

110th CONGRESS
1st Session
H. R. 3915

AN ACT

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title- This Act may be cited as the 'Mortgage Reform and Anti-Predatory Lending Act of 2007'.

(b) Table of Contents- The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

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Sec. 108. Backup authority to establish a nationwide mortgage licensing and registry system.

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Sec. 602. Disclosure notice required for consumers who waive escrow services.

Sec. 603. Real Estate Settlement Procedures Act of 1974 amendments.

Sec. 604. Mortgage servicing studies required.

Sec. 605. Escrows included in repayment analysis.

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Sec. 702. Unfair and deceptive practices and acts relating to certain consumer credit transactions.

- Sec. 703. Appraisal subcommittee of FIEC, appraiser independence, and approved appraiser education.
- Sec. 704. Study required on improvements in appraisal process and compliance programs.
- Sec. 705. Consumer appraisal disclosure.

TITLE I--RESIDENTIAL MORTGAGE LOAN ORIGINATION

Subtitle A--Licensing System for Residential Mortgage Loan Originators

SEC. 101. PURPOSES AND METHODS FOR ESTABLISHING A MORTGAGE LICENSING SYSTEM AND REGISTRY.

In order to increase uniformity, reduce regulatory burden, enhance consumer protection, and reduce fraud, the States, through the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators, are hereby encouraged to establish a Nationwide Mortgage Licensing System and Registry for the residential mortgage industry that accomplishes all of the following objectives:

- (1) Provides uniform license applications and reporting requirements for State-licensed loan originators.
- (2) Provides a comprehensive licensing and supervisory database.
- (3) Aggregates and improves the flow of information to and between regulators.
- (4) Provides increased accountability and tracking of loan originators.
- (5) Streamlines the licensing process and reduces the regulatory burden.
- (6) Enhances consumer protections and supports anti-fraud measures.
- (7) Provides consumers with easily accessible information regarding the employment history of, and publicly adjudicated disciplinary and enforcement actions against, loan originators.

SEC. 102. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

- (1) FEDERAL BANKING AGENCIES- The term 'Federal banking agencies' means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency,

the Director of the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.

(2) DEPOSITORY INSTITUTION- The term 'depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act and includes any credit union.

(3) LOAN ORIGINATOR-

(A) IN GENERAL- The term 'loan originator'--

(i) means an individual who--

(I) takes a residential mortgage loan application;

(II) assists a consumer in obtaining or applying to obtain a residential mortgage loan; or

(III) offers or negotiates terms of a residential mortgage loan, for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain;

(ii) includes any individual who represents to the public, through advertising or other means of communicating or providing information (including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items), that such individual can or will provide or perform any of the activities described in clause (i);

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

(iv) does not include a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable State law, unless the person or entity is compensated by a lender, a mortgage broker, or other loan originator or by any agent of such lender, mortgage broker, or other loan originator.

(B) OTHER DEFINITIONS RELATING TO LOAN ORIGINATOR- For purposes of this subsection, an individual 'assists a consumer in obtaining or

applying to obtain a residential mortgage loan' by, among other things, advising on loan terms (including rates, fees, other costs), preparing loan packages, or collecting information on behalf of the consumer with regard to a residential mortgage loan.

(C) ADMINISTRATIVE OR CLERICAL TASKS- The term `administrative or clerical tasks' means the receipt, collection, and distribution of information common for the processing or underwriting of a loan in the mortgage industry and communication with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan.

(D) REAL ESTATE BROKERAGE ACTIVITY DEFINED- The term `real estate brokerage activity' means any activity that involves offering or providing real estate brokerage services to the public, including--

- (i) acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property;
- (ii) listing or advertising real property for sale, purchase, lease, rental, or exchange;
- (iii) providing advice in connection with sale, purchase, lease, rental, or exchange of real property;
- (iv) bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property;
- (v) negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property (other than in connection with providing financing with respect to any such transaction);
- (vi) engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; and
- (vii) offering to engage in any activity, or act in any capacity, described in clause (i), (ii), (iii), (iv), (v), or (vi).

(4) LOAN PROCESSOR OR UNDERWRITER-

(A) IN GENERAL- The term 'loan processor or underwriter' means an individual who performs clerical or support duties at the direction of and subject to the supervision and instruction of--

- (i) a State-licensed loan originator; or
- (ii) a registered loan originator.

(B) CLERICAL OR SUPPORT DUTIES- For purposes of subparagraph (A), the term 'clerical or support duties' may include--

- (i) the receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan; and
- (ii) communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that such communication does not include offering or negotiating loan rates or terms, or counseling consumers about residential mortgage loan rates or terms.

(5) NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY- The term 'Nationwide Mortgage Licensing System and Registry' means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the State licensing and registration of State-licensed loan originators and the registration of registered loan originators or any system established by the Secretary under section 108.

(6) REGISTERED LOAN ORIGINATOR- The term 'registered loan originator' means any individual who--

- (A) meets the definition of loan originator and is an employee of a depository institution or a subsidiary of a depository institution; and
- (B) is registered with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.

(7) RESIDENTIAL MORTGAGE LOAN- The term 'residential mortgage loan' means any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling (as defined in section 103(v) of the Truth in Lending Act) or residential real estate upon which

is constructed or intended to be constructed a dwelling (as so defined).

(8) SECRETARY- The term `Secretary' means the Secretary of Housing and Urban Development.

(9) STATE-LICENSED LOAN ORIGINATOR- The term `State-licensed loan originator' means any individual who-

- (A) is a loan originator;
- (B) is not an employee of a depository institution or any subsidiary of a depository institution; and
- (C) is licensed by a State or by the Secretary under section 107 and registered as a loan originator with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.

(10) UNIQUE IDENTIFIER- The term `unique identifier' means a number or other identifier that--

- (A) permanently identifies a loan originator; and
- (B) is assigned by protocols established by the Nationwide Mortgage Licensing System and Registry and the Federal banking agencies to facilitate electronic tracking of loan originators and uniform identification of, and public access to, the employment history of and the publicly adjudicated disciplinary and enforcement actions against loan originators.

SEC. 103. LICENSE OR REGISTRATION REQUIRED.

(a) In General- An individual may not engage in the business of a loan originator without first--

(1) obtaining and maintaining--

- (A) a registration as a registered loan originator; or
- (B) a license and registration as a State-licensed loan originator; and

(2) obtaining a unique identifier.

(b) Loan Processors and Underwriters-

(1) SUPERVISED LOAN PROCESSORS AND

UNDERWRITERS- A loan processor or underwriter who does not represent to the public, through advertising or other means of communicating or providing information (including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items), that such individual can or will perform any of the activities of a loan

originator shall not be required to be a State-licensed loan originator or a registered loan originator.

(2) INDEPENDENT CONTRACTORS- A loan processor or underwriter may not work as an independent contractor unless such processor or underwriter is a State-licensed loan originator or a registered loan originator.

SEC. 104. STATE LICENSE AND REGISTRATION APPLICATION AND ISSUANCE.

(a) Background Checks- In connection with an application to any State for licensing and registration as a State-licensed loan originator, the applicant shall, at a minimum, furnish to the Nationwide Mortgage Licensing System and Registry information concerning the applicant's identity, including--

(1) fingerprints for submission to the Federal Bureau of Investigation, and any governmental agency or entity authorized to receive such information for a State and national criminal history background check; and

(2) personal history and experience, including authorization for the System to obtain--

(A) an independent credit report obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act; and

(B) information related to any administrative, civil or criminal findings by any governmental jurisdiction.

(b) Issuance of License- The minimum standards for licensing and registration as a State-licensed loan originator shall include the following:

(1) The applicant has not had a loan originator or similar license revoked in any governmental jurisdiction during the 5-year period immediately preceding the filing of the present application.

(2) The applicant has not been convicted, pled guilty or nolo contendere in a domestic, foreign, or military court of a felony during the 7-year period immediately preceding the filing of the present application.

(3) The applicant has demonstrated financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a determination that the loan originator will operate honestly, fairly, and efficiently within the purposes of this subtitle.

(4) The applicant has completed the pre-licensing education requirement described in subsection (c).

(5) The applicant has passed a written test that meets the test requirement described in subsection (d).

(c) Pre-Licensing Education of Loan Originators-

(1) MINIMUM EDUCATIONAL REQUIREMENTS- In order to meet the pre-licensing education requirement referred to in subsection (b)(4), a person shall complete at least 20 hours of education approved in accordance with paragraph (2), which shall include at least 3 hours of Federal law and regulations and 3 hours of ethics which shall include instruction on fraud, consumer protection and fair lending issues.

(2) APPROVED EDUCATIONAL COURSES- For purposes of paragraph (1), pre-licensing education courses shall be reviewed, and published by the Nationwide Mortgage Licensing System and Registry.

(3) LIMITATION AND STANDARDS-

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

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

(d) Testing of Loan Originators-

(1) IN GENERAL- In order to meet the written test requirement referred to in subsection (b)(5), an individual shall pass, in accordance with the standards established under this subsection, a qualified written test developed by the Nationwide Mortgage Licensing System and Registry and administered by an approved test provider.

(2) QUALIFIED TEST- A written test shall not be treated as a qualified written test for purposes of paragraph (1) unless--

(A) the test consists of a minimum of 100 questions; and

(B) the test adequately measures the applicant's knowledge and comprehension in appropriate subject areas, including--

(i) ethics;

- (ii) Federal law and regulation pertaining to mortgage origination;
- (iii) State law and regulation pertaining to mortgage origination; and
- (iv) Federal and State law and regulation, including instruction on fraud, consumer protection, and fair lending issues.

(3) MINIMUM COMPETENCE-

(A) PASSING SCORE- An individual shall not be considered to have passed a qualified written test unless the individual achieves a test score of not less than 75 percent correct answers to questions.

(B) INITIAL RETESTS- An individual may retake a test 3 consecutive times with each consecutive taking occurring in less than 14 days after the preceding test.

(C) SUBSEQUENT RETESTS- After 3 consecutive tests, an individual shall wait at least 14 days before taking the test again.

(D) RETEST AFTER LAPSE OF LICENSE- A State-licensed loan originator who fails to maintain a valid license for a period of 5 years or longer shall retake the test, not taking into account any time during which such individual is a registered loan originator.

SEC. 105. STANDARDS FOR STATE LICENSE RENEWAL.

(a) In General- The minimum standards for license renewal for State-licensed loan originators shall include the following:

(1) The loan originator continues to meet the minimum standards for license issuance.

(2) The loan originator has satisfied the annual continuing education requirements described in subsection (b).

(b) Continuing Education for State-Licensed Loan Originators-

(1) IN GENERAL- In order to meet the annual continuing education requirements referred to in subsection (a)(2), a State-licensed loan originator shall complete at least 8 hours of education approved in accordance with paragraph (2), which shall include at least 3 hours of Federal law and regulations and 2 hours of ethics, including education on fraud, consumer protection, and fair lending issues.

(2) APPROVED EDUCATIONAL COURSES- For purposes of paragraph (1), continuing education courses shall be

reviewed, and published by the Nationwide Mortgage Licensing System and Registry.

(3) CALCULATION OF CONTINUING EDUCATION CREDITS- A State-licensed loan originator--

(A) may only receive credit for a continuing education course in the year in which the course is taken; and

(B) may not take the same approved course in the same or successive years to meet the annual requirements for continuing education.

(4) INSTRUCTOR CREDIT- A State-licensed loan originator who is approved as an instructor of an approved continuing education course may receive credit for the originator's own annual continuing education requirement at the rate of 2 hours credit for every 1 hour taught.

(5) LIMITATION AND STANDARDS-

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

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

SEC. 106. SYSTEM OF REGISTRATION ADMINISTRATION BY FEDERAL BANKING AGENCIES.

(a) Development-

(1) IN GENERAL- The Federal banking agencies shall jointly develop and maintain a system for registering employees of depository institutions or subsidiaries of depository institutions as registered loan originators with the Nationwide Mortgage Licensing System and Registry. The system shall be implemented before the end of the 1-year period beginning on the date of the enactment of this Act.

(2) REGISTRATION REQUIREMENTS- In connection with the registration of any loan originator who is an employee of a depository institution or a subsidiary of a depository institution with the Nationwide Mortgage Licensing System and Registry, the appropriate Federal banking agency shall, at a minimum, furnish or cause to be furnished to

the Nationwide Mortgage Licensing System and Registry information concerning the employees's identity, including-

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(A) fingerprints for submission to the Federal Bureau of Investigation, and any governmental agency or entity authorized to receive such information for a State and national criminal history background check; and

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

(b) Coordination-

(1) UNIQUE IDENTIFIER- The Federal banking agencies, through the Financial Institutions Examination Council, shall coordinate with the Nationwide Mortgage Licensing System and Registry to establish protocols for assigning a unique identifier to each registered loan originator that will facilitate electronic tracking and uniform identification of, and public access to, the employment history of and publicly adjudicated disciplinary and enforcement actions against loan originators.

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

(c) Consideration of Factors and Procedures- In establishing the registration procedures under subsection (a) and the protocols for assigning a unique identifier to a registered loan originator, the Federal banking agencies shall make such de minimis exceptions as may be appropriate to paragraphs (1)(A) and (2) of section 103(a), shall make reasonable efforts to utilize existing information to minimize the burden of registering loan originators, and shall consider methods for automating the process to the greatest extent practicable consistent with the purposes of this subtitle.

SEC. 107. SECRETARY OF HOUSING AND URBAN DEVELOPMENT BACKUP AUTHORITY TO ESTABLISH A LOAN ORIGINATOR LICENSING SYSTEM.

(a) Back up Licensing System- If, by the end of the 1-year period, or the 2-year period in the case of a State whose legislature meets only biennially, beginning on the date of the enactment of this Act or at any time thereafter, the Secretary determines that a State does not have in place by law or regulation a system for licensing and registering loan originators that meets the requirements of sections 104 and 105 and subsection (d) or does not participate in the Nationwide Mortgage Licensing System and Registry, the Secretary shall provide for the establishment and maintenance of a system for the licensing and registration by the Secretary of loan originators operating in such State as State-licensed loan originators.

(b) Licensing and Registration Requirements- The system established by the Secretary under subsection (a) for any State shall meet the requirements of sections 104 and 105 for State-licensed loan originators.

(c) Unique Identifier- The Secretary shall coordinate with the Nationwide Mortgage Licensing System and Registry to establish protocols for assigning a unique identifier to each loan originator licensed by the Secretary as a State-licensed loan originator that will facilitate electronic tracking and uniform identification of, and public access to, the employment history of and the publicly adjudicated disciplinary and enforcement actions against loan originators.

(d) State Licensing Law Requirements- For purposes of this section, the law in effect in a State meets the requirements of this subsection if the Secretary determines the law satisfies the following minimum requirements:

- (1) A State loan originator supervisory authority is maintained to provide effective supervision and enforcement of such law, including the suspension, termination, or nonrenewal of a license for a violation of State or Federal law.
- (2) The State loan originator supervisory authority ensures that all State-licensed loan originators operating in the State are registered with Nationwide Mortgage Licensing System and Registry.
- (3) The State loan originator supervisory authority is required to regularly report violations of such law, as well

as enforcement actions and other relevant information, to the Nationwide Mortgage Licensing System and Registry.

(e) Temporary Extension of Period- The Secretary may extend, by not more than 6 months, the 1-year or 2-year period, as the case may be, referred to in subsection (a) for the licensing of loan originators in any State under a State licensing law that meets the requirements of sections 104 and 105 and subsection (d) if the Secretary determines that such State is making a good faith effort to establish a State licensing law that meets such requirements, license mortgage originators under such law, and register such originators with the Nationwide Mortgage Licensing System and Registry.

