

# Union Calendar No. 272

110TH CONGRESS  
1ST SESSION

# H. R. 3915

[Report No. 110-441]

To amend the Truth in Lending Act to reform consumer mortgage practices and provide accountability for such practices, to establish licensing and registration requirements for residential mortgage originators, to provide certain minimum standards for consumer mortgage loans, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 22, 2007

Mr. MILLER of North Carolina (for himself, Mr. WATT, Mr. FRANK of Massachusetts, Ms. WATERS, Mrs. MALONEY of New York, Mr. GUTIERREZ, Ms. CARSON, Mr. MEEKS of New York, Mr. CAPUANO, Mr. CLAY, Mr. AL GREEN of Texas, Mr. CLEAVER, Ms. BEAN, Ms. MOORE of Wisconsin, Mr. HODES, Mr. ELLISON, and Mr. MURPHY of Connecticut) introduced the following bill; which was referred to the Committee on Financial Services

NOVEMBER 9, 2007

Additional sponsors: Ms. KAPTUR, Ms. SUTTON, Mr. WYNN, Mrs. JONES of Ohio, Mr. COHEN, Mr. LATOURETTE, Ms. GIFFORDS, Mr. BACA, Mr. CUMMINGS, Mr. SCOTT of Georgia, and Ms. CLARKE

NOVEMBER 9, 2007

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on October 22, 2007]

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## A BILL

To amend the Truth in Lending Act to reform consumer mortgage practices and provide accountability for such practices, to establish licensing and registration requirements for residential mortgage originators, 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,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4        (a) *SHORT TITLE.*—*This Act may be cited as the*  
 5 *“Mortgage Reform and Anti-Predatory Lending Act of*  
 6 *2007”.*

7        (b) *TABLE OF CONTENTS.*—*The table of contents for*  
 8 *this Act is as follows:*

*Sec. 1. Short title; table of contents.*

**TITLE I—RESIDENTIAL MORTGAGE LOAN ORIGINATION**

*Subtitle A—Licensing System for Residential Mortgage Loan Originators*

*Sec. 101. Purposes and methods for establishing a mortgage licensing system and registry.*

*Sec. 102. Definitions.*

*Sec. 103. License or registration required.*

*Sec. 104. State license and registration application and issuance.*

*Sec. 105. Standards for State license renewal.*

*Sec. 106. System of registration administration by Federal banking agencies.*

*Sec. 107. Secretary of Housing and Urban Development backup authority to establish a loan originator licensing system.*

*Sec. 108. Backup authority to establish a nationwide mortgage licensing and registry system.*

*Sec. 109. Fees.*

- Sec. 110. Background checks of loan originators.*
- Sec. 111. Confidentiality of information.*
- Sec. 112. Liability provisions.*
- Sec. 113. Enforcement under HUD backup licensing system.*

*Subtitle B—Residential Mortgage Loan Origination Standards*

- Sec. 121. Definitions.*
- Sec. 122. Residential mortgage loan origination.*
- Sec. 123. Anti-steering.*
- Sec. 124. Liability.*
- Sec. 125. Regulations.*

*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. Required disclosures.*
- Sec. 212. Authorization of appropriations.*
- Sec. 213. Effective date.*

*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. Amendment to provision governing correction of errors.*
- Sec. 305. Regulations.*
- Sec. 306. 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. Definitions for counseling-related programs.*
- Sec. 408. Updating and simplification of mortgage information booklet.*

*TITLE V—MORTGAGE DISCLOSURES UNDER REAL ESTATE  
SETTLEMENT PROCEDURES ACT OF 1974*

- Sec. 501. Universal mortgage disclosure in good faith estimate of settlement services costs.*

1           **TITLE I—RESIDENTIAL**  
2           **MORTGAGE LOAN ORIGINATION**  
3           **Subtitle A—Licensing System for**  
4           **Residential Mortgage Loan**  
5           **Originators**

6           **SEC. 101. PURPOSES AND METHODS FOR ESTABLISHING A**  
7                           **MORTGAGE LICENSING SYSTEM AND REG-**  
8                           **ISTRY.**

9           *In order to increase uniformity, reduce regulatory bur-*  
10          *den, enhance consumer protection, and reduce fraud, the*  
11          *States, through the Conference of State Bank Supervisors*  
12          *and the American Association of Residential Mortgage Reg-*  
13          *ulators, are hereby encouraged to establish a Nationwide*  
14          *Mortgage Licensing System and Registry for the residential*  
15          *mortgage industry that accomplishes all of the following ob-*  
16          *jectives:*

17                   (1) *Provides uniform license applications and re-*  
18                   *porting requirements for State-licensed loan origina-*  
19                   *tors.*

20                   (2) *Provides a comprehensive licensing and su-*  
21                   *pervisory database.*

22                   (3) *Aggregates and improves the flow of informa-*  
23                   *tion to and between regulators.*

24                   (4) *Provides increased accountability and track-*  
25                   *ing of loan originators.*

1           (5) *Streamlines the licensing process and reduces*  
2 *the regulatory burden.*

3           (6) *Enhances consumer protections and supports*  
4 *anti-fraud measures.*

5           (7) *Provides consumers with easily accessible in-*  
6 *formation regarding the employment history of, and*  
7 *publicly adjudicated disciplinary and enforcement ac-*  
8 *tions against, loan originators.*

9 **SEC. 102. DEFINITIONS.**

10         *For purposes of this subtitle, the following definitions*  
11 *shall apply:*

12           (1) *FEDERAL BANKING AGENCIES.*—*The term*  
13 *“Federal banking agencies” means the Board of Gov-*  
14 *ernors of the Federal Reserve System, the Comptroller*  
15 *of the Currency, the Director of the Office of Thrift*  
16 *Supervision, the National Credit Union Administra-*  
17 *tion, and the Federal Deposit Insurance Corporation.*

18           (2) *DEPOSITORY INSTITUTION.*—*The term “de-*  
19 *pository institution” has the same meaning as in sec-*  
20 *tion 3 of the Federal Deposit Insurance Act and in-*  
21 *cludes any credit union.*

22           (3) *LOAN ORIGINATOR.*—

23           (A) *IN GENERAL.*—*The term “loan origi-*  
24 *nator”*—

25                     *(i) means an individual who—*

1                   (I) takes a residential mortgage  
2                   loan application;

3                   (II) assists a consumer in obtain-  
4                   ing or applying to obtain a residential  
5                   mortgage loan; or

6                   (III) offers or negotiates terms of  
7                   a residential mortgage loan, for direct  
8                   or indirect compensation or gain, or in  
9                   the expectation of direct or indirect  
10                  compensation or gain;

11                  (ii) includes any individual who rep-  
12                  resents to the public, through advertising or  
13                  other means of communicating or providing  
14                  information (including the use of business  
15                  cards, stationery, brochures, signs, rate lists,  
16                  or other promotional items), that such indi-  
17                  vidual can or will provide or perform any  
18                  of the activities described in clause (i);

19                  (iii) does not include any individual  
20                  who performs purely administrative or cler-  
21                  ical tasks and is not otherwise described in  
22                  this subparagraph; and

23                  (iv) does not include a person or entity  
24                  that only performs real estate brokerage ac-  
25                  tivities and is licensed or registered in ac-

1 cordance with applicable State law, unless  
2 the person or entity is compensated by a  
3 lender, a mortgage broker, or other loan  
4 originator or by any agent of such lender,  
5 mortgage broker, or other loan originator.

6 (B) OTHER DEFINITIONS RELATING TO  
7 LOAN ORIGINATOR.—For purposes of this sub-  
8 section, an individual “assists a consumer in ob-  
9 taining or applying to obtain a residential mort-  
10 gage loan” by, among other things, advising on  
11 loan terms (including rates, fees, other costs),  
12 preparing loan packages, or collecting informa-  
13 tion on behalf of the consumer with regard to a  
14 residential mortgage loan.

15 (C) ADMINISTRATIVE OR CLERICAL  
16 TASKS.—The term “administrative or clerical  
17 tasks” means the receipt, collection, and distribu-  
18 tion of information common for the processing or  
19 underwriting of a loan in the mortgage industry  
20 and communication with a consumer to obtain  
21 information necessary for the processing or un-  
22 derwriting of a residential mortgage loan.

23 (D) REAL ESTATE BROKERAGE ACTIVITY  
24 DEFINED.—The term “real estate brokerage ac-  
25 tivity” means any activity that involves offering

1            *or providing real estate brokerage services to the*  
2            *public, including—*

3                    *(i) acting as a real estate agent or real*  
4                    *estate broker for a buyer, seller, lessor, or*  
5                    *lessee of real property;*

6                    *(ii) listing or advertising real property*  
7                    *for sale, purchase, lease, rental, or exchange;*

8                    *(iii) providing advice in connection*  
9                    *with sale, purchase, lease, rental, or ex-*  
10                   *change of real property;*

11                   *(iv) bringing together parties interested*  
12                   *in the sale, purchase, lease, rental, or ex-*  
13                   *change of real property;*

14                   *(v) negotiating, on behalf of any party,*  
15                   *any portion of a contract relating to the*  
16                   *sale, purchase, lease, rental, or exchange of*  
17                   *real property (other than in connection*  
18                   *with providing financing with respect to*  
19                   *any such transaction);*

20                   *(vi) engaging in any activity for which*  
21                   *a person engaged in the activity is required*  
22                   *to be registered or licensed as a real estate*  
23                   *agent or real estate broker under any appli-*  
24                   *cable law; and*



1                   (vii) offering to engage in any activity,  
2                   or act in any capacity, described in clause  
3                   (i), (ii), (iii), (iv), (v), or (vi).

4                   (4) *LOAN PROCESSOR OR UNDERWRITER.*—

5                   (A) *IN GENERAL.*—The term “loan processor  
6                   or underwriter” means an individual who per-  
7                   forms clerical or support duties at the direction  
8                   of and subject to the supervision and instruction  
9                   of—

10                   (i) a State-licensed loan originator; or

11                   (ii) a registered loan originator.

12                   (B) *CLERICAL OR SUPPORT DUTIES.*—For  
13                   purposes of subparagraph (A), the term “clerical  
14                   or support duties” may include—

15                   (i) the receipt, collection, distribution,  
16                   and analysis of information common for the  
17                   processing or underwriting of a residential  
18                   mortgage loan; and

19                   (ii) communicating with a consumer to  
20                   obtain the information necessary for the  
21                   processing or underwriting of a loan, to the  
22                   extent that such communication does not in-  
23                   clude offering or negotiating loan rates or  
24                   terms, or counseling consumers about resi-  
25                   dential mortgage loan rates or terms.

1           (5) *NATIONWIDE MORTGAGE LICENSING SYSTEM*  
2 *AND REGISTRY.*—*The term “Nationwide Mortgage Li-*  
3 *censing System and Registry” means a mortgage li-*  
4 *censing system developed and maintained by the Con-*  
5 *ference of State Bank Supervisors and the American*  
6 *Association of Residential Mortgage Regulators for the*  
7 *State licensing and registration of State-licensed loan*  
8 *originators and the registration of registered loan*  
9 *originators or any system established by the Secretary*  
10 *under section 108.*

11           (6) *REGISTERED LOAN ORIGINATOR.*—*The term*  
12 *“registered loan originator” means any individual*  
13 *who—*

14                   (A) *meets the definition of loan originator*  
15 *and is an employee of a depository institution or*  
16 *a subsidiary of a depository institution; and*

17                   (B) *is registered with, and maintains a*  
18 *unique identifier through, the Nationwide Mort-*  
19 *gage Licensing System and Registry.*

20           (7) *RESIDENTIAL MORTGAGE LOAN.*—*The term*  
21 *“residential mortgage loan” means any loan pri-*  
22 *marily for personal, family, or household use that is*  
23 *secured by a mortgage, deed of trust, or other equiva-*  
24 *lent consensual security interest on a dwelling (as de-*  
25 *fin ed in section 103(v) of the Truth in Lending Act)*

1       or residential real estate upon which is constructed or  
2       intended to be constructed a dwelling (as so defined).

3           (8) *SECRETARY*.—The term “Secretary” means  
4       the Secretary of Housing and Urban Development.

5           (9) *STATE-LICENSED LOAN ORIGINATOR*.—The  
6       term “State-licensed loan originator” means any in-  
7       dividual who—

8           (A) is a loan originator;

9           (B) is not an employee of a depository in-  
10       stitution or any subsidiary of a depository insti-  
11       tution; and

12          (C) is licensed by a State or by the Sec-  
13       retary under section 107 and registered as a loan  
14       originator with, and maintains a unique identi-  
15       fier through, the Nationwide Mortgage Licensing  
16       System and Registry.

17          (10) *UNIQUE IDENTIFIER*.—The term “unique  
18       identifier” means a number or other identifier that—

19          (A) permanently identifies a loan origi-  
20       nator; and

21          (B) is assigned by protocols established by  
22       the Nationwide Mortgage Licensing System and  
23       Registry and the Federal banking agencies to fa-  
24       cilitate electronic tracking of loan originators  
25       and uniform identification of, and public access

1           to, the employment history of and the publicly  
2           adjudicated disciplinary and enforcement actions  
3           against loan originators.

4 **SEC. 103. LICENSE OR REGISTRATION REQUIRED.**

5           (a) *IN GENERAL.*—An individual may not engage in  
6 the business of a loan originator without first—

7           (1) *obtaining and maintaining—*

8                   (A) a registration as a registered loan origi-  
9 nator; or

10                   (B) a license and registration as a State-li-  
11 censed loan originator; and

12           (2) *obtaining a unique identifier.*

13           (b) *LOAN PROCESSORS AND UNDERWRITERS.*—

14           (1) *SUPERVISED LOAN PROCESSORS AND UNDER-*  
15 *WRITERS.*—A loan processor or underwriter who does  
16 not represent to the public, through advertising or  
17 other means of communicating or providing informa-  
18 tion (including the use of business cards, stationery,  
19 brochures, signs, rate lists, or other promotional  
20 items), that such individual can or will perform any  
21 of the activities of a loan originator shall not be re-  
22 quired to be a State-licensed loan originator or a reg-  
23 istered loan originator.

24           (2) *INDEPENDENT CONTRACTORS.*—A loan proc-  
25 essor or underwriter may not work as an independent

1        *contractor unless such processor or underwriter is a*  
2        *State-licensed loan originator or a registered loan*  
3        *originator.*

4        **SEC. 104. STATE LICENSE AND REGISTRATION APPLICA-**  
5        **TION AND ISSUANCE.**

6        (a) *BACKGROUND CHECKS.—In connection with an*  
7        *application to any State for licensing and registration as*  
8        *a State-licensed loan originator, the applicant shall, at a*  
9        *minimum, furnish to the Nationwide Mortgage Licensing*  
10       *System and Registry information concerning the appli-*  
11       *cant's identity, including—*

12                (1) *fingerprints for submission to the Federal*  
13                *Bureau of Investigation, and any governmental agen-*  
14                *cy or entity authorized to receive such information for*  
15                *a State and national criminal history background*  
16                *check; and*

17                (2) *personal history and experience, including*  
18                *authorization for the System to obtain—*

19                        (A) *an independent credit report obtained*  
20                        *from a consumer reporting agency described in*  
21                        *section 603(p) of the Fair Credit Reporting Act;*  
22                        *and*

23                        (B) *information related to any administra-*  
24                        *tive, civil or criminal findings by any govern-*  
25                        *mental jurisdiction.*

1       **(b) ISSUANCE OF LICENSE.**—*The minimum standards*  
2 *for licensing and registration as a State-licensed loan origi-*  
3 *nator shall include the following:*

4           (1) *The applicant has not had a loan originator*  
5 *or similar license revoked in any governmental juris-*  
6 *isdiction during the 5-year period immediately pre-*  
7 *ceding the filing of the present application.*

8           (2) *The applicant has not been convicted, pled*  
9 *guilty or nolo contendere in a domestic, foreign, or*  
10 *military court of a felony during the 7-year period*  
11 *immediately preceding the filing of the present appli-*  
12 *cation.*

13           (3) *The applicant has demonstrated financial re-*  
14 *sponsibility, character, and general fitness such as to*  
15 *command the confidence of the community and to*  
16 *warrant a determination that the loan originator will*  
17 *operate honestly, fairly, and efficiently within the*  
18 *purposes of this subtitle.*

19           (4) *The applicant has completed the pre-licens-*  
20 *ing education requirement described in subsection (c).*

21           (5) *The applicant has passed a written test that*  
22 *meets the test requirement described in subsection (d).*

23       **(c) PRE-LICENSING EDUCATION OF LOAN ORIGINA-**  
24 **TORS.**—

1           (1) *MINIMUM EDUCATIONAL REQUIREMENTS.*—*In*  
2           *order to meet the pre-licensing education requirement*  
3           *referred to in subsection (b)(4), a person shall com-*  
4           *plete at least 20 hours of education approved in ac-*  
5           *cordance with paragraph (2), which shall include at*  
6           *least 3 hours of Federal law and regulations and 3*  
7           *hours of ethics.*

8           (2) *APPROVED EDUCATIONAL COURSES.*—*For*  
9           *purposes of paragraph (1), pre-licensing education*  
10          *courses shall be reviewed, approved and published by*  
11          *the Nationwide Mortgage Licensing System and Reg-*  
12          *istry.*

13          (d) *TESTING OF LOAN ORIGINATORS.*—

14               (1) *IN GENERAL.*—*In order to meet the written*  
15               *test requirement referred to in subsection (b)(5), an*  
16               *individual shall pass, in accordance with the stand-*  
17               *ards established under this subsection, a qualified*  
18               *written test developed and administered by the Na-*  
19               *tionwide Mortgage Licensing System and Registry.*

20               (2) *QUALIFIED TEST.*—*A written test shall not*  
21               *be treated as a qualified written test for purposes of*  
22               *paragraph (1) unless—*

23                       (A) *the test consists of a minimum of 100*  
24                       *questions; and*

1           (B) *the test adequately measures the appli-*  
2 *cant's knowledge and comprehension in appro-*  
3 *priate subject areas, including—*

4                 (i) *ethics;*

5                 (ii) *Federal law and regulation per-*  
6 *taining to mortgage origination; and*

7                 (iii) *State law and regulation per-*  
8 *taining to mortgage origination.*

9           (3) *MINIMUM COMPETENCE.—*

10           (A) *PASSING SCORE.—An individual shall*  
11 *not be considered to have passed a qualified*  
12 *written test unless the individual achieves a test*  
13 *score of not less than 75 percent correct answers*  
14 *to questions.*

15           (B) *INITIAL RETESTS.—An individual may*  
16 *retake a test 3 consecutive times with each con-*  
17 *secutive taking occurring in less than 14 days*  
18 *after the preceding test.*

19           (C) *SUBSEQUENT RETESTS.—After 3 con-*  
20 *secutive tests, an individual shall wait at least*  
21 *14 days before taking the test again.*

22           (D) *RETEST AFTER LAPSE OF LICENSE.—A*  
23 *State-licensed loan originator who fails to main-*  
24 *tain a valid license for a period of 5 years or*  
25 *longer shall retake the test, not taking into ac-*



1           *count any time during which such individual is*  
2           *a registered loan originator.*

3 **SEC. 105. STANDARDS FOR STATE LICENSE RENEWAL.**

4           *(a) IN GENERAL.—The minimum standards for license*  
5 *renewal for State-licensed loan originators shall include the*  
6 *following:*

7           *(1) The loan originator continues to meet the*  
8 *minimum standards for license issuance.*

9           *(2) The loan originator has satisfied the annual*  
10 *continuing education requirements described in sub-*  
11 *section (b).*

