

110TH CONGRESS  
1ST SESSION

# H. R. 3837

To require escrows for certain mortgage loans, to improve mortgage servicing, to promote sustainable homeownership opportunities, to enhance appraisal quality and standards, to better appraisal oversight, to mitigate appraiser pressure, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 16, 2007

Mr. KANJORSKI (for himself, Mr. FRANK of Massachusetts, Mr. WILSON of Ohio, and Mr. HODES) introduced the following bill; which was referred to the Committee on Financial Services

---

## A BILL

To require escrows for certain mortgage loans, to improve mortgage servicing, to promote sustainable homeownership opportunities, to enhance appraisal quality and standards, to better appraisal oversight, to mitigate appraiser pressure, 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 “Escrow, Appraisal, and  
5 Mortgage Servicing Improvements Act”.

6 **SEC. 2. TABLE OF CONTENTS.**

Sec. 1. Short title.

Sec. 2. Table of contents.

#### TITLE I—MORTGAGE SERVICING

- Sec. 101. Escrow and impound accounts relating to certain consumer credit transactions.
- Sec. 102. Disclosure notice required for consumers who opt out of escrow services.
- Sec. 103. Real Estate Settlement Procedures Act of 1974 amendments.
- Sec. 104. Mortgage servicing studies required.
- Sec. 105. Escrows included in repayment analysis.

#### TITLE II—APPRAISAL ACTIVITIES

- Sec. 201. Property appraisal requirements.
- Sec. 202. Unfair and deceptive practices and acts relating to certain consumer credit transactions.
- Sec. 203. Amendments relating to appraisal subcommittee of FIEC, appraiser independence, and approved appraiser education.
- Sec. 204. Study required on improvements in appraisal process and compliance programs.
- Sec. 205. Consumer appraisal disclosure.

## 1 **TITLE I—MORTGAGE SERVICING**

### 2 **SEC. 101. ESCROW AND IMPOUND ACCOUNTS RELATING TO** 3 **CERTAIN CONSUMER CREDIT TRANS-** 4 **ACTIONS.**

5 (a) IN GENERAL.—Chapter 2 of the Truth in Lend-  
 6 ing Act (15 U.S.C. 1631 et seq.) is amended by inserting  
 7 after section 129 the following new section:

### 8 **“SEC. 129A. ESCROW OR IMPOUND ACCOUNTS RELATING** 9 **TO CERTAIN CONSUMER CREDIT TRANS-** 10 **ACTIONS.**

11 “(a) IN GENERAL.—Except as provided in subsection  
 12 (b) or (c), a creditor, in connection with the formation or  
 13 consummation of a consumer credit transaction secured  
 14 by the principal dwelling of the consumer, shall establish,  
 15 at the time of the consummation of such transaction, an

1 escrow or impound account for the payment of taxes and  
2 hazard insurance, and, if applicable, flood insurance,  
3 mortgage insurance, ground rents, and any other required  
4 periodic payments or premiums with respect to the prop-  
5 erty or the loan terms, as provided in, and in accordance  
6 with, this section, unless such account already exists.

7 “(b) WHEN REQUIRED.—No impound, trust, or other  
8 type of account for the payment of property taxes, insur-  
9 ance premiums, or other purposes relating to the property  
10 may be required as a condition of a real property sale con-  
11 tract or a loan secured by a deed of trust or mortgage  
12 on real property containing only a single-family, owner-  
13 occupied dwelling, except when—

14 “(1) any such impound, trust, or other type of  
15 escrow or impound account for such purposes is re-  
16 quired by Federal or State law;

17 “(2) a loan is made, guaranteed, or insured by  
18 a State or Federal governmental lending or insuring  
19 agency;

20 “(3) the consumer’s debt-to-income ratio at the  
21 time the home mortgage is established taking into  
22 account income from all sources including the con-  
23 sumer’s employment exceeds 40 percent;

24 “(4) the transaction is secured by—

1           “(A) a first mortgage or lien on the con-  
2           sumer’s principal dwelling and the annual per-  
3           centage rate on the credit, at the time of con-  
4           summation of the transaction, will exceed by  
5           more than 2.5 percentage points the yield on  
6           Treasury securities having comparable periods  
7           of maturity on the 15th day of the month im-  
8           mediately preceding the month in which the ap-  
9           plication of the extension of credit is received by  
10          the creditor; or

11          “(B) a junior or subordinate mortgage on  
12          the consumer’s principal dwelling and the an-  
13          nual percentage rate on the credit, at the time  
14          of consummation of the transaction, will exceed  
15          by more than 5 percentage points the yield on  
16          Treasury securities having comparable periods  
17          of maturity on the 15th day of the month im-  
18          mediately preceding the month in which the ap-  
19          plication of the extension of credit is received by  
20          the creditor;

21          “(5) a consumer obtains a mortgage referred to  
22          in section 103(aa);

23          “(6) the original principal amount of such loan  
24          at the time of consummation of the transaction is—

1           “(A) 90 percent or more of the sale price,  
2           if the property involved is purchased with the  
3           proceeds of the loan; or

4           “(B) 90 percent or more of the appraised  
5           value of the property securing the loan;

6           “(7) the combined principal amount of all loans  
7           secured by the real property exceeds 95 percent of  
8           the appraised value of the property securing the  
9           loans at the time of consummation of the last trans-  
10          action;

11          “(8) the consumer was the subject of a pro-  
12          ceeding under title 11, United States Code, at any  
13          time during the 10-year period preceding the date of  
14          the transaction (as determined on the basis of the  
15          date of entry of the order for relief or the date of  
16          adjudication, as the case may be, with respect to  
17          such proceeding); or

18          “(9) so required by the Board pursuant to reg-  
19          ulation.

20          “(c) DURATION OF ESCROW OR IMPOUND AC-  
21          COUNT.—An escrow or impound account established pur-  
22          suant to this section, shall remain in existence for a min-  
23          imum period of 5 years, unless the underlying mortgage  
24          establishing the account is terminated.

1       “(d) ADMINISTRATION OF ESCROW OR IMPOUND AC-  
2 COUNTS.—

3               “(1) IN GENERAL.—Except as may otherwise  
4 be provided for in this title or in regulations pre-  
5 scribed by the Board, escrow or impound accounts  
6 established pursuant to this section shall be estab-  
7 lished in an insured depository institution.

