

108TH CONGRESS  
1ST SESSION

# H. R. 3322

To amend the Truth in Lending Act, the Revised Statutes of the United States, the Home Mortgage Disclosure Act of 1975, and the amendments made by the Home Ownership and Equity Protection Act of 1994 to protect consumers from predatory lending practices, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 16, 2003

Ms. SCHAKOWSKY (for herself, Ms. WATERS, Mr. SANDERS, Ms. CARSON of Indiana, Mr. MCGOVERN, Mr. DEFazio, Mr. GUTIERREZ, Ms. SLAUGHTER, Ms. LEE, Ms. NORTON, Mr. PAYNE, Mr. OWENS, Mr. WAXMAN, Mr. PALLONE, Ms. WOOLSEY, Mrs. JONES of Ohio, Ms. BORDALLO, Mr. GRIJALVA, Mr. GEORGE MILLER of California, Mr. KUCINICH, Mr. RUSH, Ms. KAPTUR, Ms. JACKSON-LEE of Texas, Mr. BELL, Mr. GREEN of Texas, Mr. HONDA, Mr. BRADY of Pennsylvania, and Mrs. CHRISTENSEN) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To amend the Truth in Lending Act, the Revised Statutes of the United States, the Home Mortgage Disclosure Act of 1975, and the amendments made by the Home Ownership and Equity Protection Act of 1994 to protect consumers from predatory lending practices, 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.**

2 This Act may be cited as the “Save Our Homes Act”.

3 **SEC. 2. HOME MORTGAGE DISCLOSURE ACT AMENDMENTS.**

4 (a) STATUTORY REPORTING REQUIREMENTS.—

5 (1) IN GENERAL.—Section 304(b) of the Home  
6 Mortgage Disclosure Act of 1975 (12 U.S.C.  
7 2803(b)) is amended—

8 (A) in paragraph (3), by striking “and”  
9 after the semicolon;

10 (B) in paragraph (4), by striking the pe-  
11 riod at the end and inserting “; and”; and

12 (C) by inserting after paragraph (4) the  
13 following new paragraph:

14 “(5) the annual percentage rate of mortgage  
15 loans and other loans secured by residential real  
16 property originated by the institution, and the total  
17 amount of fees and points imposed in connection  
18 with the origination of such loans, grouped accord-  
19 ing to census tract, income level, racial characteris-  
20 tics, age, and gender.”.

21 (2) CONFORMING AMENDMENTS.—The Home  
22 Mortgage Disclosure Act of 1975 (12 U.S.C. 2801  
23 et seq.) is amended—

24 (A) in section 304(i), by striking “sub-  
25 section (b)(4)” and inserting “paragraphs (4)  
26 and (5) of subsection (b)”.

1 (B) in section 308, by striking “subsection  
2 (b)(4)” and inserting “paragraphs (4) and (5)  
3 of subsection (b)”.

4 (b) PROHIBITION ON REGULATORY EXEMPTIONS  
5 FROM REPORTING REQUIREMENTS.—Section 304 of the  
6 Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803)  
7 is amended by adding at the end the following new sub-  
8 section:

9 “(n) PROHIBITION ON REGULATORY EXEMPTIONS  
10 FROM REPORTING REQUIREMENTS.—Subject to sub-  
11 section (i)—

12 “(1) no provision of this title may be construed  
13 as authorizing the Board, the Secretary, or any  
14 other Federal agency to exempt any depository insti-  
15 tution from the requirements of this title; and

16 “(2) any exemption from the requirements of  
17 this title provided in any regulation, such as the ex-  
18 emption provided in Appendix A to part 203 of the  
19 Code of Federal Regulations for lending institutions  
20 described in section 303(2)(B) whose total dollar  
21 amount of purchase loans originated in any year did  
22 not exceed 10 percent of the total dollar amount of  
23 all loan originations by such institution in such year,  
24 shall cease to be effective as of the date of the enact-  
25 ment of the Save Our Homes Act.”.