12           **(b) CONTINUING EDUCATION FOR STATE-LICENSED**  
13 **LOAN ORIGINATORS.—**

14           *(1) IN GENERAL.—In order to meet the annual*  
15 *continuing education requirements referred to in sub-*  
16 *section (a)(2), a State-licensed loan originator shall*  
17 *complete at least 8 hours of education approved in ac-*  
18 *cordance with paragraph (2), which shall include at*  
19 *least 3 hours of Federal law and regulations and 2*  
20 *hours of ethics.*

21           **(2) APPROVED EDUCATIONAL COURSES.—For**  
22 *purposes of paragraph (1), continuing education*  
23 *courses shall be reviewed, approved, and published by*  
24 *the Nationwide Mortgage Licensing System and Reg-*  
25 *istry.*

1           (3) *CALCULATION OF CONTINUING EDUCATION*  
2           *CREDITS.—A State-licensed loan originator—*

3                   (A) *may only receive credit for a continuing*  
4                   *education course in the year in which the course*  
5                   *is taken; and*

6                   (B) *may not take the same approved course*  
7                   *in the same or successive years to meet the an-*  
8                   *annual requirements for continuing education.*

9           (4) *INSTRUCTOR CREDIT.—A State-licensed loan*  
10           *originator who is approved as an instructor of an ap-*  
11           *proved continuing education course may receive credit*  
12           *for the originator's own annual continuing education*  
13           *requirement at the rate of 2 hours credit for every 1*  
14           *hour taught.*

15 **SEC. 106. SYSTEM OF REGISTRATION ADMINISTRATION BY**  
16                   **FEDERAL BANKING AGENCIES.**

17           (a) *DEVELOPMENT.—*

18                   (1) *IN GENERAL.—The Federal banking agencies*  
19                   *shall jointly develop and maintain a system for reg-*  
20                   *istering employees of depository institutions or sub-*  
21                   *subsidiaries of depository institutions as registered loan*  
22                   *originators with the Nationwide Mortgage Licensing*  
23                   *System and Registry. The system shall be imple-*  
24                   *mented before the end of the 1-year period beginning*  
25                   *on the date of the enactment of this Act.*

1           (2) *REGISTRATION REQUIREMENTS.*—*In connec-*  
2           *tion with the registration of any loan originator who*  
3           *is an employee of a depository institution or a sub-*  
4           *subsidiary of a depository institution with the Nation-*  
5           *wide Mortgage Licensing System and Registry, the*  
6           *appropriate Federal banking agency shall, at a min-*  
7           *imum, furnish or cause to be furnished to the Nation-*  
8           *wide Mortgage Licensing System and Registry infor-*  
9           *mation concerning the employees’s identity, includ-*  
10          *ing—*

11                   (A) *fingerprints for submission to the Fed-*  
12                   *eral Bureau of Investigation, and any govern-*  
13                   *mental agency or entity authorized to receive*  
14                   *such information for a State and national crimi-*  
15                   *nal history background check; and*

16                   (B) *personal history and experience, includ-*  
17                   *ing—*

18                           (i) *an independent credit report ob-*  
19                           *tained from a consumer reporting agency*  
20                           *described in section 603(p) of the Fair*  
21                           *Credit Reporting Act; and*

22                           (ii) *information related to any admin-*  
23                           *istrative, civil or criminal findings by any*  
24                           *governmental jurisdiction.*

1           (b) *UNIQUE IDENTIFIER.*—*The Federal banking agen-*  
2 *cies, through the Financial Institutions Examination*  
3 *Council, shall coordinate with the Nationwide Mortgage Li-*  
4 *censing System and Registry to establish protocols for as-*  
5 *signing a unique identifier to each registered loan origi-*  
6 *nator that will facilitate electronic tracking and uniform*  
7 *identification of, and public access to, the employment his-*  
8 *tory of and publicly adjudicated disciplinary and enforce-*  
9 *ment actions against loan originators.*

10           (c) *CONSIDERATION OF FACTORS AND PROCEDURES.*—  
11 *In establishing the registration procedures under subsection*  
12 *(a) and the protocols for assigning a unique identifier to*  
13 *a registered loan originator, the Federal banking agencies*  
14 *shall make such de minimis exceptions as may be appro-*  
15 *priate to paragraphs (1)(A) and (2) of section 103(a), shall*  
16 *make reasonable efforts to utilize existing information to*  
17 *minimize the burden of registering loan originators, and*  
18 *shall consider methods for automating the process to the*  
19 *greatest extent practicable consistent with the purposes of*  
20 *this subtitle.*

21 **SEC. 107. SECRETARY OF HOUSING AND URBAN DEVELOP-**  
22 **MENT BACKUP AUTHORITY TO ESTABLISH A**  
23 **LOAN ORIGINATOR LICENSING SYSTEM.**

24           (a) *BACK UP LICENSING SYSTEM.*—*If, by the end of*  
25 *the 1-year period, or the 2-year period in the case of a State*

1 *whose legislature meets only biennially, beginning on the*  
2 *date of the enactment of this Act or at any time thereafter,*  
3 *the Secretary determines that a State does not have in place*  
4 *by law or regulation a system for licensing and registering*  
5 *loan originators that meets the requirements of sections 104*  
6 *and 105 and subsection (d) or does not participate in the*  
7 *Nationwide Mortgage Licensing System and Registry, the*  
8 *Secretary shall provide for the establishment and mainte-*  
9 *nance of a system for the licensing and registration by the*  
10 *Secretary of loan originators operating in such State as*  
11 *State-licensed loan originators.*

12       **(b) LICENSING AND REGISTRATION REQUIREMENTS.—**  
13 *The system established by the Secretary under subsection*  
14 *(a) for any State shall meet the requirements of sections*  
15 *104 and 105 for State-licensed loan originators.*

16       **(c) UNIQUE IDENTIFIER.—***The Secretary shall coordi-*  
17 *nate with the Nationwide Mortgage Licensing System and*  
18 *Registry to establish protocols for assigning a unique iden-*  
19 *tifier to each loan originator licensed by the Secretary as*  
20 *a State-licensed loan originator that will facilitate elec-*  
21 *tronic tracking and uniform identification of, and public*  
22 *access to, the employment history of and the publicly adju-*  
23 *dicated disciplinary and enforcement actions against loan*  
24 *originators.*

1       (d) *STATE LICENSING LAW REQUIREMENTS.*—For  
2 *purposes of this section, the law in effect in a State meets*  
3 *the requirements of this subsection if the Secretary deter-*  
4 *mines the law satisfies the following minimum require-*  
5 *ments:*

6           (1) *A State loan originator supervisory author-*  
7 *ity is maintained to provide effective supervision and*  
8 *enforcement of such law, including the suspension,*  
9 *termination, or nonrenewal of a license for a viola-*  
10 *tion of State or Federal law.*

11           (2) *The State loan originator supervisory au-*  
12 *thority ensures that all State-licensed loan originators*  
13 *operating in the State are registered with Nationwide*  
14 *Mortgage Licensing System and Registry.*

15           (3) *The State loan originator supervisory au-*  
16 *thority is required to regularly report violations of*  
17 *such law, as well as enforcement actions and other*  
18 *relevant information, to the Nationwide Mortgage Li-*  
19 *censing System and Registry.*

20       (e) *TEMPORARY EXTENSION OF PERIOD.*—The Sec-  
21 *retary may extend, by not more than 6 months, the 1-year*  
22 *or 2-year period, as the case may be, referred to in sub-*  
23 *section (a) for the licensing of loan originators in any State*  
24 *under a State licensing law that meets the requirements of*  
25 *sections 104 and 105 and subsection (d) if the Secretary*

1 *determines that such State is making a good faith effort*  
2 *to establish a State licensing law that meets such require-*  
3 *ments, license mortgage originators under such law, and*  
4 *register such originators with the Nationwide Mortgage Li-*  
5 *ensing System and Registry.*

6       (f) *LIMITATION ON HUD-LICENSED LOAN ORIGINA-*  
7 *TORS.—Any loan originator who is licensed by the Sec-*  
8 *retary under a system established under this section for any*  
9 *State may not use such license to originate loans in any*  
10 *other State.*

11 **SEC. 108. BACKUP AUTHORITY TO ESTABLISH A NATION-**  
12                   **WIDE MORTGAGE LICENSING AND REGISTRY**  
13                   **SYSTEM.**

14       *If at any time the Secretary determines that the Na-*  
15 *tionwide Mortgage Licensing System and Registry is fail-*  
16 *ing to meet the requirements and purposes of this subtitle*  
17 *for a comprehensive licensing, supervisory, and tracking*  
18 *system for loan originators, the Secretary shall establish*  
19 *and maintain such a system to carry out the purposes of*  
20 *this subtitle and the effective registration and regulation of*  
21 *loan originators.*

22 **SEC. 109. FEES.**

23       *The Federal banking agencies, the Secretary, and the*  
24 *Nationwide Mortgage Licensing System and Registry may*  
25 *charge reasonable fees to cover the costs of maintaining and*

1 *providing access to information from the Nationwide Mort-*  
2 *gage Licensing System and Registry to the extent such fees*  
3 *are not charged to consumers for access such system and*  
4 *registry.*

5 **SEC. 110. BACKGROUND CHECKS OF LOAN ORIGINATORS.**

6 (a) *ACCESS TO RECORDS.*—*Notwithstanding any other*  
7 *provision of law, in providing identification and processing*  
8 *functions, the Attorney General shall provide access to all*  
9 *criminal history information to the appropriate State offi-*  
10 *cials responsible for regulating State-licensed loan origina-*  
11 *tors to the extent criminal history background checks are*  
12 *required under the laws of the State for the licensing of such*  
13 *loan originators.*

14 (b) *AGENT.*—*For the purposes of this section and in*  
15 *order to reduce the points of contact which the Federal Bu-*  
16 *reau of Investigation may have to maintain for purposes*  
17 *of subsection (a), the Conference of State Bank Supervisors*  
18 *or a wholly owned subsidiary may be used as a channeling*  
19 *agent of the States for requesting and distributing informa-*  
20 *tion between the Department of Justice and the appropriate*  
21 *State agencies.*

22 **SEC. 111. CONFIDENTIALITY OF INFORMATION.**

23 (a) *SYSTEM CONFIDENTIALITY.*—*Except as otherwise*  
24 *provided in this section, any requirement under Federal or*  
25 *State law regarding the privacy or confidentiality of any*



1 *information or material provided to the Nationwide Mort-*  
2 *gage Licensing System and Registry or a system established*  
3 *by the Secretary under section 108, and any privilege aris-*  
4 *ing under Federal or State law (including the rules of any*  
5 *Federal or State court) with respect to such information*  
6 *or material, shall continue to apply to such information*  
7 *or material after the information or material has been dis-*  
8 *closed to the system. Such information and material may*  
9 *be shared with all State and Federal regulatory officials*  
10 *with mortgage industry oversight authority without the loss*  
11 *of privilege or the loss of confidentiality protections pro-*  
12 *vided by Federal and State laws.*

13 (b) *NONAPPLICABILITY OF CERTAIN REQUIRE-*  
14 *MENTS.—Information or material that is subject to a privi-*  
15 *lege or confidentiality under subsection (a) shall not be sub-*  
16 *ject to—*

17 (1) *disclosure under any Federal or State law*  
18 *governing the disclosure to the public of information*  
19 *held by an officer or an agency of the Federal Govern-*  
20 *ment or the respective State; or*

21 (2) *subpoena or discovery, or admission into evi-*  
22 *dence, in any private civil action or administrative*  
23 *process, unless with respect to any privilege held by*  
24 *the Nationwide Mortgage Licensing System and Reg-*  
25 *istry or the Secretary with respect to such informa-*

1        *tion or material, the person to whom such informa-*  
2        *tion or material pertains waives, in whole or in part,*  
3        *in the discretion of such person, that privilege.*

4        *(c) COORDINATION WITH OTHER LAW.—Any State*  
5        *law, including any State open record law, relating to the*  
6        *disclosure of confidential supervisory information or any*  
7        *information or material described in subsection (a) that is*  
8        *inconsistent with subsection (a) shall be superseded by the*  
9        *requirements of such provision to the extent State law pro-*  
10       *vides less confidentiality or a weaker privilege.*

11       *(d) PUBLIC ACCESS TO INFORMATION.—This section*  
12       *shall not apply with respect to the information or material*  
13       *relating to the employment history of, and publicly adju-*  
14       *dicated disciplinary and enforcement actions against, loan*  
15       *originators that is included in Nationwide Mortgage Li-*  
16       *censing System and Registry for access by the public.*

17       **SEC. 112. LIABILITY PROVISIONS.**

18       *The Secretary, any State official or agency, any Fed-*  
19       *eral banking agency, or any organization serving as the ad-*  
20       *ministrator of the Nationwide Mortgage Licensing System*  
21       *and Registry or a system established by the Secretary under*  
22       *section 108, or any officer or employee of any such entity,*  
23       *shall not be subject to any civil action or proceeding for*  
24       *monetary damages by reason of the good-faith action or*  
25       *omission of any officer or employee of any such entity,*

1 *while acting within the scope of office or employment, relat-*  
2 *ing to the collection, furnishing, or dissemination of infor-*  
3 *mation concerning persons who are loan originators or are*  
4 *applying for licensing or registration as loan originators.*

5 **SEC. 113. ENFORCEMENT UNDER HUD BACKUP LICENSING**  
6 **SYSTEM.**

7 (a) *SUMMONS AUTHORITY.*—*The Secretary may—*

8 (1) *examine any books, papers, records, or other*  
9 *data of any loan originator operating in any State*  
10 *which is subject to a licensing system established by*  
11 *the Secretary under section 107; and*

12 (2) *summon any loan originator referred to in*  
13 *paragraph (1) or any person having possession, cus-*  
14 *tody, or care of the reports and records relating to*  
15 *such loan originator, to appear before the Secretary*  
16 *or any delegate of the Secretary at a time and place*  
17 *named in the summons and to produce such books,*  
18 *papers, records, or other data, and to give testimony,*  
19 *under oath, as may be relevant or material to an in-*  
20 *vestigation of such loan originator for compliance*  
21 *with the requirements of this subtitle.*

22 (b) *EXAMINATION AUTHORITY.*—

23 (1) *IN GENERAL.*—*If the Secretary establishes a*  
24 *licensing system under section 107 for any State, the*

1        *Secretary shall appoint examiners for the purposes of*  
2        *administering such section.*

3            (2) *POWER TO EXAMINE.*—*Any examiner ap-*  
4        *pointed under paragraph (1) shall have power, on be-*  
5        *half of the Secretary, to make any examination of*  
6        *any loan originator operating in any State which is*  
7        *subject to a licensing system established by the Sec-*  
8        *retary under section 107 whenever the Secretary de-*  
9        *termines an examination of any loan originator is*  
10       *necessary to determine the compliance by the origi-*  
11       *nator with this subtitle.*

12           (3) *REPORT OF EXAMINATION.*—*Each examiner*  
13       *appointed under paragraph (1) shall make a full and*  
14       *detailed report of examination of any loan originator*  
15       *examined to the Secretary.*

16           (4) *ADMINISTRATION OF OATHS AND AFFIRMA-*  
17       *TIONS; EVIDENCE.*—*In connection with examinations*  
18       *of loan originators operating in any State which is*  
19       *subject to a licensing system established by the Sec-*  
20       *retary under section 107, or with other types of inves-*  
21       *tigations to determine compliance with applicable law*  
22       *and regulations, the Secretary and examiners ap-*  
23       *pointed by the Secretary may administer oaths and*  
24       *affirmations and examine and take and preserve tes-*

1        *timony under oath as to any matter in respect to the*  
2        *affairs of any such loan originator.*

3            (5) *ASSESSMENTS.*—*The cost of conducting any*  
4        *examination of any loan originator operating in any*  
5        *State which is subject to a licensing system estab-*  
6        *lished by the Secretary under section 107 shall be as-*  
7        *essed by the Secretary against the loan originator to*  
8        *meet the Secretary's expenses in carrying out such ex-*  
9        *amination.*

10        (c) *CEASE AND DESIST PROCEEDING.*—

11            (1) *AUTHORITY OF SECRETARY.*—*If the Sec-*  
12        *retary finds, after notice and opportunity for hearing,*  
13        *that any person is violating, has violated, or is about*  
14        *to violate any provision of this subtitle, or any regu-*  
15        *lation thereunder, with respect to a State which is*  
16        *subject to a licensing system established by the Sec-*  
17        *retary under section 107, the Secretary may publish*  
18        *such findings and enter an order requiring such per-*  
19        *son, and any other person that is, was, or would be*  
20        *a cause of the violation, due to an act or omission the*  
21        *person knew or should have known would contribute*  
22        *to such violation, to cease and desist from committing*  
23        *or causing such violation and any future violation of*  
24        *the same provision, rule, or regulation. Such order*  
25        *may, in addition to requiring a person to cease and*

1        *desist from committing or causing a violation, require*  
2        *such person to comply, or to take steps to effect com-*  
3        *pliance, with such provision or regulation, upon such*  
4        *terms and conditions and within such time as the*  
5        *Secretary may specify in such order. Any such order*  
6        *may, as the Secretary deems appropriate, require fu-*  
7        *ture compliance or steps to effect future compliance,*  
8        *either permanently or for such period of time as the*  
9        *Secretary may specify, with such provision or regula-*  
10       *tion with respect to any loan originator.*

11            (2) *HEARING.*—*The notice instituting pro-*  
12        *ceedings pursuant to paragraph (1) shall fix a hear-*  
13        *ing date not earlier than 30 days nor later than 60*  
14        *days after service of the notice unless an earlier or a*  
15        *later date is set by the Secretary with the consent of*  
16        *any respondent so served.*

17            (3) *TEMPORARY ORDER.*—*Whenever the Sec-*  
18        *retary determines that the alleged violation or threat-*  
19        *ened violation specified in the notice instituting pro-*  
20        *ceedings pursuant to paragraph (1), or the continu-*  
21        *ation thereof, is likely to result in significant dissipa-*  
22        *tion or conversion of assets, significant harm to con-*  
23        *sumers, or substantial harm to the public interest*  
24        *prior to the completion of the proceedings, the Sec-*  
25        *retary may enter a temporary order requiring the re-*

1        *spondent to cease and desist from the violation or*  
2        *threatened violation and to take such action to pre-*  
3        *vent the violation or threatened violation and to pre-*  
4        *vent dissipation or conversion of assets, significant*  
5        *harm to consumers, or substantial harm to the public*  
6        *interest as the Secretary deems appropriate pending*  
7        *completion of such proceedings. Such an order shall*  
8        *be entered only after notice and opportunity for a*  
9        *hearing, unless the Secretary determines that notice*  
10       *and hearing prior to entry would be impracticable or*  
11       *contrary to the public interest. A temporary order*  
12       *shall become effective upon service upon the respond-*  
13       *ent and, unless set aside, limited, or suspended by the*  
14       *Secretary or a court of competent jurisdiction, shall*  
15       *remain effective and enforceable pending the comple-*  
16       *tion of the proceedings.*

17                (4) *REVIEW OF TEMPORARY ORDERS.—*

18                        (A) *REVIEW BY SECRETARY.—At any time*  
19                        *after the respondent has been served with a tem-*  
20                        *porary cease-and-desist order pursuant to para-*  
21                        *graph (3), the respondent may apply to the Sec-*  
22                        *retary to have the order set aside, limited, or sus-*  
23                        *pending. If the respondent has been served with a*  
24                        *temporary cease-and-desist order entered without*  
25                        *a prior hearing before the Secretary, the respond-*