(f) Limitation on HUD-Licensed Loan Originators- Any loan originator who is licensed by the Secretary under a system established under this section for any State may not use such license to originate loans in any other State.

SEC. 108. BACKUP AUTHORITY TO ESTABLISH A NATIONWIDE MORTGAGE LICENSING AND REGISTRY SYSTEM.

If at any time the Secretary determines that the Nationwide Mortgage Licensing System and Registry is failing to meet the requirements and purposes of this subtitle for a comprehensive licensing, supervisory, and tracking system for loan originators, the Secretary shall establish and maintain such a system to carry out the purposes of this subtitle and the effective registration and regulation of loan originators.

SEC. 109. FEES.

The Federal banking agencies, the Secretary, and the Nationwide Mortgage Licensing System and Registry may charge reasonable fees to cover the costs of maintaining and providing access to information from the Nationwide Mortgage Licensing System and Registry to the extent such fees are not charged to consumers for access such system and registry.

SEC. 110. BACKGROUND CHECKS OF LOAN ORIGINATORS.

(a) Access to Records- Notwithstanding any other provision of law, in providing identification and processing functions, the

Attorney General shall provide access to all criminal history information to the appropriate State officials responsible for regulating State-licensed loan originators to the extent criminal history background checks are required under the laws of the State for the licensing of such loan originators.

(b) Agent- For the purposes of this section and in order to reduce the points of contact which the Federal Bureau of Investigation may have to maintain for purposes of subsection (a), the Conference of State Bank Supervisors or a wholly owned subsidiary may be used as a channeling agent of the States for requesting and distributing information between the Department of Justice and the appropriate State agencies.

SEC. 111. CONFIDENTIALITY OF INFORMATION.

(a) System Confidentiality- Except as otherwise provided in this section, any requirement under Federal or State law regarding the privacy or confidentiality of any information or material provided to the Nationwide Mortgage Licensing System and Registry or a system established by the Secretary under section 108, and any privilege arising under Federal or State law (including the rules of any Federal or State court) with respect to such information or material, shall continue to apply to such information or material after the information or material has been disclosed to the system. Such information and material may be shared with all State and Federal regulatory officials with mortgage industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by Federal and State laws.

(b) Nonapplicability of Certain Requirements- Information or material that is subject to a privilege or confidentiality under subsection (a) shall not be subject to--

(1) disclosure under any Federal or State law governing the disclosure to the public of information held by an officer or an agency of the Federal Government or the respective State; or

(2) subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the Nationwide Mortgage Licensing System and Registry or the Secretary with respect to such information or material, the person to whom such information or material pertains waives, in whole or in part, in the discretion of such person, that privilege.

(c) Coordination With Other Law- Any State law, including any State open record law, relating to the disclosure of confidential supervisory information or any information or material described in subsection (a) that is inconsistent with subsection (a) shall be superseded by the requirements of such provision to the extent State law provides less confidentiality or a weaker privilege.

(d) Public Access to Information- This section shall not apply with respect to the information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, loan originators that is included in Nationwide Mortgage Licensing System and Registry for access by the public.

SEC. 112. LIABILITY PROVISIONS.

The Secretary, any State official or agency, any Federal banking agency, or any organization serving as the administrator of the Nationwide Mortgage Licensing System and Registry or a system established by the Secretary under section 108, or any officer or employee of any such entity, shall not be subject to any civil action or proceeding for monetary damages by reason of the good-faith action or omission of any officer or employee of any such entity, while acting within the scope of office or employment, relating to the collection, furnishing, or dissemination of information concerning persons who are loan originators or are applying for licensing or registration as loan originators.

SEC. 113. ENFORCEMENT UNDER HUD BACKUP LICENSING SYSTEM.

- (a) Summons Authority- The Secretary may--
- (1) examine any books, papers, records, or other data of any loan originator operating in any State which is subject to a licensing system established by the Secretary under section 107; and
 - (2) summon any loan originator referred to in paragraph (1) or any person having possession, custody, or care of the reports and records relating to such loan originator, to appear before the Secretary or any delegate of the Secretary at a time and place named in the summons and to produce such books, papers, records, or other data, and to give testimony, under oath, as may be relevant or

material to an investigation of such loan originator for compliance with the requirements of this subtitle.

(b) Examination Authority-

(1) IN GENERAL- If the Secretary establishes a licensing system under section 107 for any State, the Secretary shall appoint examiners for the purposes of administering such section.

(2) POWER TO EXAMINE- Any examiner appointed under paragraph (1) shall have power, on behalf of the Secretary, to make any examination of any loan originator operating in any State which is subject to a licensing system established by the Secretary under section 107 whenever the Secretary determines an examination of any loan originator is necessary to determine the compliance by the originator with this subtitle.

(3) REPORT OF EXAMINATION- Each examiner appointed under paragraph (1) shall make a full and detailed report of examination of any loan originator examined to the Secretary.

(4) ADMINISTRATION OF OATHS AND AFFIRMATIONS; EVIDENCE- In connection with examinations of loan originators operating in any State which is subject to a licensing system established by the Secretary under section 107, or with other types of investigations to determine compliance with applicable law and regulations, the Secretary and examiners appointed by the Secretary may administer oaths and affirmations and examine and take and preserve testimony under oath as to any matter in respect to the affairs of any such loan originator.

(5) ASSESSMENTS- The cost of conducting any examination of any loan originator operating in any State which is subject to a licensing system established by the Secretary under section 107 shall be assessed by the Secretary against the loan originator to meet the Secretary's expenses in carrying out such examination.

(c) Cease and Desist Proceeding-

(1) AUTHORITY OF SECRETARY- If the Secretary finds, after notice and opportunity for hearing, that any person is violating, has violated, or is about to violate any provision of this subtitle, or any regulation thereunder, with respect to a State which is subject to a licensing system established by the Secretary under section 107, the Secretary may publish such findings and enter an order requiring such person, and any other person that is, was,

or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation. Such order may, in addition to requiring a person to cease and desist from committing or causing a violation, require such person to comply, or to take steps to effect compliance, with such provision or regulation, upon such terms and conditions and within such time as the Secretary may specify in such order. Any such order may, as the Secretary deems appropriate, require future compliance or steps to effect future compliance, either permanently or for such period of time as the Secretary may specify, with such provision or regulation with respect to any loan originator.

(2) HEARING- The notice instituting proceedings pursuant to paragraph (1) shall fix a hearing date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is set by the Secretary with the consent of any respondent so served.

(3) TEMPORARY ORDER- Whenever the Secretary determines that the alleged violation or threatened violation specified in the notice instituting proceedings pursuant to paragraph (1), or the continuation thereof, is likely to result in significant dissipation or conversion of assets, significant harm to consumers, or substantial harm to the public interest prior to the completion of the proceedings, the Secretary may enter a temporary order requiring the respondent to cease and desist from the violation or threatened violation and to take such action to prevent the violation or threatened violation and to prevent dissipation or conversion of assets, significant harm to consumers, or substantial harm to the public interest as the Secretary deems appropriate pending completion of such proceedings. Such an order shall be entered only after notice and opportunity for a hearing, unless the Secretary determines that notice and hearing prior to entry would be impracticable or contrary to the public interest. A temporary order shall become effective upon service upon the respondent and, unless set aside, limited, or suspended by the Secretary or a court of competent jurisdiction, shall remain effective and enforceable pending the completion of the proceedings.

(4) REVIEW OF TEMPORARY ORDERS-

(A) REVIEW BY SECRETARY- At any time after the respondent has been served with a temporary cease-and-desist order pursuant to paragraph (3), the respondent may apply to the Secretary to have the order set aside, limited, or suspended. If the respondent has been served with a temporary cease-and-desist order entered without a prior hearing before the Secretary, the respondent may, within 10 days after the date on which the order was served, request a hearing on such application and the Secretary shall hold a hearing and render a decision on such application at the earliest possible time.

(B) JUDICIAL REVIEW- Within--

(i) 10 days after the date the respondent was served with a temporary cease-and-desist order entered with a prior hearing before the Secretary; or

(ii) 10 days after the Secretary renders a decision on an application and hearing under paragraph (1), with respect to any temporary cease-and-desist order entered without a prior hearing before the Secretary,

the respondent may apply to the United States district court for the district in which the respondent resides or has its principal place of business, or for the District of Columbia, for an order setting aside, limiting, or suspending the effectiveness or enforcement of the order, and the court shall have jurisdiction to enter such an order. A respondent served with a temporary cease-and-desist order entered without a prior hearing before the Secretary may not apply to the court except after hearing and decision by the Secretary on the respondent's application under subparagraph (A).

(C) NO AUTOMATIC STAY OF TEMPORARY ORDER-

The commencement of proceedings under subparagraph (B) shall not, unless specifically ordered by the court, operate as a stay of the Secretary's order.

(5) AUTHORITY OF THE SECRETARY TO PROHIBIT PERSONS FROM SERVING AS LOAN ORIGINATORS- In any cease-and-desist proceeding under paragraph (1), the Secretary may issue an order to prohibit, conditionally or

unconditionally, and permanently or for such period of time as the Secretary shall determine, any person who has violated this subtitle or regulations thereunder, from acting as a loan originator if the conduct of that person demonstrates unfitness to serve as a loan originator.

(d) Authority of the Secretary To Assess Money Penalties-

(1) IN GENERAL- The Secretary may impose a civil penalty on a loan originator operating in any State which is subject to licensing system established by the Secretary under section 107 if the Secretary finds, on the record after notice and opportunity for hearing, that such loan originator has violated or failed to comply with any requirement of this subtitle or any regulation prescribed by the Secretary under this subtitle or order issued under subsection (c).

(2) MAXIMUM AMOUNT OF PENALTY- The maximum amount of penalty for each act or omission described in paragraph (1) shall be \$5,000 for each day the violation continues.

Subtitle B--Residential Mortgage Loan Origination Standards

SEC. 121. DEFINITIONS.

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

`(cc) Definitions Relating to Mortgage Origination and Residential Mortgage Loans-

`(1) COMMISSION- Unless otherwise specified, the term `Commission' means the Federal Trade Commission.

`(2) FEDERAL BANKING AGENCIES- The term `Federal banking agencies' means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the National Credit Union Administration Board.

`(3) MORTGAGE ORIGINATOR- The term `mortgage originator'--

`(A) means any person who--

`(i) takes a residential mortgage loan application;

`(ii) assists a consumer in obtaining or applying to obtain a residential mortgage loan;
or

` (iii) offers or negotiates terms of a residential mortgage loan, for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain;

` (B) includes any person who represents to the public, through advertising or other means of communicating or providing information (including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items), that such person can or will provide any of the services or perform any of the activities described in subparagraph (A); and

` (C) does not include any person who is not otherwise described in subparagraph (A) or (B) and who performs purely administrative or clerical tasks on behalf of a person who is described in any such subparagraph.

` (4) NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY- The term `Nationwide Mortgage Licensing System and Registry' has the same meaning as in section 102(5) of the Mortgage Reform and Anti-Predatory Lending Act of 2007.

` (5) OTHER DEFINITIONS RELATING TO MORTGAGE ORIGINATOR- For purposes of this subsection, a person `assists a consumer in obtaining or applying to obtain a residential mortgage loan' by, among other things, advising on residential mortgage loan terms (including rates, fees, and other costs), preparing residential mortgage loan packages, or collecting information on behalf of the consumer with regard to a residential mortgage loan.

` (6) RESIDENTIAL MORTGAGE LOAN- The term `residential mortgage loan' means any consumer credit transaction that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or on residential real property that includes a dwelling, other than a consumer credit transaction under an open end credit plan or a reverse mortgage.

` (7) SECRETARY- The term `Secretary', when used in connection with any transaction or person involved with a residential mortgage loan, means the Secretary of Housing and Urban Development.

to the consumer's existing circumstances, based on information known by, or obtained in good faith by, the originator;

` (C) make full, complete, and timely disclosure to each such consumer of--

` (i) the comparative costs and benefits of each residential mortgage loan product offered, discussed, or referred to by the originator;

` (ii) the nature of the originator's relationship to the consumer (including the cost of the services to be provided by the originator and a statement that the mortgage originator is or is not acting as an agent for the consumer, as the case may be); and

` (iii) any relevant conflicts of interest;

` (D) certify to the creditor, with respect to any transaction involving a residential mortgage loan, that the mortgage originator has fulfilled all requirements applicable to the originator under this section with respect to the transaction; and

` (E) include the unique identifier of the originator provided by the Nationwide Mortgage Licensing System and Registry on all loan documents.

` (2) CLARIFICATION OF EXTENT OF DUTY TO PRESENT RANGE OF PRODUCTS AND APPROPRIATE PRODUCTS-

` (A) NO DUTY TO OFFER PRODUCTS FOR WHICH ORIGINATOR IS NOT AUTHORIZED TO TAKE AN APPLICATION- Paragraph (1)(B) shall not be construed as requiring--

` (i) a mortgage originator to present to any consumer any specific residential mortgage loan product that is offered by a creditor which does not accept consumer referrals from, or consumer applications submitted by or through, such originator; or

` (ii) a creditor to offer products that the creditor does not offer to the general public.

` (B) APPROPRIATE LOAN PRODUCT- For purposes of paragraph (1)(B), a residential mortgage loan shall be presumed to be appropriate for a consumer if--

` (i) the mortgage originator determines in good faith, based on then existing information and without undergoing a full underwriting process, that the consumer has a reasonable

ability to repay and, in the case of a refinancing of an existing residential mortgage loan, receives a net tangible benefit, as determined in accordance with regulations prescribed under subsections (a) and (b) of section 129B.

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

` (3) RULES OF CONSTRUCTION- No provision of this subsection shall be construed as--

` (A) creating an agency or fiduciary relationship between a mortgage originator and a consumer if the originator does not hold himself or herself out as such an agent or fiduciary; or

` (B) restricting a mortgage originator from holding himself or herself out as an agent or fiduciary of a consumer subject to any additional duty, requirement, or limitation applicable to agents or fiduciaries under any Federal or State law.

` (4) REGULATIONS-

` (A) IN GENERAL- The Federal banking agencies, in consultation with the Secretary, the Chairman of the State Liaison Committee to the Financial Institutions Examination Council, and the Commission, shall jointly prescribe regulations to--

` (i) further define the duty established under paragraph (1);

` (ii) implement the requirements of this subsection;

` (iii) establish the time period within which any disclosure required under paragraph (1) shall be made to the consumer; and

` (iv) establish such other requirements for any mortgage originator as such regulatory agencies may determine to be appropriate to meet the purposes of this subsection.

` (B) COMPLEMENTARY AND NONDUPLICATIVE DISCLOSURES- The agencies referred to in subparagraph (A) shall endeavor to make the required disclosures to consumers under this subsection complementary and nonduplicative with

other disclosures for mortgage consumers to the extent such efforts--

 ` (i) are practicable; and

 ` (ii) do not reduce the value of any such disclosure to recipients of such disclosures.

 ` (5) COMPLIANCE PROCEDURES REQUIRED- The Federal banking agencies shall prescribe regulations requiring depository institutions to establish and maintain procedures reasonably designed to assure and monitor the compliance of such depository institutions, the subsidiaries of such institutions, and the employees of such institutions or subsidiaries with the requirements of this section and the registration procedures established under section 106 of the Mortgage Reform and Anti-Predatory Lending Act of 2007.'.