8               “(2) ADMINISTRATION.—Except as provided in  
9 this section or regulations prescribed under this sec-  
10 tion, an escrow or impound account subject to this  
11 section shall be administered in accordance with—

12                       “(A) the Real Estate Settlement Proce-  
13 dures Act of 1974 and regulations prescribed  
14 under such Act; and

15                       “(B) the law of the State where the real  
16 property securing the consumer credit trans-  
17 action is located.

18               “(3) PAYMENT OF INTEREST.—If prescribed by  
19 applicable Federal or State law, each creditor shall  
20 pay interest to the consumer on the amount held in  
21 any impound, trust, or escrow account that is sub-  
22 ject to this section in the manner as prescribed by  
23 that applicable Federal or State law.

24       “(e) DISCLOSURES RELATING TO ESCROW OR IM-  
25 POUND ACCOUNT.—In the case of any impound, trust, or

1 escrow account that is subject to this section, the creditor  
2 shall disclose by written notice to the consumer within 3  
3 business days before the consummation of the consumer  
4 credit transaction giving rise to such account the following  
5 information:

6           “(1) The fact that an escrow or impound ac-  
7           count will be established at consummation of the  
8           transaction.

9           “(2) The amount required at closing to initially  
10          fund the escrow or impound account.

11          “(3) The amount, in the initial year, of the esti-  
12          mated taxes and hazard insurance, including flood  
13          insurance, if applicable, and any other required peri-  
14          odic payments or premiums that reflects the taxable  
15          assessed value of the real property securing the  
16          transaction, including the value of any improvements  
17          on the property or to be constructed on the property  
18          (whether or not such construction will be financed  
19          from the proceeds of the transaction).

20          “(4) The estimated monthly amount payable for  
21          taxes, hazard insurance (including flood insurance, if  
22          applicable) and any other required periodic pay-  
23          ments or premiums.

24          “(5) The fact that if the consumer chooses to  
25          terminate the account after 5 years, the consumer

1 will become responsible for the payment of all taxes,  
2 hazard insurance, and flood insurance, if applicable,  
3 as well as any other required periodic payments or  
4 premiums on the property unless a new escrow or  
5 impound account is established.

6 “(f) DEFINITIONS.—For purposes of this section, the  
7 following definitions shall apply:

8 “(1) FLOOD INSURANCE.—The term ‘flood in-  
9 surance’ means flood insurance coverage provided  
10 under the national flood insurance program pursu-  
11 ant to the National Flood Insurance Act of 1968.

12 “(2) HAZARD INSURANCE.—The term ‘hazard  
13 insurance’ shall have the same meaning as provided  
14 under the law of the State where the real property  
15 securing the consumer credit transaction is lo-  
16 cated.”.

17 (b) IMPLEMENTATION.—

18 (1) REGULATIONS.—The Board shall prescribe,  
19 in final form, such regulations as the Board deter-  
20 mines to be necessary to implement the amendments  
21 made by subsection (a) before the end of the 120-  
22 day period beginning on the date of the enactment  
23 of this Act.

24 (2) EFFECTIVE DATE.—The amendments made  
25 by subsection (a) shall only apply to covered mort-



1       gage loans consummated after the end of the 1-year  
 2       period beginning on the date of enactment of this  
 3       Act.

4       (c) CLERICAL AMENDMENT.—The table of sections  
 5       for chapter 2 of the Truth in Lending Act is amended  
 6       by inserting after the item relating to section 129 the fol-  
 7       lowing new item:

“129A. Escrow or impound accounts relating to certain consumer credit trans-  
 actions.”.

8       **SEC. 102. DISCLOSURE NOTICE REQUIRED FOR CON-**  
 9                   **SUMERS WHO OPT OUT OF ESCROW SERV-**  
 10                  **ICES.**

11       (a) IN GENERAL.—Section 129A of the Truth in  
 12       Lending Act (as added by section 101 of this title) is  
 13       amended by adding at the end the following new sub-  
 14       section:

15       “(g) DISCLOSURE NOTICE REQUIRED FOR CON-  
 16       SUMERS WHO OPT OUT OF ESCROW SERVICES.—

17               “(1) IN GENERAL.—If—

18                   “(A) an impound, trust, or other type of  
 19                   account for the payment of property taxes, in-  
 20                   surance premiums, or other purposes relating to  
 21                   property securing a consumer credit transaction  
 22                   is not established in connection with the trans-  
 23                   action; or

1           “(B) a consumer chooses, at any time after  
2           such an account is established in connection  
3           with any such transaction, to close such ac-  
4           count,  
5           the creditor shall provide a timely and clearly writ-  
6           ten disclosure to the consumer that advises the con-  
7           sumer of the responsibilities of the consumer and  
8           implications for the consumer in the absence of any  
9           such account.

10           “(2) DISCLOSURE REQUIREMENTS.—Any dis-  
11           closure provided to a consumer under paragraph (1)  
12           shall include the following:

13           “(A) Information concerning any applica-  
14           ble fees associated with either the non-establish-  
15           ment of any such account at the time of the  
16           transaction, or any subsequent closure of any  
17           such account.

18           “(B) A clear and prominent notice that the  
19           consumer is responsible for personally and di-  
20           rectly paying the non-escrowed items, in addi-  
21           tion to paying the mortgage loan payment, in  
22           the absence of any such account, and the fact  
23           that the costs for taxes, insurance, and related  
24           fees can be substantial.

1           “(C) A clear explanation of the con-  
2           sequences of any failure to pay non-escrowed  
3           items, including the possible requirement for  
4           the forced placement of insurance by the cred-  
5           itor and the potentially higher cost (including  
6           any potential commission payments to the  
7           servicer) or reduced coverage for the consumer  
8           in the event of any such creditor-placed insur-  
9           ance.”.

10       (b) IMPLEMENTATION.—

11           (1) REGULATIONS.—The Board shall prescribe,  
12           in final form, such regulations as the Board deter-  
13           mines to be necessary to implement the amendments  
14           made by subsection (a) before the end of the 120-  
15           day period beginning on the date of the enactment  
16           of this Act.