1            *ent may, within 10 days after the date on which*  
2            *the order was served, request a hearing on such*  
3            *application and the Secretary shall hold a hear-*  
4            *ing and render a decision on such application at*  
5            *the earliest possible time.*

6            *(B) JUDICIAL REVIEW.—Within—*

7                    *(i) 10 days after the date the respond-*  
8                    *ent was served with a temporary cease-and-*  
9                    *desist order entered with a prior hearing be-*  
10                   *fore the Secretary; or*

11                   *(ii) 10 days after the Secretary renders*  
12                   *a decision on an application and hearing*  
13                   *under paragraph (1), with respect to any*  
14                   *temporary cease-and-desist order entered*  
15                   *without a prior hearing before the Sec-*  
16                   *retary,*

17            *the respondent may apply to the United States*  
18            *district court for the district in which the re-*  
19            *spondent resides or has its principal place of*  
20            *business, or for the District of Columbia, for an*  
21            *order setting aside, limiting, or suspending the*  
22            *effectiveness or enforcement of the order, and the*  
23            *court shall have jurisdiction to enter such an*  
24            *order. A respondent served with a temporary*  
25            *cease-and-desist order entered without a prior*



1           *hearing before the Secretary may not apply to*  
2           *the court except after hearing and decision by the*  
3           *Secretary on the respondent's application under*  
4           *subparagraph (A).*

5           (C) *NO AUTOMATIC STAY OF TEMPORARY*  
6           *ORDER.—The commencement of proceedings*  
7           *under subparagraph (B) shall not, unless specifi-*  
8           *cally ordered by the court, operate as a stay of*  
9           *the Secretary's order.*

10          (5) *AUTHORITY OF THE SECRETARY TO PRO-*  
11          *HIBIT PERSONS FROM SERVING AS LOAN ORIGINA-*  
12          *TORS.—In any cease-and-desist proceeding under*  
13          *paragraph (1), the Secretary may issue an order to*  
14          *prohibit, conditionally or unconditionally, and per-*  
15          *manently or for such period of time as the Secretary*  
16          *shall determine, any person who has violated this sub-*  
17          *title or regulations thereunder, from acting as a loan*  
18          *originator if the conduct of that person demonstrates*  
19          *unfitness to serve as a loan originator.*

20          (d) *AUTHORITY OF THE SECRETARY TO ASSESS*  
21          *MONEY PENALTIES.—*

22                 (1) *IN GENERAL.—The Secretary may impose a*  
23                 *civil penalty on a loan originator operating in any*  
24                 *State which is subject to licensing system established*  
25                 *by the Secretary under section 107 if the Secretary*

1 *finds, on the record after notice and opportunity for*  
 2 *hearing, that such loan originator has violated or*  
 3 *failed to comply with any requirement of this subtitle*  
 4 *or any regulation prescribed by the Secretary under*  
 5 *this subtitle or order issued under subsection (c).*

6 (2) *MAXIMUM AMOUNT OF PENALTY.—The max-*  
 7 *imum amount of penalty for each act or omission de-*  
 8 *scribed in paragraph (1) shall be \$5,000 for each day*  
 9 *the violation continues.*

## 10 ***Subtitle B—Residential Mortgage*** 11 ***Loan Origination Standards***

### 12 ***SEC. 121. DEFINITIONS.***

13 *Section 103 of the Truth in Lending Act (15 U.S.C.*  
 14 *1602) is amended by adding at the end the following new*  
 15 *subsection:*

16 *“(cc) DEFINITIONS RELATING TO MORTGAGE ORIGINA-*  
 17 *TION AND RESIDENTIAL MORTGAGE LOANS.—*

18 *“(1) COMMISSION.—Unless otherwise specified,*  
 19 *the term ‘Commission’ means the Federal Trade Com-*  
 20 *mission.*

21 *“(2) FEDERAL BANKING AGENCIES.—The term*  
 22 *‘Federal banking agencies’ means the Board of Gov-*  
 23 *ernors of the Federal Reserve System, the Comptroller*  
 24 *of the Currency, the Director of the Office of Thrift*  
 25 *Supervision, the Federal Deposit Insurance Corpora-*

1        *tion, and the National Credit Union Administration*  
2        *Board.*

3                “(3) *MORTGAGE ORIGINATOR.*—*The term ‘mort-*  
4        *gage originator’—*

5                        “(A) *means any person who—*

6                                “(i) *takes a residential mortgage loan*  
7                                *application;*

8                                “(ii) *assists a consumer in obtaining*  
9                                *or applying to obtain a residential mort-*  
10                                *gage loan; or*

11                                “(iii) *offers or negotiates terms of a*  
12                                *residential mortgage loan, for direct or in-*  
13                                *direct compensation or gain, or in the ex-*  
14                                *pectation of direct or indirect compensation*  
15                                *or gain;*

16                                “(B) *includes any person who represents to*  
17                                *the public, through advertising or other means of*  
18                                *communicating or providing information (in-*  
19                                *cluding the use of business cards, stationery, bro-*  
20                                *chures, signs, rate lists, or other promotional*  
21                                *items), that such person can or will provide any*  
22                                *of the services or perform any of the activities*  
23                                *described in subparagraph (A); and*

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

1           *and who performs purely administrative or cler-*  
2           *ical tasks on behalf of a person who is described*  
3           *in any such subparagraph.*

4           “(4) *NATIONWIDE MORTGAGE LICENSING SYSTEM*  
5           *AND REGISTRY.—The term ‘Nationwide Mortgage Li-*  
6           *censing System and Registry’ has the same meaning*  
7           *as in section 102(5) of the Mortgage Reform and*  
8           *Anti-Predatory Lending Act of 2007.*

9           “(5) *OTHER DEFINITIONS RELATING TO MORT-*  
10          *GAGE ORIGINATOR.—For purposes of this subsection,*  
11          *a person ‘assists a consumer in obtaining or applying*  
12          *to obtain a residential mortgage loan’ by, among*  
13          *other things, advising on residential mortgage loan*  
14          *terms (including rates, fees, and other costs), pre-*  
15          *paring residential mortgage loan packages, or col-*  
16          *lecting information on behalf of the consumer with re-*  
17          *gard to a residential mortgage loan.*

18          “(6) *RESIDENTIAL MORTGAGE LOAN.—The term*  
19          *‘residential mortgage loan’ means any consumer cred-*  
20          *it transaction that is secured by a mortgage, deed of*  
21          *trust, or other equivalent consensual security interest*  
22          *on a dwelling or on residential real property that in-*  
23          *cludes a dwelling, other than a consumer credit trans-*  
24          *action under an open end credit plan or a reverse*  
25          *mortgage.*

1           “(7) *SECRETARY*.—The term ‘Secretary’, when  
2           used in connection with any transaction or person in-  
3           volved with a residential mortgage loan, means the  
4           Secretary of Housing and Urban Development.

5           “(8) *SECURITIZATION VEHICLE*.—The term  
6           ‘securitization vehicle’ means a trust, corporation,  
7           partnership, limited liability entity, or special pur-  
8           pose entity that—

9                   “(A) is the issuer, or is created by the  
10                  issuer, of mortgage pass-through certificates, par-  
11                  ticipation certificates, mortgage-backed securi-  
12                  ties, or other similar securities backed by a pool  
13                  of assets that includes residential mortgage loans;  
14                  and

15                  “(B) holds such loans.

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

1 **SEC. 122. RESIDENTIAL MORTGAGE LOAN ORIGINATION.**

2 (a) *IN GENERAL.*—Chapter 2 of the Truth in Lending  
3 Act (15 U.S.C. 1631 et seq.) is amended by inserting after  
4 section 129 the following new section:

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

6 “(a) *DUTY OF CARE.*—

7 “(1) *STANDARD.*—Subject to regulations pre-  
8 scribed under this subsection, each mortgage origi-  
9 nator shall, in addition to the duties imposed by oth-  
10 erwise applicable provisions of State or Federal  
11 law—

12 “(A) be qualified, registered, and, when re-  
13 quired, licensed as a mortgage originator in ac-  
14 cordance with applicable State or Federal law  
15 including subtitle A of title I of the Mortgage Re-  
16 form and Anti-Predatory Lending Act of 2007;

17 “(B) with respect to each consumer seeking  
18 or inquiring about a residential mortgage loan,  
19 diligently work to present the consumer with a  
20 range of residential mortgage loan products for  
21 which the consumer likely qualifies and which  
22 are appropriate to the consumer’s existing cir-  
23 cumstances, based on information known by, or  
24 obtained in good faith by, the originator;

25 “(C) make full, complete, and timely disclo-  
26 sure to each such consumer of—

1           “(i) the comparative costs and benefits  
2           of each residential mortgage loan product  
3           offered, discussed, or referred to by the origi-  
4           nator;

5           “(ii) the nature of the originator’s rela-  
6           tionship to the consumer (including the cost  
7           of the services to be provided by the origi-  
8           nator and a statement that the mortgage  
9           originator is or is not acting as an agent  
10          for the consumer, as the case may be); and

11          “(iii) any relevant conflicts of interest;

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

18          “(E) include the unique identifier of the  
19          originator provided by the Nationwide Mortgage  
20          Licensing System and Registry on all loan docu-  
21          ments.

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

1           “(A) *NO DUTY TO OFFER PRODUCTS FOR*  
2           *WHICH ORIGINATOR IS NOT AUTHORIZED TO*  
3           *TAKE AN APPLICATION.—Paragraph (1)(B) shall*  
4           *not be construed as requiring—*

5                     “(i) *a mortgage originator to present*  
6                     *to any consumer any specific residential*  
7                     *mortgage loan product that is offered by a*  
8                     *creditor which does not accept consumer re-*  
9                     *errals from, or consumer applications sub-*  
10                    *mitted by or through, such originator; or*

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

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

18                   “(i) *the mortgage originator deter-*  
19                    *mines in good faith, based on then existing*  
20                    *information and without undergoing a full*  
21                    *underwriting process, that the consumer has*  
22                    *a reasonable ability to repay and receives a*  
23                    *net tangible benefit (as determined in ac-*  
24                    *cordance with regulations prescribed under*  
25                    *section 129B(a)); and*



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

6           “(3) *RULES OF CONSTRUCTION.*—No provision of  
7           this subsection shall be construed as—

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

12          “(B) restricting a mortgage originator from  
13          holding himself or herself out as an agent or fi-  
14          diciary of a consumer subject to any additional  
15          duty, requirement, or limitation applicable to  
16          agents or fiduciaries under any Federal or State  
17          law.

18          “(4) *REGULATIONS.*—

19          “(A) *IN GENERAL.*—The Federal banking  
20          agencies, in consultation with the Secretary and  
21          the Commission, shall jointly prescribe regula-  
22          tions to—

23                  “(i) further define the duty established  
24                  under paragraph (1);

1           “(ii) implement the requirements of  
2           this subsection;

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

7           “(iv) establish such other requirements  
8           for any mortgage originator as such regu-  
9           latory agencies may determine to be appro-  
10          priate to meet the purposes of this sub-  
11          section.

12          “(B) *COMPLEMENTARY AND NONDUPLICA-*  
13          *TIVE DISCLOSURES.*—The agencies referred to in  
14          subparagraph (A) shall endeavor to make the re-  
15          quired disclosures to consumers under this sub-  
16          section complementary and nonduplicative with  
17          other disclosures for mortgage consumers to the  
18          extent such efforts—

19                 “(i) are practicable; and

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

23          “(5) *COMPLIANCE PROCEDURES REQUIRED.*—  
24          The Federal banking agencies shall prescribe regula-  
25          tions requiring depository institutions to establish

1       *and maintain procedures reasonably designed to as-*  
 2       *sure and monitor the compliance of such depository*  
 3       *institutions, the subsidiaries of such institutions, and*  
 4       *the employees of such institutions or subsidiaries with*  
 5       *the requirements of this section and the registration*  
 6       *procedures established under section 106 of the Mort-*  
 7       *gage Reform and Anti-Predatory Lending Act of*  
 8       *2007.”.*

9       **(b) CLERICAL AMENDMENT.**—*The table of sections for*  
 10      *chapter 2 of the Truth in Lending Act is amended by insert-*  
 11      *ing after the item relating to section 129 the following new*  
 12      *item:*

*“129A. Residential mortgage loan origination.”.*

13      **SEC. 123. ANTI-STEERING.**

14       *Section 129A of the Truth in Lending Act (as added*  
 15      *by section 122(a)) is amended by inserting after subsection*  
 16      *(a) the following new subsection:*

17       **“(b) PROHIBITION ON STEERING INCENTIVES.**—

18            *“(1) IN GENERAL.*—*No mortgage originator may*  
 19            *receive from any person, and no person may pay to*  
 20            *any mortgage originator, directly or indirectly, any*  
 21            *incentive compensation (including yield spread pre-*  
 22            *mium) that is based on, or varies with, the terms*  
 23            *(other than the amount of principal) of any loan that*  
 24            *is not a qualified mortgage (as defined in section*  
 25            *129B(c)(3)).*

1           “(2) *ANTI-STEERING REGULATIONS.*—*The Fed-*  
2           *eral banking agencies, in consultation with the Sec-*  
3           *retary and the Commission, shall jointly prescribe*  
4           *regulations to prohibit—*

5                   “(A) *mortgage originators from steering*  
6                   *any consumer to a residential mortgage loan*  
7                   *that—*

8                           “(i) *the consumer lacks a reasonable*  
9                           *ability to repay;*

10                           “(ii) *does not provide the consumer*  
11                           *with a net tangible benefit; 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                   *129B(c)(3)) to a residential mortgage loan that*  
20                   *is not a qualified mortgage; and*

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

1           “(3) *RULES OF CONSTRUCTION.*—No provision of  
2           *this subsection shall be construed as—*

3                   “(A) *limiting or affecting the ability of a*  
4                   *mortgage originator to sell residential mortgage*  
5                   *loans to subsequent purchasers;*

6                   “(B) *restricting a consumer’s ability to fi-*  
7                   *nance origination fees to the extent that such fees*  
8                   *were fully disclosed to the consumer earlier in*  
9                   *the application process and do not vary based on*  
10                   *the terms of the loan or the consumer’s decision*  
11                   *about whether to finance such fees; or*

12                   “(C) *prohibiting incentive payments to a*  
13                   *mortgage originator based on the number of resi-*  
14                   *dential mortgage loans originated within a spec-*  
15                   *ified period of time.”.*

16 **SEC. 124. LIABILITY.**

17           *Section 129A of the Truth in Lending Act is amended*  
18 *by inserting after subsection (b) (as added by section 123)*  
19 *the following new subsection:*

20                   “(c) *LIABILITY FOR VIOLATIONS.*—

21                   “(1) *IN GENERAL.*—*For purposes of providing a*  
22 *cause of action for any failure by a mortgage origi-*  
23 *nator to comply with any requirement imposed under*  
24 *this section and any regulation prescribed under this*  
25 *section, subsections (a) and (b) of section 130 shall be*

1       *applied with respect to any such failure by sub-*  
2       *stituting ‘mortgage originator’ for ‘creditor’ each*  
3       *place such term appears in each such subsection*

4               “(2) *MAXIMUM.*—*The maximum amount of any*  
5       *liability of a mortgage originator under paragraph*  
6       *(1) to a consumer for any violation of this section*  
7       *shall not exceed an amount equal to 3 times the total*  
8       *amount of direct and indirect compensation or gain*  
9       *accruing to the mortgage originator in connection*  
10       *with the residential mortgage loan involved in the*  
11       *violation, plus the costs to the consumer of the action,*  
12       *including a reasonable attorney’s fee.”.*

13       **SEC. 125. REGULATIONS.**

14       *The regulations required or authorized to be prescribed*  
15       *under this title or the amendments made by this title—*

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

19               (2) *shall take effect not later than 18 months*  
20       *after the date of the enactment of this Act.*

21       **TITLE II—MINIMUM STANDARDS**  
22       **FOR MORTGAGES**

23       **SEC. 201. ABILITY TO REPAY.**

24       (a) *IN GENERAL.*—*Chapter 2 of the Truth in Lending*  
25       *Act (15 U.S.C. 1631 et seq.) is amended by inserting after*

1 *section 129A (as added by section 122(a)) the following new*  
2 *section:*

3 **“§ 129B. Minimum standards for residential mortgage**  
4 **loans**

5 “(a) *ABILITY TO REPAY.*—

6 “(1) *IN GENERAL.*—*In accordance with regula-*  
7 *tions prescribed jointly by the Federal banking agen-*  
8 *cies, in consultation with the Commission, no creditor*  
9 *may make a residential mortgage loan unless the*  
10 *creditor makes a reasonable and good faith deter-*  
11 *mination based on verified and documented informa-*  
12 *tion that, at the time the loan is consummated, the*  
13 *consumer has a reasonable ability to repay the loan,*  
14 *according to its terms, and all applicable taxes, in-*  
15 *surance, and assessments.*

16 “(2) *MULTIPLE LOANS.*—*If the creditor knows,*  
17 *or has reason to know, that 1 or more residential*  
18 *mortgage loans secured by the same dwelling will be*  
19 *made to the same consumer, the creditor shall make*  
20 *a reasonable and good faith determination, based on*  
21 *verified and documented information, that the con-*  
22 *sumer has a reasonable ability to repay the combined*  
23 *payments of all loans on the same dwelling according*  
24 *to the terms of those loans and all applicable taxes,*  
25 *insurance, and assessments.*

1           “(3) *BASIS FOR DETERMINATION.*—*A determina-*  
2           *tion under this subsection of a consumer’s ability to*  
3           *repay a residential mortgage loan shall be based on*  
4           *consideration of the consumer’s credit history, current*  
5           *income, expected income the consumer is reasonably*  
6           *assured of receiving, current obligations, debt-to-in-*  
7           *come ratio, employment status, and other financial*  
8           *resources other than the consumer’s equity in the*  
9           *dwelling or real property that secures repayment of*  
10          *the loan.*

11           “(4) *NONSTANDARD LOANS.*—

12           “(A) *VARIABLE RATE LOANS THAT DEFER*  
13           *REPAYMENT OF ANY PRINCIPAL OR INTEREST.*—  
14           *For purposes of determining, under this sub-*  
15           *section, a consumer’s ability to repay a variable*  
16           *rate residential mortgage loan that allows or re-*  
17           *quires the consumer to defer the repayment of*  
18           *any principal or interest, the creditor shall take*  
19           *into consideration a fully amortizing repayment*  
20           *schedule.*

21           “(B) *INTEREST-ONLY LOANS.*—*For purposes*  
22           *of determining, under this subsection, a con-*  
23           *sumer’s ability to repay a residential mortgage*  
24           *loan that permits or requires the payment of in-*  
25           *terest only, the creditor shall take into consider-*



1            *ation the payment amount required to amortize*  
2            *the loan by its final maturity.*

3            *“(C) CALCULATION FOR NEGATIVE AMORTI-*  
4            *ZATION.—In making any determination under*  
5            *this subsection, a creditor shall also take into*  
6            *consideration any balance increase that may ac-*  
7            *cruer from any negative amortization provision.*

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

13           *“(i) the loan proceeds are fully dis-*  
14           *bursed on the date of the consummation of*  
15           *the loan;*

16           *“(ii) the loan is to be repaid in sub-*  
17           *stantially equal monthly amortizing pay-*  
18           *ments for principal and interest over the*  
19           *entire term of the loan with no balloon pay-*  
20           *ment, unless the loan contract requires more*  
21           *rapid repayment (including balloon pay-*  
22           *ment), in which case the contract’s repay-*  
23           *ment schedule shall be used in this calcula-*  
24           *tion; and*

1                   “(iii) the interest rate over the entire  
2                   term of the loan is a fixed rate equal to the  
3                   fully indexed rate at the time of the loan  
4                   closing, without considering the introduc-  
5                   tory rate.

