

108TH CONGRESS
2D SESSION

H. R. 4719

To amend the Truth in Lending Act to limit the liability of any assignee of a creditor, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 25, 2004

Mr. BAKER (for himself, Mr. ROYCE, and Mr. HENSARLING) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Truth in Lending Act to limit the liability of any assignee of a creditor, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Mortgage Market Pro-
5 tection Act of 2004”.

6 **SEC. 2. LIMITATION ON LIABILITY OF THE ASSIGNEE OF A**
7 **CREDITOR.**

8 (a) VIOLATIONS APPARENT ON FACE OF DISCLO-
9 SURE STATEMENTS.—Section 131(a) of Truth in Lending
10 Act (15 U.S.C. 1641(a)) is amended—

1 (1) by striking “(a) Except as otherwise” and
2 inserting “(a) CIVIL ACTION AGAINST ASSIGNEES—

3 “(1) IN GENERAL.—Except as otherwise pro-
4 vided”;

5 (2) by striking the 2nd sentence; and

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

8 “(2) VIOLATIONS APPARENT ON FACE OF DOC-
9 UMENTS.—For the purpose of this section, a viola-
10 tion is apparent on the face of the disclosure docu-
11 ment if—

12 “(A) the disclosure can be determined to
13 be incomplete or inaccurate from a comparison
14 of any disclosure provided pursuant to section
15 127, 127A, 128, or 129, a uniform disclosure
16 statement provided pursuant to section 4 of the
17 Real Estate Settlement Procedures Act of
18 1974, the promissory note or other instrument
19 signed by the consumer under which credit was
20 extended, and any itemization of the amount fi-
21 nanced; or

22 “(B) any disclosure provided pursuant to
23 section 127, 127A, 128, or 129 does not con-
24 tain terms required to be used under this
25 title.”.

1 (b) REPEAL OF RIGHT TO RESCIND ANY CREDIT
2 TRANSACTION AS AGAINST AN ASSIGNEE.—Subsection (c)
3 of section 131 of the Truth in Lending Act (15 U.S.C.
4 1641(c)) is amended to read as follows:

5 “(c) [Repealed]”.

6 (c) LIMITATION ON RIGHTS UPON ASSIGNMENT OF
7 HIGH COST MORTGAGES.—Subsection (d) of section 131
8 of Truth in Lending Act (15 U.S.C. 1641(d) is amended—
9 (1) by striking paragraph (1) and inserting the
10 following new paragraph:

11 “(1) IN GENERAL.—Notwithstanding any other
12 provision of law, any person who purchases or is
13 otherwise assigned a mortgage referred to in section
14 103(aa) shall be liable, jointly and severally with the
15 original creditor and any prior or subsequent as-
16 signee, for all material violations committed by the
17 original creditor, to the extent that the violation is
18 apparent on the face of the disclosure.”;

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

21 “(2) LIMITATION ON DAMAGES.—Notwith-
22 standing any other provision of law—

23 “(A) a cause of action for a liability de-
24 scribed in paragraph (1) may be asserted by the
25 borrower only in an individual action;

1 “(B) in any such action the amount of re-
 2 lief shall not exceed the sum of all of the
 3 amounts that the borrower has paid in connec-
 4 tion with the loan and reasonable attorney’s
 5 fees in such individual action;

6 “(C) no such action may be brought after
 7 the end of the 3-year period beginning on the
 8 the date of the violation giving rise to the liabil-
 9 ity; and

10 “(D) such cause of action shall constitute
 11 the exclusive remedy of the consumer against
 12 an assignee of a mortgage referred to in section
 13 103(aa).”; and

14 (3) by striking paragraph (3) and inserting the
 15 following new paragraph:

16 “(3) DENIAL OF RESCISSION RIGHTS AS
 17 AGAINST ASSIGNEES OF HIGH COST MORTGAGES.—
 18 Notwithstanding any other provision of this title, no
 19 provision of this title that permits a consumer to
 20 void or rescind a mortgage referred to in section
 21 103(aa) shall apply with respect to any assignee of
 22 such mortgage.”.

23 (d) TECHNICAL AND CONFORMING AMENDMENT.—
 24 Subsection (e) of section 131 of the Truth in Lending Act
 25 (15 U.S.C. 1641(e)) is amended to read as follows:

1 “(e) [Repealed]”.

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