(b) Clerical Amendment- The table of sections for chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 129 the following new item:

 ` 129A. Residential mortgage loan origination.'.

SEC. 123. PROHIBITION ON STEERING INCENTIVES.

Section 129A of the Truth in Lending Act (as added by section 122(a)) is amended by inserting after subsection (a) the following new subsection:

 ` (b) Prohibition on Steering Incentives-

 ` (1) AMOUNT OF ORIGINATOR COMPENSATION CANNOT VARY BASED ON TERMS- No mortgage originator may receive from any person, and no person may pay to any mortgage originator, directly or indirectly, any incentive compensation, including yield spread premium or any equivalent compensation or gain, that is based on, or varies with, the terms (other than the amount of principal) of any loan that is not a qualified mortgage (as defined in section 129B(c)(3)).

 ` (2) REGULATIONS- The Federal banking agencies, in consultation with the Secretary and the Commission, shall jointly prescribe regulations to prohibit--

 ` (A) mortgage originators from steering any consumer to a residential mortgage loan that--

 ` (i) the consumer lacks a reasonable ability to repay (in accordance with regulations prescribed under section 129B(a));

- ` (ii) in the case of a refinancing of a residential mortgage loan, does not provide the consumer with a net tangible benefit (in accordance with regulations prescribed under section 129B(b));
- or
- ` (iii) has predatory characteristics or effects (such as equity stripping, excessive fees, or abusive terms);
- ` (B) mortgage originators from steering any consumer from a residential mortgage loan for which the consumer is qualified that is a qualified mortgage (as defined in section 129B(c)(3)) to a residential mortgage loan that is not a qualified mortgage; and
- ` (C) abusive or unfair lending practices that promote disparities among consumers of equal credit worthiness but of different race, ethnicity, gender, or age.
- ` (3) RULES OF CONSTRUCTION- No provision of this subsection shall be construed as--
 - ` (A) limiting or affecting the ability of a mortgage originator to sell residential mortgage loans to subsequent purchasers;
 - ` (B) restricting a consumer's ability to finance, including through rate or principal, any origination fees or costs permitted under this subsection, or the originator's ability to receive such fees or costs (including compensation) from any person, so long as such fees or costs were fully and clearly disclosed to the consumer earlier in the application process as required by 129A(a)(1)(C)(ii) and do not vary based on the terms of the loan or the consumer's decision about whether to finance such fees or costs; or
 - ` (C) prohibiting incentive payments to a mortgage originator based on the number of residential mortgage loans originated within a specified period of time.'

SEC. 124. LIABILITY.

Section 129A of the Truth in Lending Act is amended by inserting after subsection (b) (as added by section 123) the following new subsection:

- ` (c) Liability for Violations-

^ (1) IN GENERAL- For purposes of providing a cause of action for any failure by a mortgage originator to comply with any requirement imposed under this section and any regulation prescribed under this section, subsections (a) and (b) of section 130 shall be applied with respect to any such failure by substituting `mortgage originator' for `creditor' each place such term appears in each such subsection.

^ (2) MAXIMUM- The maximum amount of any liability of a mortgage originator under paragraph (1) to a consumer for any violation of this section shall not exceed an amount equal to 3 times the total amount of direct and indirect compensation or gain accruing to the mortgage originator in connection with the residential mortgage loan involved in the violation, plus the costs to the consumer of the action, including a reasonable attorney's fee.'

SEC. 125. REGULATIONS.

The regulations required or authorized to be prescribed under this title or the amendments made by this title--

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

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

TITLE II --MINIMUM STANDARDS FOR MORTGAGES

SEC. 201. ABILITY TO REPAY.

(a) In General- Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 129A (as added by section 122(a)) the following new section:

^ Sec. 129B. Minimum standards for residential mortgage loans

^ (a) Ability To Repay-

^ (1) IN GENERAL- In accordance with regulations prescribed jointly by the Federal banking agencies, in consultation with the Commission, no creditor may make a residential mortgage loan unless the creditor makes a reasonable and good faith determination based on verified and documented information that, at the time the loan is

consummated, the consumer has a reasonable ability to repay the loan, according to its terms, and all applicable taxes, insurance, and assessments.

^(2) MULTIPLE LOANS- If the creditor knows, or has reason to know, that 1 or more residential mortgage loans secured by the same dwelling will be made to the same consumer, the creditor shall make a reasonable and good faith determination, based on verified and documented information, that the consumer has a reasonable ability to repay the combined payments of all loans on the same dwelling according to the terms of those loans and all applicable taxes, insurance, and assessments.

^(3) BASIS FOR DETERMINATION- A determination under this subsection of a consumer's ability to repay a residential mortgage loan shall be based on consideration of the consumer's credit history, current income, expected income the consumer is reasonably assured of receiving, current obligations, debt-to-income ratio, employment status, and other financial resources other than the consumer's equity in the dwelling or real property that secures repayment of the loan.

^(4) NONSTANDARD LOANS-

^(A) VARIABLE RATE LOANS THAT DEFER REPAYMENT OF ANY PRINCIPAL OR INTEREST- For purposes of determining, under this subsection, a consumer's ability to repay a variable rate residential mortgage loan that allows or requires the consumer to defer the repayment of any principal or interest, the creditor shall take into consideration a fully amortizing repayment schedule.

^(B) INTEREST-ONLY LOANS- For purposes of determining, under this subsection, a consumer's ability to repay a residential mortgage loan that permits or requires the payment of interest only, the creditor shall take into consideration the payment amount required to amortize the loan by its final maturity.

^(C) CALCULATION FOR NEGATIVE AMORTIZATION- In making any determination under this subsection, a creditor shall also take into consideration any balance increase that may accrue from any negative amortization provision.

^(D) CALCULATION PROCESS- For purposes of making any determination under this subsection, a

creditor shall calculate the monthly payment amount for principal and interest on any residential mortgage loan by assuming--

` (i) the loan proceeds are fully disbursed on the date of the consummation of the loan;

` (ii) the loan is to be repaid in substantially equal monthly amortizing payments for principal and interest over the entire term of the loan with no balloon payment, unless the loan contract requires more rapid repayment (including balloon payment), in which case the contract's repayment schedule shall be used in this calculation; and

` (iii) the interest rate over the entire term of the loan is a fixed rate equal to the fully indexed rate at the time of the loan closing, without considering the introductory rate.

` (5) FULLY-INDEXED RATE DEFINED- For purposes of this subsection, the term `fully indexed rate' means the index rate prevailing on a residential mortgage loan at the time the loan is made plus the margin that will apply after the expiration of any introductory interest rates.'.

(b) Clerical Amendment- The table of sections for chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 129A (as added by section 122(b)) the following new item:

` 129B. Minimum standards for residential mortgage loans.'.

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

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

` (b) Net Tangible Benefit for Refinancing of Residential Mortgage Loans-

` (1) IN GENERAL- In accordance with regulations prescribed under paragraph (3), no creditor may extend credit in connection with any residential mortgage loan that involves a refinancing of a prior existing residential mortgage loan unless the creditor reasonably and in good faith determines, at the time the loan is consummated and on the basis of information known by or obtained in good

faith by the creditor, that the refinanced loan will provide a net tangible benefit to the consumer.

` (2) CERTAIN LOANS PROVIDING NO NET TANGIBLE BENEFIT- A residential mortgage loan that involves a refinancing of a prior existing residential mortgage loan shall not be considered to provide a net tangible benefit to the consumer if the costs of the refinanced loan, including points, fees and other charges, exceed the amount of any newly advanced principal without any corresponding changes in the terms of the refinanced loan that are advantageous to the consumer.

` (3) NET TANGIBLE BENEFIT- The Federal banking agencies shall jointly prescribe regulations defining the term `net tangible benefit' for purposes of this subsection.'.

SEC. 203. SAFE HARBOR AND REBUTTABLE PRESUMPTION.

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

` (c) Presumption of Ability To Repay and Net Tangible Benefit-

` (1) IN GENERAL- Any creditor with respect to any residential mortgage loan, and any assignee or securitizer of such loan, may presume that the loan has met the requirements of subsections (a) and (b), if the loan is a qualified mortgage or a qualified safe harbor mortgage.

` (2) REBUTTABLE PRESUMPTION- Any presumption established under paragraph (1) with respect to any residential mortgage loan shall be rebuttable only--

` (A) against the creditor of such loan; and

` (B) if such loan is a qualified safe harbor mortgage.

` (3) DEFINITIONS- For purposes of this section the following definitions shall apply:

` (A) MOST RECENT CONVENTIONAL MORTGAGE RATE- The term `most recent conventional mortgage rate' means the contract interest rate on commitments for fixed-rate first mortgages most recently published in the Federal Reserve Statistical Release on selected interest rates (daily or weekly), and commonly referred to as the H.15 release (or any successor publication), in the week preceding a

date of determination for purposes of applying this subsection.

`(B) QUALIFIED MORTGAGE- The term `qualified mortgage' means--

`(i) any residential mortgage loan that constitutes a first lien on the dwelling or real property securing the loan and either--

`(I) has an annual percentage rate that does not equal or exceed the yield on securities issued by the Secretary of the Treasury under chapter 31 of title 31, United States Code, that bear comparable periods of maturity by more than 3 percentage points; or

`(II) has an annual percentage rate that does not equal or exceed the most recent conventional mortgage rate, or such other annual percentage rate as may be established by regulation under paragraph (6), by more than 175 basis points;

`(ii) any residential mortgage loan that is not the first lien on the dwelling or real property securing the loan and either--

`(I) has an annual percentage rate that does not equal or exceed the yield on securities issued by the Secretary of the Treasury under chapter 31 of title 31, United States Code, that bear comparable periods of maturity by more than 5 percentage points; or

`(II) has an annual percentage rate that does not equal or exceed the most recent conventional mortgage rate, or such other annual percentage rate as may be established by regulation under paragraph (6), by more than 375 basis points;

`(iii) a loan made or guaranteed by the Secretary of Veterans Affairs; and

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

^ (C) QUALIFIED SAFE HARBOR MORTGAGE- The term 'qualified safe harbor mortgage' means any residential mortgage loan--

^ (i) for which the income and financial resources of the consumer are verified and documented;

^ (ii) for which the residential mortgage loan underwriting process is based on the fully-indexed rate, and takes into account all applicable taxes, insurance, and assessments;

^ (iii) which does not provide for a repayment schedule that results in negative amortization at any time;

^ (iv) meets such other requirements as may be established by regulation; and

^ (v) for which any of the following factors apply with respect to such loan:

^ (I) The periodic payment amount for principal and interest are fixed for a minimum of 5 years under the terms of the loan.

^ (II) In the case of a variable rate loan, the annual percentage rate varies based on a margin that is less than 3 percent over a single generally accepted interest rate index that is the basis for determining the rate of interest for the mortgage.

^ (III) The loan does not cause the consumer's total monthly debts, including amounts under the loan, to exceed a percentage established by regulation of his or her monthly gross income or such other maximum percentage of such income as may be prescribed by regulation under paragraph (6).

^ (4) DETERMINATION OF COMPARISON TO TREASURY SECURITIES-

^ (A) IN GENERAL- Without regard to whether a residential mortgage loan is subject to or reportable under the Home Mortgage Disclosure Act of 1975 and subject to subparagraph (B), the difference between the annual percentage rate of such loan and

the yield on securities issued by the Secretary of the Treasury under chapter 31 of title 31, United States Code, having comparable periods of maturity shall be determined using the same procedures and methods of calculation applicable to loans that are subject to the reporting requirements under the Home Mortgage Disclosure Act of 1975.

ˆ (B) DATE OF DETERMINATION OF YIELD- The yield on the securities referred to in subparagraph (A) shall be determined, for purposes of such subparagraph and paragraph (3) with respect to any residential mortgage loan, as of the 15th day of the month preceding the month in which a completed application is submitted for such loan.

ˆ (5) APR IN CASE OF INTRODUCTORY OFFER- For purposes of making a determination of whether a residential mortgage loan that provides for a fixed interest rate for an introductory period and then resets or adjusts to a variable rate is a qualified mortgage, the determination of the annual percentage rate, as determined in accordance with regulations prescribed by the Board under section 107, shall be based on the greater of the introductory rate and the fully indexed rate of interest.

ˆ (6) REGULATIONS-

ˆ (A) IN GENERAL- The Federal banking agencies shall jointly prescribe regulations to carry out the purposes of this subsection.

ˆ (B) REVISION OF SAFE HARBOR CRITERIA- The Federal banking agencies may jointly prescribe regulations that revise, add to, or subtract from the criteria that define a qualified mortgage and a qualified safe harbor mortgage to the extent necessary and appropriate to effectuate the purposes of this subsection, to prevent circumvention or evasion of this subsection, or to facilitate compliance with this subsection.

ˆ (7) RULE OF CONSTRUCTION- No provision of this subsection may be construed as implying that a residential mortgage loan may be presumed to violate subsection (a) or (b) if such loan is not a qualified mortgage or a qualified safe harbor mortgage.'.

SEC. 204. LIABILITY.

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

^ (d) Liability for Violations-

^ (1) IN GENERAL-

^ (A) RESCISSION- In addition to any other liability under this title for a violation by a creditor of subsection (a) or (b) (for example under section 130) and subject to the statute of limitations in paragraph (7), a civil action may be maintained against a creditor for a violation of subsection (a) or (b) with respect to a residential mortgage loan for the rescission of the loan, and such additional costs as the obligor may have incurred as a result of the violation and in connection with obtaining a rescission of the loan, including a reasonable attorney's fee.

^ (B) CURE- A creditor shall not be liable for rescission under subparagraph (A) with respect to a residential mortgage loan if, no later than 90 days after the receipt of notification from the consumer that the loan violates subsection (a) or (b), the creditor provides a cure.

^ (2) LIMITED ASSIGNEE AND SECURITIZER LIABILITY- Notwithstanding sections 125(e) and 131 and except as provided in paragraph (3), a civil action which may be maintained against a creditor with respect to a residential mortgage loan for a violation of subsection (a) or (b) may be maintained against any assignee or securitizer of such residential mortgage loan, who has acted in good faith, for the following liabilities only:

^ (A) Rescission of the loan.

^ (B) Such additional costs as the obligor may have incurred as a result of the violation and in connection with obtaining a rescission of the loan, including a reasonable attorney's fee.

^ (3) ASSIGNEE AND SECURITIZER EXEMPTION- No assignee or securitizer of a residential mortgage loan shall be liable under paragraph (2) with respect to such loan if--

^ (A) no later than 90 days after the receipt of notification from the consumer that the loan violates subsection (a) or (b), the assignee or securitizer provides a cure so that the loan satisfies the requirements of subsections (a) and (b); or

- ˘ (B) each of the following conditions are met:
 - ˘ (i) The assignee or securitizer--
 - ˘ (I) has a policy against buying residential mortgage loans other than qualified mortgages or qualified safe harbor mortgages (as defined in subsection (c));
 - ˘ (II) the policy is intended to verify seller or assignor compliance with the representations and warranties required under clause (ii); and
 - ˘ (III) in accordance with regulations which the Federal banking agencies and the Securities and Exchange Commission shall jointly prescribe, exercises reasonable due diligence to adhere to such policy in purchasing residential mortgage loans, including through adequate, thorough, and consistently applied sampling procedures.
 - ˘ (ii) The contract under which such assignee or securitizer acquired the residential mortgage loan from a seller or assignor of the loan contains representations and warranties that the seller or assignor--
 - ˘ (I) is not selling or assigning any residential mortgage loan which is not a qualified mortgage or a qualified safe harbor mortgage; or
 - ˘ (II) is a beneficiary of a representation and warranty from a previous seller or assignor to that effect,and the assignee or securitizer in good faith takes reasonable steps to obtain the benefit of such representation or warranty.
- ˘ (4) ABSENT PARTIES-
 - ˘ (A) ABSENT CREDITOR- Notwithstanding the exemption provided in paragraph (3), if the creditor with respect to a residential mortgage loan made in violation of subsection (a) or (b) has ceased to exist as a matter of law or has filed for bankruptcy protection under title 11, United States Code, or has had a receiver or liquidating agent appointed, a consumer may maintain a civil action against an

assignee to cure, but not rescind, the residential mortgage loan, plus the costs and reasonable attorney's fees incurred in obtaining such remedy.

