Revised 37

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(b)(4)(A) of the Truth in Lending Act (as added by section 102 of the bill), strike ", the Chairman of the State Liaison Committee to the Financial Institutions Examination Council,".

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

1 for a consumer to finance through rate any
2 origination fee or cost except bona fide third
3 party settlement charges not retained by the
4 creditor or mortgage originator.
5 "(B) EXCEPTION.—Notwithstanding para-
6 graph subparagraph (A), a mortgage originator
7 may arrange for a consumer to finance through
8 rate an origination fee or cost if—
9 "(i) the mortgage originator does not
10 receive any other compensation from the
11 consumer except the compensation that is
12 financed through rate; and
13 "(ii) the mortgage is a qualified mort-
14 gage.".

In section 129B(c)(2) of the Truth in Lending Act (as added by section 103 of the bill)—

(1) in subparagraph (C), strike the final "and";

(2) in subparagraph (D), strike the period and insert "; and"; and

(3) add at the end the following new subparagraph:

15 "(E) mortgage originators from—
16 "(i) mischaracterizing the credit his-
17 tory of a consumer or the residential mort-
18 gage loans available to a consumer;

1 "(ii) mischaracterizing or suborning
2 the mischaracterization of the appraised
3 value of the property securing the exten-
4 sion of credit; or
5 "(iii) if unable to suggest, offer, or
6 recommend to a consumer a loan that is
7 not more expensive than a loan for which
8 the consumer qualifies, discouraging a con-
9 sumer from seeking a home mortgage loan
10 secured by a consumer's principal dwelling
11 from another mortgage originator.".

In section 129B(c)(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,".

Section 106 is amended by inserting after subsection (e) the following new subsection:

12 (f) STANDARDIZED DISCLOSURE FORMS.—

1 (1) IN GENERAL.—Any regulations proposed or
2 issued pursuant to the requirements of this section
3 shall include model disclosure forms.
4 (2) OPTION FOR MANDATORY USE.—In issuing
5 proposed regulations under subsection (a), the Sec-
6 retary of Housing and Urban Development and the
7 Board of Governors of the Federal Reserve System
8 shall include regulations for the mandatory use of
9 standardized disclosure forms if they jointly deter-
10 mine that it would substantially benefit the con-
11 sumer.

At the end of title I, add the following new section:

12 **SEC. 107. STUDY OF SHARED APPRECIATION MORTGAGES.**
13 (a) STUDY.—The Secretary of Housing and Urban
14 Development, in consultation with the Secretary of the
15 Treasury and other relevant agencies, shall conduct a com-
16 prehensive study to determine prudent statutory and regu-
17 latory requirements sufficient to provide for the wide-
18 spread use of shared appreciation mortgages to strengthen
19 local housing markets, provide new opportunities for af-
20 fordable homeownership, and enable homeowners at-risk
21 of foreclosure to refinance or modify their mortgages.
22 (b) REPORT.—Not later than the expiration of the
23 6-month period beginning on the date of the enactment
24 of this Act, the Secretary of Housing and Urban Develop-

1 ment shall submit a report to the Congress on the results
2 of the study, which shall include recommendations for the
3 regulatory and legislative requirements referred to in sub-
4 section (a).

In paragraph (4) of section 129C(a) of the Truth in Lending Act (as added by section 201(a) of the bill), insert after subparagraph (D) the following new subparagraph:

5 "(E) REFINANCE OF HYBRID LOANS WITH
6 CURRENT LENDER.—In considering any appli-
7 cation for refinancing an existing hybrid loan
8 by the creditor into a standard loan to be made
9 by the same creditor in any case in which the
10 sole net-tangible benefit to the mortgagor would
11 be a reduction in monthly payment and the
12 mortgagor has not been delinquent on any pay-
13 ment on the existing hybrid loan, the creditor
14 may—
15 "(i) consider the mortgagor's good
16 standing on the existing mortgage;
17 "(ii) consider if the extension of new
18 credit would prevent a likely default should
19 the original mortgage reset and give such
20 concerns a higher priority as an acceptable
21 underwriting practice; and

1 "(iii) offer rate discounts and other
2 favorable terms to such mortgagor that
3 would be available to new customers with
4 high credit ratings based on such under-
5 writing practice.".

