

111TH CONGRESS
1ST SESSION

H. R. 1728

IN THE SENATE OF THE UNITED STATES

MAY 12, 2009

Received; read twice and referred to the Committee on Banking, Housing, and
Urban Affairs

AN ACT

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

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

4 (b) TABLE OF CONTENTS.—The table of contents for
5 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—RESIDENTIAL MORTGAGE LOAN ORIGINATION
STANDARDS

Sec. 101. Definitions.
Sec. 102. Residential mortgage loan origination.
Sec. 103. Prohibition on steering incentives.
Sec. 104. Liability.
Sec. 105. Regulations.
Sec. 106. RESPA and TILA disclosure improvement.
Sec. 107. Study of shared appreciation mortgages.

TITLE II—MINIMUM STANDARDS FOR MORTGAGES

Sec. 201. Ability to repay.
Sec. 202. Net tangible benefit for refinancing of residential mortgage loans.
Sec. 203. Safe harbor and rebuttable presumption.
Sec. 204. Liability.
Sec. 205. Defense to foreclosure.
Sec. 206. Additional standards and requirements.
Sec. 207. Rule of construction.
Sec. 208. Effect on State laws.
Sec. 209. Regulations.
Sec. 210. Amendments to civil liability provisions.
Sec. 211. Lender rights in the context of borrower deception.
Sec. 212. Six-month notice required before reset of hybrid adjustable rate mort-
gages.
Sec. 213. Credit risk retention.
Sec. 214. Required disclosures.
Sec. 215. Disclosures required in monthly statements for residential mortgage
loans.
Sec. 216. Legal assistance for foreclosure-related issues.
Sec. 217. Effective date.
Sec. 218. Report by the GAO.
Sec. 219. State Attorney General enforcement authority.
Sec. 220. Tenant protection.

TITLE III—HIGH-COST MORTGAGES

Sec. 301. Definitions relating to high-cost mortgages.
Sec. 302. Amendments to existing requirements for certain mortgages.
Sec. 303. Additional requirements for certain mortgages.
Sec. 304. Regulations.
Sec. 305. Effective date.

TITLE IV—OFFICE OF HOUSING COUNSELING

- Sec. 401. Short title.
- Sec. 402. Establishment of Office of Housing Counseling.
- Sec. 403. Counseling procedures.
- Sec. 404. Grants for housing counseling assistance.
- Sec. 405. Requirements to use HUD-certified counselors under HUD programs.
- Sec. 406. Study of defaults and foreclosures.
- Sec. 407. Default and foreclosure database.
- Sec. 408. Definitions for counseling-related programs.
- Sec. 409. Accountability and transparency for grant recipients.
- Sec. 410. Updating and simplification of mortgage information booklet.
- Sec. 411. Home inspection counseling.
- Sec. 412. Warnings to homeowners of foreclosure rescue scams.

TITLE V—MORTGAGE SERVICING

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

TITLE VI—APPRAISAL ACTIVITIES

- Sec. 601. Property appraisal requirements.
- Sec. 602. Unfair and deceptive practices and acts relating to certain consumer credit transactions.
- Sec. 603. Amendments relating to Appraisal Subcommittee of FIEC, Appraiser Independence Monitoring, Approved Appraiser Education, Appraisal Management Companies, Appraiser Complaint Hotline, Automated Valuation Models, and Broker Price Opinions.
- Sec. 604. Study required on improvements in appraisal process and compliance programs.
- Sec. 605. Equal Credit Opportunity Act amendment.
- Sec. 606. Real Estate Settlement Procedures Act of 1974 amendment relating to certain appraisal fees.

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

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

TITLE VIII—REPORTS

- Sec. 801. GAO study report on government efforts to combat mortgage foreclosure rescue scams and loan modification fraud.

TITLE IX—MULTIFAMILY MORTGAGE RESOLUTION

- Sec. 901. Multifamily mortgage resolution program.

TITLE X—STUDY OF EFFECT OF DRYWALL PRESENCE ON FORECLOSURES

Sec. 1001. Study of effect of drywall presence on foreclosures.

TITLE XI—FANNIE MAE GUIDELINES FOR PURCHASE OF
CONDOMINIUM AND COOPERATIVE HOUSING MORTGAGES

Sec. 1101. Guidelines for purchase of condominium and cooperative housing
mortgages.

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

4 **SEC. 101. DEFINITIONS.**

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

8 “(cc) DEFINITIONS RELATING TO MORTGAGE ORIGI-
9 NATION AND RESIDENTIAL MORTGAGE LOANS.—

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

13 “(2) FEDERAL BANKING AGENCIES.—The term
14 ‘Federal banking agencies’ means the Board of Gov-
15 ernors of the Federal Reserve System, the Comp-
16 troller of the Currency, the Director of the Office of
17 Thrift Supervision, the Federal Deposit Insurance
18 Corporation, and the National Credit Union Admin-
19 istration Board. All rule writing by the ‘Federal
20 banking agencies’ as designated by the Mortgage
21 Reform and Anti-Predatory Lending Act will be co-
22 ordinated through the Financial Institutions Exam-

1 ination Council in consultation with the Chairman of
2 the State Liaison Committee.

3 “(3) MORTGAGE ORIGINATOR.—The term
4 ‘mortgage originator’—

5 “(A) means any person who, for direct or
6 indirect compensation or gain, or in the expect-
7 ation of direct or indirect compensation or
8 gain—

9 “(i) takes a residential mortgage loan
10 application;

11 “(ii) assists a consumer in obtaining
12 or applying to obtain a residential mort-
13 gage loan; or

14 “(iii) offers or negotiates terms of a
15 residential mortgage loan;

16 “(B) includes any person who represents
17 to the public, through advertising or other
18 means of communicating or providing informa-
19 tion (including the use of business cards, sta-
20 tionery, brochures, signs, rate lists, or other
21 promotional items), that such person can or will
22 provide any of the services or perform any of
23 the activities described in subparagraph (A);

24 “(C) does not include any person who is (i)
25 not otherwise described in subparagraph (A) or

1 (B) and who performs purely administrative or
2 clerical tasks on behalf of a person who is de-
3 scribed in any such subparagraph, or (ii) an
4 employee of a retailer of manufactured homes
5 who is not described in clause (i) or (iii) of sub-
6 paragraph (A) and who does not advise a con-
7 sumer on loan terms (including rates, fees, and
8 other costs);

9 “(D) does not include a person or entity
10 that only performs real estate brokerage activi-
11 ties and is licensed or registered in accordance
12 with applicable State law, unless such person or
13 entity is compensated for performing such bro-
14 kerage activities by a lender, a mortgage
15 broker, or other mortgage originator or by any
16 agent of such lender, mortgage broker, or other
17 mortgage originator;

18 “(E) does not include, with respect to a
19 residential mortgage loan, a person, estate, or
20 trust that provides mortgage financing for the
21 sale of 1 property in any 36-month period, pro-
22 vided that such loan—

23 “(i) is fully amortizing;

24 “(ii) is with respect to a sale for
25 which the seller determines in good faith

1 and documents that the buyer has a rea-
2 sonable ability to repay the loan;

3 “(iii) has a fixed rate or an adjustable
4 rate that is adjustable after 5 or more
5 years, subject to reasonable annual and
6 lifetime limitations on interest rate in-
7 creases; and

8 “(iv) meets any other criteria the
9 Federal banking agencies may prescribe;
10 and

11 “(F) does not include a servicer or servicer
12 employees, agents and contractors, including
13 but not limited to those who offer or negotiate
14 terms of a residential mortgage loan for pur-
15 poses of renegotiating, modifying, replacing and
16 subordinating principal of existing mortgages
17 where borrowers are behind in their payments,
18 in default or have a reasonable likelihood of
19 being in default or falling behind.

20 “(4) NATIONWIDE MORTGAGE LICENSING SYS-
21 TEM AND REGISTRY.—The term ‘Nationwide Mort-
22 gage Licensing System and Registry’ has the same
23 meaning as in the Secure and Fair Enforcement for
24 Mortgage Licensing Act of 2008.

1 “(5) OTHER DEFINITIONS RELATING TO MORT-
2 GAGE ORIGINATOR.—For purposes of this sub-
3 section, a person ‘assists a consumer in obtaining or
4 applying to obtain a residential mortgage loan’ by,
5 among other things, advising on residential mort-
6 gage loan terms (including rates, fees, and other
7 costs), preparing residential mortgage loan packages,
8 or collecting information on behalf of the consumer
9 with regard to a residential mortgage loan.

10 “(6) RESIDENTIAL MORTGAGE LOAN.—The
11 term ‘residential mortgage loan’ means any con-
12 sumer credit transaction that is secured by a mort-
13 gage, deed of trust, or other equivalent consensual
14 security interest on a dwelling or on residential real
15 property that includes a dwelling, other than a con-
16 sumer credit transaction under an open end credit
17 plan or a reverse mortgage or, for purposes of sec-
18 tions 129B and 129C and section 128(a) (16), (17),
19 and (18), and 128(f) and any regulations promul-
20 gated thereunder, an extension of credit relating to
21 a plan described in section 101(53D) of title 11,
22 United States Code.

23 “(7) SECRETARY.—The term ‘Secretary’, when
24 used in connection with any transaction or person

1 involved with a residential mortgage loan, means the
2 Secretary of Housing and Urban Development.

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

7 “(A) is the issuer, or is created by the
8 issuer, of mortgage pass-through certificates,
9 participation certificates, mortgage-backed secu-
10 rities, or other similar securities backed by a
11 pool of assets that includes residential mortgage
12 loans; and

13 “(B) holds such loans.

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

21 “(10) SERVICER.—The term ‘servicer’ has the
22 same meaning as in section 6(i)(2) of the Real Es-
23 tate Settlement Procedures Act of 1974.”.

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

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

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

6 “(a) FINDING AND PURPOSE.—

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

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

19 “(b) DUTY OF CARE.—

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

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

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

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

12 “(C) make full, complete, and timely dis-
13 closure to each such consumer in writing, the
14 receipt and understanding of which shall be ac-
15 knowledged by the signature of the mortgage
16 originator and the consumer, of—

17 “(i) the comparative costs and bene-
18 fits of each residential mortgage loan prod-
19 uct offered, discussed, or referred to by the
20 originator (and such comparative costs and
21 benefits for each such product shall be pre-
22 sented side by side and the disclosures for
23 each such product shall have equal promi-
24 nence);

1 “(ii) the nature of the originator’s re-
2 lationship to the consumer (including the
3 cost of the services to be provided by the
4 originator and a statement that the mort-
5 gage originator is or is not acting as an
6 agent for the consumer, as the case may
7 be); and

8 “(iii) any relevant conflicts of interest
9 between the originator and the consumer;

10 “(D) certify to the creditor, with respect to
11 any transaction involving a residential mortgage
12 loan, that the mortgage originator has fulfilled
13 all requirements applicable to the originator
14 under this section with respect to the trans-
15 action; and

16 “(E) include on all loan documents any
17 unique identifier of the mortgage originator
18 provided by the Nationwide Mortgage Licensing
19 System and Registry.

20 “(2) CLARIFICATION OF EXTENT OF DUTY TO
21 PRESENT RANGE OF PRODUCTS AND APPROPRIATE
22 PRODUCTS.—

23 “(A) NO DUTY TO OFFER PRODUCTS FOR
24 WHICH ORIGINATOR IS NOT AUTHORIZED TO

1 TAKE AN APPLICATION.—Paragraph (1)(B)
2 shall not be construed as requiring—

3 “(i) a mortgage originator to present
4 to any consumer any specific residential
5 mortgage loan product that is offered by a
6 creditor which does not accept consumer
7 referrals from, or consumer applications
8 submitted by or through, such originator;
9 or

10 “(ii) a creditor to offer products that
11 the creditor does not offer to the general
12 public.

13 “(B) APPROPRIATE LOAN PRODUCT.—For
14 purposes of paragraph (1)(B), a residential
15 mortgage loan shall be presumed to be appro-
16 priate for a consumer if—

17 “(i) the mortgage originator deter-
18 mines in good faith, based on then existing
19 information and without undergoing a full
20 underwriting process, that the consumer
21 has a reasonable ability to repay and, in
22 the case of a refinancing of an existing res-
23 idential mortgage loan, receives a net tan-
24 gible benefit, as determined in accordance

1 with regulations prescribed under sub-
2 sections (a) and (b) of section 129C; and

3 “(ii) the loan does not have predatory
4 characteristics or effects (such as equity
5 stripping and excessive fees and abusive
6 terms) as determined in accordance with
7 regulations prescribed under paragraph
8 (4).

9 “(3) RULES OF CONSTRUCTION.—No provision
10 of this subsection shall be construed as—

11 “(A) creating an agency or fiduciary rela-
12 tionship between a mortgage originator and a
13 consumer if the originator does not hold himself
14 or herself out as such an agent or fiduciary; or

15 “(B) restricting a mortgage originator
16 from holding himself or herself out as an agent
17 or fiduciary of a consumer subject to any addi-
18 tional duty, requirement, or limitation applica-
19 ble to agents or fiduciaries under any Federal
20 or State law.

21 “(4) REGULATIONS.—

22 “(A) IN GENERAL.—The Federal banking
23 agencies, in consultation with the Secretary,
24 and the Commission, shall jointly prescribe reg-
25 ulations to—

1 “(i) further define the duty estab-
2 lished under paragraph (1);

3 “(ii) implement the requirements of
4 this subsection;

5 “(iii) establish the time period within
6 which any disclosure required under para-
7 graph (1) shall be made to the consumer;
8 and

9 “(iv) establish such other require-
10 ments for any mortgage originator as such
11 regulatory agencies may determine to be
12 appropriate to meet the purposes of this
13 subsection.

14 “(B) COMPLEMENTARY AND NONDUPLICA-
15 TIVE DISCLOSURES.—The agencies referred to
16 in subparagraph (A) shall endeavor to make the
17 required disclosures to consumers under this
18 subsection complementary and nonduplicative
19 with other disclosures for mortgage consumers
20 to the extent such efforts—

21 “(i) are practicable; and

22 “(ii) do not reduce the value of any
23 such disclosure to recipients of such disclo-
24 sures.

1 “(5) COMPLIANCE PROCEDURES REQUIRED.—
2 The Federal banking agencies shall prescribe regula-
3 tions requiring depository institutions to establish
4 and maintain procedures reasonably designed to as-
5 sure and monitor the compliance of such depository
6 institutions, the subsidiaries of such institutions,
7 and the employees of such institutions or subsidi-
8 aries with the requirements of this section and the
9 registration procedures established under section
10 1507 of the Secure and Fair Enforcement for Mort-
11 gage Licensing Act of 2008.”.

12 (b) CLERICAL AMENDMENT.—The table of sections
13 for chapter 2 of the Truth in Lending Act is amended
14 by inserting after the item relating to section 129 the fol-
15 lowing new items:

 “129A. Fiduciary duty of servicers of pooled residential mortgages.
 “129B. Residential mortgage loan origination.”.

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

17 Section 129B of the Truth in Lending Act (as added
18 by section 102(a)) is amended by inserting after sub-
19 section (b) the following new subsection:

20 “(c) PROHIBITION ON STEERING INCENTIVES.—

21 “(1) IN GENERAL.—For any mortgage loan, the
22 total amount of direct and indirect compensation
23 from all sources permitted to a mortgage originator

1 may not vary based on the terms of the loan (other
2 than the amount of the principal).

3 “(2) RESTRUCTURING OF FINANCING ORIGINA-
4 TION FEE.—

5 “(A) IN GENERAL.—For any mortgage
6 loan, a mortgage originator may not arrange
7 for a consumer to finance through rate any
8 origination fee or cost except bona fide third
9 party settlement charges not retained by the
10 creditor or mortgage originator.

11 “(B) EXCEPTION.—Notwithstanding para-
12 graph subparagraph (A), a mortgage originator
13 may arrange for a consumer to finance through
14 rate an origination fee or cost if—

15 “(i) the mortgage originator does not
16 receive any other compensation from the
17 consumer except the compensation that is
18 financed through rate; and

19 “(ii) the mortgage is a qualified mort-
20 gage.

21 “(3) REGULATIONS.—The Federal banking
22 agencies, in consultation with the Secretary and the
23 Commission, shall jointly prescribe regulations to
24 prohibit—

1 “(A) mortgage originators from steering
2 any consumer to a residential mortgage loan
3 that—

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

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

12 “(iii) has predatory characteristics or
13 effects (such as equity stripping, excessive
14 fees, or abusive terms);

15 “(B) mortgage originators from steering
16 any consumer from a residential mortgage loan
17 for which the consumer is qualified that is a
18 qualified mortgage (as defined in section
19 129C(e)(3)) to a residential mortgage loan that
20 is not a qualified mortgage;

21 “(C) abusive or unfair lending practices
22 that promote disparities among consumers of
23 equal credit worthiness but of different race,
24 ethnicity, gender, or age;

1 “(D) mortgage originators from assessing
2 excessive points and fees (as such term is de-
3 scribed under section 103(aa)(4) of the Truth
4 in Lending Act (15 U.S.C. 1602(aa)(4))) to a
5 consumer for the origination of a residential
6 mortgage loan based on such consumer’s deci-
7 sion to finance all or part of the payment
8 through the rate for such points and fees; and

9 “(E) mortgage originators from—

10 “(i) mischaracterizing the credit his-
11 tory of a consumer or the residential mort-
12 gage loans available to a consumer;

13 “(ii) mischaracterizing or suborning
14 the mischaracterization of the appraised
15 value of the property securing the exten-
16 sion of credit; or

17 “(iii) if unable to suggest, offer, or
18 recommend to a consumer a loan that is
19 not more expensive than a loan for which
20 the consumer qualifies, discouraging a con-
21 sumer from seeking a home mortgage loan
22 secured by a consumer’s principal dwelling
23 from another mortgage originator.

24 “(4) RULES OF CONSTRUCTION.—No provision
25 of this subsection shall be construed as—

1 “(A) permitting yield spread premiums or
2 other similar incentive compensation;

3 “(B) affecting the mechanism for pro-
4 viding the total amount of direct and indirect
5 compensation permitted to a mortgage origi-
6 nator;

7 “(C) limiting or affecting the amount of
8 compensation received by a creditor upon the
9 sale of a consummated loan to a subsequent
10 purchaser;

11 “(D) restricting a consumer’s ability to fi-
12 nance, including through principal, any origina-
13 tion fees or costs permitted under this sub-
14 section, or the mortgage originator’s ability to
15 receive such fees or costs (including compensa-
16 tion) from any person, so long as such fees or
17 costs were fully and clearly disclosed to the con-
18 sumer earlier in the application process as re-
19 quired by 129B(b)(1)(C)(i) and do not vary
20 based on the terms of the loan (other than the
21 amount of the principal) or the consumer’s de-
22 cision about whether to finance such fees or
23 costs; or

24 “(E) prohibiting incentive payments to a
25 mortgage originator based on the number of

1 residential mortgage loans originated within a
2 specified period of time.”.

3 **SEC. 104. LIABILITY.**

4 Section 129B of the Truth in Lending Act is amend-
5 ed by inserting after subsection (c) (as added by section
6 103) the following new subsection:

7 “(d) LIABILITY FOR VIOLATIONS.—

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

17 “(2) MAXIMUM.—The maximum amount of any
18 liability of a mortgage originator under paragraph
19 (1) to a consumer for any violation of this section
20 shall not exceed the greater of actual damages or an
21 amount equal to 3 times the total amount of direct
22 and indirect compensation or gain accruing to the
23 mortgage originator in connection with the residen-
24 tial mortgage loan involved in the violation, plus the

1 costs to the consumer of the action, including a rea-
2 sonable attorney’s fee.”.

3 **SEC. 105. REGULATIONS.**

4 (a) DISCRETIONARY REGULATORY AUTHORITY.—
5 Section 129B of the Truth in Lending Act is amended
6 by inserting after subsection (d) (as added by section 104)
7 the following new subsection:

8 “(e) DISCRETIONARY REGULATORY AUTHORITY.—

9 “(1) IN GENERAL.—The Federal banking agen-
10 cies shall, by regulations issued jointly, prohibit or
11 condition terms, acts or practices relating to residen-
12 tial mortgage loans that the agencies find to be abu-
13 sive, unfair, deceptive, predatory, inconsistent with
14 reasonable underwriting standards, necessary or
15 proper to ensure that responsible, affordable mort-
16 gage credit remains available to consumers in a
17 manner consistent with the purposes of this section
18 and section 129B, necessary or proper to effectuate
19 the purposes of this section and section 129C, to
20 prevent circumvention or evasion thereof, or to facili-
21 tate compliance with such sections, or are not in the
22 interest of the borrower.

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

1 same manner as regulations prescribed under section
2 105.

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

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

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

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

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

21 (d) TECHNICAL AND CONFORMING AMENDMENTS.—
22 Section 129(1)(2) of the Truth in Lending Act (15 U.S.C.
23 1639(1)(2)) is amended by inserting “referred to in section
24 103(aa)” after “loans” each place such term appears.

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

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

10 (b) REQUIREMENTS.—Such disclosures shall—

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

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

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

1 of 1974 and provide for standardization to the
2 greatest extent possible among such disclosures from
3 mortgage origination through the mortgage settle-
4 ment.

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

7 (A) the principal amount of the loan;

8 (B) the term of the loan;

9 (C) whether the loan has a fixed rate of in-
10 terest or an adjustable rate of interest;

11 (D) the annual percentage rate of interest
12 under the loan as of the time of the disclosure;

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

16 (i) when such adjustment will or may
17 occur; and

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

20 (F) the total monthly payment under the
21 loan (including loan principal and interest,
22 property taxes, and insurance) at the time of
23 the disclosure;

1 (G) the maximum total estimated monthly
2 maximum payment pursuant to each such pos-
3 sible adjustment;

4 (H) the total settlement charges in connec-
5 tion with the loan and the amount of any down-
6 payment and cash required at settlement; and

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

11 (c) SUSPENSION OF 2008 RESPA RULE.—

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

23 (2) 2008 RULE.—The final rule referred to in
24 this paragraph is the rule of the Department of
25 Housing and Urban Development published on No-

1 vember 17, 2008, on pages 68204–68288 of Volume
2 73 of the Federal Register (Docket No. FR–5180–
3 F–03; relating to “Real Estate Settlement Proce-
4 dures Act (RESPA): Rule to Simplify and Improve
5 the Process of Obtaining Mortgages and Reduce
6 Consumer Settlement Costs”).

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

13 (e) FAILURE TO ISSUE COMPATIBLE DISCLO-
14 SURES.—If the Secretary of Housing and Urban Develop-
15 ment and the Board of Governors of the Federal Reserve
16 System cannot agree on compatible disclosures pursuant
17 to subsections (a) and (b), the Secretary and the Board
18 shall submit a report to the Congress, after the 6-month
19 period referred to in subsection (a), explaining the reasons
20 for such disagreement. After the 15-day period beginning
21 upon submission of such report, the Secretary and the
22 Board may separately issue for public comment regula-
23 tions providing for disclosures under the Real Estate Set-
24 tlement Procedures Act of 1974 and the Truth in Lending
25 Act, respectively. Any final disclosures as a result of such

1 regulations issued by the Secretary and the Board shall
2 take effect on the same date, and not later than the expi-
3 ration of the 12-month period beginning on the date of
4 the enactment of this Act. If either the Secretary or the
5 Board fails to act during such 12-month period, either
6 such agency may act independently and implement final
7 regulations.

8 (f) STANDARDIZED DISCLOSURE FORMS.—

9 (1) IN GENERAL.—Any regulations proposed or
10 issued pursuant to the requirements of this section
11 shall include model disclosure forms.

12 (2) OPTION FOR MANDATORY USE.—In issuing
13 proposed regulations under subsection (a), the Sec-
14 retary of Housing and Urban Development and the
15 Board of Governors of the Federal Reserve System
16 shall include regulations for the mandatory use of
17 standardized disclosure forms if they jointly deter-
18 mine that it would substantially benefit the con-
19 sumer.

20 **SEC. 107. STUDY OF SHARED APPRECIATION MORTGAGES.**

21 (a) STUDY.—The Secretary of Housing and Urban
22 Development, in consultation with the Secretary of the
23 Treasury and other relevant agencies, shall conduct a com-
24 prehensive study to determine prudent statutory and regu-
25 latory requirements sufficient to provide for the wide-

1 spread use of shared appreciation mortgages to strengthen
 2 local housing markets, provide new opportunities for af-
 3 fordable homeownership, and enable homeowners at-risk
 4 of foreclosure to refinance or modify their mortgages.

5 (b) REPORT.—Not later than the expiration of the
 6 6-month period beginning on the date of the enactment
 7 of this Act, the Secretary of Housing and Urban Develop-
 8 ment shall submit a report to the Congress on the results
 9 of the study, which shall include recommendations for the
 10 regulatory and legislative requirements referred to in sub-
 11 section (a).

12 **TITLE II—MINIMUM STANDARDS** 13 **FOR MORTGAGES**

14 **SEC. 201. ABILITY TO REPAY.**

15 (a) IN GENERAL.—Chapter 2 of the Truth in Lend-
 16 ing Act (15 U.S.C. 1631 et seq.) is amended by inserting
 17 after section 129B (as added by section 102(a)) the fol-
 18 lowing new section:

19 **“§ 129C. Minimum standards for residential mortgage** 20 **loans**

21 “(a) ABILITY TO REPAY.—

22 “(1) IN GENERAL.—In accordance with regula-
 23 tions prescribed jointly by the Federal banking agen-
 24 cies, in consultation with the Commission, no cred-
 25 itor may make a residential mortgage loan unless

1 the creditor makes a reasonable and good faith de-
2 termination based on verified and documented infor-
3 mation that, at the time the loan is consummated,
4 the consumer has a reasonable ability to repay the
5 loan, according to its terms, and all applicable taxes,
6 insurance, and assessments.

