

TITLE I-RESIDENTIAL MORTGAGE LOAN ORIGINATION STANDARDS

Residential Mortgage Origination: Adds a number of new regulations and requirements to mortgage loan originators. The bill requires originators to work with consumers to offer loans that are "appropriate" to the consumer's circumstance, based on information supplied by the consumer. The originator would be required to make a full disclosure of comparative mortgage costs. A mortgage originator would be prohibited from offering a loan if it determines that the consumer does not have a reasonable ability to pay or if the loan has "predatory characteristics or effects (such as equity stripping and excessive fees and abusive terms)." The Federal Reserve, the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the National Credit Union Administration Board ("federal banking agencies") would be required to prescribe regulations to implement the requirements of this section.

Prohibition of Steering Incentives: Prohibits mortgage loan originators from steering consumers towards loans that the consumer lacks the ability to repay, or refinancings that do not provide the consumer with a net tangible benefit, or loans that have predatory characteristics or effects. The federal banking agencies would be required to prescribe regulations to implement the requirements of this section.

Liability: Makes mortgage originators liable for punitive damages of up to three times the total amount of the original mortgage for any violation of regulations imposed under this section.

Regulations: Requires the federal banking agencies to jointly issue regulations against residential mortgage terms or practices that the agencies find to be "abusive, unfair, deceptive, predatory," or inconsistent with reasonable underwriting standard. The regulations would have to be prescribed and take effect within 18 months of enactment.

Disclosure: Requires the Department of Housing and Urban Development (HUD) and the Federal Reserve (the Fed) to issue regulations within six months of enactment for disclosures for borrowers to receive at the time of a mortgage application and at the time of closing. The disclosure must include clear information on the terms and costs of the mortgage and satisfy the requirements of the Truth in Lending Act (TILA) and the Real Estate Settlement Procedures Act (RESPA).

TITLE II-MINIMUM STANDARDS FOR MORTGAGES

Ability to Repay: Prohibits a mortgage creditor (not only originator) from making a residential mortgage unless the creditor makes a reasonable determination that the consumer has the ability to repay. If a consumer has one or more loan already, the creditor must determine that the consumer can reasonably pay the combined total of the loans. When making this determination, the creditor must consider credit history, current income, expected income, current obligations, debt-to-income ratio, employment status, and other financial resources.

Refinancing: Prohibits a creditor from refinancing an existing residential mortgage loan unless the creditor determines that the refinanced loan will provide a "net tangible benefit" to the home owner. The bill requires the federal banking agencies to define net tangible benefit.

Safe Harbor and Rebuttable Presumption: Provides a so-called "safe harbor" from liability for any mortgage creditor, or any person that transfers a mortgage loan into a securitization vehicle, for any "qualified mortgage." The bill defines a qualified mortgage as any residential mortgage loan that:

- Does not allow a consumer to defer repayment of principal or interest.
- Does not result in negative amortization at any time.
- Does not result in a scheduled payment that is more than twice as large as the average of earlier scheduled payment.
- Has an annual percentage rate (APR) not exceeding the average prime offer rate for a comparable transaction.
- Has documented the income relied upon to qualify the borrower.
- Takes into account all taxes, insurance and assessments for the amortization schedule.
- Does not include fees payable in connection with the loan in excess of two percent of the total loan amount.
- Does not exceed a 30 year term.

The federal banking agencies would be required to prescribe regulations to carry out this section and would be authorized to change the criteria for the definition of a qualified mortgage.

Liability for Violations: Makes any mortgage creditor that provides a new mortgage or a mortgage refinancing in violation of this section liable for civil penalties. In addition to any other applicable civil penalties, a creditor would be liable to make a rescission of the loan amount and any additional costs to the consumer, unless the creditor provides a cure for the loan violation that the consumer accepts within 90 days. Under the bill, any creditor or securitizer of a residential mortgage failed to provide rescission or a cure, would be liable for a civil penalties not to exceed the original principal balance of such loan.

Defense to Foreclosure: Allows a consumer that has the right of rescission under this section to assert the right as a defense against foreclosure.

Additional Standards and Requirements: Provides a number of new prohibitions and restrictions on certain mortgage practices, including:

- Limitations on mortgage terms under which a consumer must pay a prepayment fee for paying all or part of the principal after the loan is consummated.
- Limitations on creditors financing any insurance in connection with a residential mortgage loan.

