

[DISCUSSION DRAFT]

112TH CONGRESS
1ST SESSION

H. R. _____

To increase standardization, transparency, and to ensure the rule of law
in the mortgage-backed security system, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. GARRETT introduced the following bill; which was referred to the
Committee on _____

A BILL

To increase standardization, transparency, and to ensure the
rule of law in the mortgage-backed security system, and
for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Private Mortgage Market Investment Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; Table of contents.

TITLE I—STANDARDIZATION AND UNIFORMITY

- Sec. 101. Facilitating continued standardization and uniformity.
- Sec. 102. Repeal of credit risk retention provisions.
- Sec. 103. Exemption from registration of certain securities conforming to standard securitization agreements.
- Sec. 104. Judicial review.
- Sec. 105. Liability for misleading statements.
- Sec. 106. Unlawful representation.
- Sec. 107. Penalties.
- Sec. 108. Contrary stipulations void.

TITLE II—TRANSPARENCY

- Sec. 201. Requirements for the disclosure of loan-level information to investors, rating agencies, regulators.
- Sec. 202. Mandatory period for review of loan-level information prior to investment.
- Sec. 203. Dissemination of pricing information of asset-backed securities.
- Sec. 204. Alphanumeric identification of asset-backed securities.

TITLE III—ENSURING THE RULE OF LAW

- Sec. 301. Ensure rule of law and legal certainty.
- Sec. 302. Limitation on mortgages held by loan servicers.
- Sec. 303. Clarification of qualified mortgage exception.

1 **TITLE I—STANDARDIZATION**
 2 **AND UNIFORMITY**

3 **SEC. 101. FACILITATING CONTINUED STANDARDIZATION**
 4 **AND UNIFORMITY.**

5 (a) ESTABLISHMENT OF STANDARD MORTGAGE
 6 CLASSIFICATIONS.—

7 (1) ESTABLISHMENT.—The Director of the
 8 Federal Housing Finance Agency (hereinafter in this
 9 Act referred to as the “Director”) shall, for pur-
 10 poses of this section, prescribe classifications for
 11 mortgages having various degrees of credit risk,
 12 ranging from a classification of mortgages having
 13 little to no credit risk to a classification of mort-
 14 gages having substantial credit risk, with the goals

1 of maximizing the pricing of credit risk and main-
2 taining well functioning liquid markets in securities
3 collateralized by each of the classifications of mort-
4 gages established pursuant to this section.

5 (2) UNDERWRITING CRITERIA STANDARDS.—

6 (A) UNDERWRITING CRITERIA.—For each
7 of the classifications of mortgages established
8 under paragraph (1), the Director shall estab-
9 lish standards for each of the underwriting cri-
10 teria:

11 (i) DEBT-TO-INCOME RATIO.—The
12 ratio of the amount of the total monthly
13 debt of the mortgagor to the amount of the
14 monthly income of the mortgagor.

15 (ii) LOAN-TO-VALUE RATIO.—The
16 ratio of the original principal obligation
17 under the mortgage to the value of the res-
18 idence subject to the mortgage.

19 (iii) CREDIT HISTORY.—Information
20 on the credit history of the mortgagor.

21 (iv) LOAN DOCUMENTATION.—The ex-
22 tent of loan documentation and verification
23 of the financial resources of the mortgagor
24 used to qualify the mortgagor for the
25 mortgage.

1 (v) OCCUPANCY.—Whether the resi-
2 dence subject to the mortgage is occupied
3 by the mortgagor.

4 (vi) CREDIT ENHANCEMENT.—Wheth-
5 er any mortgage insurance or other type of
6 insurance or credit enhancement was ob-
7 tained at the time of origination.

8 (vii) LOAN PAYMENT TERMS.—

9 (I) IN GENERAL.—The terms of
10 the mortgage that determine the mag-
11 nitude and timing of payments due
12 from the mortgagor, including the
13 term to maturity of the mortgage, the
14 frequency of payment, the type of am-
15 ortization, any prepayment penalties,
16 and whether the interest rate is fixed
17 or may vary

18 (II) INCLUSION OF 30 YEAR
19 FIXED INTEREST RATE.—Terms es-
20 tablished under subclause (I) shall in-
21 clude a 30 year fixed interest rate
22 mortgage.

23 (viii) OTHER.—Such other under-
24 writing criteria as the Director may estab-
25 lish consistent with the goals of this title.

