

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p><b>TITLE VII--MORTGAGE REFORM AND ANTI-PREDATORY LENDING ACT</b></p> <p><b>SEC. 9000. SHORT TITLE; DESIGNATION AS ENUMERATED CONSUMER LAW.</b></p> <p>(a) Short Title- This title may be cited as the `Mortgage Reform and Anti-Predatory Lending Act'.</p> <p>(b) Designation as Enumerated Consumer Law Under the Purview of the Consumer Financial Protection Agency- Subtitles A, B, C, and E and sections 9501, 9502, and 9506, and the amendments made by such subtitles and sections, shall be enumerated consumer laws, as defined in section 4002(16), and come under the purview of the Consumer Financial Protection Agency for purposes of title IV, including the transfer of functions and personnel under subtitle F of title IV and the savings provisions of such subtitle.</p>		
<p><b>Subtitle A--Residential Mortgage Loan Origination Standards</b></p> <p><b>SEC. 9001. DEFINITIONS.</b></p> <p>Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended by adding at the end the following new subsection:</p> <p>`(cc) Definitions Relating to Mortgage Origination and Residential Mortgage Loans-</p> <p>    `1) COMMISSION- Unless otherwise specified, the term `Commission' means the Federal Trade Commission.</p> <p>    `2) FEDERAL BANKING AGENCIES- The term `Federal banking agencies' means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the National Credit Union Administration Board. 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.</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>“(3) MORTGAGE ORIGINATOR- The term ‘mortgage originator’--</p> <p>“(A) means any person who, for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain--</p> <p>“(i) takes a residential mortgage loan application;</p> <p>“(ii) assists a consumer in obtaining or applying to obtain a residential mortgage loan; or</p> <p>“(iii) offers or negotiates terms of a residential mortgage loan;</p> <p>“(B) includes any person who represents to the public, through advertising or other means of communicating or providing information (including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items), that such person can or will provide any of the services or perform any of the activities described in subparagraph (A);</p> <p>“(C) does not include any person who is (i) not otherwise described in subparagraph (A) or (B) and who performs purely administrative or clerical tasks on behalf of a person who is described in any such subparagraph, or (ii) an employee of a retailer of manufactured homes who is not described in clause (i) or (iii) of subparagraph (A) and who does not advise a consumer on loan terms (including rates, fees, and other costs);</p> <p>“(D) does not include a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable State law, unless such person or entity is compensated for performing such brokerage activities by a lender, a mortgage broker, or other mortgage originator or by any agent of such lender, mortgage broker, or other mortgage originator;</p> <p>“(E) does not include, with respect to a residential mortgage loan, a person, estate, or trust that provides mortgage financing for the sale of 1 property in any 36-month period, provided that such loan--</p> <p>“(i) is fully amortizing;</p> <p>“(ii) is with respect to a sale for which the</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>seller determines in good faith and documents that the buyer has a reasonable ability to repay the loan;</p> <p>`(iii) has a fixed rate or an adjustable rate that is adjustable after 5 or more years, subject to reasonable annual and lifetime limitations on interest rate increases; and</p> <p>`(iv) meets any other criteria the Federal banking agencies may prescribe; and</p> <p>`(F) does not include a servicer or servicer employees, agents and contractors, including but not limited to those who offer or negotiate terms of a residential mortgage loan for purposes of renegotiating, modifying, replacing and subordinating principal of existing mortgages where borrowers are behind in their payments, in default or have a reasonable likelihood of being in default or falling behind.</p> <p>`(4) NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY- The term `Nationwide Mortgage Licensng System and Registry' has the same meaning as in the Secure and Fair Enforcement for Mortgage Licensng Act of 2008.</p> <p>`(5) OTHER DEFINITIONS RELATING TO MORTGAGE ORIGINATOR- For purposes of this subsection, a person `assists a consumer in obtaining or applying to obtain a residential mortgage loan' by, among other things, advising on residential mortgage loan terms (including rates, fees, and other costs), preparing residential mortgage loan packages, or collecting information on behalf of the consumer with regard to a residential mortgage loan.</p> <p>`(6) RESIDENTIAL MORTGAGE LOAN- The term `residential mortgage loan' means any consumer credit transaction that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or on residential real property that includes a dwelling, other than a consumer credit transaction under an open end credit plan or, for purposes of sections 129B and 129C and section 128(a) (16), (17), and (18), and 128(f) and any regulations promulgated thereunder, an extension of credit relating to a plan described in section 101(53D) of title 11, United States Code.</p> <p>`(7) SECRETARY- The term `Secretary', when used in connection with any transaction or person involved with a residential mortgage loan, means the Secretary of Housing and</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>Urban Development.</p> <p>`(8) SECURITIZATION VEHICLE- The term `securitization vehicle' means a trust, corporation, partnership, limited liability entity, special purpose entity, or other structure that--</p> <p style="padding-left: 40px;">`(A) is the issuer, or is created by the issuer, of mortgage pass-through certificates, participation certificates, mortgage-backed securities, or other similar securities backed by a pool of assets that includes residential mortgage loans; and</p> <p style="padding-left: 40px;">`(B) holds such loans.</p> <p>`(9) SECURITIZER- The term `securitizer' means the person that transfers, conveys, or assigns, or causes the transfer, conveyance, or assignment of, residential mortgage loans, including through a special purpose vehicle, to any securitization vehicle, excluding any trustee that holds such loans solely for the benefit of the securitization vehicle.</p> <p>`(10) SERVICER- The term `servicer' has the same meaning as in section 6(i)(2) of the Real Estate Settlement Procedures Act of 1974.'</p>		
<p><b>SEC. 9002. RESIDENTIAL MORTGAGE LOAN ORIGINATION.</b></p> <p>(a) In General- Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 129A the following new section:</p>		
<p><b>`Sec. 129B. Residential mortgage loan origination</b></p> <p>(a) Finding and Purpose-</p> <p style="padding-left: 40px;">`(1) FINDING- The Congress finds that economic stabilization would be enhanced by the protection, limitation, and regulation of the terms of residential mortgage credit and the practices related to such credit, while ensuring that responsible, affordable mortgage credit remains available to consumers.</p> <p style="padding-left: 40px;">`(2) PURPOSE- It is the purpose of this section and section 129C to assure that consumers are offered and receive residential mortgage loans on terms that reasonably reflect their ability to repay the loans and that are understandable and not unfair, deceptive or abusive.</p>		
<p>(b) Duty of Care-</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>^(1) STANDARD- Subject to regulations prescribed under this subsection, each mortgage originator shall, in addition to the duties imposed by otherwise applicable provisions of State or Federal law--</p> <p>^(A) be qualified and, when required, registered and licensed as a mortgage originator in accordance with applicable State or Federal law, including the Secure and Fair Enforcement for Mortgage Licensing Act of 2008;</p> <p>^(B) with respect to each consumer seeking or inquiring about a residential mortgage loan, diligently work to present the consumer with a range of residential mortgage loan products for which the consumer likely qualifies and which are appropriate to the consumer's existing circumstances, based on information known by, or obtained in good faith by, the originator;</p> <p>^(C) make full, complete, and timely disclosure to each such consumer in writing, the receipt and understanding of which shall be acknowledged by the signature of the mortgage originator and the consumer, of--</p> <p>^(i) the comparative costs and benefits of each residential mortgage loan product offered, discussed, or referred to by the originator (and such comparative costs and benefits for each such product shall be presented side by side and the disclosures for each such product shall have equal prominence);</p> <p>^(ii) the nature of the originator's relationship to the consumer (including the cost of the services to be provided by the originator and a statement that the mortgage originator is or is not acting as an agent for the consumer, as the case may be); and</p> <p>^(iii) any relevant conflicts of interest between the originator and the consumer;</p> <p>^(D) certify to the creditor, with respect to any transaction involving a residential mortgage loan, that the mortgage originator has fulfilled all requirements applicable to the originator under this section with respect to the transaction; and</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>           `(E) include on all loan documents any unique identifier of the mortgage originator provided by the Nationwide Mortgage Licensing System and Registry.            `(2) CLARIFICATION OF EXTENT OF DUTY TO PRESENT RANGE OF PRODUCTS AND APPROPRIATE PRODUCTS-            `(A) NO DUTY TO OFFER PRODUCTS FOR WHICH ORIGINATOR IS NOT AUTHORIZED TO TAKE AN APPLICATION- Paragraph (1)(B) shall not be construed as requiring--                `(i) a mortgage originator to present to any consumer any specific residential mortgage loan product that is offered by a creditor which does not accept consumer referrals from, or consumer applications submitted by or through, such originator; or                `(ii) a creditor to offer products that the creditor does not offer to the general public.            `(B) APPROPRIATE LOAN PRODUCT- For purposes of paragraph (1)(B), a residential mortgage loan shall be presumed to be appropriate for a consumer if--                `(i) the mortgage originator determines in good faith, based on then existing information and without undergoing a full underwriting process, that the consumer has a reasonable ability to repay and, in the case of a refinancing of an existing residential mortgage loan, receives a net tangible benefit, as determined in accordance with regulations prescribed under subsections (a) and (b) of section 129C; and                `(ii) the loan does not have predatory characteristics or effects (such as equity stripping and excessive fees and abusive terms) as determined in accordance with regulations prescribed under paragraph (4).            `(3) RULES OF CONSTRUCTION- No provision of this subsection shall be construed as--                `(A) creating an agency or fiduciary relationship between a mortgage originator and a consumer if the originator does not hold himself or herself out as such an agent or fiduciary; or         </p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>           `(B) restricting a mortgage originator from holding himself or herself out as an agent or fiduciary of a consumer subject to any additional duty, requirement, or limitation applicable to agents or fiduciaries under any Federal or State law.         </p> <p>           `(4) REGULATIONS-         </p> <p>           `(A) IN GENERAL- The Federal banking agencies, in consultation with the Secretary, and the Commission, shall jointly prescribe regulations to--         </p> <ul style="list-style-type: none"> <li>             `(i) further define the duty established under paragraph (1);           </li> <li>             `(ii) implement the requirements of this subsection;           </li> <li>             `(iii) establish the time period within which any disclosure required under paragraph (1) shall be made to the consumer; and           </li> <li>             `(iv) establish such other requirements for any mortgage originator as such regulatory agencies may determine to be appropriate to meet the purposes of this subsection.           </li> </ul> <p>           `(B) COMPLEMENTARY AND NONDUPLICATIVE DISCLOSURES- The agencies referred to in subparagraph (A) shall endeavor to make the required disclosures to consumers under this subsection complementary and nonduplicative with other disclosures for mortgage consumers to the extent such efforts--         </p> <ul style="list-style-type: none"> <li>             `(i) are practicable; and           </li> <li>             `(ii) do not reduce the value of any such disclosure to recipients of such disclosures.           </li> </ul> <p>           `(5) COMPLIANCE PROCEDURES REQUIRED- The Federal banking agencies shall prescribe regulations requiring depository institutions to establish and maintain procedures reasonably designed to assure and monitor the compliance of such depository institutions, the subsidiaries of such institutions, and the employees of such institutions or subsidiaries with the requirements of this section and the registration procedures established under section 1507 of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008.'.         </p>		
<p>(b) Clerical Amendment- The table of sections for chapter 2 of the Truth</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>in Lending Act is amended by inserting after the item relating to section 129 the following new items:            `129A. Fiduciary duty of servicers of pooled residential mortgages.            `129B. Residential mortgage loan origination.'</p>		
<p><b>SEC. 9003. PROHIBITION ON STEERING INCENTIVES.</b></p> <p>Section 129B of the Truth in Lending Act (as added by section 102(a)) is amended by inserting after subsection (b) the following new subsection:</p>	<p><b>SEC. 1073. PROHIBITED PAYMENTS TO MORTGAGE ORIGINATORS.</b></p> <p><i>Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (j) the following:</i></p>	
<p>`(c) Prohibition on Steering Incentives-</p> <p>`(1) IN GENERAL- For any mortgage loan, the total amount of direct and indirect compensation from all sources permitted to a mortgage originator may not vary based on the terms of the loan (other than the amount of the principal).</p>	<p>`(k) Prohibition on Steering Incentives-</p> <p>`(1) IN GENERAL- For any consumer credit transaction secured by real property or a dwelling, no loan originator shall receive from any person and no person shall pay to a loan originator, directly or indirectly, compensation that varies based on the terms of the loan (other than the amount of the principal).</p>	
<p>`(2) RESTRUCTURING OF FINANCING ORIGINATION FEE-</p> <p>`(A) IN GENERAL- For any mortgage loan, a mortgage originator may not arrange for a consumer to finance through rate any origination fee or cost except bona fide third party settlement charges not retained by the creditor or mortgage originator.</p> <p>`(B) EXCEPTION- Notwithstanding paragraph subparagraph (A), a mortgage originator may arrange for a consumer to finance through rate an origination fee or cost if--</p> <p>`(i) the mortgage originator does not receive any other compensation from the consumer except the compensation that is financed through rate; and</p> <p>`(ii) the mortgage is a qualified mortgage.</p>	<p>`(2) RESTRUCTURING OF FINANCING ORIGINATION FEE-</p> <p>`(A) IN GENERAL- For any consumer credit transaction secured by real property or a dwelling, a loan originator may not arrange for a consumer to finance through the rate any origination fee or cost except bona fide third party settlement charges not retained by the creditor or loan originator.</p> <p>`(B) EXCEPTION- Notwithstanding subparagraph (A), a loan originator may arrange for a consumer to finance through the rate an origination fee or cost if--</p> <p>`(i) the loan originator does not receive any other compensation, directly or indirectly, from the consumer except the compensation that is financed through the rate;</p> <p>`(ii) no person who knows or has reason to know of the consumer-paid compensation to the loan originator, other than the consumer,</p>	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	<p><i>pays any compensation to the loan originator, directly or indirectly, in connection with the transaction; and</i></p> <p><i>^(iii) the consumer does not make an upfront payment of discount points, origination points, or fees, however denominated (other than bona fide third party settlement charges).</i></p>	
<p>^(3) REGULATIONS- The Federal banking agencies, in consultation with the Secretary and the Commission, shall jointly prescribe regulations to prohibit--</p> <p>^(A) mortgage originators from steering any consumer to a residential mortgage loan that--</p> <p>^(i) the consumer lacks a reasonable ability to repay (in accordance with regulations prescribed under section 129C(a));</p> <p>^(ii) in the case of a refinancing of a residential mortgage loan, does not provide the consumer with a net tangible benefit (in accordance with regulations prescribed under section 129C(b)); or</p> <p>^(iii) has predatory characteristics or effects (such as equity stripping, excessive fees, or abusive terms);</p> <p>^(B) mortgage originators from steering any consumer from a residential mortgage loan for which the consumer is qualified that is a qualified mortgage (as defined in section 129C(c)(3)) to a residential mortgage loan that is not a qualified mortgage;</p> <p>^(C) abusive or unfair lending practices that promote disparities among consumers of equal credit worthiness but of different race, ethnicity, gender, or age;</p> <p>^(D) mortgage originators from assessing excessive points and fees (as such term is described under section 103(aa)(4) of the Truth in Lending Act (15 U.S.C. 1602(aa)(4))) to a consumer for the origination of a residential mortgage loan based on such consumer's decision to finance all or part of the payment through the rate for such points and fees; and</p> <p>^(E) mortgage originators from--</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>           `(i) mischaracterizing the credit history of a consumer or the residential mortgage loans available to a consumer;            `(ii) mischaracterizing or suborning the mischaracterization of the appraised value of the property securing the extension of credit;            or            `(iii) if unable to suggest, offer, or recommend to a consumer a loan that is not more expensive than a loan for which the consumer qualifies, discouraging a consumer from seeking a home mortgage loan secured by a consumer's principal dwelling from another mortgage originator.         </p>		
<p>           `(4) RULES OF CONSTRUCTION- No provision of this subsection shall be construed as--            `(A) permitting any yield spread premium or other similar compensation that would, for any mortgage loan, permit the total amount of direct and indirect compensation from all sources permitted to a mortgage originator to vary based on the terms of the loan (other than the amount of the principal);            `(B) affecting the mechanism for providing the total amount of direct and indirect compensation permitted to a mortgage originator;            `(C) limiting or affecting the amount of compensation received by a creditor upon the sale of a consummated loan to a subsequent purchaser;            `(D) restricting a consumer's ability to finance, at the option of the consumer, including through principal or rate, any origination fees or costs permitted under this subsection, or the mortgage originator's ability to receive such fees or costs (including compensation) from any person, so long as such fees or costs were limited by agreement with the consumer and were fully and clearly disclosed to the consumer earlier in the application process as required by 129B(b)(1)(C)(i) and do not vary based on the terms of the loan (other         </p>	<p>           `(3) RULES OF CONSTRUCTION- No provision of this subsection shall be construed as--              `(A) limiting or affecting the amount of compensation received by a creditor upon the sale of a consummated loan to a subsequent purchaser;              `(B) restricting a consumer's ability to finance, at the option of the consumer, including through principal or rate, any origination fees or costs permitted under this subsection, or the loan originator's right to receive such fees or costs (including compensation) from any person, subject to paragraph (2)(B), so long as such fees or costs do not vary based on the terms of the loan (other than the amount of the principal) or the consumer's decision about whether to finance such fees or costs; or         </p>	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>than the amount of the principal) or the consumer's decision about whether to finance such fees or costs; or</p> <p>`(E) prohibiting incentive payments to a mortgage originator based on the number of residential mortgage loans originated within a specified period of time.'</p>	<p><i>`(C) prohibiting incentive payments to a loan originator based on the number of loans originated within a specified period of time.</i></p>	
	<p><i>`(4) LOAN ORIGINATOR- For the purposes of this section, the term `loan originator'--</i></p> <p><i>`(A) means any person who, for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain, with respect to credit to be secured by real property or a dwelling--</i></p> <p><i>`(i) arranges for an extension, renewal, or continuation of such credit;</i></p> <p><i>`(ii) takes an application for credit or assists a consumer in applying for such credit; or</i></p> <p><i>`(iii) offers or negotiates terms of such credit;</i></p> <p><i>`(B) does not include any person who is not otherwise described in subparagraph (A) and who performs purely administrative or clerical tasks on behalf of a person who is described in subparagraph (A); and</i></p> <p><i>`(C) does not include a person that only performs real estate brokerage activities and is licensed or registered in accordance with applicable State law, unless the person is compensated by a lender or other loan originator or by any agent of such lender or other loan originator.'</i></p>	<p>H.R. 4173 defines “mortgage originator” in Sec. 9001.</p>
<p><b>SEC. 9004. LIABILITY.</b></p> <p>Section 129B of the Truth in Lending Act is amended by inserting after subsection (c) (as added by section 103) the following new subsection:</p> <p>`(d) Liability for Violations-</p> <p><i>`(1) IN GENERAL- For purposes of providing a cause of action for any failure by a mortgage originator to comply with any requirement imposed under this section and any regulation prescribed under this section, subsections (a) and (b) of section 130 shall be applied with respect to any such failure by substituting `mortgage originator' for `creditor' each place such term appears in each such subsection.</i></p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>“(2) MAXIMUM- The maximum amount of any liability of a mortgage originator under paragraph (1) to a consumer for any violation of this section shall not exceed the greater of actual damages or an amount equal to 3 times the total amount of direct and indirect compensation or gain accruing to the mortgage originator in connection with the residential mortgage loan involved in the violation, plus the costs to the consumer of the action, including a reasonable attorney's fee.’.</p>		
<p><b>SEC. 9005. REGULATIONS.</b></p> <p>(a) Discretionary Regulatory Authority- Section 129B of the Truth in Lending Act is amended by inserting after subsection (d) (as added by section 104) the following new subsection:</p> <p>“(e) Discretionary Regulatory Authority-</p> <p>“(1) IN GENERAL- The Federal banking agencies shall, by regulations issued jointly, prohibit or condition terms, acts or practices relating to residential mortgage loans that the agencies find to be abusive, unfair, deceptive, predatory, inconsistent with reasonable underwriting standards, 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, necessary or proper to effectuate the purposes of this section and section 129C, to prevent circumvention or evasion thereof, or to facilitate compliance with such sections, or are not in the interest of the borrower.</p> <p>“(2) APPLICATION- The regulations prescribed under paragraph (1) shall be applicable to all residential mortgage loans and shall be applied in the same manner as regulations prescribed under section 105.</p> <p>“(f) Section 129B and any regulations promulgated thereunder do not apply to an extension of credit relating to a plan described in section 101(53D) of title 11, United States Code.’.</p> <p>(b) Effective Date- The regulations required or authorized to be prescribed under this subtitle or the amendments made by this subtitle--</p> <p>(1) shall be prescribed in final form before the end of the 12-month period beginning on the date of the enactment of this Act; and</p> <p>(2) shall take effect not later than 18 months after the date of the</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>enactment of this Act.</p> <p>(c) Technical and Conforming Amendments- Section 129(1)(2) of the Truth in Lending Act (15 U.S.C. 1639(1)(2)) is amended by inserting `referred to in section 103(aa)' after `loans' each place such term appears.</p>		
<p><b>SEC. 9006. STUDY OF SHARED APPRECIATION MORTGAGES.</b></p> <p>(a) Study- The Secretary of Housing and Urban Development, in consultation with the Secretary of the Treasury and other relevant agencies, shall conduct a comprehensive study to determine prudent statutory and regulatory requirements sufficient to provide for the widespread use of shared appreciation mortgages to strengthen local housing markets, provide new opportunities for affordable homeownership, and enable homeowners at risk of foreclosure to refinance or modify their mortgages.</p> <p>(b) Report- Not later than the expiration of the 6-month period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit a report to the Congress on the results of the study, which shall include recommendations for the regulatory and legislative requirements referred to in subsection (a).</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p style="text-align: center;"><b>Subtitle B--Minimum Standards For Mortgages</b></p> <p><b>SEC. 9101. ABILITY TO REPAY.</b></p> <p>(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 102(a)) the following new section:</p>	<p><b>SEC. 1074. MINIMUM STANDARDS FOR RESIDENTIAL MORTGAGE LOANS.</b></p> <p><i>(a) In General- No rule, order, or guidance issued by the Bureau under this title shall be construed as requiring a depository institution to apply mortgage underwriting standards that do not meet the minimum underwriting standards required by the appropriate prudential regulator of the depository institution.</i></p> <p><i>(b) Ability To Repay-</i>  <i>(1) TILA AMENDMENT- Section 129 of the Truth in Lending Act (15 U.S.C. 1639), as amended by section 1074 of this Act, is further amended by inserting after subsection (k) the following:</i></p>	
<p><b>Sec. 129C. Minimum standards for residential mortgage loans</b></p> <p>(a) Ability To Repay-</p> <p>(1) IN GENERAL- In accordance with regulations prescribed jointly by the Federal banking agencies, in consultation with the Commission, no creditor may make a residential mortgage loan unless the creditor makes a reasonable and good faith determination based on verified and documented information that, at the time the loan is consummated, the consumer has a reasonable ability to repay the loan, according to its terms, and all applicable taxes, insurance, and assessments.</p> <p>(2) MULTIPLE LOANS- If the creditor knows, or has reason to know, that 1 or more residential mortgage loans secured by the same dwelling will be made to the same consumer, the creditor shall make a reasonable and good faith determination, based on verified and documented information, that the consumer has a reasonable ability to repay the combined payments of all loans on the same dwelling according to the terms of those loans and all applicable taxes, insurance, and</p>	<p>(1) Ability To Repay-</p> <p>(1) IN GENERAL- No creditor may make a loan secured by real property or a dwelling unless the creditor, based on verified and documented information, determines that, at the time the loan is consummated, the consumer has a reasonable ability to repay the loan, according to its terms, and all applicable taxes, insurance, and assessments.</p> <p>(2) MULTIPLE LOANS- If the creditor knows, or has reason to know, that 1 or more loans secured by the same real property or dwelling will be made to the same consumer, the creditor shall, based on verified and documented information, determine that the consumer has a reasonable ability to repay the combined payments of all loans on the same real property or dwelling according to the terms of those loans and all applicable taxes, insurance, and assessments.</p>	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>assessments.</p> <p>“(3) BASIS FOR DETERMINATION- A determination under this subsection of a consumer's ability to repay a residential mortgage loan shall include consideration of the consumer's credit history, current income, expected income the consumer is reasonably assured of receiving, current obligations, debt-to-income ratio, employment status, and other financial resources other than the consumer's equity in the dwelling or real property that secures repayment of the loan.</p> <p>“(4) INCOME VERIFICATION- In order to safeguard against fraudulent reporting, any consideration of a consumer's income history in making a determination under this subsection shall include the verification of such income by the use of--</p> <p>“(A) Internal Revenue Service transcripts of tax returns provided by a third party; or</p> <p>“(B) such other similar method that quickly and effectively verifies income documentation by a third party as the Federal banking agencies may jointly prescribe.</p>	<p><i>“(3) BASIS FOR DETERMINATION- A determination under this subsection of a consumer's ability to repay a loan described in paragraph (1) shall include consideration of the consumer's credit history, current income, expected income the consumer is reasonably assured of receiving, current obligations, debt-to-income ratio or the residual income the consumer will have after paying non-mortgage debt and mortgage-related obligations, employment status, and other financial resources other than the consumer's equity in the dwelling or real property that secures repayment of the loan.</i></p> <p><i>“(4) INCOME VERIFICATION- A creditor shall verify amounts of income or assets that such creditor relies on to determine repayment ability, including expected income or assets, by reviewing the consumer's Internal Revenue Service Form W-2, tax returns, payroll receipts, financial institution records, or other third-party documents that provide reasonably reliable evidence of the consumer's income or assets. In order to safeguard against fraudulent reporting, any consideration of a consumer's income history in making a determination under this subsection shall include the verification of such income by the use of--</i></p> <p><i>“(A) Internal Revenue Service transcripts of tax returns; or</i></p> <p><i>“(B) a method that quickly and effectively verifies income documentation by a third party subject to rules prescribed by the Board.</i></p>	
