

## Union Calendar No. 42

111<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1728

[Report No. 111-94]

To amend the Truth in Lending Act to reform consumer mortgage practices and provide accountability for such practices, to provide certain minimum standards for consumer mortgage loans, and for other purposes.

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### IN THE HOUSE OF REPRESENTATIVES

MARCH 26, 2009

Mr. MILLER of North Carolina (for himself, Mr. WATT, Mr. FRANK of Massachusetts, Mr. KANJORSKI, Mr. GUTIERREZ, Ms. BEAN, and Mr. MINNICK) introduced the following bill; which was referred to the Committee on Financial Services

MAY 4, 2009

Additional sponsors: Ms. SUTTON, Mr. MEEK of Florida, Mr. BACA, Mr. MEEKS of New York, and Ms. JACKSON-LEE of Texas

MAY 4, 2009

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on March 26, 2009]

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## A BILL

To amend the Truth in Lending Act to reform consumer mortgage practices and provide accountability for such practices, to provide certain minimum standards for consumer mortgage loans, 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; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the*  
 5 *“Mortgage Reform and Anti-Predatory Lending Act”.*

6 (b) *TABLE OF CONTENTS.*—*The table of contents for*  
 7 *this Act is as follows:*

*Sec. 1. Short title; table of contents.*

**TITLE I—RESIDENTIAL MORTGAGE LOAN ORIGINATION STANDARDS**

*Sec. 101. Definitions.*

*Sec. 102. Residential mortgage loan origination.*

*Sec. 103. Prohibition on steering incentives.*

*Sec. 104. Liability.*

*Sec. 105. Regulations.*

*Sec. 106. RESPA and TILA disclosure improvement.*

**TITLE II—MINIMUM STANDARDS FOR MORTGAGES**

*Sec. 201. Ability to repay.*

*Sec. 202. Net tangible benefit for refinancing of residential mortgage loans.*

*Sec. 203. Safe harbor and rebuttable presumption.*

*Sec. 204. Liability.*

*Sec. 205. Defense to foreclosure.*

*Sec. 206. Additional standards and requirements.*

*Sec. 207. Rule of construction.*

*Sec. 208. Effect on State laws.*

*Sec. 209. Regulations.*

*Sec. 210. Amendments to civil liability provisions.*

*Sec. 211. Lender rights in the context of borrower deception.*

*Sec. 212. Six-month notice required before reset of hybrid adjustable rate mort-*  
*gages.*

*Sec. 213. Credit risk retention.*

*Sec. 214. Required disclosures.*

*Sec. 215. Disclosures required in monthly statements for residential mortgage*  
*loans.*

*Sec. 216. Legal assistance for foreclosure-related issues.*

*Sec. 217. Effective date.*

*Sec. 218. Report by the GAO.*

*Sec. 219. State Attorney General enforcement authority.*

*Sec. 220. Tenant protection.*

**TITLE III—HIGH-COST MORTGAGES**

*Sec. 301. Definitions relating to high-cost mortgages.*

*Sec. 302. Amendments to existing requirements for certain mortgages.*

*Sec. 303. Additional requirements for certain mortgages.*

- Sec. 304. Regulations.*  
*Sec. 305. Effective date.*

*TITLE IV—OFFICE OF HOUSING COUNSELING*

- Sec. 401. Short title.*  
*Sec. 402. Establishment of Office of Housing Counseling.*  
*Sec. 403. Counseling procedures.*  
*Sec. 404. Grants for housing counseling assistance.*  
*Sec. 405. Requirements to use HUD-certified counselors under HUD programs.*  
*Sec. 406. Study of defaults and foreclosures.*  
*Sec. 407. Definitions for counseling-related programs.*  
*Sec. 408. Updating and simplification of mortgage information booklet.*  
*Sec. 409. Home inspection counseling.*

*TITLE V—MORTGAGE SERVICING*

- Sec. 501. Escrow and impound accounts relating to certain consumer credit transactions.*  
*Sec. 502. Disclosure notice required for consumers who waive escrow services.*  
*Sec. 503. Real Estate Settlement Procedures Act of 1974 amendments.*  
*Sec. 504. Truth in Lending Act amendments.*  
*Sec. 505. Escrows included in repayment analysis.*

*TITLE VI—APPRAISAL ACTIVITIES*

- Sec. 601. Property appraisal requirements.*  
*Sec. 602. Unfair and deceptive practices and acts relating to certain consumer credit transactions.*  
*Sec. 603. Amendments relating to appraisal subcommittee of FIEC, appraiser independence, and approved appraiser education.*  
*Sec. 604. Study required on improvements in appraisal process and compliance programs.*  
*Sec. 605. Equal Credit Opportunity Act amendment.*  
*Sec. 606. Real Estate Settlement Procedures Act of 1974 amendment relating to certain appraisal fees.*

*TITLE VII—SENSE OF CONGRESS REGARDING THE IMPORTANCE OF GOVERNMENT SPONSORED ENTERPRISES REFORM*

- Sec. 701. Sense of Congress regarding the importance of Government-sponsored enterprises reform to enhance the protection, limitation, and regulation of the terms of residential mortgage credit.*

1 **TITLE I—RESIDENTIAL MORT-**  
2 **GAGE LOAN ORIGINATION**  
3 **STANDARDS**

4 **SEC. 101. DEFINITIONS.**

5 *Section 103 of the Truth in Lending Act (15 U.S.C.*  
6 *1602) is amended by adding at the end the following new*  
7 *subsection:*

8 *“(cc) DEFINITIONS RELATING TO MORTGAGE ORIGINA-*  
9 *TION AND RESIDENTIAL MORTGAGE LOANS.—*

10 *“(1) COMMISSION.—Unless otherwise specified,*  
11 *the term ‘Commission’ means the Federal Trade Com-*  
12 *mission.*

13 *“(2) FEDERAL BANKING AGENCIES.—The term*  
14 *‘Federal banking agencies’ means the Board of Gov-*  
15 *ernors of the Federal Reserve System, the Comptroller*  
16 *of the Currency, the Director of the Office of Thrift*  
17 *Supervision, the Federal Deposit Insurance Corpora-*  
18 *tion, and the National Credit Union Administration*  
19 *Board.*

20 *“(3) MORTGAGE ORIGINATOR.—The term ‘mort-*  
21 *gage originator’—*

22 *“(A) means any person who, for direct or*  
23 *indirect compensation or gain, or in the expecta-*  
24 *tion of direct or indirect compensation or gain—*

1           “(i) takes a residential mortgage loan  
2           application;

3           “(ii) assists a consumer in obtaining  
4           or applying to obtain a residential mort-  
5           gage loan; or

6           “(iii) offers or negotiates terms of a  
7           residential mortgage loan;

8           “(B) includes any person who represents to  
9           the public, through advertising or other means of  
10          communicating or providing information (in-  
11          cluding the use of business cards, stationery, bro-  
12          chures, signs, rate lists, or other promotional  
13          items), that such person can or will provide any  
14          of the services or perform any of the activities  
15          described in subparagraph (A);

16          “(C) does not include any person who is (i)  
17          not otherwise described in subparagraph (A) or  
18          (B) and who performs purely administrative or  
19          clerical tasks on behalf of a person who is de-  
20          scribed in any such subparagraph, or (ii) an em-  
21          ployee of a retailer of manufactured homes who  
22          is not described in clause (i) or (iii) of subpara-  
23          graph (A);

24          “(D) does not include a person or entity  
25          that only performs real estate brokerage activities

1           *and is licensed or registered in accordance with*  
2           *applicable State law, unless such person or enti-*  
3           *ty is compensated for performing such brokerage*  
4           *activities by a lender, a mortgage broker, or*  
5           *other mortgage originator or by any agent of*  
6           *such lender, mortgage broker, or other mortgage*  
7           *originator; and*

8           *“(E) does not include, with respect to a res-*  
9           *idential mortgage loan, a person, estate, or trust*  
10          *that provides mortgage financing for the sale of*  
11          *1 property in any 36-month period, provided*  
12          *that such loan—*

13                 *“(i) is fully amortizing;*

14                 *“(ii) is with respect to a sale for which*  
15                 *the seller determines in good faith and docu-*  
16                 *ments that the buyer has a reasonable abil-*  
17                 *ity to repay the loan;*

18                 *“(iii) has a fixed rate or an adjustable*  
19                 *rate that is adjustable after 5 or more years,*  
20                 *subject to reasonable annual and lifetime*  
21                 *limitations on interest rate increases; and*

22                 *“(iv) meets any other criteria the Fed-*  
23                 *eral banking agencies may prescribe.*

24                 *“(4) NATIONWIDE MORTGAGE LICENSING SYSTEM*  
25                 *AND REGISTRY.—The term ‘Nationwide Mortgage Li-*

1        *censing System and Registry’ has the same meaning*  
2        *as in the Secure and Fair Enforcement for Mortgage*  
3        *Licensing Act of 2008.*

4                “(5) *OTHER DEFINITIONS RELATING TO MORT-*  
5        *GAGE ORIGINATOR.—For purposes of this subsection,*  
6        *a person ‘assists a consumer in obtaining or applying*  
7        *to obtain a residential mortgage loan’ by, among*  
8        *other things, advising on residential mortgage loan*  
9        *terms (including rates, fees, and other costs), pre-*  
10        *paring residential mortgage loan packages, or col-*  
11        *lecting information on behalf of the consumer with re-*  
12        *gard to a residential mortgage loan.*

13                “(6) *RESIDENTIAL MORTGAGE LOAN.—The term*  
14        *‘residential mortgage loan’ means any consumer cred-*  
15        *it transaction that is secured by a mortgage, deed of*  
16        *trust, or other equivalent consensual security interest*  
17        *on a dwelling or on residential real property that in-*  
18        *cludes a dwelling, other than a consumer credit trans-*  
19        *action under an open end credit plan or a reverse*  
20        *mortgage or, for purposes of sections 129B and 129C*  
21        *and section 128(a) (16), (17), and (18), 128(a)(f) and*  
22        *128(b)(4) and any regulations promulgated there-*  
23        *under, an extension of credit relating to a plan de-*  
24        *scribed in section 101(53D) of title 11, United States*  
25        *Code.*

1           “(7) *SECRETARY*.—The term ‘Secretary’, when  
2           used in connection with any transaction or person in-  
3           volved with a residential mortgage loan, means the  
4           Secretary of Housing and Urban Development.

5           “(8) *SECURITIZATION VEHICLE*.—The term  
6           ‘securitization vehicle’ means a trust, corporation,  
7           partnership, limited liability entity, special purpose  
8           entity, or other structure that—

9                   “(A) is the issuer, or is created by the  
10                  issuer, of mortgage pass-through certificates, par-  
11                  ticipation certificates, mortgage-backed securi-  
12                  ties, or other similar securities backed by a pool  
13                  of assets that includes residential mortgage loans;  
14                  and

15                   “(B) holds such loans.

16           “(9) *SECURITIZER*.—The term ‘securitizer’  
17           means the person that transfers, conveys, or assigns,  
18           or causes the transfer, conveyance, or assignment of,  
19           residential mortgage loans, including through a spe-  
20           cial purpose vehicle, to any securitization vehicle, ex-  
21           cluding any trustee that holds such loans solely for  
22           the benefit of the securitization vehicle.

23           “(10) *SERVICER*.—The term ‘servicer’ has the  
24           same meaning as in section 6(i)(2) of the Real Estate  
25           Settlement Procedures Act of 1974.”



1 **SEC. 102. RESIDENTIAL MORTGAGE LOAN ORIGINATION.**

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

5 **“§ 129B. Residential mortgage loan origination**

6 “(a) *FINDING AND PURPOSE.*—

7 “(1) *FINDING.*—The Congress finds that eco-  
8 nomic stabilization would be enhanced by the protec-  
9 tion, limitation, and regulation of the terms of resi-  
10 dential mortgage credit and the practices related to  
11 such credit, while ensuring that responsible, affordable  
12 mortgage credit remains available to consumers.

13 “(2) *PURPOSE.*—It is the purpose of this section  
14 and section 129C to assure that consumers are offered  
15 and receive residential mortgage loans on terms that  
16 reasonably reflect their ability to repay the loans and  
17 that are understandable and not unfair, deceptive or  
18 abusive.

19 “(b) *DUTY OF CARE.*—

20 “(1) *STANDARD.*—Subject to regulations pre-  
21 scribed under this subsection, each mortgage origi-  
22 nator shall, in addition to the duties imposed by oth-  
23 erwise applicable provisions of State or Federal  
24 law—

25 “(A) be qualified and, when required, reg-  
26 istered and licensed as a mortgage originator in

1           *accordance with applicable State or Federal law,*  
2           *including the Secure and Fair Enforcement for*  
3           *Mortgage Licensing Act of 2008;*

4           “(B) *with respect to each consumer seeking*  
5           *or inquiring about a residential mortgage loan,*  
6           *diligently work to present the consumer with a*  
7           *range of residential mortgage loan products for*  
8           *which the consumer likely qualifies and which*  
9           *are appropriate to the consumer’s existing cir-*  
10          *cumstances, based on information known by, or*  
11          *obtained in good faith by, the originator;*

12          “(C) *make full, complete, and timely disclo-*  
13          *sure to each such consumer of—*

14                 “(i) *the comparative costs and benefits*  
15                 *of each residential mortgage loan product*  
16                 *offered, discussed, or referred to by the origi-*  
17                 *nator;*

18                 “(ii) *the nature of the originator’s rela-*  
19                 *tionship to the consumer (including the cost*  
20                 *of the services to be provided by the origi-*  
21                 *nator and a statement that the mortgage*  
22                 *originator is or is not acting as an agent*  
23                 *for the consumer, as the case may be); and*

24                 “(iii) *any relevant conflicts of interest*  
25                 *between the originator and the consumer;*

1           “(D) certify to the creditor, with respect to  
2           any transaction involving a residential mortgage  
3           loan, that the mortgage originator has fulfilled  
4           all requirements applicable to the originator  
5           under this section with respect to the trans-  
6           action; and

7           “(E) include on all loan documents any  
8           unique identifier of the mortgage originator pro-  
9           vided by the Nationwide Mortgage Licensing  
10          System and Registry.

11          “(2) CLARIFICATION OF EXTENT OF DUTY TO  
12          PRESENT RANGE OF PRODUCTS AND APPROPRIATE  
13          PRODUCTS.—

14                 “(A) NO DUTY TO OFFER PRODUCTS FOR  
15                 WHICH ORIGINATOR IS NOT AUTHORIZED TO  
16                 TAKE AN APPLICATION.—Paragraph (1)(B) shall  
17                 not be construed as requiring—

18                         “(i) a mortgage originator to present  
19                         to any consumer any specific residential  
20                         mortgage loan product that is offered by a  
21                         creditor which does not accept consumer re-  
22                         ferrals from, or consumer applications sub-  
23                         mitted by or through, such originator; or

1           “(ii) a creditor to offer products that  
2           the creditor does not offer to the general  
3           public.

4           “(B) *APPROPRIATE LOAN PRODUCT.*—For  
5           purposes of paragraph (1)(B), a residential  
6           mortgage loan shall be presumed to be appro-  
7           priate for a consumer if—

8                   “(i) the mortgage originator deter-  
9                   mines in good faith, based on then existing  
10                  information and without undergoing a full  
11                  underwriting process, that the consumer has  
12                  a reasonable ability to repay and, in the  
13                  case of a refinancing of an existing residen-  
14                  tial mortgage loan, receives a net tangible  
15                  benefit, as determined in accordance with  
16                  regulations prescribed under subsections (a)  
17                  and (b) of section 129C; and

18                   “(ii) the loan does not have predatory  
19                  characteristics or effects (such as equity  
20                  stripping and excessive fees and abusive  
21                  terms) as determined in accordance with  
22                  regulations prescribed under paragraph (4).

23           “(3) *RULES OF CONSTRUCTION.*—No provision of  
24           this subsection shall be construed as—

1           “(A) *creating an agency or fiduciary rela-*  
2           *tionship between a mortgage originator and a*  
3           *consumer if the originator does not hold himself*  
4           *or herself out as such an agent or fiduciary; or*

5           “(B) *restricting a mortgage originator from*  
6           *holding himself or herself out as an agent or fi-*  
7           *duciary of a consumer subject to any additional*  
8           *duty, requirement, or limitation applicable to*  
9           *agents or fiduciaries under any Federal or State*  
10          *law.*

11          “(4) *REGULATIONS.—*

12           “(A) *IN GENERAL.—The Federal banking*  
13           *agencies, in consultation with the Secretary, the*  
14           *Chairman of the State Liaison Committee to the*  
15           *Financial Institutions Examination Council,*  
16           *and the Commission, shall jointly prescribe regu-*  
17           *lations to—*

18                   “(i) *further define the duty established*  
19                   *under paragraph (1);*

20                   “(ii) *implement the requirements of*  
21                   *this subsection;*

22                   “(iii) *establish the time period within*  
23                   *which any disclosure required under para-*  
24                   *graph (1) shall be made to the consumer;*  
25                   *and*

1           “(iv) establish such other requirements  
2           for any mortgage originator as such regu-  
3           latory agencies may determine to be appro-  
4           priate to meet the purposes of this sub-  
5           section.

6           “(B) COMPLEMENTARY AND NONDUPLICA-  
7           TIVE DISCLOSURES.—The agencies referred to in  
8           subparagraph (A) shall endeavor to make the re-  
9           quired disclosures to consumers under this sub-  
10          section complementary and nonduplicative with  
11          other disclosures for mortgage consumers to the  
12          extent such efforts—

13                   “(i) are practicable; and

14                   “(ii) do not reduce the value of any  
15                  such disclosure to recipients of such disclo-  
16                  sures.

17          “(5) COMPLIANCE PROCEDURES REQUIRED.—  
18          The Federal banking agencies shall prescribe regula-  
19          tions requiring depository institutions to establish  
20          and maintain procedures reasonably designed to as-  
21          sure and monitor the compliance of such depository  
22          institutions, the subsidiaries of such institutions, and  
23          the employees of such institutions or subsidiaries with  
24          the requirements of this section and the registration  
25          procedures established under section 1507 of the Se-

1       *cure and Fair Enforcement for Mortgage Licensing*  
 2       *Act of 2008.”.*

3       **(b) CLERICAL AMENDMENT.**—*The table of sections for*  
 4 *chapter 2 of the Truth in Lending Act is amended by insert-*  
 5 *ing after the item relating to section 129 the following new*  
 6 *items:*

*“129A. Fiduciary duty of servicers of pooled residential mortgages.*

*“129B. Residential mortgage loan origination.”.*

7       **SEC. 103. PROHIBITION ON STEERING INCENTIVES.**

8       *Section 129B of the Truth in Lending Act (as added*  
 9 *by section 102(a)) is amended by inserting after subsection*  
 10 *(b) the following new subsection:*

11       **“(c) PROHIBITION ON STEERING INCENTIVES.**—

12               **“(1) IN GENERAL.**—*For any mortgage loan, the*  
 13 *total amount of direct and indirect compensation*  
 14 *from all sources permitted to a mortgage originator*  
 15 *may not vary based on the terms of the loan (other*  
 16 *than the amount of the principal).*

17               **“(2) REGULATIONS.**—*The Federal banking agen-*  
 18 *cies, in consultation with the Secretary and the Com-*  
 19 *mission, shall jointly prescribe regulations to pro-*  
 20 *hibit—*

21                       **“(A) mortgage originators from steering**  
 22 *any consumer to a residential mortgage loan*  
 23 *that—*

1           “(i) the consumer lacks a reasonable  
2           ability to repay (in accordance with regula-  
3           tions prescribed under section 129C(a));

4           “(ii) in the case of a refinancing of a  
5           residential mortgage loan, does not provide  
6           the consumer with a net tangible benefit (in  
7           accordance with regulations prescribed  
8           under section 129C(b)); or

9           “(iii) has predatory characteristics or  
10          effects (such as equity stripping, excessive  
11          fees, or abusive terms);

12          “(B) mortgage originators from steering  
13          any consumer from a residential mortgage loan  
14          for which the consumer is qualified that is a  
15          qualified mortgage (as defined in section  
16          129C(c)(3)) to a residential mortgage loan that  
17          is not a qualified mortgage;

18          “(C) abusive or unfair lending practices  
19          that promote disparities among consumers of  
20          equal credit worthiness but of different race, eth-  
21          nicity, gender, or age; and

22          “(D) mortgage originators from assessing  
23          excessive points and fees (as such term is de-  
24          scribed under section 103(aa)(4) of the Truth in  
25          Lending Act (15 U.S.C. 1602(aa)(4))) to a con-



1            *sumer for the origination of a residential mort-*  
2            *gage loan based on such consumer’s decision to*  
3            *finance all or part of the payment through the*  
4            *rate for such points and fees.*

5            *“(3) RULES OF CONSTRUCTION.—No provision of*  
6            *this subsection shall be construed as—*

7                    *“(A) permitting yield spread premiums or*  
8                    *other similar incentive compensation;*

9                    *“(B) affecting the mechanism for providing*  
10                  *the total amount of direct and indirect com-*  
11                  *penetration permitted to a mortgage originator;*

12                  *“(C) limiting or affecting the amount of*  
13                  *compensation received by a creditor upon the*  
14                  *sale of a consummated loan to a subsequent pur-*  
15                  *chaser;*

16                  *“(D) restricting a consumer’s ability to fi-*  
17                  *nance, including through rate or principal, any*  
18                  *origination fees or costs permitted under this*  
19                  *subsection, or the mortgage originator’s ability to*  
20                  *receive such fees or costs (including compensa-*  
21                  *tion) from any person, so long as such fees or*  
22                  *costs were fully and clearly disclosed to the con-*  
23                  *sumer earlier in the application process as re-*  
24                  *quired by 129B(b)(1)(C)(i) and do not vary*  
25                  *based on the terms of the loan (other than the*

1           *amount of the principal) or the consumer’s deci-*  
2           *sion about whether to finance such fees or costs;*  
3           *or*

4                     *“(E) prohibiting incentive payments to a*  
5           *mortgage originator based on the number of resi-*  
6           *dential mortgage loans originated within a spec-*  
7           *ified period of time.”.*

8   **SEC. 104. LIABILITY.**

9           *Section 129B of the Truth in Lending Act is amended*  
10   *by inserting after subsection (c) (as added by section 103)*  
11   *the following new subsection:*

12           *“(d) LIABILITY FOR VIOLATIONS.—*

13                     *“(1) IN GENERAL.—For purposes of providing a*  
14           *cause of action for any failure by a mortgage origi-*  
15           *nator to comply with any requirement imposed under*  
16           *this section and any regulation prescribed under this*  
17           *section, subsections (a) and (b) of section 130 shall be*  
18           *applied with respect to any such failure by sub-*  
19           *stituting ‘mortgage originator’ for ‘creditor’ each*  
20           *place such term appears in each such subsection.*

21                     *“(2) MAXIMUM.—The maximum amount of any*  
22           *liability of a mortgage originator under paragraph*  
23           *(1) to a consumer for any violation of this section*  
24           *shall not exceed the greater of actual damages or an*  
25           *amount equal to 3 times the total amount of direct*

1        *and indirect compensation or gain accruing to the*  
2        *mortgage originator in connection with the residen-*  
3        *tial mortgage loan involved in the violation, plus the*  
4        *costs to the consumer of the action, including a rea-*  
5        *sonable attorney's fee.”.*

6        **SEC. 105. REGULATIONS.**

7        *(a) DISCRETIONARY REGULATORY AUTHORITY.—Sec-*  
8        *tion 129B of the Truth in Lending Act is amended by in-*  
9        *serting after subsection (d) (as added by section 104) the*  
10       *following new subsection:*

11       *“(e) DISCRETIONARY REGULATORY AUTHORITY.—*

12                *“(1) IN GENERAL.—The Federal banking agen-*  
13        *cies shall, by regulations issued jointly, prohibit or*  
14        *condition terms, acts or practices relating to residen-*  
15        *tial mortgage loans that the agencies find to be abu-*  
16        *sive, unfair, deceptive, predatory, inconsistent with*  
17        *reasonable underwriting standards, necessary or*  
18        *proper to effectuate the purposes of this section and*  
19        *section 129C, to prevent circumvention or evasion*  
20        *thereof, or to facilitate compliance with such sections,*  
21        *or are not in the interest of the borrower.*

22                *“(2) APPLICATION.—The regulations prescribed*  
23        *under paragraph (1) shall be applicable to all resi-*  
24        *dential mortgage loans and shall be applied in the*

1        *same manner as regulations prescribed under section*  
2        *105.*

3        *“(f) Section 129B and any regulations promulgated*  
4        *thereunder do not apply to an extension of credit relating*  
5        *to a plan described in section 101(53D) of title 11, United*  
6        *States Code.”.*

7        *(b) EFFECTIVE DATE.—The regulations required or*  
8        *authorized to be prescribed under this title or the amend-*  
9        *ments made by this title—*

10            *(1) shall be prescribed in final form before the*  
11            *end of the 12-month period beginning on the date of*  
12            *the enactment of this Act; and*

13            *(2) shall take effect not later than 18 months*  
14            *after the date of the enactment of this Act.*

15        *(c) TRUTH IN LENDING FINAL RULE.—Notwith-*  
16        *standing any other provision of this Act, the regulations*  
17        *adopted by the Board concerning Truth in Lending, 73 Fed.*  
18        *Reg. 44522 (July 30, 2008), shall take effect as decided by*  
19        *the Board with such exceptions or revisions as the Board*  
20        *determines necessary.*

21        *(d) TECHNICAL AND CONFORMING AMENDMENTS.—*  
22        *Section 129(l)(2) of the Truth in Lending Act (15 U.S.C.*  
23        *1639(l)(2)) is amended by inserting “referred to in section*  
24        *103(aa)” after “loans” each place such term appears.*

1 **SEC. 106. RESPA AND TILA DISCLOSURE IMPROVEMENT.**

2       (a) *COMPATIBLE DISCLOSURES.*—*The Secretary of*  
3 *Housing and Urban Development and the Board of Gov-*  
4 *ernors of the Federal Reserve shall, not later than the expi-*  
5 *ration of the 6-month period beginning upon the date of*  
6 *the enactment of this Act, jointly issue for public comment*  
7 *proposed regulations providing for compatible disclosures*  
8 *for borrowers to receive at the time of mortgage application*  
9 *and at the time of closing.*

10       (b) *REQUIREMENTS.*—*Such disclosures shall—*

11               (1) *provide clear and concise information to bor-*  
12 *rowers on the terms and costs of residential mortgage*  
13 *transactions and mortgage transactions covered by the*  
14 *Truth in Lending Act (12 U.S.C. 1601 et seq.) and*  
15 *the Real Estate Settlement Procedures Act of 1974 (12*  
16 *U.S.C. 2601 et seq.);*

17               (2) *satisfy the requirements of section 128 of the*  
18 *Truth in Lending Act (12 U.S.C. 1638) and section*  
19 *4 and 5 of the Real Estate Settlement Procedures Act*  
20 *of 1974; and*

21               (3) *comprise early disclosures under the Truth in*  
22 *Lending Act and the good faith estimate disclosures*  
23 *under the Real Estate Settlement Procedures Act of*  
24 *1974 and final Truth in Lending Act disclosures and*  
25 *the uniform settlement statement disclosures under*  
26 *Real Estate Settlement Procedures Act of 1974 and*

1        *provide for standardization to the greatest extent possible among such disclosures from mortgage origination through the mortgage settlement.*

2                    *(4) shall include, with respect to a residential home mortgage loan, a written statement of—*

3                                    *(A) the principal amount of the loan;*

4                                    *(B) the term of the loan;*

5                                    *(C) whether the loan has a fixed rate of interest or an adjustable rate of interest;*

6                                    *(D) the annual percentage rate of interest under the loan as of the time of the disclosure;*

7                                    *(E) if the rate of interest under the loan can adjust after the disclosure, for each such possible adjustment—*

8    *(i) when such adjustment will or may occur; and*

9    *(ii) the maximum annual percentage rate of interest to which it can be adjusted;*

10                                    *(F) the total monthly payment under the loan (including loan principal and interest, property taxes, and insurance) at the time of the disclosure;*

11                                    *(G) the maximum total estimated monthly maximum payment pursuant to each such possible adjustment;*

1           (H) the total settlement charges in connec-  
2           tion with the loan and the amount of any down-  
3           payment and cash required at settlement; and

4           (I) whether or not the loan has a prepay-  
5           ment penalty or balloon payment and the terms,  
6           timing, and amount of any such penalty or pay-  
7           ment.

