

111TH CONGRESS  
1ST SESSION

# H. R. 1728

---

IN THE SENATE OF THE UNITED STATES

MAY 12, 2009

Received; read twice and referred to the Committee on Banking, Housing, and  
Urban Affairs

---

## AN ACT

To amend the Truth in Lending Act to reform consumer mortgage practices and provide accountability for such practices, to provide certain minimum standards for consumer mortgage loans, 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; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
 3 “Mortgage Reform and Anti-Predatory Lending Act”.

4 (b) TABLE OF CONTENTS.—The table of contents for  
 5 this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—RESIDENTIAL MORTGAGE LOAN ORIGINATION  
STANDARDS**

Sec. 101. Definitions.  
 Sec. 102. Residential mortgage loan origination.  
 Sec. 103. Prohibition on steering incentives.  
 Sec. 104. Liability.  
 Sec. 105. Regulations.  
 Sec. 106. RESPA and TILA disclosure improvement.  
 Sec. 107. Study of shared appreciation mortgages.

**TITLE II—MINIMUM STANDARDS FOR MORTGAGES**

Sec. 201. Ability to repay.  
 Sec. 202. Net tangible benefit for refinancing of residential mortgage loans.  
 Sec. 203. Safe harbor and rebuttable presumption.  
 Sec. 204. Liability.  
 Sec. 205. Defense to foreclosure.  
 Sec. 206. Additional standards and requirements.  
 Sec. 207. Rule of construction.  
 Sec. 208. Effect on State laws.  
 Sec. 209. Regulations.  
 Sec. 210. Amendments to civil liability provisions.  
 Sec. 211. Lender rights in the context of borrower deception.  
 Sec. 212. Six-month notice required before reset of hybrid adjustable rate mort-  
       gages.  
 Sec. 213. Credit risk retention.  
 Sec. 214. Required disclosures.  
 Sec. 215. Disclosures required in monthly statements for residential mortgage  
       loans.  
 Sec. 216. Legal assistance for foreclosure-related issues.  
 Sec. 217. Effective date.  
 Sec. 218. Report by the GAO.  
 Sec. 219. State Attorney General enforcement authority.  
 Sec. 220. Tenant protection.

**TITLE III—HIGH-COST MORTGAGES**

Sec. 301. Definitions relating to high-cost mortgages.  
 Sec. 302. Amendments to existing requirements for certain mortgages.  
 Sec. 303. Additional requirements for certain mortgages.  
 Sec. 304. Regulations.  
 Sec. 305. Effective date.

## TITLE IV—OFFICE OF HOUSING COUNSELING

- Sec. 401. Short title.
- Sec. 402. Establishment of Office of Housing Counseling.
- Sec. 403. Counseling procedures.
- Sec. 404. Grants for housing counseling assistance.
- Sec. 405. Requirements to use HUD-certified counselors under HUD programs.
- Sec. 406. Study of defaults and foreclosures.
- Sec. 407. Default and foreclosure database.
- Sec. 408. Definitions for counseling-related programs.
- Sec. 409. Accountability and transparency for grant recipients.
- Sec. 410. Updating and simplification of mortgage information booklet.
- Sec. 411. Home inspection counseling.
- Sec. 412. Warnings to homeowners of foreclosure rescue scams.

## TITLE V—MORTGAGE SERVICING

- Sec. 501. Escrow and impound accounts relating to certain consumer credit transactions.
- Sec. 502. Disclosure notice required for consumers who waive escrow services.
- Sec. 503. Real Estate Settlement Procedures Act of 1974 amendments.
- Sec. 504. Truth in Lending Act amendments.
- Sec. 505. Escrows included in repayment analysis.

## TITLE VI—APPRAISAL ACTIVITIES

- Sec. 601. Property appraisal requirements.
- Sec. 602. Unfair and deceptive practices and acts relating to certain consumer credit transactions.
- Sec. 603. Amendments relating to Appraisal Subcommittee of FIEC, Appraiser Independence Monitoring, Approved Appraiser Education, Appraisal Management Companies, Appraiser Complaint Hotline, Automated Valuation Models, and Broker Price Opinions.
- Sec. 604. Study required on improvements in appraisal process and compliance programs.
- Sec. 605. Equal Credit Opportunity Act amendment.
- Sec. 606. Real Estate Settlement Procedures Act of 1974 amendment relating to certain appraisal fees.

## TITLE VII—SENSE OF CONGRESS REGARDING THE IMPORTANCE OF GOVERNMENT SPONSORED ENTERPRISES REFORM

- Sec. 701. Sense of Congress regarding the importance of Government-sponsored enterprises reform to enhance the protection, limitation, and regulation of the terms of residential mortgage credit.

## TITLE VIII—REPORTS

- Sec. 801. GAO study report on government efforts to combat mortgage foreclosure rescue scams and loan modification fraud.

## TITLE IX—MULTIFAMILY MORTGAGE RESOLUTION

- Sec. 901. Multifamily mortgage resolution program.

## TITLE X—STUDY OF EFFECT OF DRYWALL PRESENCE ON FORECLOSURES

Sec. 1001. Study of effect of drywall presence on foreclosures.

TITLE XI—FANNIE MAE GUIDELINES FOR PURCHASE OF  
CONDOMINIUM AND COOPERATIVE HOUSING MORTGAGES

Sec. 1101. Guidelines for purchase of condominium and cooperative housing mortgages.

**1 TITLE I—RESIDENTIAL MORT-**  
**2 GAGE LOAN ORIGINATION**  
**3 STANDARDS**

**4 SEC. 101. DEFINITIONS.**

**5** Section 103 of the Truth in Lending Act (15 U.S.C.  
**6** 1602) is amended by adding at the end the following new  
**7** subsection:

**8** “(cc) DEFINITIONS RELATING TO MORTGAGE ORIGI-  
**9** NATION AND RESIDENTIAL MORTGAGE LOANS.—

**10** “(1) COMMISSION.—Unless otherwise specified,  
**11** the term ‘Commission’ means the Federal Trade  
**12** Commission.

**13** “(2) FEDERAL BANKING AGENCIES.—The term  
**14** ‘Federal banking agencies’ means the Board of Gov-  
**15** ernors of the Federal Reserve System, the Comp-  
**16** troller of the Currency, the Director of the Office of  
**17** Thrift Supervision, the Federal Deposit Insurance  
**18** Corporation, and the National Credit Union Admin-  
**19** istration Board. All rule writing by the ‘Federal  
**20** banking agencies’ as designated by the Mortgage  
**21** Reform and Anti-Predatory Lending Act will be co-  
**22** ordinated through the Financial Institutions Exam-

1 ination Council in consultation with the Chairman of  
2 the State Liaison Committee.

3 “(3) MORTGAGE ORIGINATOR.—The term  
4 ‘mortgage originator’—

5 “(A) means any person who, for direct or  
6 indirect compensation or gain, or in the expect-  
7 ation of direct or indirect compensation or  
8 gain—

9 “(i) takes a residential mortgage loan  
10 application;

11 “(ii) assists a consumer in obtaining  
12 or applying to obtain a residential mort-  
13 gage loan; or

14 “(iii) offers or negotiates terms of a  
15 residential mortgage loan;

16 “(B) includes any person who represents  
17 to the public, through advertising or other  
18 means of communicating or providing informa-  
19 tion (including the use of business cards, sta-  
20 tionery, brochures, signs, rate lists, or other  
21 promotional items), that such person can or will  
22 provide any of the services or perform any of  
23 the activities described in subparagraph (A);

24 “(C) does not include any person who is (i)  
25 not otherwise described in subparagraph (A) or

1 (B) and who performs purely administrative or  
2 clerical tasks on behalf of a person who is de-  
3 scribed in any such subparagraph, or (ii) an  
4 employee of a retailer of manufactured homes  
5 who is not described in clause (i) or (iii) of sub-  
6 paragraph (A) and who does not advise a con-  
7 sumer on loan terms (including rates, fees, and  
8 other costs);

9 “(D) does not include a person or entity  
10 that only performs real estate brokerage activi-  
11 ties and is licensed or registered in accordance  
12 with applicable State law, unless such person or  
13 entity is compensated for performing such bro-  
14 kerage activities by a lender, a mortgage  
15 broker, or other mortgage originator or by any  
16 agent of such lender, mortgage broker, or other  
17 mortgage originator;

18 “(E) does not include, with respect to a  
19 residential mortgage loan, a person, estate, or  
20 trust that provides mortgage financing for the  
21 sale of 1 property in any 36-month period, pro-  
22 vided that such loan—

23 “(i) is fully amortizing;

24 “(ii) is with respect to a sale for  
25 which the seller determines in good faith

1                   and documents that the buyer has a rea-  
2                   sonable ability to repay the loan;

3                   “(iii) has a fixed rate or an adjustable  
4                   rate that is adjustable after 5 or more  
5                   years, subject to reasonable annual and  
6                   lifetime limitations on interest rate in-  
7                   creases; and

8                   “(iv) meets any other criteria the  
9                   Federal banking agencies may prescribe;  
10                  and

11                  “(F) does not include a servicer or servicer  
12                  employees, agents and contractors, including  
13                  but not limited to those who offer or negotiate  
14                  terms of a residential mortgage loan for pur-  
15                  poses of renegotiating, modifying, replacing and  
16                  subordinating principal of existing mortgages  
17                  where borrowers are behind in their payments,  
18                  in default or have a reasonable likelihood of  
19                  being in default or falling behind.

20                  “(4) NATIONWIDE MORTGAGE LICENSING SYS-  
21                  TEM AND REGISTRY.—The term ‘Nationwide Mort-  
22                  gage Licensing System and Registry’ has the same  
23                  meaning as in the Secure and Fair Enforcement for  
24                  Mortgage Licensing Act of 2008.

1           “(5) OTHER DEFINITIONS RELATING TO MORT-  
2       GAGE ORIGINATOR.—For purposes of this sub-  
3       section, a person ‘assists a consumer in obtaining or  
4       applying to obtain a residential mortgage loan’ by,  
5       among other things, advising on residential mort-  
6       gage loan terms (including rates, fees, and other  
7       costs), preparing residential mortgage loan packages,  
8       or collecting information on behalf of the consumer  
9       with regard to a residential mortgage loan.

10          “(6) RESIDENTIAL MORTGAGE LOAN.—The  
11       term ‘residential mortgage loan’ means any con-  
12       sumer credit transaction that is secured by a mort-  
13       gage, deed of trust, or other equivalent consensual  
14       security interest on a dwelling or on residential real  
15       property that includes a dwelling, other than a con-  
16       sumer credit transaction under an open end credit  
17       plan or a reverse mortgage or, for purposes of sec-  
18       tions 129B and 129C and section 128(a) (16), (17),  
19       and (18), and 128(f) and any regulations promul-  
20       gated thereunder, an extension of credit relating to  
21       a plan described in section 101(53D) of title 11,  
22       United States Code.

23          “(7) SECRETARY.—The term ‘Secretary’, when  
24       used in connection with any transaction or person



1 involved with a residential mortgage loan, means the  
2 Secretary of Housing and Urban Development.

3 “(8) SECURITIZATION VEHICLE.—The term  
4 ‘securitization vehicle’ means a trust, corporation,  
5 partnership, limited liability entity, special purpose  
6 entity, or other structure that—

7 “(A) is the issuer, or is created by the  
8 issuer, of mortgage pass-through certificates,  
9 participation certificates, mortgage-backed secu-  
10 rities, or other similar securities backed by a  
11 pool of assets that includes residential mortgage  
12 loans; and

13 “(B) holds such loans.

14 “(9) SECURITIZER.—The term ‘securitizer’  
15 means the person that transfers, conveys, or assigns,  
16 or causes the transfer, conveyance, or assignment of,  
17 residential mortgage loans, including through a spe-  
18 cial purpose vehicle, to any securitization vehicle, ex-  
19 cluding any trustee that holds such loans solely for  
20 the benefit of the securitization vehicle.

21 “(10) SERVICER.—The term ‘servicer’ has the  
22 same meaning as in section 6(i)(2) of the Real Es-  
23 tate Settlement Procedures Act of 1974.”.

1 **SEC. 102. RESIDENTIAL MORTGAGE LOAN ORIGINATION.**

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 129A the following new section:

5 **“§ 129B. Residential mortgage loan origination**

6 “(a) FINDING AND PURPOSE.—

7 “(1) FINDING.—The Congress finds that eco-  
8 nomic stabilization would be enhanced by the protec-  
9 tion, limitation, and regulation of the terms of resi-  
10 dential mortgage credit and the practices related to  
11 such credit, while ensuring that responsible, afford-  
12 able mortgage credit remains available to consumers.

13 “(2) PURPOSE.—It is the purpose of this sec-  
14 tion and section 129C to assure that consumers are  
15 offered and receive residential mortgage loans on  
16 terms that reasonably reflect their ability to repay  
17 the loans and that are understandable and not un-  
18 fair, deceptive or abusive.

19 “(b) DUTY OF CARE.—

20 “(1) STANDARD.—Subject to regulations pre-  
21 scribed under this subsection, each mortgage origi-  
22 nator shall, in addition to the duties imposed by oth-  
23 erwise applicable provisions of State or Federal  
24 law—

25 “(A) be qualified and, when required, reg-  
26 istered and licensed as a mortgage originator in

1           accordance with applicable State or Federal  
2           law, including the Secure and Fair Enforcement  
3           for Mortgage Licensing Act of 2008;

4           “(B) with respect to each consumer seek-  
5           ing or inquiring about a residential mortgage  
6           loan, diligently work to present the consumer  
7           with a range of residential mortgage loan prod-  
8           ucts for which the consumer likely qualifies and  
9           which are appropriate to the consumer’s exist-  
10          ing circumstances, based on information known  
11          by, or obtained in good faith by, the originator;

12          “(C) make full, complete, and timely dis-  
13          closure to each such consumer in writing, the  
14          receipt and understanding of which shall be ac-  
15          knowledged by the signature of the mortgage  
16          originator and the consumer, of—

17                 “(i) the comparative costs and bene-  
18                 fits of each residential mortgage loan prod-  
19                 uct offered, discussed, or referred to by the  
20                 originator (and such comparative costs and  
21                 benefits for each such product shall be pre-  
22                 sented side by side and the disclosures for  
23                 each such product shall have equal promi-  
24                 nence);

1 “(ii) the nature of the originator’s re-  
2 lationship to the consumer (including the  
3 cost of the services to be provided by the  
4 originator and a statement that the mort-  
5 gage originator is or is not acting as an  
6 agent for the consumer, as the case may  
7 be); and

8 “(iii) any relevant conflicts of interest  
9 between the originator and the consumer;

10 “(D) certify to the creditor, with respect to  
11 any transaction involving a residential mortgage  
12 loan, that the mortgage originator has fulfilled  
13 all requirements applicable to the originator  
14 under this section with respect to the trans-  
15 action; and

16 “(E) include on all loan documents any  
17 unique identifier of the mortgage originator  
18 provided by the Nationwide Mortgage Licensing  
19 System and Registry.

20 “(2) CLARIFICATION OF EXTENT OF DUTY TO  
21 PRESENT RANGE OF PRODUCTS AND APPROPRIATE  
22 PRODUCTS.—

23 “(A) NO DUTY TO OFFER PRODUCTS FOR  
24 WHICH ORIGINATOR IS NOT AUTHORIZED TO

1 TAKE AN APPLICATION.—Paragraph (1)(B)  
2 shall not be construed as requiring—

3 “(i) a mortgage originator to present  
4 to any consumer any specific residential  
5 mortgage loan product that is offered by a  
6 creditor which does not accept consumer  
7 referrals from, or consumer applications  
8 submitted by or through, such originator;  
9 or

10 “(ii) a creditor to offer products that  
11 the creditor does not offer to the general  
12 public.

13 “(B) APPROPRIATE LOAN PRODUCT.—For  
14 purposes of paragraph (1)(B), a residential  
15 mortgage loan shall be presumed to be appro-  
16 priate for a consumer if—

17 “(i) the mortgage originator deter-  
18 mines in good faith, based on then existing  
19 information and without undergoing a full  
20 underwriting process, that the consumer  
21 has a reasonable ability to repay and, in  
22 the case of a refinancing of an existing res-  
23 idential mortgage loan, receives a net tan-  
24 gible benefit, as determined in accordance

1 with regulations prescribed under sub-  
2 sections (a) and (b) of section 129C; and

3 “(ii) the loan does not have predatory  
4 characteristics or effects (such as equity  
5 stripping and excessive fees and abusive  
6 terms) as determined in accordance with  
7 regulations prescribed under paragraph  
8 (4).

9 “(3) RULES OF CONSTRUCTION.—No provision  
10 of this subsection shall be construed as—

11 “(A) creating an agency or fiduciary rela-  
12 tionship between a mortgage originator and a  
13 consumer if the originator does not hold himself  
14 or herself out as such an agent or fiduciary; or

15 “(B) restricting a mortgage originator  
16 from holding himself or herself out as an agent  
17 or fiduciary of a consumer subject to any addi-  
18 tional duty, requirement, or limitation applica-  
19 ble to agents or fiduciaries under any Federal  
20 or State law.

21 “(4) REGULATIONS.—

22 “(A) IN GENERAL.—The Federal banking  
23 agencies, in consultation with the Secretary,  
24 and the Commission, shall jointly prescribe reg-  
25 ulations to—

1 “(i) further define the duty estab-  
2 lished under paragraph (1);

3 “(ii) implement the requirements of  
4 this subsection;

5 “(iii) establish the time period within  
6 which any disclosure required under para-  
7 graph (1) shall be made to the consumer;  
8 and

9 “(iv) establish such other require-  
10 ments for any mortgage originator as such  
11 regulatory agencies may determine to be  
12 appropriate to meet the purposes of this  
13 subsection.

14 “(B) COMPLEMENTARY AND NONDUPLICA-  
15 TIVE DISCLOSURES.—The agencies referred to  
16 in subparagraph (A) shall endeavor to make the  
17 required disclosures to consumers under this  
18 subsection complementary and nonduplicative  
19 with other disclosures for mortgage consumers  
20 to the extent such efforts—

21 “(i) are practicable; and

22 “(ii) do not reduce the value of any  
23 such disclosure to recipients of such disclo-  
24 sures.

1 “(5) COMPLIANCE PROCEDURES REQUIRED.—

2 The Federal banking agencies shall prescribe regula-  
 3 tions requiring depository institutions to establish  
 4 and maintain procedures reasonably designed to as-  
 5 sure and monitor the compliance of such depository  
 6 institutions, the subsidiaries of such institutions,  
 7 and the employees of such institutions or subsidi-  
 8 aries with the requirements of this section and the  
 9 registration procedures established under section  
 10 1507 of the Secure and Fair Enforcement for Mort-  
 11 gage Licensing Act of 2008.”.

12 (b) CLERICAL AMENDMENT.—The table of sections  
 13 for chapter 2 of the Truth in Lending Act is amended  
 14 by inserting after the item relating to section 129 the fol-  
 15 lowing new items:

“129A. Fiduciary duty of servicers of pooled residential mortgages.  
 “129B. Residential mortgage loan origination.”.

16 **SEC. 103. PROHIBITION ON STEERING INCENTIVES.**

17 Section 129B of the Truth in Lending Act (as added  
 18 by section 102(a)) is amended by inserting after sub-  
 19 section (b) the following new subsection:

20 “(c) PROHIBITION ON STEERING INCENTIVES.—

21 “(1) IN GENERAL.—For any mortgage loan, the  
 22 total amount of direct and indirect compensation  
 23 from all sources permitted to a mortgage originator



1       may not vary based on the terms of the loan (other  
2       than the amount of the principal).

3               “(2) RESTRUCTURING OF FINANCING ORIGINA-  
4       TION FEE.—

5               “(A) IN GENERAL.—For any mortgage  
6       loan, a mortgage originator may not arrange  
7       for a consumer to finance through rate any  
8       origination fee or cost except bona fide third  
9       party settlement charges not retained by the  
10      creditor or mortgage originator.

11              “(B) EXCEPTION.—Notwithstanding para-  
12      graph subparagraph (A), a mortgage originator  
13      may arrange for a consumer to finance through  
14      rate an origination fee or cost if—

15              “(i) the mortgage originator does not  
16              receive any other compensation from the  
17              consumer except the compensation that is  
18              financed through rate; and

19              “(ii) the mortgage is a qualified mort-  
20              gage.

21              “(3) REGULATIONS.—The Federal banking  
22      agencies, in consultation with the Secretary and the  
23      Commission, shall jointly prescribe regulations to  
24      prohibit—

1           “(A) mortgage originators from steering  
2           any consumer to a residential mortgage loan  
3           that—

4                   “(i) the consumer lacks a reasonable  
5                   ability to repay (in accordance with regula-  
6                   tions prescribed under section 129C(a));

7                   “(ii) in the case of a refinancing of a  
8                   residential mortgage loan, does not provide  
9                   the consumer with a net tangible benefit  
10                  (in accordance with regulations prescribed  
11                  under section 129C(b)); or

12                  “(iii) has predatory characteristics or  
13                  effects (such as equity stripping, excessive  
14                  fees, or abusive terms);

15           “(B) mortgage originators from steering  
16           any consumer from a residential mortgage loan  
17           for which the consumer is qualified that is a  
18           qualified mortgage (as defined in section  
19           129C(e)(3)) to a residential mortgage loan that  
20           is not a qualified mortgage;

21           “(C) abusive or unfair lending practices  
22           that promote disparities among consumers of  
23           equal credit worthiness but of different race,  
24           ethnicity, gender, or age;

1 “(D) mortgage originators from assessing  
2 excessive points and fees (as such term is de-  
3 scribed under section 103(aa)(4) of the Truth  
4 in Lending Act (15 U.S.C. 1602(aa)(4))) to a  
5 consumer for the origination of a residential  
6 mortgage loan based on such consumer’s deci-  
7 sion to finance all or part of the payment  
8 through the rate for such points and fees; and

9 “(E) mortgage originators from—

10 “(i) mischaracterizing the credit his-  
11 tory of a consumer or the residential mort-  
12 gage loans available to a consumer;

13 “(ii) mischaracterizing or suborning  
14 the mischaracterization of the appraised  
15 value of the property securing the exten-  
16 sion of credit; or

17 “(iii) if unable to suggest, offer, or  
18 recommend to a consumer a loan that is  
19 not more expensive than a loan for which  
20 the consumer qualifies, discouraging a con-  
21 sumer from seeking a home mortgage loan  
22 secured by a consumer’s principal dwelling  
23 from another mortgage originator.

24 “(4) RULES OF CONSTRUCTION.—No provision  
25 of this subsection shall be construed as—

1           “(A) permitting yield spread premiums or  
2           other similar incentive compensation;

3           “(B) affecting the mechanism for pro-  
4           viding the total amount of direct and indirect  
5           compensation permitted to a mortgage origi-  
6           nator;

7           “(C) limiting or affecting the amount of  
8           compensation received by a creditor upon the  
9           sale of a consummated loan to a subsequent  
10          purchaser;

11          “(D) restricting a consumer’s ability to fi-  
12          nance, including through principal, any origina-  
13          tion fees or costs permitted under this sub-  
14          section, or the mortgage originator’s ability to  
15          receive such fees or costs (including compensa-  
16          tion) from any person, so long as such fees or  
17          costs were fully and clearly disclosed to the con-  
18          sumer earlier in the application process as re-  
19          quired by 129B(b)(1)(C)(i) and do not vary  
20          based on the terms of the loan (other than the  
21          amount of the principal) or the consumer’s de-  
22          cision about whether to finance such fees or  
23          costs; or

24          “(E) prohibiting incentive payments to a  
25          mortgage originator based on the number of

1 residential mortgage loans originated within a  
2 specified period of time.”.

3 **SEC. 104. LIABILITY.**

4 Section 129B of the Truth in Lending Act is amend-  
5 ed by inserting after subsection (c) (as added by section  
6 103) the following new subsection:

7 “(d) LIABILITY FOR VIOLATIONS.—

8 “(1) IN GENERAL.—For purposes of providing  
9 a cause of action for any failure by a mortgage origi-  
10 nator to comply with any requirement imposed  
11 under this section and any regulation prescribed  
12 under this section, subsections (a) and (b) of section  
13 130 shall be applied with respect to any such failure  
14 by substituting ‘mortgage originator’ for ‘creditor’  
15 each place such term appears in each such sub-  
16 section.

17 “(2) MAXIMUM.—The maximum amount of any  
18 liability of a mortgage originator under paragraph  
19 (1) to a consumer for any violation of this section  
20 shall not exceed the greater of actual damages or an  
21 amount equal to 3 times the total amount of direct  
22 and indirect compensation or gain accruing to the  
23 mortgage originator in connection with the residen-  
24 tial mortgage loan involved in the violation, plus the

1 costs to the consumer of the action, including a rea-  
2 sonable attorney's fee.”.

3 **SEC. 105. REGULATIONS.**

4 (a) DISCRETIONARY REGULATORY AUTHORITY.—  
5 Section 129B of the Truth in Lending Act is amended  
6 by inserting after subsection (d) (as added by section 104)  
7 the following new subsection:

8 “(e) DISCRETIONARY REGULATORY AUTHORITY.—

9 “(1) IN GENERAL.—The Federal banking agen-  
10 cies shall, by regulations issued jointly, prohibit or  
11 condition terms, acts or practices relating to residen-  
12 tial mortgage loans that the agencies find to be abu-  
13 sive, unfair, deceptive, predatory, inconsistent with  
14 reasonable underwriting standards, necessary or  
15 proper to ensure that responsible, affordable mort-  
16 gage credit remains available to consumers in a  
17 manner consistent with the purposes of this section  
18 and section 129B, necessary or proper to effectuate  
19 the purposes of this section and section 129C, to  
20 prevent circumvention or evasion thereof, or to facili-  
21 tate compliance with such sections, or are not in the  
22 interest of the borrower.

23 “(2) APPLICATION.—The regulations prescribed  
24 under paragraph (1) shall be applicable to all resi-  
25 dential mortgage loans and shall be applied in the

1 same manner as regulations prescribed under section  
2 105.

3 “(f) Section 129B and any regulations promulgated  
4 thereunder do not apply to an extension of credit relating  
5 to a plan described in section 101(53D) of title 11, United  
6 States Code.”.

7 (b) EFFECTIVE DATE.—The regulations required or  
8 authorized to be prescribed under this title or the amend-  
9 ments made by this title—

10 (1) shall be prescribed in final form before the  
11 end of the 12-month period beginning on the date of  
12 the enactment of this Act; and

13 (2) shall take effect not later than 18 months  
14 after the date of the enactment of this Act.

15 (c) TRUTH IN LENDING FINAL RULE.—Notwith-  
16 standing any other provision of this Act, the regulations  
17 adopted by the Board concerning Truth in Lending, 73  
18 Fed. Reg. 44522 (July 30, 2008), shall take effect as de-  
19 cided by the Board with such exceptions or revisions as  
20 the Board determines necessary.

21 (d) TECHNICAL AND CONFORMING AMENDMENTS.—  
22 Section 129(1)(2) of the Truth in Lending Act (15 U.S.C.  
23 1639(1)(2)) is amended by inserting “referred to in section  
24 103(aa)” after “loans” each place such term appears.

1 **SEC. 106. RESPA AND TILA DISCLOSURE IMPROVEMENT.**

2 (a) COMPATIBLE DISCLOSURES.—The Secretary of  
3 Housing and Urban Development and the Board of Gov-  
4 ernors of the Federal Reserve shall, not later than the ex-  
5 piration of the 6-month period beginning upon the date  
6 of the enactment of this Act, jointly issue for public com-  
7 ment proposed regulations providing for compatible disclo-  
8 sures for borrowers to receive at the time of mortgage ap-  
9 plication and at the time of closing.

10 (b) REQUIREMENTS.—Such disclosures shall—

11 (1) provide clear and concise information to  
12 borrowers on the terms and costs of residential  
13 mortgage transactions and mortgage transactions  
14 covered by the Truth in Lending Act (12 U.S.C.  
15 1601 et seq.) and the Real Estate Settlement Proce-  
16 dures Act of 1974 (12 U.S.C. 2601 et seq.);

17 (2) satisfy the requirements of section 128 of  
18 the Truth in Lending Act (12 U.S.C. 1638) and sec-  
19 tion 4 and 5 of the Real Estate Settlement Proce-  
20 dures Act of 1974; and

21 (3) comprise early disclosures under the Truth  
22 in Lending Act and the good faith estimate disclo-  
23 sures under the Real Estate Settlement Procedures  
24 Act of 1974 and final Truth in Lending Act disclo-  
25 sures and the uniform settlement statement disclo-  
26 sures under Real Estate Settlement Procedures Act



1 of 1974 and provide for standardization to the  
2 greatest extent possible among such disclosures from  
3 mortgage origination through the mortgage settle-  
4 ment.

5 (4) shall include, with respect to a residential  
6 home mortgage loan, a written statement of—

7 (A) the principal amount of the loan;

8 (B) the term of the loan;

9 (C) whether the loan has a fixed rate of in-  
10 terest or an adjustable rate of interest;

11 (D) the annual percentage rate of interest  
12 under the loan as of the time of the disclosure;

13 (E) if the rate of interest under the loan  
14 can adjust after the disclosure, for each such  
15 possible adjustment—

16 (i) when such adjustment will or may  
17 occur; and

18 (ii) the maximum annual percentage  
19 rate of interest to which it can be adjusted;

20 (F) the total monthly payment under the  
21 loan (including loan principal and interest,  
22 property taxes, and insurance) at the time of  
23 the disclosure;

1 (G) the maximum total estimated monthly  
2 maximum payment pursuant to each such pos-  
3 sible adjustment;

4 (H) the total settlement charges in connec-  
5 tion with the loan and the amount of any down-  
6 payment and cash required at settlement; and

7 (I) whether or not the loan has a prepay-  
8 ment penalty or balloon payment and the terms,  
9 timing, and amount of any such penalty or pay-  
10 ment.