17           (2) EFFECTIVE DATE.—The amendments made  
18           by subsection (a) shall only apply in accordance with  
19           the regulations established in paragraph (1) and be-  
20           ginning on the date occurring 180-days after the  
21           date of enactment of this Act.

22       **SEC. 103. REAL ESTATE SETTLEMENT PROCEDURES ACT OF**  
23           **1974 AMENDMENTS.**

24           (a) SERVICER PROHIBITIONS.—Section 6 of the Real  
25       Estate Settlement Procedures Act of 1974 (12 U.S.C.

1 2605) is amended by adding at the end the following new  
2 subsections:

3 “(k) SERVICER PROHIBITIONS.—

4 “(1) IN GENERAL.—A servicer of a federally re-  
5 lated mortgage shall not—

6 “(A) obtain force-placed insurance unless  
7 there is a reasonable basis to believe the bor-  
8 rower has failed to comply with the loan con-  
9 tract’s requirements to maintain property insur-  
10 ance;

11 “(B) charge fees for responding to valid  
12 qualified written requests under this section;

13 “(C) fail to take timely action to respond  
14 to a borrower’s requests to correct errors relat-  
15 ing to allocation of payments, final balances for  
16 purposes of paying off the loan, or avoiding  
17 foreclosure, or other standard servicer’s duties;

18 “(D) fail to respond within 10 business  
19 days to a request from a borrower to provide  
20 the identity, address, and other relevant infor-  
21 mation about the owner assignee of the loan; or

22 “(E) fail to comply with any other obliga-  
23 tion found by the Secretary to be appropriate to  
24 carry out the consumer protection purposes of  
25 this Act.

1           “(2) FORCE-PLACED INSURANCE DEFINED.—

2           For purposes of this subsection and subsections (l)  
3           and (m), the term ‘force-placed insurance’ means  
4           hazard insurance coverage obtained by a servicer of  
5           a federally related mortgage to protect the mortga-  
6           gee’s interest in the property secured by the mort-  
7           gage when the borrower has failed to maintain or  
8           renew hazard or flood insurance on such property as  
9           required of the borrower under the terms of the  
10          mortgage.

11          “(l) REQUIREMENTS FOR FORCE-PLACED INSUR-  
12         ANCE.—A servicer of a federally related mortgage shall  
13         not be construed as having a reasonable basis for obtain-  
14         ing force-placed insurance unless the requirements of this  
15         subsection have been met.

16          “(1) WRITTEN NOTICES TO BORROWER.—A  
17         servicer may not impose any charge on any borrower  
18         for force-placed insurance with respect to any prop-  
19         erty securing a federally related mortgage unless—

20                 “(A) the servicer has sent, by first-class  
21                 mail, a written notice to the borrower con-  
22                 taining—

23                         “(i) a reminder of the borrower’s obli-  
24                         gation to maintain hazard or flood insur-

1           ance on the property securing the federally  
2           related mortgage;

3           “(ii) a statement that the servicer  
4           does not have evidence of insurance cov-  
5           erage of such property;

6           “(iii) a clear and conspicuous state-  
7           ment of the procedures by which the bor-  
8           rower may demonstrate that the borrower  
9           already has insurance coverage; and

10          “(iv) a statement that the servicer  
11          may obtain such coverage at the borrower’s  
12          expense if the borrower does not provide  
13          such demonstration of the borrower’s exist-  
14          ing coverage in a timely manner;

15          “(B) the servicer has sent, by certified  
16          mail, a second written notice, at least 30 days  
17          after the mailing of the notice under subpara-  
18          graph (A) that contains all the information de-  
19          scribed in each clauses of such subparagraph;  
20          and

21          “(C) the servicer has not received from the  
22          borrower any demonstration of hazard insur-  
23          ance coverage or, if applicable, flood insurance  
24          coverage for the property securing the mortgage  
25          by the end of the 20-day period beginning on

1 the date the notice under subparagraph (B) was  
2 sent by the servicer.

3 “(2) SUFFICIENCY OF DEMONSTRATION.—A  
4 servicer of a federally related mortgage shall accept  
5 any reasonable form of confirmation from a bor-  
6 rower of existing insurance coverage, including  
7 verbal confirmation of the existing insurance policy  
8 number along with the identity of the insurance  
9 company or agent.

10 “(3) TERMINATION OF FORCE-PLACED INSUR-  
11 ANCE.—Within 15 days of the receipt by a servicer  
12 of confirmation of a borrower’s existing insurance  
13 coverage, the servicer shall—

14 “(A) terminate the force-placed insurance;  
15 and

16 “(B) refund to the consumer all force-  
17 placed insurance premiums paid by the bor-  
18 rower during any period during which the bor-  
19 rower’s insurance coverage and the force-placed  
20 insurance coverage were each in effect, and any  
21 related fees charged to the consumer’s account  
22 with respect to the force-placed insurance dur-  
23 ing such period.

24 “(4) PROHIBITION ON DEFAULT, LATE FEES,  
25 OR FORECLOSURE.—

1           “(A) IN GENERAL.—A servicer of a feder-  
2 ally related mortgage may not place the mort-  
3 gage in default, assess late fees, or initiate any  
4 foreclosure or similar proceedings with respect  
5 to such mortgage solely due to a borrower’s  
6 failure to pay force-placed insurance premiums  
7 or obtain hazard insurance or flood insurance  
8 coverage directly.

9           “(B) ADDITION TO LOAN AMOUNT.—The  
10 amount of force-placed insurance premiums re-  
11 lating to a federally related mortgage that have  
12 not been paid by the borrower may be treated  
13 by the servicer of such mortgage as additional  
14 debt of the borrower secured by the security in-  
15 strument and interest may be charged on such  
16 additional debt as provided in the loan instru-  
17 ments at the note rate.

18       “(m) LIMITATIONS ON FORCE-PLACED INSURANCE  
19 CHARGES.—All charges for force-placed insurance pre-  
20 miums shall be bona fide and reasonable in amount.

21       “(n) PROMPT CREDITING OF PAYMENTS RE-  
22 QUIRED.—All amounts received by a lender or a servicer  
23 shall be accepted and credited on the date received. The  
24 payments shall be credited to interest and principal due



1 on the loan, before crediting payment to taxes, insurance,  
2 or fees, except if taxes and insurance are in arrears.”.