8           (c) *SUSPENSION OF 2008 RESPA RULE.*—

9           (1) *REQUIREMENT.*—The Secretary of Housing  
10          and Urban Development shall, during the period be-  
11          ginning on the date of the enactment of this Act and  
12          ending upon issuance of proposed regulations pursu-  
13          ant to subsection (a), suspend implementation of any  
14          provisions of the final rule referred to in paragraph  
15          (2) that would establish and implement a new stand-  
16          ardized good faith estimate and a new standardized  
17          uniform settlement statement. Any such provisions  
18          shall be replaced by the regulations issued pursuant  
19          to subsections (a) and (b).

20          (2) *2008 RULE.*—The final rule referred to in  
21          this paragraph is the rule of the Department of Hous-  
22          ing and Urban Development published on November  
23          17, 2008, on pages 68204–68288 of Volume 73 of the  
24          Federal Register (Docket No. FR–5180–F–03; relating  
25          to “Real Estate Settlement Procedures Act (RESPA):

1        *Rule to Simplify and Improve the Process of Obtain-*  
2        *ing Mortgages and Reduce Consumer Settlement*  
3        *Costs’’).*

4        (d) *IMPLEMENTATION.—The regulations required*  
5        *under subsection (a) shall take effect, and shall provide an*  
6        *implementation date for the new disclosures required under*  
7        *such regulations, not later than the expiration of the 12-*  
8        *month period beginning upon the date of the enactment of*  
9        *this Act.*

10        (e) *FAILURE TO ISSUE COMPATIBLE DISCLOSURES.—*  
11        *If the Secretary of Housing and Urban Development and*  
12        *the Board of Governors of the Federal Reserve System can-*  
13        *not agree on compatible disclosures pursuant to subsections*  
14        *(a) and (b), the Secretary and the Board shall submit a*  
15        *report to the Congress, after the 6-month period referred to*  
16        *in subsection (a), explaining the reasons for such disagree-*  
17        *ment. After the 15-day period beginning upon submission*  
18        *of such report, the Secretary and the Board may separately*  
19        *issue for public comment regulations providing for disclo-*  
20        *sure under the Real Estate Settlement Procedures Act of*  
21        *1974 and the Truth in Lending Act, respectively. Any final*  
22        *disclosures as a result of such regulations issued by the Sec-*  
23        *retary and the Board shall take effect on the same date,*  
24        *and not later than the expiration of the 12-month period*  
25        *beginning on the date of the enactment of this Act. If either*



1 *the Secretary or the Board fails to act during such 12-*  
2 *month period, either such agency may act independently*  
3 *and implement final regulations.*

4 **TITLE II—MINIMUM STANDARDS**  
5 **FOR MORTGAGES**

6 **SEC. 201. ABILITY TO REPAY.**

7 *(a) IN GENERAL.—Chapter 2 of the Truth in Lending*  
8 *Act (15 U.S.C. 1631 et seq.) is amended by inserting after*  
9 *section 129B (as added by section 102(a)) the following new*  
10 *section:*

11 **“§ 129C. Minimum standards for residential mortgage**  
12 **loans**

13 *“(a) ABILITY TO REPAY.—*

14 *“(1) IN GENERAL.—In accordance with regula-*  
15 *tions prescribed jointly by the Federal banking agen-*  
16 *cies, in consultation with the Commission, no creditor*  
17 *may make a residential mortgage loan unless the*  
18 *creditor makes a reasonable and good faith deter-*  
19 *mination based on verified and documented informa-*  
20 *tion that, at the time the loan is consummated, the*  
21 *consumer has a reasonable ability to repay the loan,*  
22 *according to its terms, and all applicable taxes, in-*  
23 *surance, and assessments.*

24 *“(2) MULTIPLE LOANS.—If the creditor knows,*  
25 *or has reason to know, that 1 or more residential*

1 mortgage loans secured by the same dwelling will be  
2 made to the same consumer, the creditor shall make  
3 a reasonable and good faith determination, based on  
4 verified and documented information, that the con-  
5 sumer has a reasonable ability to repay the combined  
6 payments of all loans on the same dwelling according  
7 to the terms of those loans and all applicable taxes,  
8 insurance, and assessments.

9 “(3) *BASIS FOR DETERMINATION.*—A determina-  
10 tion under this subsection of a consumer’s ability to  
11 repay a residential mortgage loan shall include con-  
12 sideration of the consumer’s credit history, current in-  
13 come, expected income the consumer is reasonably as-  
14 sured of receiving, current obligations, debt-to-income  
15 ratio, employment status, and other financial re-  
16 sources other than the consumer’s equity in the dwell-  
17 ing or real property that secures repayment of the  
18 loan.

19 “(4) *NONSTANDARD LOANS.*—

20 “(A) *VARIABLE RATE LOANS THAT DEFER*  
21 *REPAYMENT OF ANY PRINCIPAL OR INTEREST.*—

22 *For purposes of determining, under this sub-*  
23 *section, a consumer’s ability to repay a variable*  
24 *rate residential mortgage loan that allows or re-*  
25 *quires the consumer to defer the repayment of*

1           any principal or interest, the creditor shall use  
2           a fully amortizing repayment schedule.

3           “(B) *INTEREST-ONLY LOANS.*—For purposes  
4           of determining, under this subsection, a con-  
5           sumer’s ability to repay a residential mortgage  
6           loan that permits or requires the payment of in-  
7           terest only, the creditor shall use the payment  
8           amount required to amortize the loan by its final  
9           maturity.

10          “(C) *CALCULATION FOR NEGATIVE AMORTI-*  
11          *ZATION.*—In making any determination under  
12          this subsection, a creditor shall also take into  
13          consideration any balance increase that may ac-  
14          cruer from any negative amortization provision.

15          “(D) *CALCULATION PROCESS.*—For pur-  
16          poses of making any determination under this  
17          subsection, a creditor shall calculate the monthly  
18          payment amount for principal and interest on  
19          any residential mortgage loan by assuming—

20                 “(i) the loan proceeds are fully dis-  
21                 bursed on the date of the consummation of  
22                 the loan;

23                 “(ii) the loan is to be repaid in sub-  
24                 stantially equal monthly amortizing pay-  
25                 ments for principal and interest over the

1           *entire term of the loan with no balloon pay-*  
2           *ment, unless the loan contract requires more*  
3           *rapid repayment (including balloon pay-*  
4           *ment), in which case the contract's repay-*  
5           *ment schedule shall be used in this calcula-*  
6           *tion; and*

7           *“(iii) the interest rate over the entire*  
8           *term of the loan is a fixed rate equal to the*  
9           *fully indexed rate at the time of the loan*  
10          *closing, without considering the introduc-*  
11          *tory rate.*

12          *“(5) FULLY-INDEXED RATE DEFINED.—For pur-*  
13          *poses of this subsection, the term ‘fully indexed rate’*  
14          *means the index rate prevailing on a residential*  
15          *mortgage loan at the time the loan is made plus the*  
16          *margin that will apply after the expiration of any in-*  
17          *troductory interest rates.”.*

18          *(b) CLERICAL AMENDMENT.—The table of sections for*  
19          *chapter 2 of the Truth in Lending Act is amended by insert-*  
20          *ing after the item relating to section 129B (as added by*  
21          *section 102(b)) the following new item:*

*“129C. Minimum standards for residential mortgage loans.”.*

1 **SEC. 202. NET TANGIBLE BENEFIT FOR REFINANCING OF**  
2 **RESIDENTIAL MORTGAGE LOANS.**

3 *Section 129C of the Truth in Lending Act (as added*  
4 *by section 201(a)) is amended by inserting after subsection*  
5 *(a) the following new subsection:*

6 *“(b) NET TANGIBLE BENEFIT FOR REFINANCING OF*  
7 *RESIDENTIAL MORTGAGE LOANS.—*

8 *“(1) IN GENERAL.—In accordance with regula-*  
9 *tions prescribed under paragraph (3), no creditor*  
10 *may extend credit in connection with any residential*  
11 *mortgage loan that involves a refinancing of a prior*  
12 *existing residential mortgage loan unless the creditor*  
13 *reasonably and in good faith determines, at the time*  
14 *the loan is consummated and on the basis of informa-*  
15 *tion known by or obtained in good faith by the cred-*  
16 *itor, that the refinanced loan will provide a net tan-*  
17 *gible benefit to the consumer.*

18 *“(2) CERTAIN LOANS PROVIDING NO NET TAN-*  
19 *GIBLE BENEFIT.—A residential mortgage loan that*  
20 *involves a refinancing of a prior existing residential*  
21 *mortgage loan shall not be considered to provide a net*  
22 *tangible benefit to the consumer if the costs of the refi-*  
23 *nanced loan, including points, fees and other charges,*  
24 *exceed the amount of any newly advanced principal*  
25 *without any corresponding changes in the terms of the*

1        *refinanced loan that are advantageous to the con-*  
 2        *sumer.*

3            “(3) *NET TANGIBLE BENEFIT.*—*The Federal*  
 4        *banking agencies shall jointly prescribe regulations*  
 5        *defining the term ‘net tangible benefit’ for purposes of*  
 6        *this subsection.”.*

7        **SEC. 203. SAFE HARBOR AND REBUTTABLE PRESUMPTION.**

8        *Section 129C of the Truth in Lending Act is amended*  
 9        *by inserting after subsection (b) (as added by section 202)*  
 10       *the following new subsection:*

11            “(c) *PRESUMPTION OF ABILITY TO REPAY AND NET*  
 12        *TANGIBLE BENEFIT.*—

13            “(1) *IN GENERAL.*—*Any creditor with respect to*  
 14        *any residential mortgage loan, and any assignee or*  
 15        *securitizer of such loan, may presume that the loan*  
 16        *has met the requirements of subsections (a) and (b),*  
 17        *if the loan is a qualified mortgage.*

18            “(2) *DEFINITIONS.*—*For purposes of this sub-*  
 19        *section, the following definitions shall apply:*

20            “(A) *QUALIFIED MORTGAGE.*—*The term*  
 21        *‘qualified mortgage’ means any residential mort-*  
 22        *gage loan—*

23            *“(i) that does not allow a consumer to*  
 24        *defer repayment of principal or interest, or*  
 25        *is not otherwise deemed a ‘non-traditional*

1 mortgage' under guidance, advisories, or  
2 regulations prescribed by the Federal Bank-  
3 ing Agencies;

4 “(ii) that does not provide for a repay-  
5 ment schedule that results in negative amor-  
6 tization at any time;

7 “(iii) for which the terms are fully am-  
8 ortizing and which does not result in a bal-  
9 loon payment, where a ‘balloon payment’ is  
10 a scheduled payment that is more than  
11 twice as large as the average of earlier  
12 scheduled payments;

13 “(iv) which has an annual percentage  
14 rate that does not exceed the average prime  
15 offer rate for a comparable transaction, as  
16 of the date the interest rate is set—

17 “(I) by 1.5 or more percentage  
18 points, in the case of a first lien resi-  
19 dential mortgage loan having a origi-  
20 nal principal obligation amount that  
21 does not exceed the amount of the max-  
22 imum limitation on the original prin-  
23 cipal obligation of mortgage in effect  
24 for a residence of the applicable size, as  
25 of the date of such interest rate set,

1           *pursuant to the sixth sentence of sec-*  
2           *tion 305(a)(2) the Federal Home Loan*  
3           *Mortgage Corporation Act (12 U.S.C.*  
4           *1454(a)(2)); and*

5           *“(II) by 2.5 or more percentage*  
6           *points, in the case of a first lien resi-*  
7           *dential mortgage loan having a origi-*  
8           *nal principal obligation amount that*  
9           *exceeds the amount of the maximum*  
10          *limitation on the original principal*  
11          *obligation of mortgage in effect for a*  
12          *residence of the applicable size, as of*  
13          *the date of such interest rate set, pur-*  
14          *suant to the sixth sentence of section*  
15          *305(a)(2) the Federal Home Loan*  
16          *Mortgage Corporation Act (12 U.S.C.*  
17          *1454(a)(2));*

18          *“(v) for which the income and finan-*  
19          *cial resources relied upon to qualify the ob-*  
20          *ligors on the loan are verified and docu-*  
21          *mented;*

22          *“(vi) in the case of a fixed rate loan,*  
23          *for which the underwriting process is based*  
24          *on a payment schedule that fully amortizes*  
25          *the loan over the loan term and takes into*



1           *account all applicable taxes, insurance, and*  
2           *assessments;*

3           “(vii) *in the case of an adjustable rate*  
4           *loan, for which the underwriting is based on*  
5           *the maximum rate permitted under the loan*  
6           *during the first seven years, and a payment*  
7           *schedule that fully amortizes the loan over*  
8           *the loan term and takes into account all ap-*  
9           *plicable taxes, insurance, and assessments;*

10           “(viii) *that does not cause the con-*  
11           *sumer’s total monthly debts, including*  
12           *amounts under the loan, to exceed a per-*  
13           *centage established by regulation of the con-*  
14           *sumer’s monthly gross income or such other*  
15           *maximum percentage of such income as*  
16           *may be prescribed by regulation under*  
17           *paragraph (4), and such rules shall also*  
18           *take into consideration the consumer’s in-*  
19           *come available to pay regular expenses after*  
20           *payment of all installment and revolving*  
21           *debt;*

22           “(ix) *for which the total points and*  
23           *fees payable in connection with the loan do*  
24           *not exceed 2 percent of the total loan*  
25           *amount, where ‘points and fees’ means*

1           *points and fees as defined by Section*  
2           *103(aa)(4) of the Truth in Lending Act (15*  
3           *U.S.C. 1602(aa)(4)); and*

4           *“(x) for which the term of the loan does*  
5           *not exceed 30 years, except as such term*  
6           *may be extended under paragraph (4).*

7           *“(B) AVERAGE PRIME OFFER RATE.—The*  
8           *term ‘average prime offer rate’ means an annual*  
9           *percentage rate that is derived from average in-*  
10           *terest rates, points, and other loan pricing terms*  
11           *currently offered to consumers by a representa-*  
12           *tive sample of creditors for mortgage trans-*  
13           *actions that have low risk pricing characteris-*  
14           *tics.*

15           *“(3) PUBLICATION OF AVERAGE PRIME OFFER*  
16           *RATE.—The Board—*

17           *“(A) shall publish, and update at least*  
18           *weekly, average prime offer rates; and*

19           *“(B) may publish multiple rates based on*  
20           *varying types of mortgage transactions.*

21           *“(4) REGULATIONS.—*

22           *“(A) IN GENERAL.—The Federal banking*  
23           *agencies shall jointly prescribe regulations to*  
24           *carry out the purposes of this subsection.*

1                   “(B) *REVISION OF SAFE HARBOR CRI-*  
2                   *TERIA.*—

3                   “(i) *IN GENERAL.*—*The Federal bank-*  
4                   *ing agencies may jointly prescribe regula-*  
5                   *tions that revise, add to, or subtract from*  
6                   *the criteria that define a qualified mortgage*  
7                   *upon a finding that such regulations are*  
8                   *necessary and appropriate to effectuate the*  
9                   *purposes of this section and section 129B, to*  
10                  *prevent circumvention or evasion thereof, or*  
11                  *to facilitate compliance with such sections.*

12                  “(ii) *LOAN DEFINITION.*—*The following*  
13                  *agencies shall prescribe rules defining the*  
14                  *types of loans they insure, guarantee or ad-*  
15                  *minister, as the case may be, that are*  
16                  *Qualified Mortgages for purposes of sub-*  
17                  *section (c)(1)(A) upon a finding that such*  
18                  *rules are consistent with the purposes of this*  
19                  *section and section 129B, to prevent cir-*  
20                  *cumvention or evasion thereof, or to facili-*  
21                  *tate compliance with such sections—*

22                  “(I) *The Department of Housing*  
23                  *and Urban Development, with regard*  
24                  *to mortgages insured under title II of*

1 *the National Housing Act (12 U.S.C.*  
2 *1707 et seq.);*

3 “(II) *The Secretary of Veterans*  
4 *Affairs, with regard to a loan made or*  
5 *guaranteed by the Secretary of Vet-*  
6 *erans Affairs;*

7 “(III) *The Secretary of Agri-*  
8 *culture, with regard loans guaranteed*  
9 *by the Secretary of Agriculture pursu-*  
10 *ant to 42 U.S.C. 1472(h);*

11 “(IV) *The Federal Housing Fi-*  
12 *nance Agency, with regard to loans*  
13 *meeting the conforming loan standards*  
14 *of the Federal National Mortgage Cor-*  
15 *poration or the Federal Home Loan*  
16 *Mortgage Corporation; and*

17 “(V) *The Rural Housing Service,*  
18 *with regard to loans insured by the*  
19 *Rural Housing Service.”.*

20 **SEC. 204. LIABILITY.**

21 *Section 129C of the Truth in Lending Act is amended*  
22 *by inserting after subsection (c) (as added by section 203)*  
23 *the following new subsection:*

24 “(d) **LIABILITY FOR VIOLATIONS.**—

25 “(1) **IN GENERAL.**—

1           “(A) *RESCISSION.*—*In addition to any*  
2           *other liability under this title for a violation by*  
3           *a creditor of subsection (a) or (b) (for example*  
4           *under section 130) and subject to the statute of*  
5           *limitations in paragraph (9), a civil action may*  
6           *be maintained against a creditor for a violation*  
7           *of subsection (a) or (b) with respect to a residen-*  
8           *tial mortgage loan for the rescission of the loan,*  
9           *and such additional costs as the obligor may*  
10           *have incurred as a result of the violation and in*  
11           *connection with obtaining a rescission of the*  
12           *loan, including a reasonable attorney’s fee.*

13           “(B) *CURE.*—*A creditor shall not be liable*  
14           *for rescission under subparagraph (A) with re-*  
15           *spect to a residential mortgage loan if, no later*  
16           *than 90 days after the receipt of notification*  
17           *from the consumer that the loan violates sub-*  
18           *section (a) or (b), the creditor provides a cure.*

19           “(2) *LIMITED ASSIGNEE AND SECURITIZER LI-*  
20           *ABILITY.*—*Notwithstanding sections 125(e) and 131*  
21           *and except as provided in paragraph (3), a civil ac-*  
22           *tion which may be maintained against a creditor*  
23           *with respect to a residential mortgage loan for a vio-*  
24           *lation of subsection (a) or (b) may be maintained*  
25           *against any assignee or securitizer of such residential*

1        *mortgage loan, who has acted in good faith, for the*  
2        *following liabilities only:*

3                *“(A) Rescission of the loan.*

4                *“(B) Such additional costs as the obligor*  
5                *may have incurred as a result of the violation*  
6                *and in connection with obtaining a rescission of*  
7                *the loan, including a reasonable attorney’s fee.*

8                *“(3) ASSIGNEE AND SECURITIZER EXEMPTION.—*

9        *No assignee or securitizer of a residential mortgage*  
10        *loan that has exercised reasonable due diligence in*  
11        *complying with the requirements of subsections (a)*  
12        *and (b) shall be liable under paragraph (2) with re-*  
13        *spect to such loan if, no later than 90 days after the*  
14        *receipt of notification from the consumer that the loan*  
15        *violates subsection (a) or (b), the assignee or*  
16        *securitizer provides a cure so that the loan satisfies*  
17        *the requirements of subsections (a) and (b).*

18                *“(4) ABSENT PARTIES.—*

19                *“(A) ABSENT CREDITOR.—Notwithstanding*  
20                *the exemption provided in paragraph (3), if the*  
21                *creditor with respect to a residential mortgage*  
22                *loan made in violation of subsection (a) or (b)*  
23                *has ceased to exist as a matter of law or has filed*  
24                *for bankruptcy protection under title 11, United*  
25                *States Code, or has had a receiver, conservator,*

1            *or liquidating agent appointed, a consumer may*  
2            *maintain a civil action against an assignee to*  
3            *cure the residential mortgage loan, plus the costs*  
4            *and reasonable attorney’s fees incurred in ob-*  
5            *taining such remedy.*

6            “(B) *ABSENT CREDITOR AND ASSIGNEE.—*  
7            *Notwithstanding the exemption provided in*  
8            *paragraph (3), if the creditor with respect to a*  
9            *residential mortgage loan made in violation of*  
10           *subsection (a) or (b) and each assignee of such*  
11           *loan have ceased to exist as a matter of law or*  
12           *have filed for bankruptcy protection under title*  
13           *11, United States Code, or have had receivers,*  
14           *conservators, or liquidating agents appointed,*  
15           *the consumer may maintain the civil action re-*  
16           *ferred to in subparagraph (A) against the*  
17           *securitizer.*

18           “(5) *CURE DEFINED.—For purposes of this sub-*  
19           *section, the term ‘cure’ means, with respect to a resi-*  
20           *dential mortgage loan that violates subsection (a) or*  
21           *(b), the modification or refinancing, at no cost to the*  
22           *consumer, of the loan to provide terms that satisfy the*  
23           *requirements of subsections (a) and (b) and the pay-*  
24           *ment of such additional costs as the obligor may have*

1        *incurred in connection with obtaining a cure of the*  
2        *loan, including a reasonable attorney’s fee.*

3            *“(6) DISAGREEMENT OVER CURE.—If any cred-*  
4        *itor, assignee, or securitizer and a consumer fail to*  
5        *reach agreement on a cure with respect to a residen-*  
6        *tial mortgage loan that violates subsection (a) or (b),*  
7        *or the consumer fails to accept a cure proffered by a*  
8        *creditor, assignee, or securitizer—*

9            *“(A) the creditor, assignee, or securitizer*  
10        *may provide the cure; and*

11            *“(B) the consumer may challenge the ade-*  
12        *quacy of the cure during the 6-month period be-*  
13        *ginning when the cure is provided.*

14        *If the consumer’s challenge, under this paragraph, of*  
15        *a cure is successful, the creditor, assignee, or*  
16        *securitizer shall be liable to the consumer for rescis-*  
17        *sion of the loan and such additional costs under*  
18        *paragraph (2).*

19            *“(7) INABILITY TO PROVIDE OR OBTAIN RESCIS-*  
20        *SION.—If a creditor, assignee, or securitizer cannot*  
21        *provide, or a consumer cannot obtain, rescission*  
22        *under paragraph (1) or (2), the liability of such cred-*  
23        *itor, assignee, or securitizer shall be met by providing*  
24        *the financial equivalent of a rescission, together with*  
25        *such additional costs as the obligor may have in-*



1        *curred as a result of the violation and in connection*  
2        *with obtaining a rescission of the loan, including a*  
3        *reasonable attorney’s fee.*

4            *“(8) NO CLASS ACTIONS AGAINST ASSIGNEE OR*  
5        *SECURITIZER UNDER PARAGRAPH (2).—Only indi-*  
6        *vidual actions may be brought against an assignee or*  
7        *securitizer of a residential mortgage loan for a viola-*  
8        *tion of subsection (a) or (b).*

9            *“(9) STATUTE OF LIMITATIONS.—The liability of*  
10       *a creditor, assignee, or securitizer under this sub-*  
11       *section shall apply in any original action against a*  
12       *creditor under paragraph (1) or an assignee or*  
13       *securitizer under paragraph (2) which is brought be-*  
14       *fore—*

15            *“(A) in the case of any residential mortgage*  
16       *loan other than a loan to which subparagraph*  
17       *(B) applies, the end of the 3-year period begin-*  
18       *ning on the date the loan is consummated; or*

19            *“(B) in the case of a residential mortgage*  
20       *loan that provides for a fixed interest rate for an*  
21       *introductory period and then resets or adjusts to*  
22       *a variable rate or that provides for a nonamor-*  
23       *tizing payment schedule and then converts to an*  
24       *amortizing payment schedule, the earlier of—*

1                   “(i) the end of the 1-year period begin-  
2                   ning on the date of such reset, adjustment,  
3                   or conversion; or

4                   “(ii) the end of the 6-year period be-  
5                   ginning on the date the loan is con-  
6                   summated.

7                   “(10) POOLS AND INVESTORS IN POOLS EX-  
8                   CLUDED.—In the case of residential mortgage loans  
9                   acquired or aggregated for the purpose of including  
10                  such loans in a pool of assets held for the purpose of  
11                  issuing or selling instruments representing interests  
12                  in such pools including through a securitization vehi-  
13                  cle, the terms ‘assignee’ and ‘securitizer’, as used in  
14                  this section, do not include the securitization vehicle,  
15                  the pools of such loans or any original or subsequent  
16                  purchaser of any interest in the securitization vehicle  
17                  or any instrument representing a direct or indirect  
18                  interest in such pool.

19                  “(e) OBLIGATION OF SECURITIZERS, AND PRESERVA-  
20                  TION OF BORROWER REMEDIES.—

21                  “(1) OBLIGATION TO RETAIN ACCESS.—Any  
22                  securitizer of a residential mortgage loan sold or to  
23                  be sold as part of a securitization vehicle shall, in  
24                  any document or contract providing for the transfer,

1 conveyance, or the establishment of such securitization  
2 vehicle, reserve the right and preserve the ability—

3 “(A) to identify and obtain access to any  
4 such loan;

5 “(B) to acquire any such loan in the event  
6 of a violation of subsections (a) or (b) of this sec-  
7 tion; and

8 “(C) to provide to the consumer any and all  
9 remedies provided for under this title for any  
10 violation of this title.

11 “(2) *ADDITIONAL DAMAGES.*—Any creditor, as-  
12 signee, or securitizer of a residential mortgage loan  
13 that is subject to a remedy under subsection (d) and  
14 has failed to comply with paragraph (1) shall be sub-  
15 ject to additional exemplary or punitive damages not  
16 to exceed the original principal balance of such loan.

17 “(3) *CONTACT INFORMATION NOTICE.*—The  
18 servicer with respect to a residential mortgage loan  
19 shall provide a written notice to a consumer identi-  
20 fying the name and contact information of the cred-  
21 itor or any assignee or securitizer who should be con-  
22 tacted by the consumer for any reason concerning the  
23 consumer’s rights with respect to the loan. Such notice  
24 shall be provided—

25 “(A) upon request of the consumer;

1           “(B) whenever there is a change in owner-  
2           ship of a residential mortgage loan; or

3           “(C) on a regular basis, not less than annu-  
4           ally.

5           “(f) *RULES TO ESTABLISH PROCESS.*—The Board  
6 shall promulgate rules to govern the rescission process estab-  
7 lished for violations of subsections (a) and (b) of this sec-  
8 tion. Such rules shall provide that notice given to a servicer  
9 or holder is sufficient notice regardless of the identity of  
10 the party or the parties liable under this title.”.

11 **SEC. 205. DEFENSE TO FORECLOSURE.**

12           Section 129C of the Truth in Lending Act is amended  
13 by inserting after subsection (f) (as added by section 204)  
14 the following new subsections:

15           “(g) *DEFENSE TO FORECLOSURE.*—Notwithstanding  
16 any other provision of law—

17           “(1) when the holder of a residential mortgage  
18 loan or anyone acting for such holder initiates a judi-  
19 cial or nonjudicial foreclosure—

20           “(A) a consumer who has the right to re-  
21 scind under this section with respect to such loan  
22 against the creditor or any assignee or  
23 securitizer may assert such right as a defense to  
24 foreclosure or counterclaim to such foreclosure  
25 against the holder, or

1           “(B) if the foreclosure proceeding begins  
2 after the end of the period during which a con-  
3 sumer may bring an action for rescission under  
4 subsection (d) and the consumer would have had  
5 a valid basis for such an action if it had been  
6 brought before the end of such period, the con-  
7 sumer may seek actual damages incurred by rea-  
8 son of the violation which gave rise to the right  
9 of rescission, together with costs of the action, in-  
10 cluding a reasonable attorney’s fee against the  
11 creditor or any assignee or securitizer; and

12           “(2) such holder or anyone acting for such holder  
13 or any other applicable third party may sell, transfer,  
14 convey, or assign a residential mortgage loan to a  
15 creditor, any assignee, or any securitizer, or their des-  
16 ignees, to effect a rescission or cure.”.