<p>“(5) NONSTANDARD LOANS-</p> <p>“(A) VARIABLE RATE LOANS THAT DEFER REPAYMENT OF ANY PRINCIPAL OR</p>	<p><i>“(5) PRESUMPTION OF ABILITY TO REPAY- Any creditor with respect to any consumer loan secured by real property or a dwelling is presumed to have complied with this subsection with</i></p>	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>INTEREST- For purposes of determining, under this subsection, a consumer's ability to repay a variable rate residential mortgage loan that allows or requires the consumer to defer the repayment of any principal or interest, the creditor shall use a fully amortizing repayment schedule.</p> <p>`(B) INTEREST-ONLY LOANS- For purposes of determining, under this subsection, a consumer's ability to repay a residential mortgage loan that permits or requires the payment of interest only, the creditor shall use the payment amount required to amortize the loan by its final maturity.</p> <p>`(C) CALCULATION FOR NEGATIVE AMORTIZATION- In making any determination under this subsection, a creditor shall also take into consideration any balance increase that may accrue from any negative amortization provision.</p> <p>`(D) CALCULATION PROCESS- For purposes of making any determination under this subsection, a creditor shall calculate the monthly payment amount for principal and interest on any residential mortgage loan by assuming--</p> <p>    `(i) the loan proceeds are fully disbursed on the date of the consummation of the loan;</p> <p>    `(ii) the loan is to be repaid in substantially equal monthly amortizing payments for principal and interest over the entire term of the loan with no balloon payment, unless the loan contract requires more rapid repayment (including balloon payment), in which case 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</p>	<p><i>respect to such loan if the creditor--</i></p> <p>    `<i>(A) verifies the consumer's ability to repay as provided in paragraphs (1), (2), (3), and (4); and</i></p> <p>    `<i>(B) determines the consumer's ability to repay using the maximum rate permitted under the loan during the first 5 years following consummation and a payment schedule that fully amortizes the loan and taking into account current obligations and all applicable taxes, insurance, and assessments.</i></p> <p>    `<i>(6) EXCEPTIONS TO PRESUMPTION- Notwithstanding paragraph (5), no presumption of compliance shall be applied to a loan--</i></p> <p>        `<i>(A) for which the regular periodic payments for the loan may--</i></p> <p>            `<i>(i) result in an increase of the principal balance; or</i></p> <p>            `<i>(ii) allow the consumer to defer repayment of principal.</i></p> <p>        `<i>(B) the terms of which result in a balloon payment, where a `balloon payment' is a scheduled payment that is more than twice as large as the average of earlier scheduled payments; or</i></p> <p>        `<i>(C) for which the total points and fees payable in connection with the loan exceed 3 percent of the total loan amount, where `points and fees' means points and fees as defined by section 103(aa)(4) of the Truth in Lending Act (15 U.S.C. 1602(aa)(4)), except that, for the purposes of computing the total points and fees under this subparagraph, the total points and fees attributable to any premium for mortgage guarantee insurance provided by an agency of the Federal Government or an agency of a State shall exclude any amount of the points and fees for such insurance greater than 1 percent of the total loan amount.</i></p>	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>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; and</p> <p>“(iii) the interest rate over the entire term of the loan is a fixed rate equal to the fully indexed rate at the time of the loan closing, without considering the introductory rate.</p> <p>“(E) REFINANCE OF HYBRID LOANS WITH CURRENT LENDER- In considering any application for refinancing an existing hybrid loan by the creditor into a standard loan to be made by the same creditor in any case in which the sole net-tangible benefit to the mortgagor would be a reduction in monthly payment and the mortgagor has not been delinquent on any payment on the existing hybrid loan, the creditor may--</p> <p>“(i) consider the mortgagor's good standing on the existing mortgage;</p> <p>“(ii) consider if the extension of new credit would prevent a likely default should the original mortgage reset and give such concerns a higher priority as an acceptable underwriting practice; and</p> <p>“(iii) offer rate discounts and other favorable terms to such mortgagor that would be available to new customers with high credit ratings based on such underwriting practice.</p>		
<p>“(6) FULLY-INDEXXED RATE DEFINED- For purposes of this subsection, the term ‘fully indexed rate’ means the index rate prevailing on a residential mortgage loan at the time the loan is made plus the margin that will apply after the expiration of any introductory interest rates.</p>		
	<p>“(7) EXEMPTION-</p> <p>“(A) <i>The Board may revise, add to, or subtract from the criteria under paragraphs (5) and (6) and</i></p>	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>“(7) REVERSE MORTGAGES- This subsection shall not apply with respect to any reverse mortgage’.</p>	<p><i>subparagraphs (B) and (C) of this paragraph upon a finding that such regulations are necessary or appropriate to effectuate the purposes of this title, to prevent circumvention or evasion thereof, or to facilitate compliance with this subsection.</i></p> <p>“(B) BRIDGE LOANS- This subsection does not apply to a temporary or ‘bridge’ loan with a term of 12 months or less, including to any loan to purchase a new dwelling where the consumer plans to sell a current dwelling within 12 months.</p> <p>“(C) REVERSE MORTGAGES- This subsection does not apply with respect to any reverse mortgage’.</p>	
	<p>“(8) SEASONAL INCOME- If documented income, including income from a small business, is a repayment source for an extension of credit secured by residential real estate or a dwelling, a creditor may consider the seasonality and irregularity of such income in the underwriting of and scheduling of payments for such credit.’.</p>	
<p>(b) Clerical Amendment- The table of sections for chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 129B (as added by section 102(b)) the following new item:  “(129C. Minimum standards for residential mortgage loans.’.</p>	<p>(2) CONFORMING AMENDMENT- Section 129 of the Truth in Lending Act (15 U.S.C. 1639), as amended by this Act, is amended--  (A) by redesignating subsections (k), (l), and (m) as subsections (m), (n), and (o), respectively; and  (B) in subsection (o), as so redesignated, by striking ‘(l)(2)’ and inserting ‘(n)(2)’.</p>	
<p><b>SEC. 9102. NET TANGIBLE BENEFIT FOR REFINANCING OF RESIDENTIAL MORTGAGE LOANS.</b></p> <p>Section 129C of the Truth in Lending Act (as added by section 9101(a)) is amended by inserting after subsection (a) the following new subsection:  “(b) Net Tangible Benefit for Refinancing of Residential Mortgage Loans-</p> <p>“(1) IN GENERAL- In accordance with regulations prescribed under paragraph (3), no creditor may extend credit in connection with any residential mortgage loan that involves a refinancing of</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>a prior existing residential mortgage loan unless the creditor reasonably and in good faith determines, at the time the loan is consummated and on the basis of information known by or obtained in good faith by the creditor, that the refinanced loan will provide a net tangible benefit to the consumer.</p> <p>“(2) CERTAIN LOANS PROVIDING NO NET TANGIBLE BENEFIT- A residential mortgage loan that involves a refinancing of a prior existing residential mortgage loan shall not be considered to provide a net tangible benefit to the consumer if the costs of the refinanced loan, including points, fees and other charges, exceed the amount of any newly advanced principal without any corresponding changes in the terms of the refinanced loan that are advantageous to the consumer.</p> <p>“(3) NET TANGIBLE BENEFIT- The Federal banking agencies shall jointly prescribe regulations defining the term ‘net tangible benefit’ for purposes of this subsection.’.</p>		
<p><b>SEC. 9103. SAFE HARBOR AND REBUTTABLE PRESUMPTION.</b></p> <p>Section 129C of the Truth in Lending Act is amended by inserting after subsection (b) (as added by section 9102) the following new subsection:</p> <p>“(c) Presumption of Ability To Repay and Net Tangible Benefit-</p> <p>“(1) IN GENERAL- Any creditor with respect to any residential mortgage loan, and any assignee or securitizer of such loan, may presume that the loan has met the requirements of subsections (a) and (b), if the loan is a qualified mortgage.</p>		
<p>“(2) DEFINITIONS- For purposes of this subsection, the following definitions shall apply:</p> <p>“(A) QUALIFIED MORTGAGE- The term ‘qualified mortgage’ means any residential mortgage loan--</p> <p>“(i) that does not allow a consumer to defer repayment of principal or interest, or is not otherwise deemed a ‘non-traditional mortgage’ under guidance, advisories, or regulations prescribed by the Federal Banking Agencies;</p>	<p>“(g) Definitions- For purposes of this section, the following definitions shall apply:</p> <p>“(3) QUALIFIED MORTGAGE- The term ‘qualified mortgage’ means--</p> <p>“(A) any residential mortgage loan--</p> <p>“(ii) that does not allow a consumer to defer repayment of principal or interest, or is not otherwise deemed a ‘non-traditional mortgage’ under guidance, advisories, or regulations prescribed by the Bureau;</p>	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>^(ii) that does not provide for a repayment schedule that results in negative amortization at any time;</p> <p>^(iii) for which the terms are fully amortizing and which does not result in a balloon payment, where a 'balloon payment' is a scheduled payment that is more than twice as large as the average of earlier scheduled payments;</p> <p>^(iv) 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--</p> <p>^(I) by 1.5 or more percentage points, in the case of a first lien residential mortgage loan having an original principal obligation amount that is equal to or less than the amount of the maximum limitation on the original principal obligation of mortgage in effect for a residence of the applicable size, as of the date of such interest rate set, pursuant to the sixth sentence of section 305(a)(2) the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2));</p> <p>^(II) by 2.5 or more percentage points, in the case of a first lien residential mortgage loan having an original principal obligation amount that is more than the amount of the maximum limitation on the original principal obligation of mortgage in effect for a residence of the</p>	<p>^(iii) that does not provide for a repayment schedule that results in negative amortization at any time;</p> <p>^(iv) for which the terms are fully amortizing and which does not result in a balloon payment, where a 'balloon payment' is a scheduled payment that is more than twice as large as the average of earlier scheduled payments;</p> <p>^(v) which has an annual percentage rate that does not exceed the average prime offer rate for a comparable transaction, as of the date on which the interest rate is set--</p> <p>^(I) by 1.5 or more percentage points, in the case of a first lien residential mortgage loan having an original principal obligation amount that is equal to or less than the amount of the maximum limitation on the original principal obligation of a mortgage in effect for a residence of the applicable size, as of the date on which such interest rate is set, pursuant to the sixth sentence of section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2));</p> <p>^(II) by 2.5 or more percentage points, in the case of a first lien residential mortgage loan having an original principal obligation amount that is more than the amount of the maximum limitation on the original principal obligation of a mortgage in effect for a residence of the</p>	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>applicable size, as of the date of such interest rate set, pursuant to the sixth sentence of section 305(a)(2) the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)); and</p> <p>“(III) by 3.5 or more percentage points, in the case of a subordinate lien residential mortgage loan;</p> <p>“(v) for which the income and financial resources relied upon to qualify the obligors on the loan are verified and documented;</p> <p>“(vi) in the case of a fixed rate loan, for which the underwriting process is based on a payment schedule that fully amortizes the loan over the loan term and takes into account all applicable taxes, insurance, and assessments;</p> <p>“(vii) in the case of an adjustable rate loan, for which the underwriting is based on the maximum rate permitted under the loan during the first seven years, and a payment schedule that fully amortizes the loan over the loan term and takes into account all applicable taxes, insurance, and assessments;</p> <p>“(viii) that does not cause the consumer's total monthly debts, including amounts under the loan, to exceed a percentage established by regulation of the consumer's monthly gross income or such other maximum percentage of such income as may be prescribed by regulation under paragraph (4), and such rules shall also take into consideration the consumer's income available to pay regular expenses after payment of all installment and revolving debt;</p> <p>“(ix) for which the total points and fees</p>	<p><i>applicable size, as of the date on which such interest rate is set, pursuant to the sixth sentence of section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)); or</i></p> <p><i>“(III) by 3.5 or more percentage points, in the case of a subordinate lien residential mortgage loan;</i></p> <p><i>“(vi) for which the income and financial resources relied upon to qualify the obligors on the loan are verified and documented;</i></p> <p><i>“(vii) for which the underwriting process is based on a payment schedule that fully amortizes the loan over the loan term and takes into account all applicable taxes, insurance, and assessments;</i></p> <p><i>“(i) that does not have an adjustable rate;</i></p> <p><i>“(viii) that does not cause the total monthly debts of the consumer, including amounts under the loan, to exceed a percentage established by regulation of the monthly gross income of the consumer, or such other maximum percentage of such income, as may be prescribed by regulation under subsection (g), which rules shall take into consideration the income of the consumer available to pay regular expenses after payment of all installment and revolving debt;</i></p> <p><i>“(ix) for which the total points and fees</i></p>	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>payable in connection with the loan do not exceed 2 percent of the total loan amount, where `points and fees' means points and fees as defined by Section 103(aa)(4) of the Truth in Lending Act (15 U.S.C. 1602(aa)(4)); and</p> <p>`(x) for which the term of the loan does not exceed 30 years, except as such term may be extended under paragraph (4).</p>	<p><i>payable in connection with the loan do not exceed 2 percent of the total loan amount, where the term `points and fees' means points and fees as defined by Section 103(aa)(4) of the Truth in Lending Act (15 U.S.C. 1602(aa)(4)); and</i></p> <p><i>`(x) for which the term of the loan does not exceed 30 years, except as such term may be extended under subsection (g); and</i></p> <p>(Sec. 1075, amending Chapter 2 of the Truth in Lending Act by inserting a new section 129B(g)).</p>	<p>S. 3217 completes the definition of qualified mortgage in 3(B) below.</p>
<p>`(B) AVERAGE PRIME OFFER RATE- The term `average prime offer rate' means an annual percentage rate that is derived from average interest rates, points, and other loan pricing terms currently offered to consumers by a representative sample of creditors for mortgage transactions that have low risk pricing characteristics.</p>	<p><i>`(1) AVERAGE PRIME OFFER RATE- The term `average prime offer rate' means an annual percentage rate that is derived from average interest rates, points, and other loan pricing terms currently offered to consumers by a representative sample of creditors for mortgage transactions that have low-risk pricing characteristics.</i></p> <p>(Sec. 1075, amending Chapter 2 of the Truth in Lending Act by inserting a new section 129B(g)).</p>	
<p>`(C) REVERSE MORTGAGES- For purposes of this subsection, the term `qualified mortgage' includes any reverse mortgage that is insured by the Federal Housing Administration or complies with the condition established in subparagraph (A)(iv).</p>	<p><i>`(B) any reverse mortgage that is insured by the Federal Housing Administration or complies with the condition established in subparagraph (A)(v).</i></p> <p>(Sec. 1075, amending Chapter 2 of the Truth in Lending Act by inserting a new section 129B(g)).</p>	<p>S. 3217 addresses reverse mortgages under the definition of a qualified mortgage in 3(B) above.</p>
	<p><i>`(2) PREPAYMENT PENALTY- The term `prepayment penalty' means any penalty for paying all or part of the principal on an extension of credit before the date on which the principal is due, including a computation of a refund of unearned interest by a method that is less favorable to the consumer than the actuarial method, as defined in section 933(d) of the Housing and Community Development Act of 1992 (15 U.S.C. 1615(d)).</i></p> <p>(Sec. 1075, amending Chapter 2 of the Truth in Lending Act by inserting a new section 129B(g)).</p>	
	<p><i>`(4) RESIDENTIAL MORTGAGE LOAN- The term `residential</i></p>	<p>H.R. 4173 defines “residential mortgage loan” in</p>

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	<p><i>mortgage loan' means any consumer credit transaction that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or on residential real property that includes a dwelling, other than a consumer credit transaction under an open end credit plan or an extension of credit relating to a plan described in section 101(53D) of title 11, United States Code.'</i></p> <p>(Sec. 1075, amending Chapter 2 of the Truth in Lending Act by inserting a new section 129B(g)).</p>	Sec. 9001.
<p>^(3) PUBLICATION OF AVERAGE PRIME OFFER RATE AND APR THRESHOLDS- The Board--</p> <p>^(A) shall publish, and update at least weekly, average prime offer rates;</p> <p>^(B) may publish multiple rates based on varying types of mortgage transactions; and</p> <p>^(C) shall adjust the thresholds of 1.50 percentage points in paragraph (2)(A)(iv)(I), 2.50 percentage points in paragraph (2)(A)(iv)(II), and 3.50 percentage points in paragraph (2)(A)(v)(III), as necessary to reflect significant changes in market conditions and to effectuate the purposes of the Mortgage Reform and Anti-Predatory Lending Act.</p>	<p>^(e) <i>Publication of Average Prime Offer Rate and APR Thresholds- The Board--</i></p> <p>^(1) <i>shall publish, and update at least weekly, average prime offer rates;</i></p> <p>^(2) <i>may publish multiple rates based on varying types of mortgage transactions; and</i></p> <p>^(3) <i>shall adjust the thresholds of 1.50 percentage points in subsection (g)(3)(A)(v)(I), 2.50 percentage points in subsection (g)(3)(A)(v)(II), and 3.50 percentage points in subsection (g)(3)(A)(v)(III), as necessary to reflect significant changes in market conditions and to effectuate the purposes of this section.</i></p> <p>(Sec. 1075, amending Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) by adding a new section 129B(e)).</p>	
<p>^(4) REGULATIONS-</p> <p>^(A) IN GENERAL- The Federal banking agencies shall jointly prescribe regulations to carry out the purposes of this subsection.</p>	<p>^(f) <i>Regulations-</i></p> <p>^(1) <i>IN GENERAL- The Bureau shall prescribe regulations to carry out this section.</i></p> <p>(Sec. 1075, amending Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) by creating a new section 129B(f). This subsection applies to all of the new section 129B created by Sec. 1075.)</p>	
<p>^(B) REVISION OF SAFE HARBOR CRITERIA-</p> <p>^(i) IN GENERAL- The Federal banking agencies may jointly prescribe regulations that revise, add to, or subtract from the criteria that define a qualified mortgage upon a finding that such regulations are necessary or proper</p>	<p>^(2) <i>REVISION OF SAFE HARBOR CRITERIA- The Bureau may prescribe regulations that revise, add to, or subtract from the criteria that define a qualified mortgage, upon a finding that such regulations are necessary or appropriate--</i></p> <p>^(A) <i>to ensure that responsible, affordable mortgage credit remains available to consumers in a manner</i></p>	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>to ensure that responsible, affordable mortgage credit remains available to consumers in a manner consistent with the purposes of this section, necessary and appropriate to effectuate the purposes of this section and section 129B, to prevent circumvention or evasion thereof, or to facilitate compliance with such sections.</p>	<p><i>consistent with the purposes of this section;</i>  <i>“(B) to effectuate the purposes of this section;</i>  <i>“(C) to prevent circumvention or evasion thereof; or</i>  <i>“(D) to facilitate compliance with this section.</i></p>	
<p>“(ii) LOAN DEFINITION- The following agencies shall, in consultation with the Federal banking agencies, prescribe rules defining the types of loans they insure, guarantee or administer, as the case may be, that are Qualified Mortgages for purposes of subsection (c)(1)(A) upon a finding that such rules are consistent with the purposes of this section and section 129B, to prevent circumvention or evasion thereof, or to facilitate compliance with such sections--</p> <p>“(I) The Department of Housing and Urban Development, with regard to mortgages insured under title II of the National Housing Act (12 U.S.C. 1707 et seq.);</p> <p>“(II) The Secretary of Veterans Affairs, with regard to a loan made or guaranteed by the Secretary of Veterans Affairs;</p> <p>“(III) The Secretary of Agriculture, with regard loans guaranteed by the Secretary of Agriculture pursuant to 42 U.S.C. 1472(h);</p> <p>“(IV) The Federal Housing Finance Agency, with regard to loans meeting the conforming loan standards of the</p>	<p>“(3) INTERAGENCY HARMONIZATION-</p> <p>“(A) DETERMINATION OF QUALIFYING MORTGAGE TREATMENT- <i>The agencies and officials described in subparagraph (B) shall, in consultation with the Bureau, prescribe rules defining the types of loans they insure, guarantee, or administer, as the case may be, that are qualified mortgages for purposes of this section, upon a finding that such rules are consistent with the purposes of this section or are appropriate to prevent circumvention or evasion thereof or to facilitate compliance with this section.</i></p> <p>“(B) AGENCIES AND OFFICIALS- <i>The agencies and officials described in this subparagraph are--</i></p> <p>“(i) <i>the Secretary of the Department of Housing and Urban Development, with regard to mortgages insured under title II of the National Housing Act (12 U.S.C. 1707 et seq.);</i></p> <p>“(ii) <i>the Secretary of Veterans Affairs, with regard to a loan made or guaranteed by the Secretary of Veterans Affairs;</i></p> <p>“(iii) <i>the Secretary of Agriculture, with regard to loans guaranteed by the Secretary of Agriculture pursuant to section 502 of the Housing Act of 1949 (42 U.S.C. 1472(h));</i></p> <p>“(iv) <i>the Federal Housing Finance Agency, with regard to loans meeting the conforming loan standards of the Federal National</i></p>	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>Federal National Mortgage Corporation or the Federal Home Loan Mortgage Corporation; and</p> <p>`(V) The Rural Housing Service, with regard to loans insured by the Rural Housing Service.'</p>	<p><i>Mortgage Association or the Federal Home Loan Mortgage Corporation; and</i></p> <p><i>`(v) the Rural Housing Service, with regard to loans insured by the Rural Housing Service.</i></p>	
	<p><i>`(4) IMPLEMENTATION- Regulations required or authorized to be prescribed under this subsection--</i></p> <p><i>`(A) shall be prescribed in final form before the end of the 12-month period beginning on the date of enactment of this section; and</i></p> <p><i>`(B) shall take effect not later than 18 months after the date of enactment of this section.</i></p>	
<p><b>SEC. 9104. LIABILITY.</b></p> <p>Section 129C of the Truth in Lending Act is amended by inserting after subsection (c) (as added by section 9103) the following new subsection:</p> <p>`(d) Liability for Violations-</p> <p>    `(1) IN GENERAL-</p> <p>        `(A) RESCISSION- In addition to any other liability under this title for a violation by a creditor of subsection (a) or (b) (for example under section 130) and subject to the statute of limitations in paragraph (9), a civil action may be maintained against a creditor for a violation of subsection (a) or (b) with respect to a residential mortgage loan for the rescission of the loan, and such additional costs as the obligor may have incurred as a result of the violation and in connection with obtaining a rescission of the loan, including a reasonable attorney's fee.</p> <p>        `(B) CURE- A creditor shall not be liable for rescission under subparagraph (A) with respect to a residential mortgage loan if, no later than 90 days after the receipt of notification from the consumer that the loan violates subsection (a) or (b), the creditor, acting in good faith, a cure.</p> <p>    `(2) LIMITED ASSIGNEE AND SECURITIZER LIABILITY- Notwithstanding sections 125(e) and 131 and except as provided</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>in paragraph (3), a civil action which may be maintained against a creditor with respect to a residential mortgage loan for a violation of subsection (a) or (b) may be maintained against any assignee or securitizer of such residential mortgage loan, who has acted in good faith, for the following liabilities only:</p> <ul style="list-style-type: none"> <li>^(A) Rescission of the loan.</li> <li>^(B) Such additional costs as the obligor may have incurred as a result of the violation and in connection with obtaining a rescission of the loan, including a reasonable attorney's fee.</li> </ul> <p>^(3) ASSIGNEE AND SECURITIZER EXEMPTION- No assignee or securitizer of a residential mortgage loan that has exercised reasonable due diligence in complying with the requirements of subsections (a) and (b), consistent with reasonable due diligence practices prescribed by the Federal banking agencies, shall be liable under paragraph (2) with respect to such loan if, no later than 90 days after the receipt of notification from the consumer that the loan violates subsection (a) or (b), the assignee or securitizer provides a cure so that the loan satisfies the requirements of subsections (a) and (b).</p> <p>^(4) ABSENT PARTIES-</p> <ul style="list-style-type: none"> <li>^(A) ABSENT CREDITOR- Notwithstanding the exemption provided in paragraph (3), if the creditor with respect to a residential mortgage loan made in violation of subsection (a) or (b) has ceased to exist as a matter of law or has filed for bankruptcy protection under title 11, United States Code, or has had a receiver, conservator, or liquidating agent appointed, a consumer may maintain a civil action against an assignee to cure the residential mortgage loan, plus the costs and reasonable attorney's fees incurred in obtaining such remedy.</li> <li>^(B) ABSENT CREDITOR AND ASSIGNEE- Notwithstanding the exemption provided in paragraph (3), if the creditor with respect to a residential mortgage loan made in violation of subsection (a) or (b) and each assignee of such loan have ceased to exist as a matter of law or have filed for bankruptcy protection under title 11, United States Code, or have had receivers, conservators, or liquidating agents appointed, the consumer may maintain the civil action referred to in subparagraph (A) against the securitizer.</li> </ul>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>           `(5) CURE DEFINED- For purposes of this subsection, the term `cure' means, with respect to a residential mortgage loan that violates subsection (a) or (b), the modification or refinancing, at no cost to the consumer, of the loan to provide terms that satisfy the requirements of subsections (a) and (b) and the payment of such additional costs as the obligor may have incurred in connection with obtaining a cure of the loan, including a reasonable attorney's fee.         </p> <p>           `(6) DISAGREEMENT OVER CURE- If any creditor, assignee, or securitizer and a consumer fail to reach agreement on a cure with respect to a residential mortgage loan that violates subsection (a) or (b), or the consumer fails to accept a cure proffered by a creditor, assignee, or securitizer--         </p> <p style="padding-left: 20px;">           `(A) the creditor, assignee, or securitizer may provide the cure; and         </p> <p style="padding-left: 20px;">           `(B) the consumer may challenge the adequacy of the cure during the 6-month period beginning when the cure is provided.         </p> <p>           If the consumer's challenge, under this paragraph, of a cure is successful, the creditor, assignee, or securitizer shall be liable to the consumer for rescission of the loan and such additional costs under paragraph (2).         </p> <p>           `(7) INABILITY TO PROVIDE OR OBTAIN RESCISSION- If a creditor, assignee, or securitizer cannot provide, or a consumer cannot obtain, rescission under paragraph (1) or (2), the liability of such creditor, assignee, or securitizer shall be met by providing the financial equivalent of a rescission, together with such additional costs as the obligor may have incurred as a result of the violation and in connection with obtaining a rescission of the loan, including a reasonable attorney's fee.         </p> <p>           `(8) NO CLASS ACTIONS AGAINST ASSIGNEE OR SECURITIZER UNDER PARAGRAPH (2)- Only individual actions may be brought against an assignee or securitizer of a residential mortgage loan for a violation of subsection (a) or (b).         </p> <p>           `(9) STATUTE OF LIMITATIONS- The liability of a creditor, assignee, or securitizer under this subsection shall apply in any original action against a creditor under paragraph (1) or an assignee or securitizer under paragraph (2) which is brought before--         </p> <p style="padding-left: 20px;">           `(A) in the case of any residential mortgage loan other than a loan to which subparagraph (B) applies, the end of the 3-year period beginning on the date the loan is         </p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>consummated; or            `(B) in the case of a residential mortgage loan that provides for a fixed interest rate for an introductory period and then resets or adjusts to a variable rate or that provides for a nonamortizing payment schedule and then converts to an amortizing payment schedule, the earlier of--                `(i) the end of the 1-year period beginning on the date of such reset, adjustment, or conversion; or                `(ii) the end of the 6-year period beginning on the date the loan is consummated.</p> <p>^(10) TRUSTEES, POOLS, AND INVESTORS IN POOLS EXCLUDED- In the case of residential mortgage loans acquired or aggregated for the purpose of including such loans in a pool of assets held for the purpose of issuing or selling instruments representing interests in such pools including through a securitization vehicle, the terms 'assignee' and 'securitizer', as used in this section, do not include the securitization vehicle, any trustee that holds such loans solely for the benefit of the securitization vehicle, the pools of such loans or any original or subsequent purchaser of any interest in the securitization vehicle or any instrument representing a direct or indirect interest in such pool.</p> <p>^(e) Obligation of Securitizers, and Preservation of Borrower Remedies-            `(1) OBLIGATION TO RETAIN ACCESS- Any securitizer of a residential mortgage loan sold or to be sold as part of a securitization vehicle shall, in any document or contract providing for the transfer, conveyance, or the establishment of such securitization vehicle, reserve the right and preserve the ability--                `(A) to identify and obtain access to any such loan;                `(B) to acquire any such loan in the event of a violation of subsection (a) or (b) of this section; and                `(C) to provide to the consumer any and all remedies provided for under this title for any violation of this title.</p> <p>^(2) ADDITIONAL DAMAGES- Any creditor, assignee, or securitizer of a residential mortgage loan that is subject to a remedy under subsection (d) and has failed to comply with paragraph (1) shall be subject to additional exemplary or punitive damages not to exceed the original principal balance of</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>such loan.</p> <p>`(3) CONTACT INFORMATION NOTICE- The servicer with respect to a residential mortgage loan shall provide a written notice to a consumer identifying the name and contact information of the creditor or any assignee or securitizer who should be contacted by the consumer for any reason concerning the consumer's rights with respect to the loan. Such notice shall be provided--</p> <ul style="list-style-type: none"> <li>`(A) upon request of the consumer;</li> <li>`(B) whenever there is a change in ownership of a residential mortgage loan; or</li> <li>`(C) on a regular basis, not less than annually.</li> </ul> <p>`(f) Rules To Establish Process- The Board shall promulgate rules to govern the rescission process established for violations of subsections (a) and (b) of this section. Such rules shall provide that notice given to a servicer or holder is sufficient notice regardless of the identity of the party or the parties liable under this title.'</p>		
<p><b>SEC. 9105. DEFENSE TO FORECLOSURE.</b></p> <p>Section 129C of the Truth in Lending Act is amended by inserting after subsection (f) (as added by section 9104) the following new subsections:</p> <p>`(g) Defense to Foreclosure- Notwithstanding any other provision of law-</p> <ul style="list-style-type: none"> <li>-</li> <li>`(1) when the holder of a residential mortgage loan or anyone acting for such holder initiates a judicial or nonjudicial foreclosure-- <ul style="list-style-type: none"> <li>`(A) a consumer who has the right to rescind under this section with respect to such loan against the creditor or any assignee or securitizer may assert such right as a defense to foreclosure or counterclaim to such foreclosure against the holder, or</li> <li>`(B) if the foreclosure proceeding begins after the end of the period during which a consumer may bring an action for rescission under subsection (d) and the consumer would have had a valid basis for such an action if it had been brought before the end of such period, the consumer may seek actual damages incurred by reason of the violation which gave rise to the right of rescission, together with costs of the action, including a reasonable attorney's fee against the creditor or any assignee or securitizer; and</li> </ul> </li> </ul>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>“(2) such holder or anyone acting for such holder or any other applicable third party may sell, transfer, convey, or assign a residential mortgage loan to a creditor, any assignee, or any securitizer, or their designees, subject to the rights of the consumer described in this subsection, to effect a rescission or cure.”.</p>		