11 (c) SUSPENSION OF 2008 RESPA RULE.—

12 (1) REQUIREMENT.—The Secretary of Housing  
13 and Urban Development shall, during the period be-  
14 ginning on the date of the enactment of this Act and  
15 ending upon issuance of proposed regulations pursu-  
16 ant to subsection (a), suspend implementation of  
17 any provisions of the final rule referred to in para-  
18 graph (2) that would establish and implement a new  
19 standardized good faith estimate and a new stand-  
20 ardized uniform settlement statement. Any such pro-  
21 visions shall be replaced by the regulations issued  
22 pursuant to subsections (a) and (b).

23 (2) 2008 RULE.—The final rule referred to in  
24 this paragraph is the rule of the Department of  
25 Housing and Urban Development published on No-

1        vember 17, 2008, on pages 68204–68288 of Volume  
2        73 of the Federal Register (Docket No. FR–5180–  
3        F–03; relating to “Real Estate Settlement Proce-  
4        dures Act (RESPA): Rule to Simplify and Improve  
5        the Process of Obtaining Mortgages and Reduce  
6        Consumer Settlement Costs”).

7        (d) IMPLEMENTATION.—The regulations required  
8        under subsection (a) shall take effect, and shall provide  
9        an implementation date for the new disclosures required  
10       under such regulations, not later than the expiration of  
11       the 12-month period beginning upon the date of the enact-  
12       ment of this Act.

13       (e) FAILURE TO ISSUE COMPATIBLE DISCLO-  
14       SURES.—If the Secretary of Housing and Urban Develop-  
15       ment and the Board of Governors of the Federal Reserve  
16       System cannot agree on compatible disclosures pursuant  
17       to subsections (a) and (b), the Secretary and the Board  
18       shall submit a report to the Congress, after the 6-month  
19       period referred to in subsection (a), explaining the reasons  
20       for such disagreement. After the 15-day period beginning  
21       upon submission of such report, the Secretary and the  
22       Board may separately issue for public comment regula-  
23       tions providing for disclosures under the Real Estate Set-  
24       tlement Procedures Act of 1974 and the Truth in Lending  
25       Act, respectively. Any final disclosures as a result of such

1 regulations issued by the Secretary and the Board shall  
2 take effect on the same date, and not later than the expi-  
3 ration of the 12-month period beginning on the date of  
4 the enactment of this Act. If either the Secretary or the  
5 Board fails to act during such 12-month period, either  
6 such agency may act independently and implement final  
7 regulations.

8 (f) STANDARDIZED DISCLOSURE FORMS.—

9 (1) IN GENERAL.—Any regulations proposed or  
10 issued pursuant to the requirements of this section  
11 shall include model disclosure forms.

12 (2) OPTION FOR MANDATORY USE.—In issuing  
13 proposed regulations under subsection (a), the Sec-  
14 retary of Housing and Urban Development and the  
15 Board of Governors of the Federal Reserve System  
16 shall include regulations for the mandatory use of  
17 standardized disclosure forms if they jointly deter-  
18 mine that it would substantially benefit the con-  
19 sumer.

20 **SEC. 107. STUDY OF SHARED APPRECIATION MORTGAGES.**

21 (a) STUDY.—The Secretary of Housing and Urban  
22 Development, in consultation with the Secretary of the  
23 Treasury and other relevant agencies, shall conduct a com-  
24 prehensive study to determine prudent statutory and regu-  
25 latory requirements sufficient to provide for the wide-

1 spread use of shared appreciation mortgages to strengthen  
 2 local housing markets, provide new opportunities for af-  
 3 fordable homeownership, and enable homeowners at-risk  
 4 of foreclosure to refinance or modify their mortgages.

5 (b) REPORT.—Not later than the expiration of the  
 6 6-month period beginning on the date of the enactment  
 7 of this Act, the Secretary of Housing and Urban Develop-  
 8 ment shall submit a report to the Congress on the results  
 9 of the study, which shall include recommendations for the  
 10 regulatory and legislative requirements referred to in sub-  
 11 section (a).

## 12 **TITLE II—MINIMUM STANDARDS** 13 **FOR MORTGAGES**

### 14 **SEC. 201. ABILITY TO REPAY.**

15 (a) IN GENERAL.—Chapter 2 of the Truth in Lend-  
 16 ing Act (15 U.S.C. 1631 et seq.) is amended by inserting  
 17 after section 129B (as added by section 102(a)) the fol-  
 18 lowing new section:

#### 19 **“§ 129C. Minimum standards for residential mortgage** 20 **loans**

21 “(a) ABILITY TO REPAY.—

22 “(1) IN GENERAL.—In accordance with regula-  
 23 tions prescribed jointly by the Federal banking agen-  
 24 cies, in consultation with the Commission, no cred-  
 25 itor may make a residential mortgage loan unless

1 the creditor makes a reasonable and good faith de-  
2 termination based on verified and documented infor-  
3 mation that, at the time the loan is consummated,  
4 the consumer has a reasonable ability to repay the  
5 loan, according to its terms, and all applicable taxes,  
6 insurance, and assessments.

7 “(2) MULTIPLE LOANS.—If the creditor knows,  
8 or has reason to know, that 1 or more residential  
9 mortgage loans secured by the same dwelling will be  
10 made to the same consumer, the creditor shall make  
11 a reasonable and good faith determination, based on  
12 verified and documented information, that the con-  
13 sumer has a reasonable ability to repay the com-  
14 bined payments of all loans on the same dwelling ac-  
15 cording to the terms of those loans and all applicable  
16 taxes, insurance, and assessments.

17 “(3) BASIS FOR DETERMINATION.—A deter-  
18 mination under this subsection of a consumer’s abil-  
19 ity to repay a residential mortgage loan shall include  
20 consideration of the consumer’s credit history, cur-  
21 rent income, expected income the consumer is rea-  
22 sonably assured of receiving, current obligations,  
23 debt-to-income ratio, employment status, and other  
24 financial resources other than the consumer’s equity

1 in the dwelling or real property that secures repay-  
2 ment of the loan.

3 “(4) INCOME VERIFICATION.—In order to safe-  
4 guard against fraudulent reporting, any consider-  
5 ation of a consumer’s income history in making a  
6 determination under this subsection shall include the  
7 verification of such income by the use of—

8 “(A) Internal Revenue Service transcripts  
9 of tax returns provided by a third party; or

10 “(B) such other similar method that quick-  
11 ly and effectively verifies income documentation  
12 by a third party as the Federal banking agen-  
13 cies may jointly prescribe.

14 “(5) NONSTANDARD LOANS.—

15 “(A) VARIABLE RATE LOANS THAT DEFER  
16 REPAYMENT OF ANY PRINCIPAL OR INTER-  
17 EST.—For purposes of determining, under this  
18 subsection, a consumer’s ability to repay a vari-  
19 able rate residential mortgage loan that allows  
20 or requires the consumer to defer the repay-  
21 ment of any principal or interest, the creditor  
22 shall use a fully amortizing repayment schedule.

23 “(B) INTEREST-ONLY LOANS.—For pur-  
24 poses of determining, under this subsection, a  
25 consumer’s ability to repay a residential mort-

1           gage loan that permits or requires the payment  
2           of interest only, the creditor shall use the pay-  
3           ment amount required to amortize the loan by  
4           its final maturity.

5           “(C) CALCULATION FOR NEGATIVE AMOR-  
6           TIZATION.—In making any determination under  
7           this subsection, a creditor shall also take into  
8           consideration any balance increase that may ac-  
9           crue from any negative amortization provision.

10          “(D) CALCULATION PROCESS.—For pur-  
11          poses of making any determination under this  
12          subsection, a creditor shall calculate the month-  
13          ly payment amount for principal and interest on  
14          any residential mortgage loan by assuming—

15               “(i) the loan proceeds are fully dis-  
16               bursed on the date of the consummation of  
17               the loan;

18               “(ii) the loan is to be repaid in sub-  
19               stantially equal monthly amortizing pay-  
20               ments for principal and interest over the  
21               entire term of the loan with no balloon  
22               payment, unless the loan contract requires  
23               more rapid repayment (including balloon  
24               payment), in which case the calculation  
25               shall be made (I) in accordance with regu-



1           lations prescribed by the Federal banking  
2           agencies, with respect to any loan which  
3           has an annual percentage rate that does  
4           not exceed the average prime offer rate for  
5           a comparable transaction, as of the date  
6           the interest rate is set, by 1.5 or more per-  
7           centage points for a first lien residential  
8           mortgage loan; and by 3.5 or more per-  
9           centage points for a subordinate lien resi-  
10          dential mortgage loan; or (II) using the  
11          contract's repayment schedule, with re-  
12          spect to a loan which has an annual per-  
13          centage rate, as of the date the interest  
14          rate is set, that is at least 1.5 percentage  
15          points above the average prime offer rate  
16          for a first lien residential mortgage loan;  
17          and 3.5 percentage points above the aver-  
18          age prime offer rate for a subordinate lien  
19          residential mortgage loan; and

20               “(iii) the interest rate over the entire  
21          term of the loan is a fixed rate equal to the  
22          fully indexed rate at the time of the loan  
23          closing, without considering the introduc-  
24          tory rate.

1                   “(E) REFINANCE OF HYBRID LOANS WITH  
2                   CURRENT LENDER.—In considering any appli-  
3                   cation for refinancing an existing hybrid loan  
4                   by the creditor into a standard loan to be made  
5                   by the same creditor in any case in which the  
6                   sole net-tangible benefit to the mortgagor would  
7                   be a reduction in monthly payment and the  
8                   mortgagor has not been delinquent on any pay-  
9                   ment on the existing hybrid loan, the creditor  
10                  may—

11                         “(i) consider the mortgagor’s good  
12                         standing on the existing mortgage;

13                         “(ii) consider if the extension of new  
14                         credit would prevent a likely default should  
15                         the original mortgage reset and give such  
16                         concerns a higher priority as an acceptable  
17                         underwriting practice; and

18                         “(iii) offer rate discounts and other  
19                         favorable terms to such mortgagor that  
20                         would be available to new customers with  
21                         high credit ratings based on such under-  
22                         writing practice.

23                   “(6) FULLY-INDEXED RATE DEFINED.—For  
24                   purposes of this subsection, the term ‘fully indexed  
25                   rate’ means the index rate prevailing on a residential

1 mortgage loan at the time the loan is made plus the  
 2 margin that will apply after the expiration of any in-  
 3 troductory interest rates.”.

4 (b) 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 129B (as  
 7 added by section 102(b)) the following new item:

“129C. Minimum standards for residential mortgage loans.”.

8 **SEC. 202. NET TANGIBLE BENEFIT FOR REFINANCING OF**  
 9 **RESIDENTIAL MORTGAGE LOANS.**

10 Section 129C of the Truth in Lending Act (as added  
 11 by section 201(a)) is amended by inserting after sub-  
 12 section (a) the following new subsection:

13 “(b) NET TANGIBLE BENEFIT FOR REFINANCING OF  
 14 RESIDENTIAL MORTGAGE LOANS.—

15 “(1) IN GENERAL.—In accordance with regula-  
 16 tions prescribed under paragraph (3), no creditor  
 17 may extend credit in connection with any residential  
 18 mortgage loan that involves a refinancing of a prior  
 19 existing residential mortgage loan unless the creditor  
 20 reasonably and in good faith determines, at the time  
 21 the loan is consummated and on the basis of infor-  
 22 mation known by or obtained in good faith by the  
 23 creditor, that the refinanced loan will provide a net  
 24 tangible benefit to the consumer.

1           “(2) CERTAIN LOANS PROVIDING NO NET TAN-  
2           GIBLE BENEFIT.—A residential mortgage loan that  
3           involves a refinancing of a prior existing residential  
4           mortgage loan shall not be considered to provide a  
5           net tangible benefit to the consumer if the costs of  
6           the refinanced loan, including points, fees and other  
7           charges, exceed the amount of any newly advanced  
8           principal without any corresponding changes in the  
9           terms of the refinanced loan that are advantageous  
10          to the consumer.

11          “(3) NET TANGIBLE BENEFIT.—The Federal  
12          banking agencies shall jointly prescribe regulations  
13          defining the term ‘net tangible benefit’ for purposes  
14          of this subsection.”.

15 **SEC. 203. SAFE HARBOR AND REBUTTABLE PRESUMPTION.**

16          Section 129C of the Truth in Lending Act is amend-  
17          ed by inserting after subsection (b) (as added by section  
18          202) the following new subsection:

19          “(c) PRESUMPTION OF ABILITY TO REPAY AND NET  
20          TANGIBLE BENEFIT.—

21                 “(1) IN GENERAL.—Any creditor with respect  
22                 to any residential mortgage loan, and any assignee  
23                 or securitizer of such loan, may presume that the  
24                 loan has met the requirements of subsections (a)  
25                 and (b), if the loan is a qualified mortgage.

1           “(2) DEFINITIONS.—For purposes of this sub-  
2           section, the following definitions shall apply:

3                   “(A) QUALIFIED MORTGAGE.—The term  
4           ‘qualified mortgage’ means any residential  
5           mortgage loan—

6                           “(i) that does not allow a consumer to  
7                           defer repayment of principal or interest, or  
8                           is not otherwise deemed a ‘non-traditional  
9                           mortgage’ under guidance, advisories, or  
10                          regulations prescribed by the Federal  
11                          Banking Agencies;

12                           “(ii) that does not provide for a re-  
13                           payment schedule that results in negative  
14                           amortization at any time;

15                           “(iii) for which the terms are fully  
16                           amortizing and which does not result in a  
17                           balloon payment, where a ‘balloon pay-  
18                           ment’ is a scheduled payment that is more  
19                           than twice as large as the average of ear-  
20                           lier scheduled payments;

21                           “(iv) which has an annual percentage  
22                           rate that does not exceed the average  
23                           prime offer rate for a comparable trans-  
24                           action, as of the date the interest rate is  
25                           set—

1           “(I) by 1.5 or more percentage  
2 points, in the case of a first lien resi-  
3 dential mortgage loan having a origi-  
4 nal principal obligation amount that is  
5 equal to or less than the amount of  
6 the maximum limitation on the origi-  
7 nal principal obligation of mortgage in  
8 effect for a residence of the applicable  
9 size, as of the date of such interest  
10 rate set, pursuant to the sixth sen-  
11 tence of section 305(a)(2) the Federal  
12 Home Loan Mortgage Corporation  
13 Act (12 U.S.C. 1454(a)(2));

14           “(II) by 2.5 or more percentage  
15 points, in the case of a first lien resi-  
16 dential mortgage loan having a origi-  
17 nal principal obligation amount that is  
18 more than the amount of the max-  
19 imum limitation on the original prin-  
20 cipal obligation of mortgage in effect  
21 for a residence of the applicable size,  
22 as of the date of such interest rate  
23 set, pursuant to the sixth sentence of  
24 section 305(a)(2) the Federal Home

1                   Loan Mortgage Corporation Act (12  
2                   U.S.C. 1454(a)(2)); and

3                   “(III) by 3.5 or more percentage  
4                   points, in the case of a subordinate  
5                   lien residential mortgage loan;

6                   “(v) for which the income and finan-  
7                   cial resources relied upon to qualify the ob-  
8                   ligors on the loan are verified and docu-  
9                   mented;

10                  “(vi) in the case of a fixed rate loan,  
11                  for which the underwriting process is based  
12                  on a payment schedule that fully amortizes  
13                  the loan over the loan term and takes into  
14                  account all applicable taxes, insurance, and  
15                  assessments;

16                  “(vii) in the case of an adjustable rate  
17                  loan, for which the underwriting is based  
18                  on the maximum rate permitted under the  
19                  loan during the first seven years, and a  
20                  payment schedule that fully amortizes the  
21                  loan over the loan term and takes into ac-  
22                  count all applicable taxes, insurance, and  
23                  assessments;

24                  “(viii) that does not cause the con-  
25                  sumer’s total monthly debts, including

1 amounts under the loan, to exceed a per-  
2 centage established by regulation of the  
3 consumer's monthly gross income or such  
4 other maximum percentage of such income  
5 as may be prescribed by regulation under  
6 paragraph (4), and such rules shall also  
7 take into consideration the consumer's in-  
8 come available to pay regular expenses  
9 after payment of all installment and revolv-  
10 ing debt;

11 “(ix) for which the total points and  
12 fees payable in connection with the loan do  
13 not exceed 2 percent of the total loan  
14 amount, where ‘points and fees’ means  
15 points and fees as defined by Section  
16 103(aa)(4) of the Truth in Lending Act  
17 (15 U.S.C. 1602(aa)(4)); and

18 “(x) for which the term of the loan  
19 does not exceed 30 years, except as such  
20 term may be extended under paragraph  
21 (4).

22 “(B) AVERAGE PRIME OFFER RATE.—The  
23 term ‘average prime offer rate’ means an an-  
24 nual percentage rate that is derived from aver-  
25 age interest rates, points, and other loan prie-



1 ing terms currently offered to consumers by a  
2 representative sample of creditors for mortgage  
3 transactions that have low risk pricing charac-  
4 teristics.

5 “(3) PUBLICATION OF AVERAGE PRIME OFFER  
6 RATE AND APR THRESHOLDS.—The Board—

7 “(A) shall publish, and update at least  
8 weekly, average prime offer rates;

9 “(B) may publish multiple rates based on  
10 varying types of mortgage transactions; and

11 “(C) shall adjust the thresholds of 1.50  
12 percentage points in paragraph (2)(A)(iv)(I),  
13 2.50 percentage points in paragraph  
14 (2)(A)(iv)(II), and 3.50 percentage points in  
15 paragraph (2)(A)(v)(III), as necessary to reflect  
16 significant changes in market conditions and to  
17 effectuate the purposes of the Mortgage Reform  
18 and Anti-Predatory Lending Act.

19 “(4) REGULATIONS.—

20 “(A) IN GENERAL.—The Federal banking  
21 agencies shall jointly prescribe regulations to  
22 carry out the purposes of this subsection.

23 “(B) REVISION OF SAFE HARBOR CRI-  
24 TERIA.—

1           “(i) IN GENERAL.—The Federal bank-  
2           ing agencies may jointly prescribe regula-  
3           tions that revise, add to, or subtract from  
4           the criteria that define a qualified mort-  
5           gage upon a finding that such regulations  
6           are necessary or proper to ensure that re-  
7           sponsible, affordable mortgage credit re-  
8           mains available to consumers in a manner  
9           consistent with the purposes of this sec-  
10          tion, necessary and appropriate to effec-  
11          tuate the purposes of this section and sec-  
12          tion 129B, to prevent circumvention or  
13          evasion thereof, or to facilitate compliance  
14          with such sections.

15          “(ii) LOAN DEFINITION.—The fol-  
16          lowing agencies shall, in consultation with  
17          the Federal banking agencies, prescribe  
18          rules defining the types of loans they in-  
19          sure, guarantee or administer, as the case  
20          may be, that are Qualified Mortgages for  
21          purposes of subsection (c)(1)(A) upon a  
22          finding that such rules are consistent with  
23          the purposes of this section and section  
24          129B, to prevent circumvention or evasion

1           thereof, or to facilitate compliance with  
2           such sections—

3                   “(I) The Department of Housing  
4                   and Urban Development, with regard  
5                   to mortgages insured under title II of  
6                   the National Housing Act (12 U.S.C.  
7                   1707 et seq.);

8                   “(II) The Secretary of Veterans  
9                   Affairs, with regard to a loan made or  
10                  guaranteed by the Secretary of Vet-  
11                  erans Affairs;

12                  “(III) The Secretary of Agri-  
13                  culture, with regard loans guaranteed  
14                  by the Secretary of Agriculture pursu-  
15                  ant to 42 U.S.C. 1472(h);

16                  “(IV) The Federal Housing Fi-  
17                  nance Agency, with regard to loans  
18                  meeting the conforming loan stand-  
19                  ards of the Federal National Mort-  
20                  gage Corporation or the Federal  
21                  Home Loan Mortgage Corporation;  
22                  and

23                  “(V) The Rural Housing Service,  
24                  with regard to loans insured by the  
25                  Rural Housing Service.”.

1 **SEC. 204. LIABILITY.**

2 Section 129C of the Truth in Lending Act is amend-  
3 ed by inserting after subsection (c) (as added by section  
4 203) the following new subsection:

5 “(d) LIABILITY FOR VIOLATIONS.—

6 “(1) IN GENERAL.—

7 “(A) RESCISSION.—In addition to any  
8 other liability under this title for a violation by  
9 a creditor of subsection (a) or (b) (for example  
10 under section 130) and subject to the statute of  
11 limitations in paragraph (9), a civil action may  
12 be maintained against a creditor for a violation  
13 of subsection (a) or (b) with respect to a resi-  
14 dential mortgage loan for the rescission of the  
15 loan, and such additional costs as the obligor  
16 may have incurred as a result of the violation  
17 and in connection with obtaining a rescission of  
18 the loan, including a reasonable attorney’s fee.

19 “(B) CURE.—A creditor shall not be liable  
20 for rescission under subparagraph (A) with re-  
21 spect to a residential mortgage loan if, no later  
22 than 90 days after the receipt of notification  
23 from the consumer that the loan violates sub-  
24 section (a) or (b), the creditor, acting in good  
25 faith, a cure.

1           “(2) LIMITED ASSIGNEE AND SECURITIZER LI-  
2           ABILITY.—Notwithstanding sections 125(e) and 131  
3           and except as provided in paragraph (3), a civil ac-  
4           tion which may be maintained against a creditor  
5           with respect to a residential mortgage loan for a vio-  
6           lation of subsection (a) or (b) may be maintained  
7           against any assignee or securitizer of such residen-  
8           tial mortgage loan, who has acted in good faith, for  
9           the following liabilities only:

10                 “(A) Rescission of the loan.

11                 “(B) Such additional costs as the obligor  
12                 may have incurred as a result of the violation  
13                 and in connection with obtaining a rescission of  
14                 the loan, including a reasonable attorney’s fee.

15           “(3) ASSIGNEE AND SECURITIZER EXEMP-  
16           TION.—No assignee or securitizer of a residential  
17           mortgage loan that has exercised reasonable due dili-  
18           gence in complying with the requirements of sub-  
19           sections (a) and (b), consistent with reasonable due  
20           diligence practices prescribed by the Federal banking  
21           agencies, shall be liable under paragraph (2) with re-  
22           spect to such loan if, no later than 90 days after the  
23           receipt of notification from the consumer that the  
24           loan violates subsection (a) or (b), the assignee or

1 securitizer provides a cure so that the loan satisfies  
2 the requirements of subsections (a) and (b).

3 “(4) ABSENT PARTIES.—

4 “(A) ABSENT CREDITOR.—Notwith-  
5 standing the exemption provided in paragraph  
6 (3), if the creditor with respect to a residential  
7 mortgage loan made in violation of subsection  
8 (a) or (b) has ceased to exist as a matter of law  
9 or has filed for bankruptcy protection under  
10 title 11, United States Code, or has had a re-  
11 ceiver, conservator, or liquidating agent ap-  
12 pointed, a consumer may maintain a civil action  
13 against an assignee to cure the residential  
14 mortgage loan, plus the costs and reasonable  
15 attorney’s fees incurred in obtaining such rem-  
16 edy.

17 “(B) ABSENT CREDITOR AND ASSIGNEE.—

18 Notwithstanding the exemption provided in  
19 paragraph (3), if the creditor with respect to a  
20 residential mortgage loan made in violation of  
21 subsection (a) or (b) and each assignee of such  
22 loan have ceased to exist as a matter of law or  
23 have filed for bankruptcy protection under title  
24 11, United States Code, or have had receivers,  
25 conservators, or liquidating agents appointed,

1           the consumer may maintain the civil action re-  
2           ferred to in subparagraph (A) against the  
3           securitizer.

4           “(5) CURE DEFINED.—For purposes of this  
5           subsection, the term ‘cure’ means, with respect to a  
6           residential mortgage loan that violates subsection (a)  
7           or (b), the modification or refinancing, at no cost to  
8           the consumer, of the loan to provide terms that sat-  
9           isfy the requirements of subsections (a) and (b) and  
10          the payment of such additional costs as the obligor  
11          may have incurred in connection with obtaining a  
12          cure of the loan, including a reasonable attorney’s  
13          fee.

14          “(6) DISAGREEMENT OVER CURE.—If any cred-  
15          itor, assignee, or securitizer and a consumer fail to  
16          reach agreement on a cure with respect to a residen-  
17          tial mortgage loan that violates subsection (a) or (b),  
18          or the consumer fails to accept a cure proffered by  
19          a creditor, assignee, or securitizer—

20                 “(A) the creditor, assignee, or securitizer  
21                 may provide the cure; and

22                 “(B) the consumer may challenge the ade-  
23                 quacy of the cure during the 6-month period be-  
24                 ginning when the cure is provided.

1 If the consumer's challenge, under this paragraph,  
2 of a cure is successful, the creditor, assignee, or  
3 securitizer shall be liable to the consumer for rescis-  
4 sion of the loan and such additional costs under  
5 paragraph (2).

6 “(7) INABILITY TO PROVIDE OR OBTAIN RE-  
7 SCISSION.—If a creditor, assignee, or securitizer  
8 cannot provide, or a consumer cannot obtain, rescis-  
9 sion under paragraph (1) or (2), the liability of such  
10 creditor, assignee, or securitizer shall be met by pro-  
11 viding the financial equivalent of a rescission, to-  
12 gether with such additional costs as the obligor may  
13 have incurred as a result of the violation and in con-  
14 nection with obtaining a rescission of the loan, in-  
15 cluding a reasonable attorney's fee.

16 “(8) NO CLASS ACTIONS AGAINST ASSIGNEE OR  
17 SECURITIZER UNDER PARAGRAPH (2).—Only indi-  
18 vidual actions may be brought against an assignee  
19 or securitizer of a residential mortgage loan for a  
20 violation of subsection (a) or (b).

21 “(9) STATUTE OF LIMITATIONS.—The liability  
22 of a creditor, assignee, or securitizer under this sub-  
23 section shall apply in any original action against a  
24 creditor under paragraph (1) or an assignee or



1 securitizer under paragraph (2) which is brought be-  
2 fore—

3 “(A) in the case of any residential mort-  
4 gage loan other than a loan to which subpara-  
5 graph (B) applies, the end of the 3-year period  
6 beginning on the date the loan is consummated;  
7 or

8 “(B) in the case of a residential mortgage  
9 loan that provides for a fixed interest rate for  
10 an introductory period and then resets or ad-  
11 justs to a variable rate or that provides for a  
12 nonamortizing payment schedule and then con-  
13 verts to an amortizing payment schedule, the  
14 earlier of—

15 “(i) the end of the 1-year period be-  
16 ginning on the date of such reset, adjust-  
17 ment, or conversion; or

18 “(ii) the end of the 6-year period be-  
19 ginning on the date the loan is con-  
20 summated.

21 “(10) TRUSTEES, POOLS, AND INVESTORS IN  
22 POOLS EXCLUDED.—In the case of residential mort-  
23 gage loans acquired or aggregated for the purpose of  
24 including such loans in a pool of assets held for the  
25 purpose of issuing or selling instruments rep-

1       resenting interests in such pools including through a  
2       securitization vehicle, the terms ‘assignee’ and  
3       ‘securitizer’, as used in this section, do not include  
4       the securitization vehicle, any trustee that holds  
5       such loans solely for the benefit of the securitization  
6       vehicle, the pools of such loans or any original or  
7       subsequent purchaser of any interest in the  
8       securitization vehicle or any instrument representing  
9       a direct or indirect interest in such pool.

10       “(e) OBLIGATION OF SECURITIZERS, AND PRESERVA-  
11       TION OF BORROWER REMEDIES.—

12               “(1) OBLIGATION TO RETAIN ACCESS.—Any  
13       securitizer of a residential mortgage loan sold or to  
14       be sold as part of a securitization vehicle shall, in  
15       any document or contract providing for the transfer,  
16       conveyance, or the establishment of such  
17       securitization vehicle, reserve the right and preserve  
18       the ability—

19               “(A) to identify and obtain access to any  
20       such loan;

21               “(B) to acquire any such loan in the event  
22       of a violation of subsection (a) or (b) of this  
23       section; and

1           “(C) to provide to the consumer any and  
2           all remedies provided for under this title for  
3           any violation of this title.

4           “(2) ADDITIONAL DAMAGES.—Any creditor, as-  
5           signee, or securitizer of a residential mortgage loan  
6           that is subject to a remedy under subsection (d) and  
7           has failed to comply with paragraph (1) shall be  
8           subject to additional exemplary or punitive damages  
9           not to exceed the original principal balance of such  
10          loan.

11          “(3) CONTACT INFORMATION NOTICE.—The  
12          servicer with respect to a residential mortgage loan  
13          shall provide a written notice to a consumer identi-  
14          fying the name and contact information of the cred-  
15          itor or any assignee or securitizer who should be  
16          contacted by the consumer for any reason con-  
17          cerning the consumer’s rights with respect to the  
18          loan. Such notice shall be provided—

19                  “(A) upon request of the consumer;

20                  “(B) whenever there is a change in owner-  
21                  ship of a residential mortgage loan; or

22                  “(C) on a regular basis, not less than an-  
23                  nually.

24          “(f) RULES TO ESTABLISH PROCESS.—The Board  
25          shall promulgate rules to govern the rescission process es-

1 tablished for violations of subsections (a) and (b) of this  
 2 section. Such rules shall provide that notice given to a  
 3 servicer or holder is sufficient notice regardless of the  
 4 identity of the party or the parties liable under this title.”.

5 **SEC. 205. DEFENSE TO FORECLOSURE.**

6 Section 129C of the Truth in Lending Act is amend-  
 7 ed by inserting after subsection (f) (as added by section  
 8 204) the following new subsections:

9 “(g) DEFENSE TO FORECLOSURE.—Notwithstanding  
 10 any other provision of law—

11 “(1) when the holder of a residential mortgage  
 12 loan or anyone acting for such holder initiates a ju-  
 13 dicial or nonjudicial foreclosure—

14 “(A) a consumer who has the right to re-  
 15 scind under this section with respect to such  
 16 loan against the creditor or any assignee or  
 17 securitizer may assert such right as a defense  
 18 to foreclosure or counterclaim to such fore-  
 19 closure against the holder, or

20 “(B) if the foreclosure proceeding begins  
 21 after the end of the period during which a con-  
 22 sumer may bring an action for rescission under  
 23 subsection (d) and the consumer would have  
 24 had a valid basis for such an action if it had  
 25 been brought before the end of such period, the

1 consumer may seek actual damages incurred by  
2 reason of the violation which gave rise to the  
3 right of rescission, together with costs of the  
4 action, including a reasonable attorney's fee  
5 against the creditor or any assignee or  
6 securitizer; and

7 “(2) such holder or anyone acting for such  
8 holder or any other applicable third party may sell,  
9 transfer, convey, or assign a residential mortgage  
10 loan to a creditor, any assignee, or any securitizer,  
11 or their designees, subject to the rights of the con-  
12 sumer described in this subsection, to effect a rescis-  
13 sion or cure.”.