7 “(2) MULTIPLE LOANS.—If the creditor knows,
8 or has reason to know, that 1 or more residential
9 mortgage loans secured by the same dwelling will be
10 made to the same consumer, the creditor shall make
11 a reasonable and good faith determination, based on
12 verified and documented information, that the con-
13 sumer has a reasonable ability to repay the com-
14 bined payments of all loans on the same dwelling ac-
15 cording to the terms of those loans and all applicable
16 taxes, insurance, and assessments.

17 “(3) BASIS FOR DETERMINATION.—A deter-
18 mination under this subsection of a consumer’s abil-
19 ity to repay a residential mortgage loan shall include
20 consideration of the consumer’s credit history, cur-
21 rent income, expected income the consumer is rea-
22 sonably assured of receiving, current obligations,
23 debt-to-income ratio, employment status, and other
24 financial resources other than the consumer’s equity

1 in the dwelling or real property that secures repay-
2 ment of the loan.

3 “(4) INCOME VERIFICATION.—In order to safe-
4 guard against fraudulent reporting, any consider-
5 ation of a consumer’s income history in making a
6 determination under this subsection shall include the
7 verification of such income by the use of—

8 “(A) Internal Revenue Service transcripts
9 of tax returns provided by a third party; or

10 “(B) such other similar method that quick-
11 ly and effectively verifies income documentation
12 by a third party as the Federal banking agen-
13 cies may jointly prescribe.

14 “(5) NONSTANDARD LOANS.—

15 “(A) VARIABLE RATE LOANS THAT DEFER
16 REPAYMENT OF ANY PRINCIPAL OR INTER-
17 EST.—For purposes of determining, under this
18 subsection, a consumer’s ability to repay a vari-
19 able rate residential mortgage loan that allows
20 or requires the consumer to defer the repay-
21 ment of any principal or interest, the creditor
22 shall use a fully amortizing repayment schedule.

23 “(B) INTEREST-ONLY LOANS.—For pur-
24 poses of determining, under this subsection, a
25 consumer’s ability to repay a residential mort-

1 gage loan that permits or requires the payment
2 of interest only, the creditor shall use the pay-
3 ment amount required to amortize the loan by
4 its final maturity.

5 “(C) CALCULATION FOR NEGATIVE AMOR-
6 TIZATION.—In making any determination under
7 this subsection, a creditor shall also take into
8 consideration any balance increase that may ac-
9 cruer from any negative amortization provision.

10 “(D) CALCULATION PROCESS.—For pur-
11 poses of making any determination under this
12 subsection, a creditor shall calculate the month-
13 ly payment amount for principal and interest on
14 any residential mortgage loan by assuming—

15 “(i) the loan proceeds are fully dis-
16 bursed on the date of the consummation of
17 the loan;

18 “(ii) the loan is to be repaid in sub-
19 stantially equal monthly amortizing pay-
20 ments for principal and interest over the
21 entire term of the loan with no balloon
22 payment, unless the loan contract requires
23 more rapid repayment (including balloon
24 payment), in which case the calculation
25 shall be made (I) in accordance with regu-

1 lations prescribed by the Federal banking
2 agencies, with respect to any loan which
3 has an annual percentage rate that does
4 not exceed the average prime offer rate for
5 a comparable transaction, as of the date
6 the interest rate is set, by 1.5 or more per-
7 centage points for a first lien residential
8 mortgage loan; and by 3.5 or more per-
9 centage points for a subordinate lien resi-
10 dential mortgage loan; or (II) using the
11 contract's repayment schedule, with re-
12 spect to a loan which has an annual per-
13 centage rate, as of the date the interest
14 rate is set, that is at least 1.5 percentage
15 points above the average prime offer rate
16 for a first lien residential mortgage loan;
17 and 3.5 percentage points above the aver-
18 age prime offer rate for a subordinate lien
19 residential mortgage loan; and

20 “(iii) the interest rate over the entire
21 term of the loan is a fixed rate equal to the
22 fully indexed rate at the time of the loan
23 closing, without considering the introduc-
24 tory rate.

1 “(E) REFINANCE OF HYBRID LOANS WITH
2 CURRENT LENDER.—In considering any appli-
3 cation for refinancing an existing hybrid loan
4 by the creditor into a standard loan to be made
5 by the same creditor in any case in which the
6 sole net-tangible benefit to the mortgagor would
7 be a reduction in monthly payment and the
8 mortgagor has not been delinquent on any pay-
9 ment on the existing hybrid loan, the creditor
10 may—

11 “(i) consider the mortgagor’s good
12 standing on the existing mortgage;

13 “(ii) consider if the extension of new
14 credit would prevent a likely default should
15 the original mortgage reset and give such
16 concerns a higher priority as an acceptable
17 underwriting practice; and

18 “(iii) offer rate discounts and other
19 favorable terms to such mortgagor that
20 would be available to new customers with
21 high credit ratings based on such under-
22 writing practice.

23 “(6) FULLY-INDEXED RATE DEFINED.—For
24 purposes of this subsection, the term ‘fully indexed
25 rate’ means the index rate prevailing on a residential

1 mortgage loan at the time the loan is made plus the
2 margin that will apply after the expiration of any in-
3 troductory interest rates.”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 for chapter 2 of the Truth in Lending Act is amended
6 by inserting after the item relating to section 129B (as
7 added by section 102(b)) the following new item:

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

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

10 Section 129C of the Truth in Lending Act (as added
11 by section 201(a)) is amended by inserting after sub-
12 section (a) the following new subsection:

13 “(b) NET TANGIBLE BENEFIT FOR REFINANCING OF
14 RESIDENTIAL MORTGAGE LOANS.—

15 “(1) IN GENERAL.—In accordance with regula-
16 tions prescribed under paragraph (3), no creditor
17 may extend credit in connection with any residential
18 mortgage loan that involves a refinancing of a prior
19 existing residential mortgage loan unless the creditor
20 reasonably and in good faith determines, at the time
21 the loan is consummated and on the basis of infor-
22 mation known by or obtained in good faith by the
23 creditor, that the refinanced loan will provide a net
24 tangible benefit to the consumer.

1 “(2) CERTAIN LOANS PROVIDING NO NET TAN-
2 GIBLE BENEFIT.—A residential mortgage loan that
3 involves a refinancing of a prior existing residential
4 mortgage loan shall not be considered to provide a
5 net tangible benefit to the consumer if the costs of
6 the refinanced loan, including points, fees and other
7 charges, exceed the amount of any newly advanced
8 principal without any corresponding changes in the
9 terms of the refinanced loan that are advantageous
10 to the consumer.

11 “(3) NET TANGIBLE BENEFIT.—The Federal
12 banking agencies shall jointly prescribe regulations
13 defining the term ‘net tangible benefit’ for purposes
14 of this subsection.”.

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

16 Section 129C of the Truth in Lending Act is amend-
17 ed by inserting after subsection (b) (as added by section
18 202) the following new subsection:

19 “(c) PRESUMPTION OF ABILITY TO REPAY AND NET
20 TANGIBLE BENEFIT.—

21 “(1) IN GENERAL.—Any creditor with respect
22 to any residential mortgage loan, and any assignee
23 or securitizer of such loan, may presume that the
24 loan has met the requirements of subsections (a)
25 and (b), if the loan is a qualified mortgage.

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

3 “(A) QUALIFIED MORTGAGE.—The term
4 ‘qualified mortgage’ means any residential
5 mortgage loan—

6 “(i) that does not allow a consumer to
7 defer repayment of principal or interest, or
8 is not otherwise deemed a ‘non-traditional
9 mortgage’ under guidance, advisories, or
10 regulations prescribed by the Federal
11 Banking Agencies;

12 “(ii) that does not provide for a re-
13 payment schedule that results in negative
14 amortization at any time;

15 “(iii) for which the terms are fully
16 amortizing and which does not result in a
17 balloon payment, where a ‘balloon pay-
18 ment’ is a scheduled payment that is more
19 than twice as large as the average of ear-
20 lier scheduled payments;

21 “(iv) which has an annual percentage
22 rate that does not exceed the average
23 prime offer rate for a comparable trans-
24 action, as of the date the interest rate is
25 set—

1 “(I) by 1.5 or more percentage
2 points, in the case of a first lien resi-
3 dential mortgage loan having a origi-
4 nal principal obligation amount that is
5 equal to or less than the amount of
6 the maximum limitation on the origi-
7 nal principal obligation of mortgage in
8 effect for a residence of the applicable
9 size, as of the date of such interest
10 rate set, pursuant to the sixth sen-
11 tence of section 305(a)(2) the Federal
12 Home Loan Mortgage Corporation
13 Act (12 U.S.C. 1454(a)(2));

14 “(II) by 2.5 or more percentage
15 points, in the case of a first lien resi-
16 dential mortgage loan having a origi-
17 nal principal obligation amount that is
18 more than the amount of the max-
19 imum limitation on the original prin-
20 cipal obligation of mortgage in effect
21 for a residence of the applicable size,
22 as of the date of such interest rate
23 set, pursuant to the sixth sentence of
24 section 305(a)(2) the Federal Home

1 Loan Mortgage Corporation Act (12
2 U.S.C. 1454(a)(2)); and

3 “(III) by 3.5 or more percentage
4 points, in the case of a subordinate
5 lien residential mortgage loan;

6 “(v) for which the income and finan-
7 cial resources relied upon to qualify the ob-
8 ligors on the loan are verified and docu-
9 mented;

10 “(vi) in the case of a fixed rate loan,
11 for which the underwriting process is based
12 on a payment schedule that fully amortizes
13 the loan over the loan term and takes into
14 account all applicable taxes, insurance, and
15 assessments;

16 “(vii) in the case of an adjustable rate
17 loan, for which the underwriting is based
18 on the maximum rate permitted under the
19 loan during the first seven years, and a
20 payment schedule that fully amortizes the
21 loan over the loan term and takes into ac-
22 count all applicable taxes, insurance, and
23 assessments;

24 “(viii) that does not cause the con-
25 sumer’s total monthly debts, including

1 amounts under the loan, to exceed a per-
2 centage established by regulation of the
3 consumer's monthly gross income or such
4 other maximum percentage of such income
5 as may be prescribed by regulation under
6 paragraph (4), and such rules shall also
7 take into consideration the consumer's in-
8 come available to pay regular expenses
9 after payment of all installment and revolv-
10 ing debt;

11 “(ix) for which the total points and
12 fees payable in connection with the loan do
13 not exceed 2 percent of the total loan
14 amount, where ‘points and fees’ means
15 points and fees as defined by Section
16 103(aa)(4) of the Truth in Lending Act
17 (15 U.S.C. 1602(aa)(4)); and

18 “(x) for which the term of the loan
19 does not exceed 30 years, except as such
20 term may be extended under paragraph
21 (4).

22 “(B) AVERAGE PRIME OFFER RATE.—The
23 term ‘average prime offer rate’ means an an-
24 nual percentage rate that is derived from aver-
25 age interest rates, points, and other loan prie-

1 ing terms currently offered to consumers by a
2 representative sample of creditors for mortgage
3 transactions that have low risk pricing charac-
4 teristics.

5 “(3) PUBLICATION OF AVERAGE PRIME OFFER
6 RATE AND APR THRESHOLDS.—The Board—

7 “(A) shall publish, and update at least
8 weekly, average prime offer rates;

9 “(B) may publish multiple rates based on
10 varying types of mortgage transactions; and

11 “(C) shall adjust the thresholds of 1.50
12 percentage points in paragraph (2)(A)(iv)(I),
13 2.50 percentage points in paragraph
14 (2)(A)(iv)(II), and 3.50 percentage points in
15 paragraph (2)(A)(v)(III), as necessary to reflect
16 significant changes in market conditions and to
17 effectuate the purposes of the Mortgage Reform
18 and Anti-Predatory Lending Act.

19 “(4) REGULATIONS.—

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

23 “(B) REVISION OF SAFE HARBOR CRI-
24 TERIA.—

1 “(i) IN GENERAL.—The Federal bank-
2 ing agencies may jointly prescribe regula-
3 tions that revise, add to, or subtract from
4 the criteria that define a qualified mort-
5 gage upon a finding that such regulations
6 are necessary or proper to ensure that re-
7 sponsible, affordable mortgage credit re-
8 mains available to consumers in a manner
9 consistent with the purposes of this sec-
10 tion, necessary and appropriate to effec-
11 tuate the purposes of this section and sec-
12 tion 129B, to prevent circumvention or
13 evasion thereof, or to facilitate compliance
14 with such sections.

15 “(ii) LOAN DEFINITION.—The fol-
16 lowing agencies shall, in consultation with
17 the Federal banking agencies, prescribe
18 rules defining the types of loans they in-
19 sure, guarantee or administer, as the case
20 may be, that are Qualified Mortgages for
21 purposes of subsection (c)(1)(A) upon a
22 finding that such rules are consistent with
23 the purposes of this section and section
24 129B, to prevent circumvention or evasion

1 thereof, or to facilitate compliance with
2 such sections—

3 “(I) The Department of Housing
4 and Urban Development, with regard
5 to mortgages insured under title II of
6 the National Housing Act (12 U.S.C.
7 1707 et seq.);

8 “(II) The Secretary of Veterans
9 Affairs, with regard to a loan made or
10 guaranteed by the Secretary of Vet-
11 erans Affairs;

12 “(III) The Secretary of Agri-
13 culture, with regard loans guaranteed
14 by the Secretary of Agriculture pursu-
15 ant to 42 U.S.C. 1472(h);

16 “(IV) The Federal Housing Fi-
17 nance Agency, with regard to loans
18 meeting the conforming loan stand-
19 ards of the Federal National Mort-
20 gage Corporation or the Federal
21 Home Loan Mortgage Corporation;
22 and

23 “(V) The Rural Housing Service,
24 with regard to loans insured by the
25 Rural Housing Service.”.

1 **SEC. 204. LIABILITY.**

2 Section 129C of the Truth in Lending Act is amend-
3 ed by inserting after subsection (c) (as added by section
4 203) the following new subsection:

5 “(d) LIABILITY FOR VIOLATIONS.—

6 “(1) IN GENERAL.—

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

19 “(B) CURE.—A creditor shall not be liable
20 for rescission under subparagraph (A) with re-
21 spect to a residential mortgage loan if, no later
22 than 90 days after the receipt of notification
23 from the consumer that the loan violates sub-
24 section (a) or (b), the creditor, acting in good
25 faith, a cure.

1 “(2) LIMITED ASSIGNEE AND SECURITIZER LI-
2 ABILITY.—Notwithstanding sections 125(e) and 131
3 and except as provided in paragraph (3), a civil ac-
4 tion which may be maintained against a creditor
5 with respect to a residential mortgage loan for a vio-
6 lation of subsection (a) or (b) may be maintained
7 against any assignee or securitizer of such residen-
8 tial mortgage loan, who has acted in good faith, for
9 the following liabilities only:

10 “(A) Rescission of the loan.

11 “(B) Such additional costs as the obligor
12 may have incurred as a result of the violation
13 and in connection with obtaining a rescission of
14 the loan, including a reasonable attorney’s fee.

15 “(3) ASSIGNEE AND SECURITIZER EXEMP-
16 TION.—No assignee or securitizer of a residential
17 mortgage loan that has exercised reasonable due dili-
18 gence in complying with the requirements of sub-
19 sections (a) and (b), consistent with reasonable due
20 diligence practices prescribed by the Federal banking
21 agencies, shall be liable under paragraph (2) with re-
22 spect to such loan if, no later than 90 days after the
23 receipt of notification from the consumer that the
24 loan violates subsection (a) or (b), the assignee or

1 securitizer provides a cure so that the loan satisfies
2 the requirements of subsections (a) and (b).

3 “(4) ABSENT PARTIES.—

4 “(A) ABSENT CREDITOR.—Notwith-
5 standing the exemption provided in paragraph
6 (3), if the creditor with respect to a residential
7 mortgage loan made in violation of subsection
8 (a) or (b) has ceased to exist as a matter of law
9 or has filed for bankruptcy protection under
10 title 11, United States Code, or has had a re-
11 ceiver, conservator, or liquidating agent ap-
12 pointed, a consumer may maintain a civil action
13 against an assignee to cure the residential
14 mortgage loan, plus the costs and reasonable
15 attorney’s fees incurred in obtaining such rem-
16 edy.

17 “(B) ABSENT CREDITOR AND ASSIGNEE.—

18 Notwithstanding the exemption provided in
19 paragraph (3), if the creditor with respect to a
20 residential mortgage loan made in violation of
21 subsection (a) or (b) and each assignee of such
22 loan have ceased to exist as a matter of law or
23 have filed for bankruptcy protection under title
24 11, United States Code, or have had receivers,
25 conservators, or liquidating agents appointed,

1 the consumer may maintain the civil action re-
2 ferred to in subparagraph (A) against the
3 securitizer.

4 “(5) CURE DEFINED.—For purposes of this
5 subsection, the term ‘cure’ means, with respect to a
6 residential mortgage loan that violates subsection (a)
7 or (b), the modification or refinancing, at no cost to
8 the consumer, of the loan to provide terms that sat-
9 isfy the requirements of subsections (a) and (b) and
10 the payment of such additional costs as the obligor
11 may have incurred in connection with obtaining a
12 cure of the loan, including a reasonable attorney’s
13 fee.

14 “(6) DISAGREEMENT OVER CURE.—If any cred-
15 itor, assignee, or securitizer and a consumer fail to
16 reach agreement on a cure with respect to a residen-
17 tial mortgage loan that violates subsection (a) or (b),
18 or the consumer fails to accept a cure proffered by
19 a creditor, assignee, or securitizer—

20 “(A) the creditor, assignee, or securitizer
21 may provide the cure; and

22 “(B) the consumer may challenge the ade-
23 quacy of the cure during the 6-month period be-
24 ginning when the cure is provided.

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

6 “(7) INABILITY TO PROVIDE OR OBTAIN RE-
7 SCISSION.—If a creditor, assignee, or securitizer
8 cannot provide, or a consumer cannot obtain, rescis-
9 sion under paragraph (1) or (2), the liability of such
10 creditor, assignee, or securitizer shall be met by pro-
11 viding the financial equivalent of a rescission, to-
12 gether with such additional costs as the obligor may
13 have incurred as a result of the violation and in con-
14 nection with obtaining a rescission of the loan, in-
15 cluding a reasonable attorney's fee.

16 “(8) NO CLASS ACTIONS AGAINST ASSIGNEE OR
17 SECURITIZER UNDER PARAGRAPH (2).—Only indi-
18 vidual actions may be brought against an assignee
19 or securitizer of a residential mortgage loan for a
20 violation of subsection (a) or (b).

21 “(9) STATUTE OF LIMITATIONS.—The liability
22 of a creditor, assignee, or securitizer under this sub-
23 section shall apply in any original action against a
24 creditor under paragraph (1) or an assignee or

1 securitizer under paragraph (2) which is brought be-
2 fore—

3 “(A) in the case of any residential mort-
4 gage loan other than a loan to which subpara-
5 graph (B) applies, the end of the 3-year period
6 beginning on the date the loan is consummated;
7 or

8 “(B) in the case of a residential mortgage
9 loan that provides for a fixed interest rate for
10 an introductory period and then resets or ad-
11 justs to a variable rate or that provides for a
12 nonamortizing payment schedule and then con-
13 verts to an amortizing payment schedule, the
14 earlier of—

15 “(i) the end of the 1-year period be-
16 ginning on the date of such reset, adjust-
17 ment, or conversion; or

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

21 “(10) TRUSTEES, POOLS, AND INVESTORS IN
22 POOLS EXCLUDED.—In the case of residential mort-
23 gage loans acquired or aggregated for the purpose of
24 including such loans in a pool of assets held for the
25 purpose of issuing or selling instruments rep-

1 resenting interests in such pools including through a
2 securitization vehicle, the terms ‘assignee’ and
3 ‘securitizer’, as used in this section, do not include
4 the securitization vehicle, any trustee that holds
5 such loans solely for the benefit of the securitization
6 vehicle, the pools of such loans or any original or
7 subsequent purchaser of any interest in the
8 securitization vehicle or any instrument representing
9 a direct or indirect interest in such pool.

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

12 “(1) OBLIGATION TO RETAIN ACCESS.—Any
13 securitizer of a residential mortgage loan sold or to
14 be sold as part of a securitization vehicle shall, in
15 any document or contract providing for the transfer,
16 conveyance, or the establishment of such
17 securitization vehicle, reserve the right and preserve
18 the ability—

19 “(A) to identify and obtain access to any
20 such loan;

21 “(B) to acquire any such loan in the event
22 of a violation of subsection (a) or (b) of this
23 section; and

1 “(C) to provide to the consumer any and
2 all remedies provided for under this title for
3 any violation of this title.

4 “(2) ADDITIONAL DAMAGES.—Any creditor, as-
5 signee, or securitizer of a residential mortgage loan
6 that is subject to a remedy under subsection (d) and
7 has failed to comply with paragraph (1) shall be
8 subject to additional exemplary or punitive damages
9 not to exceed the original principal balance of such
10 loan.

11 “(3) CONTACT INFORMATION NOTICE.—The
12 servicer with respect to a residential mortgage loan
13 shall provide a written notice to a consumer identi-
14 fying the name and contact information of the cred-
15 itor or any assignee or securitizer who should be
16 contacted by the consumer for any reason con-
17 cerning the consumer’s rights with respect to the
18 loan. Such notice shall be provided—

19 “(A) upon request of the consumer;

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

22 “(C) on a regular basis, not less than an-
23 nually.

24 “(f) RULES TO ESTABLISH PROCESS.—The Board
25 shall promulgate rules to govern the rescission process es-

1 tablished for violations of subsections (a) and (b) of this
2 section. Such rules shall provide that notice given to a
3 servicer or holder is sufficient notice regardless of the
4 identity of the party or the parties liable under this title.”.

5 **SEC. 205. DEFENSE TO FORECLOSURE.**

6 Section 129C of the Truth in Lending Act is amend-
7 ed by inserting after subsection (f) (as added by section
8 204) the following new subsections:

9 “(g) DEFENSE TO FORECLOSURE.—Notwithstanding
10 any other provision of law—

11 “(1) when the holder of a residential mortgage
12 loan or anyone acting for such holder initiates a ju-
13 dicial or nonjudicial foreclosure—

14 “(A) a consumer who has the right to re-
15 scind under this section with respect to such
16 loan against the creditor or any assignee or
17 securitizer may assert such right as a defense
18 to foreclosure or counterclaim to such fore-
19 closure against the holder, or

20 “(B) if the foreclosure proceeding begins
21 after the end of the period during which a con-
22 sumer may bring an action for rescission under
23 subsection (d) and the consumer would have
24 had a valid basis for such an action if it had
25 been brought before the end of such period, the

1 consumer may seek actual damages incurred by
2 reason of the violation which gave rise to the
3 right of rescission, together with costs of the
4 action, including a reasonable attorney’s fee
5 against the creditor or any assignee or
6 securitizer; and

7 “(2) such holder or anyone acting for such
8 holder or any other applicable third party may sell,
9 transfer, convey, or assign a residential mortgage
10 loan to a creditor, any assignee, or any securitizer,
11 or their designees, subject to the rights of the con-
12 sumer described in this subsection, to effect a rescis-
13 sion or cure.”.

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

15 (a) IN GENERAL.—Section 129C of the Truth in
16 Lending Act is amended by inserting after subsection (g)
17 (as added by section 205) the following new subsections:

18 “(h) PROHIBITION ON CERTAIN PREPAYMENT PEN-
19 ALTIES.—

20 “(1) PROHIBITED ON CERTAIN LOANS.—A resi-
21 dential mortgage loan that is not a ‘qualified mort-
22 gage’ may not contain terms under which a con-
23 sumer must pay a prepayment penalty for paying all
24 or part of the principal after the loan is con-
25 summated. For purposes of this subsection, a ‘quali-

1 fied mortgage’ may not include a residential mort-
2 gage loan that has an adjustable rate.

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

9 “(A) During the 1-year period beginning
10 on the date the loan is consummated, the pre-
11 payment penalty shall not exceed an amount
12 equal to 3 percent of the outstanding balance
13 on the loan.

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

19 “(C) During the 1-year period beginning
20 after the 1-year period described in subpara-
21 graph (B), the prepayment penalty shall not ex-
22 ceed an amount equal to 1 percent of the out-
23 standing balance on the loan.

24 “(D) After the end of the 3-year period be-
25 ginning on the date the loan is consummated,

1 no prepayment penalty may be imposed on a
2 qualified mortgage.

3 “(3) OPTION FOR NO PREPAYMENT PENALTY
4 REQUIRED.—A creditor may not offer a consumer a
5 residential mortgage loan product that has a prepay-
6 ment penalty for paying all or part of the principal
7 after the loan is consummated as a term of the loan
8 without offering the consumer a residential mort-
9 gage loan product that does not have a prepayment
10 penalty as a term of the loan.

11 “(i) SINGLE PREMIUM CREDIT INSURANCE PROHIB-
12 ITED.—No creditor may finance, directly or indirectly, in
13 connection with any residential mortgage loan or with any
14 extension of credit under an open end consumer credit
15 plan secured by the principal dwelling of the consumer
16 (other than a reverse mortgage), any credit life, credit dis-
17 ability, credit unemployment or credit property insurance,
18 or any other accident, loss-of-income, life or health insur-
19 ance, or any payments directly or indirectly for any debt
20 cancellation or suspension agreement or contract, except
21 that—

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

1 “(2) this subsection shall not apply to credit
2 unemployment insurance for which the unemploy-
3 ment insurance premiums are reasonable, the cred-
4 itor receives no direct or indirect compensation in
5 connection with the unemployment insurance pre-
6 miums, and the unemployment insurance premiums
7 are paid pursuant to another insurance contract and
8 not paid to an affiliate of the creditor.

