115TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
115–590

SECURING ACCESS TO AFFORDABLE MORTGAGES ACT

MARCH 8, 2018.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HENSARLING, from the Committee on Financial Services, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany H.R. 3221]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 3221) to provide exemptions under the Truth in Lending Act and the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 to encourage access to affordable mortgages, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE AND SUMMARY

Introduced on July 13, 2017, by Representative Kustoff, H.R. 3221, the "Securing Access to Affordable Mortgages Act" amends the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and the Truth in Lending Act to exempt from property appraisal requirements certain higher-risk mortgage loans of $250,000 or less if the loan appears on the balance sheet of the creditor of the loan for at least three years. It also exempts mortgage lenders and others involved in real estate transactions from incurring penalties for failing to report appraiser misconduct.

BACKGROUND AND NEED FOR LEGISLATION

The Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111–203) ("Dodd-Frank Act") increased federal requirements for real estate appraisers and transferred some federal over-

79–006

sight powers to the Bureau of Consumer Financial Protection (CFPB). Specifically, Title XIV of the Dodd-Frank Act changed the regulation of real estate appraisals to include:

- A requirement of a site visit for appraisals of a property financed by a high-risk mortgage;
- Conditions for a second appraisal at no cost to the home purchaser;
- Mandated independence for appraisers;
- Portability of some residential property appraisals; rules for customary and reasonable fees; and
- Standards for appraiser education; and a mandatory annual report to Congress by the ASC on its activities.

These additional requirements are particularly burdensome for smaller institutions in rural areas where their appraisers are not readily available. In these areas, because the law requires appraisers to be independent from the lender, they may be unfamiliar with the area and therefore will not be able to accurately value a home, which creates appraisal errors and disparities. Smaller financial institutions also often have difficulty separating its loan production staff from the appraiser selection process. As a result, these Dodd-Frank Act requirements add substantial costs for individuals on both sides of a real estate transaction, and have resulted in longer waits and delayed closing for both buyers and sellers. These delays also affect the cost of purchasing a home as appraisal fees are generally paid by borrowers.

There are also concerns related to Section 1472 of the Dodd-Frank Act which imposes mandatory reporting requirements on mortgage lenders and other providers of mortgage-related services who believe an appraiser is behaving unethically or violating applicable codes and laws, with large monetary penalties for failure to comply. The penalty for the first violation of this provision is a civil penalty of not more than $10,000 for each day a violation continues. For subsequent violations, the penalty is increased to $20,000 for each day a violation continues.

Most creditors, real estate brokers, appraisal management companies, and servicers operate on a national level and in all U.S. states and territories. Currently there is little consistency in the reporting criteria for each state, and national companies find it difficult to monitor and comply with all state and territory reporting requirements. There is also a disincentive to file a report. Creditors, appraisal management companies, appraisers, mortgage brokers, real estate brokers and agents, title insurers, and other settlement service providers that file a report do not receive legal protection for defamation or other civil claims. This lack of legal protection is in contrast with other mandatory reporting regimes that provide some level of protection against these types of claims. H.R. 3221 will undo burdensome regulations and provide greater certainty in the home purchase process, particularly in rural communities.

HEARINGS

The Committee on Financial Services held a hearing examining matters relating to H.R. 3221 on July 12, 2017.

Committee Consideration

The Committee on Financial Services met in open session on November 14 and 15, 2017, and ordered H.R. 3221 to be reported favorably by a recorded vote of 32 yeas to 26 nays (Record vote no. FC–103), a quorum being present.

Committee Votes

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The sole recorded vote was on a motion by Chairman Hensarling to report the bill favorably to the House without amendment. The motion was agreed to by a recorded vote of 32 yeas to 26 nays (Record vote no. FC–103), a quorum being present.

Record vote no. FC-103

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Hensarling	X			Ms. Maxine Waters (CA)		X	
Mr. McHenry	X			Mrs. Carolyn B. Maloney (NY)		X	
Mr. King	X			Ms. Velázquez		X	
Mr. Royce (CA)	X			Mr. Sherman		X	
Mr. Lucas	X			Mr. Meeks		X	
Mr. Pearce	X			Mr. Capuano		X	
Mr. Posey				Mr. Clay		X	
Mr. Luetkemeyer	X			Mr. Lynch		X	
Mr. Huizenga	X			Mr. David Scott (GA)		X	
Mr. Duffy	X			Mr. Al Green (TX)		X	
Mr. Stivers	X			Mr. Cleaver		X	
Mr. Hultgren	X			Ms. Moore		X	
Mr. Ross	X			Mr. Ellison		X	
Mr. Pittenger	X			Mr. Perlmutter		X	
Mrs. Wagner	X			Mr. Himes		X	
Mr. Barr	X			Mr. Foster		X	
Mr. Rothfus	X			Mr. Kildee		X	
Mr. Messer	X			Mr. Delaney		X	
Mr. Tipton	X			Ms. Sinema		X	
Mr. Williams	X			Mrs. Beatty		X	
Mr. Poliquin	X			Mr. Heck		X	
Mrs. Love	X			Mr. Vargas		X	
Mr. Hill	X			Mr. Gottheimer		X	
Mr. Emmer	X			Mr. Gonzalez (TX)		X	
Mr. Zeldin	X			Mr. Crist		X	
Mr. Trott				Mr. Kihuen		X	
Mr. Loudermilk	X						
Mr. Mooney (WV)	X						
Mr. MacArthur	X						
Mr. Davidson	X						
Mr. Budd	X						
Mr. Kustoff (TN)	X						
Ms. Tenney	X						
Mr. Hollingsworth	X						

Committee Oversight Findings

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the Committee based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

Performance Goals and Objectives

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee states that H.R. 3221 exempts from property appraisal requirements certain higher-risk mortgage loans of $250,000 or less if the loan appears on the balance sheet of the creditor of the loan for at least three years. It also exempts mortgage lenders and others involved in real estate transactions from incurring penalties for failing to report appraiser misconduct.

New Budget Authority, Entitlement Authority, and Tax Expenditures

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

Congressional Budget Office Estimates

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. Congress,
Congressional Budget Office,
Washington, DC, March 8, 2018.

Hon. Jeb Hensarling,
Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3221, the Securing Access to Affordable Mortgages Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Stephen Rabent.

Sincerely,

Keith Hall,
Director.

Enclosure.

H.R. 3221—Securing Access to Affordable Mortgages Act

H.R. 3221 would eliminate the requirement that lenders making higher-risk mortgages obtain a written appraisal of the property securing the mortgage if the original loan amount is less than $250,000 and if the lender holds the mortgage in its portfolio for at least three years. Among other characteristics, higher-risk mortgages have interest rates that are 1.5 percent or more above the prime rate. The bill also would exempt certain participants in a real estate transaction from paying civil penalties for failing to notify the appropriate state licensing agency if a real estate appraiser fails to comply with universal standards for appraisal practices.

Using information from the Consumer Financial Protection Bureau (CFPB), CBO estimates that enacting H.R. 3221 would increase net direct spending by about $1 million over the 2019–2027 period. Those costs would be for the CFPB and other financial regulatory agencies (the Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, and National Credit Union Administration) to amend regulations to reflect the new appraisal requirements. The Federal Reserve System also would incur costs of less than $500,000 for the same purpose. Those costs would be reflected as a decrease in remittances, which are recorded as revenues in the budget.

H.R. 3221 also would reduce civil penalties (which are recorded in the budget as revenues) by exempting participants in real estate transactions—including mortgage lenders or brokers, mortgage bankers, and real estate brokers—from penalties that would be assessed for violating certain federal requirements. CBO estimates that enacting this provision would not have a significant effect on revenues.

Because H.R. 3221 would affect direct spending and revenues, pay-as-you-go procedures apply.

CBO estimates that enacting H.R. 3221 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 3221 would impose a private-sector mandate as defined in the Unfunded Mandates Reform Act (UMRA). If the federal financial regulators increase fees to offset the costs associated with implementing the bill, H.R. 3221 would increase the cost of an existing mandate on private entities required to pay those fees. Using information from the federal financial regulators, CBO estimates that the incremental cost of the mandate would fall well below the annual threshold for private-sector mandates established in UMRA ($156 million in 2017, adjusted annually for inflation).

The bill contains no intergovernmental mandates as defined in UMRA.

The CBO staff contacts for this estimate are Stephen Rabent (for federal costs) and Rachel Austin (for mandates). The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995.

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

Advisory Committee Statement

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

Applicability to Legislative Branch

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of the section 102(b)(3) of the Congressional Accountability Act.

Earmark Identification

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

Duplication of Federal Programs

In compliance with clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Pub. L. No. 95–220, as amended by Pub. L. No. 98–169).

Disclosure of Directed Rulemaking

Pursuant to section 3(i) of H. Res. 5, (115th Congress), the following statement is made concerning directed rulemakings: The Committee estimates that the bill requires two directed rulemakings within the meaning of such section.

The first rulemaking requires the federal banking agencies to exempt by rule mortgage loans of $250,000 or less from the requirements of Section 129H of the Truth in Lending Act (TILA) if the loan appears on the balance sheet of the creditor of the loan for a period of not less than 3 years.

The second rulemaking requires the federal banking agencies to exempt by rule mortgage loans of $250,000 or less from the requirements of Section 1110 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) if the loan appears on the balance sheet of the creditor of the loan for a period of not less than 3 years.

Section-by-Section Analysis of the Legislation

Section 1. Short title

This section cites H.R. 3221 as the “Securing Access to Affordable Mortgage Act.”

Section 2. Access to affordable mortgages

This section amends the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and the Truth in Lending Act to exempt from property appraisal requirements certain higher-risk mortgage loans of $250,000 or less if the loan appears on the balance sheet of the creditor of the loan for at least three years.

This section also exempts mortgage lenders and others involved in real estate transactions from incurring penalties for failing to report appraiser misconduct.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

TRUTH IN LENDING ACT

* * * * * * *

TITLE I—CONSUMER CREDIT COST DISCLOSURE

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CHAPTER 2—CREDIT TRANSACTIONS

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§ 129E. Appraisal independence requirements

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

(b) APPRAISAL INDEPENDENCE.—For purposes of subsection (a), acts or practices that violate appraisal independence shall include—

(1) any appraisal of a property offered as security for repayment of the consumer credit transaction that is conducted in connection with such transaction in which a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes, or intimidates a person, appraisal management company, firm, or other entity con-

ducting or involved in an appraisal, or attempts, to compensate, coerce, extort, collude, instruct, induce, bribe, or intimidate such a person, for the purpose of causing the appraised value assigned, under the appraisal, to the property to be based on any factor other than the independent judgment of the appraiser;

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

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

(4) withholding or threatening to withhold timely payment for an appraisal report or for appraisal services rendered when the appraisal report or services are provided for in accordance with the contract between the parties.

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

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

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

(3) Correct errors in the appraisal report.

(d) PROHIBITIONS ON CONFLICTS OF INTEREST.—No certified or licensed appraiser conducting, and no appraisal management company procuring or facilitating, an appraisal in connection with a consumer credit transaction secured by the principal dwelling of a consumer may have a direct or indirect interest, financial or otherwise, in the property or transaction involving the appraisal.

(e) MANDATORY REPORTING.—Any mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, or any other person involved in a real estate transaction involving an appraisal in connection with a consumer credit transaction secured by the principal dwelling of a consumer who has a reasonable basis to believe an appraiser is failing to comply with the Uniform Standards of Professional Appraisal Practice, is violating applicable laws, or is otherwise engaging in unethical or unprofessional conduct, shall refer the matter to the applicable State appraiser certifying and licensing agency.

(f) NO EXTENSION OF CREDIT.—In connection with a consumer credit transaction secured by a consumer's principal dwelling, a creditor who knows, at or before loan consummation, of a violation of the appraisal independence standards established in subsections (b) or (d) shall not extend credit based on such appraisal unless the creditor documents that the creditor has acted with reasonable diligence to determine that the appraisal does not materially misstate or misrepresent the value of such dwelling.

(g) RULES AND INTERPRETIVE GUIDELINES.—

(1) IN GENERAL.—Except as provided under paragraph (2), the Board, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, the Federal Housing Finance Agency, and the Bureau may jointly issue rules, interpretive guidelines, and general statements of policy with respect to acts or practices that violate appraisal independence in the provision of mortgage lending services for a consumer credit transaction secured by the principal dwelling of the consumer and mortgage brokerage services for such a transaction, within the meaning of subsections (a), (b), (c), (d), (e), (f), (h), and (i).

(2) INTERIM FINAL REGULATIONS.—The Board shall, for purposes of this section, prescribe interim final regulations no later than 90 days after the date of enactment of this section defining with specificity acts or practices that violate appraisal independence in the provision of mortgage lending services for a consumer credit transaction secured by the principal dwelling of the consumer or mortgage brokerage services for such a transaction and defining any terms in this section or such regulations. Rules prescribed by the Board under this paragraph shall be deemed to be rules prescribed by the agencies jointly under paragraph (1).

(h) APPRAISAL REPORT PORTABILITY.—Consistent with the requirements of this section, the Board, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, the Federal Housing Finance Agency, and the Bureau may jointly issue regulations that address the issue of appraisal report portability, including regulations that ensure the portability of the appraisal report between lenders for a consumer credit transaction secured by a 1-4 unit single family residence that is the principal dwelling of the consumer, or mortgage brokerage services for such a transaction.

(i) CUSTOMARY AND REASONABLE FEE.—

(1) IN GENERAL.—Lenders and their agents shall compensate fee appraisers at a rate that is customary and reasonable for appraisal services performed in the market area of the property being appraised. Evidence for such fees may be established by objective third-party information, such as government agency fee schedules, academic studies, and independent private sector surveys. Fee studies shall exclude assignments ordered by known appraisal management companies.

(2) FEE APPRAISER DEFINITION.—For purposes of this section, the term "fee appraiser" means a person who is not an employee of the mortgage loan originator or appraisal management company engaging the appraiser and is—

(A) a State licensed or certified appraiser who receives a fee for performing an appraisal and certifies that the appraisal has been prepared in accordance with the Uniform Standards of Professional Appraisal Practice; or

(B) a company not subject to the requirements of section 1124 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331 et seq.) that utilizes the services of State licensed or certified appraisers and receives a fee for performing appraisals in accordance with the Uniform Standards of Professional Appraisal Practice.

(3) EXCEPTION FOR COMPLEX ASSIGNMENTS.—In the case of an appraisal involving a complex assignment, the customary and reasonable fee may reflect the increased time, difficulty, and scope of the work required for such an appraisal and include an amount over and above the customary and reasonable fee for non-complex assignments.

(j) SUNSET.—Effective on the date the interim final regulations are promulgated pursuant to subsection (g), the Home Valuation Code of Conduct announced by the Federal Housing Finance Agency on December 23, 2008, shall have no force or effect.

(k) PENALTIES.—

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

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

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

* * * * * * *

§ 129H. Property appraisal requirements

(a) IN GENERAL.—A creditor may not extend credit in the form of a higher-risk mortgage to any consumer without first obtaining a written appraisal of the property to be mortgaged prepared in accordance with the requirements of this section.

(b) APPRAISAL REQUIREMENTS.—

(1) PHYSICAL PROPERTY VISIT.—Subject to the rules prescribed under paragraph (4), an appraisal of property to be secured by a higher-risk mortgage does not meet the requirement of this section unless it is performed by a certified or licensed appraiser who conducts a physical property visit of the interior of the mortgaged property.

(2) SECOND APPRAISAL UNDER CERTAIN CIRCUMSTANCES.—

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

(B) NO COST TO APPLICANT.—The cost of any second appraisal required under subparagraph (A) may not be charged to the applicant.

(3) CERTIFIED OR LICENSED APPRAISER DEFINED.—For purposes of this section, the term "certified or licensed appraiser" means a person who—

(A) is, at a minimum, certified or licensed by the State in which the property to be appraised is located; and

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

(4) REGULATIONS.—

(A) IN GENERAL.—The Board, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, the Federal Housing Finance Agency, and the Bureau shall jointly prescribe regulations to implement this section.

(B) EXEMPTION.—The agencies listed in subparagraph (A) may jointly exempt, by rule, a class of loans from the requirements of this subsection or subsection (a) if the agencies determine that the exemption is in the public interest and promotes the safety and soundness of creditors.

(c) FREE COPY OF APPRAISAL.—A creditor shall provide 1 copy of each appraisal conducted in accordance with this section in connection with a higher-risk mortgage to the applicant without charge, and at least 3 days prior to the transaction closing date.

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

(e) VIOLATIONS.—In addition to any other liability to any person under this title, a creditor found to have willfully failed to obtain an appraisal as required in this section shall be liable to the applicant or borrower for the sum of $2,000.

(f) HIGHER-RISK MORTGAGE DEFINED.—For purposes of this section, the term "higher-risk mortgage" means a residential mortgage loan, other than a reverse mortgage loan that is a qualified mortgage, as defined in section 129C, secured by a principal dwelling—

(1) that is not a qualified mortgage, as defined in section 129C; and

(2) with an annual percentage rate that exceeds the average prime offer rate for a comparable transaction, as defined in section 129C, as of the date the interest rate is set—

(A) by 1.5 or more percentage points, in the case of a first lien residential mortgage loan having an original principal obligation amount that does not exceed the amount of the maximum limitation on the original principal obligation of mortgage in effect for a residence of the applicable size, as of the date of such interest rate set, pursuant to the sixth sentence of section 305(a)(2) the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2));

(B) by 2.5 or more percentage points, in the case of a first lien residential mortgage loan having an original principal obligation amount that exceeds the amount of the maximum limitation on the original principal obligation of mortgage in effect for a residence of the applicable size, as of the date of such interest rate set, pursuant to the sixth sentence of section 305(a)(2) the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)); and

(C) by 3.5 or more percentage points for a subordinate lien residential mortgage loan.

(g) EXEMPTION FOR CERTAIN MORTGAGES.—The Bureau, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, and the Federal Housing Finance Agency shall exempt, by rule, a mortgage loan of $250,000 or less from the requirements of this section if such loan appears on the balance sheet of the creditor of such loan for a period of not less than 3 years.

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FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989

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TITLE XI—REAL ESTATE APPRAISAL REFORM AMENDMENTS

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SEC. 1110. FUNCTIONS OF THE FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCIES RELATING TO APPRAISAL STANDARDS.

[Each Federal financial institutions regulatory agency and the Resolution Trust Corporation] *(a) REAL ESTATE APPRAISALS IN CONNECTION WITH FEDERALLY RELATED TRANSACTIONS.—Each Federal financial institutions regulatory agency* shall prescribe appropriate standards for the performance of real estate appraisals in connection with federally related transactions under the jurisdiction of [each such agency or instrumentality] *each such agency*. These rules shall require, at a minimum—

(1) that real estate appraisals be performed in accordance with generally accepted appraisal standards as evidenced by the appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation;

(2) that such appraisals shall be written appraisals; and

(3) that such appraisals shall be subject to appropriate review for compliance with the Uniform Standards of Professional Appraisal Practice.

[Each such agency or instrumentality] *(b) ADDITIONAL STANDARDS.—Each such agency described under subsection (a)* may require compliance with additional standards if it makes a determination in writing that such additional standards are required in order to properly carry out its statutory responsibilities.

(c) EXEMPTION FOR CERTAIN MORTGAGE LOANS.—Each such agency described under subsection (a) shall exempt, by rule, a real estate appraisal or evaluation conducted in connection with a mort-

gage loan of $250,000 or less from the standards prescribed under this section, if such loan appears on the balance sheet of the creditor of such loan for a period of not less than 3 years.

*   *   *   *   *   *   *

MINORITY VIEWS

Under section 129H of the Truth in Lending Act ("TILA"), a creditor "may not extend credit in the form of a 'higher-risk' mortgage to any consumer without first obtaining a written appraisal of the property to be mortgaged" in accordance with certain enumerated duties. H.R. 3221 would allow higher-risk mortgage loans to effectively be treated in the same manner as almost all other loans that are not as risky to consumers. H.R. 3221 would also eliminate penalties under TILA for failing to report appraisers for professional misconduct, unethical behavior, or violations of law in home mortgage transactions.

In a March 2017 report, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the National Credit Union Administration discussed that while some parties have called for increased thresholds in connection with appraisal requirements for higher-risk mortgages, the current exemption threshold of $25,000 was based on the two-pronged statutory standard that the threshold be set in the public interest and promote the safety and soundness of creditors. The regulators considered and declined to pursue changes to these appraisal rules or this particular appraisal threshold relating to higher-risk mortgages.[1]

We are sympathetic to the concern that there may be potential appraiser shortages and related issues in rural areas, which in turn triggers the consideration of raising various appraisal thresholds to reduce appraisal backlogs. However, there are various exemptions and flexibilities for appraisal requirements available under current law. For example, the appraisal requirement for higher-risk mortgages already exempts all "qualified mortgages" under TILA, which, according to federal banking regulators, constitutes a large proportion of the mortgage market.

Furthermore, the lack of adequate regulation in the appraisal market was a significant contributing factor to the 2007–2009 financial crisis. According to the Final Report of the National Commission on the Causes of the Financial and Economic Crisis in the United States, "a public petition signed by 11,000 appraisers and including the name and address of each . . . charged that lenders were pressuring appraisers to place artificially high prices on properties. According to the petition, lenders were "blacklisting honest appraisers and instead assigning business only to appraisers who would hit the desired price targets"[2]

[1] EGRPRA Report, available at: https://www.ffiec.gov/pdf/2017_FFIEC_EGRPRA_Joint-Report_to_Congress.pdf, pages 28–40.

[2] Financial Crisis Inquiry Report, Final Report of the National Commission on the Causes of the Financial and Economic Crisis in the United States. Submitted by The Financial Crisis Inquiry Commission Pursuant to Public Law 111–21, January 2011, page 18, available at: https://www.gpo.gov/fdsys/pkg/GPO-FCIC/pdf/GPO-FCIC.pdf.

We do not support a rollback of consumer protections that may present a threat to the safety and soundness of our nation's real estate market. For these reasons, we oppose H.R. 3221.

MAXINE WATERS.
GREGORY W. MEEKS.
STEPHEN F. LYNCH.
MICHAEL E. CAPUANO.
CAROLYN B. MALONEY.
AL GREEN.
EMANUEL CLEAVER.
GWEN MOORE.
NYDIA M. VELÁZQUEZ.
VICENTE GONZALEZ.
DANIEL T. KILDEE.