

109TH CONGRESS  
2D SESSION

# S. 2280

To stop transactions which operate to promote fraud, risk, and under-development, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 14, 2006

Mr. OBAMA (for himself, Mr. DURBIN, and Mr. MENENDEZ) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To stop transactions which operate to promote fraud, risk, and under-development, 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 “Stopping Transactions  
5       which Operate to Promote Fraud, Risk, and Under-  
6       development Act” or the “STOP FRAUD Act”.

7       **SEC. 2. MORTGAGE FRAUD.**

8       (a) IN GENERAL.—Chapter 63 of title 18, United  
9       States Code, is amended by adding at the end the fol-  
10      lowing:

1 **“§ 1351. Mortgage fraud**

2 “(a) IN GENERAL.—It shall be unlawful for any  
3 mortgage professional to knowingly execute, or attempt to  
4 execute, a scheme or artifice—

5 “(1) to defraud any natural person or financial  
6 institution in connection with the offer or extension  
7 of consumer credit (as such term is defined in sub-  
8 sections (e) and (h) under section 103 of the Truth  
9 in Lending Act (15 U.S.C. 1602(e) and (h))), which  
10 credit is, or is to be, secured by an interest—

11 “(A) in real property; or

12 “(B) in personal property used or expected  
13 to be used as the principal dwelling (as such  
14 term is defined under section 103(v) of the  
15 Truth in Lending Act (15 U.S.C. 1602(v))) of  
16 the natural person to whom such consumer  
17 credit is offered or extended; or

18 “(2) to obtain, by means of false or fraudulent  
19 pretenses, representations, or promises, any money  
20 or property, including without limitation in the form  
21 of fees or charges, from a natural person in connec-  
22 tion with an extension of consumer credit secured by  
23 an interest—

24 “(A) in real property; or

1 “(B) in personal property used or expected  
2 to be used as the principal dwelling of such nat-  
3 ural person;

4 “(b) PENALTY.—Any person who violates paragraph  
5 (1) shall be fined not more than \$5,000,000, or impris-  
6 oned not more than 35 years, or both.

7 “(c) PRIVATE RIGHT OF ACTION BY PERSONS AG-  
8 GRIEVED.—Any person aggrieved by a violation of this  
9 section, or any regulation under this section may, but shall  
10 not be required to, file suit in any district court of the  
11 United States having jurisdiction of the parties to such  
12 suit—

13 “(1) without respect to the amount in con-  
14 troversy;

15 “(2) without regard to the citizenship of the  
16 parties; and

17 “(3) without regard to exhaustion of any ad-  
18 ministrative remedies.

19 “(d) RULE OF CONSTRUCTION.—Nothing in this sec-  
20 tion shall be construed to modify, lessen, or otherwise af-  
21 fect any other provision of this title relating to the rights  
22 afforded to financial institutions.

23 “(e) DEFINITION.—As used in this section, the term  
24 ‘mortgage professional’ includes real estate appraisers,  
25 real estate accountants, real estate attorneys, real estate

1 brokers, mortgage brokers, mortgage underwriters, mort-  
 2 gage processors, mortgage settlement companies, mort-  
 3 gage title companies, mortgage loan originators, and any  
 4 other provider of professional services engaged in the  
 5 mortgage process.”.

6 (b) TABLE OF SECTIONS.—The table of sections for  
 7 chapter 63 of title 18, United States Code, is amended  
 8 by inserting after the item relating to section 1350 the  
 9 following:

“1351. Mortgage fraud.”.

10 (c) CONFORMING AMENDMENT.—Section 3293(2) of  
 11 title 18, United States Code, is amended by striking “or  
 12 1343” and inserting “, 1343, or 1351”.

13 **SEC. 3. MANDATORY REPORTING REQUIREMENTS.**

14 (a) DEFINITION OF FINANCIAL INSTITUTION.—Sec-  
 15 tion 5312(a)(2)(U) of title 31, United States Code, is  
 16 amended by—

17 (1) inserting “and companies” after “persons”;

18 (2) inserting “, transactions,” after “closings”;

19 and

20 (3) inserting after “settlements” the following:

21 “, including the Federal National Mortgage Associa-  
 22 tion, the Government National Mortgage Associa-  
 23 tion, the Federal Home Loan Mortgage Corporation,  
 24 mortgage appraisers, real estate accountants, real  
 25 estate attorneys, real estate brokers, mortgage un-

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury shall issue regulations to implement the amendments made in subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to implement the regulations issued under subsection (b).

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Attorney General, in consultation with the Secretary of the Treasury, shall establish a system by which mortgage brokers, lenders, and other authorized mortgage professionals may register

1 and receive updates from Federal law enforcement agen-  
 2 cies on—

3 (1) suspicious activity trends in the mortgage  
 4 industry; and

5 (2) mortgage fraud-related convictions.

6 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
 7 are authorized to be appropriated such sums as are nec-  
 8 essary to establish and maintain the system required  
 9 under subsection (a).