9 “(j) ARBITRATION.—

10 “(1) IN GENERAL.—No residential mortgage
11 loan and no extension of credit under an open end
12 consumer credit plan secured by the principal dwell-
13 ing of the consumer, other than a reverse mortgage,
14 may include terms which require arbitration or any
15 other nonjudicial procedure as the method for resolv-
16 ing any controversy or settling any claims arising
17 out of the transaction.

18 “(2) POST-CONTROVERSY AGREEMENTS.—Sub-
19 ject to paragraph (3), paragraph (1) shall not be
20 construed as limiting the right of the consumer and
21 the creditor, any assignee, or any securitizer to
22 agree to arbitration or any other nonjudicial proce-
23 dure as the method for resolving any controversy at
24 any time after a dispute or claim under the trans-
25 action arises.

1 “(3) NO WAIVER OF STATUTORY CAUSE OF AC-
2 TION.—No provision of any residential mortgage
3 loan or of any extension of credit under an open end
4 consumer credit plan secured by the principal dwell-
5 ing of the consumer (other than a reverse mort-
6 gage), and no other agreement between the con-
7 sumer and the creditor relating to the residential
8 mortgage loan or extension of credit referred to in
9 paragraph (1), shall be applied or interpreted so as
10 to bar a consumer from bringing an action in an ap-
11 propriate district court of the United States, or any
12 other court of competent jurisdiction, pursuant to
13 section 130 or any other provision of law, for dam-
14 ages or other relief in connection with any alleged
15 violation of this section, any other provision of this
16 title, or any other Federal law.

17 “(k) MORTGAGES WITH NEGATIVE AMORTIZA-
18 TION.—No creditor may extend credit to a borrower in
19 connection with a consumer credit transaction under an
20 open or closed end consumer credit plan secured by a
21 dwelling or residential real property that includes a dwell-
22 ing, other than a reverse mortgage, that provides or per-
23 mits a payment plan that may, at any time over the term
24 of the extension of credit, result in negative amortization
25 unless, before such transaction is consummated—

1 “(1) the creditor provides the consumer with a
2 statement that—

3 “(A) the pending transaction will or may,
4 as the case may be, result in negative amortiza-
5 tion;

6 “(B) describes negative amortization in
7 such manner as the Federal banking agencies
8 shall prescribe;

9 “(C) negative amortization increases the
10 outstanding principal balance of the account;
11 and

12 “(D) negative amortization reduces the
13 consumer’s equity in the dwelling or real prop-
14 erty; and

15 “(2) in the case of a first-time borrower with
16 respect to a residential mortgage loan that is not a
17 qualified mortgage, the first-time borrower provides
18 the creditor with sufficient documentation to dem-
19 onstrate that the consumer received homeownership
20 counseling from organizations or counselors certified
21 by the Secretary of Housing and Urban Develop-
22 ment as competent to provide such counseling.”.

23 (b) CONFORMING AMENDMENT RELATING TO EN-
24 FORCEMENT.—Section 108(a) of the Truth in Lending

1 Act (15 U.S.C. 1607(a)) is amended by inserting after
2 paragraph (6) the following new paragraph:

3 “(7) sections 21B and 21C of the Securities
4 Exchange Act of 1934, in the case of a broker or
5 dealer, other than a depository institution, by the
6 Securities and Exchange Commission.”.

7 (c) PROTECTION AGAINST LOSS OF ANTI-DEFI-
8 CIENCY PROTECTION.—Section 129C of the Truth in
9 Lending Act is amended by inserting after subsection (k)
10 (as added by subsection (a) of this section) the following
11 new subsection (and designated succeeding subsections ac-
12 cordingly):

13 “(l) PROTECTION AGAINST LOSS OF ANTI-DEFI-
14 CIENCY PROTECTION.—

15 “(1) DEFINITION.—For purposes of this sub-
16 section, the term ‘anti-deficiency law’ means the law
17 of any State which provides that, in the event of
18 foreclosure on the residential property of a consumer
19 securing a mortgage, the consumer is not liable, in
20 accordance with the terms and limitations of such
21 State law, for any deficiency between the sale price
22 obtained on such property through foreclosure and
23 the outstanding balance of the mortgage.

24 “(2) NOTICE AT TIME OF CONSUMMATION.—In
25 the case of any residential mortgage loan that is, or

1 upon consummation will be, subject to protection
2 under an anti-deficiency law, the creditor or mort-
3 gage originator shall provide a written notice to the
4 consumer describing the protection provided by the
5 anti-deficiency law and the significance for the con-
6 sumer of the loss of such protection before such loan
7 is consummated.

8 “(3) NOTICE BEFORE REFINANCING THAT
9 WOULD CAUSE LOSS OF PROTECTION.—In the case
10 of any residential mortgage loan that is subject to
11 protection under an anti-deficiency law, if a creditor
12 or mortgage originator provides an application to a
13 consumer, or receives an application from a con-
14 sumer, for any type of refinancing for such loan that
15 would cause the loan to lose the protection of such
16 anti-deficiency law, the creditor or mortgage origi-
17 nator shall provide a written notice to the consumer
18 describing the protection provided by the anti-defi-
19 ciency law and the significance for the consumer of
20 the loss of such protection before any agreement for
21 any such refinancing is consummated.”.

22 (d) POLICY REGARDING ACCEPTANCE OF PARTIAL
23 PAYMENT.—Section 129C of the Truth in Lending Act
24 is amended by inserting after subsection (l) the following

1 new subsection (and redesignating subsequent subsections
2 of such section accordingly):

3 “(m) **POLICY REGARDING ACCEPTANCE OF PARTIAL**
4 **PAYMENT.**—In the case of any residential mortgage loan,
5 a creditor shall disclose prior to settlement or, in the case
6 of a person becoming a creditor with respect to an existing
7 residential mortgage loan, at the time such person be-
8 comes a creditor—

9 “(1) the creditor’s policy regarding the accept-
10 ance of partial payments; and

11 “(2) if partial payments are accepted, how such
12 payments will be applied to such mortgage and if
13 such payments will be placed in escrow.”.

14 **SEC. 207. RULE OF CONSTRUCTION.**

15 Except as otherwise expressly provided in section
16 129B or 129C of the Truth in Lending Act (as added by
17 this Act), no provision of such section 129B or 129C shall
18 be construed as superseding, repealing, or affecting any
19 duty, right, obligation, privilege, or remedy of any person
20 under any other provision of the Truth in Lending Act
21 or any other provision of Federal or State law.

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

23 (a) **IN GENERAL.**—Except as provided in subsection
24 (b), section 129C(d) of the Truth in Lending Act (as
25 added by section 204) shall supersede any State law to

1 the extent that it provides additional remedies against any
2 assignee, securitizer, or securitization vehicle for a viola-
3 tion of subsection (a) or (b) of section 129C of such Act
4 or any other State law the terms of which address the
5 specific subject matter of subsection (a) (determination of
6 ability to repay) or (b) (requirement of a net tangible ben-
7 efit) of section 129C of such Act, and the remedies de-
8 scribed in section 129C(d) shall constitute the sole rem-
9 edies against any assignee, securitizer, or securitization
10 vehicle for such violations.

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

13 (1) the application of any State law, or the
14 availability of remedies under such law, against a
15 creditor for a particular residential mortgage loan
16 regardless of whether such creditor also acts as an
17 assignee, securitizer, or securitization vehicle for
18 such loan;

19 (2) the application of any State law, or the
20 availability of remedies under such law, against an
21 assignee, securitizer, or securitization vehicle under
22 State law, other than a provision of such law the
23 terms of which address the specific subject matter of
24 subsection (a) (determination of ability to repay) or

1 (b) (requirement of a net tangible benefit) of section
2 129C of such Act;

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

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

14 (4) the availability of any equitable remedies,
15 including injunctive relief, under State law; or

16 (5) notwithstanding paragraph (2), the avail-
17 ability of any remedies under State law against any
18 assignee, securitizer or securitization vehicle that—

19 (A) are in addition to those remedies pro-
20 vided for in section 129C; and

21 (B) were in effect on the date of enactment
22 of this Act.

23 **SEC. 209. REGULATIONS.**

24 Regulations required or authorized to be prescribed
25 under this title or the amendments made by this title—

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

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

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

7 (a) INCREASE IN AMOUNT OF CIVIL MONEY PEN-
8 ALTIES FOR CERTAIN VIOLATIONS.—Section 130(a)(2) of
9 the Truth in Lending Act (15 U.S.C. 1640(a)(2)) is
10 amended—

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

12 (2) by striking “\$1,000” and inserting
13 “\$2,000”; and

14 (3) by striking “\$500,000” and inserting
15 “\$1,000,000”.

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

19 (1) in the first sentence, by striking “Any ac-
20 tion” and inserting “Except as provided in the sub-
21 sequent sentence, any action”; and

22 (2) by inserting after the first sentence the fol-
23 lowing new sentence: “Any action under this section
24 with respect to any violation of section 129 may be
25 brought in any United States district court, or in

1 any other court of competent jurisdiction, before the
2 end of the 3-year period beginning on the date of the
3 occurrence of the violation.”.

4 **SEC. 211. LENDER RIGHTS IN THE CONTEXT OF BORROWER**
5 **DECEPTION.**

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

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

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

20 (a) **IN GENERAL.**—Chapter 2 of the Truth in Lend-
21 ing Act (15 U.S.C. 1631 et seq.) is amended by inserting
22 after section 128 the following new section:

23 **“§ 128A. Reset of hybrid adjustable rate mortgages**

24 “(a) **HYBRID ADJUSTABLE RATE MORTGAGES DE-**
25 **FINED.**—For purposes of this section, the term ‘hybrid ad-

1 adjustable rate mortgage' means a consumer credit trans-
2 action secured by the consumer's principal residence with
3 a fixed interest rate for an introductory period that ad-
4 justs or resets to a variable interest rate after such period.

5 “(b) NOTICE OF RESET AND ALTERNATIVES.—Dur-
6 ing the 1-month period that ends 6 months before the date
7 on which the interest rate in effect during the introductory
8 period of a hybrid adjustable rate mortgage adjusts or
9 resets to a variable interest rate or, in the case of such
10 an adjustment or resetting that occurs within the first 6
11 months after consummation of such loan, at consumma-
12 tion, the creditor or servicer of such loan shall provide a
13 written notice, separate and distinct from all other cor-
14 respondence to the consumer, that includes the following:

15 “(1) Any index or formula used in making ad-
16 justments to or resetting the interest rate and a
17 source of information about the index or formula.

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

22 “(3) A good faith estimate, based on accepted
23 industry standards, of the creditor or servicer of the
24 amount of the monthly payment that will apply after

1 the date of the adjustment or reset, and the assump-
2 tions on which this estimate is based.

3 “(4) A list of alternatives consumers may pur-
4 sue before the date of adjustment or reset, and de-
5 scriptions of the actions consumers must take to
6 pursue these alternatives, including—

7 “(A) refinancing;

8 “(B) renegotiation of loan terms;

9 “(C) payment forbearances; and

10 “(D) pre-foreclosure sales.

11 “(5) The names, addresses, telephone numbers,
12 and Internet addresses of counseling agencies or
13 programs reasonably available to the consumer that
14 have been certified or approved and made publicly
15 available by the Secretary of Housing and Urban
16 Development or a State housing finance authority
17 (as defined in section 1301 of the Financial Institu-
18 tions Reform, Recovery, and Enforcement Act of
19 1989).

20 “(6) The address, telephone number, and Inter-
21 net address for the State housing finance authority
22 (as so defined) for the State in which the consumer
23 resides.”.

24 (b) CLERICAL AMENDMENT.—The table of sections
25 for chapter 2 of the Truth in Lending Act is amended

1 by inserting after the item relating to section 128 the fol-
2 lowing new item:

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

3 **SEC. 213. CREDIT RISK RETENTION.**

4 Section 129C of the Truth in Lending Act is amend-
5 ed by inserting after subsection (k) (as added by section
6 206) the following new subsection:

7 “(1) CREDIT RISK RETENTION.—

8 “(1) IN GENERAL.—The Federal banking agen-
9 cies shall prescribe regulations jointly to require any
10 creditor that makes a residential mortgage loan that
11 is not a qualified mortgage (as defined under section
12 129C(c)(2)(A)), to retain an economic interest in a
13 material portion of the credit risk for any such loan
14 that the creditor transfers, sells or conveys to a
15 third party.

16 “(2) STANDARDS FOR REGULATIONS.—Regula-
17 tions prescribed under paragraph (1) shall—

18 “(A) apply only to residential mortgage
19 loans that are not qualified mortgages (as so
20 defined);

21 “(B) prohibit a creditor from directly or
22 indirectly hedging or otherwise transferring the
23 credit risk such creditor is required to retain
24 under the regulations with respect to any resi-
25 dential mortgage loan;

1 “(C) require a creditor to retain at least 5
2 percent of the credit risk on any non-qualified
3 mortgage that is transferred, sold or conveyed
4 by such creditor; and

5 “(D) specify the permissible forms of the
6 required risk retention (for example, first loss
7 position or pro rata vertical slice) and the min-
8 imum duration of the required risk retention.

9 “(3) EXCEPTIONS AND ADJUSTMENTS.—

10 “(A) IN GENERAL.—The Federal banking
11 agencies shall have authority to jointly provide
12 exceptions or adjustments to the requirements
13 of this subsection, including exceptions or ad-
14 justments relating to the 5 percent risk reten-
15 tion threshold and the hedging prohibition.

16 “(B) APPLICABLE STANDARDS.—Any ex-
17 ceptions or adjustments granted by the Federal
18 banking agencies shall—

19 “(i) be consistent with the purpose of
20 this subsection to help ensure high quality
21 underwriting standards for creditors that
22 make residential mortgage loans that are
23 not qualified mortgages; and

24 “(ii) facilitate appropriate risk man-
25 agement practices by such creditors, im-

1 prove access of consumers to mortgage
2 credit on reasonable terms, or otherwise
3 serve the public interest.

4 “(4) ALTERNATIVE RISK RETENTION FOR
5 SECURITIZERS.—The Federal banking agencies may
6 jointly, in their discretion, apply the risk retention
7 requirements of this subsection to securitizers of res-
8 idential mortgages (or particular types of residential
9 mortgages) that are not qualified mortgages in addi-
10 tion to or in substitution for any or all of the re-
11 quirements that apply to creditors that make such
12 mortgages if the agencies jointly determine that ap-
13 plying the requirements to such securitizers would—

14 “(A) be consistent with the purpose of this
15 subsection to help ensure high quality under-
16 writing standards for creditors of residential
17 mortgage loans that are not qualified mort-
18 gages; and

19 “(B) facilitate appropriate risk manage-
20 ment practices by such creditors, improve ac-
21 cess of consumers to mortgage credit on reason-
22 able terms, or otherwise serve the public inter-
23 est.

24 “(m) Section 129C and any regulations promulgated
25 thereunder do not apply to an extension of credit relating

1 to a plan described in section 101(53D) of title 11, United
2 States Code.”.

3 **SEC. 214. REQUIRED DISCLOSURES.**

4 Section 128(a) of Truth in Lending Act (15 U.S.C.
5 1638(a)) is amended by adding at the end the following
6 new paragraphs:

7 “(16) In the case of a variable rate residential
8 mortgage loan for which an escrow or impound ac-
9 count will be established for the payment of all ap-
10 plicable taxes, insurance, and assessments—

11 “(A) the amount of initial monthly pay-
12 ment due under the loan for the payment of
13 principal and interest, and the amount of such
14 initial monthly payment including the monthly
15 payment deposited in the account for the pay-
16 ment of all applicable taxes, insurance, and as-
17 sessments; and

18 “(B) the amount of the fully indexed
19 monthly payment due under the loan for the
20 payment of principal and interest, and the
21 amount of such fully indexed monthly payment
22 including the monthly payment deposited in the
23 account for the payment of all applicable taxes,
24 insurance, and assessments.

1 “(17) In the case of a residential mortgage
2 loan, the aggregate amount of settlement charges for
3 all settlement services provided in connection with
4 the loan, the amount of charges that are included in
5 the loan and the amount of such charges the bor-
6 rower must pay at closing, the approximate amount
7 of the wholesale rate of funds in connection with the
8 loan, and the aggregate amount of other fees or re-
9 quired payments in connection with the loan.

10 “(18) In the case of a residential mortgage
11 loan, the aggregate amount of fees paid to the mort-
12 gage originator in connection with the loan, the
13 amount of such fees paid directly by the consumer,
14 and any additional amount received by the originator
15 from the creditor.

16 “(19) In the case of a residential mortgage
17 loan, the total amount of interest that the consumer
18 will pay over the life of the loan as a percentage of
19 the principal of the loan. Such amount shall be com-
20 puted assuming the consumer makes each monthly
21 payment in full and on-time, and does not make any
22 over-payments.”.

1 **SEC. 215. DISCLOSURES REQUIRED IN MONTHLY STATE-**
2 **MENTS FOR RESIDENTIAL MORTGAGE**
3 **LOANS.**

4 Section 128 of the Truth in Lending Act (15 U.S.C.
5 1638) is amended by adding at the end the following new
6 subsection:

7 “(f) PERIODIC STATEMENTS FOR RESIDENTIAL
8 MORTGAGE LOANS.—

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

15 “(A) The amount of the principal obliga-
16 tion under the mortgage.

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

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

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

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

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

4 “(G) The names, addresses, telephone
5 numbers, and Internet addresses of counseling
6 agencies or programs reasonably available to
7 the consumer that have been certified or ap-
8 proved and made publicly available by the Sec-
9 retary of Housing and Urban Development or a
10 State housing finance authority (as defined in
11 section 1301 of the Financial Institutions Re-
12 form, Recovery, and Enforcement Act of 1989).

13 “(H) Such other information as the Board
14 may prescribe in regulations.

15 “(2) DEVELOPMENT AND USE OF STANDARD
16 FORM.—The Federal banking agencies shall jointly
17 develop and prescribe a standard form for the disclo-
18 sure required under this subsection, taking into ac-
19 count that the statements required may be trans-
20 mitted in writing or electronically.”.

21 **SEC. 216. LEGAL ASSISTANCE FOR FORECLOSURE-RELATED**
22 **ISSUES.**

23 (a) ESTABLISHMENT.—The Secretary of Housing
24 and Urban Development (hereafter in this section referred
25 to as the “Secretary” shall establish a program for making

1 grants for providing a full range of foreclosure legal assist-
2 ance to low- and moderate-income homeowners and ten-
3 ants related to home ownership preservation, home fore-
4 closure prevention, and tenancy associated with home fore-
5 closure.

6 (b) COMPETITIVE ALLOCATION.—The Secretary shall
7 allocate amounts made available for grants under this sec-
8 tion to State and local legal organizations on the basis
9 of a competitive process. For purposes of this subsection
10 “State and local legal organizations” are those State and
11 local organizations whose primary business or mission is
12 to provide legal assistance.

13 (c) PRIORITY TO CERTAIN AREAS.—In allocating
14 amounts in accordance with subsection (b), the Secretary
15 shall give priority consideration to State and local legal
16 organizations that are operating in the 100 metropolitan
17 statistical areas (as that term is defined by the Director
18 of the Office of Management and Budget) with the highest
19 home foreclosure rates.

20 (d) LEGAL ASSISTANCE.—

21 (1) IN GENERAL.—Any State or local legal or-
22 ganization that receives financial assistance pursu-
23 ant to this section may use such amounts only to as-
24 sist—

1 (A) homeowners of owner-occupied homes
2 with mortgages in default, in danger of default,
3 or subject to or at risk of foreclosure; and

4 (B) tenants at risk of or subject to eviction
5 as a result of foreclosure of the property in
6 which such tenant resides.

7 (2) COMMENCE USE WITHIN 90 DAYS.—Any
8 State or local legal organization that receives finan-
9 cial assistance pursuant to this section shall begin
10 using any financial assistance received under this
11 section within 90 days after receipt of the assist-
12 ance.

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

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

22 (5) EFFECTIVE DATE.—Notwithstanding sec-
23 tion 217, this subsection shall take effect on the
24 date of the enactment of this Act.

1 (e) LIMITATION ON DISTRIBUTION OF ASSIST-
2 ANCE.—

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

5 (A) any organization which has been con-
6 victed for a violation under Federal law relating
7 to an election for Federal office; or

8 (B) any organization which employs appli-
9 cable individuals.

10 (2) DEFINITION OF APPLICABLE INDIVID-
11 UALS.—In this subsection, the term “applicable indi-
12 vidual” means an individual who—

13 (A) is—

14 (i) employed by the organization in a
15 permanent or temporary capacity;

16 (ii) contracted or retained by the or-
17 ganization; or

18 (iii) acting on behalf of, or with the
19 express or apparent authority of, the orga-
20 nization; and

21 (B) has been convicted for a violation
22 under Federal law relating to an election for
23 Federal office.

24 (f) AUTHORIZATION OF APPROPRIATIONS.—There
25 are authorized to be appropriated to the Secretary

1 \$35,000,000 for each of fiscal years 2009 through 2012
2 for grants under this section.

3 **SEC. 217. EFFECTIVE DATE.**

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

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

8 (a) REPORT REQUIRED.—The Comptroller General
9 shall conduct a study to determine the effects the enact-
10 ment of this Act will have on the availability and afford-
11 ability of credit for consumers, small businesses, home-
12 buyers, and mortgage lending, including the effect—

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

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

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

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

25 (5) on home sales and construction;

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

3 (7) of State foreclosure laws and, if any, an in-
4 vestor's ability to transfer a property after fore-
5 closure;

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

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

11 (10) of establishing counseling services under
12 the Department of Housing and Urban Development
13 and offered through the Office of Housing Coun-
14 seling.

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

21 (c) EXAMINATION RELATED TO CERTAIN CREDIT
22 RISK RETENTION PROVISIONS.—The report required by
23 subsection (b) shall also include an analysis by the Comp-
24 troller General of the effect on the capital reserves and
25 funding of lenders of credit risk retention provisions for

1 non-qualified mortgages, including an analysis of the ex-
2 ceptions and adjustments authorized in section
3 129C(l)(3)(A) of the Truth in Lending Act and a rec-
4 ommendation on whether a uniform standard is needed.

5 (d) ANALYSIS OF CREDIT RISK RETENTION PROVI-
6 SIONS.—The report required by subsection (b) shall also
7 include—

8 (1) an analysis by the Comptroller General of
9 whether the credit risk retention provisions have sig-
10 nificantly reduced risks to the larger credit market
11 of the repackaging and selling of securitized loans on
12 a secondary market; and

13 (2) recommendations to the Congress on adjust-
14 ments that should be made, or additional measures
15 that should be undertaken.

16 **SEC. 219. STATE ATTORNEY GENERAL ENFORCEMENT AU-**
17 **THORITY.**

18 Section 130(e) of the Truth in Lending Act (15
19 U.S.C. 1640(e)) is amended by striking “section 129 may
20 also” and inserting “section 129, 129B, or 129C of this
21 Act, section 220 of the Mortgage Reform and Anti-Preda-
22 tory Lending Act, or any amendment made by section 220
23 of the Mortgage Reform and Anti-Predatory Lending Act
24 may also”.

1 **SEC. 220. TENANT PROTECTION.**

2 (a) TENANT PROTECTION GENERALLY.—

3 (1) IN GENERAL.—In the case of any fore-
4 closure on any dwelling or residential real property,
5 after the date of the enactment of the Mortgage Re-
6 form and Anti-Predatory Lending Act, the imme-
7 diate successor in interest in such property pursuant
8 to the foreclosure shall assume such interest subject
9 to—

10 (A) except as provided in paragraph (2),
11 the rights of any bona fide tenant, as of the
12 date of foreclosure under any bona fide lease
13 entered into before the date of foreclosure, to
14 occupy the premises until the end of the re-
15 maining term of the lease; and

16 (B) the rights of any bona fide tenant, as
17 of the date of foreclosure, without a lease or
18 with a lease terminable at will under State law,
19 subject to the provision by the immediate suc-
20 cessor in interest and the receipt by the tenant
21 in the unit, of a notice to vacate at least 90
22 days before the effective date of such notice.

23 (2) EXCEPTION FOR SUBSEQUENT OWNER-OC-
24 CUPANT.—Notwithstanding paragraph (1), if the im-
25 mediate successor in interest of any dwelling or resi-
26 dential real property that is otherwise subject to

1 paragraph (1) is a purchaser who will occupy a unit
2 of the dwelling or residential real property as a pri-
3 mary residence, or such successor in interest sells
4 the dwelling or residential real property to a pur-
5 chaser who will occupy a unit of the dwelling or resi-
6 dential real property, as a primary residence—

7 (A) such purchaser may terminate a lease
8 relating to such unit on the effective date of a
9 notice to vacate; and

10 (B)(i) such notice to vacate shall be pro-
11 vided by the purchaser to the tenant in such
12 unit at least 90 days before the effective date
13 of such notice; and (ii) with respect to a single-
14 family residence for which the borrower rented
15 the unit in violation of the mortgage contract,
16 such notice to vacate shall be provided by the
17 purchaser to the tenant in such unit at least 30
18 days before the effective date of such notice,
19 and shall include a copy of the mortgage con-
20 tract prohibiting the rental of the unit.

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

24 (A) the mortgagor under the contract is
25 not the tenant;

1 (B) the lease or tenancy was the result of
2 an arms-length transaction; and

3 (C) the lease or tenancy requires the re-
4 ceipt of rent that is not substantially less than
5 fair market rent for the property or the unit’s
6 rent is reduced or subsidized due to a Federal,
7 State, or local subsidy.

8 (4) RULE OF CONSTRUCTION.—Except for the
9 specific provisions of this subsection, no provision of
10 this subsection shall be construed as affecting the
11 requirements for termination of any Federal- or
12 State-subsidized tenancy. The provisions of this sub-
13 section shall not be construed to limit any State or
14 local law that provides longer time periods or other
15 additional protections for tenants.

