

CRS Report for Congress

Received through the CRS Web

Predatory Lending: Background on the Issue and Overview of Legislation in the 106th Congress

March 7, 2001

Bruce E. Foote
Analyst in Housing
Domestic Social Policy Division

Predatory Lending: Background on the Issue and Overview of Legislation in the 106th Congress

Summary

This report presents an overview of the predatory lending issue, a summary of present law, a summary of joint HUD and Treasury recommendations to address the issue, and a side-by-side summary of five bills introduced in the 106th Congress that addressed the issue. Though no action occurred on these bills, the issue is expected to continue in the 107th Congress.

The Home Ownership and Equity Protection Act of 1994 (Subtitle B of Title I of P.L. 103-325) amended the Truth in Lending Act (TILA) to provide new consumer protections for certain “high cost loans.” Basically, the law defines a high cost loan as a loan secured by the principal residence of the borrower, but which is not used for the purchase of the residence, and which meets one of the following conditions: (1) the annual percentage rate on the loan exceeds the rate on comparable Treasury securities by more than 10 percentage points, or (2) the total points and fees paid by the borrower at or before loan closing exceed the greater of \$465 or 8% of the total loan amount.

Current law does not prohibit high interest rates and high fees, but the law requires special disclosures when such rates and fees are present. All five bills would approach the problem by amending TILA to redefine high cost loans such that the special disclosures would be triggered at lower interest rates.

The proposed legislation would have amended current law to make existing prohibitions stronger or create additional prohibitions. For example, under present law, mortgages with 5-year terms or more may not be written such that a large payment is due at the loan term (balloon mortgages). All the bills except H.R. 4213 would have prohibited all balloon mortgages. S. 2405 would have prohibited lenders from charging points and fees on a high cost mortgage which is being used to refinance a high cost mortgage from the same lender.

S. 2405 would have prohibited high cost mortgages unless the lender has received certification that the prospective borrower has received counseling from an approved agency, while H.R. 4250 and S. 2415 would have required the lender to provide the borrower with a disclosure statement recommending such counseling, as well as the contact information for certified counseling agencies.

H.R. 3901 would have amended the Home Mortgage Disclosure Act to require lenders to report information on the interest rates charged on loans. This would enable regulators to track and identify high interest rate loans and lenders with high costs. H.R. 4213 would have amended the Real Estate Settlement Procedures Act to add additional disclosure requirements. H.R. 4250 would have amended the Fair Credit Reporting Act.

Contents

Introduction	1
Current Law	1
The HUD-Treasury Report	2
Legislation Introduced in the 106 th Congress	3
Miscellaneous Amendments	28

List of Tables

Table 1. Side-by-Side Summary of the Bills	5
--	---

Predatory Lending: Background on the Issue and Overview of Legislation in the 106th Congress

Introduction

The market for mortgage loans may be considered as a dual mortgage market. Borrowers with fair to good credit ratings may be able to obtain loans on the “prime” mortgage market. They are able to obtain the loans with the lowest interest rates and costs. Borrowers with blemished credit histories obtain mortgage loans on the “subprime” mortgage market, and obtain the loans with higher interest rates and loan fees than are obtainable in the prime market. The problem is that some subprime lenders have been making loans on terms that are regarded as “predatory.” While existing laws have addressed some of the problems of predatory lending, many issues remain.

This issue was the subject of legislation introduced in the 106th Congress, and is one of the issues listed in the oversight plan for the House Committee on Financial Services for the 107th Congress.

Current Law

In 1993, testimony before the Congress indicated that some communities which lacked access to traditional lending institutions were being victimized by second mortgage lenders, home improvement contractors, and finance companies who peddled high interest rate home equity loans with high loan fees to cash-poor homeowners. It was suggested that homeowners were offered home improvement loans and credit consolidation loans. Borrowers, who may not have fully understood the terms of the loans, and who may not have been offered adequate disclosures of the loan terms, often had to struggle to meet overwhelming mortgage payments, and too often they ultimately lost their homes through foreclosure.

