

**AMENDMENT**

**OFFERED BY MR. MILLER OF NORTH CAROLINA**

Page 12, strike lines 4 through 15 and insert the following:

1           (2) TRUST INDENTURE ACT PROTECTIONS.—

2                   (A) DEFINITIONS.—Section 303 of the  
3           Trust Indenture Act of 1939 (15 U.S.C. 77ccc)  
4           is amended—

5                   (i) in paragraph (7), by adding at the  
6           end the following: “Such term shall include  
7           mortgage-backed securities.”;

8                   (ii) in paragraph (10), by adding at  
9           the end the following: “Such term shall in-  
10          clude servicers of mortgage-backed securi-  
11          ties.”; and

12                   (iii) by adding at the end the fol-  
13          lowing:

14           “(19) The term ‘mortgage-backed security’  
15          means an asset-backed security (as defined in sec-  
16          tion 3(a) of the Securities Exchange Act of 1934) or  
17          a qualified security (as defined in section 101(b)(4)  
18          of the Private Mortgage Market Investment Act)  
19          that is collateralized by—

1           “(A) a mortgage; or

2           “(B) a collateralized mortgage obligation  
3 of mortgage-backed securities.

4           “(20) The term ‘servicer’—

5           “(A) means any person responsible for the  
6 management or collection of a pool of assets or  
7 making allocations or distributions to holders of  
8 asset-backed securities; and

9           “(B) does not include any State or local  
10 housing agency or State or local housing fi-  
11 nance agency.”.

12           (B) CLARIFICATION OF EXEMPTIONS.—  
13 Section 304 of the Trust Indenture Act of 1939  
14 (15 U.S.C. 77ddd) is amended—

15           (i) in paragraph (2), by inserting  
16 “other than residential mortgage-back se-  
17 curities” after “securities”;

18           (ii) in paragraph (4), by inserting  
19 “other than a residential mortgage-back  
20 security” after “security”; and

21           (iii) in paragraph (7), by inserting  
22 “other than a registered mortgage-back se-  
23 curity” after “security”.

1                   (C) FIDUCIARY DUTY.—Section 315 of the  
2                   Trust Indenture Act of 1939 (15 U.S.C. 77ooo)  
3                   is amended by adding at the end the following:  
4                   “(f) Each servicer of a mortgage-backed security  
5                   shall have a fiduciary duty to protect the economic inter-  
6                   ests of the investors as a whole in an asset-backed secu-  
7                   rity, which duty may not be waived by the investor.”.

8                   (D) REMOVAL OF TRUSTEE.—Section 310  
9                   of the Trust Indenture Act of 1939 (15 U.S.C.  
10                  77jjj) is amended by adding at the end the fol-  
11                  lowing:

12                  “(3) An indenture trustee that is a servicer of  
13                  mortgage backed securities may be removed if not  
14                  fewer than 50 percent of the investors petition a  
15                  court of competent jurisdiction for the removal of  
16                  such trustee.”.

17                  (E) PENALTY.—Section 325 of the Trust  
18                  Indenture Act of 1939 (15 U.S.C. 77yyy) is  
19                  amended by striking “\$10,000” and inserting  
20                  “\$40,000”.

21                  (F) DUTIES AND RESPONSIBILITIES OF  
22                  SERVICERS.—Section 315(a) of the Trust In-  
23                  denture Act of 1939 (15 U.S.C. 77ooo(a)) is  
24                  amended—

1 (i) by striking “The indenture” and  
2 inserting “(1) The indenture”;

3 (ii) by redesignating existing para-  
4 graphs (1) and (2) as subparagraphs (A)  
5 and (B), respectively, and moving the mar-  
6 gins 2 ems to the right; and

7 (iii) by adding at the end the fol-  
8 lowing:

9 “(2) Paragraph (1) shall not apply with respect  
10 to an indenture that is a mortgage-backed security.  
11 An indenture trustee of such a security shall have a  
12 duty to verify the correctness of any such state-  
13 ments.”.