16 (b) CORRESPONDING PROVISION RELATING TO EF-
17 FECT OF FORECLOSURES ON SECTION 8 TENANCIES.—
18 Paragraph (7) of section 8(o) of the United States Hous-
19 ing Act of 1937 (42 U.S.C. 1437f(o)(7)) is amended—

20 (1) in subparagraph (C), by inserting before the
21 semicolon at the end the following: “, and in the
22 case of an owner who is an immediate successor in
23 interest pursuant to foreclosure—

24 “(i) during the initial term of the ten-
25 ant’s lease, having the property vacant

1 prior to sale shall not constitute good
2 cause; and

3 “(ii) in subsequent lease terms of the
4 tenant’s lease, who will occupy the unit as
5 a primary residence, who sells the property
6 to a purchaser who will occupy a unit of
7 the property as a primary residence, or if
8 the unit is unmarketable while occupied,
9 such owner may terminate a lease relating
10 to such unit for good cause on the effective
11 date of the notice to vacate, where such
12 notice is provided by the owner to the ten-
13 ant in such unit at least 90 days before the
14 effective date of such notice;”.

15 (2) in subparagraph (E), by striking “and” at
16 the end;

17 (3) by redesignating subparagraph (F) as sub-
18 paragraph (G); and

19 (4) by inserting after subparagraph (E) the fol-
20 lowing:

21 “(F) shall provide that in the case of any
22 foreclosure on any residential real property in
23 which a recipient of assistance under this sub-
24 section resides, the immediate successor in in-
25 terest in such property pursuant to the fore-

1 closure shall assume such interest subject to the
2 lease between the prior owner and the tenant
3 and to the housing assistance payments con-
4 tract between the prior owner and the public
5 housing agency for the occupied unit; if a public
6 housing agency is unable to make payments
7 under the contract to the immediate successor
8 in interest after foreclosure, due to action or in-
9 action by the successor in interest, including
10 the rejection of payments or the failure of the
11 successor to maintain the unit in compliance
12 with paragraph (8) or an inability to identify
13 the successor, the agency may use funds that
14 would have been used to pay the rental amount
15 on behalf of the family—

16 “(i) to pay for utilities that are the
17 responsibility of the owner under the lease
18 or applicable law, after taking reasonable
19 steps to notify the owner that it intends to
20 make payments to a utility provider in lieu
21 of payments to the owner, except prior no-
22 tification shall not be required in any case
23 in which the unit will be or has been ren-
24 dered uninhabitable due to the termination
25 or threat of termination of service, in

1 which case the public housing agency shall
2 notify the owner within a reasonable time
3 after making such payment; or

4 “(ii) for the family’s reasonable mov-
5 ing costs, including security deposit costs;
6 except that this subparagraph and the provi-
7 sions related to foreclosure in subparagraph (C)
8 shall not affect any State or local law that pro-
9 vides longer time periods or other additional
10 protections for tenants.”.

11 (c) LANDLORD NOTICE TO TENANTS.—Notwith-
12 standing the law of any State or the terms of any con-
13 sumer residential lease, each person who owns a dwelling
14 or residential real property—

15 (1) which is leased to a bona fide tenant (in-
16 cluding a tenancy terminable at will), or which the
17 landlord offers to lease to a prospective tenant; and

18 (2) which, pursuant to the terms of a valid loan
19 to such person which is secured by such dwelling or
20 property, is or becomes subject to foreclosure or with
21 respect to which the person is in default,

22 shall promptly notify any such tenant or prospective ten-
23 ant of the circumstances prevailing with respect to such
24 property and the effect of any such default or foreclosure.

25 The requirements of this subsection shall have no effect

1 on any State or local law that provides additional notice
2 or other additional protections for tenants.

3 (d) EFFECTIVE DATE.—Notwithstanding section
4 217, this section and the amendments made by this sec-
5 tion shall take effect on the date of the enactment of this
6 Act.

7 **TITLE III—HIGH-COST** 8 **MORTGAGES**

9 **SEC. 301. DEFINITIONS RELATING TO HIGH-COST MORT-** 10 **GAGES.**

11 (a) HIGH-COST MORTGAGE DEFINED.—Section
12 103(aa) of the Truth in Lending Act (15 U.S.C.
13 1602(aa)) is amended by striking all that precedes para-
14 graph (2) and inserting the following:

15 “(aa) HIGH-COST MORTGAGE.—

16 “(1) DEFINITION.—

17 “(A) IN GENERAL.—The term ‘high-cost
18 mortgage’, and a mortgage referred to in this
19 subsection, means a consumer credit trans-
20 action that is secured by the consumer’s prin-
21 cipal dwelling, other than a reverse mortgage
22 transaction, if—

23 “(i) in the case of a credit transaction
24 secured—

1 “(I) by a first mortgage on the
2 consumer’s principal dwelling, the an-
3 nual percentage rate at consummation
4 of the transaction will exceed by more
5 than 6.5 percentage points (8.5 per-
6 centage points, if the dwelling is per-
7 sonal property and the transaction is
8 for less than \$50,000) the average
9 prime offer rate, as defined in section
10 129C(c)(2)(B), for a comparable
11 transaction; or

12 “(II) by a subordinate or junior
13 mortgage on the consumer’s principal
14 dwelling, the annual percentage rate
15 at consummation of the transaction
16 will exceed by more than 8.5 percent-
17 age points the average prime offer
18 rate, as defined in section
19 129C(c)(2)(B), for a comparable
20 transaction;

21 “(ii) the total points and fees payable
22 in connection with the transaction ex-
23 ceed—

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

4 “(II) in the case of a transaction
5 for less than \$20,000, the lesser of 8
6 percent of the total transaction
7 amount or \$1,000 (or such other dol-
8 lar amount as the Board shall pre-
9 scribe by regulation); or

10 “(iii) the credit transaction documents
11 permit the creditor to charge or collect pre-
12 payment fees or penalties more than 36
13 months after the transaction closing or
14 such fees or penalties exceed, in the aggre-
15 gate, more than 2 percent of the amount
16 prepaid.

17 “(B) INTRODUCTORY RATES TAKEN INTO
18 ACCOUNT.—For purposes of subparagraph
19 (A)(i), the annual percentage rate of interest
20 shall be determined based on the following in-
21 terest rate:

22 “(i) In the case of a fixed-rate trans-
23 action in which the annual percentage rate
24 will not vary during the term of the loan,

1 the interest rate in effect on the date of
2 consummation of the transaction.

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

11 “(iii) In the case of any other trans-
12 action in which the rate may vary at any
13 time during the term of the loan for any
14 reason, the interest charged on the trans-
15 action at the maximum rate that may be
16 charged during the term of the trans-
17 action.”.

18 (b) ADJUSTMENT OF PERCENTAGE POINTS.—Section
19 103(aa)(2) of the Truth in Lending Act (15 U.S.C.
20 1602(aa)(2)) is amended by striking subparagraph (B)
21 and inserting the following new subparagraph:

22 “(B) An increase or decrease under sub-
23 paragraph (A)—

24 “(i) may not result in the number of
25 percentage points referred to in paragraph

1 (1)(A)(i)(I) being less than 6 percentage
2 points or greater than 10 percentage
3 points; and

4 “(ii) may not result in the number of
5 percentage points referred to in paragraph
6 (1)(A)(i)(II) being less than 8 percentage
7 points or greater than 12 percentage
8 points.”.

9 (c) POINTS AND FEES DEFINED.—

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

13 (A) by striking subparagraph (B) and in-
14 serting the following:

15 “(B) all compensation paid directly or indi-
16 rectly by a consumer or creditor to a mortgage
17 originator from any source, including a mort-
18 gage originator that originates a loan in the
19 name of the creditor in a table-funded trans-
20 action;”;

21 (B) in subparagraph (C)(ii), by inserting
22 “except where applied to the charges set forth
23 in section 106(e)(1) where a creditor may re-
24 ceive indirect compensation solely as a result of
25 obtaining distributions of profits from an affili-

1 ated entity based on its ownership interest in
2 compliance with section 8(c)(4) of the Real Es-
3 tate Settlement Procedures Act of 1974” before
4 the semicolon at the end;

5 (C) in subparagraph (C)(iii), by striking “;
6 and” and inserting “, except as provided for in
7 clause (ii);”;

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

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

12 “(D) premiums or other charges payable at
13 or before closing for any credit life, credit dis-
14 ability, credit unemployment, or credit property
15 insurance, or any other accident, loss-of-income,
16 life or health insurance, or any payments di-
17 rectly or indirectly for any debt cancellation or
18 suspension agreement or contract, except that
19 insurance premiums or debt cancellation or sus-
20 pension fees calculated and paid in full on a
21 monthly basis shall not be considered financed
22 by the creditor;

23 “(E) except as provided in subsection (cc),
24 the maximum prepayment fees and penalties

1 which may be charged or collected under the
2 terms of the credit transaction;

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

8 (2) CALCULATION OF POINTS AND FEES FOR
9 OPEN-END CONSUMER CREDIT PLANS.—Section
10 103(aa) of the Truth in Lending Act (15 U.S.C.
11 1602(aa)) is amended—

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

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

16 “(5) CALCULATION OF POINTS AND FEES FOR
17 OPEN-END CONSUMER CREDIT PLANS.—In the case
18 of open-end consumer credit plans, points and fees
19 shall be calculated, for purposes of this section and
20 section 129, by adding the total points and fees
21 known at or before closing, including the maximum
22 prepayment penalties which may be charged or col-
23 lected under the terms of the credit transaction, plus
24 the minimum additional fees the consumer would be

1 required to pay to draw down an amount equal to
2 the total credit line.”.

3 (d) BONA FIDE DISCOUNT LOAN DISCOUNT
4 POINTS.—Section 103 of the Truth in Lending Act (15
5 U.S.C. 1602) is amended by inserting after subsection (cc)
6 (as added by section 101) the following new subsection:

7 “(dd) BONA FIDE DISCOUNT POINTS AND PREPAY-
8 MENT PENALTIES.—For the purposes of determining the
9 amount of points and fees for purposes of subsection (aa),
10 either the amounts described in paragraph (1) or (2) of
11 the following paragraphs, but not both, shall be excluded:

12 “(1) Up to and including 2 bona fide discount
13 points payable by the consumer in connection with
14 the mortgage, but only if the interest rate from
15 which the mortgage’s interest rate will be discounted
16 does not exceed by more than 1 percentage point—

17 “(A) the required net yield for a 90-day
18 standard mandatory delivery commitment for a
19 reasonably comparable loan from either the
20 Federal National Mortgage Association or the
21 Federal Home Loan Mortgage Corporation,
22 whichever is greater; or

23 “(B) if secured by a personal property
24 loan, the average rate on a loan in connection
25 with which insurance is provided under title I

1 of the National Housing Act (12 U.S.C. 1702
2 et seq.).

3 “(2) Unless 2 bona fide discount points have
4 been excluded under paragraph (1), up to and in-
5 cluding 1 bona fide discount point payable by the
6 consumer in connection with the mortgage, but only
7 if the interest rate from which the mortgage’s inter-
8 est rate will be discounted does not exceed by more
9 than 2 percentage points—

10 “(A) the required net yield for a 90-day
11 standard mandatory delivery commitment for a
12 reasonably comparable loan from either the
13 Federal National Mortgage Association or the
14 Federal Home Loan Mortgage Corporation,
15 whichever is greater; or

16 “(B) if secured by a personal property
17 loan, the average rate on a loan in connection
18 with which insurance is provided under title I
19 of the National Housing Act (12 U.S.C. 1702
20 et seq.).

21 “(3) For purposes of paragraph (1), the term
22 ‘bona fide discount points’ means loan discount
23 points which are knowingly paid by the consumer for
24 the purpose of reducing, and which in fact result in

1 a bona fide reduction of, the interest rate or time-
2 price differential applicable to the mortgage.

3 “(4) Paragraphs (1) and (2) shall not apply to
4 discount points used to purchase an interest rate re-
5 duction unless the amount of the interest rate reduc-
6 tion purchased is reasonably consistent with estab-
7 lished industry norms and practices for secondary
8 mortgage market transactions.”.

9 **SEC. 302. AMENDMENTS TO EXISTING REQUIREMENTS FOR**
10 **CERTAIN MORTGAGES.**

11 (a) PREPAYMENT PENALTY PROVISIONS.—Section
12 129(e)(2) of the Truth in Lending Act (15 U.S.C.
13 1639(c)(2)) is hereby repealed.

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

17 “(e) NO BALLOON PAYMENTS.—No high-cost mort-
18 gage may contain a scheduled payment that is more than
19 twice as large as the average of earlier scheduled pay-
20 ments. This subsection shall not apply when the payment
21 schedule is adjusted to the seasonal or irregular income
22 of the consumer.”.

1 **SEC. 303. ADDITIONAL REQUIREMENTS FOR CERTAIN**
2 **MORTGAGES.**

3 (a) ADDITIONAL REQUIREMENTS FOR CERTAIN
4 MORTGAGES.—Section 129 of the Truth in Lending Act
5 (15 U.S.C. 1639) is amended—

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

8 (2) by inserting after subsection (i) the fol-
9 lowing new subsections:

10 “(j) RECOMMENDED DEFAULT.—No creditor shall
11 recommend or encourage default on an existing loan or
12 other debt prior to and in connection with the closing or
13 planned closing of a high-cost mortgage that refinances
14 all or any portion of such existing loan or debt.

15 “(k) LATE FEES.—

16 “(1) IN GENERAL.—No creditor may impose a
17 late payment charge or fee in connection with a
18 high-cost mortgage—

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

21 “(B) unless the loan documents specifically
22 authorize the charge or fee;

23 “(C) before the end of the 15-day period
24 beginning on the date the payment is due, or in
25 the case of a loan on which interest on each in-
26 stallment is paid in advance, before the end of

1 the 30-day period beginning on the date the
2 payment is due; or

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

5 “(2) COORDINATION WITH SUBSEQUENT LATE
6 FEES.—If a payment is otherwise a full payment for
7 the applicable period and is paid on its due date or
8 within an applicable grace period, and the only delin-
9 quency or insufficiency of payment is attributable to
10 any late fee or delinquency charge assessed on any
11 earlier payment, no late fee or delinquency charge
12 may be imposed on such payment.

13 “(3) FAILURE TO MAKE INSTALLMENT PAY-
14 MENT.—If, in the case of a loan agreement the
15 terms of which provide that any payment shall first
16 be applied to any past due principal balance, the
17 consumer fails to make an installment payment and
18 the consumer subsequently resumes making install-
19 ment payments but has not paid all past due install-
20 ments, the creditor may impose a separate late pay-
21 ment charge or fee for any principal due (without
22 deduction due to late fees or related fees) until the
23 default is cured.

24 “(l) ACCELERATION OF DEBT.—No high-cost mort-
25 gage may contain a provision which permits the creditor

1 to accelerate the indebtedness, except when repayment of
2 the loan has been accelerated by default in payment, or
3 pursuant to a due-on-sale provision, or pursuant to a ma-
4 terial violation of some other provision of the loan docu-
5 ment unrelated to payment schedule.

6 “(m) RESTRICTION ON FINANCING POINTS AND
7 FEES.—No creditor may directly or indirectly finance, in
8 connection with any high-cost mortgage, any of the fol-
9 lowing:

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

14 “(2) Any points or fees.”.

15 (b) PROHIBITIONS ON EVASIONS.—Section 129 of
16 the Truth in Lending Act (15 U.S.C. 1639) is amended
17 by inserting after subsection (p) (as so redesignated by
18 subsection (a)(1)) the following new subsection:

19 “(q) PROHIBITIONS ON EVASIONS, STRUCTURING OF
20 TRANSACTIONS, AND RECIPROCAL ARRANGEMENTS.—A
21 creditor may not take any action in connection with a
22 high-cost mortgage—

23 “(1) to structure a loan transaction as an open-
24 end credit plan or another form of loan for the pur-

1 pose and with the intent of evading the provisions of
2 this title; or

3 “(2) to divide any loan transaction into sepa-
4 rate parts for the purpose and with the intent of
5 evading provisions of this title.”.

6 (c) MODIFICATION OR DEFERRAL FEES.—Section
7 129 of the Truth in Lending Act (15 U.S.C. 1639) is
8 amended by inserting after subsection (q) (as added by
9 subsection (b) of this section) the following new sub-
10 section:

11 “(r) MODIFICATION AND DEFERRAL FEES PROHIB-
12 ITED.—

13 “(1) CREDITORS.—A creditor may not charge a
14 consumer any fee to modify, renew, extend, or
15 amend a high-cost mortgage, or to defer any pay-
16 ment due under the terms of such mortgage, unless
17 the modification, renewal, extension or amendment
18 results in a lower annual percentage rate on the
19 mortgage for the consumer and then only if the
20 amount of the fee is comparable to fees imposed for
21 similar transactions in connection with consumer
22 credit transactions that are secured by a consumer’s
23 principal dwelling and are not high-cost mortgages.

24 “(2) THIRD PARTIES.—A third-party may not
25 charge a consumer any fee to—

1 “(A) modify, renew, extend, or amend a
2 high-cost mortgage, or defer any payment due
3 under the terms of such mortgage;

4 “(B) negotiate with a creditor on behalf of
5 a consumer, the modification, renewal, exten-
6 sion, or amendment of a high-cost mortgage; or

7 “(C) negotiate with a creditor on behalf of
8 a consumer, the deferral of any payment due
9 under the terms of such mortgage,

10 unless the modification renewal, extension or amend-
11 ment results in a significantly lower annual percent-
12 age rate on the mortgage, or a significant reduction
13 in the amount of the outstanding principal on the
14 mortgage, for the consumer and then only if the
15 amount of the fee is comparable to fees imposed for
16 similar transactions in connection with consumer
17 credit transactions that are secured by a consumer’s
18 principal dwelling and are not high-cost mortgages.

19 “(3) ENFORCEMENT.—Section 130 shall be ap-
20 plied for purposes of paragraph (2) by—

21 “(A) substituting ‘third party’ for
22 ‘creditor’ each place such term appears; and

23 “(B) substituting ‘any fee charged by a
24 third party’ for ‘finance charge’ each place such
25 term appears.”.

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

5 “(s) PAYOFF STATEMENT.—

6 “(1) FEES.—

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

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

23 “(C) FEE DISCLOSURE.—Prior to charging
24 a transaction fee as provided in subparagraph
25 (B), a creditor or servicer shall disclose that

1 payoff balances are available for free pursuant
2 to subparagraph (A).

3 “(D) MULTIPLE REQUESTS.—If a creditor
4 or servicer has provided payoff information re-
5 ferred to in subparagraph (A) without charge,
6 other than the transaction fee allowed by sub-
7 paragraph (B), on 4 occasions during a cal-
8 endar year, the creditor or servicer may there-
9 after charge a reasonable fee for providing such
10 information during the remainder of the cal-
11 endar year.

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

16 “(3) SERVICES CONSIDERED ASSIGNEE.—For
17 the purposes of this subsection, a servicer shall be
18 considered an assignee under the Truth in Lending
19 Act.”.

20 (e) PRE-LOAN COUNSELING REQUIRED.—Section
21 129 of the Truth in Lending Act (15 U.S.C. 1639) is
22 amended by inserting after subsection (s) (as added by
23 subsection (d) of this section) the following new sub-
24 section:

25 “(t) PRE-LOAN COUNSELING.—

1 “(1) IN GENERAL.—A creditor may not extend
2 credit to a consumer under a high-cost mortgage
3 without first receiving certification from a counselor
4 that is approved by the Secretary of Housing and
5 Urban Development, or at the discretion of the Sec-
6 retary, a State housing finance authority, that the
7 consumer has received counseling on the advisability
8 of the mortgage. Such counselor shall not be em-
9 ployed by the creditor or an affiliate of the creditor
10 or be affiliated with the creditor.

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

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

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

1 inserting after subsection (t) (as added by subsection (e))
2 the following new subsection:

3 “(u) FLIPPING.—

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

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

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

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

7 “(A) make the loan satisfy the require-
8 ments of this chapter; or

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

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

21 “(A) make the loan satisfy the require-
22 ments of this chapter; or

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

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

3 **SEC. 304. REGULATIONS.**

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

9 (b) CONSUMER MORTGAGE EDUCATION.—

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

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

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

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

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

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

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

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

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

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

15 “(g) OFFICE OF HOUSING COUNSELING.—

16 “(1) ESTABLISHMENT.—There is established,
17 in the Department, the Office of Housing Coun-
18 seling.

19 “(2) DIRECTOR.—There is established the posi-
20 tion of Director of Housing Counseling. The Direc-
21 tor shall be the head of the Office of Housing Coun-
22 seling and shall be appointed by, and shall report to,
23 the Secretary. Such position shall be a career-re-
24 served position in the Senior Executive Service.

25 “(3) FUNCTIONS.—

1 “(A) IN GENERAL.—The Director shall
2 have primary responsibility within the Depart-
3 ment for all activities and matters relating to
4 homeownership counseling and rental housing
5 counseling, including—

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

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

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

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

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

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

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

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

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

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

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

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

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

17 “(ix) providing for the building of ca-
18 pacity to provide housing counseling serv-
19 ices in areas that lack sufficient services,
20 including underdeveloped areas that lack
21 basic water and sewer systems, electricity
22 services, and safe, sanitary housing.

23 “(4) ADVISORY COMMITTEE.—

24 “(A) IN GENERAL.—The Secretary shall
25 appoint an advisory committee to provide advice

1 regarding the carrying out of the functions of
2 the Director.

3 “(B) MEMBERS.—Such advisory committee
4 shall consist of not more than 12 individuals,
5 and the membership of the committee shall
6 equally represent the mortgage and real estate
7 industry, including consumers and housing
8 counseling agencies certified by the Secretary.

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

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

20 “(E) PROHIBITION OF PAY; TRAVEL EX-
21 PENSES.—Members of the advisory committee
22 shall serve without pay, but shall receive travel
23 expenses, including per diem in lieu of subsist-
24 ence, in accordance with applicable provisions

1 under subchapter I of chapter 57 of title 5,
2 United States Code.

3 “(F) ADVISORY ROLE ONLY.—The advi-
4 sory committee shall have no role in reviewing
5 or awarding housing counseling grants.

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

18 **SEC. 403. COUNSELING PROCEDURES.**

19 (a) IN GENERAL.—Section 106 of the Housing and
20 Urban Development Act of 1968 (12 U.S.C. 1701x) is
21 amended by adding at the end the following new sub-
22 section:

23 “(g) PROCEDURES AND ACTIVITIES.—

24 “(1) COUNSELING PROCEDURES.—

1 “(A) IN GENERAL.—The Secretary shall
2 establish, coordinate, and monitor the adminis-
3 tration by the Department of Housing and
4 Urban Development of the counseling proce-
5 dures for homeownership counseling and rental
6 housing counseling provided in connection with
7 any program of the Department, including all
8 requirements, standards, and performance
9 measures that relate to homeownership and
10 rental housing counseling.

11 “(B) HOMEOWNERSHIP COUNSELING.—
12 For purposes of this subsection and as used in
13 the provisions referred to in this subparagraph,
14 the term ‘homeownership counseling’ means
15 counseling related to homeownership and resi-
16 dential mortgage loans. Such term includes
17 counseling related to homeownership and resi-
18 dential mortgage loans that is provided pursu-
19 ant to—

20 “(i) section 105(a)(20) of the Housing
21 and Community Development Act of 1974
22 (42 U.S.C. 5305(a)(20));

23 “(ii) in the United States Housing
24 Act of 1937—

1 “(I) section 9(e) (42 U.S.C.
2 1437g(e));

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

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

7 “(IV) section 23(c)(4) (42 U.S.C.
8 1437u(c)(4));

9 “(V) section 32(e)(4) (42 U.S.C.
10 1437z-4(e)(4));

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

13 “(VII) sections 302(b)(6) and
14 303(b)(7) (42 U.S.C. 1437aaa-
15 1(b)(6), 1437aaa-2(b)(7)); and

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

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

21 “(iv) sections 233(b)(2) and 258(b) of
22 the Cranston-Gonzalez National Affordable
23 Housing Act (42 U.S.C. 12773(b)(2),
24 12808(b));

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

4 “(vi) section 220(d)(2)(G) of the Low-
5 Income Housing Preservation and Resident
6 Homeownership Act of 1990 (12 U.S.C.
7 4110(d)(2)(G));

8 “(vii) sections 422(b)(6), 423(b)(7),
9 424(c)(4), 442(b)(6), and 443(b)(6) of the
10 Cranston-Gonzalez National Affordable
11 Housing Act (42 U.S.C. 12872(b)(6),
12 12873(b)(7), 12874(c)(4), 12892(b)(6),
13 and 12893(b)(6));

14 “(viii) section 491(b)(1)(F)(iii) of the
15 McKinney-Vento Homeless Assistance Act
16 (42 U.S.C. 11408(b)(1)(F)(iii));

17 “(ix) sections 202(3) and
18 810(b)(2)(A) of the Native American
19 Housing and Self-Determination Act of
20 1996 (25 U.S.C. 4132(3), 4229(b)(2)(A));

21 “(x) in the National Housing Act—

22 “(I) in section 203 (12 U.S.C.
23 1709), the penultimate undesignated
24 paragraph of paragraph (2) of sub-

1 section (b), subsection (c)(2)(A), and
2 subsection (r)(4);

3 “(II) subsections (a) and (c)(3)
4 of section 237 (12 U.S.C. 1715z-2);
5 and

6 “(III) subsections (d)(2)(B) and
7 (m)(1) of section 255 (12 U.S.C.
8 1715z-20);

9 “(xi) section 502(h)(4)(B) of the
10 Housing Act of 1949 (42 U.S.C.
11 1472(h)(4)(B));

12 “(xii) section 508 of the Housing and
13 Urban Development Act of 1970 (12
14 U.S.C. 1701z-7); and

15 “(xiii) section 106 of the Energy Pol-
16 icy Act of 1992 (42 U.S.C. 12712 note).

