

1 **TITLE XIV—MORTGAGE REFORM**
2 **AND ANTI-PREDATORY LEND-**
3 **ING ACT**

4 **SEC. 1400. SHORT TITLE; DESIGNATION AS ENUMERATED**
5 **CONSUMER LAW.**

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

8 (b) **DESIGNATION AS ENUMERATED CONSUMER LAW**
9 **UNDER THE PURVIEW OF THE BUREAU OF CONSUMER**
10 **FINANCIAL PROTECTION.**—Subtitles A, B, C, and E and
11 sections 1471, 1472, 1475, and 1476, and the amend-
12 ments made by such subtitles and sections, shall be enu-
13 merated consumer laws, as defined in section 1002, and
14 come under the purview of the Bureau of Consumer Fi-
15 nancial Protection for purposes of title X, including the
16 transfer of functions and personnel under subtitle F of
17 title X and the savings provisions of such subtitle.

18 (c) **REGULATIONS; EFFECTIVE DATE.**—

19 (1) **REGULATIONS.**—The regulations required
20 to be prescribed under this title or the amendments
21 made by this title shall—

1 (A) be prescribed in final form before the
2 end of the 18-month period beginning on the
3 designated transfer date; and

4 (B) take effect not later than 12 months
5 after the date of issuance of the regulations in
6 final form.

7 (2) EFFECTIVE DATE ESTABLISHED BY
8 RULE.—Except as provided in paragraph (3), a sec-
9 tion, or provision thereof, of this title shall take ef-
10 fect on the date on which the final regulations imple-
11 menting such section, or provision, take effect.

12 (3) EFFECTIVE DATE.—A section of this title
13 for which regulations have not been issued on the
14 date that is 18 months after the designated transfer
15 date shall take effect on such date.

16 **Subtitle A—Residential Mortgage** 17 **Loan Origination Standards**

18 **SEC. 1401. DEFINITIONS.**

19 Section 103 of the Truth in Lending Act (15 U.S.C.
20 1602) is amended by adding at the end the following new
21 subsection:

22 “(cc) DEFINITIONS RELATING TO MORTGAGE ORIGI-
23 NATION AND RESIDENTIAL MORTGAGE LOANS.—

1 “(1) COMMISSION.—Unless otherwise specified,
2 the term ‘Commission’ means the Federal Trade
3 Commission.

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

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

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

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

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

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

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

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

19 “(E) does not include, with respect to a
20 residential mortgage loan, a person, estate, or
21 trust that provides mortgage financing for the
22 sale of 3 properties in any 12-month period to
23 purchasers of such properties, each of which is
24 owned by such person, estate, or trust and

1 serves as security for the loan, provided that
2 such loan—

3 “(i) is not made by a person, estate,
4 or trust that has constructed, or acted as
5 a contractor for the construction of, a resi-
6 dence on the property in the ordinary
7 course of business of such person, estate,
8 or trust;

9 “(ii) is fully amortizing;

10 “(iii) is with respect to a sale for
11 which the seller determines in good faith
12 and documents that the buyer has a rea-
13 sonable ability to repay the loan;

14 “(iv) has a fixed rate or an adjustable
15 rate that is adjustable after 5 or more
16 years, subject to reasonable annual and
17 lifetime limitations on interest rate in-
18 creases; and

19 “(v) meets any other criteria the
20 Board may prescribe;

21 “(F) does not include the creditor (except
22 the creditor in a table-funded transaction)
23 under paragraph (1), (2), or (4) of section
24 129B(c); and

1 “(G) does not include a servicer or servicer
2 employees, agents and contractors, including
3 but not limited to those who offer or negotiate
4 terms of a residential mortgage loan for pur-
5 poses of renegotiating, modifying, replacing and
6 subordinating principal of existing mortgages
7 where borrowers are behind in their payments,
8 in default or have a reasonable likelihood of
9 being in default or falling behind.

10 “(3) NATIONWIDE MORTGAGE LICENSING SYS-
11 TEM AND REGISTRY.—The term ‘Nationwide Mort-
12 gage Licensing System and Registry’ has the same
13 meaning as in the Secure and Fair Enforcement for
14 Mortgage Licensing Act of 2008.

15 “(4) OTHER DEFINITIONS RELATING TO MORT-
16 GAGE ORIGINATOR.—For purposes of this sub-
17 section, a person ‘assists a consumer in obtaining or
18 applying to obtain a residential mortgage loan’ by,
19 among other things, advising on residential mort-
20 gage loan terms (including rates, fees, and other
21 costs), preparing residential mortgage loan packages,
22 or collecting information on behalf of the consumer
23 with regard to a residential mortgage loan.

24 “(5) RESIDENTIAL MORTGAGE LOAN.—The
25 term ‘residential mortgage loan’ means any con-

1 consumer credit transaction that is secured by a mort-
2 gage, deed of trust, or other equivalent consensual
3 security interest on a dwelling or on residential real
4 property that includes a dwelling, other than a con-
5 sumer credit transaction under an open end credit
6 plan or, for purposes of sections 129B and 129C
7 and section 128(a) (16), (17), (18), and (19), and
8 sections 128(f) and 130(k), and any regulations pro-
9 mulgated thereunder, an extension of credit relating
10 to a plan described in section 101(53D) of title 11,
11 United States Code.

12 “(6) SECRETARY.—The term ‘Secretary’, when
13 used in connection with any transaction or person
14 involved with a residential mortgage loan, means the
15 Secretary of Housing and Urban Development.

16 “(7) SERVICER.—The term ‘servicer’ has the
17 same meaning as in section 6(i)(2) of the Real Es-
18 tate Settlement Procedures Act of 1974 (12 U.S.C.
19 2605(i)(2)).”.

20 **SEC. 1402. RESIDENTIAL MORTGAGE LOAN ORIGINATION.**

21 (a) IN GENERAL.—Chapter 2 of the Truth in Lend-
22 ing Act (15 U.S.C. 1631 et seq.) is amended—

23 (1) by redesignating the 2nd of the 2 sections
24 designated as section 129 (15 U.S.C. 1639a) (relat-

1 ing to duty of servicers of residential mortgages) as
2 section 129A; and

3 (2) by inserting after section 129A (as so reded-
4 igned) the following new section:

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

6 “(a) FINDING AND PURPOSE.—

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

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

19 “(b) DUTY OF CARE.—

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

1 “(A) be qualified and, when required, reg-
2 istered and licensed as a mortgage originator in
3 accordance with applicable State or Federal
4 law, including the Secure and Fair Enforcement
5 for Mortgage Licensing Act of 2008; and

6 “(B) include on all loan documents any
7 unique identifier of the mortgage originator
8 provided by the Nationwide Mortgage Licensing
9 System and Registry.

10 “(2) COMPLIANCE PROCEDURES REQUIRED.—

11 The Board shall prescribe regulations requiring de-
12 pository institutions to establish and maintain proce-
13 dures reasonably designed to assure and monitor the
14 compliance of such depository institutions, the sub-
15 sidiaries of such institutions, and the employees of
16 such institutions or subsidiaries with the require-
17 ments of this section and the registration procedures
18 established under section 1507 of the Secure and
19 Fair Enforcement for Mortgage Licensing Act of
20 2008.”.

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

“129A. Fiduciary duty of servicers of pooled residential mortgages.

“129B. Residential mortgage loan origination.”.

1 **SEC. 1403. PROHIBITION ON STEERING INCENTIVES.**

2 Section 129B of the Truth in Lending Act (as added
3 by section 1402(a)) is amended by inserting after sub-
4 section (b) the following new subsection:

5 “(c) PROHIBITION ON STEERING INCENTIVES.—

6 “(1) IN GENERAL.—For any mortgage loan, no
7 mortgage originator shall receive from any person
8 and no person shall pay to a mortgage originator,
9 directly or indirectly, compensation that varies based
10 on the terms of the loan (other than the amount of
11 the principal).

12 “(2) RESTRUCTURING OF FINANCING ORIGINA-
13 TION FEE.—

14 “(A) IN GENERAL.—For any mortgage
15 loan, a mortgage originator may not receive
16 from any person other than the consumer and
17 no person, other than the consumer, who knows
18 or has reason to know that a consumer has di-
19 rectly compensated or will directly compensate
20 a mortgage originator may pay a mortgage
21 originator any origination fee or charge except
22 bona fide third party charges not retained by
23 the creditor, mortgage originator, or an affiliate
24 of the creditor or mortgage originator .

25 “(B) EXCEPTION.—Notwithstanding sub-
26 paragraph (A), a mortgage originator may re-

1 ceive from a person other than the consumer an
2 origination fee or charge, and a person other
3 than the consumer may pay a mortgage origi-
4 nator an origination fee or charge, if—

5 “(i) the mortgage originator does not
6 receive any compensation directly from the
7 consumer; and

8 “(ii) the consumer does not make an
9 upfront payment of discount points, origi-
10 nation points, or fees, however denomi-
11 nated (other than bona fide third party
12 charges not retained by the mortgage origi-
13 nator, creditor, or an affiliate of the cred-
14 itor or originator), except that the Board
15 may, by rule, waive or provide exemptions
16 to this clause if the Board determines that
17 such waiver or exemption is in the interest
18 of consumers and in the public interest.

19 “(3) REGULATIONS.—The Board shall prescribe
20 regulations to prohibit—

21 “(A) mortgage originators from steering
22 any consumer to a residential mortgage loan
23 that—

1 “(i) the consumer lacks a reasonable
2 ability to repay (in accordance with regula-
3 tions prescribed under section 129C(a)); or

4 “(ii) has predatory characteristics or
5 effects (such as equity stripping, excessive
6 fees, or abusive terms);

7 “(B) mortgage originators from steering
8 any consumer from a residential mortgage loan
9 for which the consumer is qualified that is a
10 qualified mortgage (as defined in section
11 129C(b)(2)) to a residential mortgage loan that
12 is not a qualified mortgage;

13 “(C) abusive or unfair lending practices
14 that promote disparities among consumers of
15 equal credit worthiness but of different race,
16 ethnicity, gender, or age; and

17 “(D) mortgage originators from—

18 “(i) mischaracterizing the credit his-
19 tory of a consumer or the residential mort-
20 gage loans available to a consumer;

21 “(ii) mischaracterizing or suborning
22 the mischaracterization of the appraised
23 value of the property securing the exten-
24 sion of credit; or

1 “(iii) if unable to suggest, offer, or
2 recommend to a consumer a loan that is
3 not more expensive than a loan for which
4 the consumer qualifies, discouraging a con-
5 sumer from seeking a home mortgage loan
6 secured by a consumer’s principal dwelling
7 from another mortgage originator.

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

10 “(A) permitting any yield spread premium
11 or other similar compensation that would, for
12 any mortgage loan, permit the total amount of
13 direct and indirect compensation from all
14 sources permitted to a mortgage originator to
15 vary based on the terms of the loan (other than
16 the amount of the principal);

17 “(B) limiting or affecting the amount of
18 compensation received by a creditor upon the
19 sale of a consummated loan to a subsequent
20 purchaser;

21 “(C) restricting a consumer’s ability to fi-
22 nance, at the option of the consumer, including
23 through principal or rate, any origination fees
24 or costs permitted under this subsection, or the
25 mortgage originator’s right to receive such fees

1 or costs (including compensation) from any per-
2 son, subject to paragraph (2)(B), so long as
3 such fees or costs do not vary based on the
4 terms of the loan (other than the amount of the
5 principal) or the consumer's decision about
6 whether to finance such fees or costs; or

7 “(D) prohibiting incentive payments to a
8 mortgage originator based on the number of
9 residential mortgage loans originated within a
10 specified period of time.”.

11 **SEC. 1404. LIABILITY.**

12 Section 129B of the Truth in Lending Act is amend-
13 ed by inserting after subsection (c) (as added by section
14 1403) the following new subsection:

15 “(d) LIABILITY FOR VIOLATIONS.—

16 “(1) IN GENERAL.—For purposes of providing
17 a cause of action for any failure by a mortgage origi-
18 nator, other than a creditor, to comply with any re-
19 quirement imposed under this section and any regu-
20 lation prescribed under this section, section 130
21 shall be applied with respect to any such failure by
22 substituting ‘mortgage originator’ for ‘creditor’ each
23 place such term appears in each such subsection.

24 “(2) MAXIMUM.—The maximum amount of any
25 liability of a mortgage originator under paragraph

1 (1) to a consumer for any violation of this section
2 shall not exceed the greater of actual damages or an
3 amount equal to 3 times the total amount of direct
4 and indirect compensation or gain accruing to the
5 mortgage originator in connection with the residen-
6 tial mortgage loan involved in the violation, plus the
7 costs to the consumer of the action, including a rea-
8 sonable attorney's fee.”.

9 **SEC. 1405. REGULATIONS.**

10 (a) DISCRETIONARY REGULATORY AUTHORITY.—
11 Section 129B of the Truth in Lending Act is amended
12 by inserting after subsection (d) (as added by section
13 1404) the following new subsection:

14 “(e) DISCRETIONARY REGULATORY AUTHORITY.—

15 “(1) IN GENERAL.—The Board shall, by regula-
16 tions, prohibit or condition terms, acts or practices
17 relating to residential mortgage loans that the Board
18 finds to be abusive, unfair, deceptive, predatory, nec-
19 essary or proper to ensure that responsible, afford-
20 able mortgage credit remains available to consumers
21 in a manner consistent with the purposes of this sec-
22 tion and section 129C, necessary or proper to effec-
23 tuate the purposes of this section and section 129C,
24 to prevent circumvention or evasion thereof, or to fa-

1 facilitate compliance with such sections, or are not in
2 the interest of the borrower.

3 “(2) APPLICATION.—The regulations prescribed
4 under paragraph (1) shall be applicable to all resi-
5 dential mortgage loans and shall be applied in the
6 same manner as regulations prescribed under section
7 105.

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

12 (b) DISCLOSURES.—Notwithstanding any other pro-
13 vision of this title, in order to improve consumer aware-
14 ness and understanding of transactions involving residen-
15 tial mortgage loans through the use of disclosures, the
16 Board may, by rule, exempt from or modify disclosure re-
17 quirements, in whole or in part, for any class of residential
18 mortgage loans if the Board determines that such exemp-
19 tion or modification is in the interest of consumers and
20 in the public interest.

21 **SEC. 1406. STUDY OF SHARED APPRECIATION MORTGAGES.**

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

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

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

13 **Subtitle B—Minimum Standards** 14 **For Mortgages**

15 **SEC. 1411. ABILITY TO REPAY.**

16 (a) IN GENERAL.—

17 (1) RULE OF CONSTRUCTION.—No regulation,
18 order, or guidance issued by the Bureau under this
19 title shall be construed as requiring a depository in-
20 stitution to apply mortgage underwriting standards
21 that do not meet the minimum underwriting stand-
22 ards required by the appropriate prudential regu-
23 lator of the depository institution.

24 (2) AMENDMENT TO TRUTH IN LENDING
25 ACT.—Chapter 2 of the Truth in Lending Act (15

1 U.S.C. 1631 et seq.) is amended by inserting after
2 section 129B (as added by section 1402(a)) the fol-
3 lowing new section:

4 **“§ 129C. Minimum standards for residential mortgage**
5 **loans**

6 “(a) ABILITY TO REPAY.—

7 “(1) IN GENERAL.—In accordance with regula-
8 tions prescribed by the Board, no creditor may make
9 a residential mortgage loan unless the creditor
10 makes a reasonable and good faith determination
11 based on verified and documented information that,
12 at the time the loan is consummated, the consumer
13 has a reasonable ability to repay the loan, according
14 to its terms, and all applicable taxes, insurance (in-
15 cluding mortgage guarantee insurance), and assess-
16 ments.

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

1 taxes, insurance (including mortgage guarantee in-
2 surance), and assessments.

3 “(3) BASIS FOR DETERMINATION.—A deter-
4 mination under this subsection of a consumer’s abil-
5 ity to repay a residential mortgage loan shall include
6 consideration of the consumer’s credit history, cur-
7 rent income, expected income the consumer is rea-
8 sonably assured of receiving, current obligations,
9 debt-to-income ratio or the residual income the con-
10 sumer will have after paying non-mortgage debt and
11 mortgage-related obligations, employment status,
12 and other financial resources other than the con-
13 sumer’s equity in the dwelling or real property that
14 secures repayment of the loan. A creditor shall de-
15 termine the ability of the consumer to repay using
16 a payment schedule that fully amortizes the loan
17 over the term of the loan.

18 “(4) INCOME VERIFICATION.—A creditor mak-
19 ing a residential mortgage loan shall verify amounts
20 of income or assets that such creditor relies on to
21 determine repayment ability, including expected in-
22 come or assets, by reviewing the consumer’s Internal
23 Revenue Service Form W-2, tax returns, payroll re-
24 ceipts, financial institution records, or other third-
25 party documents that provide reasonably reliable evi-

1 dence of the consumer’s income or assets. In order
2 to safeguard against fraudulent reporting, any con-
3 sideration of a consumer’s income history in making
4 a determination under this subsection shall include
5 the verification of such income by the use of—

6 “(A) Internal Revenue Service transcripts
7 of tax returns; or

8 “(B) a method that quickly and effectively
9 verifies income documentation by a third party
10 subject to rules prescribed by the Board.

11 “(5) EXEMPTION.—With respect to loans made,
12 guaranteed, or insured by Federal departments or
13 agencies identified in subsection (b)(3)(B)(ii), such
14 departments or agencies may exempt refinancings
15 under a streamlined refinancing from this income
16 verification requirement as long as the following con-
17 ditions are met:

18 “(A) The consumer is not 30 days or more
19 past due on the prior existing residential mort-
20 gage loan.

21 “(B) The refinancing does not increase the
22 principal balance outstanding on the prior exist-
23 ing residential mortgage loan, except to the ex-
24 tent of fees and charges allowed by the depart-

1 ment or agency making, guaranteeing, or insur-
2 ing the refinancing.

3 “(C) Total points and fees (as defined in
4 section 103(aa)(4), other than bona fide third
5 party charges not retained by the mortgage
6 originator, creditor, or an affiliate of the cred-
7 itor or mortgage originator) payable in connec-
8 tion with the refinancing do not exceed 3 per-
9 cent of the total new loan amount.

10 “(D) The interest rate on the refinanced
11 loan is lower than the interest rate of the origi-
12 nal loan, unless the borrower is refinancing
13 from an adjustable rate to a fixed-rate loan,
14 under guidelines that the department or agency
15 shall establish for loans they make, guarantee,
16 or issue.

17 “(E) The refinancing is subject to a pay-
18 ment schedule that will fully amortize the refi-
19 nancing in accordance with the regulations pre-
20 scribed by the department or agency making,
21 guaranteeing, or insuring the refinancing.

22 “(F) The terms of the refinancing do not
23 result in a balloon payment, as defined in
24 susbection (b)(2)(A)(ii).

1 “(G) Both the residential mortgage loan
2 being refinanced and the refinancing satisfy all
3 requirements of the department or agency mak-
4 ing, guaranteeing, or insuring the refinancing.

5 “(6) NONSTANDARD LOANS.—

6 “(A) VARIABLE RATE LOANS THAT DEFER
7 REPAYMENT OF ANY PRINCIPAL OR INTER-
8 EST.—For purposes of determining, under this
9 subsection, a consumer’s ability to repay a vari-
10 able rate residential mortgage loan that allows
11 or requires the consumer to defer the repay-
12 ment of any principal or interest, the creditor
13 shall use a fully amortizing repayment schedule.

14 “(B) INTEREST-ONLY LOANS.—For pur-
15 poses of determining, under this subsection, a
16 consumer’s ability to repay a residential mort-
17 gage loan that permits or requires the payment
18 of interest only, the creditor shall use the pay-
19 ment amount required to amortize the loan by
20 its final maturity.

21 “(C) CALCULATION FOR NEGATIVE AMOR-
22 TIZATION.—In making any determination under
23 this subsection, a creditor shall also take into
24 consideration any balance increase that may ac-
25 crue from any negative amortization provision.

1 “(D) CALCULATION PROCESS.—For pur-
2 poses of making any determination under this
3 subsection, a creditor shall calculate the month-
4 ly payment amount for principal and interest on
5 any residential mortgage loan by assuming—

6 “(i) the loan proceeds are fully dis-
7 bursed on the date of the consummation of
8 the loan;

9 “(ii) the loan is to be repaid in sub-
10 stantially equal monthly amortizing pay-
11 ments for principal and interest over the
12 entire term of the loan with no balloon
13 payment, unless the loan contract requires
14 more rapid repayment (including balloon
15 payment), in which case the calculation
16 shall be made (I) in accordance with regu-
17 lations prescribed by the Board, with re-
18 spect to any loan which has an annual per-
19 centage rate that does not exceed the aver-
20 age prime offer rate for a comparable
21 transaction, as of the date the interest rate
22 is set, by 1.5 or more percentage points for
23 a first lien residential mortgage loan; and
24 by 3.5 or more percentage points for a
25 subordinate lien residential mortgage loan;

1 or (II) using the contract's repayment
2 schedule, with respect to a loan which has
3 an annual percentage rate, as of the date
4 the interest rate is set, that is at least 1.5
5 percentage points above the average prime
6 offer rate for a first lien residential mort-
7 gage loan; and 3.5 percentage points above
8 the average prime offer rate for a subordi-
9 nate lien residential mortgage loan; and

10 “(iii) the interest rate over the entire
11 term of the loan is a fixed rate equal to the
12 fully indexed rate at the time of the loan
13 closing, without considering the introduc-
14 tory rate.

15 “(E) REFINANCE OF HYBRID LOANS WITH
16 CURRENT LENDER.—In considering any appli-
17 cation for refinancing an existing hybrid loan
18 by the creditor into a standard loan to be made
19 by the same creditor in any case in which there
20 would be a reduction in monthly payment and
21 the mortgagor has not been delinquent on any
22 payment on the existing hybrid loan, the cred-
23 itor may—

24 “(i) consider the mortgagor's good
25 standing on the existing mortgage;

1 “(ii) consider if the extension of new
2 credit would prevent a likely default should
3 the original mortgage reset and give such
4 concerns a higher priority as an acceptable
5 underwriting practice; and

6 “(iii) offer rate discounts and other
7 favorable terms to such mortgagor that
8 would be available to new customers with
9 high credit ratings based on such under-
10 writing practice.

11 “(7) FULLY-INDEXED RATE DEFINED.—For
12 purposes of this subsection, the term ‘fully indexed
13 rate’ means the index rate prevailing on a residential
14 mortgage loan at the time the loan is made plus the
15 margin that will apply after the expiration of any in-
16 troductory interest rates.

17 “(8) REVERSE MORTGAGES AND BRIDGE
18 LOANS.—This subsection shall not apply with re-
19 spect to any reverse mortgage or temporary or
20 bridge loan with a term of 12 months or less, includ-
21 ing to any loan to purchase a new dwelling where
22 the consumer plans to sell a different dwelling within
23 12 months.

24 “(9) SEASONAL INCOME.—If documented in-
25 come, including income from a small business, is a

1 repayment source for a residential mortgage loan, a
2 creditor may consider the seasonality and irregu-
3 larity of such income in the underwriting of and
4 scheduling of payments for such credit.”.