- Prohibitions on mortgage loans that require arbitration as the method for resolving any controversy arising out of the transaction.
- Prohibitions on credit secured by a customer's primary dwelling and results in a negative amortization.

Effect of State Laws: Stipulates that no provision in this section shall be construed as superseding any state law that provides additional state laws that provide remedies against any securitizer or securitization vehicle for a violation of a requirement within this section.

Regulations: Requires the federal banking agencies to provide regulations under this section within 12 months of enactment. The regulations would have to take effect within 18 months of enactment.

Civil Liability: Increases the civil penalties against creditors who fail to comply with TILA regulations to between \$200 and \$2,000 for an individual action (increased from between \$100 and \$1,000) and the lesser of \$1 million (increased from \$500,000) or one percent of a creditor's net worth for a class action.

Borrower Deception: Makes a creditor or securitizer exempt from liability to a borrower under this section if the borrower knowingly or willfully furnished false information to obtain the mortgage loan.

Six Month Notice for Adjustable Rate Reset: Requires the creditor or servicer of a loan to notify a consumer six months prior to the reset of a mortgage rate with a fixed introductory period that adjusts or resets to a variable interest rate.

Credit Risk Retention: Requires any creditor that makes a residential mortgage loan that is not defined as a "qualified loan" to retain some economic interest in the loan if it is sold or transferred to a third party. The bill would require the federal banking agencies to create regulations to carry out this section and require creditors to retain at least 5 percent of the credit risk on any non-qualified mortgage that is transferred, sold or conveyed. The federal banking agencies would have the authority to make exceptions to the regulations.

Disclosures: Requires creditor or services to make a number of new disclosures to consumers regarding the amount of principal on the mortgage, the current interest rate, the date on which the interest rate may adjust, the amounts of any payments or fees, and a phone number or Internet address where inquiries can be made.

Foreclosure Legal Assistance: Establishes a new HUD program to make grants for providing a full range of foreclosure legal assistance to low and moderate income homeowners and tenants. CBO estimates that this grant program would cost \$140 million over a five year period.

GAO Report: Requires the Government Accountability Office (GAO) to conduct a study on the effect of this Act on the availability and affordability of credit for homebuyers and mortgage lending and report to Congress within one year of enactment.

Tenant Protection: Allows tenants living in homes that have been foreclosed upon to stay in the home until such time as provided by their lease if the home is sold or transferred to a new owner, unless the new owner is to use the home as his or her primary residence. In such a case, the new owner would have to give the tenant 90 days to vacate the property. The bill provides protection for tenants who use section 8 federal housing vouchers.

TITLE III-HIGH-COST MORTGAGES

Definitions: Expands the reach of the Home Ownership and Equity Protection Act (HOEPA) by revising and enlarging the definition of "high-cost mortgages." HOEPA provides specific protections for high-cost, high APR loans generally given to consumers with poor credit. All HOEPA loans are non-qualified mortgages. The new definition would place HOEPA restrictions against deceptive lending practices on money loans, construction loans, and open-end loans-none of which are covered by HOEPA under current law.

Amendments to Existing Requirements: Bans prepayment fees for paying all or part of the principal after the loan is consummated and any a scheduled payment that is more than twice as large as the average of earlier scheduled payment for HOEPA loans.

New Requirements for Certain Mortgages: Prohibits creditors from recommending that a consumer default on an existing loan due to a refinancing of a high-cost loan. The bill also limits late fees on high-cost mortgages and prohibits a creditor from accelerating indebtedness on a high-cost mortgage, and prohibits refinancing into a new high-cost mortgage if there is no net tangible benefit to the consumer. Finally, this section prohibits a creditor from extending a high-cost mortgage to a customer until the customer has received mortgage counseling.

Regulations: Requires the federal banking agencies to issue regulations to carry out the bill's provisions regarding high-cost loans within six months.

TITLE IV-OFFICE OF HOUSING COUNSELING

Establishment of the Office of Housing Counseling: Establishes the Office of Housing Counseling within HUD to oversee all activities and matters relating to homeownership counseling and rental housing counseling. The office would be managed by the Director of Housing Counseling, appointed by the Secretary of HUD. The Secretary would also be required to appoint an advisory committee of no more than 12 members to provide advice to the Director.