<p><b>SEC. 9106. ADDITIONAL STANDARDS AND REQUIREMENTS.</b></p> <p>(a) In General- Section 129C of the Truth in Lending Act is amended by inserting after subsection (g) (as added by section 9105) the following new subsections:</p>	<p><b>SEC. 1075. PROHIBITION ON CERTAIN PREPAYMENT PENALTIES.</b></p> <p>(a) In General- Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 129A (15 U.S.C. 1639a) the following new section:</p>	
<p>“(h) Prohibition on Certain Prepayment Penalties-</p> <p>“(1) PROHIBITED ON CERTAIN LOANS- A residential mortgage loan that is not a ‘qualified mortgage’ may not contain terms under which a consumer must pay a prepayment penalty for paying all or part of the principal after the loan is consummated. For purposes of this subsection, a ‘qualified mortgage’ may not include a residential mortgage loan that has an adjustable rate.</p>	<p><b>SEC. 129B. PROHIBITION ON CERTAIN PREPAYMENT PENALTIES.</b></p> <p>“(a) Prohibited on Certain Loans- A residential mortgage loan that is not a qualified mortgage may not contain terms under which a consumer is required to pay a prepayment penalty for paying all or part of the principal after the loan is consummated.</p>	<p>S. 3217 defines terms used in this section in the amended Truth in Lending Act, Sec. 129B(g), which can be found above next to H.R. 4173 Sec. 9103.</p>
<p>“(2) PHASED-OUT PENALTIES ON QUALIFIED MORTGAGES- A qualified mortgage (as defined in subsection (c)) may not contain terms under which a consumer must pay a prepayment penalty for paying all or part of the principal after the loan is consummated in excess of the following limitations:</p> <p>“(A) During the 1-year period beginning on the date the loan is consummated, the prepayment penalty shall not exceed an amount equal to 3 percent of the outstanding balance on the loan.</p> <p>“(B) During the 1-year period beginning after the period described in subparagraph (A), the prepayment penalty shall not exceed an amount equal to 2 percent of the outstanding balance on the loan.</p> <p>“(C) During the 1-year period beginning after the 1-year period described in subparagraph (B), the</p>	<p>“(b) Phased-out Penalties on Qualified Mortgages-</p> <p>“(1) IN GENERAL- A qualified mortgage may not contain terms under which a consumer is required to pay a prepayment penalty for paying all or part of the principal after the loan is consummated in excess of--</p> <p>“(A) during the 1-year period beginning on the date on which the loan is consummated, an amount equal to 3 percent of the outstanding balance on the loan;</p> <p>“(B) during the 1-year period beginning immediately after the end of the period described in subparagraph (A), an amount equal to 2 percent of the outstanding balance on the loan; and</p> <p>“(C) during the 1-year period beginning immediately after the end of the 1-year period described in</p>	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>prepayment penalty shall not exceed an amount equal to 1 percent of the outstanding balance on the loan.</p> <p>“(D) After the end of the 3-year period beginning on the date the loan is consummated, no prepayment penalty may be imposed on a qualified mortgage.</p>	<p><i>subparagraph (B), an amount equal to 1 percent of the outstanding balance on the loan.</i></p> <p>“(2) <i>PROHIBITION- After the end of the 3-year period beginning on the date on which the loan is consummated, no prepayment penalty may be imposed on a qualified mortgage.</i></p>	
<p>“(3) <b>OPTION FOR NO PREPAYMENT PENALTY REQUIRED-</b> A creditor may not offer a consumer a residential mortgage loan product that has a prepayment penalty for paying all or part of the principal after the loan is consummated as a term of the loan without offering the consumer a residential mortgage loan product that does not have a prepayment penalty as a term of the loan.</p>	<p>“(c) <i>Option for No Prepayment Penalty Required- A creditor may not offer a consumer a residential mortgage loan product that has a prepayment penalty for paying all or part of the principal after the loan is consummated as a term of the loan, without offering to the consumer a residential mortgage loan product that does not have a prepayment penalty as a term of the loan.</i></p>	
<p>“(i) <b>Single Premium Credit Insurance Prohibited-</b> No creditor may finance, directly or indirectly, in connection with any residential mortgage loan or with any extension of credit under an open end consumer credit plan secured by the principal dwelling of the consumer (other than a reverse mortgage), any credit life, credit disability, credit unemployment or credit property insurance, or any other accident, loss-of-income, life or health insurance, or any payments directly or indirectly for any debt cancellation or suspension agreement or contract, except that--</p> <p>“(1) insurance premiums or debt cancellation or suspension fees calculated and paid in full on a monthly basis shall not be considered financed by the creditor; and</p> <p>“(2) this subsection shall not apply to credit unemployment insurance for which the unemployment insurance premiums are reasonable, the creditor receives no direct or indirect compensation in connection with the unemployment insurance premiums, and the unemployment insurance premiums are paid pursuant to another insurance contract and not paid to an affiliate of the creditor.</p> <p>“(j) <b>Arbitration-</b></p> <p>“(1) <b>IN GENERAL-</b> No residential mortgage loan and no extension of credit under an open end consumer credit plan secured by the principal dwelling of the consumer, other than a reverse mortgage, may include terms which require arbitration or any other nonjudicial procedure as the method for resolving any controversy or settling any claims arising out of the</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>transaction.</p> <p>^(2) POST-CONTROVERSY AGREEMENTS- Subject to paragraph (3), paragraph (1) shall not be construed as limiting the right of the consumer and the creditor, any assignee, or any securitizer to agree to arbitration or any other nonjudicial procedure as the method for resolving any controversy at any time after a dispute or claim under the transaction arises.</p> <p>^(3) NO WAIVER OF STATUTORY CAUSE OF ACTION- No provision of any residential mortgage loan or of any extension of credit under an open end consumer credit plan secured by the principal dwelling of the consumer (other than a reverse mortgage), and no other agreement between the consumer and the creditor relating to the residential mortgage loan or extension of credit referred to in paragraph (1), shall be applied or interpreted so as to bar a consumer from bringing an action in an appropriate district court of the United States, or any other court of competent jurisdiction, pursuant to section 130 or any other provision of law, for damages or other relief in connection with any alleged violation of this section, any other provision of this title, or any other Federal law.</p> <p>^(k) Mortgages With Negative Amortization- No creditor may extend credit to a borrower in connection with a consumer credit transaction under an open or closed end consumer credit plan secured by a dwelling or residential real property that includes a dwelling, other than a reverse mortgage, that provides or permits a payment plan that may, at any time over the term of the extension of credit, result in negative amortization unless, before such transaction is consummated--</p> <p>^(1) the creditor provides the consumer with a statement that--</p> <ul style="list-style-type: none"> <li>^(A) the pending transaction will or may, as the case may be, result in negative amortization;</li> <li>^(B) describes negative amortization in such manner as the Federal banking agencies shall prescribe;</li> <li>^(C) negative amortization increases the outstanding principal balance of the account; and</li> <li>^(D) negative amortization reduces the consumer's equity in the dwelling or real property; and</li> </ul> <p>^(2) in the case of a first-time borrower with respect to a residential mortgage loan that is not a qualified mortgage, the first-time borrower provides the creditor with sufficient documentation to demonstrate that the consumer received homeownership counseling from organizations or counselors certified by the Secretary of Housing and Urban Development</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>as competent to provide such counseling.'</p> <p>(b) Conforming Amendment Relating to Enforcement- Section 108(a) of the Truth in Lending Act (15 U.S.C. 1607(a)) is amended by inserting after paragraph (6) the following new paragraph:</p> <p style="padding-left: 40px;">`7) sections 21B and 21C of the Securities Exchange Act of 1934, in the case of a broker or dealer, other than a depository institution, by the Securities and Exchange Commission.'</p> <p>(c) Protection Against Loss of Anti-deficiency Protection- Section 129C of the Truth in Lending Act is amended by inserting after subsection (k) (as added by subsection (a) of this section) the following new subsection (and designated succeeding subsections accordingly):</p> <p>`(l) Protection Against Loss of Anti-deficiency Protection-</p> <p style="padding-left: 40px;">`1) DEFINITION- For purposes of this subsection, the term `anti-deficiency law' means the law of any State which provides that, in the event of foreclosure on the residential property of a consumer securing a mortgage, the consumer is not liable, in accordance with the terms and limitations of such State law, for any deficiency between the sale price obtained on such property through foreclosure and the outstanding balance of the mortgage.</p> <p style="padding-left: 40px;">`2) NOTICE AT TIME OF CONSUMMATION- In the case of any residential mortgage loan that is, or upon consummation will be, subject to protection under an anti-deficiency law, the creditor or mortgage originator shall provide a written notice to the consumer describing the protection provided by the anti-deficiency law and the significance for the consumer of the loss of such protection before such loan is consummated.</p> <p style="padding-left: 40px;">`3) NOTICE BEFORE REFINANCING THAT WOULD CAUSE LOSS OF PROTECTION- In the case of any residential mortgage loan that is subject to protection under an anti-deficiency law, if a creditor or mortgage originator provides an application to a consumer, or receives an application from a consumer, for any type of refinancing for such loan that would cause the loan to lose the protection of such anti-deficiency law, the creditor or mortgage originator shall provide a written notice to the consumer describing the protection provided by the anti-deficiency law and the significance for the consumer of the loss of such protection before any agreement for any such refinancing is consummated.'</p> <p>(d) Policy Regarding Acceptance of Partial Payment- Section 129C of the Truth in Lending Act is amended by inserting after subsection (l) (as added by subsection (c)) the following new subsection:</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>^(m) Policy Regarding Acceptance of Partial Payment- In the case of any residential mortgage loan, a creditor shall disclose prior to settlement or, in the case of a person becoming a creditor with respect to an existing residential mortgage loan, at the time such person becomes a creditor--</p> <p>^(1) the creditor's policy regarding the acceptance of partial payments; and</p> <p>^(2) if partial payments are accepted, how such payments will be applied to such mortgage and if such payments will be placed in escrow.'</p>		
<p><b>SEC. 9107. RULE OF CONSTRUCTION.</b></p> <p>Except as otherwise expressly provided in section 129B or 129C of the Truth in Lending Act (as added by this subtitle), no provision of such section 129B or 129C shall be construed as superseding, repealing, or affecting any duty, right, obligation, privilege, or remedy of any person under any other provision of the Truth in Lending Act or any other provision of Federal or State law.</p>		
<p><b>SEC. 9108. EFFECT ON STATE LAWS.</b></p> <p>(a) In General- Except as provided in subsection (b), section 129C(d) of the Truth in Lending Act (as added by section 9104) shall supersede any State law to the extent that it provides additional remedies against any assignee, securitizer, or securitization vehicle for a violation of subsection (a) or (b) of section 129C of such Act or any other State law the terms of which address the specific subject matter of subsection (a) (determination of ability to repay) or (b) (requirement of a net tangible benefit) of section 129C of such Act, and the remedies described in section 129C(d) shall constitute the sole remedies against any assignee, securitizer, or securitization vehicle for such violations.</p> <p>(b) Rules of Construction- No provision of this section shall be construed as limiting--</p> <p>(1) the application of any State law, or the availability of remedies under such law, against a creditor for a particular residential mortgage loan regardless of whether such creditor also acts as an assignee, securitizer, or securitization vehicle for such loan;</p> <p>(2) the application of any State law, or the availability of remedies under such law, against an assignee, securitizer, or securitization vehicle under State law, other than a provision of</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>such law the terms of which address the specific subject matter of subsection (a) (determination of ability to repay) or (b) (requirement of a net tangible benefit) of section 129C of such Act;</p> <p>(3)(A) the application of any State law, or the availability of remedies under such law, against an assignee, securitizer or securitization vehicle for its participation in or direction of the credit or underwriting decisions of a creditor relating to the making of a residential mortgage loan; or</p> <p>(B) the ability of a consumer to assert any rights against or obtain any remedies from an assignee, securitizer or securitization vehicle with respect to a residential mortgage loan as a defense to foreclosure under section 129C(g);</p> <p>(4) the availability of any equitable remedies, including injunctive relief, under State law; or</p> <p>(5) notwithstanding paragraph (2), the availability of any remedies under State law against any assignee, securitizer or securitization vehicle that--</p> <p style="padding-left: 40px;">(A) are in addition to those remedies provided for in section 129C; and</p> <p style="padding-left: 40px;">(B) were in effect on the date of enactment of this Act.</p>		
<p><b>SEC. 9109. REGULATIONS.</b></p> <p>Regulations required or authorized to be prescribed under this subtitle or the amendments made by this subtitle--</p> <p style="padding-left: 40px;">(1) shall be prescribed in final form before the end of the 12-month period beginning on the date of the enactment of this Act; and</p> <p style="padding-left: 40px;">(2) shall take effect not later than 18 months after the date of the enactment of this Act.</p>		
<p><b>SEC. 9110. AMENDMENTS TO CIVIL LIABILITY PROVISIONS.</b></p> <p>(a) Increase in Amount of Civil Money Penalties for Certain Violations- Section 130(a)(2) of the Truth in Lending Act (15 U.S.C. 1640(a)(2)) is amended--</p> <p style="padding-left: 40px;">(1) by striking '\$100' and inserting '\$200';</p> <p style="padding-left: 40px;">(2) by striking '\$1,000' and inserting '\$2,000'; and</p> <p style="padding-left: 40px;">(3) by striking '\$500,000' and inserting '\$1,000,000'.</p> <p>(b) Statute of Limitations Extended for Section 129 Violations- Section 130(e) of the Truth in Lending Act (15 U.S.C. 1640(e)) is amended--</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>(1) in the first sentence, by striking `Any action' and inserting `Except as provided in the subsequent sentence, any action'; and</p> <p>(2) by inserting after the first sentence the following new sentence: `Any action under this section with respect to any violation of section 129 may be brought in any United States district court, or in any other court of competent jurisdiction, before the end of the 3-year period beginning on the date of the occurrence of the violation.'.</p>		
<p><b>SEC. 9111. LENDER RIGHTS IN THE CONTEXT OF BORROWER DECEPTION.</b></p> <p>Section 130 of the Truth in Lending Act is amended by adding at the end the following new subsection:</p> <p>`(k) Exemption From Liability and Rescission in Case of Borrower Fraud or Deception- In addition to any other remedy available by law or contract, no creditor, assignee, or securitizer shall be liable to an obligor under this section, nor shall it be subject to the right of rescission of any obligor under 129B, if such obligor, or co-obligor, knowingly, or willfully and with actual knowledge furnished material information known to be false for the purpose of obtaining such residential mortgage loan.'.</p>		
<p><b>SEC. 9112. SIX-MONTH NOTICE REQUIRED BEFORE RESET OF HYBRID ADJUSTABLE RATE MORTGAGES.</b></p> <p>(a) In General- Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 128 the following new section:</p> <p><b>`Sec. 128A. Reset of hybrid adjustable rate mortgages</b></p> <p>`(a) Hybrid Adjustable Rate Mortgages Defined- For purposes of this section, the term `hybrid adjustable rate mortgage' means a consumer credit transaction secured by the consumer's principal residence with a fixed interest rate for an introductory period that adjusts or resets to a variable interest rate after such period.</p> <p>`(b) Notice of Reset and Alternatives- During the 1-month period that ends 6 months before the date on which the interest rate in effect during the introductory period of a hybrid adjustable rate mortgage adjusts or resets to a variable interest rate or, in the case of such an adjustment or resetting that occurs within the first 6 months after consummation of such loan, at consummation, the creditor or servicer of such loan shall provide a written notice, separate and distinct from all other correspondence to the consumer, that includes the following:</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>           `(1) Any index or formula used in making adjustments to or resetting the interest rate and a source of information about the index or formula.            `(2) An explanation of how the new interest rate and payment would be determined, including an explanation of how the index was adjusted, such as by the addition of a margin.            `(3) A good faith estimate, based on accepted industry standards, of the creditor or servicer of the amount of the monthly payment that will apply after the date of the adjustment or reset, and the assumptions on which this estimate is based.            `(4) A list of alternatives consumers may pursue before the date of adjustment or reset, and descriptions of the actions consumers must take to pursue these alternatives, including--                `(A) refinancing;                `(B) renegotiation of loan terms;                `(C) payment forbearances; and                `(D) pre-foreclosure sales.            `(5) The names, addresses, telephone numbers, and Internet addresses of counseling agencies or programs reasonably available to the consumer that have been certified or approved and made publicly available by the Secretary of Housing and Urban Development or a State housing finance authority (as defined in section 1301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989).            `(6) The address, telephone number, and Internet address for the State housing finance authority (as so defined) for the State in which the consumer resides.'.         </p> <p>           (b) Clerical Amendment- The table of sections for chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 128 the following new item:            `128A. Reset of hybrid adjustable rate mortgages.'.         </p>		
<p><b>SEC. 9113. REQUIRED DISCLOSURES.</b></p> <p>           Section 128(a) of Truth in Lending Act (15 U.S.C. 1638(a)) is amended by adding at the end the following new paragraphs:            `(16) In the case of a variable rate residential mortgage loan for which an escrow or impound account will be established for the payment of all applicable taxes, insurance, and assessments--                `(A) the amount of initial monthly payment due under the loan for the payment of principal and interest, and the amount of such initial monthly payment including         </p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>the monthly payment deposited in the account for the payment of all applicable taxes, insurance, and assessments; and</p> <p>`(B) the amount of the fully indexed monthly payment due under the loan for the payment of principal and interest, and the amount of such fully indexed monthly payment including the monthly payment deposited in the account for the payment of all applicable taxes, insurance, and assessments.</p> <p>`(17) In the case of a residential mortgage loan, the aggregate amount of settlement charges for all settlement services provided in connection with the loan, the amount of charges that are included in the loan and the amount of such charges the borrower must pay at closing, the approximate amount of the wholesale rate of funds in connection with the loan, and the aggregate amount of other fees or required payments in connection with the loan.</p> <p>`(18) In the case of a residential mortgage loan, the aggregate amount of fees paid to the mortgage originator in connection with the loan, the amount of such fees paid directly by the consumer, and any additional amount received by the originator from the creditor.</p> <p>`(19) In the case of a residential mortgage loan, the total amount of interest that the consumer will pay over the life of the loan as a percentage of the principal of the loan. Such amount shall be computed assuming the consumer makes each monthly payment in full and on-time, and does not make any over-payments.'.</p>		
<p><b>SEC. 9114. DISCLOSURES REQUIRED IN MONTHLY STATEMENTS FOR RESIDENTIAL MORTGAGE LOANS.</b></p> <p>Section 128 of the Truth in Lending Act (15 U.S.C. 1638) is amended by adding at the end the following new subsection:</p> <p>`(f) Periodic Statements for Residential Mortgage Loans-</p> <p>    `(1) IN GENERAL- The creditor, assignee, or servicer with respect to any residential mortgage loan shall transmit to the obligor, for each billing cycle, a statement setting forth each of the following items, to the extent applicable, in a conspicuous and prominent manner:</p> <p>        `(A) The amount of the principal obligation under the mortgage.</p> <p>        `(B) The current interest rate in effect for the loan.</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>           `(C) The date on which the interest rate may next reset or adjust.            `(D) The amount of any prepayment fee to be charged, if any.            `(E) A description of any late payment fees.            `(F) A telephone number and electronic mail address that may be used by the obligor to obtain information regarding the mortgage.            `(G) The names, addresses, telephone numbers, and Internet addresses of counseling agencies or programs reasonably available to the consumer that have been certified or approved and made publicly available by the Secretary of Housing and Urban Development or a State housing finance authority (as defined in section 1301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989).            `(H) Such other information as the Board may prescribe in regulations.            `(2) DEVELOPMENT AND USE OF STANDARD FORM- The Federal banking agencies shall jointly develop and prescribe a standard form for the disclosure required under this subsection, taking into account that the statements required may be transmitted in writing or electronically.'         </p>		
<p><b>SEC. 9115. LEGAL ASSISTANCE FOR FORECLOSURE-RELATED ISSUES.</b></p> <p>(a) Establishment- The Secretary of Housing and Urban Development (hereafter in this section referred to as the `Secretary' shall establish a program for making grants for providing a full range of foreclosure legal assistance to low- and moderate-income homeowners and tenants related to home ownership preservation, home foreclosure prevention, and tenancy associated with home foreclosure.</p> <p>(b) Competitive Allocation- The Secretary shall allocate amounts made available for grants under this section to State and local legal organizations on the basis of a competitive process. For purposes of this subsection `State and local legal organizations' are those State and local organizations whose primary business or mission is to provide legal assistance.</p> <p>(c) Priority to Certain Areas- In allocating amounts in accordance with subsection (b), the Secretary shall give priority consideration to State and</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>local legal organizations that are operating in the 100 metropolitan statistical areas (as that term is defined by the Director of the Office of Management and Budget) with the highest home foreclosure rates.</p> <p>(d) Legal Assistance-</p> <p>(1) IN GENERAL- Any State or local legal organization that receives financial assistance pursuant to this section may use such amounts only to assist--</p> <p>(A) homeowners of owner-occupied homes with mortgages in default, in danger of default, or subject to or at risk of foreclosure; and</p> <p>(B) tenants at risk of or subject to eviction as a result of foreclosure of the property in which such tenant resides.</p> <p>(2) COMMENCE USE WITHIN 90 DAYS- Any State or local legal organization that receives financial assistance pursuant to this section shall begin using any financial assistance received under this section within 90 days after receipt of the assistance.</p> <p>(3) PROHIBITION ON CLASS ACTIONS- No funds provided to a State or local legal organization under this section may be used to support any class action litigation.</p> <p>(4) LIMITATION ON LEGAL ASSISTANCE- Legal assistance funded with amounts provided under this section shall be limited to mortgage-related default, eviction, or foreclosure proceedings, without regard to whether such foreclosure is judicial or nonjudicial.</p> <p>(5) EFFECTIVE DATE- Notwithstanding section 9116, this subsection shall take effect on the date of the enactment of this Act.</p> <p>(e) Limitation on Distribution of Assistance-</p> <p>(1) IN GENERAL- None of the amounts made available under this section shall be distributed to--</p> <p>(A) any organization which has been convicted for a violation under Federal law relating to an election for Federal office; or</p> <p>(B) any organization which employs applicable individuals.</p> <p>(2) DEFINITION OF APPLICABLE INDIVIDUALS- In this subsection, the term `applicable individual' means an individual who--</p> <p>(A) is--</p> <p>(i) employed by the organization in a permanent or temporary capacity;</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>(ii) contracted or retained by the organization; or            (iii) acting on behalf of, or with the express or apparent authority of, the organization; and            (B) has been convicted for a violation under Federal law relating to an election for Federal office.</p> <p>(f) Authorization of Appropriations- There are authorized to be appropriated to the Secretary \$35,000,000 for each of fiscal years 2009 through 2012 for grants under this section.</p>		
<p><b>SEC. 9116. EFFECTIVE DATE.</b></p> <p>The amendments made by this subtitle shall apply to transactions consummated on or after the effective date of the regulations specified in section 9109.</p>		
<p><b>SEC. 9117. REPORT BY THE GAO.</b></p> <p>(a) Report Required- The Comptroller General shall conduct a study to determine the effects the enactment of this Act will have on the availability and affordability of credit for consumers, small businesses, homebuyers, and mortgage lending, including the effect--</p> <ul style="list-style-type: none"> <li>(1) on the mortgage market for mortgages that are not within the safe harbor provided in the amendments made by this subtitle;</li> <li>(2) on the ability of prospective homebuyers to obtain financing;</li> <li>(3) on the ability of homeowners facing resets or adjustments to refinance--for example, do they have fewer refinancing options due to the unavailability of certain loan products that were available before the enactment of this Act;</li> <li>(4) on minorities' ability to access affordable credit compared with other prospective borrowers;</li> <li>(5) on home sales and construction;</li> <li>(6) of extending the rescission right, if any, on adjustable rate loans and its impact on litigation;</li> <li>(7) of State foreclosure laws and, if any, an investor's ability to transfer a property after foreclosure;</li> <li>(8) of expanding the existing provisions of the Home Ownership and Equity Protection Act of 1994;</li> <li>(9) of prohibiting prepayment penalties on high-cost mortgages; and</li> <li>(10) of establishing counseling services under the Department of Housing and Urban Development and offered through the Office of Housing Counseling.</li> </ul>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>(b) Report- Before the end of the 1-year period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report to the Congress containing the findings and conclusions of the Comptroller General with respect to the study conducted pursuant to subsection (a).</p> <p>(c) Examination Related to Certain Credit Risk Retention Provisions- The report required by subsection (b) shall also include an analysis by the Comptroller General of the effect on the capital reserves and funding of lenders of credit risk retention provisions for non-qualified mortgages, including an analysis of the exceptions and adjustments authorized in section 129C(1)(3)(A) of the Truth in Lending Act and a recommendation on whether a uniform standard is needed.</p> <p>(d) Analysis of Credit Risk Retention Provisions- The report required by subsection (b) shall also include--</p> <ul style="list-style-type: none"> <li>(1) an analysis by the Comptroller General of whether the credit risk retention provisions have significantly reduced risks to the larger credit market of the repackaging and selling of securitized loans on a secondary market; and</li> <li>(2) recommendations to the Congress on adjustments that should be made, or additional measures that should be undertaken.</li> </ul>		