1 (B) OBJECTIVE.—In developing the under-
2 writing criteria standards under subparagraph
3 (A), the Director shall seek to ensure that such
4 standards are readily identifiable to sponsors of,
5 and investors in, securities collateralized by
6 mortgages so that such sponsors and investors
7 can clearly determine the classification to which
8 a mortgage belongs.

9 (3) DEFINITIONS.—The Director shall, for pur-
10 poses of this subsection, prescribe definitions for
11 each of the following terms:

12 (A) MORTGAGE.—The term “mortgage”,
13 which definition shall include only mortgages on
14 residential properties.

15 (B) DEFAULT.—The term “default”, with
16 respect to a mortgage.

17 (C) DELINQUENCY.—The term “delin-
18 quency”, with respect to a mortgage.

19 (D) LOAN DOCUMENTATION.—The term
20 “loan documentation”, with respect to a mort-
21 gage.

22 (E) ADDITIONAL TERMS.—Such other
23 terms as the Director may establish.

24 (b) STANDARD FORM SECURITIZATION AGREE-
25 MENTS.—

1 (1) IN GENERAL.—The Director shall develop,
2 adopt, and publish standard form securitization
3 agreements for mortgages established under sub-
4 section (a).

5 (2) REQUIRED CONTENT.—The standard form
6 securitization agreements to be developed under
7 paragraph (1) shall only include terms relating to—

8 (A) pooling and servicing;

9 (B) purchase and sale;

10 (C) representations and warranties, includ-
11 ing representations and warranties as to com-
12 pliance or conformity with standards estab-
13 lished by the Director pursuant to subsections
14 (c), (d), (e) and (f) , as appropriate;

15 (D) indemnification and remedies; and

16 (E) the qualification, responsibilities, and
17 duties of trustees.

18 (3) PUBLIC INVOLVEMENT.— In issuing rules
19 and regulations under this section, the Director shall
20 allow appropriate notice and comment in accordance
21 with the chapter 5 of title 5, United States Code
22 (commonly referred to as the “Administrative Proce-
23 dures Act”).

1 (4) QUALIFIED SECURITY.—For purposes of
2 this title, the term “qualified security” means a se-
3 curity that—

4 (A) is issued in accordance with a standard
5 form securitization agreement;

6 (B) is issued by a qualified sponsor;

7 (C) is collateralized by a class of mort-
8 gages established under this title; and

9 (D) is not guaranteed, in whole or in part,
10 by the United States Government.

11 (c) STANDARDS FOR SERVICER REPORTING.—The
12 Director shall develop, adopt, and publish standards for
13 the reporting obligations of servicers of any mortgage that
14 serves as collateral for a qualified security.

15 (d) STANDARDS FOR MODIFICATION.—The Director
16 shall develop, adopt, and publish servicing standards, in-
17 cluding for the modification, restructuring, or work-out of
18 any mortgage that serves as collateral for a qualified secu-
19 rity.

20 (e) STANDARDS FOR DOCUMENTATION.—The Direc-
21 tor shall develop, adopt and publish standards for docu-
22 mentation used to verify the financial resources of a mort-
23 gator and to qualify the mortgagor for any mortgage that
24 may become collateral for any qualified security, including
25 the form, content, and method of documentation of any

1 such mortgage. Such standards shall also address any cus-
2 todial or delivery obligations related to such documents.

3 (f) STANDARDS FOR QUALIFIED SPONSORS.—

4 (1) IN GENERAL.—The Director shall develop,
5 adopt, and publish standards for an sponsor to qual-
6 ify as a qualified sponsor. Such standards shall only
7 include—

8 (A) the experience and integrity of the
9 sponsor and its principals, including compliance
10 history with Federal and State laws;

11 (B) the adequacy of insurance and fidelity
12 coverage of the sponsor with respect to errors
13 and omissions; and

14 (C) a requirement that the sponsor submit
15 audited financial statements to the Director,
16 who shall make such statements publicly avail-
17 able through the Federal Housing Finance
18 Agency's website.

19 (2) APPLICATION PROCESS.—

20 (A) IN GENERAL.—The Director shall es-
21 tablish an application process for the qualifica-
22 tion of sponsors, in such form and manner and
23 requiring such information as the Director may
24 require, in accordance with standards adopted
25 under paragraph (1).

