To require escrows for certain mortgage loans, to improve mortgage servicing, to promote sustainable homeownership opportunities, to enhance appraisal quality and standards, to better appraisal oversight, to mitigate appraiser pressure, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 16, 2007

Mr. KANJORSKI (for himself, Mr. FRANK of Massachusetts, Mr. WILSON of Ohio, and Mr. HODES) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To require escrows for certain mortgage loans, to improve mortgage servicing, to promote sustainable homeownership opportunities, to enhance appraisal quality and standards, to better appraisal oversight, to mitigate appraiser pressure, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3 

SEC. 2. TABLE OF CONTENTS.

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Sec. 2. Table of contents.

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Sec. 102. Disclosure notice required for consumers who opt out of escrow services.
Sec. 103. Real Estate Settlement Procedures Act of 1974 amendments.
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1 TITLE I—MORTGAGE SERVICING

SEC. 101. ESCROW AND IMPOUND ACCOUNTS RELATING TO CERTAIN CONSUMER CREDIT TRANSACTIONS.

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

"SEC. 129A. ESCROW OR IMPOUND ACCOUNTS RELATING TO CERTAIN CONSUMER CREDIT TRANSACTIONS.

“(a) In General.—Except as provided in subsection (b) or (c), a creditor, in connection with the formation or consummation of a consumer credit transaction secured by the principal dwelling of the consumer, shall establish, at the time of the consummation of such transaction, an
escrow or impound account for the payment of taxes and
hazard insurance, and, if applicable, flood insurance,
mortgage insurance, ground rents, and any other required
periodic payments or premiums with respect to the prop-
erty or the loan terms, as provided in, and in accordance
with, this section, unless such account already exists.

“(b) WHEN REQUIRED.—No impound, trust, or other
type of account for the payment of property taxes, insur-
ance premiums, or other purposes relating to the property
may be required as a condition of a real property sale con-
tract or a loan secured by a deed of trust or mortgage
on real property containing only a single-family, owner-
occupied dwelling, except when—

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

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

“(3) the consumer’s debt-to-income ratio at the
time the home mortgage is established taking into
account income from all sources including the con-
sumer’s employment exceeds 40 percent;

“(4) the transaction is secured by—
“(A) a first mortgage or lien on the consumer’s principal dwelling and the annual percentage rate on the credit, at the time of consummation of the transaction, will exceed by more than 2.5 percentage points the yield on Treasury securities having comparable periods of maturity on the 15th day of the month immediately preceding the month in which the application of the extension of credit is received by the creditor; or

“(B) a junior or subordinate mortgage on the consumer’s principal dwelling and the annual percentage rate on the credit, at the time of consummation of the transaction, will exceed by more than 5 percentage points the yield on Treasury securities having comparable periods of maturity on the 15th day of the month immediately preceding the month in which the application of the extension of credit is received by the creditor;

“(5) a consumer obtains a mortgage referred to in section 103(aa);

“(6) the original principal amount of such loan at the time of consummation of the transaction is—
“(A) 90 percent or more of the sale price, if the property involved is purchased with the proceeds of the loan; or

“(B) 90 percent or more of the appraised value of the property securing the loan;

“(7) the combined principal amount of all loans secured by the real property exceeds 95 percent of the appraised value of the property securing the loans at the time of consummation of the last transaction;

“(8) the consumer was the subject of a proceeding under title 11, United States Code, at any time during the 10-year period preceding the date of the transaction (as determined on the basis of the date of entry of the order for relief or the date of adjudication, as the case may be, with respect to such proceeding); or

“(9) so required by the Board pursuant to regulation.

“(c) DURATION OF ESCROW OR IMPOUND ACCOUNT.—An escrow or impound account established pursuant to this section, shall remain in existence for a minimum period of 5 years, unless the underlying mortgage establishing the account is terminated.
“(d) Administration of Escrow or Impound Accounts.—

“(1) In general.—Except as may otherwise be provided for in this title or in regulations prescribed by the Board, escrow or impound accounts established pursuant to this section shall be established in an insured depository institution.