17 **SEC. 206. ADDITIONAL STANDARDS AND REQUIREMENTS.**

18           (a) *IN GENERAL.*—Section 129C of the Truth in Lend-  
19 ing Act is amended by inserting after subsection (g) (as  
20 added by section 205) the following new subsections:

21           “(h) *PROHIBITION ON CERTAIN PREPAYMENT PEN-*  
22 *ALTIES.*—

23           “(1) *PROHIBITED ON CERTAIN LOANS.*—A resi-  
24 dential mortgage loan that is not a ‘qualified mort-  
25 gage’ may not contain terms under which a consumer

1       *must pay a prepayment penalty for paying all or*  
2       *part of the principal after the loan is consummated.*  
3       *For purposes of this subsection, a ‘qualified mortgage’*  
4       *may not include a residential mortgage loan that has*  
5       *an adjustable rate.*

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

12                       “(A) *During the 1-year period beginning on*  
13       *the date the loan is consummated, the prepay-*  
14       *ment penalty shall not exceed an amount equal*  
15       *to 3 percent of the outstanding balance on the*  
16       *loan.*

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

22                       “(C) *During the 1-year period beginning*  
23       *after the 1-year period described in subpara-*  
24       *graph (B), the prepayment penalty shall not ex-*

1           *ceed an amount equal to 1 percent of the out-*  
2           *standing balance on the loan.*

3           “(D) *After the end of the 3-year period be-*  
4           *ginning on the date the loan is consummated, no*  
5           *prepayment penalty may be imposed on a quali-*  
6           *fied mortgage.*

7           “(3) *PROHIBITED AFTER INITIAL PERIOD ON*  
8           *LOANS WITH A RESET.—A qualified mortgage with a*  
9           *fixed interest rate for an introductory period that ad-*  
10          *justs or resets after such period may not contain*  
11          *terms under which a consumer must pay a prepay-*  
12          *ment penalty for paying all or part of the principal*  
13          *after the beginning of the 3-month period ending on*  
14          *the date of the adjustment or reset.*

15          “(4) *OPTION FOR NO PREPAYMENT PENALTY RE-*  
16          *QUIRED.—A creditor may not offer a consumer a resi-*  
17          *dential mortgage loan product that has a prepayment*  
18          *penalty for paying all or part of the principal after*  
19          *the loan is consummated as a term of the loan with-*  
20          *out offering the consumer a residential mortgage loan*  
21          *product that does not have a prepayment penalty as*  
22          *a term of the loan.*

23          “(i) *SINGLE PREMIUM CREDIT INSURANCE PROHIB-*  
24          *ITED.—No creditor may finance, directly or indirectly, in*  
25          *connection with any residential mortgage loan or with any*

1 *extension of credit under an open end consumer credit plan*  
2 *secured by the principal dwelling of the consumer (other*  
3 *than a reverse mortgage), any credit life, credit disability,*  
4 *credit unemployment or credit property insurance, or any*  
5 *other accident, loss-of-income, life or health insurance, or*  
6 *any payments directly or indirectly for any debt cancella-*  
7 *tion or suspension agreement or contract, except that—*

8           “(1) *insurance premiums or debt cancellation or*  
9 *suspension fees calculated and paid in full on a*  
10 *monthly basis shall not be considered financed by the*  
11 *creditor; and*

12           “(2) *this subsection shall not apply to credit un-*  
13 *employment insurance for which the unemployment*  
14 *insurance premiums are reasonable, the creditor re-*  
15 *ceives no direct or indirect compensation in connec-*  
16 *tion with the unemployment insurance premiums,*  
17 *and the unemployment insurance premiums are paid*  
18 *pursuant to another insurance contract and not paid*  
19 *to an affiliate of the creditor.*

20           “(j) *ARBITRATION.—*

21           “(1) *IN GENERAL.—No residential mortgage loan*  
22 *and no extension of credit under an open end con-*  
23 *sumer credit plan secured by the principal dwelling*  
24 *of the consumer, other than a reverse mortgage, may*  
25 *include terms which require arbitration or any other*



1       *nonjudicial procedure as the method for resolving any*  
2       *controversy or settling any claims arising out of the*  
3       *transaction.*

4               “(2) *POST-CONTROVERSY AGREEMENTS.*—*Subject*  
5       *to paragraph (3), paragraph (1) shall not be con-*  
6       *strued as limiting the right of the consumer and the*  
7       *creditor, any assignee, or any securitizer to agree to*  
8       *arbitration or any other nonjudicial procedure as the*  
9       *method for resolving any controversy at any time*  
10       *after a dispute or claim under the transaction arises.*

11               “(3) *NO WAIVER OF STATUTORY CAUSE OF AC-*  
12       *TION.*—*No provision of any residential mortgage loan*  
13       *or of any extension of credit under an open end con-*  
14       *sumer credit plan secured by the principal dwelling*  
15       *of the consumer (other than a reverse mortgage), and*  
16       *no other agreement between the consumer and the*  
17       *creditor relating to the residential mortgage loan or*  
18       *extension of credit referred to in paragraph (1), shall*  
19       *be applied or interpreted so as to bar a consumer*  
20       *from bringing an action in an appropriate district*  
21       *court of the United States, or any other court of com-*  
22       *petent jurisdiction, pursuant to section 130 or any*  
23       *other provision of law, for damages or other relief in*  
24       *connection with any alleged violation of this section,*

1        *any other provision of this title, or any other Federal*  
2        *law.*

3        “(k) *MORTGAGES WITH NEGATIVE AMORTIZATION.—*

4        *No creditor may extend credit to a borrower in connection*  
5        *with a consumer credit transaction under an open or closed*  
6        *end consumer credit plan secured by a dwelling or residen-*  
7        *tial real property that includes a dwelling, other than a*  
8        *reverse mortgage, that provides or permits a payment plan*  
9        *that may, at any time over the term of the extension of*  
10       *credit, result in negative amortization unless, before such*  
11       *transaction is consummated—*

12                *“(1) the creditor provides the consumer with a*  
13        *statement that—*

14                        *“(A) the pending transaction will or may,*  
15                        *as the case may be, result in negative amortiza-*  
16                        *tion;*

17                        *“(B) describes negative amortization in*  
18                        *such manner as the Federal banking agencies*  
19                        *shall prescribe;*

20                        *“(C) negative amortization increases the*  
21                        *outstanding principal balance of the account;*  
22                        *and*

23                        *“(D) negative amortization reduces the con-*  
24                        *sumer’s equity in the dwelling or real property;*  
25                        *and*

1           “(2) in the case of a first-time borrower with re-  
2           spect to a residential mortgage loan that is not a  
3           qualified mortgage, the first-time borrower provides  
4           the creditor with sufficient documentation to dem-  
5           onstrate that the consumer received homeownership  
6           counseling from organizations or counselors certified  
7           by the Secretary of Housing and Urban Development  
8           as competent to provide such counseling.”.

9           (b) *CONFORMING AMENDMENT RELATING TO EN-*  
10 *FORCEMENT.*—Section 108(a) of the Truth in Lending Act  
11 (15 U.S.C. 1607(a)) is amended by inserting after para-  
12 graph (6) the following new paragraph:

13           “(7) sections 21B and 21C of the Securities Ex-  
14           change Act of 1934, in the case of a broker or dealer,  
15           other than a depository institution, by the Securities  
16           and Exchange Commission.”.

17 **SEC. 207. RULE OF CONSTRUCTION.**

18           *Except as otherwise expressly provided in section 129B*  
19 *or 129C of the Truth in Lending Act (as added by this Act),*  
20 *no provision of such section 129B or 129C shall be con-*  
21 *strued as superseding, repealing, or affecting any duty,*  
22 *right, obligation, privilege, or remedy of any person under*  
23 *any other provision of the Truth in Lending Act or any*  
24 *other provision of Federal or State law.*

1 **SEC. 208. EFFECT ON STATE LAWS.**

2       (a) *IN GENERAL.*—*Except as provided in subsection*  
3 *(b), section 129C(d) of the Truth in Lending Act (as added*  
4 *by section 204) shall supersede any State law to the extent*  
5 *that it provides additional remedies against any assignee,*  
6 *securitizer, or securitization vehicle for a violation of sub-*  
7 *section (a) or (b) of section 129C of such Act or any other*  
8 *State law the terms of which address the specific subject*  
9 *matter of subsection (a) (determination of ability to repay)*  
10 *or (b) (requirement of a net tangible benefit) of section 129C*  
11 *of such Act, and the remedies described in section 129C(d)*  
12 *shall constitute the sole remedies against any assignee,*  
13 *securitizer, or securitization vehicle for such violations.*

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

16             (1) *the application of any State law, or the*  
17 *availability of remedies under such law, against a*  
18 *creditor for a particular residential mortgage loan re-*  
19 *gardless of whether such creditor also acts as an as-*  
20 *signee, securitizer, or securitization vehicle for such*  
21 *loan;*

22             (2) *the application of any State law, or the*  
23 *availability of remedies under such law, against an*  
24 *assignee, securitizer, or securitization vehicle under*  
25 *State law, other than a provision of such law the*  
26 *terms of which address the specific subject matter of*

1 subsection (a) (determination of ability to repay) or  
2 (b) (requirement of a net tangible benefit) of section  
3 129C of such Act;

4 (3)(A) the application of any State law, or the  
5 availability of remedies under such law, against an  
6 assignee, securitizer or securitization vehicle for its  
7 participation in or direction of the credit or under-  
8 writing decisions of a creditor relating to the making  
9 of a residential mortgage loan; or

10 (B) the ability of a consumer to assert any rights  
11 against or obtain any remedies from an assignee,  
12 securitizer or securitization vehicle with respect to a  
13 residential mortgage loan as a defense to foreclosure  
14 under section 129C(g); or

15 (4) the availability of any equitable remedies, in-  
16 cluding injunctive relief, under State law.

17 **SEC. 209. REGULATIONS.**

18 *Regulations required or authorized to be prescribed*  
19 *under this title or the amendments made by this title—*

20 (1) *shall be prescribed in final form before the*  
21 *end of the 12-month period beginning on the date of*  
22 *the enactment of this Act; and*

23 (2) *shall take effect not later than 18 months*  
24 *after the date of the enactment of this Act.*

1 **SEC. 210. AMENDMENTS TO CIVIL LIABILITY PROVISIONS.**

2 (a) *INCREASE IN AMOUNT OF CIVIL MONEY PEN-*  
3 *ALTIES FOR CERTAIN VIOLATIONS.*—Section 130(a)(2) of  
4 *the Truth in Lending Act (15 U.S.C. 1640(a)(2))* is amend-  
5 *ed—*

6 (1) *by striking “\$100” and inserting “\$200”;*

7 (2) *by striking “\$1,000” and inserting “\$2,000”;*

8 *and*

9 (3) *by striking “\$500,000” and inserting*  
10 *“\$1,000,000”.*

11 (b) *STATUTE OF LIMITATIONS EXTENDED FOR SEC-*  
12 *TION 129 VIOLATIONS.*—Section 130(e) of *the Truth in*  
13 *Lending Act (15 U.S.C. 1640(e))* is amended—

14 (1) *in the first sentence, by striking “Any ac-*  
15 *tion” and inserting “Except as provided in the subse-*  
16 *quent sentence, any action”;* and

17 (2) *by inserting after the first sentence the fol-*  
18 *lowing new sentence: “Any action under this section*  
19 *with respect to any violation of section 129 may be*  
20 *brought in any United States district court, or in any*  
21 *other court of competent jurisdiction, before the end of*  
22 *the 3-year period beginning on the date of the occur-*  
23 *rence of the violation.”.*

1 **SEC. 211. LENDER RIGHTS IN THE CONTEXT OF BORROWER**  
2 **DECEPTION.**

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

5 “(k) **EXEMPTION FROM LIABILITY AND RESCISSION IN**  
6 **CASE OF BORROWER FRAUD OR DECEPTION.**—*In addition*  
7 *to any other remedy available by law or contract, no cred-*  
8 *itor, assignee, or securitizer shall be liable to an obligor*  
9 *under this section, nor shall it be subject to the right of*  
10 *rescission of any obligor under 129B, if such obligor, or co-*  
11 *obligor, knowingly, or willfully and with actual knowledge*  
12 *furnished material information known to be false for the*  
13 *purpose of obtaining such residential mortgage loan.”.*

14 **SEC. 212. SIX-MONTH NOTICE REQUIRED BEFORE RESET OF**  
15 **HYBRID ADJUSTABLE RATE MORTGAGES.**

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

19 “§ 128A. **Reset of hybrid adjustable rate mortgages**

20 “(a) **HYBRID ADJUSTABLE RATE MORTGAGES DE-**  
21 **FINED.**—*For purposes of this section, the term ‘hybrid ad-*  
22 *justable rate mortgage’ means a consumer credit trans-*  
23 *action secured by the consumer’s principal residence with*  
24 *a fixed interest rate for an introductory period that adjusts*  
25 *or resets to a variable interest rate after such period.*

1           “(b) *NOTICE OF RESET AND ALTERNATIVES.*—During  
2 *the 1-month period that ends 6 months before the date on*  
3 *which the interest rate in effect during the introductory pe-*  
4 *riod of a hybrid adjustable rate mortgage adjusts or resets*  
5 *to a variable interest rate or, in the case of such an adjust-*  
6 *ment or resetting that occurs within the first 6 months after*  
7 *consummation of such loan, at consummation, the creditor*  
8 *or servicer of such loan shall provide a written notice, sepa-*  
9 *rate and distinct from all other correspondence to the con-*  
10 *sumer, that includes the following:*

11                   “(1) *Any index or formula used in making ad-*  
12 *justments to or resetting the interest rate and a source*  
13 *of information about the index or formula.*

14                   “(2) *An explanation of how the new interest rate*  
15 *and payment would be determined, including an ex-*  
16 *planation of how the index was adjusted, such as by*  
17 *the addition of a margin.*

18                   “(3) *A good faith estimate, based on accepted in-*  
19 *dustry standards, of the creditor or servicer of the*  
20 *amount of the monthly payment that will apply after*  
21 *the date of the adjustment or reset, and the assump-*  
22 *tions on which this estimate is based.*

23                   “(4) *A list of alternatives consumers may pursue*  
24 *before the date of adjustment or reset, and descrip-*



1        *tions of the actions consumers must take to pursue*  
 2        *these alternatives, including—*

3                *“(A) refinancing;*

4                *“(B) renegotiation of loan terms;*

5                *“(C) payment forbearances; and*

6                *“(D) pre-foreclosure sales.*

7                *“(5) The names, addresses, telephone numbers,*  
 8        *and Internet addresses of counseling agencies or pro-*  
 9        *grams reasonably available to the consumer that have*  
 10        *been certified or approved and made publicly avail-*  
 11        *able by the Secretary of Housing and Urban Develop-*  
 12        *ment or a State housing finance authority (as defined*  
 13        *in section 1301 of the Financial Institutions Reform,*  
 14        *Recovery, and Enforcement Act of 1989).*

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

18        *(b) CLERICAL AMENDMENT.—The table of sections for*  
 19        *chapter 2 of the Truth in Lending Act is amended by insert-*  
 20        *ing after the item relating to section 128 the following new*  
 21        *item:*

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

22        **SEC. 213. CREDIT RISK RETENTION.**

23        *Section 129C of the Truth in Lending Act is amended*  
 24        *by inserting after subsection (k) (as added by section 206)*  
 25        *the following new subsection:*

1       “(l) *CREDIT RISK RETENTION.*—

2               “(1) *IN GENERAL.*—*The Federal banking agen-*  
3       *cies shall prescribe regulations jointly to require any*  
4       *creditor that makes a residential mortgage loan that*  
5       *is not a qualified mortgage (as defined in section*  
6       *129C(c)(2)(A)), to retain an economic interest in a*  
7       *material portion of the credit risk for any such loan*  
8       *that the creditor transfers, sells or conveys to a third*  
9       *party.*

10              “(2) *STANDARDS FOR REGULATIONS.*—*Regula-*  
11       *tions prescribed under paragraph (1) shall—*

12                      “(A) *apply only to residential mortgage*  
13       *loans that are not qualified mortgages (as so de-*  
14       *fined);*

15                      “(B) *prohibit creditors from directly or in-*  
16       *directly hedging or otherwise transferring the*  
17       *credit risk creditors are required to retain under*  
18       *the regulations with respect to any residential*  
19       *mortgage loan;*

20                      “(C) *require creditors to retain at least 5*  
21       *percent of the credit risk on any non-qualified*  
22       *mortgage that is transferred, sold or conveyed;*  
23       *and*

24                      “(D) *specify the permissible forms of the re-*  
25       *quired risk retention (for example, first loss posi-*

1           tion or pro rata vertical slice) and the minimum  
2           duration of the required risk retention.

3           “(3) *EXCEPTIONS AND ADJUSTMENTS.*—

4                   “(A) *IN GENERAL.*—The Federal banking  
5           agencies shall have authority to provide excep-  
6           tions or adjustments to the requirements of this  
7           subsection, including exceptions or adjustments  
8           relating to the 5 percent risk retention threshold  
9           and the hedging prohibition.

10                   “(B) *APPLICABLE STANDARDS.*—Any excep-  
11           tions or adjustments granted by the Federal  
12           banking agencies shall—

13                           “(i) be consistent with the purpose of  
14                           this subsection to help ensure high quality  
15                           underwriting standards for mortgage lend-  
16                           ers; and

17                           “(ii) facilitate appropriate risk man-  
18                           agement practices by mortgage lenders, im-  
19                           prove access of consumers to mortgage credit  
20                           on reasonable terms, or otherwise serve the  
21                           public interest.

22                   “(4) *ALTERNATIVE RISK RETENTION FOR*  
23           *SECURITIZATION SPONSORS.*—The Federal banking  
24           agencies shall have discretion to apply the risk reten-  
25           tion requirements of this subsection to securitizers of

1       *non-qualified mortgages in addition to or in place of*  
2       *creditors that make non-qualified mortgages if the*  
3       *agencies determine that applying the requirements to*  
4       *securitization sponsors rather than originators*  
5       *would—*

6               “(A) *be consistent with the purpose of this*  
7               *subsection to help ensure high quality under-*  
8               *writing standards for mortgage lenders; and*

9               “(B) *facilitate appropriate risk manage-*  
10              *ment practices by mortgage lenders, or improve*  
11              *access of consumers to mortgage credit on reason-*  
12              *able terms.*

13              “(m) *Section 129C and any regulations promulgated*  
14              *thereunder do not apply to an extension of credit relating*  
15              *to a plan described in section 101(53D) of title 11, United*  
16              *States Code.”.*

17       **SEC. 214. REQUIRED DISCLOSURES.**

18              (a) *ADDITIONAL INFORMATION.—Section 128(a) of*  
19              *Truth in Lending Act (15 U.S.C. 1638(a)) is amended by*  
20              *adding at the end the following new paragraphs:*

21                      “(16) *In the case of a variable rate residential*  
22                      *mortgage loan for which an escrow or impound ac-*  
23                      *count will be established for the payment of all appli-*  
24                      *cable taxes, insurance, and assessments—*

1           “(A) the amount of initial monthly pay-  
2           ment due under the loan for the payment of  
3           principal and interest, and the amount of such  
4           initial monthly payment including the monthly  
5           payment deposited in the account for the pay-  
6           ment of all applicable taxes, insurance, and as-  
7           sessments; and

8           “(B) the amount of the fully indexed month-  
9           ly payment due under the loan for the payment  
10          of principal and interest, and the amount of  
11          such fully indexed monthly payment including  
12          the monthly payment deposited in the account  
13          for the payment of all applicable taxes, insur-  
14          ance, and assessments.

15          “(17) In the case of a residential mortgage loan,  
16          the aggregate amount of settlement charges for all set-  
17          tlement services provided in connection with the loan,  
18          the amount of charges that are included in the loan  
19          and the amount of such charges the borrower must  
20          pay at closing, the approximate amount of the whole-  
21          sale rate of funds in connection with the loan, and the  
22          aggregate amount of other fees or required payments  
23          in connection with the loan.

24          “(18) In the case of a residential mortgage loan,  
25          the aggregate amount of fees paid to the mortgage

1       originator in connection with the loan, the amount of  
 2       such fees paid directly by the consumer, and any ad-  
 3       ditional amount received by the originator from the  
 4       creditor.”.

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

8               “(4) *RESIDENTIAL MORTGAGE LOAN DISCLO-*  
 9       *SURES.*—In the case of a residential mortgage loan,  
 10       the information required to be disclosed under sub-  
 11       section (a) with respect to such loan shall be disclosed  
 12       before the earlier of—

13               “(A) the time required under the first sen-  
 14       tence of paragraph (1); or

15               “(B) the end of the 3-business-day period  
 16       beginning on the date the application for the  
 17       loan from a consumer is received by the cred-  
 18       itor.”.

19 **SEC. 215. DISCLOSURES REQUIRED IN MONTHLY STATE-**  
 20 **MENTS FOR RESIDENTIAL MORTGAGE LOANS.**

21       Section 128 of the Truth in Lending Act (15 U.S.C.  
 22 1638) is amended by adding at the end the following new  
 23 subsection:

24       “(f) *PERIODIC STATEMENTS FOR RESIDENTIAL MORT-*  
 25 *GAGE LOANS.*—

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

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

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

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

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

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

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

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

22           “(2) *DEVELOPMENT AND USE OF STANDARD*  
23           *FORM.*—*The Federal banking agencies shall jointly*  
24           *develop and prescribe a standard form for the disclo-*  
25           *sure required under this subsection, taking into ac-*





1       (d) *LEGAL ASSISTANCE.*—

2           (1) *IN GENERAL.*—Any State or local legal orga-  
3       nization that receives financial assistance pursuant to  
4       this section may use such amounts only to assist—

5           (A) homeowners of owner-occupied homes  
6       with mortgages in default, in danger of default,  
7       or subject to or at risk of foreclosure; and

8           (B) tenants at risk of or subject to eviction  
9       as a result of foreclosure of the property in which  
10      such tenant resides.

11          (2) *COMMENCE USE WITHIN 90 DAYS.*—Any  
12      State or local legal organization that receives finan-  
13      cial assistance pursuant to this section shall begin  
14      using any financial assistance received under this sec-  
15      tion within 90 days after receipt of the assistance.

16          (3) *PROHIBITION ON CLASS ACTIONS.*—No funds  
17      provided to a State or local legal organization under  
18      this section may be used to support any class action  
19      litigation.

20          (4) *LIMITATION ON LEGAL ASSISTANCE.*—Legal  
21      assistance funded with amounts provided under this  
22      section shall be limited to mortgage-related default,  
23      eviction, or foreclosure proceedings, without regard to  
24      whether such foreclosure is judicial or nonjudicial.

1           (5) *EFFECTIVE DATE.*—*Notwithstanding section*  
2 *217, this subsection shall take effect on the date of the*  
3 *enactment of this Act.*

4           (e) *LIMITATION ON DISTRIBUTION OF ASSISTANCE.*—

5           (1) *IN GENERAL.*—*None of the amounts made*  
6 *available under this section shall be distributed to—*

7           (A) *any organization which has been in-*  
8 *dicted for a violation under Federal law relating*  
9 *to an election for Federal office; or*

10           (B) *any organization which employs appli-*  
11 *cable individuals.*

12           (2) *DEFINITION OF APPLICABLE INDIVIDUAL.*—  
13 *In this subparagraph, the term “applicable indi-*  
14 *vidual” means an individual who—*

15           (A) *is—*

16           (i) *employed by the organization in a*  
17 *permanent or temporary capacity;*

18           (ii) *contracted or retained by the orga-*  
19 *nization; or*

20           (iii) *acting on behalf of, or with the ex-*  
21 *press or apparent authority of, the organi-*  
22 *zation; and*

23           (B) *has been indicted for a violation under*  
24 *Federal law relating to an election for Federal*  
25 *office.*

1           (f) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*  
2 *authorized to be appropriated to the Secretary \$35,000,000*  
3 *for each of fiscal years 2009 through 2012 for grants under*  
4 *this section.*

5 **SEC. 217. EFFECTIVE DATE.**

6           *The amendments made by this title shall apply to*  
7 *transactions consummated on or after the effective date of*  
8 *the regulations specified in section 209.*

9 **SEC. 218. REPORT BY THE GAO.**

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

15               (1) *on the mortgage market for mortgages that*  
16 *are not within the safe harbor provided in the amend-*  
17 *ments made by this title;*

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

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

1           (4) *on minorities' ability to access affordable*  
2           *credit compared with other prospective borrowers;*

3           (5) *on home sales and construction;*

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

6           (7) *of State foreclosure laws and, if any, an in-*  
7           *vestor's ability to transfer a property after foreclosure;*

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

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

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

15          (b) *REPORT.*—*Before the end of the 1-year period be-*  
16          *ginning on the date of the enactment of this Act, the Comp-*  
17          *troller General shall submit a report to the Congress con-*  
18          *taining the findings and conclusions of the Comptroller*  
19          *General with respect to the study conducted pursuant to*  
20          *subsection (a).*

21          (c) *EXAMINATION RELATED TO CERTAIN CREDIT RISK*  
22          *RETENTION PROVISIONS.*—*The report required by sub-*  
23          *section (b) shall also include an analysis by the Comptroller*  
24          *General of the effect on the capital reserves and funding*

1 of lenders of credit risk retention provisions for non-quali-  
2 fied mortgages.

3 **SEC. 219. STATE ATTORNEY GENERAL ENFORCEMENT AU-**  
4 **THORITY.**

5 *Section 130(e) of the Truth in Lending Act (15 U.S.C.*  
6 *1640(e)) is amended by striking “section 129 may also”*  
7 *and inserting “section 129, 129B, or 129C of this Act, sec-*  
8 *tion 219 of the Mortgage Reform and Anti-Predatory Lend-*  
9 *ing Act, or any amendment made by section 219 of the*  
10 *Mortgage Reform and Anti-Predatory Lending Act may*  
11 *also”.*

12 **SEC. 220. TENANT PROTECTION.**

13 (a) *TENANT PROTECTION GENERALLY.—*

14 (1) *IN GENERAL.—In the case of any foreclosure*  
15 *on any dwelling or residential real property, after the*  
16 *date of the enactment of the Mortgage Reform and*  
17 *Anti-Predatory Lending Act, the immediate successor*  
18 *in interest in such property pursuant to the fore-*  
19 *closure shall assume such interest subject to—*

20 (A) *except as provided in paragraph (2),*  
21 *the rights of any bona fide tenant, as of the date*  
22 *of foreclosure under any bona fide lease entered*  
23 *into before the date of foreclosure, to occupy the*  
24 *premises until the end of the remaining term of*  
25 *the lease; and*

1           (B) the rights of any bona fide tenant, as  
2           of the date of foreclosure, without a lease or with  
3           a lease terminable at will under State law, sub-  
4           ject to the provision by the immediate successor  
5           in interest and the receipt by the tenant in the  
6           unit, of a notice to vacate at least 90 days before  
7           the effective date of such notice.

8           (2) *EXCEPTION FOR SUBSEQUENT OWNER-OCCU-*  
9           *PANT.*—Notwithstanding paragraph (1), if the imme-  
10          diate successor in interest of any dwelling or residen-  
11          tial real property that is otherwise subject to para-  
12          graph (1) is a purchaser who will occupy a unit of  
13          the dwelling or residential real property as a primary  
14          residence, or such successor in interest sells the dwell-  
15          ing or residential real property to a purchaser who  
16          will occupy a unit of the dwelling or residential real  
17          property, as a primary residence—

18                 (A) such purchaser may terminate a lease  
19                 relating to such unit on the effective date of a  
20                 notice to vacate; and

21                 (B) such notice to vacate shall be provided  
22                 by the purchaser to the tenant in such unit at  
23                 least 90 days before the effective date of such no-  
24                 tice.