10 **SEC. 5. DEBARRED OR CENSURED MORTGAGE PROFES-**  
 11 **SIONAL DATABASE.**

12 (a) ESTABLISHMENT.—

13 (1) IN GENERAL.—Not later than 18 months  
 14 after the date of enactment of this Act, the Attorney  
 15 General shall establish a Debarred or Censured  
 16 Mortgage Professional Database that may be  
 17 accessed by authorized banks and mortgage profes-  
 18 sionals to determine the Federal and State bar sta-  
 19 tus of mortgage professionals regulated by any Fed-  
 20 eral or State agency.

21 (2) PRIVATE CERTIFICATION BOARDS.—Any  
 22 widely accepted private certification board shall have  
 23 authority to access, maintain, and update the  
 24 Debarred or Censured Mortgage Professional Data-  
 25 base established in paragraph (1) for purposes of

1 adding or removing the information of any mortgage  
 2 professional contained in such Database.

3 (3) DEFINITION OF WIDELY ACCEPTED PRI-  
 4 VATE CERTIFICATION BOARD.—Not later than 18  
 5 months after the date of enactment of this Act, the  
 6 Attorney General, in consultation with the Secretary  
 7 of the Treasury, shall determine the definition of the  
 8 term “widely accepted private certification board”.

9 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
 10 are authorized to be appropriated such sums as are nec-  
 11 essary to establish and maintain the database required  
 12 under subsection (a).

13 **SEC. 6. HOUSING COUNSELING.**

14 Section 106 of the Housing and Urban Development  
 15 Act of 1968 (12 U.S.C. 1701x), is amended by adding  
 16 at the end the following:

17 “(g) COUNSELING FOR MORTGAGE FRAUD.—

18 “(1) IN GENERAL.—The Secretary is authorized  
 19 to provide, or contract with public or private organi-  
 20 zations to provide, information, advice, counseling,  
 21 and technical assistance to tenants, homeowners,  
 22 and other consumers with respect to mortgage  
 23 fraud, as such activity is described in section 1351  
 24 of title 18, United States Code.

1           “(2) PREFERENCE FOR STATES WITH HIGHER  
 2 INCIDENTS OF MORTGAGE FRAUD.—In distributing  
 3 any funds authorized under paragraph (3), the Sec-  
 4 retary shall give preference to those States with the  
 5 highest rates of mortgage fraud, as such rates are  
 6 determined by—

7                   “(A) the Director of the Federal Bureau of  
 8 Investigation; and

9                   “(B) mortgage industry statistics.

10           “(3) AUTHORIZATION OF APPROPRIATIONS.—  
 11 There are authorized to be appropriated  
 12 \$10,000,000, to implement the provisions of this  
 13 subsection.”.

14 **SEC. 7. STATE APPRAISAL DEMONSTRATION PROJECTS.**

15       (a) IN GENERAL.—Not later than 18 months after  
 16 the date of enactment of this Act, the Secretary of Hous-  
 17 ing and Urban Development shall provide grants to State  
 18 appraisal agencies to improve the monitoring and enforce-  
 19 ment of housing appraisal regulations in that State.

20       (b) APPLICATION.—Each State appraisal agency  
 21 seeking a grant under this section shall submit an applica-  
 22 tion to the Secretary of Housing and Urban Development  
 23 at such time, in such manner, and containing such infor-  
 24 mation as the Secretary may require.



1       (c) PREFERENCE FOR STATES WITH HIGHER INCI-  
 2 DENTS OF MORTGAGE FRAUD.—In distributing any grant  
 3 amounts authorized under this section, the Secretary of  
 4 Housing and Urban Development shall give preference to  
 5 those States with the highest rates of mortgage fraud, as  
 6 such rates are determined by—

7           (1) the Director of the Federal Bureau of In-  
 8 vestigation; and

9           (2) mortgage industry statistics.

10       (d) AUTHORIZATION OF APPROPRIATIONS.—There  
 11 are authorized to be appropriated \$10,000,000, to imple-  
 12 ment the provisions of this section.

13 **SEC. 8. LAW ENFORCEMENT GRANTS TO STATE AND LOCAL**  
 14 **LAW ENFORCEMENT AGENCIES.**

15       (a) IN GENERAL.—Not later than 18 months after  
 16 the date of enactment of this Act, the Attorney General  
 17 shall provide grants to assist State and local law enforce-  
 18 ment agencies in—

19           (1) establishing and improving mortgage fraud  
 20 task forces; and

21           (2) improving communications regarding mort-  
 22 gage fraud cases between such agencies and other  
 23 Federal, State and local law enforcement agencies.

24       (b) APPLICATION.—Each State or local law enforce-  
 25 ment agency seeking a grant under this section shall sub-

1 mit an application to the Attorney General at such time,  
2 in such manner, and containing such information as the  
3 Attorney General may require.

4 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
5 are authorized to be appropriated \$40,000,000, to imple-  
6 ment the provisions of this section.

7 **SEC. 9. ADDITIONAL DOJ FUNDING.**

8 In addition to any other amounts otherwise author-  
9 ized to be appropriated under this Act, there are author-  
10 ized to be appropriated to the Attorney General  
11 \$5,000,000, to increase mortgage fraud investigation ef-  
12 forts undertaken by the Department of Justice.

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