17 “(C) RENTAL HOUSING COUNSELING.—

18 For purposes of this subsection, the term ‘rent-
19 al housing counseling’ means counseling related
20 to rental of residential property, which may in-
21 clude counseling regarding future homeownership
22 opportunities and providing referrals for
23 renters and prospective renters to entities pro-
24 viding counseling and shall include counseling

1 related to such topics that is provided pursuant
2 to—

3 “(i) section 105(a)(20) of the Housing
4 and Community Development Act of 1974
5 (42 U.S.C. 5305(a)(20));

6 “(ii) in the United States Housing
7 Act of 1937—

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

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

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

14 “(IV) section 32(e)(4) (42 U.S.C.
15 1437z-4(e)(4));

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

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

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

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

1 “(v) section 422(b)(6) of the Cran-
2 ston-Gonzalez National Affordable Housing
3 Act (42 U.S.C. 12872(b)(6));

4 “(vi) section 491(b)(1)(F)(iii) of the
5 McKinney-Vento Homeless Assistance Act
6 (42 U.S.C. 11408(b)(1)(F)(iii));

7 “(vii) sections 202(3) and
8 810(b)(2)(A) of the Native American
9 Housing and Self-Determination Act of
10 1996 (25 U.S.C. 4132(3), 4229(b)(2)(A));
11 and

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

15 “(2) STANDARDS FOR MATERIALS.—The Sec-
16 retary, in consultation with the advisory committee
17 established under subsection (g)(4) of the Depart-
18 ment of Housing and Urban Development Act, shall
19 establish standards for materials and forms to be
20 used, as appropriate, by organizations providing
21 homeownership counseling services, including any re-
22 cipients of assistance pursuant to subsection (a)(4).

23 “(3) MORTGAGE SOFTWARE SYSTEMS.—

24 “(A) CERTIFICATION.—The Secretary shall
25 provide for the certification of various computer

1 software programs for consumers to use in eval-
2 uating different residential mortgage loan pro-
3 posals. The Secretary shall require, for such
4 certification, that the mortgage software sys-
5 tems take into account—

6 “(i) the consumer’s financial situation
7 and the cost of maintaining a home, in-
8 cluding insurance, taxes, and utilities;

9 “(ii) the amount of time the consumer
10 expects to remain in the home or expected
11 time to maturity of the loan; and

12 “(iii) such other factors as the Sec-
13 retary considers appropriate to assist the
14 consumer in evaluating whether to pay
15 points, to lock in an interest rate, to select
16 an adjustable or fixed rate loan, to select
17 a conventional or government-insured or
18 guaranteed loan and to make other choices
19 during the loan application process.

20 If the Secretary determines that available exist-
21 ing software is inadequate to assist consumers
22 during the residential mortgage loan application
23 process, the Secretary shall arrange for the de-
24 velopment by private sector software companies

1 of new mortgage software systems that meet
2 the Secretary's specifications.

3 “(B) USE AND INITIAL AVAILABILITY.—
4 Such certified computer software programs
5 shall be used to supplement, not replace, hous-
6 ing counseling. The Secretary shall provide that
7 such programs are initially used only in connec-
8 tion with the assistance of housing counselors
9 certified pursuant to subsection (e).

10 “(C) AVAILABILITY.—After a period of ini-
11 tial availability under subparagraph (B) as the
12 Secretary considers appropriate, the Secretary
13 shall take reasonable steps to make mortgage
14 software systems certified pursuant to this
15 paragraph widely available through the Internet
16 and at public locations, including public librar-
17 ies, senior-citizen centers, public housing sites,
18 offices of public housing agencies that admin-
19 ister rental housing assistance vouchers, and
20 housing counseling centers.

21 “(D) BUDGET COMPLIANCE.—This para-
22 graph shall be effective only to the extent that
23 amounts to carry out this paragraph are made
24 available in advance in appropriations Acts.

1 “(4) NATIONAL PUBLIC SERVICE MULTIMEDIA
2 CAMPAIGNS TO PROMOTE HOUSING COUNSELING.—

3 “(A) IN GENERAL.—The Director of Hous-
4 ing Counseling shall develop, implement, and
5 conduct national public service multimedia cam-
6 paigns designed to make persons facing mort-
7 gage foreclosure, persons considering a
8 subprime mortgage loan to purchase a home, el-
9 derly persons, persons who face language bar-
10 riers, low-income persons, minorities, and other
11 potentially vulnerable consumers aware that it
12 is advisable, before seeking or maintaining a
13 residential mortgage loan, to obtain homeownership
14 counseling from an unbiased and reliable
15 sources and that such homeownership coun-
16 seling is available, including through programs
17 sponsored by the Secretary of Housing and
18 Urban Development.

19 “(B) CONTACT INFORMATION.—Each seg-
20 ment of the multimedia campaign under sub-
21 paragraph (A) shall publicize the toll-free tele-
22 phone number and website of the Department
23 of Housing and Urban Development through
24 which persons seeking housing counseling can
25 locate a housing counseling agency in their

1 State that is certified by the Secretary of Hous-
2 ing and Urban Development and can provide
3 advice on buying a home, renting, defaults,
4 foreclosures, credit issues, and reverse mort-
5 gages.

6 “(C) AUTHORIZATION OF APPROPRIA-
7 TIONS.—There are authorized to be appro-
8 priated to the Secretary, not to exceed
9 \$3,000,000 for fiscal years 2009, 2010, and
10 2011, for the development, implementation, and
11 conduct of national public service multimedia
12 campaigns under this paragraph.

13 “(D) FORECLOSURE RESCUE EDUCATION
14 PROGRAMS.—

15 “(i) IN GENERAL.—Ten percent of
16 any funds appropriated pursuant to the
17 authorization under subparagraph (C)
18 shall be used by the Director of Housing
19 Counseling to conduct an education pro-
20 gram in areas that have a high density of
21 foreclosure. Such program shall involve di-
22 rect mailings to persons living in such
23 areas describing—

24 “(I) tips on avoiding foreclosure
25 rescue scams;

1 “(II) tips on avoiding predatory
2 lending mortgage agreements;

3 “(III) tips on avoiding for-profit
4 foreclosure counseling services; and

5 “(IV) local counseling resources
6 that are approved by the Department
7 of Housing and Urban Development.

8 “(ii) PROGRAM EMPHASIS.—In con-
9 ducting the education program described
10 under clause (i), the Director of Housing
11 Counseling shall also place an emphasis on
12 serving communities that have a high per-
13 centage of retirement communities or a
14 high percentage of low-income minority
15 communities.

16 “(iii) TERMS DEFINED.—For pur-
17 poses of this subparagraph:

18 “(I) HIGH DENSITY OF FORE-
19 CLOSURES.—An area has a ‘high den-
20 sity of foreclosures’ if such area is one
21 of the metropolitan statistical areas
22 (as that term is defined by the Direc-
23 tor of the Office of Management and
24 Budget) with the highest home fore-
25 closure rates.

1 “(II) HIGH PERCENTAGE OF RE-
2 TIREMENT COMMUNITIES.—An area
3 has a ‘high percentage of retirement
4 communities’ if such area is one of
5 the metropolitan statistical areas (as
6 that term is defined by the Director of
7 the Office of Management and Budg-
8 et) with the highest percentage of
9 residents aged 65 or older.

10 “(III) HIGH PERCENTAGE OF
11 LOW-INCOME MINORITY COMMU-
12 NITIES.—An area has a ‘high percent-
13 age of low-income minority commu-
14 nities’ if such area contains a higher-
15 than-normal percentage of residents
16 who are both minorities and low-in-
17 come, as defined by the Director of
18 Housing Counseling.

19 “(5) EDUCATION PROGRAMS.—The Secretary
20 shall provide advice and technical assistance to
21 States, units of general local government, and non-
22 profit organizations regarding the establishment and
23 operation of, including assistance with the develop-
24 ment of content and materials for, educational pro-
25 grams to inform and educate consumers, particularly

1 those most vulnerable with respect to residential
2 mortgage loans (such as elderly persons, persons
3 facing language barriers, low-income persons, mi-
4 norities, and other potentially vulnerable con-
5 sumers), regarding home mortgages, mortgage refi-
6 nancing, home equity loans, home repair loans, and
7 where appropriate by region, any requirements and
8 costs associated with obtaining flood or other dis-
9 aster-specific insurance coverage.”.

10 (b) CONFORMING AMENDMENTS TO GRANT PRO-
11 GRAM FOR HOMEOWNERSHIP COUNSELING ORGANIZA-
12 TIONS.—Section 106(c)(5)(A)(ii) of the Housing and
13 Urban Development Act of 1968 (12 U.S.C.
14 1701x(c)(5)(A)(ii)) is amended—

15 (1) in subclause (III), by striking “and” at the
16 end;

17 (2) in subclause (IV) by striking the period at
18 the end and inserting “; and”; and

19 (3) by inserting after subclause (IV) the fol-
20 lowing new subclause:

21 “(V) notify the housing or mort-
22 gage applicant of the availability of
23 mortgage software systems provided
24 pursuant to subsection (g)(3).”.

1 **SEC. 404. GRANTS FOR HOUSING COUNSELING ASSIST-**
2 **ANCE.**

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

6 “(4) HOMEOWNERSHIP AND RENTAL COUNSELING
7 ASSISTANCE.—

8 “(A) IN GENERAL.—The Secretary shall make
9 financial assistance available under this paragraph
10 to HUD-approved housing counseling agencies and
11 State housing finance agencies.

12 “(B) QUALIFIED ENTITIES.—The Secretary
13 shall establish standards and guidelines for eligibility
14 of organizations (including governmental and non-
15 profit organizations) to receive assistance under this
16 paragraph, in accordance with subparagraph (D).

17 “(C) DISTRIBUTION.—Assistance made avail-
18 able under this paragraph shall be distributed in a
19 manner that encourages efficient and successful
20 counseling programs and that ensures adequate dis-
21 tribution of amounts for rural areas having tradi-
22 tionally low levels of access to such counseling serv-
23 ices, including areas with insufficient access to the
24 Internet. In distributing such assistance, the Sec-
25 retary may give priority consideration to entities

1 serving areas with the highest home foreclosure
2 rates.

3 “(D) LIMITATION ON DISTRIBUTION OF ASSIST-
4 ANCE.—

5 “(i) IN GENERAL.—None of the amounts
6 made available under this paragraph shall be
7 distributed to—

8 “(I) any organization which has been
9 convicted for a violation under Federal law
10 relating to an election for Federal office; or

11 “(II) any organization which employs
12 applicable individuals.

13 “(ii) DEFINITION OF APPLICABLE INDIVID-
14 UALS.—In this subparagraph, the term ‘appli-
15 cable individual’ means an individual who—

16 “(I) is—

17 “(aa) employed by the organiza-
18 tion in a permanent or temporary ca-
19 pacity;

20 “(bb) contracted or retained by
21 the organization; or

22 “(cc) acting on behalf of, or with
23 the express or apparent authority of,
24 the organization; and

1 “(II) has been convicted for a viola-
2 tion under Federal law relating to an elec-
3 tion for Federal office.

4 “(E) GRANTMAKING PROCESS.—In making as-
5 sistance available under this paragraph, the Sec-
6 retary shall consider appropriate ways of stream-
7 lining and improving the processes for grant applica-
8 tion, review, approval, and award.

9 “(F) AUTHORIZATION OF APPROPRIATIONS.—
10 There are authorized to be appropriated
11 \$45,000,000 for each of fiscal years 2009 through
12 2012 for—

13 “(i) the operations of the Office of Hous-
14 ing Counseling of the Department of Housing
15 and Urban Development;

16 “(ii) the responsibilities of the Director of
17 Housing Counseling under paragraphs (2)
18 through (5) of subsection (g); and

19 “(iii) assistance pursuant to this para-
20 graph for entities providing homeownership and
21 rental counseling.”.

22 **SEC. 405. REQUIREMENTS TO USE HUD-CERTIFIED COUN-**
23 **SELORS UNDER HUD PROGRAMS.**

24 Section 106(e) of the Housing and Urban Develop-
25 ment Act of 1968 (12 U.S.C. 1701x(e)) is amended—

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

3 “(1) REQUIREMENT FOR ASSISTANCE.—An or-
4 ganization may not receive assistance for counseling
5 activities under subsection (a)(1)(iii), (a)(2), (a)(4),
6 (c), or (d) of this section, or under section 101(e),
7 unless the organization, or the individuals through
8 which the organization provides such counseling, has
9 been certified by the Secretary under this subsection
10 as competent to provide such counseling.”;

11 (2) in paragraph (2)—

12 (A) by inserting “and for certifying organi-
13 zations” before the period at the end of the
14 first sentence; and

15 (B) in the second sentence by striking “for
16 certification” and inserting “, for certification
17 of an organization, that each individual through
18 which the organization provides counseling shall
19 demonstrate, and, for certification of an indi-
20 vidual,”;

21 (3) in paragraph (3), by inserting “organiza-
22 tions and” before “individuals”;

23 (4) by redesignating paragraph (3) as para-
24 graph (5); and

1 (5) by inserting after paragraph (2) the fol-
2 lowing new paragraphs:

3 “(3) REQUIREMENT UNDER HUD PROGRAMS.—
4 Any homeownership counseling or rental housing
5 counseling (as such terms are defined in subsection
6 (g)(1)) required under, or provided in connection
7 with, any program administered by the Department
8 of Housing and Urban Development shall be pro-
9 vided only by organizations or counselors certified by
10 the Secretary under this subsection as competent to
11 provide such counseling.

12 “(4) OUTREACH.—The Secretary shall take
13 such actions as the Secretary considers appropriate
14 to ensure that individuals and organizations pro-
15 viding homeownership or rental housing counseling
16 are aware of the certification requirements and
17 standards of this subsection and of the training and
18 certification programs under subsection (f).”.

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

20 The Secretary of Housing and Urban Development
21 shall conduct an extensive study of the root causes of de-
22 fault and foreclosure of home loans, using as much empir-
23 ical data as are available. The study shall also examine
24 the role of escrow accounts in helping prime and nonprime
25 borrowers to avoid defaults and foreclosures, and the role

1 of computer registries of mortgages, including those used
2 for trading mortgage loans. Not later than 12 months
3 after the date of the enactment of this Act, the Secretary
4 shall submit to the Congress a preliminary report regard-
5 ing the study. Not later than 24 months after such date
6 of enactment, the Secretary shall submit a final report re-
7 garding the results of the study, which shall include any
8 recommended legislation relating to the study, and rec-
9 ommendations for best practices and for a process to iden-
10 tify populations that need counseling the most.

11 **SEC. 407. DEFAULT AND FORECLOSURE DATABASE.**

12 (a) ESTABLISHMENT.—The Secretary of Housing
13 and Urban Development, in consultation with the Federal
14 agencies responsible for regulation of banking and finan-
15 cial institutions involved in residential mortgage lending
16 and servicing, shall establish and maintain a database of
17 information on foreclosures and defaults on mortgage
18 loans for one- to four-unit residential properties and shall
19 make such information publicly available.

20 (b) CENSUS TRACT DATA.—Information in the data-
21 base shall be collected, aggregated, and made available on
22 a census tract basis.

23 (c) REQUIREMENTS.—Information collected and
24 made available through the database shall include—

1 (1) the number and percentage of such mort-
2 gage loans that are delinquent by more than 30
3 days;

4 (2) the number and percentage of such mort-
5 gage loans that are delinquent by more than 90
6 days;

7 (3) the number and percentage of such prop-
8 erties that are real estate-owned;

9 (4) number and percentage of such mortgage
10 loans that are in the foreclosure process;

11 (5) the number and percentage of such mort-
12 gage loans that have an outstanding principal obli-
13 gation amount that is greater than the value of the
14 property for which the loan was made; and

15 (6) such other information as the Secretary
16 considers appropriate.

17 **SEC. 408. DEFINITIONS FOR COUNSELING-RELATED PRO-**
18 **GRAMS.**

19 Section 106 of the Housing and Urban Development
20 Act of 1968 (12 U.S.C. 1701x), as amended by the pre-
21 ceding provisions of this title, is further amended by add-
22 ing at the end the following new subsection:

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

24 “(1) NONPROFIT ORGANIZATION.—The term
25 ‘nonprofit organization’ has the meaning given such

1 term in section 104(5) of the Cranston-Gonzalez Na-
2 tional Affordable Housing Act (42 U.S.C.
3 12704(5)), except that subparagraph (D) of such
4 section shall not apply for purposes of this section.

5 “(2) STATE.—The term ‘State’ means each of
6 the several States, the Commonwealth of Puerto
7 Rico, the District of Columbia, the Commonwealth
8 of the Northern Mariana Islands, Guam, the Virgin
9 Islands, American Samoa, the Trust Territories of
10 the Pacific, or any other possession of the United
11 States.

12 “(3) UNIT OF GENERAL LOCAL GOVERN-
13 MENT.—The term ‘unit of general local government’
14 means any city, county, parish, town, township, bor-
15 ough, village, or other general purpose political sub-
16 division of a State.

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

20 “(A) exempt from taxation under section
21 501(c) of the Internal Revenue Code of 1986;

22 and

23 “(B) certified by the Secretary to provide
24 housing counseling services.

1 “(5) STATE HOUSING FINANCE AGENCY.—The
2 term ‘State housing finance agency’ means any pub-
3 lic body, agency, or instrumentality specifically cre-
4 ated under State statute that is authorised to fi-
5 nance activities designed to provide housing and re-
6 lated facilities throughout an entire State through
7 land acquisition, construction, or rehabilitation.”.

8 **SEC. 409. ACCOUNTABILITY AND TRANSPARENCY FOR**
9 **GRANT RECIPIENTS.**

10 Section 106 of the Housing and Urban Development
11 Act of 1968 (12 U.S.C. 1701x), as amended by the pre-
12 ceding provisions of this title, is further amended by add-
13 ing at the end the following:

14 “(i) ACCOUNTABILITY FOR RECIPIENTS OF COVERED
15 ASSISTANCE.—

16 “(1) TRACKING OF FUNDS.—The Secretary
17 shall—

18 “(A) develop and maintain a system to en-
19 sure that any organization or entity that re-
20 ceives any covered assistance uses all amounts
21 of covered assistance in accordance with this
22 section or section 216 of the Mortgage Reform
23 and Anti-Predatory Lending Act, as applicable,
24 the regulations issued under this section or
25 such section 216, as applicable, and any re-

1 requirements or conditions under which such
2 amounts were provided; and

3 “(B) require any organization or entity, as
4 a condition of receipt of any covered assistance,
5 to agree to comply with such requirements re-
6 garding covered assistance as the Secretary
7 shall establish, which shall include—

8 “(i) appropriate periodic financial and
9 grant activity reporting, record retention,
10 and audit requirements for the duration of
11 the covered assistance to the organization
12 or entity to ensure compliance with the
13 limitations and requirements of this section
14 or section 216 of the Mortgage Reform
15 and Anti-Predatory Lending Act, as appli-
16 cable, the regulations under this section or
17 such section 216, as applicable, and any
18 requirements or conditions under which
19 such amounts were provided; and

20 “(ii) any other requirements that the
21 Secretary determines are necessary to en-
22 sure appropriate administration and com-
23 pliance.

24 “(2) MISUSE OF FUNDS.—If any organization
25 or entity that receives any covered assistance is de-

1 terminated by the Secretary to have used any covered
2 assistance in a manner that is materially in violation
3 of this section or section 216 of the Mortgage Re-
4 form and Anti-Predatory Lending Act, as applicable,
5 the regulations issued under this section or such sec-
6 tion 216, as applicable, or any requirements or con-
7 ditions under which such assistance was provided—

8 “(A) the Secretary shall require that, with-
9 in 12 months after the determination of such
10 misuse, the organization or entity shall reim-
11 burse the Secretary for such misused amounts
12 and return to the Secretary any such amounts
13 that remain unused or uncommitted for use;
14 and

15 “(B) such organization or entity shall be
16 ineligible, at any time after such determination,
17 to apply for or receive any further covered as-
18 sistance.

19 The remedies under this paragraph are in addition
20 to any other remedies that may be available under
21 law.

22 “(3) COVERED ASSISTANCE.—For purposes of
23 this subsection, the term ‘covered assistance’ means
24 any grant or other financial assistance provided
25 under—

1 “(A) this section; or

2 “(B) section 216 of the Mortgage Reform
3 and Anti-Predatory Lending Act.”.

4 **SEC. 410. UPDATING AND SIMPLIFICATION OF MORTGAGE**
5 **INFORMATION BOOKLET.**

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

8 (1) in the section heading, by striking “SPE-
9 CIAL” and inserting “HOME BUYING”;

10 (2) by striking subsections (a) and (b) and in-
11 serting the following new subsections:

12 “(a) PREPARATION AND DISTRIBUTION.—The Sec-
13 retary shall prepare, at least once every 5 years, a booklet
14 to help consumers applying for federally related mortgage
15 loans to understand the nature and costs of real estate
16 settlement services. The Secretary shall prepare the book-
17 let in various languages and cultural styles, as the Sec-
18 retary determines to be appropriate, so that the booklet
19 is understandable and accessible to homebuyers of dif-
20 ferent ethnic and cultural backgrounds. The Secretary
21 shall distribute such booklets to all lenders that make fed-
22 erally related mortgage loans. The Secretary shall also dis-
23 tribute to such lenders lists, organized by location, of
24 homeownership counselors certified under section 106(e)
25 of the Housing and Urban Development Act of 1968 (12

1 U.S.C. 1701x(e)) for use in complying with the require-
2 ment under subsection (c) of this section.

3 “(b) CONTENTS.—Each booklet shall be in such form
4 and detail as the Secretary shall prescribe and, in addition
5 to such other information as the Secretary may provide,
6 shall include in plain and understandable language the fol-
7 lowing information:

8 “(1) A description and explanation of the na-
9 ture and purpose of the costs incident to a real es-
10 tate settlement or a federally related mortgage loan.
11 The description and explanation shall provide gen-
12 eral information about the mortgage process as well
13 as specific information concerning, at a minimum—

14 “(A) balloon payments;

15 “(B) prepayment penalties;

16 “(C) the advantages of prepayment; and

17 “(D) the trade-off between closing costs
18 and the interest rate over the life of the loan.

19 “(2) An explanation and sample of the uniform
20 settlement statement required by section 4.

21 “(3) A list and explanation of lending practices,
22 including those prohibited by the Truth in Lending
23 Act or other applicable Federal law, and of other un-
24 fair practices and unreasonable or unnecessary

1 charges to be avoided by the prospective buyer with
2 respect to a real estate settlement.

3 “(4) A list and explanation of questions a con-
4 sumer obtaining a federally related mortgage loan
5 should ask regarding the loan, including whether the
6 consumer will have the ability to repay the loan,
7 whether the consumer sufficiently shopped for the
8 loan, whether the loan terms include prepayment
9 penalties or balloon payments, and whether the loan
10 will benefit the borrower.

11 “(5) An explanation of the right of rescission as
12 to certain transactions provided by sections 125 and
13 129 of the Truth in Lending Act.

14 “(6) A brief explanation of the nature of a vari-
15 able rate mortgage and a reference to the booklet
16 entitled ‘Consumer Handbook on Adjustable Rate
17 Mortgages’, published by the Board of Governors of
18 the Federal Reserve System pursuant to section
19 226.19(b)(1) of title 12, Code of Federal Regula-
20 tions, or to any suitable substitute of such booklet
21 that such Board of Governors may subsequently
22 adopt pursuant to such section.

23 “(7) A brief explanation of the nature of a
24 home equity line of credit and a reference to the

1 pamphlet required to be provided under section
2 127A of the Truth in Lending Act.

3 “(8) Information about homeownership coun-
4 seling services made available pursuant to section
5 106(a)(4) of the Housing and Urban Development
6 Act of 1968 (12 U.S.C. 1701x(a)(4)), a rec-
7 ommendation that the consumer use such services,
8 and notification that a list of certified providers of
9 homeownership counseling in the area, and their
10 contact information, is available.

11 “(9) An explanation of the nature and purpose
12 of escrow accounts when used in connection with
13 loans secured by residential real estate and the re-
14 quirements under section 10 of this Act regarding
15 such accounts.

16 “(10) An explanation of the choices available to
17 buyers of residential real estate in selecting persons
18 to provide necessary services incidental to a real es-
19 tate settlement.

20 “(11) An explanation of a consumer’s respon-
21 sibilities, liabilities, and obligations in a mortgage
22 transaction.

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

1 “(13) Notice that the Office of Housing of the
2 Department of Housing and Urban Development has
3 made publicly available a brochure regarding loan
4 fraud and a World Wide Web address and toll-free
5 telephone number for obtaining the brochure.

6 The booklet prepared pursuant to this section shall take
7 into consideration differences in real estate settlement pro-
8 cedures that may exist among the several States and terri-
9 tories of the United States and among separate political
10 subdivisions within the same State and territory.”;

11 (3) in subsection (c), by inserting at the end
12 the following new sentence: “Each lender shall also
13 include with the booklet a reasonably complete or
14 updated list of homeownership counselors who are
15 certified pursuant to section 106(e) of the Housing
16 and Urban Development Act of 1968 (12 U.S.C.
17 1701x(e)) and located in the area of the lender.”;
18 and

19 (4) in subsection (d), by inserting after the pe-
20 riod at the end of the first sentence the following:
21 “The lender shall provide the HUD-issued booklet in
22 the version that is most appropriate for the person
23 receiving it.”.