1 (B) APPROVAL.—The Director shall ap-
2 prove any application made pursuant to sub-
3 paragraph (A) unless the sponsor does not meet
4 the standards adopted under paragraph (1).

5 (C) PUBLICATION.—The Director shall
6 publish a list of newly-qualified sponsors in the
7 Federal Register and maintain an updated list
8 of qualified sponsors on the Federal Housing
9 Finance Agency’s website.

10 (3) REVIEW AND REVOCATION OF QUALIFIED
11 STATUS.—

12 (A) IN GENERAL.—The Director may only
13 review the status of a qualified sponsor if the
14 Director is notified that a claim has been made
15 against the sponsor by a trustee with respect to
16 a violation of a contractual term in a
17 securitization document of the sponsor.

18 (B) REVOCATION.—Subject to subpara-
19 graph (C), if the Director determines, in a re-
20 view pursuant to subparagraph (A), that an
21 sponsor no longer meets the standards for qual-
22 ification, the Director shall revoke the sponsor’s
23 qualified status.

24 (C) GRACE PERIOD.—The Director shall
25 issue regulations that permit a qualified spon-

1 sor who no longer meets the standards for qual-
2 ification to have a grace period during which
3 the sponsor can work to meet such standards
4 without losing the sponsor's qualified status.

5 (D) PUBLICATION.—The Director shall
6 publish a list of sponsors who lost their quali-
7 fied status in the Federal Register and main-
8 tain an updated list of such sponsors on the
9 Federal Housing Finance Agency's website.

10 (g) STANDARDS FOR TRUSTEES.—

11 (1) IN GENERAL.—There shall at all times be
12 one or more trustee for each pool of mortgages that
13 acts as collateral for a qualified security.

14 (2) RULEMAKING.—The Director shall issue
15 regulations regarding the qualifications of trustees
16 under paragraph (1) that shall, to the extent prac-
17 ticable, be the same as the qualification provisions
18 applicable to trustees under section 310(a) of the
19 Trust Indenture Act of 1934 (15 U.S.C. 77jjj(a)).

20 (3) CONFLICTS OF INTEREST.—The Director
21 shall issue conflict of interest regulations that apply
22 to a qualified trustee. Such regulations shall, to the
23 extent practicable, be the same as those conflict of
24 interest provisions applicable to an indenture trustee

1 under section 310(b) of the Trust Indenture Act of
2 1934 (15 U.S.C. 77jjj(b)).

3 (4) REPORTING OF CLAIMS.—Any time a trust-
4 ee brings a claim against a qualified sponsor on be-
5 half of investors with respect to a securitization
6 agreement, the trustee shall notify the Director of
7 such claim.

8 (5) PROTECTION OF INVESTOR RIGHTS.—For
9 the purpose of protecting investor rights, each trust-
10 ee shall—

11 (A) maintain a list of all investors in the
12 securities;

13 (B) update such list from time to time;

14 (C) not make such list available to inves-
15 tors; and

16 (D) act as a means to communicate infor-
17 mation about the qualified securities to inves-
18 tors and act as a means for investors to com-
19 municate with each other.

20 (h) INDEPENDENT THIRD PARTY.—If the majority
21 of investors in a pool of qualified securities choose to hire
22 an independent third party to act on behalf of the best
23 interests of the investors, such party shall—

24 (1) be granted access to the loan documents for
25 the mortgage loans backing such security and all

1 servicing reports the servicer provides to investors or
2 the trustee;

3 (2) be granted access to the list of investors
4 maintained by the trustee, on the condition that the
5 independent third party will not make the list avail-
6 able to the investors; and

7 (3) have the right, on behalf of the investors, to
8 inform the trustee of such securities of any breach
9 of the securitization agreement identified by the
10 third party.

11 (i) TIMING; AUTHORITY TO REVISE STANDARDS.—

12 (1) TIMING.—The Director shall develop, adopt,
13 and publish the standards required under this title,
14 not later than the expiration of the 6-month period
15 beginning upon the date of the enactment of this
16 title.

17 (2) AUTHORITY TO REVISE.—

18 (A) IN GENERAL.—The Director may re-
19 view, revise and, if revised, re-publish any
20 standard form securitization agreement or other
21 standard required to be developed under this
22 section if the Director determines review or re-
23 vision to be necessary or appropriate to satisfy
24 the goals of this title.