14 **SEC. 206. ADDITIONAL STANDARDS AND REQUIREMENTS.**

15 (a) IN GENERAL.—Section 129C of the Truth in  
16 Lending Act is amended by inserting after subsection (g)  
17 (as added by section 205) the following new subsections:

18 “(h) PROHIBITION ON CERTAIN PREPAYMENT PEN-  
19 ALTIES.—

20 “(1) PROHIBITED ON CERTAIN LOANS.—A resi-  
21 dential mortgage loan that is not a ‘qualified mort-  
22 gage’ may not contain terms under which a con-  
23 sumer must pay a prepayment penalty for paying all  
24 or part of the principal after the loan is con-  
25 summated. For purposes of this subsection, a ‘quali-

1       fied mortgage’ may not include a residential mort-  
2       gage loan that has an adjustable rate.

3           “(2) PHASED-OUT PENALTIES ON QUALIFIED  
4       MORTGAGES.—A qualified mortgage (as defined in  
5       subsection (c)) may not contain terms under which  
6       a consumer must pay a prepayment penalty for pay-  
7       ing all or part of the principal after the loan is con-  
8       summated in excess of the following limitations:

9           “(A) During the 1-year period beginning  
10       on the date the loan is consummated, the pre-  
11       payment penalty shall not exceed an amount  
12       equal to 3 percent of the outstanding balance  
13       on the loan.

14          “(B) During the 1-year period beginning  
15       after the period described in subparagraph (A),  
16       the prepayment penalty shall not exceed an  
17       amount equal to 2 percent of the outstanding  
18       balance on the loan.

19          “(C) During the 1-year period beginning  
20       after the 1-year period described in subpara-  
21       graph (B), the prepayment penalty shall not ex-  
22       ceed an amount equal to 1 percent of the out-  
23       standing balance on the loan.

24          “(D) After the end of the 3-year period be-  
25       ginning on the date the loan is consummated,

1           no prepayment penalty may be imposed on a  
2           qualified mortgage.

3           “(3) OPTION FOR NO PREPAYMENT PENALTY  
4           REQUIRED.—A creditor may not offer a consumer a  
5           residential mortgage loan product that has a prepay-  
6           ment penalty for paying all or part of the principal  
7           after the loan is consummated as a term of the loan  
8           without offering the consumer a residential mort-  
9           gage loan product that does not have a prepayment  
10          penalty as a term of the loan.

11          “(i) SINGLE PREMIUM CREDIT INSURANCE PROHIB-  
12        ITED.—No creditor may finance, directly or indirectly, in  
13        connection with any residential mortgage loan or with any  
14        extension of credit under an open end consumer credit  
15        plan secured by the principal dwelling of the consumer  
16        (other than a reverse mortgage), any credit life, credit dis-  
17        ability, credit unemployment or credit property insurance,  
18        or any other accident, loss-of-income, life or health insur-  
19        ance, or any payments directly or indirectly for any debt  
20        cancellation or suspension agreement or contract, except  
21        that—

22               “(1) insurance premiums or debt cancellation or  
23               suspension fees calculated and paid in full on a  
24               monthly basis shall not be considered financed by  
25               the creditor; and

1           “(2) this subsection shall not apply to credit  
2           unemployment insurance for which the unemploy-  
3           ment insurance premiums are reasonable, the cred-  
4           itor receives no direct or indirect compensation in  
5           connection with the unemployment insurance pre-  
6           miums, and the unemployment insurance premiums  
7           are paid pursuant to another insurance contract and  
8           not paid to an affiliate of the creditor.

9           “(j) ARBITRATION.—

10           “(1) IN GENERAL.—No residential mortgage  
11           loan and no extension of credit under an open end  
12           consumer credit plan secured by the principal dwell-  
13           ing of the consumer, other than a reverse mortgage,  
14           may include terms which require arbitration or any  
15           other nonjudicial procedure as the method for resolv-  
16           ing any controversy or settling any claims arising  
17           out of the transaction.

18           “(2) POST-CONTROVERSY AGREEMENTS.—Sub-  
19           ject to paragraph (3), paragraph (1) shall not be  
20           construed as limiting the right of the consumer and  
21           the creditor, any assignee, or any securitizer to  
22           agree to arbitration or any other nonjudicial proce-  
23           dure as the method for resolving any controversy at  
24           any time after a dispute or claim under the trans-  
25           action arises.



1           “(3) NO WAIVER OF STATUTORY CAUSE OF AC-  
2           TION.—No provision of any residential mortgage  
3           loan or of any extension of credit under an open end  
4           consumer credit plan secured by the principal dwell-  
5           ing of the consumer (other than a reverse mort-  
6           gage), and no other agreement between the con-  
7           sumer and the creditor relating to the residential  
8           mortgage loan or extension of credit referred to in  
9           paragraph (1), shall be applied or interpreted so as  
10          to bar a consumer from bringing an action in an ap-  
11          propriate district court of the United States, or any  
12          other court of competent jurisdiction, pursuant to  
13          section 130 or any other provision of law, for dam-  
14          ages or other relief in connection with any alleged  
15          violation of this section, any other provision of this  
16          title, or any other Federal law.

17          “(k) MORTGAGES WITH NEGATIVE AMORTIZA-  
18          TION.—No creditor may extend credit to a borrower in  
19          connection with a consumer credit transaction under an  
20          open or closed end consumer credit plan secured by a  
21          dwelling or residential real property that includes a dwell-  
22          ing, other than a reverse mortgage, that provides or per-  
23          mits a payment plan that may, at any time over the term  
24          of the extension of credit, result in negative amortization  
25          unless, before such transaction is consummated—

1           “(1) the creditor provides the consumer with a  
2 statement that—

3                   “(A) the pending transaction will or may,  
4 as the case may be, result in negative amortiza-  
5 tion;

6                   “(B) describes negative amortization in  
7 such manner as the Federal banking agencies  
8 shall prescribe;

9                   “(C) negative amortization increases the  
10 outstanding principal balance of the account;  
11 and

12                   “(D) negative amortization reduces the  
13 consumer’s equity in the dwelling or real prop-  
14 erty; and

15           “(2) in the case of a first-time borrower with  
16 respect to a residential mortgage loan that is not a  
17 qualified mortgage, the first-time borrower provides  
18 the creditor with sufficient documentation to dem-  
19 onstrate that the consumer received homeownership  
20 counseling from organizations or counselors certified  
21 by the Secretary of Housing and Urban Develop-  
22 ment as competent to provide such counseling.”.

23       (b) CONFORMING AMENDMENT RELATING TO EN-  
24 FORCEMENT.—Section 108(a) of the Truth in Lending

1 Act (15 U.S.C. 1607(a)) is amended by inserting after  
 2 paragraph (6) the following new paragraph:

3 “(7) sections 21B and 21C of the Securities  
 4 Exchange Act of 1934, in the case of a broker or  
 5 dealer, other than a depository institution, by the  
 6 Securities and Exchange Commission.”.

7 (c) PROTECTION AGAINST LOSS OF ANTI-DEFI-  
 8 CIENCY PROTECTION.—Section 129C of the Truth in  
 9 Lending Act is amended by inserting after subsection (k)  
 10 (as added by subsection (a) of this section) the following  
 11 new subsection (and designated succeeding subsections ac-  
 12 cordingly):

13 “(l) PROTECTION AGAINST LOSS OF ANTI-DEFI-  
 14 CIENCY PROTECTION.—

15 “(1) DEFINITION.—For purposes of this sub-  
 16 section, the term ‘anti-deficiency law’ means the law  
 17 of any State which provides that, in the event of  
 18 foreclosure on the residential property of a consumer  
 19 securing a mortgage, the consumer is not liable, in  
 20 accordance with the terms and limitations of such  
 21 State law, for any deficiency between the sale price  
 22 obtained on such property through foreclosure and  
 23 the outstanding balance of the mortgage.

24 “(2) NOTICE AT TIME OF CONSUMMATION.—In  
 25 the case of any residential mortgage loan that is, or

1       upon consummation will be, subject to protection  
2       under an anti-deficiency law, the creditor or mort-  
3       gage originator shall provide a written notice to the  
4       consumer describing the protection provided by the  
5       anti-deficiency law and the significance for the con-  
6       sumer of the loss of such protection before such loan  
7       is consummated.

8               “(3) NOTICE BEFORE REFINANCING THAT  
9       WOULD CAUSE LOSS OF PROTECTION.—In the case  
10      of any residential mortgage loan that is subject to  
11      protection under an anti-deficiency law, if a creditor  
12      or mortgage originator provides an application to a  
13      consumer, or receives an application from a con-  
14      sumer, for any type of refinancing for such loan that  
15      would cause the loan to lose the protection of such  
16      anti-deficiency law, the creditor or mortgage origi-  
17      nator shall provide a written notice to the consumer  
18      describing the protection provided by the anti-defi-  
19      ciency law and the significance for the consumer of  
20      the loss of such protection before any agreement for  
21      any such refinancing is consummated.”.

22      (d) POLICY REGARDING ACCEPTANCE OF PARTIAL  
23      PAYMENT.—Section 129C of the Truth in Lending Act  
24      is amended by inserting after subsection (l) the following

1 new subsection (and redesignating subsequent subsections  
2 of such section accordingly):

3 “(m) **POLICY REGARDING ACCEPTANCE OF PARTIAL**  
4 **PAYMENT.**—In the case of any residential mortgage loan,  
5 a creditor shall disclose prior to settlement or, in the case  
6 of a person becoming a creditor with respect to an existing  
7 residential mortgage loan, at the time such person be-  
8 comes a creditor—

9 “(1) the creditor’s policy regarding the accept-  
10 ance of partial payments; and

11 “(2) if partial payments are accepted, how such  
12 payments will be applied to such mortgage and if  
13 such payments will be placed in escrow.”.

14 **SEC. 207. RULE OF CONSTRUCTION.**

15 Except as otherwise expressly provided in section  
16 129B or 129C of the Truth in Lending Act (as added by  
17 this Act), no provision of such section 129B or 129C shall  
18 be construed as superseding, repealing, or affecting any  
19 duty, right, obligation, privilege, or remedy of any person  
20 under any other provision of the Truth in Lending Act  
21 or any other provision of Federal or State law.

22 **SEC. 208. EFFECT ON STATE LAWS.**

23 (a) **IN GENERAL.**—Except as provided in subsection  
24 (b), section 129C(d) of the Truth in Lending Act (as  
25 added by section 204) shall supersede any State law to

1 the extent that it provides additional remedies against any  
2 assignee, securitizer, or securitization vehicle for a viola-  
3 tion of subsection (a) or (b) of section 129C of such Act  
4 or any other State law the terms of which address the  
5 specific subject matter of subsection (a) (determination of  
6 ability to repay) or (b) (requirement of a net tangible ben-  
7 efit) of section 129C of such Act, and the remedies de-  
8 scribed in section 129C(d) shall constitute the sole rem-  
9 edies against any assignee, securitizer, or securitization  
10 vehicle for such violations.

11 (b) RULES OF CONSTRUCTION.—No provision of this  
12 section shall be construed as limiting—

13 (1) the application of any State law, or the  
14 availability of remedies under such law, against a  
15 creditor for a particular residential mortgage loan  
16 regardless of whether such creditor also acts as an  
17 assignee, securitizer, or securitization vehicle for  
18 such loan;

19 (2) the application of any State law, or the  
20 availability of remedies under such law, against an  
21 assignee, securitizer, or securitization vehicle under  
22 State law, other than a provision of such law the  
23 terms of which address the specific subject matter of  
24 subsection (a) (determination of ability to repay) or

1 (b) (requirement of a net tangible benefit) of section  
2 129C of such Act;

3 (3)(A) the application of any State law, or the  
4 availability of remedies under such law, against an  
5 assignee, securitizer or securitization vehicle for its  
6 participation in or direction of the credit or under-  
7 writing decisions of a creditor relating to the making  
8 of a residential mortgage loan; or

9 (B) the ability of a consumer to assert any  
10 rights against or obtain any remedies from an as-  
11 signee, securitizer or securitization vehicle with re-  
12 spect to a residential mortgage loan as a defense to  
13 foreclosure under section 129C(g);

14 (4) the availability of any equitable remedies,  
15 including injunctive relief, under State law; or

16 (5) notwithstanding paragraph (2), the avail-  
17 ability of any remedies under State law against any  
18 assignee, securitizer or securitization vehicle that—

19 (A) are in addition to those remedies pro-  
20 vided for in section 129C; and

21 (B) were in effect on the date of enactment  
22 of this Act.

23 **SEC. 209. REGULATIONS.**

24 Regulations required or authorized to be prescribed  
25 under this title or the amendments made by this title—

1           (1) shall be prescribed in final form before the  
 2           end of the 12-month period beginning on the date of  
 3           the enactment of this Act; and

4           (2) shall take effect not later than 18 months  
 5           after the date of the enactment of this Act.

6 **SEC. 210. AMENDMENTS TO CIVIL LIABILITY PROVISIONS.**

7           (a) INCREASE IN AMOUNT OF CIVIL MONEY PEN-  
 8           ALTIES FOR CERTAIN VIOLATIONS.—Section 130(a)(2) of  
 9           the Truth in Lending Act (15 U.S.C. 1640(a)(2)) is  
 10          amended—

11           (1) by striking “\$100” and inserting “\$200”;

12           (2) by striking “\$1,000” and inserting  
 13           “\$2,000”; and

14           (3) by striking “\$500,000” and inserting  
 15           “\$1,000,000”.

16          (b) STATUTE OF LIMITATIONS EXTENDED FOR SEC-  
 17          TION 129 VIOLATIONS.—Section 130(e) of the Truth in  
 18          Lending Act (15 U.S.C. 1640(e)) is amended—

19           (1) in the first sentence, by striking “Any ac-  
 20           tion” and inserting “Except as provided in the sub-  
 21           sequent sentence, any action”; and

22           (2) by inserting after the first sentence the fol-  
 23           lowing new sentence: “Any action under this section  
 24           with respect to any violation of section 129 may be  
 25           brought in any United States district court, or in



1 any other court of competent jurisdiction, before the  
 2 end of the 3-year period beginning on the date of the  
 3 occurrence of the violation.”.

4 **SEC. 211. LENDER RIGHTS IN THE CONTEXT OF BORROWER**  
 5 **DECEPTION.**

6 Section 130 of the Truth in Lending Act is amended  
 7 by adding at the end the following new subsection:

8 “(k) EXEMPTION FROM LIABILITY AND RESCISSION  
 9 IN CASE OF BORROWER FRAUD OR DECEPTION.—In ad-  
 10 dition to any other remedy available by law or contract,  
 11 no creditor, assignee, or securitizer shall be liable to an  
 12 obligor under this section, nor shall it be subject to the  
 13 right of rescission of any obligor under 129B, if such obli-  
 14 gor, or co-obligor, knowingly, or willfully and with actual  
 15 knowledge furnished material information known to be  
 16 false for the purpose of obtaining such residential mort-  
 17 gage loan.”.

18 **SEC. 212. SIX-MONTH NOTICE REQUIRED BEFORE RESET OF**  
 19 **HYBRID ADJUSTABLE RATE MORTGAGES.**

20 (a) IN GENERAL.—Chapter 2 of the Truth in Lend-  
 21 ing Act (15 U.S.C. 1631 et seq.) is amended by inserting  
 22 after section 128 the following new section:

23 **“§ 128A. Reset of hybrid adjustable rate mortgages**

24 “(a) HYBRID ADJUSTABLE RATE MORTGAGES DE-  
 25 FINED.—For purposes of this section, the term ‘hybrid ad-

1 justable rate mortgage’ means a consumer credit trans-  
2 action secured by the consumer’s principal residence with  
3 a fixed interest rate for an introductory period that ad-  
4 justs or resets to a variable interest rate after such period.

5 “(b) NOTICE OF RESET AND ALTERNATIVES.—Dur-  
6 ing the 1-month period that ends 6 months before the date  
7 on which the interest rate in effect during the introductory  
8 period of a hybrid adjustable rate mortgage adjusts or  
9 resets to a variable interest rate or, in the case of such  
10 an adjustment or resetting that occurs within the first 6  
11 months after consummation of such loan, at consumma-  
12 tion, the creditor or servicer of such loan shall provide a  
13 written notice, separate and distinct from all other cor-  
14 respondence to the consumer, that includes the following:

15 “(1) Any index or formula used in making ad-  
16 justments to or resetting the interest rate and a  
17 source of information about the index or formula.

18 “(2) An explanation of how the new interest  
19 rate and payment would be determined, including an  
20 explanation of how the index was adjusted, such as  
21 by the addition of a margin.

22 “(3) A good faith estimate, based on accepted  
23 industry standards, of the creditor or servicer of the  
24 amount of the monthly payment that will apply after

1 the date of the adjustment or reset, and the assump-  
2 tions on which this estimate is based.

3 “(4) A list of alternatives consumers may pur-  
4 sue before the date of adjustment or reset, and de-  
5 scriptions of the actions consumers must take to  
6 pursue these alternatives, including—

7 “(A) refinancing;

8 “(B) renegotiation of loan terms;

9 “(C) payment forbearances; and

10 “(D) pre-foreclosure sales.

11 “(5) The names, addresses, telephone numbers,  
12 and Internet addresses of counseling agencies or  
13 programs reasonably available to the consumer that  
14 have been certified or approved and made publicly  
15 available by the Secretary of Housing and Urban  
16 Development or a State housing finance authority  
17 (as defined in section 1301 of the Financial Institu-  
18 tions Reform, Recovery, and Enforcement Act of  
19 1989).

20 “(6) The address, telephone number, and Inter-  
21 net address for the State housing finance authority  
22 (as so defined) for the State in which the consumer  
23 resides.”.

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 128 the fol-  
 2 lowing new item:

“128A. Reset of hybrid adjustable rate mortgages.”.

3 **SEC. 213. CREDIT RISK RETENTION.**

4 Section 129C of the Truth in Lending Act is amend-  
 5 ed by inserting after subsection (k) (as added by section  
 6 206) the following new subsection:

7 “(l) CREDIT RISK RETENTION.—

8 “(1) IN GENERAL.—The Federal banking agen-  
 9 cies shall prescribe regulations jointly to require any  
 10 creditor that makes a residential mortgage loan that  
 11 is not a qualified mortgage (as defined under section  
 12 129C(c)(2)(A)), to retain an economic interest in a  
 13 material portion of the credit risk for any such loan  
 14 that the creditor transfers, sells or conveys to a  
 15 third party.

16 “(2) STANDARDS FOR REGULATIONS.—Regula-  
 17 tions prescribed under paragraph (1) shall—

18 “(A) apply only to residential mortgage  
 19 loans that are not qualified mortgages (as so  
 20 defined);

21 “(B) prohibit a creditor from directly or  
 22 indirectly hedging or otherwise transferring the  
 23 credit risk such creditor is required to retain  
 24 under the regulations with respect to any resi-  
 25 dential mortgage loan;

1           “(C) require a creditor to retain at least 5  
2           percent of the credit risk on any non-qualified  
3           mortgage that is transferred, sold or conveyed  
4           by such creditor; and

5           “(D) specify the permissible forms of the  
6           required risk retention (for example, first loss  
7           position or pro rata vertical slice) and the min-  
8           imum duration of the required risk retention.

9           “(3) EXCEPTIONS AND ADJUSTMENTS.—

10           “(A) IN GENERAL.—The Federal banking  
11           agencies shall have authority to jointly provide  
12           exceptions or adjustments to the requirements  
13           of this subsection, including exceptions or ad-  
14           justments relating to the 5 percent risk reten-  
15           tion threshold and the hedging prohibition.

16           “(B) APPLICABLE STANDARDS.—Any ex-  
17           ceptions or adjustments granted by the Federal  
18           banking agencies shall—

19           “(i) be consistent with the purpose of  
20           this subsection to help ensure high quality  
21           underwriting standards for creditors that  
22           make residential mortgage loans that are  
23           not qualified mortgages; and

24           “(ii) facilitate appropriate risk man-  
25           agement practices by such creditors, im-

1           prove access of consumers to mortgage  
2           credit on reasonable terms, or otherwise  
3           serve the public interest.

4           “(4) ALTERNATIVE RISK RETENTION FOR  
5           SECURITIZERS.—The Federal banking agencies may  
6           jointly, in their discretion, apply the risk retention  
7           requirements of this subsection to securitizers of res-  
8           idential mortgages (or particular types of residential  
9           mortgages) that are not qualified mortgages in addi-  
10          tion to or in substitution for any or all of the re-  
11          quirements that apply to creditors that make such  
12          mortgages if the agencies jointly determine that ap-  
13          plying the requirements to such securitizers would—

14               “(A) be consistent with the purpose of this  
15               subsection to help ensure high quality under-  
16               writing standards for creditors of residential  
17               mortgage loans that are not qualified mort-  
18               gages; and

19               “(B) facilitate appropriate risk manage-  
20               ment practices by such creditors, improve ac-  
21               cess of consumers to mortgage credit on reason-  
22               able terms, or otherwise serve the public inter-  
23               est.

24          “(m) Section 129C and any regulations promulgated  
25          thereunder do not apply to an extension of credit relating

1 to a plan described in section 101(53D) of title 11, United  
2 States Code.”.

3 **SEC. 214. REQUIRED DISCLOSURES.**

4 Section 128(a) of Truth in Lending Act (15 U.S.C.  
5 1638(a)) is amended by adding at the end the following  
6 new paragraphs:

7 “(16) In the case of a variable rate residential  
8 mortgage loan for which an escrow or impound ac-  
9 count will be established for the payment of all ap-  
10 plicable taxes, insurance, and assessments—

11 “(A) the amount of initial monthly pay-  
12 ment due under the loan for the payment of  
13 principal and interest, and the amount of such  
14 initial monthly payment including the monthly  
15 payment deposited in the account for the pay-  
16 ment of all applicable taxes, insurance, and as-  
17 sessments; and

18 “(B) the amount of the fully indexed  
19 monthly payment due under the loan for the  
20 payment of principal and interest, and the  
21 amount of such fully indexed monthly payment  
22 including the monthly payment deposited in the  
23 account for the payment of all applicable taxes,  
24 insurance, and assessments.

1           “(17) In the case of a residential mortgage  
2           loan, the aggregate amount of settlement charges for  
3           all settlement services provided in connection with  
4           the loan, the amount of charges that are included in  
5           the loan and the amount of such charges the bor-  
6           rower must pay at closing, the approximate amount  
7           of the wholesale rate of funds in connection with the  
8           loan, and the aggregate amount of other fees or re-  
9           quired payments in connection with the loan.

10           “(18) In the case of a residential mortgage  
11           loan, the aggregate amount of fees paid to the mort-  
12           gage originator in connection with the loan, the  
13           amount of such fees paid directly by the consumer,  
14           and any additional amount received by the originator  
15           from the creditor.

16           “(19) In the case of a residential mortgage  
17           loan, the total amount of interest that the consumer  
18           will pay over the life of the loan as a percentage of  
19           the principal of the loan. Such amount shall be com-  
20           puted assuming the consumer makes each monthly  
21           payment in full and on-time, and does not make any  
22           over-payments.”.



1 **SEC. 215. DISCLOSURES REQUIRED IN MONTHLY STATE-**  
2 **MENTS FOR RESIDENTIAL MORTGAGE**  
3 **LOANS.**

4 Section 128 of the Truth in Lending Act (15 U.S.C.  
5 1638) is amended by adding at the end the following new  
6 subsection:

7 “(f) PERIODIC STATEMENTS FOR RESIDENTIAL  
8 MORTGAGE LOANS.—

9 “(1) IN GENERAL.—The creditor, assignee, or  
10 servicer with respect to any residential mortgage  
11 loan shall transmit to the obligor, for each billing  
12 cycle, a statement setting forth each of the following  
13 items, to the extent applicable, in a conspicuous and  
14 prominent manner:

15 “(A) The amount of the principal obliga-  
16 tion under the mortgage.

17 “(B) The current interest rate in effect for  
18 the loan.

19 “(C) The date on which the interest rate  
20 may next reset or adjust.

21 “(D) The amount of any prepayment fee  
22 to be charged, if any.

23 “(E) A description of any late payment  
24 fees.

1           “(F) A telephone number and electronic  
2           mail address that may be used by the obligor to  
3           obtain information regarding the mortgage.

4           “(G) The names, addresses, telephone  
5           numbers, and Internet addresses of counseling  
6           agencies or programs reasonably available to  
7           the consumer that have been certified or ap-  
8           proved and made publicly available by the Sec-  
9           retary of Housing and Urban Development or a  
10          State housing finance authority (as defined in  
11          section 1301 of the Financial Institutions Re-  
12          form, Recovery, and Enforcement Act of 1989).

13          “(H) Such other information as the Board  
14          may prescribe in regulations.

15          “(2) DEVELOPMENT AND USE OF STANDARD  
16          FORM.—The Federal banking agencies shall jointly  
17          develop and prescribe a standard form for the disclo-  
18          sure required under this subsection, taking into ac-  
19          count that the statements required may be trans-  
20          mitted in writing or electronically.”.

21   **SEC. 216. LEGAL ASSISTANCE FOR FORECLOSURE-RELATED**  
22                   **ISSUES.**

23          (a) ESTABLISHMENT.—The Secretary of Housing  
24          and Urban Development (hereafter in this section referred  
25          to as the “Secretary” shall establish a program for making

1 grants for providing a full range of foreclosure legal assist-  
2 ance to low- and moderate-income homeowners and ten-  
3 ants related to home ownership preservation, home fore-  
4 closure prevention, and tenancy associated with home fore-  
5 closure.

6 (b) COMPETITIVE ALLOCATION.—The Secretary shall  
7 allocate amounts made available for grants under this sec-  
8 tion to State and local legal organizations on the basis  
9 of a competitive process. For purposes of this subsection  
10 “State and local legal organizations” are those State and  
11 local organizations whose primary business or mission is  
12 to provide legal assistance.

13 (c) PRIORITY TO CERTAIN AREAS.—In allocating  
14 amounts in accordance with subsection (b), the Secretary  
15 shall give priority consideration to State and local legal  
16 organizations that are operating in the 100 metropolitan  
17 statistical areas (as that term is defined by the Director  
18 of the Office of Management and Budget) with the highest  
19 home foreclosure rates.

20 (d) LEGAL ASSISTANCE.—

21 (1) IN GENERAL.—Any State or local legal or-  
22 ganization that receives financial assistance pursu-  
23 ant to this section may use such amounts only to as-  
24 sist—

1 (A) homeowners of owner-occupied homes  
2 with mortgages in default, in danger of default,  
3 or subject to or at risk of foreclosure; and

4 (B) tenants at risk of or subject to eviction  
5 as a result of foreclosure of the property in  
6 which such tenant resides.

7 (2) COMMENCE USE WITHIN 90 DAYS.—Any  
8 State or local legal organization that receives finan-  
9 cial assistance pursuant to this section shall begin  
10 using any financial assistance received under this  
11 section within 90 days after receipt of the assist-  
12 ance.

13 (3) PROHIBITION ON CLASS ACTIONS.—No  
14 funds provided to a State or local legal organization  
15 under this section may be used to support any class  
16 action litigation.

17 (4) LIMITATION ON LEGAL ASSISTANCE.—Legal  
18 assistance funded with amounts provided under this  
19 section shall be limited to mortgage-related default,  
20 eviction, or foreclosure proceedings, without regard  
21 to whether such foreclosure is judicial or nonjudicial.

22 (5) EFFECTIVE DATE.—Notwithstanding sec-  
23 tion 217, this subsection shall take effect on the  
24 date of the enactment of this Act.

1 (e) LIMITATION ON DISTRIBUTION OF ASSIST-  
2 ANCE.—

3 (1) IN GENERAL.—None of the amounts made  
4 available under this section shall be distributed to—

5 (A) any organization which has been con-  
6 victed for a violation under Federal law relating  
7 to an election for Federal office; or

8 (B) any organization which employs appli-  
9 cable individuals.

10 (2) DEFINITION OF APPLICABLE INDIVID-  
11 UALS.—In this subsection, the term “applicable indi-  
12 vidual” means an individual who—

13 (A) is—

14 (i) employed by the organization in a  
15 permanent or temporary capacity;

16 (ii) contracted or retained by the or-  
17 ganization; or

18 (iii) acting on behalf of, or with the  
19 express or apparent authority of, the orga-  
20 nization; and

21 (B) has been convicted for a violation  
22 under Federal law relating to an election for  
23 Federal office.

24 (f) AUTHORIZATION OF APPROPRIATIONS.—There  
25 are authorized to be appropriated to the Secretary

1 \$35,000,000 for each of fiscal years 2009 through 2012  
2 for grants under this section.

3 **SEC. 217. EFFECTIVE DATE.**

4 The amendments made by this title shall apply to  
5 transactions consummated on or after the effective date  
6 of the regulations specified in section 209.

7 **SEC. 218. REPORT BY THE GAO.**

8 (a) REPORT REQUIRED.—The Comptroller General  
9 shall conduct a study to determine the effects the enact-  
10 ment of this Act will have on the availability and afford-  
11 ability of credit for consumers, small businesses, home-  
12 buyers, and mortgage lending, including the effect—

13 (1) on the mortgage market for mortgages that  
14 are not within the safe harbor provided in the  
15 amendments made by this title;

16 (2) on the ability of prospective homebuyers to  
17 obtain financing;

18 (3) on the ability of homeowners facing resets  
19 or adjustments to refinance—for example, do they  
20 have fewer refinancing options due to the unavail-  
21 ability of certain loan products that were available  
22 before the enactment of this Act;

23 (4) on minorities' ability to access affordable  
24 credit compared with other prospective borrowers;

25 (5) on home sales and construction;

1           (6) of extending the rescission right, if any, on  
2           adjustable rate loans and its impact on litigation;

3           (7) of State foreclosure laws and, if any, an in-  
4           vestor's ability to transfer a property after fore-  
5           closure;

6           (8) of expanding the existing provisions of the  
7           Home Ownership and Equity Protection Act of  
8           1994;

9           (9) of prohibiting prepayment penalties on  
10          high-cost mortgages; and

11          (10) of establishing counseling services under  
12          the Department of Housing and Urban Development  
13          and offered through the Office of Housing Coun-  
14          seling.

