

110TH CONGRESS
1ST SESSION

H. R. 3837

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 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Escrow, Appraisal, and
5 Mortgage Servicing Improvements Act”.

6 **SEC. 2. TABLE OF CONTENTS.**

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—MORTGAGE SERVICING

Sec. 101. Escrow and impound accounts relating to certain consumer credit transactions.

Sec. 102. Disclosure notice required for consumers who opt out of escrow services.

Sec. 103. Real Estate Settlement Procedures Act of 1974 amendments.

Sec. 104. Mortgage servicing studies required.

Sec. 105. Escrows included in repayment analysis.

TITLE II—APPRAISAL ACTIVITIES

Sec. 201. Property appraisal requirements.

Sec. 202. Unfair and deceptive practices and acts relating to certain consumer credit transactions.

Sec. 203. Amendments relating to appraisal subcommittee of FIEC, appraiser independence, and approved appraiser education.

Sec. 204. Study required on improvements in appraisal process and compliance programs.

Sec. 205. Consumer appraisal disclosure.

1 **TITLE I—MORTGAGE SERVICING**

2 **SEC. 101. ESCROW AND IMPOUND ACCOUNTS RELATING TO**

3 **CERTAIN CONSUMER CREDIT TRANS-**

4 **ACTIONS.**

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

8 **“SEC. 129A. ESCROW OR IMPOUND ACCOUNTS RELATING**

9 **TO CERTAIN CONSUMER CREDIT TRANS-**

10 **ACTIONS.**

11 “(a) IN GENERAL.—Except as provided in subsection
12 (b) or (c), a creditor, in connection with the formation or
13 consummation of a consumer credit transaction secured
14 by the principal dwelling of the consumer, shall establish,
15 at the time of the consummation of such transaction, an

1 escrow or impound account for the payment of taxes and
2 hazard insurance, and, if applicable, flood insurance,
3 mortgage insurance, ground rents, and any other required
4 periodic payments or premiums with respect to the prop-
5 erty or the loan terms, as provided in, and in accordance
6 with, this section, unless such account already exists.

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

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

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

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

24 “(4) the transaction is secured by—

1 “(A) a first mortgage or lien on the con-
2 sumer’s principal dwelling and the annual per-
3 centage rate on the credit, at the time of con-
4 summation of the transaction, will exceed by
5 more than 2.5 percentage points the yield on
6 Treasury securities having comparable periods
7 of maturity on the 15th day of the month im-
8 mediately preceding the month in which the ap-
9 plication of the extension of credit is received by
10 the creditor; or

11 “(B) a junior or subordinate mortgage on
12 the consumer’s principal dwelling and the an-
13 nual percentage rate on the credit, at the time
14 of consummation of the transaction, will exceed
15 by more than 5 percentage points the yield on
16 Treasury securities having comparable periods
17 of maturity on the 15th day of the month im-
18 mediately preceding the month in which the ap-
19 plication of the extension of credit is received by
20 the creditor;

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

23 “(6) the original principal amount of such loan
24 at the time of consummation of the transaction is—

1 “(A) 90 percent or more of the sale price,
2 if the property involved is purchased with the
3 proceeds of the loan; or

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

6 “(7) the combined principal amount of all loans
7 secured by the real property exceeds 95 percent of
8 the appraised value of the property securing the
9 loans at the time of consummation of the last trans-
10 action;

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

18 “(9) so required by the Board pursuant to reg-
19 ulation.

20 “(c) DURATION OF ESCROW OR IMPOUND AC-
21 COUNT.—An escrow or impound account established pur-
22 suant to this section, shall remain in existence for a min-
23 imum period of 5 years, unless the underlying mortgage
24 establishing the account is terminated.

1 “(d) ADMINISTRATION OF ESCROW OR IMPOUND AC-
2 COUNTS.—

3 “(1) IN GENERAL.—Except as may otherwise
4 be provided for in this title or in regulations pre-
5 scribed by the Board, escrow or impound accounts
6 established pursuant to this section shall be estab-
7 lished in an insured depository institution.

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

12 “(A) the Real Estate Settlement Proce-
13 dures Act of 1974 and regulations prescribed
14 under such Act; and

15 “(B) the law of the State where the real
16 property securing the consumer credit trans-
17 action is located.