1 (B) APPLICATION OF REVISIONS.—Any re-
2 vision made pursuant to subparagraph (A) shall
3 only apply to securitizations made after the
4 date of such revision.

5 (j) MANDATORY ARBITRATION.—

6 (1) IN GENERAL.—All disputes between an
7 owner of a qualified security and the qualified spon-
8 sor of such security relating to representations and
9 warranties shall be subject to mandatory arbitration
10 procedures established by the Director, in accord-
11 ance with current market practices.

12 (2) SELECTION OF ARBITRATOR.—Owners and
13 sponsors subject to a dispute described under para-
14 graph (1) shall have the right to agree on an inde-
15 pendent arbitrator. If the parties cannot agree on an
16 independent arbitrator, the Director shall select an
17 independent arbitrator for the parties.

18 (3) REPORTING DUTY OF ARBITRATOR.—

19 (A) UPON COMMENCEMENT.—The arbi-
20 trator shall provide the Federal Housing Fi-
21 nance Agency with notice upon the commence-
22 ment of any arbitration under this subsection.

23 (B) UPON CONCLUSION.—Upon the con-
24 clusion of any arbitration under this subsection,

1 the arbitrator shall provide the Federal Hous-
2 ing Finance Agency with—

3 (i) the decision reached by the arbi-
4 trator; and

5 (ii) the basis for the arbitrator's deci-
6 sion, including any evidence or testimony
7 received during the arbitration process.

8 (k) DISCLOSURE OF INFORMATION.—

9 (1) IN GENERAL.—

10 (A) IN GENERAL.—Not later than 6
11 months after the date of the enactment of this
12 Act, the Director shall, by rule—

13 (i) require sponsors of qualified secu-
14 rities to disclose all pertinent information
15 relating to the residential mortgage loans
16 that comprise such securities, including in-
17 formation set forth in the underwriting
18 standards established under subsection (a);

19 (ii) allow for the trading of qualified
20 securities under this title in a forward
21 market; and

22 (B) PRIVACY PROTECTIONS.—In pre-
23 scribing the rules required under this para-
24 graph, the Commission shall take into consider-
25 ation issues of consumer privacy and all stat-

1 utes, rules, and regulations related to privacy of
2 consumer credit information and personally-
3 identifiable information. Such rules shall ex-
4 pressly prohibit the identification of specific
5 borrowers.

6 (2) CONSULTATION.—In issuing any rules or
7 regulations under this subsection, the Director shall
8 consult with the Securities and Exchange Commis-
9 sion.

10 **SEC. 102. REPEAL OF CREDIT RISK RETENTION PROVI-**
11 **SIONS.**

12 (a) IN GENERAL.—Section 15G of the Securities Ex-
13 change Act of 1934 (15 U.S.C. 78o–11) is repealed and
14 any regulations promulgated under such section shall have
15 no force or effect.

16 (b) CONFORMING AMENDMENT.—Section 27B of the
17 Securities Act of 1933 is amended by striking subsection
18 (d).

19 (c) PROHIBITION.—The Office of the Comptroller of
20 the Currency, the Board of Governors of the Federal Re-
21 serve System, the Federal Deposit Insurance Corporation,
22 the Bureau of Consumer Financial Protection, and the Se-
23 curities and Exchange Commission shall not issue any rule
24 or regulation to require risk retention, any premium cap-

1 ture cash reserve account, or any similar mechanism, un-
2 less directly authorized by an Act of Congress.

3 **SEC. 103. EXEMPTION FROM REGISTRATION OF CERTAIN**
4 **SECURITIES CONFORMING TO STANDARD**
5 **SECURITIZATION AGREEMENTS.**

6 Section 3(a) of the Securities Act of 1933 (15 U.S.C.
7 77c(a)) is amended by adding at the end the following:

8 “(14) Any qualified security, as such term is
9 defined under section 101(b)(4) of the Private Mort-
10 gage Market Investment Act.”.

11 **SEC. 104. JUDICIAL REVIEW.**

12 (a) **IN GENERAL.**—Orders of the Federal Housing
13 Finance Agency under this title shall be subject to review
14 in the same manner, upon the same conditions, and to
15 the same extent, as provided in section 9 of the Securities
16 Act of 1933, with respect to orders of the Securities and
17 Exchange Commission under such title.