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:

1 "(C) shall adjust the thresholds of 1.50
2 percentage points in paragraph (2)(A)(iv)(I),
3 2.50 percentage points in paragraph
4 (2)(A)(iv)(II), and 3.50 percentage points in
5 paragraph (2)(A)(v)(III), as necessary to reflect
6 significant changes in market conditions and to
7 effectuate the purposes of the Mortgage Reform
8 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 206, insert at the end the following new subsections:

1 (c) PROTECTION AGAINST LOSS OF ANTI-DEFI-
2 CIENCY PROTECTION.—Section 129C of the Truth in
3 Lending Act is amended by inserting after subsection (k)

1 (as added by subsection (a) of this section) the following
2 new subsection (and designated succeeding subsections ac-
3 cordingly):

4 "(l) PROTECTION AGAINST LOSS OF ANTI-DEFI-
5 CIENCY PROTECTION.—

6 "(1) DEFINITION.—For purposes of this sub-
7 section, the term 'anti-deficiency law' means the law
8 of any State which provides that, in the event of
9 foreclosure on the residential property of a consumer
10 securing a mortgage, the consumer is not liable, in
11 accordance with the terms and limitations of such
12 State law, for any deficiency between the sale price
13 obtained on such property through foreclosure and
14 the outstanding balance of the mortgage.

15 "(2) NOTICE AT TIME OF CONSUMMATION.—In
16 the case of any residential mortgage loan that is, or
17 upon consummation will be, subject to protection
18 under an anti-deficiency law, the creditor or mort-
19 gage originator shall provide a written notice to the
20 consumer describing the protection provided by the
21 anti-deficiency law and the significance for the con-
22 sumer of the loss of such protection before such loan
23 is consummated.

24 "(3) NOTICE BEFORE REFINANCING THAT
25 WOULD CAUSE LOSS OF PROTECTION.—In the case

1 of any residential mortgage loan that is subject to
2 protection under an anti-deficiency law, if a creditor
3 or mortgage originator provides an application to a
4 consumer, or receives an application from a con-
5 sumer, for any type of refinancing for such loan that
6 would cause the loan to lose the protection of such
7 anti-deficiency law, the creditor or mortgage origi-
8 nator shall provide a written notice to the consumer
9 describing the protection provided by the anti-defi-
10 ciency law and the significance for the consumer of
11 the loss of such protection before any agreement for
12 any such refinancing is consummated.".

13 (d) POLICY REGARDING ACCEPTANCE OF PARTIAL
14 PAYMENT.—Section 129C of the Truth in Lending Act
15 is amended by inserting after subsection (l) the following
16 new subsection (and redesignating subsequent subsections
17 of such section accordingly):

18 "(m) POLICY REGARDING ACCEPTANCE OF PARTIAL
19 PAYMENT.—In the case of any residential mortgage loan,
20 a creditor shall disclose prior to settlement or, in the case
21 of a person becoming a creditor with respect to an existing
22 residential mortgage loan, at the time such person be-
23 comes a creditor—

24 "(1) the creditor's policy regarding the accept-
25 ance of partial payments; and

1 "(2) if partial payments are accepted, how such
2 payments will be applied to such mortgage and if
3 such payments will be placed in escrow;".

In section 208(b)—

(1) in paragraph (3)(B), strike the final "or";

(2) in paragraph (4), strike the period on the end and insert "; or"; and

(3) add at the end the following new paragraph:

4 (5) notwithstanding paragraph (2), the avail-
5 ability of any remedies under State law against any
6 assignee, securitizer or securitization vehicle that—
7 (A) are in addition to those remedies pro-
8 vided for in section 129C; and
9 (B) were in effect on the date of enactment
10 of this Act.