15          (b) REPORT.—Before the end of the 1-year period be-  
16          ginning on the date of the enactment of this Act, the  
17          Comptroller General shall submit a report to the Congress  
18          containing the findings and conclusions of the Comptroller  
19          General with respect to the study conducted pursuant to  
20          subsection (a).

21          (c) EXAMINATION RELATED TO CERTAIN CREDIT  
22          RISK RETENTION PROVISIONS.—The report required by  
23          subsection (b) shall also include an analysis by the Comp-  
24          troller General of the effect on the capital reserves and  
25          funding of lenders of credit risk retention provisions for

1 non-qualified mortgages, including an analysis of the ex-  
2 ceptions and adjustments authorized in section  
3 129C(l)(3)(A) of the Truth in Lending Act and a rec-  
4 ommendation on whether a uniform standard is needed.

5 (d) ANALYSIS OF CREDIT RISK RETENTION PROVI-  
6 SIONS.—The report required by subsection (b) shall also  
7 include—

8 (1) an analysis by the Comptroller General of  
9 whether the credit risk retention provisions have sig-  
10 nificantly reduced risks to the larger credit market  
11 of the repackaging and selling of securitized loans on  
12 a secondary market; and

13 (2) recommendations to the Congress on adjust-  
14 ments that should be made, or additional measures  
15 that should be undertaken.

16 **SEC. 219. STATE ATTORNEY GENERAL ENFORCEMENT AU-**  
17 **THORITY.**

18 Section 130(e) of the Truth in Lending Act (15  
19 U.S.C. 1640(e)) is amended by striking “section 129 may  
20 also” and inserting “section 129, 129B, or 129C of this  
21 Act, section 220 of the Mortgage Reform and Anti-Preda-  
22 tory Lending Act, or any amendment made by section 220  
23 of the Mortgage Reform and Anti-Predatory Lending Act  
24 may also”.



1 **SEC. 220. TENANT PROTECTION.**

2 (a) TENANT PROTECTION GENERALLY.—

3 (1) IN GENERAL.—In the case of any fore-  
4 closure on any dwelling or residential real property,  
5 after the date of the enactment of the Mortgage Re-  
6 form and Anti-Predatory Lending Act, the imme-  
7 diate successor in interest in such property pursuant  
8 to the foreclosure shall assume such interest subject  
9 to—

10 (A) except as provided in paragraph (2),  
11 the rights of any bona fide tenant, as of the  
12 date of foreclosure under any bona fide lease  
13 entered into before the date of foreclosure, to  
14 occupy the premises until the end of the re-  
15 maining term of the lease; and

16 (B) the rights of any bona fide tenant, as  
17 of the date of foreclosure, without a lease or  
18 with a lease terminable at will under State law,  
19 subject to the provision by the immediate suc-  
20 cessor in interest and the receipt by the tenant  
21 in the unit, of a notice to vacate at least 90  
22 days before the effective date of such notice.

23 (2) EXCEPTION FOR SUBSEQUENT OWNER-OC-  
24 CUPANT.—Notwithstanding paragraph (1), if the im-  
25 mediate successor in interest of any dwelling or resi-  
26 dential real property that is otherwise subject to

1 paragraph (1) is a purchaser who will occupy a unit  
2 of the dwelling or residential real property as a pri-  
3 mary residence, or such successor in interest sells  
4 the dwelling or residential real property to a pur-  
5 chaser who will occupy a unit of the dwelling or resi-  
6 dential real property, as a primary residence—

7 (A) such purchaser may terminate a lease  
8 relating to such unit on the effective date of a  
9 notice to vacate; and

10 (B)(i) such notice to vacate shall be pro-  
11 vided by the purchaser to the tenant in such  
12 unit at least 90 days before the effective date  
13 of such notice; and (ii) with respect to a single-  
14 family residence for which the borrower rented  
15 the unit in violation of the mortgage contract,  
16 such notice to vacate shall be provided by the  
17 purchaser to the tenant in such unit at least 30  
18 days before the effective date of such notice,  
19 and shall include a copy of the mortgage con-  
20 tract prohibiting the rental of the unit.

21 (3) BONA FIDE LEASE OR TENANCY.—For pur-  
22 poses of this subsection, a lease or tenancy shall be  
23 considered bona fide only if—

24 (A) the mortgagor under the contract is  
25 not the tenant;

1 (B) the lease or tenancy was the result of  
2 an arms-length transaction; and

3 (C) the lease or tenancy requires the re-  
4 ceipt of rent that is not substantially less than  
5 fair market rent for the property or the unit's  
6 rent is reduced or subsidized due to a Federal,  
7 State, or local subsidy.

8 (4) RULE OF CONSTRUCTION.—Except for the  
9 specific provisions of this subsection, no provision of  
10 this subsection shall be construed as affecting the  
11 requirements for termination of any Federal- or  
12 State-subsidized tenancy. The provisions of this sub-  
13 section shall not be construed to limit any State or  
14 local law that provides longer time periods or other  
15 additional protections for tenants.

16 (b) CORRESPONDING PROVISION RELATING TO EF-  
17 FECT OF FORECLOSURES ON SECTION 8 TENANCIES.—  
18 Paragraph (7) of section 8(o) of the United States Hous-  
19 ing Act of 1937 (42 U.S.C. 1437f(o)(7)) is amended—

20 (1) in subparagraph (C), by inserting before the  
21 semicolon at the end the following: “, and in the  
22 case of an owner who is an immediate successor in  
23 interest pursuant to foreclosure—

24 “(i) during the initial term of the ten-  
25 ant's lease, having the property vacant

1 prior to sale shall not constitute good  
2 cause; and

3 “(ii) in subsequent lease terms of the  
4 tenant’s lease, who will occupy the unit as  
5 a primary residence, who sells the property  
6 to a purchaser who will occupy a unit of  
7 the property as a primary residence, or if  
8 the unit is unmarketable while occupied,  
9 such owner may terminate a lease relating  
10 to such unit for good cause on the effective  
11 date of the notice to vacate, where such  
12 notice is provided by the owner to the ten-  
13 ant in such unit at least 90 days before the  
14 effective date of such notice;”.

15 (2) in subparagraph (E), by striking “and” at  
16 the end;

17 (3) by redesignating subparagraph (F) as sub-  
18 paragraph (G); and

19 (4) by inserting after subparagraph (E) the fol-  
20 lowing:

21 “(F) shall provide that in the case of any  
22 foreclosure on any residential real property in  
23 which a recipient of assistance under this sub-  
24 section resides, the immediate successor in in-  
25 terest in such property pursuant to the fore-

1 closure shall assume such interest subject to the  
2 lease between the prior owner and the tenant  
3 and to the housing assistance payments con-  
4 tract between the prior owner and the public  
5 housing agency for the occupied unit; if a public  
6 housing agency is unable to make payments  
7 under the contract to the immediate successor  
8 in interest after foreclosure, due to action or in-  
9 action by the successor in interest, including  
10 the rejection of payments or the failure of the  
11 successor to maintain the unit in compliance  
12 with paragraph (8) or an inability to identify  
13 the successor, the agency may use funds that  
14 would have been used to pay the rental amount  
15 on behalf of the family—

16 “(i) to pay for utilities that are the  
17 responsibility of the owner under the lease  
18 or applicable law, after taking reasonable  
19 steps to notify the owner that it intends to  
20 make payments to a utility provider in lieu  
21 of payments to the owner, except prior no-  
22 tification shall not be required in any case  
23 in which the unit will be or has been ren-  
24 dered uninhabitable due to the termination  
25 or threat of termination of service, in

1           which case the public housing agency shall  
2           notify the owner within a reasonable time  
3           after making such payment; or

4           “(ii) for the family’s reasonable mov-  
5           ing costs, including security deposit costs;  
6           except that this subparagraph and the provi-  
7           sions related to foreclosure in subparagraph (C)  
8           shall not affect any State or local law that pro-  
9           vides longer time periods or other additional  
10          protections for tenants.”.

11       (c) LANDLORD NOTICE TO TENANTS.—Notwith-  
12       standing the law of any State or the terms of any con-  
13       sumer residential lease, each person who owns a dwelling  
14       or residential real property—

15           (1) which is leased to a bona fide tenant (in-  
16           cluding a tenancy terminable at will), or which the  
17           landlord offers to lease to a prospective tenant; and

18           (2) which, pursuant to the terms of a valid loan  
19           to such person which is secured by such dwelling or  
20           property, is or becomes subject to foreclosure or with  
21           respect to which the person is in default,

22       shall promptly notify any such tenant or prospective ten-  
23       ant of the circumstances prevailing with respect to such  
24       property and the effect of any such default or foreclosure.  
25       The requirements of this subsection shall have no effect

1 on any State or local law that provides additional notice  
 2 or other additional protections for tenants.

3 (d) EFFECTIVE DATE.—Notwithstanding section  
 4 217, this section and the amendments made by this sec-  
 5 tion shall take effect on the date of the enactment of this  
 6 Act.

## 7 **TITLE III—HIGH-COST** 8 **MORTGAGES**

### 9 **SEC. 301. DEFINITIONS RELATING TO HIGH-COST MORT-** 10 **GAGES.**

11 (a) HIGH-COST MORTGAGE DEFINED.—Section  
 12 103(aa) of the Truth in Lending Act (15 U.S.C.  
 13 1602(aa)) is amended by striking all that precedes para-  
 14 graph (2) and inserting the following:

15 “(aa) HIGH-COST MORTGAGE.—

16 “(1) DEFINITION.—

17 “(A) IN GENERAL.—The term ‘high-cost  
 18 mortgage’, and a mortgage referred to in this  
 19 subsection, means a consumer credit trans-  
 20 action that is secured by the consumer’s prin-  
 21 cipal dwelling, other than a reverse mortgage  
 22 transaction, if—

23 “(i) in the case of a credit transaction  
 24 secured—

1                   “(I) by a first mortgage on the  
2                   consumer’s principal dwelling, the an-  
3                   nual percentage rate at consummation  
4                   of the transaction will exceed by more  
5                   than 6.5 percentage points (8.5 per-  
6                   centage points, if the dwelling is per-  
7                   sonal property and the transaction is  
8                   for less than \$50,000) the average  
9                   prime offer rate, as defined in section  
10                  129C(c)(2)(B), for a comparable  
11                  transaction; or

12                  “(II) by a subordinate or junior  
13                  mortgage on the consumer’s principal  
14                  dwelling, the annual percentage rate  
15                  at consummation of the transaction  
16                  will exceed by more than 8.5 percent-  
17                  age points the average prime offer  
18                  rate, as defined in section  
19                  129C(c)(2)(B), for a comparable  
20                  transaction;

21                  “(ii) the total points and fees payable  
22                  in connection with the transaction ex-  
23                  ceed—



1                   “(I) in the case of a transaction  
2                   for \$20,000 or more, 5 percent of the  
3                   total transaction amount; or

4                   “(II) in the case of a transaction  
5                   for less than \$20,000, the lesser of 8  
6                   percent of the total transaction  
7                   amount or \$1,000 (or such other dol-  
8                   lar amount as the Board shall pre-  
9                   scribe by regulation); or

10                  “(iii) the credit transaction documents  
11                  permit the creditor to charge or collect pre-  
12                  payment fees or penalties more than 36  
13                  months after the transaction closing or  
14                  such fees or penalties exceed, in the aggre-  
15                  gate, more than 2 percent of the amount  
16                  prepaid.

17                  “(B) INTRODUCTORY RATES TAKEN INTO  
18                  ACCOUNT.—For purposes of subparagraph  
19                  (A)(i), the annual percentage rate of interest  
20                  shall be determined based on the following in-  
21                  terest rate:

22                         “(i) In the case of a fixed-rate trans-  
23                         action in which the annual percentage rate  
24                         will not vary during the term of the loan,

1 the interest rate in effect on the date of  
2 consummation of the transaction.

3 “(ii) In the case of a transaction in  
4 which the rate of interest varies solely in  
5 accordance with an index, the interest rate  
6 determined by adding the index rate in ef-  
7 fect on the date of consummation of the  
8 transaction to the maximum margin per-  
9 mitted at any time during the transaction  
10 agreement.

11 “(iii) In the case of any other trans-  
12 action in which the rate may vary at any  
13 time during the term of the loan for any  
14 reason, the interest charged on the trans-  
15 action at the maximum rate that may be  
16 charged during the term of the trans-  
17 action.”.

18 (b) ADJUSTMENT OF PERCENTAGE POINTS.—Section  
19 103(aa)(2) of the Truth in Lending Act (15 U.S.C.  
20 1602(aa)(2)) is amended by striking subparagraph (B)  
21 and inserting the following new subparagraph:

22 “(B) An increase or decrease under sub-  
23 paragraph (A)—

24 “(i) may not result in the number of  
25 percentage points referred to in paragraph

1 (1)(A)(i)(I) being less than 6 percentage  
2 points or greater than 10 percentage  
3 points; and

4 “(ii) may not result in the number of  
5 percentage points referred to in paragraph  
6 (1)(A)(i)(II) being less than 8 percentage  
7 points or greater than 12 percentage  
8 points.”.

9 (c) POINTS AND FEES DEFINED.—

10 (1) IN GENERAL.—Section 103(aa)(4) of the  
11 Truth in Lending Act (15 U.S.C. 1602(aa)(4)) is  
12 amended—

13 (A) by striking subparagraph (B) and in-  
14 serting the following:

15 “(B) all compensation paid directly or indi-  
16 rectly by a consumer or creditor to a mortgage  
17 originator from any source, including a mort-  
18 gage originator that originates a loan in the  
19 name of the creditor in a table-funded trans-  
20 action;”;

21 (B) in subparagraph (C)(ii), by inserting  
22 “except where applied to the charges set forth  
23 in section 106(e)(1) where a creditor may re-  
24 ceive indirect compensation solely as a result of  
25 obtaining distributions of profits from an affili-

1       ated entity based on its ownership interest in  
2       compliance with section 8(c)(4) of the Real Es-  
3       tate Settlement Procedures Act of 1974” before  
4       the semicolon at the end;

5               (C) in subparagraph (C)(iii), by striking “;  
6       and” and inserting “, except as provided for in  
7       clause (ii);”;

8               (D) by redesignating subparagraph (D) as  
9       subparagraph (G); and

10              (E) by inserting after subparagraph (C)  
11       the following new subparagraphs:

12              “(D) premiums or other charges payable at  
13       or before closing for any credit life, credit dis-  
14       ability, credit unemployment, or credit property  
15       insurance, or any other accident, loss-of-income,  
16       life or health insurance, or any payments di-  
17       rectly or indirectly for any debt cancellation or  
18       suspension agreement or contract, except that  
19       insurance premiums or debt cancellation or sus-  
20       pension fees calculated and paid in full on a  
21       monthly basis shall not be considered financed  
22       by the creditor;

23              “(E) except as provided in subsection (cc),  
24       the maximum prepayment fees and penalties

1           which may be charged or collected under the  
2           terms of the credit transaction;

3           “(F) all prepayment fees or penalties that  
4           are incurred by the consumer if the loan refi-  
5           nances a previous loan made or currently held  
6           by the same creditor or an affiliate of the cred-  
7           itor; and”.

8           (2) CALCULATION OF POINTS AND FEES FOR  
9           OPEN-END CONSUMER CREDIT PLANS.—Section  
10          103(aa) of the Truth in Lending Act (15 U.S.C.  
11          1602(aa)) is amended—

12                   (A) by redesignating paragraph (5) as  
13                   paragraph (6); and

14                   (B) by inserting after paragraph (4) the  
15                   following new paragraph:

16           “(5) CALCULATION OF POINTS AND FEES FOR  
17          OPEN-END CONSUMER CREDIT PLANS.—In the case  
18          of open-end consumer credit plans, points and fees  
19          shall be calculated, for purposes of this section and  
20          section 129, by adding the total points and fees  
21          known at or before closing, including the maximum  
22          prepayment penalties which may be charged or col-  
23          lected under the terms of the credit transaction, plus  
24          the minimum additional fees the consumer would be

1       required to pay to draw down an amount equal to  
2       the total credit line.”.

3       (d) BONA FIDE DISCOUNT LOAN DISCOUNT  
4 POINTS.—Section 103 of the Truth in Lending Act (15  
5 U.S.C. 1602) is amended by inserting after subsection (cc)  
6 (as added by section 101) the following new subsection:

7       “(dd) BONA FIDE DISCOUNT POINTS AND PREPAY-  
8 MENT PENALTIES.—For the purposes of determining the  
9 amount of points and fees for purposes of subsection (aa),  
10 either the amounts described in paragraph (1) or (2) of  
11 the following paragraphs, but not both, shall be excluded:

12           “(1) Up to and including 2 bona fide discount  
13 points payable by the consumer in connection with  
14 the mortgage, but only if the interest rate from  
15 which the mortgage’s interest rate will be discounted  
16 does not exceed by more than 1 percentage point—

17           “(A) the required net yield for a 90-day  
18 standard mandatory delivery commitment for a  
19 reasonably comparable loan from either the  
20 Federal National Mortgage Association or the  
21 Federal Home Loan Mortgage Corporation,  
22 whichever is greater; or

23           “(B) if secured by a personal property  
24 loan, the average rate on a loan in connection  
25 with which insurance is provided under title I

1 of the National Housing Act (12 U.S.C. 1702  
2 et seq.).

3 “(2) Unless 2 bona fide discount points have  
4 been excluded under paragraph (1), up to and in-  
5 cluding 1 bona fide discount point payable by the  
6 consumer in connection with the mortgage, but only  
7 if the interest rate from which the mortgage’s inter-  
8 est rate will be discounted does not exceed by more  
9 than 2 percentage points—

10 “(A) the required net yield for a 90-day  
11 standard mandatory delivery commitment for a  
12 reasonably comparable loan from either the  
13 Federal National Mortgage Association or the  
14 Federal Home Loan Mortgage Corporation,  
15 whichever is greater; or

16 “(B) if secured by a personal property  
17 loan, the average rate on a loan in connection  
18 with which insurance is provided under title I  
19 of the National Housing Act (12 U.S.C. 1702  
20 et seq.).

21 “(3) For purposes of paragraph (1), the term  
22 ‘bona fide discount points’ means loan discount  
23 points which are knowingly paid by the consumer for  
24 the purpose of reducing, and which in fact result in

1 a bona fide reduction of, the interest rate or time-  
2 price differential applicable to the mortgage.

3 “(4) Paragraphs (1) and (2) shall not apply to  
4 discount points used to purchase an interest rate re-  
5 duction unless the amount of the interest rate reduc-  
6 tion purchased is reasonably consistent with estab-  
7 lished industry norms and practices for secondary  
8 mortgage market transactions.”.

9 **SEC. 302. AMENDMENTS TO EXISTING REQUIREMENTS FOR**  
10 **CERTAIN MORTGAGES.**

11 (a) PREPAYMENT PENALTY PROVISIONS.—Section  
12 129(c)(2) of the Truth in Lending Act (15 U.S.C.  
13 1639(c)(2)) is hereby repealed.

14 (b) NO BALLOON PAYMENTS.—Section 129(e) of the  
15 Truth in Lending Act (15 U.S.C. 1639(e)) is amended to  
16 read as follows:

17 “(e) NO BALLOON PAYMENTS.—No high-cost mort-  
18 gage may contain a scheduled payment that is more than  
19 twice as large as the average of earlier scheduled pay-  
20 ments. This subsection shall not apply when the payment  
21 schedule is adjusted to the seasonal or irregular income  
22 of the consumer.”.



1 **SEC. 303. ADDITIONAL REQUIREMENTS FOR CERTAIN**  
2 **MORTGAGES.**

3 (a) ADDITIONAL REQUIREMENTS FOR CERTAIN  
4 MORTGAGES.—Section 129 of the Truth in Lending Act  
5 (15 U.S.C. 1639) is amended—

6 (1) by redesignating subsections (j), (k) and (l)  
7 as subsections (n), (o) and (p) respectively; and

8 (2) by inserting after subsection (i) the fol-  
9 lowing new subsections:

10 “(j) RECOMMENDED DEFAULT.—No creditor shall  
11 recommend or encourage default on an existing loan or  
12 other debt prior to and in connection with the closing or  
13 planned closing of a high-cost mortgage that refinances  
14 all or any portion of such existing loan or debt.

15 “(k) LATE FEES.—

16 “(1) IN GENERAL.—No creditor may impose a  
17 late payment charge or fee in connection with a  
18 high-cost mortgage—

19 “(A) in an amount in excess of 4 percent  
20 of the amount of the payment past due;

21 “(B) unless the loan documents specifically  
22 authorize the charge or fee;

23 “(C) before the end of the 15-day period  
24 beginning on the date the payment is due, or in  
25 the case of a loan on which interest on each in-  
26 stallment is paid in advance, before the end of

1           the 30-day period beginning on the date the  
2           payment is due; or

3           “(D) more than once with respect to a sin-  
4           gle late payment.

5           “(2) COORDINATION WITH SUBSEQUENT LATE  
6           FEES.—If a payment is otherwise a full payment for  
7           the applicable period and is paid on its due date or  
8           within an applicable grace period, and the only delin-  
9           quency or insufficiency of payment is attributable to  
10          any late fee or delinquency charge assessed on any  
11          earlier payment, no late fee or delinquency charge  
12          may be imposed on such payment.

13          “(3) FAILURE TO MAKE INSTALLMENT PAY-  
14          MENT.—If, in the case of a loan agreement the  
15          terms of which provide that any payment shall first  
16          be applied to any past due principal balance, the  
17          consumer fails to make an installment payment and  
18          the consumer subsequently resumes making install-  
19          ment payments but has not paid all past due install-  
20          ments, the creditor may impose a separate late pay-  
21          ment charge or fee for any principal due (without  
22          deduction due to late fees or related fees) until the  
23          default is cured.

24          “(1) ACCELERATION OF DEBT.—No high-cost mort-  
25          gage may contain a provision which permits the creditor

1 to accelerate the indebtedness, except when repayment of  
 2 the loan has been accelerated by default in payment, or  
 3 pursuant to a due-on-sale provision, or pursuant to a ma-  
 4 terial violation of some other provision of the loan docu-  
 5 ment unrelated to payment schedule.

6 “(m) RESTRICTION ON FINANCING POINTS AND  
 7 FEES.—No creditor may directly or indirectly finance, in  
 8 connection with any high-cost mortgage, any of the fol-  
 9 lowing:

10 “(1) Any prepayment fee or penalty payable by  
 11 the consumer in a refinancing transaction if the  
 12 creditor or an affiliate of the creditor is the  
 13 noteholder of the note being refinanced.

14 “(2) Any points or fees.”.

15 (b) PROHIBITIONS ON EVASIONS.—Section 129 of  
 16 the Truth in Lending Act (15 U.S.C. 1639) is amended  
 17 by inserting after subsection (p) (as so redesignated by  
 18 subsection (a)(1)) the following new subsection:

19 “(q) PROHIBITIONS ON EVASIONS, STRUCTURING OF  
 20 TRANSACTIONS, AND RECIPROCAL ARRANGEMENTS.—A  
 21 creditor may not take any action in connection with a  
 22 high-cost mortgage—

23 “(1) to structure a loan transaction as an open-  
 24 end credit plan or another form of loan for the pur-

1 pose and with the intent of evading the provisions of  
2 this title; or

3 “(2) to divide any loan transaction into sepa-  
4 rate parts for the purpose and with the intent of  
5 evading provisions of this title.”.

6 (c) MODIFICATION OR DEFERRAL FEES.—Section  
7 129 of the Truth in Lending Act (15 U.S.C. 1639) is  
8 amended by inserting after subsection (q) (as added by  
9 subsection (b) of this section) the following new sub-  
10 section:

11 “(r) MODIFICATION AND DEFERRAL FEES PROHIB-  
12 ITED.—

13 “(1) CREDITORS.—A creditor may not charge a  
14 consumer any fee to modify, renew, extend, or  
15 amend a high-cost mortgage, or to defer any pay-  
16 ment due under the terms of such mortgage, unless  
17 the modification, renewal, extension or amendment  
18 results in a lower annual percentage rate on the  
19 mortgage for the consumer and then only if the  
20 amount of the fee is comparable to fees imposed for  
21 similar transactions in connection with consumer  
22 credit transactions that are secured by a consumer’s  
23 principal dwelling and are not high-cost mortgages.

24 “(2) THIRD PARTIES.—A third-party may not  
25 charge a consumer any fee to—

1           “(A) modify, renew, extend, or amend a  
2           high-cost mortgage, or defer any payment due  
3           under the terms of such mortgage;

4           “(B) negotiate with a creditor on behalf of  
5           a consumer, the modification, renewal, exten-  
6           sion, or amendment of a high-cost mortgage; or

7           “(C) negotiate with a creditor on behalf of  
8           a consumer, the deferral of any payment due  
9           under the terms of such mortgage,  
10          unless the modification renewal, extension or amend-  
11          ment results in a significantly lower annual percent-  
12          age rate on the mortgage, or a significant reduction  
13          in the amount of the outstanding principal on the  
14          mortgage, for the consumer and then only if the  
15          amount of the fee is comparable to fees imposed for  
16          similar transactions in connection with consumer  
17          credit transactions that are secured by a consumer’s  
18          principal dwelling and are not high-cost mortgages.

19          “(3) ENFORCEMENT.—Section 130 shall be ap-  
20          plied for purposes of paragraph (2) by—

21                 “(A) substituting ‘third party’ for  
22                 ‘creditor’ each place such term appears; and

23                 “(B) substituting ‘any fee charged by a  
24                 third party’ for ‘finance charge’ each place such  
25                 term appears.”.

1       (d) PAYOFF STATEMENT.—Section 129 of the Truth  
2 in Lending Act (15 U.S.C. 1639) is amended by inserting  
3 after subsection (r) (as added by subsection (c) of this  
4 section) the following new subsection:

5       “(s) PAYOFF STATEMENT.—

6           “(1) FEES.—

7               “(A) IN GENERAL.—Except as provided in  
8 subparagraph (B), no creditor or servicer may  
9 charge a fee for informing or transmitting to  
10 any person the balance due to pay off the out-  
11 standing balance on a high-cost mortgage.

12               “(B) TRANSACTION FEE.—When payoff in-  
13 formation referred to in subparagraph (A) is  
14 provided by facsimile transmission or by a cou-  
15 rier service, a creditor or servicer may charge a  
16 processing fee to cover the cost of such trans-  
17 mission or service in an amount not to exceed  
18 an amount that is comparable to fees imposed  
19 for similar services provided in connection with  
20 consumer credit transactions that are secured  
21 by the consumer’s principal dwelling and are  
22 not high-cost mortgages.

23               “(C) FEE DISCLOSURE.—Prior to charging  
24 a transaction fee as provided in subparagraph  
25 (B), a creditor or servicer shall disclose that

1           payoff balances are available for free pursuant  
2           to subparagraph (A).

3           “(D) MULTIPLE REQUESTS.—If a creditor  
4           or servicer has provided payoff information re-  
5           ferred to in subparagraph (A) without charge,  
6           other than the transaction fee allowed by sub-  
7           paragraph (B), on 4 occasions during a cal-  
8           endar year, the creditor or servicer may there-  
9           after charge a reasonable fee for providing such  
10          information during the remainder of the cal-  
11          endar year.

12          “(2) PROMPT DELIVERY.—Payoff balances shall  
13          be provided within 5 business days after receiving a  
14          request by a consumer or a person authorized by the  
15          consumer to obtain such information.

16          “(3) SERVICES CONSIDERED ASSIGNEE.—For  
17          the purposes of this subsection, a servicer shall be  
18          considered an assignee under the Truth in Lending  
19          Act.”.

20          (e) PRE-LOAN COUNSELING REQUIRED.—Section  
21          129 of the Truth in Lending Act (15 U.S.C. 1639) is  
22          amended by inserting after subsection (s) (as added by  
23          subsection (d) of this section) the following new sub-  
24          section:

25          “(t) PRE-LOAN COUNSELING.—

1           “(1) IN GENERAL.—A creditor may not extend  
2           credit to a consumer under a high-cost mortgage  
3           without first receiving certification from a counselor  
4           that is approved by the Secretary of Housing and  
5           Urban Development, or at the discretion of the Sec-  
6           retary, a State housing finance authority, that the  
7           consumer has received counseling on the advisability  
8           of the mortgage. Such counselor shall not be em-  
9           ployed by the creditor or an affiliate of the creditor  
10          or be affiliated with the creditor.

11          “(2) DISCLOSURES REQUIRED PRIOR TO COUN-  
12          SELING.—No counselor may certify that a consumer  
13          has received counseling on the advisability of the  
14          high-cost mortgage unless the counselor can verify  
15          that the consumer has received each statement re-  
16          quired (in connection with such loan) by this section  
17          or the Real Estate Settlement Procedures Act of  
18          1974 with respect to the transaction.

19          “(3) REGULATIONS.—The Board may prescribe  
20          such regulations as the Board determines to be ap-  
21          propriate to carry out the requirements of paragraph  
22          (1).”.

23          (f) FLIPPING PROHIBITED.—Section 129 of the  
24          Truth in Lending Act (15 U.S.C. 1639) is amended by



1 inserting after subsection (t) (as added by subsection (e))  
2 the following new subsection:

3 “(u) FLIPPING.—

4 “(1) IN GENERAL.—No creditor may knowingly  
5 or intentionally engage in the unfair act or practice  
6 of flipping in connection with a high-cost mortgage.