5 (b) CLERICAL AMENDMENT.—The table of sections
6 for chapter 2 of the Truth in Lending Act is amended
7 by inserting after the item relating to section 129B (as
8 added by section 1402(b)) the following new item:

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

9 **SEC. 1412. SAFE HARBOR AND REBUTTABLE PRESUMPTION.**

10 Section 129C of the Truth in Lending Act is amend-
11 ed by inserting after subsection (a) (as added by section
12 1411) the following new subsection:

13 “(b) PRESUMPTION OF ABILITY TO REPAY.—

14 “(1) IN GENERAL.—Any creditor with respect
15 to any residential mortgage loan, and any assignee
16 of such loan subject to liability under this title, may
17 presume that the loan has met the requirements of
18 subsection (a), if the loan is a qualified mortgage.

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

21 “(A) QUALIFIED MORTGAGE.—The term
22 ‘qualified mortgage’ means any residential
23 mortgage loan—

24 “(i) for which the regular periodic
25 payments for the loan may not—

1 “(I) result in an increase of the
2 principal balance; or

3 “(II) except as provided in sub-
4 paragraph (E), allow the consumer to
5 defer repayment of principal;

6 “(ii) except as provided in subpara-
7 graph (E), the terms of which do not re-
8 sult in a balloon payment, where a ‘balloon
9 payment’ is a scheduled payment that is
10 more than twice as large as the average of
11 earlier scheduled payments;

12 “(iii) for which the income and finan-
13 cial resources relied upon to qualify the ob-
14 ligors on the loan are verified and docu-
15 mented;

16 “(iv) in the case of a fixed rate loan,
17 for which the underwriting process is based
18 on a payment schedule that fully amortizes
19 the loan over the loan term and takes into
20 account all applicable taxes, insurance, and
21 assessments;

22 “(v) in the case of an adjustable rate
23 loan, for which the underwriting is based
24 on the maximum rate permitted under the
25 loan during the first 5 years, and a pay-

1 ment schedule that fully amortizes the loan
2 over the loan term and takes into account
3 all applicable taxes, insurance, and assess-
4 ments;

5 “(vi) that complies with any guide-
6 lines or regulations established by the
7 Board relating to ratios of total monthly
8 debt to monthly income or alternative
9 measures of ability to pay regular expenses
10 after payment of total monthly debt, tak-
11 ing into account the income levels of the
12 borrower and such other factors as the
13 Board may determine relevant and con-
14 sistent with the purposes described in
15 paragraph (3)(B)(i);

16 “(vii) for which the total points and
17 fees (as defined in subparagraph (C)) pay-
18 able in connection with the loan do not ex-
19 ceed 3 percent of the total loan amount;

20 “(viii) for which the term of the loan
21 does not exceed 30 years, except as such
22 term may be extended under paragraph
23 (3), such as in high-cost areas; and

24 “(ix) in the case of a reverse mort-
25 gage (except for the purposes of subsection

1 (a) of section 129C, to the extent that
2 such mortgages are exempt altogether
3 from those requirements), a reverse mort-
4 gage which meets the standards for a
5 qualified mortgage, as set by the Board in
6 rules that are consistent with the purposes
7 of this subsection.

8 “(B) AVERAGE PRIME OFFER RATE.—The
9 term ‘average prime offer rate’ means the aver-
10 age prime offer rate for a comparable trans-
11 action as of the date on which the interest rate
12 for the transaction is set, as published by the
13 Board..

14 “(C) POINTS AND FEES.—

15 “(i) IN GENERAL.—For purposes of
16 subparagraph (A), the term ‘points and
17 fees’ means points and fees as defined by
18 section 103(aa)(4) (other than bona fide
19 third party charges not retained by the
20 mortgage originator, creditor, or an affil-
21 iate of the creditor or mortgage origi-
22 nator).

23 “(ii) COMPUTATION.—For purposes of
24 computing the total points and fees under
25 this subparagraph, the total points and

1 fees shall exclude either of the amounts de-
2 scribed in the following subclauses, but not
3 both:

4 “(I) Up to and including 2 bona
5 fide discount points payable by the
6 consumer in connection with the mort-
7 gage, but only if the interest rate
8 from which the mortgage’s interest
9 rate will be discounted does not ex-
10 ceed by more than 1 percentage point
11 the average prime offer rate.

12 “(II) Unless 2 bona fide discount
13 points have been excluded under sub-
14 clause (I), up to and including 1 bona
15 fide discount point payable by the
16 consumer in connection with the mort-
17 gage, but only if the interest rate
18 from which the mortgage’s interest
19 rate will be discounted does not ex-
20 ceed by more than 2 percentage
21 points the average prime offer rate.

22 “(iii) BONA FIDE DISCOUNT POINTS
23 DEFINED.—For purposes of clause (ii), the
24 term ‘bona fide discount points’ means
25 loan discount points which are knowingly

1 paid by the consumer for the purpose of
2 reducing, and which in fact result in a
3 bona fide reduction of, the interest rate or
4 time-price differential applicable to the
5 mortgage.

6 “(iv) INTEREST RATE REDUCTION.—
7 Subclauses (I) and (II) of clause (ii) shall
8 not apply to discount points used to pur-
9 chase an interest rate reduction unless the
10 amount of the interest rate reduction pur-
11 chased is reasonably consistent with estab-
12 lished industry norms and practices for
13 secondary mortgage market transactions.

14 “(D) SMALLER LOANS.—The Board shall
15 prescribe rules adjusting the criteria under sub-
16 paragraph (A)(vii) in order to permit lenders
17 that extend smaller loans to meet the require-
18 ments of the presumption of compliance under
19 paragraph (1). In prescribing such rules, the
20 Board shall consider the potential impact of
21 such rules on rural areas and other areas where
22 home values are lower.

23 “(E) BALLOON LOANS.—The Board may,
24 by regulation, provide that the term ‘qualified
25 mortgage’ includes a balloon loan—

1 “(i) that meets all of the criteria for
2 a qualified mortgage under subparagraph
3 (A) (except clauses (i)(II), (ii), (iv), and
4 (v) of such subparagraph);

5 “(ii) for which the creditor makes a
6 determination that the consumer is able to
7 make all scheduled payments, except the
8 balloon payment, out of income or assets
9 other than the collateral;

10 “(iii) for which the underwriting is
11 based on a payment schedule that fully
12 amortizes the loan over a period of not
13 more than 30 years and takes into account
14 all applicable taxes, insurance, and assess-
15 ments; and

16 “(iv) that is extended by a creditor
17 that—

18 “(I) operates predominantly in
19 rural or underserved areas;

20 “(II) together with all affiliates,
21 has total annual mortgage loan origi-
22 nations that do not exceed a limit set
23 by the Board;

24 “(III) retains the balloon loans in
25 portfolio; and

1 “(IV) meets any asset size
2 threshold and any other criteria as the
3 Board may establish, consistent with
4 the purposes of this subtitle.

5 “(3) REGULATIONS.—

6 “(A) IN GENERAL.—The Board shall pre-
7 scribe regulations to carry out the purposes of
8 this subsection.

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

11 “(i) IN GENERAL.—The Board may
12 prescribe regulations that revise, add to, or
13 subtract from the criteria that define a
14 qualified mortgage upon a finding that
15 such regulations are necessary or proper to
16 ensure that responsible, affordable mort-
17 gage credit remains available to consumers
18 in a manner consistent with the purposes
19 of this section, necessary and appropriate
20 to effectuate the purposes of this section
21 and section 129B, to prevent circumven-
22 tion or evasion thereof, or to facilitate
23 compliance with such sections.

24 “(ii) LOAN DEFINITION.—The fol-
25 lowing agencies shall, in consultation with

1 the Board, prescribe rules defining the
2 types of loans they insure, guarantee, or
3 administer, as the case may be, that are
4 qualified mortgages for purposes of para-
5 graph (2)(A), and such rules may revise,
6 add to, or subtract from the criteria used
7 to define a qualified mortgage under para-
8 graph (2)(A), upon a finding that such
9 rules are consistent with the purposes of
10 this section and section 129B, to prevent
11 circumvention or evasion thereof, or to fa-
12 cilitate compliance with such sections:

13 “(I) The Department of Housing
14 and Urban Development, with regard
15 to mortgages insured under the Na-
16 tional Housing Act (12 U.S.C. 1707
17 et seq.).

18 “(II) The Department of Vet-
19 erans Affairs, with regard to a loan
20 made or guaranteed by the Secretary
21 of Veterans Affairs.

22 “(III) The Department of Agri-
23 culture, with regard loans guaranteed
24 by the Secretary of Agriculture pursu-
25 ant to 42 U.S.C. 1472(h).

1 “(IV) The Rural Housing Serv-
2 ice, with regard to loans insured by
3 the Rural Housing Service.”.

4 **SEC. 1413. DEFENSE TO FORECLOSURE.**

5 Section 130 of the Truth in Lending Act (15 U.S.C.
6 1640) is amended by adding at the end the following new
7 subsection:

8 “(k) DEFENSE TO FORECLOSURE.—

9 “(1) IN GENERAL.—Notwithstanding any other
10 provision of law, when a creditor, assignee, or other
11 holder of a residential mortgage loan or anyone act-
12 ing on behalf of such creditor, assignee, or holder,
13 initiates a judicial or nonjudicial foreclosure of the
14 residential mortgage loan, or any other action to col-
15 lect the debt in connection with such loan, a con-
16 sumer may assert a violation by a creditor of para-
17 graph (1) or (2) of section 129B(c), or of section
18 129C(a), as a matter of defense by recoupment or
19 set off without regard for the time limit on a private
20 action for damages under subsection (e).

21 “(2) AMOUNT OF RECOUPMENT OR SETOFF.—

22 “(A) IN GENERAL.—The amount of
23 recoupment or set-off under paragraph (1) shall
24 equal the amount to which the consumer would
25 be entitled under subsection (a) for damages for

1 a valid claim brought in an original action
2 against the creditor, plus the costs to the con-
3 sumer of the action, including a reasonable at-
4 torney's fee.

5 “(B) SPECIAL RULE.—Where such judg-
6 ment is rendered after the expiration of the ap-
7 plicable time limit on a private action for dam-
8 ages under subsection (e), the amount of
9 recoupment or set-off under paragraph (1) de-
10 rived from damages under subsection (a)(4)
11 shall not exceed the amount to which the con-
12 sumer would have been entitled under sub-
13 section (a)(4) for damages computed up to the
14 day preceding the expiration of the applicable
15 time limit.”.

16 **SEC. 1414. ADDITIONAL STANDARDS AND REQUIREMENTS.**

17 (a) IN GENERAL.—Section 129C of the Truth in
18 Lending Act is amended by inserting after subsection (b)
19 (as added by this title) the following new subsections:

20 “(c) PROHIBITION ON CERTAIN PREPAYMENT PEN-
21 ALTIES.—

22 “(1) PROHIBITED ON CERTAIN LOANS.—

23 “(A) IN GENERAL.—A residential mort-
24 gage loan that is not a ‘qualified mortgage’, as
25 defined under subsection (b)(2), may not con-

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

4 “(B) EXCLUSIONS.—For purposes of this
5 subsection, a ‘qualified mortgage’ may not in-
6 clude a residential mortgage loan that—

7 “(i) has an adjustable rate; or

8 “(ii) has an annual percentage rate
9 that exceeds the average prime offer rate
10 for a comparable transaction, as of the
11 date the interest rate is set—

12 “(I) by 1.5 or more percentage
13 points, in the case of a first lien resi-
14 dential mortgage loan having a origi-
15 nal principal obligation amount that is
16 equal to or less than the amount of
17 the maximum limitation on the origi-
18 nal principal obligation of mortgage in
19 effect for a residence of the applicable
20 size, as of the date of such interest
21 rate set, pursuant to the 6th sentence
22 of section 305(a)(2) the Federal
23 Home Loan Mortgage Corporation
24 Act (12 U.S.C. 1454(a)(2));

1 “(II) by 2.5 or more percentage
2 points, in the case of a first lien resi-
3 dential mortgage loan having a origi-
4 nal principal obligation amount that is
5 more than the amount of the max-
6 imum limitation on the original prin-
7 cipal obligation of mortgage in effect
8 for a residence of the applicable size,
9 as of the date of such interest rate
10 set, pursuant to the 6th sentence of
11 section 305(a)(2) the Federal Home
12 Loan Mortgage Corporation Act (12
13 U.S.C. 1454(a)(2)); and

14 “(III) by 3.5 or more percentage
15 points, in the case of a subordinate
16 lien residential mortgage loan.

17 “(2) PUBLICATION OF AVERAGE PRIME OFFER
18 RATE AND APR THRESHOLDS.—The Board—

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

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

23 “(C) shall adjust the thresholds established
24 under subclause (I), (II), and (III) of para-
25 graph (1)(B)(ii) as necessary to reflect signifi-

1 cant changes in market conditions and to effec-
2 tuate the purposes of the Mortgage Reform and
3 Anti-Predatory Lending Act.

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

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

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

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

1 “(D) After the end of the 3-year period be-
2 ginning on the date the loan is consummated,
3 no prepayment penalty may be imposed on a
4 qualified mortgage.

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

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

23 “(1) insurance premiums or debt cancellation or
24 suspension fees calculated and paid in full on a

1 monthly basis shall not be considered financed by
2 the creditor; and

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

11 “(e) ARBITRATION.—

12 “(1) IN GENERAL.—No residential mortgage
13 loan and no extension of credit under an open end
14 consumer credit plan secured by the principal dwell-
15 ing of the consumer may include terms which re-
16 quire arbitration or any other nonjudicial procedure
17 as the method for resolving any controversy or set-
18 tling any claims arising out of the transaction.

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

1 “(3) NO WAIVER OF STATUTORY CAUSE OF AC-
2 TION.—No provision of any residential mortgage
3 loan or of any extension of credit under an open end
4 consumer credit plan secured by the principal dwell-
5 ing of the consumer, and no other agreement be-
6 tween the consumer and the creditor relating to the
7 residential mortgage loan or extension of credit re-
8 ferred to in paragraph (1), shall be applied or inter-
9 preted so as to bar a consumer from bringing an ac-
10 tion in an appropriate district court of the United
11 States, or any other court of competent jurisdiction,
12 pursuant to section 130 or any other provision of
13 law, for damages or other relief in connection with
14 any alleged violation of this section, any other provi-
15 sion of this title, or any other Federal law.

16 “(f) MORTGAGES WITH NEGATIVE AMORTIZATION.—
17 No creditor may extend credit to a borrower in connection
18 with a consumer credit transaction under an open or
19 closed end consumer credit plan secured by a dwelling or
20 residential real property that includes a dwelling, other
21 than a reverse mortgage, that provides or permits a pay-
22 ment plan that may, at any time over the term of the ex-
23 tension of credit, result in negative amortization unless,
24 before such transaction is consummated—

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

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

6 “(B) describes negative amortization in
7 such manner as the Board shall prescribe;

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

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

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

22 (b) CONFORMING AMENDMENT RELATING TO EN-
23 FORCEMENT.—Section 108(a) of the Truth in Lending
24 Act (15 U.S.C. 1607(a)) is amended by inserting after
25 paragraph (6) the following new paragraph:

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

5 (c) PROTECTION AGAINST LOSS OF ANTI-DEFI-
6 CIENCY PROTECTION.—Section 129C of the Truth in
7 Lending Act is amended by inserting after subsection (f)
8 (as added by subsection (a)) the following new subsection:

9 “(g) PROTECTION AGAINST LOSS OF ANTI-DEFI-
10 CIENCY PROTECTION.—

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

20 “(2) NOTICE AT TIME OF CONSUMMATION.—In
21 the case of any residential mortgage loan that is, or
22 upon consummation will be, subject to protection
23 under an anti-deficiency law, the creditor or mort-
24 gage originator shall provide a written notice to the
25 consumer describing the protection provided by the

1 anti-deficiency law and the significance for the con-
2 sumer of the loss of such protection before such loan
3 is consummated.

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

18 (d) POLICY REGARDING ACCEPTANCE OF PARTIAL
19 PAYMENT.—Section 129C of the Truth in Lending Act
20 is amended by inserting after subsection (g) (as added by
21 subsection (c)) the following new subsection:

22 “(h) POLICY REGARDING ACCEPTANCE OF PARTIAL
23 PAYMENT.—In the case of any residential mortgage loan,
24 a creditor shall disclose prior to settlement or, in the case
25 of a person becoming a creditor with respect to an existing

1 residential mortgage loan, at the time such person be-
2 comes a creditor—

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

5 “(2) if partial payments are accepted, how such
6 payments will be applied to such mortgage and if
7 such payments will be placed in escrow.

8 “(i) **TIMESHARE PLANS.**—This section and any regu-
9 lations promulgated under this section do not apply to an
10 extension of credit relating to a plan described in section
11 101(53D) of title 11, United States Code.”.

12 **SEC. 1415. RULE OF CONSTRUCTION.**

13 Except as otherwise expressly provided in section
14 129B or 129C of the Truth in Lending Act (as added by
15 this title), no provision of such section 129B or 129C shall
16 be construed as superseding, repealing, or affecting any
17 duty, right, obligation, privilege, or remedy of any person
18 under any other provision of the Truth in Lending Act
19 or any other provision of Federal or State law.

20 **SEC. 1416. AMENDMENTS TO CIVIL LIABILITY PROVISIONS.**

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

25 (1) in paragraph (2)(A)(ii)—

1 (A) by striking “\$100” and inserting
2 “\$200”; and

3 (B) by striking “\$1,000” and inserting
4 “\$2,000”;

5 (2) in paragraph (2)(B), by striking
6 “\$500,000” and inserting “\$1,000,000”; and

7 (3) in paragraph (4), by inserting “, paragraph
8 (1) or (2) of section 129B(e), or section 129C(a)”
9 after “section 129”.

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

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

16 (2) by inserting after the first sentence the fol-
17 lowing new sentence: “Any action under this section
18 with respect to any violation of section 129, 129B,
19 or 129C may be brought in any United States dis-
20 trict court, or in any other court of competent juris-
21 diction, before the end of the 3-year period begin-
22 ning on the date of the occurrence of the violation.”.

1 **SEC. 1417. LENDER RIGHTS IN THE CONTEXT OF BOR-**
2 **RROWER DECEPTION.**

3 Section 130 of the Truth in Lending Act (15 U.S.C.
4 1640) is amended by adding after subsection (k) (as added
5 by this title) the following new subsection:

6 “(l) EXEMPTION FROM LIABILITY AND RESCISSION
7 IN CASE OF BORROWER FRAUD OR DECEPTION.—In ad-
8 dition to any other remedy available by law or contract,
9 no creditor or assignee shall be liable to an obligor under
10 this section, if such obligor, or co-obligor has been con-
11 victed of obtaining by actual fraud such residential mort-
12 gage loan.”.

13 **SEC. 1418. SIX-MONTH NOTICE REQUIRED BEFORE RESET**
14 **OF HYBRID ADJUSTABLE RATE MORTGAGES.**

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

18 **“§ 128A. Reset of hybrid adjustable rate mortgages**

19 “(a) HYBRID ADJUSTABLE RATE MORTGAGES DE-
20 FINED.—For purposes of this section, the term ‘hybrid ad-
21 justable rate mortgage’ means a consumer credit trans-
22 action secured by the consumer’s principal residence with
23 a fixed interest rate for an introductory period that ad-
24 justs or resets to a variable interest rate after such period.

25 “(b) NOTICE OF RESET AND ALTERNATIVES.—Dur-
26 ing the 1-month period that ends 6 months before the date

1 on which the interest rate in effect during the introductory
2 period of a hybrid adjustable rate mortgage adjusts or
3 resets to a variable interest rate or, in the case of such
4 an adjustment or resetting that occurs within the first 6
5 months after consummation of such loan, at consumma-
6 tion, the creditor or servicer of such loan shall provide a
7 written notice, separate and distinct from all other cor-
8 respondence to the consumer, that includes the following:

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

12 “(2) An explanation of how the new interest
13 rate and payment would be determined, including an
14 explanation of how the index was adjusted, such as
15 by the addition of a margin.

16 “(3) A good faith estimate, based on accepted
17 industry standards, of the creditor or servicer of the
18 amount of the monthly payment that will apply after
19 the date of the adjustment or reset, and the assump-
20 tions on which this estimate is based.

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

25 “(A) refinancing;

1 “(B) renegotiation of loan terms;

2 “(C) payment forbearances; and

3 “(D) pre-foreclosure sales.

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

13 “(6) The address, telephone number, and Inter-
14 net address for the State housing finance authority
15 (as so defined) for the State in which the consumer
16 resides.

17 “(c) SAVINGS CLAUSE.—The Board may require the
18 notice in paragraph (b) or other notice consistent with this
19 Act for adjustable rate mortgage loans that are not hybrid
20 adjustable rate mortgage loans.”.

21 (b) CLERICAL AMENDMENT.—The table of sections
22 for chapter 2 of the Truth in Lending Act is amended
23 by inserting after the item relating to section 128 the fol-
24 lowing new item:

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

1 **SEC. 1419. REQUIRED DISCLOSURES.**

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

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

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

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

23 “(17) In the case of a residential mortgage
24 loan, the aggregate amount of settlement charges for
25 all settlement services provided in connection with
26 the loan, the amount of charges that are included in

1 the loan and the amount of such charges the bor-
2 rower must pay at closing, the approximate amount
3 of the wholesale rate of funds in connection with the
4 loan, and the aggregate amount of other fees or re-
5 quired payments in connection with the loan.

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

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

19 **SEC. 1420. DISCLOSURES REQUIRED IN MONTHLY STATE-**
20 **MENTS FOR RESIDENTIAL MORTGAGE**
21 **LOANS.**

22 Section 128 of the Truth in Lending Act (15 U.S.C.
23 1638) is amended by adding at the end the following new
24 subsection:

1 “(f) PERIODIC STATEMENTS FOR RESIDENTIAL
2 MORTGAGE LOANS.—

3 “(1) IN GENERAL.—The creditor, assignee, or
4 servicer with respect to any residential mortgage
5 loan shall transmit to the obligor, for each billing
6 cycle, a statement setting forth each of the following
7 items, to the extent applicable, in a conspicuous and
8 prominent manner:

9 “(A) The amount of the principal obliga-
10 tion under the mortgage.

11 “(B) The current interest rate in effect for
12 the loan.

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

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

17 “(E) A description of any late payment
18 fees.

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

22 “(G) The names, addresses, telephone
23 numbers, and Internet addresses of counseling
24 agencies or programs reasonably available to
25 the consumer that have been certified or ap-

1 proved and made publicly available by the Sec-
2 retary of Housing and Urban Development or a
3 State housing finance authority (as defined in
4 section 1301 of the Financial Institutions Re-
5 form, Recovery, and Enforcement Act of 1989).

6 “(H) Such other information as the Board
7 may prescribe in regulations.

8 “(2) DEVELOPMENT AND USE OF STANDARD
9 FORM.—The Board shall develop and prescribe a
10 standard form for the disclosure required under this
11 subsection, taking into account that the statements
12 required may be transmitted in writing or electroni-
13 cally.

14 “(3) EXCEPTION.—Paragraph (1) shall not
15 apply to any fixed rate residential mortgage loan
16 where the creditor, assignee, or servicer provides the
17 obligor with a coupon book that provides the obligor
18 with substantially the same information as required
19 in paragraph (1).”.