“(2) Administration.—Except as provided in this section or regulations prescribed under this section, an escrow or impound account subject to this section shall be administered in accordance with—

“(A) the Real Estate Settlement Procedures Act of 1974 and regulations prescribed under such Act; and

“(B) the law of the State where the real property securing the consumer credit transaction is located.

“(3) Payment of Interest.—If prescribed by applicable Federal or State law, each creditor shall pay interest to the consumer on the amount held in any impound, trust, or escrow account that is subject to this section in the manner as prescribed by that applicable Federal or State law.

“(e) Disclosures Relating to Escrow or Impound Account.—In the case of any impound, trust, or
escrow account that is subject to this section, the creditor shall disclose by written notice to the consumer within 3 business days before the consummation of the consumer credit transaction giving rise to such account the following information:

“(1) The fact that an escrow or impound account will be established at consummation of the transaction.

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

“(3) The amount, in the initial year, of the estimated taxes and hazard insurance, including flood insurance, if applicable, and any other required periodic payments or premiums that reflects the taxable assessed value of the real property securing the transaction, including the value of any improvements on the property or to be constructed on the property (whether or not such construction will be financed from the proceeds of the transaction).

“(4) The estimated monthly amount payable for taxes, hazard insurance (including flood insurance, if applicable) and any other required periodic payments or premiums.

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

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

“(1) FLOOD INSURANCE.—The term ‘flood insurance’ means flood insurance coverage provided under the national flood insurance program pursuant to the National Flood Insurance Act of 1968.

“(2) HAZARD INSURANCE.—The term ‘hazard insurance’ shall have the same meaning as provided under the law of the State where the real property securing the consumer credit transaction is located.”.

(b) IMPLEMENTATION.—

(1) REGULATIONS.—The Board shall prescribe, in final form, such regulations as the Board determines to be necessary to implement the amendments made by subsection (a) before the end of the 120-day period beginning on the date of the enactment of this Act.

(2) EFFECTIVE DATE.—The amendments made by subsection (a) shall only apply to covered mort-
gage loans consummated after the end of the 1-year period beginning on the date of enactment of this Act.

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

“129A. Escrow or impound accounts relating to certain consumer credit transactions.”.

SEC. 102. DISCLOSURE NOTICE REQUIRED FOR CONSUMERS WHO OPT OUT OF ESCROW SERVICES.

(a) IN GENERAL.—Section 129A of the Truth in Lending Act (as added by section 101 of this title) is amended by adding at the end the following new subsection:

“(g) DISCLOSURE NOTICE REQUIRED FOR CONSUMERS WHO OPT OUT OF Escrow Services.—

“(1) IN GENERAL.—If—

“(A) an impound, trust, or other type of account for the payment of property taxes, insurance premiums, or other purposes relating to property securing a consumer credit transaction is not established in connection with the transaction; or
“(B) a consumer chooses, at any time after such an account is established in connection with any such transaction, to close such account, the creditor shall provide a timely and clearly written disclosure to the consumer that advises the consumer of the responsibilities of the consumer and implications for the consumer in the absence of any such account.

“(2) DISCLOSURE REQUIREMENTS.—Any disclosure provided to a consumer under paragraph (1) shall include the following:

“(A) Information concerning any applicable fees associated with either the non-establishment of any such account at the time of the transaction, or any subsequent closure of any such account.

“(B) A clear and prominent notice that the consumer is responsible for personally and directly paying the non-escrowed items, in addition to paying the mortgage loan payment, in the absence of any such account, and the fact that the costs for taxes, insurance, and related fees can be substantial.
“(C) A clear explanation of the consequences of any failure to pay non-escrowed items, including the possible requirement for the forced placement of insurance by the creditor and the potentially higher cost (including any potential commission payments to the servicer) or reduced coverage for the consumer in the event of any such creditor-placed insurance.”

(b) IMPLEMENTATION.—

(1) REGULATIONS.—The Board shall prescribe, in final form, such regulations as the Board determines to be necessary to implement the amendments made by subsection (a) before the end of the 120-day period beginning on the date of the enactment of this Act.