24 **SEC. 411. HOME INSPECTION COUNSELING.**

25 (a) PUBLIC OUTREACH.—

1 (1) IN GENERAL.—The Secretary of Housing
2 and Urban Development (in this section referred to
3 as the “Secretary”) shall take such actions as may
4 be necessary to inform potential homebuyers of the
5 availability and importance of obtaining an inde-
6 pendent home inspection. Such actions shall in-
7 clude—

8 (A) publication of the HUD/FHA form
9 HUD 92564–CN entitled “For Your Protec-
10 tion: Get a Home Inspection”, in both English
11 and Spanish languages;

12 (B) publication of the HUD/FHA booklet
13 entitled “For Your Protection: Get a Home In-
14 spection”, in both English and Spanish lan-
15 guages;

16 (C) development and publication of a HUD
17 booklet entitled “For Your Protection—Get a
18 Home Inspection” that does not reference
19 FHA-insured homes, in both English and Span-
20 ish languages; and

21 (D) publication of the HUD document en-
22 titled “Ten Important Questions To Ask Your
23 Home Inspector”, in both English and Spanish
24 languages.

1 (2) AVAILABILITY.—The Secretary shall make
2 the materials specified in paragraph (1) available for
3 electronic access and, where appropriate, inform po-
4 tential homebuyers of such availability through home
5 purchase counseling public service announcements
6 and toll-free telephone hotlines of the Department of
7 Housing and Urban Development. The Secretary
8 shall give special emphasis to reaching first-time and
9 low-income homebuyers with these materials and ef-
10 forts.

11 (3) UPDATING.—The Secretary may periodi-
12 cally update and revise such materials, as the Sec-
13 retary determines to be appropriate.

14 (b) REQUIREMENT FOR FHA-APPROVED LEND-
15 ERS.—Each mortgagee approved for participation in the
16 mortgage insurance programs under title II of the Na-
17 tional Housing Act shall provide prospective homebuyers,
18 at first contact, whether upon pre-qualification, pre-ap-
19 proval, or initial application, the materials specified in
20 subparagraphs (A), (B), and (D) of subsection (a)(1).

21 (c) REQUIREMENTS FOR HUD-APPROVED COUN-
22 SELING AGENCIES.—Each counseling agency certified
23 pursuant by the Secretary to provide housing counseling
24 services shall provide each of their clients, as part of the

1 home purchase counseling process, the materials specified
2 in subparagraphs (C) and (D) of subsection (a)(1).

3 (d) TRAINING.—Training provided the Department
4 of Housing and Urban Development for housing coun-
5 seling agencies, whether such training is provided directly
6 by the Department or otherwise, shall include—

7 (1) providing information on counseling poten-
8 tial homebuyers of the availability and importance of
9 getting an independent home inspection;

10 (2) providing information about the home in-
11 spection process, including the reasons for specific
12 inspections such as radon and lead-based paint test-
13 ing;

14 (3) providing information about advising poten-
15 tial homebuyers on how to locate and select a quali-
16 fied home inspector; and

17 (4) review of home inspection public outreach
18 materials of the Department.

19 **SEC. 412. WARNINGS TO HOMEOWNERS OF FORECLOSURE**
20 **RESCUE SCAMS.**

21 (a) ASSISTANCE TO NRC.—Notwithstanding any
22 other provision of law, of any amounts made available for
23 any fiscal year pursuant to section 106(a)(4)(F) of the
24 Housing and Urban Development Act of 1968 (12 U.S.C.
25 1701x(a)(4)(F)) (as added by section 404 of this Act), 10

1 percent shall be used only for assistance to the Neighbor-
2 hood Reinvestment Corporation for activities, in consulta-
3 tion with servicers of residential mortgage loans, to pro-
4 vide notice to borrowers under such loans who are delin-
5 quent with respect to payments due under such loans that
6 makes such borrowers aware of the dangers of fraudulent
7 activities associated with foreclosure.

8 (b) NOTICE.—The Neighborhood Reinvestment Cor-
9 poration, in consultation with servicers of residential mort-
10 gage loans, shall use the amounts provided pursuant to
11 subsection (a) to carry out activities to inform borrowers
12 under residential mortgage loans—

13 (1) that the foreclosure process is complex and
14 can be confusing;

15 (2) that the borrower may be approached dur-
16 ing the foreclosure process by persons regarding sav-
17 ing their home and they should use caution in any
18 such dealings;

19 (3) that there are Federal Government and
20 nonprofit agencies that may provide information
21 about the foreclosure process, including the Depart-
22 ment of Housing and Urban Development;

23 (4) that they should contact their lender imme-
24 diately, contact the Department of Housing and
25 Urban Development to find a housing counseling

1 agency certified by the Department to assist in
 2 avoiding foreclosure, or visit the Department’s
 3 website regarding tips for avoiding foreclosure; and

4 (5) of the telephone number of the loan servicer
 5 or successor, the telephone number of the Depart-
 6 ment of Housing and Urban Development housing
 7 counseling line, and the Uniform Resource Locators
 8 (URLs) for the Department of Housing and Urban
 9 Development websites for housing counseling and for
 10 tips for avoiding foreclosure.

11 **TITLE V—MORTGAGE SERVICING**

12 **SEC. 501. ESCROW AND IMPOUND ACCOUNTS RELATING TO**

13 **CERTAIN CONSUMER CREDIT TRANS-** 14 **ACTIONS.**

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

19 **“SEC. 129D. ESCROW OR IMPOUND ACCOUNTS RELATING** 20 **TO CERTAIN CONSUMER CREDIT TRANS-** 21 **ACTIONS.**

22 “(a) IN GENERAL.—Except as provided in subsection
 23 (b), (c), or (d) , a creditor, in connection with the forma-
 24 tion or consummation of a consumer credit transaction se-
 25 cured by a first lien on the principal dwelling of the con-

1 sumer, other than a consumer credit transaction under an
2 open end credit plan or a reverse mortgage, shall establish,
3 before the consummation of such transaction, an escrow
4 or impound account for the payment of taxes and hazard
5 insurance, and, if applicable, flood insurance, mortgage in-
6 surance, ground rents, and any other required periodic
7 payments or premiums with respect to the property or the
8 loan terms, as provided in, and in accordance with, this
9 section.

10 “(b) WHEN REQUIRED.—No impound, trust, or other
11 type of account for the payment of property taxes, insur-
12 ance premiums, or other purposes relating to the property
13 may be required as a condition of a real property sale con-
14 tract or a loan secured by a first deed of trust or mortgage
15 on the principal dwelling of the consumer, other than a
16 consumer credit transaction under an open end credit plan
17 or a reverse mortgage, except when—

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

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

24 “(3) the transaction is secured by a first mort-
25 gage or lien on the consumer’s principal dwelling

1 having an original principal obligation amount
2 that—

3 “(A) does not exceed the amount of the
4 maximum limitation on the original principal
5 obligation of mortgage in effect for a residence
6 of the applicable size, as of the date such inter-
7 est rate set, pursuant to the sixth sentence of
8 section 305(a)(2) the Federal Home Loan
9 Mortgage Corporation Act (12 U.S.C.
10 1454(a)(2)), and the annual percentage rate
11 will exceed the average prime offer rate for a
12 comparable transaction by 1.5 or more percent-
13 age points; or

14 “(B) exceeds the amount of the maximum
15 limitation on the original principal obligation of
16 mortgage in effect for a residence of the appli-
17 cable size, as of the date such interest rate set,
18 pursuant to the sixth sentence of section
19 305(a)(2) the Federal Home Loan Mortgage
20 Corporation Act (12 U.S.C. 1454(a)(2)), and
21 the annual percentage rate will exceed the aver-
22 age prime offer rate for a comparable trans-
23 action by 2.5 or more percentage points; or

24 “(4) so required pursuant to regulation.

1 “(c) DURATION OF MANDATORY ESCROW OR IM-
2 POUND ACCOUNT.—An escrow or impound account estab-
3 lished pursuant to subsection (b), shall remain in existence
4 for a minimum period of 5 years, beginning with the date
5 of the consummation of the loan, and until such borrower
6 has sufficient equity in the dwelling securing the consumer
7 credit transaction so as to no longer be required to main-
8 tain private mortgage insurance, or such other period as
9 may be provided in regulations to address situations such
10 as borrower delinquency, unless the underlying mortgage
11 establishing the account is terminated.

12 “(d) LIMITED EXEMPTIONS FOR LOANS SECURED BY
13 SHARES IN A COOPERATIVE AND FOR CERTAIN CONDO-
14 MINUM UNITS.—Escrow accounts need not be established
15 for loans secured by shares in a cooperative. Insurance
16 premiums need not be included in escrow accounts for
17 loans secured by condominium units, where the condo-
18 minium association has an obligation to the condominium
19 unit owners to maintain a master policy insuring condo-
20 minium units.

21 “(e) CLARIFICATION ON ESCROW ACCOUNTS FOR
22 LOANS NOT MEETING STATUTORY TEST.—For mort-
23 gages not covered by the requirements of subsection (b),
24 no provision of this section shall be construed as pre-
25 cluding the establishment of an impound, trust, or other

1 type of account for the payment of property taxes, insur-
2 ance premiums, or other purposes relating to the prop-
3 erty—

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

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

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

13 “(f) ADMINISTRATION OF MANDATORY ESCROW OR
14 IMPOUND ACCOUNTS.—

15 “(1) IN GENERAL.—Except as may otherwise
16 be provided for in this title or in regulations pre-
17 scribed by the Board, escrow or impound accounts
18 established pursuant to subsection (b) shall be estab-
19 lished in a federally insured depository institution.

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

1 “(A) the Real Estate Settlement Proce-
2 dures Act of 1974 and regulations prescribed
3 under such Act;

4 “(B) the Flood Disaster Protection Act of
5 1973 and regulations prescribed under such
6 Act; and

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

10 “(3) APPLICABILITY OF PAYMENT OF INTER-
11 EST.—If prescribed by applicable State or Federal
12 law, each creditor shall pay interest to the consumer
13 on the amount held in any impound, trust, or escrow
14 account that is subject to this section in the manner
15 as prescribed by that applicable State or Federal
16 law.

17 “(4) PENALTY COORDINATION WITH RESPA.—
18 Any action or omission on the part of any person
19 which constitutes a violation of the Real Estate Set-
20 tlement Procedures Act of 1974 or any regulation
21 prescribed under such Act for which the person has
22 paid any fine, civil money penalty, or other damages
23 shall not give rise to any additional fine, civil money
24 penalty, or other damages under this section, unless

1 the action or omission also constitutes a direct viola-
2 tion of this section.

3 “(g) DISCLOSURES RELATING TO MANDATORY ES-
4 CROW OR IMPOUND ACCOUNT.—In the case of any im-
5 pound, trust, or escrow account that is subject to this sec-
6 tion, the creditor shall disclose by written notice to the
7 consumer at least 3 business days before the consumma-
8 tion of the consumer credit transaction giving rise to such
9 account or in accordance with timeframes established in
10 prescribed regulations the following information:

11 “(1) The fact that an escrow or impound ac-
12 count will be established at consummation of the
13 transaction.

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

16 “(3) The amount, in the initial year after the
17 consummation of the transaction, of the estimated
18 taxes and hazard insurance, including flood insur-
19 ance, if applicable, and any other required periodic
20 payments or premiums that reflects, as appropriate,
21 either the taxable assessed value of the real property
22 securing the transaction, including the value of any
23 improvements on the property or to be constructed
24 on the property (whether or not such construction

1 will be financed from the proceeds of the trans-
2 action) or the replacement costs of the property.

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

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

14 “(6) Such other information as the Federal
15 banking agencies jointly determine necessary for the
16 protection of the consumer.

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

19 “(1) FLOOD INSURANCE.—The term ‘flood in-
20 surance’ means flood insurance coverage provided
21 under the national flood insurance program pursu-
22 ant to the National Flood Insurance Act of 1968.

23 “(2) HAZARD INSURANCE.—The term ‘hazard
24 insurance’ shall have the same meaning as provided
25 for ‘hazard insurance’, ‘casualty insurance’, ‘home-

1 owner’s insurance’, or other similar term under the
2 law of the State where the real property securing the
3 consumer credit transaction is located.”.

4 (b) IMPLEMENTATION.—

5 (1) REGULATIONS.—The Board of Governors of
6 the Federal Reserve System, the Comptroller of the
7 Currency, the Director of the Office of Thrift Super-
8 vision, the Federal Deposit Insurance Corporation,
9 the National Credit Union Administration Board,
10 (hereafter in this Act referred to as the “Federal
11 banking agencies”) and the Federal Trade Commis-
12 sion shall prescribe, in final form, such regulations
13 as determined to be necessary to implement the
14 amendments made by subsection (a) before the end
15 of the 180-day period beginning on the date of the
16 enactment of this Act.

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

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

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

1 **SEC. 502. DISCLOSURE NOTICE REQUIRED FOR CON-**
 2 **SUMERS WHO WAIVE ESCROW SERVICES.**

3 (a) IN GENERAL.—Section 129D of the Truth in
 4 Lending Act (as added by section 501) is amended by add-
 5 ing at the end the following new subsection:

6 “(i) DISCLOSURE NOTICE REQUIRED FOR CON-
 7 SUMERS WHO WAIVE ESCROW SERVICES.—

8 “(1) IN GENERAL.—If—

9 “(A) an impound, trust, or other type of
 10 account for the payment of property taxes, in-
 11 surance premiums, or other purposes relating to
 12 real property securing a consumer credit trans-
 13 action is not established in connection with the
 14 transaction; or

15 “(B) a consumer chooses, and provides
 16 written notice to the creditor or servicer of such
 17 choice, at any time after such an account is es-
 18 tablished in connection with any such trans-
 19 action and in accordance with any statute, reg-
 20 ulation, or contractual agreement, to close such
 21 account,

22 the creditor or servicer shall provide a timely and
 23 clearly written disclosure to the consumer that ad-
 24 vises the consumer of the responsibilities of the con-

1 consumer and implications for the consumer in the ab-
2 sence of any such account.

3 “(2) DISCLOSURE REQUIREMENTS.—Any dis-
4 closure provided to a consumer under paragraph (1)
5 shall include the following:

6 “(A) Information concerning any applica-
7 ble fees or costs associated with either the non-
8 establishment of any such account at the time
9 of the transaction, or any subsequent closure of
10 any such account.

11 “(B) A clear and prominent notice that the
12 consumer is responsible for personally and di-
13 rectly paying the non-escrowed items, in addi-
14 tion to paying the mortgage loan payment, in
15 the absence of any such account, and the fact
16 that the costs for taxes, insurance, and related
17 fees can be substantial.

18 “(C) A clear explanation of the con-
19 sequences of any failure to pay non-escrowed
20 items, including the possible requirement for
21 the forced placement of insurance by the cred-
22 itor or servicer and the potentially higher cost
23 (including any potential commission payments
24 to the servicer) or reduced coverage for the con-

1 sumer in the event of any such creditor-placed
2 insurance.

3 “(D) Such other information as the Fed-
4 eral banking agencies jointly determine nec-
5 essary for the protection of the consumer.”.

6 (b) IMPLEMENTATION.—

7 (1) REGULATIONS.—The Federal banking agen-
8 cies and the Federal Trade Commission shall pre-
9 scribe, in final form, such regulations as such agen-
10 cies determine to be necessary to implement the
11 amendments made by subsection (a) before the end
12 of the 180-day period beginning on the date of the
13 enactment of this Act.

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

20 **SEC. 503. REAL ESTATE SETTLEMENT PROCEDURES ACT OF**
21 **1974 AMENDMENTS.**

22 (a) SERVICER PROHIBITIONS.—Section 6 of the Real
23 Estate Settlement Procedures Act of 1974 (12 U.S.C.
24 2605) is amended by adding at the end the following new
25 subsections:

1 “(k) SERVICER PROHIBITIONS.—

2 “(1) IN GENERAL.—A servicer of a federally re-
3 lated mortgage shall not—

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

9 “(B) charge fees for responding to valid
10 qualified written requests (as defined in regula-
11 tions which the Secretary shall prescribe) under
12 this section;

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

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

23 “(E) fail to comply with any other obliga-
24 tion found by the Secretary, by regulation, to

1 be appropriate to carry out the consumer pro-
2 tection purposes of this Act.

3 “(2) FORCE-PLACED INSURANCE DEFINED.—

4 For purposes of this subsection and subsections (l)
5 and (m), the term ‘force-placed insurance’ means
6 hazard insurance coverage obtained by a servicer of
7 a federally related mortgage when the borrower has
8 failed to maintain or renew hazard insurance on
9 such property as required of the borrower under the
10 terms of the mortgage.

11 “(1) REQUIREMENTS FOR FORCE-PLACED INSUR-
12 ANCE.—A servicer of a federally related mortgage shall
13 not be construed as having a reasonable basis for obtain-
14 ing force-placed insurance unless the requirements of this
15 subsection have been met.

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

20 “(A) the servicer has sent, by first-class
21 mail, a written notice to the borrower con-
22 taining—

23 “(i) a reminder of the borrower’s obli-
24 gation to maintain hazard insurance on the

1 property securing the federally related
2 mortgage;

3 “(ii) a statement that the servicer
4 does not have evidence of insurance cov-
5 erage of such property;

6 “(iii) a clear and conspicuous state-
7 ment of the procedures by which the bor-
8 rower may demonstrate that the borrower
9 already has insurance coverage; and

10 “(iv) a statement that the servicer
11 may obtain such coverage at the borrower’s
12 expense if the borrower does not provide
13 such demonstration of the borrower’s exist-
14 ing coverage in a timely manner;

15 “(B) the servicer has sent, by first-class
16 mail, a second written notice, at least 30 days
17 after the mailing of the notice under subpara-
18 graph (A) that contains all the information de-
19 scribed in each clause of such subparagraph;
20 and

21 “(C) the servicer has not received from the
22 borrower any demonstration of hazard insur-
23 ance coverage for the property securing the
24 mortgage by the end of the 15-day period be-

1 ginning on the date the notice under subpara-
2 graph (B) was sent by the servicer.

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

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

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

16 “(B) refund to the consumer all force-
17 placed insurance premiums paid by the bor-
18 rower during any period during which the bor-
19 rower’s insurance coverage and the force-placed
20 insurance coverage were each in effect, and any
21 related fees charged to the consumer’s account
22 with respect to the force-placed insurance dur-
23 ing such period.

24 “(4) CLARIFICATION WITH RESPECT TO FLOOD
25 DISASTER PROTECTION ACT.—No provision of this

1 section shall be construed as prohibiting a servicer
2 from providing simultaneous or concurrent notice of
3 a lack of flood insurance pursuant to section 102(e)
4 of the Flood Disaster Protection Act of 1973.

5 “(m) LIMITATIONS ON FORCE-PLACED INSURANCE
6 CHARGES.—All charges for force-placed insurance pre-
7 miums shall be bona fide and reasonable in amount.”.

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

11 (1) in paragraphs (1)(B) and (2)(B), by strik-
12 ing “\$1,000” each place such term appears and in-
13 serting “\$2,000”; and

14 (2) in paragraph (2)(B)(i), by striking
15 “\$500,000” and inserting “\$1,000,000”.

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

19 (1) in paragraph (1)(A), by striking “20 days”
20 and inserting “5 days”;

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

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

1 “(4) LIMITED EXTENSION OF RESPONSE
2 TIME.—The 30-day period described in paragraph
3 (2) may be extended for not more than 15 days if,
4 before the end of such 30-day period, the servicer
5 notifies the borrower of the extension and the rea-
6 sons for the delay in responding.”.

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

16 **SEC. 504. TRUTH IN LENDING ACT AMENDMENTS.**

17 (a) REQUIREMENTS FOR PROMPT CREDITING OF
18 HOME LOAN PAYMENTS.—Chapter 2 of the Truth in
19 Lending Act (15 U.S.C. 1631 et seq.) is amended by in-
20 serting after section 129E (as added by section 602) the
21 following new section (and by amending the table of con-
22 tents accordingly):

1 **“SEC. 129F. REQUIREMENTS FOR PROMPT CREDITING OF**
2 **HOME LOAN PAYMENTS.**

3 “(a) IN GENERAL.—In connection with a consumer
4 credit transaction secured by a consumer’s principal dwell-
5 ing, no servicer shall fail to credit a payment to the con-
6 sumer’s loan account as of the date of receipt, except when
7 a delay in crediting does not result in any charge to the
8 consumer or in the reporting of negative information to
9 a consumer reporting agency, except as required in sub-
10 section (b).

11 “(b) EXCEPTION.—If a servicer specifies in writing
12 requirements for the consumer to follow in making pay-
13 ments, but accepts a payment that does not conform to
14 the requirements, the servicer shall credit the payment as
15 of 5 days after receipt.”.

16 (b) REQUESTS FOR PAYOFF AMOUNTS.—Chapter 2
17 of such Act is further amended by inserting after section
18 129F (as added by subsection (a)) the following new sec-
19 tion (and by amending the table of contents accordingly):
20 **“SEC. 129G. REQUESTS FOR PAYOFF AMOUNTS OF HOME**
21 **LOAN.**

22 “A creditor or servicer of a home loan shall send an
23 accurate payoff balance within a reasonable time, but in
24 no case more than 7 business days, after the receipt of
25 a written request for such balance from or on behalf of
26 the borrower.”.

1 **SEC. 505. ESCROWS INCLUDED IN REPAYMENT ANALYSIS.**

2 Section 128(b) of the Truth in Lending Act (15
3 U.S.C. 1638(b)) is amended by adding at the end the fol-
4 lowing new paragraph:

5 “(4) REPAYMENT ANALYSIS REQUIRED TO IN-
6 CLUDE ESCROW PAYMENTS.—

7 “(A) IN GENERAL.—In the case of any
8 consumer credit transaction secured by a first
9 mortgage or lien on the principal dwelling of
10 the consumer, other than a consumer credit
11 transaction under an open end credit plan or a
12 reverse mortgage, for which an impound, trust,
13 or other type of account has been or will be es-
14 tablished in connection with the transaction for
15 the payment of property taxes, hazard and flood
16 (if any) insurance premiums, or other periodic
17 payments or premiums with respect to the
18 property, the information required to be pro-
19 vided under subsection (a) with respect to the
20 number, amount, and due dates or period of
21 payments scheduled to repay the total of pay-
22 ments shall take into account the amount of
23 any monthly payment to such account for each
24 such repayment in accordance with section
25 10(a)(2) of the Real Estate Settlement Proce-
26 dures Act of 1974.

1 “(B) ASSESSMENT VALUE.—The amount
2 taken into account under subparagraph (A) for
3 the payment of property taxes, hazard and flood
4 (if any) insurance premiums, or other periodic
5 payments or premiums with respect to the
6 property shall reflect the taxable assessed value
7 of the real property securing the transaction
8 after the consummation of the transaction, in-
9 cluding the value of any improvements on the
10 property or to be constructed on the property
11 (whether or not such construction will be fi-
12 nanced from the proceeds of the transaction), if
13 known, and the replacement costs of the prop-
14 erty for hazard insurance, in the initial year
15 after the transaction.”.

16 **TITLE VI—APPRAISAL**
17 **ACTIVITIES**

18 **SEC. 601. PROPERTY APPRAISAL REQUIREMENTS.**

19 Chapter 2 of the Truth in Lending Act (15 U.S.C.
20 1631 et seq.) is amended by inserting after 129G (as
21 added by section 504) the following new section:

22 **“SEC. 129H PROPERTY APPRAISAL REQUIREMENTS.**

23 “(a) IN GENERAL.—A creditor may not extend credit
24 in the form of a subprime mortgage to any consumer with-
25 out first obtaining a written appraisal of the property to

1 be mortgaged prepared in accordance with the require-
2 ments of this section.

3 “(b) APPRAISAL REQUIREMENTS.—

4 “(1) PHYSICAL PROPERTY VISIT.—An appraisal
5 of property to be secured by a subprime mortgage
6 does not meet the requirement of this section unless
7 it is performed by a qualified appraiser who con-
8 ducts a physical property visit of the interior of the
9 mortgaged property.

10 “(2) SECOND APPRAISAL UNDER CERTAIN CIR-
11 CUMSTANCES.—

12 “(A) IN GENERAL.—If the purpose of a
13 subprime mortgage is to finance the purchase
14 or acquisition of the mortgaged property from
15 a person within 180 days of the purchase or ac-
16 quisition of such property by that person at a
17 price that was lower than the current sale price
18 of the property, the creditor shall obtain a sec-
19 ond appraisal from a different qualified ap-
20 praiser. The second appraisal shall include an
21 analysis of the difference in sale prices, changes
22 in market conditions, and any improvements
23 made to the property between the date of the
24 previous sale and the current sale.

1 “(B) NO COST TO APPLICANT.—The cost
2 of any second appraisal required under sub-
3 paragraph (A) may not be charged to the appli-
4 cant.

5 “(3) QUALIFIED APPRAISER DEFINED.—For
6 purposes of this section, the term ‘qualified ap-
7 praiser’ means a person who—

8 “(A) is, at a minimum, certified or licensed
9 by the State in which the property to be ap-
10 praised is located; and

11 “(B) performs each appraisal in con-
12 formity with the Uniform Standards of Profes-
13 sional Appraisal Practice and title XI of the Fi-
14 nancial Institutions Reform, Recovery, and En-
15 forcement Act of 1989, and the regulations pre-
16 scribed under such title, as in effect on the date
17 of the appraisal.

18 “(c) FREE COPY OF APPRAISAL.—A creditor shall
19 provide 1 copy of each appraisal conducted in accordance
20 with this section in connection with a subprime mortgage
21 to the applicant without charge, and at least 3 days prior
22 to the transaction closing date.

23 “(d) CONSUMER NOTIFICATION.—At the time of the
24 initial mortgage application, the applicant shall be pro-
25 vided with a statement by the creditor that any appraisal

1 prepared for the mortgage is for the sole use of the cred-
2 itor, and that the applicant may choose to have a separate
3 appraisal conducted at their own expense.