1 **SEC. 3. TRUTH IN LENDING ACT AMENDMENTS.**

2 (a) APPLYING HIGH-COST LOAN PROTECTIONS TO  
3 HOME PURCHASE LOANS AND LOWERING THE THRESH-  
4 OLD FOR HIGH-COST LOANS.—Section 103(aa) of the  
5 Truth in Lending Act (15 U.S.C. 1602(aa)(1)) is amended  
6 by striking all that precedes paragraph (2) and inserting  
7 the following:

8 “(aa) HIGH-COST MORTGAGE DEFINED.—

9 “(1) IN GENERAL.—The term ‘high-cost mort-  
10 gage’, and a mortgage referred to in this subsection,  
11 means a consumer credit transaction that is secured  
12 by the consumer’s principal dwelling, other than a  
13 reverse mortgage transaction, if any of the following  
14 apply with respect to such consumer credit trans-  
15 action:

16 “(A) The annual percentage rate at con-  
17 summation of the transaction exceeds by 5 or  
18 more percentage points the yield on United  
19 States Treasury securities having comparable  
20 periods of maturity (as made available by the  
21 Board) as of the week immediately preceding  
22 the week in which the interest rate for the loan  
23 is established.

24 “(B) The mortgage is a variable-rate loan  
25 in which the annual percentage rate can reason-

1 ably be expected to increase beyond the thresh-  
2 old established in subparagraph (A).

3 “(C) Potential or scheduled increases in  
4 the annual percentage rate of the home loan are  
5 controlled by the creditor and not directly tied  
6 to changes in a publicly available rate not con-  
7 trolled by the creditor.

8 “(D) The total points and fees payable on  
9 the transaction will exceed the greater of 3 per-  
10 cent of the total loan amount or \$1,000.”.

11 (b) DEFINITION OF “POINTS AND FEES”.—Para-  
12 graph (4) of section 103(aa) of the Truth in Lending Act  
13 (15 U.S.C. 1602(aa)) is amended to read as follows:

14 “(4) DEFINITION OF POINTS AND FEES.—

15 “(A) IN GENERAL.—For purposes of para-  
16 graph (1)(D) and section 129(q), the term  
17 ‘points and fees’ shall include—

18 “(i) all items included in the finance  
19 charge, except interest or the time-price  
20 differential;

21 “(ii) all compensation paid directly or  
22 indirectly to a mortgage broker, including  
23 a broker that originates a loan in its own  
24 name in a table-funded transaction;

1 “(iii) each of the charges listed in sec-  
2 tion 106(e) (except an escrow for future  
3 payment of taxes and insurance);

4 “(iv) the cost of all premiums fi-  
5 nanced by the lender, directly or indirectly,  
6 for any credit life, credit disability, credit  
7 unemployment or credit property insur-  
8 ance, or any other life or health insurance,  
9 or any payments financed by the lender,  
10 directly or indirectly, for any debt cancella-  
11 tion or suspension agreement or contract,  
12 except that, for purposes of this subpara-  
13 graph, insurance premiums or debt can-  
14 cellation or suspension fees calculated and  
15 paid on a monthly basis shall not be con-  
16 sidered financed by the lender;

17 “(v) any prepayment penalties to be  
18 charged on the loan, including the existing  
19 loan; and

20 “(vi) such other charges as the Board  
21 determines to be appropriate.

22 “(B) ITEMS EXCLUDED.—For purposes of  
23 paragraph (1)(D) and section 129(q), the term  
24 ‘points and fees’ shall not include the following:

1 “(i) Taxes, filing fees, recording and  
2 other charges and fees paid or to be paid  
3 to public officials for determining the exist-  
4 ence of or for perfecting, releasing, or sat-  
5 isfying a security interest.

6 “(ii) Fees paid to a person other than  
7 a creditor or an affiliate of the creditor or  
8 to the mortgage broker or an affiliate of  
9 the mortgage broker for any of the fol-  
10 lowing:

11 “(I) Fees for flood certification.

12 “(II) Fees for pest infestation  
13 and flood determinations.

14 “(III) Appraisal fees.

15 “(IV) Fees for inspections per-  
16 formed prior to closing.

17 “(V) Credit reports.

18 “(VI) Surveys.