18 (b) **JURISDICTION.**—Jurisdiction of offenses and vio-
19 lations under, and jurisdiction and venue of suits and ac-
20 tions brought to enforce any liability or duty created by,
21 this title, or any rules or regulations or orders prescribed
22 under the authority thereof, shall be as provided in section
23 22(a) of the Securities Act of 1933.

1 **SEC. 105. LIABILITY FOR MISLEADING STATEMENTS.**

2 (a) IN GENERAL.—Any person who shall make or
3 cause to be made any statement in any application, report,
4 or document filed with the Federal Housing Finance
5 Agency pursuant to any provisions of this title, or any
6 rule, regulation, or order thereunder, which statement was
7 at the time and in the light of the circumstances under
8 which it was made false or misleading with respect to any
9 material fact, or who shall omit to state any material fact
10 required to be stated therein or necessary to make the
11 statements therein not misleading, shall be liable to any
12 person (not knowing that such statement was false or mis-
13 leading or of such omission) who, in reliance upon such
14 statement or omission, shall have purchased or sold a se-
15 curity issued under the indenture to which such applica-
16 tion, report, or document relates, for damages caused by
17 such reliance, unless the person sued shall prove that he
18 acted in good faith and had no knowledge that such state-
19 ment was false or misleading or of such omission. A per-
20 son seeking to enforce such liability may sue at law or
21 in equity in any court of competent jurisdiction. In any
22 such suit the court may, in its discretion, require an un-
23 dertaking for the payment of the costs of such suit and
24 assess reasonable costs, including reasonable attorneys'
25 fees, against either party litigant, having due regard to
26 the merits and good faith of the suit or defense. No action

1 shall be maintained to enforce any liability created under
2 this section unless brought within one year after the dis-
3 covery of the facts constituting the cause of action and
4 within three years after such cause of action accrued.

5 (b) RIGHTS AND REMEDIES UNDER OTHER LAW.—
6 The rights and remedies provided by this title shall be in
7 addition to any and all other rights and remedies that may
8 exist under the Securities Act of 1933 or the Securities
9 Exchange Act of 1934 or otherwise at law or in equity;
10 but no person permitted to maintain a suit for damages
11 under the provisions of this title shall recover, through sat-
12 isfaction of judgment in one or more actions, a total
13 amount in excess of his actual damages on account of the
14 act complained of.

15 **SEC. 106. UNLAWFUL REPRESENTATION.**

16 It shall be unlawful for any person in offering, selling,
17 or issuing any security pursuant to this title to represent
18 or imply in any manner whatsoever that any action or fail-
19 ure to act by the Federal Housing Finance Agency in the
20 administration of this title means that the Federal Hous-
21 ing Finance Agency has in any way passed upon the mer-
22 its of, or given approval to, any trustee, indenture, or secu-
23 rity, or any transaction or transactions therein, or that
24 any such action or failure to act with regard to any state-
25 ment or report filed with or examined by the Federal

1 Housing Finance Agency pursuant to this title or any rule,
2 regulation, or order thereunder, has the effect of a finding
3 by the Federal Housing Finance Agency that such state-
4 ment or report is true and accurate on its face or that
5 it is not false or misleading.

6 **SEC. 107. PENALTIES.**

7 Any person who willfully violates any provision of this
8 title or any rule, regulation, or order thereunder, or any
9 person who willfully, in any application, report, or docu-
10 ment filed or required to be filed under the provisions of
11 this title or any rule, regulation, or order thereunder,
12 makes any untrue statement of a material fact or omits
13 to state any material fact required to be stated therein
14 or necessary to make the statements therein not mis-
15 leading, shall be subject to the penalties set forth under
16 section 325 of the Trust Indenture Act of 1934 (15 U.S.C.
17 77yyy).

18 **SEC. 108. CONTRARY STIPULATIONS VOID.**

19 Any condition, stipulation, or provision binding any
20 person to waive compliance with any provision of this title
21 or with any rule, regulation, or order thereunder shall be
22 void.

1 **TITLE II—TRANSPARENCY**

2 **SEC. 201. REQUIREMENTS FOR THE DISCLOSURE OF LOAN-** 3 **LEVEL INFORMATION TO INVESTORS, RATING** 4 **AGENCIES, REGULATORS.**

5 (a) **RULES.**—Not later than 6 months after the date
6 of the enactment of this title, the Security and Exchange
7 Commission shall, by rule, require sponsors of residential
8 mortgage-backed securities to disclose all pertinent infor-
9 mation relating to the residential mortgage loans that
10 comprise such securities, including information regarding
11 the income and credit score of borrowers, the loan to value
12 ratios, and the remaining term to maturity of the loans.
13 Such rules shall apply to residential mortgage-backed se-
14 curities that—

15 (1) are registered pursuant to section 6 of the
16 Securities Act of 1933 (15 U.S.C. 77f); and

17 (2) are offered or sold in reliance on Regulation
18 D (17 C.F.R. 230.506) and Rule 144A (17 C.F.R.
19 230.144A) of the Commission.

20 (b) **PRIVACY PROTECTIONS.**—In prescribing the rules
21 required under subsection (a), the Commission shall take
22 into consideration issues of consumer privacy and all stat-
23 utes, rules, and regulations related to privacy of consumer
24 credit information and personally-identifiable information.

1 Such rules shall expressly prohibit the identification of
2 specific borrowers.

3 (c) RULES NOT APPLICABLE TO QUALIFIED SECURI-
4 TIES.—The rules prescribed under subsection (a) shall not
5 apply to any qualified security, as such term is defined
6 under section 101(b)(4).

7 **SEC. 202. MANDATORY PERIOD FOR REVIEW OF LOAN-**
8 **LEVEL INFORMATION PRIOR TO INVEST-**
9 **MENT.**

10 Not later than 6 months after the date of the enact-
11 ment of this title, the Securities and Exchange Commis-
12 sion shall revise its rules and regulations to require spon-
13 sors of asset-backed securities under section 5 of the Secu-
14 rities Act of 1933 (15 U.S.C. 77e) to file a preliminary
15 prospectus containing all material terms of the transaction
16 at least 5 days before investors make an investment deci-
17 sion.

18 **SEC. 203. DISSEMINATION OF PRICING INFORMATION OF**
19 **ASSET-BACKED SECURITIES.**

20 Not later than 6 months after the date of the enact-
21 ment of this title, the Securities and Exchange Commis-
22 sion shall, by rule, require the dissemination of trans-
23 action, volume, and pricing information of trades in asset-
24 backed securities. Such rules shall require the dissemina-
25 tion of such information, with exceptions as may be pre-

1 scribed by the Commission in the public interest, while
2 taking into consideration the effect of such dissemination
3 on market liquidity, through the Financial Industry Regu-
4 latory Authority's fixed income transparency facility, re-
5 ferred to as Trade Reporting and Compliance Engine
6 (TRACE), or through a similar vehicle.

7 **SEC. 204. ALPHANUMERIC IDENTIFICATION OF ASSET-**
8 **BACKED SECURITIES.**

9 Not later than 6 months after the date of the enact-
10 ment of this title, the Director shall, by rule, require that
11 each mortgage loan comprising a residential mortgage-
12 backed security be assigned and carry with it a unique
13 alphanumeric code that identifies the loan in order to fa-
14 cilitate ascertaining relevant information about the loan.

15 **TITLE III—ENSURING THE RULE**
16 **OF LAW**

17 **SEC. 301. ENSURE RULE OF LAW AND LEGAL CERTAINTY.**

18 (a) **JUNIOR MORTGAGE OR LIEN.**—With respect to
19 the dwelling of a borrower that serves as security for a
20 securitized senior mortgage loan, if the borrower enters
21 into any credit transaction that would result in the cre-
22 ation of a new mortgage or other lien on such dwelling
23 where the loan-to-value ratio of such credit transaction
24 amount is 80 percent or more, the servicer of the senior
25 mortgage loan shall have the right to charge the borrower

1 an additional monthly fee in an amount sufficient to offset
2 the increased risk to repayment of such loan because of
3 the creation of the new mortgage or other lien.

4 (b) NOTICE OF JUNIOR MORTGAGE OR LIEN.—With
5 respect to the dwelling of a borrower that serves as secu-
6 rity for a securitized senior mortgage loan, if the borrower
7 enters into any credit transaction that would result in the
8 creation of a new mortgage or other lien on such dwelling,
9 the creditor of such new mortgage or other lien shall notify
10 the servicer of the senior mortgage loan of the existence
11 of the new mortgage or other lien.

