS.—

(1) IN GENERAL.—Amounts appropriated for or collected by the Appraisal Subcommittee after the date of the enactment of this Act shall, in addition to other uses authorized, be used—

(A) to make grants to State appraiser regulatory agencies to help defray those costs relating to enforcement activities; and

(B) to report to all State appraiser certifying and licensing agencies when a license or certification is surrendered, revoked, or suspended.

(2) LIMITATION ON OBLIGATIONS.—Obligations authorized under this section may not exceed 75 percent of the fiscal year total of incremental increase in fees collected and deposited in the Appraisal Subcommittee Account pursuant to section 703(g) of this Act.

(i) CRITERIA.—

(1) DEFINITION.—For purposes of this section and title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (notwithstanding section 1116(c) of such title), the term “State licensed appraiser” means an individual who has satisfied the requirements for State licensing in a State or territory whose criteria for the licensing of a real estate appraiser currently meet or exceed the minimum criteria issued by the Appraisal Qualifications Board of The Appraisal Foundation for the licensing of real estate appraisers.

(2) MINIMUM QUALIFICATION REQUIREMENTS.—Any requirements established for individuals in the position of “Trainee Appraiser” and “Supervisory Appraiser” shall meet or exceed the minimum qualification requirements of the Appraiser

Qualifications Board of The Appraisal Foundation. The Appraisal Subcommittee shall have the authority to enforce these requirements.

(j) MONITORING OF STATE APPRAISER CERTIFYING AND LICENSING AGENCIES.—The Appraisal Subcommittee shall monitor State appraiser certifying and licensing agencies for the purpose of determining whether a State agency's funding and staffing are consistent with the requirements of title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, whether a State agency processes complaints and completes exams in a reasonable time period, and whether a State agency reports claims and disciplinary actions on a timely basis to the national registry maintained by the Appraisal Subcommittee. The Appraisal Subcommittee shall have the authority to impose interim sanctions and suspensions.

(k) RECIPROCITY.—A State appraiser certifying or licensing agency shall issue a reciprocal certification or license for an individual from another State when—

(1) the appraiser licensing and certification program of such other State is in compliance with the provisions of this title; and

(2) the appraiser holds a valid certification from a State whose requirements for certification or licensing meet or exceed the licensure standards established by the State where an individual seeks appraisal licensure.

(l) CONSIDERATION OF PROFESSIONAL APPRAISAL DESIGNATIONS.—No provision of section 1122(d) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 shall be construed as prohibiting consideration of designations conferred by recognized national professional appraisal organizations, such as sponsoring organizations of The Appraisal Foundation.

(m) APPRAISER INDEPENDENCE.—

(1) PROHIBITIONS ON INTERESTED PARTIES IN A REAL ESTATE TRANSACTION.—No mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, nor any other person with an interest in a real estate transaction involving an appraisal shall improperly influence, or attempt to improperly influence, through coercion, extortion, collusion, compensation, instruction, inducement, intimidation, non-payment for services rendered, or bribery, the development, reporting, result, or review of a real estate appraisal sought in connection with a mortgage loan.

(2) EXCEPTIONS.—The requirements of paragraph (1) shall not be construed as prohibiting a mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, or any other person with an interest in a real estate transaction from asking an appraiser to provide 1 or more of the following services:

(A) Consider additional, appropriate property information, including the consideration of additional comparable properties to make or support an appraisal.

(B) Provide further detail, substantiation, or explanation for the appraiser's value conclusion.

(C) Correct errors in the appraisal report.

(3) PROHIBITIONS ON CONFLICTS OF INTEREST.—No certified or licensed appraiser conducting an appraisal may have a direct or indirect interest, financial or otherwise, in the property or transaction involving the appraisal.

(4) MANDATORY REPORTING.—Any mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, or any other person with an interest in a real estate transaction involving an appraisal who has a reasonable basis to believe an appraiser is violating applicable laws, or is otherwise engaging in unethical conduct, shall refer the matter to the applicable State appraiser certifying and licensing agency.

(5) REGULATIONS.—The Federal financial institutions regulatory agencies (as defined in section 1003(1) of the Federal Financial Institutions Examination Council Act of 1978) shall prescribe such regulations as may be necessary to carry out the provisions of this subsection.

(6) PENALTIES.—Any person who violates any provision of this subsection shall be subject to civil penalties under section 8(i)(2) of the Federal Deposit Insurance Act or section 206(k)(2) of the Federal Credit Union Act, as appropriate.