19 “(VII) Attorneys’ fees (if the bor-  
20 rower has the right to select the attor-  
21 ney from an approved list or other-  
22 wise).

23 “(VIII) Notary fees.

24 “(IX) Title insurance premiums.

1                   “(X) Fire insurance and flood in-  
 2                   surance premiums, to the extent that  
 3                   the conditions in section 226.4(d)(2)  
 4                   of title 12 of the Code of Federal Reg-  
 5                   ulations, as in effect on the date of  
 6                   the enactment of the Save Our Homes  
 7                   Act, are met.”.

8           (c) COVERAGE OF HIGH-COST MORTGAGE BRO-  
 9   KERS.—

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

12                   (A) by striking “(f) The term” and insert-  
 13                   ing “(f) CREDITOR.—

14                   “(1) IN GENERAL.—The term”;

15                   (B) by striking the last sentence of para-  
 16                   graph (1) (as so redesignated by subparagraph  
 17                   (A) of this paragraph); and

18                   (C) by adding at the end the following new  
 19                   paragraph:

20                   “(2) OTHER PERSONS INCLUDED.—Any of the  
 21                   following persons shall be treated as a creditor for  
 22                   purposes of this title:

23                           “(A) Any person who originates 2 or more  
 24                           high-cost mortgages in any 12-month period.



1           “(B) Any person who originates 1 or more  
2           high-cost mortgages through a mortgage broker  
3           in any 12-month period.

4           “(C) Any person who acted as a mortgage  
5           broker between originators and consumers on  
6           more than 5 high-cost mortgages in any 12-  
7           month period.

8           “(D) Any person who is an affiliate (as de-  
9           fined in section 129(k)) of a creditor, or a per-  
10          son treated under this paragraph as a creditor,  
11          with respect to high-cost mortgages.”.

12          (2) LIABILITY OF CREDITOR FOR VIOLATIONS  
13          BY MORTGAGE BROKER.—Section 130 of the Truth  
14          in Lending Act (15 U.S.C. 1640) is amended by  
15          adding at the end the following new subsection:

16          “(j) LIABILITY OF CREDITOR FOR VIOLATIONS BY  
17          MORTGAGE BROKER.—In the case of any credit extended  
18          to a consumer by a creditor through a mortgage broker,  
19          the creditor shall be liable under this section to the con-  
20          sumer for any violation of any requirement of this title,  
21          or regulations prescribed under this title, by the mortgage  
22          broker in connection with such extension of credit.”.

23          (d) PROHIBITED PRACTICES FOR HIGH-COST HOME  
24          LOANS.—Section 129 of the Truth in Lending Act (15  
25          U.S.C. 1639) is amended—

1           (1) in subsection (e), by striking “of less than  
2       five years”;

3           (2) by striking subsections (c), (f), and (h);

4           (3) by redesignating subsections (d), (e), (g),  
5       and (i) as subsections (c), (d), (e), and (f), respec-  
6       tively; and

7           (4) by inserting after subsection (f) (as so re-  
8       designated by paragraph (3) of this subsection) the  
9       following new subsections:

10       “(g) NO CALL PROVISION.—

11           “(1) IN GENERAL.—A high-cost mortgage may  
12       not include terms under which the indebtedness may  
13       be accelerated by the creditor, in the creditor’s sole  
14       discretion.

15           “(2) EXCEPTION.—Paragraph (1) shall not  
16       apply when repayment of the loan has been acceler-  
17       ated by default or made pursuant to a due-on-sale  
18       provision or some other provision of the loan docu-  
19       ments unrelated to the payment schedule.

20       “(h) NO MODIFICATION OR DEFERRAL FEES.—A  
21       creditor shall not charge a borrower any fees or other  
22       charges to modify, renew, extend, or amend a high-cost  
23       mortgage or to defer any payment due under any such  
24       mortgage.

1       “(i) NO LENDING WITHOUT HOME-OWNERSHIP  
2 COUNSELING.—A creditor shall not enter into a high-cost  
3 mortgage without having received certification from a  
4 housing counseling agency (which is certified by the De-  
5 partment of Housing and Urban Development) that the  
6 borrower has received counseling on the advisability of the  
7 loan transaction and the appropriateness of the loan for  
8 the borrower.