3 (b) INCREASE IN PENALTY AMOUNTS.—Section 6(f)  
4 of the Real Estate Settlement Procedures Act of 1974 (12  
5 U.S.C. 2605(f)) is amended—

6 (1) in paragraphs (1)(B) and (2)(B), by strik-  
7 ing “\$1,000” each place such term appears and in-  
8 serting “\$3,000”; and

9 (2) in paragraph (2)(B)(i), by striking  
10 “\$500,000” and inserting “\$1,000,000”.

11 (c) DECREASE IN RESPONSE TIMES.—Section 6(e) of  
12 the Real Estate Settlement Procedures Act of 1974 (12  
13 U.S.C. 2605(e)) is amended—

14 (1) in paragraph (1)(A), by striking “20 days”  
15 and inserting “10 days”;

16 (2) in paragraph (2), by striking “60 days” and  
17 inserting “20 days”; and

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

20 “(4) LIMITED EXTENSION OF RESPONSE  
21 TIME.—The 20-day period described in paragraph  
22 (2) may be extended for not more than 25 days if,  
23 before the end of such 20-day period, the servicer  
24 notifies the borrower of the extension and the rea-  
25 sons for the delay in responding.”.

1 (d) REQUESTS FOR PAY-OFF AMOUNTS.—Section  
 2 6(e) of the Real Estate Settlement Procedures Act of 1974  
 3 (12 U.S.C. 2605(e)) is amended by inserting after para-  
 4 graph (4) (as added by subsection (c) of this section) the  
 5 following new paragraph:

6 “(5) REQUESTS FOR PAY-OFF AMOUNTS.—A  
 7 creditor or servicer shall send a payoff balance with-  
 8 in 5 business days of the receipt of a written request  
 9 for such balance from or on behalf of the borrower  
 10 by first-class mail.”.

11 (e) PROMPT REFUND OF ESCROW ACCOUNTS UPON  
 12 PAYOFF.—Section 6(g) of the Real Estate Settlement  
 13 Procedures Act of 1974 (12 U.S.C. 2605(g)) is amended  
 14 by adding at the end the following new sentence: “Any  
 15 balance in any such account at the time the loan is paid  
 16 off shall be promptly returned to the borrower.”.

17 **SEC. 104. MORTGAGE SERVICING STUDIES REQUIRED.**

18 (a) MORTGAGE SERVICING FRAUD.—

19 (1) STUDY.—The Secretary of Housing and  
 20 Urban Development, in consultation with the Board  
 21 of Governors of the Federal Reserve System and the  
 22 Federal Trade Commission, shall conduct a com-  
 23 prehensive study on mortgage servicing fraud.

24 (2) ISSUES TO BE INCLUDED.—In addition to  
 25 other issues the Secretary, Board, and Commission

1 may determine to be appropriate and possibly perti-  
2 nent to the study conducted under paragraph (1),  
3 the study shall include the following issues:

4 (A) A survey of the industry in order to  
5 examine the issue of the timely posting of pay-  
6 ments by servicers.

7 (B) The use of force-placed insurance.

8 (C) The employment of daily interest when  
9 payments are made after a due date.

10 (D) The charging of late fees on the entire  
11 outstanding principal.

12 (E) The charging of interest on servicing  
13 fees.

14 (F) The utilization of abusive collection  
15 practices.

16 (G) The charging of prepayment penalties  
17 when not authorized by either the note or law.

18 (H) The employment of unconscionable  
19 forbearance agreements.

20 (I) Foreclosure abuses.

21 (3) REPORT.—Before the end of the 12-month  
22 period beginning on the date of the enactment of  
23 this Act, the Secretary of Housing and Urban Devel-  
24 opment shall submit a report on the study conducted  
25 under this subsection to the Committee on Financial

1 Services of the House of Representatives and the  
2 Committee on Banking, Housing, and Urban Affairs  
3 of the Senate.

4 (b) MORTGAGE SERVICING IMPROVEMENTS.—

5 (1) STUDY.—The Secretary of Housing and  
6 Urban Development, in consultation with the Board  
7 of Governors of the Federal Reserve System and the  
8 Federal Trade Commission, shall conduct a com-  
9 prehensive study on means to improve the best prac-  
10 tices of the mortgage servicing industry, and Federal  
11 and State laws governing such industry.

12 (2) REPORT.—Before the end of the 18-month  
13 period beginning on the date of the enactment of  
14 this Act, the Secretary of Housing and Urban Devel-  
15 opment shall submit a report on the study conducted  
16 under this subsection to the Committee on Financial  
17 Services of the House of Representatives and the  
18 Committee on Banking, Housing, and Urban Affairs  
19 of the Senate, together with such recommendations  
20 for administrative or legislative action as the Sec-  
21 retary, in consultation with the Board and the Com-  
22 mission, may determine to be appropriate.

1 **SEC. 105. ESCROWS INCLUDED IN REPAYMENT ANALYSIS.**

2 (a) IN GENERAL.—Section 128(b) of the Truth in  
3 Lending Act (15 U.S.C. 1638(b)) is amended by adding  
4 at the end the following new paragraph:

5 “(4) REPAYMENT ANALYSIS REQUIRED TO IN-  
6 CLUDE ESCROW PAYMENTS.—

7 “(A) IN GENERAL.—In the case of any  
8 consumer credit transaction secured by a first  
9 mortgage or lien on the consumer’s principal  
10 residence for which an impound, trust, or other  
11 type of account has been or will be established  
12 in connection with the transaction for the pay-  
13 ment of property taxes, hazard and flood (if  
14 any) insurance premiums, or other purposes re-  
15 lating to the property, the information required  
16 to be provided under subsection (a) with respect  
17 to the amount of the repayments shall take into  
18 account the amount of any payment to such ac-  
19 count for each such repayment in accordance  
20 with section 10(a)(2) of the Real Estate Settle-  
21 ment Procedures Act of 1974.

22 “(B) ASSESSMENT VALUE.—The amount  
23 taken into account under subparagraph (A) for  
24 the payment of property taxes, hazard and flood  
25 (if any) insurance premiums, or other purposes  
26 shall reflect the taxable assessed value of the

1 real property securing the transaction, including  
 2 the value of any improvements on the property  
 3 or to be constructed on the property (whether  
 4 or not such construction will be financed from  
 5 the proceeds of the transaction).”.