(7) PROCEEDING.—A proceeding with respect to a violation of this subsection shall be an administrative proceeding which may be conducted by a Federal financial institutions regulatory agency in accordance with the procedures set forth in subchapter II of chapter 5 of title 5, United States Code.

(n) APPROVED EDUCATION.—The Appraisal Subcommittee shall encourage the States to accept courses approved by the Appraiser Qualification Board's Course Approval Program.

SEC. 704. STUDY REQUIRED ON IMPROVEMENTS IN APPRAISAL PROCESS AND COMPLIANCE PROGRAMS.

(a) STUDY.—The Comptroller General shall conduct a comprehensive study on possible improvements in the appraisal process generally, and specifically on the consistency in and the effectiveness of, and possible improvements in, State compliance efforts and programs in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. In addition, this study shall examine the existing de minimis loan levels established by Federal regulators for compliance under title XI and whether there is a need to revise them to reflect the addition of consumer protection to the purposes and functions of the Appraisal Subcommittee.

(b) REPORT.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report on the study under subsection (a) to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, together with such recommendations for administrative or legislative action, at the Federal or State level, as the Comptroller General may determine to be appropriate.

SEC. 705. CONSUMER APPRAISAL DISCLOSURE.

(a) IN GENERAL.—Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 129D (as added by section 702) the following new section:

“SEC. 129E. CONSUMER APPRAISAL DISCLOSURE.

“In any case in which an appraisal is performed in connection with an extension of credit secured by an interest in real property, the creditor or other mortgage originator shall make available to the applicant for the extension of credit a copy of all appraisal valuation reports upon completion but no later than 3 business days prior to the transaction closing date.”

(b) CLERICAL AMENDMENT.—The table of sections for chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 129D (as added by section 702) the following new item:

“129E. Consumer appraisal disclosure.”

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MALONEY OF NEW YORK, OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 66, after line 3, insert the following new paragraph (and re-designate the subsequent paragraph accordingly):

“(2) PHASED-OUT PENALTIES ON QUALIFIED MORTGAGES.—A qualified mortgage (as defined in subsection (c)) may not contain terms under which a consumer must pay a prepayment penalty for paying all or part of the principal after the loan is consummated in excess of the following limitations:

“(A) During the 1-year period beginning on the date the loan is consummated, the prepayment penalty shall not exceed an amount equal to 3 percent of the outstanding balance on the loan.

“(B) During the 1-year period beginning after the period described in subparagraph (A), the prepayment penalty shall not exceed an amount equal to 2 percent of the outstanding balance on the loan.

“(C) During the 1-year period beginning after the 1-year period described in subparagraph (B), the prepayment penalty shall not exceed an amount equal to 1 percent of the outstanding balance on the loan.

“(D) After the end of the 3-year period beginning on the date the loan is consummated, no prepayment penalty may be imposed on a qualified mortgage.”

Page 66, after line 11, insert the following new paragraph:

“(4) OPTION FOR NO PREPAYMENT PENALTY REQUIRED.—A creditor may not offer a consumer a residential mortgage loan product that has a prepayment penalty for paying all or part of the principal after the loan is consummated as a term of the loan without offering the consumer a residential mortgage loan product that does not have a prepayment penalty as a term of the loan.”

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE WATT OF NORTH CAROLINA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 46, line 7, insert “the greater of actual damages or” after “shall not exceed”.

5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE WATT OF NORTH CAROLINA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 60, line 3, strike “or” and insert “and”.

6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE WATT OF NORTH CAROLINA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 52, strike lines 13 and 14 and insert the following new subparagraph:

“(B) if such loan is—

“(i) a qualified safe harbor mortgage; or

“(ii) a nontraditional mortgage.”.

Page 56, after line 3, insert the following new subparagraph:

“(D) NONTRADITIONAL MORTGAGE.—The term ‘nontraditional mortgage’ means any residential mortgage loan that allows a borrower to defer payment of principal or interest.”.

7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HENSARLING OF TEXAS, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 73, after line 25, insert the following new section (and redesignate subsequent sections accordingly):

SEC. 211. LENDER RIGHTS IN THE CONTEXT OF BORROWER DECEPTION.

Section 130 of the Truth in Lending Act is amended by adding at the end the following new subsection:

“(j) EXEMPTION FROM LIABILITY AND RESCISSION IN CASE OF BORROWER FRAUD OR DECEPTION.—In addition to any other remedy available by law or contract, no creditor, assignee, or securitizer shall be liable to an obligor under this section, nor shall it be subject to the right of rescission of any obligor under 129B, if such obligor, or co-obligor, knowingly, or willfully furnished material information known to be false for the purpose of obtaining such residential mortgage loan.”.