9       “(j) NO MANDATORY ARBITRATION CLAUSE.—A  
10 high-cost mortgage may not include terms under which a  
11 mandatory arbitration clause limits in any way the right  
12 of the borrower to seek relief through the judicial process.

13       “(k) NO PREPAYMENT PENALTY.—

14               “(1) LIMITATION ON TERMS.—A high-cost  
15 mortgage may not contain terms under which a con-  
16 sumer must pay a prepayment penalty for paying all  
17 or part of the principal before the date on which the  
18 principal is due.

19               “(2) CONSTRUCTION.—For purposes of this  
20 subsection, any method of computing a refund of un-  
21 earned scheduled interest is a prepayment penalty if  
22 it is less favorable to the consumer than the actu-  
23 arial method (as that term is defined in section  
24 933(d)(1) of the Housing and Community Develop-  
25 ment Act of 1992).

1       “(l) NO NEGATIVE AMORTIZATION.—A high-cost  
 2 mortgage may not include terms under which the out-  
 3 standing principal balance will increase at any time over  
 4 the course of the loan because the regular periodic pay-  
 5 ments do not cover the full amount of interest due.

6       “(m) PROHIBITION ON EXTENDING CREDIT WITH-  
 7 OUT REGARD TO PAYMENT ABILITY OF CUSTOMER.—

8               “(1) IN GENERAL.—No creditor may make a  
 9 high-cost mortgage, unless the creditor reasonably  
 10 believes at the time the loan is consummated that 1  
 11 or more of the obligors, when considered individually  
 12 or collectively, will be able to make the scheduled  
 13 payments to repay the obligation based upon a con-  
 14 sideration of their current and expected income, cur-  
 15 rent obligations, employment status, and other fi-  
 16 nancial resources (other than the borrower’s equity  
 17 in the dwelling which secures repayment of the  
 18 loan).

19               “(2) OBLIGOR DEFINED.—For purposes of  
 20 paragraph (1), the term ‘obligor’ means each bor-  
 21 rower, coborrower, cosigner, or guarantor obligated  
 22 to repay a loan.

23       “(n) PROHIBITION ON FLIPPING OF HOME LOANS.—

1           “(1) IN GENERAL.—No creditor may knowingly  
2           or intentionally engage in the practice of flipping a  
3           high-cost mortgage.

4           “(2) FLIPPING DEFINED.—For purposes of  
5           paragraph (1), the term ‘flipping’ means the act of  
6           making of a new high-cost mortgage to a borrower  
7           to refinance an existing home loan when the new  
8           loan does not have a reasonable, tangible net benefit  
9           to the borrower considering all of the circumstances,  
10          including the terms of both the new and refinanced  
11          loans, the cost of the new loan, and the borrower’s  
12          circumstances.

13          “(o) NO ENCOURAGEMENT OF DEFAULT.—No cred-  
14          itor may recommend or encourage default on an existing  
15          loan or other debt prior to and in connection with the clos-  
16          ing or planned closing of a high-cost mortgage that refi-  
17          nances all or any portion of such existing loan or debt.

18          “(p) NO FINANCING OF CREDIT INSURANCE OR  
19          DEBT CANCELLATION CONTRACT.—

20          “(1) IN GENERAL.—No creditor may finance,  
21          directly or indirectly, any credit life, credit disability,  
22          or credit unemployment insurance, or any other life  
23          or health insurance premiums, including any debt  
24          cancellation contract, through a high-cost mortgage.

1           “(2) RULE OF CONSTRUCTION.—Paragraph (1)  
2       shall not be construed as affecting the right of a  
3       creditor to require the collection of hazard and mort-  
4       gage insurance premium payments into an escrow  
5       account in conjunction with the servicing of a high-  
6       cost mortgage to the extent the calculation and serv-  
7       icing of insurance premiums are conducted and re-  
8       ported independently of the high-cost mortgage.

