

115TH CONGRESS  
2D SESSION

# H. R. 3978

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 15, 2018

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

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## AN ACT

To amend the Real Estate Settlement Procedures Act of 1974 to modify requirements related to mortgage disclosures, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. TABLE OF CONTENTS.**

2 The table of contents for this Act is as follows:

Sec. 1. Table of contents.

Sec. 2. Securities and Exchange Commission Reserve Fund.

TITLE I—TRID IMPROVEMENT

Sec. 101. Amendments to mortgage disclosure requirements.

TITLE II—PROTECTION OF SOURCE CODE

Sec. 201. Procedure for obtaining certain intellectual property.

TITLE III—FOSTERING INNOVATION

Sec. 301. Temporary exemption for low-revenue issuers.

TITLE IV—NATIONAL SECURITIES EXCHANGE REGULATORY  
PARITY

Sec. 401. Nationally traded securities exemption.

TITLE V—ELIMINATING BARRIERS TO JOBS FOR LOAN  
ORIGINATORS

Sec. 501. Eliminating barriers to jobs for loan originators.

Sec. 502. Amendment to civil liability of the Bureau and other officials.

Sec. 503. Effective date.

3 **SEC. 2. SECURITIES AND EXCHANGE COMMISSION RE-**  
4 **SERVE FUND.**

5 Notwithstanding section 4(i)(2)(B)(i) of the Securi-  
6 ties Exchange Act of 1934 (15 U.S.C. 78d(i)(2)(B)(i)),  
7 the amount deposited in the Securities and Exchange  
8 Commission Reserve Fund for fiscal year 2018 may not  
9 exceed \$48,000,000.

10 **TITLE I—TRID IMPROVEMENT**

11 **SEC. 101. AMENDMENTS TO MORTGAGE DISCLOSURE RE-**  
12 **QUIREMENTS.**

13 Section 4(a) of the Real Estate Settlement Proce-  
14 dures Act of 1974 (12 U.S.C. 2603(a)) is amended—

1 (1) by striking “itemize all charges” and insert-  
2 ing “itemize all actual charges”;

3 (2) by striking “and all charges imposed upon  
4 the seller in connection with the settlement and” and  
5 inserting “and the seller in connection with the set-  
6 tlement. Such forms”; and

7 (3) by inserting after “or both.” the following  
8 new sentence: “Charges for any title insurance pre-  
9 mium disclosed on such forms shall be equal to the  
10 amount charged for each individual title insurance  
11 policy, subject to any discounts as required by State  
12 regulation or the title company rate filings.”.

## 13 **TITLE II—PROTECTION OF** 14 **SOURCE CODE**

### 15 **SEC. 201. PROCEDURE FOR OBTAINING CERTAIN INTEL-** 16 **LECTUAL PROPERTY.**

17 (a) PERSONS UNDER SECURITIES ACT OF 1933.—  
18 Section 8 of the Securities Act of 1933 (15 U.S.C. 77h)  
19 is amended by adding at the end the following:

20 “(g) PROCEDURE FOR OBTAINING CERTAIN INTEL-  
21 LECTUAL PROPERTY.—The Commission is not authorized  
22 to compel under this title a person to produce or furnish  
23 algorithmic trading source code or similar intellectual  
24 property that forms the basis for design of the algorithmic

1 trading source code, to the Commission unless the Com-  
2 mission first issues a subpoena.”.

3 (b) PERSONS UNDER THE SECURITIES EXCHANGE  
4 ACT OF 1934.—Section 23 of the Securities Exchange Act  
5 of 1934 (15 U.S.C. 78w) is amended by adding at the  
6 end the following:

7 “(e) PROCEDURE FOR OBTAINING CERTAIN INTEL-  
8 LECTUAL PROPERTY.—The Commission is not authorized  
9 to compel under this title a person to produce or furnish  
10 algorithmic trading source code or similar intellectual  
11 property that forms the basis for design of the algorithmic  
12 trading source code, to the Commission unless the Com-  
13 mission first issues a subpoena.”.

14 (c) INVESTMENT COMPANIES.—Section 31 of the In-  
15 vestment Company Act of 1940 (15 U.S.C. 80a–30) is  
16 amended by adding at the end the following:

17 “(e) PROCEDURE FOR OBTAINING CERTAIN INTEL-  
18 LECTUAL PROPERTY.—The Commission is not authorized  
19 to compel under this title an investment company to  
20 produce or furnish algorithmic trading source code or  
21 similar intellectual property that forms the basis for de-  
22 sign of the algorithmic trading source code, to the Com-  
23 mission unless the Commission first issues a subpoena.”.

1 (d) INVESTMENT ADVISERS.—Section 204 of the In-  
2 vestment Advisers Act of 1940 (15 U.S.C. 80b–4) is  
3 amended—

4 (1) by adding at the end the following:

5 “(f) PROCEDURE FOR OBTAINING CERTAIN INTEL-  
6 LECTUAL PROPERTY.—The Commission is not authorized  
7 to compel under this title an investment adviser to produce  
8 or furnish algorithmic trading source code or similar intel-  
9 lectual property that forms the basis for design of the al-  
10 gorithmic trading source code, to the Commission unless  
11 the Commission first issues a subpoena.”; and

12 (2) in the second subsection (d), by striking  
13 “(d)” and inserting “(e)”.

## 14 **TITLE III—FOSTERING** 15 **INNOVATION**

### 16 **SEC. 301. TEMPORARY EXEMPTION FOR LOW-REVENUE** 17 **ISSUERS.**

18 Section 404 of the Sarbanes-Oxley Act of 2002 (15  
19 U.S.C. 7262) is amended by adding at the end the fol-  
20 lowing:

21 “(d) TEMPORARY EXEMPTION FOR LOW-REVENUE  
22 ISSUERS.—

23 “(1) LOW-REVENUE EXEMPTION.—Subsection  
24 (b) shall not apply with respect to an audit report  
25 prepared for an issuer that—

1           “(A) ceased to be an emerging growth  
2           company on the last day of the fiscal year of  
3           the issuer following the fifth anniversary of the  
4           date of the first sale of common equity securi-  
5           ties of the issuer pursuant to an effective reg-  
6           istration statement under the Securities Act of  
7           1933;

8           “(B) had average annual gross revenues of  
9           less than \$50,000,000 as of its most recently  
10          completed fiscal year; and

11          “(C) is not a large accelerated filer.

12          “(2) EXPIRATION OF TEMPORARY EXEMP-  
13          TION.—An issuer ceases to be eligible for the exemp-  
14          tion described under paragraph (1) at the earliest  
15          of—

16                 “(A) the last day of the fiscal year of the  
17                 issuer following the tenth anniversary of the  
18                 date of the first sale of common equity securi-  
19                 ties of the issuer pursuant to an effective reg-  
20                 istration statement under the Securities Act of  
21                 1933;

22                 “(B) the last day of the fiscal year of the  
23                 issuer during which the average annual gross  
24                 revenues of the issuer exceed \$50,000,000; or

1           “(C) the date on which the issuer becomes  
2 a large accelerated filer.

3           “(3) DEFINITIONS.—For purposes of this sub-  
4 section:

5           “(A) AVERAGE ANNUAL GROSS REVE-  
6 NUES.—The term ‘average annual gross reve-  
7 nues’ means the total gross revenues of an  
8 issuer over its most recently completed three  
9 fiscal years divided by three.

10           “(B) EMERGING GROWTH COMPANY.—The  
11 term ‘emerging growth company’ has the mean-  
12 ing given such term under section 3 of the Se-  
13 curities Exchange Act of 1934 (15 U.S.C. 78c).

14           “(C) LARGE ACCELERATED FILER.—The  
15 term ‘large accelerated filer’ has the meaning  
16 given that term under section 240.12b–2 of title  
17 17, Code of Federal Regulations, or any suc-  
18 cessor thereto.”.

19 **TITLE IV—NATIONAL SECURI-**  
20 **TIES EXCHANGE REGU-**  
21 **LATORY PARITY**

22 **SEC. 401. NATIONALLY TRADED SECURITIES EXEMPTION.**

23           Section 18(b)(1) of the Securities Act of 1933 (15  
24 U.S.C. 77r(b)(1)) is amended—

25           (1) by striking subparagraph (A);

1 (2) in subparagraph (B)—

2 (A) by inserting “a security designated as  
3 qualified for trading in the national market sys-  
4 tem pursuant to section 11A(a)(2) of the Secu-  
5 rities Exchange Act of 1934 that is” before  
6 “listed”; and

7 (B) by striking “that has listing standards  
8 that the Commission determines by rule (on its  
9 own initiative or on the basis of a petition) are  
10 substantially similar to the listing standards ap-  
11 plicable to securities described in subparagraph  
12 (A)”;

13 (3) in subparagraph (C), by striking “or (B)”;  
14 and

15 (4) by redesignating subparagraphs (B) and  
16 (C) as subparagraphs (A) and (B), respectively.

17 **TITLE V—ELIMINATING BARRIERS TO JOBS FOR LOAN**  
18 **ORIGINATORS**

20 **SEC. 501. ELIMINATING BARRIERS TO JOBS FOR LOAN**  
21 **ORIGINATORS.**

22 (a) IN GENERAL.—The S.A.F.E. Mortgage Licensing  
23 Act of 2008 (12 U.S.C. 5101 et seq.) is amended by add-  
24 ing at the end the following:

1 **“SEC. 1518. EMPLOYMENT TRANSITION OF LOAN ORIGINA-**  
2 **TORS.**

3 “(a) TEMPORARY AUTHORITY TO ORIGINATE LOANS  
4 FOR LOAN ORIGINATORS MOVING FROM A DEPOSITORY  
5 INSTITUTION TO A NON-DEPOSITORY INSTITUTION.—

6 “(1) IN GENERAL.—Upon employment by a  
7 State-licensed mortgage company, an individual who  
8 is a registered loan originator shall be deemed to  
9 have temporary authority to act as a loan originator  
10 in an application State for the period described in  
11 paragraph (2) if the individual—

12 “(A) has not had an application for a loan  
13 originator license denied, or had such a license  
14 revoked or suspended in any governmental ju-  
15 risdiction;

16 “(B) has not been subject to or served  
17 with a cease and desist order in any govern-  
18 mental jurisdiction or as described in section  
19 1514(c);

20 “(C) has not been convicted of a felony  
21 that would preclude licensure under the law of  
22 the application State;

23 “(D) has submitted an application to be a  
24 State-licensed loan originator in the application  
25 State; and

1           “(E) was registered in the Nationwide  
2 Mortgage Licensing System and Registry as a  
3 loan originator during the 12-month period pre-  
4 ceeding the date of submission of the informa-  
5 tion required under section 1505(a).

6           “(2) PERIOD.—The period described in para-  
7 graph (1) shall begin on the date that the individual  
8 submits the information required under section  
9 1505(a) and shall end on the earliest of—

10           “(A) the date that the individual with-  
11 draws the application to be a State-licensed  
12 loan originator in the application State;

13           “(B) the date that the application State  
14 denies, or issues a notice of intent to deny, the  
15 application;

16           “(C) the date that the application State  
17 grants a State license; or

18           “(D) the date that is 120 days after the  
19 date on which the individual submits the appli-  
20 cation, if the application is listed on the Nation-  
21 wide Mortgage Licensing System and Registry  
22 as incomplete.

23           “(b) TEMPORARY AUTHORITY TO ORIGINATE LOANS  
24 FOR STATE-LICENSED LOAN ORIGINATORS MOVING  
25 INTERSTATE.—

1           “(1) IN GENERAL.—A State-licensed loan origi-  
2           nator shall be deemed to have temporary authority  
3           to act as a loan originator in an application State  
4           for the period described in paragraph (2) if the  
5           State-licensed loan originator—

6                   “(A) meets the requirements of subpara-  
7                   graphs (A), (B), (C), and (D) of subsection  
8                   (a)(1);

9                   “(B) is employed by a State-licensed mort-  
10                  gage company in the application State; and

11                  “(C) was licensed in a State that is not the  
12                  application State during the 30-day period pre-  
13                  ceding the date of submission of the informa-  
14                  tion required under section 1505(a) in connec-  
15                  tion with the application submitted to the appli-  
16                  cation State.

17           “(2) PERIOD.—The period described in para-  
18           graph (1) shall begin on the date that the State-li-  
19           censed loan originator submits the information re-  
20           quired under section 1505(a) in connection with the  
21           application submitted to the application State and  
22           end on the earliest of—

23                   “(A) the date that the State-licensed loan  
24                   originator withdraws the application to be a

1 State-licensed loan originator in the application  
2 State;

3 “(B) the date that the application State  
4 denies, or issues a notice of intent to deny, the  
5 application;

6 “(C) the date that the application State  
7 grants a State license; or

8 “(D) the date that is 120 days after the  
9 date on which the State-licensed loan originator  
10 submits the application, if the application is  
11 listed on the Nationwide Mortgage Licensing  
12 System and Registry as incomplete.

13 “(c) APPLICABILITY.—

14 “(1) Any person employing an individual who is  
15 deemed to have temporary authority to act as a loan  
16 originator in an application State pursuant to this  
17 section shall be subject to the requirements of this  
18 title and to applicable State law to the same extent  
19 as if such individual was a State-licensed loan origi-  
20 nator licensed by the application State.

21 “(2) Any individual who is deemed to have tem-  
22 porary authority to act as a loan originator in an ap-  
23 plication State pursuant to this section and who en-  
24 gages in residential mortgage loan origination activi-  
25 ties shall be subject to the requirements of this title

1 and to applicable State law to the same extent as if  
 2 such individual was a State-licensed loan originator  
 3 licensed by the application State.

4 “(d) DEFINITIONS.—In this section, the following  
 5 definitions shall apply:

6 “(1) STATE-LICENSED MORTGAGE COMPANY.—  
 7 The term ‘State-licensed mortgage company’ means  
 8 an entity licensed or registered under the law of any  
 9 State to engage in residential mortgage loan origina-  
 10 tion and processing activities.

11 “(2) APPLICATION STATE.—The term ‘applica-  
 12 tion State’ means a State in which a registered loan  
 13 originator or a State-licensed loan originator seeks  
 14 to be licensed.”.

15 (b) TABLE OF CONTENTS AMENDMENT.—The table  
 16 of contents in section 1(b) of the Housing and Economic  
 17 Recovery Act of 2008 (42 U.S.C. 4501 note) is amended  
 18 by inserting after the item relating to section 1517 the  
 19 following:

“Sec. 1518. Employment transition of loan originators.”.

20 **SEC. 502. AMENDMENT TO CIVIL LIABILITY OF THE BU-**  
 21 **REAU AND OTHER OFFICIALS.**

22 Section 1513 of the S.A.F.E. Mortgage Licensing Act  
 23 of 2008 (12 U.S.C. 5112) is amended by striking “are  
 24 loan originators or are applying for licensing or registra-  
 25 tion as loan originators.” and inserting “have applied, are

1 applying, or are currently licensed or registered through  
2 the Nationwide Mortgage Licensing System and Registry.  
3 The previous sentence shall only apply to persons in an  
4 industry with respect to which persons were licensed or  
5 registered through the Nationwide Mortgage Licensing  
6 System and Registry on the date of the enactment of this  
7 sentence.”.

8 **SEC. 503. EFFECTIVE DATE.**

9 This title and the amendments made by this title  
10 shall take effect on the date that is 18 months after the  
11 date of the enactment of this Act.

Passed the House of Representatives February 14,  
2018.

Attest:

KAREN L. HAAS,

*Clerk.*