8. AN AMENDMENT TO THE AMENDMENT NUMBERED 7 BY REPRESENTATIVE HENSARLING TO BE OFFERED BY REPRESENTATIVE WATT OF NORTH CAROLINA OR A DESIGNEE, DEBATABLE FOR 10 MINUTES

In the amendment, insert “and with actual knowledge” after “willfully”.

9. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MEEKS OF NEW YORK, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 15, line 10, strike “reviewed, approved, and” and insert “reviewed, and”.

Page 15, after line 12, insert the following new paragraph:

(3) LIMITATION AND STANDARDS.—

(A) LIMITATION.—To maintain the independence of the approval process, the Nationwide Mortgage Licensing System and Registry shall not directly or indirectly offer pre-licensure educational courses for loan originators.

(B) STANDARDS.—In approving courses under this section, the Nationwide Mortgage Licensing System and Registry shall apply reasonable standards in the review and approval of courses.

Page 15, line 13, strike “and administered”.

Page 15, line 14, insert “and administered by an approved test provider” before the period.

Page 17, line 23, strike “reviewed, approved, and” and insert “reviewed, and”.

Page 18, after line 14, insert the following new paragraph:

(5) LIMITATION AND STANDARDS.—

(A) LIMITATION.—To maintain the independence of the approval process, the Nationwide Mortgage Licensing System and Registry shall not directly or indirectly offer any continuing education courses for loan originators.

(B) STANDARDS.—In approving courses under this section, the Nationwide Mortgage Licensing System and Registry shall apply reasonable standards in the review and approval of courses.

10. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE PUTNAM OF FLORIDA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 79, after line 20, insert the following new section (and amend the table of contents accordingly):

SEC. 214. REPORT BY THE GAO.

(a) REPORT REQUIRED.—The Comptroller General shall conduct a study to determine the effects the enactment of this Act will have on the availability and affordability of credit for homebuyers and mortgage lending, including the effect—

(1) on the mortgage market for mortgages that are not within the safe harbor provided in the amendments made by this title;

(2) on the ability of prospective homebuyers to obtain financing;

(3) on the ability of homeowners facing resets or adjustments to refinance—for example, do they have fewer refinancing options due to the unavailability of certain loan products that were available before the enactment of this Act;

(4) on minorities’ ability to access affordable credit compared with other prospective borrowers;

(5) on home sales and construction;

(6) of extending the rescission right, if any, on adjustable rate loans and its impact on litigation;

(7) of State foreclosure laws and, if any, an investor's ability to transfer a property after foreclosure;

(8) of expanding the existing provisions of the Home Ownership and Equity Protection Act of 1994;

(9) of prohibiting prepayment penalties on high-cost mortgages; and

(10) of establishing counseling services under the Department of Housing and Urban Development and offered through the Office of Housing Counseling.

(b) REPORT.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report to the Congress containing the findings and conclusions of the Comptroller General with respect to the study conducted pursuant to subsection (a).

11. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BROWN-WAITE OF FLORIDA, OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 54, line 14, strike “and”.

Page 54, line 16, strike the period and insert “; and”.

Page 54, after line 16, insert the following new clause:

“(iv) a mortgage insured under title II of the National Housing Act (12 U.S.C. 1707 et seq.).”

12. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GARRETT OF NEW JERSEY, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 52, strike line 9 and all that follows through line 15 (and redesignate subsequent paragraphs accordingly).

13. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MILLER OF NORTH CAROLINA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 64, line 12, strike the closing quotation marks and the second period.

Page 64, after line 12, insert the following new paragraphs:

“(10) PATTERN OR PRACTICE OF VIOLATIONS.—

“(A) IN GENERAL.—In addition to any money penalty that may be imposed by any agency referred to in subsection (a) or (c) of section 108 under any provision of law referred to in such section in connection with such agency or any other enforcement action taken by such agency under such section, any creditor, assignee, or securitizer which engages in a pattern or practice of originating, assigning, or securitizing residential mortgage loans that violate subsection (a) or (b) shall forfeit and pay a civil penalty of—

“(i) not less than \$25,000 for each such loan; and

“(ii) \$1,000,000 for engaging in such pattern or practice.