## 6 **TITLE II—APPRAISAL** 7 **ACTIVITIES**

### 8 **SEC. 201. PROPERTY APPRAISAL REQUIREMENTS.**

9 Section 129 of the Truth in Lending Act (15 U.S.C.  
 10 1639) is amended by inserting after subsection (l) the fol-  
 11 lowing new subsection:

12 “(m) PROPERTY APPRAISAL REQUIREMENTS.—

13 “(1) IN GENERAL.—A creditor may not extend  
 14 credit in the form of a mortgage referred to in sec-  
 15 tion 103(aa) to any consumer without first obtaining  
 16 a written appraisal of the property to be mortgaged  
 17 prepared in accordance with the requirements of this  
 18 subsection.

19 “(2) APPRAISAL REQUIREMENTS.—

20 “(A) PHYSICAL PROPERTY VISIT.—An ap-  
 21 praisal of property to be secured by a mortgage  
 22 referred to in section 103(aa) does not meet the  
 23 requirement of this subsection unless it is per-  
 24 formed by a qualified appraiser who conducts a

1 physical property visit of the interior of the  
2 mortgaged property.

3 “(B) SECOND APPRAISAL UNDER CERTAIN  
4 CIRCUMSTANCES.—

5 “(i) IN GENERAL.—If the purpose of  
6 a mortgage referred to in section 103(aa)  
7 is to finance the purchase or acquisition of  
8 the mortgaged property from a person  
9 within 180 days of the purchase or acqui-  
10 sition of such property by that person at a  
11 price that was lower than the current sale  
12 price of the property, the creditor shall ob-  
13 tain a second appraisal from a different  
14 qualified appraiser. The second appraisal  
15 shall include an analysis of the difference  
16 in sale prices, changes in market condi-  
17 tions, and any improvements made to the  
18 property between the date of the previous  
19 sale and the current sale.

20 “(ii) NO COST TO CONSUMER.—The  
21 cost of any second appraisal required  
22 under clause (i) may not be charged to the  
23 consumer.

1                   “(C) QUALIFIED APPRAISER DEFINED.—

2                   For purposes of this subsection, the term

3                   ‘qualified appraiser’ means a person who—

4                   “(i) is certified or licensed by the

5                   State in which the property to be ap-

6                   praised is located; and

7                   “(ii) performs each appraisal in con-

8                   formity with the Uniform Standards of

9                   Professional Appraisal Practice and title

10                  XI of the Financial Institutions Reform,

11                  Recovery, and Enforcement Act of 1989,

12                  and the regulations prescribed under such

13                  title, as in effect on the date of the ap-

14                  praisal.

15                  “(3) FREE COPY OF APPRAISAL.—A creditor

16                  shall provide 1 copy of each appraisal conducted in

17                  accordance with this subsection in connection with a

18                  mortgage referred to in section 103(aa) to the con-

19                  sumer without charge, and at least 3 days prior to

20                  the transaction closing date.

21                  “(4) CONSUMER NOTIFICATION.—At the time

22                  of the initial mortgage application, the consumer

23                  shall be provided with a statement by the creditor

24                  that any appraisal prepared for the mortgage is for

25                  the sole use of the creditor, and that the consumer



1       may choose to have a separate appraisal conducted  
2       at their own expense.

3               “(5) VIOLATIONS.—In addition to any other li-  
4       ability to any person under this title, a creditor  
5       found to have willfully failed to obtain an appraisal  
6       as required in this subsection shall be liable to the  
7       consumer for the sum of \$2,000.”.

8   **SEC. 202. UNFAIR AND DECEPTIVE PRACTICES AND ACTS**  
9               **RELATING TO CERTAIN CONSUMER CREDIT**  
10              **TRANSACTIONS.**

11       (a) IN GENERAL.—Chapter 2 of the Truth in Lend-  
12      ing Act (15 U.S.C. 1631 et seq.) is amended by inserting  
13      after section 129A (as added by section 101 of this Act)  
14      the following new section:

15   **“SEC. 129B. UNFAIR AND DECEPTIVE PRACTICES AND ACTS**  
16               **RELATING TO CERTAIN CONSUMER CREDIT**  
17               **TRANSACTIONS.**

18       “(a) IN GENERAL.—It shall be unlawful, in providing  
19      any mortgage lending services for a consumer credit trans-  
20      action secured by the principal dwelling of the consumer  
21      or any mortgage brokerage services for such a transaction,  
22      to engage in any unfair or deceptive act or practice.

23       “(b) APPRAISAL INDEPENDENCE.—For purposes of  
24      subsection (a), unfair and deceptive practices shall in-  
25      clude—

1           “(1) any appraisal of a property offered as se-  
2           curity for repayment of the consumer credit trans-  
3           action that is conducted in connection with such  
4           transaction in which a person with an interest in the  
5           underlying transaction compensates, coerces, extorts,  
6           colludes, instructs, induces, bribes, or intimidates a  
7           person conducting or involved in an appraisal, or at-  
8           tempts, to compensate, coerce, extort, collude, in-  
9           struct, induce, bribe, or intimidate such a person,  
10          for the purpose of causing the appraised value as-  
11          signed, under the appraisal, to the property to be  
12          based on any factor other than the independent  
13          judgment of the appraiser;

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

17          “(3) seeking to influence an appraiser or other-  
18          wise to encourage a targeted value in order to facili-  
19          tate the making or pricing of the transaction; and

20          “(4) failing to timely compensate an appraiser  
21          for a completed appraisal regardless of whether the  
22          transaction closes.

23          “(c) EXCEPTIONS.—The requirements of subsection  
24          (b) shall not be construed as prohibiting a mortgage lend-  
25          er, mortgage broker, mortgage banker, real estate broker,

1 or any other person with an interest in a real estate trans-  
2 action from asking an appraiser to provide 1 or more of  
3 the following services:

4 “(1) Consider additional, appropriate property  
5 information, including the consideration of addi-  
6 tional comparable properties to make or support an  
7 appraisal.

8 “(2) Provide further detail, substantiation, or  
9 explanation for the appraiser’s value conclusion.

10 “(3) Correct errors in the appraisal report.

