

AMENDMENT TO H.R. 1728, AS REPORTED
OFFERED BY MR. FRANK OF MASSACHUSETTS

In section 103(cc)(2) of the Truth in Lending Act (as added by section 101 of the bill), insert at the end the following: "All rule writing by the 'Federal banking agencies' as designated by the Mortgage Reform and Anti-Predatory Lending Act will be coordinated through the Financial Institutions Examination Council in consultation with the Chairman of the State Liaison Committee."

In section 103(cc)(3)(C) of the Truth in Lending Act (as added by section 101 of the bill), insert before the semicolon the following: "and who does not advise a consumer on loan terms (including rates, fees, and other costs)".

In section 103(cc)(3) of the Truth in Lending Act (as added by section 101 of the bill)—

- (1) in subparagraph (D), strike the final "and";
- (2) in subparagraph (E), strike the period at the end and insert "; and"; and
- (3) add at the end the following:

1 “(F) does not include a servicer or servicer
2 employees, agents and contractors, including
3 but not limited to those who offer or negotiate
4 terms of a residential mortgage loan for pur-
5 poses of renegotiating, modifying, replacing and
6 subordinating principal of existing mortgages
7 where borrowers are behind in their payments,
8 in default or have a reasonable likelihood of
9 being in default or falling behind.”.

In section 103(cc)(6) of the Truth in Lending Act
(as added by section 101 of the bill), strike “128(a)(f)
and 128(b)(4)” and insert “and 128(f)”.

In section 129B(c) of the Truth in Lending Act (as
added by section 103 of the bill), insert after paragraph
(1) the following (and redesignate succeeding paragraphs
accordingly):

10 “(2) RESTRUCTURING OF FINANCING ORIGINA-
11 TION FEE.—

12 “(A) IN GENERAL.—For any mortgage
13 loan, a mortgage originator may not arrange
14 for a consumer to finance through rate any
15 origination fee or cost except bona fide third
16 party settlement charges not retained by the
17 creditor or mortgage originator.

- 1 “(B) EXCEPTION.—Notwithstanding para-
- 2 graph subparagraph (A), a mortgage originator
- 3 may arrange for a consumer to finance through
- 4 rate an origination fee or cost if—
- 5 “(i) the mortgage originator does not
- 6 receive any other compensation from the
- 7 consumer except the compensation that is
- 8 financed through rate; and
- 9 “(ii) the mortgage is a qualified mort-
- 10 gage.”.

In section 129B(e)(3)(D) of the Truth in Lending Act (as added by section 103 of the bill), strike “rate or”.

In section 129B(e)(1) of the Truth in Lending Act (as added by section 105 of the bill), insert after “standards” the following: “necessary or proper to ensure that responsible, affordable mortgage credit remains available to consumers in a manner consistent with the purposes of this section and section 129B,”.

In section 129C(a)(4)(D)(ii) of the Truth in Lending Act (as added by section 201 of the bill), strike “the contract’s repayment schedule shall be used in this calculation” and insert the following: “the calculation shall be made (I) in accordance with regulations prescribed by

the Federal banking agencies, with respect to any loan which has an annual percentage rate that does not exceed the average prime offer rate for a comparable transaction, as of the date the interest rate is set, by 1.5 or more percentage points for a first lien residential mortgage loan; and by 3.5 or more percentage points for a subordinate lien residential mortgage loan; or (II) using the contract's repayment schedule, with respect to a loan which has an annual percentage rate, as of the date the interest rate is set, that is at least 1.5 percentage points above the average prime offer rate for a first lien residential mortgage loan; and 3.5 percentage points above the average prime offer rate for a subordinate lien residential mortgage loan”.

In section 129C(c)(2)(A)(iv)(I) of the Truth in Lending Act (as added by section 203 of the bill)—

(1) strike “does not exceed” and insert “is equal to or less than”; and

(2) strike the final “and”.

In section 129C(c)(2)(A)(iv)(II) of the Truth in Lending Act (as added by section 203 of the bill)—

(1) strike “exceeds” and insert “is more than”;
and

(2) strike the semicolon on the end and insert
“; and”.

In section 129C(c)(2)(A)(iv) of the Truth in Lending Act (as added by section 203 of the bill), add at the end the following:

1 “(III) by 3.5 or more percentage
2 points, in the case of a subordinate
3 lien residential mortgage loan;”.