“(B) INFORMATION.—Any person may submit information to any agency referred to in subparagraph (A) regarding any pattern or practice of violating subsection (a) or (b) and such agency shall promptly bring such complaint to

the attention of any other such agency which may have jurisdiction over any person involved in the alleged violation.
“(11) TRUST FUND FOR CONSUMERS WITHOUT REMEDY.—

“(A) IN GENERAL.—Any civil money penalty collected under paragraph (10) shall be transferred to the Secretary of the Treasury to be held in trust in the Consumers Rescission and Cure Remedial Fund for the benefit of borrowers with residential mortgage loans that were originated in violation of subsection (a) or (b) for which the consumers are eligible for rescission or cure but have no party against whom to assert such remedies.

“(B) REGULATIONS.—The Secretary of the Treasury shall prescribe regulations establishing—

“(i) a claims process for consumers described in subparagraph (A) to file claims against the Consumers Rescission and Cure Remedial Fund for rescission or cure of a residential mortgage loan that was originated in violation of subsection (a) or (b);

“(ii) a procedure for administrative determination of claims, and the allowance or disallowance of any such claim, and a review of such determination; and

“(iii) a process for payment of any claim allowed against the Fund to effectuate a rescission or cure as part of a final settlement entered into by the consumer with the Secretary with respect to such claim.

“(C) FINALITY.—Any determination by the Secretary under this paragraph shall be final and not subject to judicial review.”.

14. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE AL GREEN OF TEXAS, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 15, line 7, insert “which shall include instruction on fraud, consumer protection and fair lending issues” before the period.

Page 16, line 6, strike “and” after the semicolon.

Page 16, line 8, strike the period and insert “; and”.

Page 16, after line 8, insert the following new clause:

(iv) Federal and State law and regulation, including instruction on fraud, consumer protection, and fair lending issues.

Page 17, line 20, insert “, including education on fraud, consumer protection, and fair lending issues.”.

15. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MCHENRY OF NORTH CAROLINA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 80, strike line 1 and all that follows through page 102, line 26 (all of title III) (and redesignate the subsequent title and sections and conform the table of contents accordingly).

16. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE TOM PRICE OF GEORGIA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 36, line 25, insert “or a qualified mortgage (as defined in section 129B(c)(3)(B))” before the period at the end.

17. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE VAN HOLLEN OF MARYLAND, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 71, line 5, strike the closing quotation marks and the second period.

Page 71, after line 5, insert the following new subsection:

“(m) CLOSING COSTS.—In the case of a residential mortgage loan, any costs incurred in connection with the consummation of the loan may not exceed by more than 10 percent the estimate of the amount of such costs disclosed to the consumer in advance of the consummation of the loan.”.

18. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SUTTON OF OHIO, OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

After section 211, insert the following new section (and redesignate the subsequent sections accordingly):

SEC. 212. 6-MONTH NOTICE REQUIRED BEFORE RESET OF HYBRID ADJUSTABLE RATE MORTGAGES.

(a) IN GENERAL.—Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 128 the following new section:

“§ 128A. Reset of hybrid adjustable rate mortgages

“(a) HYBRID ADJUSTABLE RATE MORTGAGES DEFINED.—For purposes of this section, the term ‘hybrid adjustable rate mortgage’ means a consumer credit transaction secured by the consumer’s principal residence with a fixed interest rate for an introductory period that adjusts or resets to a variable interest rate after such period.

“(b) NOTICE OF RESET AND ALTERNATIVES.—During the 1-month period that ends 6 months before the date on which the interest rate in effect during the introductory period of a hybrid adjustable rate mortgage adjusts or resets to a variable interest rate, the creditor or servicer of such loan shall provide a written notice, separate and distinct from all other correspondence to the consumer, that includes the following:

“(1) Any index or formula used in making adjustments to or resetting the interest rate and a source of information about the index or formula.

“(2) An explanation of how the new interest rate and payment would be determined, including an explanation of how the index was adjusted, such as by the addition of a margin.

“(3) A good faith estimate, based on accepted industry standards, of the creditor or servicer of the amount of the monthly payment that will apply after the date of the adjustment or reset, and the assumptions on which this estimate is based.

“(4) A list of alternatives consumers may pursue before the date of adjustment or reset, and descriptions of the actions consumers must take to pursue these alternatives, including—

- “(A) refinancing;
- “(B) renegotiation of loan terms;
- “(C) payment forbearances; and
- “(D) pre-foreclosure sales.

“(5) The names, addresses, telephone numbers, and Internet addresses of counseling agencies or programs reasonably available to the consumer that have been certified or approved and made publicly available by the Secretary of Housing and Urban Development or a State housing finance authority (as defined in section 1301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989).

“(6) The address, telephone number, and Internet address for the State housing finance authority (as so defined) for the State in which the consumer resides.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 128 the following new item:

“128A. Reset of hybrid adjustable rate mortgages.”.