11 “(d) RULEMAKING PROCEEDINGS.—The Board and  
12 the Federal Trade Commission—

13 “(1) shall jointly prescribe regulations defining  
14 with specificity acts or practices which are unfair or  
15 deceptive in the provision of mortgage lending serv-  
16 ices for a consumer credit transaction secured by the  
17 principal dwelling of the consumer or mortgage bro-  
18 kerage services for such a transaction, within the  
19 meaning of subsections (a), (b), and (c); and

20 “(2) may jointly issue interpretive guidelines  
21 and general statements of policy with respect to un-  
22 fair or deceptive acts or practices in the provision of  
23 mortgage lending services for a consumer credit  
24 transaction secured by the principal dwelling of the  
25 consumer and mortgage brokerage services for such

1 a transaction, within the meaning of subsections (a),  
2 (b), and (c).

3 “(e) DEFINITIONS.—For purposes of this section, the  
4 terms ‘mortgage brokerage services’ and ‘mortgage lend-  
5 ing services’, have the meanings given such terms in sec-  
6 tion 13(f) of the Real Estate Settlement Procedures Act  
7 of 1974 (12 U.S.C. 2611(f)).

8 “(f) PENALTIES.—

9 “(1) FIRST VIOLATION.—In addition to the en-  
10 forcement provisions referred to in section 130, each  
11 person who violates this section shall forfeit and pay  
12 a civil penalty of not more than \$10,000 for each  
13 day any such violation continues.

14 “(2) SUBSEQUENT VIOLATIONS.—In the case of  
15 any person on whom a civil penalty has been im-  
16 posed under paragraph (1), paragraph (1) shall be  
17 applied by substituting ‘\$20,000’ for ‘\$10,000’ with  
18 respect to all subsequent violations.

19 “(3) ASSESSMENT.—The agency referred to in  
20 subsection (a) or (c) of section 108 with respect to  
21 any person described in paragraph (1) shall assess  
22 any penalty under this subsection to which such per-  
23 son is subject.”.

24 (b) CLERICAL AMENDMENT.—The table of sections  
25 for chapter 2 of the Truth in Lending Act is amended

1 by inserting after the item relating to section 129A (as  
2 added by section 101 of this Act) the following new item:

“129B. Unfair and deceptive practices and acts relating to certain consumer credit transactions.”.

3 **SEC. 203. AMENDMENTS RELATING TO APPRAISAL SUB-**  
4 **COMMITTEE OF FIEC, APPRAISER INDEPEND-**  
5 **ENCE, AND APPROVED APPRAISER EDU-**  
6 **CATION.**

7 (a) CONSUMER PROTECTION MISSION.—

8 (1) PURPOSES.—Section 1101 of the Financial  
9 Institutions Reform, Recovery, and Enforcement Act  
10 of 1989 (12 U.S.C. 3331) is amended by inserting  
11 “and to provide the Appraisal Subcommittee with a  
12 consumer protection mandate” before the period at  
13 the end.

14 (2) FUNCTIONS OF APPRAISAL SUB-  
15 COMMITTEE.—Section 1103(a) of the Financial In-  
16 stitutions Reform, Recovery, and Enforcement Act  
17 of 1989 (12 U.S.C. 3332(a) is amended—

18 (A) by striking “and” at the end of para-  
19 graph (3);

20 (B) by striking the period at the end of  
21 paragraph (4) and inserting “; and”; and

22 (C) by adding at the end the following new  
23 paragraph:

1           “(5) protect the consumer from improper ap-  
2       praisal practices and the predations of unlicensed  
3       appraisers.”.

4           (3) THRESHOLD LEVELS.—Section 1112(b) of  
5       the Financial Institutions Reform, Recovery, and  
6       Enforcement Act of 1989 (12 U.S.C. 3341(b)) is  
7       amended by inserting before the period the fol-  
8       lowing: “, and that such threshold level provides rea-  
9       sonable protection for consumers who purchase 1-4  
10      unit single-family residences”.

11       (b) ANNUAL REPORT OF APPRAISAL SUB-  
12      COMMITTEE.—Section 1103(a)(4) of Financial Institu-  
13      tions Reform, Recovery, and Enforcement Act of 1989 (12  
14      U.S.C. 3332(a)(4)) is amended at the end by inserting:  
15      “The report shall also detail the activities of the Appraisal  
16      Subcommittee, including the results of all audits of State  
17      appraiser regulatory agencies, and provide an accounting  
18      of disapproved actions and warnings taken in the previous  
19      year, including a description of the conditions causing the  
20      disapproval.”.

21       (c) OPEN MEETINGS.—Section 1104(b) of the Finan-  
22      cial Institutions Reform, Recovery, and Enforcement Act  
23      of 1989 (12 U.S.C. 3333(b)) is amended by inserting “in  
24      public session after notice in the Federal Register” after  
25      “shall meet”.

1 (d) REGULATIONS.—Section 1106 of the Financial  
2 Institutions Reform, Recovery, and Enforcement Act of  
3 1989 (12 U.S.C. 3335) is amended—

4 (1) by inserting “prescribe regulations after no-  
5 tice and opportunity for comment,” after “hold  
6 hearings”; and

7 (2) at the end by inserting “Any regulations  
8 prescribed by the Appraisal Subcommittee shall (un-  
9 less otherwise provided in this title) be limited to the  
10 following functions: temporary practice, national reg-  
11 istry, information sharing, and enforcement. For  
12 purposes of prescribing regulations, the Appraisal  
13 Subcommittee shall establish an advisory committee  
14 of industry participants, including appraisers and  
15 government agencies, and hold regular meetings.”.

16 (e) STATE AGENCY REPORTING REQUIREMENT.—  
17 Section 1109(a) of the Financial Institutions Reform, Re-  
18 covery, and Enforcement Act of 1989 (12 U.S.C. 3338(a))  
19 is amended—

20 (1) by striking “and” after the semicolon in  
21 paragraph (1);

22 (2) by redesignating paragraph (2) as para-  
23 graph (3); and

24 (3) by inserting after paragraph (1) the fol-  
25 lowing new paragraph:

1           “(2) transmit reports on claims, disciplinary ac-  
2           tions, license and certification revocations, and li-  
3           cense and certification suspensions on a timely basis  
4           to the national registry of the Appraisal Sub-  
5           committee; and”.