12 (c) PREVENTION OF FORCED PRINCIPAL WRITE-
13 DOWNS.—With respect to a securitized mortgage loan, no
14 Federal department or agency, including the Board of
15 Governors of the Federal Reserve System and the Bureau
16 of Consumer Financial Protection, may require a reduc-
17 tion in the principal amount owed on such mortgage loan.

18 **SEC. 302. LIMITATION ON MORTGAGES HELD BY LOAN**
19 **SERVICERS.**

20 (a) LIMITATION.—Neither the servicer of a residen-
21 tial mortgage loan, nor any affiliate of such servicer, may
22 own, or hold any interest in, any other residential mort-
23 gage loan that is secured by a mortgage, deed of trust,
24 or other equivalent consensual security interest on the
25 same dwelling or residential real property that is subject

1 to the mortgage, deed of trust, or other security interest
2 that secures the residential mortgage loan serviced by the
3 servicer.

4 (b) DEFINITIONS.—For purposes of this section, the
5 following definitions shall apply:

6 (1) AFFILIATE.—The term “affiliate” means,
7 with respect to a servicer, any person or entity that
8 controls, is controlled by, or is under common con-
9 trol with such servicer, as the Board shall prescribe
10 by regulation.

11 (2) RESIDENTIAL MORTGAGE LOAN.—The term
12 “residential mortgage loan” means any consumer
13 credit transaction that is secured by a mortgage,
14 deed of trust, or other equivalent consensual security
15 interest on a dwelling or on residential real property
16 that includes a dwelling, other than a consumer
17 credit transaction under an open end credit plan or
18 an extension of credit relating to a plan described in
19 section 101(53D) of title 11, United States Code.

20 (3) SERVICER.—The term “servicer” has the
21 meaning provided in section 129A of the Truth in
22 Lending Act, except that such term includes a per-
23 son who makes or holds a residential mortgage loan
24 (including a pool of residential mortgage loans) if
25 such person also services the loan.

1 (c) INTERESTS.—For purposes of subsection (a),
2 ownership of, or holding an interest in a residential mort-
3 gage loan includes ownership of, or holding an interest
4 in—

5 (1) a pool of residential mortgage loans that
6 contains such residential mortgage loan; or

7 (2) any security based on or backed by a pool
8 of residential mortgage loans that contains such res-
9 idential mortgage loan.

10 (d) EFFECTIVE DATE.—This section shall apply—

11 (1) with respect to the servicer (or affiliate of
12 the servicer) of a residential mortgage loan that is
13 originated after the date of the enactment of this
14 Act, on such date of enactment; and

15 (2) with respect to the servicer (or affiliate of
16 the servicer) of a residential mortgage loan that is
17 originated on or before the date of the enactment of
18 this Act, upon the expiration of the 12-month period
19 beginning upon such date of enactment.

20 **SEC. 303. CLARIFICATION OF QUALIFIED MORTGAGE EX-**
21 **CEPTION.**

22 Subsection (b) of section 129C of the Truth in Lend-
23 ing Act is amended—

1 (1) in the heading of such subsection, by strik-
2 ing “PRESUMPTION OF ABILITY TO REPAY” and in-
3 serting “EXCEPTION FOR QUALIFIED MORTGAGES”;

4 (2) by amending paragraph (1) to read as fol-
5 lows:

6 “(1) IN GENERAL.—Subsection (a) shall not
7 apply to a residential mortgage loan that is a quali-
8 fied mortgage.”; and

9 (3) in paragraph (3), by amending subpara-
10 graph (B) to read as follows:

11 “(B) LOAN DEFINITION.—The following
12 agencies shall, in consultation with the Bureau,
13 prescribe rules defining the types of loans they
14 insure, guarantee, or administer, as the case
15 may be, that are qualified mortgages for pur-
16 poses of paragraph (2)(A):

17 “(i) The Department of Housing and
18 Urban Development, with regard to mort-
19 gages insured under the National Housing
20 Act (12 U.S.C. 1707 et seq.).

21 “(ii) The Department of Veterans Af-
22 fairs, with regard to a loan made or guar-
23 anteed by the Secretary of Veterans Af-
24 fairs.

1 “(iii) The Department of Agriculture,
2 with regard loans guaranteed by the Sec-
3 retary of Agriculture pursuant to 42
4 U.S.C. 1472(h). (IV) The Rural Housing
5 Service, with regard to loans insured by
6 the Rural Housing Service.”.