Summary of H.R. 1728, the Mortgage Reform and Anti-Predatory Lending Act of 2009.

Today, the House approved H.R. 1728, the Mortgage Reform and Anti-Predatory Lending Act of 2009. The bill responds to the subprime mortgage crisis by instituting much needed reform to prevent these bad loans from being made in the first place.

The bill would:

Require lenders to ensure a borrower's ability to repay. The bill establishes a simple federal standard for all home loans: institutions must ensure that borrowers can repay the loans they are sold. Lenders would have to determine that a borrower has a "reasonable ability to repay," based on income, credit history, indebtedness and other factors. For refinancing, the bill will require that all loans provide a *net tangible benefit* to the consumer, barring “junk” lending driven by fees rather than solid economics. Some lending had gotten away from these commonsense basics during the real estate boom, giving rise to risky, exotic mortgages and practices such as "no documentation " loans.

Prohibit unfair lending practices. The bill prohibits the financial incentives for subprime loans that encourage lenders to steer borrowers into more costly loans, including the bonuses known as "yield spread premiums" that lenders pay to brokers to inflate the cost of loans. Many homeowners in the current mortgage crisis received were steered into more expensive loans than they qualified for. The bill limits the prepayment penalties charged to borrowers who wish to get out of their loans and refinance on more affordable terms.

Bring accountability to the secondary market for home loans. Under the bill, participants in the huge secondary mortgage market would for the first time be liable under federal law for ensuring responsible lending. The bill permits consumers to obtain redress directly from firms involved in "securitizing" mortgages, unless the securitizer provided the borrower with a loan that meets the basic ability to repay and net tangible benefit standards. In recent years, home loans increasingly were sliced and diced by firms that bundle and resell mortgages to investors, making it difficult to track who was ultimately responsible for ensuring the soundness of loans.

Hold Creditors Responsible for the Loans they Originate. To fully encourage responsible underwriting, the bill mandates strong new federal rules to require creditors to retain an economic interest in a material portion (at least 5 percent) of the credit risk of each loan that the creditor transfers, sells, or conveys to a third party. Federal banking agencies would have the authority to make exceptions to the bill’s risk retention provisions, including form and amount.

Impose Penalties for Irresponsible Lending. Under the measure, lenders and the secondary mortgage market who don’t comply with these standards (ability to pay and net tangible benefit) would be held accountable by consumers for rescission of the loan and the consumer’s costs for rescission, including attorney’s fees. They would also have the option to rework a loan to conform to the bill's standards within 90 days of receiving notice from the consumer.

Expand Consumer Protections for High-cost Mortgages. The bill expands the protections available under federal rules on high-cost loans -- lowering the interest rate and the points and fee triggers that define high cost loans. The bill further enhances consumer protections for "high-cost loans" by:

- prohibiting practices that increase the risk of foreclosure, such as balloon payments, encouraging a borrower to default, and call provisions,
- prohibiting excessive fees for payoff information, modifications, or late payments,
- prohibiting the financing of points and fees, and
- requiring more pre-loan counseling.

Require additional disclosures for consumers regarding mortgage loans. Under the bill, the lender must disclose the maximum a consumer could pay on a variable rate mortgage, with a warning that payments will vary based on interest rate changes. Lenders must also disclose the total amount of settlement charges, the amount of charges included in the mortgage, the amount the consumer must pay at closing, and the fees paid to a mortgage originator. Many homebuyers did not understand the terms of their mortgages, especially when taking out subprime loans, and these disclosures will give consumers the information they need to make educated choices.

Protect Tenants who Rent Homes that go into Foreclosure. Renters can also be affected if the homes that they rent go into foreclosure. This legislation will provide protections for renters so that they receive proper notification and are given time to relocate -- 90 days if the unit will be used as a primary residence.

Create the Office of Housing Counseling. The bill establishes an Office of Housing Counseling within HUD to boost homeownership and rental housing counseling. The Office will spearhead and coordinate other efforts to broaden the reach of homeownership counseling. Also requires the launch of a national public service, multimedia campaign to promote financial counseling on homeownership and the establishment of a website and toll-free hotline.

Provide Legal Assistance to Homeowners and Tenants Facing Foreclosure. The measure requires HUD to provide competitive grants for a full range of legal assistance to low- and moderate-income homeowners and tenants facing foreclosure related to home ownership preservation, home foreclosure prevention, and tenancy. Priority consideration would be given to the top 100 areas for home foreclosures. Recipients would be prohibited from using the money for any class action lawsuits.

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