6                   “(5) *FULLY-INDEXED RATE DEFINED.*—For pur-  
7                   poses of this subsection, the term ‘fully indexed rate’  
8                   means the index rate prevailing on a residential  
9                   mortgage loan at the time the loan is made plus the  
10                  margin that will apply after the expiration of any in-  
11                  troductory interest rates.”.

12                  (b) *CLERICAL AMENDMENT.*—The table of sections for  
13                  chapter 2 of the Truth in Lending Act is amended by insert-  
14                  ing after the item relating to section 129A (as added by  
15                  section 122(b)) the following new item:

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

16   **SEC. 202. NET TANGIBLE BENEFIT FOR REFINANCING OF**  
17   **RESIDENTIAL MORTGAGE LOANS.**

18                  Section 129B of the Truth in Lending Act (as added  
19                  by section 201(a)) is amended by inserting after subsection  
20                  (a) the following new subsection:

21                  “(b) *NET TANGIBLE BENEFIT FOR REFINANCING OF*  
22                  *RESIDENTIAL MORTGAGE LOANS.*—

23                                       “(1) *IN GENERAL.*—In accordance with regula-  
24                  tions prescribed under paragraph (3), no creditor  
25                  may extend credit in connection with any residential

1        *mortgage loan that involves a refinancing of a prior*  
2        *existing residential mortgage loan unless the creditor*  
3        *reasonably and in good faith determines, at the time*  
4        *the loan is consummated and on the basis of informa-*  
5        *tion known by or obtained in good faith by the cred-*  
6        *itor, that the refinanced loan will provide a net tan-*  
7        *gible benefit to the consumer.*

8                *“(2) CERTAIN LOANS PROVIDING NO NET TAN-*  
9        *GIBLE BENEFIT.—A residential mortgage loan that*  
10        *involves a refinancing of a prior existing residential*  
11        *mortgage loan shall not be considered to provide a net*  
12        *tangible benefit to the consumer if the costs of the refi-*  
13        *nanced loan, including points, fees and other charges,*  
14        *exceed the amount of any newly advanced principal*  
15        *without any corresponding changes in the terms of the*  
16        *refinanced loan that are advantageous to the con-*  
17        *sumer.*

18                *“(3) NET TANGIBLE BENEFIT.—The Federal*  
19        *banking agencies shall jointly prescribe regulations*  
20        *defining the term ‘net tangible benefit’ for purposes of*  
21        *this subsection.”.*

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

23        *Section 129B of the Truth in Lending Act is amended*  
24        *by inserting after subsection (b) (as added by section 202)*  
25        *the following new subsection:*

1       “(c) *PRESUMPTION OF ABILITY TO REPAY AND NET*  
2 *TANGIBLE BENEFIT.*—

3               “(1) *IN GENERAL.*—*Any creditor with respect to*  
4 *any residential mortgage loan, and any assignee or*  
5 *securitizer of such loan, may presume that the loan*  
6 *has met the requirements of subsections (a) and (b),*  
7 *if the loan is a qualified mortgage or a qualified safe*  
8 *harbor mortgage.*

9               “(2) *REBUTTABLE PRESUMPTION.*—*Any pre-*  
10 *sumption established under paragraph (1) with re-*  
11 *spect to any residential mortgage loan shall be rebut-*  
12 *table only—*

13                       “(A) *against the creditor of such loan; and*

14                       “(B) *if such loan is a qualified safe harbor*  
15 *mortgage.*

16               “(3) *DEFINITIONS.*—*For purposes of this section*  
17 *the following definitions shall apply:*

18                       “(A) *MOST RECENT CONVENTIONAL MORT-*  
19 *GAGE RATE.*—*The term ‘most recent conventional*  
20 *mortgage rate’ means the contract interest rate*  
21 *on commitments for fixed-rate first mortgages*  
22 *most recently published in the Federal Reserve*  
23 *Statistical Release on selected interest rates*  
24 *(daily or weekly), and commonly referred to as*  
25 *the H.15 release (or any successor publication),*

1           *in the week preceding a date of determination for*  
2           *purposes of applying this subsection.*

3           “(B) *QUALIFIED MORTGAGE.*—*The term*  
4           *‘qualified mortgage’ means—*

5                   “(i) *any residential mortgage loan that*  
6                   *constitutes a first lien on the dwelling or*  
7                   *real property securing the loan and either—*

8                           “(I) *has an annual percentage*  
9                           *rate that does not equal or exceed the*  
10                           *yield on securities issued by the Sec-*  
11                           *retary of the Treasury under chapter*  
12                           *31 of title 31, United States Code, that*  
13                           *bear comparable periods of maturity*  
14                           *by more than 3 percentage points; or*

15                           “(II) *has an annual percentage*  
16                           *rate that does not equal or exceed the*  
17                           *most recent conventional mortgage*  
18                           *rate, or such other annual percentage*  
19                           *rate as may be established by regula-*  
20                           *tion under paragraph (6), by more*  
21                           *than 175 basis points;*

22                           “(ii) *any residential mortgage loan*  
23                           *that is not the first lien on the dwelling or*  
24                           *real property securing the loan and either—*

1           “(I) has an annual percentage  
2           rate that does not equal or exceed the  
3           yield on securities issued by the Sec-  
4           retary of the Treasury under chapter  
5           31 of title 31, United States Code, that  
6           bear comparable periods of maturity  
7           by more than 5 percentage points; or

8           “(II) has an annual percentage  
9           rate that does not equal or exceed the  
10          most recent conventional mortgage  
11          rate, or such other annual percentage  
12          rate as may be established by regula-  
13          tion under paragraph (6), by more  
14          than 375 basis points; and

15          “(iii) a loan made or guaranteed by  
16          the Secretary of Veterans Affairs.

17          “(C) **QUALIFIED SAFE HARBOR MORT-**  
18          **GAGE.**—The term ‘qualified safe harbor mort-  
19          gage’ means any residential mortgage loan—

20                 “(i) for which the income and finan-  
21                 cial resources of the consumer are verified  
22                 and documented;

23                 “(ii) for which the residential mortgage  
24                 loan underwriting process is based on the  
25                 fully-indexed rate, and takes into account

1           *all applicable taxes, insurance, and assess-*  
2           *ments;*

3           “(iii) *which does not provide for a re-*  
4           *payment schedule that results in negative*  
5           *amortization at any time;*

6           “(iv) *meets such other requirements as*  
7           *may be established by regulation; and*

8           “(v) *for which any of the following fac-*  
9           *tors apply with respect to such loan:*

10           “(I) *The periodic payment*  
11           *amount for principal and interest are*  
12           *fixed for a minimum of 5 years under*  
13           *the terms of the loan.*

14           “(II) *In the case of a variable rate*  
15           *loan, the annual percentage rate varies*  
16           *based on a margin that is less than 3*  
17           *percent over a single generally accepted*  
18           *interest rate index that is the basis for*  
19           *determining the rate of interest for the*  
20           *mortgage.*

21           “(III) *The loan does not cause the*  
22           *consumer’s total monthly debts, includ-*  
23           *ing amounts under the loan, to exceed*  
24           *a percentage established by regulation*  
25           *of his or her monthly gross income or*

1                    *such other maximum percentage of*  
2                    *such income as may be prescribed by*  
3                    *regulation under paragraph (6).*

4                    “(4) *DETERMINATION OF COMPARISON TO*  
5                    *TREASURY SECURITIES.—*

6                    “(A) *IN GENERAL.—Without regard to*  
7                    *whether a residential mortgage loan is subject to*  
8                    *or reportable under the Home Mortgage Disclo-*  
9                    *sure Act of 1975 and subject to subparagraph*  
10                    *(B), the difference between the annual percentage*  
11                    *rate of such loan and the yield on securities*  
12                    *issued by the Secretary of the Treasury under*  
13                    *chapter 31 of title 31, United States Code, hav-*  
14                    *ing comparable periods of maturity shall be de-*  
15                    *termined using the same procedures and methods*  
16                    *of calculation applicable to loans that are subject*  
17                    *to the reporting requirements under the Home*  
18                    *Mortgage Disclosure Act of 1975.*

19                    “(B) *DATE OF DETERMINATION OF*  
20                    *YIELD.—The yield on the securities referred to in*  
21                    *subparagraph (A) shall be determined, for pur-*  
22                    *poses of such subparagraph and paragraph (3)*  
23                    *with respect to any residential mortgage loan, as*  
24                    *of the 15th day of the month preceding the*



1           *month in which a completed application is sub-*  
2           *mitted for such loan.*

3           “(5) *APR IN CASE OF INTRODUCTORY OFFER.*—

4           *For purposes of making a determination of whether*  
5           *a residential mortgage loan that provides for a fixed*  
6           *interest rate for an introductory period and then*  
7           *resets or adjusts to a variable rate is a qualified*  
8           *mortgage, the determination of the annual percentage*  
9           *rate, as determined in accordance with regulations*  
10           *prescribed by the Board under section 107, shall be*  
11           *based on the greater of the introductory rate and the*  
12           *fully indexed rate of interest.*

13           “(6) *REGULATIONS.*—

14           “(A) *IN GENERAL.*—*The Federal banking*  
15           *agencies shall jointly prescribe regulations to*  
16           *carry out the purposes of this subsection.*

17           “(B) *REVISION OF SAFE HARBOR CRI-*  
18           *TERIA.*—*The Federal banking agencies may*  
19           *jointly prescribe regulations that revise, add to,*  
20           *or subtract from the criteria that define a quali-*  
21           *fied mortgage and a qualified safe harbor mort-*  
22           *gage to the extent necessary and appropriate to*  
23           *effectuate the purposes of this subsection, to pre-*  
24           *vent circumvention or evasion of this subsection,*  
25           *or to facilitate compliance with this subsection.*

1           “(7) *RULE OF CONSTRUCTION.*—No provision of  
2           *this subsection may be construed as implying that a*  
3           *residential mortgage loan may be presumed to violate*  
4           *subsection (a) or (b) if such loan is not a qualified*  
5           *mortgage or a qualified safe harbor mortgage.”.*

6   **SEC. 204. LIABILITY.**

7           *Section 129B of the Truth in Lending Act is amended*  
8           *by inserting after subsection (c) (as added by section 203)*  
9           *the following new subsection:*

10          “(d) *LIABILITY FOR VIOLATIONS.*—

11           “(1) *IN GENERAL.*—

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

24           “(B) *CURE.*—*A creditor shall not be liable*  
25           *for rescission under subparagraph (A) with re-*

1           *spect to a residential mortgage loan if, no later*  
2           *than 90 days after the receipt of notification*  
3           *from the consumer that the loan violates sub-*  
4           *section (a) or (b), the creditor provides a cure.*

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

14                   “(A) *Rescission of the loan.*

15                   “(B) *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           “(3) *ASSIGNEE AND SECURITIZER EXEMPTION.—*  
20           *No assignee or securitizer of a residential mortgage*  
21           *loan shall be liable under paragraph (2) with respect*  
22           *to such loan if—*

23                   “(A) *no later than 90 days after the receipt*  
24                   *of notification from the consumer that the loan*  
25                   *violates subsection (a) or (b), the assignee or*

1           *securitizer provides a cure so that the loan satis-*  
2           *fies the requirements of subsections (a) and (b);*  
3           *or*

4           *“(B) each of the following conditions are*  
5           *met:*

6                   *“(i) The assignee or securitizer—*

7                           *“(I) has a policy against buying*  
8                           *residential mortgage loans other than*  
9                           *qualified mortgages or qualified safe*  
10                           *harbor mortgages (as defined in sub-*  
11                           *section (c));*

12                           *“(II) the policy is intended to*  
13                           *verify seller or assignor compliance*  
14                           *with the representations and warran-*  
15                           *ties required under clause (ii); and*

16                           *“(III) in accordance with regula-*  
17                           *tions which the Federal banking agen-*  
18                           *cies and the Securities and Exchange*  
19                           *Commission shall jointly prescribe, ex-*  
20                           *ercises reasonable due diligence to ad-*  
21                           *here to such policy in purchasing resi-*  
22                           *dential mortgage loans, including*  
23                           *through adequate, thorough, and con-*  
24                           *sistently applied sampling procedures.*

1           “(ii) *The contract under which such*  
2           *assignee or securitizer acquired the residen-*  
3           *tial mortgage loan from a seller or assignor*  
4           *of the loan contains representations and*  
5           *warranties that the seller or assignor—*

6                   “(I) *is not selling or assigning*  
7                   *any residential mortgage loan which is*  
8                   *not a qualified mortgage or a qualified*  
9                   *safe harbor mortgage; or*

10                   “(II) *is a beneficiary of a rep-*  
11                   *resentation and warranty from a pre-*  
12                   *vious seller or assignor to that effect,*  
13                   *and the assignee or securitizer in good faith*  
14                   *takes reasonable steps to obtain the benefit*  
15                   *of such representation or warranty.*

16           “(4) *CURE DEFINED.—For purposes of this sub-*  
17           *section, the term ‘cure’ means, with respect to a resi-*  
18           *dential mortgage loan that violates subsection (a) or*  
19           *(b), the modification or refinancing, at no cost to the*  
20           *consumer, of the loan to provide terms that would*  
21           *have satisfied the requirements of subsection (a) and*  
22           *(b) if the loan had contained such terms as of the*  
23           *origination of the loan.*

24           “(5) *DISAGREEMENT OVER CURE.—If any cred-*  
25           *itor, assignee, or securitizer and a consumer fail to*

1        *reach agreement on a cure with respect to a residen-*  
2        *tial mortgage loan that violates subsection (a) or (b),*  
3        *or the consumer fails to accept a cure proffered by a*  
4        *creditor, assignee, or securitizer—*

5                *“(A) the creditor, assignee, or securitizer*  
6                *may provide the cure; and*

7                *“(B) the consumer may challenge the ade-*  
8                *quacy of the cure during the 6-month period be-*  
9                *ginning when the cure is provided.*

10        *If the consumer’s challenge, under this paragraph, of*  
11        *a cure is successful, the creditor, assignee, or*  
12        *securitizer shall be liable to the consumer for rescis-*  
13        *sion of the loan and such additional costs under*  
14        *paragraph (2).*

15                *“(6) INABILITY TO PROVIDE RESCISSION.—If a*  
16                *creditor, assignee, or securitizer cannot provide rescis-*  
17                *sion under paragraph (1) or (2), the liability of such*  
18                *creditor, assignee, or securitizer shall be met by pro-*  
19                *viding the financial equivalent of a rescission, to-*  
20                *gether with such additional costs as the obligor may*  
21                *have incurred as a result of the violation and in con-*  
22                *nection with obtaining a rescission of the loan, in-*  
23                *cluding a reasonable attorney’s fee.*

24                *“(7) NO CLASS ACTIONS AGAINST ASSIGNEE OR*  
25                *SECURITIZER UNDER PARAGRAPH (2).—Only indi-*

1        *vidual actions may be brought against an assignee or*  
2        *securitizer of a residential mortgage loan for a viola-*  
3        *tion of subsection (a) or (b).*

4                *“(8) STATUTE OF LIMITATIONS.—The liability of*  
5        *a creditor, assignee, or securitizer under this sub-*  
6        *section shall apply in any original action against a*  
7        *creditor under paragraph (1) or an assignee or*  
8        *securitizer under paragraph (2) which is brought be-*  
9        *fore—*

10                *“(A) in the case of any residential mortgage*  
11        *loan other than a loan to which subparagraph*  
12        *(B) applies, the end of the 3-year period begin-*  
13        *ning on the date the loan is consummated; or*

14                *“(B) in the case of a residential mortgage*  
15        *loan that provides for a fixed interest rate for an*  
16        *introductory period and then resets or adjusts to*  
17        *a variable rate or that provides for a nonamor-*  
18        *tizing payment schedule and then converts to an*  
19        *amortizing payment schedule, the earlier of—*

20                *“(i) the end of the 1-year period begin-*  
21        *ning on the date of such reset, adjustment,*  
22        *or conversion; or*

23                *“(ii) the end of the 6-year period be-*  
24        *ginning on the date the loan is con-*  
25        *summated.*

1           “(9) *POOLS AND INVESTORS IN POOLS EX-*  
2           *CLUDED.—In the case of residential mortgage loans*  
3           *acquired or aggregated for the purpose of including*  
4           *such loans in a pool of assets held for the purpose of*  
5           *issuing or selling instruments representing interests*  
6           *in such pools including through a securitization vehi-*  
7           *cle, the terms ‘assignee’ and ‘securitizer’, as used in*  
8           *this section, do not include the securitization vehicle,*  
9           *the pools of such loans or any original or subsequent*  
10           *purchaser of any interest in the securitization vehicle*  
11           *or any instrument representing a direct or indirect*  
12           *interest in such pool.”.*

13 **SEC. 205. DEFENSE TO FORECLOSURE.**

14           *Section 129B of the Truth in Lending Act is amended*  
15           *by inserting after subsection (d) (as added by section 204)*  
16           *the following new subsection:*

17           “(e) *DEFENSE TO FORECLOSURE.—Notwithstanding*  
18           *any other provision of law—*

19                   “(1) *when the holder of a residential mortgage*  
20                   *loan or anyone acting for such holder initiates a judi-*  
21                   *cial or nonjudicial foreclosure—*

22                           “(A) *a consumer who has the right to re-*  
23                           *scind under this section with respect to such loan*  
24                           *against the creditor or any assignee or*  
25                           *securitizer may assert such right as a defense to*



1       *foreclosure or counterclaim to such foreclosure*  
2       *against the holder, or*

3               “(B) *if the foreclosure proceeding begins*  
4       *after the end of the period during which a con-*  
5       *sumer may bring an action for rescission under*  
6       *subsection (d), the consumer may seek actual*  
7       *damages incurred by reason of the violation*  
8       *which gave rise to the right of rescission, together*  
9       *with costs of the action, including a reasonable*  
10       *attorney’s fee against the creditor or any as-*  
11       *signee or securitizer; and*

12               “(2) *such holder or anyone acting for such holder*  
13       *or any other applicable third party may sell, transfer,*  
14       *convey, or assign a residential mortgage loan to a*  
15       *creditor, any assignee, or any securitizer, or their des-*  
16       *ignees, to effect a rescission or cure.”.*

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

18       (a) *IN GENERAL.*—*Section 129B of the Truth in Lend-*  
19       *ing Act is amended by inserting after subsection (e) (as*  
20       *added by section 205) the following new subsections:*

21               “(f) *PROHIBITION ON CERTAIN PREPAYMENT PEN-*  
22       *ALTIES.*—

23               “(1) *PROHIBITED ON CERTAIN LOANS.*—*A resi-*  
24       *dential mortgage loan that is not a qualified mort-*  
25       *gage (as defined in subsection (c)) may not contain*

1        *terms under which a consumer must pay a prepay-*  
2        *ment penalty for paying all or part of the principal*  
3        *after the loan is consummated.*

4                “(2) *PROHIBITED AFTER INITIAL PERIOD ON*  
5        *LOANS WITH A RESET.*—*A qualified mortgage with a*  
6        *fixed interest rate for an introductory period that ad-*  
7        *justs or resets after such period may not contain*  
8        *terms under which a consumer must pay a prepay-*  
9        *ment penalty for paying all or part of the principal*  
10       *after the beginning of the 3-month period ending on*  
11       *the date of the adjustment or reset.*

12               “(g) *SINGLE PREMIUM CREDIT INSURANCE PROHIB-*  
13 *ITED.*—*No creditor may finance, directly or indirectly, in*  
14 *connection with any residential mortgage loan or with any*  
15 *extension of credit under an open end consumer credit plan*  
16 *secured by the principal dwelling of the consumer (other*  
17 *than a reverse mortgage), any credit life, credit disability,*  
18 *credit unemployment or credit property insurance, or any*  
19 *other accident, loss-of-income, life or health insurance, or*  
20 *any payments directly or indirectly for any debt cancella-*  
21 *tion or suspension agreement or contract, except that insur-*  
22 *ance premiums or debt cancellation or suspension fees cal-*  
23 *culated and paid in full on a monthly basis shall not be*  
24 *considered financed by the creditor.*

25               “(h) *ARBITRATION.*—

1           “(1) *IN GENERAL.*—No residential mortgage loan  
2           and no extension of credit under an open end con-  
3           sumer credit plan secured by the principal dwelling  
4           of the consumer, other than a reverse mortgage, may  
5           include terms which require arbitration or any other  
6           nonjudicial procedure as the method for resolving any  
7           controversy or settling any claims arising out of the  
8           transaction.

