

BEAN/CASTLE
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AMENDMENT TO H.R. 1728

OFFERED BY Ms. Bean and Mr. Castle

Page 23, strike line 9 and all that follows through
page 26, line 7, and insert the following:

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

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

5 “(c) PRESUMPTION OF ABILITY TO REPAY AND NET
6 TANGIBLE BENEFIT.—

7 “(1) IN GENERAL.—Any creditor with respect
8 to any residential mortgage loan, and any assignee
9 or securitizer of such loan, may presume that the
10 loan has met the requirements of subsections (a)
11 and (b), if the loan is a qualified mortgage.

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

14 “(A) QUALIFIED MORTGAGE.—The term
15 ‘qualified mortgage’ means any residential
16 mortgage loan—

17 “(i) that does not allow a consumer to
18 defer repayment of principal or interest, or
19 is not otherwise deemed a ‘non-traditional

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mortgage' under guidance, advisories, or regulations prescribed by the Federal Banking Agencies;

“(ii) that does not provide for a repayment schedule that results in negative amortization at any time;

“(iii) for which the terms are fully amortizing and which does not result in a balloon payment, where a ‘balloon payment’ is a scheduled payment that is more than twice as large as the average of earlier scheduled payments;

“(iv) which has an annual percentage rate that does not exceed the average prime offer rate for a comparable transaction, as of the date the interest rate is set—

“(I) by 1.5 or more percentage points for a first lien residential mortgage loan; and

“(II) by 3.5 or more percentage points for a subordinate lien residential mortgage loan;

“(v) for which the income and financial resources relied upon to qualify the ob-

1 ligors on the loan are verified and docu-
2 mented;

3 “(vi) in the case of a fixed rate loan,
4 for which the underwriting process is based
5 on a payment schedule that fully amortizes
6 the loan over the loan term and takes into
7 account all applicable taxes, insurance, and
8 assessments;

9 “(vii) in the case of an adjustable rate
10 loan, for which the underwriting is based
11 on the maximum rate permitted under the
12 loan during the first seven years, and a
13 payment schedule that fully amortizes the
14 loan over the loan term and takes into ac-
15 count all applicable taxes, insurance, and
16 assessments;

17 “(viii) that does not cause the con-
18 sumer’s total monthly debts, including
19 amounts under the loan, to exceed a per-
20 centage established by regulation of the
21 consumer’s monthly gross income or such
22 other maximum percentage of such income
23 as may be prescribed by regulation under
24 paragraph (4), and such rules shall also
25 take into consideration the consumer’s in-

1 come available to pay regular expenses
2 after payment of all installment and revolv-
3 ing debt;

4 “(ix) for which the total points and
5 fees payable in connection with the loan do
6 not exceed 2 percent of the total loan
7 amount, where ‘points and fees’ means
8 points and fees as defined by Section
9 103(aa)(4) of the Truth in Lending Act
10 (15 U.S.C. 1602(aa)(4)); and

11 “(x) for which the term of the loan
12 does not exceed 30 years, except as such
13 term may be extended under paragraph
14 (4).

15 “(B) AVERAGE PRIME OFFER RATE.—The
16 term ‘average prime offer rate’ means an an-
17 nual percentage rate that is derived from aver-
18 age interest rates, points, and other loan pric-
19 ing terms currently offered to consumers by a
20 representative sample of creditors for mortgage
21 transactions that have low risk pricing charac-
22 teristics.

23 “(3) PUBLICATION OF AVERAGE PRIME OFFER
24 RATE.—The Board—

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

3 “(B) may publish multiple rates based on
4 varying types of mortgage transactions.

5 “(4) REGULATIONS.—

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

9 “(B) REVISION OF SAFE HARBOR CRI-
10 TERIA.—

11 “(i) IN GENERAL.—The Federal bank-
12 ing agencies may jointly prescribe regula-
13 tions that revise, add to, or subtract from
14 the criteria that define a qualified mort-
15 gage upon a finding that such regulations
16 are necessary and appropriate to effectuate
17 the purposes of this section and section
18 129B, to prevent circumvention or evasion
19 thereof, or to facilitate compliance with
20 such sections.

21 “(ii) LOAN DEFINITION.—The fol-
22 lowing agencies shall prescribe rules defin-
23 ing the types of loans they insure, guar-
24 antee or administer, as the case may be,
25 that are Qualified Mortgages for purposes

1 of subsection (c)(1)(A) upon a finding that
2 such rules are consistent with the purposes
3 of this section and section 129B, to pre-
4 vent circumvention or evasion thereof, or
5 to facilitate compliance with such sec-
6 tions—

7 “(I) The Department of Housing
8 and Urban Development, with regard
9 to mortgages insured under title II of
10 the National Housing Act (12 U.S.C.
11 1707 et seq.);

12 “(II) The Secretary of Veterans
13 Affairs, with regard to a loan made or
14 guaranteed by the Secretary of Vet-
15 erans Affairs;

16 “(III) The Secretary of Agri-
17 culture, with regard loans guaranteed
18 by the Secretary of Agriculture pursu-
19 ant to 42 U.S.C 1472(h);

20 “(IV) The Federal Housing Fi-
21 nance Agency, with regard to loans
22 meeting the conforming loan stand-
23 ards of the Federal National Mort-
24 gage Corporation or the Federal

1 Home Loan Mortgage Corporation;
2 and

3 “(V) The Rural Housing Service,
4 with regard to loans insured by the
5 Rural Housing Service.”