Congress decided that legislation was needed to address the issue and protect such homeowners. The issue was addressed in Subtitle B of Title I of the Riegle Community Development and Regulatory Improvement Act of 1994 (P.L. 103-325); the subtitle is cited as the Home Ownership and Equity Protection Act of 1994. This subtitle amended the Truth in Lending Act (TILA) to provide new consumer protections for certain “high cost loans.”

Basically, the law defines a high cost loan as a loan secured by the principal residence of the borrower, but which is not used for the purchase of the residence, and which meets one of the following conditions: (1) the annual percentage rate on the loan exceeds the rate on comparable Treasury securities by more than 10

percentage points, or (2) the total points and fees paid by the borrower at or before loan closing exceed the greater of \$465 or 8% of the total loan amount.¹

The law does not limit the interest rate and loan fees that lenders may charge. Limits are placed on the provisions that may be included in high cost loans, and the loans must meet certain disclosure requirements:

- ! At least 3 business days before completing the transaction, a borrower must be given special disclosures. This gives the borrower a 3-day “cooling off period” before becoming obligated under the loan. This is in addition to the 3-day cooling-off period during which the borrower may cancel the loan after completing the transaction. One disclosure must contain the following statement, “You are not required to complete this transaction merely because you have received these disclosures or have signed a loan application. If you obtain this loan, the lender will have a mortgage on your home. You could lose your home, and any money you have put into it, if you do not meet your obligations under the loan”;
- ! For loans with terms of less than 5 years the payment schedule must be such that the loan is completely repaid at the end of the loan term;
- ! The loan may not have a payment schedule which would cause the loan balance to increase, and there may not be a penalty for paying off the loan prior to its maturity date;
- ! A lender may not engage in the practice of extending mortgage loans without regard to the borrower’s ability to make the scheduled payments; and
- ! A borrower has the right to rescind the loan if the lender fails to furnish the required disclosures or if the loan documents include one or more of the prohibited terms.

The HUD-Treasury Report

In addition to legislation proposed in the 106th Congress, recommendations to curb predatory lending were detailed in a joint report released last year by the Department of Housing and Urban Development (HUD) and the Department of the Treasury.

The National Task Force on Predatory Lending, convened in March 2000, was chaired by Andrew Cuomo, who was Secretary of HUD, and co-chaired by Lawrence Summers, who was Secretary of the Treasury. Members of the Task Force included a wide range of parties interested in and affected by the predatory lending issue. Between April and May 2000, the Task Force held five forums around the country for Task Force members, and each forum had a specific theme: Atlanta, GA – The Impact of Predatory Lending on Minorities; Los Angeles, CA - The Elderly and Predatory Lending; New York, NY - Funding Sources for Predatory Lending; Baltimore, MD -

¹A figure of \$400 was enacted but the Federal Reserve adjusts that number annually based on the annual percentage change reflected in the Consumer Price Index that is in effect on June 1st of a given year, and the adjusted amount will become effective on January 1st of the next year. For 2001, the adjusted dollar amount is \$465.

The Role of Other Key, Non-lender Players; and Chicago, IL - State and Local Initiatives to Curb Predatory Lending.

In June 2000, the Task Force released a report detailing recommendations for legislative, regulatory, and other steps that would help curb predatory lending practices. The report, “Curbing Predatory Home Mortgage Lending,” proposes a four-point plan to address predatory lending practices:

- ! **Improve Consumer Literacy and Disclosures.** The report proposes that lenders be required to recommend that applicants for high-cost loans avail themselves of home mortgage counseling, that lenders disclose credit scores to all borrowers upon request, and that lenders give borrowers more timely and more accurate information on loan costs and terms;
- ! **Prohibit Harmful Sales Practices in the Mortgage Market.** The report recommends the banning of practices such as loan “flipping” and lending to borrowers without regard to their ability to repay the loan. It is also suggested that new requirements be imposed on mortgage brokers to document the appropriateness of a high-cost loan for certain applicants, and that lenders who report to credit bureaus should be required to provide “full-file” payment history for their mortgage customers;
- ! **Restrict Abusive Terms and Conditions on High-Cost Loans.** The report recommends that Congress increase the number of borrowers in the subprime market covered by legislative protections; further restrict balloon payments on high-cost loans; restrict prepayment penalties and the financing of points and fees; prohibit mandatory arbitration agreements on high-cost loans; and ban lump-sum credit life insurance and similar products;
- ! **Improve Market Structure.** The report recommends the award of Community Reinvestment Act (CRA) credit to lenders that promote borrowers from the subprime to prime mortgage market, and the denial of CRA credit to lenders for the origination or purchase of loans that violate applicable lending laws. It is recommended that lenders disclose the incidence of high-cost loans in pools of mortgage-backed securities and that the incidence of such loans be disclosed in the offering documents for the securities. The report recommends that Congress enact legislation which clarifies the authority of HUD and the Federal Housing Finance Board to issue regulations which prohibit the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Home Loan Banks from purchasing loans with predatory features.

Several of the Task Force recommendations were included in legislation introduced in the 106th Congress and described in this report.

Legislation Introduced in the 106th Congress

As noted above, current law does not prohibit high interest rates and high fees, but the law requires special disclosures when such rates and fees are present. Some argue that the rates and fees are so high under current law that lenders can charge rates and fees which are less than those levels and the loans may still be regarded as predatory. All five bills that were proposed in the 106th Congress would have approached the problem by amending the Truth in Lending Act (TILA) to redefine

high cost loans such that the special disclosures would be triggered at lower interest rates. Some consumer groups would welcome the proposed changes but might argue that what is really needed is a return to usury legislation – restricting the rate of interest that may be charged. It is likely that such an approach would be resisted by lenders and their representatives.

As introduced in the 106th Congress, the proposed legislation would have amended current law to make existing prohibitions stronger or create additional prohibitions. For example, under present law, mortgages with 5-year terms or more may not be written such that a large payment is due at the loan term (balloon mortgages). All the bills except H.R. 4213 would have prohibited all balloon mortgages. S. 2405 would have prohibited lenders from charging points and fees on a high cost mortgage which is being used to refinance a high cost mortgage from the same lender.

It has been argued by consumer groups that predatory lenders take advantage of the financial ignorance of the target market. So, S. 2405 would have prohibited high cost mortgages unless the lender has received certification that the prospective borrower had received counseling from an approved agency, while H.R. 4250 and S. 2415 would have required the lender to provide the borrower with a disclosure statement recommending such counseling, as well as the contact information for certified counseling agencies.

Consumer groups also argue that borrowers have incomplete legal protection from predatory lending. Enforcement authority would have been increased under S. 2405 by several means. In addition to existing penalties under current law, predatory lenders would be subject to penalties contained in the Bank Holding Company Act of 1956. Thus, the company and individual officers could be subject to fines and incarceration. The bill would have provided that certain violations would be deemed as unfair and deceptive practices under the Federal Trade Commission Act. High cost loans would not count towards meeting the lending needs of the community under the Community Reinvestment Act. This would remove the incentive to make certain loans.

H.R. 3901 would have amended the Home Mortgage Disclosure Act to require lenders to report information on the interest rates charged on loans. This would enable regulators to track and identify high interest rate loans and lenders with high costs. H.R. 4213 would have amended the Real Estate Settlement Procedures Act to add additional disclosure requirements. H.R. 4250 would have amended the Fair Credit Reporting Act.

Other than hearings, no action was taken on any of the bills during the 106th Congress. A side-by-side summary of the bills is presented in the following table.