9           “(2) *POST-CONTROVERSY AGREEMENTS.*—Subject  
10          to paragraph (3), paragraph (1) shall not be con-  
11          strued as limiting the right of the consumer and the  
12          creditor, any assignee, or any securitizer to agree to  
13          arbitration or any other nonjudicial procedure as the  
14          method for resolving any controversy at any time  
15          after a dispute or claim under the transaction arises.

16          “(3) *NO WAIVER OF STATUTORY CAUSE OF AC-*  
17          *TION.*—No provision of any residential mortgage loan  
18          or of any extension of credit under an open end con-  
19          sumer credit plan secured by the principal dwelling  
20          of the consumer (other than a reverse mortgage), and  
21          no other agreement between the consumer and the  
22          creditor relating to the residential mortgage loan or  
23          extension of credit referred to in paragraph (1), shall  
24          be applied or interpreted so as to bar a consumer  
25          from bringing an action in an appropriate district

1       *court of the United States, or any other court of com-*  
2       *petent jurisdiction, pursuant to section 130 or any*  
3       *other provision of law, for damages or other relief in*  
4       *connection with any alleged violation of this section,*  
5       *any other provision of this title, or any other Federal*  
6       *law.*

7       “(i) *DUTY OF SECURITIZER TO RETAIN ACCESS TO*  
8       *LOANS.—Any securitizer shall reserve the right and pre-*  
9       *serve an ability, in any document or contract establishing*  
10      *any pool of assets that includes any residential mortgage*  
11      *loan—*

12             “(1) *to identify and obtain access to any such*  
13      *loan in the pool; and*

14             “(2) *to provide for and obtain a remedy under*  
15      *this title for the obligor under any such loan.*

16      “(j) *EFFECT OF FORECLOSURE ON PREEXISTING*  
17      *LEASE.—*

18             “(1) *IN GENERAL.—In the case of any foreclosure*  
19      *on any dwelling or residential real property securing*  
20      *an extension of credit made under a contract entered*  
21      *into after the date of the enactment of the Mortgage*  
22      *Reform and Anti-Predatory Lending Act of 2007, any*  
23      *successor in interest in such property pursuant to the*  
24      *foreclosure shall assume such interest subject to—*

1           “(A) any bona fide lease made to a bona  
2           fide tenant entered into before the notice of fore-  
3           closure; and

4           “(B) the rights of any bona fide tenant  
5           without a lease or with a lease terminable at will  
6           under State law and the provision, by the suc-  
7           cessor in interest, of a notice to vacate to the ten-  
8           ant at least 90 days before the effective date of  
9           the notice.

10          “(2) *BONA FIDE LEASE OR TENANCY.*—For pur-  
11          poses of this section, a lease or tenancy shall be con-  
12          sidered bona fide only if—

13                 “(A) the lease or tenancy was the result of  
14                 an arms-length transaction; or

15                 “(B) the lease or tenancy requires the ten-  
16                 ant to pay rent that is not substantially less  
17                 than fair market rent for the property.

18          “(k) *MORTGAGES WITH NEGATIVE AMORTIZATION.*—  
19          No creditor may extend credit to a first-time borrower in  
20          connection with a consumer credit transaction under an  
21          open or closed end consumer credit plan secured by a dwell-  
22          ing or residential real property that includes a dwelling,  
23          other than a reverse mortgage, that provides or permits a  
24          payment plan that may, at any time over the term of the

1 *extension of credit, result in negative amortization unless,*  
2 *before such transaction is consummated—*

3           “(1) *the creditor provides the consumer with a*  
4 *statement that—*

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

8                   “(B) *describes negative amortization in*  
9 *such manner as the Federal banking agencies*  
10 *shall prescribe;*

11                   “(C) *negative amortization increases the*  
12 *outstanding principal balance of the account;*  
13 *and*

14                   “(D) *negative amortization reduces the con-*  
15 *sumer’s equity in the dwelling or real property;*  
16 *and*

17           “(2) *the consumer provides the creditor with suf-*  
18 *ficient documentation to demonstrate that the con-*  
19 *sumer received homeownership counseling from orga-*  
20 *nizations or counselors certified by the Secretary of*  
21 *Housing and Urban Development as competent to*  
22 *provide such counseling.*

23           “(l) *ANNUAL CONTACT INFORMATION.—At least once*  
24 *annually and whenever there is a change in ownership of*  
25 *a residential mortgage loan, the servicer with respect to a*

1 residential mortgage loan shall provide a written notice to  
2 the consumer identifying the name of the creditor or any  
3 assignee or securitizer who should be contacted by the con-  
4 sumer for any reason concerning the consumer's rights with  
5 respect to the loan.”.

6 (b) *CONFORMING AMENDMENT RELATING TO EN-*  
7 *FORCEMENT.*—Section 108(a) of the Truth in Lending Act  
8 (15 U.S.C. 1607(a)) is amended by inserting after para-  
9 graph (6) the following new paragraph:

10 “(7) sections 21B and 21C of the Securities Ex-  
11 change Act of 1934, in the case of a broker or dealer,  
12 other than a depository institution, by the Securities  
13 and Exchange Commission.”.

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

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

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

23 (a) *IN GENERAL.*—Section 129B(d) of the Truth in  
24 Lending Act (as added by section 204) shall supersede any  
25 State law that provides additional remedies against any

1 assignee, securitizer, or securitization vehicle, and the rem-  
2 edies described in such section shall constitute the sole rem-  
3 edies against any assignee, securitizer, or securitization ve-  
4 hicle, for a violation of subsection (a) or (b) of section 129B  
5 of such Act (relating to ability to repay or net tangible ben-  
6 efit) or any other State law arising out of or relating to  
7 the specific subject matter of subsection (a) or (b) of such  
8 section 129B.

9 (b) *RULE OF CONSTRUCTION.*—No provision of this  
10 section shall be construed as limiting the application of any  
11 State law against a creditor. Nor shall any provision of  
12 this section be construed as limiting the application of any  
13 State law against any assignee, securitizer, or  
14 securitization vehicle that does not arise out of or relate  
15 to, or provide additional remedies in connection with, the  
16 specific subject matter of subsection (a) or (b) of section  
17 129B of the Truth in Lending Act.

18 **SEC. 209. REGULATIONS.**

19 *Regulations required or authorized to be prescribed*  
20 *under this title or the amendments made by this title—*

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

24 (2) *shall take effect not later than 18 months*  
25 *after the date of the enactment of this Act.*



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

2 (a) *INCREASE IN AMOUNT OF CIVIL MONEY PEN-*  
3 *ALTIES FOR CERTAIN VIOLATIONS.*—Section 130(a)(2) of  
4 *the Truth in Lending Act (15 U.S.C. 1640(a)(2))* is amend-  
5 *ed—*

- 6 (1) *by striking “\$100” and inserting “\$200”;*  
7 (2) *by striking “\$1,000” and inserting “\$2,000”;*  
8 (3) *by striking “\$200” and inserting “\$400”;*  
9 (4) *by striking “\$2,000” and inserting “\$4,000”;*  
10 *and*  
11 (5) *by striking “\$500,000” and inserting*  
12 *“\$1,000,000”.*

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

- 16 (1) *in the first sentence, by striking “Any ac-*  
17 *tion” and inserting “Except as provided in the subse-*  
18 *quent sentence, any action”;* and  
19 (2) *by inserting after the first sentence the fol-*  
20 *lowing new sentence: “Any action under this section*  
21 *with respect to any violation of section 129 may be*  
22 *brought in any United States district court, or in any*  
23 *other court of competent jurisdiction, before the end of*  
24 *the 3-year period beginning on the date of the occur-*  
25 *rence of the violation.”.*

1 **SEC. 211. REQUIRED DISCLOSURES.**

2 (a) *ADDITIONAL INFORMATION.*—Section 128(a) of  
3 *Truth in Lending Act (15 U.S.C. 1638(a))* is amended by  
4 *adding at the end the following new paragraphs:*

5 “(16) *In the case of an extension of credit that*  
6 *is secured by the dwelling of a consumer, under which*  
7 *the annual rate of interest is variable, or with respect*  
8 *to which the regular payments may otherwise be vari-*  
9 *able, in addition to the other disclosures required*  
10 *under this subsection, the disclosures provided under*  
11 *this subsection shall state the maximum amount of*  
12 *the regular required payments on the loan, based on*  
13 *the maximum interest rate allowed, introduced with*  
14 *the following language in conspicuous type size and*  
15 *format: ‘Your payment can go as high as \$\_\_\_\_’, the*  
16 *blank to be filled in with the maximum possible pay-*  
17 *ment amount.*

18 “(17) *In the case of a residential mortgage loan*  
19 *for which an escrow or impound account will be es-*  
20 *tablished for the payment of all applicable taxes, in-*  
21 *surance, and assessments, the following statement:*  
22 *‘Your payments will be increased to cover taxes and*  
23 *insurance. In the first year, you will pay an addi-*  
24 *tional \$\_\_\_\_ [insert the amount of the monthly pay-*  
25 *ment to the account] every month to cover the costs*  
26 *of taxes and insurance.’.*

1           “(18) *In the case of a variable rate residential*  
2 *mortgage loan for which an escrow or impound ac-*  
3 *count will be established for the payment of all appli-*  
4 *cable taxes, insurance, and assessments—*

5           “(A) *the amount of initial monthly pay-*  
6 *ment due under the loan for the payment of*  
7 *principal and interest, and the amount of such*  
8 *initial monthly payment including the monthly*  
9 *payment deposited in the account for the pay-*  
10 *ment of all applicable taxes, insurance, and as-*  
11 *sessments; and*

12           “(B) *the amount of the fully indexed month-*  
13 *ly payment due under the loan for the payment*  
14 *of principal and interest, and the amount of*  
15 *such fully indexed monthly payment including*  
16 *the monthly payment deposited in the account*  
17 *for the payment of all applicable taxes, insur-*  
18 *ance, and assessments.*

19           “(19) *In the case of a residential mortgage loan,*  
20 *the aggregate amount of settlement charges for all set-*  
21 *tlement services provided in connection with the loan,*  
22 *the amount of charges that are included in the loan*  
23 *and the amount of such charges the borrower must*  
24 *pay at closing, the approximate amount of the whole-*  
25 *sale rate of funds in connection with the loan, and the*

1       *aggregate amount of other fees or required payments*  
2       *in connection with the loan.*

3               “(20) *In the case of a residential mortgage loan,*  
4       *the aggregate amount of fees paid to the mortgage*  
5       *originator in connection with the loan, the amount of*  
6       *such fees paid directly by the consumer, and any ad-*  
7       *ditional amount received by the originator from the*  
8       *creditor based on the interest rate of the loan.”.*

9       **(b) TIMING.**—*Section 128(b) of the Truth in Lending*  
10 *Act (15 U.S.C. 1638(b)) is amended by adding at the end*  
11 *the following new paragraph:*

12               “(4) **RESIDENTIAL MORTGAGE LOAN DISCLO-**  
13 **SURES.**—*In the case of a residential mortgage loan,*  
14 *the information required to be disclosed under sub-*  
15 *section (a) with respect to such loan shall be disclosed*  
16 *before the earlier of—*

17                       “(A) *the time required under the first sen-*  
18                       *tence of paragraph (1); or*

19                       “(B) *the end of the 3-day period beginning*  
20                       *on the date the application for the loan from a*  
21                       *consumer is received by the creditor.”.*

22       **(c) ENHANCED MORTGAGE LOAN DISCLOSURES.**—*Sec-*  
23 *tion 128(b)(2) of the Truth in Lending Act (15 U.S.C.*  
24 *1638(b)(2)) is amended—*

1           (1) *by striking “(2) In the” and inserting the*  
2 *following:*

3           “(2) *MORTGAGE DISCLOSURES.—*

4                 *“(A) IN GENERAL.—In the”;*

5           (2) *by striking “a residential mortgage trans-*  
6 *action, as defined in section 103(w)” and inserting*  
7 *“any extension of credit that is secured by the dwell-*  
8 *ing of a consumer”;*

9           (3) *by striking “shall be made in accordance”*  
10 *and all that follows through “extended, or”;*

11           (4) *by striking “If the” and all that follows*  
12 *through the end of the paragraph and inserting the*  
13 *following new subparagraphs:*

14                 *“(B) STATEMENT AND TIMING OF DISCLO-*  
15 *SURES.—In the case of an extension of credit*  
16 *that is secured by the dwelling of a consumer, in*  
17 *addition to the other disclosures required by sub-*  
18 *section (a), the disclosures provided under this*  
19 *paragraph shall state in conspicuous type size*  
20 *and format, the following: ‘You are not required*  
21 *to complete this agreement merely because you*  
22 *have received these disclosures or signed a loan*  
23 *application.’.*

24                 *“(i) state in conspicuous type size and*  
25 *format, the following: ‘You are not required*

1           to complete this agreement merely because  
2           you have received these disclosures or signed  
3           a loan application.’; and

4                   “(ii) be furnished to the borrower not  
5           later than 7 business days before the date of  
6           consummation of the transaction, subject to  
7           subparagraph (D).

8                   “(C) *VARIABLE RATES OR PAYMENT SCHED-*  
9           *ULES.—In the case of an extension of credit that*  
10          *is secured by the dwelling of a consumer, under*  
11          *which the annual rate of interest is variable, or*  
12          *with respect to which the regular payments may*  
13          *otherwise be variable, in addition to the other*  
14          *disclosures required by subsection (a), the disclo-*  
15          *sures provided under this paragraph shall label*  
16          *the payment schedule as follows: ‘Payment*  
17          *Schedule: Payments Will Vary Based on Interest*  
18          *Rate Changes.’.*

19                   “(D) *UPDATING APR.—In any case in*  
20          *which the disclosure statement provided 7 busi-*  
21          *ness days before the date of consummation of the*  
22          *transaction contains an annual percentage rate*  
23          *of interest that is no longer accurate, as deter-*  
24          *mined under section 107(c), the creditor shall*  
25          *furnish an additional, corrected statement to the*

1            *borrower, not later than 3 business days before*  
2            *the date of consummation of the transaction.”.*

3 **SEC. 212. AUTHORIZATION OF APPROPRIATIONS.**

4            *For fiscal years 2008, 2009, 2010, 2011, and 2012,*  
5 *there are authorized to be appropriated to the Attorney Gen-*  
6 *eral a total of—*

7            (1) *\$31,250,000 to support the employment of 30*  
8 *additional agents of the Federal Bureau of Investiga-*  
9 *tion and 2 additional dedicated prosecutors at the De-*  
10 *partment of Justice to coordinate prosecution of mort-*  
11 *gage fraud efforts with the offices of the United States*  
12 *Attorneys; and*

13            (2) *\$750,000 to support the operations of inter-*  
14 *agency task forces of the Federal Bureau of Investiga-*  
15 *tion in the areas with the 15 highest concentrations*  
16 *of mortgage fraud.*

17 **SEC. 213. EFFECTIVE DATE.**

18            *The amendments made by this title shall apply to*  
19 *transactions consummated on or after the effective date of*  
20 *the regulations specified in Section 209.*

1                   **TITLE III—HIGH-COST**  
2                   **MORTGAGES**

3 **SEC. 301. DEFINITIONS RELATING TO HIGH-COST MORT-**  
4                   **GAGES.**

5           (a) *HIGH-COST MORTGAGE DEFINED.*—Section  
6 *103(aa) of the Truth in Lending Act (15 U.S.C. 1602(aa))*  
7 *is amended by striking all that precedes paragraph (2) and*  
8 *inserting the following:*

9           “(aa) *HIGH-COST MORTGAGE.*—

10           “(1) *DEFINITION.*—

11           “(A) *IN GENERAL.*—The term ‘high-cost  
12 *mortgage*’, and a mortgage referred to in this  
13 *subsection, means a consumer credit transaction*  
14 *that is secured by the consumer’s principal*  
15 *dwelling, other than a reverse mortgage trans-*  
16 *action, if—*

17           “(i) *in the case of a credit transaction*  
18 *secured—*

19           “(I) *by a first mortgage on the*  
20 *consumer’s principal dwelling, the an-*  
21 *ual percentage rate at consummation*  
22 *of the transaction will exceed by more*  
23 *than 8 percentage points the yield on*  
24 *Treasury securities having comparable*  
25 *periods of maturity on the 15th day of*



1           *the month immediately preceding the*  
2           *month in which the application for the*  
3           *extension of credit is received by the*  
4           *creditor; or*

5                     *“(II) by a subordinate or junior*  
6                     *mortgage on the consumer’s principal*  
7                     *dwelling, the annual percentage rate at*  
8                     *consummation of the transaction will*  
9                     *exceed by more than 10 percentage*  
10                    *points the yield on Treasury securities*  
11                    *having comparable periods of maturity*  
12                    *on the 15th day of the month imme-*  
13                    *diately preceding the month in which*  
14                    *the application for the extension of*  
15                    *credit is received by the creditor;*

16                    *“(ii) the total points and fees payable*  
17                    *in connection with the transaction exceed—*

18                             *“(I) in the case of a transaction*  
19                             *for \$20,000 or more, 5 percent (8 per-*  
20                             *cent if the dwelling is personal prop-*  
21                             *erty) of the total transaction amount;*  
22                             *or*

23                             *“(II) in the case of a transaction*  
24                             *for less than \$20,000, the lesser of 8*

1                    *percent of the total transaction amount*  
2                    *or \$1,000; or*

3                    *“(iii) the credit transaction documents*  
4                    *permit the creditor to charge or collect pre-*  
5                    *payment fees or penalties more than 36*  
6                    *months after the transaction closing or such*  
7                    *fees or penalties exceed, in the aggregate,*  
8                    *more than 2 percent of the amount prepaid.*

9                    *“(B) INTRODUCTORY RATES TAKEN INTO*  
10                    *ACCOUNT.—For purposes of subparagraph (A)(i),*  
11                    *the annual percentage rate of interest shall be de-*  
12                    *termined based on the following interest rate:*

13                    *“(i) In the case of a fixed-rate trans-*  
14                    *action in which the annual percentage rate*  
15                    *will not vary during the term of the loan,*  
16                    *the interest rate in effect on the date of con-*  
17                    *summation of the transaction.*