1           (3) *BONA FIDE LEASE OR TENANCY.*—*For pur-*  
2           *poses of this subsection, a lease or tenancy shall be*  
3           *considered bona fide only if—*

4                     (A) *the mortgagor under the contract is not*  
5                     *the tenant;*

6                     (B) *the lease or tenancy was the result of an*  
7                     *arms-length transaction; and*

8                     (C) *the lease or tenancy requires the receipt*  
9                     *of rent that is not substantially less than fair*  
10                    *market rent for the property or the unit's rent is*  
11                    *reduced or subsidized due to a Federal, State, or*  
12                    *local subsidy.*

13           (4) *RULE OF CONSTRUCTION.*—*Except for the*  
14           *specific provisions of this subsection, no provision of*  
15           *this subsection shall be construed as affecting the re-*  
16           *quirements for termination of any Federal- or State-*  
17           *subsidized tenancy. The provisions of this subsection*  
18           *shall not be construed to limit any State or local law*  
19           *that provides longer time periods or other additional*  
20           *protections for tenants.*

21           (b) *CORRESPONDING PROVISION RELATING TO EFFECT*  
22           *OF FORECLOSURES ON SECTION 8 TENANCIES.*—*Paragraph*  
23           *(7) of section 8(o) of the United States Housing Act of 1937*  
24           *(42 U.S.C. 1437f(o)(7)) is amended—*

1           (1) *in subparagraph (C), by inserting before the*  
2 *semicolon at the end the following: “, and in the case*  
3 *of an owner who is an immediate successor in interest*  
4 *pursuant to foreclosure—*

5                   “(i) *during the initial term of the ten-*  
6 *ant’s lease, having the property vacant*  
7 *prior to sale shall not constitute good cause;*  
8 *and*

9                   “(ii) *in subsequent lease terms of the*  
10 *tenant’s lease, who will occupy the unit as*  
11 *a primary residence, who sells the property*  
12 *to a purchaser who will occupy a unit of*  
13 *the property as a primary residence, or if*  
14 *the unit is unmarketable while occupied,*  
15 *such owner may terminate a lease relating*  
16 *to such unit for good cause on the effective*  
17 *date of the notice to vacate, where such no-*  
18 *tice is provided by the owner to the tenant*  
19 *in such unit at least 90 days before the ef-*  
20 *fective date of such notice;”.*

21           (2) *in subparagraph (E), by striking “and” at*  
22 *the end;*

23           (3) *by redesignating subparagraph (F) as sub-*  
24 *paragraph (G); and*



1           (4) by inserting after subparagraph (E) the fol-  
2           lowing:

3                   “(F) shall provide that in the case of any  
4           foreclosure on any residential real property in  
5           which a recipient of assistance under this sub-  
6           section resides, the immediate successor in inter-  
7           est in such property pursuant to the foreclosure  
8           shall assume such interest subject to the lease be-  
9           tween the prior owner and the tenant and to the  
10          housing assistance payments contract between  
11          the prior owner and the public housing agency  
12          for the occupied unit; if a public housing agency  
13          is unable to make payments under the contract  
14          to the immediate successor in interest after fore-  
15          closure, due to action or inaction by the suc-  
16          cessor in interest, including the rejection of pay-  
17          ments or the failure of the successor to maintain  
18          the unit in compliance with paragraph (8) or an  
19          inability to identify the successor, the agency  
20          may use funds that would have been used to pay  
21          the rental amount on behalf of the family—

22                   “(i) to pay for utilities that are the re-  
23           sponsibility of the owner under the lease or  
24           applicable law, after taking reasonable steps  
25           to notify the owner that it intends to make

1           *payments to a utility provider in lieu of*  
2           *payments to the owner, except prior notifi-*  
3           *cation shall not be required in any case in*  
4           *which the unit will be or has been rendered*  
5           *uninhabitable due to the termination or*  
6           *threat of termination of service, in which*  
7           *case the public housing agency shall notify*  
8           *the owner within a reasonable time after*  
9           *making such payment; or*

10                   *“(i) for the family’s reasonable mov-*  
11                   *ing costs, including security deposit costs;*

12           *except that this subparagraph and the provisions*  
13           *related to foreclosure in subparagraph (C) shall*  
14           *not affect any State or local law that provides*  
15           *longer time periods or other additional protec-*  
16           *tions for tenants.”.*

17           *(c) EFFECTIVE DATE.—Notwithstanding section 217,*  
18           *this section and the amendments made by this section shall*  
19           *take effect on the date of the enactment of this Act.*

20                   **TITLE III—HIGH-COST**  
21                   **MORTGAGES**

22           **SEC. 301. DEFINITIONS RELATING TO HIGH-COST MORT-**  
23           **GAGES.**

24           *(a) HIGH-COST MORTGAGE DEFINED.—Section*  
25           *103(aa) of the Truth in Lending Act (15 U.S.C. 1602(aa))*

1 *is amended by striking all that precedes paragraph (2) and*  
2 *inserting the following:*

3 “(aa) *HIGH-COST MORTGAGE.*—

4 “(1) *DEFINITION.*—

5 “(A) *IN GENERAL.*—*The term ‘high-cost*  
6 *mortgage’, and a mortgage referred to in this*  
7 *subsection, means a consumer credit transaction*  
8 *that is secured by the consumer’s principal*  
9 *dwelling, other than a reverse mortgage trans-*  
10 *action, if—*

11 “(i) *in the case of a credit transaction*  
12 *secured—*

13 “(I) *by a first mortgage on the*  
14 *consumer’s principal dwelling, the an-*  
15 *nuual percentage rate at consummation*  
16 *of the transaction will exceed by more*  
17 *than 6.5 percentage points (8.5 per-*  
18 *centage points, if the dwelling is per-*  
19 *sonal property and the transaction is*  
20 *for less than \$50,000) the average*  
21 *prime offer rate, as defined in section*  
22 *129C(c)(2)(B), for a comparable trans-*  
23 *action; or*

24 “(II) *by a subordinate or junior*  
25 *mortgage on the consumer’s principal*

1 dwelling, the annual percentage rate at  
2 consummation of the transaction will  
3 exceed by more than 8.5 percentage  
4 points the average prime offer rate, as  
5 defined in section 129C(c)(2)(B), for a  
6 comparable transaction;

7 “(ii) the total points and fees payable  
8 in connection with the transaction exceed—

9 “(I) in the case of a transaction  
10 for \$20,000 or more, 5 percent of the  
11 total transaction amount; or

12 “(II) in the case of a transaction  
13 for less than \$20,000, the lesser of 8  
14 percent of the total transaction amount  
15 or \$1,000 (or such other dollar amount  
16 as the Board shall prescribe by regula-  
17 tion); or

18 “(iii) the credit transaction documents  
19 permit the creditor to charge or collect pre-  
20 payment fees or penalties more than 36  
21 months after the transaction closing or such  
22 fees or penalties exceed, in the aggregate,  
23 more than 2 percent of the amount prepaid.

24 “(B) INTRODUCTORY RATES TAKEN INTO  
25 ACCOUNT.—For purposes of subparagraph (A)(i),

1           *the annual percentage rate of interest shall be de-*  
2           *termined based on the following interest rate:*

3                     “(i) *In the case of a fixed-rate trans-*  
4                     *action in which the annual percentage rate*  
5                     *will not vary during the term of the loan,*  
6                     *the interest rate in effect on the date of con-*  
7                     *summation of the transaction.*

8                     “(ii) *In the case of a transaction in*  
9                     *which the rate of interest varies solely in*  
10                    *accordance with an index, the interest rate*  
11                    *determined by adding the index rate in ef-*  
12                    *fect on the date of consummation of the*  
13                    *transaction to the maximum margin per-*  
14                    *mitted at any time during the transaction*  
15                    *agreement.*

16                    “(iii) *In the case of any other trans-*  
17                    *action in which the rate may vary at any*  
18                    *time during the term of the loan for any*  
19                    *reason, the interest charged on the trans-*  
20                    *action at the maximum rate that may be*  
21                    *charged during the term of the trans-*  
22                    *action.”.*

23            (b) *ADJUSTMENT OF PERCENTAGE POINTS.—Section*  
24            *103(aa)(2) of the Truth in Lending Act (15 U.S.C.*

1 1602(aa)(2)) is amended by striking subparagraph (B) and  
2 inserting the following new subparagraph:

3 “(B) An increase or decrease under sub-  
4 paragraph (A)—

5 “(i) may not result in the number of  
6 percentage points referred to in paragraph  
7 (1)(A)(i)(I) being less than 6 percentage  
8 points or greater than 10 percentage points;  
9 and

10 “(ii) may not result in the number of  
11 percentage points referred to in paragraph  
12 (1)(A)(i)(II) being less than 8 percentage  
13 points or greater than 12 percentage  
14 points.”.

15 (c) POINTS AND FEES DEFINED.—

16 (1) IN GENERAL.—Section 103(aa)(4) of the  
17 Truth in Lending Act (15 U.S.C. 1602(aa)(4)) is  
18 amended—

19 (A) by striking subparagraph (B) and in-  
20 sserting the following:

21 “(B) all compensation paid directly or in-  
22 directly by a consumer or creditor to a mortgage  
23 broker from any source, including a mortgage  
24 originator that originates a loan in the name of  
25 the originator in a table-funded transaction;”;

1           (B) in subparagraph (C)(ii), by inserting  
2           “except where applied to the charges set forth in  
3           section 106(e)(1) where a creditor may receive  
4           indirect compensation solely as a result of ob-  
5           taining distributions of profits from an affiliated  
6           entity based on its ownership interest in compli-  
7           ance with section 8(c)(4) of the Real Estate Set-  
8           tlement Procedures Act of 1974” before the semi-  
9           colon at the end;

10           (C) in subparagraph (C)(iii), by striking “;  
11           and” and inserting “, except as provided for in  
12           clause (ii);”;

13           (D) by redesignating subparagraph (D) as  
14           subparagraph (G); and

15           (E) by inserting after subparagraph (C) the  
16           following new subparagraphs:

17           “(D) premiums or other charges payable at  
18           or before closing for any credit life, credit dis-  
19           ability, credit unemployment, or credit property  
20           insurance, or any other accident, loss-of-income,  
21           life or health insurance, or any payments di-  
22           rectly or indirectly for any debt cancellation or  
23           suspension agreement or contract, except that in-  
24           surance premiums or debt cancellation or sus-  
25           pension fees calculated and paid in full on a

1           *monthly basis shall not be considered financed*  
2           *by the creditor;*

3           “(E) *except as provided in subsection (cc),*  
4           *the maximum prepayment fees and penalties*  
5           *which may be charged or collected under the*  
6           *terms of the credit transaction;*

7           “(F) *all prepayment fees or penalties that*  
8           *are incurred by the consumer if the loan refi-*  
9           *nances a previous loan made or currently held*  
10          *by the same creditor or an affiliate of the cred-*  
11          *itor; and”.*

12          (2) *CALCULATION OF POINTS AND FEES FOR*  
13          *OPEN-END CONSUMER CREDIT PLANS.—Section*  
14          *103(aa) of the Truth in Lending Act (15 U.S.C.*  
15          *1602(aa)) is amended—*

16                 (A) *by redesignating paragraph (5) as*  
17                 *paragraph (6); and*

18                 (B) *by inserting after paragraph (4) the fol-*  
19                 *lowing new paragraph:*

20                 “(5) *CALCULATION OF POINTS AND FEES FOR*  
21                 *OPEN-END CONSUMER CREDIT PLANS.—In the case of*  
22                 *open-end consumer credit plans, points and fees shall*  
23                 *be calculated, for purposes of this section and section*  
24                 *129, by adding the total points and fees known at or*  
25                 *before closing, including the maximum prepayment*



1        *penalties which may be charged or collected under the*  
2        *terms of the credit transaction, plus the minimum ad-*  
3        *ditional fees the consumer would be required to pay*  
4        *to draw down an amount equal to the total credit*  
5        *line.”.*

6        *(d) BONA FIDE DISCOUNT LOAN DISCOUNT POINTS*  
7        *AND PREPAYMENT PENALTIES.—Section 103 of the Truth*  
8        *in Lending Act (15 U.S.C. 1602) is amended by inserting*  
9        *after subsection (cc) (as added by section 101) the following*  
10       *new subsection:*

11       *“(dd) BONA FIDE DISCOUNT POINTS AND PREPAY-*  
12       *MENT PENALTIES.—For the purposes of determining the*  
13       *amount of points and fees for purposes of subsection (aa),*  
14       *either the amounts described in paragraph (1) or (4) of the*  
15       *following paragraphs, but not both, may be excluded:*

16                *“(1) EXCLUSION OF BONA FIDE DISCOUNT*  
17                *POINTS.—The discount points described in 1 of the*  
18                *following subparagraphs shall be excluded from deter-*  
19                *mining the amounts of points and fees with respect*  
20                *to a high-cost mortgage for purposes of subsection*  
21                *(aa):*

22                        *“(A) Up to and including 2 bona fide dis-*  
23                        *count points payable by the consumer in connec-*  
24                        *tion with the mortgage, but only if the interest*  
25                        *rate from which the mortgage’s interest rate will*

1           *be discounted does not exceed by more than 1*  
2           *percentage point (i) the required net yield for a*  
3           *90-day standard mandatory delivery commit-*  
4           *ment for a reasonably comparable loan from ei-*  
5           *ther the Federal National Mortgage Association*  
6           *or the Federal Home Loan Mortgage Corpora-*  
7           *tion, whichever is greater, or (ii) if secured by a*  
8           *personal property loan, the average rate on a*  
9           *loan in connection with which insurance is pro-*  
10           *vided under title I of the National Housing Act*  
11           *(12 U.S.C. 1702 et seq.).*

12           *“(B) Unless 2 bona fide discount points*  
13           *have been excluded under subparagraph (A), up*  
14           *to and including 1 bona fide discount point pay-*  
15           *able by the consumer in connection with the*  
16           *mortgage, but only if the interest rate from*  
17           *which the mortgage’s interest rate will be dis-*  
18           *counted does not exceed by more than 2 percent-*  
19           *age points (i) the required net yield for a 90-day*  
20           *standard mandatory delivery commitment for a*  
21           *reasonably comparable loan from either the Fed-*  
22           *eral National Mortgage Association or the Fed-*  
23           *eral Home Loan Mortgage Corporation, which-*  
24           *ever is greater, or (ii) if secured by a personal*  
25           *property loan, the average rate on a loan in con-*

1            *nection with which insurance is provided under*  
2            *title I of the National Housing Act (12 U.S.C.*  
3            *1702 et seq.).*

4            “(2) *DEFINITION.—For purposes of paragraph*  
5            *(1), the term ‘bona fide discount points’ means loan*  
6            *discount points which are knowingly paid by the con-*  
7            *sumer for the purpose of reducing, and which in fact*  
8            *result in a bona fide reduction of, the interest rate or*  
9            *time-price differential applicable to the mortgage.*

10            “(3) *EXCEPTION FOR INTEREST RATE REDUC-*  
11            *TIONS INCONSISTENT WITH INDUSTRY NORMS.—Para-*  
12            *graph (1) shall not apply to discount points used to*  
13            *purchase an interest rate reduction unless the amount*  
14            *of the interest rate reduction purchased is reasonably*  
15            *consistent with established industry norms and prac-*  
16            *tices for secondary mortgage market transactions.”.*

17    **SEC. 302. AMENDMENTS TO EXISTING REQUIREMENTS FOR**  
18            **CERTAIN MORTGAGES.**

19            (a) *PREPAYMENT PENALTY PROVISIONS.—Section*  
20            *129(c)(2) of the Truth in Lending Act (15 U.S.C.*  
21            *1639(c)(2)) is hereby repealed.*

22            (b) *NO BALLOON PAYMENTS.—Section 129(e) of the*  
23            *Truth in Lending Act (15 U.S.C. 1639(e)) is amended to*  
24            *read as follows:*

1           “(e) *NO BALLOON PAYMENTS.*—No high-cost mortgage  
2 may contain a scheduled payment that is more than twice  
3 as large as the average of earlier scheduled payments. This  
4 subsection shall not apply when the payment schedule is  
5 adjusted to the seasonal or irregular income of the con-  
6 sumer.”.

7   **SEC. 303. ADDITIONAL REQUIREMENTS FOR CERTAIN**  
8                               **MORTGAGES.**

9           (a) *ADDITIONAL REQUIREMENTS FOR CERTAIN MORT-*  
10 *GAGES.*—Section 129 of the Truth in Lending Act (15  
11 U.S.C. 1639) is amended—

12                   (1) by redesignating subsections (j), (k) and (l)  
13 as subsections (n), (o) and (p) respectively; and

14                   (2) by inserting after subsection (i) the following  
15 new subsections:

16           “(j) *RECOMMENDED DEFAULT.*—No creditor shall rec-  
17 ommend or encourage default on an existing loan or other  
18 debt prior to and in connection with the closing or planned  
19 closing of a high-cost mortgage that refinances all or any  
20 portion of such existing loan or debt.

21           “(k) *LATE FEES.*—

22                   “(1) *IN GENERAL.*—No creditor may impose a  
23 late payment charge or fee in connection with a high-  
24 cost mortgage—

1           “(A) in an amount in excess of 4 percent of  
2           the amount of the payment past due;

3           “(B) unless the loan documents specifically  
4           authorize the charge or fee;

5           “(C) before the end of the 15-day period be-  
6           ginning on the date the payment is due, or in  
7           the case of a loan on which interest on each in-  
8           stallment is paid in advance, before the end of  
9           the 30-day period beginning on the date the pay-  
10          ment is due; or

11          “(D) more than once with respect to a sin-  
12          gle late payment.

13          “(2) *COORDINATION WITH SUBSEQUENT LATE*  
14          *FEES.*—If a payment is otherwise a full payment for  
15          the applicable period and is paid on its due date or  
16          within an applicable grace period, and the only de-  
17          linquency or insufficiency of payment is attributable  
18          to any late fee or delinquency charge assessed on any  
19          earlier payment, no late fee or delinquency charge  
20          may be imposed on such payment.

21          “(3) *FAILURE TO MAKE INSTALLMENT PAY-*  
22          *MENT.*—If, in the case of a loan agreement the terms  
23          of which provide that any payment shall first be ap-  
24          plied to any past due principal balance, the consumer  
25          fails to make an installment payment and the con-

1        *sumer subsequently resumes making installment pay-*  
2        *ments but has not paid all past due installments, the*  
3        *creditor may impose a separate late payment charge*  
4        *or fee for any principal due (without deduction due*  
5        *to late fees or related fees) until the default is cured.*

6        “(l) *ACCELERATION OF DEBT.*—No high-cost mortgage  
7        *may contain a provision which permits the creditor, in its*  
8        *sole discretion, to accelerate the indebtedness. This provision*  
9        *shall not apply when repayment of the loan has been accel-*  
10       *erated by default, pursuant to a due-on-sale provision, or*  
11       *pursuant to a material violation of some other provision*  
12       *of the loan documents unrelated to the payment schedule.*

13       “(m) *RESTRICTION ON FINANCING POINTS AND*  
14       *FEEES.*—No creditor may directly or indirectly finance, in  
15       *connection with any high-cost mortgage, any of the fol-*  
16       *lowing:*

17                “(1) *Any prepayment fee or penalty payable by*  
18        *the consumer in a refinancing transaction if the cred-*  
19        *itor or an affiliate of the creditor is the noteholder of*  
20        *the note being refinanced.*

21                “(2) *Any points or fees.*”.

22        (b) *PROHIBITIONS ON EVASIONS.*—Section 129 of the  
23        *Truth in Lending Act (15 U.S.C. 1639) is amended by in-*  
24        *serting after subsection (p) (as so redesignated by subsection*  
25        *(a)(1)) the following new subsection:*

1           “(q) *PROHIBITIONS ON EVASIONS, STRUCTURING OF*  
2 *TRANSACTIONS, AND RECIPROCAL ARRANGEMENTS.—A*  
3 *creditor may not take any action in connection with a high-*  
4 *cost mortgage—*

5                   “(1) *to structure a loan transaction as an open-*  
6 *end credit plan or another form of loan for the pur-*  
7 *pose and with the intent of evading the provisions of*  
8 *this title; or*

9                   “(2) *to divide any loan transaction into separate*  
10 *parts for the purpose and with the intent of evading*  
11 *provisions of this title.”.*

12           “(c) *MODIFICATION OR DEFERRAL FEES.—Section 129*  
13 *of the Truth in Lending Act (15 U.S.C. 1639) is amended*  
14 *by inserting after subsection (q) (as added by subsection (b)*  
15 *of this section) the following new subsection:*

16                   “(r) *MODIFICATION AND DEFERRAL FEES PROHIB-*  
17 *ITED.—A creditor may not charge a consumer any fee to*  
18 *modify, renew, extend, or amend a high-cost mortgage, or*  
19 *to defer any payment due under the terms of such mortgage,*  
20 *unless the modification, renewal, extension or amendment*  
21 *results in a lower annual percentage rate on the mortgage*  
22 *for the consumer and then only if the amount of the fee*  
23 *is comparable to fees imposed for similar transactions in*  
24 *connection with consumer credit transactions that are se-*

1 *cured by a consumer's principal dwelling and are not high-*  
2 *cost mortgages.”.*

3 *(d) PAYOFF STATEMENT.—Section 129 of the Truth in*  
4 *Lending Act (15 U.S.C. 1639) is amended by inserting after*  
5 *subsection (r) (as added by subsection (c) of this section)*  
6 *the following new subsection:*

7 *“(s) PAYOFF STATEMENT.—*

8 *“(1) FEES.—*

9 *“(A) IN GENERAL.—Except as provided in*  
10 *subparagraph (B), no creditor or servicer may*  
11 *charge a fee for informing or transmitting to*  
12 *any person the balance due to pay off the out-*  
13 *standing balance on a high-cost mortgage.*

14 *“(B) TRANSACTION FEE.—When payoff in-*  
15 *formation referred to in subparagraph (A) is*  
16 *provided by facsimile transmission or by a cou-*  
17 *rier service, a creditor or servicer may charge a*  
18 *processing fee to cover the cost of such trans-*  
19 *mission or service in an amount not to exceed an*  
20 *amount that is comparable to fees imposed for*  
21 *similar services provided in connection with con-*  
22 *sumer credit transactions that are secured by the*  
23 *consumer's principal dwelling and are not high-*  
24 *cost mortgages.*



1           “(C) *FEE DISCLOSURE.*—Prior to charging  
2           a transaction fee as provided in subparagraph  
3           (B), a creditor or servicer shall disclose that pay-  
4           off balances are available for free pursuant to  
5           subparagraph (A).

6           “(D) *MULTIPLE REQUESTS.*—If a creditor  
7           or servicer has provided payoff information re-  
8           ferred to in subparagraph (A) without charge,  
9           other than the transaction fee allowed by sub-  
10          paragraph (B), on 4 occasions during a calendar  
11          year, the creditor or servicer may thereafter  
12          charge a reasonable fee for providing such infor-  
13          mation during the remainder of the calendar  
14          year.

15          “(2) *PROMPT DELIVERY.*—Payoff balances shall  
16          be provided within 5 business days after receiving a  
17          request by a consumer or a person authorized by the  
18          consumer to obtain such information.

19          “(3) *SERVICES CONSIDERED ASSIGNEE.*—For the  
20          purposes of this subsection, a servicer shall be consid-  
21          ered an assignee under the Truth in Lending Act.”.

22          (e) *PRE-LOAN COUNSELING REQUIRED.*—Section 129  
23          of the Truth in Lending Act (15 U.S.C. 1639) is amended  
24          by inserting after subsection (s) (as added by subsection (d))  
25          of this section) the following new subsection:

1       “(t) *PRE-LOAN COUNSELING.*—

2               “(1) *IN GENERAL.*—A creditor may not extend  
3       *credit to a consumer under a high-cost mortgage with-*  
4       *out first receiving certification from a counselor that*  
5       *is approved by the Secretary of Housing and Urban*  
6       *Development, or at the discretion of the Secretary, a*  
7       *State housing finance authority, that the consumer*  
8       *has received counseling on the advisability of the*  
9       *mortgage. Such counselor shall not be employed by the*  
10       *creditor or an affiliate of the creditor or be affiliated*  
11       *with the creditor.*

12               “(2) *DISCLOSURES REQUIRED PRIOR TO COUN-*  
13       *SELING.*—No counselor may certify that a consumer  
14       *has received counseling on the advisability of the*  
15       *high-cost mortgage unless the counselor can verify*  
16       *that the consumer has received each statement re-*  
17       *quired (in connection with such loan) by this section*  
18       *or the Real Estate Settlement Procedures Act of 1974*  
19       *with respect to the transaction.*

20               “(3) *REGULATIONS.*—The Board may prescribe  
21       *such regulations as the Board determines to be appro-*  
22       *priate to carry out the requirements of paragraph*  
23       *(1).”.*

24               “(f) *FLIPPING PROHIBITED.*—Section 129 of the Truth  
25       *in Lending Act (15 U.S.C. 1639) is amended by inserting*

1 *after subsection (t) (as added by subsection (e)) the fol-*  
2 *lowing new subsection:*

3 “(u) *FLIPPING.*—

4 “(1) *IN GENERAL.*—*No creditor may knowingly*  
5 *or intentionally engage in the unfair act or practice*  
6 *of flipping in connection with a high-cost mortgage.*

7 “(2) *FLIPPING DEFINED.*—*For purposes of this*  
8 *subsection, the term ‘flipping’ means the making of a*  
9 *loan or extension of credit in the form a high-cost*  
10 *mortgage to a consumer which refinances an existing*  
11 *mortgage when the new loan or extension of credit*  
12 *does not have reasonable, net tangible benefit (as de-*  
13 *termined in accordance with regulations prescribed*  
14 *under section 129C(b)) to the consumer considering*  
15 *all of the circumstances, including the terms of both*  
16 *the new and the refinanced loans or credit, the cost*  
17 *of the new loan or credit, and the consumer’s cir-*  
18 *cumstances.*

19 “(v) *CORRECTIONS AND UNINTENTIONAL VIOLA-*  
20 *TIONS.*—*A creditor or assignee in a high cost loan who,*  
21 *when acting in good faith, fails to comply with any require-*  
22 *ment under this section will not be deemed to have violated*  
23 *such requirement if the creditor or assignee establishes that*  
24 *either—*

1           “(1) within 30 days of the loan closing and prior  
2           to the institution of any action, the consumer is noti-  
3           fied of or discovers the violation, appropriate restitu-  
4           tion is made, and whatever adjustments are necessary  
5           are made to the loan to either, at the choice of the  
6           consumer—

7                   “(A) make the loan satisfy the requirements  
8                   of this chapter; or

9                   “(B) in the case of a high-cost mortgage,  
10                  change the terms of the loan in a manner bene-  
11                  ficial to the consumer so that the loan will no  
12                  longer be a high-cost mortgage; or

13           “(2) within 60 days of the creditor’s discovery or  
14           receipt of notification of an unintentional violation  
15           or bona fide error as described in subsection (c) and  
16           prior to the institution of any action, the consumer  
17           is notified of the compliance failure, appropriate res-  
18           titution is made, and whatever adjustments are nec-  
19           essary are made to the loan to either, at the choice  
20           of the consumer—

21                   “(A) make the loan satisfy the requirements  
22                   of this chapter; or

23                   “(B) in the case of a high-cost mortgage,  
24                  change the terms of the loan in a manner bene-

1           *ficial so that the loan will no longer be a high-*  
2           *cost mortgage.”.*

3 **SEC. 304. REGULATIONS.**

4           *(a) IN GENERAL.—The Board of Governors of the Fed-*  
5           *eral Reserve System shall publish regulations implementing*  
6           *this title and the amendments made by this title in final*  
7           *form before the end of the 6-month period beginning on the*  
8           *date of the enactment of this Act.*