7 “(2) FLIPPING DEFINED.—For purposes of this  
8 subsection, the term ‘flipping’ means the making of  
9 a loan or extension of credit in the form a high-cost  
10 mortgage to a consumer which refinances an existing  
11 mortgage when the new loan or extension of credit  
12 does not have reasonable, net tangible benefit (as de-  
13 termined in accordance with regulations prescribed  
14 under section 129C(b)) to the consumer considering  
15 all of the circumstances, including the terms of both  
16 the new and the refinanced loans or credit, the cost  
17 of the new loan or credit, and the consumer’s cir-  
18 cumstances.

19 “(v) CORRECTIONS AND UNINTENTIONAL VIOLA-  
20 TIONS.—A creditor or assignee in a high cost loan who,  
21 when acting in good faith, fails to comply with any re-  
22 quirement under this section will not be deemed to have  
23 violated such requirement if the creditor or assignee estab-  
24 lishes that either—

1           “(1) within 30 days of the loan closing and  
2           prior to the institution of any action, the consumer  
3           is notified of or discovers the violation, appropriate  
4           restitution is made, and whatever adjustments are  
5           necessary are made to the loan to either, at the  
6           choice of the consumer—

7                   “(A) make the loan satisfy the require-  
8                   ments of this chapter; or

9                   “(B) in the case of a high-cost mortgage,  
10           change the terms of the loan in a manner bene-  
11           ficial to the consumer so that the loan will no  
12           longer be a high-cost mortgage; or

13           “(2) within 60 days of the creditor’s discovery  
14           or receipt of notification of an unintentional viola-  
15           tion or bona fide error as described in subsection (c)  
16           and prior to the institution of any action, the con-  
17           sumer is notified of the compliance failure, appro-  
18           priate restitution is made, and whatever adjustments  
19           are necessary are made to the loan to either, at the  
20           choice of the consumer—

21                   “(A) make the loan satisfy the require-  
22                   ments of this chapter; or

23                   “(B) in the case of a high-cost mortgage,  
24           change the terms of the loan in a manner bene-

1           ficial so that the loan will no longer be a high-  
2           cost mortgage.”.

3 **SEC. 304. REGULATIONS.**

4           (a) IN GENERAL.—The Board of Governors of the  
5 Federal Reserve System shall publish regulations imple-  
6 menting this title and the amendments made by this title  
7 in final form before the end of the 6-month period begin-  
8 ning on the date of the enactment of this Act.

9           (b) CONSUMER MORTGAGE EDUCATION.—

10           (1) REGULATIONS.—The Board of Governors of  
11 the Federal Reserve System may prescribe regula-  
12 tions requiring or encouraging creditors to provide  
13 consumer mortgage education to prospective cus-  
14 tomers or direct such customers to qualified con-  
15 sumer mortgage education or counseling programs  
16 in the vicinity of the residence of the consumer.

17           (2) COORDINATION WITH STATE LAW.—No re-  
18 quirement established by the Board of Governors of  
19 the Federal Reserve System pursuant to paragraph  
20 (1) shall be construed as affecting or superseding  
21 any requirement under the law of any State with re-  
22 spect to consumer mortgage counseling or education.

23 **SEC. 305. EFFECTIVE DATE.**

24           The amendments made by this title shall take effect  
25 at the end of the 6-month period beginning on the date

1 of the enactment of this Act and shall apply to mortgages  
2 referred to in section 103(aa) of the Truth in Lending  
3 Act (15 U.S.C. 1602(aa)) for which an application is re-  
4 ceived by the creditor after the end of such period.

## 5 **TITLE IV—OFFICE OF HOUSING** 6 **COUNSELING**

### 7 **SEC. 401. SHORT TITLE.**

8 This title may be cited as the “Expand and Preserve  
9 Home Ownership Through Counseling Act”.

### 10 **SEC. 402. ESTABLISHMENT OF OFFICE OF HOUSING COUN-** 11 **SELING.**

12 Section 4 of the Department of Housing and Urban  
13 Development Act (42 U.S.C. 3533) is amended by adding  
14 at the end the following new subsection:

15 “(g) OFFICE OF HOUSING COUNSELING.—

16 “(1) ESTABLISHMENT.—There is established,  
17 in the Department, the Office of Housing Coun-  
18 seling.

19 “(2) DIRECTOR.—There is established the posi-  
20 tion of Director of Housing Counseling. The Direc-  
21 tor shall be the head of the Office of Housing Coun-  
22 seling and shall be appointed by, and shall report to,  
23 the Secretary. Such position shall be a career-re-  
24 served position in the Senior Executive Service.

25 “(3) FUNCTIONS.—

1           “(A) IN GENERAL.—The Director shall  
2           have primary responsibility within the Depart-  
3           ment for all activities and matters relating to  
4           homeownership counseling and rental housing  
5           counseling, including—

6                   “(i) research, grant administration,  
7                   public outreach, and policy development re-  
8                   lating to such counseling; and

9                   “(ii) establishment, coordination, and  
10                  administration of all regulations, require-  
11                  ments, standards, and performance meas-  
12                  ures under programs and laws adminis-  
13                  tered by the Department that relate to  
14                  housing counseling, homeownership coun-  
15                  seling (including maintenance of homes),  
16                  mortgage-related counseling (including  
17                  home equity conversion mortgages and  
18                  credit protection options to avoid fore-  
19                  closure), and rental housing counseling, in-  
20                  cluding the requirements, standards, and  
21                  performance measures relating to housing  
22                  counseling.

23           “(B) SPECIFIC FUNCTIONS.—The Director  
24           shall carry out the functions assigned to the Di-  
25           rector and the Office under this section and any

1 other provisions of law. Such functions shall in-  
2 clude establishing rules necessary for—

3 “(i) the counseling procedures under  
4 section 106(g)(1) of the Housing and  
5 Urban Development Act of 1968 (12  
6 U.S.C. 1701x(h)(1));

7 “(ii) carrying out all other functions  
8 of the Secretary under section 106(g) of  
9 the Housing and Urban Development Act  
10 of 1968, including the establishment, oper-  
11 ation, and publication of the availability of  
12 the toll-free telephone number under para-  
13 graph (2) of such section;

14 “(iii) contributing to the preparation  
15 and distribution of home buying informa-  
16 tion booklets pursuant to section 5 of the  
17 Real Estate Settlement Procedures Act of  
18 1974 (12 U.S.C. 2604);

19 “(iv) carrying out the certification  
20 program under section 106(e) of the Hous-  
21 ing and Urban Development Act of 1968  
22 (12 U.S.C. 1701x(e));

23 “(v) carrying out the assistance pro-  
24 gram under section 106(a)(4) of the Hous-  
25 ing and Urban Development Act of 1968,

1 including criteria for selection of applica-  
2 tions to receive assistance;

3 “(vi) carrying out any functions re-  
4 garding abusive, deceptive, or unscrupulous  
5 lending practices relating to residential  
6 mortgage loans that the Secretary con-  
7 sider appropriate, which shall include con-  
8 ducting the study under section 6 of the  
9 Expand and Preserve Home Ownership  
10 Through Counseling Act;

11 “(vii) providing for operation of the  
12 advisory committee established under para-  
13 graph (4) of this subsection;

14 “(viii) collaborating with community-  
15 based organizations with expertise in the  
16 field of housing counseling; and

17 “(ix) providing for the building of ca-  
18 pacity to provide housing counseling serv-  
19 ices in areas that lack sufficient services,  
20 including underdeveloped areas that lack  
21 basic water and sewer systems, electricity  
22 services, and safe, sanitary housing.

23 “(4) ADVISORY COMMITTEE.—

24 “(A) IN GENERAL.—The Secretary shall  
25 appoint an advisory committee to provide advice

1 regarding the carrying out of the functions of  
2 the Director.

3 “(B) MEMBERS.—Such advisory committee  
4 shall consist of not more than 12 individuals,  
5 and the membership of the committee shall  
6 equally represent the mortgage and real estate  
7 industry, including consumers and housing  
8 counseling agencies certified by the Secretary.

9 “(C) TERMS.—Except as provided in sub-  
10 paragraph (D), each member of the advisory  
11 committee shall be appointed for a term of 3  
12 years. Members may be reappointed at the dis-  
13 cretion of the Secretary.

14 “(D) TERMS OF INITIAL APPOINTEES.—As  
15 designated by the Secretary at the time of ap-  
16 pointment, of the members first appointed to  
17 the advisory committee, 4 shall be appointed for  
18 a term of 1 year and 4 shall be appointed for  
19 a term of 2 years.

20 “(E) PROHIBITION OF PAY; TRAVEL EX-  
21 PENSES.—Members of the advisory committee  
22 shall serve without pay, but shall receive travel  
23 expenses, including per diem in lieu of subsist-  
24 ence, in accordance with applicable provisions



1 under subchapter I of chapter 57 of title 5,  
2 United States Code.

3 “(F) ADVISORY ROLE ONLY.—The advi-  
4 sory committee shall have no role in reviewing  
5 or awarding housing counseling grants.

6 “(5) SCOPE OF HOMEOWNERSHIP COUN-  
7 SELING.—In carrying out the responsibilities of the  
8 Director, the Director shall ensure that homeowner-  
9 ship counseling provided by, in connection with, or  
10 pursuant to any function, activity, or program of the  
11 Department addresses the entire process of home-  
12 ownership, including the decision to purchase a  
13 home, the selection and purchase of a home, issues  
14 arising during or affecting the period of ownership  
15 of a home (including refinancing, default and fore-  
16 closure, and other financial decisions), and the sale  
17 or other disposition of a home.”.

18 **SEC. 403. COUNSELING PROCEDURES.**

19 (a) IN GENERAL.—Section 106 of the Housing and  
20 Urban Development Act of 1968 (12 U.S.C. 1701x) is  
21 amended by adding at the end the following new sub-  
22 section:

23 “(g) PROCEDURES AND ACTIVITIES.—

24 “(1) COUNSELING PROCEDURES.—

1           “(A) IN GENERAL.—The Secretary shall  
2           establish, coordinate, and monitor the adminis-  
3           tration by the Department of Housing and  
4           Urban Development of the counseling proce-  
5           dures for homeownership counseling and rental  
6           housing counseling provided in connection with  
7           any program of the Department, including all  
8           requirements, standards, and performance  
9           measures that relate to homeownership and  
10          rental housing counseling.

11          “(B) HOMEOWNERSHIP COUNSELING.—  
12          For purposes of this subsection and as used in  
13          the provisions referred to in this subparagraph,  
14          the term ‘homeownership counseling’ means  
15          counseling related to homeownership and resi-  
16          dential mortgage loans. Such term includes  
17          counseling related to homeownership and resi-  
18          dential mortgage loans that is provided pursu-  
19          ant to—

20                 “(i) section 105(a)(20) of the Housing  
21                 and Community Development Act of 1974  
22                 (42 U.S.C. 5305(a)(20));

23                 “(ii) in the United States Housing  
24                 Act of 1937—

1 “(I) section 9(e) (42 U.S.C.  
2 1437g(e));

3 “(II) section 8(y)(1)(D) (42  
4 U.S.C. 1437f(y)(1)(D));

5 “(III) section 18(a)(4)(D) (42  
6 U.S.C. 1437p(a)(4)(D));

7 “(IV) section 23(c)(4) (42 U.S.C.  
8 1437u(c)(4));

9 “(V) section 32(e)(4) (42 U.S.C.  
10 1437z-4(e)(4));

11 “(VI) section 33(d)(2)(B) (42  
12 U.S.C. 1437z-5(d)(2)(B));

13 “(VII) sections 302(b)(6) and  
14 303(b)(7) (42 U.S.C. 1437aaa-  
15 1(b)(6), 1437aaa-2(b)(7)); and

16 “(VIII) section 304(c)(4) (42  
17 U.S.C. 1437aaa-3(c)(4));

18 “(iii) section 302(a)(4) of the Amer-  
19 ican Homeownership and Economic Oppor-  
20 tunity Act of 2000 (42 U.S.C. 1437f note);

21 “(iv) sections 233(b)(2) and 258(b) of  
22 the Cranston-Gonzalez National Affordable  
23 Housing Act (42 U.S.C. 12773(b)(2),  
24 12808(b));

1 “(v) this section and section 101(e) of  
2 the Housing and Urban Development Act  
3 of 1968 (12 U.S.C. 1701x, 1701w(e));

4 “(vi) section 220(d)(2)(G) of the Low-  
5 Income Housing Preservation and Resident  
6 Homeownership Act of 1990 (12 U.S.C.  
7 4110(d)(2)(G));

8 “(vii) sections 422(b)(6), 423(b)(7),  
9 424(c)(4), 442(b)(6), and 443(b)(6) of the  
10 Cranston-Gonzalez National Affordable  
11 Housing Act (42 U.S.C. 12872(b)(6),  
12 12873(b)(7), 12874(c)(4), 12892(b)(6),  
13 and 12893(b)(6));

14 “(viii) section 491(b)(1)(F)(iii) of the  
15 McKinney-Vento Homeless Assistance Act  
16 (42 U.S.C. 11408(b)(1)(F)(iii));

17 “(ix) sections 202(3) and  
18 810(b)(2)(A) of the Native American  
19 Housing and Self-Determination Act of  
20 1996 (25 U.S.C. 4132(3), 4229(b)(2)(A));

21 “(x) in the National Housing Act—

22 “(I) in section 203 (12 U.S.C.  
23 1709), the penultimate undesignated  
24 paragraph of paragraph (2) of sub-

1 section (b), subsection (c)(2)(A), and  
2 subsection (r)(4);

3 “(II) subsections (a) and (c)(3)  
4 of section 237 (12 U.S.C. 1715z–2);  
5 and

6 “(III) subsections (d)(2)(B) and  
7 (m)(1) of section 255 (12 U.S.C.  
8 1715z–20);

9 “(xi) section 502(h)(4)(B) of the  
10 Housing Act of 1949 (42 U.S.C.  
11 1472(h)(4)(B));

12 “(xii) section 508 of the Housing and  
13 Urban Development Act of 1970 (12  
14 U.S.C. 1701z–7); and

15 “(xiii) section 106 of the Energy Pol-  
16 icy Act of 1992 (42 U.S.C. 12712 note).

17 “(C) RENTAL HOUSING COUNSELING.—

18 For purposes of this subsection, the term ‘rent-  
19 al housing counseling’ means counseling related  
20 to rental of residential property, which may in-  
21 clude counseling regarding future homeownership  
22 opportunities and providing referrals for  
23 renters and prospective renters to entities pro-  
24 viding counseling and shall include counseling

1 related to such topics that is provided pursuant  
2 to—

3 “(i) section 105(a)(20) of the Housing  
4 and Community Development Act of 1974  
5 (42 U.S.C. 5305(a)(20));

6 “(ii) in the United States Housing  
7 Act of 1937—

8 “(I) section 9(e) (42 U.S.C.  
9 1437g(e));

10 “(II) section 18(a)(4)(D) (42  
11 U.S.C. 1437p(a)(4)(D));

12 “(III) section 23(c)(4) (42  
13 U.S.C. 1437u(c)(4));

14 “(IV) section 32(e)(4) (42 U.S.C.  
15 1437z-4(e)(4));

16 “(V) section 33(d)(2)(B) (42  
17 U.S.C. 1437z-5(d)(2)(B)); and

18 “(VI) section 302(b)(6) (42  
19 U.S.C. 1437aaa-1(b)(6));

20 “(iii) section 233(b)(2) of the Cran-  
21 ston-Gonzalez National Affordable Housing  
22 Act (42 U.S.C. 12773(b)(2));

23 “(iv) section 106 of the Housing and  
24 Urban Development Act of 1968 (12  
25 U.S.C. 1701x);

1 “(v) section 422(b)(6) of the Cran-  
2 ston-Gonzalez National Affordable Housing  
3 Act (42 U.S.C. 12872(b)(6));

4 “(vi) section 491(b)(1)(F)(iii) of the  
5 McKinney-Vento Homeless Assistance Act  
6 (42 U.S.C. 11408(b)(1)(F)(iii));

7 “(vii) sections 202(3) and  
8 810(b)(2)(A) of the Native American  
9 Housing and Self-Determination Act of  
10 1996 (25 U.S.C. 4132(3), 4229(b)(2)(A));  
11 and

12 “(viii) the rental assistance program  
13 under section 8 of the United States Hous-  
14 ing Act of 1937 (42 U.S.C. 1437f).

15 “(2) STANDARDS FOR MATERIALS.—The Sec-  
16 retary, in consultation with the advisory committee  
17 established under subsection (g)(4) of the Depart-  
18 ment of Housing and Urban Development Act, shall  
19 establish standards for materials and forms to be  
20 used, as appropriate, by organizations providing  
21 homeownership counseling services, including any re-  
22 cipients of assistance pursuant to subsection (a)(4).

23 “(3) MORTGAGE SOFTWARE SYSTEMS.—

24 “(A) CERTIFICATION.—The Secretary shall  
25 provide for the certification of various computer

1 software programs for consumers to use in eval-  
2 uating different residential mortgage loan pro-  
3 posals. The Secretary shall require, for such  
4 certification, that the mortgage software sys-  
5 tems take into account—

6 “(i) the consumer’s financial situation  
7 and the cost of maintaining a home, in-  
8 cluding insurance, taxes, and utilities;

9 “(ii) the amount of time the consumer  
10 expects to remain in the home or expected  
11 time to maturity of the loan; and

12 “(iii) such other factors as the Sec-  
13 retary considers appropriate to assist the  
14 consumer in evaluating whether to pay  
15 points, to lock in an interest rate, to select  
16 an adjustable or fixed rate loan, to select  
17 a conventional or government-insured or  
18 guaranteed loan and to make other choices  
19 during the loan application process.

20 If the Secretary determines that available exist-  
21 ing software is inadequate to assist consumers  
22 during the residential mortgage loan application  
23 process, the Secretary shall arrange for the de-  
24 velopment by private sector software companies



1 of new mortgage software systems that meet  
2 the Secretary's specifications.

3 “(B) USE AND INITIAL AVAILABILITY.—  
4 Such certified computer software programs  
5 shall be used to supplement, not replace, hous-  
6 ing counseling. The Secretary shall provide that  
7 such programs are initially used only in connec-  
8 tion with the assistance of housing counselors  
9 certified pursuant to subsection (e).

10 “(C) AVAILABILITY.—After a period of ini-  
11 tial availability under subparagraph (B) as the  
12 Secretary considers appropriate, the Secretary  
13 shall take reasonable steps to make mortgage  
14 software systems certified pursuant to this  
15 paragraph widely available through the Internet  
16 and at public locations, including public librar-  
17 ies, senior-citizen centers, public housing sites,  
18 offices of public housing agencies that admin-  
19 ister rental housing assistance vouchers, and  
20 housing counseling centers.

21 “(D) BUDGET COMPLIANCE.—This para-  
22 graph shall be effective only to the extent that  
23 amounts to carry out this paragraph are made  
24 available in advance in appropriations Acts.

1           “(4) NATIONAL PUBLIC SERVICE MULTIMEDIA  
2       CAMPAIGNS TO PROMOTE HOUSING COUNSELING.—

3           “(A) IN GENERAL.—The Director of Hous-  
4       ing Counseling shall develop, implement, and  
5       conduct national public service multimedia cam-  
6       paigns designed to make persons facing mort-  
7       gage foreclosure, persons considering a  
8       subprime mortgage loan to purchase a home, el-  
9       derly persons, persons who face language bar-  
10      riers, low-income persons, minorities, and other  
11      potentially vulnerable consumers aware that it  
12      is advisable, before seeking or maintaining a  
13      residential mortgage loan, to obtain homeownership  
14      counseling from an unbiased and reliable  
15      sources and that such homeownership coun-  
16      seling is available, including through programs  
17      sponsored by the Secretary of Housing and  
18      Urban Development.

19          “(B) CONTACT INFORMATION.—Each seg-  
20      ment of the multimedia campaign under sub-  
21      paragraph (A) shall publicize the toll-free tele-  
22      phone number and website of the Department  
23      of Housing and Urban Development through  
24      which persons seeking housing counseling can  
25      locate a housing counseling agency in their

1 State that is certified by the Secretary of Hous-  
2 ing and Urban Development and can provide  
3 advice on buying a home, renting, defaults,  
4 foreclosures, credit issues, and reverse mort-  
5 gages.

6 “(C) AUTHORIZATION OF APPROPRIA-  
7 TIONS.—There are authorized to be appro-  
8 priated to the Secretary, not to exceed  
9 \$3,000,000 for fiscal years 2009, 2010, and  
10 2011, for the development, implementation, and  
11 conduct of national public service multimedia  
12 campaigns under this paragraph.

13 “(D) FORECLOSURE RESCUE EDUCATION  
14 PROGRAMS.—

15 “(i) IN GENERAL.—Ten percent of  
16 any funds appropriated pursuant to the  
17 authorization under subparagraph (C)  
18 shall be used by the Director of Housing  
19 Counseling to conduct an education pro-  
20 gram in areas that have a high density of  
21 foreclosure. Such program shall involve di-  
22 rect mailings to persons living in such  
23 areas describing—

24 “(I) tips on avoiding foreclosure  
25 rescue scams;

1 “(II) tips on avoiding predatory  
2 lending mortgage agreements;

3 “(III) tips on avoiding for-profit  
4 foreclosure counseling services; and

5 “(IV) local counseling resources  
6 that are approved by the Department  
7 of Housing and Urban Development.

8 “(ii) PROGRAM EMPHASIS.—In con-  
9 ducting the education program described  
10 under clause (i), the Director of Housing  
11 Counseling shall also place an emphasis on  
12 serving communities that have a high per-  
13 centage of retirement communities or a  
14 high percentage of low-income minority  
15 communities.

16 “(iii) TERMS DEFINED.—For pur-  
17 poses of this subparagraph:

18 “(I) HIGH DENSITY OF FORE-  
19 CLOSURES.—An area has a ‘high den-  
20 sity of foreclosures’ if such area is one  
21 of the metropolitan statistical areas  
22 (as that term is defined by the Direc-  
23 tor of the Office of Management and  
24 Budget) with the highest home fore-  
25 closure rates.

1                   “(II) HIGH PERCENTAGE OF RE-  
2                   TIREMENT COMMUNITIES.—An area  
3                   has a ‘high percentage of retirement  
4                   communities’ if such area is one of  
5                   the metropolitan statistical areas (as  
6                   that term is defined by the Director of  
7                   the Office of Management and Budg-  
8                   et) with the highest percentage of  
9                   residents aged 65 or older.

10                  “(III) HIGH PERCENTAGE OF  
11                  LOW-INCOME MINORITY COMMU-  
12                  NITIES.—An area has a ‘high percent-  
13                  age of low-income minority commu-  
14                  nities’ if such area contains a higher-  
15                  than-normal percentage of residents  
16                  who are both minorities and low-in-  
17                  come, as defined by the Director of  
18                  Housing Counseling.

19                  “(5) EDUCATION PROGRAMS.—The Secretary  
20                  shall provide advice and technical assistance to  
21                  States, units of general local government, and non-  
22                  profit organizations regarding the establishment and  
23                  operation of, including assistance with the develop-  
24                  ment of content and materials for, educational pro-  
25                  grams to inform and educate consumers, particularly

1       those most vulnerable with respect to residential  
2       mortgage loans (such as elderly persons, persons  
3       facing language barriers, low-income persons, mi-  
4       norities, and other potentially vulnerable con-  
5       sumers), regarding home mortgages, mortgage refi-  
6       nancing, home equity loans, home repair loans, and  
7       where appropriate by region, any requirements and  
8       costs associated with obtaining flood or other dis-  
9       aster-specific insurance coverage.”.

10       (b) CONFORMING AMENDMENTS TO GRANT PRO-  
11       GRAM FOR HOMEOWNERSHIP COUNSELING ORGANIZA-  
12       TIONS.—Section 106(c)(5)(A)(ii) of the Housing and  
13       Urban Development Act of 1968 (12 U.S.C.  
14       1701x(c)(5)(A)(ii)) is amended—

15               (1) in subclause (III), by striking “and” at the  
16       end;

17               (2) in subclause (IV) by striking the period at  
18       the end and inserting “; and”; and

19               (3) by inserting after subclause (IV) the fol-  
20       lowing new subclause:

21                               “(V) notify the housing or mort-  
22                               gage applicant of the availability of  
23                               mortgage software systems provided  
24                               pursuant to subsection (g)(3).”.

1 **SEC. 404. GRANTS FOR HOUSING COUNSELING ASSIST-**  
2 **ANCE.**

3 Section 106(a) of the Housing and Urban Develop-  
4 ment Act of 1968 (12 U.S.C. 1701x(a)(3)) is amended  
5 by adding at the end the following new paragraph:

6 “(4) HOMEOWNERSHIP AND RENTAL COUNSELING  
7 ASSISTANCE.—

8 “(A) IN GENERAL.—The Secretary shall make  
9 financial assistance available under this paragraph  
10 to HUD-approved housing counseling agencies and  
11 State housing finance agencies.

12 “(B) QUALIFIED ENTITIES.—The Secretary  
13 shall establish standards and guidelines for eligibility  
14 of organizations (including governmental and non-  
15 profit organizations) to receive assistance under this  
16 paragraph, in accordance with subparagraph (D).

17 “(C) DISTRIBUTION.—Assistance made avail-  
18 able under this paragraph shall be distributed in a  
19 manner that encourages efficient and successful  
20 counseling programs and that ensures adequate dis-  
21 tribution of amounts for rural areas having tradi-  
22 tionally low levels of access to such counseling serv-  
23 ices, including areas with insufficient access to the  
24 Internet. In distributing such assistance, the Sec-  
25 retary may give priority consideration to entities

1       serving areas with the highest home foreclosure  
2       rates.

3               “(D) LIMITATION ON DISTRIBUTION OF ASSIST-  
4       ANCE.—

5               “(i) IN GENERAL.—None of the amounts  
6       made available under this paragraph shall be  
7       distributed to—

8               “(I) any organization which has been  
9       convicted for a violation under Federal law  
10      relating to an election for Federal office; or

11              “(II) any organization which employs  
12      applicable individuals.

13              “(ii) DEFINITION OF APPLICABLE INDIVID-  
14      UALS.—In this subparagraph, the term ‘appli-  
15      cable individual’ means an individual who—

16              “(I) is—

17              “(aa) employed by the organiza-  
18      tion in a permanent or temporary ca-  
19      pacity;

20              “(bb) contracted or retained by  
21      the organization; or

22              “(cc) acting on behalf of, or with  
23      the express or apparent authority of,  
24      the organization; and



1                   “(II) has been convicted for a viola-  
2                   tion under Federal law relating to an elec-  
3                   tion for Federal office.

4                   “(E) GRANTMAKING PROCESS.—In making as-  
5                   sistance available under this paragraph, the Sec-  
6                   retary shall consider appropriate ways of stream-  
7                   lining and improving the processes for grant applica-  
8                   tion, review, approval, and award.

9                   “(F) AUTHORIZATION OF APPROPRIATIONS.—  
10                  There are authorized to be appropriated  
11                  \$45,000,000 for each of fiscal years 2009 through  
12                  2012 for—

13                         “(i) the operations of the Office of Hous-  
14                         ing Counseling of the Department of Housing  
15                         and Urban Development;

16                         “(ii) the responsibilities of the Director of  
17                         Housing Counseling under paragraphs (2)  
18                         through (5) of subsection (g); and

19                         “(iii) assistance pursuant to this para-  
20                         graph for entities providing homeownership and  
21                         rental counseling.”.

22 **SEC. 405. REQUIREMENTS TO USE HUD-CERTIFIED COUN-**  
23 **SELORS UNDER HUD PROGRAMS.**

24                  Section 106(e) of the Housing and Urban Develop-  
25                  ment Act of 1968 (12 U.S.C. 1701x(e)) is amended—

1           (1) by striking paragraph (1) and inserting the  
2 following new paragraph:

3           “(1) REQUIREMENT FOR ASSISTANCE.—An or-  
4 ganization may not receive assistance for counseling  
5 activities under subsection (a)(1)(iii), (a)(2), (a)(4),  
6 (c), or (d) of this section, or under section 101(e),  
7 unless the organization, or the individuals through  
8 which the organization provides such counseling, has  
9 been certified by the Secretary under this subsection  
10 as competent to provide such counseling.”;

11           (2) in paragraph (2)—

12           (A) by inserting “and for certifying organi-  
13 zations” before the period at the end of the  
14 first sentence; and

15           (B) in the second sentence by striking “for  
16 certification” and inserting “, for certification  
17 of an organization, that each individual through  
18 which the organization provides counseling shall  
19 demonstrate, and, for certification of an indi-  
20 vidual,”;

21           (3) in paragraph (3), by inserting “organiza-  
22 tions and” before “individuals”;

23           (4) by redesignating paragraph (3) as para-  
24 graph (5); and

1           (5) by inserting after paragraph (2) the fol-  
2       lowing new paragraphs:

3           “(3) REQUIREMENT UNDER HUD PROGRAMS.—  
4       Any homeownership counseling or rental housing  
5       counseling (as such terms are defined in subsection  
6       (g)(1)) required under, or provided in connection  
7       with, any program administered by the Department  
8       of Housing and Urban Development shall be pro-  
9       vided only by organizations or counselors certified by  
10      the Secretary under this subsection as competent to  
11      provide such counseling.

12          “(4) OUTREACH.—The Secretary shall take  
13      such actions as the Secretary considers appropriate  
14      to ensure that individuals and organizations pro-  
15      viding homeownership or rental housing counseling  
16      are aware of the certification requirements and  
17      standards of this subsection and of the training and  
18      certification programs under subsection (f).”.

19   **SEC. 406. STUDY OF DEFAULTS AND FORECLOSURES.**

20      The Secretary of Housing and Urban Development  
21   shall conduct an extensive study of the root causes of de-  
22   fault and foreclosure of home loans, using as much empir-  
23   ical data as are available. The study shall also examine  
24   the role of escrow accounts in helping prime and nonprime  
25   borrowers to avoid defaults and foreclosures, and the role

1 of computer registries of mortgages, including those used  
2 for trading mortgage loans. Not later than 12 months  
3 after the date of the enactment of this Act, the Secretary  
4 shall submit to the Congress a preliminary report regard-  
5 ing the study. Not later than 24 months after such date  
6 of enactment, the Secretary shall submit a final report re-  
7 garding the results of the study, which shall include any  
8 recommended legislation relating to the study, and rec-  
9 ommendations for best practices and for a process to iden-  
10 tify populations that need counseling the most.