20 **SEC. 1421. REPORT BY THE GAO.**

21 (a) REPORT REQUIRED.—The Comptroller General
22 of the United States shall conduct a study to determine
23 the effects the enactment of this Act will have on the avail-
24 ability and affordability of credit for consumers, small

1 businesses, homebuyers, and mortgage lending, including
2 the effect—

3 (1) on the mortgage market for mortgages that
4 are not within the safe harbor provided in the
5 amendments made by this subtitle;

6 (2) on the ability of prospective homebuyers to
7 obtain financing;

8 (3) on the ability of homeowners facing resets
9 or adjustments to refinance—for example, do they
10 have fewer refinancing options due to the unavail-
11 ability of certain loan products that were available
12 before the enactment of this Act;

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

15 (5) on home sales and construction;

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

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

21 (8) of expanding the existing provisions of the
22 Home Ownership and Equity Protection Act of
23 1994;

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

1 (10) of establishing counseling services under
2 the Department of Housing and Urban Development
3 and offered through the Office of Housing Coun-
4 seling.

5 (b) REPORT.—Before the end of the 1-year period be-
6 ginning on the date of the enactment of this Act, the
7 Comptroller General shall submit a report to the Congress
8 containing the findings and conclusions of the Comptroller
9 General with respect to the study conducted pursuant to
10 subsection (a).

11 (c) EXAMINATION RELATED TO CERTAIN CREDIT
12 RISK RETENTION PROVISIONS.—The report required by
13 subsection (b) shall also include an analysis by the Comp-
14 troller General of the effect on the capital reserves and
15 funding of lenders of credit risk retention provisions for
16 non-qualified mortgages, including an analysis of the ex-
17 ceptions and adjustments authorized in section
18 129C(b)(3) of the Truth in Lending Act and a rec-
19 ommendation on whether a uniform standard is needed.

20 (d) ANALYSIS OF CREDIT RISK RETENTION PROVI-
21 SIONS.—The report required by subsection (b) shall also
22 include—

23 (1) an analysis by the Comptroller General of
24 whether the credit risk retention provisions have sig-
25 nificantly reduced risks to the larger credit market

1 of the repackaging and selling of securitized loans on
2 a secondary market; and

3 (2) recommendations to the Congress on adjust-
4 ments that should be made, or additional measures
5 that should be undertaken.

6 **SEC. 1422. STATE ATTORNEY GENERAL ENFORCEMENT AU-**
7 **THORITY.**

8 Section 130(e) of the Truth in Lending Act (15
9 U.S.C. 1640(e)) is amended by striking “section 129 may
10 also” and inserting “section 129, 129B, 129C, 129D,
11 129E, 129F, 129G, or 129H of this Act may also”.

12 **Subtitle C—High-Cost Mortgages**

13 **SEC. 1431. DEFINITIONS RELATING TO HIGH-COST MORT-**
14 **GAGES.**

15 (a) HIGH-COST MORTGAGE DEFINED.—Section
16 103(aa) of the Truth in Lending Act (15 U.S.C.
17 1602(aa)) is amended by striking all that precedes para-
18 graph (2) and inserting the following:

19 “(aa) HIGH-COST MORTGAGE.—

20 “(1) DEFINITION.—

21 “(A) IN GENERAL.—The term ‘high-cost
22 mortgage’, and a mortgage referred to in this
23 subsection, means a consumer credit trans-
24 action that is secured by the consumer’s prin-

1 ciplal dwelling, other than a reverse mortgage
2 transaction, if—

3 “(i) in the case of a credit transaction
4 secured—

5 “(I) by a first mortgage on the
6 consumer’s principal dwelling, the an-
7 nual percentage rate at consummation
8 of the transaction will exceed by more
9 than 6.5 percentage points (8.5 per-
10 centage points, if the dwelling is per-
11 sonal property and the transaction is
12 for less than \$50,000) the average
13 prime offer rate, as defined in section
14 129C(b)(2)(B), for a comparable
15 transaction; or

16 “(II) by a subordinate or junior
17 mortgage on the consumer’s principal
18 dwelling, the annual percentage rate
19 at consummation of the transaction
20 will exceed by more than 8.5 percent-
21 age points the average prime offer
22 rate, as defined in section
23 129C(b)(2)(B), for a comparable
24 transaction;

1 “(ii) the total points and fees payable
2 in connection with the transaction, other
3 than bona fide third party charges not re-
4 tained by the mortgage originator, cred-
5 itor, or an affiliate of the creditor or mort-
6 gage originator, exceed—

7 “(I) in the case of a transaction
8 for \$20,000 or more, 5 percent of the
9 total transaction amount; or

10 “(II) in the case of a transaction
11 for less than \$20,000, the lesser of 8
12 percent of the total transaction
13 amount or \$1,000 (or such other dol-
14 lar amount as the Board shall pre-
15 scribe by regulation); or

16 “(iii) the credit transaction documents
17 permit the creditor to charge or collect pre-
18 payment fees or penalties more than 36
19 months after the transaction closing or
20 such fees or penalties exceed, in the aggre-
21 gate, more than 2 percent of the amount
22 prepaid.

23 “(B) INTRODUCTORY RATES TAKEN INTO
24 ACCOUNT.—For purposes of subparagraph
25 (A)(i), the annual percentage rate of interest

1 shall be determined based on the following in-
2 terest rate:

3 “(i) In the case of a fixed-rate trans-
4 action in which the annual percentage rate
5 will not vary during the term of the loan,
6 the interest rate in effect on the date of
7 consummation of the transaction.

8 “(ii) In the case of a transaction in
9 which the rate of interest varies solely in
10 accordance with an index, the interest rate
11 determined by adding the index rate in ef-
12 fect on the date of consummation of the
13 transaction to the maximum margin per-
14 mitted at any time during the loan agree-
15 ment.

16 “(iii) In the case of any other trans-
17 action in which the rate may vary at any
18 time during the term of the loan for any
19 reason, the interest charged on the trans-
20 action at the maximum rate that may be
21 charged during the term of the loan.

22 “(C) MORTGAGE INSURANCE.—For the
23 purposes of computing the total points and fees
24 under paragraph (4), the total points and fees
25 shall exclude—

1 “(i) any premium provided by an
2 agency of the Federal Government or an
3 agency of a State;

4 “(ii) any amount that is not in excess
5 of the amount payable under policies in ef-
6 fect at the time of origination under sec-
7 tion 203(c)(2)(A) of the National Housing
8 Act (12 U.S.C. 1709(c)(2)(A)), provided
9 that the premium, charge, or fee is re-
10 quired to be refundable on a pro-rated
11 basis and the refund is automatically
12 issued upon notification of the satisfaction
13 of the underlying mortgage loan; and

14 “(iii) any premium paid by the con-
15 sumer after closing.”.

16 (b) ADJUSTMENT OF PERCENTAGE POINTS.—Section
17 103(aa)(2) of the Truth in Lending Act (15 U.S.C.
18 1602(aa)(2)) is amended by striking subparagraph (B)
19 and inserting the following new subparagraph:

20 “(B) An increase or decrease under sub-
21 paragraph (A)—

22 “(i) may not result in the number of
23 percentage points referred to in paragraph
24 (1)(A)(i)(I) being less than 6 percentage

1 points or greater than 10 percentage
2 points; and

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

8 (c) POINTS AND FEES DEFINED.—

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

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

14 “(B) all compensation paid directly or indi-
15 rectly by a consumer or creditor to a mortgage
16 originator from any source, including a mort-
17 gage originator that is also the creditor in a
18 table-funded transaction;”;

19 (B) by redesignating subparagraph (D) as
20 subparagraph (G); and

21 (C) by inserting after subparagraph (C)
22 the following new subparagraphs:

23 “(D) premiums or other charges payable at
24 or before closing for any credit life, credit dis-
25 ability, credit unemployment, or credit property

1 insurance, or any other accident, loss-of-income,
2 life or health insurance, or any payments di-
3 rectly or indirectly for any debt cancellation or
4 suspension agreement or contract, except that
5 insurance premiums or debt cancellation or sus-
6 pension fees calculated and paid in full on a
7 monthly basis shall not be considered financed
8 by the creditor;

9 “(E) the maximum prepayment fees and
10 penalties which may be charged or collected
11 under the terms of the credit transaction;

12 “(F) all prepayment fees or penalties that
13 are incurred by the consumer if the loan refi-
14 nances a previous loan made or currently held
15 by the same creditor or an affiliate of the cred-
16 itor; and”.

17 (2) CALCULATION OF POINTS AND FEES FOR
18 OPEN-END CONSUMER CREDIT PLANS.—Section
19 103(aa) of the Truth in Lending Act (15 U.S.C.
20 1602(aa)) is amended—

21 (A) by redesignating paragraph (5) as
22 paragraph (6); and

23 (B) by inserting after paragraph (4) the
24 following new paragraph:

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

12 (d) BONA FIDE DISCOUNT LOAN DISCOUNT
13 POINTS.—Section 103 of the Truth in Lending Act (15
14 U.S.C. 1602) is amended by inserting after subsection (cc)
15 (as added by section 1401) the following new subsection:

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

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

1 “(A) the average prime offer rate, as de-
2 fined in section 129C; or

3 “(B) if secured by a personal property
4 loan, the average rate on a loan in connection
5 with which insurance is provided under title I
6 of the National Housing Act (12 U.S.C. 1702
7 et seq.).

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

15 “(A) the average prime offer rate, as de-
16 fined in section 129C; or

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

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

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

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

9 **SEC. 1432. AMENDMENTS TO EXISTING REQUIREMENTS**
10 **FOR CERTAIN MORTGAGES.**

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

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

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

1 **SEC. 1433. ADDITIONAL REQUIREMENTS FOR CERTAIN**
2 **MORTGAGES.**

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

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

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

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

16 “(k) LATE FEES.—

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

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

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

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

1 stallment is paid in advance, before the end of
2 the 30-day period beginning on the date the
3 payment is due; or

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

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

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

1 “(l) ACCELERATION OF DEBT.—No high-cost mort-
2 gage may contain a provision which permits the creditor
3 to accelerate the indebtedness, except when repayment of
4 the loan has been accelerated by default in payment, or
5 pursuant to a due-on-sale provision, or pursuant to a ma-
6 terial violation of some other provision of the loan docu-
7 ment unrelated to payment schedule.

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

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

16 “(2) Any points or fees.”.

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

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

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

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

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

13 “(s) MODIFICATION AND DEFERRAL FEES PROHIB-
14 ITED.—A creditor, successor in interest, assignee, or any
15 agent of any of the above, may not charge a consumer
16 any fee to modify, renew, extend, or amend a high-cost
17 mortgage, or to defer any payment due under the terms
18 of such mortgage.”.

19 (d) PAYOFF STATEMENT.—Section 129 of the Truth
20 in Lending Act (15 U.S.C. 1639) is amended by inserting
21 after subsection (s) (as added by subsection (c) of this
22 section) the following new subsection:

23 “(t) PAYOFF STATEMENT.—

24 “(1) FEES.—

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

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

17 “(C) FEE DISCLOSURE.—Prior to charging
18 a transaction fee as provided in subparagraph
19 (B), a creditor or servicer shall disclose that
20 payoff balances are available for free pursuant
21 to subparagraph (A).

22 “(D) MULTIPLE REQUESTS.—If a creditor
23 or servicer has provided payoff information re-
24 ferred to in subparagraph (A) without charge,
25 other than the transaction fee allowed by sub-

1 paragraph (B), on 4 occasions during a cal-
2 endar year, the creditor or servicer may there-
3 after charge a reasonable fee for providing such
4 information during the remainder of the cal-
5 endar year.

6 “(2) PROMPT DELIVERY.—Payoff balances shall
7 be provided within 5 business days after receiving a
8 request by a consumer or a person authorized by the
9 consumer to obtain such information.”.

10 (e) PRE-LOAN COUNSELING REQUIRED.—Section
11 129 of the Truth in Lending Act (15 U.S.C. 1639) is
12 amended by inserting after subsection t) (as added by sub-
13 section (d) of this section) the following new subsection:

14 “(u) PRE-LOAN COUNSELING.—

15 “(1) IN GENERAL.—A creditor may not extend
16 credit to a consumer under a high-cost mortgage
17 without first receiving certification from a counselor
18 that is approved by the Secretary of Housing and
19 Urban Development, or at the discretion of the Sec-
20 retary, a State housing finance authority, that the
21 consumer has received counseling on the advisability
22 of the mortgage. Such counselor shall not be em-
23 ployed by the creditor or an affiliate of the creditor
24 or be affiliated with the creditor.

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

9 “(3) REGULATIONS.—The Board may prescribe
10 such regulations as the Board determines to be ap-
11 propriate to carry out the requirements of paragraph
12 (1).”.

13 (f) CORRECTIONS AND UNINTENTIONAL VIOLA-
14 TIONS.—Section 129 of the Truth in Lending Act (15
15 U.S.C. 1639) is amended by inserting after subsection (u)
16 (as added by subsection (e)) the following new subsection:

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

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

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

4 “(A) make the loan satisfy the require-
5 ments 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
11 or receipt of notification of an unintentional viola-
12 tion or bona fide error and prior to the institution
13 of any action, the consumer is notified of the compli-
14 ance failure, appropriate restitution is made, and
15 whatever adjustments are necessary are made to the
16 loan to either, at the choice of the consumer—

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

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

1 **Subtitle D—Office of Housing**
2 **Counseling**

3 **SEC. 1441. SHORT TITLE.**

4 This subtitle may be cited as the “Expand and Pre-
5 serve Home Ownership Through Counseling Act”.

6 **SEC. 1442. 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,
13 in the Department, the Office of Housing Coun-
14 seling.

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

21 “(3) FUNCTIONS.—

22 “(A) IN GENERAL.—The Director shall
23 have primary responsibility within the Depart-
24 ment for all activities and matters relating to

1 homeownership counseling and rental housing
2 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 adminis-
10 tered by the Department that relate to
11 housing counseling, homeownership coun-
12 seling (including maintenance of homes),
13 mortgage-related counseling (including
14 home equity conversion mortgages and
15 credit protection options to avoid fore-
16 closure), and rental housing counseling, in-
17 cluding the requirements, standards, and
18 performance measures relating to housing
19 counseling.

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

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

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

12 “(iii) contributing to the distribution
13 of home buying information booklets pur-
14 suant to section 5 of the Real Estate Set-
15 tlement Procedures Act of 1974 (12
16 U.S.C. 2604);

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

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

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

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

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

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

21 “(4) ADVISORY COMMITTEE.—

22 “(A) IN GENERAL.—The Secretary shall
23 appoint an advisory committee to provide advice
24 regarding the carrying out of the functions of
25 the Director.

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

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

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

18 “(E) PROHIBITION OF PAY; TRAVEL EX-
19 PENSES.—Members of the advisory committee
20 shall serve without pay, but shall receive travel
21 expenses, including per diem in lieu of subsist-
22 ence, in accordance with applicable provisions
23 under subchapter I of chapter 57 of title 5,
24 United States Code.

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

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

16 **SEC. 1443. COUNSELING PROCEDURES.**

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

21 “(g) PROCEDURES AND ACTIVITIES.—

22 “(1) COUNSELING PROCEDURES.—

23 “(A) IN GENERAL.—The Secretary shall
24 establish, coordinate, and monitor the adminis-
25 tration by the Department of Housing and

1 Urban Development of the counseling proce-
2 dures for homeownership counseling and rental
3 housing counseling provided in connection with
4 any program of the Department, including all
5 requirements, standards, and performance
6 measures that relate to homeownership and
7 rental housing counseling.

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

17 “(i) section 105(a)(20) of the Housing
18 and Community Development Act of 1974
19 (42 U.S.C. 5305(a)(20));

20 “(ii) in the United States Housing
21 Act of 1937—

22 “(I) section 9(e) (42 U.S.C.
23 1437g(e));

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

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

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

5 “(V) section 32(e)(4) (42 U.S.C.
6 1437z-4(e)(4));

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

9 “(VII) sections 302(b)(6) and
10 303(b)(7) (42 U.S.C. 1437aaa-
11 1(b)(6), 1437aaa-2(b)(7)); and

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

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

17 “(iv) sections 233(b)(2) and 258(b) of
18 the Cranston-Gonzalez National Affordable
19 Housing Act (42 U.S.C. 12773(b)(2),
20 12808(b));

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

24 “(vi) section 220(d)(2)(G) of the Low-
25 Income Housing Preservation and Resident

1 Homeownership Act of 1990 (12 U.S.C.
2 4110(d)(2)(G));

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

9 “(viii) section 491(b)(1)(F)(iii) of the
10 McKinney-Vento Homeless Assistance Act
11 (42 U.S.C. 11408(b)(1)(F)(iii));

12 “(ix) sections 202(3) and
13 810(b)(2)(A) of the Native American
14 Housing and Self-Determination Act of
15 1996 (25 U.S.C. 4132(3), 4229(b)(2)(A));

16 “(x) in the National Housing Act—

17 “(I) in section 203 (12 U.S.C.
18 1709), the penultimate undesignated
19 paragraph of paragraph (2) of sub-
20 section (b), subsection (c)(2)(A), and
21 subsection (r)(4);

22 “(II) subsections (a) and (c)(3)
23 of section 237 (12 U.S.C. 1715z-2);
24 and

1 “(III) subsections (d)(2)(B) and
2 (m)(1) of section 255 (12 U.S.C.
3 1715z-20);

4 “(xi) section 502(h)(4)(B) of the
5 Housing Act of 1949 (42 U.S.C.
6 1472(h)(4)(B));

7 “(xii) section 508 of the Housing and
8 Urban Development Act of 1970 (12
9 U.S.C. 1701z-7); and

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

12 “(C) RENTAL HOUSING COUNSELING.—
13 For purposes of this subsection, the term ‘rent-
14 al housing counseling’ means counseling related
15 to rental of residential property, which may in-
16 clude counseling regarding future homeown-
17 ership opportunities and providing referrals for
18 renters and prospective renters to entities pro-
19 viding counseling and shall include counseling
20 related to such topics that is provided pursuant
21 to—

22 “(i) section 105(a)(20) of the Housing
23 and Community Development Act of 1974
24 (42 U.S.C. 5305(a)(20));

1 “(ii) in the United States Housing
2 Act of 1937—

3 “(I) section 9(e) (42 U.S.C.
4 1437g(e));

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

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

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

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

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

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

18 “(iv) section 106 of the Housing and
19 Urban Development Act of 1968 (12
20 U.S.C. 1701x);

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

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

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

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

20 “(3) MORTGAGE SOFTWARE SYSTEMS.—

21 “(A) CERTIFICATION.—The Secretary shall
22 provide for the certification of various computer
23 software programs for consumers to use in eval-
24 uating different residential mortgage loan pro-
25 posals. The Secretary shall require, for such

1 certification, that the mortgage software sys-
2 tems take into account—

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

6 “(ii) the amount of time the consumer
7 expects to remain in the home or expected
8 time to maturity of the loan; and

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

17 If the Secretary determines that available exist-
18 ing software is inadequate to assist consumers
19 during the residential mortgage loan application
20 process, the Secretary shall arrange for the de-
21 velopment by private sector software companies
22 of new mortgage software systems that meet
23 the Secretary’s specifications.

24 “(B) USE AND INITIAL AVAILABILITY.—
25 Such certified computer software programs

1 shall be used to supplement, not replace, hous-
2 ing counseling. The Secretary shall provide that
3 such programs are initially used only in connec-
4 tion with the assistance of housing counselors
5 certified pursuant to subsection (e).

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

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

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

23 “(A) IN GENERAL.—The Director of Hous-
24 ing Counseling shall develop, implement, and
25 conduct national public service multimedia cam-

1 paigns designed to make persons facing mort-
2 gage foreclosure, persons considering a
3 subprime mortgage loan to purchase a home, el-
4 derly persons, persons who face language bar-
5 riers, low-income persons, minorities, and other
6 potentially vulnerable consumers aware that it
7 is advisable, before seeking or maintaining a
8 residential mortgage loan, to obtain homeowner-
9 ship counseling from an unbiased and reliable
10 sources and that such homeownership coun-
11 seling is available, including through programs
12 sponsored by the Secretary of Housing and
13 Urban Development.

14 “(B) CONTACT INFORMATION.—Each seg-
15 ment of the multimedia campaign under sub-
16 paragraph (A) shall publicize the toll-free tele-
17 phone number and website of the Department
18 of Housing and Urban Development through
19 which persons seeking housing counseling can
20 locate a housing counseling agency in their
21 State that is certified by the Secretary of Hous-
22 ing and Urban Development and can provide
23 advice on buying a home, renting, defaults,
24 foreclosures, credit issues, and reverse mort-
25 gages.

1 “(C) AUTHORIZATION OF APPROPRIA-
2 TIONS.—There are authorized to be appro-
3 priated to the Secretary, not to exceed
4 \$3,000,000 for fiscal years 2009, 2010, and
5 2011, for the development, implementation, and
6 conduct of national public service multimedia
7 campaigns under this paragraph.

8 “(D) FORECLOSURE RESCUE EDUCATION
9 PROGRAMS.—

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

19 “(I) tips on avoiding foreclosure
20 rescue scams;

21 “(II) tips on avoiding predatory
22 lending mortgage agreements;

23 “(III) tips on avoiding for-profit
24 foreclosure counseling services; and

1 “(IV) local counseling resources
2 that are approved by the Department
3 of Housing and Urban Development.

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

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

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

22 “(II) HIGH PERCENTAGE OF RE-
23 TIREMENT COMMUNITIES.—An area
24 has a ‘high percentage of retirement
25 communities’ if such area is one of

1 the metropolitan statistical areas (as
2 that term is defined by the Director of
3 the Office of Management and Budget
4 et) with the highest percentage of
5 residents aged 65 or older.

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

15 “(5) EDUCATION PROGRAMS.—The Secretary
16 shall provide advice and technical assistance to
17 States, units of general local government, and non-
18 profit organizations regarding the establishment and
19 operation of, including assistance with the develop-
20 ment of content and materials for, educational pro-
21 grams to inform and educate consumers, particularly
22 those most vulnerable with respect to residential
23 mortgage loans (such as elderly persons, persons
24 facing language barriers, low-income persons, mi-
25 norities, and other potentially vulnerable con-

1 sumers), regarding home mortgages, mortgage refi-
2 nancing, home equity loans, home repair loans, and
3 where appropriate by region, any requirements and
4 costs associated with obtaining flood or other dis-
5 aster-specific insurance coverage.”.

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

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

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

15 (3) by inserting after subclause (IV) the fol-
16 lowing new subclause:

17 “(V) notify the housing or mort-
18 gage applicant of the availability of
19 mortgage software systems provided
20 pursuant to subsection (g)(3).”.

21 **SEC. 1444. GRANTS FOR HOUSING COUNSELING ASSIST-**
22 **ANCE.**

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

1 “(4) HOMEOWNERSHIP AND RENTAL COUNSELING
2 ASSISTANCE.—

3 “(A) IN GENERAL.—The Secretary shall make
4 financial assistance available under this paragraph
5 to HUD-approved housing counseling agencies and
6 State housing finance agencies.

7 “(B) QUALIFIED ENTITIES.—The Secretary
8 shall establish standards and guidelines for eligibility
9 of organizations (including governmental and non-
10 profit organizations) to receive assistance under this
11 paragraph, in accordance with subparagraph (D).