18                    *“(ii) In the case of a transaction in*  
19                    *which the rate of interest varies solely in*  
20                    *accordance with an index, the interest rate*  
21                    *determined by adding the index rate in ef-*  
22                    *fect on the date of consummation of the*  
23                    *transaction to the maximum margin per-*  
24                    *mitted at any time during the transaction*  
25                    *agreement.*

1           “(iii) *In the case of any other trans-*  
2           *action in which the rate may vary at any*  
3           *time during the term of the loan for any*  
4           *reason, the interest charged on the trans-*  
5           *action at the maximum rate that may be*  
6           *charged during the term of the trans-*  
7           *action.”.*

8           **(b) ADJUSTMENT OF PERCENTAGE POINTS.**—*Section*  
9           *103(aa)(2) of the Truth in Lending Act (15 U.S.C.*  
10           *1602(aa)(2)) is amended by striking subparagraph (B) and*  
11           *inserting the following new subparagraph:*

12                   “(B) *An increase or decrease under sub-*  
13                   *paragraph (A)—*

14                           “(i) *may not result in the number of*  
15                           *percentage points referred to in paragraph*  
16                           *(1)(A)(i)(I) being less than 6 percentage*  
17                           *points or greater than 10 percentage points;*  
18                           *and*

19                           “(ii) *may not result in the number of*  
20                           *percentage points referred to in paragraph*  
21                           *(1)(A)(i)(II) being less than 8 percentage*  
22                           *points or greater than 12 percentage*  
23                           *points.”.*

24           **(c) POINTS AND FEES DEFINED.**—

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

4           (A) *by striking subparagraph (B) and in-*  
5 *serting the following:*

6           “(B) *all compensation paid directly or in-*  
7 *directly by a consumer or creditor to a mortgage*  
8 *broker from any source, including a mortgage*  
9 *originator that originates a loan in the name of*  
10 *the originator in a table-funded transaction;”;*

11           (B) *in subparagraph (C)(ii), by inserting*  
12 *“except where applied to the charges set forth in*  
13 *section 106(e)(1) where a creditor may receive*  
14 *indirect compensation solely as a result of ob-*  
15 *taining distributions of profits from an affiliated*  
16 *entity based on its ownership interest in compli-*  
17 *ance with section 8(c)(4) of the Real Estate Set-*  
18 *tlement Procedures Act of 1974” before the semi-*  
19 *colon at the end;*

20           (C) *in subparagraph (C)(iii), by striking “;*  
21 *and” and inserting “, except as provided for in*  
22 *clause (ii);”;*

23           (D) *by redesignating subparagraph (D) as*  
24 *subparagraph (G); and*

1           (E) by inserting after subparagraph (C) the  
2 following new subparagraphs:

3           “(D) premiums or other charges payable at  
4 or before closing for any credit life, credit dis-  
5 ability, credit unemployment, or credit property  
6 insurance, or any other accident, loss-of-income,  
7 life or health insurance, or any payments di-  
8 rectly or indirectly for any debt cancellation or  
9 suspension agreement or contract, except that in-  
10 surance premiums or debt cancellation or sus-  
11 pension fees calculated and paid in full on a  
12 monthly basis shall not be considered financed  
13 by the creditor;

14           “(E) except as provided in subsection (cc),  
15 the maximum prepayment fees and penalties  
16 which may be charged or collected under the  
17 terms of the credit transaction;

18           “(F) all prepayment fees or penalties that  
19 are incurred by the consumer if the loan refi-  
20 nances a previous loan made or currently held  
21 by the same creditor or an affiliate of the cred-  
22 itor; and”.

23           (2) CALCULATION OF POINTS AND FEES FOR  
24 OPEN-END CONSUMER CREDIT PLANS.—Section

1        *103(aa) of the Truth in Lending Act (15 U.S.C.*  
2        *1602(aa)) is amended—*

3                *(A) by redesignating paragraph (5) as*  
4                *paragraph (6); and*

5                *(B) by inserting after paragraph (4) the fol-*  
6                *lowing new paragraph:*

7                *“(5) CALCULATION OF POINTS AND FEES FOR*  
8                *OPEN-END CONSUMER CREDIT PLANS.—In the case of*  
9                *open-end consumer credit plans, points and fees shall*  
10                *be calculated, for purposes of this section and section*  
11                *129, by adding the total points and fees known at or*  
12                *before closing, including the maximum prepayment*  
13                *penalties which may be charged or collected under the*  
14                *terms of the credit transaction, plus the minimum ad-*  
15                *ditional fees the consumer would be required to pay*  
16                *to draw down an amount equal to the total credit*  
17                *line.”.*

18                *(d) HIGH COST MORTGAGE LENDER.—Section 103(f)*  
19                *of the Truth in Lending Act (15 U.S.C. 1602(f)) is amended*  
20                *by striking the last sentence and inserting the following new*  
21                *sentence: “Any person who originates or brokers 2 or more*  
22                *mortgages referred to in subsection (aa) in any 12-month*  
23                *period, any person who originates 1 or more such mortgages*  
24                *through a mortgage broker in any 12 month period, or, in*  
25                *connection with a table funding transaction of such a mort-*

1 gage, any person to whom the obligation is initially as-  
 2 signed at or after settlement shall be considered to be a cred-  
 3 itor for purposes of this title.”.

4 (e) *BONA FIDE DISCOUNT LOAN DISCOUNT POINTS*  
 5 *AND PREPAYMENT PENALTIES.*—Section 103 of the Truth  
 6 in Lending Act (15 U.S.C. 1602) is amended by inserting  
 7 after subsection (cc) (as added by section 121) the following  
 8 new subsection:

9 “(dd) *BONA FIDE DISCOUNT POINTS AND PREPAY-*  
 10 *MENT PENALTIES.*—For the purposes of determining the  
 11 amount of points and fees for purposes of subsection (aa),  
 12 either the amounts described in paragraphs (1) or (4) of  
 13 the following paragraphs, but not both, may be excluded:

14 “(1) *EXCLUSION OF BONA FIDE DISCOUNT*  
 15 *POINTS.*—The discount points described in 1 of the  
 16 following subparagraphs shall be excluded from deter-  
 17 mining the amounts of points and fees with respect  
 18 to a high-cost mortgage for purposes of subsection  
 19 (aa):

20 “(A) Up to and including 2 bona fide dis-  
 21 count points payable by the consumer in connec-  
 22 tion with the mortgage, but only if the interest  
 23 rate from which the mortgage’s interest rate will  
 24 be discounted does not exceed by more than 1  
 25 percentage point the required net yield for a 90-

1           *day standard mandatory delivery commitment*  
2           *for a reasonably comparable loan from either the*  
3           *Federal National Mortgage Association or the*  
4           *Federal Home Loan Mortgage Corporation,*  
5           *whichever is greater.*

6           “(B) *Unless 2 bona fide discount points*  
7           *have been excluded under subparagraph (A), up*  
8           *to and including 1 bona fide discount point pay-*  
9           *able by the consumer in connection with the*  
10           *mortgage, but only if the interest rate from*  
11           *which the mortgage’s interest rate will be dis-*  
12           *counted does not exceed by more than 2 percent-*  
13           *age points the required net yield for a 90-day*  
14           *standard mandatory delivery commitment for a*  
15           *reasonably comparable loan from either the Fed-*  
16           *eral National Mortgage Association or the Fed-*  
17           *eral Home Loan Mortgage Corporation, which-*  
18           *ever is greater.*

19           “(2) *DEFINITION.—For purposes of paragraph*  
20           *(1), the term ‘bona fide discount points’ means loan*  
21           *discount points which are knowingly paid by the con-*  
22           *sumer for the purpose of reducing, and which in fact*  
23           *result in a bona fide reduction of, the interest rate or*  
24           *time-price differential applicable to the mortgage.*



1           “(3) *EXCEPTION FOR INTEREST RATE REDUC-*  
2           *TIONS INCONSISTENT WITH INDUSTRY NORMS.—Para-*  
3           *graph (1) shall not apply to discount points used to*  
4           *purchase an interest rate reduction unless the amount*  
5           *of the interest rate reduction purchased is reasonably*  
6           *consistent with established industry norms and prac-*  
7           *tices for secondary mortgage market transactions.*

8           “(4) *ALLOWANCE OF CONVENTIONAL PREPAY-*  
9           *MENT PENALTY.—Subsection (aa)(1)(4)(E) shall not*  
10          *apply so as to include a prepayment penalty or fee*  
11          *that is authorized by law other than this title and*  
12          *may be imposed pursuant to the terms of a high-cost*  
13          *mortgage (or other consumer credit transaction se-*  
14          *cured by the consumer’s principal dwelling) if—*

15               “(A) *the annual percentage rate applicable*  
16               *with respect to such mortgage or transaction (as*  
17               *determined for purposes of subsection*  
18               *(aa)(1)(A)(i))—*

19                       “(i) *in the case of a first mortgage on*  
20                       *the consumer’s principal dwelling, does not*  
21                       *exceed by more than 2 percentage points the*  
22                       *yield on Treasury securities having com-*  
23                       *parable periods of maturity on the 15th day*  
24                       *of the month immediately preceding the*  
25                       *month in which the application for the ex-*

1           *tension of credit is received by the creditor;*

2           *or*

3           *“(ii) in the case of a subordinate or*  
4           *junior mortgage on the consumer’s prin-*  
5           *cipal dwelling, does not exceed by more than*  
6           *4 percentage points the yield on such Treas-*  
7           *ury securities; and*

8           *“(B) the total amount of any prepayment*  
9           *fees or penalties permitted under the terms of the*  
10           *high-cost mortgage or transaction does not exceed*  
11           *2 percent of the amount prepaid.”.*

12 **SEC. 302. AMENDMENTS TO EXISTING REQUIREMENTS FOR**  
13           **CERTAIN MORTGAGES.**

14           *(a) PREPAYMENT PENALTY PROVISIONS.—Section*  
15           *129(c)(2) of the Truth in Lending Act (15 U.S.C.*  
16           *1639(c)(2)) is amended—*

17                   *(1) by striking “and” after the semicolon at the*  
18           *end of subparagraph (C);*

19                   *(2) by redesignating subparagraph (D) as sub-*  
20           *paragraph (E); and*

21                   *(3) by inserting after subparagraph (C) the fol-*  
22           *lowing new subparagraph:*

23                   *“(D) the amount of the principal obligation*  
24           *of the mortgage exceeds the maximum principal*  
25           *obligation limitation (for the applicable size resi-*

1           *dence) under section 203(b)(2) of the National*  
 2           *Housing Act for the area in which the residence*  
 3           *subject to the mortgage is located; and”.*

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

7           *“(e) NO BALLOON PAYMENTS.—No high-cost mortgage*  
 8           *may contain a scheduled payment that is more than twice*  
 9           *as large as the average of earlier scheduled payments. This*  
 10           *subsection shall not apply when the payment schedule is*  
 11           *adjusted to the seasonal or irregular income of the con-*  
 12           *sumer.”.*

13           *(c) NO LENDING WITHOUT DUE REGARD TO ABILITY*  
 14           *TO REPAY.—Section 129(h) of the Truth in Lending Act*  
 15           *(15 U.S.C. 1639(h)) is amended—*

16           *(1) by striking “PAYMENT ABILITY OF CON-*  
 17           *SUMER.—A creditor shall not” and inserting “PAY-*  
 18           *MENT ABILITY OF CONSUMER.—*

19           *“(1) PATTERN OR PRACTICE.—*

20           *“(A) IN GENERAL.—A creditor shall not”;*

21           *(2) by inserting after subparagraph (A) (as so*  
 22           *designated by paragraph (1) of this subsection) the*  
 23           *following new subparagraph:*

24           *“(B) PRESUMPTION OF VIOLATION.—There*  
 25           *shall be a presumption that a creditor has vio-*

1           *lated this subsection if the creditor engages in a*  
2           *pattern or practice of making high-cost mort-*  
3           *gages without verifying or documenting the re-*  
4           *payment ability of consumers with respect to*  
5           *such mortgages.”; and*

6           *(3) by adding at the end the following new para-*  
7           *graph:*

8           “(2) *PROHIBITION ON EXTENDING CREDIT WITH-*  
9           *OUT REGARD TO PAYMENT ABILITY OF CONSUMER.—*

10           “(A) *IN GENERAL.—A creditor may not ex-*  
11           *tend credit to a consumer under a high-cost*  
12           *mortgage unless a reasonable creditor would be-*  
13           *lieve at the time the mortgage is closed that the*  
14           *consumer or consumers that are residing or will*  
15           *reside in the residence subject to the mortgage*  
16           *will be able to make the scheduled payments as-*  
17           *sociated with the mortgage, based upon a consid-*  
18           *eration of current and expected income, current*  
19           *obligations, employment status, and other finan-*  
20           *cial resources, other than equity in the residence.*

21           “(B) *PRESUMPTION OF ABILITY.—For pur-*  
22           *poses of this subsection, there shall be a rebut-*  
23           *table presumption that a consumer is able to*  
24           *make the scheduled payments to repay the obli-*  
25           *gation if, at the time the high-cost mortgage is*

1           *consummated, the consumer's total monthly*  
2           *debts, including amounts under the mortgage, do*  
3           *not exceed 50 percent of his or her monthly gross*  
4           *income as verified by tax returns, payroll re-*  
5           *ceipts, or other third-party income verification.”.*

6 **SEC. 303. ADDITIONAL REQUIREMENTS FOR CERTAIN**  
7           **MORTGAGES.**

8           *(a) ADDITIONAL REQUIREMENTS FOR CERTAIN MORT-*  
9           *GAGES.—Section 129 of the Truth in Lending Act (15*  
10          *U.S.C. 1639) is amended—*

11           *(1) by redesignating subsections (j), (k) and (l)*  
12          *as subsections (n), (o) and (p) respectively; and*

13           *(2) by inserting after subsection (i) the following*  
14          *new subsections:*

15          *“(j) RECOMMENDED DEFAULT.—No creditor shall rec-*  
16          *ommend or encourage default on an existing loan or other*  
17          *debt prior to and in connection with the closing or planned*  
18          *closing of a high-cost mortgage that refinances all or any*  
19          *portion of such existing loan or debt.*

20          *“(k) LATE FEES.—*

21            *“(1) IN GENERAL.—No creditor may impose a*  
22            *late payment charge or fee in connection with a high-*  
23            *cost mortgage—*

24            *“(A) in an amount in excess of 4 percent of*  
25            *the amount of the payment past due;*

1           “(B) unless the loan documents specifically  
2 authorize the charge or fee;

3           “(C) before the end of the 15-day period be-  
4 ginning on the date the payment is due, or in  
5 the case of a loan on which interest on each in-  
6 stallment is paid in advance, before the end of  
7 the 30-day period beginning on the date the pay-  
8 ment is due; or

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

11           “(2) COORDINATION WITH SUBSEQUENT LATE  
12 FEES.—If a payment is otherwise a full payment for  
13 the applicable period and is paid on its due date or  
14 within an applicable grace period, and the only de-  
15 linquency or insufficiency of payment is attributable  
16 to any late fee or delinquency charge assessed on any  
17 earlier payment, no late fee or delinquency charge  
18 may be imposed on such payment.

19           “(3) FAILURE TO MAKE INSTALLMENT PAY-  
20 MENT.—If, in the case of a loan agreement the terms  
21 of which provide that any payment shall first be ap-  
22 plied to any past due principal balance, the consumer  
23 fails to make an installment payment and the con-  
24 sumer subsequently resumes making installment pay-  
25 ments but has not paid all past due installments, the

1        *creditor may impose a separate late payment charge*  
 2        *or fee for any principal due (without deduction due*  
 3        *to late fees or related fees) until the default is cured.*

4        “(l) *ACCELERATION OF DEBT.*—*No high-cost mortgage*  
 5        *may contain a provision which permits the creditor, in its*  
 6        *sole discretion, to accelerate the indebtedness. This provision*  
 7        *shall not apply when repayment of the loan has been accel-*  
 8        *erated by default, pursuant to a due-on-sale provision, or*  
 9        *pursuant to a material violation of some other provision*  
 10       *of the loan documents unrelated to the payment schedule.*

11       “(m) *RESTRICTION ON FINANCING POINTS AND*  
 12       *FEES.*—*No creditor may directly or indirectly finance, in*  
 13       *connection with any high-cost mortgage, any of the fol-*  
 14       *lowing:*

15                “(1) *Any prepayment fee or penalty payable by*  
 16        *the consumer in a refinancing transaction if the cred-*  
 17        *itor or an affiliate of the creditor is the noteholder of*  
 18        *the note being refinanced.*

19                “(2) *Any points or fees.*”

20        (b) *PROHIBITIONS ON EVASIONS.*—*Section 129 of the*  
 21        *Truth in Lending Act (15 U.S.C. 1639) is amended by in-*  
 22        *serting after subsection (p) (as so redesignated by subsection*  
 23        *(a)(1)) the following new subsection:*

24                “(q) *PROHIBITIONS ON EVASIONS, STRUCTURING OF*  
 25        *TRANSACTIONS, AND RECIPROCAL ARRANGEMENTS.*—*A*

1 creditor may not take any action in connection with a high-  
2 cost mortgage—

3 “(1) to structure a loan transaction as an open-  
4 end credit plan or another form of loan for the pur-  
5 pose and with the intent of evading the provisions of  
6 this title; or

7 “(2) to divide any loan transaction into separate  
8 parts for the purpose and with the intent of evading  
9 provisions of this title.”.

10 (c) *MODIFICATION OR DEFERRAL FEES.*—Section 129  
11 of the Truth in Lending Act (15 U.S.C. 1639) is amended  
12 by inserting after subsection (q) (as added by subsection (b)  
13 of this section) the following new subsection:

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



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

5           “(s) *PAYOFF STATEMENT.*—

6                 “(1) *FEEES.*—

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 an*  
18 *amount that is comparable to fees imposed for*  
19 *similar services provided in connection with con-*  
20 *sumer credit transactions that are secured by the*  
21 *consumer’s principal dwelling and are not high-*  
22 *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 pay-*

1           *off balances are available for free pursuant to*  
2           *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 calendar*  
8           *year, the creditor or servicer may thereafter*  
9           *charge a reasonable fee for providing such infor-*  
10           *mation during the remainder of the calendar*  
11           *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           “(e) *PRE-LOAN COUNSELING REQUIRED.*—*Section 129*  
17           *of the Truth in Lending Act (15 U.S.C. 1639) is amended*  
18           *by inserting after subsection (s) (as added by subsection (d)*  
19           *of this section) the following new subsection:*

20           “(t) *PRE-LOAN COUNSELING.*—

21           “(1) *IN GENERAL.*—*A creditor may not extend*  
22           *credit to a consumer under a high-cost mortgage with-*  
23           *out first receiving certification from a counselor that*  
24           *is approved by the Secretary of Housing and Urban*  
25           *Development, or at the discretion of the Secretary, a*

1       *state housing finance authority, that the consumer*  
2       *has received counseling on the advisability of the*  
3       *mortgage. Such counselor shall not be employed by the*  
4       *creditor or an affiliate of the creditor or be affiliated*  
5       *with the creditor.*

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

14               “(3) *REGULATIONS.—The Secretary of Housing*  
15       *and Urban Development may prescribe such regula-*  
16       *tions as the Secretary determines to be appropriate to*  
17       *carry out the requirements of paragraph (1).”.*

18       “(f) *FLIPPING PROHIBITED.—Section 129 of the Truth*  
19       *in Lending Act (15 U.S.C. 1639) is amended by inserting*  
20       *after subsection (t) (as added by subsection (e)) the fol-*  
21       *lowing new subsection:*

22               “(u) *FLIPPING.—*

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

1           “(2) *FLIPPING DEFINED.*—For purposes of this  
2           subsection, the term ‘flipping’ means the making of a  
3           loan or extension of credit in the form a high-cost  
4           mortgage to a consumer which refinances an existing  
5           mortgage when the new loan or extension of credit  
6           does not have reasonable, tangible net benefit to the  
7           consumer considering all of the circumstances, includ-  
8           ing the terms of both the new and the refinanced  
9           loans or credit, the cost of the new loan or credit, and  
10          the consumer’s circumstances.