In section 129C(c) of the Truth in Lending Act (as added by section 203 of the bill), in the header of paragraph (3), after “rate” insert the following: “and APR thresholds”.

In section 129C(c)(3) of the Truth in Lending Act (as added by section 203 of the bill)—

- (1) in subparagraph (A), strike the final “and”;
- (2) in subparagraph (B), strike the period and insert “; and”; and
- (3) add at the end the following:

4 “(C) shall adjust the thresholds of 1.50
5 percentage points in paragraph (2)(A)(iv)(I),
6 2.50 percentage points in paragraph
7 (2)(A)(iv)(II), and 3.50 percentage points in
8 paragraph (2)(A)(v)(III), as necessary to reflect
9 significant changes in market conditions and to
10 effectuate the purposes of the Mortgage Reform
11 and Anti-Predatory Lending Act.”.

In section 129C(c)(4)(B)(i) of the Truth in Lending Act (as added by section 203 of the bill), after “are” insert the following: “necessary or proper to ensure that responsible, affordable mortgage credit remains available to consumers in a manner consistent with the purposes of this section,”.

In section 129C(c)(4)(B)(ii) of the Truth in Lending Act (as added by section 203 of the bill), after “shall” insert the following: “, in consultation with the Federal banking agencies,”.

In section 129C(d)(1)(B) of the Truth in Lending Act (as added by section 204 of the bill), strike “creditor provides” and insert “creditor, acting in good faith,”.

In section 129C(d)(3) of the Truth in Lending Act (as added by section 204 of the bill), strike “and (b) shall” and insert “and (b), consistent with reasonable due diligence practices prescribed by the Federal banking agencies, shall”.

In section 129C(d)(10) of the Truth in Lending Act (as added by section 204 of the bill)—

(1) in the header, strike “Pools and” and insert “Trustees, pools, and”; and

(2) insert before “the pools of such loans” the following: “any trustee that holds such loans solely for the benefit of the securitization vehicle,”.

In section 129C(g)(2) of the Truth in Lending Act (as added by section 205 of the bill), after “designees,” insert the following: “subject to the rights of the consumer described in this subsection,”.

In section 129C(h) of the Truth in Lending Act (as added by section 206 of the bill), strike paragraph (3) (and redesignate succeeding paragraphs accordingly).

In section 129C(l)(1) of the Truth in Lending Act (as added by section 213 of the bill), strike “in section” and insert “under section”.

In section 129C(l)(2)(B) of the Truth in Lending Act (as added by section 213 of the bill)—

(1) strike “prohibit creditors” and insert “prohibit a creditor”; and

(2) strike “creditors are required” and insert “such creditor is required”.

In section 129C(l)(2)(C) of the Truth in Lending Act (as added by section 213 of the bill)—

(1) strike “require creditors” and insert “require a creditor”; and

(2) insert before the semicolon the following:

“by such creditor”.

In section 129C(1)(3)(A) of the Truth in Lending Act (as added by section 213 of the bill), after “authority to” insert the following: “jointly”.

In section 129C(1)(3)(B)(i) of the Truth in Lending Act (as added by section 213 of the bill), strike “mortgage lenders” and insert “creditors that make residential mortgage loans that are not qualified mortgages”.

In section 129C(1)(3)(B)(ii) of the Truth in Lending Act (as added by section 213 of the bill), strike “mortgage lenders” and insert “such creditors”.

In section 129C(1)(4) of the Truth in Lending Act (as added by section 213 of the bill)—

(1) in the heading, strike “securitization sponsors” and insert “securitizers”;

(2) strike “agencies shall have discretion to” and insert “agencies may jointly, in their discretion,”;

(3) strike “non-qualified mortgages in addition to or in place of creditors that make non-qualified mortgages if the agencies determine that applying the requirements to securitization sponsors rather than originators” and insert “residential mortgages

(or particular types of residential mortgages) that are not qualified mortgages in addition to or in substitution for any or all of the requirements that apply to creditors that make such mortgages if the agencies jointly determine that applying the requirements to such securitizers”;

(4) in subparagraph (A), strike “mortgage lenders” and insert “creditors of residential mortgage loans that are not qualified mortgages”; and

(5) in subparagraph (B)—

(A) strike “mortgage lenders, or” and insert “such creditors,”; and

(B) before the period, insert “, or otherwise serve the public interest”.

