

110TH CONGRESS
1ST SESSION

S. 2296

To provide for improved disclosures by all mortgage lenders at the loan approval and settlement stages of all mortgage loans.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 1, 2007

Mr. SCHUMER introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To provide for improved disclosures by all mortgage lenders at the loan approval and settlement stages of all mortgage loans.

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 Disclosure
5 Enhancement Act of 2007”.

6 **SEC. 2. AMENDMENTS TO THE TRUTH IN LENDING ACT.**

7 The Truth In Lending Act (15 U.S.C. 1601 et seq.)
8 is amended by inserting after section 129 the following
9 new section:

1 **“SEC. 129A. ENHANCED MORTGAGE DISCLOSURES.**

2 “(a) DEFINITIONS.—As used in this section, the term
3 ‘mortgage loan’ means any consumer credit transaction in
4 which a security interest is or will be retained or acquired
5 in any real property located in the United States which
6 is or, upon completion of the transaction, will be used as
7 the dwelling of the consumer.

8 “(b) DISCLOSURES FOR MORTGAGE LOANS.—Subject
9 to the rules of the Board, with respect to a mortgage loan,
10 the creditor shall disclose to the consumer, in addition to
11 any other disclosures required under this title—

12 “(1) the amount of the loan;

13 “(2) the percentage of the loan, as compared to
14 the appraised value of the property;

15 “(3) the term of the loan;

16 “(4) the monthly income of the borrower, as re-
17 lied upon in making the loan;

18 “(5) if the annual percentage rate of interest is
19 fixed—

20 “(A) the applicable annual percentage rate
21 of interest for the loan;

22 “(B) the amount of the monthly payment
23 on the loan;

24 “(C) an estimate of the monthly payment,
25 plus taxes and insurance; and

1 “(D) the percentage of the stated monthly
2 income of the borrower represented by the
3 monthly payment, plus taxes and insurance;

4 “(6) if the annual percentage rate of interest is
5 variable—

6 “(A) the initial interest rate;

7 “(B) the duration of the initial interest
8 rate;

9 “(C) an estimate of the monthly payment
10 amount associated with the initial interest rate;

11 “(D) an estimate of the monthly payment
12 associated with the initial interest rate, plus
13 taxes and insurance;

14 “(E) the percentage of the stated monthly
15 income of the borrower represented by the esti-
16 mated monthly payment associated with the ini-
17 tial interest rate, plus taxes and insurance;

18 “(F) the date on which the interest rate
19 will be adjusted or reset;

20 “(G) the fully indexed rate (expressed as
21 an estimate of the interest rate after it is ad-
22 justed or reset);

23 “(H) an estimate of the monthly payment
24 amount associated with the fully indexed inter-
25 est rate;

1 “(I) the percentage of the stated monthly
2 income of the borrower represented by the esti-
3 mated monthly payment associated with the
4 fully indexed interest rate;

5 “(J) an estimate of the monthly payment
6 associated with the fully indexed rate, plus
7 taxes and insurance; and

8 “(K) an estimate of the maximum possible
9 applicable annual percentage rate of interest,
10 including language expressing that if there is no
11 maximum rate, the applicable State usury rate
12 shall be disclosed;

13 “(7) if the loan represents a subordinate lien
14 (also referred to as a ‘piggyback loan’) on the real
15 property securing the loan, a brief statement that
16 the loan is subordinate to an existing primary lien,
17 and that the amount of the loan and estimated
18 monthly payments described in the disclosure are in
19 addition to any amounts arising from existing loan
20 obligations;

21 “(8) in any case in which a prepayment fee or
22 penalty may be imposed with respect to the loan—

23 “(A) the amount of such fee or penalty;
24 and

1 “(B) a brief description, in plain English,
2 of the circumstances or events which would
3 trigger the imposition of the prepayment fee or
4 penalty;

5 “(9) in any case in which a balloon payment
6 may be required with respect to the loan—

7 “(A) the date on which the balloon pay-
8 ment is due, and the estimated amount of the
9 balloon payment; and