4 “(e) VIOLATIONS.—In addition to any other liability
5 to any person under this title, a creditor found to have
6 willfully failed to obtain an appraisal as required in this
7 section shall be liable to the applicant or borrower for the
8 sum of \$2,000.

9 “(f) SUBPRIME MORTGAGE DEFINED.—For purposes
10 of this section, the term ‘subprime mortgage’ means a res-
11 idential mortgage loan secured by a principal dwelling with
12 an annual percentage rate that exceeds the average prime
13 offer rate for a comparable transaction, as of the date the
14 interest rate is set—

15 “(1) by 1.5 or more percentage points, in the
16 case of a first lien residential mortgage loan having
17 an original principal obligation amount that does not
18 exceed the amount of the maximum limitation on the
19 original principal obligation of mortgage in effect for
20 a residence of the applicable size, as of the date of
21 such interest rate set, pursuant to the sixth sentence
22 of section 305(a)(2) the Federal Home Loan Mort-
23 gage Corporation Act (12 U.S.C. 1454(a)(2));

24 “(2) by 2.5 or more percentage points, in the
25 case of a first lien residential mortgage loan having

1 an original principal obligation amount that exceeds
2 the amount of the maximum limitation on the origi-
3 nal principal obligation of mortgage in effect for a
4 residence of the applicable size, as of the date of
5 such interest rate set, pursuant to the sixth sentence
6 of section 305(a)(2) the Federal Home Loan Mort-
7 gage Corporation Act (12 U.S.C. 1454(a)(2)); and
8 “(3) by 3.5 or more percentage points for a
9 subordinate lien residential mortgage loan.”.

10 **SEC. 602. UNFAIR AND DECEPTIVE PRACTICES AND ACTS**
11 **RELATING TO CERTAIN CONSUMER CREDIT**
12 **TRANSACTIONS.**

13 (a) IN GENERAL.—Chapter 2 of the Truth in Lend-
14 ing Act (15 U.S.C. 1631 et seq.) is amended by inserting
15 after section 129D (as added by section 501(a)) the fol-
16 lowing new section:

17 **“SEC. 129E. UNFAIR AND DECEPTIVE PRACTICES AND ACTS**
18 **RELATING TO CERTAIN CONSUMER CREDIT**
19 **TRANSACTIONS.**

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

1 “(b) APPRAISAL INDEPENDENCE.—For purposes of
2 subsection (a), unfair and deceptive practices shall in-
3 clude—

4 “(1) any appraisal of a property offered as se-
5 curity for repayment of the consumer credit trans-
6 action that is conducted in connection with such
7 transaction in which a person with an interest in the
8 underlying transaction compensates, coerces, extorts,
9 colludes, instructs, induces, bribes, or intimidates a
10 person conducting or involved in an appraisal, or at-
11 tempts, to compensate, coerce, extort, collude, in-
12 struct, induce, bribe, or intimidate such a person,
13 for the purpose of causing the appraised value as-
14 signed, under the appraisal, to the property to be
15 based on any factor other than the independent
16 judgment of the appraiser;

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

20 “(3) seeking to influence an appraiser or other-
21 wise to encourage a targeted value in order to facili-
22 tate the making or pricing of the transaction; and

23 “(4) withholding or threatening to withhold
24 timely payment for an appraisal report or for ap-
25 praisal services rendered.

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

8 “(1) Consider additional, appropriate property
9 information, including the consideration of addi-
10 tional comparable properties to make or support an
11 appraisal.

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

14 “(3) Correct errors in the appraisal report.

15 “(d) PROHIBITIONS ON CONFLICTS OF INTEREST.—
16 No certified or licensed appraiser conducting, and no ap-
17 praisal management company procuring or facilitating, an
18 appraisal in connection with a consumer credit transaction
19 secured by the principal dwelling of a consumer may have
20 a direct or indirect interest, financial or otherwise, in the
21 property or transaction involving the appraisal.

22 “(e) MANDATORY REPORTING.—Any mortgage lend-
23 er, mortgage broker, mortgage banker, real estate broker,
24 appraisal management company, employee of an appraisal
25 management company, or any other person involved in a

1 real estate transaction involving an appraisal in connection
2 with a consumer credit transaction secured by the prin-
3 cipal dwelling of a consumer who has a reasonable basis
4 to believe an appraiser is failing to comply with the Uni-
5 form Standards of Professional Appraisal Practice, is vio-
6 lating applicable laws, or is otherwise engaging in uneth-
7 ical or unprofessional conduct, shall refer the matter to
8 the applicable State appraiser certifying and licensing
9 agency.

10 “(f) NO EXTENSION OF CREDIT.—In connection with
11 a consumer credit transaction secured by a consumer’s
12 principal dwelling, a creditor who knows, at or before loan
13 consummation, of a violation of the appraisal independ-
14 ence standards established in subsections (b) or (d) shall
15 not extend credit based on such appraisal unless the cred-
16 itor documents that the creditor has acted with reasonable
17 diligence to determine that the appraisal does not materi-
18 ally misstate or misrepresent the value of such dwelling.

19 “(g) RULEMAKING PROCEEDINGS.—The Board, the
20 Comptroller of the Currency, the Director of the Office
21 of Thrift Supervision, the Federal Deposit Insurance Cor-
22 poration, the National Credit Union Administration
23 Board, and the Federal Trade Commission—

24 “(1) shall, for purposes of this section, jointly
25 prescribe regulations no later than 180 days after

1 the date of the enactment of this section, and where
2 such regulations have an effective date of no later
3 than 1 year after the date of the enactment of this
4 section, defining with specificity acts or practices
5 which are unfair or deceptive in the provision of
6 mortgage lending services for a consumer credit
7 transaction secured by the principal dwelling of the
8 consumer or mortgage brokerage services for such a
9 transaction and defining any terms in this section or
10 such regulations; and

11 “(2) may jointly issue interpretive guidelines
12 and general statements of policy with respect to un-
13 fair or deceptive acts or practices in the provision of
14 mortgage lending services for a consumer credit
15 transaction secured by the principal dwelling of the
16 consumer and mortgage brokerage services for such
17 a transaction, within the meaning of subsections (a),
18 (b), (c), (d), (e), and (f).

19 “(h) PENALTIES.—

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

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

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

11 (b) CLERICAL AMENDMENT.—The table of sections
12 for chapter 2 of the Truth in Lending Act is amended
13 by inserting after the item relating to section 129D (as
14 added by section 501(c)) the following new item:

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

15 **SEC. 603. AMENDMENTS RELATING TO APPRAISAL SUB-**
16 **COMMITTEE OF FIEC, APPRAISER INDEPEND-**
17 **ENCE MONITORING, APPROVED APPRAISER**
18 **EDUCATION, APPRAISAL MANAGEMENT COM-**
19 **PANIES, APPRAISER COMPLAINT HOTLINE,**
20 **AUTOMATED VALUATION MODELS, AND**
21 **BROKER PRICE OPINIONS.**

22 (a) CONSUMER PROTECTION MISSION.—

23 (1) PURPOSES.—Section 1101 of the Financial
24 Institutions Reform, Recovery, and Enforcement Act

1 of 1989 (12 U.S.C. 3331) is amended by inserting
2 “and to provide the Appraisal Subcommittee with a
3 consumer protection mandate” before the period at
4 the end.

5 (2) FUNCTIONS OF APPRAISAL SUB-
6 COMMITTEE.—Section 1103(a) of the Financial In-
7 stitutions Reform, Recovery, and Enforcement Act
8 of 1989 (12 U.S.C. 3332(a)) is amended—

9 (A) by striking “and” at the end of para-
10 graph (3); and

11 (B) by amending paragraph (4) to read as
12 follows:

13 “(4) monitor the efforts of, and requirements
14 established by, States and the Federal financial in-
15 stitutions regulatory agencies to protect consumers
16 from improper appraisal practices and the preda-
17 tions of unlicensed appraisers in consumer credit
18 transactions that are secured by a consumer’s prin-
19 cipal dwelling; and”.

20 (3) THRESHOLD LEVELS.—Section 1112(b) of
21 the Financial Institutions Reform, Recovery, and
22 Enforcement Act of 1989 (12 U.S.C. 3341(b)) is
23 amended by inserting before the period the fol-
24 lowing: “, and that such threshold level provides rea-
25 sonable protection for consumers who purchase 1–4

1 unit single-family residences. In determining whether
2 a threshold level provides reasonable protection for
3 consumers, each Federal financial institutions regu-
4 latory agency shall consult with consumer groups
5 and convene a public hearing”.

6 (b) ANNUAL REPORT OF APPRAISAL SUB-
7 COMMITTEE.—Section 1103(a) of the Financial Institu-
8 tions Reform, Recovery, and Enforcement Act of 1989 (12
9 U.S.C. 3332(a)) is amended at the end by inserting the
10 following new paragraph:

11 “(5) transmit an annual report to the Congress
12 not later than January 31 of each year that de-
13 scribes the manner in which each function assigned
14 to the Appraisal Subcommittee has been carried out
15 during the preceding year. The report shall also de-
16 tail the activities of the Appraisal Subcommittee, in-
17 cluding the results of all audits of State appraiser
18 regulatory agencies, and provide an accounting of
19 disapproved actions and warnings taken in the pre-
20 vious year, including a description of the conditions
21 causing the disapproval and actions taken to achieve
22 compliance.”.

23 (c) OPEN MEETINGS.—Section 1104(b) of the Finan-
24 cial Institutions Reform, Recovery, and Enforcement Act
25 of 1989 (12 U.S.C. 3333(b)) is amended by inserting “in

1 public session after notice in the Federal Register” after
2 “shall meet”.

3 (d) REGULATIONS.—Section 1106 of the Financial
4 Institutions Reform, Recovery, and Enforcement Act of
5 1989 (12 U.S.C. 3335) is amended—

6 (1) by inserting “prescribe regulations after no-
7 tice and opportunity for comment,” after “hold
8 hearings”; and

9 (2) at the end by inserting “Any regulations
10 prescribed by the Appraisal Subcommittee shall (un-
11 less otherwise provided in this title) be limited to the
12 following functions: temporary practice, national reg-
13 istry, information sharing, and enforcement. For
14 purposes of prescribing regulations, the Appraisal
15 Subcommittee shall establish an advisory committee
16 of industry participants, including appraisers, lend-
17 ers, consumer advocates, and government agencies,
18 and hold meetings as necessary to support the devel-
19 opment of regulations.”.

20 (e) APPRAISALS AND APPRAISAL REVIEWS.—Section
21 1113 of the Financial Institutions Reform, Recovery, and
22 Enforcement Act of 1989 (12 U.S.C. 3342) is amended—

23 (1) by striking “In determining” and inserting
24 “(a) IN GENERAL.—In determining”;

1 (2) in subsection (a) (as designated by para-
2 graph (1)), by inserting before the period the fol-
3 lowing: “, where a complex 1-to-4 unit single family
4 residential appraisal means an appraisal for which
5 the property to be appraised, the form of ownership,
6 the property characteristics, or the market condi-
7 tions are atypical”; and

8 (3) by adding at the end the following new sub-
9 section:

10 “(b) APPRAISALS AND APPRAISAL REVIEWS.—All ap-
11 praisals performed at a property within a State shall be
12 prepared by appraisers licensed or certified in the State
13 where the property is located. All appraisal reviews, in-
14 cluding appraisal reviews by a lender, appraisal manage-
15 ment company, or other third party organization, shall be
16 performed by an appraiser who is duly licensed or certified
17 by a State appraisal board.”.

18 (f) APPRAISAL MANAGEMENT SERVICES.—

19 (1) SUPERVISION OF THIRD PARTY PROVIDERS
20 OF APPRAISAL MANAGEMENT SERVICES.—Section
21 1103(a) of the Financial Institutions Reform, Recov-
22 ery, and Enforcement Act of 1989 (12 U.S.C.
23 3332(a)) (as previously amended by this section) is
24 further amended—

1 (A) by amending paragraph (1) to read as
2 follows:

3 “(1) monitor the requirements established by
4 States—

5 “(A) for the certification and licensing of
6 individuals who are qualified to perform ap-
7 praisals in connection with federally related
8 transactions, including a code of professional
9 responsibility; and

10 “(B) for the registration and supervision
11 of the operations and activities of an appraisal
12 management company;”; and

13 (B) by adding at the end the following new
14 paragraph:

15 “(7) maintain a national registry of appraisal
16 management companies that either are registered
17 with and subject to supervision of a State appraiser
18 certifying and licensing agency or are operating sub-
19 sidiaries of a Federally regulated financial institu-
20 tion.”.

21 (2) APPRAISAL MANAGEMENT COMPANY MIN-
22 IMUM QUALIFICATIONS.—Title XI of the Financial
23 Institutions Reform, Recovery, and Enforcement Act
24 of 1989 (12 U.S.C. 3331 et seq.) is amended by

1 adding at the end the following new section (and
2 amending the table of contents accordingly):

3 **“SEC. 1124. APPRAISAL MANAGEMENT COMPANY MINIMUM**
4 **QUALIFICATIONS.**

5 “(a) IN GENERAL.—The Appraiser Qualifications
6 Board of the Appraisal Foundation shall establish min-
7 imum qualifications to be applied by a State in the reg-
8 istration of appraisal management companies. Such quali-
9 fications shall include a requirement that such compa-
10 nies—

11 “(1) register with and be subject to supervision
12 by a State appraiser certifying and licensing agency
13 in each State in which such company operates;

14 “(2) verify that only licensed or certified ap-
15 praisers are used for federally related transactions;

16 “(3) require that appraisals coordinated by an
17 appraisal management company comply with the
18 Uniform Standards of Professional Appraisal Prac-
19 tice; and

20 “(4) require that appraisals are conducted inde-
21 pendently and free from inappropriate influence and
22 coercion pursuant to the appraisal independence
23 standards established under section 129E of the
24 Truth in Lending Act.

1 “(b) EXCEPTION FOR FEDERALLY REGULATED FI-
2 NANCIAL INSTITUTIONS.—The requirements of subsection
3 (a) shall not apply to an appraisal management company
4 that is a subsidiary owned and controlled by a financial
5 institution and regulated by a federal financial institution
6 regulatory agency. In such case, the appropriate federal
7 financial institutions regulatory agency shall, at a min-
8 imum, develop regulations affecting the operations of the
9 appraisal management company to—

10 “(1) verify that only licensed or certified ap-
11 praisers are used for federally related transactions;

12 “(2) require that appraisals coordinated by an
13 institution or subsidiary providing appraisal manage-
14 ment services comply with the Uniform Standards of
15 Professional Appraisal Practice; and

16 “(3) require that appraisals are conducted inde-
17 pendently and free from inappropriate influence and
18 coercion pursuant to the appraisal independence
19 standards established under section 129E of the
20 Truth in Lending Act.

21 “(c) REGISTRATION LIMITATIONS.—An appraisal
22 management company shall not be registered by a State
23 if such company, in whole or in part, directly or indirectly,
24 is owned by any person who has had an appraiser license
25 or certificate refused, denied, cancelled, surrendered in

1 lieu of revocation, or revoked in any State. Additionally,
2 each person that owns more than 10 percent of an ap-
3 praisal management company shall be of good moral char-
4 acter, as determined by the State appraiser certifying and
5 licensing agency, and shall submit to a background inves-
6 tigation carried out by the State appraiser certifying and
7 licensing agency.

8 “(d) REGULATIONS.—The Appraisal Subcommittee
9 shall promulgate regulations to implement the minimum
10 qualifications developed by the Appraiser Qualifications
11 Board under this section, as such qualifications relate to
12 the State appraiser certifying and licensing agencies. The
13 Appraisal Subcommittee shall also promulgate regulations
14 for the reporting of the activities of appraisal management
15 companies in determining the payment of the annual reg-
16 istry fee.

17 “(e) EFFECTIVE DATE.—

18 “(1) IN GENERAL.—No appraisal management
19 company may perform services related to a federally
20 related transaction in a State after the date that is
21 36 months after the date of the enactment of this
22 section unless such company is registered with such
23 State or subject to oversight by a federal financial
24 institutions regulatory agency.

1 “(2) EXTENSION OF EFFECTIVE DATE.—Sub-
2 ject to the approval of the Council, the Appraisal
3 Subcommittee may extend by an additional 12
4 months the requirements for the registration and su-
5 pervision of appraisal management companies if it
6 makes a written finding that a State has made sub-
7 stantial progress in establishing a State appraisal
8 management company registration and supervision
9 system that appears to conform with the provisions
10 of this title.”.

11 (3) STATE APPRAISER CERTIFYING AND LI-
12 CENSING AGENCY AUTHORITY.—Section 1117 of the
13 Financial Institutions Reform, Recovery, and En-
14 forcement Act of 1989 (12 U.S.C. 3346) is amended
15 by adding at the end the following: “The duties of
16 such agency may additionally include the registra-
17 tion and supervision of appraisal management com-
18 panies.”.

19 (4) APPRAISAL MANAGEMENT COMPANY DEFI-
20 NITION.—Section 1121 of the Financial Institutions
21 Reform, Recovery, and Enforcement Act of 1989
22 (12 U.S.C. 3350) is amended by adding at the end
23 the following:

24 “(11) APPRAISAL MANAGEMENT COMPANY.—
25 The term ‘appraisal management company’ means,

1 in connection with valuing properties collateralizing
2 mortgage loans or mortgages incorporated into a
3 securitization, any external third party authorized ei-
4 ther by a creditor of a consumer credit transaction
5 secured by a consumer's principal dwelling or by an
6 underwriter of or other principal in the secondary
7 mortgage markets, that oversees a network or panel
8 of more than 15 certified or licensed appraisers in
9 a State or 25 or more nationally within a given
10 year—

11 “(A) to recruit, select, and retain apprais-
12 ers;

13 “(B) to contract with licensed and certified
14 appraisers to perform appraisal assignments;

15 “(C) to manage the process of having an
16 appraisal performed, including providing admin-
17 istrative duties such as receiving appraisal or-
18 ders and appraisal reports, submitting com-
19 pleted appraisal reports to creditors and under-
20 writers, collecting fees from creditors and un-
21 derwriters for services provided, and reimburs-
22 ing appraisers for services performed; or

23 “(D) to review and verify the work of ap-
24 praisers.”.

1 (g) STATE AGENCY REPORTING REQUIREMENT.—
2 Section 1109(a) of the Financial Institutions Reform, Re-
3 covery, and Enforcement Act of 1989 (12 U.S.C. 3338(a))
4 is amended—

5 (1) by striking “and” after the semicolon in
6 paragraph (1);

7 (2) by redesignating paragraph (2) as para-
8 graph (4); and

9 (3) by inserting after paragraph (1) the fol-
10 lowing new paragraphs:

11 “(2) transmit reports on sanctions, disciplinary
12 actions, license and certification revocations, and li-
13 cense and certification suspensions on a timely basis
14 to the national registry of the Appraisal Sub-
15 committee;

16 “(3) transmit reports on a timely basis of su-
17 pervisory activities involving appraisal management
18 companies or other third-party providers of apprais-
19 als and appraisal management services, including in-
20 vestigations initiated and disciplinary actions taken;
21 and”.

22 (h) REGISTRY FEES MODIFIED.—

23 (1) IN GENERAL.—Section 1109(a) of the Fi-
24 nancial Institutions Reform, Recovery, and Enforce-

1 ment Act of 1989 (12 U.S.C. 3338(a)) is amend-
2 ed—

3 (A) by amending paragraph (4) (as modi-
4 fied by section 603(g) of this Act) to read as
5 follows:

6 “(4) collect—

7 “(A) from such individuals who perform or
8 seek to perform appraisals in federally related
9 transactions, an annual registry fee of not more
10 than \$40, such fees to be transmitted by the
11 State agencies to the Council on an annual
12 basis; and

13 “(B) from an appraisal management com-
14 pany that either has registered with a State ap-
15 praiser certifying and licensing agency in ac-
16 cordance with this title or operates as a sub-
17 sidiary of a federally regulated financial institu-
18 tion, an annual registry fee of—

19 “(i) in the case of such a company
20 that has been in existence for more than a
21 year, \$25 multiplied by the number of ap-
22 praisers working for or contracting with
23 such company in such State during the
24 previous year, but where such \$25 amount
25 may be adjusted, up to a maximum of \$50,

1 at the discretion of the Appraisal Sub-
2 committee, if necessary to carry out the
3 Subcommittee's functions under this title;
4 and

5 “(ii) in the case of such a company
6 that has not been in existence for more
7 than a year, \$25 multiplied by an appro-
8 priate number to be determined by the Ap-
9 praisal Subcommittee, and where such
10 number will be used for determining the
11 fee of all such companies that were not in
12 existence for more than a year, but where
13 such \$25 amount may be adjusted, up to
14 a maximum of \$50, at the discretion of the
15 Appraisal Subcommittee, if necessary to
16 carry out the Subcommittee's functions
17 under this title.”; and

18 (B) by amending the matter following
19 paragraph (4), as redesignated, to read as fol-
20 lows:

21 “Subject to the approval of the Council, the Appraisal
22 Subcommittee may adjust the dollar amount of registry
23 fees under paragraph (4)(A), up to a maximum of \$80
24 per annum, as necessary to carry out its functions under
25 this title. The Appraisal Subcommittee shall consider at

1 least once every 5 years whether to adjust the dollar
2 amount of the registry fees to account for inflation. In
3 implementing any change in registry fees, the Appraisal
4 Subcommittee shall provide flexibility to the States for
5 multi-year certifications and licenses already in place, as
6 well as a transition period to implement the changes in
7 registry fees. In establishing the amount of the annual
8 registry fee for an appraisal management company, the
9 Appraisal Subcommittee shall have the discretion to im-
10 pose a minimum annual registry fee for an appraisal man-
11 agement company to protect against the under reporting
12 of the number of appraisers working for or contracted by
13 the appraisal management company.”.

14 (2) INCREMENTAL REVENUES.—Incremental
15 revenues collected pursuant to the increases required
16 by this subsection shall be placed in a separate ac-
17 count at the United States Treasury, entitled the
18 “Appraisal Subcommittee Account”.

19 (i) GRANTS AND REPORTS.—Section 1109(b) of the
20 Financial Institutions Reform, Recovery, and Enforce-
21 ment Act of 1989 (12 U.S.C. 3348(b)) is amended—

22 (1) by striking “and” after the semicolon in
23 paragraph (3);

24 (2) by striking the period at the end of para-
25 graph (4) and inserting a semicolon;

1 (3) by adding at the end the following new
2 paragraphs:

3 “(5) to make grants to State appraiser certi-
4 fying and licensing agencies to support the efforts of
5 such agencies to comply with this title, including—

6 “(A) the complaint process, complaint in-
7 vestigations, and appraiser enforcement activi-
8 ties of such agencies; and

9 “(B) the submission of data on State li-
10 censed and certified appraisers and appraisal
11 management companies to the National ap-
12 praisal registry, including information affirming
13 that the appraiser or appraisal management
14 company meets the required qualification cri-
15 teria and formal and informal disciplinary ac-
16 tions; and

17 “(6) to report to all State appraiser certifying
18 and licensing agencies when a license or certification
19 is surrendered, revoked, or suspended.”.

20 Obligations authorized under this subsection may not ex-
21 ceed 75 percent of the fiscal year total of incremental in-
22 crease in fees collected and deposited in the “Appraisal
23 Subcommittee Account” pursuant to subsection (h).

1 (j) CRITERIA.—Section 1116 of the Financial Institu-
2 tions Reform, Recovery, and Enforcement Act of 1989 (12
3 U.S.C. 3345) is amended—

4 (1) in subsection (c), by inserting “whose cri-
5 teria for the licensing of a real estate appraiser cur-
6 rently meet or exceed the minimum criteria issued
7 by the Appraisal Qualifications Board of The Ap-
8 praisal Foundation for the licensing of real estate
9 appraisers” before the period at the end; and

10 (2) by striking subsection (e) and inserting the
11 following new subsection:

12 “(e) MINIMUM QUALIFICATION REQUIREMENTS.—
13 Any requirements established for individuals in the posi-
14 tion of ‘Trainee Appraiser’ and ‘Supervisory Appraiser’
15 shall meet or exceed the minimum qualification require-
16 ments of the Appraiser Qualifications Board of The Ap-
17 praisal Foundation. The Appraisal Subcommittee shall
18 have the authority to enforce these requirements.”.

19 (k) MONITORING OF STATE APPRAISER CERTIFYING
20 AND LICENSING AGENCIES.—Section 1118 of the Finan-
21 cial Institutions Reform, Recovery, and Enforcement Act
22 of 1989 (12 U.S.C. 3347) is amended—

23 (1) by amending subsection (a) to read as fol-
24 lows:

1 “(a) IN GENERAL.—The Appraisal Subcommittee
2 shall monitor each State appraiser certifying and licensing
3 agency for the purposes of determining whether such
4 agency—

5 “(1) has policies, practices, funding, staffing,
6 and procedures that are consistent with this title;

7 “(2) processes complaints and completes inves-
8 tigations in a reasonable time period;

9 “(3) appropriately disciplines sanctioned ap-
10 praisers and appraisal management companies;

11 “(4) maintains an effective regulatory program;
12 and

13 “(5) reports complaints and disciplinary actions
14 on a timely basis to the national registries on ap-
15 praisers and appraisal management companies main-
16 tained by the Appraisal Subcommittee.

17 The Appraisal Subcommittee shall have the authority to
18 remove a State licensed or certified appraiser or a reg-
19 istered appraisal management company from a national
20 registry on an interim basis pending State agency action
21 on licensing, certification, registration, and disciplinary
22 proceedings. The Appraisal Subcommittee and all agen-
23 cies, instrumentalities, and Federally recognized entities
24 under this title shall not recognize appraiser certifications
25 and licenses from States whose appraisal policies, prac-

1 tices, funding, staffing, or procedures are found to be in-
2 consistent with this title. The Appraisal Subcommittee
3 shall have the authority to impose sanctions, as described
4 in this section, against a State agency that fails to have
5 an effective appraiser regulatory program. In determining
6 whether such a program is effective, the Appraisal Sub-
7 committee shall include an analyses of the licensing and
8 certification of appraisers, the registration of appraisal
9 management companies, the issuance of temporary li-
10 censes and certifications for appraisers, the receiving and
11 tracking of submitted complaints against appraisers and
12 appraisal management companies, the investigation of
13 complaints, and enforcement actions against appraisers
14 and appraisal management companies. The Appraisal
15 Subcommittee shall have the authority to impose interim
16 actions and suspensions against a State agency as an al-
17 ternative to, or in advance of, the derecognition of a State
18 agency.”.

19 (2) in subsection (b)(2), by inserting after “au-
20 thority” the following: “or sufficient funding”.

21 (1) RECIPROcity.—Subsection (b) of section 1122 of
22 the Financial Institutions Reform, Recovery, and Enforce-
23 ment Act of 1989 (12 U.S.C. 3351(b)) is amended to read
24 as follows:

1 “(b) RECIPROCITY.—A State appraiser certifying or
2 licensing agency shall issue a reciprocal certification or li-
3 cense for an individual from another State when—

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

7 “(2) the appraiser holds a valid certification
8 from a State whose requirements for certification or
9 licensing meet or exceed the licensure standards es-
10 tablished by the State where an individual seeks ap-
11 praisal licensure.”.

12 (m) CONSIDERATION OF PROFESSIONAL APPRAISAL
13 DESIGNATIONS.—Section 1122(d) of the Financial Insti-
14 tutions Reform, Recovery, and Enforcement Act of 1989
15 (12 U.S.C. 3351(d)) is amended by striking “shall not ex-
16 clude” and all that follows through the end of the sub-
17 section and inserting the following: “may include edu-
18 cation achieved, experience, sample appraisals, and ref-
19 erences from prior clients. Membership in a nationally rec-
20 ognized professional appraisal organization may be a cri-
21 teria considered, though lack of membership therein shall
22 not be the sole bar against consideration for an assign-
23 ment under these criteria.”.

24 (n) APPRAISER INDEPENDENCE.—Section 1122 of
25 the Financial Institutions Reform, Recovery, and Enforce-

1 ment Act of 1989 (12 U.S.C. 3351) is amended by adding
2 at the end the following new subsection:

3 “(g) APPRAISER INDEPENDENCE MONITORING.—
4 The Appraisal Subcommittee shall monitor each State ap-
5 praiser certifying and licensing agency for the purpose of
6 determining whether such agency’s policies, practices, and
7 procedures are consistent with the purposes of maintain-
8 ing appraiser independence and whether such State has
9 adopted and maintains effective laws, regulations, and
10 policies aimed at maintaining appraiser independence.”.

11 (o) APPRAISER EDUCATION.—Section 1122 of the
12 Financial Institutions Reform, Recovery, and Enforce-
13 ment Act of 1989 (12 U.S.C. 3351) is amended by insert-
14 ing after subsection (g) (as added by subsection (l) of this
15 section) the following new subsection:

16 “(h) APPROVED EDUCATION.—The Appraisal Sub-
17 committee shall encourage the States to accept courses ap-
18 proved by the Appraiser Qualification Board’s Course Ap-
19 proval Program.”.

20 (p) APPRAISAL COMPLAINT HOTLINE.—Section 1122
21 of the Financial Institutions Reform, Recovery, and En-
22 forcement Act of 1989 (12 U.S.C. 3351), as amended by
23 this section, is further amended by adding at the end the
24 following new subsection:

1 “(i) APPRAISAL COMPLAINT NATIONAL HOTLINE.—
2 If, 1 year after the date of the enactment of this sub-
3 section, the Appraisal Subcommittee determines that no
4 national hotline exists to receive complaints of non-compli-
5 ance with appraisal independence standards and Uniform
6 Standards of Professional Appraisal Practice, including
7 complaints from appraisers, individuals, or other entities
8 concerning the improper influencing or attempted im-
9 proper influencing of appraisers or the appraisal process,
10 the Appraisal Subcommittee shall establish and operate
11 such a national hotline, which shall include a toll-free tele-
12 phone number and an email address. If the Appraisal Sub-
13 committee operates such a national hotline, the Appraisal
14 Subcommittee shall refer complaints for further action to
15 appropriate governmental bodies, including a State ap-
16 praiser certifying and licensing agency, a financial institu-
17 tion regulator, or other appropriate legal authorities. For
18 complaints referred to State appraiser certifying and li-
19 censing agencies or to Federal regulators, the Appraisal
20 Subcommittee shall have the authority to follow up such
21 complaint referrals in order to determine the status of the
22 resolution of the complaint.”.

23 (q) AUTOMATED VALUATION MODELS.—Title XI of
24 the Financial Institutions Reform, Recovery, and Enforce-
25 ment Act of 1989 (12 U.S.C. 3331 et seq.), as amended

1 by this section, is further amended by adding at the end
2 the following new section (and amending the table of con-
3 tents accordingly):

4 **“SEC. 1125. AUTOMATED VALUATION MODELS USED TO**
5 **VALUE CERTAIN MORTGAGES.**

6 “(a) IN GENERAL.—Automated valuation models
7 shall adhere to quality control standards designed to—

8 “(1) ensure a high level of confidence in the es-
9 timates produced by automated valuation models;

10 “(2) protect against the manipulation of data;

11 “(3) seek to avoid conflicts of interest; and

12 “(4) require random sample testing and re-
13 views, where such testing and reviews are performed
14 by an appraiser who is licensed or certified in the
15 State where the testing and reviews take place.

16 “(b) ADOPTION OF REGULATIONS.—The Appraisal
17 Subcommittee and its member agencies, in consultation
18 with the Appraisal Standards Board of the Appraisal
19 Foundation and other interested parties, shall promulgate
20 regulations to implement the quality control standards re-
21 quired under this section.

22 “(c) ENFORCEMENT.—Compliance with regulations
23 issued under this subsection shall be enforced by—

24 “(1) with respect to a financial institution, or
25 subsidiary owned and controlled by a financial insti-

1 tution and regulated by a Federal financial institu-
2 tion regulatory agency, the Federal financial institu-
3 tion regulatory agency that acts as the primary Fed-
4 eral supervisor of such financial institution or sub-
5 sidiary; and

6 “(2) with respect to other persons, the Ap-
7 praisal Subcommittee.

8 “(d) AUTOMATED VALUATION MODEL DEFINED.—
9 For purposes of this section, the term ‘automated valu-
10 ation model’ means any computerized model used by mort-
11 gage originators and secondary market issuers to deter-
12 mine the collateral worth of a mortgage secured by a con-
13 sumer’s principal dwelling.”.

14 (r) BROKER PRICE OPINIONS.—Title XI of the Fi-
15 nancial Institutions Reform, Recovery, and Enforcement
16 Act of 1989 (12 U.S.C. 3331 et seq.), as amended by this
17 section, is further amended by adding at the end the fol-
18 lowing new section (and amending the table of contents
19 accordingly):

20 “**SEC. 1126. BROKER PRICE OPINIONS.**

21 “(a) GENERAL PROHIBITION.—In conjunction with
22 the purchase of a consumer’s principal dwelling, broker
23 price opinions may not be used as the primary basis to
24 determine the value of a piece of property for the purpose

1 of a loan origination of a residential mortgage loan se-
2 cured by such piece of property.

3 “(b) **BROKER PRICE OPINION DEFINED.**—For pur-
4 poses of this section, the term ‘broker price opinion’ means
5 an estimate prepared by a real estate broker, agent, or
6 sales person that details the probable selling price of a
7 particular piece of real estate property and provides a
8 varying level of detail about the property’s condition, mar-
9 ket, and neighborhood, and information on comparable
10 sales, but does not include an automated valuation model,
11 as defined in section 1125(c).”.

12 (s) **AMENDMENTS TO APPRAISAL SUBCOMMITTEE.**—
13 Section 1011 of the Federal Financial Institutions Exam-
14 ination Council Act of 1978 (12 U.S.C. 3310) is amend-
15 ed—

16 (1) in the first sentence, by adding before the
17 period the following: “and the Federal Housing Fi-
18 nance Agency”; and

19 (2) by inserting at the end the following: “At
20 all times at least one member of the Appraisal Sub-
21 committee shall have demonstrated knowledge and
22 competence through licensure, certification, or pro-
23 fessional designation within the appraisal profes-
24 sion.”.

25 (t) **TECHNICAL CORRECTIONS.**—

1 (1) Section 1119(a)(2) of the Financial Institu-
2 tions Reform, Recovery, and Enforcement Act of
3 1989 (12 U.S.C. 3348(a)(2)) is amended by striking
4 “council,” and inserting “Council,”.

5 (2) Section 1121(6) of the Financial Institu-
6 tions Reform, Recovery, and Enforcement Act of
7 1989 (12 U.S.C. 3350(6)) is amended by striking
8 “Corporations,” and inserting “Corporation,”.

9 (3) Section 1121(8) of the Financial Institu-
10 tions Reform, Recovery, and Enforcement Act of
11 1989 (12 U.S.C. 3350(8)) is amended by striking
12 “council” and inserting “Council”.

13 (4) Section 1122 of the Financial Institutions
14 Reform, Recovery, and Enforcement Act of 1989
15 (12 U.S.C. 3351) is amended—

16 (A) in subsection (a)(1) by moving the left
17 margin of subparagraphs (A), (B), and (C) 2
18 ems to the right; and

19 (B) in subsection (c)—

20 (i) by striking “Federal Financial In-
21 stitutions Examination Council” and in-
22 serting “Financial Institutions Examina-
23 tion Council”; and

1 (ii) by striking “the council’s func-
2 tions” and inserting “the Council’s func-
3 tions”.

4 **SEC. 604. STUDY REQUIRED ON IMPROVEMENTS IN AP-
5 PRAISAL PROCESS AND COMPLIANCE PRO-
6 GRAMS.**

7 (a) STUDY.—The Comptroller General shall conduct
8 a comprehensive study on possible improvements in the
9 appraisal process generally, and specifically on the consist-
10 ency in and the effectiveness of, and possible improve-
11 ments in, State compliance efforts and programs in ac-
12 cordance with title XI of the Financial Institutions Re-
13 form, Recovery, and Enforcement Act of 1989. In addi-
14 tion, this study shall examine the existing exemptions to
15 the use of certified appraisers issued by Federal financial
16 institutions regulatory agencies. The study shall also re-
17 view the threshold level established by Federal regulators
18 for compliance under title XI and whether there is a need
19 to revise them to reflect the addition of consumer protec-
20 tion to the purposes and functions of the Appraisal Sub-
21 committee. The study shall additionally examine the qual-
22 ity of different types of mortgage collateral valuations pro-
23 duced by broker price opinions, automated valuation mod-
24 els, licensed appraisals, and certified appraisals, among
25 others, and the quality of appraisals provided through dif-

1 ferent distribution channels, including appraisal manage-
2 ment companies, independent appraisal operations within
3 a mortgage originator, and fee-for-service appraisals. The
4 study shall also include an analysis and statistical break-
5 down of enforcement actions taken during the last 10
6 years against different types of appraisers, including cer-
7 tified, licensed, supervisory, and trainee appraisers. Fur-
8 thermore, the study shall examine the benefits and costs,
9 as well as the advantages and disadvantages, of estab-
10 lishing a national repository to collect data related to real
11 estate property collateral valuations performed in the
12 United States.

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

22 (c) ADDITIONAL STUDY REQUIRED.—The Comp-
23 troller General shall conduct an additional study to deter-
24 mine the effects that the changes to the seller-guide ap-
25 praisal requirements of Fannie Mae and Freddie Mac con-

1 tained in the Home Valuation Code of Conduct have on
2 small business, like mortgage brokers and independent ap-
3 praisers, and consumers, including the effect on the—

4 (1) quality and costs of appraisals;

5 (2) length of time for obtaining appraisals;

6 (3) impact on consumer protection, especially
7 regarding maintaining appraisal independence, abat-
8 ing appraisal inflation, and mitigating acts of ap-
9 praisal fraud;

10 (4) structure of the appraisal industry, espe-
11 cially regarding appraisal management companies,
12 fee-for-service appraisers, and the regulation of ap-
13 praisal management companies by the states; and

14 (5) impact on mortgage brokers and other small
15 business professionals in the financial services indus-
16 try.

17 (d) ADDITIONAL REPORT.—Before the end of the 6-
18 month period beginning on the date of the enactment of
19 this Act, the Comptroller General shall submit an addi-
20 tional report to the Committee on Financial Services of
21 the House of Representatives and the Committee on
22 Banking, Housing, and Urban Affairs of the Senate con-
23 taining the findings and conclusions of the Comptroller
24 General with respect to the study conducted pursuant to
25 subsection (c). Such additional report shall take into con-

1 sideration the Small Business Administration’s views on
2 how small businesses are affected by the Home Valuation
3 Code of Conduct.

4 **SEC. 605. EQUAL CREDIT OPPORTUNITY ACT AMENDMENT.**

5 Subsection (e) of section 701 of the Equal Credit Op-
6 portunity Act (U.S.C. 1691) is amended to read as fol-
7 lows:

8 “(e) COPIES FURNISHED TO APPLICANTS.—

9 “(1) IN GENERAL.—Each creditor shall furnish
10 to an applicant a copy of any and all written ap-
11 praisals and valuations developed in connection with
12 the applicant’s application for a loan that is secured
13 or would have been secured by a first lien on a
14 dwelling promptly upon completion, but in no case
15 later than 3 days prior to the closing of the loan,
16 whether the creditor grants or denies the applicant’s
17 request for credit or the application is incomplete or
18 withdrawn.

19 “(2) WAIVER.—The applicant may waive the 3
20 day requirement provided for in paragraph (1), ex-
21 cept where otherwise required in law.

22 “(3) REIMBURSEMENT.—The applicant may be
23 required to pay a reasonable fee to reimburse the
24 creditor for the cost of the appraisal, except where
25 otherwise required in law.

1 “(4) FREE COPY.—Notwithstanding paragraph
2 (3), the creditor shall provide a copy of each written
3 appraisal or valuation at no additional cost to the
4 applicant.

5 “(5) NOTIFICATION TO APPLICANTS.—At the
6 time of application, the creditor shall notify an ap-
7 plicant in writing of the right to receive a copy of
8 each written appraisal and valuation under this sub-
9 section.

10 “(6) REGULATIONS.—The Board shall prescribe
11 regulations to implement this subsection within 1
12 year of the date of the enactment of this subsection.

13 “(7) VALUATION DEFINED.—For purposes of
14 this subsection, the term ‘valuation’ shall include
15 any estimate of the value of a dwelling developed in
16 connection with a creditor’s decision to provide cred-
17 it, including those values developed pursuant to a
18 policy of a government sponsored enterprise or by an
19 automated valuation model, a broker price opinion,
20 or other methodology or mechanism.”.

1 **SEC. 606. REAL ESTATE SETTLEMENT PROCEDURES ACT OF**
2 **1974 AMENDMENT RELATING TO CERTAIN AP-**
3 **PRAISAL FEES.**

4 Section 4 of the Real Estate Settlement Procedures
5 Act of 1974 is amended by adding at the end the following
6 new subsection:

7 “(c) The standard form described in subsection (a)
8 shall include, in the case of an appraisal coordinated by
9 an appraisal management company (as such term is de-
10 fined in section 1121(11) of the Financial Institutions Re-
11 form, Recovery, and Enforcement Act of 1989 (12 U.S.C.
12 3350(11))), a clear disclosure of—

13 “(1) the fee paid directly to the appraiser by
14 such company; and

15 “(2) the administration fee charged by such
16 company.”.

1 **TITLE VII—SENSE OF CONGRESS**
2 **REGARDING THE IMPOR-**
3 **TANCE OF GOVERNMENT**
4 **SPONSORED ENTERPRISES**
5 **REFORM**

6 **SEC. 701. SENSE OF CONGRESS REGARDING THE IMPOR-**
7 **TANCE OF GOVERNMENT-SPONSORED EN-**
8 **TERPRISES REFORM TO ENHANCE THE PRO-**
9 **TECTION, LIMITATION, AND REGULATION OF**
10 **THE TERMS OF RESIDENTIAL MORTGAGE**
11 **CREDIT.**

12 (a) FINDINGS.—The Congress finds as follows:

13 (1) The Government-sponsored enterprises,
14 Federal National Mortgage Association (Fannie
15 Mae) and the Federal Home Loan Mortgage Cor-
16 poration (Freddie Mac), were chartered by Congress
17 to ensure a reliable and affordable supply of mort-
18 gage funding, but enjoy a dual legal status as pri-
19 vately owned corporations with Government man-
20 dated affordable housing goals.

21 (2) In 1996, the Department of Housing and
22 Urban Development required that 42 percent of
23 Fannie Mae's and Freddie Mac's mortgage financing
24 should go to borrowers with income levels below the
25 median for a given area.

1 (3) In 2004, the Department of Housing and
2 Urban Development revised those goals, increasing
3 them to 56 percent of their overall mortgage pur-
4 chases by 2008, and additionally mandated that 12
5 percent of all mortgage purchases by Fannie Mae
6 and Freddie Mac be “special affordable” loans made
7 to borrowers with incomes less than 60 percent of an
8 area’s median income, a target that ultimately in-
9 creased to 28 percent for 2008.

10 (4) To help fulfill those mandated affordable
11 housing goals, in 1995 the Department of Housing
12 and Urban Development authorized Fannie Mae and
13 Freddie Mac to purchase subprime securities that
14 included loans made to low-income borrowers.

15 (5) After this authorization to purchase
16 subprime securities, subprime and near-prime loans
17 increased from 9 percent of securitized mortgages in
18 2001 to 40 percent in 2006, while the market share
19 of conventional mortgages dropped from 78.8 per-
20 cent in 2003 to 50.1 percent by 2007 with a cor-
21 responding increase in subprime and Alt-A loans
22 from 10.1 percent to 32.7 percent over the same pe-
23 riod.

24 (6) In 2004 alone, Fannie Mae and Freddie
25 Mac purchased \$175,000,000,000 in subprime mort-

1 gage securities, which accounted for 44 percent of
2 the market that year, and from 2005 through 2007,
3 Fannie Mae and Freddie Mac purchased approxi-
4 mately \$1,000,000,000,000 in subprime and Alt-A
5 loans, while Fannie Mae's acquisitions of mortgages
6 with less than 10 percent down payments almost tri-
7 pled.

8 (7) According to data from the Federal Hous-
9 ing Finance Agency (FHFA) for the fourth quarter
10 of 2008, Fannie Mae and Freddie Mac own or guar-
11 antee 75 percent of all newly originated mortgages,
12 and Fannie Mae and Freddie Mac currently own
13 13.3 percent of outstanding mortgage debt in the
14 United States and have issued mortgage-backed se-
15 curities for 31.0 percent of the residential debt mar-
16 ket, a combined total of 44.3 percent of outstanding
17 mortgage debt in the United States.

18 (8) On September 7, 2008, the FHFA placed
19 Fannie Mae and Freddie Mac into conservatorship,
20 with the Treasury Department subsequently agree-
21 ing to purchase at least \$200,000,000,000 of pre-
22 ferred stock from each enterprise in exchange for
23 warrants for the purchase of 79.9 percent of each
24 enterprise's common stock.

1 (9) The conservatorship for Fannie Mae and
2 Freddie Mac has potentially exposed taxpayers to
3 upwards of \$5,300,000,000,000 worth of risk.

4 (10) The hybrid public-private status of Fannie
5 Mae and Freddie Mac is untenable and must be re-
6 solved to assure that consumers are offered and re-
7 ceive residential mortgage loans on terms that rea-
8 sonably reflect their ability to repay the loans and
9 that are understandable and not unfair, deceptive, or
10 abusive.

11 (b) SENSE OF THE CONGRESS.—It is the sense of
12 the Congress that efforts to enhance by the protection,
13 limitation, and regulation of the terms of residential mort-
14 gage credit and the practices related to such credit would
15 be incomplete without enactment of meaningful structural
16 reforms of Fannie Mae and Freddie Mac.

17 **TITLE VIII—REPORTS**

18 **SEC. 801. GAO STUDY REPORT ON GOVERNMENT EFFORTS** 19 **TO COMBAT MORTGAGE FORECLOSURE RES-** 20 **CUE SCAMS AND LOAN MODIFICATION** 21 **FRAUD.**

22 (a) STUDY.—The Comptroller General of the United
23 States shall conduct a study of the current inter-agency
24 efforts of the Secretary of the Treasury, the Secretary of
25 Housing and Urban Development, the Attorney General,

1 and the Federal Trade Commission to crackdown on mort-
2 gage foreclosure rescue scams and loan modification fraud
3 in order to advise the Congress to the risks and
4 vulnerabilities of emerging schemes in the loan modifica-
5 tion arena.

6 (b) REPORT.—

7 (1) IN GENERAL.—The Comptroller General
8 shall submit a report to the Congress on the study
9 conducted under subsection (a) containing such rec-
10 ommendations for legislative and administrative ac-
11 tions as the Comptroller General may determine to
12 be appropriate in addition to the recommendations
13 required under paragraph (2).

14 (2) SPECIFIC TOPICS.—The report made under
15 paragraph (1) shall include—

16 (A) an evaluation of the effectiveness of
17 the inter-agency task force current efforts to
18 combat mortgage foreclosure rescue scams and
19 loan modification fraud scams;

20 (B) specific recommendations on agency or
21 legislative action that are essential to properly
22 protect homeowners from mortgage foreclosure
23 rescue scams and loan modification fraud
24 scams; and

- 1 (C) the adequacy of financial resources
2 that the Federal Government is allocating to—
3 (i) crackdown on loan modification
4 and foreclosure rescue scams; and
5 (ii) the education of homeowners
6 about fraudulent scams relating to loan
7 modification and foreclosure rescues.

8 **TITLE IX—MULTIFAMILY**
9 **MORTGAGE RESOLUTION**

10 **SEC. 901. MULTIFAMILY MORTGAGE RESOLUTION PRO-**
11 **GRAM.**

12 (a) ESTABLISHMENT.—Subject to subsection (e), the
13 Secretary of the Treasury, in consultation with the Sec-
14 retary of Housing and Urban Development, shall develop
15 a program to stabilize multifamily properties which are de-
16 linquent, at risk of default or disinvestment, or in fore-
17 closure.

18 (b) FOCUS OF PROGRAM.—The program developed
19 under this section shall be used to ensure the protection
20 of current and future tenants of at risk multifamily prop-
21 erties, where feasible, by—

22 (1) creating sustainable financing of such prop-
23 erties that is based on—

24 (A) the current rental income generated by
25 such properties; and

1 (B) the preservation of adequate operating
2 reserves;

3 (2) maintaining the level of Federal, State, and
4 city subsidies in effect as of the date of enactment
5 of this Act; and

6 (3) facilitating the transfer, when necessary, of
7 such properties to responsible new owners.

8 (c) COORDINATION.—The Secretary of the Treasury
9 shall in carrying out the program developed under this sec-
10 tion coordinate with the Secretary of Housing and Urban
11 Development, the Federal Deposit Insurance Corporation,
12 the Board of Governors of the Federal Reserve System,
13 the Federal Housing Finance Agency, and any other Fed-
14 eral Government agency that the Secretary considers ap-
15 propriate.

16 (d) DEFINITION.—For purposes of this section, the
17 term “multifamily properties” means a residential struc-
18 ture that consists of 5 or more dwelling units.

19 (e) AUTHORITY.—This section shall not limit the
20 ability of the Secretary of the Treasury to use any existing
21 authority to carry out the program under this section.

1 **TITLE X—STUDY OF EFFECT OF**
2 **DRYWALL PRESENCE ON**
3 **FORECLOSURES**

4 **SEC. 1001. STUDY OF EFFECT OF DRYWALL PRESENCE ON**
5 **FORECLOSURES.**

6 (a) STUDY.—The Secretary of Housing and Urban
7 Development, in consultation with the Secretary of the
8 Treasury, shall conduct a study of the effect on residential
9 mortgage loan foreclosures of—

10 (1) the presence in residential structures sub-
11 ject to such mortgage loans of drywall that was im-
12 ported from China during the period beginning with
13 2004 and ending at the end of 2007; and

14 (2) the availability of property insurance for
15 residential structures in which such drywall is
16 present.

17 (b) REPORT.—Not later than the expiration of the
18 120-day period beginning on the date of the enactment
19 of this Act, the Secretary of Housing and Urban Develop-
20 ment shall submit to the Congress a report on the study
21 conducted under subsection (a) containing its findings,
22 conclusions, and recommendations.

1 **TITLE XI—FANNIE MAE GUIDE-**
2 **LINES FOR PURCHASE OF**
3 **CONDOMINIUM AND COOPER-**
4 **ATIVE HOUSING MORTGAGES**

5 **SEC. 1101. GUIDELINES FOR PURCHASE OF CONDOMINIUM**
6 **AND COOPERATIVE HOUSING MORTGAGES.**

7 The Federal National Mortgage Association and the
8 Federal Home Loan Mortgage Corporation shall take ac-
9 tions as are appropriate to establish and revise fee sched-
10 ules, occupancy and pre-sale guidelines, and other relevant
11 underwriting standards for the purchase of condominium
12 and cooperative housing, consistent with appropriate levels
13 of credit risk. In setting such fees, guidelines, and stand-
14 ards, each association may consider factors such as the
15 relative health of the local or regional housing market in
16 which such housing is located, and whether the housing
17 is in a new or existing development.

Passed the House of Representatives May 7, 2009.

Attest: LORRAINE C. MILLER,
Clerk.