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

23 “(D) LIMITATION ON DISTRIBUTION OF ASSIST-
24 ANCE.—

1 “(i) IN GENERAL.—None of the amounts
2 made available under this paragraph shall be
3 distributed to—

4 “(I) any organization which has been
5 convicted for a violation under Federal law
6 relating to an election for Federal office; or

7 “(II) any organization which employs
8 applicable individuals.

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

12 “(I) is—

13 “(aa) employed by the organiza-
14 tion in a permanent or temporary ca-
15 pacity;

16 “(bb) contracted or retained by
17 the organization; or

18 “(cc) acting on behalf of, or with
19 the express or apparent authority of,
20 the organization; and

21 “(II) has been convicted for a viola-
22 tion under Federal law relating to an elec-
23 tion for Federal office.

24 “(E) GRANTMAKING PROCESS.—In making as-
25 sistance available under this paragraph, the Sec-

1 retary shall consider appropriate ways of stream-
2 lining and improving the processes for grant applica-
3 tion, review, approval, and award.

4 “(F) AUTHORIZATION OF APPROPRIATIONS.—
5 There are authorized to be appropriated
6 \$45,000,000 for each of fiscal years 2009 through
7 2012 for—

8 “(i) the operations of the Office of Hous-
9 ing Counseling of the Department of Housing
10 and Urban Development;

11 “(ii) the responsibilities of the Director of
12 Housing Counseling under paragraphs (2)
13 through (5) of subsection (g); and

14 “(iii) assistance pursuant to this para-
15 graph for entities providing homeownership and
16 rental counseling.”.

17 **SEC. 1445. REQUIREMENTS TO USE HUD-CERTIFIED COUN-**
18 **SELORS UNDER HUD PROGRAMS.**

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

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

23 “(1) REQUIREMENT FOR ASSISTANCE.—An or-
24 ganization may not receive assistance for counseling
25 activities under subsection (a)(1)(iii), (a)(2), (a)(4),

1 (c), or (d) of this section, or under section 101(e),
2 unless the organization, or the individuals through
3 which the organization provides such counseling, has
4 been certified by the Secretary under this subsection
5 as competent to provide such counseling.”;

6 (2) in paragraph (2)—

7 (A) by inserting “and for certifying organi-
8 zations” before the period at the end of the
9 first sentence; and

10 (B) in the second sentence by striking “for
11 certification” and inserting “, for certification
12 of an organization, that each individual through
13 which the organization provides counseling shall
14 demonstrate, and, for certification of an indi-
15 vidual,”;

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

18 (4) by redesignating paragraph (3) as para-
19 graph (5); and

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

22 “(3) REQUIREMENT UNDER HUD PROGRAMS.—
23 Any homeownership counseling or rental housing
24 counseling (as such terms are defined in subsection
25 (g)(1)) required under, or provided in connection

1 with, any program administered by the Department
2 of Housing and Urban Development shall be pro-
3 vided only by organizations or counselors certified by
4 the Secretary under this subsection as competent to
5 provide such counseling.

6 “(4) OUTREACH.—The Secretary shall take
7 such actions as the Secretary considers appropriate
8 to ensure that individuals and organizations pro-
9 viding homeownership or rental housing counseling
10 are aware of the certification requirements and
11 standards of this subsection and of the training and
12 certification programs under subsection (f).”.

13 **SEC. 1446. STUDY OF DEFAULTS AND FORECLOSURES.**

14 The Secretary of Housing and Urban Development
15 shall conduct an extensive study of the root causes of de-
16 fault and foreclosure of home loans, using as much empir-
17 ical data as are available. The study shall also examine
18 the role of escrow accounts in helping prime and nonprime
19 borrowers to avoid defaults and foreclosures, and the role
20 of computer registries of mortgages, including those used
21 for trading mortgage loans. Not later than 12 months
22 after the date of the enactment of this Act, the Secretary
23 shall submit to the Congress a preliminary report regard-
24 ing the study. Not later than 24 months after such date
25 of enactment, the Secretary shall submit a final report re-

1 guarding the results of the study, which shall include any
2 recommended legislation relating to the study, and rec-
3 ommendations for best practices and for a process to iden-
4 tify populations that need counseling the most.

5 **SEC. 1447. DEFAULT AND FORECLOSURE DATABASE.**

6 (a) ESTABLISHMENT.—The Secretary of Housing
7 and Urban Development and the Director of the Bureau,
8 in consultation with the Federal agencies responsible for
9 regulation of banking and financial institutions involved
10 in residential mortgage lending and servicing, shall estab-
11 lish and maintain a database of information on fore-
12 closures and defaults on mortgage loans for one- to four-
13 unit residential properties and shall make such informa-
14 tion publicly available, subject to subsection (e).

15 (b) CENSUS TRACT DATA.—Information in the data-
16 base may be collected, aggregated, and made available on
17 a census tract basis.

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

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

23 (2) the number and percentage of such mort-
24 gage loans that are delinquent by more than 90
25 days;

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

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

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

9 (6) such other information as the Secretary of
10 Housing and Urban Development and the Director
11 of the Bureau consider appropriate.

12 (d) **RULE OF CONSTRUCTION.**—Nothing in this sec-
13 tion shall be construed to encourage discriminatory or un-
14 sound allocation of credit or lending policies or practices.

15 (e) **PRIVACY AND CONFIDENTIALITY.**—In estab-
16 lishing and maintaining the database described in sub-
17 section (a), the Secretary of Housing and Urban Develop-
18 ment and the Director of the Bureau shall—

19 (1) be subject to the standards applicable to
20 Federal agencies for the protection of the confiden-
21 tiality of personally identifiable information and for
22 data security and integrity;

23 (2) implement the necessary measures to con-
24 form to the standards for data integrity and security
25 described in paragraph (1); and

1 (3) collect and make available information
2 under this section, in accordance with paragraphs
3 (5) and (6) of section 1022(c) and the rules pre-
4 scribed under such paragraphs, in order to protect
5 privacy and confidentiality.

6 **SEC. 1448. DEFINITIONS FOR COUNSELING-RELATED PRO-**
7 **GRAMS.**

8 Section 106 of the Housing and Urban Development
9 Act of 1968 (12 U.S.C. 1701x), as amended by the pre-
10 ceding provisions of this subtitle, is amended by adding
11 at the end the following new subsection:

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

13 “(1) NONPROFIT ORGANIZATION.—The term
14 ‘nonprofit organization’ has the meaning given such
15 term in section 104(5) of the Cranston-Gonzalez Na-
16 tional Affordable Housing Act (42 U.S.C.
17 12704(5)), except that subparagraph (D) of such
18 section shall not apply for purposes of this section.

19 “(2) STATE.—The term ‘State’ means each of
20 the several States, the Commonwealth of Puerto
21 Rico, the District of Columbia, the Commonwealth
22 of the Northern Mariana Islands, Guam, the Virgin
23 Islands, American Samoa, the Trust Territories of
24 the Pacific, or any other possession of the United
25 States.

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

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

9 “(A) exempt from taxation under section
10 501(c) of the Internal Revenue Code of 1986;
11 and

12 “(B) certified by the Secretary to provide
13 housing counseling services.

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

21 **SEC. 1449. ACCOUNTABILITY AND TRANSPARENCY FOR**
22 **GRANT RECIPIENTS.**

23 Section 106 of the Housing and Urban Development
24 Act of 1968 (12 U.S.C. 1701x), as amended by the pre-

1 ceding provisions of this subtitle, is amended by adding
2 at the end the following:

3 “(i) ACCOUNTABILITY FOR RECIPIENTS OF COVERED
4 ASSISTANCE.—

5 “(1) TRACKING OF FUNDS.—The Secretary
6 shall—

7 “(A) develop and maintain a system to en-
8 sure that any organization or entity that re-
9 ceives any covered assistance uses all amounts
10 of covered assistance in accordance with this
11 section, the regulations issued under this sec-
12 tion, and any requirements or conditions under
13 which such amounts were provided; and

14 “(B) require any organization or entity, as
15 a condition of receipt of any covered assistance,
16 to agree to comply with such requirements re-
17 garding covered assistance as the Secretary
18 shall establish, which shall include—

19 “(i) appropriate periodic financial and
20 grant activity reporting, record retention,
21 and audit requirements for the duration of
22 the covered assistance to the organization
23 or entity to ensure compliance with the
24 limitations and requirements of this sec-
25 tion, the regulations under this section,

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

3 “(ii) any other requirements that the
4 Secretary determines are necessary to en-
5 sure appropriate administration and com-
6 pliance.

7 “(2) MISUSE OF FUNDS.—If any organization
8 or entity that receives any covered assistance is de-
9 termined by the Secretary to have used any covered
10 assistance in a manner that is materially in violation
11 of this section, the regulations issued under this sec-
12 tion, or any requirements or conditions under which
13 such assistance was provided—

14 “(A) the Secretary shall require that, with-
15 in 12 months after the determination of such
16 misuse, the organization or entity shall reim-
17 burse the Secretary for such misused amounts
18 and return to the Secretary any such amounts
19 that remain unused or uncommitted for use;
20 and

21 “(B) such organization or entity shall be
22 ineligible, at any time after such determination,
23 to apply for or receive any further covered as-
24 sistance.

1 The remedies under this paragraph are in addition
2 to any other remedies that may be available under
3 law.

4 “(3) COVERED ASSISTANCE.—For purposes of
5 this subsection, the term ‘covered assistance’ means
6 any grant or other financial assistance provided
7 under this section.”.

8 **SEC. 1450. UPDATING AND SIMPLIFICATION OF MORTGAGE**
9 **INFORMATION BOOKLET.**

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

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

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

16 “(a) PREPARATION AND DISTRIBUTION.—The Direc-
17 tor of the Bureau of Consumer Financial Protection (here-
18 after in this section referred to as the ‘Director’) shall pre-
19 pare, at least once every 5 years, a booklet to help con-
20 sumers applying for federally related mortgage loans to
21 understand the nature and costs of real estate settlement
22 services. The Director shall prepare the booklet in various
23 languages and cultural styles, as the Director determines
24 to be appropriate, so that the booklet is understandable
25 and accessible to homebuyers of different ethnic and cul-

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

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

14 “(1) A description and explanation of the na-
15 ture and purpose of the costs incident to a real es-
16 tate settlement or a federally related mortgage loan.
17 The description and explanation shall provide gen-
18 eral information about the mortgage process as well
19 as specific information concerning, at a minimum—

20 “(A) balloon payments;

21 “(B) prepayment penalties;

22 “(C) the advantages of prepayment; and

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

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

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

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

17 “(5) An explanation of the right of rescission as
18 to certain transactions provided by sections 125 and
19 129 of the Truth in Lending Act.

20 “(6) A brief explanation of the nature of a vari-
21 able rate mortgage and a reference to the booklet
22 entitled ‘Consumer Handbook on Adjustable Rate
23 Mortgages’, published by the Director, or to any
24 suitable substitute of such booklet that the Director
25 may subsequently adopt pursuant to such section.

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

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

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

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

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

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

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

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

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

22 (4) in subsection (d), by inserting after the pe-
23 riod at the end of the first sentence the following:
24 “The lender shall provide the booklet in the version

1 that is most appropriate for the person receiving
2 it.”.

3 **SEC. 1451. HOME INSPECTION COUNSELING.**

4 (a) PUBLIC OUTREACH.—

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

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

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

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

1 (D) publication of the HUD document en-
2 titled “Ten Important Questions To Ask Your
3 Home Inspector”, in both English and Spanish
4 languages.

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

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

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

1 (c) REQUIREMENTS FOR HUD-APPROVED COUN-
2 SELING AGENCIES.—Each counseling agency certified
3 pursuant by the Secretary to provide housing counseling
4 services shall provide each of their clients, as part of the
5 home purchase counseling process, the materials specified
6 in subparagraphs (C) and (D) of subsection (a)(1).

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

11 (1) providing information on counseling poten-
12 tial homebuyers of the availability and importance of
13 getting an independent home inspection;

14 (2) providing information about the home in-
15 spection process, including the reasons for specific
16 inspections such as radon and lead-based paint test-
17 ing;

18 (3) providing information about advising poten-
19 tial homebuyers on how to locate and select a quali-
20 fied home inspector; and

21 (4) review of home inspection public outreach
22 materials of the Department.

1 **SEC. 1452. WARNINGS TO HOMEOWNERS OF FORECLOSURE**
2 **RESCUE SCAMS.**

3 (a) ASSISTANCE TO NRC.—Notwithstanding any
4 other provision of law, of any amounts made available for
5 any fiscal year pursuant to section 106(a)(4)(F) of the
6 Housing and Urban Development Act of 1968 (12 U.S.C.
7 1701x(a)(4)(F)) (as added by section 1444), 10 percent
8 shall be used only for assistance to the Neighborhood Re-
9 investment Corporation for activities, in consultation with
10 servicers of residential mortgage loans, to provide notice
11 to borrowers under such loans who are delinquent with
12 respect to payments due under such loans that makes such
13 borrowers aware of the dangers of fraudulent activities as-
14 sociated with foreclosure.

15 (b) NOTICE.—The Neighborhood Reinvestment Cor-
16 poration, in consultation with servicers of residential mort-
17 gage loans, shall use the amounts provided pursuant to
18 subsection (a) to carry out activities to inform borrowers
19 under residential mortgage loans—

20 (1) that the foreclosure process is complex and
21 can be confusing;

22 (2) that the borrower may be approached dur-
23 ing the foreclosure process by persons regarding sav-
24 ing their home and they should use caution in any
25 such dealings;

1 (3) that there are Federal Government and
2 nonprofit agencies that may provide information
3 about the foreclosure process, including the Depart-
4 ment of Housing and Urban Development;

5 (4) that they should contact their lender imme-
6 diately, contact the Department of Housing and
7 Urban Development to find a housing counseling
8 agency certified by the Department to assist in
9 avoiding foreclosure, or visit the Department's
10 website regarding tips for avoiding foreclosure; and

11 (5) of the telephone number of the loan servicer
12 or successor, the telephone number of the Depart-
13 ment of Housing and Urban Development housing
14 counseling line, and the Uniform Resource Locators
15 (URLs) for the Department of Housing and Urban
16 Development Web sites for housing counseling and
17 for tips for avoiding foreclosure.

18 **Subtitle E—Mortgage Servicing**

19 **SEC. 1461. ESCROW AND IMPOUND ACCOUNTS RELATING** 20 **TO CERTAIN CONSUMER CREDIT TRANS-** 21 **ACTIONS.**

22 (a) IN GENERAL.—Chapter 2 of the Truth in Lend-
23 ing Act (15 U.S.C. 1631 et seq.) is amended by inserting
24 after section 129C (as added by section 1411) the fol-
25 lowing new section:

1 **“§ 129D. Escrow or impound accounts relating to cer-**
2 **tain consumer credit transactions**

3 “(a) IN GENERAL.—Except as provided in subsection
4 (b), (c), (d), or (e), a creditor, in connection with the con-
5 summation of a consumer credit transaction secured by
6 a first lien on the principal dwelling of the consumer, other
7 than a consumer credit transaction under an open end
8 credit plan or a reverse mortgage, shall establish, before
9 the consummation of such transaction, an escrow or im-
10 pound account for the payment of taxes and hazard insur-
11 ance, and, if applicable, flood insurance, mortgage insur-
12 ance, ground rents, and any other required periodic pay-
13 ments or premiums with respect to the property or the
14 loan terms, as provided in, and in accordance with, this
15 section.

16 “(b) WHEN REQUIRED.—No impound, trust, or other
17 type of account for the payment of property taxes, insur-
18 ance premiums, or other purposes relating to the property
19 may be required as a condition of a real property sale con-
20 tract or a loan secured by a first deed of trust or mortgage
21 on the principal dwelling of the consumer, other than a
22 consumer credit transaction under an open end credit plan
23 or a reverse mortgage, except when—

24 “(1) any such impound, trust, or other type of
25 escrow or impound account for such purposes is re-
26 quired by Federal or State law;

1 “(2) a loan is made, guaranteed, or insured by
2 a State or Federal governmental lending or insuring
3 agency;

4 “(3) the transaction is secured by a first mort-
5 gage or lien on the consumer’s principal dwelling
6 having an original principal obligation amount
7 that—

8 “(A) does not exceed the amount of the
9 maximum limitation on the original principal
10 obligation of mortgage in effect for a residence
11 of the applicable size, as of the date such inter-
12 est rate set, pursuant to the sixth sentence of
13 section 305(a)(2) the Federal Home Loan
14 Mortgage Corporation Act (12 U.S.C.
15 1454(a)(2)), and the annual percentage rate
16 will exceed the average prime offer rate as de-
17 fined in section 129C by 1.5 or more percent-
18 age points; or

19 “(B) exceeds the amount of the maximum
20 limitation on the original principal obligation of
21 mortgage in effect for a residence of the appli-
22 cable size, as of the date such interest rate set,
23 pursuant to the sixth sentence of section
24 305(a)(2) the Federal Home Loan Mortgage
25 Corporation Act (12 U.S.C. 1454(a)(2)), and

1 the annual percentage rate will exceed the aver-
2 age prime offer rate as defined in section 129C
3 by 2.5 or more percentage points; or

4 “(4) so required pursuant to regulation.

5 “(c) EXEMPTIONS.—The Board may, by regulation,
6 exempt from the requirements of subsection (a) a creditor
7 that—

8 “(1) operates predominantly in rural or under-
9 served areas;

10 “(2) together with all affiliates, has total an-
11 nual mortgage loan originations that do not exceed
12 a limit set by the Board;

13 “(3) retains its mortgage loan originations in
14 portfolio; and

15 “(4) meets any asset size threshold and any
16 other criteria the Board may establish, consistent
17 with the purposes of this subtitle.

18 “(d) DURATION OF MANDATORY ESCROW OR IM-
19 POUND ACCOUNT.—An escrow or impound account estab-
20 lished pursuant to subsection (b) shall remain in existence
21 for a minimum period of 5 years, beginning with the date
22 of the consummation of the loan, unless and until—

23 “(1) such borrower has sufficient equity in the
24 dwelling securing the consumer credit transaction so

1 as to no longer be required to maintain private
2 mortgage insurance;

3 “(2) such borrower is delinquent;

4 “(3) such borrower otherwise has not complied
5 with the legal obligation, as established by rule; or

6 “(4) the underlying mortgage establishing the
7 account is terminated.

8 “(e) LIMITED EXEMPTIONS FOR LOANS SECURED BY
9 SHARES IN A COOPERATIVE OR IN WHICH AN ASSOCIA-
10 TION MUST MAINTAIN A MASTER INSURANCE POLICY.—
11 Escrow accounts need not be established for loans secured
12 by shares in a cooperative. Insurance premiums need not
13 be included in escrow accounts for loans secured by dwell-
14 ings or units, where the borrower must join an association
15 as a condition of ownership, and that association has an
16 obligation to the dwelling or unit owners to maintain a
17 master policy insuring the dwellings or units.

18 “(f) CLARIFICATION ON ESCROW ACCOUNTS FOR
19 LOANS NOT MEETING STATUTORY TEST.—For mort-
20 gages not covered by the requirements of subsection (b),
21 no provision of this section shall be construed as pre-
22 cluding the establishment of an impound, trust, or other
23 type of account for the payment of property taxes, insur-
24 ance premiums, or other purposes relating to the prop-
25 erty—

1 “(1) on terms mutually agreeable to the parties
2 to the loan;

3 “(2) at the discretion of the lender or servicer,
4 as provided by the contract between the lender or
5 servicer and the borrower; or

6 “(3) pursuant to the requirements for the
7 escrowing of flood insurance payments for regulated
8 lending institutions in section 102(d) of the Flood
9 Disaster Protection Act of 1973.

10 “(g) ADMINISTRATION OF MANDATORY ESCROW OR
11 IMPOUND ACCOUNTS.—

12 “(1) IN GENERAL.—Except as may otherwise
13 be provided for in this title or in regulations pre-
14 scribed by the Board, escrow or impound accounts
15 established pursuant to subsection (b) shall be estab-
16 lished in a federally insured depository institution or
17 credit union.

18 “(2) ADMINISTRATION.—Except as provided in
19 this section or regulations prescribed under this sec-
20 tion, an escrow or impound account subject to this
21 section shall be administered in accordance with—

22 “(A) the Real Estate Settlement Proce-
23 dures Act of 1974 and regulations prescribed
24 under such Act;

1 “(B) the Flood Disaster Protection Act of
2 1973 and regulations prescribed under such
3 Act; and

4 “(C) the law of the State, if applicable,
5 where the real property securing the consumer
6 credit transaction is located.

7 “(3) APPLICABILITY OF PAYMENT OF INTER-
8 EST.—If prescribed by applicable State or Federal
9 law, each creditor shall pay interest to the consumer
10 on the amount held in any impound, trust, or escrow
11 account that is subject to this section in the manner
12 as prescribed by that applicable State or Federal
13 law.

14 “(4) PENALTY COORDINATION WITH RESPA.—
15 Any action or omission on the part of any person
16 which constitutes a violation of the Real Estate Set-
17 tlement Procedures Act of 1974 or any regulation
18 prescribed under such Act for which the person has
19 paid any fine, civil money penalty, or other damages
20 shall not give rise to any additional fine, civil money
21 penalty, or other damages under this section, unless
22 the action or omission also constitutes a direct viola-
23 tion of this section.

24 “(h) DISCLOSURES RELATING TO MANDATORY ES-
25 CROW OR IMPOUND ACCOUNT.—In the case of any im-

1 pound, trust, or escrow account that is required under
2 subsection (b), the creditor shall disclose by written notice
3 to the consumer at least 3 business days before the con-
4 summation of the consumer credit transaction giving rise
5 to such account or in accordance with timeframes estab-
6 lished in prescribed regulations the following information:

7 “(1) The fact that an escrow or impound ac-
8 count will be established at consummation of the
9 transaction.

10 “(2) The amount required at closing to initially
11 fund the escrow or impound account.

12 “(3) The amount, in the initial year after the
13 consummation of the transaction, of the estimated
14 taxes and hazard insurance, including flood insur-
15 ance, if applicable, and any other required periodic
16 payments or premiums that reflects, as appropriate,
17 either the taxable assessed value of the real property
18 securing the transaction, including the value of any
19 improvements on the property or to be constructed
20 on the property (whether or not such construction
21 will be financed from the proceeds of the trans-
22 action) or the replacement costs of the property.

23 “(4) The estimated monthly amount payable to
24 be escrowed for taxes, hazard insurance (including

1 flood insurance, if applicable) and any other re-
2 quired periodic payments or premiums.

3 “(5) The fact that, if the consumer chooses to
4 terminate the account in the future, the consumer
5 will become responsible for the payment of all taxes,
6 hazard insurance, and flood insurance, if applicable,
7 as well as any other required periodic payments or
8 premiums on the property unless a new escrow or
9 impound account is established.

10 “(6) Such other information as the Board de-
11 termines necessary for the protection of the con-
12 sumer.

13 “(i) DEFINITIONS.—For purposes of this section, the
14 following definitions shall apply:

15 “(1) FLOOD INSURANCE.—The term ‘flood in-
16 surance’ means flood insurance coverage provided
17 under the national flood insurance program pursu-
18 ant to the National Flood Insurance Act of 1968.

19 “(2) HAZARD INSURANCE.—The term ‘hazard
20 insurance’ shall have the same meaning as provided
21 for ‘hazard insurance’, ‘casualty insurance’, ‘home-
22 owner’s insurance’, or other similar term under the
23 law of the State where the real property securing the
24 consumer credit transaction is located.”.