10 “(B) a brief statement, in plain English,
11 that a balloon payment mortgage does not fully
12 pay off the loan, that a large balloon payment
13 of the remaining principal will be required at
14 the end of the loan term, and that many bor-
15 rowers must secure another loan to make the
16 balloon payment;

17 “(10) if the borrower has a ‘payment option’
18 loan—

19 “(A) a disclosure that the loan is a pay-
20 ment option loan; and

21 “(B) a brief statement, in plain English,
22 that a payment option loan has negative amor-
23 tization, which can result in the loan balance
24 becoming higher than the original amount of

1 the loan, even if the borrower makes all pay-
2 ments on time;

3 “(11) total points to be paid at closing, with an
4 explanation that points are a fee that the borrower
5 pays to the lender, expressed as a percentage of the
6 total loan; and

7 “(12) the total actual closing costs, including
8 points, if known, and if not known, the total esti-
9 mated closing costs, including points.

10 “(c) TIMING OF DISCLOSURES.—The disclosures re-
11 quired by this section shall be provided to the consumer
12 at the time of approval of the mortgage loan, but in no
13 case later than 7 days before the date on which the mort-
14 gage loan is consummated.

15 “(d) FORMAT.—Disclosures required by this section
16 shall be presented to the consumer in the form and man-
17 ner which the Board shall prescribe by regulation—

18 “(1) in a simple, clearly legible, and uniform
19 tabular format, in accordance with subsection (e);

20 “(2) to the extent possible, as a one-page, single
21 document;

22 “(3) when provided in conjunction with or at
23 the same time as other required written disclosures,
24 as the first of such documents; and

25 “(4) in an easily readable font size.

1 “(e) TABULAR FORMAT.—

2 “(1) IN GENERAL.—In the regulations pre-
3 scribed under subsection (d)(1), the Board shall re-
4 quire that the disclosure of such information shall be
5 in the form of a table, which—

6 “(A) contains clear and concise headings
7 for each item of such information; and

8 “(B) provides a clear and concise form for
9 stating each item of information required to be
10 disclosed under each such heading.

11 “(2) BOARD DISCRETION IN PRESCRIBING
12 ORDER AND WORDING OF TABLE.—In prescribing
13 the form of the table under paragraph (1), the
14 Board may—

15 “(A) list the items required to be included
16 in the table in a different order than the order
17 in which such items are set forth in subsection
18 (b); and

19 “(B) employ terminology which is different
20 from the terminology employed in subsection
21 (b), if such terminology conveys substantially
22 the same meaning.

23 “(f) RULES FOR REDUCTION OF TIME LIMIT OF DIS-
24 CLOSURE REQUIREMENTS TO 24 HOURS.—The Board
25 shall, by rule, provide for procedures to reduce the time

1 limit described in subsection (c) to 24 hours prior to the
 2 consummation of the mortgage, to the extent that the
 3 Board determines necessary and appropriate, except that
 4 such rules shall provide for a time limit reduction only
 5 at the request of the borrower, and only in those limited
 6 circumstances in which the borrower needs to consummate
 7 the mortgage transaction in a more expedited manner
 8 than would otherwise be permitted under this section.

9 “(g) TOLERANCES FOR ACCURACY.—The provisions
 10 of section 106(f), relating to tolerances for accuracy, and
 11 any rules of the Board issued under that subsection, shall
 12 apply to disclosures required under this section.”.

13 **SEC. 3. AMENDMENT TO REAL ESTATE SETTLEMENT PRO-**
 14 **CEDURES.**

15 Section 4 of the Real Estate Settlement Procedures
 16 Act of 1974 (12 U.S.C. 2603) is amended by adding at
 17 the end the following:

18 “(c) TRUTH IN LENDING ACT DISCLOSURES.—The
 19 form required under section 129A of the Truth in Lending
 20 Act shall be provided to the borrower at the time of settle-
 21 ment by the person conducting the settlement, in addition
 22 to any other disclosures required by this Act. In no case
 23 may a federally related mortgage loan be consummated
 24 if such form has not been provided to the borrower, both

- 1 at the time of the approval of the loan, in accordance with
- 2 that section 129A, and at settlement.”.

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