

TRID IMPROVEMENT ACT OF 2017

JANUARY 25, 2018.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. HENSARLING, from the Committee on Financial Services,
submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 3978]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 3978) to amend the Real Estate Settlement Procedures Act of 1974 to modify requirements related to mortgage disclosures, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE AND SUMMARY

Introduced by Representative French Hill on October 5, 2017, H.R. 3978, the “TRID Improvement Act of 2017” amends the Real Estate Settlement Procedures Act to require the Consumer Financial Protection Bureau to allow for the calculation of the discounted rate title insurance companies may provide to consumers when they purchase a lenders and owners title insurance policy simultaneously.

BACKGROUND AND NEED FOR LEGISLATION

When an individual purchases a home, they receive a deed, which shows the seller transferred legal ownership, or the “title,” to the home. Title insurance can provide protection if a buyer is sued for a claim against the home before purchase. Common claims come from a previous owner’s failure to pay taxes or from contrac-

tors who say they were not paid for work done on the home before purchase. As such, lenders often require the purchase of a lender's title insurance policy, which protects the amount they lend. If a buyer lied to protect his equity in the event of a title problem, the buyer would need to purchase an owner's title insurance policy.

If a borrower purchases both a required lender's title policy and an optional owner's title policy simultaneously—a process called “simultaneous issuance”—they may receive a potential discount in the total cost. Many state regulators require settlement agents to disclose the actual costs—often in an itemized list of fees at closing—for each fee the homebuyer is responsible for paying. However, the Consumer Financial Protection Bureau (CFPB) requires that the lender's title insurance policy listed on the disclosures that consumers receive when they apply for and close on a residential mortgage loan—referred to as the Loan Estimate and Closing Disclosure forms—equal the regular cost of the total title insurance premium without any adjustments. As a result, the title insurance premium on the Loan Estimate and Closing Disclosure received by a buyer is different from the premium listed on the paperwork received from the title insurance company.

H.R. 3978 resolves these disparities and requires the CFPB to allow the accurate and complete disclosure of title insurance premiums and discounts to homebuyers.

In an October 24, 2017, letter of support for H.R. 3978, the American Bankers Association, American Escrow Association, American Land Title Association, Association of Mortgage Investors, Community Home Lenders Association, Community Mortgage Lenders of America, Consumer Mortgage Coalition, Credit Union National Association, Escrow Institute of California, Housing Policy Council of the Financial Services Roundtable, Independent Community Bankers of America, Minnesota Land Title Association, Mortgage Bankers Association, National Association of Federally-Insured Credit Unions, National Association of Home Builders, Nevada Land Title Association, Ohio Land Title Association, Palmetto Land Title Association, Real Estate Services Providers Council, Securities Industry and Financial Markets Association, Texas Land Title Association, and U.S. Chamber of Commerce expressed their support for H.R. 3978, stating:

[H.R. 3978] would amend the Real Estate Settlement Procedures Act (RESPA) to require the Consumer Financial Protection Bureau (CFPB) to allow the accurate disclosure of title insurance premiums and any potential available discounts to homebuyers.

Under current regulations, the CFPB does not permit title insurance companies to disclose available discounts for lender's title insurance on the government mandated disclosure forms. This creates inconsistencies in mortgage documents and causes confusion for consumers.

H.R. 3978 would reduce this confusion by allowing title insurance companies to disclose available discounts and accurate title insurance premiums to consumers. This straightforward fix would benefit consumers across the country.

HEARINGS

The Committee on Financial Services held a hearing examining matters relating to H.R. 3978 on September 7, 2017.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on October 11, 2017, and October 12, 2017, and ordered H.R. 3978 to be reported favorably to the House without amendment by a recorded vote of 53 yeas to 5 nays (Record vote no. FC-104), a quorum being present.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The sole recorded vote was on a motion by Chairman Hensarling to report the bill favorably to the House without amendment. The motion was agreed to by a recorded vote of 53 yeas to 5 nays (Record vote no. FC-104), a quorum being present.