18 “(3) PAYMENT OF INTEREST.—If prescribed by
19 applicable Federal or State law, each creditor shall
20 pay interest to the consumer on the amount held in
21 any impound, trust, or escrow account that is sub-
22 ject to this section in the manner as prescribed by
23 that applicable Federal or State law.

24 “(e) DISCLOSURES RELATING TO ESCROW OR IM-
25 POUND ACCOUNT.—In the case of any impound, trust, or

1 escrow account that is subject to this section, the creditor
2 shall disclose by written notice to the consumer within 3
3 business days before the consummation of the consumer
4 credit transaction giving rise to such account the following
5 information:

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

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

11 “(3) The amount, in the initial year, of the esti-
12 mated taxes and hazard insurance, including flood
13 insurance, if applicable, and any other required peri-
14 odic payments or premiums that reflects the taxable
15 assessed value of the real property securing the
16 transaction, including the value of any improvements
17 on the property or to be constructed on the property
18 (whether or not such construction will be financed
19 from the proceeds of the transaction).

20 “(4) The estimated monthly amount payable for
21 taxes, hazard insurance (including flood insurance, if
22 applicable) and any other required periodic pay-
23 ments or premiums.

24 “(5) The fact that if the consumer chooses to
25 terminate the account after 5 years, the consumer

1 will become responsible for the payment of all taxes,
2 hazard insurance, and flood insurance, if applicable,
3 as well as any other required periodic payments or
4 premiums on the property unless a new escrow or
5 impound account is established.

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

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

12 “(2) HAZARD INSURANCE.—The term ‘hazard
13 insurance’ shall have the same meaning as provided
14 under the law of the State where the real property
15 securing the consumer credit transaction is lo-
16 cated.”.

17 (b) IMPLEMENTATION.—

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

24 (2) EFFECTIVE DATE.—The amendments made
25 by subsection (a) shall only apply to covered mort-

1 gage loans consummated after the end of the 1-year
 2 period beginning on the date of enactment of this
 3 Act.

4 (c) CLERICAL AMENDMENT.—The table of sections
 5 for chapter 2 of the Truth in Lending Act is amended
 6 by inserting after the item relating to section 129 the fol-
 7 lowing new item:

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

8 **SEC. 102. DISCLOSURE NOTICE REQUIRED FOR CON-**
 9 **SUMERS WHO OPT OUT OF ESCROW SERV-**
 10 **ICES.**

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

15 “(g) DISCLOSURE NOTICE REQUIRED FOR CON-
 16 SUMERS WHO OPT OUT OF 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 property securing a consumer credit transaction
 22 is not established in connection with the trans-
 23 action; or

1 “(B) a consumer chooses, at any time after
2 such an account is established in connection
3 with any such transaction, to close such ac-
4 count,

5 the creditor shall provide a timely and clearly writ-
6 ten disclosure to the consumer that advises the con-
7 sumer of the responsibilities of the consumer and
8 implications for the consumer in the absence of any
9 such account.

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

13 “(A) Information concerning any applica-
14 ble fees associated with either the non-establish-
15 ment of any such account at the time of the
16 transaction, or any subsequent closure of any
17 such account.

18 “(B) A clear and prominent notice that the
19 consumer is responsible for personally and di-
20 rectly paying the non-escrowed items, in addi-
21 tion to paying the mortgage loan payment, in
22 the absence of any such account, and the fact
23 that the costs for taxes, insurance, and related
24 fees can be substantial.

1 2605) is amended by adding at the end the following new
2 subsections:

3 “(k) SERVICER PROHIBITIONS.—

4 “(1) IN GENERAL.—A servicer of a federally re-
5 lated mortgage shall not—

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

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

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

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

22 “(E) fail to comply with any other obliga-
23 tion found by the Secretary to be appropriate to
24 carry out the consumer protection purposes of
25 this Act.

1 “(2) FORCE-PLACED INSURANCE DEFINED.—

2 For purposes of this subsection and subsections (l)
3 and (m), the term ‘force-placed insurance’ means
4 hazard insurance coverage obtained by a servicer of
5 a federally related mortgage to protect the mortga-
6 gee’s interest in the property secured by the mort-
7 gage when the borrower has failed to maintain or
8 renew hazard or flood insurance on such property as
9 required of the borrower under the terms of the
10 mortgage.