1 (b) EXEMPTIONS AND MODIFICATIONS.—The Board
 2 may prescribe rules that revise, add to, or subtract from
 3 the criteria of section 129D(b) of the Truth in Lending
 4 Act if the Board determines that such rules are in the
 5 interest of consumers and in the public interest.

6 (c) CLERICAL AMENDMENT.—The table of sections
 7 for chapter 2 of the Truth in Lending Act is amended
 8 by inserting after the item relating to section 129C (as
 9 added by section 1411) the following new item:

“129D. Escrow or impound accounts relating to certain consumer credit trans-
 actions.”.

10 **SEC. 1462. DISCLOSURE NOTICE REQUIRED FOR CON-**
 11 **SUMERS WHO WAIVE ESCROW SERVICES.**

12 Section 129D of the Truth in Lending Act (as added
 13 by section 1461) is amended by adding at the end the fol-
 14 lowing new subsection:

15 “(j) DISCLOSURE NOTICE REQUIRED FOR CON-
 16 SUMERS WHO WAIVE ESCROW SERVICES.—

17 “(1) IN GENERAL.—If—

18 “(A) an impound, trust, or other type of
 19 account for the payment of property taxes, in-
 20 surance premiums, or other purposes relating to
 21 real property securing a consumer credit trans-
 22 action is not established in connection with the
 23 transaction; or

1 “(B) a consumer chooses, and provides
2 written notice to the creditor or servicer of such
3 choice, at any time after such an account is es-
4 tablished in connection with any such trans-
5 action and in accordance with any statute, reg-
6 ulation, or contractual agreement, to close such
7 account,

8 the creditor or servicer shall provide a timely and
9 clearly written disclosure to the consumer that ad-
10 vises the consumer of the responsibilities of the con-
11 sumer and implications for the consumer in the ab-
12 sence of any such account.

13 “(2) DISCLOSURE REQUIREMENTS.—Any dis-
14 closure provided to a consumer under paragraph (1)
15 shall include the following:

16 “(A) Information concerning any applica-
17 ble fees or costs associated with either the non-
18 establishment of any such account at the time
19 of the transaction, or any subsequent closure of
20 any such account.

21 “(B) A clear and prominent statement that
22 the consumer is responsible for personally and
23 directly paying the non-escrowed items, in addi-
24 tion to paying the mortgage loan payment, in
25 the absence of any such account, and the fact

1 that the costs for taxes, insurance, and related
2 fees can be substantial.

3 “(C) A clear explanation of the con-
4 sequences of any failure to pay non-escrowed
5 items, including the possible requirement for
6 the forced placement of insurance by the cred-
7 itor or servicer and the potentially higher cost
8 (including any potential commission payments
9 to the servicer) or reduced coverage for the con-
10 sumer in the event of any such creditor-placed
11 insurance.

12 “(D) Such other information as the Board
13 determines necessary for the protection of the
14 consumer.”.

15 **SEC. 1463. REAL ESTATE SETTLEMENT PROCEDURES ACT**
16 **OF 1974 AMENDMENTS.**

17 (a) **SERVICER PROHIBITIONS.**—Section 6 of the Real
18 Estate Settlement Procedures Act of 1974 (12 U.S.C.
19 2605) is amended by adding at the end the following new
20 subsections:

21 “(k) **SERVICER PROHIBITIONS.**—

22 “(1) **IN GENERAL.**—A servicer of a federally re-
23 lated mortgage shall not—

24 “(A) obtain force-placed hazard insurance
25 unless there is a reasonable basis to believe the

1 borrower has failed to comply with the loan
2 contract's requirements to maintain property
3 insurance;

4 “(B) charge fees for responding to valid
5 qualified written requests (as defined in regula-
6 tions which the Bureau of Consumer Financial
7 Protection shall prescribe) under this section;

8 “(C) fail to take timely action to respond
9 to a borrower's requests to correct errors relat-
10 ing to allocation of payments, final balances for
11 purposes of paying off the loan, or avoiding
12 foreclosure, or other standard servicer's duties;

13 “(D) fail to respond within 10 business
14 days to a request from a borrower to provide
15 the identity, address, and other relevant contact
16 information about the owner or assignee of the
17 loan; or

18 “(E) fail to comply with any other obliga-
19 tion found by the Bureau of Consumer Finan-
20 cial Protection, by regulation, to be appropriate
21 to carry out the consumer protection purposes
22 of this Act.

23 “(2) FORCE-PLACED INSURANCE DEFINED.—
24 For purposes of this subsection and subsections (l)
25 and (m), the term ‘force-placed insurance’ means

1 hazard insurance coverage obtained by a servicer of
2 a federally related mortgage when the borrower has
3 failed to maintain or renew hazard insurance on
4 such property as required of the borrower under the
5 terms of the mortgage.

6 “(1) REQUIREMENTS FOR FORCE-PLACED INSUR-
7 ANCE.—A servicer of a federally related mortgage shall
8 not be construed as having a reasonable basis for obtain-
9 ing force-placed insurance unless the requirements of this
10 subsection have been met.

11 “(1) WRITTEN NOTICES TO BORROWER.—A
12 servicer may not impose any charge on any borrower
13 for force-placed insurance with respect to any prop-
14 erty securing a federally related mortgage unless—

15 “(A) the servicer has sent, by first-class
16 mail, a written notice to the borrower con-
17 taining—

18 “(i) a reminder of the borrower’s obli-
19 gation to maintain hazard insurance on the
20 property securing the federally related
21 mortgage;

22 “(ii) a statement that the servicer
23 does not have evidence of insurance cov-
24 erage of such property;

1 “(iii) a clear and conspicuous state-
2 ment of the procedures by which the bor-
3 rower may demonstrate that the borrower
4 already has insurance coverage; and

5 “(iv) a statement that the servicer
6 may obtain such coverage at the borrower’s
7 expense if the borrower does not provide
8 such demonstration of the borrower’s exist-
9 ing coverage in a timely manner;

10 “(B) the servicer has sent, by first-class
11 mail, a second written notice, at least 30 days
12 after the mailing of the notice under subpara-
13 graph (A) that contains all the information de-
14 scribed in each clause of such subparagraph;
15 and

16 “(C) the servicer has not received from the
17 borrower any demonstration of hazard insur-
18 ance coverage for the property securing the
19 mortgage by the end of the 15-day period be-
20 ginning on the date the notice under subpara-
21 graph (B) was sent by the servicer.

22 “(2) SUFFICIENCY OF DEMONSTRATION.—A
23 servicer of a federally related mortgage shall accept
24 any reasonable form of written confirmation from a
25 borrower of existing insurance coverage, which shall

1 include the existing insurance policy number along
2 with the identity of, and contact information for, the
3 insurance company or agent, or as otherwise re-
4 quired by the Bureau of Consumer Financial Protec-
5 tion.

6 “(3) TERMINATION OF FORCE-PLACED INSUR-
7 ANCE.—Within 15 days of the receipt by a servicer
8 of confirmation of a borrower’s existing insurance
9 coverage, the servicer shall—

10 “(A) terminate the force-placed insurance;
11 and

12 “(B) refund to the consumer all force-
13 placed insurance premiums paid by the bor-
14 rower during any period during which the bor-
15 rower’s insurance coverage and the force-placed
16 insurance coverage were each in effect, and any
17 related fees charged to the consumer’s account
18 with respect to the force-placed insurance dur-
19 ing such period.

20 “(4) CLARIFICATION WITH RESPECT TO FLOOD
21 DISASTER PROTECTION ACT.—No provision of this
22 section shall be construed as prohibiting a servicer
23 from providing simultaneous or concurrent notice of
24 a lack of flood insurance pursuant to section 102(e)
25 of the Flood Disaster Protection Act of 1973.

1 “(m) LIMITATIONS ON FORCE-PLACED INSURANCE
2 CHARGES.—All charges, apart from charges subject to
3 State regulation as the business of insurance, related to
4 force-placed insurance imposed on the borrower by or
5 through the servicer shall be bona fide and reasonable.”.

6 (b) INCREASE IN PENALTY AMOUNTS.—Section 6(f)
7 of the Real Estate Settlement Procedures Act of 1974 (12
8 U.S.C. 2605(f)) is amended—

9 (1) in paragraphs (1)(B) and (2)(B), by strik-
10 ing “\$1,000” each place such term appears and in-
11 serting “\$2,000”; and

12 (2) in paragraph (2)(B)(i), by striking
13 “\$500,000” and inserting “\$1,000,000”.

14 (c) DECREASE IN RESPONSE TIMES.—Section 6(e) of
15 the Real Estate Settlement Procedures Act of 1974 (12
16 U.S.C. 2605(e)) is amended—

17 (1) in paragraph (1)(A), by striking “20 days”
18 and inserting “5 days”;

19 (2) in paragraph (2), by striking “60 days” and
20 inserting “30 days”; and

21 (3) by adding at the end the following new
22 paragraph:

23 “(4) LIMITED EXTENSION OF RESPONSE
24 TIME.—The 30-day period described in paragraph
25 (2) may be extended for not more than 15 days if,

1 before the end of such 30-day period, the servicer
2 notifies the borrower of the extension and the rea-
3 sons for the delay in responding.”.

4 (d) PROMPT REFUND OF ESCROW ACCOUNTS UPON
5 PAYOFF.—Section 6(g) of the Real Estate Settlement
6 Procedures Act of 1974 (12 U.S.C. 2605(g)) is amended
7 by adding at the end the following new sentence: “Any
8 balance in any such account that is within the servicer’s
9 control at the time the loan is paid off shall be promptly
10 returned to the borrower within 20 business days or cred-
11 ited to a similar account for a new mortgage loan to the
12 borrower with the same lender.”.

13 **SEC. 1464. TRUTH IN LENDING ACT AMENDMENTS.**

14 (a) REQUIREMENTS FOR PROMPT CREDITING OF
15 HOME LOAN PAYMENTS.—Chapter 2 of the Truth in
16 Lending Act (15 U.S.C. 1631 et seq.) is amended by in-
17 serting after section 129E (as added by section 1472) the
18 following new section:

19 **“§ 129F. Requirements for prompt crediting of home**
20 **loan payments**

21 “(a) IN GENERAL.—In connection with a consumer
22 credit transaction secured by a consumer’s principal dwell-
23 ing, no servicer shall fail to credit a payment to the con-
24 sumer’s loan account as of the date of receipt, except when
25 a delay in crediting does not result in any charge to the

1 consumer or in the reporting of negative information to
2 a consumer reporting agency, except as required in sub-
3 section (b).

4 “(b) EXCEPTION.—If a servicer specifies in writing
5 requirements for the consumer to follow in making pay-
6 ments, but accepts a payment that does not conform to
7 the requirements, the servicer shall credit the payment as
8 of 5 days after receipt.”.

9 (b) REQUESTS FOR PAYOFF AMOUNTS.—Chapter 2
10 of the Truth in Lending Act (15 U.S.C. 1631 et seq.),
11 as amended by this title, is amended by inserting after
12 section 129F (as added by subsection (a)) the following
13 new section:

14 **“§ 129G. Requests for payoff amounts of home loan**

15 “A creditor or servicer of a home loan shall send an
16 accurate payoff balance within a reasonable time, but in
17 no case more than 7 business days, after the receipt of
18 a written request for such balance from or on behalf of
19 the borrower.”.

20 **SEC. 1465. ESCROWS INCLUDED IN REPAYMENT ANALYSIS.**

21 Section 128(b) of the Truth in Lending Act (15
22 U.S.C. 1638(b)) is amended by adding at the end the fol-
23 lowing new paragraph:

24 “(4) REPAYMENT ANALYSIS REQUIRED TO IN-
25 CLUDE ESCROW PAYMENTS.—

1 “(A) IN GENERAL.—In the case of any
2 consumer credit transaction secured by a first
3 mortgage or lien on the principal dwelling of
4 the consumer, other than a consumer credit
5 transaction under an open end credit plan or a
6 reverse mortgage, for which an impound, trust,
7 or other type of account has been or will be es-
8 tablished in connection with the transaction for
9 the payment of property taxes, hazard and flood
10 (if any) insurance premiums, or other periodic
11 payments or premiums with respect to the
12 property, the information required to be pro-
13 vided under subsection (a) with respect to the
14 number, amount, and due dates or period of
15 payments scheduled to repay the total of pay-
16 ments shall take into account the amount of
17 any monthly payment to such account for each
18 such repayment in accordance with section
19 10(a)(2) of the Real Estate Settlement Proce-
20 dures Act of 1974.

21 “(B) ASSESSMENT VALUE.—The amount
22 taken into account under subparagraph (A) for
23 the payment of property taxes, hazard and flood
24 (if any) insurance premiums, or other periodic
25 payments or premiums with respect to the

1 property shall reflect the taxable assessed value
2 of the real property securing the transaction
3 after the consummation of the transaction, in-
4 cluding the value of any improvements on the
5 property or to be constructed on the property
6 (whether or not such construction will be fi-
7 nanced from the proceeds of the transaction), if
8 known, and the replacement costs of the prop-
9 erty for hazard insurance, in the initial year
10 after the transaction.”.

11 **Subtitle F—Appraisal Activities**

12 **SEC. 1471. PROPERTY APPRAISAL REQUIREMENTS.**

13 Chapter 2 of the Truth in Lending Act (15 U.S.C.
14 1631 et seq.) is amended by inserting after 129G (as
15 added by section 1464(b)) the following new section:

16 **“§ 129H. Property appraisal requirements**

17 “(a) IN GENERAL.—A creditor may not extend credit
18 in the form of a higher-risk mortgage to any consumer
19 without first obtaining a written appraisal of the property
20 to be mortgaged prepared in accordance with the require-
21 ments of this section.

22 “(b) APPRAISAL REQUIREMENTS.—

23 “(1) PHYSICAL PROPERTY VISIT.—Subject to
24 the rules prescribed under paragraph (4), an ap-
25 praisal of property to be secured by a higher-risk

1 mortgage does not meet the requirement of this sec-
2 tion unless it is performed by a certified or licensed
3 appraiser who conducts a physical property visit of
4 the interior of the mortgaged property.

5 “(2) SECOND APPRAISAL UNDER CERTAIN CIR-
6 CUMSTANCES.—

7 “(A) IN GENERAL.—If the purpose of a
8 higher-risk mortgage is to finance the purchase
9 or acquisition of the mortgaged property from
10 a person within 180 days of the purchase or ac-
11 quisition of such property by that person at a
12 price that was lower than the current sale price
13 of the property, the creditor shall obtain a sec-
14 ond appraisal from a different certified or li-
15 censed appraiser. The second appraisal shall in-
16 clude an analysis of the difference in sale
17 prices, changes in market conditions, and any
18 improvements made to the property between the
19 date of the previous sale and the current sale.

20 “(B) NO COST TO APPLICANT.—The cost
21 of any second appraisal required under sub-
22 paragraph (A) may not be charged to the appli-
23 cant.

1 “(3) CERTIFIED OR LICENSED APPRAISER DE-
2 FINED.—For purposes of this section, the term ‘cer-
3 tified or licensed appraiser’ means a person who—

4 “(A) is, at a minimum, certified or licensed
5 by the State in which the property to be ap-
6 praised is located; and

7 “(B) performs each appraisal in con-
8 formity with the Uniform Standards of Profes-
9 sional Appraisal Practice and title XI of the Fi-
10 nancial Institutions Reform, Recovery, and En-
11 forcement Act of 1989, and the regulations pre-
12 scribed under such title, as in effect on the date
13 of the appraisal.

14 “(4) REGULATIONS.—

15 “(A) IN GENERAL.—The Board, the
16 Comptroller of the Currency, the Federal De-
17 posit Insurance Corporation, the National Cred-
18 it Union Administration Board, the Federal
19 Housing Finance Agency, and the Bureau shall
20 jointly prescribe regulations to implement this
21 section.

22 “(B) EXEMPTION.—The agencies listed in
23 subparagraph (A) may jointly exempt, by rule,
24 a class of loans from the requirements of this
25 subsection or subsection (a) if the agencies de-

1 termine that the exemption is in the public in-
2 terest and promotes the safety and soundness
3 of creditors.

4 “(c) FREE COPY OF APPRAISAL.—A creditor shall
5 provide 1 copy of each appraisal conducted in accordance
6 with this section in connection with a higher-risk mortgage
7 to the applicant without charge, and at least 3 days prior
8 to the transaction closing date.

9 “(d) CONSUMER NOTIFICATION.—At the time of the
10 initial mortgage application, the applicant shall be pro-
11 vided with a statement by the creditor that any appraisal
12 prepared for the mortgage is for the sole use of the cred-
13 itor, and that the applicant may choose to have a separate
14 appraisal conducted at the expense of the applicant.

15 “(e) VIOLATIONS.—In addition to any other liability
16 to any person under this title, a creditor found to have
17 willfully failed to obtain an appraisal as required in this
18 section shall be liable to the applicant or borrower for the
19 sum of \$2,000.

20 “(f) HIGHER-RISK MORTGAGE DEFINED.—For pur-
21 poses of this section, the term ‘higher-risk mortgage’
22 means a residential mortgage loan, other than a reverse
23 mortgage loan that is a qualified mortgage, as defined in
24 section 129C, secured by a principal dwelling—

1 “(1) that is not a qualified mortgage, as de-
2 fined in section 129C; and

3 “(2) with an annual percentage rate that ex-
4 ceeds the average prime offer rate for a comparable
5 transaction, as defined in section 129C, as of the
6 date the interest rate is set—

7 “(A) by 1.5 or more percentage points, in
8 the case of a first lien residential mortgage loan
9 having an original principal obligation amount
10 that does not exceed the amount of the max-
11 imum limitation on the original principal obliga-
12 tion of mortgage in effect for a residence of the
13 applicable size, as of the date of such interest
14 rate set, pursuant to the sixth sentence of sec-
15 tion 305(a)(2) the Federal Home Loan Mort-
16 gage Corporation Act (12 U.S.C. 1454(a)(2));

17 “(B) by 2.5 or more percentage points, in
18 the case of a first lien residential mortgage loan
19 having an original principal obligation amount
20 that exceeds the amount of the maximum limi-
21 tation on the original principal obligation of
22 mortgage in effect for a residence of the appli-
23 cable size, as of the date of such interest rate
24 set, pursuant to the sixth sentence of section

1 305(a)(2) the Federal Home Loan Mortgage
2 Corporation Act (12 U.S.C. 1454(a)(2)); and
3 “(C) by 3.5 or more percentage points for
4 a subordinate lien residential mortgage loan.”.

5 **SEC. 1472. APPRAISAL INDEPENDENCE REQUIREMENTS.**

6 (a) IN GENERAL.—Chapter 2 of the Truth in Lend-
7 ing Act (15 U.S.C. 1631 et seq.) is amended by inserting
8 after section 129D (as added by section 1461(a)) the fol-
9 lowing new section:

10 **“§ 129E. Appraisal independence requirements**

11 “(a) IN GENERAL.—It shall be unlawful, in extending
12 credit or in providing any services for a consumer credit
13 transaction secured by the principal dwelling of the con-
14 sumer, to engage in any act or practice that violates ap-
15 praisal independence as described in or pursuant to regu-
16 lations prescribed under this section.

17 “(b) APPRAISAL INDEPENDENCE.—For purposes of
18 subsection (a), acts or practices that violate appraisal
19 independence shall include—

20 “(1) any appraisal of a property offered as se-
21 curity for repayment of the consumer credit trans-
22 action that is conducted in connection with such
23 transaction in which a person with an interest in the
24 underlying transaction compensates, coerces, extorts,
25 colludes, instructs, induces, bribes, or intimidates a

1 person, appraisal management company, firm, or
2 other entity conducting or involved in an appraisal,
3 or attempts, to compensate, coerce, extort, collude,
4 instruct, induce, bribe, or intimidate such a person,
5 for the purpose of causing the appraised value as-
6 signed, under the appraisal, to the property to be
7 based on any factor other than the independent
8 judgment of the appraiser;

9 “(2) mischaracterizing, or suborning any
10 mischaracterization of, the appraised value of the
11 property securing the extension of the credit;

12 “(3) seeking to influence an appraiser or other-
13 wise to encourage a targeted value in order to facili-
14 tate the making or pricing of the transaction; and

15 “(4) withholding or threatening to withhold
16 timely payment for an appraisal report or for ap-
17 praisal services rendered when the appraisal report
18 or services are provided for in accordance with the
19 contract between the parties.

20 “(c) EXCEPTIONS.—The requirements of subsection
21 (b) shall not be construed as prohibiting a mortgage lend-
22 er, mortgage broker, mortgage banker, real estate broker,
23 appraisal management company, employee of an appraisal
24 management company, consumer, or any other person

1 with an interest in a real estate transaction from asking
2 an appraiser to undertake 1 or more of the following:

3 “(1) Consider additional, appropriate property
4 information, including the consideration of addi-
5 tional comparable properties to make or support an
6 appraisal.

7 “(2) Provide further detail, substantiation, or
8 explanation for the appraiser’s value conclusion.

9 “(3) Correct errors in the appraisal report.

10 “(d) PROHIBITIONS ON CONFLICTS OF INTEREST.—
11 No certified or licensed appraiser conducting, and no ap-
12 praisal management company procuring or facilitating, an
13 appraisal in connection with a consumer credit transaction
14 secured by the principal dwelling of a consumer may have
15 a direct or indirect interest, financial or otherwise, in the
16 property or transaction involving the appraisal.

17 “(e) MANDATORY REPORTING.—Any mortgage lend-
18 er, mortgage broker, mortgage banker, real estate broker,
19 appraisal management company, employee of an appraisal
20 management company, or any other person involved in a
21 real estate transaction involving an appraisal in connection
22 with a consumer credit transaction secured by the prin-
23 cipal dwelling of a consumer who has a reasonable basis
24 to believe an appraiser is failing to comply with the Uni-
25 form Standards of Professional Appraisal Practice, is vio-

1 lating applicable laws, or is otherwise engaging in uneth-
2 ical or unprofessional conduct, shall refer the matter to
3 the applicable State appraiser certifying and licensing
4 agency.

5 “(f) NO EXTENSION OF CREDIT.—In connection with
6 a consumer credit transaction secured by a consumer’s
7 principal dwelling, a creditor who knows, at or before loan
8 consummation, of a violation of the appraisal independ-
9 ence standards established in subsections (b) or (d) shall
10 not extend credit based on such appraisal unless the cred-
11 itor documents that the creditor has acted with reasonable
12 diligence to determine that the appraisal does not materi-
13 ally misstate or misrepresent the value of such dwelling.

14 “(g) RULES AND INTERPRETIVE GUIDELINES.—

15 “(1) IN GENERAL.—Except as provided under
16 paragraph (2), the Board, the Comptroller of the
17 Currency, the Federal Deposit Insurance Corpora-
18 tion, the National Credit Union Administration
19 Board, the Federal Housing Finance Agency, and
20 the Bureau may jointly issue rules, interpretive
21 guidelines, and general statements of policy with re-
22 spect to acts or practices that violate appraisal inde-
23 pendence in the provision of mortgage lending serv-
24 ices for a consumer credit transaction secured by the
25 principal dwelling of the consumer and mortgage

1 brokerage services for such a transaction, within the
2 meaning of subsections (a), (b), (c), (d), (e), (f), (h),
3 and (i).