Record vote no. FC-104

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Hensarling	X			Ms. Maxine Waters (CA)		X	
Mr. McHenry	X			Mrs. Carolyn B. Maloney (NY) ..	X		
Mr. King	X			Ms. Velázquez	X		
Mr. Royce (CA)	X			Mr. Sherman	X		
Mr. Lucas	X			Mr. Meeks	X		
Mr. Pearce	X			Mr. Capuano		X	
Mr. Posey				Mr. Clay		X	
Mr. Luetkemeyer	X			Mr. Lynch		X	
Mr. Huizenga	X			Mr. David Scott (GA)	X		
Mr. Duffy	X			Mr. Al Green (TX)		X	
Mr. Stivers	X			Mr. Cleaver	X		
Mr. Hultgren	X			Ms. Moore	X		
Mr. Ross	X			Mr. Ellison	X		
Mr. Pittenger	X			Mr. Perlmutter	X		
Mrs. Wagner	X			Mr. Himes	X		
Mr. Barr	X			Mr. Foster	X		
Mr. Rothfus	X			Mr. Kildee	X		
Mr. Messer	X			Mr. Delaney	X		
Mr. Tipton	X			Ms. Sinema	X		
Mr. Williams	X			Mrs. Beatty	X		
Mr. Poliquin	X			Mr. Heck	X		
Mrs. Love	X			Mr. Vargas	X		
Mr. Hill	X			Mr. Gottheimer	X		
Mr. Emmer	X			Mr. Gonzalez (TX)	X		
Mr. Zeldin	X			Mr. Crist	X		
Mr. Trott				Mr. Kihuen	X		
Mr. Loudermilk	X						
Mr. Mooney (WV)	X						
Mr. MacArthur	X						
Mr. Davidson	X						
Mr. Budd	X						
Mr. Kustoff (TN)	X						
Ms. Tenney	X						
Mr. Hollingsworth	X						

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the Committee based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee states that H.R. 3978 will amend the Real Estate Settlement Procedures Act (RESPA) to require the CFPB to allow for the calculation of the discounted rate title insurance companies may provide to consumers when they purchase a lenders and owners title insurance policy simultaneously.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, January 18, 2018.

Hon. JEB HENSARLING,
*Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3978, the TRID Improvement Act of 2017.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Stephen Rabent.

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 3978—TRID Improvement Act of 2017

Under current law, the Consumer Financial Protection Bureau (CFPB) requires mortgage lenders to disclose certain information regarding home loan terms and costs to consumers at the beginning and closing of mortgage transactions. H.R. 3978 would direct the CFPB to require mortgage lenders to disclose discounted rates

that are available to consumers for title insurance premiums and to itemize all actual charges imposed on borrowers in the closing documents for mortgages.

Using information from the CFPB, CBO estimates that enacting H.R. 3978 would increase direct spending by less than \$500,000 for the agency to issue a rule to implement the changes to the disclosure requirements.

Because enacting H.R. 3978 would affect direct spending, pay-as-you-go procedures apply. Enacting the bill would not affect revenues.

CBO estimates that enacting H.R. 3978 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 3978 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA).

The disclosures required by the bill would be private-sector mandates as defined in UMRA. However, CBO estimates that the costs to mortgage lenders to meet the disclosure requirements would be small and would not exceed the threshold established in UMRA for private-sector mandates (\$156 million in 2017, adjusted for inflation).

The CBO staff contacts for this estimate are Stephen Rabent (for federal costs) and Rachel Austin (for mandates). The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995.

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of the section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

DUPLICATION OF FEDERAL PROGRAMS

In compliance with clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Pub. L. No. 95-220, as amended by Pub. L. No. 98-169).

DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(i) of H. Res. 5, (115th Congress), the following statement is made concerning directed rulemakings: The Committee states that the bill requires no directed rulemakings.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section cites H.R. 3978 as the “TRID Improvement Act of 2017.”

Section 2. Amendments to mortgage disclosure requirements

This section amends Section 4(a) of the Real Estate Settlement Procedures Act of 1974 to require the CFPB to allow for the calculation of the discounted rate title insurance companies may provide to consumers when they purchase a lenders and owners title insurance policy simultaneously.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974

* * * * *

UNIFORM SETTLEMENT STATEMENT

SEC. 4. (a) The Bureau shall publish a single, integrated disclosure for mortgage loan transactions (including real estate settle-

ment cost statements) which includes the disclosure requirements of this section and section 5, in conjunction with the disclosure requirements of the Truth in Lending Act that, taken together, may apply to a transaction that is subject to both or either provisions of law. The purpose of such model disclosure shall be to facilitate compliance with the disclosure requirements of this title and the Truth in Lending Act, and to aid the borrower or lessee in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures. Such forms shall conspicuously and clearly **[itemize all charges]** *itemize all actual charges* imposed upon the borrower **[and all charges imposed upon the seller in connection with the settlement and]** *and the seller in connection with the settlement. Such forms shall indicate whether any title insurance premium included in such charges covers or insures the lender's interest in the property, the borrower's interest, or both. Charges for any title insurance premium disclosed on such forms shall be equal to the amount charged for each individual title insurance policy, subject to any discounts as required by State regulation or the title company rate filings.* The Bureau may, by regulation, permit the deletion from the forms prescribed under this section of items which are not, under local laws or customs, applicable in any locality, except that such regulation shall require that the numerical code prescribed by the Bureau be retained in forms to be used in all localities. Nothing in this section may be construed to require that that part of the standard forms which relates to the borrower's transaction to be furnished to the seller, or to require that that part of the standard forms which relates to the seller be furnished to the borrower.