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

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

20 “(A) the servicer has sent, by first-class
21 mail, a written notice to the borrower con-
22 taining—

23 “(i) a reminder of the borrower’s obli-
24 gation to maintain hazard or flood insur-

1 ance on the property securing the federally
2 related mortgage;

3 “(ii) a statement that the servicer
4 does not have evidence of insurance cov-
5 erage of such property;

6 “(iii) a clear and conspicuous state-
7 ment of the procedures by which the bor-
8 rower may demonstrate that the borrower
9 already has insurance coverage; and

10 “(iv) a statement that the servicer
11 may obtain such coverage at the borrower’s
12 expense if the borrower does not provide
13 such demonstration of the borrower’s exist-
14 ing coverage in a timely manner;

15 “(B) the servicer has sent, by certified
16 mail, a second written notice, at least 30 days
17 after the mailing of the notice under subpara-
18 graph (A) that contains all the information de-
19 scribed in each clauses of such subparagraph;
20 and

21 “(C) the servicer has not received from the
22 borrower any demonstration of hazard insur-
23 ance coverage or, if applicable, flood insurance
24 coverage for the property securing the mortgage
25 by the end of the 20-day period beginning on

1 the date the notice under subparagraph (B) was
2 sent by the servicer.

3 “(2) SUFFICIENCY OF DEMONSTRATION.—A
4 servicer of a federally related mortgage shall accept
5 any reasonable form of confirmation from a bor-
6 rower of existing insurance coverage, including
7 verbal confirmation of the existing insurance policy
8 number along with the identity of the insurance
9 company or agent.

10 “(3) TERMINATION OF FORCE-PLACED INSUR-
11 ANCE.—Within 15 days of the receipt by a servicer
12 of confirmation of a borrower’s existing insurance
13 coverage, the servicer shall—

14 “(A) terminate the force-placed insurance;
15 and

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

24 “(4) PROHIBITION ON DEFAULT, LATE FEES,
25 OR FORECLOSURE.—

1 “(A) IN GENERAL.—A servicer of a feder-
2 ally related mortgage may not place the mort-
3 gage in default, assess late fees, or initiate any
4 foreclosure or similar proceedings with respect
5 to such mortgage solely due to a borrower’s
6 failure to pay force-placed insurance premiums
7 or obtain hazard insurance or flood insurance
8 coverage directly.

9 “(B) ADDITION TO LOAN AMOUNT.—The
10 amount of force-placed insurance premiums re-
11 lating to a federally related mortgage that have
12 not been paid by the borrower may be treated
13 by the servicer of such mortgage as additional
14 debt of the borrower secured by the security in-
15 strument and interest may be charged on such
16 additional debt as provided in the loan instru-
17 ments at the note rate.

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

21 “(n) PROMPT CREDITING OF PAYMENTS RE-
22 QUIRED.—All amounts received by a lender or a servicer
23 shall be accepted and credited on the date received. The
24 payments shall be credited to interest and principal due

1 on the loan, before crediting payment to taxes, insurance,
2 or fees, except if taxes and insurance are in arrears.”.

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

6 (1) in paragraphs (1)(B) and (2)(B), by strik-
7 ing “\$1,000” each place such term appears and in-
8 serting “\$3,000”; and

9 (2) in paragraph (2)(B)(i), by striking
10 “\$500,000” and inserting “\$1,000,000”.

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

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

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

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

20 “(4) LIMITED EXTENSION OF RESPONSE
21 TIME.—The 20-day period described in paragraph
22 (2) may be extended for not more than 25 days if,
23 before the end of such 20-day period, the servicer
24 notifies the borrower of the extension and the rea-
25 sons for the delay in responding.”.

1 (d) REQUESTS FOR PAY-OFF AMOUNTS.—Section
2 6(e) of the Real Estate Settlement Procedures Act of 1974
3 (12 U.S.C. 2605(e)) is amended by inserting after para-
4 graph (4) (as added by subsection (c) of this section) the
5 following new paragraph:

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

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

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

18 (a) MORTGAGE SERVICING FRAUD.—

19 (1) STUDY.—The Secretary of Housing and
20 Urban Development, in consultation with the Board
21 of Governors of the Federal Reserve System and the
22 Federal Trade Commission, shall conduct a com-
23 prehensive study on mortgage servicing fraud.

24 (2) ISSUES TO BE INCLUDED.—In addition to
25 other issues the Secretary, Board, and Commission

1 may determine to be appropriate and possibly perti-
2 nent to the study conducted under paragraph (1),
3 the study shall include the following issues:

4 (A) A survey of the industry in order to
5 examine the issue of the timely posting of pay-
6 ments by servicers.