11 **SEC. 407. DEFAULT AND FORECLOSURE DATABASE.**

12 (a) ESTABLISHMENT.—The Secretary of Housing  
13 and Urban Development, in consultation with the Federal  
14 agencies responsible for regulation of banking and finan-  
15 cial institutions involved in residential mortgage lending  
16 and servicing, shall establish and maintain a database of  
17 information on foreclosures and defaults on mortgage  
18 loans for one- to four-unit residential properties and shall  
19 make such information publicly available.

20 (b) CENSUS TRACT DATA.—Information in the data-  
21 base shall be collected, aggregated, and made available on  
22 a census tract basis.

23 (c) REQUIREMENTS.—Information collected and  
24 made available through the database shall include—

1           (1) the number and percentage of such mort-  
2       gage loans that are delinquent by more than 30  
3       days;

4           (2) the number and percentage of such mort-  
5       gage loans that are delinquent by more than 90  
6       days;

7           (3) the number and percentage of such prop-  
8       erties that are real estate-owned;

9           (4) number and percentage of such mortgage  
10      loans that are in the foreclosure process;

11          (5) the number and percentage of such mort-  
12      gage loans that have an outstanding principal obli-  
13      gation amount that is greater than the value of the  
14      property for which the loan was made; and

15          (6) such other information as the Secretary  
16      considers appropriate.

17 **SEC. 408. DEFINITIONS FOR COUNSELING-RELATED PRO-**  
18 **GRAMS.**

19       Section 106 of the Housing and Urban Development  
20      Act of 1968 (12 U.S.C. 1701x), as amended by the pre-  
21      ceding provisions of this title, is further amended by add-  
22      ing at the end the following new subsection:

23       “(h) DEFINITIONS.—For purposes of this section:

24           “(1) NONPROFIT ORGANIZATION.—The term  
25       ‘nonprofit organization’ has the meaning given such

1 term in section 104(5) of the Cranston-Gonzalez Na-  
2 tional Affordable Housing Act (42 U.S.C.  
3 12704(5)), except that subparagraph (D) of such  
4 section shall not apply for purposes of this section.

5 “(2) STATE.—The term ‘State’ means each of  
6 the several States, the Commonwealth of Puerto  
7 Rico, the District of Columbia, the Commonwealth  
8 of the Northern Mariana Islands, Guam, the Virgin  
9 Islands, American Samoa, the Trust Territories of  
10 the Pacific, or any other possession of the United  
11 States.

12 “(3) UNIT OF GENERAL LOCAL GOVERN-  
13 MENT.—The term ‘unit of general local government’  
14 means any city, county, parish, town, township, bor-  
15 ough, village, or other general purpose political sub-  
16 division of a State.

17 “(4) HUD-APPROVED COUNSELING AGENCY.—  
18 The term ‘HUD-approved counseling agency’ means  
19 a private or public nonprofit organization that is—

20 “(A) exempt from taxation under section  
21 501(c) of the Internal Revenue Code of 1986;  
22 and

23 “(B) certified by the Secretary to provide  
24 housing counseling services.

1           “(5) STATE HOUSING FINANCE AGENCY.—The  
 2           term ‘State housing finance agency’ means any pub-  
 3           lic body, agency, or instrumentality specifically cre-  
 4           ated under State statute that is authorised to fi-  
 5           nance activities designed to provide housing and re-  
 6           lated facilities throughout an entire State through  
 7           land acquisition, construction, or rehabilitation.”.

8   **SEC. 409. ACCOUNTABILITY AND TRANSPARENCY FOR**  
 9                           **GRANT RECIPIENTS.**

10          Section 106 of the Housing and Urban Development  
 11   Act of 1968 (12 U.S.C. 1701x), as amended by the pre-  
 12   ceding provisions of this title, is further amended by add-  
 13   ing at the end the following:

14          “(i) ACCOUNTABILITY FOR RECIPIENTS OF COVERED  
 15   ASSISTANCE.—

16               “(1) TRACKING OF FUNDS.—The Secretary  
 17   shall—

18                       “(A) develop and maintain a system to en-  
 19                       sure that any organization or entity that re-  
 20                       ceives any covered assistance uses all amounts  
 21                       of covered assistance in accordance with this  
 22                       section or section 216 of the Mortgage Reform  
 23                       and Anti-Predatory Lending Act, as applicable,  
 24                       the regulations issued under this section or  
 25                       such section 216, as applicable, and any re-

1           quirements or conditions under which such  
2           amounts were provided; and

3           “(B) require any organization or entity, as  
4           a condition of receipt of any covered assistance,  
5           to agree to comply with such requirements re-  
6           garding covered assistance as the Secretary  
7           shall establish, which shall include—

8           “(i) appropriate periodic financial and  
9           grant activity reporting, record retention,  
10          and audit requirements for the duration of  
11          the covered assistance to the organization  
12          or entity to ensure compliance with the  
13          limitations and requirements of this section  
14          or section 216 of the Mortgage Reform  
15          and Anti-Predatory Lending Act, as appli-  
16          cable, the regulations under this section or  
17          such section 216, as applicable, and any  
18          requirements or conditions under which  
19          such amounts were provided; and

20          “(ii) any other requirements that the  
21          Secretary determines are necessary to en-  
22          sure appropriate administration and com-  
23          pliance.

24          “(2) MISUSE OF FUNDS.—If any organization  
25          or entity that receives any covered assistance is de-



1       terminated by the Secretary to have used any covered  
2       assistance in a manner that is materially in violation  
3       of this section or section 216 of the Mortgage Re-  
4       form and Anti-Predatory Lending Act, as applicable,  
5       the regulations issued under this section or such sec-  
6       tion 216, as applicable, or any requirements or con-  
7       ditions under which such assistance was provided—

8               “(A) the Secretary shall require that, with-  
9               in 12 months after the determination of such  
10              misuse, the organization or entity shall reim-  
11              burse the Secretary for such misused amounts  
12              and return to the Secretary any such amounts  
13              that remain unused or uncommitted for use;  
14              and

15             “(B) such organization or entity shall be  
16             ineligible, at any time after such determination,  
17             to apply for or receive any further covered as-  
18             sistance.

19       The remedies under this paragraph are in addition  
20       to any other remedies that may be available under  
21       law.

22             “(3) COVERED ASSISTANCE.—For purposes of  
23             this subsection, the term ‘covered assistance’ means  
24             any grant or other financial assistance provided  
25             under—

1 “(A) this section; or

2 “(B) section 216 of the Mortgage Reform  
3 and Anti-Predatory Lending Act.”.

4 **SEC. 410. UPDATING AND SIMPLIFICATION OF MORTGAGE**  
5 **INFORMATION BOOKLET.**

6 Section 5 of the Real Estate Settlement Procedures  
7 Act of 1974 (12 U.S.C. 2604) is amended—

8 (1) in the section heading, by striking “SPE-  
9 CIAL” and inserting “HOME BUYING”;

10 (2) by striking subsections (a) and (b) and in-  
11 serting the following new subsections:

12 “(a) PREPARATION AND DISTRIBUTION.—The Sec-  
13 retary shall prepare, at least once every 5 years, a booklet  
14 to help consumers applying for federally related mortgage  
15 loans to understand the nature and costs of real estate  
16 settlement services. The Secretary shall prepare the book-  
17 let in various languages and cultural styles, as the Sec-  
18 retary determines to be appropriate, so that the booklet  
19 is understandable and accessible to homebuyers of dif-  
20 ferent ethnic and cultural backgrounds. The Secretary  
21 shall distribute such booklets to all lenders that make fed-  
22 erally related mortgage loans. The Secretary shall also dis-  
23 tribute to such lenders lists, organized by location, of  
24 homeownership counselors certified under section 106(e)  
25 of the Housing and Urban Development Act of 1968 (12

1 U.S.C. 1701x(e)) for use in complying with the require-  
2 ment under subsection (c) of this section.

3 “(b) CONTENTS.—Each booklet shall be in such form  
4 and detail as the Secretary shall prescribe and, in addition  
5 to such other information as the Secretary may provide,  
6 shall include in plain and understandable language the fol-  
7 lowing information:

8 “(1) A description and explanation of the na-  
9 ture and purpose of the costs incident to a real es-  
10 tate settlement or a federally related mortgage loan.  
11 The description and explanation shall provide gen-  
12 eral information about the mortgage process as well  
13 as specific information concerning, at a minimum—

14 “(A) balloon payments;

15 “(B) prepayment penalties;

16 “(C) the advantages of prepayment; and

17 “(D) the trade-off between closing costs  
18 and the interest rate over the life of the loan.

19 “(2) An explanation and sample of the uniform  
20 settlement statement required by section 4.

21 “(3) A list and explanation of lending practices,  
22 including those prohibited by the Truth in Lending  
23 Act or other applicable Federal law, and of other un-  
24 fair practices and unreasonable or unnecessary

1 charges to be avoided by the prospective buyer with  
2 respect to a real estate settlement.

3 “(4) A list and explanation of questions a con-  
4 sumer obtaining a federally related mortgage loan  
5 should ask regarding the loan, including whether the  
6 consumer will have the ability to repay the loan,  
7 whether the consumer sufficiently shopped for the  
8 loan, whether the loan terms include prepayment  
9 penalties or balloon payments, and whether the loan  
10 will benefit the borrower.

11 “(5) An explanation of the right of rescission as  
12 to certain transactions provided by sections 125 and  
13 129 of the Truth in Lending Act.

14 “(6) A brief explanation of the nature of a vari-  
15 able rate mortgage and a reference to the booklet  
16 entitled ‘Consumer Handbook on Adjustable Rate  
17 Mortgages’, published by the Board of Governors of  
18 the Federal Reserve System pursuant to section  
19 226.19(b)(1) of title 12, Code of Federal Regula-  
20 tions, or to any suitable substitute of such booklet  
21 that such Board of Governors may subsequently  
22 adopt pursuant to such section.

23 “(7) A brief explanation of the nature of a  
24 home equity line of credit and a reference to the

1 pamphlet required to be provided under section  
2 127A of the Truth in Lending Act.

3 “(8) Information about homeownership coun-  
4 seling services made available pursuant to section  
5 106(a)(4) of the Housing and Urban Development  
6 Act of 1968 (12 U.S.C. 1701x(a)(4)), a rec-  
7 ommendation that the consumer use such services,  
8 and notification that a list of certified providers of  
9 homeownership counseling in the area, and their  
10 contact information, is available.

11 “(9) An explanation of the nature and purpose  
12 of escrow accounts when used in connection with  
13 loans secured by residential real estate and the re-  
14 quirements under section 10 of this Act regarding  
15 such accounts.

16 “(10) An explanation of the choices available to  
17 buyers of residential real estate in selecting persons  
18 to provide necessary services incidental to a real es-  
19 tate settlement.

20 “(11) An explanation of a consumer’s respon-  
21 sibilities, liabilities, and obligations in a mortgage  
22 transaction.

23 “(12) An explanation of the nature and purpose  
24 of real estate appraisals, including the difference be-  
25 tween an appraisal and a home inspection.

1           “(13) Notice that the Office of Housing of the  
2           Department of Housing and Urban Development has  
3           made publicly available a brochure regarding loan  
4           fraud and a World Wide Web address and toll-free  
5           telephone number for obtaining the brochure.

6           The booklet prepared pursuant to this section shall take  
7           into consideration differences in real estate settlement pro-  
8           cedures that may exist among the several States and terri-  
9           tories of the United States and among separate political  
10          subdivisions within the same State and territory.”;

11          (3) in subsection (c), by inserting at the end  
12          the following new sentence: “Each lender shall also  
13          include with the booklet a reasonably complete or  
14          updated list of homeownership counselors who are  
15          certified pursuant to section 106(e) of the Housing  
16          and Urban Development Act of 1968 (12 U.S.C.  
17          1701x(e)) and located in the area of the lender.”;  
18          and

19          (4) in subsection (d), by inserting after the pe-  
20          riod at the end of the first sentence the following:  
21          “The lender shall provide the HUD-issued booklet in  
22          the version that is most appropriate for the person  
23          receiving it.”.

24   **SEC. 411. HOME INSPECTION COUNSELING.**

25          (a) PUBLIC OUTREACH.—

1           (1) IN GENERAL.—The Secretary of Housing  
2           and Urban Development (in this section referred to  
3           as the “Secretary”) shall take such actions as may  
4           be necessary to inform potential homebuyers of the  
5           availability and importance of obtaining an inde-  
6           pendent home inspection. Such actions shall in-  
7           clude—

8                   (A) publication of the HUD/FHA form  
9                   HUD 92564–CN entitled “For Your Protec-  
10                  tion: Get a Home Inspection”, in both English  
11                  and Spanish languages;

12                  (B) publication of the HUD/FHA booklet  
13                  entitled “For Your Protection: Get a Home In-  
14                  spection”, in both English and Spanish lan-  
15                  guages;

16                  (C) development and publication of a HUD  
17                  booklet entitled “For Your Protection—Get a  
18                  Home Inspection” that does not reference  
19                  FHA-insured homes, in both English and Span-  
20                  ish languages; and

21                  (D) publication of the HUD document en-  
22                  titled “Ten Important Questions To Ask Your  
23                  Home Inspector”, in both English and Spanish  
24                  languages.

1           (2) AVAILABILITY.—The Secretary shall make  
2       the materials specified in paragraph (1) available for  
3       electronic access and, where appropriate, inform po-  
4       tential homebuyers of such availability through home  
5       purchase counseling public service announcements  
6       and toll-free telephone hotlines of the Department of  
7       Housing and Urban Development. The Secretary  
8       shall give special emphasis to reaching first-time and  
9       low-income homebuyers with these materials and ef-  
10      forts.

11           (3) UPDATING.—The Secretary may periodi-  
12      cally update and revise such materials, as the Sec-  
13      retary determines to be appropriate.

14           (b) REQUIREMENT FOR FHA-APPROVED LEND-  
15      ERS.—Each mortgagee approved for participation in the  
16      mortgage insurance programs under title II of the Na-  
17      tional Housing Act shall provide prospective homebuyers,  
18      at first contact, whether upon pre-qualification, pre-ap-  
19      proval, or initial application, the materials specified in  
20      subparagraphs (A), (B), and (D) of subsection (a)(1).

21           (c) REQUIREMENTS FOR HUD-APPROVED COUN-  
22      SELING AGENCIES.—Each counseling agency certified  
23      pursuant by the Secretary to provide housing counseling  
24      services shall provide each of their clients, as part of the



1 home purchase counseling process, the materials specified  
2 in subparagraphs (C) and (D) of subsection (a)(1).

3 (d) TRAINING.—Training provided the Department  
4 of Housing and Urban Development for housing coun-  
5 seling agencies, whether such training is provided directly  
6 by the Department or otherwise, shall include—

7 (1) providing information on counseling poten-  
8 tial homebuyers of the availability and importance of  
9 getting an independent home inspection;

10 (2) providing information about the home in-  
11 spection process, including the reasons for specific  
12 inspections such as radon and lead-based paint test-  
13 ing;

14 (3) providing information about advising poten-  
15 tial homebuyers on how to locate and select a quali-  
16 fied home inspector; and

17 (4) review of home inspection public outreach  
18 materials of the Department.

19 **SEC. 412. WARNINGS TO HOMEOWNERS OF FORECLOSURE**  
20 **RESCUE SCAMS.**

21 (a) ASSISTANCE TO NRC.—Notwithstanding any  
22 other provision of law, of any amounts made available for  
23 any fiscal year pursuant to section 106(a)(4)(F) of the  
24 Housing and Urban Development Act of 1968 (12 U.S.C.  
25 1701x(a)(4)(F)) (as added by section 404 of this Act), 10

1 percent shall be used only for assistance to the Neighbor-  
2 hood Reinvestment Corporation for activities, in consulta-  
3 tion with servicers of residential mortgage loans, to pro-  
4 vide notice to borrowers under such loans who are delin-  
5 quent with respect to payments due under such loans that  
6 makes such borrowers aware of the dangers of fraudulent  
7 activities associated with foreclosure.

8 (b) NOTICE.—The Neighborhood Reinvestment Cor-  
9 poration, in consultation with servicers of residential mort-  
10 gage loans, shall use the amounts provided pursuant to  
11 subsection (a) to carry out activities to inform borrowers  
12 under residential mortgage loans—

13 (1) that the foreclosure process is complex and  
14 can be confusing;

15 (2) that the borrower may be approached dur-  
16 ing the foreclosure process by persons regarding sav-  
17 ing their home and they should use caution in any  
18 such dealings;

19 (3) that there are Federal Government and  
20 nonprofit agencies that may provide information  
21 about the foreclosure process, including the Depart-  
22 ment of Housing and Urban Development;

23 (4) that they should contact their lender imme-  
24 diately, contact the Department of Housing and  
25 Urban Development to find a housing counseling

1 agency certified by the Department to assist in  
 2 avoiding foreclosure, or visit the Department's  
 3 website regarding tips for avoiding foreclosure; and  
 4 (5) of the telephone number of the loan servicer  
 5 or successor, the telephone number of the Depart-  
 6 ment of Housing and Urban Development housing  
 7 counseling line, and the Uniform Resource Locators  
 8 (URLs) for the Department of Housing and Urban  
 9 Development websites for housing counseling and for  
 10 tips for avoiding foreclosure.

## 11 **TITLE V—MORTGAGE SERVICING**

### 12 **SEC. 501. ESCROW AND IMPOUND ACCOUNTS RELATING TO** 13 **CERTAIN CONSUMER CREDIT TRANS-** 14 **ACTIONS.**

15 (a) IN GENERAL.—Chapter 2 of the Truth in Lend-  
 16 ing Act (15 U.S.C. 1631 et seq.) is amended by inserting  
 17 after section 129C (as added by section 201) the following  
 18 new section:

### 19 **“SEC. 129D. ESCROW OR IMPOUND ACCOUNTS RELATING** 20 **TO CERTAIN CONSUMER CREDIT TRANS-** 21 **ACTIONS.**

22 “(a) IN GENERAL.—Except as provided in subsection  
 23 (b), (c), or (d) , a creditor, in connection with the forma-  
 24 tion or consummation of a consumer credit transaction se-  
 25 cured by a first lien on the principal dwelling of the con-

1 sumer, other than a consumer credit transaction under an  
2 open end credit plan or a reverse mortgage, shall establish,  
3 before the consummation of such transaction, an escrow  
4 or impound account for the payment of taxes and hazard  
5 insurance, and, if applicable, flood insurance, mortgage in-  
6 surance, ground rents, and any other required periodic  
7 payments or premiums with respect to the property or the  
8 loan terms, as provided in, and in accordance with, this  
9 section.

10 “(b) WHEN REQUIRED.—No impound, trust, or other  
11 type of account for the payment of property taxes, insur-  
12 ance premiums, or other purposes relating to the property  
13 may be required as a condition of a real property sale con-  
14 tract or a loan secured by a first deed of trust or mortgage  
15 on the principal dwelling of the consumer, other than a  
16 consumer credit transaction under an open end credit plan  
17 or a reverse mortgage, except when—

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

21 “(2) a loan is made, guaranteed, or insured by  
22 a State or Federal governmental lending or insuring  
23 agency;

24 “(3) the transaction is secured by a first mort-  
25 gage or lien on the consumer’s principal dwelling

1       having an original principal obligation amount  
2       that—

3               “(A) does not exceed the amount of the  
4               maximum limitation on the original principal  
5               obligation of mortgage in effect for a residence  
6               of the applicable size, as of the date such inter-  
7               est rate set, pursuant to the sixth sentence of  
8               section 305(a)(2) the Federal Home Loan  
9               Mortgage Corporation Act (12 U.S.C.  
10              1454(a)(2)), and the annual percentage rate  
11              will exceed the average prime offer rate for a  
12              comparable transaction by 1.5 or more percent-  
13              age points; or

14              “(B) exceeds the amount of the maximum  
15              limitation on the original principal obligation of  
16              mortgage in effect for a residence of the appli-  
17              cable size, as of the date such interest rate set,  
18              pursuant to the sixth sentence of section  
19              305(a)(2) the Federal Home Loan Mortgage  
20              Corporation Act (12 U.S.C. 1454(a)(2)), and  
21              the annual percentage rate will exceed the aver-  
22              age prime offer rate for a comparable trans-  
23              action by 2.5 or more percentage points; or

24              “(4) so required pursuant to regulation.

1       “(c) DURATION OF MANDATORY ESCROW OR IM-  
2 POUND ACCOUNT.—An escrow or impound account estab-  
3 lished pursuant to subsection (b), shall remain in existence  
4 for a minimum period of 5 years, beginning with the date  
5 of the consummation of the loan, and until such borrower  
6 has sufficient equity in the dwelling securing the consumer  
7 credit transaction so as to no longer be required to main-  
8 tain private mortgage insurance, or such other period as  
9 may be provided in regulations to address situations such  
10 as borrower delinquency, unless the underlying mortgage  
11 establishing the account is terminated.

12       “(d) LIMITED EXEMPTIONS FOR LOANS SECURED BY  
13 SHARES IN A COOPERATIVE AND FOR CERTAIN CONDO-  
14 MINUM UNITS.—Escrow accounts need not be established  
15 for loans secured by shares in a cooperative. Insurance  
16 premiums need not be included in escrow accounts for  
17 loans secured by condominium units, where the condo-  
18 minium association has an obligation to the condominium  
19 unit owners to maintain a master policy insuring condo-  
20 minium units.

21       “(e) CLARIFICATION ON ESCROW ACCOUNTS FOR  
22 LOANS NOT MEETING STATUTORY TEST.—For mort-  
23 gages not covered by the requirements of subsection (b),  
24 no provision of this section shall be construed as pre-  
25 cluding the establishment of an impound, trust, or other

1 type of account for the payment of property taxes, insur-  
2 ance premiums, or other purposes relating to the prop-  
3 erty—

4 “(1) on terms mutually agreeable to the parties  
5 to the loan;

6 “(2) at the discretion of the lender or servicer,  
7 as provided by the contract between the lender or  
8 servicer and the borrower; or

9 “(3) pursuant to the requirements for the  
10 escrowing of flood insurance payments for regulated  
11 lending institutions in section 102(d) of the Flood  
12 Disaster Protection Act of 1973.

13 “(f) ADMINISTRATION OF MANDATORY ESCROW OR  
14 IMPOUND ACCOUNTS.—

15 “(1) IN GENERAL.—Except as may otherwise  
16 be provided for in this title or in regulations pre-  
17 scribed by the Board, escrow or impound accounts  
18 established pursuant to subsection (b) shall be estab-  
19 lished in a federally insured depository institution.

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

1           “(A) the Real Estate Settlement Proce-  
2           dures Act of 1974 and regulations prescribed  
3           under such Act;

4           “(B) the Flood Disaster Protection Act of  
5           1973 and regulations prescribed under such  
6           Act; and

7           “(C) the law of the State, if applicable,  
8           where the real property securing the consumer  
9           credit transaction is located.

10          “(3) APPLICABILITY OF PAYMENT OF INTER-  
11          EST.—If prescribed by applicable State or Federal  
12          law, each creditor shall pay interest to the consumer  
13          on the amount held in any impound, trust, or escrow  
14          account that is subject to this section in the manner  
15          as prescribed by that applicable State or Federal  
16          law.

17          “(4) PENALTY COORDINATION WITH RESPA.—  
18          Any action or omission on the part of any person  
19          which constitutes a violation of the Real Estate Set-  
20          tlement Procedures Act of 1974 or any regulation  
21          prescribed under such Act for which the person has  
22          paid any fine, civil money penalty, or other damages  
23          shall not give rise to any additional fine, civil money  
24          penalty, or other damages under this section, unless



1 the action or omission also constitutes a direct viola-  
2 tion of this section.

3 “(g) DISCLOSURES RELATING TO MANDATORY ES-  
4 CROW OR IMPOUND ACCOUNT.—In the case of any im-  
5 pound, trust, or escrow account that is subject to this sec-  
6 tion, the creditor shall disclose by written notice to the  
7 consumer at least 3 business days before the consumma-  
8 tion of the consumer credit transaction giving rise to such  
9 account or in accordance with timeframes established in  
10 prescribed regulations the following information:

11 “(1) The fact that an escrow or impound ac-  
12 count will be established at consummation of the  
13 transaction.

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

16 “(3) The amount, in the initial year after the  
17 consummation of the transaction, of the estimated  
18 taxes and hazard insurance, including flood insur-  
19 ance, if applicable, and any other required periodic  
20 payments or premiums that reflects, as appropriate,  
21 either the taxable assessed value of the real property  
22 securing the transaction, including the value of any  
23 improvements on the property or to be constructed  
24 on the property (whether or not such construction

1 will be financed from the proceeds of the trans-  
2 action) or the replacement costs of the property.

3 “(4) The estimated monthly amount payable to  
4 be escrowed for taxes, hazard insurance (including  
5 flood insurance, if applicable) and any other re-  
6 quired periodic payments or premiums.

7 “(5) The fact that, if the consumer chooses to  
8 terminate the account at the appropriate time in the  
9 future, the consumer will become responsible for the  
10 payment of all taxes, hazard insurance, and flood in-  
11 surance, if applicable, as well as any other required  
12 periodic payments or premiums on the property un-  
13 less a new escrow or impound account is established.

14 “(6) Such other information as the Federal  
15 banking agencies jointly determine necessary for the  
16 protection of the consumer.

17 “(h) DEFINITIONS.—For purposes of this section, the  
18 following definitions shall apply:

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

23 “(2) HAZARD INSURANCE.—The term ‘hazard  
24 insurance’ shall have the same meaning as provided  
25 for ‘hazard insurance’, ‘casualty insurance’, ‘home-

1 owner's insurance', or other similar term under the  
2 law of the State where the real property securing the  
3 consumer credit transaction is located.”.

4 (b) IMPLEMENTATION.—

5 (1) REGULATIONS.—The Board of Governors of  
6 the Federal Reserve System, the Comptroller of the  
7 Currency, the Director of the Office of Thrift Super-  
8 vision, the Federal Deposit Insurance Corporation,  
9 the National Credit Union Administration Board,  
10 (hereafter in this Act referred to as the “Federal  
11 banking agencies”) and the Federal Trade Commis-  
12 sion shall prescribe, in final form, such regulations  
13 as determined to be necessary to implement the  
14 amendments made by subsection (a) before the end  
15 of the 180-day period beginning on the date of the  
16 enactment of this Act.

17 (2) EFFECTIVE DATE.—The amendments made  
18 by subsection (a) shall only apply to covered mort-  
19 gage loans consummated after the end of the 1-year  
20 period beginning on the date of the publication of  
21 final regulations in the Federal Register.

22 (c) CLERICAL AMENDMENT.—The table of sections  
23 for chapter 2 of the Truth in Lending Act is amended  
24 by inserting after the item relating to section 129C (as  
25 added by section 201) the following new item:

“129D. Escrow or impound accounts relating to certain consumer credit transactions.”.

**1 SEC. 502. DISCLOSURE NOTICE REQUIRED FOR CON-**  
**2 SUMERS WHO WAIVE ESCROW SERVICES.**

**3 (a) IN GENERAL.**—Section 129D of the Truth in  
**4 Lending Act (as added by section 501) is amended by add-**  
**5 ing at the end the following new subsection:**

**6 “(i) DISCLOSURE NOTICE REQUIRED FOR CON-**  
**7 SUMERS WHO WAIVE ESCROW SERVICES.—**

**8 “(1) IN GENERAL.—If—**

**9 “(A) an impound, trust, or other type of**  
**10 account for the payment of property taxes, in-**  
**11 surance premiums, or other purposes relating to**  
**12 real property securing a consumer credit trans-**  
**13 action is not established in connection with the**  
**14 transaction; or**

**15 “(B) a consumer chooses, and provides**  
**16 written notice to the creditor or servicer of such**  
**17 choice, at any time after such an account is es-**  
**18 tablished in connection with any such trans-**  
**19 action and in accordance with any statute, reg-**  
**20 ulation, or contractual agreement, to close such**  
**21 account,**

**22 the creditor or servicer shall provide a timely and**  
**23 clearly written disclosure to the consumer that ad-**  
**24 vises the consumer of the responsibilities of the con-**

1 consumer and implications for the consumer in the ab-  
2 sence of any such account.

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

6 “(A) Information concerning any applica-  
7 ble fees or costs associated with either the non-  
8 establishment of any such account at the time  
9 of the transaction, or any subsequent closure of  
10 any such account.

11 “(B) A clear and prominent notice that the  
12 consumer is responsible for personally and di-  
13 rectly paying the non-escrowed items, in addi-  
14 tion to paying the mortgage loan payment, in  
15 the absence of any such account, and the fact  
16 that the costs for taxes, insurance, and related  
17 fees can be substantial.

18 “(C) A clear explanation of the con-  
19 sequences of any failure to pay non-escrowed  
20 items, including the possible requirement for  
21 the forced placement of insurance by the cred-  
22 itor or servicer and the potentially higher cost  
23 (including any potential commission payments  
24 to the servicer) or reduced coverage for the con-

sumer in the event of any such creditor-placed insurance.

“(D) Such other information as the Federal banking agencies jointly determine necessary for the protection of the consumer.”.

(b) IMPLEMENTATION.—

(1) REGULATIONS.—The Federal banking agencies and the Federal Trade Commission shall prescribe, in final form, such regulations as such agencies determine to be necessary to implement the amendments made by subsection (a) before the end of the 180-day period beginning on the date of the enactment of this Act.

(2) EFFECTIVE DATE.—The amendments made by subsection (a) shall only apply in accordance with the regulations established in paragraph (1) and beginning on the date occurring 180-days after the date of the publication of final regulations in the Federal Register.