(b) The forms prescribed under this section shall be completed and made available for inspection by the borrower at or before settlement by the person conducting the settlement, except that (1) the Bureau may exempt from the requirements of this section settlements occurring in localities where the final settlement statement is not customarily provided at or before the date of settlement, or settlements where such requirements are impractical and (2) the borrower may, in accordance with regulations of the Bureau, waive his right to have the forms made available at such time. Upon the request of the borrower to inspect the forms prescribed under this section during the business day immediately preceding the day of settlement, the person who will conduct the settlement shall permit the borrower to inspect those items which are known to such person during such preceding day.

(c) The standard form described in subsection (a) may 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—

- (1) the fee paid directly to the appraiser by such company; and
- (2) the administration fee charged by such company.

* * * * *

MINORITY VIEWS

H.R. 3978 would change the way that title insurance fees are presented on both the loan estimate and the closing disclosure forms that are part of the Truth in Lending Act/Real Estate Settlement Procedures Act Integrated Disclosure (“TRID”) forms, also known as the TILA/RESPA Rule or the “Know Before You Owe” mortgage disclosure rule. Since the rule’s inception, TRID disclosures have provided homebuyers with consistent and understandable information on what they will have to pay at closing on a mortgage loan. The Consumer Financial Protection Bureau (“Consumer Bureau”) is currently tasked with conducting rulemaking for TRID disclosures.

Pursuant to the current TRID Rule, the amount that appears for the lender’s title insurance policy on the loan estimate and closing disclosure forms is the amount of the policies without any discounts or adjustments that a homebuyer might receive if they simultaneously purchase an owner’s title insurance policy and a lender’s title insurance policy (“simultaneous issue”). The title insurance industry has expressed concerns about this practice, and argue that the current TRID disclosures could lead to consumer confusion about pricing in states where simultaneous lender and owner title insurance policies are issued. However, the bill would not benefit consumers in states that do not provide special rates to homebuyers for simultaneous policy issuances. In essence, H.R. 3978 would enact a sweeping statutory change that incrementally benefits consumers in approximately 25 states with a specific kind of title insurance regime, with the potential to introduce unnecessary confusion into the home buying process for consumers in other jurisdictions.

Furthermore, the Consumer Bureau conducted an extensive rulemaking process to develop the regulations for the current TILA/RESPA Rule, which includes the disclosure of costs for title insurance premiums along with various options and calculations. In its research, the Consumer Bureau found that “the clear disclosure of the required cost for the lender’s title insurance alone, and the additional incremental cost to be paid by the consumer for the optional owner’s title insurance premium outweighs the benefit of a technical disclosure of the owner’s and lender’s title insurance premiums; such a technical disclosure can result in confusion about what the consumer actually may pay if the consumer does not obtain an owner’s title insurance policy, as well as removing any need to provide two Loan Estimates.”¹ Thus, the Consumer Bureau’s current TRID rule ensures that for consumers in *all* states, there

¹Bureau of Consumer Financial Protection, *Preamble Integrated Mortgage Disclosures under the Real Estate Settlement Procedures Act (Regulation X) and the Truth In Lending Act (Regulation Z)* at p. 860 (Nov. 2013), available at http://files.consumerfinance.gov/f/201311_cfpb_final-rule-preamble_integrated-mortgage-disclosures.pdf.

will not be an unanticipated, dramatically higher cost for the lender's title insurance at closing if a homebuyer decides to decline an owner's title insurance policy.

H.R. 3978's prescriptive changes to the TRID forms would also remove the Consumer Bureau's ability to amend the regulation. This could cause unintended consequences greater than the issues that the legislation seeks to address, since the Consumer Bureau would no longer have the authority to quickly adjust TRID regulations if a problem with H.R. 3978 arises.

For these reasons, we oppose H.R. 3978.

MAXINE WATERS.
STEPHEN F. LYNCH.
WM. LACY CLAY.
AL GREEN.
MICHAEL E. CAPUANO.