Table 1. Side-by-Side Summary of the Bills

Provision	Current law	H.R. 3901, the Anti-Predatory Lending Act of 2000	H.R. 4213, the Consumer Mortgage Protection Act of 2000	H.R. 4250/S. 2415 Predatory Lending Consumer Protection Act of 2000	S. 2405, the Predatory Lending Deterrence Act
Home Mortgage Disclosure Act Amendments (HMDA)					
Maintaining information on interest rates	No provision	Lenders would be required to maintain information on the annual percentage rate of mortgage loans and home improvement loans originated by the institution and to group the information according to census tract, income level, racial characteristics, and gender.	No provision	No provision	No provision
Reporting requirements	No Provision	Regulators would be prohibited from exempting lending institutions from the reporting requirements of HMDA. Current exemptions would cease to be effective upon the enactment of the bill.	No provision	No provision	No provision

Provision	Current law	H.R. 3901, the Anti-Predatory Lending Act of 2000	H.R. 4213, the Consumer Mortgage Protection Act of 2000	H.R. 4250/S. 2415 Predatory Lending Consumer Protection Act of 2000	S. 2405, the Predatory Lending Deterrence Act
Truth in Lending Act Amendments					
Definition of high cost mortgage	Defines a covered mortgage as a loan secured by the principal residence of the borrower, but which is not used for the purchase of the residence, and which meets one of the following conditions: (1) the annual percentage rate on the loan exceeds the rate on comparable Treasury securities by more than 10 percentage points, or (2) the total points and fees paid by the borrower at or before loan closing exceed the greater of \$451 or 8% of the total loan amount. It does	Defines a high cost mortgage as a mortgage loan secured by the principal residence of the borrower, but which is not used for the purchase of the residence, and which meets one of the following conditions: (1) the annual percentage rate on the loan exceeds the weekly average yield on 1-year Treasury securities by more than 5 percentage points, (2) the mortgage is an adjustable rate loan on which annual percentage rate is reasonably expected to increase by more than 5 percentage points above the weekly average yield of 1-year Treasury securities, (3) the potential or scheduled increases in the annual percentage rate of the	Defines a covered mortgage as a loan secured by the principal residence of the borrower, but which is not used for the purchase of the residence, and which meets one of the following conditions: (1) the annual percentage rate on the loan exceeds the rate on comparable Treasury securities by more than 8 percentage points, in the case of a transaction secured by a first-lien security interest in the property, or 9 percentage points, in the case of a transaction secured by a subordinate-lien security in the property, or (2) the total points and fees paid by the borrower at or before loan closing exceed the greater of \$451 or 8%	Defines a covered mortgage as a loan secured by the principal residence of the borrower, but which is not used for the purchase of the residence, and which meets one of the following conditions: (1) the transaction is secured by a first mortgage on the consumer's principal residence and the annual percentage rate on the loan exceeds the rate on comparable Treasury securities by more than 6 percentage points, (2) the transaction is secured by a subordinate mortgage on the consumer's principal residence and the annual percentage rate on the loan exceeds the rate on comparable Treasury securities by more than 8 percentage points, or	Defines a covered mortgage as a loan secured by the principal residence of the borrower, but which is not used for the purchase of the residence, is not a reverse mortgage, and which meets one of the following conditions: (1) the transaction is secured by a first mortgage on the consumer's principal residence and the annual percentage rate on the loan exceeds the rate on comparable Treasury securities by more than 6 percentage points, (2) the transaction is secured by a subordinate mortgage on the consumer's principal residence

Provision	Current law	H.R. 3901, the Anti-Predatory Lending Act of 2000	H.R. 4213, the Consumer Mortgage Protection Act of 2000	H.R. 4250/S. 2415 Predatory Lending Consumer Protection Act of 2000	S. 2405, the Predatory Lending Deterrence Act
	not refer to such mortgages as high cost mortgages.	loan are controlled by the lender and are not directly tied to changes in a publicly available rate not controlled by the lender, or (4) the points and fees on the loan cannot be financed.	of the total loan amount.	(3) the total points and fees paid by the borrower would exceed the greater of \$1000 or 5% of the total loan amount. Provides that introductory rates would not be taken into account.	and the annual percentage rate on the loan exceeds the rate on comparable Treasury securities by more than 8 percentage points, or (3) the total points and fees paid by the borrower would exceed the greater of \$1000 or 5% of the total loan amount. Provides that introductory rates would not be taken into account.
Calculation of points and fees	No provision	Provides that if the interest rate from which the loan is to be discounted does not exceed by more than 1 percentage point the required yield on comparable loans to be delivered to Fannie Mae or Freddie Mac, then up to 2 discount points payable by the borrower may be excluded from the calculation of total	No provision	No provision	In calculating whether points and fees exceed the limits established above, would provide that points and fees include all compensation paid directly or indirectly to a mortgage broker; each of the charges listed in Section 106(e) of the Truth in Lending Act; the