<p><b>SEC. 9118. STATE ATTORNEY GENERAL ENFORCEMENT AUTHORITY.</b></p> <p>Section 130(e) of the Truth in Lending Act (15 U.S.C. 1640(e)) is amended by striking `section 129 may also' and inserting `section 129, 129B, or 129C of this Act may also'.</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p style="text-align: center;"><b>Subtitle C--High-Cost Mortgages</b></p> <p><b>SEC. 9201. DEFINITIONS RELATING TO HIGH-COST MORTGAGES.</b></p> <p>(a) High-cost Mortgage Defined- Section 103(aa) of the Truth in Lending Act (15 U.S.C. 1602(aa)) is amended by striking all that precedes paragraph (2) and inserting the following:</p> <p>    (aa) High-cost Mortgage-</p> <p>        (1) DEFINITION-</p> <p>            (A) IN GENERAL- The term 'high-cost mortgage', and a mortgage referred to in this subsection, means a consumer credit transaction that is secured by the consumer's principal dwelling, other than a reverse mortgage transaction, if--</p> <p>                (i) in the case of a credit transaction secured--</p> <p>                    (I) by a first mortgage on the consumer's principal dwelling, the annual percentage rate at consummation of the transaction will exceed by more than 6.5 percentage points (8.5 percentage points, if the dwelling is personal property and the transaction is for less than \$50,000) the average prime offer rate, as defined in section 129C(c)(2)(B), for a comparable transaction; or</p> <p>                    (II) by a subordinate or junior mortgage on the consumer's principal dwelling, the annual percentage rate at consummation of the transaction will exceed by more than 8.5 percentage points the average prime offer rate, as defined in section 129C(c)(2)(B), for a comparable transaction;</p> <p>                (ii) the total points and fees payable in connection with the transaction exceed--</p> <p>                    (I) in the case of a transaction for \$20,000 or more, 5 percent of the total transaction amount; or</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>           `(II) in the case of a transaction for less than \$20,000, the lesser of 8 percent of the total transaction amount or \$1,000 (or such other dollar amount as the Board shall prescribe by regulation); or            `(iii) the credit transaction documents permit the creditor to charge or collect prepayment fees or penalties more than 36 months after the transaction closing or such fees or penalties exceed, in the aggregate, more than 2 percent of the amount prepaid.            `(B) INTRODUCTORY RATES TAKEN INTO ACCOUNT- For purposes of subparagraph (A)(i), the annual percentage rate of interest shall be determined based on the following interest rate:            `(i) In the case of a fixed-rate transaction in which the annual percentage rate will not vary during the term of the loan, the interest rate in effect on the date of consummation of the transaction.            `(ii) In the case of a transaction in which the rate of interest varies solely in accordance with an index, the interest rate determined by adding the index rate in effect on the date of consummation of the transaction to the maximum margin permitted at any time during the transaction agreement.            `(iii) In the case of any other transaction in which the rate may vary at any time during the term of the loan for any reason, the interest charged on the transaction at the maximum rate that may be charged during the term of the transaction.'.            (b) Adjustment of Percentage Points- Section 103(aa)(2) of the Truth in Lending Act (15 U.S.C. 1602(aa)(2)) is amended by striking subparagraph (B) and inserting the following new subparagraph:            `(B) An increase or decrease under subparagraph (A)--            `(i) may not result in the number of percentage points referred to in paragraph (1)(A)(i)(I) being less than 6 percentage points or greater than 10 percentage points; and         </p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p style="text-align: center;">(ii) may not result in the number of percentage points referred to in paragraph (1)(A)(i)(II) being less than 8 percentage points or greater than 12 percentage points.'</p> <p>(c) Points and Fees Defined-</p> <p>(1) IN GENERAL- Section 103(aa)(4) of the Truth in Lending Act (15 U.S.C. 1602(aa)(4)) is amended--</p> <p>(A) by striking subparagraph (B) and inserting the following:</p> <p>(B) all compensation paid directly or indirectly by a consumer or creditor to a mortgage originator from any source, including a mortgage originator that originates a loan in the name of the creditor in a table-funded transaction;';</p> <p>(B) in subparagraph (C)(ii), by inserting 'except where applied to the charges set forth in section 106(e)(1) where a creditor may receive indirect compensation solely as a result of obtaining distributions of profits from an affiliated entity based on its ownership interest in compliance with section 8(c)(4) of the Real Estate Settlement Procedures Act of 1974' before the semicolon at the end;</p> <p>(C) in subparagraph (C)(iii), by striking `; and' and inserting ` , except as provided for in clause (ii);';</p> <p>(D) by redesignating subparagraph (D) as subparagraph (G); and</p> <p>(E) by inserting after subparagraph (C) the following new subparagraphs:</p> <p>(D) premiums or other charges payable at or before closing for any credit life, credit disability, credit unemployment, or credit property insurance, or any other accident, loss-of-income, life or health insurance, or any payments directly or indirectly for any debt cancellation or suspension agreement or contract, except that insurance premiums or debt cancellation or suspension fees calculated and paid in full on a monthly basis shall not be considered financed by the creditor;</p> <p>(E) except as provided in subsection (cc), the maximum prepayment fees and penalties which may be charged or collected under the terms of the credit transaction;</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>“(F) all prepayment fees or penalties that are incurred by the consumer if the loan refinances a previous loan made or currently held by the same creditor or an affiliate of the creditor; and”.</p> <p>(2) CALCULATION OF POINTS AND FEES FOR OPEN-END CONSUMER CREDIT PLANS- Section 103(aa) of the Truth in Lending Act (15 U.S.C. 1602(aa)) is amended--</p> <p>(A) by redesignating paragraph (5) as paragraph (6); and</p> <p>(B) by inserting after paragraph (4) the following new paragraph:</p> <p>“(5) CALCULATION OF POINTS AND FEES FOR OPEN-END CONSUMER CREDIT PLANS- In the case of open-end consumer credit plans, points and fees shall be calculated, for purposes of this section and section 129, by adding the total points and fees known at or before closing, including the maximum prepayment penalties which may be charged or collected under the terms of the credit transaction, plus the minimum additional fees the consumer would be required to pay to draw down an amount equal to the total credit line.”.</p> <p>(d) Bona Fide Discount Loan Discount Points- Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended by inserting after subsection (cc) (as added by section 101) the following new subsection:</p> <p>“(dd) Bona Fide Discount Points and Prepayment Penalties- For the purposes of determining the amount of points and fees for purposes of subsection (aa), either the amounts described in paragraph (1) or (2) of the following paragraphs, but not both, shall be excluded:</p> <p>“(1) Up to and including 2 bona fide discount points payable by the consumer in connection with the mortgage, but only if the interest rate from which the mortgage’s interest rate will be discounted does not exceed by more than 1 percentage point--</p> <p>“(A) the required net yield for a 90-day standard mandatory delivery commitment for a reasonably comparable loan from either the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, whichever is greater; or</p> <p>“(B) if secured by a personal property loan, the average rate on a loan in connection with which insurance is provided under title I of the National Housing Act (12 U.S.C. 1702 et seq.).</p> <p>“(2) Unless 2 bona fide discount points have been excluded under paragraph (1), up to and including 1 bona fide discount</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>point payable by the consumer in connection with the mortgage, but only if the interest rate from which the mortgage's interest rate will be discounted does not exceed by more than 2 percentage points--</p> <p>    (A) the required net yield for a 90-day standard mandatory delivery commitment for a reasonably comparable loan from either the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, whichever is greater; or</p> <p>    (B) if secured by a personal property loan, the average rate on a loan in connection with which insurance is provided under title I of the National Housing Act (12 U.S.C. 1702 et seq.).</p> <p>    (3) For purposes of paragraph (1), the term 'bona fide discount points' means loan discount points which are knowingly paid by the consumer for the purpose of reducing, and which in fact result in a bona fide reduction of, the interest rate or time-price differential applicable to the mortgage.</p> <p>    (4) Paragraphs (1) and (2) shall not apply to discount points used to purchase an interest rate reduction unless the amount of the interest rate reduction purchased is reasonably consistent with established industry norms and practices for secondary mortgage market transactions.'</p>		
<p><b>SEC. 9202. AMENDMENTS TO EXISTING REQUIREMENTS FOR CERTAIN MORTGAGES.</b></p> <p>(a) Prepayment Penalty Provisions- Section 129(c)(2) of the Truth in Lending Act (15 U.S.C. 1639(c)(2)) is hereby repealed.</p>	<p><i>(b) Conforming Amendments- Section 129(c) of the Truth in Lending Act (15 U.S.C. 1639(c)) is amended--</i></p> <p><i>(1) by striking paragraph (2);</i></p> <p><i>(2) by striking '(1) IN GENERAL- '; and</i></p> <p><i>(3) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.</i></p> <p>(Sec. 1075)</p>	
<p>(b) No Balloon Payments- Section 129(e) of the Truth in Lending Act (15 U.S.C. 1639(e)) is amended to read as follows:</p> <p>    (e) No Balloon Payments- No high-cost mortgage may contain a scheduled payment that is more than twice as large as the average of earlier scheduled payments. This subsection shall not apply when the payment schedule is adjusted to the seasonal or irregular income of the consumer or in the case of a balance due under the customary terms of a reverse mortgage.'</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p><b>SEC. 9203. ADDITIONAL REQUIREMENTS FOR CERTAIN MORTGAGES.</b></p> <p>(a) Additional Requirements for Certain Mortgages- Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended--</p> <p>(1) by redesignating subsections (j), (k) and (l) as subsections (n), (o) and (p) respectively; and</p> <p>(2) by inserting after subsection (i) the following new subsections:</p> <p> `(j) Recommended Default- No creditor shall recommend or encourage default on an existing loan or other debt prior to and in connection with the closing or planned closing of a high-cost mortgage that refinances all or any portion of such existing loan or debt.</p> <p> `(k) Late Fees-</p> <p> `(1) IN GENERAL- No creditor may impose a late payment charge or fee in connection with a high-cost mortgage--</p> <p> `(A) in an amount in excess of 4 percent of the amount of the payment past due;</p> <p> `(B) unless the loan documents specifically authorize the charge or fee;</p> <p> `(C) before the end of the 15-day period beginning on the date the payment is due, or in the case of a loan on which interest on each installment is paid in advance, before the end of the 30-day period beginning on the date the payment is due; or</p> <p> `(D) more than once with respect to a single late payment.</p> <p> `(2) COORDINATION WITH SUBSEQUENT LATE FEES- If a payment is otherwise a full payment for the applicable period and is paid on its due date or within an applicable grace period, and the only delinquency or insufficiency of payment is attributable to any late fee or delinquency charge assessed on any earlier payment, no late fee or delinquency charge may be imposed on such payment.</p> <p> `(3) FAILURE TO MAKE INSTALLMENT PAYMENT- If, in the case of a loan agreement the terms of which provide that any payment shall first be applied to any past due principal balance, the consumer fails to make an installment payment and the consumer subsequently resumes making installment payments but has not paid all past due installments, the creditor may impose a separate late payment charge or fee for any principal</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>due (without deduction due to late fees or related fees) until the default is cured.</p> <p>`(l) Acceleration of Debt- No high-cost mortgage may contain a provision which permits the creditor to accelerate the indebtedness, except when repayment of the loan has been accelerated by default in payment, or pursuant to a due-on-sale provision, or pursuant to a material violation of some other provision of the loan document unrelated to payment schedule.</p> <p>`(m) Restriction on Financing Points and Fees- No creditor may directly or indirectly finance, in connection with any high-cost mortgage, any of the following:</p> <p>    `(1) Any prepayment fee or penalty payable by the consumer in a refinancing transaction if the creditor or an affiliate of the creditor is the noteholder of the note being refinanced.</p> <p>    `(2) Any points or fees.'</p>		
<p>(b) Prohibitions on Evasions- Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (p) (as so redesignated by subsection (a)(1)) the following new subsection:</p> <p>`(q) Prohibitions on Evasions, Structuring of Transactions, and Reciprocal Arrangements- A creditor may not take any action in connection with a high-cost mortgage--</p> <p>    `(1) to structure a loan transaction as an open-end credit plan or another form of loan for the purpose and with the intent of evading the provisions of this title; or</p> <p>    `(2) to divide any loan transaction into separate parts for the purpose and with the intent of evading provisions of this title.'</p>	<p><i>`(d) Prohibitions on Evasions, Structuring of Transactions, and Reciprocal Arrangements- A creditor may not take any action in connection with a residential mortgage loan--</i></p> <p><i>`(1) to structure a loan transaction as an open end consumer credit plan or another form of loan for the purpose and with the intent of evading the provisions of this section; or</i></p> <p><i>`(2) to divide any loan transaction into separate parts for the purpose and with the intent of evading provisions of this section.</i></p> <p>(Sec. 1075, amending Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) by adding a new section 129B(d)).</p>	
<p>(c) Modification or Deferral Fees- Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (q) (as added by subsection (b) of this section) the following new subsection:</p> <p>`(r) Modification and Deferral Fees Prohibited-</p> <p>    `(1) CREDITORS- A creditor may not charge a consumer any fee to modify, renew, extend, or amend a high-cost mortgage, or</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>to defer any payment due under the terms of such mortgage, unless the modification, renewal, extension or amendment results in a lower annual percentage rate on the mortgage for the consumer and then only if the amount of the fee is comparable to fees imposed for similar transactions in connection with consumer credit transactions that are secured by a consumer's principal dwelling and are not high-cost mortgages.</p> <p>\(2) THIRD PARTIES- A third-party may not charge a consumer any fee to--</p> <ul style="list-style-type: none"> <li>\(A) modify, renew, extend, or amend a high-cost mortgage, or defer any payment due under the terms of such mortgage;</li> <li>\(B) negotiate with a creditor on behalf of a consumer, the modification, renewal, extension, or amendment of a high-cost mortgage; or</li> <li>\(C) negotiate with a creditor on behalf of a consumer, the deferral of any payment due under the terms of such mortgage,</li> </ul> <p>unless the modification renewal, extension or amendment results in a significantly lower annual percentage rate on the mortgage, or a significant reduction in the amount of the outstanding principal on the mortgage, for the consumer and then only if the amount of the fee is comparable to fees imposed for similar transactions in connection with consumer credit transactions that are secured by a consumer's principal dwelling and are not high-cost mortgages.</p> <p>\(3) ENFORCEMENT- Section 130 shall be applied for purposes of paragraph (2) by--</p> <ul style="list-style-type: none"> <li>\(A) substituting `third party' for `creditor' each place such term appears; and</li> <li>\(B) substituting `any fee charged by a third party' for `finance charge' each place such term appears.'</li> </ul> <p>(d) Payoff Statement- Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (r) (as added by subsection (c) of this section) the following new subsection:</p> <p>\(s) Payoff Statement-</p> <ul style="list-style-type: none"> <li>\(1) FEES- <ul style="list-style-type: none"> <li>\(A) IN GENERAL- Except as provided in subparagraph (B), no creditor or servicer may charge a fee for informing or transmitting to any person the balance due to pay off the outstanding balance on a high-cost mortgage.</li> </ul> </li> </ul>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>           `(B) TRANSACTION FEE- When payoff information referred to in subparagraph (A) is provided by facsimile transmission or by a courier service, a creditor or servicer may charge a processing fee to cover the cost of such transmission or service in an amount not to exceed an amount that is comparable to fees imposed for similar services provided in connection with consumer credit transactions that are secured by the consumer's principal dwelling and are not high-cost mortgages.         </p> <p>           `(C) FEE DISCLOSURE- Prior to charging a transaction fee as provided in subparagraph (B), a creditor or servicer shall disclose that payoff balances are available for free pursuant to subparagraph (A).         </p> <p>           `(D) MULTIPLE REQUESTS- If a creditor or servicer has provided payoff information referred to in subparagraph (A) without charge, other than the transaction fee allowed by subparagraph (B), on 4 occasions during a calendar year, the creditor or servicer may thereafter charge a reasonable fee for providing such information during the remainder of the calendar year.         </p> <p>           `(2) PROMPT DELIVERY- Payoff balances shall be provided within 5 business days after receiving a request by a consumer or a person authorized by the consumer to obtain such information.         </p> <p>           `(3) SERVICES CONSIDERED ASSIGNEE- For the purposes of this subsection, a servicer shall be considered an assignee under the Truth in Lending Act.'.         </p> <p>           (e) Pre-Loan Counseling Required- Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (s) (as added by subsection (d) of this section) the following new subsection:         </p> <p>           `(t) Pre-Loan Counseling-         </p> <p>           `(1) IN GENERAL- A creditor may not extend credit to a consumer under a high-cost mortgage without first receiving certification from a counselor that is approved by the Secretary of Housing and Urban Development, or at the discretion of the Secretary, a State housing finance authority, that the consumer has received counseling on the advisability of the mortgage. Such counselor shall not be employed by the creditor or an affiliate of the creditor or be affiliated with the creditor.         </p> <p>           `(2) DISCLOSURES REQUIRED PRIOR TO COUNSELING-         </p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>No counselor may certify that a consumer has received counseling on the advisability of the high-cost mortgage unless the counselor can verify that the consumer has received each statement required (in connection with such loan) by this section or the Real Estate Settlement Procedures Act of 1974 with respect to the transaction.</p> <p>`(3) REGULATIONS- The Board may prescribe such regulations as the Board determines to be appropriate to carry out the requirements of paragraph (1).'</p> <p>(f) Flipping Prohibited- Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (t) (as added by subsection (e)) the following new subsection:</p> <p>`(u) Flipping-</p> <p>`(1) IN GENERAL- No creditor may knowingly or intentionally engage in the unfair act or practice of flipping in connection with a high-cost mortgage.</p> <p>`(2) FLIPPING DEFINED- For purposes of this subsection, the term 'flipping' means the making of a loan or extension of credit in the form a high-cost mortgage to a consumer which refinances an existing mortgage when the new loan or extension of credit does not have reasonable, net tangible benefit (as determined in accordance with regulations prescribed under section 129C(b)) to the consumer considering all of the circumstances, including the terms of both the new and the refinanced loans or credit, the cost of the new loan or credit, and the consumer's circumstances.</p> <p>`(v) Corrections and Unintentional Violations- A creditor or assignee in a high cost loan who, when acting in good faith, fails to comply with any requirement under this section will not be deemed to have violated such requirement if the creditor or assignee establishes that either--</p> <p>`(1) within 30 days of the loan closing and prior to the institution of any action, the consumer is notified of or discovers the violation, appropriate restitution is made, and whatever adjustments are necessary are made to the loan to either, at the choice of the consumer--</p> <p style="padding-left: 20px;">`(A) make the loan satisfy the requirements of this chapter; or</p> <p style="padding-left: 20px;">`(B) in the case of a high-cost mortgage, change the terms of the loan in a manner beneficial to the consumer so that the loan will no longer be a high-cost mortgage; or</p> <p>`(2) within 60 days of the creditor's discovery or receipt of</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>notification of an unintentional violation or bona fide error as described in subsection (c) and prior to the institution of any action, the consumer is notified of the compliance failure, appropriate restitution is made, and whatever adjustments are necessary are made to the loan to either, at the choice of the consumer--</p> <p style="padding-left: 20px;">(A) make the loan satisfy the requirements of this chapter; or</p> <p style="padding-left: 20px;">(B) in the case of a high-cost mortgage, change the terms of the loan in a manner beneficial so that the loan will no longer be a high-cost mortgage.'</p>		
<p><b>SEC. 9204. REGULATIONS.</b></p> <p>(a) In General- The Board of Governors of the Federal Reserve System shall publish regulations implementing this subtitle and the amendments made by this subtitle in final form before the end of the 6-month period beginning on the date of the enactment of this Act.</p> <p>(b) Consumer Mortgage Education-</p> <p style="padding-left: 20px;">(1) REGULATIONS- The Board of Governors of the Federal Reserve System may prescribe regulations requiring or encouraging creditors to provide consumer mortgage education to prospective customers or direct such customers to qualified consumer mortgage education or counseling programs in the vicinity of the residence of the consumer.</p> <p style="padding-left: 20px;">(2) COORDINATION WITH STATE LAW- No requirement established by the Board of Governors of the Federal Reserve System pursuant to paragraph (1) shall be construed as affecting or superseding any requirement under the law of any State with respect to consumer mortgage counseling or education.</p>		
<p><b>SEC. 9205. EFFECTIVE DATE.</b></p> <p>The amendments made by this subtitle shall take effect at the end of the 6-month period beginning on the date of the enactment of this Act and shall apply to mortgages referred to in section 103(aa) of the Truth in Lending Act (15 U.S.C. 1602(aa)) for which an application is received by the creditor after the end of such period.</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p style="text-align: center;"><b>Subtitle D--Office of Housing Counseling</b></p> <p><b>SEC. 9301. SHORT TITLE.</b></p> <p>This subtitle may be cited as the `Expand and Preserve Home Ownership Through Counseling Act'.</p>		
<p><b>SEC. 9302. ESTABLISHMENT OF OFFICE OF HOUSING COUNSELING.</b></p> <p>Section 4 of the Department of Housing and Urban Development Act (42 U.S.C. 3533) is amended by adding at the end the following new subsection:</p> <p>`(g) Office of Housing Counseling-</p> <p style="padding-left: 20px;">`(1) ESTABLISHMENT- There is established, in the Department, the Office of Housing Counseling.</p> <p style="padding-left: 20px;">`(2) DIRECTOR- There is established the position of Director of Housing Counseling. The Director shall be the head of the Office of Housing Counseling and shall be appointed by, and shall report to, the Secretary. Such position shall be a career-reserved position in the Senior Executive Service.</p> <p style="padding-left: 20px;">`(3) FUNCTIONS-</p> <p style="padding-left: 40px;">`(A) IN GENERAL- The Director shall have primary responsibility within the Department for all activities and matters relating to homeownership counseling and rental housing counseling, including--</p> <p style="padding-left: 60px;">`(i) research, grant administration, public outreach, and policy development relating to such counseling; and</p> <p style="padding-left: 60px;">`(ii) establishment, coordination, and administration of all regulations, requirements, standards, and performance measures under programs and laws administered by the Department that relate to housing counseling, homeownership counseling (including maintenance of homes), mortgage-related counseling (including home equity conversion mortgages and credit protection options to avoid foreclosure), and rental housing counseling, including the requirements, standards, and performance</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>measures relating to housing counseling.</p> <p>“(B) SPECIFIC FUNCTIONS- The Director shall carry out the functions assigned to the Director and the Office under this section and any other provisions of law. Such functions shall include establishing rules necessary for--</p> <ul style="list-style-type: none"> <li>“(i) the counseling procedures under section 106(g)(1) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(h)(1));</li> <li>“(ii) carrying out all other functions of the Secretary under section 106(g) of the Housing and Urban Development Act of 1968, including the establishment, operation, and publication of the availability of the toll-free telephone number under paragraph (2) of such section;</li> <li>“(iii) contributing to the preparation and distribution of home buying information booklets pursuant to section 5 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604);</li> <li>“(iv) carrying out the certification program under section 106(e) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(e));</li> <li>“(v) carrying out the assistance program under section 106(a)(4) of the Housing and Urban Development Act of 1968, including criteria for selection of applications to receive assistance;</li> <li>“(vi) carrying out any functions regarding abusive, deceptive, or unscrupulous lending practices relating to residential mortgage loans that the Secretary considers appropriate, which shall include conducting the study under section 6 of the Expand and Preserve Home Ownership Through Counseling Act;</li> <li>“(vii) providing for operation of the advisory committee established under paragraph (4) of this subsection;</li> <li>“(viii) collaborating with community-based</li> </ul>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>organizations with expertise in the field of housing counseling; and</p> <p>`(ix) providing for the building of capacity to provide housing counseling services in areas that lack sufficient services, including underdeveloped areas that lack basic water and sewer systems, electricity services, and safe, sanitary housing.</p> <p>`(4) ADVISORY COMMITTEE-</p> <p>`(A) IN GENERAL- The Secretary shall appoint an advisory committee to provide advice regarding the carrying out of the functions of the Director.</p> <p>`(B) MEMBERS- Such advisory committee shall consist of not more than 12 individuals, and the membership of the committee shall equally represent the mortgage and real estate industry, including consumers and housing counseling agencies certified by the Secretary.</p> <p>`(C) TERMS- Except as provided in subparagraph (D), each member of the advisory committee shall be appointed for a term of 3 years. Members may be reappointed at the discretion of the Secretary.</p> <p>`(D) TERMS OF INITIAL APPOINTEES- As designated by the Secretary at the time of appointment, of the members first appointed to the advisory committee, 4 shall be appointed for a term of 1 year and 4 shall be appointed for a term of 2 years.</p> <p>`(E) PROHIBITION OF PAY; TRAVEL EXPENSES- Members of the advisory committee shall serve without pay, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.</p> <p>`(F) ADVISORY ROLE ONLY- The advisory committee shall have no role in reviewing or awarding housing counseling grants.</p> <p>`(5) SCOPE OF HOMEOWNERSHIP COUNSELING- In carrying out the responsibilities of the Director, the Director shall ensure that homeownership counseling provided by, in connection with, or pursuant to any function, activity, or program of the Department addresses the entire process of homeownership, including the decision to purchase a home, the</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>selection and purchase of a home, issues arising during or affecting the period of ownership of a home (including refinancing, default and foreclosure, and other financial decisions), and the sale or other disposition of a home.'.</p>		
<p><b>SEC. 9303. COUNSELING PROCEDURES.</b></p> <p>(a) In General- Section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x) is amended by adding at the end the following new subsection:</p> <p>(g) Procedures and Activities-</p> <p>(1) COUNSELING PROCEDURES-</p> <p>(A) IN GENERAL- The Secretary shall establish, coordinate, and monitor the administration by the Department of Housing and Urban Development of the counseling procedures for homeownership counseling and rental housing counseling provided in connection with any program of the Department, including all requirements, standards, and performance measures that relate to homeownership and rental housing counseling.</p> <p>(B) HOMEOWNERSHIP COUNSELING- For purposes of this subsection and as used in the provisions referred to in this subparagraph, the term 'homeownership counseling' means counseling related to homeownership and residential mortgage loans. Such term includes counseling related to homeownership and residential mortgage loans that is provided pursuant to--</p> <p>(i) section 105(a)(20) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(20));</p> <p>(ii) in the United States Housing Act of 1937-</p> <p>(I) section 9(e) (42 U.S.C. 1437g(e));</p> <p>(II) section 8(y)(1)(D) (42 U.S.C. 1437f(y)(1)(D));</p> <p>(III) section 18(a)(4)(D) (42 U.S.C. 1437p(a)(4)(D));</p> <p>(IV) section 23(c)(4) (42 U.S.C. 1437u(c)(4));</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>           `(V) section 32(e)(4) (42 U.S.C. 1437z-4(e)(4));            `(VI) section 33(d)(2)(B) (42 U.S.C. 1437z-5(d)(2)(B));            `(VII) sections 302(b)(6) and 303(b)(7) (42 U.S.C. 1437aaa-1(b)(6), 1437aaa-2(b)(7)); and            `(VIII) section 304(c)(4) (42 U.S.C. 1437aaa-3(c)(4));            `(iii) section 302(a)(4) of the American Homeownership and Economic Opportunity Act of 2000 (42 U.S.C. 1437f note);            `(iv) sections 233(b)(2) and 258(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12773(b)(2), 12808(b));            `(v) this section and section 101(e) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x, 1701w(e));            `(vi) section 220(d)(2)(G) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4110(d)(2)(G));            `(vii) sections 422(b)(6), 423(b)(7), 424(c)(4), 442(b)(6), and 443(b)(6) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12872(b)(6), 12873(b)(7), 12874(c)(4), 12892(b)(6), and 12893(b)(6));            `(viii) section 491(b)(1)(F)(iii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11408(b)(1)(F)(iii));            `(ix) sections 202(3) and 810(b)(2)(A) of the Native American Housing and Self-Determination Act of 1996 (25 U.S.C. 4132(3), 4229(b)(2)(A));            `(x) in the National Housing Act--                `(I) in section 203 (12 U.S.C. 1709), the penultimate undesignated paragraph of paragraph (2) of subsection (b), subsection (c)(2)(A), and subsection (r)(4);                `(II) subsections (a) and (c)(3) of         </p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>section 237 (12 U.S.C. 1715z-2); and  ` (III) subsections (d)(2)(B) and  (m)(1) of section 255 (12 U.S.C.  1715z-20);</p> <p>` (xi) section 502(h)(4)(B) of the Housing Act  of 1949 (42 U.S.C. 1472(h)(4)(B));</p> <p>` (xii) section 508 of the Housing and Urban  Development Act of 1970 (12 U.S.C. 1701z-  7); and</p> <p>` (xiii) section 106 of the Energy Policy Act of  1992 (42 U.S.C. 12712 note).</p> <p>` (C) RENTAL HOUSING COUNSELING- For  purposes of this subsection, the term `rental housing  counseling' means counseling related to rental of  residential property, which may include counseling  regarding future homeownership opportunities and  providing referrals for renters and prospective renters  to entities providing counseling and shall include  counseling related to such topics that is provided  pursuant to--</p> <p>` (i) section 105(a)(20) of the Housing and  Community Development Act of 1974 (42  U.S.C. 5305(a)(20));</p> <p>` (ii) in the United States Housing Act of 1937-  -</p> <p>` (I) section 9(e) (42 U.S.C.  1437g(e));</p> <p>` (II) section 18(a)(4)(D) (42 U.S.C.  1437p(a)(4)(D));</p> <p>` (III) section 23(c)(4) (42 U.S.C.  1437u(c)(4));</p> <p>` (IV) section 32(e)(4) (42 U.S.C.  1437z-4(e)(4));</p> <p>` (V) section 33(d)(2)(B) (42 U.S.C.  1437z-5(d)(2)(B)); and</p> <p>` (VI) section 302(b)(6) (42 U.S.C.  1437aaa-1(b)(6));</p> <p>` (iii) section 233(b)(2) of the Cranston-  Gonzalez National Affordable Housing Act  (42 U.S.C. 12773(b)(2));</p> <p>` (iv) section 106 of the Housing and Urban  Development Act of 1968 (12 U.S.C. 1701x);</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>           `(v) section 422(b)(6) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12872(b)(6));            `(vi) section 491(b)(1)(F)(iii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11408(b)(1)(F)(iii));            `(vii) sections 202(3) and 810(b)(2)(A) of the Native American Housing and Self-Determination Act of 1996 (25 U.S.C. 4132(3), 4229(b)(2)(A)); and            `(viii) the rental assistance program under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).         </p> <p>           `(2) STANDARDS FOR MATERIALS- The Secretary, in consultation with the advisory committee established under subsection (g)(4) of the Department of Housing and Urban Development Act, shall establish standards for materials and forms to be used, as appropriate, by organizations providing homeownership counseling services, including any recipients of assistance pursuant to subsection (a)(4).         </p> <p>           `(3) MORTGAGE SOFTWARE SYSTEMS-           <ul style="list-style-type: none"> <li>               `(A) CERTIFICATION- The Secretary shall provide for the certification of various computer software programs for consumers to use in evaluating different residential mortgage loan proposals. The Secretary shall require, for such certification, that the mortgage software systems take into account--               <ul style="list-style-type: none"> <li>                   `(i) the consumer's financial situation and the cost of maintaining a home, including insurance, taxes, and utilities;</li> <li>                   `(ii) the amount of time the consumer expects to remain in the home or expected time to maturity of the loan; and</li> <li>                   `(iii) such other factors as the Secretary considers appropriate to assist the consumer in evaluating whether to pay points, to lock in an interest rate, to select an adjustable or fixed rate loan, to select a conventional or government-insured or guaranteed loan and to make other choices during the loan application process.</li> </ul> </li> </ul> <p>           If the Secretary determines that available existing         </p> </p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>software is inadequate to assist consumers during the residential mortgage loan application process, the Secretary shall arrange for the development by private sector software companies of new mortgage software systems that meet the Secretary's specifications.</p> <p>^(B) USE AND INITIAL AVAILABILITY- Such certified computer software programs shall be used to supplement, not replace, housing counseling. The Secretary shall provide that such programs are initially used only in connection with the assistance of housing counselors certified pursuant to subsection (e).</p> <p>^(C) AVAILABILITY- After a period of initial availability under subparagraph (B) as the Secretary considers appropriate, the Secretary shall take reasonable steps to make mortgage software systems certified pursuant to this paragraph widely available through the Internet and at public locations, including public libraries, senior-citizen centers, public housing sites, offices of public housing agencies that administer rental housing assistance vouchers, and housing counseling centers.</p> <p>^(D) BUDGET COMPLIANCE- This paragraph shall be effective only to the extent that amounts to carry out this paragraph are made available in advance in appropriations Acts.</p> <p>^(4) NATIONAL PUBLIC SERVICE MULTIMEDIA CAMPAIGNS TO PROMOTE HOUSING COUNSELING-</p> <p>^(A) IN GENERAL- The Director of Housing Counseling shall develop, implement, and conduct national public service multimedia campaigns designed to make persons facing mortgage foreclosure, persons considering a subprime mortgage loan to purchase a home, elderly persons, persons who face language barriers, low-income persons, minorities, and other potentially vulnerable consumers aware that it is advisable, before seeking or maintaining a residential mortgage loan, to obtain homeownership counseling from an unbiased and reliable sources and that such homeownership counseling is available, including through programs sponsored by the Secretary of Housing and Urban Development.</p> <p>^(B) CONTACT INFORMATION- Each segment of</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>the multimedia campaign under subparagraph (A) shall publicize the toll-free telephone number and website of the Department of Housing and Urban Development through which persons seeking housing counseling can locate a housing counseling agency in their State that is certified by the Secretary of Housing and Urban Development and can provide advice on buying a home, renting, defaults, foreclosures, credit issues, and reverse mortgages.</p> <p>^(C) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated to the Secretary, not to exceed \$3,000,000 for fiscal years 2009, 2010, and 2011, for the development, implementation, and conduct of national public service multimedia campaigns under this paragraph.</p> <p>^(D) FORECLOSURE RESCUE EDUCATION PROGRAMS-</p> <p>^(i) IN GENERAL- Ten percent of any funds appropriated pursuant to the authorization under subparagraph (C) shall be used by the Director of Housing Counseling to conduct an education program in areas that have a high density of foreclosure. Such program shall involve direct mailings to persons living in such areas describing--</p> <p>^(I) tips on avoiding foreclosure rescue scams;</p> <p>^(II) tips on avoiding predatory lending mortgage agreements;</p> <p>^(III) tips on avoiding for-profit foreclosure counseling services; and</p> <p>^(IV) local counseling resources that are approved by the Department of Housing and Urban Development.</p> <p>^(ii) PROGRAM EMPHASIS- In conducting the education program described under clause (i), the Director of Housing Counseling shall also place an emphasis on serving communities that have a high percentage of retirement communities or a high percentage of low-income minority communities.</p> <p>^(iii) TERMS DEFINED- For purposes of this</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>subparagraph:</p> <p>“(I) HIGH DENSITY OF FORECLOSURES- An area has a ‘high density of foreclosures’ if such area is one of the metropolitan statistical areas (as that term is defined by the Director of the Office of Management and Budget) with the highest home foreclosure rates.</p> <p>“(II) HIGH PERCENTAGE OF RETIREMENT COMMUNITIES- An area has a ‘high percentage of retirement communities’ if such area is one of the metropolitan statistical areas (as that term is defined by the Director of the Office of Management and Budget) with the highest percentage of residents aged 65 or older.</p> <p>“(III) HIGH PERCENTAGE OF LOW-INCOME MINORITY COMMUNITIES- An area has a ‘high percentage of low-income minority communities’ if such area contains a higher-than-normal percentage of residents who are both minorities and low-income, as defined by the Director of Housing Counseling.</p> <p>“(5) EDUCATION PROGRAMS- The Secretary shall provide advice and technical assistance to States, units of general local government, and nonprofit organizations regarding the establishment and operation of, including assistance with the development of content and materials for, educational programs to inform and educate consumers, particularly those most vulnerable with respect to residential mortgage loans (such as elderly persons, persons facing language barriers, low-income persons, minorities, and other potentially vulnerable consumers), regarding home mortgages, mortgage refinancing, home equity loans, home repair loans, and where appropriate by region, any requirements and costs associated with obtaining flood or other disaster-specific insurance coverage.’</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>(b) Conforming Amendments to Grant Program for Homeownership Counseling Organizations- Section 106(c)(5)(A)(ii) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)(ii)) is amended--</p> <p>(1) in subclause (III), by striking `and' at the end;</p> <p>(2) in subclause (IV) by striking the period at the end and inserting `; and'; and</p> <p>(3) by inserting after subclause (IV) the following new subclause:</p> <p style="padding-left: 40px;">`V) notify the housing or mortgage applicant of the availability of mortgage software systems provided pursuant to subsection (g)(3).'</p>		
<p><b>SEC. 9304. GRANTS FOR HOUSING COUNSELING ASSISTANCE.</b></p> <p>Section 106(a) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(a)(3)) is amended by adding at the end the following new paragraph:</p> <p>`(4) Homeownership and Rental Counseling Assistance-</p> <p style="padding-left: 20px;">`A) IN GENERAL- The Secretary shall make financial assistance available under this paragraph to HUD-approved housing counseling agencies and State housing finance agencies.</p> <p style="padding-left: 20px;">`B) QUALIFIED ENTITIES- The Secretary shall establish standards and guidelines for eligibility of organizations (including governmental and nonprofit organizations) to receive assistance under this paragraph, in accordance with subparagraph (D).</p> <p style="padding-left: 20px;">`C) DISTRIBUTION- Assistance made available under this paragraph shall be distributed in a manner that encourages efficient and successful counseling programs 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 distributing such assistance, the Secretary may give priority consideration to entities serving areas with the highest home foreclosure rates.</p> <p style="padding-left: 20px;">`D) LIMITATION ON DISTRIBUTION OF ASSISTANCE-</p> <p style="padding-left: 40px;">`i) IN GENERAL- None of the amounts made available under this paragraph shall be distributed to--</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>           `(I) any organization which has been convicted for a violation under Federal law relating to an election for Federal office; or            `(II) any organization which employs applicable individuals.            `(ii) DEFINITION OF APPLICABLE INDIVIDUALS- In this subparagraph, the term 'applicable individual' means an individual who--            `(I) is--                `(aa) employed by the organization in a permanent or temporary capacity;                `(bb) contracted or retained by the organization; or                `(cc) acting on behalf of, or with the express or apparent authority of, the organization; and            `(II) has been convicted for a violation under Federal law relating to an election for Federal office.            `(E) GRANTMAKING PROCESS- In making assistance available under this paragraph, the Secretary shall consider appropriate ways of streamlining and improving the processes for grant application, review, approval, and award.            `(F) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated \$45,000,000 for each of fiscal years 2009 through 2012 for--                `(i) the operations of the Office of Housing Counseling of the Department of Housing and Urban Development;                `(ii) the responsibilities of the Director of Housing Counseling under paragraphs (2) through (5) of subsection (g); and                `(iii) assistance pursuant to this paragraph for entities providing homeownership and rental counseling.'         </p>		
<p> <b>SEC. 9305. REQUIREMENTS TO USE HUD-CERTIFIED COUNSELORS UNDER HUD PROGRAMS.</b>             Section 106(e) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(e)) is amended--            (1) by striking paragraph (1) and inserting the following new         </p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>paragraph:  ` (1) REQUIREMENT FOR ASSISTANCE- An organization may not receive assistance for counseling activities under subsection (a)(1)(iii), (a)(2), (a)(4), (c), or (d) of this section, or under section 101(e), unless the organization, or the individuals through which the organization provides such counseling, has been certified by the Secretary under this subsection as competent to provide such counseling.';</p> <p>(2) in paragraph (2)--  (A) by inserting `and for certifying organizations' before the period at the end of the first sentence; and  (B) in the second sentence by striking `for certification' and inserting `, for certification of an organization, that each individual through which the organization provides counseling shall demonstrate, and, for certification of an individual,';</p> <p>(3) in paragraph (3), by inserting `organizations and' before `individuals';</p> <p>(4) by redesignating paragraph (3) as paragraph (5); and  (5) by inserting after paragraph (2) the following new paragraphs:</p> <p>`(3) REQUIREMENT UNDER HUD PROGRAMS- Any homeownership counseling or rental housing counseling (as such terms are defined in subsection (g)(1)) required under, or provided in connection with, any program administered by the Department of Housing and Urban Development shall be provided only by organizations or counselors certified by the Secretary under this subsection as competent to provide such counseling.</p> <p>`(4) OUTREACH- The Secretary shall take such actions as the Secretary considers appropriate to ensure that individuals and organizations providing homeownership or rental housing counseling are aware of the certification requirements and standards of this subsection and of the training and certification programs under subsection (f).'</p>		
<p><b>SEC. 9306. STUDY OF DEFAULTS AND FORECLOSURES.</b></p> <p>The Secretary of Housing and Urban Development shall conduct an extensive study of the root causes of default and foreclosure of home loans, using as much empirical data as are available. The study shall also</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>examine the role of escrow accounts in helping prime and nonprime borrowers to avoid defaults and foreclosures, and the role of computer registries of mortgages, including those used for trading mortgage loans. Not later than 12 months after the date of the enactment of this Act, the Secretary shall submit to the Congress a preliminary report regarding the study. Not later than 24 months after such date of enactment, the Secretary shall submit a final report regarding the results of the study, which shall include any recommended legislation relating to the study, and recommendations for best practices and for a process to identify populations that need counseling the most.</p>		
<p><b>SEC. 9307. DEFAULT AND FORECLOSURE DATABASE.</b></p> <p>(a) Establishment- The Secretary of Housing and Urban Development, in consultation with the Federal agencies responsible for regulation of banking and financial institutions involved in residential mortgage lending and servicing, shall establish and maintain a database of information on foreclosures and defaults on mortgage loans for one- to four-unit residential properties and shall make such information publicly available.</p> <p>(b) Census Tract Data- Information in the database shall be collected, aggregated, and made available on a census tract basis.</p> <p>(c) Requirements- Information collected and made available through the database shall include--</p> <ol style="list-style-type: none"> <li>(1) the number and percentage of such mortgage loans that are delinquent by more than 30 days;</li> <li>(2) the number and percentage of such mortgage loans that are delinquent by more than 90 days;</li> <li>(3) the number and percentage of such properties that are real estate-owned;</li> <li>(4) number and percentage of such mortgage loans that are in the foreclosure process;</li> <li>(5) the number and percentage of such mortgage loans that have an outstanding principal obligation amount that is greater than the value of the property for which the loan was made; and</li> </ol> <p>(6) such other information as the Secretary considers appropriate.</p>		
<p><b>SEC. 9308. DEFINITIONS FOR COUNSELING-RELATED PROGRAMS.</b></p> <p>Section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x), as amended by the preceding provisions of this subtitle, is further amended by adding at the end the following new subsection:</p> <p>(h) Definitions- For purposes of this section:</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>“(1) NONPROFIT ORGANIZATION- The term ‘nonprofit organization’ has the meaning given such term in section 104(5) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704(5)), except that subparagraph (D) of such section shall not apply for purposes of this section.</p> <p>“(2) STATE- The term ‘State’ means each of the several States, the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific, or any other possession of the United States.</p> <p>“(3) UNIT OF GENERAL LOCAL GOVERNMENT- The term ‘unit of general local government’ means any city, county, parish, town, township, borough, village, or other general purpose political subdivision of a State.</p> <p>“(4) HUD-APPROVED COUNSELING AGENCY- The term ‘HUD-approved counseling agency’ means a private or public nonprofit organization that is--</p> <p style="padding-left: 40px;">“(A) exempt from taxation under section 501(c) of the Internal Revenue Code of 1986; and</p> <p style="padding-left: 40px;">“(B) certified by the Secretary to provide housing counseling services.</p> <p>“(5) STATE HOUSING FINANCE AGENCY- The term ‘State housing finance agency’ means any public body, agency, or instrumentality specifically created under State statute that is authorized to finance activities designed to provide housing and related facilities throughout an entire State through land acquisition, construction, or rehabilitation.’.</p>		
<p><b>SEC. 9309. ACCOUNTABILITY AND TRANSPARENCY FOR GRANT RECIPIENTS.</b></p> <p>Section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x), as amended by the preceding provisions of this subtitle, is further amended by adding at the end the following:</p> <p>“(i) Accountability for Recipients of Covered Assistance-</p> <p style="padding-left: 40px;">“(1) TRACKING OF FUNDS- The Secretary shall--</p> <p style="padding-left: 80px;">“(A) develop and maintain a system to ensure that any organization or entity that receives any covered assistance uses all amounts of covered assistance in accordance with this section or section 9115 of the Mortgage Reform and Anti-Predatory Lending Act, as</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>applicable, the regulations issued under this section or such section 9115, as applicable, and any requirements or conditions under which such amounts were provided; and</p> <p>“(B) require any organization or entity, as a condition of receipt of any covered assistance, to agree to comply with such requirements regarding covered assistance as the Secretary shall establish, which shall include--</p> <p>“(i) appropriate periodic financial and grant activity reporting, record retention, and audit requirements for the duration of the covered assistance to the organization or entity to ensure compliance with the limitations and requirements of this section or section 9115 of the Mortgage Reform and Anti-Predatory Lending Act, as applicable, the regulations under this section or such section 9115, as applicable, and any requirements or conditions under which such amounts were provided; and</p> <p>“(ii) any other requirements that the Secretary determines are necessary to ensure appropriate administration and compliance.</p> <p>“(2) MISUSE OF FUNDS- If any organization or entity that receives any covered assistance is determined by the Secretary to have used any covered assistance in a manner that is materially in violation of this section or section 9115 of the Mortgage Reform and Anti-Predatory Lending Act, as applicable, the regulations issued under this section or such section 9115, as applicable, or any requirements or conditions under which such assistance was provided--</p> <p>“(A) the Secretary shall require that, within 12 months after the determination of such misuse, the organization or entity shall reimburse the Secretary for such misused amounts and return to the Secretary any such amounts that remain unused or uncommitted for use; and</p> <p>“(B) such organization or entity shall be ineligible, at any time after such determination, to apply for or receive any further covered assistance.</p> <p>The remedies under this paragraph are in addition to any other remedies that may be available under law.</p> <p>“(3) COVERED ASSISTANCE- For purposes of this subsection, the term ‘covered assistance’ means any grant or</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>other financial assistance provided under--            `(A) this section; or            `(B) section 9115 of the Mortgage Reform and Anti-Predatory Lending Act.'.</p>		
<p><b>SEC. 9310. UPDATING AND SIMPLIFICATION OF MORTGAGE INFORMATION BOOKLET.</b></p> <p>Section 5 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604) is amended--</p> <p>(1) in the section heading, by striking `SPECIAL' and inserting `HOME BUYING';</p> <p>(2) by striking subsections (a) and (b) and inserting the following new subsections:</p> <p>`(a) Preparation and Distribution- The Director of the Consumer Financial Protection Agency (hereafter in this section referred to as the `Director') shall prepare, at least once every 5 years, a booklet to help consumers applying for federally related mortgage loans to understand the nature and costs of real estate settlement services. The Director shall prepare the booklet in various languages and cultural styles, as the Director determines to be appropriate, so that the booklet is understandable and accessible to homebuyers of different ethnic and cultural backgrounds. The Director shall distribute such booklets to all lenders that make federally related mortgage loans. The Director shall also distribute to such lenders lists, organized by location, of homeownership counselors certified under section 106(e) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(e)) for use in complying with the requirement under subsection (c) of this section.</p> <p>`(b) Contents- Each booklet shall be in such form and detail as the Director shall prescribe and, in addition to such other information as the Director may provide, shall include in plain and understandable language the following information:</p> <p>    `(1) A description and explanation of the nature and purpose of the costs incident to a real estate settlement or a federally related mortgage loan. The description and explanation shall provide general information about the mortgage process as well as specific information concerning, at a minimum--</p> <p>        `(A) balloon payments;</p> <p>        `(B) prepayment penalties;</p> <p>        `(C) the advantages of prepayment; and</p> <p>        `(D) the trade-off between closing costs and the interest rate over the life of the loan.</p>		

<b>House-passed H.R. 4173</b>	<b>Senate-passed H.R. 4173 (S. 3217 as amended)</b>	<b>Notes</b>
<p>`(2) An explanation and sample of the uniform settlement statement required by section 4.</p> <p>`(3) A list and explanation of lending practices, including those prohibited by the Truth in Lending Act or other applicable Federal law, and of other unfair practices and unreasonable or unnecessary charges to be avoided by the prospective buyer with respect to a real estate settlement.</p> <p>`(4) A list and explanation of questions a consumer obtaining a federally related mortgage loan should ask regarding the loan, including whether the consumer will have the ability to repay the loan, whether the consumer sufficiently shopped for the loan, whether the loan terms include prepayment penalties or balloon payments, and whether the loan will benefit the borrower.</p> <p>`(5) An explanation of the right of rescission as to certain transactions provided by sections 125 and 129 of the Truth in Lending Act.</p> <p>`(6) A brief explanation of the nature of a variable rate mortgage and a reference to the booklet entitled `Consumer Handbook on Adjustable Rate Mortgages', published by the Director, or to any suitable substitute of such booklet that the Director may subsequently adopt pursuant to such section.</p> <p>`(7) A brief explanation of the nature of a home equity line of credit and a reference to the pamphlet required to be provided under section 127A of the Truth in Lending Act.</p> <p>`(8) Information about homeownership counseling services made available pursuant to section 106(a)(4) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(a)(4)), a recommendation that the consumer use such services, and notification that a list of certified providers of homeownership counseling in the area, and their contact information, is available.</p> <p>`(9) An explanation of the nature and purpose of escrow accounts when used in connection with loans secured by residential real estate and the requirements under section 10 of this Act regarding such accounts.</p> <p>`(10) An explanation of the choices available to buyers of residential real estate in selecting persons to provide necessary services incidental to a real estate settlement.</p> <p>`(11) An explanation of a consumer's responsibilities, liabilities, and obligations in a mortgage transaction.</p> <p>`(12) An explanation of the nature and purpose of real estate</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>appraisals, including the difference between an appraisal and a home inspection.</p> <p>(13) Notice that the Office of Housing of the Department of Housing and Urban Development has made publicly available a brochure regarding loan fraud and a World Wide Web address and toll-free telephone number for obtaining the brochure.</p> <p>The booklet prepared pursuant to this section shall take into consideration differences in real estate settlement procedures that may exist among the several States and territories of the United States and among separate political subdivisions within the same State and territory.;</p> <p>(3) in subsection (c), by inserting at the end the following new sentence: `Each lender shall also include with the booklet a reasonably complete or updated list of homeownership counselors who are certified pursuant to section 106(e) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(e)) and located in the area of the lender.'; and</p> <p>(4) in subsection (d), by inserting after the period at the end of the first sentence the following: `The lender shall provide the HUD-issued booklet in the version that is most appropriate for the person receiving it.'.</p>		
<p><b>SEC. 9311. HOME INSPECTION COUNSELING.</b></p> <p>(a) Public Outreach-</p> <p>(1) IN GENERAL- The Secretary of Housing and Urban Development (in this section referred to as the `Secretary') shall take such actions as may be necessary to inform potential homebuyers of the availability and importance of obtaining an independent home inspection. Such actions shall include--</p> <p>(A) publication of the HUD/FHA form HUD 92564-CN entitled `For Your Protection: Get a Home Inspection', in both English and Spanish languages;</p> <p>(B) publication of the HUD/FHA booklet entitled `For Your Protection: Get a Home Inspection', in both English and Spanish languages;</p> <p>(C) development and publication of a HUD booklet entitled `For Your Protection--Get a Home Inspection' that does not reference FHA-insured homes, in both English and Spanish languages; and</p> <p>(D) publication of the HUD document entitled `Ten Important Questions To Ask Your Home Inspector', in</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>both English and Spanish languages.</p> <p>(2) AVAILABILITY- The Secretary shall make the materials specified in paragraph (1) available for electronic access and, where appropriate, inform potential homebuyers of such availability through home purchase counseling public service announcements and toll-free telephone hotlines of the Department of Housing and Urban Development. The Secretary shall give special emphasis to reaching first-time and low-income homebuyers with these materials and efforts.</p> <p>(3) UPDATING- The Secretary may periodically update and revise such materials, as the Secretary determines to be appropriate.</p> <p>(b) Requirement for FHA-approved Lenders- Each mortgagee approved for participation in the mortgage insurance programs under title II of the National Housing Act shall provide prospective homebuyers, at first contact, whether upon pre-qualification, pre-approval, or initial application, the materials specified in subparagraphs (A), (B), and (D) of subsection (a)(1).</p> <p>(c) Requirements for HUD-approved Counseling Agencies- Each counseling agency certified pursuant by the Secretary to provide housing counseling services shall provide each of their clients, as part of the home purchase counseling process, the materials specified in subparagraphs (C) and (D) of subsection (a)(1).</p> <p>(d) Training- Training provided the Department of Housing and Urban Development for housing counseling agencies, whether such training is provided directly by the Department or otherwise, shall include--</p> <ul style="list-style-type: none"> <li>(1) providing information on counseling potential homebuyers of the availability and importance of getting an independent home inspection;</li> <li>(2) providing information about the home inspection process, including the reasons for specific inspections such as radon and lead-based paint testing;</li> <li>(3) providing information about advising potential homebuyers on how to locate and select a qualified home inspector; and</li> <li>(4) review of home inspection public outreach materials of the Department.</li> </ul>		
<p><b>SEC. 9312. WARNINGS TO HOMEOWNERS OF FORECLOSURE RESCUE SCAMS.</b></p> <p>(a) Assistance to NRC- Notwithstanding any other provision of law, of</p>		

<b>House-passed H.R. 4173</b>	<b>Senate-passed H.R. 4173 (S. 3217 as amended)</b>	<b>Notes</b>
<p>any amounts made available for any fiscal year pursuant to section 106(a)(4)(F) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(a)(4)(F)) (as added by section 9304 of this title), 10 percent shall be used only for assistance to the Neighborhood Reinvestment Corporation for activities, in consultation with servicers of residential mortgage loans, to provide notice to borrowers under such loans who are delinquent with respect to payments due under such loans that makes such borrowers aware of the dangers of fraudulent activities associated with foreclosure.</p> <p>(b) Notice- The Neighborhood Reinvestment Corporation, in consultation with servicers of residential mortgage loans, shall use the amounts provided pursuant to subsection (a) to carry out activities to inform borrowers under residential mortgage loans--</p> <ul style="list-style-type: none"> <li>(1) that the foreclosure process is complex and can be confusing;</li> <li>(2) that the borrower may be approached during the foreclosure process by persons regarding saving their home and they should use caution in any such dealings;</li> <li>(3) that there are Federal Government and nonprofit agencies that may provide information about the foreclosure process, including the Department of Housing and Urban Development;</li> <li>(4) that they should contact their lender immediately, contact the Department of Housing and Urban Development to find a housing counseling agency certified by the Department to assist in avoiding foreclosure, or visit the Department's website regarding tips for avoiding foreclosure; and</li> <li>(5) of the telephone number of the loan servicer or successor, the telephone number of the Department of Housing and Urban Development housing counseling line, and the Uniform Resource Locators (URLs) for the Department of Housing and Urban Development Web sites for housing counseling and for tips for avoiding foreclosure.</li> </ul>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p style="text-align: center;"><b>Subtitle E--Mortgage Servicing</b></p> <p><b>SEC. 9401. ESCROW AND IMPOUND ACCOUNTS RELATING TO CERTAIN CONSUMER CREDIT TRANSACTIONS.</b></p> <p>(a) In General- Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 129C (as added by section 9101) the following new section:</p>		
<p><b>SEC. 129D. ESCROW OR IMPOUND ACCOUNTS RELATING TO CERTAIN CONSUMER CREDIT TRANSACTIONS.</b></p> <p>(a) In General- Except as provided in subsection (b), (c), or (d) , 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, before the consummation of such transaction, an escrow or impound account for the payment of taxes and hazard insurance, and, if applicable, flood insurance, mortgage insurance, ground rents, and any other required periodic payments or premiums with respect to the property or the loan terms, as provided in, and in accordance with, this section.</p> <p>(b) When Required- No impound, trust, or other type of account for the payment of property taxes, insurance premiums, or other purposes relating to the property may be required as a condition of a real property sale contract or a loan secured by a first deed of trust or mortgage on the principal dwelling of the consumer, other than a consumer credit transaction under an open end credit plan or a reverse mortgage, except when--</p> <p>(1) any such impound, trust, or other type of escrow or impound account for such purposes is required by Federal or State law;</p> <p>(2) a loan is made, guaranteed, or insured by a State or Federal governmental lending or insuring agency;</p> <p>(3) the transaction is secured by a first mortgage or lien on the consumer's principal dwelling having an original principal obligation amount that--</p> <p>(A) does not exceed the amount of the maximum limitation on the original principal obligation of mortgage in effect for a residence of the applicable</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>size, as of the date such interest rate set, pursuant to the sixth sentence of section 305(a)(2) the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)), and the annual percentage rate will exceed the average prime offer rate for a comparable transaction by 1.5 or more percentage points; or</p> <p>(B) exceeds the amount of the maximum limitation on the original principal obligation of mortgage in effect for a residence of the applicable size, as of the date such interest rate set, pursuant to the sixth sentence of section 305(a)(2) the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)), and the annual percentage rate will exceed the average prime offer rate for a comparable transaction by 2.5 or more percentage points; or</p> <p>(4) so required pursuant to regulation.</p> <p>(c) Duration of Mandatory Escrow or Impound Account- An escrow or impound account established pursuant to subsection (b), shall remain in existence for a minimum period of 5 years, beginning with the date of the consummation of the loan, and until such borrower has sufficient equity in the dwelling securing the consumer credit transaction so as to no longer be required to maintain private mortgage insurance, or such other period as may be provided in regulations to address situations such as borrower delinquency, unless the underlying mortgage establishing the account is terminated.</p> <p>(d) Limited Exemptions for Loans Secured by Shares in a Cooperative and for Certain Condominium Units- Escrow accounts need not be established for loans secured by shares in a cooperative. Insurance premiums need not be included in escrow accounts for loans secured by condominium units, where the condominium association has an obligation to the condominium unit owners to maintain a master policy insuring condominium units.</p> <p>(e) Clarification on Escrow Accounts for Loans Not Meeting Statutory Test- For mortgages not covered by the requirements of subsection (b), no provision of this section shall be construed as precluding the establishment of an impound, trust, or other type of account for the payment of property taxes, insurance premiums, or other purposes relating to the property--</p> <p>(1) on terms mutually agreeable to the parties to the loan;</p> <p>(2) at the discretion of the lender or servicer, as provided by the contract between the lender or servicer and the borrower; or</p> <p>(3) pursuant to the requirements for the escrowing of flood</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>insurance payments for regulated lending institutions in section 102(d) of the Flood Disaster Protection Act of 1973.</p> <p>^(f) Administration of Mandatory Escrow or Impound Accounts-</p> <p>^(1) IN GENERAL- Except as may otherwise be provided for in this title or in regulations prescribed by the Board, escrow or impound accounts established pursuant to subsection (b) shall be established in a federally insured depository institution.</p> <p>^(2) ADMINISTRATION- Except as provided in this section or regulations prescribed under this section, an escrow or impound account subject to this section shall be administered in accordance with--</p> <p>^(A) the Real Estate Settlement Procedures Act of 1974 and regulations prescribed under such Act;</p> <p>^(B) the Flood Disaster Protection Act of 1973 and regulations prescribed under such Act; and</p> <p>^(C) the law of the State, if applicable, where the real property securing the consumer credit transaction is located.</p> <p>^(3) APPLICABILITY OF PAYMENT OF INTEREST- If prescribed by applicable State or Federal law, each creditor shall pay interest to the consumer on the amount held in any impound, trust, or escrow account that is subject to this section in the manner as prescribed by that applicable State or Federal law.</p> <p>^(4) PENALTY COORDINATION WITH RESPA- Any action or omission on the part of any person which constitutes a violation of the Real Estate Settlement Procedures Act of 1974 or any regulation prescribed under such Act for which the person has paid any fine, civil money penalty, or other damages shall not give rise to any additional fine, civil money penalty, or other damages under this section, unless the action or omission also constitutes a direct violation of this section.</p> <p>^(g) Disclosures Relating to Mandatory Escrow or Impound Account- In the case of any impound, trust, or escrow account that is subject to this section, the creditor shall disclose by written notice to the consumer at least 3 business days before the consummation of the consumer credit transaction giving rise to such account or in accordance with timeframes established in prescribed regulations the following information:</p> <p>^(1) The fact that an escrow or impound account will be established at consummation of the transaction.</p> <p>^(2) The amount required at closing to initially fund the escrow or impound account.</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>           `(3) The amount, in the initial year after the consummation of the transaction, of the estimated taxes and hazard insurance, including flood insurance, if applicable, and any other required periodic payments or premiums that reflects, as appropriate, either the taxable assessed value of the real property securing the transaction, including the value of any improvements on the property or to be constructed on the property (whether or not such construction will be financed from the proceeds of the transaction) or the replacement costs of the property.            `(4) The estimated monthly amount payable to be escrowed for taxes, hazard insurance (including flood insurance, if applicable) and any other required periodic payments or premiums.            `(5) The fact that, if the consumer chooses to terminate the account at the appropriate time in the future, the consumer will become responsible for the payment of all taxes, hazard insurance, and flood insurance, if applicable, as well as any other required periodic payments or premiums on the property unless a new escrow or impound account is established.            `(6) Such other information as the Federal banking agencies jointly determine necessary for the protection of the consumer.            `(h) Definitions- For purposes of this section, the following definitions shall apply:                `(1) FLOOD INSURANCE- The term `flood insurance' means flood insurance coverage provided under the national flood insurance program pursuant to the National Flood Insurance Act of 1968.                `(2) HAZARD INSURANCE- The term `hazard insurance' shall have the same meaning as provided for `hazard insurance', `casualty insurance', `homeowner's insurance', or other similar term under the law of the State where the real property securing the consumer credit transaction is located.'            (b) Implementation-            (1) REGULATIONS- The Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, (hereafter in this title referred to as the `Federal banking agencies') and the Federal Trade Commission shall prescribe, in final form, such regulations as determined to be necessary to implement the amendments made by subsection (a) before the end of the 180-day period beginning on the date of the enactment of this Act.         </p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>(2) EFFECTIVE DATE- The amendments made by subsection (a) shall only apply to covered mortgage loans consummated after the end of the 1-year period beginning on the date of the publication of final regulations in the Federal Register.</p> <p>(c) Clerical Amendment- The table of sections for chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 129C (as added by section 9101) the following new item:</p> <p style="padding-left: 20px;">`129D. Escrow or impound accounts relating to certain consumer credit transactions.'</p>		
<p><b>SEC. 9402. DISCLOSURE NOTICE REQUIRED FOR CONSUMERS WHO WAIVE ESCROW SERVICES.</b></p> <p>(a) In General- Section 129D of the Truth in Lending Act (as added by section 9401) is amended by adding at the end the following new subsection:</p> <p style="padding-left: 20px;">`i) Disclosure Notice Required for Consumers Who Waive Escrow Services-</p> <p style="padding-left: 40px;">`1) IN GENERAL- If--</p> <p style="padding-left: 60px;">`A) an impound, trust, or other type of account for the payment of property taxes, insurance premiums, or other purposes relating to real property securing a consumer credit transaction is not established in connection with the transaction; or</p> <p style="padding-left: 60px;">`B) a consumer chooses, and provides written notice to the creditor or servicer of such choice, at any time after such an account is established in connection with any such transaction and in accordance with any statute, regulation, or contractual agreement, to close such account,</p> <p style="padding-left: 40px;">the creditor or servicer shall provide a timely and clearly written disclosure to the consumer that advises the consumer of the responsibilities of the consumer and implications for the consumer in the absence of any such account.</p> <p style="padding-left: 20px;">`2) DISCLOSURE REQUIREMENTS- Any disclosure provided to a consumer under paragraph (1) shall include the following:</p> <p style="padding-left: 40px;">`A) Information concerning any applicable fees or costs associated with either the non-establishment of any such account at the time of the transaction, or any subsequent closure of any such account.</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>           `(B) A clear and prominent notice that the consumer is responsible for personally and directly paying the non-escrowed items, in addition to paying the mortgage loan payment, in the absence of any such account, and the fact that the costs for taxes, insurance, and related fees can be substantial.            `(C) A clear explanation of the consequences of any failure to pay non-escrowed items, including the possible requirement for the forced placement of insurance by the creditor or servicer and the potentially higher cost (including any potential commission payments to the servicer) or reduced coverage for the consumer in the event of any such creditor-placed insurance.            `(D) Such other information as the Federal banking agencies jointly determine necessary for the protection of the consumer.'         </p> <p>(b) Implementation-</p> <p>(1) REGULATIONS- The Federal banking agencies and the Federal Trade Commission shall prescribe, in final form, such regulations as such agencies determine to be necessary to implement the amendments made by subsection (a) before the end of the 180-day period beginning on the date of the enactment of this Act.</p> <p>(2) EFFECTIVE DATE- The amendments made by subsection (a) shall only apply in accordance with the regulations established in paragraph (1) and beginning on the date occurring 180-days after the date of the publication of final regulations in the Federal Register.</p>		
<p><b>SEC. 9403. REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974 AMENDMENTS.</b></p> <p>(a) Servicer Prohibitions- Section 6 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605) is amended by adding at the end the following new subsections:</p> <p>           `(k) Servicer Prohibitions-                `(1) IN GENERAL- A servicer of a federally related mortgage shall not--                    `(A) obtain force-placed hazard insurance unless there is a reasonable basis to believe the borrower has failed         </p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>to comply with the loan contract's requirements to maintain property insurance;</p> <p>`(B) charge fees for responding to valid qualified written requests (as defined in regulations which the Secretary shall prescribe) under this section;</p> <p>`(C) fail to take timely action to respond to a borrower's requests to correct errors relating to allocation of payments, final balances for purposes of paying off the loan, or avoiding foreclosure, or other standard servicer's duties;</p> <p>`(D) fail to respond within 10 business days to a request from a borrower to provide the identity, address, and other relevant contact information about the owner assignee of the loan; or</p> <p>`(E) fail to comply with any other obligation found by the Secretary, by regulation, to be appropriate to carry out the consumer protection purposes of this Act.</p> <p>`(2) FORCE-PLACED INSURANCE DEFINED- For purposes of this subsection and subsections (l) and (m), the term `force-placed insurance' means hazard insurance coverage obtained by a servicer of a federally related mortgage when the borrower has failed to maintain or renew hazard insurance on such property as required of the borrower under the terms of the mortgage.</p> <p>`(l) Requirements for Force-placed Insurance- A servicer of a federally related mortgage shall not be construed as having a reasonable basis for obtaining force-placed insurance unless the requirements of this subsection have been met.</p> <p>`(1) WRITTEN NOTICES TO BORROWER- A servicer may not impose any charge on any borrower for force-placed insurance with respect to any property securing a federally related mortgage unless--</p> <p style="padding-left: 20px;">`(A) the servicer has sent, by first-class mail, a written notice to the borrower containing--</p> <p style="padding-left: 40px;">`(i) a reminder of the borrower's obligation to maintain hazard insurance on the property securing the federally related mortgage;</p> <p style="padding-left: 40px;">`(ii) a statement that the servicer does not have evidence of insurance coverage of such property;</p> <p style="padding-left: 40px;">`(iii) a clear and conspicuous statement of the procedures by which the borrower may demonstrate that the borrower already has</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>insurance coverage; and</p> <p>`(iv) a statement that the servicer may obtain such coverage at the borrower's expense if the borrower does not provide such demonstration of the borrower's existing coverage in a timely manner;</p> <p>`(B) the servicer has sent, by first-class mail, a second written notice, at least 30 days after the mailing of the notice under subparagraph (A) that contains all the information described in each clause of such subparagraph; and</p> <p>`(C) the servicer has not received from the borrower any demonstration of hazard insurance coverage for the property securing the mortgage by the end of the 15-day period beginning on the date the notice under subparagraph (B) was sent by the servicer.</p> <p>`(2) SUFFICIENCY OF DEMONSTRATION- A servicer of a federally related mortgage shall accept any reasonable form of written confirmation from a borrower of existing insurance coverage, which shall include the existing insurance policy number along with the identity of, and contact information for, the insurance company or agent.</p> <p>`(3) TERMINATION OF FORCE-PLACED INSURANCE- Within 15 days of the receipt by a servicer of confirmation of a borrower's existing insurance coverage, the servicer shall--</p> <p>`(A) terminate the force-placed insurance; and</p> <p>`(B) refund to the consumer all force-placed insurance premiums paid by the borrower during any period during which the borrower's insurance coverage and the force-placed insurance coverage were each in effect, and any related fees charged to the consumer's account with respect to the force-placed insurance during such period.</p> <p>`(4) CLARIFICATION WITH RESPECT TO FLOOD DISASTER PROTECTION ACT- No provision of this section shall be construed as prohibiting a servicer from providing simultaneous or concurrent notice of a lack of flood insurance pursuant to section 102(e) of the Flood Disaster Protection Act of 1973.</p> <p>`(m) Limitations on Force-placed Insurance Charges- All charges for force-placed insurance premiums shall be bona fide and reasonable in amount.'.</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>(b) Increase in Penalty Amounts- Section 6(f) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(f)) is amended--  (1) in paragraphs (1)(B) and (2)(B), by striking ` \$1,000' each place such term appears and inserting ` \$2,000'; and  (2) in paragraph (2)(B)(i), by striking ` \$500,000' and inserting ` \$1,000,000'.</p> <p>(c) Decrease in Response Times- Section 6(e) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(e)) is amended--  (1) in paragraph (1)(A), by striking ` 20 days' and inserting ` 5 days';  (2) in paragraph (2), by striking ` 60 days' and inserting ` 30 days'; and  (3) by adding at the end the following new paragraph:  ` (4) LIMITED EXTENSION OF RESPONSE TIME- The 30-day period described in paragraph (2) may be extended for not more than 15 days if, before the end of such 30-day period, the servicer notifies the borrower of the extension and the reasons for the delay in responding.'.</p> <p>(d) Prompt Refund of Escrow Accounts Upon Payoff- Section 6(g) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(g)) is amended by adding at the end the following new sentence: ` Any balance in any such account that is within the servicer's control at the time the loan is paid off shall be promptly returned to the borrower within 20 business days or credited to a similar account for a new mortgage loan to the borrower with the same lender.'.</p>		
<p><b>SEC. 9404. TRUTH IN LENDING ACT AMENDMENTS.</b></p> <p>(a) Requirements for Prompt Crediting of Home Loan Payments- Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 129E (as added by section 9502) the following new section (and by amending the table of contents accordingly):</p>		
<p><b>SEC. 129F. REQUIREMENTS FOR PROMPT CREDITING OF HOME LOAN PAYMENTS.</b></p> <p>(a) In General- In connection with a consumer credit transaction secured by a consumer's principal dwelling, no servicer shall fail to credit a payment to the consumer's loan account as of the date of receipt, except when a delay in crediting does not result in any charge to the consumer</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>or in the reporting of negative information to a consumer reporting agency, except as required in subsection (b).            `(b) Exception- If a servicer specifies in writing requirements for the consumer to follow in making payments, but accepts a payment that does not conform to the requirements, the servicer shall credit the payment as of 5 days after receipt.'            (b) Requests for Payoff Amounts- Chapter 2 of such Act is further amended by inserting after section 129F (as added by subsection (a)) the following new section (and by amending the table of contents accordingly):</p>		
<p><b>SEC. 129G. REQUESTS FOR PAYOFF AMOUNTS OF HOME LOAN.</b></p> <p>`A creditor or servicer of a home loan shall send an accurate payoff balance within a reasonable time, but in no case more than 7 business days, after the receipt of a written request for such balance from or on behalf of the borrower.'</p>		
<p><b>SEC. 9405. ESCROWS INCLUDED IN REPAYMENT ANALYSIS.</b></p> <p>Section 128(b) of the Truth in Lending Act (15 U.S.C. 1638(b)) is amended by adding at the end the following new paragraph:            `(4) REPAYMENT ANALYSIS REQUIRED TO INCLUDE ESCROW PAYMENTS-            `(A) IN GENERAL- In the case of any consumer credit transaction secured by a first mortgage or lien on the principal dwelling of the consumer, other than a consumer credit transaction under an open end credit plan or a reverse mortgage, for which an impound, trust, or other type of account has been or will be established in connection with the transaction for the payment of property taxes, hazard and flood (if any) insurance premiums, or other periodic payments or premiums with respect to the property, the information required to be provided under subsection (a) with respect to the number, amount, and due dates or period of payments scheduled to repay the total of payments shall take into account the amount of any monthly payment to such account for each such repayment in accordance with section 10(a)(2) of the Real Estate Settlement Procedures Act of 1974.            `(B) ASSESSMENT VALUE- The amount taken into</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>account under subparagraph (A) for the payment of property taxes, hazard and flood (if any) insurance premiums, or other periodic payments or premiums with respect to the property shall reflect the taxable assessed value of the real property securing the transaction after the consummation of the transaction, including the value of any improvements on the property or to be constructed on the property (whether or not such construction will be financed from the proceeds of the transaction), if known, and the replacement costs of the property for hazard insurance, in the initial year after the transaction.'</p>		
<p align="center"><b>Subtitle F--Appraisal Activities</b></p> <p><b>SEC. 9501. PROPERTY APPRAISAL REQUIREMENTS.</b></p> <p>Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after 129G (as added by section 9404(b)) the following new section:</p>		
<p><b>SEC. 129H PROPERTY APPRAISAL REQUIREMENTS.</b></p> <p>^(a) In General- A creditor may not extend credit in the form of a subprime mortgage to any consumer without first obtaining a written appraisal of the property to be mortgaged prepared in accordance with the requirements of this section.</p> <p>^(b) Appraisal Requirements-</p> <p>^(1) PHYSICAL PROPERTY VISIT- An appraisal of property to be secured by a subprime mortgage does not meet the requirement of this section unless it is performed by a qualified appraiser who conducts a physical property visit of the interior of the mortgaged property.</p> <p>^(2) SECOND APPRAISAL UNDER CERTAIN CIRCUMSTANCES-</p> <p>^(A) IN GENERAL- If the purpose of a subprime mortgage is to finance the purchase or acquisition of the mortgaged property from a person within 180 days of the purchase or acquisition of such property by that person at a price that was lower than the current sale</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>price of the property, the creditor shall obtain a second appraisal from a different qualified appraiser. The second appraisal shall include an analysis of the difference in sale prices, changes in market conditions, and any improvements made to the property between the date of the previous sale and the current sale.</p> <p>^(B) NO COST TO APPLICANT- The cost of any second appraisal required under subparagraph (A) may not be charged to the applicant.</p> <p>^(3) QUALIFIED APPRAISER DEFINED- For purposes of this section, the term 'qualified appraiser' means a person who--</p> <p>^(A) is, at a minimum, certified or licensed by the State in which the property to be appraised is located; and</p> <p>^(B) performs each appraisal in conformity with the Uniform Standards of Professional Appraisal Practice and title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and the regulations prescribed under such title, as in effect on the date of the appraisal.</p> <p>^(c) Free Copy of Appraisal- A creditor shall provide 1 copy of each appraisal conducted in accordance with this section in connection with a subprime mortgage to the applicant without charge, and at least 3 days prior to the transaction closing date.</p> <p>^(d) Consumer Notification- At the time of the initial mortgage application, the applicant shall be provided with a statement by the creditor that any appraisal prepared for the mortgage is for the sole use of the creditor, and that the applicant may choose to have a separate appraisal conducted at their own expense.</p> <p>^(e) Violations- In addition to any other liability to any person under this title, a creditor found to have willfully failed to obtain an appraisal as required in this section shall be liable to the applicant or borrower for the sum of \$2,000.</p> <p>^(f) Subprime Mortgage Defined- For purposes of this section, the term 'subprime mortgage' means a residential mortgage loan, other than a reverse mortgage loan insured by the Federal Housing Administration, secured by a principal dwelling with an annual percentage rate that exceeds the average prime offer rate for a comparable transaction, as of the date the interest rate is set--</p> <p>^(1) by 1.5 or more percentage points, in the case of a first lien residential mortgage loan having an original principal obligation amount that does not exceed the amount of the maximum limitation on the original principal obligation of mortgage in</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>effect for a residence of the applicable size, as of the date of such interest rate set, pursuant to the sixth sentence of section 305(a)(2) the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2));</p> <p>`(2) by 2.5 or more percentage points, in the case of a first lien residential mortgage loan having an original principal obligation amount that exceeds the amount of the maximum limitation on the original principal obligation of mortgage in effect for a residence of the applicable size, as of the date of such interest rate set, pursuant to the sixth sentence of section 305(a)(2) the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)); and</p> <p>`(3) by 3.5 or more percentage points for a subordinate lien residential mortgage loan.'</p>		
<p><b>SEC. 9502. UNFAIR AND DECEPTIVE PRACTICES AND ACTS RELATING TO CERTAIN CONSUMER CREDIT TRANSACTIONS.</b></p> <p>(a) In General- Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 129D (as added by section 9401(a)) the following new section:</p>		
<p><b>`SEC. 129E. UNFAIR AND DECEPTIVE PRACTICES AND ACTS RELATING TO CERTAIN CONSUMER CREDIT TRANSACTIONS.</b></p> <p>`(a) In General- It shall be unlawful, in extending credit or in providing any services for a consumer credit transaction secured by the principal dwelling of the consumer, to engage in any unfair or deceptive act or practice as described in or pursuant to regulations prescribed under this section.</p> <p>`(b) Appraisal Independence- For purposes of subsection (a), unfair and deceptive practices shall include--</p> <p>`(1) any appraisal of a property offered as security for repayment of the consumer credit transaction that is conducted in connection with such transaction in which a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes, or intimidates a person conducting or involved in an appraisal, or attempts, to compensate, coerce, extort, collude, instruct, induce, bribe, or intimidate such a person, for the purpose of causing the</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>appraised value assigned, under the appraisal, to the property to be based on any factor other than the independent judgment of the appraiser;</p> <p>`(2) mischaracterizing, or suborning any mischaracterization of, the appraised value of the property securing the extension of the credit;</p> <p>`(3) seeking to influence an appraiser or otherwise to encourage a targeted value in order to facilitate the making or pricing of the transaction; and</p> <p>`(4) withholding or threatening to withhold timely payment for an appraisal report or for appraisal services rendered.</p> <p>`(c) Exceptions- The requirements of subsection (b) shall not be construed as prohibiting a mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, consumer, or any other person with an interest in a real estate transaction from asking an appraiser to provide 1 or more of the following services:</p> <p>    `(1) Consider additional, appropriate property information, including the consideration of additional comparable properties to make or support an appraisal.</p> <p>    `(2) Provide further detail, substantiation, or explanation for the appraiser's value conclusion.</p> <p>    `(3) Correct errors in the appraisal report.</p> <p>`(d) Prohibitions on Conflicts of Interest- No certified or licensed appraiser conducting, and no appraisal management company procuring or facilitating, an appraisal in connection with a consumer credit transaction secured by the principal dwelling of a consumer may have a direct or indirect interest, financial or otherwise, in the property or transaction involving the appraisal.</p> <p>`(e) Mandatory Reporting- Any mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, or any other person involved in a real estate transaction involving an appraisal in connection with a consumer credit transaction secured by the principal dwelling of a consumer who has a reasonable basis to believe an appraiser is failing to comply with the Uniform Standards of Professional Appraisal Practice, is violating applicable laws, or is otherwise engaging in unethical or unprofessional conduct, shall refer the matter to the applicable State appraiser certifying and licensing agency.</p> <p>`(f) No Extension of Credit- In connection with a consumer credit transaction secured by a consumer's principal dwelling, a creditor who knows, at or before loan consummation, of a violation of the appraisal</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>independence standards established in subsections (b) or (d) shall not extend credit based on such appraisal unless the creditor documents that the creditor has acted with reasonable diligence to determine that the appraisal does not materially misstate or misrepresent the value of such dwelling.</p> <p>`(g) Rulemaking Proceedings- The Board, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, and the Federal Trade Commission--</p> <p style="padding-left: 40px;">`(1) shall, for purposes of this section, jointly prescribe regulations no later than 180 days after the date of the enactment of this section, and where such regulations have an effective date of no later than 1 year after the date of the enactment of this section, defining with specificity acts or practices which are unfair or deceptive in the provision of mortgage lending services for a consumer credit transaction secured by the principal dwelling of the consumer or mortgage brokerage services for such a transaction and defining any terms in this section or such regulations; and</p> <p style="padding-left: 40px;">`(2) may jointly issue interpretive guidelines and general statements of policy with respect to unfair or deceptive acts or practices in the provision of mortgage lending services for a consumer credit transaction secured by the principal dwelling of the consumer and mortgage brokerage services for such a transaction, within the meaning of subsections (a), (b), (c), (d), (e), and (f).</p> <p>`(h) Penalties-</p> <p style="padding-left: 40px;">`(1) FIRST VIOLATION- In addition to the enforcement provisions referred to in section 130, each person who violates this section shall forfeit and pay a civil penalty of not more than \$10,000 for each day any such violation continues.</p> <p style="padding-left: 40px;">`(2) SUBSEQUENT VIOLATIONS- In the case of any person on whom a civil penalty has been imposed under paragraph (1), paragraph (1) shall be applied by substituting `\$20,000' for `\$10,000' with respect to all subsequent violations.</p> <p style="padding-left: 40px;">`(3) ASSESSMENT- The agency referred to in subsection (a) or (c) of section 108 with respect to any person described in paragraph (1) shall assess any penalty under this subsection to which such person is subject.'</p> <p>(b) Clerical Amendment- The table of sections for chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 129D (as added by section 9401(c)) the following new item:</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>129E. Unfair and deceptive practices and acts relating to certain consumer credit transactions.'.</p>		
<p><b>SEC. 9503. 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.</b></p> <p>(a) Consumer Protection Mission-</p> <p>(1) PURPOSES- Section 1101 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331) is amended by inserting 'and to provide the Appraisal Subcommittee with a consumer protection mandate' before the period at the end.</p> <p>(2) FUNCTIONS OF APPRAISAL SUBCOMMITTEE- Section 1103(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3332(a)) is amended--</p> <p>(A) by striking 'and' at the end of paragraph (3); and</p> <p>(B) by amending paragraph (4) to read as follows:</p> <p>'(4) monitor the efforts of, and requirements established by, States and the Federal financial institutions regulatory agencies to protect consumers from improper appraisal practices and the predations of unlicensed appraisers in consumer credit transactions that are secured by a consumer's principal dwelling; and'.</p> <p>(3) THRESHOLD LEVELS- Section 1112(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3341(b)) is amended by inserting before the period the following: ', and that such threshold level provides reasonable protection for consumers who purchase 1-4 unit single-family residences. In determining whether a threshold level provides reasonable protection for consumers, each Federal financial institutions regulatory agency shall consult with consumer groups and convene a public hearing'.</p> <p>(b) Annual Report of Appraisal Subcommittee- Section 1103(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3332(a)) is amended at the end by inserting the following new paragraph:</p> <p>'(5) transmit an annual report to the Congress not later than January 31 of each year that describes the manner in which each</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>function assigned to the Appraisal Subcommittee has been carried out during the preceding year. The report shall also detail the activities of the Appraisal Subcommittee, including the results of all audits of State appraiser regulatory agencies, and provide an accounting of disapproved actions and warnings taken in the previous year, including a description of the conditions causing the disapproval and actions taken to achieve compliance.'</p> <p>(c) Open Meetings- Section 1104(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3333(b)) is amended by inserting `in public session after notice in the Federal Register' after `shall meet'.</p> <p>(d) Regulations- Section 1106 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3335) is amended--</p> <p>(1) by inserting `prescribe regulations after notice and opportunity for comment,' after `hold hearings'; and</p> <p>(2) at the end by inserting `Any regulations prescribed by the Appraisal Subcommittee shall (unless otherwise provided in this title) be limited to the following functions: temporary practice, national registry, information sharing, and enforcement. For purposes of prescribing regulations, the Appraisal Subcommittee shall establish an advisory committee of industry participants, including appraisers, lenders, consumer advocates, and government agencies, and hold meetings as necessary to support the development of regulations.'</p> <p>(e) Appraisals and Appraisal Reviews- Section 1113 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3342) is amended--</p> <p>(1) by striking `In determining' and inserting `(a) IN GENERAL- In determining';</p> <p>(2) in subsection (a) (as designated by paragraph (1)), by inserting before the period the following: `, where a complex 1-to-4 unit single family residential appraisal means an appraisal for which the property to be appraised, the form of ownership, the property characteristics, or the market conditions are atypical'; and</p> <p>(3) by adding at the end the following new subsection:</p> <p>`(b) Appraisals and Appraisal Reviews- All appraisals performed at a property within a State shall be prepared by appraisers licensed or certified in the State where the property is located. All appraisal reviews, including appraisal reviews by a lender, appraisal management company, or other third party organization, shall be performed by an appraiser who</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>is duly licensed or certified by a State appraisal board.'</p> <p>(f) Appraisal Management Services-</p> <p>(1) SUPERVISION OF THIRD PARTY PROVIDERS OF APPRAISAL MANAGEMENT SERVICES- Section 1103(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3332(a)) (as previously amended by this section) is further amended--</p> <p>(A) by amending paragraph (1) to read as follows:</p> <p>`(1) monitor the requirements established by States--</p> <p>    `(A) for the certification and licensing of individuals who are qualified to perform appraisals in connection with federally related transactions, including a code of professional responsibility; and</p> <p>    `(B) for the registration and supervision of the operations and activities of an appraisal management company;'; and</p> <p>(B) by adding at the end the following new paragraph:</p> <p>`(7) maintain a national registry of appraisal management companies that either are registered with and subject to supervision of a State appraiser certifying and licensing agency or are operating subsidiaries of a Federally regulated financial institution.'</p> <p>(2) APPRAISAL MANAGEMENT COMPANY MINIMUM QUALIFICATIONS- Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331 et seq.) is amended by adding at the end the following new section (and amending the table of contents accordingly):</p>		
<p><b>`SEC. 1124. APPRAISAL MANAGEMENT COMPANY MINIMUM QUALIFICATIONS.</b></p> <p>`(a) In General- The Appraiser Qualifications Board of the Appraisal Foundation shall establish minimum qualifications to be applied by a State in the registration of appraisal management companies. Such qualifications shall include a requirement that such companies--</p> <p>    `(1) register with and be subject to supervision by a State appraiser certifying and licensing agency in each State in which such company operates;</p> <p>    `(2) verify that only licensed or certified appraisers are used for federally related transactions;</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>           `(3) require that appraisals coordinated by an appraisal management company comply with the Uniform Standards of Professional Appraisal Practice; and            `(4) require that appraisals are conducted independently and free from inappropriate influence and coercion pursuant to the appraisal independence standards established under section 129E of the Truth in Lending Act.            `(b) Exception for Federally Regulated Financial Institutions- The requirements of subsection (a) shall not apply to an appraisal management company that is a subsidiary owned and controlled by a financial institution and regulated by a federal financial institution regulatory agency. In such case, the appropriate federal financial institutions regulatory agency shall, at a minimum, develop regulations affecting the operations of the appraisal management company to--            `(1) verify that only licensed or certified appraisers are used for federally related transactions;            `(2) require that appraisals coordinated by an institution or subsidiary providing appraisal management services comply with the Uniform Standards of Professional Appraisal Practice; and            `(3) require that appraisals are conducted independently and free from inappropriate influence and coercion pursuant to the appraisal independence standards established under section 129E of the Truth in Lending Act.            `(c) Registration Limitations- An appraisal management company shall not be registered by a State if such company, in whole or in part, directly or indirectly, is owned by any person who has had an appraiser license or certificate refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any State. Additionally, each person that owns more than 10 percent of an appraisal management company shall be of good moral character, as determined by the State appraiser certifying and licensing agency, and shall submit to a background investigation carried out by the State appraiser certifying and licensing agency.            `(d) Regulations- The Appraisal Subcommittee shall promulgate regulations to implement the minimum qualifications developed by the Appraiser Qualifications Board under this section, as such qualifications relate to the State appraiser certifying and licensing agencies. The Appraisal Subcommittee shall also promulgate regulations for the reporting of the activities of appraisal management companies in determining the payment of the annual registry fee.            `(e) Effective Date-            `(1) IN GENERAL- No appraisal management company may         </p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>perform services related to a federally related transaction in a State after the date that is 36 months after the date of the enactment of this section unless such company is registered with such State or subject to oversight by a federal financial institutions regulatory agency.</p> <p>`(2) EXTENSION OF EFFECTIVE DATE- Subject to the approval of the Council, the Appraisal Subcommittee may extend by an additional 12 months the requirements for the registration and supervision of appraisal management companies if it makes a written finding that a State has made substantial progress in establishing a State appraisal management company registration and supervision system that appears to conform with the provisions of this title.'</p> <p>(3) STATE APPRAISER CERTIFYING AND LICENSING AGENCY AUTHORITY- Section 1117 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3346) is amended by adding at the end the following:  `The duties of such agency may additionally include the registration and supervision of appraisal management companies.'</p> <p>(4) APPRAISAL MANAGEMENT COMPANY DEFINITION- Section 1121 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350) is amended by adding at the end the following:  `(11) APPRAISAL MANAGEMENT COMPANY- The term `appraisal management company' means, in connection with valuing properties collateralizing mortgage loans or mortgages incorporated into a securitization, any external third party authorized either by a creditor of a consumer credit transaction secured by a consumer's principal dwelling or by an underwriter of or other principal in the secondary mortgage markets, that oversees a network or panel of more than 15 certified or licensed appraisers in a State or 25 or more nationally within a given year--</p> <ul style="list-style-type: none"> <li>`(A) to recruit, select, and retain appraisers;</li> <li>`(B) to contract with licensed and certified appraisers to perform appraisal assignments;</li> <li>`(C) to manage the process of having an appraisal performed, including providing administrative duties such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and underwriters, collecting fees from</li> </ul>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>creditors and underwriters for services provided, and reimbursing appraisers for services performed; or  (D) to review and verify the work of appraisers.'.</p> <p>(g) State Agency Reporting Requirement- Section 1109(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3338(a)) is amended--</p> <p>(1) by striking `and' after the semicolon in paragraph (1);</p> <p>(2) by redesignating paragraph (2) as paragraph (4); and</p> <p>(3) by inserting after paragraph (1) the following new paragraphs:</p> <p>(2) transmit reports on sanctions, disciplinary actions, license and certification revocations, and license and certification suspensions on a timely basis to the national registry of the Appraisal Subcommittee;</p> <p>(3) transmit reports on a timely basis of supervisory activities involving appraisal management companies or other third-party providers of appraisals and appraisal management services, including investigations initiated and disciplinary actions taken; and</p> <p>(h) Registry Fees Modified-</p> <p>(1) IN GENERAL- Section 1109(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3338(a)) is amended--</p> <p>(A) by amending paragraph (4) (as modified by section 9503(g)) to read as follows:</p> <p>(4) collect--</p> <p>(A) from such individuals who perform or seek to perform appraisals in federally related transactions, an annual registry fee of not more than \$40, such fees to be transmitted by the State agencies to the Council on an annual basis; and</p> <p>(B) from an appraisal management company that either has registered with a State appraiser certifying and licensing agency in accordance with this title or operates as a subsidiary of a federally regulated financial institution, an annual registry fee of--</p> <p>(i) in the case of such a company that has been in existence for more than a year, \$25 multiplied by the number of appraisers working for or contracting with such company in such State during the previous year, but where such \$25 amount may be adjusted, up</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>to a maximum of \$50, at the discretion of the Appraisal Subcommittee, if necessary to carry out the Subcommittee's functions under this title; and</p> <p>`(ii) in the case of such a company that has not been in existence for more than a year, \$25 multiplied by an appropriate number to be determined by the Appraisal Subcommittee, and where such number will be used for determining the fee of all such companies that were not in existence for more than a year, but where such \$25 amount may be adjusted, up to a maximum of \$50, at the discretion of the Appraisal Subcommittee, if necessary to carry out the Subcommittee's functions under this title.'; and</p> <p>(B) by amending the matter following paragraph (4), as redesignated, to read as follows:</p> <p>`Subject to the approval of the Council, the Appraisal Subcommittee may adjust the dollar amount of registry fees under paragraph (4)(A), up to a maximum of \$80 per annum, as necessary to carry out its functions under this title. The Appraisal Subcommittee shall consider at least once every 5 years whether to adjust the dollar amount of the registry fees to account for inflation. In implementing any change in registry fees, the Appraisal Subcommittee shall provide flexibility to the States for multi-year certifications and licenses already in place, as well as a transition period to implement the changes in registry fees. In establishing the amount of the annual registry fee for an appraisal management company, the Appraisal Subcommittee shall have the discretion to impose a minimum annual registry fee for an appraisal management company to protect against the under reporting of the number of appraisers working for or contracted by the appraisal management company.'.</p> <p>(2) INCREMENTAL REVENUES- Incremental revenues collected pursuant to the increases required by this subsection shall be placed in a separate account at the United States Treasury, entitled the `Appraisal Subcommittee Account'.</p> <p>(i) Grants and Reports- Section 1109(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(b)) is amended--</p> <p>(1) by striking `and' after the semicolon in paragraph (3);</p> <p>(2) by striking the period at the end of paragraph (4) and inserting a semicolon;</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>(3) by adding at the end the following new paragraphs:</p> <p>“(5) to make grants to State appraiser certifying and licensing agencies to support the efforts of such agencies to comply with this title, including--</p> <p>“(A) the complaint process, complaint investigations, and appraiser enforcement activities of such agencies; and</p> <p>“(B) the submission of data on State licensed and certified appraisers and appraisal management companies to the National appraisal registry, including information affirming that the appraiser or appraisal management company meets the required qualification criteria and formal and informal disciplinary actions; and</p> <p>“(6) to report to all State appraiser certifying and licensing agencies when a license or certification is surrendered, revoked, or suspended.’.</p> <p>Obligations authorized under this subsection may not exceed 75 percent of the fiscal year total of incremental increase in fees collected and deposited in the ‘Appraisal Subcommittee Account’ pursuant to subsection (h).</p> <p>(j) Criteria- Section 1116 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3345) is amended--</p> <p>(1) in subsection (c), by inserting ‘whose criteria for the licensing of a real estate appraiser currently meet or exceed the minimum criteria issued by the Appraisal Qualifications Board of The Appraisal Foundation for the licensing of real estate appraisers’ before the period at the end; and</p> <p>(2) by striking subsection (e) and inserting the following new subsection:</p> <p>“(e) Minimum Qualification Requirements- Any requirements established for individuals in the position of ‘Trainee Appraiser’ and ‘Supervisory Appraiser’ shall meet or exceed the minimum qualification requirements of the Appraiser Qualifications Board of The Appraisal Foundation. The Appraisal Subcommittee shall have the authority to enforce these requirements.’.</p> <p>(k) Monitoring of State Appraiser Certifying and Licensing Agencies- Section 1118 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3347) is amended--</p> <p>(1) by amending subsection (a) to read as follows:</p> <p>“(a) In General- The Appraisal Subcommittee shall monitor each State appraiser certifying and licensing agency for the purposes of determining</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>whether such agency--</p> <ul style="list-style-type: none"> <li>`(1) has policies, practices, funding, staffing, and procedures that are consistent with this title;</li> <li>`(2) processes complaints and completes investigations in a reasonable time period;</li> <li>`(3) appropriately disciplines sanctioned appraisers and appraisal management companies;</li> <li>`(4) maintains an effective regulatory program; and</li> <li>`(5) reports complaints and disciplinary actions on a timely basis to the national registries on appraisers and appraisal management companies maintained by the Appraisal Subcommittee.</li> </ul> <p>The Appraisal Subcommittee shall have the authority to remove a State licensed or certified appraiser or a registered appraisal management company from a national registry on an interim basis pending State agency action on licensing, certification, registration, and disciplinary proceedings. The Appraisal Subcommittee and all agencies, instrumentalities, and Federally recognized entities under this title shall not recognize appraiser certifications and licenses from States whose appraisal policies, practices, funding, staffing, or procedures are found to be inconsistent with this title. The Appraisal Subcommittee shall have the authority to impose sanctions, as described in this section, against a State agency that fails to have an effective appraiser regulatory program. In determining whether such a program is effective, the Appraisal Subcommittee shall include an analyses of the licensing and certification of appraisers, the registration of appraisal management companies, the issuance of temporary licenses and certifications for appraisers, the receiving and tracking of submitted complaints against appraisers and appraisal management companies, the investigation of complaints, and enforcement actions against appraisers and appraisal management companies. The Appraisal Subcommittee shall have the authority to impose interim actions and suspensions against a State agency as an alternative to, or in advance of, the derecognition of a State agency.'</p> <p>(2) in subsection (b)(2), by inserting after `authority' the following: `or sufficient funding'.</p> <p>(l) Reciprocity- Subsection (b) of section 1122 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3351(b)) is amended to read as follows:</p> <p>`(b) Reciprocity- A State appraiser certifying or licensing agency shall issue a reciprocal certification or license for an individual from another State when--</p> <ul style="list-style-type: none"> <li>`(1) the appraiser licensing and certification program of such</li> </ul>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>other State is in compliance with the provisions of this title; and  `2) the appraiser holds a valid certification from a State whose requirements for certification or licensing meet or exceed the licensure standards established by the State where an individual seeks appraisal licensure.'</p> <p>(m) Consideration of Professional Appraisal Designations- Section 1122(d) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3351(d)) is amended by striking `shall not exclude' and all that follows through the end of the subsection and inserting the following: `may include education achieved, experience, sample appraisals, and references from prior clients. Membership in a nationally recognized professional appraisal organization may be a criteria considered, though lack of membership therein shall not be the sole bar against consideration for an assignment under these criteria.'</p> <p>(n) Appraiser Independence- Section 1122 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3351) is amended by adding at the end the following new subsection:  `g) Appraiser Independence Monitoring- The Appraisal Subcommittee shall monitor each State appraiser certifying and licensing agency for the purpose of determining whether such agency's policies, practices, and procedures are consistent with the purposes of maintaining appraiser independence and whether such State has adopted and maintains effective laws, regulations, and policies aimed at maintaining appraiser independence.'</p> <p>(o) Appraiser Education- Section 1122 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3351) is amended by inserting after subsection (g) (as added by subsection (l) of this section) the following new subsection:  `h) Approved Education- The Appraisal Subcommittee shall encourage the States to accept courses approved by the Appraiser Qualification Board's Course Approval Program.'</p> <p>(p) Appraisal Complaint Hotline- Section 1122 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3351), as amended by this section, is further amended by adding at the end the following new subsection:  `i) Appraisal Complaint National Hotline- If, 1 year after the date of the enactment of this subsection, the Appraisal Subcommittee determines that no national hotline exists to receive complaints of non-compliance with appraisal independence standards and Uniform Standards of Professional Appraisal Practice, including complaints from appraisers, individuals, or other entities concerning the improper influencing or attempted improper influencing of appraisers or the appraisal process, the</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>Appraisal Subcommittee shall establish and operate such a national hotline, which shall include a toll-free telephone number and an email address. If the Appraisal Subcommittee operates such a national hotline, the Appraisal Subcommittee shall refer complaints for further action to appropriate governmental bodies, including a State appraiser certifying and licensing agency, a financial institution regulator, or other appropriate legal authorities. For complaints referred to State appraiser certifying and licensing agencies or to Federal regulators, the Appraisal Subcommittee shall have the authority to follow up such complaint referrals in order to determine the status of the resolution of the complaint.'</p> <p>(q) Automated Valuation Models- Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331 et seq.), as amended by this section, is further amended by adding at the end the following new section (and amending the table of contents accordingly):</p>		
<p><b>SEC. 1125. AUTOMATED VALUATION MODELS USED TO VALUE CERTAIN MORTGAGES.</b></p> <p>(a) In General- Automated valuation models shall adhere to quality control standards designed to--</p> <ul style="list-style-type: none"> <li>(1) ensure a high level of confidence in the estimates produced by automated valuation models;</li> <li>(2) protect against the manipulation of data;</li> <li>(3) seek to avoid conflicts of interest; and</li> <li>(4) require random sample testing and reviews, where such testing and reviews are performed by an appraiser who is licensed or certified in the State where the testing and reviews take place.</li> </ul> <p>(b) Adoption of Regulations- The Appraisal Subcommittee and its member agencies, in consultation with the Appraisal Standards Board of the Appraisal Foundation and other interested parties, shall promulgate regulations to implement the quality control standards required under this section.</p> <p>(c) Enforcement- Compliance with regulations issued under this subsection shall be enforced by--</p> <ul style="list-style-type: none"> <li>(1) with respect to a financial institution, or subsidiary owned and controlled by a financial institution and regulated by a Federal financial institution regulatory agency, the Federal financial institution regulatory agency that acts as the primary Federal supervisor of such financial institution or subsidiary;</li> </ul>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>and            `(2) with respect to other persons, the Appraisal Subcommittee.            `(d) Automated Valuation Model Defined- For purposes of this section, the term `automated valuation model' means any computerized model used by mortgage originators and secondary market issuers to determine the collateral worth of a mortgage secured by a consumer's principal dwelling.'            (r) Broker Price Opinions- Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331 et seq.), as amended by this section, is further amended by adding at the end the following new section (and amending the table of contents accordingly):</p>		
<p><b>`SEC. 1126. BROKER PRICE OPINIONS.</b></p> <p>`(a) General Prohibition- In conjunction with the purchase of a consumer's principal dwelling, broker price opinions may not be used as the primary basis to determine the value of a piece of property for the purpose of a loan origination of a residential mortgage loan secured by such piece of property.            `(b) Broker Price Opinion Defined- For purposes of this section, the term `broker price opinion' means an estimate prepared by a real estate broker, agent, or sales person that details the probable selling price of a particular piece of real estate property and provides a varying level of detail about the property's condition, market, and neighborhood, and information on comparable sales, but does not include an automated valuation model, as defined in section 1125(c).'            (s) Amendments to Appraisal Subcommittee- Section 1011 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3310) is amended--                (1) in the first sentence, by adding before the period the following: `and the Federal Housing Finance Agency'; and                (2) by inserting at the end the following: `At all times at least one member of the Appraisal Subcommittee shall have demonstrated knowledge and competence through licensure, certification, or professional designation within the appraisal profession.'            (t) Technical Corrections-                (1) Section 1119(a)(2) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(a)(2)) is amended by striking `council,' and inserting `Council,'.                (2) Section 1121(6) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350(6)) is</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>amended by striking `Corporations,' and inserting `Corporation,'.</p> <p>(3) Section 1121(8) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350(8)) is amended by striking `council' and inserting `Council'.</p> <p>(4) Section 1122 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3351) is amended--</p> <p>(A) in subsection (a)(1) by moving the left margin of subparagraphs (A), (B), and (C) 2 ems to the right; and</p> <p>(B) in subsection (c)--</p> <p>(i) by striking `Federal Financial Institutions Examination Council' and inserting `Financial Institutions Examination Council'; and</p> <p>(ii) by striking `the council's functions' and inserting `the Council's functions'.</p>		
<p><b>SEC. 9504. STUDY REQUIRED ON IMPROVEMENTS IN APPRAISAL PROCESS AND COMPLIANCE PROGRAMS.</b></p> <p>(a) Study- The Comptroller General shall conduct a comprehensive study on possible improvements in the appraisal process generally, and specifically on the consistency in and the effectiveness of, and possible improvements in, State compliance efforts and programs in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. In addition, this study shall examine the existing exemptions to the use of certified appraisers issued by Federal financial institutions regulatory agencies. The study shall also review the threshold level established by Federal regulators for compliance under title XI and whether there is a need to revise them to reflect the addition of consumer protection to the purposes and functions of the Appraisal Subcommittee. The study shall additionally examine the quality of different types of mortgage collateral valuations produced by broker price opinions, automated valuation models, licensed appraisals, and certified appraisals, among others, and the quality of appraisals provided through different distribution channels, including appraisal management companies, independent appraisal operations within a mortgage originator, and fee-for-service appraisals. The study shall also include an analysis and statistical breakdown of enforcement actions taken during the last 10 years against different types of appraisers, including certified, licensed, supervisory, and trainee appraisers. Furthermore, the study shall examine the benefits and costs, as well as the advantages and disadvantages, of establishing a national repository to collect data related</p>	<p><b>SEC. 1072. GAO STUDY ON THE EFFECTIVENESS AND IMPACT OF VARIOUS APPRAISAL METHODS.</b></p> <p><i>(a) In General- The Government Accountability Office shall conduct a study on the effectiveness and impact of various appraisal methods, including the cost approach, the comparative sales approach, the income approach, and others that may be available.</i></p> <p><i>(b) Study- Not later than--</i></p> <p><i>(1) 1 year after the date of enactment of this Act, the Government Accountability Office shall submit a study to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives;</i></p> <p><i>(2) 90 days after the date of enactment of this Act, the Government Accountability Office shall provide a report on the status of the study and any preliminary findings to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.</i></p> <p><i>(c) Content of Study- The study required by this section shall include an examination of--</i></p> <p><i>(1) the prevalence, alone or in combination, of these approaches in purchase-money and refinance mortgage transactions;</i></p> <p><i>(2) the accuracy of the various approaches in assessing the property as collateral;</i></p> <p><i>(3) whether and how the approaches contributed to price</i></p>	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>to real estate property collateral valuations performed in the United States.</p> <p>(b) Report- Before the end of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report on the study under subsection (a) to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, together with such recommendations for administrative or legislative action, at the Federal or State level, as the Comptroller General may determine to be appropriate.</p>	<p><i>speculation in the previous cycle;</i></p> <p><i>(4) the costs to consumers of these approaches;</i></p> <p><i>(5) the disclosure of fees to consumers in the appraisal process;</i></p> <p><i>(6) to what extent such approaches may be influenced by a conflict of interest between the mortgage lender and the appraiser and the mechanism by which the lender selects and compensates the appraiser; and</i></p> <p><i>(7) the suitability of appraisal approaches in rural versus urban areas.</i></p>	
<p>(c) Additional Study Required- The Comptroller General shall conduct an additional study to determine the effects that the changes to the seller-guide appraisal requirements of Fannie Mae and Freddie Mac contained in the Home Valuation Code of Conduct have on small business, like mortgage brokers and independent appraisers, and consumers, including the effect on the--</p> <ul style="list-style-type: none"> <li>(1) quality and costs of appraisals;</li> <li>(2) length of time for obtaining appraisals;</li> <li>(3) impact on consumer protection, especially regarding maintaining appraisal independence, abating appraisal inflation, and mitigating acts of appraisal fraud;</li> <li>(4) structure of the appraisal industry, especially regarding appraisal management companies, fee-for-service appraisers, and the regulation of appraisal management companies by the states; and</li> <li>(5) impact on mortgage brokers and other small business professionals in the financial services industry.</li> </ul> <p>(d) Additional Report- Before the end of the 6-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit an additional report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing the findings and conclusions of the Comptroller General with respect to the study conducted pursuant to subsection (c). Such additional report shall take into consideration the Small Business Administration's views on how small businesses are affected by the Home Valuation Code of Conduct.</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p><b>SEC. 9505. EQUAL CREDIT OPPORTUNITY ACT AMENDMENT.</b></p> <p>Subsection (e) of section 701 of the Equal Credit Opportunity Act (15 U.S.C. 1691) is amended to read as follows:</p> <p>`(e) Copies Furnished to Applicants-</p> <p>    `(1) IN GENERAL- Each creditor shall furnish to an applicant a copy of any and all written appraisals and valuations developed in connection with the applicant's application for a loan that is secured or would have been secured by a first lien on a dwelling promptly upon completion, but in no case later than 3 days prior to the closing of the loan, whether the creditor grants or denies the applicant's request for credit or the application is incomplete or withdrawn.</p> <p>    `(2) WAIVER- The applicant may waive the 3 day requirement provided for in paragraph (1), except where otherwise required in law.</p> <p>    `(3) REIMBURSEMENT- The applicant may be required to pay a reasonable fee to reimburse the creditor for the cost of the appraisal, except where otherwise required in law.</p> <p>    `(4) FREE COPY- Notwithstanding paragraph (3), the creditor shall provide a copy of each written appraisal or valuation at no additional cost to the applicant.</p> <p>    `(5) NOTIFICATION TO APPLICANTS- At the time of application, the creditor shall notify an applicant in writing of the right to receive a copy of each written appraisal and valuation under this subsection.</p> <p>    `(6) REGULATIONS- The Board shall prescribe regulations to implement this subsection within 1 year of the date of the enactment of this subsection.</p> <p>    `(7) VALUATION DEFINED- For purposes of this subsection, the term 'valuation' shall include any estimate of the value of a dwelling developed in connection with a creditor's decision to provide credit, including those values developed pursuant to a policy of a government sponsored enterprise or by an automated valuation model, a broker price opinion, or other methodology or mechanism.'</p>		
<p><b>SEC. 9506. REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974 AMENDMENT RELATING TO CERTAIN APPRAISAL FEES.</b></p>		

<b>House-passed H.R. 4173</b>	<b>Senate-passed H.R. 4173 (S. 3217 as amended)</b>	<b>Notes</b>
<p>Section 4 of the Real Estate Settlement Procedures Act of 1974 is amended by adding at the end the following new subsection:  (c) The standard form described in subsection (a) shall include, in the case of an appraisal coordinated by an appraisal management company (as such term is defined in section 1121(11) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350(11))), a clear disclosure of--</p> <ul style="list-style-type: none"> <li>(1) the fee paid directly to the appraiser by such company; and</li> <li>(2) the administration fee charged by such company.'</li> </ul>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p align="center"><b>Subtitle G--Sense of Congress Regarding the Importance of Government Sponsored Enterprises Reform</b></p> <p><b>SEC. 9601. SENSE OF CONGRESS REGARDING THE IMPORTANCE OF GOVERNMENT-SPONSORED ENTERPRISES REFORM TO ENHANCE THE PROTECTION, LIMITATION, AND REGULATION OF THE TERMS OF RESIDENTIAL MORTGAGE CREDIT.</b></p> <p>(a) Findings- The Congress finds as follows:</p> <p>(1) The Government-sponsored enterprises, Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac), were chartered by Congress to ensure a reliable and affordable supply of mortgage funding, but enjoy a dual legal status as privately owned corporations with Government mandated affordable housing goals.</p> <p>(2) In 1996, the Department of Housing and Urban Development required that 42 percent of Fannie Mae's and Freddie Mac's mortgage financing should go to borrowers with income levels below the median for a given area.</p> <p>(3) In 2004, the Department of Housing and Urban Development revised those goals, increasing them to 56 percent of their overall mortgage purchases by 2008, and additionally mandated that 12 percent of all mortgage purchases by Fannie Mae and Freddie Mac be `special affordable' loans made to borrowers with incomes less than 60 percent of an area's median income, a target that ultimately increased to 28 percent for 2008.</p> <p>(4) To help fulfill those mandated affordable housing goals, in 1995 the Department of Housing and Urban Development authorized Fannie Mae and Freddie Mac to purchase subprime securities that included loans made to low-income borrowers.</p> <p>(5) After this authorization to purchase subprime securities, subprime and near-prime loans increased from 9 percent of securitized mortgages in 2001 to 40 percent in 2006, while the market share of conventional mortgages dropped from 78.8 percent in 2003 to 50.1 percent by 2007 with a corresponding increase in subprime and Alt-A loans from 10.1 percent to 32.7 percent over the same period.</p> <p>(6) In 2004 alone, Fannie Mae and Freddie Mac purchased \$175,000,000,000 in subprime mortgage securities, which</p>	<p><b>SEC. 1078. DEPARTMENT OF THE TREASURY STUDY ON ENDING THE CONSERVATORSHIP OF FANNIE MAE, FREDDIE MAC, AND REFORMING THE HOUSING FINANCE SYSTEM.</b></p> <p>(a) <i>Study Required-</i></p> <p>(1) <i>IN GENERAL-</i> The Secretary of the Treasury shall conduct a study of and develop recommendations regarding the options for ending the conservatorship of the Federal National Mortgage Association (in this section referred to as `Fannie Mae') and the Federal Home Loan Mortgage Corporation (in this section referred to as `Freddie Mac'), while minimizing the cost to taxpayers, including such options as--</p> <p>(A) <i>the gradual wind-down and liquidation of such entities;</i></p> <p>(B) <i>the privatization of such entities;</i></p> <p>(C) <i>the incorporation of the functions of such entities into a Federal agency;</i></p> <p>(D) <i>the dissolution of Fannie Mae and Freddie Mac into smaller companies; or</i></p> <p>(E) <i>any other measures the Secretary determines appropriate.</i></p> <p>(2) <i>ANALYSES-</i> The study required under paragraph (1) shall include an analysis of--</p> <p>(A) <i>the role of the Federal Government in supporting a stable, well-functioning housing finance system, and whether and to what extent the Federal Government should bear risks in meeting Federal housing finance objectives;</i></p> <p>(B) <i>how the current structure of the housing finance system can be improved;</i></p> <p>(C) <i>how the housing finance system should support the continued availability of mortgage credit to all segments of the market;</i></p> <p>(D) <i>how the housing finance system should be structured to ensure that consumers continue to have access to 30-year, fixed rate, pre-payable mortgages and other mortgage products that have simple terms that can be easily understood;</i></p> <p>(E) <i>the role of the Federal Housing Administration and the Department of Veterans Affairs in a future housing system;</i></p>	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>accounted for 44 percent of the market that year, and from 2005 through 2007, Fannie Mae and Freddie Mac purchased approximately \$1,000,000,000,000 in subprime and Alt-A loans, while Fannie Mae's acquisitions of mortgages with less than 10 percent down payments almost tripled.</p> <p>(7) According to data from the Federal Housing Finance Agency (FHFA) for the fourth quarter of 2008, Fannie Mae and Freddie Mac own or guarantee 75 percent of all newly originated mortgages, and Fannie Mae and Freddie Mac currently own 13.3 percent of outstanding mortgage debt in the United States and have issued mortgage-backed securities for 31.0 percent of the residential debt market, a combined total of 44.3 percent of outstanding mortgage debt in the United States.</p> <p>(8) On September 7, 2008, the FHFA placed Fannie Mae and Freddie Mac into conservatorship, with the Treasury Department subsequently agreeing to purchase at least \$200,000,000,000 of preferred stock from each enterprise in exchange for warrants for the purchase of 79.9 percent of each enterprise's common stock.</p> <p>(9) The conservatorship for Fannie Mae and Freddie Mac has potentially exposed taxpayers to upwards of \$5,300,000,000,000 worth of risk.</p> <p>(10) The hybrid public-private status of Fannie Mae and Freddie Mac is untenable and must be resolved to assure that consumers are offered and receive residential mortgage loans on terms that reasonably reflect their ability to repay the loans and that are understandable and not unfair, deceptive, or abusive.</p> <p>(b) Sense of the Congress- It is the sense of the Congress that efforts to enhance by the protection, limitation, and regulation of the terms of residential mortgage credit and the practices related to such credit would be incomplete without enactment of meaningful structural reforms of Fannie Mae and Freddie Mac.</p>	<p><i>(F) the impact of reforms of the housing finance system on the financing of rental housing;</i></p> <p><i>(G) the impact of reforms of the housing finance system on secondary market liquidity;</i></p> <p><i>(H) the role of standardization in the housing finance system;</i></p> <p><i>(I) how housing finance systems in other countries offer insights that can help inform options for reform in the United States; and</i></p> <p><i>(J) the options for transition to a reformed housing finance system.</i></p> <p><i>(b) Report and Recommendations- Not later than January 31, 2011, the Secretary of the Treasury shall submit the report and recommendations required under subsection (a) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.</i></p>	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p style="text-align: center;"><b>Subtitle H--Reports and Data Collection</b></p> <p><b>SEC. 9701. GAO STUDY REPORT ON GOVERNMENT EFFORTS TO COMBAT MORTGAGE FORECLOSURE RESCUE SCAMS AND LOAN MODIFICATION FRAUD.</b></p> <p>(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.</p> <p>(b) Report-</p> <p>(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).</p> <p>(2) SPECIFIC TOPICS- The report made under paragraph (1) shall include--</p> <p>(A) an evaluation of the effectiveness of the inter-agency task force current efforts to combat mortgage foreclosure rescue scams and loan modification fraud scams;</p> <p>(B) specific recommendations on agency or legislative action that are essential to properly protect homeowners from mortgage foreclosure rescue scams and loan modification fraud scams; and</p> <p>(C) the adequacy of financial resources that the Federal Government is allocating to--</p> <p>(i) crackdown on loan modification and foreclosure rescue scams; and</p> <p>(ii) the education of homeowners about fraudulent scams relating to loan modification and foreclosure rescues.</p>		
<p><b>SEC. 9702. REPORTING OF MORTGAGE DATA BY STATE.</b></p> <p>(a) In General- Section 104(a) of the Helping Families Save Their Homes</p>		

<b>House-passed H.R. 4173</b>	<b>Senate-passed H.R. 4173 (S. 3217 as amended)</b>	<b>Notes</b>
<p>Act of 2009 (division A of Public Law 111-22) is amended--</p> <ul style="list-style-type: none"> <li>(1) in paragraph (2), by striking `resulting' and inserting `in each State that result';</li> <li>(2) in paragraph (3), by inserting `each State for' after `modifications in'; and</li> <li>(3) in paragraph (4), by inserting `in each State' after `total number of loans'.</li> </ul> <p>(b) Conforming Amendment- Section 104(b)(1)(A) of such Act is amended by adding at the end the following sentence: `Not later than 60 days after the date of the enactment of the Wall Street Reform and Consumer Protection Act of 2009, the Comptroller of the Currency and the Director of the Office of Thrift Supervision shall update such requirements to reflect amendments made to this section by such Act.'.</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p style="text-align: center;"><b>Subtitle I--Multifamily Mortgage Resolution</b></p> <p><b>SEC. 9801. MULTIFAMILY MORTGAGE RESOLUTION PROGRAM.</b></p> <p>(a) Establishment- The Secretary of Housing and Urban Development shall develop a program under this subsection to ensure the protection of current and future tenants and at-risk multifamily properties, where feasible, based on criteria that may include--</p> <ul style="list-style-type: none"> <li>(1) creating sustainable financing of such properties, that may take into consideration such factors as-- <ul style="list-style-type: none"> <li>(A) the rental income generated by such properties; and</li> <li>(B) the preservation of adequate operating reserves;</li> </ul> </li> <li>(2) maintaining the level of Federal, State, and city subsidies in effect as of the date of the enactment of this Act;</li> <li>(3) providing funds for rehabilitation; and</li> <li>(4) facilitating the transfer of such properties, when appropriate and with the agreement of owners, to responsible new owners and ensuring affordability of such properties.</li> </ul> <p>(b) Coordination- The Secretary of Housing and Urban Development may, in carrying out the program developed under this section, coordinate with the Secretary of the Treasury, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Federal Housing Finance Agency, and any other Federal Government agency that the Secretary considers appropriate.</p> <p>(c) Definition- For purposes of this section, the term `multifamily properties' means a residential structure that consists of 5 or more dwelling units.</p>		
<p style="text-align: center;"><b>Subtitle J--Study of Effect of Drywall Presence on Foreclosures</b></p> <p><b>SEC. 9901. STUDY OF EFFECT OF DRYWALL PRESENCE ON FORECLOSURES.</b></p> <p>(a) Study- The Secretary of Housing and Urban Development, in consultation with the Secretary of the Treasury, shall conduct a study of the effect on residential mortgage loan foreclosures of--</p> <ul style="list-style-type: none"> <li>(1) the presence in residential structures subject to such</li> </ul>		

<b>House-passed H.R. 4173</b>	<b>Senate-passed H.R. 4173 (S. 3217 as amended)</b>	<b>Notes</b>
<p>mortgage loans of drywall that was imported from China during the period beginning with 2004 and ending at the end of 2007; and</p> <p>(2) the availability of property insurance for residential structures in which such drywall is present.</p> <p>(b) Report- Not later than the expiration of the 120-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Congress a report on the study conducted under subsection (a) containing its findings, conclusions, and recommendations.</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p style="text-align: center;"><b>Subtitle K--Home Affordable Modification Program</b></p> <p><b>SEC. 9911. HOME AFFORDABLE MODIFICATION PROGRAM GUIDELINES.</b></p> <p>(a) Net Present Value Input Data- The Secretary of the Treasury (in this section referred to as the `Secretary') shall revise the supplemental directives and other guidelines for the Home Affordable Modification Program of the Making Home Affordable initiative of the Secretary of the Treasury, authorized under the Emergency Economic Stabilization Act of 2008 (Public Law 110-343), to require each mortgage servicer participating in such program to provide each borrower under a mortgage whose request for a mortgage modification under the Program is denied with all borrower-related and mortgage-related input data used in any net present value (NPV) analyses performed in connection with the subject mortgage. Such input data shall be provided to the borrower at the time of such denial.</p> <p>(b) Web-based Site for NPV Calculator and Application-</p> <p style="padding-left: 20px;">(1) NPV CALCULATOR- In carrying out the Home Affordable Modification Program, the Secretary shall establish and maintain a site on the World Wide Web that provides a calculator for net present value analyses of a mortgage, based on the Secretary's methodology for calculating such value, that mortgagors can use to enter information regarding their own mortgages and that provides a determination after entering such information regarding a mortgage of whether such mortgage would be accepted or rejected for modification under the Program, using such methodology.</p> <p style="padding-left: 20px;">(2) DISCLOSURE- Such Web site shall also prominently disclose that each mortgage servicer participating in such Program may use a method for calculating net present value of a mortgage that is different than the method used by such calculator.</p> <p style="padding-left: 20px;">(3) APPLICATION- The Secretary shall make a reasonable effort to include on such World Wide Web site a method for homeowners to apply for a mortgage modification under the Home Affordable Modification Program.</p> <p>(c) Public Availability of NPV Methodology, Computer Model, and Variables- The Secretary shall make publicly available, including by posting on a World Wide Web site of the Secretary--</p>		

<b>House-passed H.R. 4173</b>	<b>Senate-passed H.R. 4173 (S. 3217 as amended)</b>	<b>Notes</b>
<p>(1) the Secretary's methodology and computer model, including all formulae used in such computer model, used for calculating net present value of a mortgage that is used by the calculator established pursuant to subsection (b); and</p> <p>(2) all variables used in such net present value analysis.</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p style="text-align: center;"><b>Subtitle L--Making Home Affordable Program</b></p> <p><b>SEC. 9921. PUBLIC AVAILABILITY OF INFORMATION.</b></p> <p>(a) Revisions to Program Guidelines- The Secretary of the Treasury (in this section referred to as the `Secretary') shall revise the guidelines for the Home Affordable Modification Program of the Making Home Affordable initiative of the Secretary of the Treasury, authorized under the Emergency Economic Stabilization Act of 2008 (Public Law 110-343), to provide that the data being collected by the Secretary from each mortgage servicer and lender participating in the Program is made public in accordance with subsection (b).</p> <p>(b) Public Availability- Data shall be made available according to the following guidelines:</p> <p>(1) Not more than 14 days after each monthly deadline for submission of data by mortgage servicers and lenders participating in the Program, reports shall be made publicly available by means of a World Wide Web site of the Secretary, and by submitting a report to the Congress, that shall include the following information:</p> <p>(A) The number of requests for mortgage modifications under the Program that the servicer or lender has received.</p> <p>(B) The number of requests for mortgage modifications under the Program that the servicer or lender has processed.</p> <p>(C) The number of requests for mortgage modifications under the Program that the servicer or lender has approved.</p> <p>(D) The number of requests for mortgage modifications under the Program that the servicer or lender has denied.</p> <p>(2) Not more than 60 days after each monthly deadline for submission of data by mortgage servicers and lenders participating in the Program, the Secretary shall make data tables available to the public at the individual record level. The Secretary shall issue regulations prescribing--</p> <p>(A) the procedures for disclosing such data to the public; and</p> <p>(B) such deletions as the Secretary may determine to be</p>		

<b>House-passed H.R. 4173</b>	<b>Senate-passed H.R. 4173 (S. 3217 as amended)</b>	<b>Notes</b>
appropriate to protect any privacy interest of any mortgage modification applicant, including the deletion or alteration of the applicant's name and identification number.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	<p><b>SEC. 1079. REASONABLE FEES AND RULES FOR PAYMENT CARD TRANSACTIONS.</b></p> <p><i>The Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.) is amended--</i></p> <p style="padding-left: 40px;"><i>(1) by redesignating sections 920 and 921 as sections 921 and 922, respectively; and</i></p> <p style="padding-left: 40px;"><i>(2) by inserting after section 919 the following:</i></p> <p><b>SEC. 920. REASONABLE FEES AND RULES FOR PAYMENT CARD TRANSACTIONS.</b></p> <p><i>(a) Reasonable Interchange Transaction Fees for Electronic Debit Transactions-</i></p> <p style="padding-left: 40px;"><i>(1) REGULATORY AUTHORITY- The Board shall have authority to establish rules, pursuant to section 553 of title 5, United States Code, regarding any interchange transaction fee that an issuer or payment card network may charge with respect to an electronic debit transaction.</i></p> <p style="padding-left: 40px;"><i>(2) REASONABLE FEES- The amount of any interchange transaction fee that an issuer or payment card network may charge with respect to an electronic debit transaction shall be reasonable and proportional to the actual cost incurred by the issuer or payment card network with respect to the transaction.</i></p> <p style="padding-left: 40px;"><i>(3) RULEMAKING REQUIRED- The Board shall issue final rules, not later than 9 months after the date of enactment of the Consumer Financial Protection Act of 2010, to establish standards for assessing whether the amount of any interchange transaction fee described in paragraph (2) is reasonable and proportional to the actual cost incurred by the issuer or payment card network with respect to the transaction.</i></p> <p style="padding-left: 40px;"><i>(4) CONSIDERATIONS- In issuing rules required by this section, the Board shall--</i></p> <p style="padding-left: 80px;"><i>(A) consider the functional similarity between--</i></p> <p style="padding-left: 120px;"><i>(i) electronic debit transactions; and</i></p> <p style="padding-left: 120px;"><i>(ii) checking transactions that are required within the Federal Reserve bank system to clear at par;</i></p> <p style="padding-left: 80px;"><i>(B) distinguish between--</i></p> <p style="padding-left: 120px;"><i>(i) the actual incremental cost incurred by an issuer or payment card network for the role of the issuer or the payment card network in the</i></p>	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	<p><i>authorization, clearance, or settlement of a particular electronic debit transaction, which cost shall be considered under paragraph (2); and</i></p> <p><i>(ii) other costs incurred by an issuer or payment card network which are not specific to a particular electronic debit transaction, which costs shall not be considered under paragraph (2); and</i></p> <p><i>(C) consult, as appropriate, with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision, the National Credit Union Administration Board, the Administrator of the Small Business Administration, and the Director of the Bureau of Consumer Financial Protection.</i></p> <p><i>(5) EXEMPTION FOR SMALL ISSUERS- This subsection shall not apply to issuers that, together with affiliates, have assets of less than \$10,000,000,000, and the Board shall exempt such issuers from rules issued under paragraph (3).</i></p> <p><i>(6) EFFECTIVE DATE- Paragraph (2) shall become effective 12 months after the date of enactment of the Consumer Financial Protection Act of 2010.</i></p> <p><i>(b) Limitation on Anti-competitive Payment Card Network Restrictions-</i></p> <p><i>(1) NO RESTRICTIONS ON OFFERING DISCOUNTS FOR USE OF A COMPETING PAYMENT CARD NETWORK- A payment card network shall not, directly or through any agent, processor, or licensed member of the network, by contract, requirement, condition, penalty, or otherwise, inhibit the ability of any person to provide a discount or in-kind incentive for payment through the use of a card or device of another payment card network, provided that the discount or in-kind incentive only differentiates between payment card networks and not between other issuers.</i></p> <p><i>(2) NO RESTRICTIONS ON OFFERING DISCOUNTS FOR USE OF A FORM OF PAYMENT- A payment card network shall not, directly or through any agent, processor, or licensed member of the network, by contract, requirement, condition, penalty, or otherwise, inhibit the ability of any person to provide a discount or in-kind incentive for payment by the use of cash, check, debit card, or credit card.</i></p> <p><i>(3) NO RESTRICTIONS ON SETTING TRANSACTION</i></p>	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	<p><i>MINIMUMS OR MAXIMUMS- A payment card network shall not, directly or through any agent, processor, or licensed member of the network, by contract, requirement, condition, penalty, or otherwise, inhibit the ability of any person to set a minimum or maximum dollar value for the acceptance by that person of credit cards, provided that such minimum or maximum dollar value does not differentiate between issuers or between payment card networks.</i></p> <p><i>(c) Definitions- For purposes of this section, the following definitions shall apply:</i></p> <p><i>(1) DEBIT CARD- The term `debit card'--</i>  <i>(A) means any card, or other payment code or device, issued or approved for use through a payment card network to debit an asset account for the purpose of transferring money between accounts or obtaining goods or services, whether authorization is based on signature, PIN, or other means;</i>  <i>(B) includes general use prepaid cards, as that term is defined in section 915(a)(2)(A) (15 U.S.C. 1693l-1(a)(2)(A)); and</i>  <i>(C) does not include paper checks.</i></p> <p><i>(2) CREDIT CARD- The term `credit card' has the same meaning as in section 103 of the Truth in Lending Act (15 U.S.C. 1602).</i></p> <p><i>(3) DISCOUNT- The term `discount'--</i>  <i>(A) means a reduction made from the price that customers are informed is the regular price; and</i>  <i>(B) does not include any means of increasing the price that customers are informed is the regular price.</i></p> <p><i>(4) ELECTRONIC DEBIT TRANSACTION- The term `electronic debit transaction' means a transaction in which a person uses a debit card to debit an asset account.</i></p> <p><i>(5) INTERCHANGE TRANSACTION FEE- The term `interchange transaction fee' means any fee established by a payment card network that has been established for the purpose of compensating an issuer or payment card network for its involvement in an electronic debit transaction.</i></p> <p><i>(6) ISSUER- The term `issuer' means any person who issues a debit card, or credit card, or the agent of such person with respect to such card.</i></p> <p><i>(7) PAYMENT CARD NETWORK- The term `payment card network' means an entity that directly, or through licensed</i></p>	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	<p><i>members, processors, or agents, provides the proprietary services, infrastructure, and software that route information and data to conduct transaction authorization, clearance, and settlement, and that a person uses in order to accept as a form of payment a brand of debit card, credit card or other device that may be used to carry out debit or credit transactions.'</i></p>	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	<p><b>SEC. 1079A. USE OF CONSUMER REPORTS.</b></p> <p><i>Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m) is amended--</i></p> <p><i>(1) in subsection (a)--</i></p> <p><i>(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;</i></p> <p><i>(B) by inserting after paragraph (1) the following:</i></p> <p><i>`(2) provide to the consumer written or electronic disclosure--</i></p> <p><i>`(A) of a numerical credit score as defined in section 609(f)(2)(A) used by such person in taking any adverse action based in whole or in part on any information in a consumer report; and</i></p> <p><i>`(B) of the information set forth in subparagraphs (B) through (E) of section 609(f)(1);'; and</i></p> <p><i>(C) in paragraph (4) (as so redesignated), by striking `paragraph (2)' and inserting `paragraph (3)'; and</i></p> <p><i>(2) in subsection (h)(5)--</i></p> <p><i>(A) in subparagraph (C), by striking `; and' and inserting a semicolon;</i></p> <p><i>(B) in subparagraph (D), by striking the period and inserting `; and'; and</i></p> <p><i>(C) by inserting at the end the following:</i></p> <p><i>`(E) include a statement informing the consumer of--</i></p> <p><i>`(i) a numerical credit score as defined in section 609(f)(2)(A), used by such person in connection with the credit decision described in paragraph (1) based in whole or in part on any information in a consumer report; and</i></p> <p><i>`(ii) the information set forth in subparagraphs (B) through (E) of section 609(f)(1).';</i></p>	
<p><b>TITLE VIII--FORECLOSURE AVOIDANCE AND AFFORDABLE HOUSING</b></p> <p><b>SEC. 10001. EMERGENCY MORTGAGE RELIEF.</b></p> <p>(a) Use of TARP Funds- Using the authority available under sections</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>101(a) and 115(a) of division A of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211(a), 5225(a)), the Secretary of the Treasury shall transfer to the Secretary of Housing and Urban Development \$3,000,000,000, and the Secretary of Housing and Urban Development shall credit such amount to the Emergency Homeowners' Relief Fund, which such Secretary shall establish pursuant to section 107 of the Emergency Housing Act of 1975 (12 U.S.C. 2706), as such Act is amended by this section, for use for emergency mortgage assistance in accordance with title I of such Act.</p> <p>(b) Reauthorization of Emergency Mortgage Relief Program- Title I of the Emergency Housing Act of 1975 is amended--</p> <p>(1) in section 103 (12 U.S.C. 2702)--</p> <p>(A) in paragraph (2)--</p> <p>(i) by striking `have indicated' and all that follows through `regulation of the holder' and insert `have certified';</p> <p>(ii) by striking `(such as the volume of delinquent loans in its portfolio)'; and</p> <p>(iii) by striking `, except that such statement' and all that follows through `purposes of this title'; and</p> <p>(B) in paragraph (4), by inserting `or medical conditions' after `adverse economic conditions';</p> <p>(2) in section 104 (12 U.S.C. 2703)--</p> <p>(A) in subsection (b), by striking `, but such assistance' and all that follows through the period at the end and inserting the following: ` . The amount of assistance provided to a homeowner under this title shall be an amount that the Secretary determines is reasonably necessary to supplement such amount as the homeowner is capable of contributing toward such mortgage payment, except that the aggregate amount of such assistance provided for any homeowner shall not exceed \$50,000.';</p> <p>(B) in subsection (d), by striking `interest on a loan or advance'and all that follows through the end of the subsection and inserting the following: `(1) the rate of interest on any loan or advance of credit insured under this title shall be fixed for the life of the loan or advance of credit and shall not exceed the rate of interest that is generally charged for mortgages on single-family housing insured by the Secretary of</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>Housing and Urban Development under title II of the National Housing Act at the time such loan or advance of credit is made, and (2) no interest shall be charged on interest which is deferred on a loan or advance of credit made under this title. In establishing rates, terms and conditions for loans or advances of credit made under this title, the Secretary shall take into account a homeowner's ability to repay such loan or advance of credit.'; and</p> <p>(C) in subsection (e), by inserting after the period at the end of the first sentence the following: `Any eligible homeowner who receives a grant or an advance of credit under this title may repay the loan in full, without penalty, by lump sum or by installment payments at any time before the loan becomes due and payable.';</p> <p>(3) in section 105 (12 U.S.C. 2704)--</p> <p>(A) by striking subsection (b);</p> <p>(B) in subsection (e)--</p> <p>(i) by inserting `and emergency mortgage relief payments made under section 106' after `insured under this section'; and</p> <p>(ii) by striking `\$1,500,000,000 at any one time' and inserting `\$3,000,000,000';</p> <p>(C) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively; and</p> <p>(D) by adding at the end the following new subsection:</p> <p>`(e) The Secretary shall establish underwriting guidelines or procedures to allocate amounts made available for loans and advances insured under this section and for emergency relief payments made under section 106 based on the likelihood that a mortgagor will be able to resume mortgage payments, pursuant to the requirement under section 103(5).';</p> <p>(4) in section 107--</p> <p>(A) by striking `(a)'; and</p> <p>(B) by striking subsection (b);</p> <p>(5) in section 108 (12 U.S.C. 2707), by adding at the end the following new subsection:</p> <p>`(d) Coverage of Existing Programs- The Secretary shall allow funds to be administered by a State that has an existing program that is determined by the Secretary to provide substantially similar assistance to homeowners. After such determination is made such State shall not be required to modify such program to comply with the provisions of this</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>title.:</p> <p>(6) in section 109 (12 U.S.C. 2708)--  (A) in the section heading, by striking  `AUTHORIZATION AND`;  (B) by striking subsection (a);  (C) by striking `(b)'; and  (D) by striking `1977' and inserting `2011';  (7) by striking sections 110, 111, and 113 (12 U.S.C. 2709,  2710, 2712); and  (8) by redesignating section 112 (12 U.S.C. 2711) as section  110.</p>		
<p><b>SEC. 10002. ADDITIONAL ASSISTANCE FOR NEIGHBORHOOD STABILIZATION PROGRAM.</b></p> <p>Using the authority made available under sections 101(a) and 115(a) of division A of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211(a), 5225(a)), the Secretary of the Treasury shall transfer to the Secretary of Housing and Urban Development \$1,000,000,000, and the Secretary of Housing and Urban Development shall use such amounts for assistance to States and units of general local government for the redevelopment of abandoned and foreclosed homes, in accordance with the same provisions applicable under the second undesignated paragraph under the heading `Community Planning and Development--Community Development Fund' in title XII of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 217) to amounts made available under such second undesignated paragraph, except as follows:</p> <p>(1) Notwithstanding the matter of such second undesignated paragraph that precedes the first proviso, amounts made available by this section shall remain available until expended.</p> <p>(2) The 3rd, 4th, 5th, 6th, 7th, and 15th provisos of such second undesignated paragraph shall not apply to amounts made available by this section.</p> <p>(3) Amounts made available by this section shall be allocated based on a funding formula for such amounts established by the Secretary in accordance with section 2301(b) of the Housing and Economic Recovery Act of 2008 (42 U.S.C. 5301 note), except that--</p> <p>(A) notwithstanding paragraph (2) of such section</p>		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p>2301(b), the formula shall be established not later than 30 days after the date of the enactment of this Act;</p> <p>(B) the Secretary may not establish any minimum grant amount or size for grants to States;</p> <p>(C) the Secretary may establish a minimum grant amount for direct allocations to units of general local government located within a State, which shall not exceed \$1,000,000; and</p> <p>(D) each State and local government receiving grant amounts shall establish procedures to create preferences for the development of affordable rental housing for properties assisted with amounts made available by this section.</p> <p>(4) Paragraph (1) of section 2301(c) of the Housing and Economic Recovery Act of 2008 shall not apply to amounts made available by this section.</p> <p>(5) Section 2302 of the Housing and Economic Recovery Act of 2008 shall not apply to amounts made available by this section.</p> <p>(6) The fourth proviso from the end of such second undesignated paragraph shall be applied to amounts made available by this section by substituting `2013' for `2012'.</p> <p>(7) Notwithstanding section 2301(a) of the Housing and Economic Recovery Act of 2008, the term `State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and other territory or possession of the United States for purposes of this section and title III of division B of such Act, as applied to amounts made available by this section.</p> <p>(8)(A) None of the amounts made available by this section shall be distributed to--</p> <ul style="list-style-type: none"> <li>(i) any organization which has been convicted for a violation under Federal law relating to an election for Federal office; or</li> <li>(ii) any organization which employs applicable individuals.</li> </ul> <p>(B) In this paragraph, the term `applicable individual' means an individual who--</p> <ul style="list-style-type: none"> <li>(i) is-- <ul style="list-style-type: none"> <li>(I) employed by the organization in a permanent or temporary capacity;</li> <li>(II) contracted or retained by the organization;</li> </ul> </li> </ul>		

<b>House-passed H.R. 4173</b>	<b>Senate-passed H.R. 4173 (S. 3217 as amended)</b>	<b>Notes</b>
<p>or            (III) acting on behalf of, or with the express or            apparent authority of, the organization; and            (ii) has been convicted for a violation under Federal            law relating to an election for Federal office.</p>		