9       “(q) RESTRICTION ON FINANCING POINTS AND  
10      FEES.—

11           “(1) LIMIT ON AMOUNT OF POINTS AND FEES  
12      THAT MAY BE FINANCED.—No creditor may, in con-  
13      nection with the formation or consummation of a  
14      high-cost mortgage, finance, directly or indirectly,  
15      any portion of the points, fees, or other charges pay-  
16      able to the creditor or any third party in an amount  
17      in excess of the greater of 3 percent of the total loan  
18      amount or \$600.

19           “(2) PROHIBITION ON FINANCING CERTAIN  
20      POINTS, FEES, OR CHARGES.—No creditor may, in  
21      connection with the formation or consummation of a  
22      high-cost mortgage, finance, directly or indirectly,  
23      any of the following fees or other charges payable to  
24      the creditor or any third party:

1           “(A) Any prepayment fee or penalty re-  
2           quired to be paid by the consumer in connection  
3           with a loan or other extension of credit which  
4           is being refinanced by such mortgage if the  
5           creditor, with respect to such mortgage, or any  
6           affiliate of the creditor, is the creditor with re-  
7           spect to the loan or other extension of credit  
8           being refinanced.

9           “(B) Any points, fees, or other charges re-  
10          quired to be paid by the consumer in connection  
11          with such mortgage if—

12                 “(i) the mortgage is being entered  
13                 into in order to refinance an existing high-  
14                 cost mortgage of the consumer; and

15                 “(ii) if the creditor, with respect to  
16                 such new mortgage, or any affiliate of the  
17                 creditor, is the creditor with respect to the  
18                 existing high-cost mortgage which is being  
19                 refinanced.

20          “(r) NO LENDING WITHOUT APPRAISAL.—A creditor  
21          shall not extend credit in connection with a high-cost  
22          mortgage without first having obtained and made available  
23          to the prospective borrower a real estate appraisal on the  
24          property securing the proposed mortgage that—

1           “(1) fully complies with the Uniform Standards  
2           of Professional Appraisal Practice prescribed by the  
3           Appraisal Standards Board of the Appraisal Foun-  
4           dation, in accordance with section 1110(1) of the Fi-  
5           nancial Institutions Reform, Recovery, and Enforce-  
6           ment Act of 1989; and

7           “(2) is performed by a qualified State certified  
8           or licensed appraiser on the roster maintained by the  
9           Appraisal Subcommittee under section 1109(a)(1) of  
10          such Act.

11          “(s) NO BLANK ITEMS.—A high-cost mortgage docu-  
12       ment in which blanks are left to be filled in after the con-  
13       tract is signed shall not be enforceable under Federal law  
14       or the law of any State.

15          “(t) PAYMENT SCHEDULE REQUIREMENT.—

16               “(1) IN GENERAL.—No high-cost mortgage may  
17       contain a scheduled payment that is more than twice  
18       as large as the average of preceding scheduled pay-  
19       ments.

20               “(2) APPLICATION FOR SEASONALLY ADJUSTED  
21       SCHEDULE PAYMENTS.—In the case of a payment  
22       schedule for a high-cost mortgage that is adjusted to  
23       account for the seasonal or irregular income of the  
24       consumer, the total installments in any year shall



1 not exceed the amount of 1 year's worth of pay-  
2 ments on the loan.

3 “(3) EXCEPTION FOR BRIDGE LOANS.—

4 “(A) IN GENERAL.—This paragraph shall  
5 not apply to a bridge loan.

6 “(B) BRIDGE LOAN DEFINED.—For pur-  
7 poses of this paragraph, the term ‘bridge loan’  
8 means a loan with a maturity of less than 18  
9 months that only requires payments of interest  
10 until the time when the entire unpaid balance  
11 is due and payable.

12 “(u) SAME LANGUAGE REQUIREMENT.—If the dis-  
13 cussions between a creditor and a borrower or potential  
14 borrower with respect to a high-cost mortgage are con-  
15 ducted primarily in a language other than English, the  
16 creditor shall, before closing, provide an additional copy  
17 of all information required to be disclosed to the borrower  
18 under this title translated into the language in which the  
19 discussions were conducted.