9           *(b) CONSUMER MORTGAGE EDUCATION.—*

10           *(1) REGULATIONS.—The Board of Governors of*  
11           *the Federal Reserve System may prescribe regulations*  
12           *requiring or encouraging creditors to provide con-*  
13           *sumer mortgage education to prospective customers or*  
14           *direct such customers to qualified consumer mortgage*  
15           *education or counseling programs in the vicinity of*  
16           *the residence of the consumer.*

17           *(2) COORDINATION WITH STATE LAW.—No re-*  
18           *quirement established by the Board of Governors of*  
19           *the Federal Reserve System pursuant to paragraph*  
20           *(1) shall be construed as affecting or superseding any*  
21           *requirement under the law of any State with respect*  
22           *to consumer mortgage counseling or education.*

23 **SEC. 305. EFFECTIVE DATE.**

24           *The amendments made by this title shall take effect*  
25           *at the end of the 6-month period beginning on the date of*

1 *the enactment of this Act and shall apply to mortgages re-*  
 2 *ferred to in section 103(aa) of the Truth in Lending Act*  
 3 *(15 U.S.C. 1602(aa)) for which an application is received*  
 4 *by the creditor after the end of such period.*

5 **TITLE IV—OFFICE OF HOUSING**  
 6 **COUNSELING**

7 **SEC. 401. SHORT TITLE.**

8 *This title may be cited as the “Expand and Preserve*  
 9 *Home Ownership Through Counseling Act”.*

10 **SEC. 402. ESTABLISHMENT OF OFFICE OF HOUSING COUN-**  
 11 **SELING.**

12 *Section 4 of the Department of Housing and Urban*  
 13 *Development Act (42 U.S.C. 3533) is amended by adding*  
 14 *at the end the following new subsection:*

15 *“(g) OFFICE OF HOUSING COUNSELING.—*

16 *“(1) ESTABLISHMENT.—There is established, in*  
 17 *the Department, the Office of Housing Counseling.*

18 *“(2) DIRECTOR.—There is established the posi-*  
 19 *tion of Director of Housing Counseling. The Director*  
 20 *shall be the head of the Office of Housing Counseling*  
 21 *and shall be appointed by, and shall report to, the*  
 22 *Secretary. Such position shall be a career-reserved po-*  
 23 *sition in the Senior Executive Service.*

24 *“(3) FUNCTIONS.—*

1           “(A) *IN GENERAL.*—*The Director shall have*  
2           *primary responsibility within the Department*  
3           *for all activities and matters relating to home-*  
4           *ownership counseling and rental housing coun-*  
5           *seling, including—*

6                     “(i) *research, grant administration,*  
7                     *public outreach, and policy development re-*  
8                     *lating to such counseling; and*

9                     “(ii) *establishment, coordination, and*  
10                    *administration of all regulations, require-*  
11                    *ments, standards, and performance meas-*  
12                    *ures under programs and laws administered*  
13                    *by the Department that relate to housing*  
14                    *counseling, homeownership counseling (in-*  
15                    *cluding maintenance of homes), mortgage-*  
16                    *related counseling (including home equity*  
17                    *conversion mortgages and credit protection*  
18                    *options to avoid foreclosure), and rental*  
19                    *housing counseling, including the require-*  
20                    *ments, standards, and performance meas-*  
21                    *ures relating to housing counseling.*

22           “(B) *SPECIFIC FUNCTIONS.*—*The Director*  
23           *shall carry out the functions assigned to the Di-*  
24           *rector and the Office under this section and any*

1           *other provisions of law. Such functions shall in-*  
2           *clude establishing rules necessary for—*

3                     “(i) *the counseling procedures under*  
4                     *section 106(g)(1) of the Housing and Urban*  
5                     *Development Act of 1968 (12 U.S.C.*  
6                     *1701x(h)(1));*

7                     “(ii) *carrying out all other functions of*  
8                     *the Secretary under section 106(g) of the*  
9                     *Housing and Urban Development Act of*  
10                    *1968, including the establishment, oper-*  
11                    *ation, and publication of the availability of*  
12                    *the toll-free telephone number under para-*  
13                    *graph (2) of such section;*

14                    “(iii) *contributing to the preparation*  
15                    *and distribution of home buying informa-*  
16                    *tion booklets pursuant to section 5 of the*  
17                    *Real Estate Settlement Procedures Act of*  
18                    *1974 (12 U.S.C. 2604);*

19                    “(iv) *carrying out the certification*  
20                    *program under section 106(e) of the Hous-*  
21                    *ing and Urban Development Act of 1968*  
22                    *(12 U.S.C. 1701x(e));*

23                    “(v) *carrying out the assistance pro-*  
24                    *gram under section 106(a)(4) of the Hous-*  
25                    *ing and Urban Development Act of 1968,*



1           including criteria for selection of applica-  
2           tions to receive assistance;

3           “(vi) carrying out any functions re-  
4           garding abusive, deceptive, or unscrupulous  
5           lending practices relating to residential  
6           mortgage loans that the Secretary considers  
7           appropriate, which shall include conducting  
8           the study under section 6 of the *Expand  
9           and Preserve Home Ownership Through  
10          Counseling Act*;

11          “(vii) providing for operation of the  
12          advisory committee established under para-  
13          graph (4) of this subsection;

14          “(viii) collaborating with community-  
15          based organizations with expertise in the  
16          field of housing counseling; and

17          “(ix) providing for the building of ca-  
18          pacity to provide housing counseling serv-  
19          ices in areas that lack sufficient services.

20          “(4) *ADVISORY COMMITTEE.*—

21                 “(A) *IN GENERAL.*—The Secretary shall ap-  
22                 point an advisory committee to provide advice  
23                 regarding the carrying out of the functions of the  
24                 Director.

1           “(B) *MEMBERS.*—Such advisory committee  
2 shall consist of not more than 12 individuals,  
3 and the membership of the committee shall equal-  
4 ly represent the mortgage and real estate indus-  
5 try, including consumers and housing counseling  
6 agencies certified by the Secretary.

7           “(C) *TERMS.*—Except as provided in sub-  
8 paragraph (D), each member of the advisory  
9 committee shall be appointed for a term of 3  
10 years. Members may be reappointed at the dis-  
11 cretion of the Secretary.

12           “(D) *TERMS OF INITIAL APPOINTEES.*—As  
13 designated by the Secretary at the time of ap-  
14 pointment, of the members first appointed to the  
15 advisory committee, 4 shall be appointed for a  
16 term of 1 year and 4 shall be appointed for a  
17 term of 2 years.

18           “(E) *PROHIBITION OF PAY; TRAVEL EX-*  
19 *PENSES.*—Members of the advisory committee  
20 shall serve without pay, but shall receive travel  
21 expenses, including per diem in lieu of subsist-  
22 ence, in accordance with applicable provisions  
23 under subchapter I of chapter 57 of title 5,  
24 United States Code.

1           “(F) *ADVISORY ROLE ONLY.*—*The advisory*  
 2           *committee shall have no role in reviewing or*  
 3           *awarding housing counseling grants.*

4           “(5) *SCOPE OF HOMEOWNERSHIP COUN-*  
 5           *SELING.*—*In carrying out the responsibilities of the*  
 6           *Director, the Director shall ensure that homeown-*  
 7           *ership counseling provided by, in connection with, or*  
 8           *pursuant to any function, activity, or program of the*  
 9           *Department addresses the entire process of homeown-*  
 10           *ership, including the decision to purchase a home, the*  
 11           *selection and purchase of a home, issues arising dur-*  
 12           *ing or affecting the period of ownership of a home*  
 13           *(including refinancing, default and foreclosure, and*  
 14           *other financial decisions), and the sale or other dis-*  
 15           *position of a home.”.*

16 **SEC. 403. COUNSELING PROCEDURES.**

17           “(a) *IN GENERAL.*—*Section 106 of the Housing and*  
 18           *Urban Development Act of 1968 (12 U.S.C. 1701x) is*  
 19           *amended by adding at the end the following new subsection:*

20           “(g) *PROCEDURES AND ACTIVITIES.*—

21           “(1) *COUNSELING PROCEDURES.*—

22           “(A) *IN GENERAL.*—*The Secretary shall es-*  
 23           *tablish, coordinate, and monitor the administra-*  
 24           *tion by the Department of Housing and Urban*  
 25           *Development of the counseling procedures for*

1           *homeownership counseling and rental housing*  
2           *counseling provided in connection with any pro-*  
3           *gram of the Department, including all require-*  
4           *ments, standards, and performance measures*  
5           *that relate to homeownership and rental housing*  
6           *counseling.*

7           “(B) *HOMEOWNERSHIP COUNSELING.*—*For*  
8           *purposes of this subsection and as used in the*  
9           *provisions referred to in this subparagraph, the*  
10           *term ‘homeownership counseling’ means coun-*  
11           *seling related to homeownership and residential*  
12           *mortgage loans. Such term includes counseling*  
13           *related to homeownership and residential mort-*  
14           *gage loans that is provided pursuant to—*

15                   “(i) *section 105(a)(20) of the Housing*  
16                   *and Community Development Act of 1974*  
17                   *(42 U.S.C. 5305(a)(20));*

18                   “(ii) *in the United States Housing Act*  
19                   *of 1937—*

20                           “(I) *section 9(e) (42 U.S.C.*  
21                           *1437g(e));*

22                           “(II) *section 8(y)(1)(D) (42*  
23                           *U.S.C. 1437f(y)(1)(D));*

24                           “(III) *section 18(a)(4)(D) (42*  
25                           *U.S.C. 1437p(a)(4)(D));*

1                   “(IV) section 23(c)(4) (42 U.S.C.  
2                   1437u(c)(4));

3                   “(V) section 32(e)(4) (42 U.S.C.  
4                   1437z-4(e)(4));

5                   “(VI) section 33(d)(2)(B) (42  
6                   U.S.C. 1437z-5(d)(2)(B));

7                   “(VII) sections 302(b)(6) and  
8                   303(b)(7) (42 U.S.C. 1437aaa-1(b)(6),  
9                   1437aaa-2(b)(7)); and

10                  “(VIII) section 304(c)(4) (42  
11                  U.S.C. 1437aaa-3(c)(4));

12                  “(iii) section 302(a)(4) of the Amer-  
13                  ican Homeownership and Economic Oppor-  
14                  tunity Act of 2000 (42 U.S.C. 1437f note);

15                  “(iv) sections 233(b)(2) and 258(b) of  
16                  the Cranston-Gonzalez National Affordable  
17                  Housing Act (42 U.S.C. 12773(b)(2),  
18                  12808(b));

19                  “(v) this section and section 101(e) of  
20                  the Housing and Urban Development Act of  
21                  1968 (12 U.S.C. 1701x, 1701w(e));

22                  “(vi) section 220(d)(2)(G) of the Low-  
23                  Income Housing Preservation and Resident  
24                  Homeownership Act of 1990 (12 U.S.C.  
25                  4110(d)(2)(G));

1           “(vii) sections 422(b)(6), 423(b)(7),  
2           424(c)(4), 442(b)(6), and 443(b)(6) of the  
3           *Cranston-Gonzalez National Affordable*  
4           *Housing Act* (42 U.S.C. 12872(b)(6),  
5           12873(b)(7), 12874(c)(4), 12892(b)(6), and  
6           12893(b)(6));

7           “(viii) section 491(b)(1)(F)(iii) of the  
8           *McKinney-Vento Homeless Assistance Act*  
9           (42 U.S.C. 11408(b)(1)(F)(iii));

10           “(ix) sections 202(3) and 810(b)(2)(A)  
11           of the *Native American Housing and Self-*  
12           *Determination Act of 1996* (25 U.S.C.  
13           4132(3), 4229(b)(2)(A));

14           “(x) in the *National Housing Act*—

15           “(I) in section 203 (12 U.S.C.  
16           1709), the penultimate undesignated  
17           paragraph of paragraph (2) of sub-  
18           section (b), subsection (c)(2)(A), and  
19           subsection (r)(4);

20           “(II) subsections (a) and (c)(3) of  
21           section 237 (12 U.S.C. 1715z–2); and

22           “(III) subsections (d)(2)(B) and  
23           (m)(1) of section 255 (12 U.S.C.  
24           1715z–20);

1           “(xi) section 502(h)(4)(B) of the Hous-  
2           ing Act of 1949 (42 U.S.C. 1472(h)(4)(B));  
3           and

4           “(xii) section 508 of the Housing and  
5           Urban Development Act of 1970 (12 U.S.C.  
6           1701z-7).

7           “(C) RENTAL HOUSING COUNSELING.—For  
8           purposes of this subsection, the term ‘rental hous-  
9           ing counseling’ means counseling related to rent-  
10          al of residential property, which may include  
11          counseling regarding future homeownership op-  
12          portunities and providing referrals for renters  
13          and prospective renters to entities providing  
14          counseling and shall include counseling related  
15          to such topics that is provided pursuant to—

16               “(i) section 105(a)(20) of the Housing  
17               and Community Development Act of 1974  
18               (42 U.S.C. 5305(a)(20));

19               “(ii) in the United States Housing Act  
20               of 1937—

21                       “(I) section 9(e) (42 U.S.C.  
22                       1437g(e));

23                       “(II) section 18(a)(4)(D) (42  
24                       U.S.C. 1437p(a)(4)(D));

1                   “(III) section 23(c)(4) (42 U.S.C.  
2                   1437u(c)(4));

3                   “(IV) section 32(e)(4) (42 U.S.C.  
4                   1437z-4(e)(4));

5                   “(V) section 33(d)(2)(B) (42  
6                   U.S.C. 1437z-5(d)(2)(B)); and

7                   “(VI) section 302(b)(6) (42 U.S.C.  
8                   1437aaa-1(b)(6));

9                   “(iii) section 233(b)(2) of the Cran-  
10                   ston-Gonzalez National Affordable Housing  
11                   Act (42 U.S.C. 12773(b)(2));

12                   “(iv) section 106 of the Housing and  
13                   Urban Development Act of 1968 (12 U.S.C.  
14                   1701x);

15                   “(v) section 422(b)(6) of the Cranston-  
16                   Gonzalez National Affordable Housing Act  
17                   (42 U.S.C. 12872(b)(6));

18                   “(vi) section 491(b)(1)(F)(iii) of the  
19                   McKinney-Vento Homeless Assistance Act  
20                   (42 U.S.C. 11408(b)(1)(F)(iii));

21                   “(vii) sections 202(3) and 810(b)(2)(A)  
22                   of the Native American Housing and Self-  
23                   Determination Act of 1996 (25 U.S.C.  
24                   4132(3), 4229(b)(2)(A)); and



1                   “(viii) the rental assistance program  
2                   under section 8 of the United States Hous-  
3                   ing Act of 1937 (42 U.S.C. 1437f).

4                   “(2) STANDARDS FOR MATERIALS.—The Sec-  
5                   retary, in consultation with the advisory committee  
6                   established under subsection (g)(4) of the Department  
7                   of Housing and Urban Development Act, shall estab-  
8                   lish standards for materials and forms to be used, as  
9                   appropriate, by organizations providing homeowner-  
10                  ship counseling services, including any recipients of  
11                  assistance pursuant to subsection (a)(4).

12                  “(3) MORTGAGE SOFTWARE SYSTEMS.—

13                  “(A) CERTIFICATION.—The Secretary shall  
14                  provide for the certification of various computer  
15                  software programs for consumers to use in evalu-  
16                  ating different residential mortgage loan pro-  
17                  posals. The Secretary shall require, for such cer-  
18                  tification, that the mortgage software systems  
19                  take into account—

20                  “(i) the consumer’s financial situation  
21                  and the cost of maintaining a home, includ-  
22                  ing insurance, taxes, and utilities;

23                  “(ii) the amount of time the consumer  
24                  expects to remain in the home or expected  
25                  time to maturity of the loan; and

1           “(iii) such other factors as the Sec-  
2           retary considers appropriate to assist the  
3           consumer in evaluating whether to pay  
4           points, to lock in an interest rate, to select  
5           an adjustable or fixed rate loan, to select a  
6           conventional or government-insured or  
7           guaranteed loan and to make other choices  
8           during the loan application process.

9           If the Secretary determines that available exist-  
10          ing software is inadequate to assist consumers  
11          during the residential mortgage loan application  
12          process, the Secretary shall arrange for the devel-  
13          opment by private sector software companies of  
14          new mortgage software systems that meet the  
15          Secretary’s specifications.

16          “(B) USE AND INITIAL AVAILABILITY.—  
17          Such certified computer software programs shall  
18          be used to supplement, not replace, housing coun-  
19          seling. The Secretary shall provide that such pro-  
20          grams are initially used only in connection with  
21          the assistance of housing counselors certified pur-  
22          suant to subsection (e).

23          “(C) AVAILABILITY.—After a period of ini-  
24          tial availability under subparagraph (B) as the  
25          Secretary considers appropriate, the Secretary

1       *shall take reasonable steps to make mortgage*  
2       *software systems certified pursuant to this para-*  
3       *graph widely available through the Internet and*  
4       *at public locations, including public libraries,*  
5       *senior-citizen centers, public housing sites, offices*  
6       *of public housing agencies that administer rental*  
7       *housing assistance vouchers, and housing coun-*  
8       *seling centers.*

9               “(D) *BUDGET COMPLIANCE.*—*This para-*  
10       *graph shall be effective only to the extent that*  
11       *amounts to carry out this paragraph are made*  
12       *available in advance in appropriations Acts.*

13               “(4) *NATIONAL PUBLIC SERVICE MULTIMEDIA*  
14       *CAMPAIGNS TO PROMOTE HOUSING COUNSELING.*—

15               “(A) *IN GENERAL.*—*The Director of Hous-*  
16       *ing Counseling shall develop, implement, and*  
17       *conduct national public service multimedia cam-*  
18       *paigns designed to make persons facing mortgage*  
19       *foreclosure, persons considering a subprime*  
20       *mortgage loan to purchase a home, elderly per-*  
21       *sons, persons who face language barriers, low-in-*  
22       *come persons, minorities, and other potentially*  
23       *vulnerable consumers aware that it is advisable,*  
24       *before seeking or maintaining a residential mort-*  
25       *gage loan, to obtain homeownership counseling*

1 *from an unbiased and reliable sources and that*  
2 *such homeownership counseling is available, in-*  
3 *cluding through programs sponsored by the Sec-*  
4 *retary of Housing and Urban Development.*

5 “(B) *CONTACT INFORMATION.—Each seg-*  
6 *ment of the multimedia campaign under sub-*  
7 *paragraph (A) shall publicize the toll-free tele-*  
8 *phone number and website of the Department of*  
9 *Housing and Urban Development through which*  
10 *persons seeking housing counseling can locate a*  
11 *housing counseling agency in their State that is*  
12 *certified by the Secretary of Housing and Urban*  
13 *Development and can provide advice on buying*  
14 *a home, renting, defaults, foreclosures, credit*  
15 *issues, and reverse mortgages.*

16 “(C) *AUTHORIZATION OF APPROPRIA-*  
17 *TIONS.—There are authorized to be appropriated*  
18 *to the Secretary, not to exceed \$3,000,000 for fis-*  
19 *cal years 2009, 2010, and 2011, for the develop-*  
20 *ment, implementation, and conduct of national*  
21 *public service multimedia campaigns under this*  
22 *paragraph.*

23 “(D) *FORECLOSURE RESCUE EDUCATION*  
24 *PROGRAMS.—*

1           “(i) *IN GENERAL.*—Ten percent of any  
2           *funds appropriated pursuant to the author-*  
3           *ization under subparagraph (C) shall be*  
4           *used by the Director of Housing Counseling*  
5           *to conduct an education program in areas*  
6           *that have a high density of foreclosure. Such*  
7           *program shall involve direct mailings to*  
8           *persons living in such areas describing—*

9                     “(I) *tips on avoiding foreclosure*  
10                    *rescue scams;*

11                   “(II) *tips on avoiding predatory*  
12                    *lending mortgage agreements;*

13                   “(III) *tips on avoiding for-profit*  
14                    *foreclosure counseling services; and*

15                   “(IV) *local counseling resources*  
16                    *that are approved by the Department*  
17                    *of Housing and Urban Development.*

18           “(ii) *PROGRAM EMPHASIS.*—*In con-*  
19           *ducting the education program described*  
20           *under clause (i), the Director of Housing*  
21           *Counseling shall also place an emphasis on*  
22           *serving communities that have a high per-*  
23           *centage of retirement communities or a high*  
24           *percentage of low-income minority commu-*  
25           *nities.*

1                   “(iii) *TERMS DEFINED.*—For purposes  
2 of this subparagraph:

3                   “(I) *HIGH DENSITY OF FORE-*  
4 *CLOSURES.*—An area has a ‘high den-  
5 sity of foreclosures’ if such area is one  
6 of the metropolitan statistical areas (as  
7 that term is defined by the Director of  
8 the Office of Management and Budget)  
9 with the highest home foreclosure rates.

10                   “(II) *HIGH PERCENTAGE OF RE-*  
11 *TIREMENT COMMUNITIES.*—An area  
12 has a ‘high percentage of retirement  
13 communities’ if such area is one of the  
14 metropolitan statistical areas (as that  
15 term is defined by the Director of the  
16 Office of Management and Budget)  
17 with the highest percentage of residents  
18 aged 65 or older.

19                   “(III) *HIGH PERCENTAGE OF*  
20 *LOW-INCOME MINORITY COMMU-*  
21 *NITIES.*—An area has a ‘high percent-  
22 age of low-income minority commu-  
23 nities’ if such area contains a higher-  
24 than-normal percentage of residents  
25 who are both minorities and low-in-

1                   *come, as defined by the Director of*  
2                   *Housing Counseling.*

3                   “(5) *EDUCATION PROGRAMS.—The Secretary*  
4                   *shall provide advice and technical assistance to*  
5                   *States, units of general local government, and non-*  
6                   *profit organizations regarding the establishment and*  
7                   *operation of, including assistance with the develop-*  
8                   *ment of content and materials for, educational pro-*  
9                   *grams to inform and educate consumers, particularly*  
10                   *those most vulnerable with respect to residential mort-*  
11                   *gage loans (such as elderly persons, persons facing*  
12                   *language barriers, low-income persons, minorities,*  
13                   *and other potentially vulnerable consumers), regard-*  
14                   *ing home mortgages, mortgage refinancing, home eq-*  
15                   *uity loans, and home repair loans.”.*

16                   **(b) CONFORMING AMENDMENTS TO GRANT PROGRAM**  
17 **FOR HOMEOWNERSHIP COUNSELING ORGANIZATIONS.—**  
18 *Section 106(c)(5)(A)(ii) of the Housing and Urban Devel-*  
19 *opment Act of 1968 (12 U.S.C. 1701x(c)(5)(A)(ii)) is*  
20 *amended—*

21                   (1) *in subclause (III), by striking “and” at the*  
22                   *end;*

23                   (2) *in subclause (IV) by striking the period at*  
24                   *the end and inserting “; and”; and*

1           (3) by inserting after subclause (IV) the fol-  
2           lowing new subclause:

3                           “(V) notify the housing or mort-  
4                           gage applicant of the availability of  
5                           mortgage software systems provided  
6                           pursuant to subsection (g)(3).”.

7 **SEC. 404. GRANTS FOR HOUSING COUNSELING ASSISTANCE.**

8           Section 106(a) of the Housing and Urban Development  
9 Act of 1968 (12 U.S.C. 1701x(a)(3)) is amended by adding  
10 at the end the following new paragraph:

11           “(4) HOMEOWNERSHIP AND RENTAL COUNSELING AS-  
12 SISTANCE.—

13                   “(A) IN GENERAL.—The Secretary shall make fi-  
14 nancial assistance available under this paragraph to  
15 HUD-approved housing counseling agencies and State  
16 housing finance agencies.

17                   “(B) QUALIFIED ENTITIES.—The Secretary shall  
18 establish standards and guidelines for eligibility of or-  
19 ganizations (including governmental and nonprofit  
20 organizations) to receive assistance under this para-  
21 graph, in accordance with subparagraph (D).

22                   “(C) DISTRIBUTION.—Assistance made available  
23 under this paragraph shall be distributed in a man-  
24 ner that encourages efficient and successful counseling  
25 programs.



1           “(D) *LIMITATION ON DISTRIBUTION OF ASSIST-*  
2           *ANCE.—*

3           “(i) *IN GENERAL.—None of the assistance*  
4           *made available under this paragraph shall be*  
5           *distributed to—*

6           “(I) *any organization which has been*  
7           *indicted for a violation under Federal law*  
8           *relating to an election for Federal office; or*

9           “(II) *any organization which employs*  
10          *applicable individuals.*

11          “(i) *DEFINITION OF APPLICABLE INDI-*  
12          *VIDUAL.—In this subparagraph, the term ‘appli-*  
13          *cable individual’ means an individual who—*

14               “(I) *is—*

15               “(aa) *employed by the organiza-*  
16               *tion in a permanent or temporary ca-*  
17               *capacity;*

18               “(bb) *contracted or retained by*  
19               *the organization; or*

20               “(cc) *acting on behalf of, or with*  
21               *the express or apparent authority of,*  
22               *the organization; and*

23               “(II) *has been indicted for a violation*  
24               *under Federal law relating to an election*  
25               *for Federal office.*

1           “(E) *GRANTMAKING PROCESS.*—*In making as-*  
2           *stance available under this paragraph, the Secretary*  
3           *shall consider appropriate ways of streamlining and*  
4           *improving the processes for grant application, review,*  
5           *approval, and award.*

6           “(F) *AUTHORIZATION OF APPROPRIATIONS.*—  
7           *There are authorized to be appropriated \$45,000,000*  
8           *for each of fiscal years 2009 through 2012 for—*

9                   “(i) *the operations of the Office of Housing*  
10                  *Counseling of the Department of Housing and*  
11                  *Urban Development;*

12                   “(ii) *the responsibilities of the Director of*  
13                  *Housing Counseling under paragraphs (2)*  
14                  *through (5) of subsection (g); and*

15                   “(iii) *assistance pursuant to this paragraph*  
16                  *for entities providing homeownership and rental*  
17                  *counseling.”.*

18 **SEC. 405. REQUIREMENTS TO USE HUD-CERTIFIED COUN-**

19                   **SELORS UNDER HUD PROGRAMS.**

20           *Section 106(e) of the Housing and Urban Development*  
21 *Act of 1968 (12 U.S.C. 1701x(e)) is amended—*

22                   (1) *by striking paragraph (1) and inserting the*  
23                  *following new paragraph:*

24                   “(1) *REQUIREMENT FOR ASSISTANCE.*—*An orga-*  
25                  *nization may not receive assistance for counseling ac-*

1 *tivities under subsection (a)(1)(iii), (a)(2), (a)(4), (c),*  
2 *or (d) of this section, or under section 101(e), unless*  
3 *the organization, or the individuals through which the*  
4 *organization provides such counseling, has been cer-*  
5 *tified by the Secretary under this subsection as com-*  
6 *petent to provide such counseling.”;*

7 *(2) in paragraph (2)—*

8 *(A) by inserting “and for certifying organi-*  
9 *zations” before the period at the end of the first*  
10 *sentence; and*

11 *(B) in the second sentence by striking “for*  
12 *certification” and inserting “, for certification of*  
13 *an organization, that each individual through*  
14 *which the organization provides counseling shall*  
15 *demonstrate, and, for certification of an indi-*  
16 *vidual,”;*

17 *(3) in paragraph (3), by inserting “organiza-*  
18 *tions and” before “individuals”;*

19 *(4) by redesignating paragraph (3) as para-*  
20 *graph (5); and*

21 *(5) by inserting after paragraph (2) the fol-*  
22 *lowing new paragraphs:*

23 *“(3) REQUIREMENT UNDER HUD PROGRAMS.—*

24 *Any homeownership counseling or rental housing*  
25 *counseling (as such terms are defined in subsection*

1       (g)(1)) required under, or provided in connection  
2       with, any program administered by the Department  
3       of Housing and Urban Development shall be provided  
4       only by organizations or counselors certified by the  
5       Secretary under this subsection as competent to pro-  
6       vide such counseling.