Strike section 214(b).

In section 130(e) of the Truth in Lending Act (as amended by section 219 of the bill), strike “section 219” and insert “section 220”.

In section 103(aa)(4)(B) of the Truth in Lending Act (as amended by section 301(c) of the bill)—

(1) strike “broker” and insert “originator”; and

(2) strike “the originator” and insert “the creditor”.

In section 103(dd) of the Truth in Lending Act (as added by section 301(d) of the bill)—

(1) in the header, strike “and prepayment penalties”;

(2) in the matter preceding paragraph (1)—

(A) strike “(4)” and insert “(2)”;

(B) strike “may” and insert “shall”;

(3) redesignate paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(4) in paragraph (4), as redesignated by paragraph (3), strike “paragraph (1)” and insert “paragraphs (1) and (2)”;

(5) strike paragraph (1) and insert the following:

- 1 “(1) Up to and including 2 bona fide discount
2 points payable by the consumer in connection with
3 the mortgage, but only if the interest rate from
4 which the mortgage’s interest rate will be discounted
5 does not exceed by more than 1 percentage point—
6 “(A) the required net yield for a 90-day
7 standard mandatory delivery commitment for a
8 reasonably comparable loan from either the
9 Federal National Mortgage Association or the
10 Federal Home Loan Mortgage Corporation,
11 whichever is greater; or

1 “(B) if secured by a personal property
2 loan, the average rate on a loan in connection
3 with which insurance is provided under title I
4 of the National Housing Act (12 U.S.C. 1702
5 et seq.).

6 “(2) Unless 2 bona fide discount points have
7 been excluded under paragraph (1), up to and in-
8 cluding 1 bona fide discount point payable by the
9 consumer in connection with the mortgage, but only
10 if the interest rate from which the mortgage’s inter-
11 est rate will be discounted does not exceed by more
12 than 2 percentage points—

13 “(A) the required net yield for a 90-day
14 standard mandatory delivery commitment for a
15 reasonably comparable loan from either the
16 Federal National Mortgage Association or the
17 Federal Home Loan Mortgage Corporation,
18 whichever is greater; or

19 “(B) if secured by a personal property
20 loan, the average rate on a loan in connection
21 with which insurance is provided under title I
22 of the National Housing Act (12 U.S.C. 1702
23 et seq.).”.

In section 6(l)(1)(B) of the Real Estate Settlement Procedures Act of 1974 (as added by section 503 of the bill), strike “clauses” and insert “clause”.

In section 129D(b) of the Truth in Lending Act (as added by section 501 of the bill), amend paragraph (3) to read as follows:

1 “(3) the transaction is secured by a first lien
2 residential mortgage loan having an original prin-
3 cipal obligation amount that—

4 “(A) does not exceed the amount of the
5 maximum limitation on the original principal
6 obligation of mortgage in effect for a residence
7 of the applicable size, as of the date such inter-
8 est rate set, pursuant to the sixth sentence of
9 section 305(a)(2) the Federal Home Loan
10 Mortgage Corporation Act (12 U.S.C.
11 1454(a)(2)), and the annual percentage rate
12 will exceed the average prime offer rate for a
13 comparable transaction by 1.5 or more percent-
14 age point; or

15 “(B) exceeds the amount of the maximum
16 limitation on the original principal obligation of
17 mortgage in effect for a residence of the appli-
18 cable size, as of the date such interest rate set,
19 pursuant to the sixth sentence of section

1 305(a)(2) the Federal Home Loan Mortgage
2 Corporation Act (12 U.S.C. 1454(a)(2)), and
3 the annual percentage rate will exceed the aver-
4 age prime offer rate for a comparable trans-
5 action by 2.5 or more percentage point; or”.

 Redesignate section 128(b)(5) of the Truth in Lend-
ing Act (as added by section 505 of the bill) as section
128(b)(4) of the Truth in Lending Act.

 Section 601 is amended to read as follows:

6 **SEC. 601. PROPERTY APPRAISAL REQUIREMENTS.**

7 Chapter 2 of the Truth in Lending Act (15 U.S.C.
8 1631 et seq.) is amended by inserting after 129G (as
9 added by section 504) the following new section:

10 **“SEC. 129H PROPERTY APPRAISAL REQUIREMENTS.**

11 “(a) IN GENERAL.—A creditor may not extend credit
12 in the form of a subprime mortgage to any consumer with-
13 out first obtaining a written appraisal of the property to
14 be mortgaged prepared in accordance with the require-
15 ments of this section.

16 “(b) APPRAISAL REQUIREMENTS.—

17 “(1) PHYSICAL PROPERTY VISIT.—An appraisal
18 of property to be secured by a subprime mortgage
19 does not meet the requirement of this section unless
20 it is performed by a qualified appraiser who con-

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

3 “(2) SECOND APPRAISAL UNDER CERTAIN CIR-
4 CUMSTANCES.—

5 “(A) IN GENERAL.—If the purpose of a
6 subprime mortgage is to finance the purchase
7 or acquisition of the mortgaged property from
8 a person within 180 days of the purchase or ac-
9 quisition of such property by that person at a
10 price that was lower than the current sale price
11 of the property, the creditor shall obtain a sec-
12 ond appraisal from a different qualified ap-
13 praiser. The second appraisal shall include an
14 analysis of the difference in sale prices, changes
15 in market conditions, and any improvements
16 made to the property between the date of the
17 previous sale and the current sale.

18 “(B) NO COST TO APPLICANT.—The cost
19 of any second appraisal required under clause
20 (i) may not be charged to the applicant.

21 “(3) QUALIFIED APPRAISER DEFINED.—For
22 purposes of this section, the term ‘qualified ap-
23 praiser’ means a person who—

1 “(A) is, at a minimum, certified or licensed
2 by the State in which the property to be ap-
3 praised is located; and

4 “(B) performs each appraisal in con-
5 formity with the Uniform Standards of Profes-
6 sional Appraisal Practice and title XI of the Fi-
7 nancial Institutions Reform, Recovery, and En-
8 forcement Act of 1989, and the regulations pre-
9 scribed under such title, as in effect on the date
10 of the appraisal.

11 “(c) FREE COPY OF APPRAISAL.—A creditor shall
12 provide 1 copy of each appraisal conducted in accordance
13 with this section in connection with a subprime mortgage
14 to the applicant without charge, and at least 3 days prior
15 to the transaction closing date.

16 “(d) CONSUMER NOTIFICATION.—At the time of the
17 initial mortgage application, the applicant shall be pro-
18 vided with a statement by the creditor that any appraisal
19 prepared for the mortgage is for the sole use of the cred-
20 itor, and that the applicant may choose to have a separate
21 appraisal conducted at their own expense.

22 “(e) VIOLATIONS.—In addition to any other liability
23 to any person under this title, a creditor found to have
24 willfully failed to obtain an appraisal as required in this

1 section shall be liable to the applicant or borrower for the
2 sum of \$2,000.

3 “(f) SUBPRIME MORTGAGE DEFINED.—For purposes
4 of this section, the term ‘subprime mortgage’ means a res-
5 idential mortgage loan secured by a principal dwelling with
6 an annual percentage rate that exceeds the average prime
7 offer rate for a comparable transaction, as of the date the
8 interest rate is set—

9 “(1) by 1.5 or more percentage points, in the
10 case of a first lien residential mortgage loan having
11 an original principal obligation amount that does not
12 exceed the amount of the maximum limitation on the
13 original principal obligation of mortgage in effect for
14 a residence of the applicable size, as of the date of
15 such interest rate set, pursuant to the sixth sentence
16 of section 305(a)(2) the Federal Home Loan Mort-
17 gage Corporation Act (12 U.S.C. 1454(a)(2)); and

18 “(2) by 3.5 or more percentage points for a
19 subordinate lien residential mortgage loan .”.

In section 603, amend the header to read as follows:

“Amendments relating to Appraisal Subcommittee of
FIEC, Appraiser Independence Monitoring, Approved
Appraiser Education, Appraisal Management Companies,
Appraiser Complaint Hotline, Automated Valuation Mod-
els, and Broker Price Opinions”.

In the header of section 603(e), strike "Field".

In section 1121 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (as added by section 603(e)(4) of the bill), strike "10 certified" and insert "15 certified".

In section 1125(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (as added by section 603(q) of the bill), after "member agencies" insert the following: ", in consultation with the Appraisal Standards Board of the Appraisal Foundation and other interested parties,".

In section 1125(c)(1) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (as added by section 603(q) of the bill), strike "institution or regulatory" and insert "institution regulatory".