11           “(3) *TANGIBLE NET BENEFIT.*—The Board may  
12          prescribe regulations, in the discretion of the Board,  
13          defining the term ‘tangible net benefit’ for purposes of  
14          this subsection.”.

15 **SEC. 304. AMENDMENT TO PROVISION GOVERNING COR-**  
16 **RECTION OF ERRORS.**

17          Section 130(b) of the Truth in Lending Act (15 U.S.C.  
18 1640(b)) is amended to read as follows:

19          “(b) *CORRECTION OF ERRORS.*—A creditor has no li-  
20 ability under this section or section 108 or 112 for any fail-  
21 ure to comply with any requirement imposed under this  
22 chapter or chapter 5, if—

23                 “(1) within 30 days of the loan closing and prior  
24                 to the institution of any action, the consumer is noti-  
25                 fied of or discovers the violation, appropriate restitutive

1        *tion is made, and whatever adjustments are necessary*  
2        *are made to the loan to either, at the choice of the*  
3        *consumer—*

4                *“(A) make the loan satisfy the requirements*  
5                *of this chapter; or*

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

10                *“(2) within 60 days of the creditor’s discovery or*  
11                *receipt of notification of an unintentional violation*  
12                *or bona fide error as described in subsection (c) and*  
13                *prior to the institution of any action, the consumer*  
14                *is notified of the compliance failure, appropriate res-*  
15                *titution is made, and whatever adjustments are nec-*  
16                *essary are made to the loan to either, at the choice*  
17                *of the consumer—*

18                *“(A) make the loan satisfy the requirements*  
19                *of this chapter; or*

20                *“(B) in the case of a high-cost mortgage,*  
21                *change the terms of the loan in a manner bene-*  
22                *ficial so that the loan will no longer be a high-*  
23                *cost mortgage.”.*

1 **SEC. 305. REGULATIONS.**

2       (a) *IN GENERAL.*—*The Board of Governors of the Fed-*  
3 *eral Reserve System shall publish regulations implementing*  
4 *this title and the amendments made by this title in final*  
5 *form before the end of the 6-month period beginning on the*  
6 *date of the enactment of this Act.*

7       (b) *CONSUMER MORTGAGE EDUCATION.*—

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

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

21 **SEC. 306. EFFECTIVE DATE.**

22       *The amendments made by this title shall take effect*  
23 *on the date of the enactment of this Act and shall apply*  
24 *to mortgages referred to in section 103(aa) of the Truth in*  
25 *Lending Act (15 U.S.C. 1602(aa) consummated on or after*  
26 *that date.*

1     **TITLE IV—OFFICE OF HOUSING**  
2                     **COUNSELING**

3     **SEC. 401. SHORT TITLE.**

4             *This title may be cited as the “Expand and Preserve*  
5 *Home Ownership Through Counseling Act”.*

6     **SEC. 402. ESTABLISHMENT OF OFFICE OF HOUSING COUN-**  
7                     **SELING.**

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

11             “(g) *OFFICE OF HOUSING COUNSELING.—*

12                     “(1) *ESTABLISHMENT.—There is established, in*  
13 *the Office of the Secretary, the Office of Housing*  
14 *Counseling.*

15                     “(2) *DIRECTOR.—There is established the posi-*  
16 *tion of Director of Housing Counseling. The Director*  
17 *shall be the head of the Office of Housing Counseling*  
18 *and shall be appointed by the Secretary. Such posi-*  
19 *tion shall be a career-reserved position in the Senior*  
20 *Executive Service.*

21                     “(3) *FUNCTIONS.—*

22                             “(A) *IN GENERAL.—The Director shall have*  
23 *ultimate responsibility within the Department,*  
24 *except for the Secretary, for all activities and*

1           *matters relating to homeownership counseling*  
2           *and rental housing counseling, including—*

3                     “(i) *research, grant administration,*  
4                     *public outreach, and policy development re-*  
5                     *lating to such counseling; and*

6                     “(ii) *establishment, coordination, and*  
7                     *administration of all regulations, require-*  
8                     *ments, standards, and performance meas-*  
9                     *ures under programs and laws administered*  
10                    *by the Department that relate to housing*  
11                    *counseling, homeownership counseling (in-*  
12                    *cluding maintenance of homes), mortgage-*  
13                    *related counseling (including home equity*  
14                    *conversion mortgages and credit protection*  
15                    *options to avoid foreclosure), and rental*  
16                    *housing counseling, including the require-*  
17                    *ments, standards, and performance meas-*  
18                    *ures relating to housing counseling.*

19                    “(B) *SPECIFIC FUNCTIONS.—The Director*  
20                    *shall carry out the functions assigned to the Di-*  
21                    *rector and the Office under this section and any*  
22                    *other provisions of law. Such functions shall in-*  
23                    *clude establishing rules necessary for—*

24                             “(i) *the counseling procedures under*  
25                             *section 106(g)(1) of the Housing and Urban*



1           *Development Act of 1968 (12 U.S.C.*  
2           *1701x(h)(1));*

3           “(ii) *carrying out all other functions of*  
4           *the Secretary under section 106(g) of the*  
5           *Housing and Urban Development Act of*  
6           *1968, including the establishment, oper-*  
7           *ation, and publication of the availability of*  
8           *the toll-free telephone number under para-*  
9           *graph (2) of such section;*

10           “(iii) *carrying out section 5 of the*  
11           *Real Estate Settlement Procedures Act of*  
12           *1974 (12 U.S.C. 2604) for home buying in-*  
13           *formation booklets prepared pursuant to*  
14           *such section;*

15           “(iv) *carrying out the certification*  
16           *program under section 106(e) of the Hous-*  
17           *ing and Urban Development Act of 1968*  
18           *(12 U.S.C. 1701x(e));*

19           “(v) *carrying out the assistance pro-*  
20           *gram under section 106(a)(4) of the Hous-*  
21           *ing and Urban Development Act of 1968,*  
22           *including criteria for selection of applica-*  
23           *tions to receive assistance;*

24           “(vi) *carrying out any functions re-*  
25           *garding abusive, deceptive, or unscrupulous*

1            *lending practices relating to residential*  
2            *mortgage loans that the Secretary considers*  
3            *appropriate, which shall include conducting*  
4            *the study under section 6 of the Expand*  
5            *and Preserve Home Ownership Through*  
6            *Counseling Act;*

7            *“(vii) providing for operation of the*  
8            *advisory committee established under para-*  
9            *graph (4) of this subsection;*

10           *“(viii) collaborating with community-*  
11           *based organizations with expertise in the*  
12           *field of housing counseling; and*

13           *“(ix) providing for the building of ca-*  
14           *capacity to provide housing counseling serv-*  
15           *ices in areas that lack sufficient services.*

16           *“(4) ADVISORY COMMITTEE.—*

17           *“(A) IN GENERAL.—The Secretary shall ap-*  
18           *point an advisory committee to provide advice*  
19           *regarding the carrying out of the functions of the*  
20           *Director.*

21           *“(B) MEMBERS.—Such advisory committee*  
22           *shall consist of not more than 12 individuals,*  
23           *and the membership of the committee shall equal-*  
24           *ly represent all aspects of the mortgage and real*  
25           *estate industry, including consumers.*

1           “(C) *TERMS.*—*Except as provided in sub-*  
2 *paragraph (D), each member of the advisory*  
3 *committee shall be appointed for a term of 3*  
4 *years. Members may be reappointed at the dis-*  
5 *cretion of the Secretary.*

6           “(D) *TERMS OF INITIAL APPOINTEES.*—*As*  
7 *designated by the Secretary at the time of ap-*  
8 *pointment, of the members first appointed to the*  
9 *advisory committee, 4 shall be appointed for a*  
10 *term of 1 year and 4 shall be appointed for a*  
11 *term of 2 years.*

12           “(E) *PROHIBITION OF PAY; TRAVEL EX-*  
13 *PENSES.*—*Members of the advisory committee*  
14 *shall serve without pay, but shall receive travel*  
15 *expenses, including per diem in lieu of subsist-*  
16 *ence, in accordance with applicable provisions*  
17 *under subchapter I of chapter 57 of title 5,*  
18 *United States Code.*

19           “(F) *ADVISORY ROLE ONLY.*—*The advisory*  
20 *committee shall have no role in reviewing or*  
21 *awarding housing counseling grants.*

22           “(5) *SCOPE OF HOMEOWNERSHIP COUN-*  
23 *SELING.*—*In carrying out the responsibilities of the*  
24 *Director, the Director shall ensure that homeowner-*  
25 *ship counseling provided by, in connection with, or*

1       *pursuant to any function, activity, or program of the*  
2       *Department addresses the entire process of home-*  
3       *ownership, including the decision to purchase a home,*  
4       *the selection and purchase of a home, issues arising*  
5       *during or affecting the period of ownership of a home*  
6       *(including refinancing, default and foreclosure, and*  
7       *other financial decisions), and the sale or other dis-*  
8       *position of a home.”.*

9       **SEC. 403. COUNSELING PROCEDURES.**

10       *(a) IN GENERAL.—Section 106 of the Housing and*  
11       *Urban Development Act of 1968 (12 U.S.C. 1701x) is*  
12       *amended by adding at the end the following new subsection:*

13       *“(g) PROCEDURES AND ACTIVITIES.—*

14               *“(1) COUNSELING PROCEDURES.—*

15                       *“(A) IN GENERAL.—The Secretary shall es-*  
16                       *tablish, coordinate, and monitor the administra-*  
17                       *tion by the Department of Housing and Urban*  
18                       *Development of the counseling procedures for*  
19                       *homeownership counseling and rental housing*  
20                       *counseling provided in connection with any pro-*  
21                       *gram of the Department, including all require-*  
22                       *ments, standards, and performance measures*  
23                       *that relate to homeownership and rental housing*  
24                       *counseling.*

1           “(B) *HOMEOWNERSHIP COUNSELING*.—For  
2 purposes of this subsection and as used in the  
3 provisions referred to in this subparagraph, the  
4 term ‘homeownership counseling’ means coun-  
5 seling related to homeownership and residential  
6 mortgage loans. Such term includes counseling  
7 related to homeownership and residential mort-  
8 gage loans that is provided pursuant to—

9           “(i) section 105(a)(20) of the *Housing*  
10           *and Community Development Act of 1974*  
11           (42 U.S.C. 5305(a)(20));

12           “(ii) in the *United States Housing Act*  
13           *of 1937*—

14           “(I) section 9(e) (42 U.S.C.  
15           1437g(e));

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

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

20           “(IV) section 23(c)(4) (42 U.S.C.  
21           1437u(c)(4));

22           “(V) section 32(e)(4) (42 U.S.C.  
23           1437z-4(e)(4));

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

1                   “(VII) sections 302(b)(6) and  
2                   303(b)(7) (42 U.S.C. 1437aaa–1(b)(6),  
3                   1437aaa–2(b)(7)); and

4                   “(VIII) section 304(c)(4) (42  
5                   U.S.C. 1437aaa–3(c)(4));

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

9                   “(iv) sections 233(b)(2) and 258(b) of  
10                  the Cranston-Gonzalez National Affordable  
11                  Housing Act (42 U.S.C. 12773(b)(2),  
12                  12808(b));

13                  “(v) this section and section 101(e) of  
14                  the Housing and Urban Development Act of  
15                  1968 (12 U.S.C. 1701x, 1701w(e));

16                  “(vi) section 220(d)(2)(G) of the Low-  
17                  Income Housing Preservation and Resident  
18                  Homeownership Act of 1990 (12 U.S.C.  
19                  4110(d)(2)(G));

20                  “(vii) sections 422(b)(6), 423(b)(7),  
21                  424(c)(4), 442(b)(6), and 443(b)(6) of the  
22                  Cranston-Gonzalez National Affordable  
23                  Housing Act (42 U.S.C. 12872(b)(6),  
24                  12873(b)(7), 12874(c)(4), 12892(b)(6), and  
25                  12893(b)(6));

1           “(viii) section 491(b)(1)(F)(iii) of the  
2           *McKinney-Vento Homeless Assistance Act*  
3           (42 U.S.C. 11408(b)(1)(F)(iii));

4           “(ix) sections 202(3) and 810(b)(2)(A)  
5           of the *Native American Housing and Self-*  
6           *Determination Act of 1996* (25 U.S.C.  
7           4132(3), 4229(b)(2)(A));

8           “(x) in the *National Housing Act*—

9                   “(I) in section 203 (12 U.S.C.  
10                   1709), the penultimate undesignated  
11                   paragraph of paragraph (2) of sub-  
12                   section (b), subsection (c)(2)(A), and  
13                   subsection (r)(4);

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

16                   “(III) subsections (d)(2)(B) and  
17                   (m)(1) of section 255 (12 U.S.C.  
18                   1715z–20);

19           “(xi) section 502(h)(4)(B) of the *Hous-*  
20           *ing Act of 1949* (42 U.S.C. 1472(h)(4)(B));  
21           and

22           “(xii) section 508 of the *Housing and*  
23           *Urban Development Act of 1970* (12 U.S.C.  
24           1701z–7).

1           “(C) *RENTAL HOUSING COUNSELING.*—*For*  
2 *purposes of this subsection, the term ‘rental hous-*  
3 *ing counseling’ means counseling related to rent-*  
4 *al of residential property, which may include*  
5 *counseling regarding future homeownership op-*  
6 *portunities and providing referrals for renters*  
7 *and prospective renters to entities providing*  
8 *counseling and shall include counseling related*  
9 *to such topics that is provided pursuant to—*

10                   “(i) *section 105(a)(20) of the Housing*  
11 *and Community Development Act of 1974*  
12 *(42 U.S.C. 5305(a)(20));*

13                   “(ii) *in the United States Housing Act*  
14 *of 1937—*

15                           “(I) *section 9(e) (42 U.S.C.*  
16 *1437g(e));*

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

19                           “(III) *section 23(c)(4) (42 U.S.C.*  
20 *1437u(c)(4));*

21                           “(IV) *section 32(e)(4) (42 U.S.C.*  
22 *1437z-4(e)(4));*

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



1                   “(VI) section 302(b)(6) (42 U.S.C.  
2                   1437aaa–1(b)(6));

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

6                   “(iv) section 106 of the Housing and  
7                   Urban Development Act of 1968 (12 U.S.C.  
8                   1701x);

9                   “(v) section 422(b)(6) of the Cranston-  
10                  Gonzalez National Affordable Housing Act  
11                  (42 U.S.C. 12872(b)(6));

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

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

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

22                  “(2) STANDARDS FOR MATERIALS.—The Sec-  
23                  retary, in conjunction with the advisory committee es-  
24                  tablished under subsection (g)(4) of the Department of  
25                  Housing and Urban Development Act, shall establish

1        *standards for materials and forms to be used, as ap-*  
2        *propriate, by organizations providing homeownership*  
3        *counseling services, including any recipients of assist-*  
4        *ance pursuant to subsection (a)(4).*

5            *“(3) MORTGAGE SOFTWARE SYSTEMS.—*

6            *“(A) CERTIFICATION.—The Secretary shall*  
7        *provide for the certification of various computer*  
8        *software programs for consumers to use in evalu-*  
9        *ating different residential mortgage loan pro-*  
10       *posals. The Secretary shall require, for such cer-*  
11       *tification, that the mortgage software systems*  
12       *take into account—*

13           *“(i) the consumer’s financial situation*  
14        *and the cost of maintaining a home, includ-*  
15        *ing insurance, taxes, and utilities;*

16           *“(ii) the amount of time the consumer*  
17        *expects to remain in the home or expected*  
18        *time to maturity of the loan;*

19           *“(iii) such other factors as the Sec-*  
20        *retary considers appropriate to assist the*  
21        *consumer in evaluating whether to pay*  
22        *points, to lock in an interest rate, to select*  
23        *an adjustable or fixed rate loan, to select a*  
24        *conventional or government-insured or*

1           *guaranteed loan and to make other choices*  
2           *during the loan application process.*

3           *If the Secretary determines that available exist-*  
4           *ing software is inadequate to assist consumers*  
5           *during the residential mortgage loan application*  
6           *process, the Secretary shall arrange for the devel-*  
7           *opment by private sector software companies of*  
8           *new mortgage software systems that meet the*  
9           *Secretary's specifications.*

10           “(B) *USE AND INITIAL AVAILABILITY.*—  
11           *Such certified computer software programs shall*  
12           *be used to supplement, not replace, housing coun-*  
13           *seling. The Secretary shall provide that such pro-*  
14           *grams are initially used only in connection with*  
15           *the assistance of housing counselors certified pur-*  
16           *suant to subsection (e).*

17           “(C) *AVAILABILITY.*—*After a period of ini-*  
18           *tial availability under subparagraph (B) as the*  
19           *Secretary considers appropriate, the Secretary*  
20           *shall take reasonable steps to make mortgage*  
21           *software systems certified pursuant to this para-*  
22           *graph widely available through the Internet and*  
23           *at public locations, including public libraries,*  
24           *senior-citizen centers, public housing sites, offices*  
25           *of public housing agencies that administer rental*

1           *housing assistance vouchers, and housing coun-*  
2           *seling centers.*

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

5                   “(A) IN GENERAL.—*The Director of Hous-*  
6                   *ing Counseling shall develop, implement, and*  
7                   *conduct national public service multimedia cam-*  
8                   *paings designed to make persons facing mortgage*  
9                   *foreclosure, persons considering a subprime*  
10                   *mortgage loan to purchase a home, elderly per-*  
11                   *sons, persons who face language barriers, low-in-*  
12                   *come persons, and other potentially vulnerable*  
13                   *consumers aware that it is advisable, before seek-*  
14                   *ing or maintaining a residential mortgage loan,*  
15                   *to obtain homeownership counseling from an un-*  
16                   *biased and reliable sources and that such home-*  
17                   *ownership counseling is available, including*  
18                   *through programs sponsored by the Secretary of*  
19                   *Housing and Urban Development.*

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

1           *housing counseling agency in their State that is*  
2           *certified by the Secretary of Housing and Urban*  
3           *Development and can provide advice on buying*  
4           *a home, renting, defaults, foreclosures, credit*  
5           *issues, and reverse mortgages.*

6           “(C) *AUTHORIZATION OF APPROPRIA-*  
7           *TIONS.—There are authorized to be appropriated*  
8           *to the Secretary, not to exceed \$3,000,000 for fis-*  
9           *cal years 2008, 2009, and 2010, for the develop,*  
10           *implement, and conduct of national public serv-*  
11           *ice multimedia campaigns under this paragraph.*

12           “(5) *EDUCATION PROGRAMS.—The Secretary*  
13           *shall provide advice and technical assistance to*  
14           *States, units of general local government, and non-*  
15           *profit organizations regarding the establishment and*  
16           *operation of, including assistance with the develop-*  
17           *ment of content and materials for, educational pro-*  
18           *grams to inform and educate consumers, particularly*  
19           *those most vulnerable with respect to residential mort-*  
20           *gage loans (such as elderly persons, persons facing*  
21           *language barriers, low-income persons, and other po-*  
22           *tentially vulnerable consumers), regarding home*  
23           *mortgages, mortgage refinancing, home equity loans,*  
24           *and home repair loans.”.*