7               “(4) *OUTREACH.*—The Secretary shall take such  
8       actions as the Secretary considers appropriate to en-  
9       sure that individuals and organizations providing  
10      homeownership or rental housing counseling are  
11      aware of the certification requirements and standards  
12      of this subsection and of the training and certification  
13      programs under subsection (f).”

14   **SEC. 406. STUDY OF DEFAULTS AND FORECLOSURES.**

15       The Secretary of Housing and Urban Development  
16      shall conduct an extensive study of the root causes of default  
17      and foreclosure of home loans, using as much empirical  
18      data as are available. The study shall also examine the role  
19      of escrow accounts in helping prime and nonprime bor-  
20      rowers to avoid defaults and foreclosures. Not later than 12  
21      months after the date of the enactment of this Act, the Sec-  
22      retary shall submit to the Congress a preliminary report  
23      regarding the study. Not later than 24 months after such  
24      date of enactment, the Secretary shall submit a final report  
25      regarding the results of the study, which shall include any

1 *recommended legislation relating to the study, and rec-*  
2 *ommendations for best practices and for a process to iden-*  
3 *tify populations that need counseling the most.*

4 **SEC. 407. DEFINITIONS FOR COUNSELING-RELATED PRO-**  
5 **GRAMS.**

6 *Section 106 of the Housing and Urban Development*  
7 *Act of 1968 (12 U.S.C. 1701x), as amended by the preceding*  
8 *provisions of this title, is further amended by adding at*  
9 *the end the following new subsection:*

10 *“(h) DEFINITIONS.—For purposes of this section:*

11 *“(1) NONPROFIT ORGANIZATION.—The term*  
12 *‘nonprofit organization’ has the meaning given such*  
13 *term in section 104(5) of the Cranston-Gonzalez Na-*  
14 *tional Affordable Housing Act (42 U.S.C. 12704(5)),*  
15 *except that subparagraph (D) of such section shall not*  
16 *apply for purposes of this section.*

17 *“(2) STATE.—The term ‘State’ means each of the*  
18 *several States, the Commonwealth of Puerto Rico, the*  
19 *District of Columbia, the Commonwealth of the North-*  
20 *ern Mariana Islands, Guam, the Virgin Islands,*  
21 *American Samoa, the Trust Territories of the Pacific,*  
22 *or any other possession of the United States.*

23 *“(3) UNIT OF GENERAL LOCAL GOVERNMENT.—*  
24 *The term ‘unit of general local government’ means*  
25 *any city, county, parish, town, township, borough,*

1 *village, or other general purpose political subdivision*  
 2 *of a State.*

3 “(4) *HUD-APPROVED COUNSELING AGENCY.*—  
 4 *The term ‘HUD-approved counseling agency’ means a*  
 5 *private or public nonprofit organization that is—*

6 “(A) *exempt from taxation under section*  
 7 *501(c) of the Internal Revenue Code of 1986; and*

8 “(B) *certified by the Secretary to provide*  
 9 *housing counseling services.*

10 “(5) *STATE HOUSING FINANCE AGENCY.*—*The*  
 11 *term ‘State housing finance agency’ means any public*  
 12 *body, agency, or instrumentality specifically created*  
 13 *under State statute that is authorised to finance ac-*  
 14 *tivities designed to provide housing and related facili-*  
 15 *ties throughout an entire State through land acqui-*  
 16 *sition, construction, or rehabilitation.’.*

17 **SEC. 408. UPDATING AND SIMPLIFICATION OF MORTGAGE**  
 18 **INFORMATION BOOKLET.**

19 *Section 5 of the Real Estate Settlement Procedures Act*  
 20 *of 1974 (12 U.S.C. 2604) is amended—*

21 *(1) in the section heading, by striking “SPECIAL”*  
 22 *and inserting “HOME BUYING”;*

23 *(2) by striking subsections (a) and (b) and in-*  
 24 *serting the following new subsections:*

1           “(a) *PREPARATION AND DISTRIBUTION.*—*The Sec-*  
2 *retary shall prepare, at least once every 5 years, a booklet*  
3 *to help consumers applying for federally related mortgage*  
4 *loans to understand the nature and costs of real estate settle-*  
5 *ment services. The Secretary shall prepare the booklet in*  
6 *various languages and cultural styles, as the Secretary de-*  
7 *termines to be appropriate, so that the booklet is under-*  
8 *standable and accessible to homebuyers of different ethnic*  
9 *and cultural backgrounds. The Secretary shall distribute*  
10 *such booklets to all lenders that make federally related mort-*  
11 *gage loans. The Secretary shall also distribute to such lend-*  
12 *ers lists, organized by location, of homeownership counselors*  
13 *certified under section 106(e) of the Housing and Urban*  
14 *Development Act of 1968 (12 U.S.C. 1701x(e)) for use in*  
15 *complying with the requirement under subsection (c) of this*  
16 *section.*

17           “(b) *CONTENTS.*—*Each booklet shall be in such form*  
18 *and detail as the Secretary shall prescribe and, in addition*  
19 *to such other information as the Secretary may provide,*  
20 *shall include in plain and understandable language the fol-*  
21 *lowing information:*

22                   “(1) *A description and explanation of the nature*  
23 *and purpose of the costs incident to a real estate set-*  
24 *tlement or a federally related mortgage loan. The de-*  
25 *scription and explanation shall provide general infor-*

1 *mation about the mortgage process as well as specific*  
2 *information concerning, at a minimum—*

3 *“(A) balloon payments;*

4 *“(B) prepayment penalties; and*

5 *“(C) the trade-off between closing costs and*  
6 *the interest rate over the life of the loan.*

7 *“(2) An explanation and sample of the uniform*  
8 *settlement statement required by section 4.*

9 *“(3) A list and explanation of lending practices,*  
10 *including those prohibited by the Truth in Lending*  
11 *Act or other applicable Federal law, and of other un-*  
12 *fair practices and unreasonable or unnecessary*  
13 *charges to be avoided by the prospective buyer with*  
14 *respect to a real estate settlement.*

15 *“(4) A list and explanation of questions a con-*  
16 *sumer obtaining a federally related mortgage loan*  
17 *should ask regarding the loan, including whether the*  
18 *consumer will have the ability to repay the loan,*  
19 *whether the consumer sufficiently shopped for the*  
20 *loan, whether the loan terms include prepayment pen-*  
21 *alties or balloon payments, and whether the loan will*  
22 *benefit the borrower.*

23 *“(5) An explanation of the right of rescission as*  
24 *to certain transactions provided by sections 125 and*  
25 *129 of the Truth in Lending Act.*



1           “(6) A brief explanation of the nature of a vari-  
2           able rate mortgage and a reference to the booklet enti-  
3           tled ‘Consumer Handbook on Adjustable Rate Mort-  
4           gages’, published by the Board of Governors of the  
5           Federal Reserve System pursuant to section  
6           226.19(b)(1) of title 12, Code of Federal Regulations,  
7           or to any suitable substitute of such booklet that such  
8           Board of Governors may subsequently adopt pursuant  
9           to such section.

10           “(7) A brief explanation of the nature of a home  
11           equity line of credit and a reference to the pamphlet  
12           required to be provided under section 127A of the  
13           Truth in Lending Act.

14           “(8) Information about homeownership coun-  
15           seling services made available pursuant to section  
16           106(a)(4) of the Housing and Urban Development Act  
17           of 1968 (12 U.S.C. 1701x(a)(4)), a recommendation  
18           that the consumer use such services, and notification  
19           that a list of certified providers of homeownership  
20           counseling in the area, and their contact information,  
21           is available.

22           “(9) An explanation of the nature and purpose  
23           of escrow accounts when used in connection with  
24           loans secured by residential real estate and the re-

1        *quirements under section 10 of this Act regarding*  
2        *such accounts.*

3                *“(10) An explanation of the choices available to*  
4        *buyers of residential real estate in selecting persons to*  
5        *provide necessary services incidental to a real estate*  
6        *settlement.*

7                *“(11) An explanation of a consumer’s respon-*  
8        *sibilities, liabilities, and obligations in a mortgage*  
9        *transaction.*

10               *“(12) An explanation of the nature and purpose*  
11       *of real estate appraisals, including the difference be-*  
12       *tween an appraisal and a home inspection.*

13               *“(13) Notice that the Office of Housing of the*  
14       *Department of Housing and Urban Development has*  
15       *made publicly available a brochure regarding loan*  
16       *fraud and a World Wide Web address and toll-free*  
17       *telephone number for obtaining the brochure.*

18       *The booklet prepared pursuant to this section shall take into*  
19       *consideration differences in real estate settlement procedures*  
20       *that may exist among the several States and territories of*  
21       *the United States and among separate political subdivi-*  
22       *sions within the same State and territory.”;*

23               *(3) in subsection (c), by inserting at the end the*  
24       *following new sentence: “Each lender shall also in-*  
25       *clude with the booklet a reasonably complete or up-*

1 *dated list of homeownership counselors who are cer-*  
2 *tified pursuant to section 106(e) of the Housing and*  
3 *Urban Development Act of 1968 (12 U.S.C. 1701x(e))*  
4 *and located in the area of the lender.”; and*

5 *(4) in subsection (d), by inserting after the pe-*  
6 *riod at the end of the first sentence the following:*  
7 *“The lender shall provide the HUD-issued booklet in*  
8 *the version that is most appropriate for the person re-*  
9 *ceiving it.”.*

10 **SEC. 409. HOME INSPECTION COUNSELING.**

11 *(a) PUBLIC OUTREACH.—*

12 *(1) IN GENERAL.—The Secretary of Housing and*  
13 *Urban Development (in this section referred to as the*  
14 *“Secretary”) shall take such actions as may be nec-*  
15 *essary to inform potential homebuyers of the avail-*  
16 *ability and importance of obtaining an independent*  
17 *home inspection. Such actions shall include—*

18 *(A) publication of the HUD/FHA form*  
19 *HUD 92564–CN entitled “For Your Protection:*  
20 *Get a Home Inspection”, in both English and*  
21 *Spanish languages;*

22 *(B) publication of the HUD/FHA booklet*  
23 *entitled “For Your Protection: Get a Home In-*  
24 *spection”, in both English and Spanish lan-*  
25 *guages;*

1           (C) development and publication of a HUD  
2           booklet entitled “For Your Protection—Get a  
3           Home Inspection” that does not reference FHA-  
4           insured homes, in both English and Spanish lan-  
5           guages; and

6           (D) publication of the HUD document enti-  
7           tled “Ten Important Questions To Ask Your  
8           Home Inspector”, in both English and Spanish  
9           languages.

10          (2) AVAILABILITY.—The Secretary shall make the  
11          materials specified in paragraph (1) available for  
12          electronic access and, where appropriate, inform po-  
13          tential homebuyers of such availability through home  
14          purchase counseling public service announcements  
15          and toll-free telephone hotlines of the Department of  
16          Housing and Urban Development. The Secretary shall  
17          give special emphasis to reaching first-time and low-  
18          income homebuyers with these materials and efforts.

19          (3) UPDATING.—The Secretary may periodically  
20          update and revise such materials, as the Secretary de-  
21          termines to be appropriate.

22          (b) REQUIREMENT FOR FHA-APPROVED LENDERS.—  
23          Each mortgagee approved for participation in the mortgage  
24          insurance programs under title II of the National Housing  
25          Act shall provide prospective homebuyers, at first contact,

1 *whether upon pre-qualification, pre-approval, or initial ap-*  
2 *plication, the materials specified in subparagraphs (A),*  
3 *(B), and (D) of subsection (a)(1).*

4 *(c) REQUIREMENTS FOR HUD-APPROVED COUN-*  
5 *SELING AGENCIES.—Each counseling agency certified pur-*  
6 *suant by the Secretary to provide housing counseling serv-*  
7 *ices shall provide each of their clients, as part of the home*  
8 *purchase counseling process, the materials specified in sub-*  
9 *paragraphs (C) and (D) of subsection (a)(1).*

10 *(d) TRAINING.—Training provided the Department of*  
11 *Housing and Urban Development for housing counseling*  
12 *agencies, whether such training is provided directly by the*  
13 *Department or otherwise, shall include—*

14 *(1) providing information on counseling poten-*  
15 *tial homebuyers of the availability and importance of*  
16 *getting an independent home inspection;*

17 *(2) providing information about the home in-*  
18 *spection process, including the reasons for specific in-*  
19 *spections such as radon and lead-based paint testing;*

20 *(3) providing information about advising poten-*  
21 *tial homebuyers on how to locate and select a quali-*  
22 *fied home inspector; and*

23 *(4) review of home inspection public outreach*  
24 *materials of the Department.*

1 **TITLE V—MORTGAGE SERVICING**

2 **SEC. 501. ESCROW AND IMPOUND ACCOUNTS RELATING TO**  
3 **CERTAIN CONSUMER CREDIT TRANSACTIONS.**

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

8 **“SEC. 129D. ESCROW OR IMPOUND ACCOUNTS RELATING TO**  
9 **CERTAIN CONSUMER CREDIT TRANSACTIONS.**

10 “(a) *IN GENERAL.*—Except as provided in subsection  
11 (b), (c), or (d), a creditor, in connection with the formation  
12 or consummation of a consumer credit transaction secured  
13 by a first lien on the principal dwelling of the consumer,  
14 other than a consumer credit transaction under an open  
15 end credit plan or a reverse mortgage, shall establish, before  
16 the consummation of such transaction, an escrow or im-  
17 pound account for the payment of taxes and hazard insur-  
18 ance, and, if applicable, flood insurance, mortgage insur-  
19 ance, ground rents, and any other required periodic pay-  
20 ments or premiums with respect to the property or the loan  
21 terms, as provided in, and in accordance with, this section.

22 “(b) *WHEN REQUIRED.*—No impound, trust, or other  
23 type of account for the payment of property taxes, insur-  
24 ance premiums, or other purposes relating to the property  
25 may be required as a condition of a real property sale con-

1 tract or a loan secured by a first deed of trust or mortgage  
2 on the principal dwelling of the consumer, other than a con-  
3 sumer credit transaction under an open end credit plan or  
4 a reverse mortgage, except when—

5           “(1) any such impound, trust, or other type of  
6 escrow or impound account for such purposes is re-  
7 quired by Federal or State law;

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

11           “(3) the transaction is secured by a first mort-  
12 gage or lien on the consumer’s principal dwelling and  
13 the annual percentage rate on the credit, at the date  
14 the interest rate is set, will exceed the average prime  
15 offer rate for a comparable transaction by 1.5 per-  
16 centage points or more; or

17           “(4) so required pursuant to regulation.

18           “(c) *DURATION OF MANDATORY ESCROW OR IMPOUND*  
19 *ACCOUNT.*—An escrow or impound account established pur-  
20 suant to subsection (b), shall remain in existence for a min-  
21 imum period of 5 years, beginning with the date of the con-  
22 summation of the loan, and until such borrower has suffi-  
23 cient equity in the dwelling securing the consumer credit  
24 transaction so as to no longer be required to maintain pri-  
25 vate mortgage insurance, or such other period as may be

1 *provided in regulations to address situations such as bor-*  
2 *rower delinquency, unless the underlying mortgage estab-*  
3 *lishing the account is terminated.*

4       “(d) *LIMITED EXEMPTIONS FOR LOANS SECURED BY*  
5 *SHARES IN A COOPERATIVE AND FOR CERTAIN CONDO-*  
6 *MINIUM UNITS.*—*Escrow accounts need not be established*  
7 *for loans secured by shares in a cooperative. Insurance pre-*  
8 *miums need not be included in escrow accounts for loans*  
9 *secured by condominium units, where the condominium as-*  
10 *sociation has an obligation to the condominium unit owners*  
11 *to maintain a master policy insuring condominium units.*

12       “(e) *CLARIFICATION ON ESCROW ACCOUNTS FOR*  
13 *LOANS NOT MEETING STATUTORY TEST.*—*For mortgages*  
14 *not covered by the requirements of subsection (b), no provi-*  
15 *sion of this section shall be construed as precluding the es-*  
16 *tablishment of an impound, trust, or other type of account*  
17 *for the payment of property taxes, insurance premiums, or*  
18 *other purposes relating to the property—*

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

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

24               “(3) *pursuant to the requirements for the*  
25 *escrowing of flood insurance payments for regulated*



1 *lending institutions in section 102(d) of the Flood*  
2 *Disaster Protection Act of 1973.*

3 “(f) *ADMINISTRATION OF MANDATORY ESCROW OR IM-*  
4 *POUND ACCOUNTS.—*

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

10 “(2) *ADMINISTRATION.—Except as provided in*  
11 *this section or regulations prescribed under this sec-*  
12 *tion, an escrow or impound account subject to this*  
13 *section shall be administered in accordance with—*

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

17 “(B) *the Flood Disaster Protection Act of*  
18 *1973 and regulations prescribed under such Act;*  
19 *and*

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

23 “(3) *APPLICABILITY OF PAYMENT OF INTER-*  
24 *EST.—If prescribed by applicable State or Federal*  
25 *law, each creditor shall pay interest to the consumer*

1        *on the amount held in any impound, trust, or escrow*  
2        *account that is subject to this section in the manner*  
3        *as prescribed by that applicable State or Federal law.*

4            *“(4) PENALTY COORDINATION WITH RESPA.—*  
5        *Any action or omission on the part of any person*  
6        *which constitutes a violation of the Real Estate Set-*  
7        *tlement Procedures Act of 1974 or any regulation pre-*  
8        *scribed under such Act for which the person has paid*  
9        *any fine, civil money penalty, or other damages shall*  
10       *not give rise to any additional fine, civil money pen-*  
11       *alty, or other damages under this section, unless the*  
12       *action or omission also constitutes a direct violation*  
13       *of this section.*

14           *“(g) DISCLOSURES RELATING TO MANDATORY ES-*  
15       *CROW OR IMPOUND ACCOUNT.—In the case of any im-*  
16       *pound, trust, or escrow account that is subject to this sec-*  
17       *tion, the creditor shall disclose by written notice to the con-*  
18       *sumer at least 3 business days before the consummation of*  
19       *the consumer credit transaction giving rise to such account*  
20       *or in accordance with timeframes established in prescribed*  
21       *regulations the following information:*

22            *“(1) The fact that an escrow or impound account*  
23        *will be established at consummation of the trans-*  
24        *action.*

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

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

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

18           “(5) *The fact that, if the consumer chooses to ter-*  
19 *minate the account at the appropriate time in the fu-*  
20 *ture, the consumer will become responsible for the*  
21 *payment of all taxes, hazard insurance, and flood in-*  
22 *surance, if applicable, as well as any other required*  
23 *periodic payments or premiums on the property un-*  
24 *less a new escrow or impound account is established.*

1           “(6) *Such other information as the Federal*  
2           *banking agencies jointly determine necessary for the*  
3           *protection of the consumer.*”

4           “(h) *DEFINITIONS.—For purposes of this section, the*  
5           *following definitions shall apply:*

6           “(1) *FLOOD INSURANCE.—The term ‘flood insur-*  
7           *ance’ means flood insurance coverage provided under*  
8           *the national flood insurance program pursuant to the*  
9           *National Flood Insurance Act of 1968.*”

10           “(2) *HAZARD INSURANCE.—The term ‘hazard in-*  
11           *surance’ shall have the same meaning as provided for*  
12           *‘hazard insurance’, ‘casualty insurance’, ‘homeowner’s*  
13           *insurance’, or other similar term under the law of the*  
14           *State where the real property securing the consumer*  
15           *credit transaction is located.’.*”

16           “(b) *IMPLEMENTATION.—*

17           “(1) *REGULATIONS.—The Board of Governors of*  
18           *the Federal Reserve System, the Comptroller of the*  
19           *Currency, the Director of the Office of Thrift Super-*  
20           *vision, the Federal Deposit Insurance Corporation,*  
21           *the National Credit Union Administration Board,*  
22           *(hereafter in this Act referred to as the “Federal bank-*  
23           *ing agencies”)* and the Federal Trade Commission  
24           shall prescribe, in final form, such regulations as de-  
25           termined to be necessary to implement the amend-

1        *ments made by subsection (a) before the end of the*  
 2        *180-day period beginning on the date of the enact-*  
 3        *ment of this Act.*

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

9            (c) *CLERICAL AMENDMENT.*—*The table of sections for*  
 10        *chapter 2 of the Truth in Lending Act is amended by insert-*  
 11        *ing after the item relating to section 129C (as added by*  
 12        *section 201) the following new item:*

*“129D. Escrow or impound accounts relating to certain consumer credit trans-*  
*actions.”.*

13        **SEC. 502. DISCLOSURE NOTICE REQUIRED FOR CONSUMERS**

14                            **WHO WAIVE ESCROW SERVICES.**

15            (a) *IN GENERAL.*—*Section 129D of the Truth in Lend-*  
 16        *ing Act (as added by section 501) is amended by adding*  
 17        *at the end the following new subsection:*

18            *“(i) DISCLOSURE NOTICE REQUIRED FOR CONSUMERS*  
 19        *WHO WAIVE ESCROW SERVICES.—*

20                            *“(1) IN GENERAL.—If—*

21                                    *“(A) an impound, trust, or other type of ac-*  
 22        *count for the payment of property taxes, insur-*  
 23        *ance premiums, or other purposes relating to*  
 24        *real property securing a consumer credit trans-*

1           *action is not established in connection with the*  
2           *transaction; or*

3                     *“(B) a consumer chooses, and provides writ-*  
4                     *ten notice to the creditor or servicer of such*  
5                     *choice, at any time after such an account is es-*  
6                     *tablished in connection with any such trans-*  
7                     *action and in accordance with any statute, regu-*  
8                     *lation, or contractual agreement, to close such*  
9                     *account,*

10           *the creditor or servicer shall provide a timely and*  
11           *clearly written disclosure to the consumer that advises*  
12           *the consumer of the responsibilities of the consumer*  
13           *and implications for the consumer in the absence of*  
14           *any such account.*

15                     *“(2) DISCLOSURE REQUIREMENTS.—Any disclo-*  
16                     *sure provided to a consumer under paragraph (1)*  
17                     *shall include the following:*

18                             *“(A) Information concerning any applicable*  
19                             *fees or costs associated with either the non-estab-*  
20                             *lishment of any such account at the time of the*  
21                             *transaction, or any subsequent closure of any*  
22                             *such account.*

23                             *“(B) A clear and prominent notice that the*  
24                             *consumer is responsible for personally and di-*  
25                             *rectly paying the non-escrowed items, in addi-*

1           tion to paying the mortgage loan payment, in  
2           the absence of any such account, and the fact  
3           that the costs for taxes, insurance, and related  
4           fees can be substantial.

5           “(C) A clear explanation of the consequences  
6           of any failure to pay non-escrowed items, includ-  
7           ing the possible requirement for the forced place-  
8           ment of insurance by the creditor or servicer and  
9           the potentially higher cost (including any poten-  
10          tial commission payments to the servicer) or re-  
11          duced coverage for the consumer in the event of  
12          any such creditor-placed insurance.

13          “(D) Such other information as the Federal  
14          banking agencies jointly determine necessary for  
15          the protection of the consumer.”.

16       (b) *IMPLEMENTATION.*—

17           (1) *REGULATIONS.*—The Federal banking agen-  
18           cies and the Federal Trade Commission shall pre-  
19           scribe, in final form, such regulations as such agen-  
20           cies determine to be necessary to implement the  
21           amendments made by subsection (a) before the end of  
22           the 180-day period beginning on the date of the enact-  
23           ment of this Act.

24           (2) *EFFECTIVE DATE.*—The amendments made  
25           by subsection (a) shall only apply in accordance with

1       *the regulations established in paragraph (1) and be-*  
2       *ginning on the date occurring 180-days after the date*  
3       *of the publication of final regulations in the Federal*  
4       *Register.*

5       **SEC. 503. REAL ESTATE SETTLEMENT PROCEDURES ACT OF**  
6                                   **1974 AMENDMENTS.**

7       *(a) SERVICER PROHIBITIONS.—Section 6 of the Real*  
8       *Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605)*  
9       *is amended by adding at the end the following new sub-*  
10       *sections:*

11           *“(k) SERVICER PROHIBITIONS.—*

12                   *“(1) IN GENERAL.—A servicer of a federally re-*  
13                   *lated mortgage shall not—*

14                           *“(A) obtain force-placed hazard insurance*  
15                           *unless there is a reasonable basis to believe the*  
16                           *borrower has failed to comply with the loan con-*  
17                           *tract’s requirements to maintain property insur-*  
18                           *ance;*

19                           *“(B) charge fees for responding to valid*  
20                           *qualified written requests (as defined in regula-*  
21                           *tions which the Secretary shall prescribe) under*  
22                           *this section;*

23                           *“(C) fail to take timely action to respond to*  
24                           *a borrower’s requests to correct errors relating to*  
25                           *allocation of payments, final balances for pur-*



1           poses of paying off the loan, or avoiding fore-  
2           closure, or other standard servicer's duties;

3           “(D) fail to respond within 10 business  
4           days to a request from a borrower to provide the  
5           identity, address, and other relevant contact in-  
6           formation about the owner assignee of the loan;  
7           or

8           “(E) fail to comply with any other obliga-  
9           tion found by the Secretary, by regulation, to be  
10          appropriate to carry out the consumer protection  
11          purposes of this Act.

12          “(2) *FORCE-PLACED INSURANCE DEFINED.*—For  
13          purposes of this subsection and subsections (l) and  
14          (m), the term ‘force-placed insurance’ means hazard  
15          insurance coverage obtained by a servicer of a feder-  
16          ally related mortgage when the borrower has failed to  
17          maintain or renew hazard insurance on such prop-  
18          erty as required of the borrower under the terms of the  
19          mortgage.

20          “(l) *REQUIREMENTS FOR FORCE-PLACED INSUR-*  
21          *ANCE.*—A servicer of a federally related mortgage shall not  
22          be construed as having a reasonable basis for obtaining  
23          force-placed insurance unless the requirements of this sub-  
24          section have been met.