ˆ (B) ABSENT CREDITOR AND ASSIGNEE-

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

ˆ (5) CURE DEFINED- For purposes of this subsection, the term 'cure' means, with respect to a residential mortgage loan that violates subsection (a) or (b), the modification or refinancing, at no cost to the consumer, of the loan to provide terms that would have satisfied the requirements of subsections (a) and (b) if the loan had contained such terms as of the origination of the loan and the payment of such additional costs as the obligor may have incurred as a result of the violation and in connection with obtaining a cure of the loan, including a reasonable attorney's fee.

ˆ (6) DISAGREEMENT OVER CURE- If any creditor, assignee, or securitizer and a consumer fail to reach agreement on a cure with respect to a residential mortgage loan that violates subsection (a) or (b), or the consumer fails to accept a cure proffered by a creditor, assignee, or securitizer--

ˆ (A) the creditor, assignee, or securitizer may provide the cure; and

ˆ (B) the consumer may challenge the adequacy of the cure during the 6-month period beginning when the cure is provided.

If the consumer's challenge, under this paragraph, of a cure is successful, the creditor, assignee, or securitizer shall be liable to the consumer for rescission of the loan and such additional costs under paragraph (2).

ˆ (7) INABILITY TO PROVIDE OR OBTAIN RESCISSION- If a creditor, assignee, or securitizer cannot provide, or a consumer cannot obtain, rescission under paragraph (1) or (2), the liability of such creditor, assignee, or securitizer shall be met by providing the financial equivalent of a

rescission, together with such additional costs as the obligor may have incurred as a result of the violation and in connection with obtaining a rescission of the loan, including a reasonable attorney's fee.

` (8) NO CLASS ACTIONS AGAINST ASSIGNEE OR SECURITIZER UNDER PARAGRAPH (2)- Only individual actions may be brought against an assignee or securitizer of a residential mortgage loan for a violation of subsection (a) or (b).

` (9) STATUTE OF LIMITATIONS- The liability of a creditor, assignee, or securitizer under this subsection shall apply in any original action against a creditor under paragraph (1) or an assignee or securitizer under paragraph (2) which is brought before--

` (A) in the case of any residential mortgage loan other than a loan to which subparagraph (B) applies, the end of the 3-year period beginning on the date the loan is consummated; or

` (B) in the case of a residential mortgage loan that provides for a fixed interest rate for an introductory period and then resets or adjusts to a variable rate or that provides for a nonamortizing payment schedule and then converts to an amortizing payment schedule, the earlier of--

` (i) the end of the 1-year period beginning on the date of such reset, adjustment, or conversion; or

` (ii) the end of the 6-year period beginning on the date the loan is consummated.

` (10) POOLS AND INVESTORS IN POOLS EXCLUDED- In the case of residential mortgage loans acquired or aggregated for the purpose of including such loans in a pool of assets held for the purpose of issuing or selling instruments representing interests in such pools including through a securitization vehicle, the terms ` assignee' and ` securitizer', as used in this section, do not include the securitization vehicle, the pools of such loans or any original or subsequent purchaser of any interest in the securitization vehicle or any instrument representing a direct or indirect interest in such pool.'.

SEC. 205. DEFENSE TO FORECLOSURE.

Section 129B of the Truth in Lending Act is amended by inserting after subsection (d) (as added by section 204) the following new subsection:

` (e) Defense to Foreclosure- Notwithstanding any other provision of law--

` (1) when the holder of a residential mortgage loan or anyone acting for such holder initiates a judicial or nonjudicial foreclosure--

` (A) a consumer who has the right to rescind under this section with respect to such loan against the creditor or any assignee or securitizer may assert such right as a defense to foreclosure or counterclaim to such foreclosure against the holder, or

` (B) if the foreclosure proceeding begins after the end of the period during which a consumer may bring an action for rescission under subsection (d) and the consumer would have had a valid basis for such an action if it had been brought before the end of such period, the consumer may seek actual damages incurred by reason of the violation which gave rise to the right of rescission, together with costs of the action, including a reasonable attorney's fee against the creditor or any assignee or securitizer; and

` (2) such holder or anyone acting for such holder or any other applicable third party may sell, transfer, convey, or assign a residential mortgage loan to a creditor, any assignee, or any securitizer, or their designees, to effect a rescission or cure.'.

SEC. 206. ADDITIONAL STANDARDS AND REQUIREMENTS.

(a) In General- Section 129B of the Truth in Lending Act is amended by inserting after subsection (e) (as added by section 205) the following new subsections:

` (f) Prohibition on Certain Prepayment Penalties-

` (1) PROHIBITED ON CERTAIN LOANS- A residential mortgage loan that is not a qualified mortgage (as defined in subsection (c)) may not contain terms under which a consumer must pay a prepayment penalty for paying all or part of the principal after the loan is consummated.

˘ (2) PHASED-OUT PENALTIES ON QUALIFIED

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

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

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

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

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

˘ (3) PROHIBITED AFTER INITIAL PERIOD ON LOANS WITH

A RESET- A qualified mortgage with a fixed interest rate for an introductory period that adjusts or resets after such period may not contain terms under which a consumer must pay a prepayment penalty for paying all or part of the principal after the beginning of the 3-month period ending on the date of the adjustment or reset.

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

˘ (g) Single Premium Credit Insurance Prohibited- No creditor may finance, directly or indirectly, in connection with any residential mortgage loan or with any extension of credit under an open end consumer credit plan secured by the principal dwelling of the consumer (other than a reverse mortgage), any credit life, credit disability, credit unemployment or credit property insurance, or any other accident, loss-of-income, life or

health insurance, or any payments directly or indirectly for any debt cancellation or suspension agreement or contract, except that--

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

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

ˆ (h) Arbitration-

ˆ (1) IN GENERAL- No residential mortgage loan and no extension of credit under an open end consumer credit plan secured by the principal dwelling of the consumer, other than a reverse mortgage, may include terms which require arbitration or any other nonjudicial procedure as the method for resolving any controversy or settling any claims arising out of the transaction.

ˆ (2) POST-CONTROVERSY AGREEMENTS- Subject to paragraph (3), paragraph (1) shall not be construed as limiting the right of the consumer and the creditor, any assignee, or any securitizer to agree to arbitration or any other nonjudicial procedure as the method for resolving any controversy at any time after a dispute or claim under the transaction arises.

ˆ (3) NO WAIVER OF STATUTORY CAUSE OF ACTION- No provision of any residential mortgage loan or of any extension of credit under an open end consumer credit plan secured by the principal dwelling of the consumer (other than a reverse mortgage), and no other agreement between the consumer and the creditor relating to the residential mortgage loan or extension of credit referred to in paragraph (1), shall be applied or interpreted so as to bar a consumer from bringing an action in an appropriate district court of the United States, or any other court of competent jurisdiction, pursuant to section 130 or any other provision of law, for damages or other relief in connection with any alleged violation of this section, any other provision of this title, or any other Federal law.

- ˘ (i) Duty of Securitizer To Retain Access to Loans- Any securitizer shall reserve the right and preserve an ability, in any document or contract establishing any pool of assets that includes any residential mortgage loan--
 - ˘ (1) to identify and obtain access to any such loan in the pool; and
 - ˘ (2) to provide for and obtain a remedy under this title for the obligor under any such loan.
- ˘ (j) Effect of Foreclosure on Preexisting Lease-
 - ˘ (1) IN GENERAL- In the case of any foreclosure on any dwelling or residential real property securing an extension of credit made under a contract entered into after the date of the enactment of the Mortgage Reform and Anti-Predatory Lending Act of 2007, any successor in interest in such property pursuant to the foreclosure shall assume such interest subject to--
 - ˘ (A) the provision, by the successor in interest, of a notice to vacate to any bona fide tenant at least 90 days before the effective date of the notice to vacate; and
 - ˘ (B) the rights of any bona fide tenant, as of the date of such notice of foreclosure--
 - ˘ (i) under any bona fide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease or the end of the 6-month period beginning on the date of the notice of foreclosure, whichever occurs first, subject to the receipt by the tenant of the 90-day notice under subparagraph (A); or
 - ˘ (ii) without a lease or with a lease terminable at will under State law, subject to the receipt by the tenant of the 90-day notice under subparagraph (A).
 - ˘ (2) BONA FIDE LEASE OR TENANCY- For purposes of this section, a lease or tenancy shall be considered bona fide only if--
 - ˘ (A) the mortgagor under the contract is not the tenant;
 - ˘ (B) the lease or tenancy was the result of an arms-length transaction; or
 - ˘ (C) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property.

` (k) Mortgages With Negative Amortization- No creditor may extend credit to a borrower in connection with a consumer credit transaction under an open or closed end consumer credit plan secured by a dwelling or residential real property that includes a dwelling, other than a reverse mortgage, that provides or permits a payment plan that may, at any time over the term of the extension of credit, result in negative amortization unless, before such transaction is consummated--

` (1) the creditor provides the consumer with a statement that--

` (A) the pending transaction will or may, as the case may be, result in negative amortization;

` (B) describes negative amortization in such manner as the Federal banking agencies shall prescribe;

` (C) negative amortization increases the outstanding principal balance of the account; and

` (D) negative amortization reduces the consumer's equity in the dwelling or real property; and

` (2) in the case of a first-time borrower with respect to a residential mortgage loan that is not a qualified mortgage, the first-time borrower provides the creditor with sufficient documentation to demonstrate that the consumer received homeownership counseling from organizations or counselors certified by the Secretary of Housing and Urban Development as competent to provide such counseling.

` (l) Annual Contact Information- At least once annually and whenever there is a change in ownership of a residential mortgage loan, the servicer with respect to a residential mortgage loan shall provide a written notice to the consumer identifying the name of the creditor or any assignee or securitizer who should be contacted by the consumer for any reason concerning the consumer's rights with respect to the loan.'

(b) Conforming Amendment Relating to Enforcement- Section 108(a) of the Truth in Lending Act (15 U.S.C. 1607(a)) is amended by inserting after paragraph (6) the following new paragraph:

` (7) sections 21B and 21C of the Securities Exchange Act of 1934, in the case of a broker or dealer, other than a depository institution, by the Securities and Exchange Commission.'

SEC. 207. RULE OF CONSTRUCTION.

Except as otherwise expressly provided in section 129A or 129B of the Truth in Lending Act (as added by this Act), no provision of such section 129A or 129B shall be construed as superseding, repealing, or affecting any duty, right, obligation, privilege, or remedy of any person under any other provision of the Truth in Lending Act or any other provision of Federal or State law.

SEC. 208. EFFECT ON STATE LAWS.

(a) In General- Section 129B(d) of the Truth in Lending Act (as added by section 204) shall supersede any State law or application thereof that provides additional remedies against any assignee, securitizer, or securitization vehicle, and the remedies described in such section shall constitute the sole remedies against any assignee, securitizer, or securitization vehicle, for a violation of subsection (a) or (b) of section 129B of such Act or any other State law the terms of which address the specific subject matter of subsection (a) (determination of ability to repay) or (b) (requirement of a net tangible benefit) of such section 129B.

(b) Rules of Construction- No provision of this section shall be construed as limiting--

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

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

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

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

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

SEC. 209. REGULATIONS.

Regulations required or authorized to be prescribed under this title or the amendments made by this title--

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

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

SEC. 210. AMENDMENTS TO CIVIL LIABILITY PROVISIONS.

(a) Increase in Amount of Civil Money Penalties for Certain Violations- Section 130(a)(2) of the Truth in Lending Act (15 U.S.C. 1640(a)(2)) is amended--

- (1) by striking ` \$100' and inserting ` \$200';
- (2) by striking ` \$1,000' and inserting ` \$2,000';
- (3) by striking ` \$200' and inserting ` \$400';
- (4) by striking ` \$2,000' and inserting ` \$4,000'; and
- (5) by striking ` \$500,000' and inserting ` \$1,000,000'.

(b) Statute of Limitations Extended for Section 129 Violations- Section 130(e) of the Truth in Lending Act (15 U.S.C. 1640(e)) is amended--

- (1) in the first sentence, by striking ` Any action' and inserting ` Except as provided in the subsequent sentence, any action'; and
- (2) by inserting after the first sentence the following new sentence: ` Any action under this section with respect to any violation of section 129 may be brought in any United States district court, or in any other court of competent jurisdiction, before the end of the 3-year period beginning on the date of the occurrence of the violation.'

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

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

` (j) Exemption From Liability and Rescission in Case of Borrower Fraud or Deception- In addition to any other remedy available by law or contract, no creditor, assignee, or securitizer shall be liable to an obligor under this section, nor shall it be subject to the right of rescission of any obligor under 129B, if such obligor, or co-obligor, knowingly, or willfully and with actual knowledge furnished material information known to be false for the purpose of obtaining such residential mortgage loan.'

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

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

Sec. 128A. Reset of hybrid adjustable rate mortgages

(a) Hybrid Adjustable Rate Mortgages Defined- For purposes of this section, the term 'hybrid adjustable rate mortgage' means a consumer credit transaction secured by the consumer's principal residence with a fixed interest rate for an introductory period that adjusts or resets to a variable interest rate after such period.

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

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

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

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

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

(A) refinancing;

(B) renegotiation of loan terms;

(C) payment forbearances; and

(D) pre-foreclosure sales.

(5) The names, addresses, telephone numbers, and Internet addresses of counseling agencies or programs reasonably available to the consumer that have been certified or approved and made publicly available by the Secretary of Housing and Urban Development or a State

housing finance authority (as defined in section 1301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989).

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

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

` 128A. Reset of hybrid adjustable rate mortgages.'

SEC. 213. REQUIRED DISCLOSURES.

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

` (16) In the case of an extension of credit that is secured by the dwelling of a consumer, under which the annual rate of interest is variable, or with respect to which the regular payments may otherwise be variable, in addition to the other disclosures required under this subsection, the disclosures provided under this subsection shall state the maximum amount of the regular required payments on the loan, based on the maximum interest rate allowed, introduced with the following language in conspicuous type size and format: ` Your payment can go as high as \$XX', the blank to be filled in with the maximum possible payment amount.

` (17) In the case of a residential mortgage loan for which an escrow or impound account will be established for the payment of all applicable taxes, insurance, and assessments, the following statement: ` Your payments will be increased to cover taxes and insurance. In the first year, you will pay an additional \$XX [insert the amount of the monthly payment to the account] every month to cover the costs of taxes and insurance.'

` (18) In the case of a variable rate residential mortgage loan for which an escrow or impound account will be established for the payment of all applicable taxes, insurance, and assessments--

` (A) the amount of initial monthly payment due under the loan for the payment of principal and interest, and the amount of such initial monthly payment including the monthly payment deposited in

the account for the payment of all applicable taxes, insurance, and assessments; and

` (B) the amount of the fully indexed monthly payment due under the loan for the payment of principal and interest, and the amount of such fully indexed monthly payment including the monthly payment deposited in the account for the payment of all applicable taxes, insurance, and assessments.