20 “(v) ATTEMPTED EVASION OF COVERAGE.—The pro-  
21 visions of this section shall apply to any person who in  
22 bad faith attempts to avoid its application by—

23 “(1) structuring a loan transaction as an open  
24 end credit plan for the purpose and with the intent  
25 of evading the provisions of this section when the

1 loan would have been a high-cost mortgage if the  
2 loan had been structured as a closed-end loan;

3 “(2) dividing any loan transaction into separate  
4 parts for the purpose and with the intent of evading  
5 the provisions of this section; or

6 “(3) engaging in any other such subterfuge for  
7 the purpose of evading the provisions of this section.

8 “(w) CORRECTIONS AND UNINTENTIONAL VIOLA-  
9 TIONS.—

10 “(1) IN GENERAL.—A creditor with respect to  
11 a high-cost mortgage who, when acting in good  
12 faith, fails to comply with this section, shall not be  
13 deemed to have violated this section if the creditor  
14 establishes that either—

15 “(A) within 30 days of the loan closing  
16 and prior to the institution of any action under  
17 this section, the borrower is notified of the com-  
18 pliance failure, appropriate restitution is made,  
19 and whatever adjustments are necessary are  
20 made to the loan to either, at the choice of the  
21 borrower—

22 “(i) make the high-cost home loan  
23 satisfy the requirements of this section; or

24 “(ii) change the terms of the loan in  
25 a manner beneficial to the borrower so that

1           the loan will no longer be considered a  
2           high-cost mortgage subject to the provi-  
3           sions of this section; or

4           “(B) the compliance failure was not inten-  
5           tional and resulted from a bona fide error not-  
6           withstanding the maintenance of procedures  
7           reasonably adapted to avoid such errors, and  
8           within 45 days after the discovery of the com-  
9           pliance failure and prior to the institution of  
10          any action under this section or the receipt of  
11          written notice of the compliance failure, the  
12          borrower is notified of the compliance failure,  
13          appropriate restitution is made, and whatever  
14          adjustments are necessary are made to the loan  
15          to either, at the choice of the borrower—

16               “(i) make the high-cost home loan  
17               satisfy the requirements of this section; or

18               “(ii) change the terms of the loan in  
19               a manner beneficial to the borrower so that  
20               the loan will no longer be considered a  
21               high-cost home loan subject to the provi-  
22               sions of this section.

23           “(2) BONA FIDE ERROR.—For purposes of  
24          paragraph (1), examples of a bona fide error include  
25          clerical, calculation, computer malfunction and pro-

1       gramming, and printing errors. An error of legal  
 2       judgment with respect to a person’s obligations  
 3       under this section is not a bona fide error.”.

4       (e) CONFIRMATION OF COMPLETION OF HOME IM-  
 5       PROVEMENTS REQUIRED.—Section 129(i) of the Truth in  
 6       Lending Act (15 U.S.C. 1639(i)) is amended in the matter  
 7       preceding paragraph (1), by striking “, other than—” and  
 8       inserting “unless the creditor has received a certification  
 9       of completion or other evidence that the home improve-  
 10      ments covered under the contract have been completed  
 11      and then only—”.

12   **SEC. 4. REQUIREMENTS FOR ALL CONFORMING HOME**  
 13                   **LOANS.**

14       (a) IN GENERAL.—Chapter 2 of the Truth in Lend-  
 15      ing Act (15 U.S.C. 1601 et seq.) is amended by inserting  
 16      after section 129 the following new section:

17   **“SEC. 129A. REQUIREMENTS FOR ALL CONFORMING HOME**  
 18                   **LOANS.**

19       “(a) DEFINITION OF CONFORMING HOME LOAN.—  
 20      For the purpose of this section, the term ‘conforming  
 21      home loan’ means a loan, other than an extension of credit  
 22      under an open end credit plan or a reverse mortgage  
 23      transaction, where—

24                   “(1) the principal amount of the loan does not  
 25                   exceed the conforming loan size limit for a single-

1 family dwelling as established from time to time by  
2 the Federal National Mortgage Association;

3 “(2) the borrower is an individual or are indi-  
4 viduals;

5 “(3) the debt is incurred by the borrower pri-  
6 marily for personal, family, or household purposes;  
7 and

8 “(4) the loan is secured by a mortgage or deed  
9 of trust on real estate upon which there is located  
10 or there is to be located a structure or structures de-  
11 signed principally for occupancy of from 1 to 4 fami-  
12 lies which is or will be occupied by the borrower as  
13 the borrower’s principal dwelling.

14 “(b) APPRAISER INDEPENDENCE.—

15 “(1) IN GENERAL.—No creditor or mortgage  
16 broker may, directly or indirectly, coerce, intimidate,  
17 or withhold compensation from an appraiser for the  
18 purpose of influencing the independent judgment of  
19 the appraiser with respect to the value of real estate  
20 that is to be covered by a conforming home loan or  
21 is being offered as security according to an applica-  
22 tion for a conforming home loan.

23 “(2) CRIMINAL PENALTY.—Any creditor or  
24 mortgage broker who knowingly violates paragraph

1       (1) shall be fined under title 18, United States Code,  
2       imprisoned for not more than 5 years, or both.

3               “(3) CIVIL MONEY PENALTY.—

4               “(A) IN GENERAL.—In the case of any  
5       person who knowingly violates paragraph (1),  
6       the agency responsible under section 108 for  
7       enforcing the requirements of this title with re-  
8       spect to such person may impose a civil money  
9       penalty on the person for each such violation.

10              “(B) NEGLIGENCE.—In the case of any  
11      person who negligently violates paragraph (1),  
12      the agency responsible under section 108 for  
13      enforcing the requirements of this title with re-  
14      spect to such person may impose a civil money  
15      penalty on the person for each such violation.

16              “(C) TIME LIMITATIONS.—

17              “(i) ASSESSMENTS.—An agency re-  
18      ferred to in subparagraph (A) or (B) may  
19      assess a civil penalty under such subsection  
20      at any time before the end of the 6-year  
21      period beginning on the date of the viola-  
22      tion with respect to which the penalty is  
23      assessed.

24              “(ii) CIVIL ACTIONS.—An agency re-  
25      ferred to in subparagraph (A) or (B) may

1           commence a civil action to recover a civil  
2           penalty assessed under such subparagraph  
3           at any time before the end of the 2-year  
4           period beginning on the later of—

5                     “(I) the date the penalty was as-  
6                     sessed; or

7                     “(II) the date any judgment be-  
8                     comes final in any criminal action  
9                     under paragraph (2) in connection  
10                    with the same violation with respect  
11                    to which the penalty is assessed.

12                   “(D) CRIMINAL PENALTY NOT EXCLUSIVE  
13                   OF CIVIL PENALTY.—A civil money penalty may  
14                   be imposed under this paragraph with respect  
15                   to any violation of paragraph (1) notwith-  
16                   standing the fact that a criminal penalty is im-  
17                   posed with respect to the same violation.

18           “(c) NONCOMPLIANT LOANS PROHIBITED FROM  
19 MORTGAGE-BACKED SECURITY POOLS.—

20                   “(1) ISSUANCE OF SECURITIES FROM TAINTED  
21                   POOLS PROHIBITED.—No person may issue a secu-  
22                   rity representing an interest in or an obligation  
23                   backed by a pool of mortgages, deeds of trust, or  
24                   other security interests created in connection with  
25                   consumer credit transactions secured by principal

1 dwellings of consumers if such person knows or has  
2 reason to believe that any high-cost mortgage or  
3 conforming home loan included in such pool violates  
4 any provision of this section or section 129.

5 “(2) INCLUSION IN POOLS.—No creditor or  
6 other person may knowingly include any high-cost  
7 mortgage or conforming home loan that violates any  
8 provision of this section or section 129 in any pool  
9 described in paragraph (1).”.

10 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

11 (1) The first sentence of section 130(a) of the  
12 Truth in Lending Act (15 U.S.C. 1640(a)) is  
13 amended, in the portion of such section that pre-  
14 cedes paragraph (1), by inserting “, and to the ex-  
15 tent subject to any requirement of this title, any  
16 mortgage broker (including any person acting as a  
17 mortgage broker),” after “any creditor”.

