

111TH CONGRESS
2D SESSION

H. R. 4953

To amend the Truth in Lending Act to prohibit the servicer of a home mortgage, or any affiliate of the servicer, from holding any other mortgage on the property.

IN THE HOUSE OF REPRESENTATIVES

MARCH 25, 2010

Mr. MILLER of North Carolina (for himself and Mr. ELLISON) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Truth in Lending Act to prohibit the servicer of a home mortgage, or any affiliate of the servicer, from holding any other mortgage on the property.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Mortgage Servicing
5 Conflict Elimination Act of 2010”.

6 **SEC. 2. LIMITATION ON MORTGAGES HELD BY LOAN**
7 **SERVICERS.**

8 (a) LIMITATION.—Chapter 2 of the Truth in Lending
9 Act (15 U.S.C. 1631 et seq.) is amended—

1 (1) by redesignating the second section 129, as
2 added by section 201(b) of the Helping Families
3 Save Their Homes Act of 2009 (Public Law 111–22;
4 123 Stat. 1638), as section 129A; and

5 (2) by inserting before section 130 (15 U.S.C.
6 1640) the following new section:

7 **“SEC. 129B. LIMITATION ON MORTGAGES HELD BY LOAN**
8 **SERVICERS.**

9 “(a) **LIMITATION.**—Neither the servicer of a residen-
10 tial mortgage loan, nor any affiliate of such servicer, may
11 own, or hold any interest in, any other residential mort-
12 gage loan that is secured by a mortgage, deed of trust,
13 or other equivalent consensual security interest on the
14 same dwelling or residential real property that is subject
15 to the mortgage, deed of trust, or other security interest
16 that secures the residential mortgage loan serviced by the
17 servicer.

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

20 “(1) **AFFILIATE.**—The term ‘affiliate’ means,
21 with respect to a servicer, any person or entity that
22 controls, is controlled by, or is under common con-
23 trol with such servicer, as the Board shall prescribe
24 by regulation.

1 “(2) RESIDENTIAL MORTGAGE LOAN.—The
2 term ‘residential mortgage loan’ means any con-
3 sumer credit transaction that is secured by a mort-
4 gage, deed of trust, or other equivalent consensual
5 security interest on a dwelling or on residential real
6 property that includes a dwelling, other than a con-
7 sumer credit transaction under an open end credit
8 plan or an extension of credit relating to a plan de-
9 scribed in section 101(53D) of title 11, United
10 States Code.

11 “(3) SERVICER.—The term ‘servicer’ has the
12 meaning provided in section 129A, except that such
13 term includes a person who makes or holds a resi-
14 dential mortgage loan (including a pool of residential
15 mortgage loans) if such person also services the
16 loan.

17 “(c) INTERESTS.—For purposes of subsection (a),
18 ownership of, or holding an interest in a residential mort-
19 gage loan includes ownership of, or holding an interest
20 in—

21 “(1) a pool of residential mortgage loans that
22 contains such residential mortgage loan; or

23 “(2) any security based on or backed by a pool
24 of residential mortgage loans that contains such resi-
25 dential mortgage loan.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 for chapter 2 of the Truth in Lending Act is amended
3 by inserting before the item relating to section 130 the
4 following new item:

“Sec. 129B. Limitation on mortgages held by loan servicers.”.

5 (c) APPLICABILITY.—The amendment made by sub-
6 section (a) shall apply—

7 (1) with respect to the servicer (or affiliate of
8 the servicer) of a residential mortgage loan that is
9 originated after the date of the enactment of this
10 Act, on such date of enactment; and

11 (2) with respect to the servicer (or affiliate of
12 the servicer) of a residential mortgage loan that is
13 originated on or before the date of the enactment of
14 this Act, upon the expiration of the 12-month period
15 beginning upon such date of enactment.

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