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

5                   “(A) *the servicer has sent, by first-class*  
6                   *mail, a written notice to the borrower con-*  
7                   *taining—*

8                           “(i) *a reminder of the borrower’s obli-*  
9                           *gation to maintain hazard insurance on the*  
10                           *property securing the federally related mort-*  
11                           *gage;*

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

15                           “(iii) *a clear and conspicuous state-*  
16                           *ment of the procedures by which the bor-*  
17                           *rower may demonstrate that the borrower*  
18                           *already has insurance coverage; and*

19                           “(iv) *a statement that the servicer may*  
20                           *obtain such coverage at the borrower’s ex-*  
21                           *penditure if the borrower does not provide such*  
22                           *demonstration of the borrower’s existing*  
23                           *coverage in a timely manner;*

24                   “(B) *the servicer has sent, by first-class*  
25                   *mail, a second written notice, at least 30 days*

1           *after the mailing of the notice under subpara-*  
2           *graph (A) that contains all the information de-*  
3           *scribed in each clauses of such subparagraph;*  
4           *and*

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

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

18          “(3) *TERMINATION OF FORCE-PLACED INSUR-*  
19          *ANCE.—Within 15 days of the receipt by a servicer of*  
20          *confirmation of a borrower’s existing insurance cov-*  
21          *erage, the servicer shall—*

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

24                 *“(B) refund to the consumer all force-placed*  
25                 *insurance premiums paid by the borrower dur-*

1            *ing any period during which the borrower’s in-*  
2            *surance coverage and the force-placed insurance*  
3            *coverage were each in effect, and any related fees*  
4            *charged to the consumer’s account with respect to*  
5            *the force-placed insurance during such period.*

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

12           “(m) *LIMITATIONS ON FORCE-PLACED INSURANCE*  
13           *CHARGES.—All charges for force-placed insurance pre-*  
14           *miums shall be bona fide and reasonable in amount.”.*

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

18                  (1) *in paragraphs (1)(B) and (2)(B), by striking*  
19                  “\$1,000” *each place such term appears and inserting*  
20                  “\$2,000”; *and*

21                  (2) *in paragraph (2)(B)(i), by striking*  
22                  “\$500,000” *and inserting “\$1,000,000”.*

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

1           (1) in paragraph (1)(A), by striking “20 days”  
2           and inserting “5 days”;

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

5           (3) by adding at the end the following new para-  
6           graph:

7           “(4) *LIMITED EXTENSION OF RESPONSE TIME.*—  
8           *The 30-day period described in paragraph (2) may be*  
9           *extended for not more than 15 days if, before the end*  
10           *of such 30-day period, the servicer notifies the bor-*  
11           *rower of the extension and the reasons for the delay*  
12           *in responding.”.*

13           (d) *PROMPT REFUND OF ESCROW ACCOUNTS UPON*  
14           *PAYOFF.*—*Section 6(g) of the Real Estate Settlement Proce-*  
15           *dures Act of 1974 (12 U.S.C. 2605(g)) is amended by add-*  
16           *ing at the end the following new sentence: “Any balance*  
17           *in any such account that is within the servicer’s control*  
18           *at the time the loan is paid off shall be promptly returned*  
19           *to the borrower within 20 business days or credited to a*  
20           *similar account for a new mortgage loan to the borrower*  
21           *with the same lender.”.*

22           **SEC. 504. TRUTH IN LENDING ACT AMENDMENTS.**

23           (a) *REQUIREMENTS FOR PROMPT CREDITING OF*  
24           *HOME LOAN PAYMENTS.*—*Chapter 2 of the Truth in Lend-*  
25           *ing Act (15 U.S.C. 1631 et seq.) is amended by inserting*

1 *after section 129E (as added by section 602) the following*  
2 *new section (and by amending the table of contents accord-*  
3 *ingly):*

4 **“SEC. 129F. REQUIREMENTS FOR PROMPT CREDITING OF**  
5 **HOME LOAN PAYMENTS.**

6 *“(a) IN GENERAL.—In connection with a consumer*  
7 *credit transaction secured by a consumer’s principal dwell-*  
8 *ing, no servicer shall fail to credit a payment to the con-*  
9 *sumer’s loan account as of the date of receipt, except when*  
10 *a delay in crediting does not result in any charge to the*  
11 *consumer or in the reporting of negative information to a*  
12 *consumer reporting agency, except as required in subsection*  
13 *(b).*

14 *“(b) EXCEPTION.—If a servicer specifies in writing re-*  
15 *quirements for the consumer to follow in making payments,*  
16 *but accepts a payment that does not conform to the require-*  
17 *ments, the servicer shall credit the payment as of 5 days*  
18 *after receipt.”.*

19 *(b) REQUESTS FOR PAYOFF AMOUNTS.—Chapter 2 of*  
20 *such Act is further amended by inserting after section 129F*  
21 *(as added by subsection (a)) the following new section (and*  
22 *by amending the table of contents accordingly):*

1 **“SEC. 129G. REQUESTS FOR PAYOFF AMOUNTS OF HOME**  
2 **LOAN.**

3 *“A creditor or servicer of a home loan shall send an*  
4 *accurate payoff balance within a reasonable time, but in*  
5 *no case more than 7 business days, after the receipt of a*  
6 *written request for such balance from or on behalf of the*  
7 *borrower.”.*

8 **SEC. 505. ESCROWS INCLUDED IN REPAYMENT ANALYSIS.**

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

12 *“(5) REPAYMENT ANALYSIS REQUIRED TO IN-*  
13 *CLUDE ESCROW PAYMENTS.—*

14 *“(A) IN GENERAL.—In the case of any con-*  
15 *sumer credit transaction secured by a first mort-*  
16 *gage or lien on the principal dwelling of the con-*  
17 *sumer, other than a consumer credit transaction*  
18 *under an open end credit plan or a reverse mort-*  
19 *gage, for which an impound, trust, or other type*  
20 *of account has been or will be established in con-*  
21 *nection with the transaction for the payment of*  
22 *property taxes, hazard and flood (if any) insur-*  
23 *ance premiums, or other periodic payments or*  
24 *premiums with respect to the property, the infor-*  
25 *mation required to be provided under subsection*  
26 *(a) with respect to the number, amount, and due*

1        *dates or period of payments scheduled to repay*  
2        *the total of payments shall take into account the*  
3        *amount of any monthly payment to such account*  
4        *for each such repayment in accordance with sec-*  
5        *tion 10(a)(2) of the Real Estate Settlement Pro-*  
6        *cedures Act of 1974.*

7                *“(B) ASSESSMENT VALUE.—The amount*  
8        *taken into account under subparagraph (A) for*  
9        *the payment of property taxes, hazard and flood*  
10        *(if any) insurance premiums, or other periodic*  
11        *payments or premiums with respect to the prop-*  
12        *erty shall reflect the taxable assessed value of the*  
13        *real property securing the transaction after the*  
14        *consummation of the transaction, including the*  
15        *value of any improvements on the property or to*  
16        *be constructed on the property (whether or not*  
17        *such construction will be financed from the pro-*  
18        *ceeds of the transaction), if known, and the re-*  
19        *placement costs of the property for hazard insur-*  
20        *ance, in the initial year after the transaction.”.*



1                   **TITLE VI—APPRAISAL**  
2                   **ACTIVITIES**

3 **SEC. 601. PROPERTY APPRAISAL REQUIREMENTS.**

4           *Section 129 of the Truth in Lending Act (15 U.S.C.*  
5 *1639) is amended by inserting after subsection (v) (as*  
6 *added by section 303(f)) the following new subsection:*

7           “(w) *PROPERTY APPRAISAL REQUIREMENTS.—*

8                   “(1) *IN GENERAL.—A creditor may not extend*  
9 *credit in the form of a subprime mortgage to any con-*  
10 *sumer without first obtaining a written appraisal of*  
11 *the property to be mortgaged prepared in accordance*  
12 *with the requirements of this subsection.*

13                   “(2) *APPRAISAL REQUIREMENTS.—*

14                           “(A) *PHYSICAL PROPERTY VISIT.—An ap-*  
15 *praisal of property to be secured by a subprime*  
16 *mortgage does not meet the requirement of this*  
17 *subsection unless it is performed by a qualified*  
18 *appraiser who conducts a physical property visit*  
19 *of the interior of the mortgaged property.*

20                           “(B) *SECOND APPRAISAL UNDER CERTAIN*  
21 *CIRCUMSTANCES.—*

22                                   “(i) *IN GENERAL.—If the purpose of a*  
23 *subprime mortgage is to finance the pur-*  
24 *chase or acquisition of the mortgaged prop-*  
25 *erty from a person within 180 days of the*

1 purchase or acquisition of such property by  
2 that person at a price that was lower than  
3 the current sale price of the property, the  
4 creditor shall obtain a second appraisal  
5 from a different qualified appraiser. The  
6 second appraisal shall include an analysis  
7 of the difference in sale prices, changes in  
8 market conditions, and any improvements  
9 made to the property between the date of the  
10 previous sale and the current sale.

11 “(ii) NO COST TO APPLICANT.—The  
12 cost of any second appraisal required under  
13 clause (i) may not be charged to the appli-  
14 cant.

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

18 “(i) is, at a minimum, certified or li-  
19 censed by the State in which the property to  
20 be appraised is located; and

21 “(ii) performs each appraisal in con-  
22 formity with the Uniform Standards of  
23 Professional Appraisal Practice and title XI  
24 of the Financial Institutions Reform, Recov-  
25 ery, and Enforcement Act of 1989, and the

1                   *regulations prescribed under such title, as*  
2                   *in effect on the date of the appraisal.*

3                   “(3) *FREE COPY OF APPRAISAL.—A creditor*  
4                   *shall provide 1 copy of each appraisal conducted in*  
5                   *accordance with this subsection in connection with a*  
6                   *subprime mortgage to the applicant without charge,*  
7                   *and at least 3 days prior to the transaction closing*  
8                   *date.*

9                   “(4) *CONSUMER NOTIFICATION.—At the time of*  
10                  *the initial mortgage application, the applicant shall*  
11                  *be provided with a statement by the creditor that any*  
12                  *appraisal prepared for the mortgage is for the sole use*  
13                  *of the creditor, and that the applicant may choose to*  
14                  *have a separate appraisal conducted at their own ex-*  
15                  *pense.*

16                  “(5) *VIOLATIONS.—In addition to any other li-*  
17                  *ability to any person under this title, a creditor*  
18                  *found to have willfully failed to obtain an appraisal*  
19                  *as required in this subsection shall be liable to the ap-*  
20                  *plicant or borrower for the sum of \$2,000.*

21                  “(6) *SUBPRIME MORTGAGE DEFINED.—For pur-*  
22                  *poses of this subsection, the term ‘subprime mortgage’*  
23                  *means a residential mortgage loan with an annual*  
24                  *percentage rate that exceeds the average prime offer*

1       rate for a comparable transaction, as of the date the  
2       interest rate is set—

3               “(A) by 1.5 or more percentage points for a  
4       first lien residential mortgage loan; and

5               “(B) by 3.5 or more percentage points for a  
6       subordinate lien residential mortgage loan.”.

7       **SEC. 602. UNFAIR AND DECEPTIVE PRACTICES AND ACTS**  
8               **RELATING TO CERTAIN CONSUMER CREDIT**  
9               **TRANSACTIONS.**

10       (a) *IN GENERAL.*—Chapter 2 of the Truth in Lending  
11       Act (15 U.S.C. 1631 et seq.) is amended by inserting after  
12       section 129D (as added by section 501(a)) the following new  
13       section:

14       **“SEC. 129E. UNFAIR AND DECEPTIVE PRACTICES AND ACTS**  
15               **RELATING TO CERTAIN CONSUMER CREDIT**  
16               **TRANSACTIONS.**

17       “(a) *IN GENERAL.*—It shall be unlawful, in extending  
18       credit or in providing any services for a consumer credit  
19       transaction secured by the principal dwelling of the con-  
20       sumer, to engage in any unfair or deceptive act or practice  
21       as described in or pursuant to regulations prescribed under  
22       this section.

23       “(b) *APPRAISAL INDEPENDENCE.*—For purposes of  
24       subsection (a), unfair and deceptive practices shall in-  
25       clude—

1           “(1) any appraisal of a property offered as secu-  
2           rity for repayment of the consumer credit transaction  
3           that is conducted in connection with such transaction  
4           in which a person with an interest in the underlying  
5           transaction compensates, coerces, extorts, colludes, in-  
6           structs, induces, bribes, or intimidates a person con-  
7           ducting or involved in an appraisal, or attempts, to  
8           compensate, coerce, extort, collude, instruct, induce,  
9           bribe, or intimidate such a person, for the purpose of  
10          causing the appraised value assigned, under the ap-  
11          praisal, to the property to be based on any factor  
12          other than the independent judgment of the appraiser;

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

16           “(3) seeking to influence an appraiser or other-  
17          wise to encourage a targeted value in order to facili-  
18          tate the making or pricing of the transaction; and

19           “(4) withholding or threatening to withhold  
20          timely payment for an appraisal report or for ap-  
21          praisal services rendered.

22          “(c) *EXCEPTIONS.*—The requirements of subsection (b)  
23          shall not be construed as prohibiting a mortgage lender,  
24          mortgage broker, mortgage banker, real estate broker, ap-  
25          praisal management company, employee of an appraisal

1 *management company, consumer, or any other person with*  
2 *an interest in a real estate transaction from asking an ap-*  
3 *praiser to provide 1 or more of the following services:*

4           “(1) *Consider additional, appropriate property*  
5 *information, including the consideration of additional*  
6 *comparable properties to make or support an ap-*  
7 *praisal.*

8           “(2) *Provide further detail, substantiation, or ex-*  
9 *planation for the appraiser’s value conclusion.*

10           “(3) *Correct errors in the appraisal report.*

11           “(d) *PROHIBITIONS ON CONFLICTS OF INTEREST.—No*  
12 *certified or licensed appraiser conducting, and no appraisal*  
13 *management company procuring or facilitating, an ap-*  
14 *praisal in connection with a consumer credit transaction*  
15 *secured by the principal dwelling of a consumer may have*  
16 *a direct or indirect interest, financial or otherwise, in the*  
17 *property or transaction involving the appraisal.*

18           “(e) *MANDATORY REPORTING.—Any mortgage lender,*  
19 *mortgage broker, mortgage banker, real estate broker, ap-*  
20 *praisal management company, employee of an appraisal*  
21 *management company, or any other person involved in a*  
22 *real estate transaction involving an appraisal in connection*  
23 *with a consumer credit transaction secured by the principal*  
24 *dwelling of a consumer who has a reasonable basis to believe*  
25 *an appraiser is failing to comply with the Uniform Stand-*

1 *ards of Professional Appraisal Practice, is violating appli-*  
2 *cable laws, or is otherwise engaging in unethical or unpro-*  
3 *fessional conduct, shall refer the matter to the applicable*  
4 *State appraiser certifying and licensing agency.*

5       “(f) *NO EXTENSION OF CREDIT.*—*In connection with*  
6 *a consumer credit transaction secured by a consumer’s*  
7 *principal dwelling, a creditor who knows, at or before loan*  
8 *consummation, of a violation of the appraisal independence*  
9 *standards established in subsections (b) or (d) shall not ex-*  
10 *tend credit based on such appraisal unless the creditor docu-*  
11 *ments that the creditor has acted with reasonable diligence*  
12 *to determine that the appraisal does not materially misstate*  
13 *or misrepresent the value of such dwelling.*

14       “(g) *RULEMAKING PROCEEDINGS.*—*The Board, the*  
15 *Comptroller of the Currency, the Director of the Office of*  
16 *Thrift Supervision, the Federal Deposit Insurance Corpora-*  
17 *tion, the National Credit Union Administration Board,*  
18 *and the Federal Trade Commission—*

19               “(1) *shall, for purposes of this section, jointly*  
20 *prescribe regulations no later than 180 days after the*  
21 *date of the enactment of this section, and where such*  
22 *regulations have an effective date of no later than 1*  
23 *year after the date of the enactment of this section,*  
24 *defining with specificity acts or practices which are*  
25 *unfair or deceptive in the provision of mortgage lend-*

1 *ing services for a consumer credit transaction secured*  
2 *by the principal dwelling of the consumer or mortgage*  
3 *brokerage services for such a transaction and defining*  
4 *any terms in this section or such regulations; and*

5 *“(2) may jointly issue interpretive guidelines*  
6 *and general statements of policy with respect to un-*  
7 *fair or deceptive acts or practices in the provision of*  
8 *mortgage lending services for a consumer credit trans-*  
9 *action secured by the principal dwelling of the con-*  
10 *sumer and mortgage brokerage services for such a*  
11 *transaction, within the meaning of subsections (a),*  
12 *(b), (c), (d), (e), and (f).*

13 *“(h) PENALTIES.—*

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

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

24 *“(3) ASSESSMENT.—The agency referred to in*  
25 *subsection (a) or (c) of section 108 with respect to*





1           (B) by striking the period at the end of  
2           paragraph (4) and inserting “;”; and

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

5           “(5) monitor the efforts of, and requirements es-  
6           tablished by, States and the Federal financial institu-  
7           tions regulatory agencies to protect consumers from  
8           improper appraisal practices and the predations of  
9           unlicensed appraisers in consumer credit transactions  
10          that are secured by a consumer’s principal dwelling;  
11          and”.

12          (3) *THRESHOLD LEVELS.*—Section 1112(b) of the  
13          *Financial Institutions Reform, Recovery, and En-*  
14          *forcement Act of 1989 (12 U.S.C. 3341(b)) is amended*  
15          *by inserting before the period the following: “, and*  
16          *that such threshold level provides reasonable protec-*  
17          *tion for consumers who purchase 1–4 unit single-fam-*  
18          *ily residences. In determining whether a threshold*  
19          *level provides reasonable protection for consumers,*  
20          *each Federal financial institutions regulatory agency*  
21          *shall consult with consumer groups and convene a*  
22          *public hearing”.*

23          (b) *ANNUAL REPORT OF APPRAISAL SUB-*  
24          *COMMITTEE.*—

1           (1) *IN GENERAL.*—Section 1103(a) of the *Finan-*  
2           *cial Institutions Reform, Recovery, and Enforcement*  
3           *Act of 1989 (12 U.S.C. 3332(a)) is amended at the*  
4           *end by inserting the following new paragraph:*

5           “(6) *transmit an annual report to the Congress*  
6           *not later than January 31 of each year that describes*  
7           *the manner in which each function assigned to the*  
8           *Appraisal Subcommittee has been carried out during*  
9           *the preceding year. The report shall also detail the ac-*  
10           *tivities of the Appraisal Subcommittee, including the*  
11           *results of all audits of State appraiser regulatory*  
12           *agencies, and provide an accounting of disapproved*  
13           *actions and warnings taken in the previous year, in-*  
14           *cluding a description of the conditions causing the*  
15           *disapproval and actions taken to achieve compli-*  
16           *ance.”.*

17           (c) *OPEN MEETINGS.*—Section 1104(b) of the *Finan-*  
18           *cial Institutions Reform, Recovery, and Enforcement Act*  
19           *of 1989 (12 U.S.C. 3333(b)) is amended by inserting “in*  
20           *public session after notice in the Federal Register” after*  
21           *“shall meet”.*

22           (d) *REGULATIONS.*—Section 1106 of the *Financial In-*  
23           *stitutions Reform, Recovery, and Enforcement Act of 1989*  
24           *(12 U.S.C. 3335) is amended—*

1           (1) *by inserting “prescribe regulations after no-*  
2 *tice and opportunity for comment,” after “hold hear-*  
3 *ings”;* and

4           (2) *at the end by inserting “Any regulations pre-*  
5 *scribed by the Appraisal Subcommittee shall (unless*  
6 *otherwise provided in this title) be limited to the fol-*  
7 *lowing functions: temporary practice, national reg-*  
8 *istry, information sharing, and enforcement. For pur-*  
9 *poses of prescribing regulations, the Appraisal Sub-*  
10 *committee shall establish an advisory committee of in-*  
11 *dustry participants, including appraisers, lenders,*  
12 *consumer advocates, and government agencies, and*  
13 *hold meetings as necessary to support the development*  
14 *of regulations.”.*

15       (e) *FIELD APPRAISALS AND APPRAISAL REVIEWS.—*

16 *Section 1113 of the Financial Institutions Reform, Recov-*  
17 *ery, and Enforcement Act of 1989 (12 U.S.C. 3342) is*  
18 *amended—*

19           (1) *by striking “In determining” and inserting*  
20 *“(a) IN GENERAL.—In determining”;*

21           (2) *in subsection (a) (as designated by para-*  
22 *graph (1)), by inserting before the period the fol-*  
23 *lowing: “, where a complex 1-to-4 unit single family*  
24 *residential appraisal means an appraisal for which*  
25 *the property to be appraised, the form of ownership,*

1       *the property characteristics, or the market conditions*  
2       *are atypical”;* and

3               *(3) by adding at the end the following new sub-*  
4       *section:*

5       “(b) *APPRAISALS AND APPRAISAL REVIEWS.—All ap-*  
6       *praisals performed at a property within a State shall be*  
7       *prepared by appraisers licensed or certified in the State*  
8       *where the property is located. All appraisal reviews, includ-*  
9       *ing appraisal reviews by a lender, appraisal management*  
10       *company, or other third party organization, shall be per-*  
11       *formed by an appraiser who is duly licensed or certified*  
12       *by a State appraisal board.”.*

13       (f) *APPRAISAL MANAGEMENT SERVICES.—*

14               (1) *SUPERVISION OF THIRD PARTY PROVIDERS*  
15       *OF APPRAISAL MANAGEMENT SERVICES.—Section*  
16       *1103(a) of the Financial Institutions Reform, Recov-*  
17       *ery, and Enforcement Act of 1989 (12 U.S.C.*  
18       *3332(a)) (as previously amended by this section) is*  
19       *further amended—*

20               (A) *by amending paragraph (1) to read as*  
21       *follows:*

22               “(1) *monitor the requirements established by*  
23       *States—*

24               “(A) *for the certification and licensing of*  
25       *individuals who are qualified to perform ap-*



1 *istration of appraisal management companies. Such quali-*  
2 *fications shall include a requirement that such companies—*

3           “(1) *register with and be subject to supervision*  
4 *by a State appraiser certifying and licensing agency*  
5 *in each State in which such company operates;*

6           “(2) *verify that only licensed or certified ap-*  
7 *praisers are used for federally related transactions;*

8           “(3) *require that appraisals coordinated by an*  
9 *appraisal management company comply with the*  
10 *Uniform Standards of Professional Appraisal Prac-*  
11 *tice; and*

12           “(4) *require that appraisals are conducted inde-*  
13 *pendently and free from inappropriate influence and*  
14 *coercion pursuant to the appraisal independence*  
15 *standards established under section 129E of the Truth*  
16 *in Lending Act.*

17           “(b) *EXCEPTION FOR FEDERALLY REGULATED FINAN-*  
18 *CIAL INSTITUTIONS.—The requirements of subsection (a)*  
19 *shall not apply to an appraisal management company that*  
20 *is a subsidiary owned and controlled by a financial institu-*  
21 *tion and regulated by a federal financial institution regu-*  
22 *latory agency. In such case, the appropriate federal finan-*  
23 *cial institutions regulatory agency shall, at a minimum,*  
24 *develop regulations affecting the operations of the appraisal*  
25 *management company to—*

1           “(1) *verify that only licensed or certified ap-*  
2           *praisers are used for federally related transactions;*

3           “(2) *require that appraisals coordinated by an*  
4           *institution or subsidiary providing appraisal man-*  
5           *agement services comply with the Uniform Standards*  
6           *of Professional Appraisal Practice; and*

7           “(3) *require that appraisals are conducted inde-*  
8           *pendently and free from inappropriate influence and*  
9           *coercion pursuant to the appraisal independence*  
10          *standards established under section 129E of the Truth*  
11          *in Lending Act.*

12          “(c) *REGISTRATION LIMITATIONS.—An appraisal*  
13          *management company shall not be registered by a State if*  
14          *such company, in whole or in part, directly or indirectly,*  
15          *is owned by any person who has had an appraiser license*  
16          *or certificate refused, denied, cancelled, surrendered in lieu*  
17          *of revocation, or revoked in any State. Additionally, each*  
18          *person that owns more than 10 percent of an appraisal*  
19          *management company shall be of good moral character, as*  
20          *determined by the State appraiser certifying and licensing*  
21          *agency, and shall submit to a background investigation car-*  
22          *ried out by the State appraiser certifying and licensing*  
23          *agency.*

24          “(d) *REGULATIONS.—The Appraisal Subcommittee*  
25          *shall promulgate regulations to implement the minimum*



1 *qualifications developed by the Appraiser Qualifications*  
2 *Board under this section, as such qualifications relate to*  
3 *the State appraiser certifying and licensing agencies. The*  
4 *Appraisal Subcommittee shall also promulgate regulations*  
5 *for the reporting of the activities of appraisal management*  
6 *companies in determining the payment of the annual reg-*  
7 *istry fee.*

8 “(e) *EFFECTIVE DATE.*—

9 “(1) *IN GENERAL.*—*No appraisal management*  
10 *company may perform services related to a federally*  
11 *related transaction in a State after the date that is*  
12 *36 months after the date of the enactment of this sec-*  
13 *tion unless such company is registered with such*  
14 *State or subject to oversight by a federal financial in-*  
15 *stitutions regulatory agency.*

16 “(2) *EXTENSION OF EFFECTIVE DATE.*—*Subject*  
17 *to the approval of the Council, the Appraisal Sub-*  
18 *committee may extend by an additional 12 months*  
19 *the requirements for the registration and supervision*  
20 *of appraisal management companies if it makes a*  
21 *written finding that a State has made substantial*  
22 *progress in establishing a State appraisal manage-*  
23 *ment company registration and supervision system*  
24 *that appears to conform with the provisions of this*  
25 *title.”.*

1           (3) *STATE APPRAISER CERTIFYING AND LICENS-*  
2           *ING AGENCY AUTHORITY.*—Section 1117 of the *Finan-*  
3           *cial Institutions Reform, Recovery, and Enforcement*  
4           *Act of 1989 (12 U.S.C. 3346)* is amended by adding  
5           *at the end the following: “The duties of such agency*  
6           *may additionally include the registration and super-*  
7           *vision of appraisal management companies.”.*

8           (4) *APPRAISAL MANAGEMENT COMPANY DEFINI-*  
9           *TION.*—Section 1121 of the *Financial Institutions Re-*  
10          *form, Recovery, and Enforcement Act of 1989 (12*  
11          *U.S.C. 3350)* is amended by adding at the end the fol-  
12          *lowing:*

13           “(11) *APPRAISAL MANAGEMENT COMPANY.*—*The*  
14          *term ‘appraisal management company’ means, in*  
15          *connection with valuing properties collateralizing*  
16          *mortgage loans or mortgages incorporated into a*  
17          *securitization, any external third party authorized ei-*  
18          *ther by a creditor of a consumer credit transaction se-*  
19          *cured by a consumer’s principal dwelling or by an*  
20          *underwriter of or other principal in the secondary*  
21          *mortgage markets, that oversees a network or panel of*  
22          *more than 10 certified or licensed appraisers in a*  
23          *State or 25 or more nationally within a given year—*

24                    “(A) *to recruit, select, and retain apprais-*

25                    *ers;*

1           “(B) to contract with licensed and certified  
2 appraisers to perform appraisal assignments;

3           “(C) to manage the process of having an  
4 appraisal performed, including providing ad-  
5 ministrative duties such as receiving appraisal  
6 orders and appraisal reports, submitting com-  
7 pleted appraisal reports to creditors and under-  
8 writers, collecting fees from creditors and under-  
9 writers for services provided, and reimbursing  
10 appraisers for services performed; or

11           “(D) to review and verify the work of ap-  
12 praisers.”.

13           (g) *STATE AGENCY REPORTING REQUIREMENT.*—*Sec-*  
14 *tion 1109(a) of the Financial Institutions Reform, Recov-*  
15 *ery, and Enforcement Act of 1989 (12 U.S.C. 3338(a)) is*  
16 *amended—*

17           (1) *by striking “and” after the semicolon in*  
18 *paragraph (1);*

19           (2) *by redesignating paragraph (2) as para-*  
20 *graph (4); and*

21           (3) *by inserting after paragraph (1) the fol-*  
22 *lowing new paragraphs:*

23           “(2) *transmit reports on sanctions, disciplinary*  
24 *actions, license and certification revocations, and li-*  
25 *cence and certification suspensions on a timely basis*

1 to the national registry of the Appraisal Sub-  
2 committee;

3 “(3) transmit reports on a timely basis of super-  
4 visory activities involving appraisal management  
5 companies or other third-party providers of apprais-  
6 als and appraisal management services, including in-  
7 vestigations initiated and disciplinary actions taken;  
8 and”.