**SEC. 503. REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974 AMENDMENTS.**

(a) SERVICER PROHIBITIONS.—Section 6 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605) is amended by adding at the end the following new subsections:

1 “(k) SERVICER PROHIBITIONS.—

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

4 “(A) obtain force-placed hazard insurance  
5 unless there is a reasonable basis to believe the  
6 borrower has failed to comply with the loan  
7 contract’s requirements to maintain property  
8 insurance;

9 “(B) charge fees for responding to valid  
10 qualified written requests (as defined in regula-  
11 tions which the Secretary shall prescribe) under  
12 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 contact  
21 information about the owner assignee of the  
22 loan; or

23 “(E) fail to comply with any other obliga-  
24 tion found by the Secretary, by regulation, to

1           be appropriate to carry out the consumer pro-  
2           tection purposes of this Act.

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

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



1 property securing the federally related  
2 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 first-class  
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 clause of such subparagraph;  
20 and

21 “(C) the servicer has not received from the  
22 borrower any demonstration of hazard insur-  
23 ance coverage for the property securing the  
24 mortgage by the end of the 15-day period be-

1           ginning on the date the notice under subpara-  
2           graph (B) was sent by the servicer.

3           “(2) SUFFICIENCY OF DEMONSTRATION.—A  
4           servicer of a federally related mortgage shall accept  
5           any reasonable form of written confirmation from a  
6           borrower of existing insurance coverage, which shall  
7           include the existing insurance policy number along  
8           with the identity of, and contact information for, the  
9           insurance 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) CLARIFICATION WITH RESPECT TO FLOOD  
25          DISASTER PROTECTION ACT.—No provision of this

1 section shall be construed as prohibiting a servicer  
2 from providing simultaneous or concurrent notice of  
3 a lack of flood insurance pursuant to section 102(e)  
4 of the Flood Disaster Protection Act of 1973.

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

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

11 (1) in paragraphs (1)(B) and (2)(B), by strik-  
12 ing “\$1,000” each place such term appears and in-  
13 serting “\$2,000”; and

14 (2) in paragraph (2)(B)(i), by striking  
15 “\$500,000” and inserting “\$1,000,000”.

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

19 (1) in paragraph (1)(A), by striking “20 days”  
20 and inserting “5 days”;

21 (2) in paragraph (2), by striking “60 days” and  
22 inserting “30 days”; and

23 (3) by adding at the end the following new  
24 paragraph:

1           “(4) LIMITED EXTENSION OF RESPONSE  
2       TIME.—The 30-day period described in paragraph  
3       (2) may be extended for not more than 15 days if,  
4       before the end of such 30-day period, the servicer  
5       notifies the borrower of the extension and the rea-  
6       sons for the delay in responding.”.

7       (d) PROMPT REFUND OF ESCROW ACCOUNTS UPON  
8       PAYOFF.—Section 6(g) of the Real Estate Settlement  
9       Procedures Act of 1974 (12 U.S.C. 2605(g)) is amended  
10      by adding at the end the following new sentence: “Any  
11      balance in any such account that is within the servicer’s  
12      control at the time the loan is paid off shall be promptly  
13      returned to the borrower within 20 business days or cred-  
14      ited to a similar account for a new mortgage loan to the  
15      borrower with the same lender.”.

16   **SEC. 504. TRUTH IN LENDING ACT AMENDMENTS.**

17      (a) REQUIREMENTS FOR PROMPT CREDITING OF  
18      HOME LOAN PAYMENTS.—Chapter 2 of the Truth in  
19      Lending Act (15 U.S.C. 1631 et seq.) is amended by in-  
20      serting after section 129E (as added by section 602) the  
21      following new section (and by amending the table of con-  
22      tents accordingly):

1 **“SEC. 129F. REQUIREMENTS FOR PROMPT CREDITING OF**  
2 **HOME LOAN PAYMENTS.**

3 “(a) IN GENERAL.—In connection with a consumer  
4 credit transaction secured by a consumer’s principal dwell-  
5 ing, no servicer shall fail to credit a payment to the con-  
6 sumer’s loan account as of the date of receipt, except when  
7 a delay in crediting does not result in any charge to the  
8 consumer or in the reporting of negative information to  
9 a consumer reporting agency, except as required in sub-  
10 section (b).

11 “(b) EXCEPTION.—If a servicer specifies in writing  
12 requirements for the consumer to follow in making pay-  
13 ments, but accepts a payment that does not conform to  
14 the requirements, the servicer shall credit the payment as  
15 of 5 days after receipt.”.

16 (b) REQUESTS FOR PAYOFF AMOUNTS.—Chapter 2  
17 of such Act is further amended by inserting after section  
18 129F (as added by subsection (a)) the following new sec-  
19 tion (and by amending the table of contents accordingly):  
20 **“SEC. 129G. REQUESTS FOR PAYOFF AMOUNTS OF HOME**  
21 **LOAN.**

22 “A creditor or servicer of a home loan shall send an  
23 accurate payoff balance within a reasonable time, but in  
24 no case more than 7 business days, after the receipt of  
25 a written request for such balance from or on behalf of  
26 the borrower.”.

1 **SEC. 505. ESCROWS INCLUDED IN REPAYMENT ANALYSIS.**

2 Section 128(b) of the Truth in Lending Act (15  
3 U.S.C. 1638(b)) is amended by adding at the end the fol-  
4 lowing 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 principal dwelling of  
10 the consumer, other than a consumer credit  
11 transaction under an open end credit plan or a  
12 reverse mortgage, for which an impound, trust,  
13 or other type of account has been or will be es-  
14 tablished in connection with the transaction for  
15 the payment of property taxes, hazard and flood  
16 (if any) insurance premiums, or other periodic  
17 payments or premiums with respect to the  
18 property, the information required to be pro-  
19 vided under subsection (a) with respect to the  
20 number, amount, and due dates or period of  
21 payments scheduled to repay the total of pay-  
22 ments shall take into account the amount of  
23 any monthly payment to such account for each  
24 such repayment in accordance with section  
25 10(a)(2) of the Real Estate Settlement Proce-  
26 dures Act of 1974.

“(B) ASSESSMENT VALUE.—The amount taken into account under subparagraph (A) for the payment of property taxes, hazard and flood (if any) insurance premiums, or other periodic payments or premiums with respect to the property shall reflect the taxable assessed value of the real property securing the transaction after the consummation of the transaction, including the value of any improvements on the property or to be constructed on the property (whether or not such construction will be financed from the proceeds of the transaction), if known, and the replacement costs of the property for hazard insurance, in the initial year after the transaction.”.

## **TITLE VI—APPRAISAL ACTIVITIES**

### **SEC. 601. PROPERTY APPRAISAL REQUIREMENTS.**

Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after 129G (as added by section 504) the following new section:

#### **“SEC. 129H PROPERTY APPRAISAL REQUIREMENTS.**

“(a) IN GENERAL.—A creditor may not extend credit in the form of a subprime mortgage to any consumer without first obtaining a written appraisal of the property to

1 be mortgaged prepared in accordance with the require-  
2 ments of this section.

3 “(b) APPRAISAL REQUIREMENTS.—

4 “(1) PHYSICAL PROPERTY VISIT.—An appraisal  
5 of property to be secured by a subprime mortgage  
6 does not meet the requirement of this section unless  
7 it is performed by a qualified appraiser who con-  
8 ducts a physical property visit of the interior of the  
9 mortgaged property.

10 “(2) SECOND APPRAISAL UNDER CERTAIN CIR-  
11 CUMSTANCES.—

12 “(A) IN GENERAL.—If the purpose of a  
13 subprime mortgage is to finance the purchase  
14 or acquisition of the mortgaged property from  
15 a person within 180 days of the purchase or ac-  
16 quisition of such property by that person at a  
17 price that was lower than the current sale price  
18 of the property, the creditor shall obtain a sec-  
19 ond appraisal from a different qualified ap-  
20 praiser. The second appraisal shall include an  
21 analysis of the difference in sale prices, changes  
22 in market conditions, and any improvements  
23 made to the property between the date of the  
24 previous sale and the current sale.



1           “(B) NO COST TO APPLICANT.—The cost  
2           of any second appraisal required under sub-  
3           paragraph (A) may not be charged to the appli-  
4           cant.

5           “(3) QUALIFIED APPRAISER DEFINED.—For  
6           purposes of this section, the term ‘qualified ap-  
7           praiser’ means a person who—

8           “(A) is, at a minimum, certified or licensed  
9           by the State in which the property to be ap-  
10          praised is located; and

11          “(B) performs each appraisal in con-  
12          formity with the Uniform Standards of Profes-  
13          sional Appraisal Practice and title XI of the Fi-  
14          nancial Institutions Reform, Recovery, and En-  
15          forcement Act of 1989, and the regulations pre-  
16          scribed under such title, as in effect on the date  
17          of the appraisal.

18          “(c) FREE COPY OF APPRAISAL.—A creditor shall  
19          provide 1 copy of each appraisal conducted in accordance  
20          with this section in connection with a subprime mortgage  
21          to the applicant without charge, and at least 3 days prior  
22          to the transaction closing date.

23          “(d) CONSUMER NOTIFICATION.—At the time of the  
24          initial mortgage application, the applicant shall be pro-  
25          vided with a statement by the creditor that any appraisal

1 prepared for the mortgage is for the sole use of the cred-  
2 itor, and that the applicant may choose to have a separate  
3 appraisal conducted at their own expense.

4 “(e) VIOLATIONS.—In addition to any other liability  
5 to any person under this title, a creditor found to have  
6 willfully failed to obtain an appraisal as required in this  
7 section shall be liable to the applicant or borrower for the  
8 sum of \$2,000.

9 “(f) SUBPRIME MORTGAGE DEFINED.—For purposes  
10 of this section, the term ‘subprime mortgage’ means a res-  
11 idential mortgage loan secured by a principal dwelling with  
12 an annual percentage rate that exceeds the average prime  
13 offer rate for a comparable transaction, as of the date the  
14 interest rate is set—

15 “(1) by 1.5 or more percentage points, in the  
16 case of a first lien residential mortgage loan having  
17 an original principal obligation amount that does not  
18 exceed the amount of the maximum limitation on the  
19 original principal obligation of mortgage in effect for  
20 a residence of the applicable size, as of the date of  
21 such interest rate set, pursuant to the sixth sentence  
22 of section 305(a)(2) the Federal Home Loan Mort-  
23 gage Corporation Act (12 U.S.C. 1454(a)(2));

24 “(2) by 2.5 or more percentage points, in the  
25 case of a first lien residential mortgage loan having

1 an original principal obligation amount that exceeds  
2 the amount of the maximum limitation on the origi-  
3 nal principal obligation of mortgage in effect for a  
4 residence of the applicable size, as of the date of  
5 such interest rate set, pursuant to the sixth sentence  
6 of section 305(a)(2) the Federal Home Loan Mort-  
7 gage Corporation Act (12 U.S.C. 1454(a)(2)); and  
8 “(3) by 3.5 or more percentage points for a  
9 subordinate lien residential mortgage loan.”.

10 **SEC. 602. UNFAIR AND DECEPTIVE PRACTICES AND ACTS**  
11 **RELATING TO CERTAIN CONSUMER CREDIT**  
12 **TRANSACTIONS.**

13 (a) IN GENERAL.—Chapter 2 of the Truth in Lend-  
14 ing Act (15 U.S.C. 1631 et seq.) is amended by inserting  
15 after section 129D (as added by section 501(a)) the fol-  
16 lowing new section:

17 **“SEC. 129E. UNFAIR AND DECEPTIVE PRACTICES AND ACTS**  
18 **RELATING TO CERTAIN CONSUMER CREDIT**  
19 **TRANSACTIONS.**

20 “(a) IN GENERAL.—It shall be unlawful, in extending  
21 credit or in providing any services for a consumer credit  
22 transaction secured by the principal dwelling of the con-  
23 sumer, to engage in any unfair or deceptive act or practice  
24 as described in or pursuant to regulations prescribed  
25 under this section.

1       “(b) APPRAISAL INDEPENDENCE.—For purposes of  
2 subsection (a), unfair and deceptive practices shall in-  
3 clude—

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

17               “(2) mischaracterizing, or suborning any  
18 mischaracterization of, the appraised value of the  
19 property securing the extension of the credit;

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

23               “(4) withholding or threatening to withhold  
24 timely payment for an appraisal report or for ap-  
25 praisal services rendered.

1       “(c) EXCEPTIONS.—The requirements of subsection  
2 (b) shall not be construed as prohibiting a mortgage lend-  
3 er, mortgage broker, mortgage banker, real estate broker,  
4 appraisal management company, employee of an appraisal  
5 management company, consumer, or any other person  
6 with an interest in a real estate transaction from asking  
7 an appraiser to provide 1 or more of the following services:

8               “(1) Consider additional, appropriate property  
9 information, including the consideration of addi-  
10 tional comparable properties to make or support an  
11 appraisal.

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

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

15       “(d) PROHIBITIONS ON CONFLICTS OF INTEREST.—  
16 No certified or licensed appraiser conducting, and no ap-  
17 praisal management company procuring or facilitating, an  
18 appraisal in connection with a consumer credit transaction  
19 secured by the principal dwelling of a consumer may have  
20 a direct or indirect interest, financial or otherwise, in the  
21 property or transaction involving the appraisal.

22       “(e) MANDATORY REPORTING.—Any mortgage lend-  
23 er, mortgage broker, mortgage banker, real estate broker,  
24 appraisal management company, employee of an appraisal  
25 management company, or any other person involved in a

1 real estate transaction involving an appraisal in connection  
2 with a consumer credit transaction secured by the prin-  
3 cipal dwelling of a consumer who has a reasonable basis  
4 to believe an appraiser is failing to comply with the Uni-  
5 form Standards of Professional Appraisal Practice, is vio-  
6 lating applicable laws, or is otherwise engaging in uneth-  
7 ical or unprofessional conduct, shall refer the matter to  
8 the applicable State appraiser certifying and licensing  
9 agency.

10 “(f) NO EXTENSION OF CREDIT.—In connection with  
11 a consumer credit transaction secured by a consumer’s  
12 principal dwelling, a creditor who knows, at or before loan  
13 consummation, of a violation of the appraisal independ-  
14 ence standards established in subsections (b) or (d) shall  
15 not extend credit based on such appraisal unless the cred-  
16 itor documents that the creditor has acted with reasonable  
17 diligence to determine that the appraisal does not materi-  
18 ally misstate or misrepresent the value of such dwelling.

19 “(g) RULEMAKING PROCEEDINGS.—The Board, the  
20 Comptroller of the Currency, the Director of the Office  
21 of Thrift Supervision, the Federal Deposit Insurance Cor-  
22 poration, the National Credit Union Administration  
23 Board, and the Federal Trade Commission—

24 “(1) shall, for purposes of this section, jointly  
25 prescribe regulations no later than 180 days after

1 the date of the enactment of this section, and where  
2 such regulations have an effective date of no later  
3 than 1 year after the date of the enactment of this  
4 section, defining with specificity acts or practices  
5 which are unfair or deceptive in the provision of  
6 mortgage lending services for a consumer credit  
7 transaction secured by the principal dwelling of the  
8 consumer or mortgage brokerage services for such a  
9 transaction and defining any terms in this section or  
10 such regulations; and

11 “(2) may jointly issue interpretive guidelines  
12 and general statements of policy with respect to un-  
13 fair or deceptive acts or practices in the provision of  
14 mortgage lending services for a consumer credit  
15 transaction secured by the principal dwelling of the  
16 consumer and mortgage brokerage services for such  
17 a transaction, within the meaning of subsections (a),  
18 (b), (c), (d), (e), and (f).

19 “(h) PENALTIES.—

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

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

6           “(3) ASSESSMENT.—The agency referred to in  
 7           subsection (a) or (c) of section 108 with respect to  
 8           any person described in paragraph (1) shall assess  
 9           any penalty under this subsection to which such per-  
 10          son is subject.”.

11          (b) CLERICAL AMENDMENT.—The table of sections  
 12          for chapter 2 of the Truth in Lending Act is amended  
 13          by inserting after the item relating to section 129D (as  
 14          added by section 501(c)) the following new item:

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

15   **SEC. 603. AMENDMENTS RELATING TO APPRAISAL SUB-**  
 16                   **COMMITTEE OF FIEC, APPRAISER INDEPEND-**  
 17                   **ENCE MONITORING, APPROVED APPRAISER**  
 18                   **EDUCATION, APPRAISAL MANAGEMENT COM-**  
 19                   **PANIES, APPRAISER COMPLAINT HOTLINE,**  
 20                   **AUTOMATED VALUATION MODELS, AND**  
 21                   **BROKER PRICE OPINIONS.**

22          (a) CONSUMER PROTECTION MISSION.—

23                  (1) PURPOSES.—Section 1101 of the Financial  
 24          Institutions Reform, Recovery, and Enforcement Act



1 of 1989 (12 U.S.C. 3331) is amended by inserting  
2 “and to provide the Appraisal Subcommittee with a  
3 consumer protection mandate” before the period at  
4 the end.

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

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

11 (B) by amending paragraph (4) to read as  
12 follows:

13 “(4) monitor the efforts of, and requirements  
14 established by, States and the Federal financial in-  
15 stitutions regulatory agencies to protect consumers  
16 from improper appraisal practices and the preda-  
17 tions of unlicensed appraisers in consumer credit  
18 transactions that are secured by a consumer’s prin-  
19 cipal dwelling; and”.

20 (3) THRESHOLD LEVELS.—Section 1112(b) of  
21 the Financial Institutions Reform, Recovery, and  
22 Enforcement Act of 1989 (12 U.S.C. 3341(b)) is  
23 amended by inserting before the period the fol-  
24 lowing: “, and that such threshold level provides rea-  
25 sonable protection for consumers who purchase 1–4

1 unit single-family residences. In determining whether  
2 a threshold level provides reasonable protection for  
3 consumers, each Federal financial institutions regu-  
4 latory agency shall consult with consumer groups  
5 and convene a public hearing”.

6 (b) ANNUAL REPORT OF APPRAISAL SUB-  
7 COMMITTEE.—Section 1103(a) of the Financial Institu-  
8 tions Reform, Recovery, and Enforcement Act of 1989 (12  
9 U.S.C. 3332(a)) is amended at the end by inserting the  
10 following new paragraph:

11 “(5) transmit an annual report to the Congress  
12 not later than January 31 of each year that de-  
13 scribes the manner in which each function assigned  
14 to the Appraisal Subcommittee has been carried out  
15 during the preceding year. The report shall also de-  
16 tail the activities of the Appraisal Subcommittee, in-  
17 cluding the results of all audits of State appraiser  
18 regulatory agencies, and provide an accounting of  
19 disapproved actions and warnings taken in the pre-  
20 vious year, including a description of the conditions  
21 causing the disapproval and actions taken to achieve  
22 compliance.”.

23 (c) OPEN MEETINGS.—Section 1104(b) of the Finan-  
24 cial Institutions Reform, Recovery, and Enforcement Act  
25 of 1989 (12 U.S.C. 3333(b)) is amended by inserting “in

1 public session after notice in the Federal Register” after  
2 “shall meet”.

3 (d) REGULATIONS.—Section 1106 of the Financial  
4 Institutions Reform, Recovery, and Enforcement Act of  
5 1989 (12 U.S.C. 3335) is amended—

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

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

20 (e) APPRAISALS AND APPRAISAL REVIEWS.—Section  
21 1113 of the Financial Institutions Reform, Recovery, and  
22 Enforcement Act of 1989 (12 U.S.C. 3342) is amended—

23 (1) by striking “In determining” and inserting  
24 “(a) IN GENERAL.—In determining”;

1           (2) in subsection (a) (as designated by para-  
2       graph (1)), by inserting before the period the fol-  
3       lowing: “, where a complex 1-to-4 unit single family  
4       residential appraisal means an appraisal for which  
5       the property to be appraised, the form of ownership,  
6       the property characteristics, or the market condi-  
7       tions are atypical”; and

8           (3) by adding at the end the following new sub-  
9       section:

10       “(b) APPRAISALS AND APPRAISAL REVIEWS.—All ap-  
11      praisals performed at a property within a State shall be  
12      prepared by appraisers licensed or certified in the State  
13      where the property is located. All appraisal reviews, in-  
14      cluding appraisal reviews by a lender, appraisal manage-  
15      ment company, or other third party organization, shall be  
16      performed by an appraiser who is duly licensed or certified  
17      by a State appraisal board.”.

18       (f) APPRAISAL MANAGEMENT SERVICES.—

19           (1) SUPERVISION OF THIRD PARTY PROVIDERS  
20      OF APPRAISAL MANAGEMENT SERVICES.—Section  
21      1103(a) of the Financial Institutions Reform, Recov-  
22      ery, and Enforcement Act of 1989 (12 U.S.C.  
23      3332(a)) (as previously amended by this section) is  
24      further amended—

1 (A) by amending paragraph (1) to read as  
2 follows:

3 “(1) monitor the requirements established by  
4 States—

5 “(A) for the certification and licensing of  
6 individuals who are qualified to perform ap-  
7 praisals in connection with federally related  
8 transactions, including a code of professional  
9 responsibility; and

10 “(B) for the registration and supervision  
11 of the operations and activities of an appraisal  
12 management company;”; and

13 (B) by adding at the end the following new  
14 paragraph:

15 “(7) maintain a national registry of appraisal  
16 management companies that either are registered  
17 with and subject to supervision of a State appraiser  
18 certifying and licensing agency or are operating sub-  
19 sidiaries of a Federally regulated financial institu-  
20 tion.”.

21 (2) APPRAISAL MANAGEMENT COMPANY MIN-  
22 IMUM QUALIFICATIONS.—Title XI of the Financial  
23 Institutions Reform, Recovery, and Enforcement Act  
24 of 1989 (12 U.S.C. 3331 et seq.) is amended by

1 adding at the end the following new section (and  
2 amending the table of contents accordingly):

3 **“SEC. 1124. APPRAISAL MANAGEMENT COMPANY MINIMUM**  
4 **QUALIFICATIONS.**

5 “(a) IN GENERAL.—The Appraiser Qualifications  
6 Board of the Appraisal Foundation shall establish min-  
7 imum qualifications to be applied by a State in the reg-  
8 istration of appraisal management companies. Such quali-  
9 fications shall include a requirement that such compa-  
10 nies—

11 “(1) register with and be subject to supervision  
12 by a State appraiser certifying and licensing agency  
13 in each State in which such company operates;

14 “(2) verify that only licensed or certified ap-  
15 praisers are used for federally related transactions;

16 “(3) require that appraisals coordinated by an  
17 appraisal management company comply with the  
18 Uniform Standards of Professional Appraisal Prac-  
19 tice; and

20 “(4) require that appraisals are conducted inde-  
21 pendently and free from inappropriate influence and  
22 coercion pursuant to the appraisal independence  
23 standards established under section 129E of the  
24 Truth in Lending Act.

1       “(b) EXCEPTION FOR FEDERALLY REGULATED FI-  
2       NANCIAL INSTITUTIONS.—The requirements of subsection  
3       (a) shall not apply to an appraisal management company  
4       that is a subsidiary owned and controlled by a financial  
5       institution and regulated by a federal financial institution  
6       regulatory agency. In such case, the appropriate federal  
7       financial institutions regulatory agency shall, at a min-  
8       imum, develop regulations affecting the operations of the  
9       appraisal management company to—

10           “(1) verify that only licensed or certified ap-  
11       praisers are used for federally related transactions;

12           “(2) require that appraisals coordinated by an  
13       institution or subsidiary providing appraisal manage-  
14       ment services comply with the Uniform Standards of  
15       Professional Appraisal Practice; and

16           “(3) require that appraisals are conducted inde-  
17       pendently and free from inappropriate influence and  
18       coercion pursuant to the appraisal independence  
19       standards established under section 129E of the  
20       Truth in Lending Act.

21       “(c) REGISTRATION LIMITATIONS.—An appraisal  
22       management company shall not be registered by a State  
23       if such company, in whole or in part, directly or indirectly,  
24       is owned by any person who has had an appraiser license  
25       or certificate refused, denied, cancelled, surrendered in

1 lieu of revocation, or revoked in any State. Additionally,  
2 each person that owns more than 10 percent of an ap-  
3 praisal management company shall be of good moral char-  
4 acter, as determined by the State appraiser certifying and  
5 licensing agency, and shall submit to a background inves-  
6 tigation carried out by the State appraiser certifying and  
7 licensing agency.

8       “(d) REGULATIONS.—The Appraisal Subcommittee  
9 shall promulgate regulations to implement the minimum  
10 qualifications developed by the Appraiser Qualifications  
11 Board under this section, as such qualifications relate to  
12 the State appraiser certifying and licensing agencies. The  
13 Appraisal Subcommittee shall also promulgate regulations  
14 for the reporting of the activities of appraisal management  
15 companies in determining the payment of the annual reg-  
16 istry fee.

17       “(e) EFFECTIVE DATE.—

18               “(1) IN GENERAL.—No appraisal management  
19 company may perform services related to a federally  
20 related transaction in a State after the date that is  
21 36 months after the date of the enactment of this  
22 section unless such company is registered with such  
23 State or subject to oversight by a federal financial  
24 institutions regulatory agency.



1           “(2) EXTENSION OF EFFECTIVE DATE.—Sub-  
2       ject to the approval of the Council, the Appraisal  
3       Subcommittee may extend by an additional 12  
4       months the requirements for the registration and su-  
5       pervision of appraisal management companies if it  
6       makes a written finding that a State has made sub-  
7       stantial progress in establishing a State appraisal  
8       management company registration and supervision  
9       system that appears to conform with the provisions  
10      of this title.”.

11           (3) STATE APPRAISER CERTIFYING AND LI-  
12      CENSING AGENCY AUTHORITY.—Section 1117 of the  
13      Financial Institutions Reform, Recovery, and En-  
14      forcement Act of 1989 (12 U.S.C. 3346) is amended  
15      by adding at the end the following: “The duties of  
16      such agency may additionally include the registra-  
17      tion and supervision of appraisal management com-  
18      panies.”.

19           (4) APPRAISAL MANAGEMENT COMPANY DEFINI-  
20      TION.—Section 1121 of the Financial Institutions  
21      Reform, Recovery, and Enforcement Act of 1989  
22      (12 U.S.C. 3350) is amended by adding at the end  
23      the following:

24           “(11) APPRAISAL MANAGEMENT COMPANY.—  
25      The term ‘appraisal management company’ means,

1 in connection with valuing properties collateralizing  
2 mortgage loans or mortgages incorporated into a  
3 securitization, any external third party authorized ei-  
4 ther by a creditor of a consumer credit transaction  
5 secured by a consumer's principal dwelling or by an  
6 underwriter of or other principal in the secondary  
7 mortgage markets, that oversees a network or panel  
8 of more than 15 certified or licensed appraisers in  
9 a State or 25 or more nationally within a given  
10 year—

11 “(A) to recruit, select, and retain apprais-  
12 ers;

13 “(B) to contract with licensed and certified  
14 appraisers to perform appraisal assignments;

15 “(C) to manage the process of having an  
16 appraisal performed, including providing admin-  
17 istrative duties such as receiving appraisal or-  
18 ders and appraisal reports, submitting com-  
19 pleted appraisal reports to creditors and under-  
20 writers, collecting fees from creditors and un-  
21 derwriters for services provided, and reimburs-  
22 ing appraisers for services performed; or

23 “(D) to review and verify the work of ap-  
24 praisers.”.

1 (g) STATE AGENCY REPORTING REQUIREMENT.—  
2 Section 1109(a) of the Financial Institutions Reform, Re-  
3 covery, and Enforcement Act of 1989 (12 U.S.C. 3338(a))  
4 is amended—

5 (1) by striking “and” after the semicolon in  
6 paragraph (1);

7 (2) by redesignating paragraph (2) as para-  
8 graph (4); and

9 (3) by inserting after paragraph (1) the fol-  
10 lowing new paragraphs:

11 “(2) transmit reports on sanctions, disciplinary  
12 actions, license and certification revocations, and li-  
13 cense and certification suspensions on a timely basis  
14 to the national registry of the Appraisal Sub-  
15 committee;

16 “(3) transmit reports on a timely basis of su-  
17 pervisory activities involving appraisal management  
18 companies or other third-party providers of apprais-  
19 als and appraisal management services, including in-  
20 vestigations initiated and disciplinary actions taken;  
21 and”.

22 (h) REGISTRY FEES MODIFIED.—

23 (1) IN GENERAL.—Section 1109(a) of the Fi-  
24 nancial Institutions Reform, Recovery, and Enforce-

1       ment Act of 1989 (12 U.S.C. 3338(a)) is amend-  
2       ed—

3               (A) by amending paragraph (4) (as modi-  
4       fied by section 603(g) of this Act) to read as  
5       follows:

6       “(4) collect—

7               “(A) from such individuals who perform or  
8       seek to perform appraisals in federally related  
9       transactions, an annual registry fee of not more  
10      than \$40, such fees to be transmitted by the  
11      State agencies to the Council on an annual  
12      basis; and

13              “(B) from an appraisal management com-  
14      pany that either has registered with a State ap-  
15      praiser certifying and licensing agency in ac-  
16      cordance with this title or operates as a sub-  
17      sidiary of a federally regulated financial institu-  
18      tion, an annual registry fee of—

19              “(i) in the case of such a company  
20      that has been in existence for more than a  
21      year, \$25 multiplied by the number of ap-  
22      praisers working for or contracting with  
23      such company in such State during the  
24      previous year, but where such \$25 amount  
25      may be adjusted, up to a maximum of \$50,

1 at the discretion of the Appraisal Sub-  
2 committee, if necessary to carry out the  
3 Subcommittee's functions under this title;  
4 and

5 “(ii) in the case of such a company  
6 that has not been in existence for more  
7 than a year, \$25 multiplied by an appro-  
8 priate number to be determined by the Ap-  
9 praisal Subcommittee, and where such  
10 number will be used for determining the  
11 fee of all such companies that were not in  
12 existence for more than a year, but where  
13 such \$25 amount may be adjusted, up to  
14 a maximum of \$50, at the discretion of the  
15 Appraisal Subcommittee, if necessary to  
16 carry out the Subcommittee's functions  
17 under this title.”; and

18 (B) by amending the matter following  
19 paragraph (4), as redesignated, to read as fol-  
20 lows:

21 “Subject to the approval of the Council, the Appraisal  
22 Subcommittee may adjust the dollar amount of registry  
23 fees under paragraph (4)(A), up to a maximum of \$80  
24 per annum, as necessary to carry out its functions under  
25 this title. The Appraisal Subcommittee shall consider at

1 least once every 5 years whether to adjust the dollar  
2 amount of the registry fees to account for inflation. In  
3 implementing any change in registry fees, the Appraisal  
4 Subcommittee shall provide flexibility to the States for  
5 multi-year certifications and licenses already in place, as  
6 well as a transition period to implement the changes in  
7 registry fees. In establishing the amount of the annual  
8 registry fee for an appraisal management company, the  
9 Appraisal Subcommittee shall have the discretion to im-  
10 pose a minimum annual registry fee for an appraisal man-  
11 agement company to protect against the under reporting  
12 of the number of appraisers working for or contracted by  
13 the appraisal management company.”.