` (19) In the case of a residential mortgage loan, the aggregate amount of settlement charges for all settlement services provided in connection with the loan, the amount of charges that are included in the loan and the amount of such charges the borrower must pay at closing, the approximate amount of the wholesale rate of funds in connection with the loan, and the aggregate amount of other fees or required payments in connection with the loan.

` (20) In the case of a residential mortgage loan, the aggregate amount of fees paid to the mortgage originator in connection with the loan, the amount of such fees paid directly by the consumer, and any additional amount received by the originator from the creditor based on the interest rate of the loan.'

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

` (4) RESIDENTIAL MORTGAGE LOAN DISCLOSURES- In the case of a residential mortgage loan, the information required to be disclosed under subsection (a) with respect to such loan shall be disclosed before the earlier of--

` (A) the time required under the first sentence of paragraph (1); or

` (B) the end of the 3-day period beginning on the date the application for the loan from a consumer is received by the creditor.'

(c) Enhanced Mortgage Loan Disclosures- Section 128(b)(2) of the Truth in Lending Act (15 U.S.C. 1638(b)(2)) is amended--

(1) by striking `(2) In the' and inserting the following:

` (2) MORTGAGE DISCLOSURES-

` (A) IN GENERAL- In the';

(2) by striking `a residential mortgage transaction, as defined in section 103(w)' and inserting `any extension of credit that is secured by the dwelling of a consumer';

(3) by striking `shall be made in accordance' and all that follows through `extended, or';

(4) by striking `If the' and all that follows through the end of the paragraph and inserting the following new subparagraphs:

`(B) STATEMENT AND TIMING OF DISCLOSURES- In the case of an extension of credit that is secured by the dwelling of a consumer, in addition to the other disclosures required by subsection (a), the disclosures provided under this paragraph shall state in conspicuous type size and format, the following:

`You are not required to complete this agreement merely because you have received these disclosures or signed a loan application.'

`(i) state in conspicuous type size and format, the following: `You are not required to complete this agreement merely because you have received these disclosures or signed a loan application.'; and

`(ii) be furnished to the borrower not later than 7 business days before the date of consummation of the transaction, subject to subparagraph (D).

`(C) VARIABLE RATES OR PAYMENT SCHEDULES- In the case of an extension of credit that is secured by the dwelling of a consumer, under which the annual rate of interest is variable, or with respect to which the regular payments may otherwise be variable, in addition to the other disclosures required by subsection (a), the disclosures provided under this paragraph shall label the payment schedule as follows: `Payment Schedule: Payments Will Vary Based on Interest Rate Changes.'

`(D) UPDATING APR- In any case in which the disclosure statement provided 7 business days before the date of consummation of the transaction contains an annual percentage rate of interest that is no longer accurate, as determined under section 107(c), the creditor shall furnish an additional, corrected statement to the borrower, not later than 3 business days before the date of consummation of the transaction.'

SEC. 214. DISCLOSURES REQUIRED IN MONTHLY STATEMENTS FOR RESIDENTIAL MORTGAGE LOANS.

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

- ˘ (e) Periodic Statements for Residential Mortgage Loans-
 - ˘ (1) IN GENERAL- The creditor, assignee, or servicer with respect to any residential mortgage loan shall transmit to the obligor, for each billing cycle, a statement setting forth each of the following items, to the extent applicable, in a conspicuous and prominent manner:
 - ˘ (A) The amount of the principal obligation under the mortgage.
 - ˘ (B) The current interest rate in effect for the loan.
 - ˘ (C) The date on which the interest rate may next reset or adjust.
 - ˘ (D) The amount of any prepayment fee to be charged, if any.
 - ˘ (E) A description of any late payment fees.
 - ˘ (F) A telephone number and electronic mail address that may be used by the obligor to obtain information regarding the mortgage.
 - ˘ (G) Such other information as the Board may prescribe in regulations.
 - ˘ (2) DEVELOPMENT AND USE OF STANDARD FORM- The Federal banking agencies shall jointly develop and prescribe a standard form for the disclosure required under this subsection, taking into account that the statements required may be transmitted in writing or electronically.'.

SEC. 215. AUTHORIZATION OF APPROPRIATIONS.

For fiscal years 2008, 2009, 2010, 2011, and 2012, there are authorized to be appropriated to the Attorney General a total of-

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- (1) \$31,250,000 to support the employment of 30 additional agents of the Federal Bureau of Investigation and 2 additional dedicated prosecutors at the Department of Justice to coordinate prosecution of mortgage fraud efforts with the offices of the United States Attorneys; and
- (2) \$750,000 to support the operations of interagency task forces of the Federal Bureau of Investigation in the areas with the 15 highest concentrations of mortgage fraud.

SEC. 216. EFFECTIVE DATE.

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

SEC. 217. REPORT BY THE GAO.

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

- (1) on the mortgage market for mortgages that are not within the safe harbor provided in the amendments made by this title;
- (2) on the ability of prospective homebuyers to obtain financing;
- (3) on the ability of homeowners facing resets or adjustments to refinance--for example, do they have fewer refinancing options due to the unavailability of certain loan products that were available before the enactment of this Act;
- (4) on minorities' ability to access affordable credit compared with other prospective borrowers;
- (5) on home sales and construction;
- (6) of extending the rescission right, if any, on adjustable rate loans and its impact on litigation;
- (7) of State foreclosure laws and, if any, an investor's ability to transfer a property after foreclosure;
- (8) of expanding the existing provisions of the Home Ownership and Equity Protection Act of 1994;
- (9) of prohibiting prepayment penalties on high-cost mortgages; and
- (10) of establishing counseling services under the Department of Housing and Urban Development and offered through the Office of Housing Counseling.

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

TITLE III --HIGH-COST MORTGAGES

SEC. 301. DEFINITIONS RELATING TO HIGH-COST MORTGAGES.

(a) High-Cost Mortgage Defined- Section 103(aa) of the Truth in Lending Act (15 U.S.C. 1602(aa)) is amended by striking all that precedes paragraph (2) and inserting the following:

` (aa) High-Cost Mortgage-

 ` (1) DEFINITION-

 ` (A) IN GENERAL- The term `high-cost mortgage', and a mortgage referred to in this subsection, means a consumer credit transaction that is secured by the consumer's principal dwelling, other than a reverse mortgage transaction, if--

 ` (i) in the case of a credit transaction secured-

 ` (I) by a first mortgage on the consumer's principal dwelling, the annual percentage rate at consummation of the transaction will exceed by more than 8 percentage (10 percentage points, if the dwelling is personal property and the transaction is for less than \$50,000) points the yield on Treasury securities having comparable periods of maturity on the 15th day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor; or

 ` (II) by a subordinate or junior mortgage on the consumer's principal dwelling, the annual percentage rate at consummation of the transaction will exceed by more than 10 percentage points the yield on Treasury securities having comparable periods of maturity on the 15th day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor;

 ` (ii) the total points and fees payable in connection with the transaction exceed--

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

^ (II) in the case of a transaction for less than \$20,000, the lesser of 8 percent of the total transaction amount or \$1,000; or

^ (iii) the credit transaction documents permit the creditor to charge or collect prepayment fees or penalties more than 36 months after the transaction closing or such fees or penalties exceed, in the aggregate, more than 2 percent of the amount prepaid.

^ (B) INTRODUCTORY RATES TAKEN INTO ACCOUNT- For purposes of subparagraph (A)(i), the annual percentage rate of interest shall be determined based on the following interest rate:

^ (i) In the case of a fixed-rate transaction in which the annual percentage rate will not vary during the term of the loan, the interest rate in effect on the date of consummation of the transaction.

^ (ii) In the case of a transaction in which the rate of interest varies solely in accordance with an index, the interest rate determined by adding the index rate in effect on the date of consummation of the transaction to the maximum margin permitted at any time during the transaction agreement.

^ (iii) In the case of any other transaction in which the rate may vary at any time during the term of the loan for any reason, the interest charged on the transaction at the maximum rate that may be charged during the term of the transaction.'

(b) Adjustment of Percentage Points- Section 103(aa)(2) of the Truth in Lending Act (15 U.S.C. 1602(aa)(2)) is amended by striking subparagraph (B) and inserting the following new subparagraph:

^ (B) An increase or decrease under subparagraph (A)--

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

^ (ii) may not result in the number of percentage points referred to in paragraph

(1)(A)(i)(II) being less than 8 percentage points or greater than 12 percentage points.'.

(c) Points and Fees Defined-

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

(A) by striking subparagraph (B) and inserting the following:

`(B) all compensation paid directly or indirectly by a consumer or creditor to a mortgage broker from any source, including a mortgage originator that originates a loan in the name of the originator in a table-funded transaction;';

(B) in subparagraph (C)(ii), by inserting `except where applied to the charges set forth in section 106(e)(1) where a creditor may receive indirect compensation solely as a result of obtaining distributions of profits from an affiliated entity based on its ownership interest in compliance with section 8(c)(4) of the Real Estate Settlement Procedures Act of 1974' before the semicolon at the end;

(C) in subparagraph (C)(iii), by striking `; and' and inserting `, except as provided for in clause (ii);';

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

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

`(D) premiums or other charges payable at or before closing for any credit life, credit disability, credit unemployment, or credit property insurance, or any other accident, loss-of-income, life or health insurance, or any payments directly or indirectly for any debt cancellation or suspension agreement or contract, except that insurance premiums or debt cancellation or suspension fees calculated and paid in full on a monthly basis shall not be considered financed by the creditor;

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

`(F) all prepayment fees or penalties that are incurred by the consumer if the loan refinances a previous loan made or currently held by the same creditor or an affiliate of the creditor; and'.

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

(A) by redesignating paragraph (5) as paragraph (6); and

(B) by inserting after paragraph (4) the following new paragraph:

` (5) CALCULATION OF POINTS AND FEES FOR OPEN-END CONSUMER CREDIT PLANS- In the case of open-end consumer credit plans, points and fees shall be calculated, for purposes of this section and section 129, by adding the total points and fees known at or before closing, including the maximum prepayment penalties which may be charged or collected under the terms of the credit transaction, plus the minimum additional fees the consumer would be required to pay to draw down an amount equal to the total credit line.'.

(d) High Cost Mortgage Lender- Section 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) is amended by striking the last sentence and inserting the following new sentence: ` Any person who originates or brokers 2 or more mortgages referred to in subsection (aa) in any 12-month period, any person who originates 1 or more such mortgages through a mortgage broker in any 12 month period, or, in connection with a table funding transaction of such a mortgage, any person to whom the obligation is initially assigned at or after settlement shall be considered to be a creditor for purposes of this title.'.

(e) Bona Fide Discount Loan Discount Points and Prepayment Penalties- Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended by inserting after subsection (cc) (as added by section 121) the following new subsection:

` (dd) Bona Fide Discount Points and Prepayment Penalties- For the purposes of determining the amount of points and fees for purposes of subsection (aa), either the amounts described in paragraph (1) or (4) of the following paragraphs, but not both, may be excluded:

` (1) EXCLUSION OF BONA FIDE DISCOUNT POINTS- The discount points described in 1 of the following subparagraphs shall be excluded from determining the amounts of points and fees with respect to a high-cost mortgage for purposes of subsection (aa):

` (A) Up to and including 2 bona fide discount points payable by the consumer in connection with the mortgage, but only if the interest rate from which

the mortgage's interest rate will be discounted does not exceed by more than 1 percentage point the required net yield for a 90-day standard mandatory delivery commitment for a reasonably comparable loan from either the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, whichever is greater.

` (B) Unless 2 bona fide discount points have been excluded under subparagraph (A), up to and including 1 bona fide discount point payable by the consumer in connection with the mortgage, but only if the interest rate from which the mortgage's interest rate will be discounted does not exceed by more than 2 percentage points the required net yield for a 90-day standard mandatory delivery commitment for a reasonably comparable loan from either the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, whichever is greater.

` (2) DEFINITION- For purposes of paragraph (1), the term ` bona fide discount points' means loan discount points which are knowingly paid by the consumer for the purpose of reducing, and which in fact result in a bona fide reduction of, the interest rate or time-price differential applicable to the mortgage.

` (3) EXCEPTION FOR INTEREST RATE REDUCTIONS INCONSISTENT WITH INDUSTRY NORMS- Paragraph (1) shall not apply to discount points used to purchase an interest rate reduction unless the amount of the interest rate reduction purchased is reasonably consistent with established industry norms and practices for secondary mortgage market transactions.

` (4) ALLOWANCE OF CONVENTIONAL PREPAYMENT PENALTY- Subsection (aa)(1)(4)(E) shall not apply so as to include a prepayment penalty or fee that is authorized by law other than this title and may be imposed pursuant to the terms of a high-cost mortgage (or other consumer credit transaction secured by the consumer's principal dwelling) if--

` (A) the annual percentage rate applicable with respect to such mortgage or transaction (as determined for purposes of subsection (aa)(1)(A)(i))--

- ˆ (i) in the case of a first mortgage on the consumer's principal dwelling, does not exceed by more than 2 percentage points the yield on Treasury securities having comparable periods of maturity on the 15th day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor; or
- ˆ (ii) in the case of a subordinate or junior mortgage on the consumer's principal dwelling, does not exceed by more than 4 percentage points the yield on such Treasury securities; and
- ˆ (B) the total amount of any prepayment fees or penalties permitted under the terms of the high-cost mortgage or transaction does not exceed 2 percent of the amount prepaid.'

SEC. 302. AMENDMENTS TO EXISTING REQUIREMENTS FOR CERTAIN MORTGAGES.

- (a) Prepayment Penalty Provisions- Section 129(c)(2) of the Truth in Lending Act (15 U.S.C. 1639(c)(2)) is amended--
 - (1) by striking 'and' after the semicolon at the end of subparagraph (C);
 - (2) by redesignating subparagraph (D) as subparagraph (E); and
 - (3) by inserting after subparagraph (C) the following new subparagraph:
 - ˆ (D) the amount of the principal obligation of the mortgage exceeds the maximum principal obligation limitation (for the applicable size residence) under section 203(b)(2) of the National Housing Act for the area in which the residence subject to the mortgage is located; and'
- (b) No Balloon Payments- Section 129(e) of the Truth in Lending Act (15 U.S.C. 1639(e)) is amended to read as follows:
 - ˆ (e) No Balloon Payments- No high-cost mortgage may contain a scheduled payment that is more than twice as large as the average of earlier scheduled payments. This subsection shall not apply when the payment schedule is adjusted to the seasonal or irregular income of the consumer.'

(c) No Lending Without Due Regard to Ability To Repay- Section 129(h) of the Truth in Lending Act (15 U.S.C. 1639(h)) is amended--

(1) by striking `Payment Ability of Consumer- A creditor shall not' and inserting `Payment Ability of Consumer-

` (1) PATTERN OR PRACTICE-

` (A) IN GENERAL- A creditor shall not';

(2) by inserting after subparagraph (A) (as so designated by paragraph (1) of this subsection) the following new subparagraph:

` (B) PRESUMPTION OF VIOLATION- There shall be a presumption that a creditor has violated this subsection if the creditor engages in a pattern or practice of making high-cost mortgages without verifying or documenting the repayment ability of consumers with respect to such mortgages.'; and

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

` (2) PROHIBITION ON EXTENDING CREDIT WITHOUT REGARD TO PAYMENT ABILITY OF CONSUMER-

` (A) IN GENERAL- A creditor may not extend credit to a consumer under a high-cost mortgage unless a reasonable creditor would believe at the time the mortgage is closed that the consumer or consumers that are residing or will reside in the residence subject to the mortgage will be able to make the scheduled payments associated with the mortgage, based upon a consideration of current and expected income, current obligations, employment status, and other financial resources, other than equity in the residence.

` (B) PRESUMPTION OF ABILITY- For purposes of this subsection, there shall be a rebuttable presumption that a consumer is able to make the scheduled payments to repay the obligation if, at the time the high-cost mortgage is consummated, the consumer's total monthly debts, including amounts under the mortgage, do not exceed 50 percent of his or her monthly gross income as verified by tax returns, payroll receipts, or other third-party income verification.'.

SEC. 303. ADDITIONAL REQUIREMENTS FOR CERTAIN MORTGAGES.

(a) Additional Requirements for Certain Mortgages- Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended--

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

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

^ (j) Recommended Default- No creditor shall recommend or encourage default on an existing loan or other debt prior to and in connection with the closing or planned closing of a high-cost mortgage that refinances all or any portion of such existing loan or debt.

^ (k) Late Fees-

^ (1) IN GENERAL- No creditor may impose a late payment charge or fee in connection with a high-cost mortgage--

^ (A) in an amount in excess of 4 percent of the amount of the payment past due;

^ (B) unless the loan documents specifically authorize the charge or fee;

^ (C) before the end of the 15-day period beginning on the date the payment is due, or in the case of a loan on which interest on each installment is paid in advance, before the end of the 30-day period beginning on the date the payment is due; or

^ (D) more than once with respect to a single late payment.

^ (2) COORDINATION WITH SUBSEQUENT LATE FEES- If a payment is otherwise a full payment for the applicable period and is paid on its due date or within an applicable grace period, and the only delinquency or insufficiency of payment is attributable to any late fee or delinquency charge assessed on any earlier payment, no late fee or delinquency charge may be imposed on such payment.

^ (3) FAILURE TO MAKE INSTALLMENT PAYMENT- If, in the case of a loan agreement the terms of which provide that any payment shall first be applied to any past due principal balance, the consumer fails to make an installment payment and the consumer subsequently resumes making installment payments but has not paid all past due installments, the creditor may impose a separate late payment charge or fee for any principal due (without deduction due to late fees or related fees) until the default is cured.

^ (l) Acceleration of Debt- No high-cost mortgage may contain a provision which permits the creditor, in its sole discretion, to

accelerate the indebtedness. This provision shall not apply when repayment of the loan has been accelerated by default, pursuant to a due-on-sale provision, or pursuant to a material violation of some other provision of the loan documents unrelated to the payment schedule.

` (m) Restriction on Financing Points and Fees- No creditor may directly or indirectly finance, in connection with any high-cost mortgage, any of the following:

` (1) Any prepayment fee or penalty payable by the consumer in a refinancing transaction if the creditor or an affiliate of the creditor is the noteholder of the note being refinanced.

` (2) Any points or fees.'

(b) Prohibitions on Evasions- Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (p) (as so redesignated by subsection (a)(1)) the following new subsection:

` (q) Prohibitions on Evasions, Structuring of Transactions, and Reciprocal Arrangements- A creditor may not take any action in connection with a high-cost mortgage--

` (1) to structure a loan transaction as an open-end credit plan or another form of loan for the purpose and with the intent of evading the provisions of this title; or

` (2) to divide any loan transaction into separate parts for the purpose and with the intent of evading provisions of this title.'

(c) Modification or Deferral Fees- Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (q) (as added by subsection (b) of this section) the following new subsection:

` (r) Modification and Deferral Fees Prohibited- A creditor may not charge a consumer any fee to modify, renew, extend, or amend a high-cost mortgage, or to defer any payment due under the terms of such mortgage, unless the modification, renewal, extension or amendment results in a lower annual percentage rate on the mortgage for the consumer and then only if the amount of the fee is comparable to fees imposed for similar transactions in connection with consumer credit transactions that are secured by a consumer's principal dwelling and are not high-cost mortgages.'

(d) Payoff Statement- Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (r) (as added by subsection (c) of this section) the following new subsection:

` (s) Payoff Statement-

` (1) FEES-

` (A) IN GENERAL- Except as provided in subparagraph (B), no creditor or servicer may charge a fee for informing or transmitting to any person the balance due to pay off the outstanding balance on a high-cost mortgage.

` (B) TRANSACTION FEE- When payoff information referred to in subparagraph (A) is provided by facsimile transmission or by a courier service, a creditor or servicer may charge a processing fee to cover the cost of such transmission or service in an amount not to exceed an amount that is comparable to fees imposed for similar services provided in connection with consumer credit transactions that are secured by the consumer's principal dwelling and are not high-cost mortgages.

` (C) FEE DISCLOSURE- Prior to charging a transaction fee as provided in subparagraph (B), a creditor or servicer shall disclose that payoff balances are available for free pursuant to subparagraph (A).

` (D) MULTIPLE REQUESTS- If a creditor or servicer has provided payoff information referred to in subparagraph (A) without charge, other than the transaction fee allowed by subparagraph (B), on 4 occasions during a calendar year, the creditor or servicer may thereafter charge a reasonable fee for providing such information during the remainder of the calendar year.

` (2) PROMPT DELIVERY- Payoff balances shall be provided within 5 business days after receiving a request by a consumer or a person authorized by the consumer to obtain such information.'

(e) Pre-Loan Counseling Required- Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (s) (as added by subsection (d) of this section) the following new subsection:

` (t) Pre-Loan Counseling-

` (1) IN GENERAL- A creditor may not extend credit to a consumer under a high-cost mortgage without first receiving certification from a counselor that is approved by the Secretary of Housing and Urban Development, or at the discretion of the Secretary, a state housing finance

authority, that the consumer has received counseling on the advisability of the mortgage. Such counselor shall not be employed by the creditor or an affiliate of the creditor or be affiliated with the creditor.

` (2) DISCLOSURES REQUIRED PRIOR TO COUNSELING- No counselor may certify that a consumer has received counseling on the advisability of the high-cost mortgage unless the counselor can verify that the consumer has received each statement required (in connection with such loan) by this section or the Real Estate Settlement Procedures Act of 1974 with respect to the transaction.

` (3) REGULATIONS- The Secretary of Housing and Urban Development may prescribe such regulations as the Secretary determines to be appropriate to carry out the requirements of paragraph (1).'

(f) Flipping Prohibited- Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (t) (as added by subsection (e)) the following new subsection:

` (u) Flipping-

` (1) IN GENERAL- No creditor may knowingly or intentionally engage in the unfair act or practice of flipping in connection with a high-cost mortgage.

` (2) FLIPPING DEFINED- For purposes of this subsection, the term `flipping' means the making of a loan or extension of credit in the form a high-cost mortgage to a consumer which refinances an existing mortgage when the new loan or extension of credit does not have reasonable, net tangible benefit (as determined in accordance with regulations prescribed under section 129B(b)) to the consumer considering all of the circumstances, including the terms of both the new and the refinanced loans or credit, the cost of the new loan or credit, and the consumer's circumstances.'

SEC. 304. AMENDMENT TO PROVISION GOVERNING CORRECTION OF ERRORS.

Section 130(b) of the Truth in Lending Act (15 U.S.C. 1640(b)) is amended to read as follows:

` (b) Correction of Errors- A creditor has no liability under this section or section 108 or 112 for any failure to comply with any requirement imposed under this chapter or chapter 5, if--

` (1) within 30 days of the loan closing and prior to the institution of any action, the consumer is notified of or

discovers the violation, appropriate restitution is made, and whatever adjustments are necessary are made to the loan to either, at the choice of the consumer--

 ` (A) make the loan satisfy the requirements of this chapter; or

 ` (B) in the case of a high-cost mortgage, change the terms of the loan in a manner beneficial to the consumer so that the loan will no longer be a high-cost mortgage; or

 ` (2) within 60 days of the creditor's discovery or receipt of notification of an unintentional violation or bona fide error as described in subsection (c) and prior to the institution of any action, the consumer is notified of the compliance failure, appropriate restitution is made, and whatever adjustments are necessary are made to the loan to either, at the choice of the consumer--

 ` (A) make the loan satisfy the requirements of this chapter; or

 ` (B) in the case of a high-cost mortgage, change the terms of the loan in a manner beneficial so that the loan will no longer be a high-cost mortgage.'.

SEC. 305. REGULATIONS.

(a) In General- The Board of Governors of the Federal Reserve System shall publish regulations implementing this title and the amendments made by this title in final form before the end of the 6-month period beginning on the date of the enactment of this Act.

(b) Consumer Mortgage Education-

(1) REGULATIONS- The Board of Governors of the Federal Reserve System may prescribe regulations requiring or encouraging creditors to provide consumer mortgage education to prospective customers or direct such customers to qualified consumer mortgage education or counseling programs in the vicinity of the residence of the consumer.

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

SEC. 306. EFFECTIVE DATE.

The amendments made by this title shall take effect at the end of the 6-month period beginning on the date of the enactment of this Act and shall apply to mortgages referred to in section 103(aa) of the Truth in Lending Act (15 U.S.C. 1602(aa)) consummated after the end of such period.

TITLE IV--OFFICE OF HOUSING COUNSELING

SEC. 401. SHORT TITLE.

This title may be cited as the 'Expand and Preserve Home Ownership Through Counseling Act'.

SEC. 402. ESTABLISHMENT OF OFFICE OF HOUSING COUNSELING.

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

` (g) Office of Housing Counseling-

` (1) ESTABLISHMENT- There is established, in the Office of the Secretary, the Office of Housing Counseling.

` (2) DIRECTOR- There is established the position of Director of Housing Counseling. The Director shall be the head of the Office of Housing Counseling and shall be appointed by the Secretary. Such position shall be a career-reserved position in the Senior Executive Service.

` (3) FUNCTIONS-

` (A) IN GENERAL- The Director shall have ultimate responsibility within the Department, except for the Secretary, for all activities and matters relating to homeownership counseling and rental housing counseling, including--

` (i) research, grant administration, public outreach, and policy development relating to such counseling; and

` (ii) establishment, coordination, and administration of all regulations, requirements, standards, and performance measures under programs and laws administered by the Department that relate to housing counseling, homeownership counseling (including

maintenance of homes), mortgage-related counseling (including home equity conversion mortgages and credit protection options to avoid foreclosure), and rental housing counseling, including the requirements, standards, and performance measures relating to housing counseling.

ˆ (B) SPECIFIC FUNCTIONS- The Director shall carry out the functions assigned to the Director and the Office under this section and any other provisions of law. Such functions shall include establishing rules necessary for--

ˆ (i) the counseling procedures under section 106(g)(1) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(h)(1));

ˆ (ii) carrying out all other functions of the Secretary under section 106(g) of the Housing and Urban Development Act of 1968, including the establishment, operation, and publication of the availability of the toll-free telephone number under paragraph (2) of such section;

ˆ (iii) carrying out section 5 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604) for home buying information booklets prepared pursuant to such section;

ˆ (iv) carrying out the certification program under section 106(e) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(e));

ˆ (v) carrying out the assistance program under section 106(a)(4) of the Housing and Urban Development Act of 1968, including criteria for selection of applications to receive assistance;

ˆ (vi) carrying out any functions regarding abusive, deceptive, or unscrupulous lending practices relating to residential mortgage loans that the Secretary considers appropriate, which shall include conducting the study under section 6 of the Expand and Preserve Home Ownership Through Counseling Act;

ˆ (vii) providing for operation of the advisory committee established under paragraph (4) of this subsection;

- ˘ (viii) collaborating with community-based organizations with expertise in the field of housing counseling; and
- ˘ (ix) providing for the building of capacity to provide housing counseling services in areas that lack sufficient services.

˘ (4) ADVISORY COMMITTEE-

˘ (A) IN GENERAL- The Secretary shall appoint an advisory committee to provide advice regarding the carrying out of the functions of the Director.

˘ (B) MEMBERS- Such advisory committee shall consist of not more than 12 individuals, and the membership of the committee shall equally represent all aspects of the mortgage and real estate industry, including consumers.

˘ (C) TERMS- Except as provided in subparagraph (D), each member of the advisory committee shall be appointed for a term of 3 years. Members may be reappointed at the discretion of the Secretary.

˘ (D) TERMS OF INITIAL APPOINTEES- As designated by the Secretary at the time of appointment, of the members first appointed to the advisory committee, 4 shall be appointed for a term of 1 year and 4 shall be appointed for a term of 2 years.

˘ (E) PROHIBITION OF PAY; TRAVEL EXPENSES- Members of the advisory committee shall serve without pay, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

˘ (F) ADVISORY ROLE ONLY- The advisory committee shall have no role in reviewing or awarding housing counseling grants.

˘ (5) SCOPE OF HOMEOWNERSHIP COUNSELING- In carrying out the responsibilities of the Director, the Director shall ensure that homeownership counseling provided by, in connection with, or pursuant to any function, activity, or program of the Department addresses the entire process of homeownership, including the decision to purchase a home, the selection and purchase of a home, issues arising during or affecting the period of ownership of a home (including refinancing, default and

foreclosure, and other financial decisions), and the sale or other disposition of a home.'

SEC. 403. COUNSELING PROCEDURES.

(a) In General- Section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x) is amended by adding at the end the following new subsection:

^ (g) Procedures and Activities-

^ (1) COUNSELING PROCEDURES-

^ (A) IN GENERAL- The Secretary shall establish, coordinate, and monitor the administration by the Department of Housing and Urban Development of the counseling procedures for homeownership counseling and rental housing counseling provided in connection with any program of the Department, including all requirements, standards, and performance measures that relate to homeownership and rental housing counseling.

^ (B) HOMEOWNERSHIP COUNSELING- For purposes of this subsection and as used in the provisions referred to in this subparagraph, the term ^ 'homeownership counseling' means counseling related to homeownership and residential mortgage loans. Such term includes counseling related to homeownership and residential mortgage loans that is provided pursuant to--

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

^ (ii) in the United States Housing Act of 1937--

^ (I) section 9(e) (42 U.S.C. 1437g(e));

^ (II) section 8(y)(1)(D) (42 U.S.C. 1437f(y)(1)(D));

^ (III) section 18(a)(4)(D) (42 U.S.C. 1437p(a)(4)(D));

^ (IV) section 23(c)(4) (42 U.S.C. 1437u(c)(4));

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

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

` (C) RENTAL HOUSING COUNSELING- For purposes of this subsection, the term `rental housing counseling' means counseling related to rental of residential property, which may include counseling regarding future homeownership opportunities and providing referrals for renters and prospective renters to entities providing counseling and shall include counseling related to such topics that is provided pursuant to--

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

` (ii) in the United States Housing Act of 1937--

` (I) section 9(e) (42 U.S.C. 1437g(e));

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

` (III) section 23(c)(4) (42 U.S.C. 1437u(c)(4));

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

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

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

` (iii) section 233(b)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12773(b)(2));

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

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

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

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

` (viii) the rental assistance program under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

` (2) STANDARDS FOR MATERIALS- The Secretary, in conjunction with the advisory committee established under

subsection (g)(4) of the Department of Housing and Urban Development Act, shall establish standards for materials and forms to be used, as appropriate, by organizations providing homeownership counseling services, including any recipients of assistance pursuant to subsection (a)(4).

ˆ (3) MORTGAGE SOFTWARE SYSTEMS-

ˆ (A) CERTIFICATION- The Secretary shall provide for the certification of various computer software programs for consumers to use in evaluating different residential mortgage loan proposals. The Secretary shall require, for such certification, that the mortgage software systems take into account--

ˆ (i) the consumer's financial situation and the cost of maintaining a home, including insurance, taxes, and utilities;

ˆ (ii) the amount of time the consumer expects to remain in the home or expected time to maturity of the loan;

ˆ (iii) such other factors as the Secretary considers appropriate to assist the consumer in evaluating whether to pay points, to lock in an interest rate, to select an adjustable or fixed rate loan, to select a conventional or government-insured or guaranteed loan and to make other choices during the loan application process.

If the Secretary determines that available existing software is inadequate to assist consumers during the residential mortgage loan application process, the Secretary shall arrange for the development by private sector software companies of new mortgage software systems that meet the Secretary's specifications.

ˆ (B) USE AND INITIAL AVAILABILITY- Such certified computer software programs shall be used to supplement, not replace, housing counseling. The Secretary shall provide that such programs are initially used only in connection with the assistance of housing counselors certified pursuant to subsection (e).

ˆ (C) AVAILABILITY- After a period of initial availability under subparagraph (B) as the Secretary considers appropriate, the Secretary shall take reasonable steps to make mortgage software

systems certified pursuant to this paragraph widely available through the Internet and at public locations, including public libraries, senior-citizen centers, public housing sites, offices of public housing agencies that administer rental housing assistance vouchers, and housing counseling centers.

ˆ (4) NATIONAL PUBLIC SERVICE MULTIMEDIA CAMPAIGNS TO PROMOTE HOUSING COUNSELING-

ˆ (A) IN GENERAL- The Director of Housing Counseling shall develop, implement, and conduct national public service multimedia campaigns designed to make persons facing mortgage foreclosure, persons considering a subprime mortgage loan to purchase a home, elderly persons, persons who face language barriers, low-income persons, and other potentially vulnerable consumers aware that it is advisable, before seeking or maintaining a residential mortgage loan, to obtain homeownership counseling from an unbiased and reliable sources and that such homeownership counseling is available, including through programs sponsored by the Secretary of Housing and Urban Development.

ˆ (B) CONTACT INFORMATION- Each segment of the multimedia campaign under subparagraph (A) shall publicize the toll-free telephone number and web site of the Department of Housing and Urban Development through which persons seeking housing counseling can locate a housing counseling agency in their State that is certified by the Secretary of Housing and Urban Development and can provide advice on buying a home, renting, defaults, foreclosures, credit issues, and reverse mortgages.

ˆ (C) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated to the Secretary, not to exceed \$3,000,000 for fiscal years 2008, 2009, and 2010, for the develop, implement, and conduct of national public service multimedia campaigns under this paragraph.

ˆ (5) EDUCATION PROGRAMS- The Secretary shall provide advice and technical assistance to States, units of general local government, and nonprofit organizations regarding the establishment and operation of, including assistance with the development of content and materials for,

educational programs to inform and educate consumers, particularly those most vulnerable with respect to residential mortgage loans (such as elderly persons, persons facing language barriers, low-income persons, and other potentially vulnerable consumers), regarding home mortgages, mortgage refinancing, home equity loans, and home repair loans.'

(b) Conforming Amendments to Grant Program for Homeownership Counseling Organizations- Section 106(c)(5)(A)(ii) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)(ii)) is amended--

(1) in subclause (III), by striking `and' at the end;
(2) in subclause (IV) by striking the period at the end and inserting `; and'; and
(3) by inserting after subclause (IV) the following new subclause:

`(V) notify the housing or mortgage applicant of the availability of mortgage software systems provided pursuant to subsection (g)(3).'

SEC. 404. GRANTS FOR HOUSING COUNSELING ASSISTANCE.

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

`(4) Homeownership and Rental Counseling Assistance-

`(A) IN GENERAL- The Secretary shall make financial assistance available under this paragraph to States, units of general local governments, and nonprofit organizations providing homeownership or rental counseling (as such terms are defined in subsection (g)(1)).

`(B) QUALIFIED ENTITIES- The Secretary shall establish standards and guidelines for eligibility of organizations (including governmental and nonprofit organizations) to receive assistance under this paragraph.

`(C) DISTRIBUTION- Assistance made available under this paragraph shall be distributed in a manner that encourages efficient and successful counseling programs.

`(D) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated \$45,000,000 for each of fiscal years 2008 through 2011 for--

- ˆ (i) the operations of the Office of Housing Counseling of the Department of Housing and Urban Development;
- ˆ (ii) the responsibilities of the Secretary under paragraphs (2) through (5) of subsection (g); and
- ˆ (iii) assistance pursuant to this paragraph for entities providing homeownership and rental counseling.'.

SEC. 405. REQUIREMENTS TO USE HUD-CERTIFIED COUNSELORS UNDER HUD PROGRAMS.

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

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

ˆ (1) REQUIREMENT FOR ASSISTANCE- An organization may not receive assistance for counseling activities under subsection (a)(1)(iii), (a)(2), (a)(4), (c), or (d) of this section, or under section 101(e), unless the organization, or the individuals through which the organization provides such counseling, has been certified by the Secretary under this subsection as competent to provide such counseling.';

(2) in paragraph (2)--

(A) by inserting ' and for certifying organizations' before the period at the end of the first sentence; and

(B) in the second sentence by striking ' for certification' and inserting ', for certification of an organization, that each individual through which the organization provides counseling shall demonstrate, and, for certification of an individual,';

(3) in paragraph (3), by inserting ' organizations and' before ' individuals';

(4) by redesignating paragraph (3) as paragraph (5); and

(5) by inserting after paragraph (2) the following new paragraphs:

ˆ (3) REQUIREMENT UNDER HUD PROGRAMS- Any homeownership counseling or rental housing counseling (as such terms are defined in subsection (g)(1)) required under, or provided in connection with, any program administered by the Department of Housing and Urban Development shall be provided only by organizations or

counselors certified by the Secretary under this subsection as competent to provide such counseling.

^ (4) OUTREACH- The Secretary shall take such actions as the Secretary considers appropriate to ensure that individuals and organizations providing homeownership or rental housing counseling are aware of the certification requirements and standards of this subsection and of the training and certification programs under subsection (f).'.'

SEC. 406. STUDY OF DEFAULTS AND FORECLOSURES.

The Secretary of Housing and Urban Development shall conduct an extensive study of the root causes of default and foreclosure of home loans, using as much empirical data as are available. The study shall also examine the role of escrow accounts in helping prime and nonprime borrowers to avoid defaults and foreclosures. Not later than 12 months after the date of the enactment of this Act, the Secretary shall submit to the Congress a preliminary report regarding the study. Not later than 24 months after such date of enactment, the Secretary shall submit a final report regarding the results of the study, which shall include any recommended legislation relating to the study, and recommendations for best practices and for a process to identify populations that need counseling the most.

SEC. 407. DEFINITIONS FOR COUNSELING-RELATED PROGRAMS.

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

^ (h) Definitions- For purposes of this section:

^ (1) NONPROFIT ORGANIZATION- The term 'nonprofit organization' has the meaning given such term in section 104(5) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704(5)), except that subparagraph (D) of such section shall not apply for purposes of this section.

^ (2) STATE- The term 'State' means each of the several States, the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the

Trust Territories of the Pacific, or any other possession of the United States.

` (3) UNIT OF GENERAL LOCAL GOVERNMENT- The term `unit of general local government' means any city, county, parish, town, township, borough, village, or other general purpose political subdivision of a State.'.

SEC. 408. UPDATING AND SIMPLIFICATION OF MORTGAGE INFORMATION BOOKLET.

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

(1) in the section heading, by striking `SPECIAL' and inserting `HOME BUYING';

(2) by striking subsections (a) and (b) and inserting the following new subsections:

` (a) Preparation and Distribution- The Secretary shall prepare, at least once every 5 years, a booklet to help consumers applying for federally related mortgage loans to understand the nature and costs of real estate settlement services. The Secretary shall prepare the booklet in various languages and cultural styles, as the Secretary determines to be appropriate, so that the booklet is understandable and accessible to homebuyers of different ethnic and cultural backgrounds. The Secretary shall distribute such booklets to all lenders that make federally related mortgage loans. The Secretary shall also distribute to such lenders lists, organized by location, of homeownership counselors certified under section 106(e) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(e)) for use in complying with the requirement under subsection (c) of this section.

` (b) Contents- Each booklet shall be in such form and detail as the Secretary shall prescribe and, in addition to such other information as the Secretary may provide, shall include in plain and understandable language the following information:

` (1) A description and explanation of the nature and purpose of the costs incident to a real estate settlement or a federally related mortgage loan. The description and explanation shall provide general information about the mortgage process as well as specific information concerning, at a minimum--

` (A) balloon payments;

` (B) prepayment penalties; and

- ˘ (C) the trade-off between closing costs and the interest rate over the life of the loan.
- ˘ (2) An explanation and sample of the uniform settlement statement required by section 4.
- ˘ (3) A list and explanation of lending practices, including those prohibited by the Truth in Lending Act or other applicable Federal law, and of other unfair practices and unreasonable or unnecessary charges to be avoided by the prospective buyer with respect to a real estate settlement.
- ˘ (4) A list and explanation of questions a consumer obtaining a federally related mortgage loan should ask regarding the loan, including whether the consumer will have the ability to repay the loan, whether the consumer sufficiently shopped for the loan, whether the loan terms include prepayment penalties or balloon payments, and whether the loan will benefit the borrower.
- ˘ (5) An explanation of the right of rescission as to certain transactions provided by sections 125 and 129 of the Truth in Lending Act.
- ˘ (6) A brief explanation of the nature of a variable rate mortgage and a reference to the booklet entitled 'Consumer Handbook on Adjustable Rate Mortgages', published by the Board of Governors of the Federal Reserve System pursuant to section 226.19(b)(1) of title 12, Code of Federal Regulations, or to any suitable substitute of such booklet that such Board of Governors may subsequently adopt pursuant to such section.
- ˘ (7) A brief explanation of the nature of a home equity line of credit and a reference to the pamphlet required to be provided under section 127A of the Truth in Lending Act.
- ˘ (8) Information about homeownership counseling services made available pursuant to section 106(a)(4) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(a)(4)), a recommendation that the consumer use such services, and notification that a list of certified providers of homeownership counseling in the area, and their contact information, is available.
- ˘ (9) An explanation of the nature and purpose of escrow accounts when used in connection with loans secured by residential real estate and the requirements under section 10 of this Act regarding such accounts.
- ˘ (10) An explanation of the choices available to buyers of residential real estate in selecting persons to provide necessary services incidental to a real estate settlement.

- ` (11) An explanation of a consumer's responsibilities, liabilities, and obligations in a mortgage transaction.
- ` (12) An explanation of the nature and purpose of real estate appraisals, including the difference between an appraisal and a home inspection.
- ` (13) Notice that the Office of Housing of the Department of Housing and Urban Development has made publicly available a brochure regarding loan fraud and a World Wide Web address and toll-free telephone number for obtaining the brochure.

The booklet prepared pursuant to this section shall take into consideration differences in real estate settlement procedures that may exist among the several States and territories of the United States and among separate political subdivisions within the same State and territory.';

(3) in subsection (c), by inserting at the end the following new sentence: ` Each lender shall also include with the booklet a reasonably complete or updated list of homeownership counselors who are certified pursuant to section 106(e) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(e)) and located in the area of the lender.'; and

(4) in subsection (d), by inserting after the period at the end of the first sentence the following: ` The lender shall provide the HUD-issued booklet in the version that is most appropriate for the person receiving it.'.

TITLE V--MORTGAGE DISCLOSURES UNDER REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974

SEC. 501. UNIVERSAL MORTGAGE DISCLOSURE IN GOOD FAITH ESTIMATE OF SETTLEMENT SERVICES COSTS.

(a) In General- Section 5 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604) is amended--

(1) in subsection (c), by adding after the period at the end the following: ` Each such good faith estimate shall include the disclosure required under subsection (f) in the form prescribed by the Secretary pursuant to such subsection, except that if the Secretary at any time issues any regulations requiring the use of a standard or uniform form or statement in providing the good faith estimate required under this subsection and prescribing such standard or

uniform form or statement, such disclosure shall not be required after the effective date of such regulations.'; and (2) by adding at the end the following new subsection:

` (f) Universal Mortgage Disclosure Requirement for Good Faith Estimates-

` (1) DISCLOSURE- The disclosure required under this subsection is a written statement regarding the federally related mortgage loan for which the good faith estimate under subsection (c) is made, that consists of the following statements, appropriately and in good faith completed by the lender in accordance with the terms of the federally related mortgage loan involved in the settlement:

` (A) `Your Loan Amount will be' and ` \$XXXX', each statement appearing in a separate column of the disclosure.

` (B) `Your Loan is', `A Fixed Rate Loan', and `An Adjustable Rate Loan ', each statement appearing in a separate column and each of the last two such statements preceded by a checkbox.

` (C) `Your Loan Term is', `XXX years', and `XXX years', each statement appearing in a separate column, and the second such statement shall appear in the same column as the statement required by subparagraph (B) regarding fixed rate loans and the third such statement shall appear in the same column as the statement required by subparagraph (B) regarding adjustable rate loans;

` (D) `Your Estimated Interest Rate (APR) is', `XXX%', and `XXX% initially, then it will adjust. In XXX months, Your rate may adjust to a maximum of XXX%', each statement appearing in a separate column, the second such statement shall appear in the same column as the statement required by subparagraph (B) regarding fixed rate loans and the third such statement shall appear in the same column as the statement required by subparagraph (B) regarding adjustable rate loans, and the blanks relating to estimated interest rate shall be completed by the lender using an annual percentage rate determined in accordance with the Truth in Lending Act.

` (E) `Your Total Estimated Monthly Payment (Including loan Principal and Interest, and property Taxes (based on current rates) and Insurance (PITI))

is', ` \$XXXX which represents XXX% of Your estimated monthly income', and ` \$XXXX which represents XXX% of Your estimated monthly income. When Your interest rate initially adjusts, Your maximum monthly payment may be as high as \$XXXX which represents XXX% of Your estimated monthly income', each statement appearing in a separate column, and the second such statement shall appear in the same column as the statement required by subparagraph (B) regarding fixed rate loans and the third such statement shall appear in the same column as the statement required by subparagraph (B) regarding adjustable rate loans.

` (F) ` Your Rate Lock Period is' and ` XXX days. After You lock into Your interest rate, You must go to settlement within this number of days to be guaranteed this interest rate.', each statement appearing in a separate column.

` (G) ` Does Your loan have a prepayment penalty?', ` YES, Your maximum prepayment penalty is \$XXXX', and ` NO', the first such statement and the last two such statements appearing in a separate column, and each of the last two such statements preceded by a checkbox.

` (H) ` Does Your loan have a balloon payment?', ` YES, Your balloon payment of \$XXXX is due in XXX months', and ` NO', the first such statement and the last two such statements appearing in a separate column, and each of the last two such statements preceded by a checkbox.

` (I) ` Your Total Estimated Settlement Charges Will be \$XXXX (a)' and ` Your Total Estimated Down Payment will be \$XXXX (b)', each statement appearing in a separate column.

` (J) ` Your Total Estimated Cash Needed at Closing Will Be' and ` \$XXXX (a+b)', each statement appearing in a separate column.

` (K) ` This represents a simple summary of Your Good Faith Estimate (GFE). To understand the terms of Your loan, You must see disclosure forms and the Truth in Lending Act.', such statement appearing directly below the entirety of the remainder of the disclosure.