7 (B) The use of force-placed insurance.

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

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

12 (E) The charging of interest on servicing
13 fees.

14 (F) The utilization of abusive collection
15 practices.

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

18 (H) The employment of unconscionable
19 forbearance agreements.

20 (I) Foreclosure abuses.

21 (3) REPORT.—Before the end of the 12-month
22 period beginning on the date of the enactment of
23 this Act, the Secretary of Housing and Urban Devel-
24 opment shall submit a report on the study conducted
25 under this subsection to the Committee on Financial

1 Services of the House of Representatives and the
2 Committee on Banking, Housing, and Urban Affairs
3 of the Senate.

4 (b) MORTGAGE SERVICING IMPROVEMENTS.—

5 (1) STUDY.—The Secretary of Housing and
6 Urban Development, in consultation with the Board
7 of Governors of the Federal Reserve System and the
8 Federal Trade Commission, shall conduct a com-
9 prehensive study on means to improve the best prac-
10 tices of the mortgage servicing industry, and Federal
11 and State laws governing such industry.

12 (2) REPORT.—Before the end of the 18-month
13 period beginning on the date of the enactment of
14 this Act, the Secretary of Housing and Urban Devel-
15 opment shall submit a report on the study conducted
16 under this subsection to the Committee on Financial
17 Services of the House of Representatives and the
18 Committee on Banking, Housing, and Urban Affairs
19 of the Senate, together with such recommendations
20 for administrative or legislative action as the Sec-
21 retary, in consultation with the Board and the Com-
22 mission, may determine to be appropriate.

1 **SEC. 105. ESCROWS INCLUDED IN REPAYMENT ANALYSIS.**

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

5 “(4) REPAYMENT ANALYSIS REQUIRED TO IN-
6 CLUDE ESCROW PAYMENTS.—

7 “(A) IN GENERAL.—In the case of any
8 consumer credit transaction secured by a first
9 mortgage or lien on the consumer’s principal
10 residence for which an impound, trust, or other
11 type of account has been or will be established
12 in connection with the transaction for the pay-
13 ment of property taxes, hazard and flood (if
14 any) insurance premiums, or other purposes re-
15 lating to the property, the information required
16 to be provided under subsection (a) with respect
17 to the amount of the repayments shall take into
18 account the amount of any payment to such ac-
19 count for each such repayment in accordance
20 with section 10(a)(2) of the Real Estate Settle-
21 ment Procedures Act of 1974.

22 “(B) ASSESSMENT VALUE.—The amount
23 taken into account under subparagraph (A) for
24 the payment of property taxes, hazard and flood
25 (if any) insurance premiums, or other purposes
26 shall reflect the taxable assessed value of the

1 real property securing the transaction, including
2 the value of any improvements on the property
3 or to be constructed on the property (whether
4 or not such construction will be financed from
5 the proceeds of the transaction).”.

6 **TITLE II—APPRAISAL** 7 **ACTIVITIES**

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

9 Section 129 of the Truth in Lending Act (15 U.S.C.
10 1639) is amended by inserting after subsection (l) the fol-
11 lowing new subsection:

12 “(m) PROPERTY APPRAISAL REQUIREMENTS.—

13 “(1) IN GENERAL.—A creditor may not extend
14 credit in the form of a mortgage referred to in sec-
15 tion 103(aa) to any consumer without first obtaining
16 a written appraisal of the property to be mortgaged
17 prepared in accordance with the requirements of this
18 subsection.

19 “(2) APPRAISAL REQUIREMENTS.—

20 “(A) PHYSICAL PROPERTY VISIT.—An ap-
21 praisal of property to be secured by a mortgage
22 referred to in section 103(aa) does not meet the
23 requirement of this subsection unless it is per-
24 formed by a qualified appraiser who conducts a

1 physical property visit of the interior of the
2 mortgaged property.

3 “(B) SECOND APPRAISAL UNDER CERTAIN
4 CIRCUMSTANCES.—

5 “(i) IN GENERAL.—If the purpose of
6 a mortgage referred to in section 103(aa)
7 is to finance the purchase or acquisition of
8 the mortgaged property from a person
9 within 180 days of the purchase or acqui-
10 sition of such property by that person at a
11 price that was lower than the current sale
12 price of the property, the creditor shall ob-
13 tain a second appraisal from a different
14 qualified appraiser. The second appraisal
15 shall include an analysis of the difference
16 in sale prices, changes in market condi-
17 tions, and any improvements made to the
18 property between the date of the previous
19 sale and the current sale.

20 “(ii) NO COST TO CONSUMER.—The
21 cost of any second appraisal required
22 under clause (i) may not be charged to the
23 consumer.

1 “(C) QUALIFIED APPRAISER DEFINED.—

2 For purposes of this subsection, the term

3 ‘qualified appraiser’ means a person who—

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

7 “(ii) performs each appraisal in con-
8 formity with the Uniform Standards of
9 Professional Appraisal Practice and title
10 XI of the Financial Institutions Reform,
11 Recovery, and Enforcement Act of 1989,
12 and the regulations prescribed under such
13 title, as in effect on the date of the ap-
14 praisal.

15 “(3) FREE COPY OF APPRAISAL.—A creditor
16 shall provide 1 copy of each appraisal conducted in
17 accordance with this subsection in connection with a
18 mortgage referred to in section 103(aa) to the con-
19 sumer without charge, and at least 3 days prior to
20 the transaction closing date.

21 “(4) CONSUMER NOTIFICATION.—At the time
22 of the initial mortgage application, the consumer
23 shall be provided with a statement by the creditor
24 that any appraisal prepared for the mortgage is for
25 the sole use of the creditor, and that the consumer

1 may choose to have a separate appraisal conducted
2 at their own expense.

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

8 **SEC. 202. UNFAIR AND DECEPTIVE PRACTICES AND ACTS**
9 **RELATING TO CERTAIN CONSUMER CREDIT**
10 **TRANSACTIONS.**

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

15 **“SEC. 129B. UNFAIR AND DECEPTIVE PRACTICES AND ACTS**
16 **RELATING TO CERTAIN CONSUMER CREDIT**
17 **TRANSACTIONS.**

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

23 “(b) APPRAISAL INDEPENDENCE.—For purposes of
24 subsection (a), unfair and deceptive practices shall in-
25 clude—

1 “(1) any appraisal of a property offered as se-
2 curity for repayment of the consumer credit trans-
3 action that is conducted in connection with such
4 transaction in which a person with an interest in the
5 underlying transaction compensates, coerces, extorts,
6 colludes, instructs, induces, bribes, or intimidates a
7 person conducting or involved in an appraisal, or at-
8 tempts, to compensate, coerce, extort, collude, in-
9 struct, induce, bribe, or intimidate such a person,
10 for the purpose of causing the appraised value as-
11 signed, under the appraisal, to the property to be
12 based on any factor other than the independent
13 judgment of the appraiser;

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

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

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

23 “(c) EXCEPTIONS.—The requirements of subsection
24 (b) shall not be construed as prohibiting a mortgage lend-
25 er, mortgage broker, mortgage banker, real estate broker,

1 or any other person with an interest in a real estate trans-
2 action from asking an appraiser to provide 1 or more of
3 the following services:

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

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

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

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

13 “(1) shall jointly prescribe regulations defining
14 with specificity acts or practices which are unfair or
15 deceptive in the provision of mortgage lending serv-
16 ices for a consumer credit transaction secured by the
17 principal dwelling of the consumer or mortgage bro-
18 kerage services for such a transaction, within the
19 meaning of subsections (a), (b), and (c); and

20 “(2) may jointly issue interpretive guidelines
21 and general statements of policy with respect to un-
22 fair or deceptive acts or practices in the provision of
23 mortgage lending services for a consumer credit
24 transaction secured by the principal dwelling of the
25 consumer and mortgage brokerage services for such

1 a transaction, within the meaning of subsections (a),
2 (b), and (c).

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

8 “(f) PENALTIES.—

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

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

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

24 (b) CLERICAL AMENDMENT.—The table of sections
25 for chapter 2 of the Truth in Lending Act is amended

1 by inserting after the item relating to section 129A (as
2 added by section 101 of this Act) the following new item:

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

3 **SEC. 203. AMENDMENTS RELATING TO APPRAISAL SUB-**
4 **COMMITTEE OF FIEC, APPRAISER INDEPEND-**
5 **ENCE, AND APPROVED APPRAISER EDU-**
6 **CATION.**

7 (a) CONSUMER PROTECTION MISSION.—

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

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

18 (A) by striking “and” at the end of para-
19 graph (3);

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

22 (C) by adding at the end the following new
23 paragraph:

1 “(5) protect the consumer from improper ap-
2 praisal practices and the predations of unlicensed
3 appraisers.”.

4 (3) THRESHOLD LEVELS.—Section 1112(b) of
5 the Financial Institutions Reform, Recovery, and
6 Enforcement Act of 1989 (12 U.S.C. 3341(b)) is
7 amended by inserting before the period the fol-
8 lowing: “, and that such threshold level provides rea-
9 sonable protection for consumers who purchase 1-4
10 unit single-family residences”.

11 (b) ANNUAL REPORT OF APPRAISAL SUB-
12 COMMITTEE.—Section 1103(a)(4) of Financial Institu-
13 tions Reform, Recovery, and Enforcement Act of 1989 (12
14 U.S.C. 3332(a)(4)) is amended at the end by inserting:
15 “The report shall also detail the activities of the Appraisal
16 Subcommittee, including the results of all audits of State
17 appraiser regulatory agencies, and provide an accounting
18 of disapproved actions and warnings taken in the previous
19 year, including a description of the conditions causing the
20 disapproval.”.

21 (c) OPEN MEETINGS.—Section 1104(b) of the Finan-
22 cial Institutions Reform, Recovery, and Enforcement Act
23 of 1989 (12 U.S.C. 3333(b)) is amended by inserting “in
24 public session after notice in the Federal Register” after
25 “shall meet”.

1 (d) REGULATIONS.—Section 1106 of the Financial
2 Institutions Reform, Recovery, and Enforcement Act of
3 1989 (12 U.S.C. 3335) is amended—

4 (1) by inserting “prescribe regulations after no-
5 tice and opportunity for comment,” after “hold
6 hearings”; and

7 (2) at the end by inserting “Any regulations
8 prescribed by the Appraisal Subcommittee shall (un-
9 less otherwise provided in this title) be limited to the
10 following functions: temporary practice, national reg-
11 istry, information sharing, and enforcement. For
12 purposes of prescribing regulations, the Appraisal
13 Subcommittee shall establish an advisory committee
14 of industry participants, including appraisers and
15 government agencies, and hold regular meetings.”.

16 (e) STATE AGENCY REPORTING REQUIREMENT.—
17 Section 1109(a) of the Financial Institutions Reform, Re-
18 covery, and Enforcement Act of 1989 (12 U.S.C. 3338(a))
19 is amended—

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

22 (2) by redesignating paragraph (2) as para-
23 graph (3); and

24 (3) by inserting after paragraph (1) the fol-
25 lowing new paragraph:

1 “(2) transmit reports on claims, disciplinary ac-
2 tions, license and certification revocations, and li-
3 cense and certification suspensions on a timely basis
4 to the national registry of the Appraisal Sub-
5 committee; and”.

6 (f) REGISTRY FEES MODIFIED.—Section 1109(a)(3)
7 of the Financial Institutions Reform, Recovery, and En-
8 forcement Act of 1989 (12 U.S.C. 3338(a)(3)) (as modi-
9 fied by section 203(e) of this Act) is amended by—

- 10 (1) striking “\$25” and inserting “\$40”;
- 11 (2) striking “\$50” and inserting “\$80”; and
- 12 (3) inserting after the period at the end the fol-
13 lowing new sentences: “The Appraisal Subcommittee
14 must consider at least once every 5 years whether to
15 adjust the dollar amount of the registry fees to ac-
16 count for inflation. In implementing any change in
17 registry fees, the Appraisal Subcommittee shall pro-
18 vide flexibility to the States for multi-year certifi-
19 cations and licenses already in place, as well as a
20 transition period to implement the changes in reg-
21 istry fees.”

22 (g) GRANTS AND REPORTS.—Section 1109(b) of the
23 Financial Institutions Reform, Recovery, and Enforce-
24 ment Act of 1989 (12 U.S.C. 3348(b)) is amended—

1 (1) by striking “and” after the semicolon in
2 paragraph (3);

3 (2) by striking the period at the end of para-
4 graph (4) and inserting a semicolon; and

5 (3) by adding at the end the following new
6 paragraphs:

7 “(5) make grants to State appraiser regulatory
8 agencies to help defray those costs relating to en-
9 forcement activities; and

10 “(6) to report to all State appraiser certifying
11 and licensing agencies when a license or certification
12 is revoked or suspended.”.

13 (h) CRITERIA.—Section 1116 of the Financial Insti-
14 tutions Reform, Recovery, and Enforcement Act of 1989
15 (12 U.S.C. 3345) is amended—

16 (1) in subsection (c), by inserting “whose cri-
17 teria for the licensing of a real estate appraiser cur-
18 rently meet or exceed the minimum criteria issued
19 by the Appraisal Qualifications Board of The Ap-
20 praisal Foundation for the licensing of real estate
21 appraisers” before the period at the end; and

22 (2) by striking subsection (e) and inserting the
23 following new subsection:

24 “(e) MINIMUM QUALIFICATION REQUIREMENTS.—
25 Any requirements established for individuals in the posi-

1 tion of ‘Trainee Appraiser’ and ‘Supervisory Appraiser’
2 shall meet or exceed the minimum qualification require-
3 ments of the Appraiser Qualifications Board of the Ap-
4 praisal Foundation. The Appraisal Subcommittee shall
5 have the authority to enforce these requirements.”.

6 (i) MONITORING OF STATE APPRAISER CERTIFYING
7 AND LICENSING AGENCIES.—Section 1118(a) of the Fi-
8 nancial Institutions Reform, Recovery, and Enforcement
9 Act of 1989 (12 U.S.C. 3347(a)) is amended—

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

12 (2) by inserting before the period at the end of
13 the first sentence the following: “, whether a State
14 agency processes complaints and completes exams in
15 a reasonable time period, and whether a State agen-
16 cy reports claims and disciplinary actions on a time-
17 ly basis to the national registry maintained by the
18 Appraisal Subcommittee”; and

19 (3) by inserting at the end the following new
20 sentence: “The Appraisal Subcommittee shall have
21 the authority to impose interim sanctions and sus-
22 pensions.”.

23 (j) RECIPROcity.—Subsection (b) of section 1122 of
24 the Financial Institutions Reform, Recovery, and Enforce-

1 ment Act of 1989 (12 U.S.C. 3351(b)) is amended to read
2 as follows:

3 “(b) RECIPROACITY.—A State appraiser certifying or
4 licensing agency shall issue a reciprocal certification or li-
5 cense for an individual from another State when—

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

9 “(2) the appraiser holds a valid certification
10 from a State whose requirements for certification or
11 licensing meet or exceed the licensure standards es-
12 tablished by the State where an individual seeks ap-
13 praisal licensure.”.

14 (k) CONSIDERATION OF PROFESSIONAL APPRAISAL
15 DESIGNATIONS.—Section 1122(d) of the Financial Insti-
16 tutions Reform, Recovery, and Enforcement Act of 1989
17 (12 U.S.C. 3351(d)) is amended by adding at the end the
18 following new sentence: “No provision of this subsection
19 shall be construed as prohibiting consideration of designa-
20 tions conferred by recognized national professional ap-
21 praisal organizations, such as sponsoring organizations of
22 The Appraisal Foundation.”.

23 (l) APPRAISER INDEPENDENCE.—Section 1122 of
24 the Financial Institutions Reform, Recovery, and Enforce-

1 ment Act of 1989 (12 U.S.C. 3351) is amended by adding
2 at the end the following new subsection:

3 “(g) APPRAISER INDEPENDENCE.—

4 “(1) PROHIBITIONS ON INTERESTED PARTIES
5 IN A REAL ESTATE TRANSACTION.—No mortgage
6 lender, mortgage broker, mortgage banker, real es-
7 tate broker, nor any other person with an interest in
8 a real estate transaction involving an appraisal shall
9 improperly influence, or attempt to improperly influ-
10 ence, through coercion, extortion, collusion, com-
11 pensation, instruction, inducement, intimidation,
12 non-payment for services rendered, or bribery, the
13 development, reporting, result, or review of a real es-
14 tate appraisal sought in connection with a mortgage
15 loan.

16 “(2) EXCEPTIONS.—The requirements of para-
17 graph (1) shall not be construed as prohibiting a
18 mortgage lender, mortgage broker, mortgage banker,
19 real estate broker, or any other person with an inter-
20 est in a real estate transaction from asking an ap-
21 praiser to provide 1 or more of the following serv-
22 ices:

23 “(A) Consider additional, appropriate
24 property information, including the consider-

1 ation of additional comparable properties to
2 make or support an appraisal.

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

6 “(C) Correct errors in the appraisal report.

7 “(3) PROHIBITIONS ON CONFLICTS OF INTER-
8 EST.—No certified or licensed appraiser conducting
9 an appraisal may have a direct or indirect interest,
10 financial or otherwise, in the property or transaction
11 involving the appraisal.

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

21 “(5) REGULATIONS.—The Federal financial in-
22 stitutions regulatory agencies (as defined in section
23 1003(1) of the Federal Financial Institutions Exam-
24 ination Council Act of 1978) shall prescribe such

1 regulations as may be necessary to carry out the
2 provisions of this subsection.

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

8 “(7) PROCEEDING.—A proceeding with respect
9 to a violation of this section shall be an administra-
10 tive proceeding which may be conducted by a Fed-
11 eral financial institutions regulatory agency in ac-
12 cordance with the procedures set forth in subchapter
13 II of chapter 5 of title 5, United States Code.”.

14 (m) APPRAISER EDUCATION.—Section 1122 of the
15 Financial Institutions Reform, Recovery, and Enforce-
16 ment Act of 1989 (12 U.S.C. 3351) is amended by insert-
17 ing after subsection (g) (as added by subsection (l) of this
18 section) the following new subsection:

19 “(h) APPROVED EDUCATION.—The Appraisal Sub-
20 committee shall encourage the States to accept courses ap-
21 proved by the Appraiser Qualification Board’s Course Ap-
22 proval Program.”.

23 (n) TECHNICAL CORRECTIONS.—

24 (1) Section 1119(a)(2) of the Financial Institu-
25 tions Reform, Recovery, and Enforcement Act of

1 1989 (12 U.S.C. 3348(a)(2)) is amended by striking
2 “council,” and inserting “Council,”.

3 (2) Section 1121(6) of the Financial Institu-
4 tions Reform, Recovery, and Enforcement Act of
5 1989 (12 U.S.C. 3350(6)) is amended by striking
6 “Corporations,” and inserting “Corporation,”.

7 (3) Section 1121(8) of the Financial Institu-
8 tions Reform, Recovery, and Enforcement Act of
9 1989 (12 U.S.C. 3350(8)) is amended by striking
10 “council” and inserting “Council”.

11 (4) Section 1122 of the Financial Institutions
12 Reform, Recovery, and Enforcement Act of 1989
13 (12 U.S.C. 3351) is amended—

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

17 (B) in subsection (c)—

18 (i) by striking “Federal Financial In-
19 stitutions Examination Council” and in-
20 serting “Financial Institutions Examina-
21 tion Council”; and

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

1 **SEC. 204. STUDY REQUIRED ON IMPROVEMENTS IN AP-**
2 **PRAISAL PROCESS AND COMPLIANCE PRO-**
3 **GRAMS.**

4 (a) **STUDY.**—The Comptroller General shall conduct
5 a comprehensive study on possible improvements in the
6 appraisal process generally, and specifically on the consist-
7 ency in and the effectiveness of, and possible improve-
8 ments in, State compliance efforts and programs in ac-
9 cordance with title XI of the Financial Institutions Re-
10 form, Recovery, and Enforcement Act of 1989. In addi-
11 tion, this study shall examine the existing de minimus loan
12 levels established by Federal regulators for compliance
13 under title XI and whether there is a need to revise them
14 to reflect the addition of consumer protection to the pur-
15 poses and functions of the Appraisal Subcommittee.

16 (b) **REPORT.**—Before the end of the 18-month period
17 beginning on the date of the enactment of this Act, the
18 Comptroller General shall submit a report on the study
19 under subsection (a) to the Committee on Financial Serv-
20 ices of the House of Representatives and the Committee
21 on Banking, Housing, and Urban Affairs of the Senate,
22 together with such recommendations for administrative or
23 legislative action, at the Federal or State level, as the
24 Comptroller General may determine to be appropriate.

1 **SEC. 205. CONSUMER APPRAISAL DISCLOSURE.**

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

6 **“SEC. 129C. CONSUMER APPRAISAL DISCLOSURE.**

7 “In any case in which an appraisal is performed in
8 connection with an extension of credit secured by an inter-
9 est in real property, the creditor or other mortgage origi-
10 nator shall make available to the applicant for the exten-
11 sion of credit a copy of all appraisal valuation reports upon
12 completion but no later than 3 days prior to the trans-
13 action closing date.”.

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

“129C. Consumer appraisal disclosure.”.

○