Counseling Procedures: Requires the Secretary of HUD and the advisory committee to establish and monitor standards for materials and forms to be used, as appropriate, by organizations providing homeownership counseling services. The Office of Housing Counseling would also be required to develop a national multimedia campaign to alert persons facing foreclosure or other mortgage problems about available housing counseling and foreclosure education programs. CBO estimates that administrative support for the Office of Housing Counseling would cost \$16 million in FY 2010 and \$80 million over five years.

Grants for Housing Counseling Assistance: Authorizes \$45 million annually through 2012 to provide grants to HUD-approved housing counseling agencies and State housing finance agencies.

TITLE V-MORTGAGE SERVICING

Escrow and Impound Accounts: Requires that certain first-lien mortgages have an escrow account established at the consummation of the mortgage transaction to pay for taxes and insurance. Under the bill, such an escrow account must be established if:

- Such an account is required under any current law;
- The loan is guaranteed or insured by a state or federal agency;
- The transaction is secured by a first mortgage or lien on the consumer's primary home; or
- Required pursuant to regulations made by the federal banking agencies.

Accounts established under this section would be required to remain open for at least five years and until the borrower has enough equity to no longer need private mortgage insurance. The bill would require the federal banking agencies and the Federal Trade Commission (FTC) to adopt final regulations implementing this section within 180 days.

Disclosure Notice for Consumers Who Waive Escrow: Requires a creditor, if the mortgage consumer chooses to waive escrow services for tax and insurance payments, to provide a written disclosure to the consumer advising them of their responsibilities in the absence of an escrow account.

Real Estate Settlement Procedures: Prohibits servicers of mortgages that are guaranteed, insured, or otherwise regulated by a government agency from obtaining forced place insurance hazard insurance (insurance taken out by a creditor on a property placed as collateral) unless there is a reasonable basis to believe the borrower has failed to comply with the loan contract's requirements to maintain property insurance. The bill also restricts servicers of federally related mortgages from charging fees for responding to writing requests or failing to respond to certain requests from borrowers. Finally, this section increases civil penalties for failure to comply with the provisions of this section.

TILA Amendments: Amends the Truth in Lending Act to prohibit a servicer from failing to credit a payment to a consumer's loan as of the date of receipt and requires that a payoff balance be sent within seven days.

TITLE VI-APPRAISAL ACTIVITIES

Property Appraisal Requirements: Prohibits a creditor from providing a subprime mortgage without obtaining a written appraisal of the property to be mortgaged, prepared in accordance with this section.

The bill requires that an appraisal not qualify unless it is performed by a qualified appraiser who conducts a physical property visit of the interior of the mortgaged property. In addition, the appraisal must be conducted by a qualified appraiser who is certified by the state and performs each appraisal in conformity with all standing federal regulations and laws.

Unfair and Deceptive Practices Relating to Consumer Credit Transactions: Prohibits a creditor from engaging in any unfair or deceptive act or practice in providing a consumer credit transaction (generally personal or family loans) secured using the consumer's principal dwelling. The bill would prohibit a creditor from mischaracterizing the value of the house, influencing the appraiser, withholding payment to the appraiser based on the outcome of an appraisal. The bill also requires creditors to deny extending credit if the creditor knows that an appraisal was made in violation of appraisal independence standards.

The bill provides for civil penalties on creditors of up to \$10,000 for each day the violation continues for the first offense and \$20,000 each day for the second violation.

Appraisal Subcommittee: Amends the mission statement of the Appraisal Subcommittee (ASC) to include providing consumer protection as one of the ASC's primary goals. The bill also adds monitoring the effects of state and federal financial regulatory agencies to protect consumers from improper appraisal practices as one of the ASC's functions. The bill requires the ASC to issue an annual report describing how the consumer protection function has been carried out. The bill would also all the ASC to prescribe limited regulations on certain appraisal activities.

The bill also authorizes the ACS to increase the annual fees charged to certified appraisers to cover their administrative costs from \$25 annually to \$40. According to CBO, the ASC's increased monitoring and reporting requirements would cost \$13 million over five years, which would be funded by the increased fee amounts.

TITLE VII-SENSE OF CONGRESS REGARDING THE IMPORTANCE OF GOVERNMENT SPONSORED ENTERPRISES REFORM

Sense of Congress: Expresses the sense of Congress that "efforts to enhance by the protection, limitation, and regulation of the terms of residential mortgage credit and the

practices related to such credit would be incomplete without enactment of meaningful structural reforms of Fannie Mae and Freddie Mac."