` (2) STANDARD FORM-

` (A) DEVELOPMENT AND USE- The Secretary, in consultation with the Secretary of Veterans Affairs, the Federal Deposit Insurance Corporation, and the Director of the Office of Thrift Supervision, shall develop and prescribe a standard form for the disclosure required under this subsection, which shall be used without variation in all transactions in the United States that involve federally related mortgage loans.

` (B) APPEARANCE- The standard form developed pursuant to this paragraph shall--

` (i) set forth each statement required under a separate subparagraph under paragraph (1) on a separate row of the disclosure;

` (ii) be set forth in 8-point type;

` (iii) be not more than 6 inches in width or 3.5 inches in height;

` (iv) include such boldface type and shading as the Secretary considers appropriate;

` (v) include such parenthetical statements directing the borrower to the terms of the loan (such as `see terms') as the Secretary considers appropriate, in such places as the Secretary considers appropriate; and

` (vi) be located in the upper one-third of the first page of the good faith estimate required under subsection (c) in a manner that allows the identity, address, phone number, and other relevant information of the lender, the identity, address, phone number, and other relevant information of the borrower, and the address of the property for which the federally related mortgage loan is to be made, to be located above the standard form.'.

(b) Regulations- The Secretary of Housing and Urban Development shall issue regulations prescribing the standard form and the use of such form, as required by the amendment made by subsection (a), not later than the expiration of the 180-day period beginning upon the date of the enactment of this Act, and such regulations shall take effect upon issuance.

TITLE VI --MORTGAGE SERVICING

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

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

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

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

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

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

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

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

(4) the transaction is secured by a first mortgage or lien on the consumer's principal dwelling and the annual percentage rate on the credit, at the time of consummation of the transaction, will exceed by more than

3.0 percentage points the yield on Treasury securities having comparable periods of maturity on the 15th day of the month immediately preceding the month in which the application of the extension of credit is received by the creditor;

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

` (6) the original principal amount of such loan at the time of consummation of the transaction is--

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

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

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

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

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

` (c) Duration of Mandatory Escrow or Impound Account- An escrow or impound account established pursuant to subsection (b), shall remain in existence for a minimum period of 5 years and until such borrower has sufficient equity in the dwelling securing the consumer credit transaction so as to no longer be required to maintain private mortgage insurance, or such other period as may be provided in regulations to address situations such as borrower delinquency, unless the underlying mortgage establishing the account is terminated.

` (d) Clarification on Escrow Accounts for Loans Not Meeting Statutory Test- For mortgages not covered by the requirements of subsection (b), no provision of this section shall be construed as precluding the establishment of an impound, trust, or other type of account for the payment of property taxes, insurance premiums, or other purposes relating to the property--

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

- ˘ (2) at the discretion of the lender or servicer, as provided by the contract between the lender or servicer and the borrower; or
- ˘ (3) pursuant to the requirements for the escrowing of flood insurance payments for regulated lending institutions in section 102(d) of the Flood Disaster Protection Act of 1973.
- ˘ (e) Administration of Mandatory Escrow or Impound Accounts-
 - ˘ (1) IN GENERAL- Except as may otherwise be provided for in this title or in regulations prescribed by the Board, escrow or impound accounts established pursuant to subsection (b) shall be established in a federally insured depository institution.
 - ˘ (2) ADMINISTRATION- Except as provided in this section or regulations prescribed under this section, an escrow or impound account subject to this section shall be administered in accordance with--
 - ˘ (A) the Real Estate Settlement Procedures Act of 1974 and regulations prescribed under such Act;
 - ˘ (B) the Flood Disaster Protection Act of 1973 and regulations prescribed under such Act; and
 - ˘ (C) the law of the State, if applicable, where the real property securing the consumer credit transaction is located.
 - ˘ (3) APPLICABILITY OF PAYMENT OF INTEREST- If prescribed by applicable State or Federal law, each creditor shall pay interest to the consumer on the amount held in any impound, trust, or escrow account that is subject to this section in the manner as prescribed by that applicable State or Federal law.
 - ˘ (4) PENALTY COORDINATION WITH RESPA- Any action or omission on the part of any person which constitutes a violation of the Real Estate Settlement Procedures Act of 1974 or any regulation prescribed under such Act for which the person has paid any fine, civil money penalty, or other damages shall not give rise to any additional fine, civil money penalty, or other damages under this section, unless the action or omission also constitutes a direct violation of this section.
- ˘ (f) Disclosures Relating to Mandatory Escrow or Impound Account- In the case of any impound, trust, or escrow account that is subject to this section, the creditor shall disclose by written notice to the consumer at least 3 business days before the consummation of the consumer credit transaction giving rise

to such account or in accordance with timeframes established in prescribed regulations the following information:

- ˆ (1) The fact that an escrow or impound account will be established at consummation of the transaction.
 - ˆ (2) The amount required at closing to initially fund the escrow or impound account.
 - ˆ (3) The amount, in the initial year after the consummation of the transaction, of the estimated taxes and hazard insurance, including flood insurance, if applicable, and any other required periodic payments or premiums that reflects, as appropriate, either the taxable assessed value of the real property securing the transaction, including the value of any improvements on the property or to be constructed on the property (whether or not such construction will be financed from the proceeds of the transaction) or the replacement costs of the property.
 - ˆ (4) The estimated monthly amount payable to be escrowed for taxes, hazard insurance (including flood insurance, if applicable) and any other required periodic payments or premiums.
 - ˆ (5) The fact that, if the consumer chooses to terminate the account at the appropriate time in the future, the consumer will become responsible for the payment of all taxes, hazard insurance, and flood insurance, if applicable, as well as any other required periodic payments or premiums on the property unless a new escrow or impound account is established.
- ˆ (g) Definitions- For purposes of this section, the following definitions shall apply:
- ˆ (1) FLOOD INSURANCE- The term 'flood insurance' means flood insurance coverage provided under the national flood insurance program pursuant to the National Flood Insurance Act of 1968.
 - ˆ (2) HAZARD INSURANCE- The term 'hazard insurance' shall have the same meaning as provided for 'hazard insurance', 'casualty insurance', 'homeowner's insurance', or other similar term under the law of the State where the real property securing the consumer credit transaction is located.'
- (b) Implementation-
- (1) REGULATIONS- The Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal

Deposit Insurance Corporation, the National Credit Union Administration Board, (hereafter in this Act referred to as the `Federal banking agencies') and the Federal Trade Commission shall prescribe, in final form, such regulations as determined to be necessary to implement the amendments made by subsection (a) before the end of the 180-day period beginning on the date of the enactment of this Act.

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

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

` 129C. Escrow or impound accounts relating to certain consumer credit transactions.'

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

(a) In General- Section 129C of the Truth in Lending Act (as added by section 601) is amended by adding at the end the following new subsection:

` (h) Disclosure Notice Required for Consumers Who Waive Escrow Services-

` (1) IN GENERAL- If--

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

` (B) a consumer chooses, at any time after such an account is established in connection with any such transaction and in accordance with any statute, regulation, or contractual agreement, to close such account,

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

^ (2) DISCLOSURE REQUIREMENTS- Any disclosure provided to a consumer under paragraph (1) shall include the following:

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

^ (B) A clear and prominent notice that the consumer is responsible for personally and directly paying the non-escrowed items, in addition to paying the mortgage loan payment, in the absence of any such account, and the fact that the costs for taxes, insurance, and related fees can be substantial.

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

(b) Implementation-

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

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

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

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

^ (k) Servicer Prohibitions-

^ (1) IN GENERAL- A servicer of a federally related mortgage shall not--

- ˘ (A) obtain force-placed hazard insurance unless there is a reasonable basis to believe the borrower has failed to comply with the loan contract's requirements to maintain property insurance;
- ˘ (B) charge fees for responding to valid qualified written requests (as defined in regulations which the Secretary shall prescribe) under this section;
- ˘ (C) fail to take timely action to respond to a borrower's requests to correct errors relating to allocation of payments, final balances for purposes of paying off the loan, or avoiding foreclosure, or other standard servicer's duties;
- ˘ (D) fail to respond within 10 business days to a request from a borrower to provide the identity, address, and other relevant contact information about the owner assignee of the loan; or
- ˘ (E) fail to comply with any other obligation found by the Secretary, by regulation, to be appropriate to carry out the consumer protection purposes of this Act.

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

- ˘ (l) Requirements for Force-Placed Insurance- A servicer of a federally related mortgage shall not be construed as having a reasonable basis for obtaining force-placed insurance unless the requirements of this subsection have been met.

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

- ˘ (A) the servicer has sent, by first-class mail, a written notice to the borrower containing--
 - ˘ (i) a reminder of the borrower's obligation to maintain hazard insurance on the property securing the federally related mortgage;
 - ˘ (ii) a statement that the servicer does not have evidence of insurance coverage of such property;

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

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

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

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

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

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

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

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

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

` (m) Limitations on Force-Placed Insurance Charges- All charges for force-placed insurance premiums shall be bona fide and reasonable in amount.

` (n) Prompt Crediting of Payments Required-

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

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

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

(b) Increase in Penalty Amounts- Section 6(f) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(f)) is amended--

(1) in paragraphs (1)(B) and (2)(B), by striking ` \$1,000' each place such term appears and inserting ` \$2,000'; and
(2) in paragraph (2)(B)(i), by striking ` \$500,000' and inserting ` \$1,000,000'.

(c) Decrease in Response Times- Section 6(e) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(e)) is amended--

(1) in paragraph (1)(A), by striking ` 20 days' and inserting ` 10 days';

(2) in paragraph (2), by striking ` 60 days' and inserting ` 30 days'; and

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

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

(d) Requests for Pay-Off Amounts- Section 6(e) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(e)) is amended by inserting after paragraph (4) (as added by subsection (c) of this section) the following new paragraph:

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

(e) Prompt Refund of Escrow Accounts Upon Payoff- Section 6(g) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(g)) is amended by adding at the end the following new sentence: “Any balance in any such account that is within the servicer's control at the time the loan is paid off shall be promptly returned to the borrower within 20 business days or credited to a similar account for a new mortgage loan to the borrower with the same lender.”.

SEC. 604. MORTGAGE SERVICING STUDIES REQUIRED.

(a) Mortgage Servicing Practices-

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

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

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

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

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

(D) The charging of interest on servicing fees.

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

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

(G) The employment of unconscionable forbearance agreements.

(H) Foreclosure abuses.

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

(b) Mortgage Servicing Improvements-

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

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

SEC. 605. ESCROWS INCLUDED IN REPAYMENT ANALYSIS.

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

^ (4) REPAYMENT ANALYSIS REQUIRED TO INCLUDE ESCROW PAYMENTS-

^ (A) IN GENERAL- In the case of any consumer credit transaction secured by a first mortgage or lien on the principal dwelling of the consumer, other than a consumer credit transaction under an open end credit plan or a reverse mortgage, for which an impound, trust, or other type of account has been or will be established in connection with the transaction for the payment of property taxes, hazard and flood

(if any) insurance premiums, or other periodic payments or premiums with respect to the property, the information required to be provided under subsection (a) with respect to the number, amount, and due dates or period of payments scheduled to repay the total of payments shall take into account the amount of any monthly payment to such account for each such repayment in accordance with section 10(a)(2) of the Real Estate Settlement Procedures Act of 1974.

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

TITLE VII -- APPRAISAL ACTIVITIES

SEC. 701. PROPERTY APPRAISAL REQUIREMENTS.

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

` (v) Property Appraisal Requirements-

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

` (2) APPRAISAL REQUIREMENTS-

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

˘ (B) SECOND APPRAISAL UNDER CERTAIN CIRCUMSTANCES-

˘ (i) IN GENERAL- If the purpose of a mortgage referred to in section 103(aa) is to finance the purchase or acquisition of the mortgaged property from a person within 180 days of the purchase or acquisition of such property by that person at a price that was lower than the current sale price of the property, the creditor shall obtain a second appraisal from a different qualified appraiser. The second appraisal shall include an analysis of the difference in sale prices, changes in market conditions, and any improvements made to the property between the date of the previous sale and the current sale.

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

˘ (C) QUALIFIED APPRAISER DEFINED- For purposes of this subsection, the term 'qualified appraiser' means a person who--

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

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

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

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

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

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

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

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

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

^ (b) Appraisal Independence- For purposes of subsection (a), unfair and deceptive practices shall include--

^ (1) any appraisal of a property offered as security for repayment of the consumer credit transaction that is conducted in connection with such transaction in which a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes, or intimidates a person conducting or involved in an appraisal, or attempts, to compensate, coerce, extort, collude, instruct, induce, bribe, or intimidate such a person, for the purpose of causing the appraised value assigned, under the appraisal, to the property to be based on any factor other than the independent judgment of the appraiser;

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

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

substituting ` \$20,000' for ` \$10,000' with respect to all subsequent violations.

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

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

` 129D. Unfair and deceptive practices and acts relating to certain consumer credit transactions.'

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

(a) Consumer Protection Mission-

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

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

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

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

(c) Open Meetings- All meetings of the Appraisal Subcommittee shall be held in public session after notice in the Federal Register.

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

(e) Field Appraisals and Appraisal Reviews- All field appraisals performed at a property within a State shall be prepared by appraisers licensed in the State where the property is located. All Uniform Standards of Professional Appraisal Practice-compliant appraisal reviews shall be performed by an appraiser who is duly licensed by a State appraisal board.

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

(g) Registry Fees Modified-

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

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

(h) Grants and Reports-

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

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

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

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

(i) Criteria-

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

(2) MINIMUM QUALIFICATION REQUIREMENTS- Any requirements established for individuals in the position of `Trainee Appraiser' and `Supervisory Appraiser' shall meet or exceed the minimum qualification requirements of the Appraiser Qualifications Board of The Appraisal Foundation. The Appraisal Subcommittee shall have the authority to enforce these requirements.

(j) Monitoring of State Appraiser Certifying and Licensing Agencies- The Appraisal Subcommittee shall monitor State appraiser certifying and licencing agencies for the purpose of determining whether a State agency's funding and staffing are consistent with the requirements of title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, whether a State agency processes complaints and completes exams in a reasonable time period, and whether a State agency reports claims and disciplinary actions on a timely basis to the national registry maintained by the Appraisal Subcommittee. The

Appraisal Subcommittee shall have the authority to impose interim sanctions and suspensions.

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

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

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

(l) Consideration of Professional Appraisal Designations- No provision of section 1122(d) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 shall be construed as prohibiting consideration of designations conferred by recognized national professional appraisal organizations, such as sponsoring organizations of The Appraisal Foundation.

(m) Appraiser Independence-

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

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

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

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

(C) Correct errors in the appraisal report.

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

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

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

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

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

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

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

(a) Study- The Comptroller General shall conduct a comprehensive study on possible improvements in the appraisal process generally, and specifically on the consistency in and the effectiveness of, and possible improvements in, State compliance efforts and programs in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. In addition, this study shall examine the existing de minimis loan

levels established by Federal regulators for compliance under title XI and whether there is a need to revise them to reflect the addition of consumer protection to the purposes and functions of the Appraisal Subcommittee.

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

SEC. 705. CONSUMER APPRAISAL DISCLOSURE.

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

SEC. 129E. CONSUMER APPRAISAL DISCLOSURE.

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

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

^ 129E. Consumer appraisal disclosure.'.

Passed the House of Representatives November 15, 2007.

Attest:

Clerk.

110th CONGRESS
1st Session
H. R. 3915
AN ACT

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

END