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(l)(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(l)(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(l)(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(l)(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".

After section 128(a)(18) of the Truth in Lending Act (as added by section 214(a) of the bill) add the following:

1 "(19) In the case of a residential mortgage
2 loan, the total amount of interest that the consumer
3 will pay over the life of the loan as a percentage of

1 the principal of the loan. Such amount shall be com-
2 puted assuming the consumer makes each monthly
3 payment in full and on-time, and does not make any
4 over-payments.".

Strike section 214(b).

In subsection (f)(1) of section 128 of the Truth in Lending Act (as added by section 215 of the bill), insert after subparagraph (F) the following new subparagraph (and redesignate the subsequent subparagraph accordingly):

5 "(G) The names, addresses, telephone
6 numbers, and Internet addresses of counseling
7 agencies or programs reasonably available to
8 the consumer that have been certified or ap-
9 proved and made publicly available by the Sec-
10 retary of Housing and Urban Development or a
11 State housing finance authority (as defined in
12 section 1301 of the Financial Institutions Re-
13 form, Recovery, and Enforcement Act of
14 1989).".

In subsection (c) of section 218, insert ", including an analysis of the exceptions and adjustments authorized in section 129C(l)(3)(A) of the Truth in Lending Act and

a recommendation on whether a uniform standard is needed" before the period at the end.

At the end of section 218, insert the following new subsection:

1 (d) ANALYSIS OF CREDIT RISK RETENTION PROVI-
2 SIONS.—The report required by subsection (b) shall also
3 include—
4 (1) an analysis by the Comptroller General of
5 whether the credit risk retention provisions have sig-
6 nificantly reduced risks to the larger credit market
7 of the repackaging and selling of securitized loans on
8 a secondary market; and
9 (2) recommendations to the Congress on adjust-
10 ments that should be made, or additional measures
11 that should be undertaken.

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 220 of the bill, insert after subsection (b) the following new subsection (and redesignate succeeding subsections accordingly):

12 (c) LANDLORD NOTICE TO TENANTS.—Notwith-
13 standing the law of any State or the terms of any con-

1 sumer residential lease, each person who owns a dwelling
2 or residential real property—
3 (1) which is leased to a bona fide tenant (in-
4 cluding a tenancy terminable at will), or which the
5 landlord offers to lease to a prospective tenant; and
6 (2) which, pursuant to the terms of a valid loan
7 to such person which is secured by such dwelling or
8 property, is or becomes subject to foreclosure or with
9 respect to which the person is in default,
10 shall promptly notify any such tenant or prospective ten-
11 ant of the circumstances prevailing with respect to such
12 property and the effect of any such default or foreclosure.
13 The requirements of this subsection shall have no effect
14 on any State or local law that provides additional notice
15 or other additional protections for tenants.

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)"; and

(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)"; and

(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
12 "(B) if secured by a personal property
13 loan, the average rate on a loan in connection
14 with which insurance is provided under title I
15 of the National Housing Act (12 U.S.C. 1702
16 et seq.).

1 "(2) Unless 2 bona fide discount points have
2 been excluded under paragraph (1), up to and in-
3 cluding 1 bona fide discount point payable by the
4 consumer in connection with the mortgage, but only
5 if the interest rate from which the mortgage's inter-
6 est rate will be discounted does not exceed by more
7 than 2 percentage points—
8 "(A) the required net yield for a 90-day
9 standard mandatory delivery commitment for a
10 reasonably comparable loan from either the
11 Federal National Mortgage Association or the
12 Federal Home Loan Mortgage Corporation,
13 whichever is greater; or
14 "(B) if secured by a personal property
15 loan, the average rate on a loan in connection
16 with which insurance is provided under title I
17 of the National Housing Act (12 U.S.C. 1702
18 et seq.).".

In subsection (r) of section 129 of the Truth in Lending Act, as added by section 303(c) of the bill, strike "DEFERRAL FEES PROHIBITED.—A creditor" and insert "DEFERRAL FEES PROHIBITED.—

"(1) CREDITORS.—A creditor".

At the end of paragraph (1) of subsection (r) of section 129 of the Truth in Lending Act, (as so designated by the preceding amendment) insert the following new paragraphs:

1 "(2) THIRD PARTIES.— A third-party may not
2 charge a consumer any fee to—
3 "(A) modify, renew, extend, or amend a
4 high-cost mortgage, or defer any payment due
5 under the terms of such mortgage;
6 "(B) negotiate with a creditor on behalf of
7 a consumer, the modification, renewal, exten-
8 sion, or amendment of a high-cost mortgage; or
9 "(C) negotiate with a creditor on behalf of
10 a consumer, the deferral of any payment due
11 under the terms of such mortgage,
12 unless the modification renewal, extension or amend-
13 ment results in a significantly lower annual percent-
14 age rate on the mortgage, or a significant reduction
15 in the amount of the outstanding principal on the
16 mortgage, for the consumer and then only if the
17 amount of the fee is comparable to fees imposed for
18 similar transactions in connection with consumer
19 credit transactions that are secured by a consumer's
20 principal dwelling and are not high-cost mortgages.

1 "(3) ENFORCEMENT.—Section 130 shall be ap-
2 plied for purposes of paragraph (2) by—
3 "(A) substituting 'third party' for
4 'creditor'each place such term appears; and
5 "(B) substituting 'any fee charged by a
6 third party' for 'finance charge' each place such
7 term appears.".

In subsection (g)(3)(B)(ix) of section 4 of the Department of Housing and Urban Development Act (as added by section 402) insert ", including underdeveloped areas that lack basic water and sewer systems, electricity services, and safe, sanitary housing" before the period at the end.

In the matter proposed to be inserted by the amendment made by section 403(a) of the bill, in subsection (g)(1)(B)(xi), strike "and" after the semicolon.

In the matter proposed to be inserted by the amendment made by section 403(a) of the bill, in subsection (g)(1)(B)(xii), strike the period at the end and insert "; and".

In the matter proposed to be inserted by the amendment made by section 403(a) of the bill, after clause (xii) of subsection (g)(1)(B) add the following:

1 "(xiii) section 106 of the Energy Pol-
2 icy Act of 1992 (42 U.S.C. 12712 note).".

In the matter proposed to be inserted by the amendment made by section 403(a) of the bill, in subsection (g)(5), strike "and home repair loans" and insert the following: "home repair loans, and where appropriate by region, any requirements and costs associated with obtaining flood or other disaster-specific insurance coverage".

In subparagraph (C) of paragraph (4) of the matter proposed to be inserted by the amendment made by section 404 of the bill, before the period at the end insert the following: "and that ensures adequate distribution of amounts for rural areas having traditionally low levels of access to such counseling services, including areas with insufficient access to the Internet".

In section 406, insert ", and the role of computer registries of mortgages, including those used for trading mortgage loans" before the period at the end of the 2nd sentence.

After section 406, insert the following new section (and redesignate succeeding sections in title IV accordingly):

1 **SEC. 407. DEFAULT AND FORECLOSURE DATABASE.**

2 (a) ESTABLISHMENT.—The Secretary of Housing
3 and Urban Development, in consultation with the Federal
4 agencies responsible for regulation of banking and finan-
5 cial institutions involved in residential mortgage lending
6 and servicing, shall establish and maintain a database of
7 information on foreclosures and defaults on mortgage
8 loans for one- to four-unit residential properties and shall
9 make such information publicly available.

10 (b) CENSUS TRACT DATA.—Information in the data-
11 base shall be collected, aggregated, and made available on
12 a census tract basis.

13 (c) REQUIREMENTS.—Information collected and
14 made available through the database shall include—

15 (1) the number and percentage of such mort-
16 gage loans that are delinquent by more than 30
17 days;

18 (2) the number and percentage of such mort-
19 gage loans that are delinquent by more than 90
20 days;

21 (3) the number and percentage of such prop-
22 erties that are real estate-owned;

23 (4) number and percentage of such mortgage
24 loans that are in the foreclosure process;

25 (5) the number and percentage of such mort-
26 gage loans that have an outstanding principal obli-

1 gation amount that is greater than the value of the
2 property for which the loan was made; and
3 (6) such other information as the Secretary
4 considers appropriate.

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:

5 "(3) the transaction is secured by a first mort-
6 gage or lien on the consumer's principal dwelling
7 having an original principal obligation amount
8 that—
9 "(A) does not exceed the amount of the
10 maximum limitation on the original principal
11 obligation of mortgage in effect for a residence
12 of the applicable size, as of the date such inter-
13 est rate set, pursuant to the sixth sentence of
14 section 305(a)(2) the Federal Home Loan
15 Mortgage Corporation Act (12 U.S.C.
16 1454(a)(2)), and the annual percentage rate
17 will exceed the average prime offer rate for a

1 comparable transaction by 1.5 or more percent-
2 age points; or
3 "(B) exceeds the amount of the maximum
4 limitation on the original principal obligation of
5 mortgage in effect for a residence of the appli-
6 cable size, as of the date such interest rate set,
7 pursuant to the sixth sentence of section
8 305(a)(2) the Federal Home Loan Mortgage
9 Corporation Act (12 U.S.C. 1454(a)(2)), and
10 the annual percentage rate will exceed the aver-
11 age prime offer rate for a comparable trans-
12 action by 2.5 or more percentage points; or".

Redesignate section 128(b)(5) of the Truth in Lending 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:

13 **SEC. 601. PROPERTY APPRAISAL REQUIREMENTS.**
14 Chapter 2 of the Truth in Lending Act (15 U.S.C.
15 1631 et seq.) is amended by inserting after 129G (as
16 added by section 504) the following new section:
17 **"SEC. 129H PROPERTY APPRAISAL REQUIREMENTS.**
18 "(a) IN GENERAL.—A creditor may not extend credit
19 in the form of a subprime mortgage to any consumer with-
20 out first obtaining a written appraisal of the property to

1 be mortgaged prepared in accordance with the require-
2 ments of this section.
3 "(b) APPRAISAL REQUIREMENTS.—
4 "(1) PHYSICAL PROPERTY VISIT.—An appraisal
5 of property to be secured by a subprime mortgage
6 does not meet the requirement of this section unless
7 it is performed by a qualified appraiser who con-
8 ducts a physical property visit of the interior of the
9 mortgaged property.
10 "(2) SECOND APPRAISAL UNDER CERTAIN CIR-
11 CUMSTANCES.—
12 "(A) IN GENERAL.—If the purpose of a
13 subprime mortgage is to finance the purchase
14 or acquisition of the mortgaged property from
15 a person within 180 days of the purchase or ac-
16 quisition of such property by that person at a
17 price that was lower than the current sale price
18 of the property, the creditor shall obtain a sec-
19 ond appraisal from a different qualified ap-
20 praiser. The second appraisal shall include an
21 analysis of the difference in sale prices, changes
22 in market conditions, and any improvements
23 made to the property between the date of the
24 previous sale and the current sale.

1 "(B) NO COST TO APPLICANT.—The cost
2 of any second appraisal required under sub-
3 paragraph (A) may not be charged to the appli-
4 cant.
5 "(3) QUALIFIED APPRAISER DEFINED.—For
6 purposes of this section, the term 'qualified ap-
7 praiser' means a person who—
8 "(A) is, at a minimum, certified or licensed
9 by the State in which the property to be ap-
10 praised is located; and
11 "(B) performs each appraisal in con-
12 formity with the Uniform Standards of Profes-
13 sional Appraisal Practice and title XI of the Fi-
14 nancial Institutions Reform, Recovery, and En-
15 forcement Act of 1989, and the regulations pre-
16 scribed under such title, as in effect on the date
17 of the appraisal.
18 "(c) FREE COPY OF APPRAISAL.—A creditor shall
19 provide 1 copy of each appraisal conducted in accordance
20 with this section in connection with a subprime mortgage
21 to the applicant without charge, and at least 3 days prior
22 to the transaction closing date.
23 "(d) CONSUMER NOTIFICATION.—At the time of the
24 initial mortgage application, the applicant shall be pro-
25 vided with a statement by the creditor that any appraisal

1 prepared for the mortgage is for the sole use of the cred-
2 itor, and that the applicant may choose to have a separate
3 appraisal conducted at their own expense.

4 "(e) VIOLATIONS.—In addition to any other liability
5 to any person under this title, a creditor found to have
6 willfully failed to obtain an appraisal as required in this
7 section shall be liable to the applicant or borrower for the
8 sum of $2,000.

9 "(f) SUBPRIME MORTGAGE DEFINED.—For purposes
10 of this section, the term 'subprime mortgage' means a res-
11 idential mortgage loan secured by a principal dwelling with
12 an annual percentage rate that exceeds the average prime
13 offer rate for a comparable transaction, as of the date the
14 interest rate is set—

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

24 "(2) by 2.5 or more percentage points, in the
25 case of a first lien residential mortgage loan having

1 an original principal obligation amount that exceeds
2 the amount of the maximum limitation on the origi-
3 nal principal obligation of mortgage in effect for a
4 residence of the applicable size, as of the date of
5 such interest rate set, pursuant to the sixth sentence
6 of section 305(a)(2) the Federal Home Loan Mort-
7 gage Corporation Act (12 U.S.C. 1454(a)(2)); and
8 "(3) by 3.5 or more percentage points for a
9 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 Models, and Broker Price Opinions".

Strike section 603(a)(2)(B) (and redesignate succeeding subparagraphs accordingly).

In section 1103(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (as amended by sections 603(a) and 603(b) of the bill)—

(1) in paragraph (5), strike "; and" and insert a period; and

(2) strike paragraph (4) and redesignate paragraph (6) as paragraph (4).

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".

In section 1126 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (as added by section 603(r) of the bill), strike subsections (a), (b), and (c), and insert the following:

1 "(a) GENERAL PROHIBITION.—In conjunction with
2 the purchase of a consumer's principal dwelling, broker
3 price opinions may not be used as the primary basis to
4 determine the value of a piece of property for the purpose

1 of a loan origination of a residential mortgage loan se-
2 cured by such piece of property.

3 "(b) BROKER PRICE OPINION DEFINED.—For pur-
4 poses of this section, the term 'broker price opinion' means
5 an estimate prepared by a real estate broker, agent, or
6 sales person that details the probable selling price of a
7 particular piece of real estate property and provides a
8 varying level of detail about the property's condition, mar-
9 ket, and neighborhood, and information on comparable
10 sales, but does not include an automated valuation model,
11 as defined in section 1125(c).".

In section 604, add at the end the following:

12 (c) ADDITIONAL STUDY REQUIRED.—The Comp-
13 troller General shall conduct an additional study to deter-
14 mine the effects that the changes to the seller-guide ap-
15 praisal requirements of Fannie Mae and Freddie Mac con-
16 tained in the Home Valuation Code of Conduct have on
17 small business, like mortgage brokers and independent ap-
18 praisers, and consumers, including the effect on the—

19 (1) quality and costs of appraisals;

20 (2) length of time for obtaining appraisals;

21 (3) impact on consumer protection, especially
22 regarding maintaining appraisal independence, abat-
23 ing appraisal inflation, and mitigating acts of ap-
24 praisal fraud;

1 (4) structure of the appraisal industry, espe-
2 cially regarding appraisal management companies,
3 fee-for-service appraisers, and the regulation of ap-
4 praisal management companies by the states; and
5 (5) impact on mortgage brokers and other small
6 business professionals in the financial services indus-
7 try.
8 (d) ADDITIONAL REPORT.—Before the end of the 6-
9 month period beginning on the date of the enactment of
10 this Act, the Comptroller General shall submit an addi-
11 tional report to the Committee on Financial Services of
12 the House of Representatives and the Committee on
13 Banking, Housing, and Urban Affairs of the Senate con-
14 taining the findings and conclusions of the Comptroller
15 General with respect to the study conducted pursuant to
16 subsection (c). Such additional report shall take into con-
17 sideration the Small Business Administration's views on
18 how small businesses are affected by the Home Valuation
19 Code of Conduct.

Insert after title VII the following new title (and conform the table of contents accordingly):

TITLE VIII—REPORTS

SEC. 801. GAO STUDY REPORT ON GOVERNMENT EFFORTS TO COMBAT MORTGAGE FORECLOSURE RESCUE SCAMS AND LOAN MODIFICATION FRAUD.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the current inter-agency efforts of the Secretary of the Treasury, the Secretary of Housing and Urban Development, the Attorney General, and the Federal Trade Commission to crackdown on mortgage foreclosure rescue scams and loan modification fraud in order to advise the Congress to the risks and vulnerabilities of emerging schemes in the loan modification arena.

(b) REPORT.—

(1) IN GENERAL.—The Comptroller General shall submit a report to the Congress on the study conducted under subsection (a) containing such recommendations for legislative and administrative actions as the Comptroller General may determine to be appropriate in addition to the recommendations required under paragraph (2).

(2) SPECIFIC TOPICS.—The report made under paragraph (1) shall include—

1 (A) an evaluation of the effectiveness of
2 the inter-agency task force current efforts to
3 combat mortgage foreclosure rescue scams and
4 loan modification fraud scams;
5 (B) specific recommendations on agency or
6 legislative action that are essential to properly
7 protect homeowners from mortgage foreclosure
8 rescue scams and loan modification fraud
9 scams; and
10 (C) the adequacy of financial resources
11 that the Federal Government is allocating to—
12 (i) crackdown on loan modification
13 and foreclosure rescue scams; and
14 (ii) the education of homeowners
15 about fraudulent scams relating to loan
16 modification and foreclosure rescues.

Insert after title VIII the following new title (and conform the table of contents accordingly):

17 **TITLE IX—MULTIFAMILY**
18 **MORTGAGE RESOLUTION**

19 **SEC. 901. MULTIFAMILY MORTGAGE RESOLUTION PRO-**
20 **GRAM.**

21 (a) ESTABLISHMENT.—Subject to subsection (e), the
22 Secretary of the Treasury, in consultation with the Sec-
23 retary of Housing and Urban Development, shall develop

1 a program to stabilize multifamily properties which are de-
2 linquent, at risk of default or disinvestment, or in fore-
3 closure.

4 (b) FOCUS OF PROGRAM.—The program developed
5 under this section shall be used to ensure the protection
6 of current and future tenants of at risk multifamily prop-
7 erties, where feasible, by—

8 (1) creating sustainable financing of such prop-
9 erties that is based on—

10 (A) the current rental income generated by
11 such properties; and

12 (B) the preservation of adequate operating
13 reserves;

14 (2) maintaining the level of Federal, State, and
15 city subsidies in effect as of the date of enactment
16 of this Act; and

17 (3) facilitating the transfer, when necessary, of
18 such properties to responsible new owners.

19 (c) COORDINATION.—The Secretary of the Treasury
20 shall in carrying out the program developed under this sec-
21 tion coordinate with the Secretary of Housing and Urban
22 Development, the Federal Deposit Insurance Corporation,
23 the Board of Governors of the Federal Reserve System,
24 the Federal Housing Finance Agency, and any other Fed-

1 eral Government agency that the Secretary considers ap-
2 propriate.
3 (d) DEFINITION.—For purposes of this section, the
4 term "multifamily properties" means a residential struc-
5 ture that consists of 5 or more dwelling units.
6 (e) AUTHORITY.—This section shall not limit the
7 ability of the Secretary of the Treasury to use any existing
8 authority to carry out the program under this section.