14           (2) INCREMENTAL REVENUES.—Incremental  
15 revenues collected pursuant to the increases required  
16 by this subsection shall be placed in a separate ac-  
17 count at the United States Treasury, entitled the  
18 “Appraisal Subcommittee Account”.

19           (i) GRANTS AND REPORTS.—Section 1109(b) of the  
20 Financial Institutions Reform, Recovery, and Enforce-  
21 ment Act of 1989 (12 U.S.C. 3348(b)) is amended—

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

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

1           (3) by adding at the end the following new  
2 paragraphs:

3           “(5) to make grants to State appraiser certi-  
4 fying and licensing agencies to support the efforts of  
5 such agencies to comply with this title, including—

6           “(A) the complaint process, complaint in-  
7 vestigations, and appraiser enforcement activi-  
8 ties of such agencies; and

9           “(B) the submission of data on State li-  
10 censed and certified appraisers and appraisal  
11 management companies to the National ap-  
12 praisal registry, including information affirming  
13 that the appraiser or appraisal management  
14 company meets the required qualification cri-  
15 teria and formal and informal disciplinary ac-  
16 tions; and

17           “(6) to report to all State appraiser certifying  
18 and licensing agencies when a license or certification  
19 is surrendered, revoked, or suspended.”.

20 Obligations authorized under this subsection may not ex-  
21 ceed 75 percent of the fiscal year total of incremental in-  
22 crease in fees collected and deposited in the “Appraisal  
23 Subcommittee Account” pursuant to subsection (h).

1 (j) CRITERIA.—Section 1116 of the Financial Institu-  
2 tions Reform, Recovery, and Enforcement Act of 1989 (12  
3 U.S.C. 3345) is amended—

4 (1) in subsection (c), by inserting “whose cri-  
5 teria for the licensing of a real estate appraiser cur-  
6 rently meet or exceed the minimum criteria issued  
7 by the Appraisal Qualifications Board of The Ap-  
8 praisal Foundation for the licensing of real estate  
9 appraisers” before the period at the end; and

10 (2) by striking subsection (e) and inserting the  
11 following new subsection:

12 “(e) MINIMUM QUALIFICATION REQUIREMENTS.—  
13 Any requirements established for individuals in the posi-  
14 tion of ‘Trainee Appraiser’ and ‘Supervisory Appraiser’  
15 shall meet or exceed the minimum qualification require-  
16 ments of the Appraiser Qualifications Board of The Ap-  
17 praisal Foundation. The Appraisal Subcommittee shall  
18 have the authority to enforce these requirements.”.

19 (k) MONITORING OF STATE APPRAISER CERTIFYING  
20 AND LICENSING AGENCIES.—Section 1118 of the Finan-  
21 cial Institutions Reform, Recovery, and Enforcement Act  
22 of 1989 (12 U.S.C. 3347) is amended—

23 (1) by amending subsection (a) to read as fol-  
24 lows:



1       “(a) IN GENERAL.—The Appraisal Subcommittee  
2 shall monitor each State appraiser certifying and licensing  
3 agency for the purposes of determining whether such  
4 agency—

5               “(1) has policies, practices, funding, staffing,  
6 and procedures that are consistent with this title;

7               “(2) processes complaints and completes inves-  
8 tigations in a reasonable time period;

9               “(3) appropriately disciplines sanctioned ap-  
10 praisers and appraisal management companies;

11               “(4) maintains an effective regulatory program;  
12 and

13               “(5) reports complaints and disciplinary actions  
14 on a timely basis to the national registries on ap-  
15 praisers and appraisal management companies main-  
16 tained by the Appraisal Subcommittee.

17 The Appraisal Subcommittee shall have the authority to  
18 remove a State licensed or certified appraiser or a reg-  
19 istered appraisal management company from a national  
20 registry on an interim basis pending State agency action  
21 on licensing, certification, registration, and disciplinary  
22 proceedings. The Appraisal Subcommittee and all agen-  
23 cies, instrumentalities, and Federally recognized entities  
24 under this title shall not recognize appraiser certifications  
25 and licenses from States whose appraisal policies, prac-

1 tices, funding, staffing, or procedures are found to be in-  
2 consistent with this title. The Appraisal Subcommittee  
3 shall have the authority to impose sanctions, as described  
4 in this section, against a State agency that fails to have  
5 an effective appraiser regulatory program. In determining  
6 whether such a program is effective, the Appraisal Sub-  
7 committee shall include an analyses of the licensing and  
8 certification of appraisers, the registration of appraisal  
9 management companies, the issuance of temporary li-  
10 censes and certifications for appraisers, the receiving and  
11 tracking of submitted complaints against appraisers and  
12 appraisal management companies, the investigation of  
13 complaints, and enforcement actions against appraisers  
14 and appraisal management companies. The Appraisal  
15 Subcommittee shall have the authority to impose interim  
16 actions and suspensions against a State agency as an al-  
17 ternative to, or in advance of, the derecognition of a State  
18 agency.”.

19 (2) in subsection (b)(2), by inserting after “au-  
20 thority” the following: “or sufficient funding”.

21 (l) RECIPROCITY.—Subsection (b) of section 1122 of  
22 the Financial Institutions Reform, Recovery, and Enforce-  
23 ment Act of 1989 (12 U.S.C. 3351(b)) is amended to read  
24 as follows:

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

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

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

12      (m) CONSIDERATION OF PROFESSIONAL APPRAISAL  
13      DESIGNATIONS.—Section 1122(d) of the Financial Insti-  
14      tutions Reform, Recovery, and Enforcement Act of 1989  
15      (12 U.S.C. 3351(d)) is amended by striking “shall not ex-  
16      clude” and all that follows through the end of the sub-  
17      section and inserting the following: “may include edu-  
18      cation achieved, experience, sample appraisals, and ref-  
19      erences from prior clients. Membership in a nationally rec-  
20      ognized professional appraisal organization may be a cri-  
21      teria considered, though lack of membership therein shall  
22      not be the sole bar against consideration for an assign-  
23      ment under these criteria.”.

24      (n) APPRAISER INDEPENDENCE.—Section 1122 of  
25      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 MONITORING.—  
4 The Appraisal Subcommittee shall monitor each State ap-  
5 praiser certifying and licensing agency for the purpose of  
6 determining whether such agency’s policies, practices, and  
7 procedures are consistent with the purposes of maintain-  
8 ing appraiser independence and whether such State has  
9 adopted and maintains effective laws, regulations, and  
10 policies aimed at maintaining appraiser independence.”.

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

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

20       (p) APPRAISAL COMPLAINT HOTLINE.—Section 1122  
21 of the Financial Institutions Reform, Recovery, and En-  
22 forcement Act of 1989 (12 U.S.C. 3351), as amended by  
23 this section, is further amended by adding at the end the  
24 following new subsection:

1       “(i) APPRAISAL COMPLAINT NATIONAL HOTLINE.—  
2 If, 1 year after the date of the enactment of this sub-  
3 section, the Appraisal Subcommittee determines that no  
4 national hotline exists to receive complaints of non-compli-  
5 ance with appraisal independence standards and Uniform  
6 Standards of Professional Appraisal Practice, including  
7 complaints from appraisers, individuals, or other entities  
8 concerning the improper influencing or attempted im-  
9 proper influencing of appraisers or the appraisal process,  
10 the Appraisal Subcommittee shall establish and operate  
11 such a national hotline, which shall include a toll-free tele-  
12 phone number and an email address. If the Appraisal Sub-  
13 committee operates such a national hotline, the Appraisal  
14 Subcommittee shall refer complaints for further action to  
15 appropriate governmental bodies, including a State ap-  
16 praiser certifying and licensing agency, a financial institu-  
17 tion regulator, or other appropriate legal authorities. For  
18 complaints referred to State appraiser certifying and li-  
19 censing agencies or to Federal regulators, the Appraisal  
20 Subcommittee shall have the authority to follow up such  
21 complaint referrals in order to determine the status of the  
22 resolution of the complaint.”.

23       (q) AUTOMATED VALUATION MODELS.—Title XI of  
24 the Financial Institutions Reform, Recovery, and Enforce-  
25 ment Act of 1989 (12 U.S.C. 3331 et seq.), as amended

1 by this section, is further amended by adding at the end  
2 the following new section (and amending the table of con-  
3 tents accordingly):

4 **“SEC. 1125. AUTOMATED VALUATION MODELS USED TO**  
5 **VALUE CERTAIN MORTGAGES.**

6 “(a) IN GENERAL.—Automated valuation models  
7 shall adhere to quality control standards designed to—

8 “(1) ensure a high level of confidence in the es-  
9 timates produced by automated valuation models;

10 “(2) protect against the manipulation of data;

11 “(3) seek to avoid conflicts of interest; and

12 “(4) require random sample testing and re-  
13 views, where such testing and reviews are performed  
14 by an appraiser who is licensed or certified in the  
15 State where the testing and reviews take place.

16 “(b) ADOPTION OF REGULATIONS.—The Appraisal  
17 Subcommittee and its member agencies, in consultation  
18 with the Appraisal Standards Board of the Appraisal  
19 Foundation and other interested parties, shall promulgate  
20 regulations to implement the quality control standards re-  
21 quired under this section.

22 “(c) ENFORCEMENT.—Compliance with regulations  
23 issued under this subsection shall be enforced by—

24 “(1) with respect to a financial institution, or  
25 subsidiary owned and controlled by a financial insti-

1       tution and regulated by a Federal financial institu-  
2       tion regulatory agency, the Federal financial institu-  
3       tion regulatory agency that acts as the primary Fed-  
4       eral supervisor of such financial institution or sub-  
5       sidiary; and

6               “(2) with respect to other persons, the Ap-  
7       praisal Subcommittee.

8       “(d) AUTOMATED VALUATION MODEL DEFINED.—  
9       For purposes of this section, the term ‘automated valu-  
10      ation model’ means any computerized model used by mort-  
11      gage originators and secondary market issuers to deter-  
12      mine the collateral worth of a mortgage secured by a con-  
13      sumer’s principal dwelling.”.

14       (r) BROKER PRICE OPINIONS.—Title XI of the Fi-  
15      nancial Institutions Reform, Recovery, and Enforcement  
16      Act of 1989 (12 U.S.C. 3331 et seq.), as amended by this  
17      section, is further amended by adding at the end the fol-  
18      lowing new section (and amending the table of contents  
19      accordingly):

20      **“SEC. 1126. BROKER PRICE OPINIONS.**

21       “(a) GENERAL PROHIBITION.—In conjunction with  
22      the purchase of a consumer’s principal dwelling, broker  
23      price opinions may not be used as the primary basis to  
24      determine the value of a piece of property for the purpose

1 of a loan origination of a residential mortgage loan se-  
2 cured by such piece of property.

3 “(b) BROKER PRICE OPINION DEFINED.—For pur-  
4 poses of this section, the term ‘broker price opinion’ means  
5 an estimate prepared by a real estate broker, agent, or  
6 sales person that details the probable selling price of a  
7 particular piece of real estate property and provides a  
8 varying level of detail about the property’s condition, mar-  
9 ket, and neighborhood, and information on comparable  
10 sales, but does not include an automated valuation model,  
11 as defined in section 1125(c).”.

12 (s) AMENDMENTS TO APPRAISAL SUBCOMMITTEE.—  
13 Section 1011 of the Federal Financial Institutions Exam-  
14 ination Council Act of 1978 (12 U.S.C. 3310) is amend-  
15 ed—

16 (1) in the first sentence, by adding before the  
17 period the following: “and the Federal Housing Fi-  
18 nance Agency”; and

19 (2) by inserting at the end the following: “At  
20 all times at least one member of the Appraisal Sub-  
21 committee shall have demonstrated knowledge and  
22 competence through licensure, certification, or pro-  
23 fessional designation within the appraisal profes-  
24 sion.”.

25 (t) TECHNICAL CORRECTIONS.—



1           (1) Section 1119(a)(2) of the Financial Institu-  
2           tions Reform, Recovery, and Enforcement Act of  
3           1989 (12 U.S.C. 3348(a)(2)) is amended by striking  
4           “council,” and inserting “Council,”.

5           (2) Section 1121(6) of the Financial Institu-  
6           tions Reform, Recovery, and Enforcement Act of  
7           1989 (12 U.S.C. 3350(6)) is amended by striking  
8           “Corporations,” and inserting “Corporation,”.

9           (3) Section 1121(8) of the Financial Institu-  
10          tions Reform, Recovery, and Enforcement Act of  
11          1989 (12 U.S.C. 3350(8)) is amended by striking  
12          “council” and inserting “Council”.

13          (4) Section 1122 of the Financial Institutions  
14          Reform, Recovery, and Enforcement Act of 1989  
15          (12 U.S.C. 3351) is amended—

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

19                (B) in subsection (c)—

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

1 (ii) by striking “the council’s func-  
2 tions” and inserting “the Council’s func-  
3 tions”.

4 **SEC. 604. STUDY REQUIRED ON IMPROVEMENTS IN AP-**  
5 **PRAISAL PROCESS AND COMPLIANCE PRO-**  
6 **GRAMS.**

7 (a) STUDY.—The Comptroller General shall conduct  
8 a comprehensive study on possible improvements in the  
9 appraisal process generally, and specifically on the consist-  
10 ency in and the effectiveness of, and possible improve-  
11 ments in, State compliance efforts and programs in ac-  
12 cordance with title XI of the Financial Institutions Re-  
13 form, Recovery, and Enforcement Act of 1989. In addi-  
14 tion, this study shall examine the existing exemptions to  
15 the use of certified appraisers issued by Federal financial  
16 institutions regulatory agencies. The study shall also re-  
17 view the threshold level established by Federal regulators  
18 for compliance under title XI and whether there is a need  
19 to revise them to reflect the addition of consumer protec-  
20 tion to the purposes and functions of the Appraisal Sub-  
21 committee. The study shall additionally examine the qual-  
22 ity of different types of mortgage collateral valuations pro-  
23 duced by broker price opinions, automated valuation mod-  
24 els, licensed appraisals, and certified appraisals, among  
25 others, and the quality of appraisals provided through dif-

1 ferent distribution channels, including appraisal manage-  
2 ment companies, independent appraisal operations within  
3 a mortgage originator, and fee-for-service appraisals. The  
4 study shall also include an analysis and statistical break-  
5 down of enforcement actions taken during the last 10  
6 years against different types of appraisers, including cer-  
7 tified, licensed, supervisory, and trainee appraisers. Fur-  
8 thermore, the study shall examine the benefits and costs,  
9 as well as the advantages and disadvantages, of estab-  
10 lishing a national repository to collect data related to real  
11 estate property collateral valuations performed in the  
12 United States.

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

22 (c) ADDITIONAL STUDY REQUIRED.—The Comp-  
23 troller General shall conduct an additional study to deter-  
24 mine the effects that the changes to the seller-guide ap-  
25 praisal requirements of Fannie Mae and Freddie Mac con-

1 tained in the Home Valuation Code of Conduct have on  
2 small business, like mortgage brokers and independent ap-  
3 praisers, and consumers, including the effect on the—

4 (1) quality and costs of appraisals;

5 (2) length of time for obtaining appraisals;

6 (3) impact on consumer protection, especially  
7 regarding maintaining appraisal independence, abat-  
8 ing appraisal inflation, and mitigating acts of ap-  
9 praisal fraud;

10 (4) structure of the appraisal industry, espe-  
11 cially regarding appraisal management companies,  
12 fee-for-service appraisers, and the regulation of ap-  
13 praisal management companies by the states; and

14 (5) impact on mortgage brokers and other small  
15 business professionals in the financial services indus-  
16 try.

17 (d) ADDITIONAL REPORT.—Before the end of the 6-  
18 month period beginning on the date of the enactment of  
19 this Act, the Comptroller General shall submit an addi-  
20 tional report to the Committee on Financial Services of  
21 the House of Representatives and the Committee on  
22 Banking, Housing, and Urban Affairs of the Senate con-  
23 taining the findings and conclusions of the Comptroller  
24 General with respect to the study conducted pursuant to  
25 subsection (c). Such additional report shall take into con-

1 sideration the Small Business Administration's views on  
2 how small businesses are affected by the Home Valuation  
3 Code of Conduct.

4 **SEC. 605. EQUAL CREDIT OPPORTUNITY ACT AMENDMENT.**

5 Subsection (e) of section 701 of the Equal Credit Op-  
6 portunity Act ( U.S.C. 1691) is amended to read as fol-  
7 lows:

8 “(e) COPIES FURNISHED TO APPLICANTS.—

9 “(1) IN GENERAL.—Each creditor shall furnish  
10 to an applicant a copy of any and all written ap-  
11 praisals and valuations developed in connection with  
12 the applicant's application for a loan that is secured  
13 or would have been secured by a first lien on a  
14 dwelling promptly upon completion, but in no case  
15 later than 3 days prior to the closing of the loan,  
16 whether the creditor grants or denies the applicant's  
17 request for credit or the application is incomplete or  
18 withdrawn.

19 “(2) WAIVER.—The applicant may waive the 3  
20 day requirement provided for in paragraph (1), ex-  
21 cept where otherwise required in law.

22 “(3) REIMBURSEMENT.—The applicant may be  
23 required to pay a reasonable fee to reimburse the  
24 creditor for the cost of the appraisal, except where  
25 otherwise required in law.

1           “(4) FREE COPY.—Notwithstanding paragraph  
2           (3), the creditor shall provide a copy of each written  
3           appraisal or valuation at no additional cost to the  
4           applicant.

5           “(5) NOTIFICATION TO APPLICANTS.—At the  
6           time of application, the creditor shall notify an ap-  
7           plicant in writing of the right to receive a copy of  
8           each written appraisal and valuation under this sub-  
9           section.

10          “(6) REGULATIONS.—The Board shall prescribe  
11          regulations to implement this subsection within 1  
12          year of the date of the enactment of this subsection.

13          “(7) VALUATION DEFINED.—For purposes of  
14          this subsection, the term ‘valuation’ shall include  
15          any estimate of the value of a dwelling developed in  
16          connection with a creditor’s decision to provide cred-  
17          it, including those values developed pursuant to a  
18          policy of a government sponsored enterprise or by an  
19          automated valuation model, a broker price opinion,  
20          or other methodology or mechanism.”.

1 **SEC. 606. REAL ESTATE SETTLEMENT PROCEDURES ACT OF**  
2 **1974 AMENDMENT RELATING TO CERTAIN AP-**  
3 **PRAISAL FEES.**

4 Section 4 of the Real Estate Settlement Procedures  
5 Act of 1974 is amended by adding at the end the following  
6 new subsection:

7 “(c) The standard form described in subsection (a)  
8 shall include, in the case of an appraisal coordinated by  
9 an appraisal management company (as such term is de-  
10 fined in section 1121(11) of the Financial Institutions Re-  
11 form, Recovery, and Enforcement Act of 1989 (12 U.S.C.  
12 3350(11))), a clear disclosure of—

13 “(1) the fee paid directly to the appraiser by  
14 such company; and

15 “(2) the administration fee charged by such  
16 company.”.

1 **TITLE VII—SENSE OF CONGRESS**  
2 **REGARDING THE IMPOR-**  
3 **TANCE OF GOVERNMENT**  
4 **SPONSORED ENTERPRISES**  
5 **REFORM**

6 **SEC. 701. SENSE OF CONGRESS REGARDING THE IMPOR-**  
7 **TANCE OF GOVERNMENT-SPONSORED EN-**  
8 **TERPRISES REFORM TO ENHANCE THE PRO-**  
9 **TECTION, LIMITATION, AND REGULATION OF**  
10 **THE TERMS OF RESIDENTIAL MORTGAGE**  
11 **CREDIT.**

12 (a) FINDINGS.—The Congress finds as follows:

13 (1) The Government-sponsored enterprises,  
14 Federal National Mortgage Association (Fannie  
15 Mae) and the Federal Home Loan Mortgage Cor-  
16 poration (Freddie Mac), were chartered by Congress  
17 to ensure a reliable and affordable supply of mort-  
18 gage funding, but enjoy a dual legal status as pri-  
19 vately owned corporations with Government man-  
20 dated affordable housing goals.

21 (2) In 1996, the Department of Housing and  
22 Urban Development required that 42 percent of  
23 Fannie Mae's and Freddie Mac's mortgage financing  
24 should go to borrowers with income levels below the  
25 median for a given area.



1           (3) In 2004, the Department of Housing and  
2           Urban Development revised those goals, increasing  
3           them to 56 percent of their overall mortgage pur-  
4           chases by 2008, and additionally mandated that 12  
5           percent of all mortgage purchases by Fannie Mae  
6           and Freddie Mac be “special affordable” loans made  
7           to borrowers with incomes less than 60 percent of an  
8           area’s median income, a target that ultimately in-  
9           creased to 28 percent for 2008.

10          (4) To help fulfill those mandated affordable  
11          housing goals, in 1995 the Department of Housing  
12          and Urban Development authorized Fannie Mae and  
13          Freddie Mac to purchase subprime securities that  
14          included loans made to low-income borrowers.

15          (5) After this authorization to purchase  
16          subprime securities, subprime and near-prime loans  
17          increased from 9 percent of securitized mortgages in  
18          2001 to 40 percent in 2006, while the market share  
19          of conventional mortgages dropped from 78.8 per-  
20          cent in 2003 to 50.1 percent by 2007 with a cor-  
21          responding increase in subprime and Alt-A loans  
22          from 10.1 percent to 32.7 percent over the same pe-  
23          riod.

24          (6) In 2004 alone, Fannie Mae and Freddie  
25          Mac purchased \$175,000,000,000 in subprime mort-

1       gage securities, which accounted for 44 percent of  
2       the market that year, and from 2005 through 2007,  
3       Fannie Mae and Freddie Mac purchased approxi-  
4       mately \$1,000,000,000,000 in subprime and Alt-A  
5       loans, while Fannie Mae's acquisitions of mortgages  
6       with less than 10 percent down payments almost tri-  
7       pled.

8               (7) According to data from the Federal Hous-  
9       ing Finance Agency (FHFA) for the fourth quarter  
10      of 2008, Fannie Mae and Freddie Mac own or guar-  
11      antee 75 percent of all newly originated mortgages,  
12      and Fannie Mae and Freddie Mac currently own  
13      13.3 percent of outstanding mortgage debt in the  
14      United States and have issued mortgage-backed se-  
15      curities for 31.0 percent of the residential debt mar-  
16      ket, a combined total of 44.3 percent of outstanding  
17      mortgage debt in the United States.

18              (8) On September 7, 2008, the FHFA placed  
19      Fannie Mae and Freddie Mac into conservatorship,  
20      with the Treasury Department subsequently agree-  
21      ing to purchase at least \$200,000,000,000 of pre-  
22      ferred stock from each enterprise in exchange for  
23      warrants for the purchase of 79.9 percent of each  
24      enterprise's common stock.

1           (9) The conservatorship for Fannie Mae and  
 2       Freddie Mac has potentially exposed taxpayers to  
 3       upwards of \$5,300,000,000,000 worth of risk.

4           (10) The hybrid public-private status of Fannie  
 5       Mae and Freddie Mac is untenable and must be re-  
 6       solved to assure that consumers are offered and re-  
 7       ceive residential mortgage loans on terms that rea-  
 8       sonably reflect their ability to repay the loans and  
 9       that are understandable and not unfair, deceptive, or  
 10      abusive.

11       (b) SENSE OF THE CONGRESS.—It is the sense of  
 12      the Congress that efforts to enhance by the protection,  
 13      limitation, and regulation of the terms of residential mort-  
 14      gage credit and the practices related to such credit would  
 15      be incomplete without enactment of meaningful structural  
 16      reforms of Fannie Mae and Freddie Mac.

## 17                   **TITLE VIII—REPORTS**

### 18      **SEC. 801. GAO STUDY REPORT ON GOVERNMENT EFFORTS** 19                   **TO COMBAT MORTGAGE FORECLOSURE RES-** 20                   **CUE SCAMS AND LOAN MODIFICATION** 21                   **FRAUD.**

22       (a) STUDY.—The Comptroller General of the United  
 23      States shall conduct a study of the current inter-agency  
 24      efforts of the Secretary of the Treasury, the Secretary of  
 25      Housing and Urban Development, the Attorney General,

1 and the Federal Trade Commission to crackdown on mort-  
2 gage foreclosure rescue scams and loan modification fraud  
3 in order to advise the Congress to the risks and  
4 vulnerabilities of emerging schemes in the loan modifica-  
5 tion arena.

6 (b) REPORT.—

7 (1) IN GENERAL.—The Comptroller General  
8 shall submit a report to the Congress on the study  
9 conducted under subsection (a) containing such rec-  
10 ommendations for legislative and administrative ac-  
11 tions as the Comptroller General may determine to  
12 be appropriate in addition to the recommendations  
13 required under paragraph (2).

14 (2) SPECIFIC TOPICS.—The report made under  
15 paragraph (1) shall include—

16 (A) an evaluation of the effectiveness of  
17 the inter-agency task force current efforts to  
18 combat mortgage foreclosure rescue scams and  
19 loan modification fraud scams;

20 (B) specific recommendations on agency or  
21 legislative action that are essential to properly  
22 protect homeowners from mortgage foreclosure  
23 rescue scams and loan modification fraud  
24 scams; and

1 (C) the adequacy of financial resources  
 2 that the Federal Government is allocating to—  
 3 (i) crackdown on loan modification  
 4 and foreclosure rescue scams; and  
 5 (ii) the education of homeowners  
 6 about fraudulent scams relating to loan  
 7 modification and foreclosure rescues.

## 8 **TITLE IX—MULTIFAMILY** 9 **MORTGAGE RESOLUTION**

### 10 **SEC. 901. MULTIFAMILY MORTGAGE RESOLUTION PRO-** 11 **GRAM.**

12 (a) ESTABLISHMENT.—Subject to subsection (e), the  
 13 Secretary of the Treasury, in consultation with the Sec-  
 14 retary of Housing and Urban Development, shall develop  
 15 a program to stabilize multifamily properties which are de-  
 16 linquent, at risk of default or disinvestment, or in fore-  
 17 closure.

18 (b) FOCUS OF PROGRAM.—The program developed  
 19 under this section shall be used to ensure the protection  
 20 of current and future tenants of at risk multifamily prop-  
 21 erties, where feasible, by—

22 (1) creating sustainable financing of such prop-  
 23 erties that is based on—

24 (A) the current rental income generated by  
 25 such properties; and

1 (B) the preservation of adequate operating  
2 reserves;

3 (2) maintaining the level of Federal, State, and  
4 city subsidies in effect as of the date of enactment  
5 of this Act; and

6 (3) facilitating the transfer, when necessary, of  
7 such properties to responsible new owners.

8 (c) COORDINATION.—The Secretary of the Treasury  
9 shall in carrying out the program developed under this sec-  
10 tion coordinate with the Secretary of Housing and Urban  
11 Development, the Federal Deposit Insurance Corporation,  
12 the Board of Governors of the Federal Reserve System,  
13 the Federal Housing Finance Agency, and any other Fed-  
14 eral Government agency that the Secretary considers ap-  
15 propriate.

16 (d) DEFINITION.—For purposes of this section, the  
17 term “multifamily properties” means a residential struc-  
18 ture that consists of 5 or more dwelling units.

19 (e) AUTHORITY.—This section shall not limit the  
20 ability of the Secretary of the Treasury to use any existing  
21 authority to carry out the program under this section.

1 **TITLE X—STUDY OF EFFECT OF**  
2 **DRYWALL PRESENCE ON**  
3 **FORECLOSURES**

4 **SEC. 1001. STUDY OF EFFECT OF DRYWALL PRESENCE ON**  
5 **FORECLOSURES.**

6 (a) STUDY.—The Secretary of Housing and Urban  
7 Development, in consultation with the Secretary of the  
8 Treasury, shall conduct a study of the effect on residential  
9 mortgage loan foreclosures of—

10 (1) the presence in residential structures sub-  
11 ject to such mortgage loans of drywall that was im-  
12 ported from China during the period beginning with  
13 2004 and ending at the end of 2007; and

14 (2) the availability of property insurance for  
15 residential structures in which such drywall is  
16 present.

17 (b) REPORT.—Not later than the expiration of the  
18 120-day period beginning on the date of the enactment  
19 of this Act, the Secretary of Housing and Urban Develop-  
20 ment shall submit to the Congress a report on the study  
21 conducted under subsection (a) containing its findings,  
22 conclusions, and recommendations.

1 **TITLE XI—FANNIE MAE GUIDE-**  
2 **LINES FOR PURCHASE OF**  
3 **CONDOMINIUM AND COOPER-**  
4 **ATIVE HOUSING MORTGAGES**

5 **SEC. 1101. GUIDELINES FOR PURCHASE OF CONDOMINIUM**  
6 **AND COOPERATIVE HOUSING MORTGAGES.**

7       The Federal National Mortgage Association and the  
8 Federal Home Loan Mortgage Corporation shall take ac-  
9 tions as are appropriate to establish and revise fee sched-  
10 ules, occupancy and pre-sale guidelines, and other relevant  
11 underwriting standards for the purchase of condominium  
12 and cooperative housing, consistent with appropriate levels  
13 of credit risk. In setting such fees, guidelines, and stand-  
14 ards, each association may consider factors such as the  
15 relative health of the local or regional housing market in  
16 which such housing is located, and whether the housing  
17 is in a new or existing development.

Passed the House of Representatives May 7, 2009.

Attest:                   LORRAINE C. MILLER,  
*Clerk.*