1           **(b) CONFORMING AMENDMENTS TO GRANT PROGRAM**  
2 **FOR HOMEOWNERSHIP COUNSELING ORGANIZATIONS.**—  
3 *Section 106(c)(5)(A)(ii) of the Housing and Urban Devel-*  
4 *opment Act of 1968 (12 U.S.C. 1701x(c)(5)(A)(ii)) is*  
5 *amended—*

6           (1) *in subclause (III), by striking “and” at the*  
7 *end;*

8           (2) *in subclause (IV) by striking the period at*  
9 *the end and inserting “; and”; and*

10           (3) *by inserting after subclause (IV) the fol-*  
11 *lowing new subclause:*

12   *“(V) notify the housing or mort-*  
13   *gage applicant of the availability of*  
14   *mortgage software systems provided*  
15   *pursuant to subsection (g)(3).”.*

16 **SEC. 404. GRANTS FOR HOUSING COUNSELING ASSISTANCE.**

17           *Section 106(a) of the Housing and Urban Development*  
18 *Act of 1968 (12 U.S.C. 1701x(a)(3)) is amended by adding*  
19 *at the end the following new paragraph:*

20           **“(4) HOMEOWNERSHIP AND RENTAL COUNSELING AS-**  
21 **SISTANCE.**—

22   **“(A) IN GENERAL.**—*The Secretary shall make fi-*  
23 *nancial assistance available under this paragraph to*  
24 *States, units of general local governments, and non-*  
25 *profit organizations providing homeownership or*

1        *rental counseling (as such terms are defined in sub-*  
2        *section (g)(1)).*

3                “(B) *QUALIFIED ENTITIES.—The Secretary shall*  
4        *establish standards and guidelines for eligibility of or-*  
5        *ganizations (including governmental and nonprofit*  
6        *organizations) to receive assistance under this para-*  
7        *graph.*

8                “(C) *DISTRIBUTION.—Assistance made available*  
9        *under this paragraph shall be distributed in a man-*  
10        *ner that encourages efficient and successful counseling*  
11        *programs.*

12                “(D) *AUTHORIZATION OF APPROPRIATIONS.—*  
13        *There are authorized to be appropriated \$45,000,000*  
14        *for each of fiscal years 2008 through 2011 for—*

15                        “(i) *the operations of the Office of Housing*  
16                        *Counseling of the Department of Housing and*  
17                        *Urban Development;*

18                        “(ii) *the responsibilities of the Secretary*  
19                        *under paragraphs (2) through (5) of subsection*  
20                        *(g); and*

21                        “(iii) *assistance pursuant to this paragraph*  
22                        *for entities providing homeownership and rental*  
23                        *counseling.”.*

1 **SEC. 405. REQUIREMENTS TO USE HUD-CERTIFIED COUN-**  
2 **SELORS UNDER HUD PROGRAMS.**

3 *Section 106(e) of the Housing and Urban Development*  
4 *Act of 1968 (12 U.S.C. 1701x(e)) is amended—*

5 *(1) by striking paragraph (1) and inserting the*  
6 *following new paragraph:*

7 *“(1) REQUIREMENT FOR ASSISTANCE.—An orga-*  
8 *nization may not receive assistance for counseling ac-*  
9 *tivities under subsection (a)(1)(iii), (a)(2), (a)(4), (c),*  
10 *or (d) of this section, or under section 101(e), unless*  
11 *the organization, or the individuals through which the*  
12 *organization provides such counseling, has been cer-*  
13 *tified by the Secretary under this subsection as com-*  
14 *petent to provide such counseling.”;*

15 *(2) in paragraph (2)—*

16 *(A) by inserting “and for certifying organi-*  
17 *zations” before the period at the end of the first*  
18 *sentence; and*

19 *(B) in the second sentence by striking “for*  
20 *certification” and inserting “, for certification of*  
21 *an organization, that each individual through*  
22 *which the organization provides counseling shall*  
23 *demonstrate, and, for certification of an indi-*  
24 *vidual,”;*

25 *(3) in paragraph (3), by inserting “organiza-*  
26 *tions and” before “individuals”;*



1           (4) by redesignating paragraph (3) as para-  
2           graph (5); and

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

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

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

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

22           *The Secretary of Housing and Urban Development*  
23           *shall conduct an extensive study of the root causes of default*  
24           *and foreclosure of home loans, using as much empirical*  
25           *data as are available. The study shall also examine the role*

1 of escrow accounts in helping prime and nonprime bor-  
 2 rowers to avoid defaults and foreclosures. Not later than 12  
 3 months after the date of the enactment of this Act, the Sec-  
 4 retary shall submit to the Congress a preliminary report  
 5 regarding the study. Not later than 24 months after such  
 6 date of enactment, the Secretary shall submit a final report  
 7 regarding 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. DEFINITIONS FOR COUNSELING-RELATED PRO-**  
 12 **GRAMS.**

13 Section 106 of the Housing and Urban Development  
 14 Act of 1968 (12 U.S.C. 1701x), as amended by the preceding  
 15 provisions of this title, is further amended by adding at  
 16 the end the following new subsection:

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

18 “(1) **NONPROFIT ORGANIZATION.**—The term  
 19 ‘nonprofit organization’ has the meaning given such  
 20 term in section 104(5) of the Cranston-Gonzalez Na-  
 21 tional Affordable Housing Act (42 U.S.C. 12704(5)),  
 22 except that subparagraph (D) of such section shall not  
 23 apply for purposes of this section.

24 “(2) **STATE.**—The term ‘State’ means each of the  
 25 several States, the Commonwealth of Puerto Rico, the

1 *District of Columbia, the Commonwealth of the North-*  
 2 *ern Mariana Islands, Guam, the Virgin Islands,*  
 3 *American Samoa, the Trust Territories of the Pacific,*  
 4 *or any other possession of the United States.*

5 “(3) *UNIT OF GENERAL LOCAL GOVERNMENT.*—  
 6 *The term ‘unit of general local government’ means*  
 7 *any city, county, parish, town, township, borough,*  
 8 *village, or other general purpose political subdivision*  
 9 *of a State.’”.*

10 **SEC. 408. UPDATING AND SIMPLIFICATION OF MORTGAGE**  
 11 **INFORMATION BOOKLET.**

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

14 *(1) in the section heading, by striking “SPECIAL”*  
 15 *and inserting “HOME BUYING”;*

16 *(2) by striking subsections (a) and (b) and in-*  
 17 *serting the following new subsections:*

18 “(a) *PREPARATION AND DISTRIBUTION.*—*The Sec-*  
 19 *retary shall prepare, at least once every 5 years, a booklet*  
 20 *to help consumers applying for federally related mortgage*  
 21 *loans to understand the nature and costs of real estate settle-*  
 22 *ment services. The Secretary shall prepare the booklet in*  
 23 *various languages and cultural styles, as the Secretary de-*  
 24 *termines to be appropriate, so that the booklet is under-*  
 25 *standable and accessible to homebuyers of different ethnic*

1 *and cultural backgrounds. The Secretary shall distribute*  
2 *such booklets to all lenders that make federally related mort-*  
3 *gage loans. The Secretary shall also distribute to such lend-*  
4 *ers lists, organized by location, of homeownership counselors*  
5 *certified under section 106(e) of the Housing and Urban*  
6 *Development Act of 1968 (12 U.S.C. 1701x(e)) for use in*  
7 *complying with the requirement under subsection (c) of this*  
8 *section.*

9       “(b) *CONTENTS.—Each booklet shall be in such form*  
10 *and detail as the Secretary shall prescribe and, in addition*  
11 *to such other information as the Secretary may provide,*  
12 *shall include in plain and understandable language the fol-*  
13 *lowing information:*

14               “(1) *A description and explanation of the nature*  
15 *and purpose of the costs incident to a real estate set-*  
16 *tlement or a federally related mortgage loan. The de-*  
17 *scription and explanation shall provide general infor-*  
18 *mation about the mortgage process as well as specific*  
19 *information concerning, at a minimum—*

20                       “(A) *balloon payments;*

21                       “(B) *prepayment penalties; and*

22                       “(C) *the trade-off between closing costs and*  
23 *the interest rate over the life of the loan.*

24               “(2) *An explanation and sample of the uniform*  
25 *settlement statement required by section 4.*

1           “(3) *A list and explanation of lending practices,*  
2           *including those prohibited by the Truth in Lending*  
3           *Act or other applicable Federal law, and of other un-*  
4           *fair practices and unreasonable or unnecessary*  
5           *charges to be avoided by the prospective buyer with*  
6           *respect to a real estate settlement.*

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

15          “(5) *An explanation of the right of rescission as*  
16          *to certain transactions provided by sections 125 and*  
17          *129 of the Truth in Lending Act.*

18          “(6) *A brief explanation of the nature of a vari-*  
19          *able rate mortgage and a reference to the booklet enti-*  
20          *tled ‘Consumer Handbook on Adjustable Rate Mort-*  
21          *gages’, published by the Board of Governors of the*  
22          *Federal Reserve System pursuant to section*  
23          *226.19(b)(1) of title 12, Code of Federal Regulations,*  
24          *or to any suitable substitute of such booklet that such*

1 *Board of Governors may subsequently adopt pursuant*  
2 *to such section.*

3 “(7) *A brief explanation of the nature of a home*  
4 *equity line of credit and a reference to the pamphlet*  
5 *required to be provided under section 127A of the*  
6 *Truth in Lending Act.*

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

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

20 “(10) *An explanation of the choices available to*  
21 *buyers of residential real estate in selecting persons to*  
22 *provide necessary services incidental to a real estate*  
23 *settlement.*

1           “(11) An explanation of a consumer’s respon-  
2           sibilities, liabilities, and obligations in a mortgage  
3           transaction.

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

7           “(13) Notice that the Office of Housing of the  
8           Department of Housing and Urban Development has  
9           made publicly available a brochure regarding loan  
10          fraud and a World Wide Web address and toll-free  
11          telephone number for obtaining the brochure.

12          *The booklet prepared pursuant to this section shall take into*  
13          *consideration differences in real estate settlement procedures*  
14          *that may exist among the several States and territories of*  
15          *the United States and among separate political subdivi-*  
16          *sions within the same State and territory.”;*

17                 (3) in subsection (c), by inserting at the end the  
18                 following new sentence: “Each lender shall also in-  
19                 clude with the booklet a reasonably complete or up-  
20                 dated list of homeownership counselors who are cer-  
21                 tified pursuant to section 106(e) of the Housing and  
22                 Urban Development Act of 1968 (12 U.S.C. 1701x(e))  
23                 and located in the area of the lender.”; and

24                 (4) in subsection (d), by inserting after the pe-  
25                 riod at the end of the first sentence the following:

1       *“The lender shall provide the HUD-issued booklet in*  
2       *the version that is most appropriate for the person re-*  
3       *ceiving it.”.*

4       ***TITLE V—MORTGAGE DISCLO-***  
5       ***SURES UNDER REAL ESTATE***  
6       ***SETTLEMENT PROCEDURES***  
7       ***ACT OF 1974***

8       ***SEC. 501. UNIVERSAL MORTGAGE DISCLOSURE IN GOOD***  
9               ***FAITH ESTIMATE OF SETTLEMENT SERVICES***  
10              ***COSTS.***

11       *(a) IN GENERAL.—Section 5 of the Real Estate Settle-*  
12       *ment Procedures Act of 1974 (12 U.S.C. 2604) is amend-*  
13       *ed—*

14               *(1) in subsection (c), by adding after the period*  
15       *at the end the following: “Each such good faith esti-*  
16       *mate shall include the disclosure required under sub-*  
17       *section (f) in the form prescribed by the Secretary*  
18       *pursuant to such subsection, except that if the Sec-*  
19       *retary at any time issues any regulations requiring*  
20       *the use of a standard or uniform form or statement*  
21       *in providing the good faith estimate required under*  
22       *this subsection and prescribing such standard or uni-*  
23       *form form or statement, such disclosure shall not be*  
24       *required after the effective date of such regulations.”;*  
25       *and*



1           (2) *by adding at the end the following new sub-*  
2           *section:*

3           “(f) *UNIVERSAL MORTGAGE DISCLOSURE REQUIRE-*  
4           *MENT FOR GOOD FAITH ESTIMATES.—*

5           “(1) *DISCLOSURE.—The disclosure required*  
6           *under this subsection is a written statement regarding*  
7           *the federally related mortgage loan for which the good*  
8           *faith estimate under subsection (c) is made, that con-*  
9           *sists of the following statements, appropriately and in*  
10           *good faith completed by the lender in accordance with*  
11           *the terms of the federally related mortgage loan in-*  
12           *volved in the settlement:*

13           “(A) *‘Your Loan Amount will be’ and*  
14           *‘\$ \_\_\_\_\_’, each statement appearing in a sep-*  
15           *arate column of the disclosure.*

16           “(B) *‘Your Loan is’, ‘A Fixed Rate Loan’,*  
17           *and ‘An Adjustable Rate Loan ’, each statement*  
18           *appearing in a separate column and each of the*  
19           *last two such statements preceded by a checkbox.*

20           “(C) *‘Your Loan Term is’, ‘ \_\_\_\_\_ years’,*  
21           *and ‘ \_\_\_\_\_ years’, each statement appearing in*  
22           *a separate column, and the second such state-*  
23           *ment shall appear in the same column as the*  
24           *statement required by subparagraph (B) regard-*  
25           *ing fixed rate loans and the third such statement*

1 shall appear in the same column as the state-  
2 ment required by subparagraph (B) regarding  
3 adjustable rate loans;

4 “(D) ‘Your Estimated Interest Rate (APR)  
5 is’, ‘\_\_\_\_\_ %’, and ‘\_\_\_\_\_ % initially, then it  
6 will adjust. In \_\_\_\_\_ months, Your rate may  
7 adjust to a maximum of \_\_\_\_\_ %’, each state-  
8 ment appearing in a separate column, the second  
9 such statement shall appear in the same column  
10 as the statement required by subparagraph (B)  
11 regarding fixed rate loans and the third such  
12 statement shall appear in the same column as  
13 the statement required by subparagraph (B) re-  
14 garding adjustable rate loans, and the blanks re-  
15 lating to estimated interest rate shall be com-  
16 pleted by the lender using an annual percentage  
17 rate determined in accordance with the Truth in  
18 Lending Act.

19 “(E) ‘Your Total Estimated Monthly Pay-  
20 ment (Including loan Principal and Interest,  
21 and property Taxes (based on current rates) and  
22 Insurance (PITI)) is’, ‘\$\_\_\_\_\_ which rep-  
23 resents \_\_\_\_\_ % of Your estimated monthly in-  
24 come’, and ‘\$\_\_\_\_\_ which represents  
25 \_\_\_\_\_ % of Your estimated monthly income.

1           When Your interest rate initially adjusts, Your  
2           maximum monthly payment may be as high as  
3           \$\_\_\_\_\_ which represents \_\_\_\_\_% of Your  
4           estimated monthly income’, each statement ap-  
5           pearing in a separate column, and the second  
6           such statement shall appear in the same column  
7           as the statement required by subparagraph (B)  
8           regarding fixed rate loans and the third such  
9           statement shall appear in the same column as  
10          the statement required by subparagraph (B) re-  
11          garding adjustable rate loans.

12                 “(F) ‘Your Rate Lock Period is’ and  
13                 ‘\_\_\_\_\_ days. After You lock into Your interest  
14                 rate, You must go to settlement within this num-  
15                 ber of days to be guaranteed this interest rate.’,  
16                 each statement appearing in a separate column.

17                 “(G) ‘Does Your loan have a prepayment  
18                 penalty?’, ‘YES, Your maximum prepayment  
19                 penalty is \$\_\_\_\_\_’, and ‘NO’, the first such  
20                 statement and the last two such statements ap-  
21                 pearing in a separate column, and each of the  
22                 last two such statements preceded by a checkbox.

23                 “(H) ‘Does Your loan have a balloon pay-  
24                 ment?’, ‘YES, Your balloon payment of  
25                 \$\_\_\_\_\_ is due in \_\_\_\_\_ months’, and ‘NO’,

1           *the first such statement and the last two such*  
2           *statements appearing in a separate column, and*  
3           *each of the last two such statements preceded by*  
4           *a checkbox.*

5           “(I) ‘Your Total Estimated Settlement  
6           Charges Will be \$ \_\_\_\_\_ (a)’ and ‘Your Total  
7           Estimated Down Payment will be \$ \_\_\_\_\_  
8           (b)’; each statement appearing in a separate col-  
9           umn.

10           “(J) ‘Your Total Estimated Cash Needed at  
11           Closing Will Be’ and ‘\$ \_\_\_\_\_ (a+b)’; each  
12           statement appearing in a separate column.

13           “(K) ‘This represents a simple summary of  
14           Your Good Faith Estimate (GFE). To under-  
15           stand the terms of Your loan, You must see dis-  
16           closure forms and the Truth in Lending Act.’,  
17           such statement appearing directly below the en-  
18           tirety of the remainder of the disclosure.

19           “(2) STANDARD FORM.—

20           “(A) DEVELOPMENT AND USE.—The Sec-  
21           retary, in consultation with the Secretary of Vet-  
22           erans Affairs, the Federal Deposit Insurance  
23           Corporation, and the Director of the Office of  
24           Thrift Supervision, shall develop and prescribe a  
25           standard form for the disclosure required under

1           *this subsection, which shall be used without vari-*  
2           *ation in all transactions in the United States*  
3           *that involve federally related mortgage loans.*

4           “(B) *APPEARANCE.*—*The standard form de-*  
5           *veloped pursuant to this paragraph shall—*

6                   “(i) *set forth each statement required*  
7                   *under a separate subparagraph under para-*  
8                   *graph (1) on a separate row of the disclo-*  
9                   *sure;*

10                   “(ii) *be set forth in 8-point type;*

11                   “(iii) *be not more than 6 inches in*  
12                   *width or 3.5 inches in height;*

13                   “(iv) *include such boldface type and*  
14                   *shading as the Secretary considers appro-*  
15                   *priate;*

16                   “(v) *include such parenthetical state-*  
17                   *ments directing the borrower to the terms of*  
18                   *the loan (such as ‘see terms’) as the Sec-*  
19                   *retary considers appropriate, in such places*  
20                   *as the Secretary considers appropriate; and*

21                   “(vi) *be located in the upper one-third*  
22                   *of the first page of the good faith estimate*  
23                   *required under subsection (c) in a manner*  
24                   *that allows the identity, address, phone*  
25                   *number, and other relevant information of*

1           *the lender, the identity, address, phone*  
2           *number, and other relevant information of*  
3           *the borrower, and the address of the prop-*  
4           *erty for which the federally related mortgage*  
5           *loan is to be made, to be located above the*  
6           *standard form.”.*

7           **(b) REGULATIONS.**—*The Secretary of Housing and*  
8           *Urban Development shall issue regulations prescribing the*  
9           *standard form and the use of such form, as required by the*  
10          *amendment made by subsection (a), not later than the expi-*  
11          *ration of the 180-day period beginning upon the date of*  
12          *the enactment of this Act, and such regulations shall take*  
13          *effect upon issuance.*



Union Calendar No. 272

110<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**H. R. 3915**

[Report No. 110-441]

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## **A BILL**

To amend the Truth in Lending Act to reform consumer mortgage practices and provide accountability for such practices, to establish licensing and registration requirements for residential mortgage originators, to provide certain minimum standards for consumer mortgage loans, and for other purposes.

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NOVEMBER 9, 2007

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed