9

**AMENDMENT TO H.R. 3915, AS REPORTED**

**OFFERED BY MR. KANJORSKI OF PENNSYLVANIA** (for himself, MRS. BIGGERT, MR. HODES, and MRS. MOORE of Wisconsin, and MRS. CAPITO)

Page 134, after line 13 insert the following new titles (and conform the table of contents accordingly):

# TITLE VI—MORTGAGE SERVICING

**SEC. 601. 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 129B (as added by section 201) the following new section:

**"SEC. 129C. 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 a first lien on the principal dwelling of the consumer, other than a consumer credit transaction under an open end credit plan or a reverse mortgage, shall establish, at the time of the consummation of such transaction, an es-

1 crow 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.

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 first deed of trust or mortgage
12 on the principal dwelling of the consumer, other than a
13 consumer credit transaction under an open end credit plan
14 or a reverse mortgage, except when—

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

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

21 "(3) the consumer's debt-to-income ratio at the
22 time the home mortgage is established taking into
23 account income from all sources including the con-
24 sumer's employment exceeds 50 percent;

1 "(4) the transaction is secured by a first mort-
2 gage or lien on the consumer's principal dwelling
3 and the annual percentage rate on the credit, at the
4 time of consummation of the transaction, will exceed
5 by more than 3.0 percentage points the yield on
6 Treasury securities having comparable periods of
7 maturity on the 15th day of the month immediately
8 preceding the month in which the application of the
9 extension of credit is received by the creditor;
10 "(5) a consumer obtains a mortgage referred to
11 in section 103(aa);
12 "(6) the original principal amount of such loan
13 at the time of consummation of the transaction is—
14 "(A) 90 percent or more of the sale price,
15 if the property involved is purchased with the
16 proceeds of the loan; or
17 "(B) 90 percent or more of the appraised
18 value of the property securing the loan;
19 "(7) the combined principal amount of all loans
20 secured by the real property exceeds 95 percent of
21 the appraised value of the property securing the
22 loans at the time of consummation of the last mort-
23 gage transaction;
24 "(8) the consumer was the subject of a pro-
25 ceeding under title 11, United States Code, at any

1 time during the 7-year period preceding the date of
2 the transaction (as determined on the basis of the
3 date of entry of the order for relief or the date of
4 adjudication, as the case may be, with respect to
5 such proceeding and included in a consumer report
6 on the consumer under the Fair Credit Reporting
7 Act) ; or
8 "(9) so required by the Board pursuant to reg-
9 ulation.
10 "(c) DURATION OF MANDATORY ESCROW OR IM-
11 POUND ACCOUNT.—An escrow or impound account estab-
12 lished pursuant to subsection (b), shall remain in existence
13 for a minimum period of 5 years and until such borrower
14 has sufficient equity in the dwelling securing the consumer
15 credit transaction so as to no longer be required to main-
16 tain private mortgage insurance, or such other period as
17 may be provided in regulations to address situations such
18 as borrower delinquency, unless the underlying mortgage
19 establishing the account is terminated.
20 "(d) CLARIFICATION ON ESCROW ACCOUNTS FOR
21 LOANS NOT MEETING STATUTORY TEST.—For mort-
22 gages not covered by the requirements of subsection (b),
23 no provision of this section shall be construed as pre-
24 cluding the establishment of an impound, trust, or other
25 type of account for the payment of property taxes, insur-

1 ance premiums, or other purposes relating to the prop-
2 erty—
3 "(1) on terms mutually agreeable to the parties
4 to the loan;
5 "(2) at the discretion of the lender or servicer,
6 as provided by the contract between the lender or
7 servicer and the borrower; or
8 "(3) pursuant to the requirements for the
9 escrowing of flood insurance payments for regulated
10 lending institutions in section 102(d) of the Flood
11 Disaster Protection Act of 1973.
12 "(e) ADMINISTRATION OF MANDATORY ESCROW OR
13 IMPOUND ACCOUNTS.—
14 "(1) IN GENERAL.—Except as may otherwise
15 be provided for in this title or in regulations pre-
16 scribed by the Board, escrow or impound accounts
17 established pursuant to subsection (b) shall be estab-
18 lished in a federally insured depository institution.
19 "(2) ADMINISTRATION.—Except as provided in
20 this section or regulations prescribed under this sec-
21 tion, an escrow or impound account subject to this
22 section shall be administered in accordance with—
23 "(A) the Real Estate Settlement Proce-
24 dures Act of 1974 and regulations prescribed
25 under such Act;

1 "(B) the Flood Disaster Protection Act of
2 1973 and regulations prescribed under such
3 Act; and
4 "(C) the law of the State, if applicable,
5 where the real property securing the consumer
6 credit transaction is located.
7 "(3) APPLICABILITY OF PAYMENT OF INTER-
8 EST.—If prescribed by applicable State or Federal
9 law, each creditor shall pay interest to the consumer
10 on the amount held in any impound, trust, or escrow
11 account that is subject to this section in the manner
12 as prescribed by that applicable State or Federal
13 law.
14 "(4) PENALTY COORDINATION WITH RESPA.—
15 Any action or omission on the part of any person
16 which constitutes a violation of the Real Estate Set-
17 tlement Procedures Act of 1974 or any regulation
18 prescribed under such Act for which the person has
19 paid any fine, civil money penalty, or other damages
20 shall not give rise to any additional fine, civil money
21 penalty, or other damages under this section, unless
22 the action or omission also constitutes a direct viola-
23 tion of this section.
24 "(f) DISCLOSURES RELATING TO MANDATORY ES-
25 CROW OR IMPOUND ACCOUNT.—In the case of any im-

1 pound, trust, or escrow account that is subject to this sec-
2 tion, the creditor shall disclose by written notice to the
3 consumer at least 3 business days before the consumma-
4 tion of the consumer credit transaction giving rise to such
5 account or in accordance with timeframes established in
6 prescribed regulations the following information:

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

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

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

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

1 flood insurance, if applicable) and any other re-
2 quired periodic payments or premiums.
3 "(5) The fact that, if the consumer chooses to
4 terminate the account at the appropriate time in the
5 future, the consumer will become responsible for the
6 payment of all taxes, hazard insurance, and flood in-
7 surance, if applicable, as well as any other required
8 periodic payments or premiums on the property un-
9 less a new escrow or impound account is established.
10 "(g) DEFINITIONS.—For purposes of this section, the
11 following definitions shall apply:
12 "(1) FLOOD INSURANCE.—The term 'flood in-
13 surance' means flood insurance coverage provided
14 under the national flood insurance program pursu-
15 ant to the National Flood Insurance Act of 1968.
16 "(2) HAZARD INSURANCE.—The term 'hazard
17 insurance' shall have the same meaning as provided
18 for 'hazard insurance', 'casualty insurance', 'home-
19 owner's insurance', or other similar term under the
20 law of the State where the real property securing the
21 consumer credit transaction is located.".
22 (b) IMPLEMENTATION.—
23 (1) REGULATIONS.—The Board of Governors of
24 the Federal Reserve System, the Comptroller of the
25 Currency, the Director of the Office of Thrift Super-

1 vision, the Federal Deposit Insurance Corporation,
2 the National Credit Union Administration Board,
3 (hereafter in this Act referred to as the "Federal
4 banking agencies") and the Federal Trade Commis-
5 sion shall prescribe, in final form, such regulations
6 as determined to be necessary to implement the
7 amendments made by subsection (a) before the end
8 of the 180-day period beginning on the date of the
9 enactment of this Act.

10 (2) EFFECTIVE DATE.—The amendments made
11 by subsection (a) shall only apply to covered mort-
12 gage loans consummated after the end of the 1-year
13 period beginning on the date of the publication of
14 final regulations in the Federal Register.

15 (c) CLERICAL AMENDMENT.—The table of sections
16 for chapter 2 of the Truth in Lending Act is amended
17 by inserting after the item relating to section 129B (as
18 added by section 201) the following new item:

"129C. Escrow or impound accounts relating to certain consumer credit transactions.".

19 **SEC. 602. DISCLOSURE NOTICE REQUIRED FOR CON-**
20 **SUMERS WHO WAIVE ESCROW SERVICES.**

21 (a) IN GENERAL.—Section 129C of the Truth in
22 Lending Act (as added by section 601) is amended by add-
23 ing at the end the following new subsection:

1 "(h) DISCLOSURE NOTICE REQUIRED FOR CON-
2 SUMERS WHO WAIVE ESCROW SERVICES.—
3 "(1) IN GENERAL.—If—
4 "(A) an impound, trust, or other type of
5 account for the payment of property taxes, in-
6 surance premiums, or other purposes relating to
7 real property securing a consumer credit trans-
8 action is not established in connection with the
9 transaction; or
10 "(B) a consumer chooses, at any time after
11 such an account is established in connection
12 with any such transaction and in accordance
13 with any statute, regulation, or contractual
14 agreement, to close such account,
15 the creditor or servicer shall provide a timely and
16 clearly written disclosure to the consumer that ad-
17 vises the consumer of the responsibilities of the con-
18 sumer and implications for the consumer in the ab-
19 sence of any such account.
20 "(2) DISCLOSURE REQUIREMENTS.—Any dis-
21 closure provided to a consumer under paragraph (1)
22 shall include the following:
23 "(A) Information concerning any applica-
24 ble fees or costs associated with either the non-
25 establishment of any such account at the time

1 of the transaction, or any subsequent closure of
2 any such account.
3 "(B) A clear and prominent notice that the
4 consumer is responsible for personally and di-
5 rectly paying the non-escrowed items, in addi-
6 tion to paying the mortgage loan payment, in
7 the absence of any such account, and the fact
8 that the costs for taxes, insurance, and related
9 fees can be substantial.
10 "(C) A clear explanation of the con-
11 sequences of any failure to pay non-escrowed
12 items, including the possible requirement for
13 the forced placement of insurance by the cred-
14 itor or servicer and the potentially higher cost
15 (including any potential commission payments
16 to the servicer) or reduced coverage for the con-
17 sumer in the event of any such creditor-placed
18 insurance.".
19 (b) IMPLEMENTATION.—
20 (1) REGULATIONS.—The Federal banking agen-
21 cies and the Federal Trade Commission shall pre-
22 scribe, in final form, such regulations as such agen-
23 cies determine to be necessary to implement the
24 amendments made by subsection (a) before the end

1 of the 180-day period beginning on the date of the
2 enactment of this Act.
3 (2) EFFECTIVE DATE.—The amendments made
4 by subsection (a) shall only apply in accordance with
5 the regulations established in paragraph (1) and be-
6 ginning on the date occurring 180-days after the
7 date of the publication of final regulations in the
8 Federal Register.

9 **SEC. 603. REAL ESTATE SETTLEMENT PROCEDURES ACT OF**
10 **1974 AMENDMENTS.**

11 (a) SERVICER PROHIBITIONS.—Section 6 of the Real
12 Estate Settlement Procedures Act of 1974 (12 U.S.C.
13 2605) is amended by adding at the end the following new
14 subsections:
15 "(k) SERVICER PROHIBITIONS.—
16 "(1) IN GENERAL.—A servicer of a federally re-
17 lated mortgage shall not—
18 "(A) obtain force-placed hazard insurance
19 unless there is a reasonable basis to believe the
20 borrower has failed to comply with the loan
21 contract's requirements to maintain property
22 insurance;
23 "(B) charge fees for responding to valid
24 qualified written requests (as defined in regula-

1 tions which the Secretary shall prescribe) under
2 this section;
3 "(C) fail to take timely action to respond
4 to a borrower's requests to correct errors relat-
5 ing to allocation of payments, final balances for
6 purposes of paying off the loan, or avoiding
7 foreclosure, or other standard servicer's duties;
8 "(D) fail to respond within 10 business
9 days to a request from a borrower to provide
10 the identity, address, and other relevant contact
11 information about the owner assignee of the
12 loan; or
13 "(E) fail to comply with any other obliga-
14 tion found by the Secretary, by regulation, to
15 be appropriate to carry out the consumer pro-
16 tection purposes of this Act.
17 "(2) FORCE-PLACED INSURANCE DEFINED.—
18 For purposes of this subsection and subsections (l)
19 and (m), the term 'force-placed insurance' means
20 hazard insurance coverage obtained by a servicer of
21 a federally related mortgage when the borrower has
22 failed to maintain or renew hazard insurance on
23 such property as required of the borrower under the
24 terms of the mortgage.

1 "(l) REQUIREMENTS FOR FORCE-PLACED INSUR-
2 ANCE.—A servicer of a federally related mortgage shall
3 not be construed as having a reasonable basis for obtain-
4 ing force-placed insurance unless the requirements of this
5 subsection have been met.

6 "(1) WRITTEN NOTICES TO BORROWER.—A
7 servicer may not impose any charge on any borrower
8 for force-placed insurance with respect to any prop-
9 erty securing a federally related mortgage unless—

10 "(A) the servicer has sent, by first-class
11 mail, a written notice to the borrower con-
12 taining—

13 "(i) a reminder of the borrower's obli-
14 gation to maintain hazard insurance on the
15 property securing the federally related
16 mortgage;

17 "(ii) a statement that the servicer
18 does not have evidence of insurance cov-
19 erage of such property;

20 "(iii) a clear and conspicuous state-
21 ment of the procedures by which the bor-
22 rower may demonstrate that the borrower
23 already has insurance coverage; and

24 "(iv) a statement that the servicer
25 may obtain such coverage at the borrower's

1 expense if the borrower does not provide
2 such demonstration of the borrower's exist-
3 ing coverage in a timely manner;
4 "(B) the servicer has sent, by first-class
5 mail, a second written notice, at least 30 days
6 after the mailing of the notice under subpara-
7 graph (A) that contains all the information de-
8 scribed in each clauses of such subparagraph;
9 and
10 "(C) the servicer has not received from the
11 borrower any demonstration of hazard insur-
12 ance coverage for the property securing the
13 mortgage by the end of the 15-day period be-
14 ginning on the date the notice under subpara-
15 graph (B) was sent by the servicer.
16 "(2) SUFFICIENCY OF DEMONSTRATION.—A
17 servicer of a federally related mortgage shall accept
18 any reasonable form of written confirmation from a
19 borrower of existing insurance coverage, which shall
20 include the existing insurance policy number along
21 with the identity of, and contact information for, the
22 insurance company or agent.
23 "(3) TERMINATION OF FORCE-PLACED INSUR-
24 ANCE.—Within 15 days of the receipt by a servicer

1 of confirmation of a borrower's existing insurance
2 coverage, the servicer shall—
3 "(A) terminate the force-placed insurance;
4 and
5 "(B) refund to the consumer all force-
6 placed insurance premiums paid by the bor-
7 rower during any period during which the bor-
8 rower's insurance coverage and the force-placed
9 insurance coverage were each in effect, and any
10 related fees charged to the consumer's account
11 with respect to the force-placed insurance dur-
12 ing such period.
13 "(4) CLARIFICATION WITH RESPECT TO FLOOD
14 DISASTER PROTECTION ACT.—No provision of this
15 section shall be construed as prohibiting a servicer
16 from providing simultaneous or concurrent notice of
17 a lack of flood insurance pursuant to section 102(e)
18 of the Flood Disaster Protection Act of 1973.
19 "(m) LIMITATIONS ON FORCE-PLACED INSURANCE
20 CHARGES.—All charges for force-placed insurance pre-
21 miums shall be bona fide and reasonable in amount.
22 "(n) PROMPT CREDITING OF PAYMENTS RE-
23 QUIRED.—
24 "(1) IN GENERAL.—All amounts received by a
25 lender or a servicer on a home loan at the address

1 where the borrower has been instructed to make
2 payments shall be accepted and credited, or treated
3 as credited, on the business day received, to the ex-
4 tent that the borrower has made the full contractual
5 payment and has provided sufficient information to
6 credit the account.

7 "(2) SCHEDULED METHOD.—If a servicer uses
8 the scheduled method of accounting, any regularly
9 scheduled payment made prior to the scheduled due
10 date shall be credited no later than the due date.

11 "(3) NOTICE OF NONCREDIT.—If any payment
12 is received by a lender or a servicer on a home loan
13 and not credited, or treated as credited, the bor-
14 rower shall be notified within 10 business days by
15 mail at the borrower's last known address of the dis-
16 position of the payment, the reason the payment was
17 not credited, or treated as credited to the account,
18 and any actions necessary by the borrower to make
19 the loan current.".

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

23 (1) in paragraphs (1)(B) and (2)(B), by strik-
24 ing "$1,000" each place such term appears and in-
25 serting "$2,000"; and

1 (2) in paragraph (2)(B)(i), by striking
2 "$500,000" and inserting "$1,000,000".
3 (c) DECREASE IN RESPONSE TIMES.—Section 6(e) of
4 the Real Estate Settlement Procedures Act of 1974 (12
5 U.S.C. 2605(e)) is amended—
6 (1) in paragraph (1)(A), by striking "20 days"
7 and inserting "10 days";
8 (2) in paragraph (2), by striking "60 days" and
9 inserting "30 days"; and
10 (3) by adding at the end the following new
11 paragraph:
12 "(4) LIMITED EXTENSION OF RESPONSE
13 TIME.—The 30-day period described in paragraph
14 (2) may be extended for not more than 30 days if,
15 before the end of such 30-day period, the servicer
16 notifies the borrower of the extension and the rea-
17 sons for the delay in responding.".
18 (d) REQUESTS FOR PAY-OFF AMOUNTS.—Section
19 6(e) of the Real Estate Settlement Procedures Act of 1974
20 (12 U.S.C. 2605(e)) is amended by inserting after para-
21 graph (4) (as added by subsection (c) of this section) the
22 following new paragraph:
23 "(5) REQUESTS FOR PAY-OFF AMOUNTS.—A
24 creditor or servicer shall send a payoff balance with-
25 in 7 business days of the receipt of a written request

1 for such balance from or on behalf of the bor-
2 rower.".

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

12 **SEC. 604. MORTGAGE SERVICING STUDIES REQUIRED.**

13 (a) MORTGAGE SERVICING PRACTICES.—

14 (1) STUDY.—The Secretary of Housing and
15 Urban Development, in consultation with the Fed-
16 eral banking agencies, and the Federal Trade Com-
17 mission, shall conduct a comprehensive study on
18 mortgage servicing practices and their potential for
19 fraud and abuse.

20 (2) ISSUES TO BE INCLUDED.—In addition to
21 other issues the Secretary of Housing and Urban
22 Development, the Federal banking agencies, and the
23 Federal Trade Commission may determine to be ap-
24 propriate and possibly pertinent to the study con-

1 ducted under paragraph (1), the study shall include
2 the following issues:
3 (A) A survey of the industry in order to
4 examine the issue of the timely or effective
5 posting of payments by servicers.
6 (B) The employment of daily interest when
7 payments are made after a due date.
8 (C) The charging of late fees on the entire
9 outstanding principal.
10 (D) The charging of interest on servicing
11 fees.
12 (E) The utilization of collection practices
13 that failed to comply with the Fair Debt Collec-
14 tion Practices Act.
15 (F) The charging of prepayment penalties
16 when not authorized by either the note or law.
17 (G) The employment of unconscionable for-
18 bearance agreements.
19 (H) Foreclosure abuses.
20 (3) REPORT.—Before the end of the 12-month
21 period beginning on the date of the enactment of
22 this Act, the Secretary of Housing and Urban Devel-
23 opment shall submit a report on the study conducted
24 under this subsection to the Committee on Financial
25 Services of the House of Representatives and the

1 Committee on Banking, Housing, and Urban Affairs
2 of the Senate.
3 (b) MORTGAGE SERVICING IMPROVEMENTS.—
4 (1) STUDY.—The Secretary of Housing and
5 Urban Development, in consultation with the Fed-
6 eral banking agencies, and the Federal Trade Com-
7 mission, shall conduct a comprehensive study on
8 means to improve the best practices of the mortgage
9 servicing industry, and Federal and State laws gov-
10 erning such industry.
11 (2) REPORT.—Before the end of the 18-month
12 period beginning on the date of the enactment of
13 this Act, the Secretary of Housing and Urban Devel-
14 opment shall submit a report on the study conducted
15 under this subsection to the Committee on Financial
16 Services of the House of Representatives and the
17 Committee on Banking, Housing, and Urban Affairs
18 of the Senate, together with such recommendations
19 for administrative or legislative action as the Sec-
20 retary, in consultation with the Board and the Com-
21 mission, may determine to be appropriate.
22 **SEC. 605. ESCROWS INCLUDED IN REPAYMENT ANALYSIS.**
23 (a) IN GENERAL.—Section 128(b) of the Truth in
24 Lending Act (15 U.S.C. 1638(b)) is amended by adding
25 at the end the following new paragraph:

1 "(4) REPAYMENT ANALYSIS REQUIRED TO IN-
2 CLUDE ESCROW PAYMENTS.—
3 "(A) IN GENERAL.—In the case of any
4 consumer credit transaction secured by a first
5 mortgage or lien on the principal dwelling of
6 the consumer, other than a consumer credit
7 transaction under an open end credit plan or a
8 reverse mortgage, for which an impound, trust,
9 or other type of account has been or will be es-
10 tablished in connection with the transaction for
11 the payment of property taxes, hazard and flood
12 (if any) insurance premiums, or other periodic
13 payments or premiums with respect to the
14 property, the information required to be pro-
15 vided under subsection (a) with respect to the
16 number, amount, and due dates or period of
17 payments scheduled to repay the total of pay-
18 ments shall take into account the amount of
19 any monthly payment to such account for each
20 such repayment in accordance with section
21 10(a)(2) of the Real Estate Settlement Proce-
22 dures Act of 1974.
23 "(B) ASSESSMENT VALUE.—The amount
24 taken into account under subparagraph (A) for
25 the payment of property taxes, hazard and flood

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

# 13 TITLE VII—APPRAISAL 14 ACTIVITIES

15 **SEC. 701. PROPERTY APPRAISAL REQUIREMENTS.**

16 Section 129 of the Truth in Lending Act (15 U.S.C.
17 1639) is amended by inserting after subsection (u) (as
18 added by section 303(f)) the following new subsection:

19 "(v) PROPERTY APPRAISAL REQUIREMENTS.—

20 "(1) IN GENERAL.—A creditor may not extend
21 credit in the form of a mortgage referred to in sec-
22 tion 103(aa) to any consumer without first obtaining
23 a written appraisal of the property to be mortgaged
24 prepared in accordance with the requirements of this
25 subsection.

1 "(2) APPRAISAL REQUIREMENTS.—
2 "(A) PHYSICAL PROPERTY VISIT.—An ap-
3 praisal of property to be secured by a mortgage
4 referred to in section 103(aa) does not meet the
5 requirement of this subsection unless it is per-
6 formed by a qualified appraiser who conducts a
7 physical property visit of the interior of the
8 mortgaged property.
9 "(B) SECOND APPRAISAL UNDER CERTAIN
10 CIRCUMSTANCES.—
11 "(i) IN GENERAL.—If the purpose of
12 a mortgage referred to in section 103(aa)
13 is to finance the purchase or acquisition of
14 the mortgaged property from a person
15 within 180 days of the purchase or acquisi-
16 tion of such property by that person at a
17 price that was lower than the current sale
18 price of the property, the creditor shall ob-
19 tain a second appraisal from a different
20 qualified appraiser. The second appraisal
21 shall include an analysis of the difference
22 in sale prices, changes in market condi-
23 tions, and any improvements made to the
24 property between the date of the previous
25 sale and the current sale.

1 "(ii) NO COST TO CONSUMER.—The
2 cost of any second appraisal required
3 under clause (i) may not be charged to the
4 consumer.
5 "(C) QUALIFIED APPRAISER DEFINED.—
6 For purposes of this subsection, the term
7 'qualified appraiser' means a person who—
8 "(i) is certified or licensed by the
9 State in which the property to be ap-
10 praised is located; and
11 "(ii) performs each appraisal in con-
12 formity with the Uniform Standards of
13 Professional Appraisal Practice and title
14 XI of the Financial Institutions Reform,
15 Recovery, and Enforcement Act of 1989,
16 and the regulations prescribed under such
17 title, as in effect on the date of the ap-
18 praisal.
19 "(3) FREE COPY OF APPRAISAL.—A creditor
20 shall provide 1 copy of each appraisal conducted in
21 accordance with this subsection in connection with a
22 mortgage referred to in section 103(aa) to the con-
23 sumer without charge, and at least 3 days prior to
24 the transaction closing date.

1 "(4) CONSUMER NOTIFICATION.—At the time
2 of the initial mortgage application, the consumer
3 shall be provided with a statement by the creditor
4 that any appraisal prepared for the mortgage is for
5 the sole use of the creditor, and that the consumer
6 may choose to have a separate appraisal conducted
7 at their own expense.
8 "(5) VIOLATIONS.—In addition to any other li-
9 ability to any person under this title, a creditor
10 found to have willfully failed to obtain an appraisal
11 as required in this subsection shall be liable to the
12 consumer for the sum of $2,000.".

13 **SEC. 702. UNFAIR AND DECEPTIVE PRACTICES AND ACTS**
14 **RELATING TO CERTAIN CONSUMER CREDIT**
15 **TRANSACTIONS.**

16 (a) IN GENERAL.—Chapter 2 of the Truth in Lend-
17 ing Act (15 U.S.C. 1631 et seq.) is amended by inserting
18 after section 129C (as added by section 601) the following
19 new section:

20 **"SEC. 129D. UNFAIR AND DECEPTIVE PRACTICES AND ACTS**
21 **RELATING TO CERTAIN CONSUMER CREDIT**
22 **TRANSACTIONS.**

23 "(a) IN GENERAL.—It shall be unlawful, in providing
24 any services for a consumer credit transaction secured by
25 the principal dwelling of the consumer, to engage in any

1 unfair or deceptive act or practice as described in or pur-
2 suant to regulations prescribed under this section.
3 "(b) APPRAISAL INDEPENDENCE.—For purposes of
4 subsection (a), unfair and deceptive practices shall in-
5 clude—
6 "(1) any appraisal of a property offered as se-
7 curity for repayment of the consumer credit trans-
8 action that is conducted in connection with such
9 transaction in which a person with an interest in the
10 underlying transaction compensates, coerces, extorts,
11 colludes, instructs, induces, bribes, or intimidates a
12 person conducting or involved in an appraisal, or at-
13 tempts, to compensate, coerce, extort, collude, in-
14 struct, induce, bribe, or intimidate such a person,
15 for the purpose of causing the appraised value as-
16 signed, under the appraisal, to the property to be
17 based on any factor other than the independent
18 judgment of the appraiser;
19 "(2) mischaracterizing, or suborning any
20 mischaracterization of, the appraised value of the
21 property securing the extension of the credit;
22 "(3) seeking to influence an appraiser or other-
23 wise to encourage a targeted value in order to facili-
24 tate the making or pricing of the transaction; and

1 "(4) failing to timely compensate an appraiser
2 for a completed appraisal regardless of whether the
3 transaction closes.
4 "(c) EXCEPTIONS.—The requirements of subsection
5 (b) shall not be construed as prohibiting a mortgage lend-
6 er, mortgage broker, mortgage banker, real estate broker,
7 appraisal management company, employee of an appraisal
8 management company, or any other person with an inter-
9 est in a real estate transaction from asking an appraiser
10 to provide 1 or more of the following services:
11 "(1) Consider additional, appropriate property
12 information, including the consideration of addi-
13 tional comparable properties to make or support an
14 appraisal.
15 "(2) Provide further detail, substantiation, or
16 explanation for the appraiser's value conclusion.
17 "(3) Correct errors in the appraisal report.
18 "(d) RULEMAKING PROCEEDINGS.—The Board, the
19 Comptroller of the Currency, the Director of the Office
20 of Thrift Supervision, the Federal Deposit Insurance Cor-
21 poration, the National Credit Union Administration
22 Board, and the Federal Trade Commission—
23 "(1) shall, for purposes of this section, jointly
24 prescribe regulations defining with specificity acts or
25 practices which are unfair or deceptive in the provi-

1 sion of mortgage lending services for a consumer
2 credit transaction secured by the principal dwelling
3 of the consumer or mortgage brokerage services for
4 such a transaction and defining any terms in this
5 section or such regulations; and
6 "(2) may jointly issue interpretive guidelines
7 and general statements of policy with respect to un-
8 fair or deceptive acts or practices in the provision of
9 mortgage lending services for a consumer credit
10 transaction secured by the principal dwelling of the
11 consumer and mortgage brokerage services for such
12 a transaction, within the meaning of subsections (a),
13 (b), and (c).
14 "(e) PENALTIES.—
15 "(1) FIRST VIOLATION.—In addition to the en-
16 forcement provisions referred to in section 130, each
17 person who violates this section shall forfeit and pay
18 a civil penalty of not more than $10,000 for each
19 day any such violation continues.
20 "(2) SUBSEQUENT VIOLATIONS.—In the case of
21 any person on whom a civil penalty has been im-
22 posed under paragraph (1), paragraph (1) shall be
23 applied by substituting '$20,000' for '$10,000' with
24 respect to all subsequent violations.

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

6 (b) CLERICAL AMENDMENT.—The table of sections
7 for chapter 2 of the Truth in Lending Act is amended
8 by inserting after the item relating to section 129C (as
9 added by section 601) the following new item:

"129D. Unfair and deceptive practices and acts relating to certain consumer credit transactions.".

10 **SEC. 703. APPRAISAL SUBCOMMITTEE OF FIEC, APPRAISER**
11 **INDEPENDENCE, AND APPROVED APPRAISER**
12 **EDUCATION.**

13 (a) CONSUMER PROTECTION MISSION.—

14 (1) PURPOSE.—A purpose for the establishment
15 and operation of the Appraisal Subcommittee of the
16 Financial Institutions Examination Council (here-
17 after in this section referred to as the "Appraisal
18 Subcommittee") shall be to establish a consumer
19 protection mandate.

20 (2) FUNCTIONS OF APPRAISAL SUB-
21 COMMITTEE.—It shall be a function of the Appraisal
22 Subcommittee to protect the consumer from im-
23 proper appraisal practices and the predations of un-
24 licensed appraisers.

1 (3) THRESHOLD LEVELS.—In establishing a
2 threshold level under section 1112(b) of the Finan-
3 cial Institutions Reform, Recovery, and Enforcement
4 Act of 1989 (12 U.S.C. 3341(b)), each agency shall
5 determine in writing that the threshold level provides
6 reasonable protection for consumers who purchase 1-
7 4 unit single-family residences.
8 (b) ANNUAL REPORT OF APPRAISAL SUB-
9 COMMITTEE.—The annual report of the Appraisal Sub-
10 committee under section 1103(a)(4) of Financial Institu-
11 tions Reform, Recovery, and Enforcement Act of 1989
12 shall detail the activities of the Appraisal Subcommittee,
13 including the results of all audits of State appraiser regu-
14 latory agencies, and provide an accounting of disapproved
15 actions and warnings taken in the previous year, including
16 a description of the conditions causing the disapproval.
17 (c) OPEN MEETINGS.—All meetings of the Appraisal
18 Subcommittee shall be held in public session after notice
19 in the Federal Register.
20 (d) REGULATIONS.—The Appraisal Subcommittee
21 may prescribe regulations after notice and opportunity for
22 comment. Any regulations prescribed by the Appraisal
23 Subcommittee shall (unless otherwise provided in this sec-
24 tion or title XI of the Financial Institutions Reform, Re-
25 covery, and Enforcement Act of 1989) be limited to the

1 following functions: temporary practice, national registry,
2 information sharing, and enforcement. For purposes of
3 prescribing regulations, the Appraisal Subcommittee shall
4 establish an advisory committee of industry participants,
5 including appraisers, lenders, consumer advocates, and
6 government agencies, and hold regular meetings.

7 (e) FIELD APPRAISALS AND APPRAISAL REVIEWS.—
8 All field appraisals performed at a property within a State
9 shall be prepared by appraisers licensed in the State where
10 the property is located. All Uniform Standards of Profes-
11 sional Appraisal Practice-compliant appraisal reviews shall
12 be performed by an appraiser who is duly licensed by a
13 State appraisal board.

14 (f) STATE AGENCY REPORTING REQUIREMENT.—
15 Each State with an appraiser certifying and licensing
16 agency whose certifications and licenses comply with title
17 XI of the Financial Institutions Reform, Recovery, and
18 Enforcement Act of 1989 shall transmit reports on sanc-
19 tions, disciplinary actions, license and certification revoca-
20 tions, and license and certification suspensions on a timely
21 basis to the national registry of the Appraisal Sub-
22 committee.

23 (g) REGISTRY FEES MODIFIED.—

24 (1) IN GENERAL.—The annual registry fees for
25 persons performing appraisals in federally related

1 transactions shall be increased from $25 to $40. The
2 maximum amount up to which the Appraisal Sub-
3 committee may adjust any registry fees shall be in-
4 creased from $50 to $80 per annum. The Appraisal
5 Subcommittee shall consider at least once every 5
6 years whether to adjust the dollar amount of the
7 registry fees to account for inflation. In imple-
8 menting any change in registry fees, the Appraisal
9 Subcommittee shall provide flexibility to the States
10 for multi-year certifications and licenses already in
11 place, as well as a transition period to implement the
12 changes in registry fees.
13 (2) INCREMENTAL REVENUES.—Incremental
14 revenues collected pursuant to the increases required
15 by this section shall be placed in a separate account
16 at the United States Treasury, entitled the Ap-
17 praisal Subcommittee Account.
18 (h) GRANTS AND REPORTS.—
19 (1) IN GENERAL.—Amounts appropriated for or
20 collected by the Appraisal Subcommittee after the
21 date of the enactment of this Act shall, in addition
22 to other uses authorized, be used—
23 (A) to make grants to State appraiser reg-
24 ulatory agencies to help defray those costs re-
25 lating to enforcement activities; and

1 (B) to report to all State appraiser certi-
2 fying and licensing agencies when a license or
3 certification is surrendered, revoked, or sus-
4 pended.
5 (2) LIMITATION ON OBLIGATIONS.—Obligations
6 authorized under this section may not exceed 75 per-
7 cent of the fiscal year total of incremental increase
8 in fees collected and deposited in the Appraisal Sub-
9 committee Account pursuant to section 703(g) of
10 this Act.
11 (i) CRITERIA.—
12 (1) DEFINITION.—For purposes of this section
13 and title XI of the Financial Institutions Reform,
14 Recovery, and Enforcement Act of 1989 (notwith-
15 standing section 1116(c) of such title), the term
16 "State licensed appraiser" means an individual who
17 has satisfied the requirements for State licensing in
18 a State or territory whose criteria for the licensing
19 of a real estate appraiser currently meet or exceed
20 the minimum criteria issued by the Appraisal Quali-
21 fications Board of The Appraisal Foundation for the
22 licensing of real estate appraisers.
23 (2) MINIMUM QUALIFICATION REQUIRE-
24 MENTS.—Any requirements established for individ-
25 uals in the position of "Trainee Appraiser" and "Su-

1 pervisory Appraiser'' shall meet or exceed the min-
2 imum qualification requirements of the Appraiser
3 Qualifications Board of The Appraisal Foundation.
4 The Appraisal Subcommittee shall have the author-
5 ity to enforce these requirements.
6 (j) MONITORING OF STATE APPRAISER CERTIFYING
7 AND LICENSING AGENCIES.—The Appraisal Sub-
8 committee shall monitor State appraiser certifying and
9 licencing agencies for the purpose of determining whether
10 a State agency's funding and staffing are consistent with
11 the requirements of title XI of the Financial Institutions
12 Reform, Recovery, and Enforcement Act of 1989, whether
13 a State agency processes complaints and completes exams
14 in a reasonable time period, and whether a State agency
15 reports claims and disciplinary actions on a timely basis
16 to the national registry maintained by the Appraisal Sub-
17 committee. The Appraisal Subcommittee shall have the
18 authority to impose interim sanctions and suspensions.
19 (k) RECIPROCITY.—A State appraiser certifying or li-
20 censing agency shall issue a reciprocal certification or li-
21 cense for an individual from another State when—
22 (1) the appraiser licensing and certification pro-
23 gram of such other State is in compliance with the
24 provisions of this title; and

1 (2) the appraiser holds a valid certification
2 from a State whose requirements for certification or
3 licensing meet or exceed the licensure standards es-
4 tablished by the State where an individual seeks ap-
5 praisal licensure.
6 (l) CONSIDERATION OF PROFESSIONAL APPRAISAL
7 DESIGNATIONS.—No provision of section 1122(d) of the
8 Financial Institutions Reform, Recovery, and Enforce-
9 ment Act of 1989 shall be construed as prohibiting consid-
10 eration of designations conferred by recognized national
11 professional appraisal organizations, such as sponsoring
12 organizations of The Appraisal Foundation.
13 (m) APPRAISER INDEPENDENCE.—
14 (1) PROHIBITIONS ON INTERESTED PARTIES IN
15 A REAL ESTATE TRANSACTION.—No mortgage lend-
16 er, mortgage broker, mortgage banker, real estate
17 broker, appraisal management company, employee of
18 an appraisal management company, nor any other
19 person with an interest in a real estate transaction
20 involving an appraisal shall improperly influence, or
21 attempt to improperly influence, through coercion,
22 extortion, collusion, compensation, instruction, in-
23 ducement, intimidation, non-payment for services
24 rendered, or bribery, the development, reporting, re-

1 sult, or review of a real estate appraisal sought in
2 connection with a mortgage loan.
3 (2) EXCEPTIONS.—The requirements of para-
4 graph (1) shall not be construed as prohibiting a
5 mortgage lender, mortgage broker, mortgage banker,
6 real estate broker, appraisal management company,
7 employee of an appraisal management company, or
8 any other person with an interest in a real estate
9 transaction from asking an appraiser to provide 1 or
10 more of the following services:
11 (A) Consider additional, appropriate prop-
12 erty information, including the consideration of
13 additional comparable properties to make or
14 support an appraisal.
15 (B) Provide further detail, substantiation,
16 or explanation for the appraiser's value conclu-
17 sion.
18 (C) Correct errors in the appraisal report.
19 (3) PROHIBITIONS ON CONFLICTS OF INTER-
20 EST.—No certified or licensed appraiser conducting
21 an appraisal may have a direct or indirect interest,
22 financial or otherwise, in the property or transaction
23 involving the appraisal.
24 (4) MANDATORY REPORTING.—Any mortgage
25 lender, mortgage broker, mortgage banker, real es-

1 tate broker, appraisal management company, em-
2 ployee of an appraisal management company, or any
3 other person with an interest in a real estate trans-
4 action involving an appraisal who has a reasonable
5 basis to believe an appraiser is violating applicable
6 laws, or is otherwise engaging in unethical conduct,
7 shall refer the matter to the applicable State ap-
8 praiser certifying and licensing agency.

9 (5) REGULATIONS.—The Federal financial in-
10 stitutions regulatory agencies (as defined in section
11 1003(1) of the Federal Financial Institutions Exam-
12 ination Council Act of 1978) shall prescribe such
13 regulations as may be necessary to carry out the
14 provisions of this subsection.

15 (6) PENALTIES.—Any person who violates any
16 provision of this subsection shall be subject to civil
17 penalties under section 8(i)(2) of the Federal De-
18 posit Insurance Act or section 206(k)(2) of the Fed-
19 eral Credit Union Act, as appropriate.

20 (7) PROCEEDING.—A proceeding with respect
21 to a violation of this subsection shall be an adminis-
22 trative proceeding which may be conducted by a
23 Federal financial institutions regulatory agency in
24 accordance with the procedures set forth in sub-

1 chapter II of chapter 5 of title 5, United States
2 Code.
3 (n) APPROVED EDUCATION.—The Appraisal Sub-
4 committee shall encourage the States to accept courses ap-
5 proved by the Appraiser Qualification Board's Course Ap-
6 proval Program.

7 **SEC. 704. STUDY REQUIRED ON IMPROVEMENTS IN AP-**
8 **PRAISAL PROCESS AND COMPLIANCE PRO-**
9 **GRAMS.**

10 (a) STUDY.—The Comptroller General shall conduct
11 a comprehensive study on possible improvements in the
12 appraisal process generally, and specifically on the consist-
13 ency in and the effectiveness of, and possible improve-
14 ments in, State compliance efforts and programs in ac-
15 cordance with title XI of the Financial Institutions Re-
16 form, Recovery, and Enforcement Act of 1989. In addi-
17 tion, this study shall examine the existing de minimis loan
18 levels established by Federal regulators for compliance
19 under title XI and whether there is a need to revise them
20 to reflect the addition of consumer protection to the pur-
21 poses and functions of the Appraisal Subcommittee.
22 (b) REPORT.—Before the end of the 18-month period
23 beginning on the date of the enactment of this Act, the
24 Comptroller General shall submit a report on the study
25 under subsection (a) to the Committee on Financial Serv-

1 ices of the House of Representatives and the Committee
2 on Banking, Housing, and Urban Affairs of the Senate,
3 together with such recommendations for administrative or
4 legislative action, at the Federal or State level, as the
5 Comptroller General may determine to be appropriate.

6 **SEC. 705. CONSUMER APPRAISAL DISCLOSURE.**

7 (a) IN GENERAL.—Chapter 2 of the Truth in Lend-
8 ing Act (15 U.S.C. 1631 et seq.) is amended by inserting
9 after section 129D (as added by section 702) the following
10 new section:

11 **"SEC. 129E. CONSUMER APPRAISAL DISCLOSURE.**

12 "In any case in which an appraisal is performed in
13 connection with an extension of credit secured by an inter-
14 est in real property, the creditor or other mortgage origi-
15 nator shall make available to the applicant for the exten-
16 sion of credit a copy of all appraisal valuation reports upon
17 completion but no later than 3 business days prior to the
18 transaction closing date.".

19 (b) CLERICAL AMENDMENT.—The table of sections
20 for chapter 2 of the Truth in Lending Act is amended
21 by inserting after the item relating to section 129D (as
22 added by section 702) the following new item:

"129E. Consumer appraisal disclosure.".