18 (2) Section 130(b) of the Truth in Lending Act  
19 (15 U.S.C. 1640(b)) is amended—

20 (A) by striking “creditor or assignee” the  
21 first place such term appears and inserting  
22 “creditor, assignee, or, to the extent subject to  
23 any requirement of this title, any mortgage  
24 broker (including any person acting as a mort-  
25 gage broker),”;



1 (B) by striking “creditor’s or assignee’s  
2 own procedures” and inserting “creditor’s, as-  
3 signee’s, or mortgage broker’s own procedure”;  
4 and

5 (C) by striking “the creditor or assignee  
6 notifies” and inserting “creditor, assignee, or  
7 mortgage broker notifies”.

8 (3) Section 130(c) of the Truth in Lending Act  
9 (15 U.S.C. 1640(c)) is amended—

10 (A) by striking “creditor or assignee” the  
11 first place such term appears and inserting  
12 “creditor, assignee, or, to the extent subject to  
13 any requirement of this title, any mortgage  
14 broker (including any person acting as a mort-  
15 gage broker),”; and

16 (B) by striking “if the creditor or assignee  
17 shows” and inserting “if the creditor, assignee,  
18 or mortgage broker shows”.

19 (4) The third sentence of section 130(e) of the  
20 Truth in Lending Act (15 U.S.C. 1640(e)) is  
21 amended by inserting “or 129A” after “section  
22 129”.

23 (c) CLERICAL AMENDMENT.—The table of sections  
24 for chapter 2 of the Truth in Lending Act (15 U.S.C.

1 1601 et seq.) is amended by inserting after the item relat-  
 2 ing to section 129 the following new item:

“129A. Requirements for all conforming home loans.”.

3 **SEC. 5. ALTERNATIVE MAXIMUM AMOUNT OF CIVIL LIABIL-**  
 4 **ITY FOR VIOLATIONS INVOLVING HIGH-COST**  
 5 **MORTGAGES AND CONFORMING LOANS.**

6 (a) ALTERNATIVE MAXIMUM AMOUNT OF CIVIL LI-  
 7 ABILITY.—Section 129 of the Truth in Lending Act (15  
 8 U.S.C. 1639) is amended by inserting after subsection (w)  
 9 (as added by section 3(d) of this Act) the following new  
 10 subsection:

11 “(x) ALTERNATIVE MAXIMUM AMOUNT OF CIVIL LI-  
 12 ABILITY.—Notwithstanding any maximum amount limita-  
 13 tion contained in section 130, any creditor, and to the ex-  
 14 tent subject to any requirement of this title, any mortgage  
 15 broker (including any person acting as a mortgage  
 16 broker), who fails to comply with section 129, in connec-  
 17 tion with any high-cost mortgage, or with section 129A,  
 18 in connection with any conforming loan, shall be liable  
 19 for—

20 “(1) in the case of an individual action, the  
 21 greater of—

22 “(A) the amount determined under section  
 23 130; or

24 “(B) the sum of the amount of the prin-  
 25 cipal and the total amount of all finance

1 charges and fees paid by the consumer with re-  
 2 spect to such mortgage or loan; and

3 “(2) in the case of a class action, the greater  
 4 of—

5 “(A) the amount determined under section  
 6 130; or

7 “(B) as to each member of the class in any  
 8 class action or series of class actions arising out  
 9 of the same failure to comply by the same cred-  
 10 itor, the sum of the amount of the principal and  
 11 the total amount of all finance charges and fees  
 12 paid by the consumer with respect to such  
 13 mortgage or loan.”.

14 **SEC. 6. EFFECTIVE DATE.**

15 (a) IN GENERAL.—Except as provided in subsection  
 16 (b), this Act and the amendments made by this Act shall  
 17 take effect at the end of the 90-day period beginning on  
 18 the date of the enactment of this Act.

19 (b) HMDA REQUIREMENTS.—Notwithstanding sub-  
 20 section (a), the amendments made by section 2 shall take  
 21 effect on January 1 of the first calendar year beginning  
 22 after the date of the enactment of this Act.

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