6           (f) REGISTRY FEES MODIFIED.—Section 1109(a)(3)  
7           of the Financial Institutions Reform, Recovery, and En-  
8           forcement Act of 1989 (12 U.S.C. 3338(a)(3)) (as modi-  
9           fied by section 203(e) of this Act) is amended by—

10           (1) striking “\$25” and inserting “\$40”;  
11           (2) striking “\$50” and inserting “\$80”; and  
12           (3) inserting after the period at the end the fol-  
13           lowing new sentences: “The Appraisal Subcommittee  
14           must consider at least once every 5 years whether to  
15           adjust the dollar amount of the registry fees to ac-  
16           count for inflation. In implementing any change in  
17           registry fees, the Appraisal Subcommittee shall pro-  
18           vide flexibility to the States for multi-year certifi-  
19           cations and licenses already in place, as well as a  
20           transition period to implement the changes in reg-  
21           istry fees.”

22           (g) GRANTS AND REPORTS.—Section 1109(b) of the  
23           Financial Institutions Reform, Recovery, and Enforce-  
24           ment Act of 1989 (12 U.S.C. 3348(b)) is amended—



1           (1) by striking “and” after the semicolon in  
2 paragraph (3);

3           (2) by striking the period at the end of para-  
4 graph (4) and inserting a semicolon; and

5           (3) by adding at the end the following new  
6 paragraphs:

7           “(5) make grants to State appraiser regulatory  
8 agencies to help defray those costs relating to en-  
9 forcement activities; and

10          “(6) to report to all State appraiser certifying  
11 and licensing agencies when a license or certification  
12 is revoked or suspended.”.

13          (h) CRITERIA.—Section 1116 of the Financial Insti-  
14 tutions Reform, Recovery, and Enforcement Act of 1989  
15 (12 U.S.C. 3345) is amended—

16          (1) in subsection (c), by inserting “whose cri-  
17 teria for the licensing of a real estate appraiser cur-  
18 rently meet or exceed the minimum criteria issued  
19 by the Appraisal Qualifications Board of The Ap-  
20 praisal Foundation for the licensing of real estate  
21 appraisers” before the period at the end; and

22          (2) by striking subsection (e) and inserting the  
23 following new subsection:

24          “(e) MINIMUM QUALIFICATION REQUIREMENTS.—  
25 Any requirements established for individuals in the posi-

1 tion of ‘Trainee Appraiser’ and ‘Supervisory Appraiser’  
 2 shall meet or exceed the minimum qualification require-  
 3 ments of the Appraiser Qualifications Board of the Ap-  
 4 praisal Foundation. The Appraisal Subcommittee shall  
 5 have the authority to enforce these requirements.”.

6 (i) MONITORING OF STATE APPRAISER CERTIFYING  
 7 AND LICENSING AGENCIES.—Section 1118(a) of the Fi-  
 8 nancial Institutions Reform, Recovery, and Enforcement  
 9 Act of 1989 (12 U.S.C. 3347(a)) is amended—

10 (1) by inserting “funding, staffing,” after  
 11 “practices,” each place such term appears;

12 (2) by inserting before the period at the end of  
 13 the first sentence the following: “, whether a State  
 14 agency processes complaints and completes exams in  
 15 a reasonable time period, and whether a State agen-  
 16 cy reports claims and disciplinary actions on a time-  
 17 ly basis to the national registry maintained by the  
 18 Appraisal Subcommittee”; and

19 (3) by inserting at the end the following new  
 20 sentence: “The Appraisal Subcommittee shall have  
 21 the authority to impose interim sanctions and sus-  
 22 pensions.”.

23 (j) RECIPROCITY.—Subsection (b) of section 1122 of  
 24 the Financial Institutions Reform, Recovery, and Enforce-

1 ment Act of 1989 (12 U.S.C. 3351(b)) is amended to read  
2 as follows:

3 “(b) RECIPROCITY.—A State appraiser certifying or  
4 licensing agency shall issue a reciprocal certification or li-  
5 cense for an individual from another State when—

6 “(1) the appraiser licensing and certification  
7 program of such other State is in compliance with  
8 the provisions of this title; and

9 “(2) the appraiser holds a valid certification  
10 from a State whose requirements for certification or  
11 licensing meet or exceed the licensure standards es-  
12 tablished by the State where an individual seeks ap-  
13 praisal licensure.”.

14 (k) CONSIDERATION OF PROFESSIONAL APPRAISAL  
15 DESIGNATIONS.—Section 1122(d) of the Financial Insti-  
16 tutions Reform, Recovery, and Enforcement Act of 1989  
17 (12 U.S.C. 3351(d)) is amended by adding at the end the  
18 following new sentence: “No provision of this subsection  
19 shall be construed as prohibiting consideration of designa-  
20 tions conferred by recognized national professional ap-  
21 praisal organizations, such as sponsoring organizations of  
22 The Appraisal Foundation.”.

23 (l) APPRAISER INDEPENDENCE.—Section 1122 of  
24 the Financial Institutions Reform, Recovery, and Enforce-

1 ment Act of 1989 (12 U.S.C. 3351) is amended by adding  
2 at the end the following new subsection:

3 “(g) APPRAISER INDEPENDENCE.—

4 “(1) PROHIBITIONS ON INTERESTED PARTIES  
5 IN A REAL ESTATE TRANSACTION.—No mortgage  
6 lender, mortgage broker, mortgage banker, real es-  
7 tate broker, nor any other person with an interest in  
8 a real estate transaction involving an appraisal shall  
9 improperly influence, or attempt to improperly influ-  
10 ence, through coercion, extortion, collusion, com-  
11 pensation, instruction, inducement, intimidation,  
12 non-payment for services rendered, or bribery, the  
13 development, reporting, result, or review of a real es-  
14 tate appraisal sought in connection with a mortgage  
15 loan.

16 “(2) EXCEPTIONS.—The requirements of para-  
17 graph (1) shall not be construed as prohibiting a  
18 mortgage lender, mortgage broker, mortgage banker,  
19 real estate broker, or any other person with an inter-  
20 est in a real estate transaction from asking an ap-  
21 praiser to provide 1 or more of the following serv-  
22 ices:

23 “(A) Consider additional, appropriate  
24 property information, including the consider-

1           ation of additional comparable properties to  
2           make or support an appraisal.

3           “(B) Provide further detail, substantiation,  
4           or explanation for the appraiser’s value conclu-  
5           sion.

6           “(C) Correct errors in the appraisal report.

7           “(3) PROHIBITIONS ON CONFLICTS OF INTER-  
8           EST.—No certified or licensed appraiser conducting  
9           an appraisal may have a direct or indirect interest,  
10          financial or otherwise, in the property or transaction  
11          involving the appraisal.

12          “(4) MANDATORY REPORTING.—Any mortgage  
13          lender, mortgage broker, mortgage banker, real es-  
14          tate broker, or any other person with an interest in  
15          a real estate transaction involving an appraisal who  
16          has a reasonable basis to believe an appraiser is vio-  
17          lating applicable laws, or is otherwise engaging in  
18          unethical or unprofessional conduct, shall refer the  
19          matter to the applicable State appraiser certifying  
20          and licensing agency.

21          “(5) REGULATIONS.—The Federal financial in-  
22          stitutions regulatory agencies (as defined in section  
23          1003(1) of the Federal Financial Institutions Exam-  
24          ination Council Act of 1978) shall prescribe such

1 regulations as may be necessary to carry out the  
2 provisions of this subsection.

3 “(6) PENALTIES.—Any person who violates any  
4 provision of this section shall be subject to civil pen-  
5 alties under section 8(i)(2) of the Federal Deposit  
6 Insurance Act or section 206(k)(2) of the Federal  
7 Credit Union Act, as appropriate.

8 “(7) PROCEEDING.—A proceeding with respect  
9 to a violation of this section shall be an administra-  
10 tive proceeding which may be conducted by a Fed-  
11 eral financial institutions regulatory agency in ac-  
12 cordance with the procedures set forth in subchapter  
13 II of chapter 5 of title 5, United States Code.”.

14 (m) APPRAISER EDUCATION.—Section 1122 of the  
15 Financial Institutions Reform, Recovery, and Enforce-  
16 ment Act of 1989 (12 U.S.C. 3351) is amended by insert-  
17 ing after subsection (g) (as added by subsection (l) of this  
18 section) the following new subsection:

19 “(h) APPROVED EDUCATION.—The Appraisal Sub-  
20 committee shall encourage the States to accept courses ap-  
21 proved by the Appraiser Qualification Board’s Course Ap-  
22 proval Program.”.

23 (n) TECHNICAL CORRECTIONS.—

24 (1) Section 1119(a)(2) of the Financial Institu-  
25 tions Reform, Recovery, and Enforcement Act of

1       1989 (12 U.S.C. 3348(a)(2)) is amended by striking  
2       “council,” and inserting “Council,”.

3           (2) Section 1121(6) of the Financial Institu-  
4       tions Reform, Recovery, and Enforcement Act of  
5       1989 (12 U.S.C. 3350(6)) is amended by striking  
6       “Corporations,” and inserting “Corporation,”.

7           (3) Section 1121(8) of the Financial Institu-  
8       tions Reform, Recovery, and Enforcement Act of  
9       1989 (12 U.S.C. 3350(8)) is amended by striking  
10      “council” and inserting “Council”.

11          (4) Section 1122 of the Financial Institutions  
12      Reform, Recovery, and Enforcement Act of 1989  
13      (12 U.S.C. 3351) is amended—

14           (A) in subsection (a)(1) by moving the left  
15      margin of subparagraphs (A), (B), and (C) 2  
16      ems to the right; and

17           (B) in subsection (c)—

18           (i) by striking “Federal Financial In-  
19      stitutions Examination Council” and in-  
20      serting “Financial Institutions Examina-  
21      tion Council”; and

22           (ii) by striking “the council’s func-  
23      tions” and inserting “the Council’s func-  
24      tions”.

1 **SEC. 204. STUDY REQUIRED ON IMPROVEMENTS IN AP-**  
2 **PRAISAL PROCESS AND COMPLIANCE PRO-**  
3 **GRAMS.**

4 (a) STUDY.—The Comptroller General shall conduct  
5 a comprehensive study on possible improvements in the  
6 appraisal process generally, and specifically on the consist-  
7 ency in and the effectiveness of, and possible improve-  
8 ments in, State compliance efforts and programs in ac-  
9 cordance with title XI of the Financial Institutions Re-  
10 form, Recovery, and Enforcement Act of 1989. In addi-  
11 tion, this study shall examine the existing de minimus loan  
12 levels established by Federal regulators for compliance  
13 under title XI and whether there is a need to revise them  
14 to reflect the addition of consumer protection to the pur-  
15 poses and functions of the Appraisal Subcommittee.

16 (b) REPORT.—Before the end of the 18-month period  
17 beginning on the date of the enactment of this Act, the  
18 Comptroller General shall submit a report on the study  
19 under subsection (a) to the Committee on Financial Serv-  
20 ices of the House of Representatives and the Committee  
21 on Banking, Housing, and Urban Affairs of the Senate,  
22 together with such recommendations for administrative or  
23 legislative action, at the Federal or State level, as the  
24 Comptroller General may determine to be appropriate.



1 **SEC. 205. CONSUMER APPRAISAL DISCLOSURE.**

2 (a) IN GENERAL.—Chapter 2 of the Truth in Lend-  
3 ing Act (15 U.S.C. 1631 et seq.) is amended by inserting  
4 after section 129B (as added by section 202 of this Act)  
5 the following new section:

6 **“SEC. 129C. CONSUMER APPRAISAL DISCLOSURE.**

7 “In any case in which an appraisal is performed in  
8 connection with an extension of credit secured by an inter-  
9 est in real property, the creditor or other mortgage origi-  
10 nator shall make available to the applicant for the exten-  
11 sion of credit a copy of all appraisal valuation reports upon  
12 completion but no later than 3 days prior to the trans-  
13 action closing date.”.

14 (b) CLERICAL AMENDMENT.—The table of sections  
15 for chapter 2 of the Truth in Lending Act is amended  
16 by inserting after the item relating to section 129B (as  
17 added by section 202 of this Act) the following new item:

“129C. Consumer appraisal disclosure.”.