9 (h) *REGISTRY FEES MODIFIED.*—

10 (1) *IN GENERAL.*—Section 1109(a) of the *Finan-*  
11 *cial Institutions Reform, Recovery, and Enforcement*  
12 *Act of 1989 (12 U.S.C. 3338(a)) is amended—*

13 (A) by amending paragraph (4) (as modi-  
14 fied by section 603(g) of this Act) to read as fol-  
15 lows:

16 “(4) collect—

17 “(A) from such individuals who perform or  
18 seek to perform appraisals in federally related  
19 transactions, an annual registry fee of not more  
20 than \$40, such fees to be transmitted by the  
21 State agencies to the Council on an annual  
22 basis; and

23 “(B) from an appraisal management com-  
24 pany that either has registered with a State ap-  
25 praiser certifying and licensing agency in ac-

1           *cordance with this title or operates as a sub-*  
2           *subsidiary of a federally regulated financial institu-*  
3           *tion, an annual registry fee of—*

4                     *“(i) in the case of such a company that*  
5                     *has been in existence for more than a year,*  
6                     *\$25 multiplied by the number of appraisers*  
7                     *working for or contracting with such com-*  
8                     *pany in such State during the previous*  
9                     *year, but where such \$25 amount may be*  
10                    *adjusted, up to a maximum of \$50, at the*  
11                    *discretion of the Appraisal Subcommittee, if*  
12                    *necessary to carry out the Subcommittee’s*  
13                    *functions under this title; and*

14                    *“(ii) in the case of such a company*  
15                    *that has not been in existence for more than*  
16                    *a year, \$25 multiplied by an appropriate*  
17                    *number to be determined by the Appraisal*  
18                    *Subcommittee, and where such number will*  
19                    *be used for determining the fee of all such*  
20                    *companies that were not in existence for*  
21                    *more than a year, but where such \$25*  
22                    *amount may be adjusted, up to a maximum*  
23                    *of \$50, at the discretion of the Appraisal*  
24                    *Subcommittee, if necessary to carry out the*

1                    *Subcommittee’s functions under this title.”;*

2                    *and*

3                    *(B) by amending the matter following para-*  
4                    *graph (4), as redesignated, to read as follows:*

5    *“Subject to the approval of the Council, the Appraisal Sub-*  
6    *committee may adjust the dollar amount of registry fees*  
7    *under paragraph (4)(A), up to a maximum of \$80 per*  
8    *annum, as necessary to carry out its functions under this*  
9    *title. The Appraisal Subcommittee shall consider at least*  
10    *once every 5 years whether to adjust the dollar amount of*  
11    *the registry fees to account for inflation. In implementing*  
12    *any change in registry fees, the Appraisal Subcommittee*  
13    *shall provide flexibility to the States for multi-year certifi-*  
14    *cations and licenses already in place, as well as a transition*  
15    *period to implement the changes in registry fees. In estab-*  
16    *lishing the amount of the annual registry fee for an ap-*  
17    *praisal management company, the Appraisal Subcommittee*  
18    *shall have the discretion to impose a minimum annual reg-*  
19    *istry fee for an appraisal management company to protect*  
20    *against the under reporting of the number of appraisers*  
21    *working for or contracted by the appraisal management*  
22    *company.”.*

23                    *(2) INCREMENTAL REVENUES.—Incremental rev-*  
24                    *enues collected pursuant to the increases required by*  
25                    *this subsection shall be placed in a separate account*

1       *at the United States Treasury, entitled the “Ap-*  
2       *praisal Subcommittee Account”.*

3       *(i) GRANTS AND REPORTS.—Section 1109(b) of the Fi-*  
4       *nancial Institutions Reform, Recovery, and Enforcement*  
5       *Act of 1989 (12 U.S.C. 3348(b)) is amended—*

6             *(1) by striking “and” after the semicolon in*  
7       *paragraph (3);*

8             *(2) by striking the period at the end of para-*  
9       *graph (4) and inserting a semicolon;*

10            *(3) by adding at the end the following new para-*  
11       *graphs:*

12            *“(5) to make grants to State appraiser certifying*  
13       *and licensing agencies to support the efforts of such*  
14       *agencies to comply with this title, including—*

15            *“(A) the complaint process, complaint in-*  
16       *vestigations, and appraiser enforcement activi-*  
17       *ties of such agencies; and*

18            *“(B) the submission of data on State li-*  
19       *censed and certified appraisers and appraisal*  
20       *management companies to the National ap-*  
21       *praisal registry, including information affirm-*  
22       *ing that the appraiser or appraisal management*  
23       *company meets the required qualification cri-*  
24       *teria and formal and informal disciplinary ac-*  
25       *tions; and*

1           “(6) to report to all State appraiser certifying  
2           and licensing agencies when a license or certification  
3           is surrendered, revoked, or suspended.”.

4           Obligations authorized under this subsection may not ex-  
5           ceed 75 percent of the fiscal year total of incremental in-  
6           crease in fees collected and deposited in the “Appraisal Sub-  
7           committee Account” pursuant to subsection (h).

8           (j) *CRITERIA.*—Section 1116 of the *Financial Institu-*  
9           *tions Reform, Recovery, and Enforcement Act of 1989 (12*  
10          *U.S.C. 3345) is amended—*

11           (1) in subsection (c), by inserting “whose criteria  
12           for the licensing of a real estate appraiser currently  
13           meet or exceed the minimum criteria issued by the  
14           Appraisal Qualifications Board of The Appraisal  
15           Foundation for the licensing of real estate appraisers”  
16           before the period at the end; and

17           (2) by striking subsection (e) and inserting the  
18           following new subsection:

19           “(e) *MINIMUM QUALIFICATION REQUIREMENTS.*—Any  
20           requirements established for individuals in the position of  
21           ‘Trainee Appraiser’ and ‘Supervisory Appraiser’ shall meet  
22           or exceed the minimum qualification requirements of the  
23           Appraiser Qualifications Board of The Appraisal Founda-  
24           tion. The Appraisal Subcommittee shall have the authority  
25           to enforce these requirements.”.



1       (k) *MONITORING OF STATE APPRAISER CERTIFYING*  
2 *AND LICENSING AGENCIES.*—*Section 1118 of the Financial*  
3 *Institutions Reform, Recovery, and Enforcement Act of*  
4 *1989 (12 U.S.C. 3347) is amended—*

5           (1) *by amending subsection (a) to read as fol-*  
6 *lows:*

7       “(a) *IN GENERAL.*—*The Appraisal Subcommittee shall*  
8 *monitor each State appraiser certifying and licensing agen-*  
9 *cy for the purposes of determining whether such agency—*

10           “(1) *has policies, practices, funding, staffing,*  
11 *and procedures that are consistent with this title;*

12           “(2) *processes complaints and completes inves-*  
13 *tigations in a reasonable time period;*

14           “(3) *appropriately disciplines sanctioned ap-*  
15 *praisers and appraisal management companies;*

16           “(4) *maintains an effective regulatory program;*  
17 *and*

18           “(5) *reports complaints and disciplinary actions*  
19 *on a timely basis to the national registries on ap-*  
20 *praisers and appraisal management companies main-*  
21 *tained by the Appraisal Subcommittee.*

22 *The Appraisal Subcommittee shall have the authority to re-*  
23 *move a State licensed or certified appraiser or a registered*  
24 *appraisal management company from a national registry*  
25 *on an interim basis pending State agency action on licens-*

1 *ing, certification, registration, and disciplinary pro-*  
2 *ceedings. The Appraisal Subcommittee and all agencies, in-*  
3 *strumentalities, and Federally recognized entities under*  
4 *this title shall not recognize appraiser certifications and li-*  
5 *enses from States whose appraisal policies, practices, fund-*  
6 *ing, staffing, or procedures are found to be inconsistent with*  
7 *this title. The Appraisal Subcommittee shall have the au-*  
8 *thority to impose sanctions, as described in this section,*  
9 *against a State agency that fails to have an effective ap-*  
10 *praiser regulatory program. In determining whether such*  
11 *a program is effective, the Appraisal Subcommittee shall*  
12 *include an analyses of the licensing and certification of ap-*  
13 *praisers, the registration of appraisal management compa-*  
14 *nies, the issuance of temporary licenses and certifications*  
15 *for appraisers, the receiving and tracking of submitted com-*  
16 *plaints against appraisers and appraisal management*  
17 *companies, the investigation of complaints, and enforce-*  
18 *ment actions against appraisers and appraisal manage-*  
19 *ment companies. The Appraisal Subcommittee shall have*  
20 *the authority to impose interim actions and suspensions*  
21 *against a State agency as an alternative to, or in advance*  
22 *of, the derecognition of a State agency.”.*

23           (2) *in subsection (b)(2), by inserting after “au-*  
24           *thority” the following: “or sufficient funding”.*

1       (l) *RECIPROCITY.*—Subsection (b) of section 1122 of  
2 the *Financial Institutions Reform, Recovery, and Enforce-*  
3 *ment Act of 1989 (12 U.S.C. 3351(b)) is amended to read*  
4 *as follows:*

5       “(b) *RECIPROCITY.*—A State appraiser certifying or  
6 licensing agency shall issue a reciprocal certification or li-  
7 cense for an individual from another State when—

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

11              “(2) the appraiser holds a valid certification  
12 from a State whose requirements for certification or  
13 licensing meet or exceed the licensure standards estab-  
14 lished by the State where an individual seeks ap-  
15 praisal licensure.”.

16       (m) *CONSIDERATION OF PROFESSIONAL APPRAISAL*  
17 *DESIGNATIONS.*—Section 1122(d) of the *Financial Institu-*  
18 *tions Reform, Recovery, and Enforcement Act of 1989 (12*  
19 *U.S.C. 3351(d)) is amended by striking “shall not exclude”*  
20 *and all that follows through the end of the subsection and*  
21 *inserting the following: “may include education achieved,*  
22 *experience, sample appraisals, and references from prior*  
23 *clients. Membership in a nationally recognized professional*  
24 *appraisal organization may be a criteria considered,*  
25 *though lack of membership therein shall not be the sole bar*

1 *against consideration for an assignment under these cri-*  
2 *teria.”.*

3       (n) *APPRAISER INDEPENDENCE.*—Section 1122 of the  
4 *Financial Institutions Reform, Recovery, and Enforcement*  
5 *Act of 1989 (12 U.S.C. 3351) is amended by adding at the*  
6 *end the following new subsection:*

7       “(g) *APPRAISER INDEPENDENCE MONITORING.*—The  
8 *Appraisal Subcommittee shall monitor each State appraiser*  
9 *certifying and licensing agency for the purpose of deter-*  
10 *mining whether such agency’s policies, practices, and proce-*  
11 *dures are consistent with the purposes of maintaining ap-*  
12 *praiser independence and whether such State has adopted*  
13 *and maintains effective laws, regulations, and policies*  
14 *aimed at maintaining appraiser independence.”.*

15       (o) *APPRAISER EDUCATION.*—Section 1122 of the Fi-  
16 *ancial Institutions Reform, Recovery, and Enforcement*  
17 *Act of 1989 (12 U.S.C. 3351) is amended by inserting after*  
18 *subsection (g) (as added by subsection (l) of this section)*  
19 *the following new subsection:*

20       “(h) *APPROVED EDUCATION.*—The *Appraisal Sub-*  
21 *committee shall encourage the States to accept courses ap-*  
22 *proved by the Appraiser Qualification Board’s Course Ap-*  
23 *proval Program.”.*

24       (p) *APPRAISAL COMPLAINT HOTLINE.*—Section 1122  
25 *of the Financial Institutions Reform, Recovery, and En-*

1 *forcement Act of 1989 (12 U.S.C. 3351), as amended by*  
2 *this section, is further amended by adding at the end the*  
3 *following new subsection:*

4       “(i) *APPRAISAL COMPLAINT NATIONAL HOTLINE.—If,*  
5 *1 year after the date of the enactment of this subsection,*  
6 *the Appraisal Subcommittee determines that no national*  
7 *hotline exists to receive complaints of non-compliance with*  
8 *appraisal independence standards and Uniform Standards*  
9 *of Professional Appraisal Practice, including complaints*  
10 *from appraisers, individuals, or other entities concerning*  
11 *the improper influencing or attempted improper influ-*  
12 *encing of appraisers or the appraisal process, the Appraisal*  
13 *Subcommittee shall establish and operate such a national*  
14 *hotline, which shall include a toll-free telephone number and*  
15 *an email address. If the Appraisal Subcommittee operates*  
16 *such a national hotline, the Appraisal Subcommittee shall*  
17 *refer complaints for further action to appropriate govern-*  
18 *mental bodies, including a State appraiser certifying and*  
19 *licensing agency, a financial institution regulator, or other*  
20 *appropriate legal authorities. For complaints referred to*  
21 *State appraiser certifying and licensing agencies or to Fed-*  
22 *eral regulators, the Appraisal Subcommittee shall have the*  
23 *authority to follow up such complaint referrals in order to*  
24 *determine the status of the resolution of the complaint.”.*

1           (q) *AUTOMATED VALUATION MODELS.*—*Title XI of the*  
 2 *Financial Institutions Reform, Recovery, and Enforcement*  
 3 *Act of 1989 (12 U.S.C. 3331 et seq.), as amended by this*  
 4 *section, is further amended by adding at the end the fol-*  
 5 *lowing new section (and amending the table of contents ac-*  
 6 *cordingly):*

7           **“SEC. 1125. AUTOMATED VALUATION MODELS USED TO**  
 8   **VALUE CERTAIN MORTGAGES.**

9           “(a) *IN GENERAL.*—*Automated valuation models shall*  
 10 *adhere to quality control standards designed to—*

11                           “(1) *ensure a high level of confidence in the esti-*  
 12                           *mates produced by automated valuation models;*

13                           “(2) *protect against the manipulation of data;*

14                           “(3) *seek to avoid conflicts of interest; and*

15                           “(4) *require random sample testing and reviews,*  
 16 *where such testing and reviews are performed by an*  
 17 *appraiser who is licensed or certified in the State*  
 18 *where the testing and reviews take place.*

19           “(b) *ADOPTION OF REGULATIONS.*—*The Appraisal*  
 20 *Subcommittee and its member agencies shall promulgate*  
 21 *regulations to implement the quality control standards re-*  
 22 *quired under this section.*

23           “(c) *ENFORCEMENT.*—*Compliance with regulations*  
 24 *issued under this subsection shall be enforced by—*

1           “(1) with respect to a financial institution, or  
2           subsidiary owned and controlled by a financial insti-  
3           tution and regulated by a federal financial institu-  
4           tion or regulatory agency, the federal financial insti-  
5           tution regulatory agency that acts as the primary fed-  
6           eral supervisor of such financial institution or sub-  
7           sidiary; and

8           “(2) with respect to other persons, the Appraisal  
9           Subcommittee.

10          “(d) *AUTOMATED VALUATION MODEL DEFINED.*—For  
11 purposes of this section, the term ‘automated valuation  
12 model’ means any computerized model used by mortgage  
13 originators and secondary market issuers to determine the  
14 collateral worth of a mortgage secured by a consumer’s  
15 principal dwelling.”.

16          *(r) BROKER PRICE OPINIONS.*—Title XI of the Finan-  
17 cial Institutions Reform, Recovery, and Enforcement Act  
18 of 1989 (12 U.S.C. 3331 et seq.), as amended by this section,  
19 is further amended by adding at the end the following new  
20 section (and amending the table of contents accordingly):

21          **“SEC. 1126. BROKER PRICE OPINIONS.**

22          “(a) *GENERAL PROHIBITION.*—Broker price opinions  
23 may not be used as the sole basis to determine the value  
24 of a piece of property for the purpose of a loan origination

1 *of a residential mortgage loan secured by such piece of prop-*  
2 *erty.*

3 “(b) *EXCEPTIONS.*—*Subsection (a) shall not apply*  
4 *to—*

5 “(1) *those transaction as may be designated by*  
6 *the federal financial institutions regulatory agencies*  
7 *or the Federal Housing Finance Agency; or*

8 “(2) *real estate brokers who produce broker price*  
9 *opinions or competitive market analyses solely for the*  
10 *purposes of the real estate listing process.*

11 “(c) *BROKER PRICE OPINION DEFINED.*—*For pur-*  
12 *poses of this section, the term ‘broker price opinion’ means*  
13 *an estimate, done in lieu of a written appraisal, prepared*  
14 *by a real estate broker, agent, or sales person that details*  
15 *the probable selling price of a particular piece of real estate*  
16 *property and provides a varying level of detail about the*  
17 *property’s condition, market, and neighborhood, and infor-*  
18 *mation on comparable sales, but does not include an auto-*  
19 *mated valuation model, as defined in section 1125(c).”.*

20 (s) *AMENDMENTS TO APPRAISAL SUBCOMMITTEE.*—  
21 *Section 1011 of the Federal Financial Institutions Exam-*  
22 *ination Council Act of 1978 (12 U.S.C. 3310) is amended—*

23 (1) *in the first sentence, by adding before the pe-*  
24 *riod the following: “and the Federal Housing Finance*  
25 *Agency”;* and



1           (2) *by inserting at the end the following: “At all*  
2 *times at least one member of the Appraisal Sub-*  
3 *committee shall have demonstrated knowledge and*  
4 *competence through licensure, certification, or profes-*  
5 *sional designation within the appraisal profession.”.*

6           *(t) TECHNICAL CORRECTIONS.—*

7           (1) *Section 1119(a)(2) of the Financial Institu-*  
8 *tions Reform, Recovery, and Enforcement Act of 1989*  
9 *(12 U.S.C. 3348(a)(2)) is amended by striking “coun-*  
10 *cil,” and inserting “Council.”.*

11           (2) *Section 1121(6) of the Financial Institutions*  
12 *Reform, Recovery, and Enforcement Act of 1989 (12*  
13 *U.S.C. 3350(6)) is amended by striking “Corpora-*  
14 *tions,” and inserting “Corporation.”.*

15           (3) *Section 1121(8) of the Financial Institutions*  
16 *Reform, Recovery, and Enforcement Act of 1989 (12*  
17 *U.S.C. 3350(8)) is amended by striking “council”*  
18 *and inserting “Council”.*

19           (4) *Section 1122 of the Financial Institutions*  
20 *Reform, Recovery, and Enforcement Act of 1989 (12*  
21 *U.S.C. 3351) is amended—*

22                   (A) *in subsection (a)(1) by moving the left*  
23 *margin of subparagraphs (A), (B), and (C) 2*  
24 *ems to the right; and*

25                   (B) *in subsection (c)—*

1                   (i) by striking “Federal Financial In-  
2                   stitutions Examination Council” and in-  
3                   serting “Financial Institutions Examina-  
4                   tion Council”; and

5                   (ii) by striking “the council’s func-  
6                   tions” and inserting “the Council’s func-  
7                   tions”.

8 **SEC. 604. STUDY REQUIRED ON IMPROVEMENTS IN AP-**  
9 **PRAISAL PROCESS AND COMPLIANCE PRO-**  
10 **GRAMS.**

11           (a) *STUDY.*—The Comptroller General shall conduct a  
12 comprehensive study on possible improvements in the ap-  
13 praisal process generally, and specifically on the consist-  
14 ency in and the effectiveness of, and possible improvements  
15 in, State compliance efforts and programs in accordance  
16 with title XI of the Financial Institutions Reform, Recov-  
17 ery, and Enforcement Act of 1989. In addition, this study  
18 shall examine the existing exemptions to the use of certified  
19 appraisers issued by Federal financial institutions regu-  
20 latory agencies. The study shall also review the threshold  
21 level established by Federal regulators for compliance under  
22 title XI and whether there is a need to revise them to reflect  
23 the addition of consumer protection to the purposes and  
24 functions of the Appraisal Subcommittee. The study shall  
25 additionally examine the quality of different types of mort-

1 *gage collateral valuations produced by broker price opin-*  
2 *ions, automated valuation models, licensed appraisals, and*  
3 *certified appraisals, among others, and the quality of ap-*  
4 *praisals provided through different distribution channels,*  
5 *including appraisal management companies, independent*  
6 *appraisal operations within a mortgage originator, and fee-*  
7 *for-service appraisals. The study shall also include an anal-*  
8 *ysis and statistical breakdown of enforcement actions taken*  
9 *during the last 10 years against different types of apprais-*  
10 *ers, including certified, licensed, supervisory, and trainee*  
11 *appraisers. Furthermore, the study shall examine the bene-*  
12 *fits and costs, as well as the advantages and disadvantages,*  
13 *of establishing a national repository to collect data related*  
14 *to real estate property collateral valuations performed in*  
15 *the United States.*

16       **(b) REPORT.**—*Before the end of the 18-month period*  
17 *beginning on the date of the enactment of this Act, the*  
18 *Comptroller General shall submit a report on the study*  
19 *under subsection (a) to the Committee on Financial Serv-*  
20 *ices of the House of Representatives and the Committee on*  
21 *Banking, Housing, and Urban Affairs of the Senate, to-*  
22 *gether with such recommendations for administrative or*  
23 *legislative action, at the Federal or State level, as the Comp-*  
24 *troller General may determine to be appropriate.*

1 **SEC. 605. EQUAL CREDIT OPPORTUNITY ACT AMENDMENT.**

2 *Subsection (e) of section 701 of the Equal Credit Op-*  
3 *portunity Act ( U.S.C. 1691) is amended to read as follows:*

4 *“(e) COPIES FURNISHED TO APPLICANTS.—*

5 *“(1) IN GENERAL.—Each creditor shall furnish*  
6 *to an applicant a copy of any and all written ap-*  
7 *praisals and valuations developed in connection with*  
8 *the applicant’s application for a loan that is secured*  
9 *or would have been secured by a first lien on a dwell-*  
10 *ing promptly upon completion, but in no case later*  
11 *than 3 days prior to the closing of the loan, whether*  
12 *the creditor grants or denies the applicant’s request*  
13 *for credit or the application is incomplete or with-*  
14 *drawn.*

15 *“(2) WAIVER.—The applicant may waive the 3*  
16 *day requirement provided for in paragraph (1), ex-*  
17 *cept where otherwise required in law.*

18 *“(3) REIMBURSEMENT.—The applicant may be*  
19 *required to pay a reasonable fee to reimburse the*  
20 *creditor for the cost of the appraisal, except where*  
21 *otherwise required in law.*

22 *“(4) FREE COPY.—Notwithstanding paragraph*  
23 *(3), the creditor shall provide a copy of each written*  
24 *appraisal or valuation at no additional cost to the*  
25 *applicant.*

1           “(5) *NOTIFICATION TO APPLICANTS.*—*At the time*  
2           *of application, the creditor shall notify an applicant*  
3           *in writing of the right to receive a copy of each writ-*  
4           *ten appraisal and valuation under this subsection.*

5           “(6) *REGULATIONS.*—*The Board shall prescribe*  
6           *regulations to implement this subsection within 1*  
7           *year of the date of the enactment of this subsection.*

8           “(7) *VALUATION DEFINED.*—*For purposes of this*  
9           *subsection, the term ‘valuation’ shall include any esti-*  
10          *mate of the value of a dwelling developed in connec-*  
11          *tion with a creditor’s decision to provide credit, in-*  
12          *cluding those values developed pursuant to a policy of*  
13          *a government sponsored enterprise or by an auto-*  
14          *mated valuation model, a broker price opinion, or*  
15          *other methodology or mechanism.”.*

16 **SEC. 606. REAL ESTATE SETTLEMENT PROCEDURES ACT OF**  
17                                    **1974 AMENDMENT RELATING TO CERTAIN AP-**  
18                                    **PRAISAL FEES.**

19           *Section 4 of the Real Estate Settlement Procedures Act*  
20           *of 1974 is amended by adding at the end the following new*  
21           *subsection:*

22           “(c) *The standard form described in subsection (a)*  
23           *shall include, in the case of an appraisal coordinated by*  
24           *an appraisal management company (as such term is de-*  
25           *finied in section 1121(11) of the Financial Institutions Re-*

1 *form, Recovery, and Enforcement Act of 1989 (12 U.S.C.*  
 2 *3350(11))), a clear disclosure of—*

3 *“(1) the fee paid directly to the appraiser by*  
 4 *such company; and*

5 *“(2) the administration fee charged by such com-*  
 6 *pany.”.*

7 ***TITLE VII—SENSE OF CONGRESS***  
 8 ***REGARDING THE IMPOR-***  
 9 ***TANCE OF GOVERNMENT***  
 10 ***SPONSORED ENTERPRISES***  
 11 ***REFORM***

12 ***SEC. 701. SENSE OF CONGRESS REGARDING THE IMPOR-***  
 13 ***TANCE OF GOVERNMENT-SPONSORED ENTER-***  
 14 ***PRISES REFORM TO ENHANCE THE PROTEC-***  
 15 ***TION, LIMITATION, AND REGULATION OF THE***  
 16 ***TERMS OF RESIDENTIAL MORTGAGE CREDIT.***

17 *(a) FINDINGS.—The Congress finds as follows:*

18 *(1) The Government-sponsored enterprises, Fed-*  
 19 *eral National Mortgage Association (Fannie Mae)*  
 20 *and the Federal Home Loan Mortgage Corporation*  
 21 *(Freddie Mac), were chartered by Congress to ensure*  
 22 *a reliable and affordable supply of mortgage funding,*  
 23 *but enjoy a dual legal status as privately owned cor-*  
 24 *porations with Government mandated affordable*  
 25 *housing goals.*

1           (2) *In 1996, the Department of Housing and*  
2           *Urban Development required that 42 percent of*  
3           *Fannie Mae’s and Freddie Mac’s mortgage financing*  
4           *should go to borrowers with income levels below the*  
5           *median for a given area.*

6           (3) *In 2004, the Department of Housing and*  
7           *Urban Development revised those goals, increasing*  
8           *them to 56 percent of their overall mortgage purchases*  
9           *by 2008, and additionally mandated that 12 percent*  
10          *of all mortgage purchases by Fannie Mae and Freddie*  
11          *Mac be “special affordable” loans made to borrowers*  
12          *with incomes less than 60 percent of an area’s me-*  
13          *dian income, a target that ultimately increased to 28*  
14          *percent for 2008.*

15          (4) *To help fulfill those mandated affordable*  
16          *housing goals, in 1995 the Department of Housing*  
17          *and Urban Development authorized Fannie Mae and*  
18          *Freddie Mac to purchase subprime securities that in-*  
19          *cluded loans made to low-income borrowers.*

20          (5) *After this authorization to purchase*  
21          *subprime securities, subprime and near-prime loans*  
22          *increased from 9 percent of securitized mortgages in*  
23          *2001 to 40 percent in 2006, while the market share*  
24          *of conventional mortgages dropped from 78.8 percent*  
25          *in 2003 to 50.1 percent by 2007 with a corresponding*

1        *increase in subprime and Alt-A loans from 10.1 per-*  
2        *cent to 32.7 percent over the same period.*

3                *(6) In 2004 alone, Fannie Mae and Freddie Mac*  
4        *purchased \$175,000,000,000 in subprime mortgage se-*  
5        *curities, which accounted for 44 percent of the market*  
6        *that year, and from 2005 through 2007, Fannie Mae*  
7        *and Freddie Mac purchased approximately*  
8        *\$1,000,000,000,000 in subprime and Alt-A loans,*  
9        *while Fannie Mae's acquisitions of mortgages with*  
10       *less than 10 percent down payments almost tripled.*

11               *(7) According to data from the Federal Housing*  
12       *Finance Agency (FHFA) for the fourth quarter of*  
13       *2008, Fannie Mae and Freddie Mac own or guarantee*  
14       *75 percent of all newly originated mortgages, and*  
15       *Fannie Mae and Freddie Mac currently own 13.3*  
16       *percent of outstanding mortgage debt in the United*  
17       *States and have issued mortgage-backed securities for*  
18       *31.0 percent of the residential debt market, a com-*  
19       *bined total of 44.3 percent of outstanding mortgage*  
20       *debt in the United States.*

21               *(8) On September 7, 2008, the FHFA placed*  
22       *Fannie Mae and Freddie Mac into conservatorship,*  
23       *with the Treasury Department subsequently agreeing*  
24       *to purchase at least \$200,000,000,000 of preferred*  
25       *stock from each enterprise in exchange for warrants*



1       *for the purchase of 79.9 percent of each enterprise's*  
2       *common stock.*

3             (9) *The conservatorship for Fannie Mae and*  
4       *Freddie Mac has potentially exposed taxpayers to up-*  
5       *wards of \$5,300,000,000,000 worth of risk.*

6             (10) *The hybrid public-private status of Fannie*  
7       *Mae and Freddie Mac is untenable and must be re-*  
8       *solved to assure that consumers are offered and receive*  
9       *residential mortgage loans on terms that reasonably*  
10       *reflect their ability to repay the loans and that are*  
11       *understandable and not unfair, deceptive, or abusive.*

12            (b) *SENSE OF THE CONGRESS.—It is the sense of the*  
13       *Congress that efforts to enhance by the protection, limita-*  
14       *tion, and regulation of the terms of residential mortgage*  
15       *credit and the practices related to such credit would be in-*  
16       *complete without enactment of meaningful structural re-*  
17       *forms of Fannie Mae and Freddie Mac.*

Union Calendar No. 42

111<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**H. R. 1728**

[Report No. 111-94]

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**A BILL**

To amend the Truth in Lending Act to reform consumer mortgage practices and provide accountability for such practices, to provide certain minimum standards for consumer mortgage loans, and for other purposes.

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MAY 4, 2009

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed