

AMENDMENT TO H.R. 1728

OFFERED BY MR. FRANK OF MASSACHUSETTS

Page 27, line 23, after “loan” insert the following:
“that has exercised reasonable due diligence in complying
with the requirements of subsections (a) and (b)”.

Page 29, line 8, strike “would have satisfied” and
insert “satisfy”.

Page 29, beginning on line 9, strike “if the loan had
contained such terms as of the origination of the loan”.

Page 29, line 12, strike “as a result of the violation
and”.

Page 32, after line 7, insert the following (and re-
designate succeeding subsections accordingly):

1 “(e) OBLIGATION OF SECURITIZERS, AND PRESERVA-
2 TION OF BORROWER REMEDIES.—

3 “(1) OBLIGATION TO RETAIN ACCESS.—Any
4 securitizer of a residential mortgage loan sold or to
5 be sold as part of a securitization vehicle shall, in
6 any document or contract providing for the transfer,
7 conveyance, or the establishment of such

1 securitization vehicle, reserve the right and preserve
2 the ability—

3 “(A) to identify and obtain access to any
4 such loan;

5 “(B) to acquire any such loan in the event
6 of a violation of subsections (a) or (b) of this
7 section; and

8 “(C) to provide to the consumer any and
9 all remedies provided for under this title for
10 any violation of this title.

11 “(2) ADDITIONAL DAMAGES.—Any creditor, as-
12 signee, or securitizer of a residential mortgage loan
13 that is subject to a remedy under subsection (d) and
14 has failed to comply with paragraph (1) shall be
15 subject to additional exemplary or punitive damages
16 not to exceed the original principal balance of such
17 loan.

18 “(3) CONTACT INFORMATION NOTICE.—The
19 servicer with respect to a residential mortgage loan
20 shall provide a written notice to a consumer identi-
21 fying the name and contact information of the cred-
22 itor or any assignee or securitizer who should be
23 contacted by the consumer for any reason con-
24 cerning the consumer’s rights with respect to the
25 loan. Such notice shall be provided—

1 “(A) upon request of the consumer;

2 “(B) whenever there is a change in owner-
3 ship of a residential mortgage loan; or

4 “(C) on a regular basis, not less than an-
5 nually.

6 “(f) RULES TO ESTABLISH PROCESS.—The Board
7 shall promulgate rules to govern the rescission process es-
8 tablished for violations of subsections (a) and (b) of this
9 section. Such rules shall provide that notice given to a
10 servicer or holder is sufficient notice regardless of the
11 identity of the party or the parties liable under this
12 Title.”.

Page 38, strike line 3 through line 11 (and redesignate succeeding subsections accordingly).

Page 39, strike line 18 and all that follows through page 44, line 23 (and redesignate succeeding subsections accordingly).

Page 45, strike line 15 and all that follows through page 47, line 7, and insert the following (and redesignate succeeding sections accordingly):

13 **SEC. 208. EFFECT ON STATE LAWS.**

14 (a) IN GENERAL.—Except as provided in subsection
15 (b), section 129C(d) of the Truth in Lending Act (as
16 added by section 204) shall supersede any State law to

1 the extent that it provides additional remedies against any
2 assignee, securitizer, or securitization vehicle for a viola-
3 tion of subsection (a) or (b) of section 129C of such Act
4 or any other State law the terms of which address the
5 specific subject matter of subsection (a) (determination of
6 ability to repay) or (b) (requirement of a net tangible ben-
7 efit) of section 129C of such Act, and the remedies de-
8 scribed in section 129C(d) shall constitute the sole rem-
9 edies against any assignee, securitizer, or securitization
10 vehicle for such violations.

11 (b) RULES OF CONSTRUCTION.—No provision of this
12 section shall be construed as limiting—

13 (1) the application of any State law, or the
14 availability of remedies under such law, against a
15 creditor for a particular residential mortgage loan
16 regardless of whether such creditor also acts as an
17 assignee, securitizer, or securitization vehicle for
18 such loan;

19 (2) the application of any State law, or the
20 availability of remedies under such law, against an
21 assignee, securitizer, or securitization vehicle under
22 State law, other than a provision of such law the
23 terms of which address the specific subject matter of
24 subsection (a) (determination of ability to repay) or

1 (b) (requirement of a net tangible benefit) of section
2 129C of such Act;

3 (3)(A) the application of any State law, or the
4 availability of remedies under such law, against an
5 assignee, securitizer or securitization vehicle for its
6 participation in or direction of the credit or under-
7 writing decisions of a creditor relating to the making
8 of a residential mortgage loan; or

9 (B) the ability of a consumer to assert any
10 rights against or obtain any remedies from an as-
11 signee, securitizer or securitization vehicle with re-
12 spect to a residential mortgage loan as a defense to
13 foreclosure under section 129C(g); or

14 (4) the availability of any equitable remedies,
15 including injunctive relief, under State law.