(2) EFFECTIVE DATE.—The amendments made by subsection (a) shall only apply in accordance with the regulations established in paragraph (1) and beginning on the date occurring 180-days after the date of enactment of this Act.

SEC. 103. REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974 AMENDMENTS.

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

“(k) Servicer Prohibitions.—

“(1) In general.—A servicer of a federally re-
lated mortgage shall not—

“(A) obtain force-placed insurance unless
there is a reasonable basis to believe the bor-
rower has failed to comply with the loan con-
tract’s requirements to maintain property insur-
ance;

“(B) charge fees for responding to valid
qualified written requests under this section;

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

“(D) fail to respond within 10 business
days to a request from a borrower to provide
the identity, address, and other relevant infor-
mation about the owner assignee of the loan; or

“(E) fail to comply with any other obliga-
tion found by the Secretary to be appropriate to
carry out the consumer protection purposes of
this Act.
“(2) FORCE-PLACED INSURANCE DEFINED.—

For purposes of this subsection and subsections (l) and (m), the term ‘force-placed insurance’ means hazard insurance coverage obtained by a servicer of a federally related mortgage to protect the mortgagor’s interest in the property secured by the mortgage when the borrower has failed to maintain or renew hazard or flood insurance on such property as required of the borrower under the terms of the mortgage.

“(l) REQUIREMENTS FOR FORCE-PLACED INSURANCE.—A servicer of a federally related mortgage shall not be construed as having a reasonable basis for obtaining force-placed insurance unless the requirements of this subsection have been met.

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

“(A) the servicer has sent, by first-class mail, a written notice to the borrower containing—

“(i) a reminder of the borrower’s obligation to maintain hazard or flood insur-
ance on the property securing the federally related mortgage;

“(ii) a statement that the servicer does not have evidence of insurance coverage of such property;

“(iii) a clear and conspicuous statement of the procedures by which the borrower may demonstrate that the borrower already has insurance coverage; and

“(iv) a statement that the servicer may obtain such coverage at the borrower’s expense if the borrower does not provide such demonstration of the borrower’s existing coverage in a timely manner;

“(B) the servicer has sent, by certified mail, a second written notice, at least 30 days after the mailing of the notice under subparagraph (A) that contains all the information described in each clauses of such subparagraph; and

“(C) the servicer has not received from the borrower any demonstration of hazard insurance coverage or, if applicable, flood insurance coverage for the property securing the mortgage by the end of the 20-day period beginning on
the date the notice under subparagraph (B) was
sent by the servicer.

“(2) Sufficiency of demonstration.—A
servicer of a federally related mortgage shall accept
any reasonable form of confirmation from a bor-
rower of existing insurance coverage, including
verbal confirmation of the existing insurance policy
number along with the identity of the insurance
company or agent.

“(3) Termination of force-placed insur-
ance.—Within 15 days of the receipt by a servicer
of confirmation of a borrower’s existing insurance
coverage, the servicer shall—

“(A) terminate the force-placed insurance;

and

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

“(4) Prohibition on default, late fees,
or foreclosure.—
“(A) IN GENERAL.—A servicer of a federally related mortgage may not place the mortgage in default, assess late fees, or initiate any foreclosure or similar proceedings with respect to such mortgage solely due to a borrower’s failure to pay force-placed insurance premiums or obtain hazard insurance or flood insurance coverage directly.

“(B) ADDITION TO LOAN AMOUNT.—The amount of force-placed insurance premiums relating to a federally related mortgage that have not been paid by the borrower may be treated by the servicer of such mortgage as additional debt of the borrower secured by the security instrument and interest may be charged on such additional debt as provided in the loan instruments at the note rate.

“(m) LIMITATIONS ON FORCE-PLACED INSURANCE CHARGES.—All charges for force-placed insurance premiums shall be bona fide and reasonable in amount.

“(n) PROMPT CREDITING OF PAYMENTS REQUIRED.—All amounts received by a lender or a servicer shall be accepted and credited on the date received. The payments shall be credited to interest and principal due
on the loan, before crediting payment to taxes, insurance, or fees, except if taxes and insurance are in arrears.”.

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

(1) in paragraphs (1)(B) and (2)(B), by striking “$1,000” each place such term appears and inserting “$3,000”; and

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

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

(1) in paragraph (1)(A), by striking “20 days” and inserting “10 days”; and

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

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

“(4) LIMITED EXTENSION OF RESPONSE TIME.—The 20-day period described in paragraph (2) may be extended for not more than 25 days if, before the end of such 20-day period, the servicer notifies the borrower of the extension and the reasons for the delay in responding.”.
(d) **REQUESTS FOR PAY-OFF AMOUNTS.**—Section 6(e) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(e)) is amended by inserting after paragraph (4) (as added by subsection (c) of this section) the following new paragraph:

“(5) **REQUESTS FOR PAY-OFF AMOUNTS.**—A creditor or servicer shall send a payoff balance within 5 business days of the receipt of a written request for such balance from or on behalf of the borrower by first-class mail.”.

(e) **PROMPT REFUND OF ESCROW ACCOUNTS UPON PAYOFF.**—Section 6(g) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(g)) is amended by adding at the end the following new sentence: “Any balance in any such account at the time the loan is paid off shall be promptly returned to the borrower.”.

**SEC. 104. MORTGAGE SERVICING STUDIES REQUIRED.**

(a) **MORTGAGE SERVICING FRAUD.**—

(1) **STUDY.**—The Secretary of Housing and Urban Development, in consultation with the Board of Governors of the Federal Reserve System and the Federal Trade Commission, shall conduct a comprehensive study on mortgage servicing fraud.

(2) **ISSUES TO BE INCLUDED.**—In addition to other issues the Secretary, Board, and Commission
may determine to be appropriate and possibly pertinent to the study conducted under paragraph (1), the study shall include the following issues:

(A) A survey of the industry in order to examine the issue of the timely posting of payments by servicers.

(B) The use of force-placed insurance.

(C) The employment of daily interest when payments are made after a due date.

(D) The charging of late fees on the entire outstanding principal.

(E) The charging of interest on servicing fees.

(F) The utilization of abusive collection practices.

(G) The charging of prepayment penalties when not authorized by either the note or law.

(H) The employment of unconscionable forbearance agreements.

(I) Foreclosure abuses.

(3) REPORT.—Before the end of the 12-month period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit a report on the study conducted under this subsection to the Committee on Financial
Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(b) MORTGAGE SERVICING IMPROVEMENTS.—

(1) STUDY.—The Secretary of Housing and Urban Development, in consultation with the Board of Governors of the Federal Reserve System and the Federal Trade Commission, shall conduct a comprehensive study on means to improve the best practices of the mortgage servicing industry, and Federal and State laws governing such industry.

(2) REPORT.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit a report on the study conducted under this subsection to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, together with such recommendations for administrative or legislative action as the Secretary, in consultation with the Board and the Commission, may determine to be appropriate.
SEC. 105. ESCROWS INCLUDED IN REPAYMENT ANALYSIS.

(a) In General.—Section 128(b) of the Truth in Lending Act (15 U.S.C. 1638(b)) is amended by adding at the end the following new paragraph:

“(4) Repayment analysis required to include escrow payments.—

“(A) In General.—In the case of any consumer credit transaction secured by a first mortgage or lien on the consumer’s principal residence for which an impound, trust, or other type of account has been or will be established in connection with the transaction for the payment of property taxes, hazard and flood (if any) insurance premiums, or other purposes relating to the property, the information required to be provided under subsection (a) with respect to the amount of the repayments shall take into account the amount of any payment to such account for each such repayment in accordance with section 10(a)(2) of the Real Estate Settlement Procedures Act of 1974.

“(B) Assessment value.—The amount taken into account under subparagraph (A) for the payment of property taxes, hazard and flood (if any) insurance premiums, or other purposes shall reflect the taxable assessed value of the
real property securing the transaction, including the value of any improvements on the property or to be constructed on the property (whether or not such construction will be financed from the proceeds of the transaction).”.

**TITLE II—APPRAISAL ACTIVITIES**

**SEC. 201. PROPERTY APPRAISAL REQUIREMENTS.**

Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (l) the following new subsection:

“(m) Property Appraisal Requirements.—

“(1) In general.—A creditor may not extend credit in the form of a mortgage referred to in section 103(aa) to any consumer without first obtaining a written appraisal of the property to be mortgaged prepared in accordance with the requirements of this subsection.

“(2) Appraisal Requirements.—

“(A) Physical property visit.—An appraisal of property to be secured by a mortgage referred to in section 103(aa) does not meet the requirement of this subsection unless it is performed by a qualified appraiser who conducts a
physical property visit of the interior of the mortgaged property.

“(B) SECOND APPRAISAL UNDER CERTAIN CIRCUMSTANCES.—

“(i) IN GENERAL.—If the purpose of a mortgage referred to in section 103(aa) is to finance the purchase or acquisition of the mortgaged property from a person within 180 days of the purchase or acquisition of such property by that person at a price that was lower than the current sale price of the property, the creditor shall obtain a second appraisal from a different qualified appraiser. The second appraisal shall include an analysis of the difference in sale prices, changes in market conditions, and any improvements made to the property between the date of the previous sale and the current sale.

“(ii) NO COST TO CONSUMER.—The cost of any second appraisal required under clause (i) may not be charged to the consumer.
“(C) Qualified Appraiser Defined.—

For purposes of this subsection, the term ‘qualified appraiser’ means a person who—

“(i) is certified or licensed by the State in which the property to be appraised is located; and

“(ii) performs each appraisal in conformity with the Uniform Standards of Professional Appraisal Practice and title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and the regulations prescribed under such title, as in effect on the date of the appraisal.

“(3) Free Copy of Appraisal.—A creditor shall provide 1 copy of each appraisal conducted in accordance with this subsection in connection with a mortgage referred to in section 103(aa) to the consumer without charge, and at least 3 days prior to the transaction closing date.

“(4) Consumer Notification.—At the time of the initial mortgage application, the consumer shall be provided with a statement by the creditor that any appraisal prepared for the mortgage is for the sole use of the creditor, and that the consumer
may choose to have a separate appraisal conducted
at their own expense.

“(5) VIOLATIONS.—In addition to any other li-
ability to any person under this title, a creditor
found to have willfully failed to obtain an appraisal
as required in this subsection shall be liable to the
consumer for the sum of $2,000.”.

SEC. 202. UNFAIR AND DECEPTIVE PRACTICES AND ACTS
RELATING TO CERTAIN CONSUMER CREDIT
TRANSATIONS.

(a) IN GENERAL.—Chapter 2 of the Truth in Lend-
ing Act (15 U.S.C. 1631 et seq.) is amended by inserting
after section 129A (as added by section 101 of this Act)
the following new section:

“SEC. 129B. UNFAIR AND DECEPTIVE PRACTICES AND ACTS
RELATING TO CERTAIN CONSUMER CREDIT
TRANSATIONS.

“(a) IN GENERAL.—It shall be unlawful, in providing
any mortgage lending services for a consumer credit trans-
action secured by the principal dwelling of the consumer
or any mortgage brokerage services for such a transaction,
to engage in any unfair or deceptive act or practice.

“(b) APPRAISAL INDEPENDENCE.—For purposes of
subsection (a), unfair and deceptive practices shall in-
clude—
“(1) any appraisal of a property offered as security for repayment of the consumer credit transaction that is conducted in connection with such transaction in which a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes, or intimidates a person conducting or involved in an appraisal, or attempts, to compensate, coerce, extort, collude, instruct, induce, bribe, or intimidate such a person, for the purpose of causing the appraised value assigned, under the appraisal, to the property to be based on any factor other than the independent judgment of the appraiser;

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

“(3) seeking to influence an appraiser or otherwise to encourage a targeted value in order to facilitate the making or pricing of the transaction; and

“(4) failing to timely compensate an appraiser for a completed appraisal regardless of whether the transaction closes.

“(c) EXCEPTIONS.—The requirements of subsection (b) shall not be construed as prohibiting a mortgage lender, mortgage broker, mortgage banker, real estate broker,
or any other person with an interest in a real estate transaction from asking an appraiser to provide 1 or more of the following services:

“(1) Consider additional, appropriate property information, including the consideration of additional comparable properties to make or support an appraisal.

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

“(3) Correct errors in the appraisal report.

“(d) RULEMAKING PROCEEDINGS.—The Board and the Federal Trade Commission—

“(1) shall jointly prescribe regulations defining with specificity acts or practices which are unfair or deceptive in the provision of mortgage lending services for a consumer credit transaction secured by the principal dwelling of the consumer or mortgage brokerage services for such a transaction, within the meaning of subsections (a), (b), and (c); and

“(2) may jointly issue interpretive guidelines and general statements of policy with respect to unfair or deceptive acts or practices in the provision of mortgage lending services for a consumer credit transaction secured by the principal dwelling of the consumer and mortgage brokerage services for such
a transaction, within the meaning of subsections (a),
(b), and (e).

“(e) DEFINITIONS.—For purposes of this section, the
terms ‘mortgage brokerage services’ and ‘mortgage lend-
ing services’, have the meanings given such terms in sec-
tion 13(f) of the Real Estate Settlement Procedures Act
of 1974 (12 U.S.C. 2611(f)).

“(f) PENALTIES.—

“(1) FIRST VIOLATION.—In addition to the en-
forcement provisions referred to in section 130, each
person who violates this section shall forfeit and pay
a civil penalty of not more than $10,000 for each
day any such violation continues.

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

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

(b) CLERICAL AMENDMENT.—The table of sections
for chapter 2 of the Truth in Lending Act is amended
by inserting after the item relating to section 129A (as added by section 101 of this Act) the following new item:

“129B. Unfair and deceptive practices and acts relating to certain consumer credit transactions.”.

SEC. 203. AMENDMENTS RELATING TO APPRAISAL SUB-COMMITTEE OF FIEC, APPRAISER INDEPENDENCE, AND APPROVED APPRAISER EDUCATION.

(a) CONSUMER PROTECTION MISSION.—

(1) PURPOSES.—Section 1101 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331) is amended by inserting “and to provide the Appraisal Subcommittee with a consumer protection mandate” before the period at the end.

(2) FUNCTIONS OF APPRAISAL SUB-COMMITTEE.—Section 1103(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3332(a) is amended—

(A) by striking “and” at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting “; and”; and

(C) by adding at the end the following new paragraph:
“(5) protect the consumer from improper appraisal practices and the predations of unlicensed appraisers.”.

(3) Threshold Levels.—Section 1112(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3341(b)) is amended by inserting before the period the following: “, and that such threshold level provides reasonable protection for consumers who purchase 1-4 unit single-family residences”.

(b) Annual Report of Appraisal Subcommittee.—Section 1103(a)(4) of Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3332(a)(4)) is amended at the end by inserting: “The report shall also detail the activities of the Appraisal Subcommittee, including the results of all audits of State appraiser regulatory agencies, and provide an accounting of disapproved actions and warnings taken in the previous year, including a description of the conditions causing the disapproval.”.

(c) Open Meetings.—Section 1104(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3333(b)) is amended by inserting “in public session after notice in the Federal Register” after “shall meet”.

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(d) Regulations.—Section 1106 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3335) is amended—

(1) by inserting “prescribe regulations after notice and opportunity for comment,” after “hold hearings”; and

(2) at the end by inserting “Any regulations prescribed by the Appraisal Subcommittee shall (unless otherwise provided in this title) be limited to the following functions: temporary practice, national registry, information sharing, and enforcement. For purposes of prescribing regulations, the Appraisal Subcommittee shall establish an advisory committee of industry participants, including appraisers and government agencies, and hold regular meetings.”.

(e) State Agency Reporting Requirement.—Section 1109(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3338(a)) is amended—

(1) by striking “and” after the semicolon in paragraph (1);

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following new paragraph:
“(2) transmit reports on claims, disciplinary actions, license and certification revocations, and license and certification suspensions on a timely basis to the national registry of the Appraisal Subcommittee; and’’.

(f) Registry Fees Modified.—Section 1109(a)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3338(a)(3)) (as modified by section 203(e) of this Act) is amended by—

(1) striking “$25” and inserting “$40”;

(2) striking “$50” and inserting “$80”; and

(3) inserting after the period at the end the following new sentences: “The Appraisal Subcommittee must consider at least once every 5 years whether to adjust the dollar amount of the registry fees to account for inflation. In implementing any change in registry fees, the Appraisal Subcommittee shall provide flexibility to the States for multi-year certifications and licenses already in place, as well as a transition period to implement the changes in registry fees.”

(g) Grants and Reports.—Section 1109(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(b)) is amended—
(1) by striking “and” after the semicolon in paragraph (3);  
(2) by striking the period at the end of paragraph (4) and inserting a semicolon; and  
(3) by adding at the end the following new paragraphs:  
“(5) make grants to State appraiser regulatory agencies to help defray those costs relating to enforcement activities; and  
“(6) to report to all State appraiser certifying and licensing agencies when a license or certification is revoked or suspended.”.  
(h) CRITERIA.—Section 1116 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3345) is amended—  
(1) in subsection (c), by inserting “whose criteria for the licensing of a real estate appraiser currently meet or exceed the minimum criteria issued by the Appraisal Qualifications Board of The Appraisal Foundation for the licensing of real estate appraisers” before the period at the end; and  
(2) by striking subsection (e) and inserting the following new subsection:  
“(e) MINIMUM QUALIFICATION REQUIREMENTS.— Any requirements established for individuals in the posi-
tion of ‘Trainee Appraiser’ and ‘Supervisory Appraiser’ shall meet or exceed the minimum qualification requirements of the Appraiser Qualifications Board of the Appraisal Foundation. The Appraisal Subcommittee shall have the authority to enforce these requirements.”

(i) Monitoring of State Appraiser Certifying and Licensing Agencies.—Section 1118(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3347(a)) is amended—

(1) by inserting “funding, staffing,” after “practices,” each place such term appears;

(2) by inserting before the period at the end of the first sentence the following: “, whether a State agency processes complaints and completes exams in a reasonable time period, and whether a State agency reports claims and disciplinary actions on a timely basis to the national registry maintained by the Appraisal Subcommittee”; and

(3) by inserting at the end the following new sentence: “The Appraisal Subcommittee shall have the authority to impose interim sanctions and suspensions.”.

(j) Reciprocity.—Subsection (b) of section 1122 of the Financial Institutions Reform, Recovery, and Enforce-
ment Act of 1989 (12 U.S.C. 3351(b)) is amended to read as follows:

“(b) Reciprocity.—A State appraiser certifying or licensing agency shall issue a reciprocal certification or license for an individual from another State when—

“(1) the appraiser licensing and certification program of such other State is in compliance with the provisions of this title; and

“(2) the appraiser holds a valid certification from a State whose requirements for certification or licensing meet or exceed the licensure standards established by the State where an individual seeks appraisal licensure.”.

(k) Consideration of Professional Appraisal Designations.—Section 1122(d) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3351(d)) is amended by adding at the end the following new sentence: “No provision of this subsection shall be construed as prohibiting consideration of designations conferred by recognized national professional appraisal organizations, such as sponsoring organizations of The Appraisal Foundation.”.

(l) Appraiser Independence.—Section 1122 of the Financial Institutions Reform, Recovery, and Enforce-
ment Act of 1989 (12 U.S.C. 3351) is amended by adding at the end the following new subsection:

“(g) Appraiser Independence.—

“(1) Prohibitions on interested parties in a real estate transaction.—No mortgage lender, mortgage broker, mortgage banker, real estate broker, nor any other person with an interest in a real estate transaction involving an appraisal shall improperly influence, or attempt to improperly influence, through coercion, extortion, collusion, compensation, instruction, inducement, intimidation, non-payment for services rendered, or bribery, the development, reporting, result, or review of a real estate appraisal sought in connection with a mortgage loan.

“(2) Exceptions.—The requirements of paragraph (1) shall not be construed as prohibiting a mortgage lender, mortgage broker, mortgage banker, real estate broker, or any other person with an interest in a real estate transaction from asking an appraiser to provide 1 or more of the following services:

“(A) Consider additional, appropriate property information, including the consider-
ation of additional comparable properties to
make or support an appraisal.

“(B) Provide further detail, substantiation,
or explanation for the appraiser’s value conclu-
sion.

“(C) Correct errors in the appraisal report.

“(3) Prohibitions on conflicts of interest.—No certified or licensed appraiser conducting
an appraisal may have a direct or indirect interest,
financial or otherwise, in the property or transaction
involving the appraisal.

“(4) Mandatory reporting.—Any mortgage
lender, mortgage broker, mortgage banker, real es-
tate broker, or any other person with an interest in
a real estate transaction involving an appraisal who
has a reasonable basis to believe an appraiser is vio-
lating applicable laws, or is otherwise engaging in
unethical or unprofessional conduct, shall refer the
matter to the applicable State appraiser certifying
and licensing agency.

“(5) Regulations.—The Federal financial in-
stitutions regulatory agencies (as defined in section
1003(1) of the Federal Financial Institutions Exam-
ination Council Act of 1978) shall prescribe such
regulations as may be necessary to carry out the provisions of this subsection.

“(6) PENALTIES.—Any person who violates any provision of this section shall be subject to civil penalties under section 8(i)(2) of the Federal Deposit Insurance Act or section 206(k)(2) of the Federal Credit Union Act, as appropriate.

“(7) PROCEEDING.—A proceeding with respect to a violation of this section shall be an administrative proceeding which may be conducted by a Federal financial institutions regulatory agency in accordance with the procedures set forth in subchapter II of chapter 5 of title 5, United States Code.”.

(m) APPRAISER EDUCATION.—Section 1122 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3351) is amended by inserting after subsection (g) (as added by subsection (l) of this section) the following new subsection:

“(h) APPROVED EDUCATION.—The Appraisal Subcommittee shall encourage the States to accept courses approved by the Appraiser Qualification Board’s Course Approval Program.”.

(n) TECHNICAL CORRECTIONS.—

(1) Section 1119(a)(2) of the Financial Institutions Reform, Recovery, and Enforcement Act of


(3) Section 1121(8) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350(8)) is amended by striking “council” and inserting “Council”.

(4) Section 1122 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3351) is amended—

(A) in subsection (a)(1) by moving the left margin of subparagraphs (A), (B), and (C) 2 ems to the right; and

(B) in subsection (c)—

(i) by striking “Federal Financial Institutions Examination Council” and inserting “Financial Institutions Examination Council”; and

(ii) by striking “the council’s func-
tions” and inserting “the Council’s func-
tions”.

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SEC. 204. STUDY REQUIRED ON IMPROVEMENTS IN APPRAISAL PROCESS AND COMPLIANCE PROGRAMS.

(a) Study.—The Comptroller General shall conduct a comprehensive study on possible improvements in the appraisal process generally, and specifically on the consistency in and the effectiveness of, and possible improvements in, State compliance efforts and programs in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. In addition, this study shall examine the existing de minimus loan levels established by Federal regulators for compliance under title XI and whether there is a need to revise them to reflect the addition of consumer protection to the purposes and functions of the Appraisal Subcommittee.

(b) Report.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report on the study under subsection (a) to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, together with such recommendations for administrative or legislative action, at the Federal or State level, as the Comptroller General may determine to be appropriate.
SEC. 205. CONSUMER APPRAISAL DISCLOSURE.

(a) IN GENERAL.—Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 129B (as added by section 202 of this Act) the following new section:

"SEC. 129C. CONSUMER APPRAISAL DISCLOSURE.

"In any case in which an appraisal is performed in connection with an extension of credit secured by an interest in real property, the creditor or other mortgage originator shall make available to the applicant for the extension of credit a copy of all appraisal valuation reports upon completion but no later than 3 days prior to the transaction closing date."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 129B (as added by section 202 of this Act) the following new item:

"129C. Consumer appraisal disclosure."

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