

1 **SEC. 1073. PROHIBITED PAYMENTS TO MORTGAGE ORIGINA-**  
2 **TORS.**

3 *Section 129 of the Truth in Lending Act (15 U.S.C.*  
4 *1639) is amended by inserting after subsection (j) the fol-*  
5 *lowing:*

6 “(k) *PROHIBITION ON STEERING INCENTIVES.—*

7 *“(1) IN GENERAL.—For any consumer credit*  
8 *transaction secured by real property or a dwelling, no*  
9 *loan originator shall receive from any person and no*  
10 *person shall pay to a loan originator, directly or in-*  
11 *directly, compensation that varies based on the terms*  
12 *of the loan (other than the amount of the principal).*

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

15 *“(A) IN GENERAL.—For any consumer*  
16 *credit transaction secured by real property or a*  
17 *dwelling, a loan originator may not arrange for*  
18 *a consumer to finance through the rate any*  
19 *origination fee or cost except bona fide third*  
20 *party settlement charges not retained by the*  
21 *creditor or loan originator.*

22 *“(B) EXCEPTION.—Notwithstanding sub-*  
23 *paragraph (A), a loan originator may arrange*  
24 *for a consumer to finance through the rate an*  
25 *origination fee or cost if—*

1           “(i) the loan originator does not re-  
2           ceive any other compensation, directly or  
3           indirectly, from the consumer except the  
4           compensation that is financed through the  
5           rate;

6           “(ii) no person who knows or has rea-  
7           son to know of the consumer-paid com-  
8           pensation to the loan originator, other than  
9           the consumer, pays any compensation to the  
10          loan originator, directly or indirectly, in  
11          connection with the transaction; and

12          “(iii) the consumer does not make an  
13          upfront payment of discount points, origi-  
14          nation points, or fees, however denominated  
15          (other than bona fide third party settlement  
16          charges).

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

19                 “(A) limiting or affecting the amount of  
20                 compensation received by a creditor upon the  
21                 sale of a consummated loan to a subsequent pur-  
22                 chaser;

23                 “(B) restricting a consumer’s ability to fi-  
24                 nance, at the option of the consumer, including  
25                 through principal or rate, any origination fees

1            *or costs permitted under this subsection, or the*  
2            *loan originator’s right to receive such fees or*  
3            *costs (including compensation) from any person,*  
4            *subject to paragraph (2)(B), so long as such fees*  
5            *or costs do not vary based on the terms of the*  
6            *loan (other than the amount of the principal) or*  
7            *the consumer’s decision about whether to finance*  
8            *such fees or costs; or*

9            *“(C) prohibiting incentive payments to a*  
10           *loan originator based on the number of loans*  
11           *originated within a specified period of time.*

12           *“(4) LOAN ORIGINATOR.—For the purposes of*  
13           *this section, the term ‘loan originator’—*

14           *“(A) means any person who, for direct or*  
15           *indirect compensation or gain, or in the expecta-*  
16           *tion of direct or indirect compensation or gain,*  
17           *with respect to credit to be secured by real prop-*  
18           *erty or a dwelling—*

19           *“(i) arranges for an extension, re-*  
20           *newal, or continuation of such credit;*

21           *“(ii) takes an application for credit or*  
22           *assists a consumer in applying for such*  
23           *credit; or*

24           *“(iii) offers or negotiates terms of such*  
25           *credit;*

1           “(B) does not include any person who is not  
2           otherwise described in subparagraph (A) and  
3           who performs purely administrative or clerical  
4           tasks on behalf of a person who is described in  
5           subparagraph (A); and

6           “(C) does not include a person that only  
7           performs real estate brokerage activities and is  
8           licensed or registered in accordance with appli-  
9           cable State law, unless the person is compensated  
10          by a lender or other loan originator or by any  
11          agent of such lender or other loan originator.”.

12 **SEC. 1074. MINIMUM STANDARDS FOR RESIDENTIAL MORT-**  
13 **GAGE LOANS.**

14          (a) *IN GENERAL.*—No rule, order, or guidance issued  
15 by the Bureau under this title shall be construed as requir-  
16 ing a depository institution to apply mortgage under-  
17 writing standards that do not meet the minimum under-  
18 writing standards required by the appropriate prudential  
19 regulator of the depository institution.

20          (b) *ABILITY TO REPAY.*—

21                 (1) *TILA AMENDMENT.*—Section 129 of the  
22 *Truth in Lending Act* (15 U.S.C. 1639), as amended  
23 by section 1074 of this Act, is further amended by in-  
24 sserting after subsection (k) the following:

25                 “(l) *ABILITY TO REPAY.*—