4 “(2) INTERIM FINAL REGULATIONS.—The
5 Board shall, for purposes of this section, prescribe
6 interim final regulations no later than 90 days after
7 the date of enactment of this section defining with
8 specificity acts or practices that violate appraisal
9 independence in the provision of mortgage lending
10 services for a consumer credit transaction secured by
11 the principal dwelling of the consumer or mortgage
12 brokerage services for such a transaction and defin-
13 ing any terms in this section or such regulations.
14 Rules prescribed by the Board under this paragraph
15 shall be deemed to be rules prescribed by the agen-
16 cies jointly under paragraph (1).

17 “(h) APPRAISAL REPORT PORTABILITY.—Consistent
18 with the requirements of this section, the Board, the
19 Comptroller of the Currency, the Federal Deposit Insur-
20 ance Corporation, the National Credit Union Administra-
21 tion Board, the Federal Housing Finance Agency, and the
22 Bureau may jointly issue regulations that address the
23 issue of appraisal report portability, including regulations
24 that ensure the portability of the appraisal report between
25 lenders for a consumer credit transaction secured by a 1-

1 4 unit single family residence that is the principal dwelling
2 of the consumer, or mortgage brokerage services for such
3 a transaction.

4 “(i) CUSTOMARY AND REASONABLE FEE.—

5 “(1) IN GENERAL.—Lenders and their agents
6 shall compensate fee appraisers at a rate that is cus-
7 tomary and reasonable for appraisal services per-
8 formed in the market area of the property being ap-
9 praised. Evidence for such fees may be established
10 by objective third-party information, such as govern-
11 ment agency fee schedules, academic studies, and
12 independent private sector surveys. Fee studies shall
13 exclude assignments ordered by known appraisal
14 management companies.

15 “(2) FEE APPRAISER DEFINITION.—For pur-
16 poses of this section, the term ‘fee appraiser’ means
17 a person who is not an employee of the mortgage
18 loan originator or appraisal management company
19 engaging the appraiser and is—

20 “(A) a State licensed or certified appraiser
21 who receives a fee for performing an appraisal
22 and certifies that the appraisal has been pre-
23 pared in accordance with the Uniform Stand-
24 ards of Professional Appraisal Practice; or

1 “(B) a company not subject to the require-
2 ments of section 1124 of the Financial Institu-
3 tions Reform, Recovery, and Enforcement Act
4 of 1989 (12 U.S.C. 3331 et seq.) that utilizes
5 the services of State licensed or certified ap-
6 praisers and receives a fee for performing ap-
7 praisals in accordance with the Uniform Stand-
8 ards of Professional Appraisal Practice.

9 “(3) EXCEPTION FOR COMPLEX ASSIGN-
10 MENTS.—In the case of an appraisal involving a
11 complex assignment, the customary and reasonable
12 fee may reflect the increased time, difficulty, and
13 scope of the work required for such an appraisal and
14 include an amount over and above the customary
15 and reasonable fee for non-complex assignments.

16 “(j) SUNSET.—Effective on the date the interim final
17 regulations are promulgated pursuant to subsection (g),
18 the Home Valuation Code of Conduct announced by the
19 Federal Housing Finance Agency on December 23, 2008,
20 shall have no force or effect.

21 “(k) PENALTIES.—

22 “(1) FIRST VIOLATION.—In addition to the en-
23 forcement provisions referred to in section 130, each
24 person who violates this section shall forfeit and pay

1 a civil penalty of not more than \$10,000 for each
2 day any such violation continues.

3 “(2) SUBSEQUENT VIOLATIONS.—In the case of
4 any person on whom a civil penalty has been im-
5 posed under paragraph (1), paragraph (1) shall be
6 applied by substituting ‘\$20,000’ for ‘\$10,000’ with
7 respect to all subsequent violations.

8 “(3) ASSESSMENT.—The agency referred to in
9 subsection (a) or (c) of section 108 with respect to
10 any person described in paragraph (1) shall assess
11 any penalty under this subsection to which such per-
12 son is subject.”.

13 (b) CLERICAL AMENDMENT.—The table of sections
14 for chapter 2 of the Truth in Lending Act is amended
15 by inserting after the item relating to section 129D (as
16 added by section 1461(c)) the following new items:

“129E. Appraisal independence requirements.

“129F. Requirements for prompt crediting of home loan payments.

“129G. Requests for payoff amounts of home loan.

“129H. Property appraisal requirements.”.

17 (c) DEFERENCE.—Section 105 of the Truth in Lend-
18 ing Act (15 U.S.C. 1604) is amended by adding at the
19 end the following:

20 “(h) DEFERENCE.—Notwithstanding any power
21 granted to any Federal agency under this title, the def-
22 erence that a court affords to the Bureau with respect to
23 a determination made by the Bureau relating to the mean-

1 ing or interpretation of any provision of this title, other
2 than section 129E or 129H, shall be applied as if the Bu-
3 reau were the only agency authorized to apply, enforce,
4 interpret, or administer the provisions of this title.”.

5 (d) CONFORMING AMENDMENTS IN TITLE X NOT
6 APPLICABLE TO SECTIONS 129E AND 129H.—Notwith-
7 standing section 1099A, the term “Board” in sections
8 129E and 129H, as added by this subtitle, shall not be
9 substituted by the term “Bureau”.

10 **SEC. 1473. AMENDMENTS RELATING TO APPRAISAL SUB-**
11 **COMMITTEE OF FFIEC, APPRAISER INDE-**
12 **PENDENCE MONITORING, APPROVED AP-**
13 **PRAISER EDUCATION, APPRAISAL MANAGE-**
14 **MENT COMPANIES, APPRAISER COMPLAINT**
15 **HOTLINE, AUTOMATED VALUATION MODELS,**
16 **AND BROKER PRICE OPINIONS.**

17 (a) THRESHOLD LEVELS.—Section 1112(b) of the
18 Financial Institutions Reform, Recovery, and Enforce-
19 ment Act of 1989 (12 U.S.C. 3341(b)) is amended by in-
20 serting before the period the following: “, and receives con-
21 currence from the Bureau of Consumer Financial Protec-
22 tion that such threshold level provides reasonable protec-
23 tion for consumers who purchase 1–4 unit single-family
24 residences”.

1 (b) ANNUAL REPORT OF APPRAISAL SUB-
2 COMMITTEE.—Section 1103(a) of the Financial Institu-
3 tions Reform, Recovery, and Enforcement Act of 1989 (12
4 U.S.C. 3332(a)) is amended at the end by inserting the
5 following new paragraph:

6 “(5) transmit an annual report to the Congress
7 not later than June 15 of each year that describes
8 the manner in which each function assigned to the
9 Appraisal Subcommittee has been carried out during
10 the preceding year. The report shall also detail the
11 activities of the Appraisal Subcommittee, including
12 the results of all audits of State appraiser regulatory
13 agencies, and provide an accounting of disapproved
14 actions and warnings taken in the previous year, in-
15 cluding a description of the conditions causing the
16 disapproval and actions taken to achieve compli-
17 ance.”.

18 (c) OPEN MEETINGS.—Section 1104(b) of the Finan-
19 cial Institutions Reform, Recovery, and Enforcement Act
20 of 1989 (12 U.S.C. 3333(b)) is amended—

21 (1) by inserting “in public session after notice
22 in the Federal Register, but may close certain por-
23 tions of these meetings related to personnel and re-
24 view of preliminary State audit reports,” after “shall
25 meet”; and

1 (2) by adding after the final period the fol-
2 lowing: “The subject matter discussed in any closed
3 or executive session shall be described in the Federal
4 Register notice of the meeting.”.

5 (d) REGULATIONS.—Section 1106 of the Financial
6 Institutions Reform, Recovery, and Enforcement Act of
7 1989 (12 U.S.C. 3335) is amended—

8 (1) by inserting “prescribe regulations in ac-
9 cordance with chapter 5 of title 5, United States
10 Code (commonly referred to as the Administrative
11 Procedures Act) after notice and opportunity for
12 comment,” after “hold hearings”; and

13 (2) at the end by inserting “Any regulations
14 prescribed by the Appraisal Subcommittee shall (un-
15 less otherwise provided in this title) be limited to the
16 following functions: temporary practice, national reg-
17 istry, information sharing, and enforcement. For
18 purposes of prescribing regulations, the Appraisal
19 Subcommittee shall establish an advisory committee
20 of industry participants, including appraisers, lend-
21 ers, consumer advocates, real estate agents, and gov-
22 ernment agencies, and hold meetings as necessary to
23 support the development of regulations.”.

24 (e) APPRAISAL REVIEWS AND COMPLEX APPRAIS-
25 ALS.—

1 (1) SECTION 1110.—Section 1110 of the Finan-
2 cial Institutions Reform, Recovery, and Enforcement
3 Act of 1989 (12 U.S.C. 3339) is amended—

4 (A) in paragraph (1), by striking “and”;

5 (B) in paragraph (2), by striking the pe-
6 riod at the end and inserting “; and”; and

7 (C) by inserting after paragraph (2) the
8 following:

9 “(3) that such appraisals shall be subject to ap-
10 propriate review for compliance with the Uniform
11 Standards of Professional Appraisal Practice.”.

12 (2) SECTION 1113.—Section 1113 of the Finan-
13 cial Institutions and Reform, Recovery, and Enforce-
14 ment Act of 1989 (12 U.S.C. 3342) is amended by
15 inserting before the period the following: “, where a
16 complex 1-to-4 unit single family residential ap-
17 praisal means an appraisal for which the property to
18 be appraised, the form of ownership, the property
19 characteristics, or the market conditions are atyp-
20 ical”.

21 (f) APPRAISAL MANAGEMENT SERVICES.—

22 (1) SUPERVISION OF THIRD PARTY PROVIDERS
23 OF APPRAISAL MANAGEMENT SERVICES.—Section
24 1103(a) of the Financial Institutions Reform, Recov-
25 ery, and Enforcement Act of 1989 (12 U.S.C.

1 3332(a)) (as previously amended by this section) is
2 amended—

3 (A) by amending paragraph (1) to read as
4 follows:

5 “(1) monitor the requirements established by
6 States—

7 “(A) for the certification and licensing of
8 individuals who are qualified to perform ap-
9 praisals in connection with federally related
10 transactions, including a code of professional
11 responsibility; and

12 “(B) for the registration and supervision
13 of the operations and activities of an appraisal
14 management company;”; and

15 (B) by adding at the end the following new
16 paragraph:

17 “(6) maintain a national registry of appraisal
18 management companies that either are registered
19 with and subject to supervision of a State appraiser
20 certifying and licensing agency or are operating sub-
21 sidiaries of a Federally regulated financial institu-
22 tion.”.

23 (2) APPRAISAL MANAGEMENT COMPANY MIN-
24 IMUM REQUIREMENTS.—Title XI of the Financial
25 Institutions Reform, Recovery, and Enforcement Act

1 of 1989 (12 U.S.C. 3331 et seq.) is amended by
2 adding at the end the following new section (and
3 amending the table of contents accordingly):

4 **“SEC. 1124. APPRAISAL MANAGEMENT COMPANY MINIMUM**
5 **REQUIREMENTS.**

6 “(a) IN GENERAL.—The Board of Governors of the
7 Federal Reserve System, the Comptroller of the Currency,
8 the Federal Deposit Insurance Corporation, the National
9 Credit Union Administration Board, the Federal Housing
10 Finance Agency, and the Bureau of Consumer Financial
11 Protection shall jointly, by rule, establish minimum re-
12 quirements to be applied by a State in the registration
13 of appraisal management companies. Such requirements
14 shall include a requirement that such companies—

15 “(1) register with and be subject to supervision
16 by a State appraiser certifying and licensing agency
17 in each State in which such company operates;

18 “(2) verify that only licensed or certified ap-
19 praisers are used for federally related transactions;

20 “(3) require that appraisals coordinated by an
21 appraisal management company comply with the
22 Uniform Standards of Professional Appraisal Prac-
23 tice; and

24 “(4) require that appraisals are conducted inde-
25 pendently and free from inappropriate influence and

1 coercion pursuant to the appraisal independence
2 standards established under section 129E of the
3 Truth in Lending Act.

4 “(b) RELATION TO STATE LAW.—Nothing in this
5 section shall be construed to prevent States from estab-
6 lishing requirements in addition to any rules promulgated
7 under subsection (a).

8 “(c) FEDERALLY REGULATED FINANCIAL INSTITU-
9 TIONS.—The requirements of subsection (a) shall apply to
10 an appraisal management company that is a subsidiary
11 owned and controlled by a financial institution and regu-
12 lated by a Federal financial institution regulatory agency.
13 An appraisal management company that is a subsidiary
14 owned and controlled by a financial institution regulated
15 by a Federal financial institution regulatory agency shall
16 not be required to register with a State.

17 “(d) REGISTRATION LIMITATIONS.—An appraisal
18 management company shall not be registered by a State
19 or included on the national registry if such company, in
20 whole or in part, directly or indirectly, is owned by any
21 person who has had an appraiser license or certificate re-
22 fused, denied, cancelled, surrendered in lieu of revocation,
23 or revoked in any State. Additionally, each person that
24 owns more than 10 percent of an appraisal management
25 company shall be of good moral character, as determined

1 by the State appraiser certifying and licensing agency, and
2 shall submit to a background investigation carried out by
3 the State appraiser certifying and licensing agency.

4 “(e) REPORTING.—The Board of Governors of the
5 Federal Reserve System, the Comptroller of the Currency,
6 the Federal Deposit Insurance Corporation, the National
7 Credit Union Administration Board, the Federal Housing
8 Finance Agency, and the Bureau of Consumer Financial
9 Protection shall jointly promulgate regulations for the re-
10 porting of the activities of appraisal management compa-
11 nies to the Appraisal Subcommittee in determining the
12 payment of the annual registry fee.

13 “(f) EFFECTIVE DATE.—

14 “(1) IN GENERAL.—No appraisal management
15 company may perform services related to a federally
16 related transaction in a State after the date that is
17 36 months after the date on which the regulations
18 required to be prescribed under subsection (a) are
19 prescribed in final form unless such company is reg-
20 istered with such State or subject to oversight by a
21 Federal financial institutions regulatory agency.

22 “(2) EXTENSION OF EFFECTIVE DATE.—Sub-
23 ject to the approval of the Council, the Appraisal
24 Subcommittee may extend by an additional 12
25 months the requirements for the registration and su-

1 pervision of appraisal management companies if it
2 makes a written finding that a State has made sub-
3 stantial progress in establishing a State appraisal
4 management company registration and supervision
5 system that appears to conform with the provisions
6 of this title.”.

7 (3) STATE APPRAISER CERTIFYING AND LI-
8 CENSING AGENCY AUTHORITY.—Section 1117 of the
9 Financial Institutions Reform, Recovery, and En-
10 forcement Act of 1989 (12 U.S.C. 3346) is amended
11 by adding at the end the following: “The duties of
12 such agency may additionally include the registra-
13 tion and supervision of appraisal management com-
14 panies and the addition of information about the ap-
15 praisal management company to the national reg-
16 istry.”.

17 (4) APPRAISAL MANAGEMENT COMPANY DEFINI-
18 TION.—Section 1121 of the Financial Institutions
19 Reform, Recovery, and Enforcement Act of 1989
20 (12 U.S.C. 3350) is amended by adding at the end
21 the following:

22 “(11) APPRAISAL MANAGEMENT COMPANY.—
23 The term ‘appraisal management company’ means,
24 in connection with valuing properties collateralizing
25 mortgage loans or mortgages incorporated into a

1 securitization, any external third party authorized ei-
2 ther by a creditor of a consumer credit transaction
3 secured by a consumer's principal dwelling or by an
4 underwriter of or other principal in the secondary
5 mortgage markets, that oversees a network or panel
6 of more than 15 certified or licensed appraisers in
7 a State or 25 or more nationally within a given
8 year—

9 “(A) to recruit, select, and retain apprais-
10 ers;

11 “(B) to contract with licensed and certified
12 appraisers to perform appraisal assignments;

13 “(C) to manage the process of having an
14 appraisal performed, including providing admin-
15 istrative duties such as receiving appraisal or-
16 ders and appraisal reports, submitting com-
17 pleted appraisal reports to creditors and under-
18 writers, collecting fees from creditors and un-
19 derwriters for services provided, and reimburs-
20 ing appraisers for services performed; or

21 “(D) to review and verify the work of ap-
22 praisers.”.

23 (g) STATE AGENCY REPORTING REQUIREMENT.—
24 Section 1109(a) of the Financial Institutions Reform, Re-

1 covery, and Enforcement Act of 1989 (12 U.S.C. 3338(a))
2 is amended—

3 (1) by striking “and” after the semicolon in
4 paragraph (1);

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

7 (3) by inserting after paragraph (1) the fol-
8 lowing new paragraphs:

9 “(2) transmit reports on the issuance and re-
10 newal of licenses and certifications, sanctions, dis-
11 ciplinary actions, license and certification revoca-
12 tions, and license and certification suspensions on a
13 timely basis to the national registry of the Appraisal
14 Subcommittee;

15 “(3) transmit reports on a timely basis of su-
16 pervisory activities involving appraisal management
17 companies or other third-party providers of apprais-
18 als and appraisal management services, including in-
19 vestigations initiated and disciplinary actions taken;
20 and”.

21 (h) REGISTRY FEES MODIFIED.—

22 (1) IN GENERAL.—Section 1109(a) of the Fi-
23 nancial Institutions Reform, Recovery, and Enforce-
24 ment Act of 1989 (12 U.S.C. 3338(a)) is amend-
25 ed—

1 (A) by amending paragraph (4) (as modi-
2 fied by section 1473(g)) to read as follows:

3 “(4) collect—

4 “(A) from such individuals who perform or
5 seek to perform appraisals in federally related
6 transactions, an annual registry fee of not more
7 than \$40, such fees to be transmitted by the
8 State agencies to the Council on an annual
9 basis; and

10 “(B) from an appraisal management com-
11 pany that either has registered with a State ap-
12 praiser certifying and licensing agency in ac-
13 cordance with this title or operates as a sub-
14 subsidiary of a federally regulated financial institu-
15 tion, an annual registry fee of—

16 “(i) in the case of such a company
17 that has been in existence for more than a
18 year, \$25 multiplied by the number of ap-
19 praisers working for or contracting with
20 such company in such State during the
21 previous year, but where such \$25 amount
22 may be adjusted, up to a maximum of \$50,
23 at the discretion of the Appraisal Sub-
24 committee, if necessary to carry out the

1 Subcommittee's functions under this title;
2 and

3 "(ii) in the case of such a company
4 that has not been in existence for more
5 than a year, \$25 multiplied by an appro-
6 priate number to be determined by the Ap-
7 praisal Subcommittee, and where such
8 number will be used for determining the
9 fee of all such companies that were not in
10 existence for more than a year, but where
11 such \$25 amount may be adjusted, up to
12 a maximum of \$50, at the discretion of the
13 Appraisal Subcommittee, if necessary to
14 carry out the Subcommittee's functions
15 under this title."; and

16 (B) by amending the matter following
17 paragraph (4), as redesignated, to read as fol-
18 lows:

19 "Subject to the approval of the Council, the Appraisal
20 Subcommittee may adjust the dollar amount of registry
21 fees under paragraph (4)(A), up to a maximum of \$80
22 per annum, as necessary to carry out its functions under
23 this title. The Appraisal Subcommittee shall consider at
24 least once every 5 years whether to adjust the dollar
25 amount of the registry fees to account for inflation. In

1 implementing any change in registry fees, the Appraisal
2 Subcommittee shall provide flexibility to the States for
3 multi-year certifications and licenses already in place, as
4 well as a transition period to implement the changes in
5 registry fees. In establishing the amount of the annual
6 registry fee for an appraisal management company, the
7 Appraisal Subcommittee shall have the discretion to im-
8 pose a minimum annual registry fee for an appraisal man-
9 agement company to protect against the under reporting
10 of the number of appraisers working for or contracted by
11 the appraisal management company.”.

12 (2) INCREMENTAL REVENUES.—Incremental
13 revenues collected pursuant to the increases required
14 by this subsection shall be placed in a separate ac-
15 count at the United States Treasury, entitled the
16 “Appraisal Subcommittee Account”.

17 (i) GRANTS AND REPORTS.—Section 1109(b) of the
18 Financial Institutions Reform, Recovery, and Enforce-
19 ment Act of 1989 (12 U.S.C. 3338(b)) is amended—

20 (1) by striking “and” after the semicolon in
21 paragraph (3);

22 (2) by striking the period at the end of para-
23 graph (4) and inserting a semicolon;

24 (3) by adding at the end the following new
25 paragraphs:

1 “(5) to make grants to State appraiser certi-
2 fying and licensing agencies, in accordance with poli-
3 cies to be developed by the Appraisal Subcommittee,
4 to support the efforts of such agencies to comply
5 with this title, including—

6 “(A) the complaint process, complaint in-
7 vestigations, and appraiser enforcement activi-
8 ties of such agencies; and

9 “(B) the submission of data on State li-
10 censed and certified appraisers and appraisal
11 management companies to the National ap-
12 praisal registry, including information affirming
13 that the appraiser or appraisal management
14 company meets the required qualification cri-
15 teria and formal and informal disciplinary ac-
16 tions; and

17 “(6) to report to all State appraiser certifying
18 and licensing agencies when a license or certification
19 is surrendered, revoked, or suspended.”.

20 Obligations authorized under this subsection may not ex-
21 ceed 75 percent of the fiscal year total of incremental in-
22 crease in fees collected and deposited in the “Appraisal
23 Subcommittee Account” pursuant to subsection (h).

1 (j) CRITERIA.—Section 1116 of the Financial Institu-
2 tions Reform, Recovery, and Enforcement Act of 1989 (12
3 U.S.C. 3345) is amended—

4 (1) in subsection (c), by inserting “whose cri-
5 teria for the licensing of a real estate appraiser cur-
6 rently meet or exceed the minimum criteria issued
7 by the Appraisal Qualifications Board of The Ap-
8 praisal Foundation for the licensing of real estate
9 appraisers” before the period at the end; and

10 (2) by striking subsection (e) and inserting the
11 following new subsection:

12 “(e) MINIMUM QUALIFICATION REQUIREMENTS.—
13 Any requirements established for individuals in the posi-
14 tion of ‘Trainee Appraiser’ and ‘Supervisory Appraiser’
15 shall meet or exceed the minimum qualification require-
16 ments of the Appraiser Qualifications Board of The Ap-
17 praisal Foundation. The Appraisal Subcommittee shall
18 have the authority to enforce these requirements.”.

19 (k) MONITORING OF STATE APPRAISER CERTIFYING
20 AND LICENSING AGENCIES.—Section 1118 of the Finan-
21 cial Institutions Reform, Recovery, and Enforcement Act
22 of 1989 (12 U.S.C. 3347) is amended—

23 (1) by amending subsection (a) to read as fol-
24 lows:

1 “(a) IN GENERAL.—The Appraisal Subcommittee
2 shall monitor each State appraiser certifying and licensing
3 agency for the purposes of determining whether such
4 agency—

5 “(1) has policies, practices, funding, staffing,
6 and procedures that are consistent with this title;

7 “(2) processes complaints and completes inves-
8 tigation in a reasonable time period;

9 “(3) appropriately disciplines sanctioned ap-
10 praisers and appraisal management companies;

11 “(4) maintains an effective regulatory program;
12 and

13 “(5) reports complaints and disciplinary actions
14 on a timely basis to the national registries on ap-
15 praisers and appraisal management companies main-
16 tained by the Appraisal Subcommittee.

17 The Appraisal Subcommittee shall have the authority to
18 remove a State licensed or certified appraiser or a reg-
19 istered appraisal management company from a national
20 registry on an interim basis, not to exceed 90 days, pend-
21 ing State agency action on licensing, certification, reg-
22 istration, and disciplinary proceedings. The Appraisal
23 Subcommittee and all agencies, instrumentalities, and
24 Federally recognized entities under this title shall not rec-
25 ognize appraiser certifications and licenses from States

1 whose appraisal policies, practices, funding, staffing, or
2 procedures are found to be inconsistent with this title. The
3 Appraisal Subcommittee shall have the authority to im-
4 pose sanctions, as described in this section, against a State
5 agency that fails to have an effective appraiser regulatory
6 program. In determining whether such a program is effec-
7 tive, the Appraisal Subcommittee shall include an analysis
8 of the licensing and certification of appraisers, the reg-
9 istration of appraisal management companies, the
10 issuance of temporary licenses and certifications for ap-
11 praisers, the receiving and tracking of submitted com-
12 plaints against appraisers and appraisal management
13 companies, the investigation of complaints, and enforce-
14 ment actions against appraisers and appraisal manage-
15 ment companies. The Appraisal Subcommittee shall have
16 the authority to impose interim actions and suspensions
17 against a State agency as an alternative to, or in advance
18 of, the derecognition of a State agency.”.

19 (2) in subsection (b)(2), by inserting after “au-
20 thority” the following: “or sufficient funding”.

21 (1) RECIPROcity.—Subsection (b) of section 1122 of
22 the Financial Institutions Reform, Recovery, and Enforce-
23 ment Act of 1989 (12 U.S.C. 3351(b)) is amended to read
24 as follows:

1 “(b) RECIPROCALITY.—Notwithstanding any other pro-
2 visions of this title, a federally related transaction shall
3 not be appraised by a certified or licensed appraiser unless
4 the State appraiser certifying or licensing agency of the
5 State certifying or licensing such appraiser has in place
6 a policy of issuing a reciprocal certification or license for
7 an individual from another State when—

8 “(1) the appraiser licensing and certification
9 program of such other State is in compliance with
10 the provisions of this title; and

11 “(2) the appraiser holds a valid certification
12 from a State whose requirements for certification or
13 licensing meet or exceed the licensure standards es-
14 tablished by the State where an individual seeks ap-
15 praisal licensure.”.

16 (m) CONSIDERATION OF PROFESSIONAL APPRAISAL
17 DESIGNATIONS.—Section 1122(d) of the Financial Insti-
18 tutions Reform, Recovery, and Enforcement Act of 1989
19 (12 U.S.C. 3351(d)) is amended by striking “shall not ex-
20 clude” and all that follows through the end of the sub-
21 section and inserting the following: “may include edu-
22 cation achieved, experience, sample appraisals, and ref-
23 erences from prior clients. Membership in a nationally rec-
24 ognized professional appraisal organization may be a cri-
25 teria considered, though lack of membership therein shall

1 not be the sole bar against consideration for an assign-
2 ment under these criteria.”.

3 (n) APPRAISER INDEPENDENCE.—Section 1122 of
4 the Financial Institutions Reform, Recovery, and Enforce-
5 ment Act of 1989 (12 U.S.C. 3351) is amended by adding
6 at the end the following new subsection:

7 “(g) APPRAISER INDEPENDENCE MONITORING.—
8 The Appraisal Subcommittee shall monitor each State ap-
9 praiser certifying and licensing agency for the purpose of
10 determining whether such agency’s policies, practices, and
11 procedures are consistent with the purposes of maintain-
12 ing appraiser independence and whether such State has
13 adopted and maintains effective laws, regulations, and
14 policies aimed at maintaining appraiser independence.”.

15 (o) APPRAISER EDUCATION.—Section 1122 of the
16 Financial Institutions Reform, Recovery, and Enforce-
17 ment Act of 1989 (12 U.S.C. 3351) is amended by insert-
18 ing after subsection (g) (as added by subsection (l) of this
19 section) the following new subsection:

20 “(h) APPROVED EDUCATION.—The Appraisal Sub-
21 committee shall encourage the States to accept courses ap-
22 proved by the Appraiser Qualification Board’s Course Ap-
23 proval Program.”.

24 (p) APPRAISAL COMPLAINT HOTLINE.—Section 1122
25 of the Financial Institutions Reform, Recovery, and En-

1 enforcement Act of 1989 (12 U.S.C. 3351), as amended by
2 this section, is amended by adding at the end the following
3 new subsection:

4 “(i) APPRAISAL COMPLAINT NATIONAL HOTLINE.—
5 If, 6 months after the date of the enactment of this sub-
6 section, the Appraisal Subcommittee determines that no
7 national hotline exists to receive complaints of non-compli-
8 ance with appraisal independence standards and Uniform
9 Standards of Professional Appraisal Practice, including
10 complaints from appraisers, individuals, or other entities
11 concerning the improper influencing or attempted im-
12 proper influencing of appraisers or the appraisal process,
13 the Appraisal Subcommittee shall establish and operate
14 such a national hotline, which shall include a toll-free tele-
15 phone number and an email address. If the Appraisal Sub-
16 committee operates such a national hotline, the Appraisal
17 Subcommittee shall refer complaints for further action to
18 appropriate governmental bodies, including a State ap-
19 praiser certifying and licensing agency, a financial institu-
20 tion regulator, or other appropriate legal authorities. For
21 complaints referred to State appraiser certifying and li-
22 censing agencies or to Federal regulators, the Appraisal
23 Subcommittee shall have the authority to follow up such
24 complaint referrals in order to determine the status of the
25 resolution of the complaint.”.

1 (q) AUTOMATED VALUATION MODELS.—Title XI of
2 the Financial Institutions Reform, Recovery, and Enforce-
3 ment Act of 1989 (12 U.S.C. 3331 et seq.), as amended
4 by this section, is amended by adding at the end the fol-
5 lowing new section (and amending the table of contents
6 accordingly):

7 **“SEC. 1125. AUTOMATED VALUATION MODELS USED TO ES-**
8 **TIMATE COLLATERAL VALUE FOR MORT-**
9 **GAGE LENDING PURPOSES.**

10 “(a) IN GENERAL.—Automated valuation models
11 shall adhere to quality control standards designed to—

12 “(1) ensure a high level of confidence in the es-
13 timates produced by automated valuation models;

14 “(2) protect against the manipulation of data;

15 “(3) seek to avoid conflicts of interest;

16 “(4) require random sample testing and re-
17 views; and

18 “(5) account for any other such factor that the
19 agencies listed in subsection (b) determine to be ap-
20 propriate.

21 “(b) ADOPTION OF REGULATIONS.—The Board, the
22 Comptroller of the Currency, the Federal Deposit Insur-
23 ance Corporation, the National Credit Union Administra-
24 tion Board, the Federal Housing Finance Agency, and the
25 Bureau of Consumer Financial Protection, in consultation

1 with the staff of the Appraisal Subcommittee and the Ap-
2 praisal Standards Board of the Appraisal Foundation,
3 shall promulgate regulations to implement the quality con-
4 trol standards required under this section.

5 “(c) ENFORCEMENT.—Compliance with regulations
6 issued under this subsection shall be enforced by—

7 “(1) with respect to a financial institution, or
8 subsidiary owned and controlled by a financial insti-
9 tution and regulated by a Federal financial institu-
10 tion regulatory agency, the Federal financial institu-
11 tion regulatory agency that acts as the primary Fed-
12 eral supervisor of such financial institution or sub-
13 sidiary; and

14 “(2) with respect to other participants in the
15 market for appraisals of 1-to-4 unit single family
16 residential real estate, the Federal Trade Commis-
17 sion, the Bureau of Consumer Financial Protection,
18 and a State attorney general.

19 “(d) AUTOMATED VALUATION MODEL DEFINED.—
20 For purposes of this section, the term ‘automated valu-
21 ation model’ means any computerized model used by mort-
22 gage originators and secondary market issuers to deter-
23 mine the collateral worth of a mortgage secured by a con-
24 sumer’s principal dwelling.”.

1 (r) **BROKER PRICE OPINIONS.**—Title XI of the Fi-
2 nancial Institutions Reform, Recovery, and Enforcement
3 Act of 1989 (12 U.S.C. 3331 et seq.), as amended by this
4 section, is amended by adding at the end the following
5 new section (and amending the table of contents accord-
6 ingly):

7 **“SEC. 1126. BROKER PRICE OPINIONS.**

8 “(a) **GENERAL PROHIBITION.**—In conjunction with
9 the purchase of a consumer’s principal dwelling, broker
10 price opinions may not be used as the primary basis to
11 determine the value of a piece of property for the purpose
12 of a loan origination of a residential mortgage loan se-
13 cured by such piece of property.

14 “(b) **BROKER PRICE OPINION DEFINED.**—For pur-
15 poses of this section, the term ‘broker price opinion’ means
16 an estimate prepared by a real estate broker, agent, or
17 sales person that details the probable selling price of a
18 particular piece of real estate property and provides a
19 varying level of detail about the property’s condition, mar-
20 ket, and neighborhood, and information on comparable
21 sales, but does not include an automated valuation model,
22 as defined in section 1125(c).”.

23 (s) **AMENDMENTS TO APPRAISAL SUBCOMMITTEE.**—
24 Section 1011 of the Federal Financial Institutions Exam-

1 ination Council Act of 1978 (12 U.S.C. 3310) is amend-
2 ed—

3 (1) in the first sentence, by adding before the
4 period the following: “, the Bureau of Consumer Fi-
5 nancial Protection, and the Federal Housing Fi-
6 nance Agency”; and

7 (2) by inserting at the end the following: “At
8 all times at least one member of the Appraisal Sub-
9 committee shall have demonstrated knowledge and
10 competence through licensure, certification, or pro-
11 fessional designation within the appraisal profes-
12 sion.”.

13 (t) TECHNICAL CORRECTIONS.—

14 (1) Section 1119(a)(2) of the Financial Institu-
15 tions Reform, Recovery, and Enforcement Act of
16 1989 (12 U.S.C. 3348(a)(2)) is amended by striking
17 “council,” and inserting “Council,”.

18 (2) Section 1121(6) of the Financial Institu-
19 tions Reform, Recovery, and Enforcement Act of
20 1989 (12 U.S.C. 3350(6)) is amended by striking
21 “Corporations,” and inserting “Corporation,”.

22 (3) Section 1121(8) of the Financial Institu-
23 tions Reform, Recovery, and Enforcement Act of
24 1989 (12 U.S.C. 3350(8)) is amended by striking
25 “council” and inserting “Council”.

1 (4) Section 1122 of the Financial Institutions
2 Reform, Recovery, and Enforcement Act of 1989
3 (12 U.S.C. 3351) is amended—

4 (A) in subsection (a)(1) by moving the left
5 margin of subparagraphs (A), (B), and (C) 2
6 ems to the right; and

7 (B) in subsection (c)—

8 (i) by striking “Federal Financial In-
9 stitutions Examination Council” and in-
10 serting “Financial Institutions Examina-
11 tion Council”; and

12 (ii) by striking “the council’s func-
13 tions” and inserting “the Council’s func-
14 tions”.

15 **SEC. 1474. EQUAL CREDIT OPPORTUNITY ACT AMENDMENT.**

16 Subsection (e) of section 701 of the Equal Credit Op-
17 portunity Act (15 U.S.C. 1691) is amended to read as
18 follows:

19 “(e) COPIES FURNISHED TO APPLICANTS.—

20 “(1) IN GENERAL.—Each creditor shall furnish
21 to an applicant a copy of any and all written ap-
22 praisals and valuations developed in connection with
23 the applicant’s application for a loan that is secured
24 or would have been secured by a first lien on a
25 dwelling promptly upon completion, but in no case

1 later than 3 days prior to the closing of the loan,
2 whether the creditor grants or denies the applicant's
3 request for credit or the application is incomplete or
4 withdrawn.

5 “(2) WAIVER.—The applicant may waive the 3
6 day requirement provided for in paragraph (1), ex-
7 cept where otherwise required in law.

8 “(3) REIMBURSEMENT.—The applicant may be
9 required to pay a reasonable fee to reimburse the
10 creditor for the cost of the appraisal, except where
11 otherwise required in law.

12 “(4) FREE COPY.—Notwithstanding paragraph
13 (3), the creditor shall provide a copy of each written
14 appraisal or valuation at no additional cost to the
15 applicant.

16 “(5) NOTIFICATION TO APPLICANTS.—At the
17 time of application, the creditor shall notify an ap-
18 plicant in writing of the right to receive a copy of
19 each written appraisal and valuation under this sub-
20 section.

21 “(6) VALUATION DEFINED.—For purposes of
22 this subsection, the term ‘valuation’ shall include
23 any estimate of the value of a dwelling developed in
24 connection with a creditor's decision to provide cred-
25 it, including those values developed pursuant to a

1 policy of a government sponsored enterprise or by an
2 automated valuation model, a broker price opinion,
3 or other methodology or mechanism.”.

4 **SEC. 1475. REAL ESTATE SETTLEMENT PROCEDURES ACT**
5 **OF 1974 AMENDMENT RELATING TO CERTAIN**
6 **APPRAISAL FEES.**

7 Section 4 of the Real Estate Settlement Procedures
8 Act of 1974 is amended by adding at the end the following
9 new subsection:

10 “(c) The standard form described in subsection (a)
11 may include, in the case of an appraisal coordinated by
12 an appraisal management company (as such term is de-
13 fined in section 1121(11) of the Financial Institutions Re-
14 form, Recovery, and Enforcement Act of 1989 (12 U.S.C.
15 3350(11))), a clear disclosure of—

16 “(1) the fee paid directly to the appraiser by
17 such company; and

18 “(2) the administration fee charged by such
19 company.”.

1 **SEC. 1476. GAO STUDY ON THE EFFECTIVENESS AND IM-**
2 **PACT OF VARIOUS APPRAISAL METHODS,**
3 **VALUATION MODELS AND DISTRIBUTIONS**
4 **CHANNELS, AND ON THE HOME VALUATION**
5 **CODE OF CONDUCT AND THE APPRAISAL**
6 **SUBCOMMITTEE.**

7 (a) IN GENERAL.—The Government Accountability
8 Office shall conduct a study on—

9 (1) the effectiveness and impact of—

10 (A) appraisal methods, including the cost
11 approach, the comparative sales approach, the
12 income approach, and others that may be avail-
13 able;

14 (B) appraisal valuation models, including
15 licensed and certified appraisals, broker-priced
16 opinions, and automated valuation models; and

17 (C) appraisal distribution channels, includ-
18 ing appraisal management companies, inde-
19 pendent appraisal operations within mortgage
20 originators, and fee-for-service appraisers;

21 (2) the Home Valuation Code of Conduct; and

22 (3) the Appraisal Subcommittee's functions
23 pursuant to title XI of the Financial Institutions Re-
24 form, Recovery, and Enforcement Act of 1989.

25 (b) STUDY.—Not later than—

1 (1) 12 months after the date of enactment of
2 this Act, the Government Accountability Office shall
3 submit a study to the Committee on Banking, Hous-
4 ing, and Urban Affairs of the Senate and the Com-
5 mittee on Financial Services of the House of Rep-
6 resentatives; and

7 (2) 90 days after the date of enactment of this
8 Act, the Government Accountability Office shall pro-
9 vide a report on the status of the study and any pre-
10 liminary findings to the Committee on Banking,
11 Housing, and Urban Affairs of the Senate and the
12 Committee on Financial Services of the House of
13 Representatives.

14 (c) CONTENT OF STUDY.—The study required by this
15 section shall include an examination of the following:

16 (1) APPRAISAL APPROACHES, VALUATION MOD-
17 ELS, AND DISTRIBUTION CHANNELS.—

18 (A) The prevalence, alone or in combina-
19 tion, of certain appraisal approaches, models,
20 and channels in purchase-money and refinance
21 mortgage transactions.

22 (B) The accuracy of these approaches,
23 models, and channels in assessing the property
24 as collateral.

1 (C) Whether and how these approaches,
2 models, and channels contributed to price spec-
3 ulation during the previous cycle.

4 (D) The costs to consumers of these ap-
5 proaches, models, and channels.

6 (E) The disclosure of fees to consumers in
7 the appraisal process.

8 (F) To what extent the usage of these ap-
9 proaches, models, and channels may be influ-
10 enced by a conflict of interest between the
11 mortgage lender and the appraiser and the
12 mechanism by which the lender selects and
13 compensates the appraiser.

14 (G) The suitability of these approaches,
15 models, and channels in rural versus urban
16 areas.

17 (2) HOME VALUATION CODE OF CONDUCT
18 (HVCC).—

19 (A) How the HVCC affects mortgage lend-
20 ers' selection of appraisers.

21 (B) How the HVCC affects State regula-
22 tion of appraisers and appraisal distribution
23 channels.

1 (C) How the HVCC affects the quality and
2 cost of appraisals and the length of time to ob-
3 tain an appraisal.

4 (D) How the HVCC affects mortgage bro-
5 kers, small businesses, and consumers.

6 (d) ADDITIONAL STUDY REQUIRED.—

7 (1) IN GENERAL.—Not later than 18 months
8 after the date of enactment of this Act, the Govern-
9 ment Accountability Office shall submit a study to
10 the Committee on Banking, Housing, and Urban Af-
11 fairs of the Senate and the Committee on Financial
12 Services of the House of Representatives.

13 (2) CONTENT OF ADDITIONAL STUDY.—The
14 study required under paragraph (1) shall include—

15 (A) an examination of—

16 (i) the Appraisal Subcommittee's abil-
17 ity to monitor and enforce State and Fed-
18 eral certification requirements and stand-
19 ards, including by providing a summary
20 with a statistical breakdown of enforce-
21 ment actions taken during the last 10
22 years;

23 (ii) whether existing Federal financial
24 institutions regulatory agency exemptions

1 on appraisals for federally related trans-
2 actions needs to be revised; and

3 (iii) whether new means of data col-
4 lection, such as the establishment of a na-
5 tional repository, would benefit the Ap-
6 praisal Subcommittee's ability to perform
7 its functions; and

8 (B) recommendations from this examina-
9 tion for administrative and legislative action at
10 the Federal and State level.

11 **Subtitle G—Mortgage Resolution** 12 **and Modification**

13 **SEC. 1481. MULTIFAMILY MORTGAGE RESOLUTION PRO-** 14 **GRAM.**

15 (a) ESTABLISHMENT.—The Secretary of Housing
16 and Urban Development shall develop a program under
17 this subsection to ensure the protection of current and fu-
18 ture tenants and at-risk multifamily properties, where fea-
19 sible, based on criteria that may include—

20 (1) creating sustainable financing of such prop-
21 erties, that may take into consideration such factors
22 as—

23 (A) the rental income generated by such
24 properties; and

1 (B) the preservation of adequate operating
2 reserves;

3 (2) maintaining the level of Federal, State, and
4 city subsidies in effect as of the date of the enact-
5 ment of this Act;

6 (3) providing funds for rehabilitation; and

7 (4) facilitating the transfer of such properties,
8 when appropriate and with the agreement of owners,
9 to responsible new owners and ensuring affordability
10 of such properties.

11 (b) COORDINATION.—The Secretary of Housing and
12 Urban Development may, in carrying out the program de-
13 veloped under this section, coordinate with the Secretary
14 of the Treasury, the Federal Deposit Insurance Corpora-
15 tion, the Board of Governors of the Federal Reserve Sys-
16 tem, the Federal Housing Finance Agency, and any other
17 Federal Government agency that the Secretary considers
18 appropriate.

19 (c) DEFINITION.—For purposes of this section, the
20 term “multifamily properties” means a residential struc-
21 ture that consists of 5 or more dwelling units.

22 (d) PREVENTION OF QUALIFICATION FOR CRIMINAL
23 APPLICANTS.—

24 (1) IN GENERAL.—No person shall be eligible
25 to begin receiving assistance from the Making Home

1 Affordable Program authorized under the Emer-
2 gency Economic Stabilization Act of 2008 (12
3 U.S.C. 5201 et seq.), or any other mortgage assist-
4 ance program authorized or funded by that Act, on
5 or after 60 days after the date of the enactment of
6 this Act, if such person, in connection with a mort-
7 gage or real estate transaction, has been convicted,
8 within the last 10 years, of any one of the following:

9 (A) Felony larceny, theft, fraud, or for-
10 gery.

11 (B) Money laundering.

12 (C) Tax evasion.

13 (2) PROCEDURES.—The Secretary shall estab-
14 lish procedures to ensure compliance with this sub-
15 section.

16 (3) REPORT.—The Secretary shall report to the
17 Committee on Financial Services of the House of
18 Representatives and the Committee on Banking,
19 Housing, and Urban Affairs of the Senate regarding
20 the implementation of this provision. The report
21 shall also describe the steps taken to implement this
22 subsection.

1 **SEC. 1482. HOME AFFORDABLE MODIFICATION PROGRAM**
2 **GUIDELINES.**

3 (a) NET PRESENT VALUE INPUT DATA.—The Sec-
4 retary of the Treasury (in this section referred to as the
5 “Secretary”) shall revise the supplemental directives and
6 other guidelines for the Home Affordable Modification
7 Program of the Making Home Affordable initiative of the
8 Secretary of the Treasury, authorized under the Emer-
9 gency Economic Stabilization Act of 2008 (Public Law
10 110–343), to require each mortgage servicer participating
11 in such program to provide each borrower under a mort-
12 gage whose request for a mortgage modification under the
13 Program is denied with all borrower-related and mort-
14 gage-related input data used in any net present value
15 (NPV) analyses performed in connection with the subject
16 mortgage. Such input data shall be provided to the bor-
17 rower at the time of such denial.

18 (b) WEB-BASED SITE FOR NPV CALCULATOR AND
19 APPLICATION.—

20 (1) NPV CALCULATOR.—In carrying out the
21 Home Affordable Modification Program, the Sec-
22 retary shall establish and maintain a site on the
23 World Wide Web that provides a calculator for net
24 present value analyses of a mortgage, based on the
25 Secretary’s methodology for calculating such value,
26 that mortgagors can use to enter information re-

1 regarding their own mortgages and that provides a de-
2 termination after entering such information regard-
3 ing a mortgage of whether such mortgage would be
4 accepted or rejected for modification under the Pro-
5 gram, using such methodology.

6 (2) DISCLOSURE.—Such Web site shall also
7 prominently disclose that each mortgage servicer
8 participating in such Program may use a method for
9 calculating net present value of a mortgage that is
10 different than the method used by such calculator.

11 (3) APPLICATION.—The Secretary shall make a
12 reasonable effort to include on such World Wide
13 Web site a method for homeowners to apply for a
14 mortgage modification under the Home Affordable
15 Modification Program.

16 (c) PUBLIC AVAILABILITY OF NPV METHODOLOGY,
17 COMPUTER MODEL, AND VARIABLES.—The Secretary
18 shall make publicly available, including by posting on a
19 World Wide Web site of the Secretary—

20 (1) the Secretary's methodology and computer
21 model, including all formulae used in such computer
22 model, used for calculating net present value of a
23 mortgage that is used by the calculator established
24 pursuant to subsection (b); and

1 (2) all non-proprietary variables used in such
2 net present value analysis.

3 **SEC. 1483. PUBLIC AVAILABILITY OF INFORMATION OF**
4 **MAKING HOME AFFORDABLE PROGRAM.**

5 (a) REVISIONS TO PROGRAM GUIDELINES.—The Sec-
6 retary of the Treasury (in this section referred to as the
7 “Secretary”) shall revise the guidelines for the Home Af-
8 fordable Modification Program of the Making Home Af-
9 fordable initiative of the Secretary of the Treasury, au-
10 thorized under the Emergency Economic Stabilization Act
11 of 2008 (Public Law 110–343), to provide that the data
12 being collected by the Secretary from each mortgage
13 servicer and lender participating in the Program is made
14 public in accordance with subsection (b).

15 (b) PUBLIC AVAILABILITY.—Data shall be made
16 available according to the following guidelines:

17 (1) Not more than 14 days after each monthly
18 deadline for submission of data by mortgage
19 servicers and lenders participating in the Program,
20 reports shall be made publicly available by means of
21 a World Wide Web site of the Secretary, and by sub-
22 mitting a report to the Congress, that shall includes
23 the following information:

1 (A) The number of requests for mortgage
2 modifications under the Program that the
3 servicer or lender has received.

4 (B) The number of requests for mortgage
5 modifications under the Program that the
6 servicer or lender has processed.

7 (C) The number of requests for mortgage
8 modifications under the Program that the
9 servicer or lender has approved.

10 (D) The number of requests for mortgage
11 modifications under the Program that the
12 servicer or lender has denied.

13 (2) Not more than 60 days after each monthly
14 deadline for submission of data by mortgage
15 servicers and lenders participating in the Program,
16 the Secretary shall make data tables available to the
17 public at the individual record level. The Secretary
18 shall issue regulations prescribing—

19 (A) the procedures for disclosing such data
20 to the public; and

21 (B) such deletions as the Secretary may
22 determine to be appropriate to protect any pri-
23 vacy interest of any mortgage modification ap-
24 plicant, including the deletion or alteration of
25 the applicant's name and identification number.

1 **SEC. 1484. PROTECTING TENANTS AT FORECLOSURE EX-**
 2 **TENSION AND CLARIFICATION.**

3 The Protecting Tenants at Foreclosure Act is amend-
 4 ed—

5 (1) in section 702 (12 U.S.C. 5220 note)—

6 (A) in subsection (a)(2), by striking “, as
 7 of the date of such notice of foreclosure”; and

8 (B) in subsection (c), by inserting after the
 9 period the following: “For purposes of this sec-
 10 tion, the date of a notice of foreclosure shall be
 11 deemed to be the date on which complete title
 12 to a property is transferred to a successor enti-
 13 ty or person as a result of an order of a court
 14 or pursuant to provisions in a mortgage, deed
 15 of trust, or security deed.”; and

16 (2) in section 704 (12 U.S.C. 5201 note), by
 17 striking “2012” and inserting “2014”.

18 **Subtitle H—Miscellaneous**
 19 **Provisions**

20 **SEC. 1491. SENSE OF CONGRESS REGARDING THE IMPOR-**
 21 **TANCE OF GOVERNMENT-SPONSORED EN-**
 22 **TERPRISES REFORM TO ENHANCE THE PRO-**
 23 **TECTION, LIMITATION, AND REGULATION OF**
 24 **THE TERMS OF RESIDENTIAL MORTGAGE**
 25 **CREDIT.**

26 (a) FINDINGS.—The Congress finds as follows:

1 (1) The Government-sponsored enterprises,
2 Federal National Mortgage Association (Fannie
3 Mae) and the Federal Home Loan Mortgage Cor-
4 poration (Freddie Mac), were chartered by Congress
5 to ensure a reliable and affordable supply of mort-
6 gage funding, but enjoy a dual legal status as pri-
7 vately owned corporations with Government man-
8 dated affordable housing goals.

9 (2) In 1996, the Department of Housing and
10 Urban Development required that 42 percent of
11 Fannie Mae's and Freddie Mac's mortgage financing
12 should go to borrowers with income levels below the
13 median for a given area.

14 (3) In 2004, the Department of Housing and
15 Urban Development revised those goals, increasing
16 them to 56 percent of their overall mortgage pur-
17 chases by 2008, and additionally mandated that 12
18 percent of all mortgage purchases by Fannie Mae
19 and Freddie Mac be "special affordable" loans made
20 to borrowers with incomes less than 60 percent of an
21 area's median income, a target that ultimately in-
22 creased to 28 percent for 2008.

23 (4) To help fulfill those mandated affordable
24 housing goals, in 1995 the Department of Housing
25 and Urban Development authorized Fannie Mae and

1 Freddie Mac to purchase subprime securities that
2 included loans made to low-income borrowers.

3 (5) After this authorization to purchase
4 subprime securities, subprime and near-prime loans
5 increased from 9 percent of securitized mortgages in
6 2001 to 40 percent in 2006, while the market share
7 of conventional mortgages dropped from 78.8 per-
8 cent in 2003 to 50.1 percent by 2007 with a cor-
9 responding increase in subprime and Alt-A loans
10 from 10.1 percent to 32.7 percent over the same pe-
11 riod.

12 (6) In 2004 alone, Fannie Mae and Freddie
13 Mac purchased \$175,000,000,000 in subprime mort-
14 gage securities, which accounted for 44 percent of
15 the market that year, and from 2005 through 2007,
16 Fannie Mae and Freddie Mac purchased approxi-
17 mately \$1,000,000,000,000 in subprime and Alt-A
18 loans, while Fannie Mae's acquisitions of mortgages
19 with less than 10 percent down payments almost tri-
20 pled.

21 (7) According to data from the Federal Hous-
22 ing Finance Agency (FHFA) for the fourth quarter
23 of 2008, Fannie Mae and Freddie Mac own or guar-
24 antee 75 percent of all newly originated mortgages,
25 and Fannie Mae and Freddie Mac currently own

1 13.3 percent of outstanding mortgage debt in the
2 United States and have issued mortgage-backed se-
3 curities for 31.0 percent of the residential debt mar-
4 ket, a combined total of 44.3 percent of outstanding
5 mortgage debt in the United States.

6 (8) On September 7, 2008, the FHFA placed
7 Fannie Mae and Freddie Mac into conservatorship,
8 with the Treasury Department subsequently agree-
9 ing to purchase at least \$200,000,000,000 of pre-
10 ferred stock from each enterprise in exchange for
11 warrants for the purchase of 79.9 percent of each
12 enterprise's common stock.

13 (9) The conservatorship for Fannie Mae and
14 Freddie Mac has potentially exposed taxpayers to
15 upwards of \$5,300,000,000,000 worth of risk.

16 (10) The hybrid public-private status of Fannie
17 Mae and Freddie Mac is untenable and must be re-
18 solved to assure that consumers are offered and re-
19 ceive residential mortgage loans on terms that rea-
20 sonably reflect their ability to repay the loans and
21 that are understandable and not unfair, deceptive, or
22 abusive.

23 (b) SENSE OF THE CONGRESS.—It is the sense of
24 the Congress that efforts to enhance by the protection,
25 limitation, and regulation of the terms of residential mort-

1 gage credit and the practices related to such credit would
2 be incomplete without enactment of meaningful structural
3 reforms of Fannie Mae and Freddie Mac.

4 **SEC. 1492. GAO STUDY REPORT ON GOVERNMENT EFFORTS**
5 **TO COMBAT MORTGAGE FORECLOSURE RES-**
6 **CUE SCAMS AND LOAN MODIFICATION**
7 **FRAUD.**

8 (a) STUDY.—The Comptroller General of the United
9 States shall conduct a study of the current inter-agency
10 efforts of the Secretary of the Treasury, the Secretary of
11 Housing and Urban Development, the Attorney General,
12 and the Federal Trade Commission to crackdown on mort-
13 gage foreclosure rescue scams and loan modification fraud
14 in order to advise the Congress to the risks and
15 vulnerabilities of emerging schemes in the loan modifica-
16 tion arena.

17 (b) REPORT.—

18 (1) IN GENERAL.—The Comptroller General
19 shall submit a report to the Congress on the study
20 conducted under subsection (a) containing such rec-
21 ommendations for legislative and administrative ac-
22 tions as the Comptroller General may determine to
23 be appropriate in addition to the recommendations
24 required under paragraph (2).

1 (2) SPECIFIC TOPICS.—The report made under
2 paragraph (1) shall include—

3 (A) an evaluation of the effectiveness of
4 the inter-agency task force current efforts to
5 combat mortgage foreclosure rescue scams and
6 loan modification fraud scams;

7 (B) specific recommendations on agency or
8 legislative action that are essential to properly
9 protect homeowners from mortgage foreclosure
10 rescue scams and loan modification fraud
11 scams; and

12 (C) the adequacy of financial resources
13 that the Federal Government is allocating to—

14 (i) crackdown on loan modification
15 and foreclosure rescue scams; and

16 (ii) the education of homeowners
17 about fraudulent scams relating to loan
18 modification and foreclosure rescues.

19 **SEC. 1493. REPORTING OF MORTGAGE DATA BY STATE.**

20 (a) IN GENERAL.—Section 104(a) of the Helping
21 Families Save Their Homes Act of 2009 (division A of
22 Public Law 111–22) is amended—

23 (1) in paragraph (2), by striking “resulting”
24 and inserting “in each State that result”;

1 (2) in paragraph (3), by inserting “each State
2 for” after “modifications in”; and

3 (3) in paragraph (4), by inserting “in each
4 State” after “total number of loans”.

5 (b) CONFORMING AMENDMENT.—Section
6 104(b)(1)(A) of such Act is amended by adding at the end
7 the following sentence: “Not later than 60 days after the
8 date of the enactment of the Dodd-Frank Wall Street Re-
9 form and Consumer Protection Act, the Comptroller of the
10 Currency and the Director of the Office of Thrift Super-
11 vision shall update such requirements to reflect amend-
12 ments made to this section by such Act.”.

13 **SEC. 1494. STUDY OF EFFECT OF DRYWALL PRESENCE ON**
14 **FORECLOSURES.**

15 (a) STUDY.—The Secretary of Housing and Urban
16 Development, in consultation with the Secretary of the
17 Treasury, shall conduct a study of the effect on residential
18 mortgage loan foreclosures of—

19 (1) the presence in residential structures sub-
20 ject to such mortgage loans of drywall that was im-
21 ported from China during the period beginning with
22 2004 and ending at the end of 2007; and

23 (2) the availability of property insurance for
24 residential structures in which such drywall is
25 present.

1 (b) REPORT.—Not later than the expiration of the
2 120-day period beginning on the date of the enactment
3 of this Act, the Secretary of Housing and Urban Develop-
4 ment shall submit to the Congress a report on the study
5 conducted under subsection (a) containing its findings,
6 conclusions, and recommendations.

7 **SEC. 1495. DEFINITION.**

8 For purposes of this title, the term “designated
9 transfer date” means the date established under section
10 1062 of this Act.

11 **SEC. 1496. EMERGENCY MORTGAGE RELIEF.**

12 (a) EMERGENCY HOMEOWNERS’ RELIEF FUND.—
13 Effective October 1, 2010, and notwithstanding any other
14 provision of law, there is hereby made available to the Sec-
15 retary of Housing and Urban Development such sums as
16 are necessary to provide \$1,000,000,000 in assistance
17 through the Emergency Homeowners’ Relief Fund, which
18 such Secretary shall establish pursuant to section 107 of
19 the Emergency Housing Act of 1975 (12 U.S.C. 2706),
20 as such Act is amended by this section, for use for emer-
21 gency mortgage assistance in accordance with title I of
22 such Act.

23 (b) REAUTHORIZATION OF EMERGENCY MORTGAGE
24 RELIEF PROGRAM.—Title I of the Emergency Housing
25 Act of 1975 is amended—

1 (1) in section 103 (12 U.S.C. 2702)—

2 (A) in paragraph (2)—

3 (i) by striking “have indicated” and
4 all that follows through “regulation of the
5 holder” and insert “have certified”;

6 (ii) by striking “(such as the volume
7 of delinquent loans in its portfolio)”; and

8 (iii) by striking “, except that such
9 statement” and all that follows through
10 “purposes of this title”; and

11 (B) in paragraph (4), by inserting “or
12 medical conditions” after “adverse economic
13 conditions”;

14 (2) in section 104 (12 U.S.C. 2703)—

15 (A) in subsection (b), by striking “, but
16 such assistance” and all that follows through
17 the period at the end and inserting the fol-
18 lowing: “. The amount of assistance provided to
19 a homeowner under this title shall be an
20 amount that the Secretary determines is rea-
21 sonably necessary to supplement such amount
22 as the homeowner is capable of contributing to-
23 ward such mortgage payment, except that the
24 aggregate amount of such assistance provided
25 for any homeowner shall not exceed \$50,000.”;

1 (B) in subsection (d), by striking “interest
2 on a loan or advance” and all that follows
3 through the end of the subsection and inserting
4 the following: “(1) the rate of interest on any
5 loan or advance of credit insured under this
6 title shall be fixed for the life of the loan or ad-
7 vance of credit and shall not exceed the rate of
8 interest that is generally charged for mortgages
9 on single-family housing insured by the Sec-
10 retary of Housing and Urban Development
11 under title II of the National Housing Act at
12 the time such loan or advance of credit is made,
13 and (2) no interest shall be charged on interest
14 which is deferred on a loan or advance of credit
15 made under this title. In establishing rates,
16 terms and conditions for loans or advances of
17 credit made under this title, the Secretary shall
18 take into account a homeowner’s ability to
19 repay such loan or advance of credit.”; and

20 (C) in subsection (e), by inserting after the
21 period at the end of the first sentence the fol-
22 lowing: “Any eligible homeowner who receives a
23 grant or an advance of credit under this title
24 may repay the loan in full, without penalty, by
25 lump sum or by installment payments at any

1 time before the loan becomes due and pay-
2 able.”;

3 (3) in section 105 (12 U.S.C. 2704)—

4 (A) by striking subsection (b);

5 (B) in subsection (e)—

6 (i) by inserting “and emergency mort-
7 gage relief payments made under section
8 106” after “insured under this section”;
9 and

10 (ii) by striking “\$1,500,000,000 at
11 any one time” and inserting
12 “\$3,000,000,000”;

13 (C) by redesignating subsections (c), (d),
14 and (e) as subsections (b), (c), and (d), respec-
15 tively; and

16 (D) by adding at the end the following new
17 subsection:

18 “(e) The Secretary shall establish underwriting
19 guidelines or procedures to allocate amounts made avail-
20 able for loans and advances insured under this section and
21 for emergency relief payments made under section 106
22 based on the likelihood that a mortgagor will be able to
23 resume mortgage payments, pursuant to the requirement
24 under section 103(5).”;

25 (4) in section 107—

1 (A) by striking “(a)”; and

2 (B) by striking subsection (b);

3 (5) in section 108 (12 U.S.C. 2707), by adding

4 at the end the following new subsection:

5 “(d) COVERAGE OF EXISTING PROGRAMS.—The Sec-
6 retary shall allow funds to be administered by a State that
7 has an existing program that is determined by the Sec-
8 retary to provide substantially similar assistance to home-
9 owners. After such determination is made such State shall
10 not be required to modify such program to comply with
11 the provisions of this title.”;

12 (6) in section 109 (12 U.S.C. 2708)—

13 (A) in the section heading, by striking

14 “AUTHORIZATION AND”;

15 (B) by striking subsection (a);

16 (C) by striking “(b)”; and

17 (D) by striking “1977” and inserting

18 “2011”;

19 (7) by striking sections 110, 111, and 113 (12

20 U.S.C. 2709, 2710, 2712); and

21 (8) by redesignating section 112 (12 U.S.C.

22 2711) as section 110.

1 **SEC. 1497. ADDITIONAL ASSISTANCE FOR NEIGHBORHOOD**
2 **STABILIZATION PROGRAM.**

3 (a) IN GENERAL.—Effective October 1, 2010, out of
4 funds in the Treasury not otherwise appropriated, there
5 is hereby made available to the Secretary of Housing and
6 Urban Development \$1,000,000,000, and the Secretary of
7 Housing and Urban Development shall use such amounts
8 for assistance to States and units of general local govern-
9 ment for the redevelopment of abandoned and foreclosed
10 homes, in accordance with the same provisions applicable
11 under the second undesignated paragraph under the head-
12 ing “Community Planning and Development—Community
13 Development Fund” in title XII of division A of the Amer-
14 ican Recovery and Reinvestment Act of 2009 (Public Law
15 111–5; 123 Stat. 217) to amounts made available under
16 such second undesignated paragraph, except as follows:

17 (1) Notwithstanding the matter of such second
18 undesignated paragraph that precedes the first pro-
19 viso, amounts made available by this section shall re-
20 main available until expended.

21 (2) The 3rd, 4th, 5th, 6th, 7th, and 15th pro-
22 visos of such second undesignated paragraph shall
23 not apply to amounts made available by this section.

24 (3) Amounts made available by this section
25 shall be allocated based on a funding formula for
26 such amounts established by the Secretary in ac-

1 cordance with section 2301(b) of the Housing and
2 Economic Recovery Act of 2008 (42 U.S.C. 5301
3 note), except that—

4 (A) notwithstanding paragraph (2) of such
5 section 2301(b), the formula shall be estab-
6 lished not later than 30 days after the date of
7 the enactment of this Act;

8 (B) notwithstanding such section 2301(b),
9 each State shall receive, at a minimum, not less
10 than 0.5 percent of funds made available under
11 this section;

12 (C) the Secretary may establish a min-
13 imum grant amount for direct allocations to
14 units of general local government located within
15 a State, which shall not exceed \$1,000,000;

16 (D) each State and local government re-
17 ceiving grant amounts shall establish proce-
18 dures to create preferences for the development
19 of affordable rental housing for properties as-
20 sisted with amounts made available by this sec-
21 tion; and

22 (E) the Secretary may use not more than
23 2 percent of the funds made available under
24 this section for technical assistance to grantees.

1 (4) Paragraph (1) of section 2301(c) of the
2 Housing and Economic Recovery Act of 2008 shall
3 not apply to amounts made available by this section.

4 (5) The fourth proviso from the end of such
5 second undesignated paragraph shall be applied to
6 amounts made available by this section by sub-
7 stituting “2013” for “2012”.

8 (6) Notwithstanding section 2301(a) of the
9 Housing and Economic Recovery Act of 2008, the
10 term “State” means any State, as defined in section
11 102 of the Housing and Community Development
12 Act of 1974 (42 U.S.C. 5302), and the District of
13 Columbia, for purposes of this section and this title,
14 as applied to amounts made available by this sec-
15 tion.

16 (7)(A) None of the amounts made available by
17 this section shall be distributed to—

18 (i) any organization which has been con-
19 victed for a violation under Federal law relating
20 to an election for Federal office; or

21 (ii) any organization which employs appli-
22 cable individuals.

23 (B) In this paragraph, the term “applicable in-
24 dividual” means an individual who—

25 (i) is—

1 (I) employed by the organization in a
2 permanent or temporary capacity;

3 (II) contracted or retained by the or-
4 ganization; or

5 (III) acting on behalf of, or with the
6 express or apparent authority of, the orga-
7 nization; and

8 (ii) has been convicted for a violation
9 under Federal law relating to an election for
10 Federal office.

11 (8) An eligible entity receiving a grant under
12 this section shall, to the maximum extent feasible,
13 provide for the hiring of employees who reside in the
14 vicinity, as such term is defined by the Secretary, of
15 projects funded under this section or contract with
16 small businesses that are owned and operated by
17 persons residing in the vicinity of such projects.

18 (b) ADDITIONAL AMENDMENTS.—

19 (1) SECTION 2301.—Section 2301(f)(3)(A)(ii) of
20 the Housing and Economic Recovery Act of 2008
21 (42 U.S.C. 5301(f)(3)(A)(ii))—

22 (A) is amended by striking “for the pur-
23 chase and redevelopment of abandoned and
24 foreclosed upon homes or residential properties
25 that will be used”; and

1 (B) shall apply with respect to any unex-
2 pended or unobligated balances, including re-
3 captured and reallocated funds made available
4 under this Act, section 2301 of the Housing
5 and Economic Recovery Act of 2008 (42 U.S.C.
6 5301), and the heading “Community Planning
7 and Development—Community Development
8 Fund” in title XII of division A of the Amer-
9 ican Recovery and Reinvestment Act of 2009
10 (Public Law 111-5; 123 Stat. 217).

11 (2) NOTICE OF FORECLOSURE.—For any
12 amounts made available under this section, under di-
13 vision B, title III of the Housing and Economic Re-
14 covery Act of 2008 (42 U.S.C. 5301), or under the
15 heading “Community Planning and Development—
16 Community Development Fund” in title XII of divi-
17 sion A of the American Recovery and Reinvestment
18 Act of 2009 (Public Law 111-5; 123 Stat. 217), the
19 date of a notice of foreclosure shall be deemed to be
20 the date on which complete title to a property is
21 transferred to a successor entity or person as a re-
22 sult of an order of a court or pursuant to provisions
23 in a mortgage, deed of trust, or security deed.

1 **SEC. 1498. LEGAL ASSISTANCE FOR FORECLOSURE-RE-**
2 **LATED ISSUES.**

3 (a) **ESTABLISHMENT.**—The Secretary of Housing
4 and Urban Development (hereafter in this section referred
5 to as the “Secretary”) shall establish a program for mak-
6 ing grants for providing a full range of foreclosure legal
7 assistance to low- and moderate-income homeowners and
8 tenants related to home ownership preservation, home
9 foreclosure prevention, and tenancy associated with home
10 foreclosure.

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

18 (c) **PRIORITY TO CERTAIN AREAS.**—In allocating
19 amounts in accordance with subsection (b), the Secretary
20 shall give priority consideration to State and local legal
21 organizations that are operating in the 125 metropolitan
22 statistical areas (as that term is defined by the Director
23 of the Office of Management and Budget) with the highest
24 home foreclosure rates.

25 (d) **LEGAL ASSISTANCE.**—

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

5 (A) homeowners of owner-occupied homes
6 with mortgages in default, in danger of default,
7 or subject to or at risk of foreclosure; and

8 (B) tenants at risk of or subject to eviction
9 as a result of foreclosure of the property in
10 which such tenant resides.

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

17 (3) PROHIBITION ON CLASS ACTIONS.—No
18 funds provided to a State or local legal organization
19 under this section may be used to support any class
20 action litigation.

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

1 (5) EFFECTIVE DATE.—Notwithstanding any
2 other provision of this Act, this subsection shall take
3 effect on the date of the enactment of this Act.

4 (e) LIMITATION ON DISTRIBUTION OF ASSIST-
5 ANCE.—

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

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

11 (B) any organization which employs appli-
12 cable individuals.

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

16 (A) is—

17 (i) employed by the organization in a
18 permanent or temporary capacity;

19 (ii) contracted or retained by the or-
20 ganization; or

21 (iii) acting on behalf of, or with the
22 express or apparent authority of, the orga-
23 nization; and

1 (B) has been convicted for a violation
2 under Federal law relating to an election for
3 Federal office.

4 (f) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated to the Secretary
6 \$35,000,000 for each of fiscal years 2011 through 2012
7 for grants under this section.