Provision	Current law	H.R. 3901, the Anti-Predatory Lending Act of 2000	H.R. 4213, the Consumer Mortgage Protection Act of 2000	H.R. 4250/S. 2415 Predatory Lending Consumer Protection Act of 2000	S. 2405, the Predatory Lending Deterrence Act
		<p>points and fees; and further provides that if the interest rate from which the loan is to be discounted does not exceed by more than 2 percentage points the required yield on comparable loans to be delivered to Fannie Mae or Freddie Mac, then up to 1 discount point payable by the borrower may be excluded from the calculation of total points and fees.</p>			<p>cost of premiums financed by the lender for life, credit, health, unemployment, disability, or health insurance; and any prepayment penalty.</p>
<p>Definition of points and fees</p>	<p>Points and fees are defined to include all items included in the finance charge except interest, a l l compensation paid to mortgage brokers, and each of the charges listed in Section 106(e) of the Truth in Lending Act.</p>	<p>Points and fees would be defined to include all compensation paid directly or indirectly to a mortgage broker, including a broker that originates a loan in its own name in a table-funded transaction.</p>	<p>No provision</p>	<p>Points and fees would be defined to include all compensation paid directly or indirectly to a mortgage broker; each of the charges listed in Section 106(e) of the Truth in Lending Act; the cost of premiums financed by the lender for life, credit, health, unemployment, disability, or health insurance; and any prepayment penalty.</p>	<p>Points and fees would be defined to mean (1) finance charges (other than interest), as defined by the Federal Reserve, (2) real estate related fees, as defined by the Federal Reserve, if the lender or an affiliate receives direct or indirect compensation, (3) the cost of premiums financed by the lender for</p>

Provision	Current law	H.R. 3901, the Anti-Predatory Lending Act of 2000	H.R. 4213, the Consumer Mortgage Protection Act of 2000	H.R. 4250/S. 2415 Predatory Lending Consumer Protection Act of 2000	S. 2405, the Predatory Lending Deterrence Act
					life, credit, health, unemployment, disability, or health insurance; (4) and any prepayment penalty.
Exclusions from definition of points and fees.	No provision	Points and fees would not include taxes, and other charges for obtaining the security interest in the property, or for fees paid to parties other than the lender or mortgage broker (or their affiliates) for such things as pest inspections, appraisals, inspections, notary fees, or title, fire or flood insurance premiums.	No provision	No provision	Points and fees would not include fees paid to public officials in reference to the security interest, or fees paid for such things as appraisals, surveys, property inspections, and flood certification, if the fees are not paid to the lender, or mortgage broker, or their associates.
Defining a creditor	Includes in the definition of creditor any person who originates 2 or more mortgages in any 12-month period or any person who originates one	Would amend current law to include in the definition of creditor any person who acted as a mortgage broker between loan originators and borrowers on more than five homes within the past 12 months.	No provision	Would amend current law to include in the definition of creditor any person who acted as a mortgage broker between loan originators and borrowers on more than five homes within the past 12 months,	No provision

Provision	Current law	H.R. 3901, the Anti-Predatory Lending Act of 2000	H.R. 4213, the Consumer Mortgage Protection Act of 2000	H.R. 4250/S. 2415 Predatory Lending Consumer Protection Act of 2000	S. 2405, the Predatory Lending Deterrence Act
	or more mortgages through a mortgage broker.			and any creditor affiliated party would be considered a creditor.	
Defining creditor-affiliated party	No provision	No provision	No provision	A creditor-affiliated party would be defined as (1) any director, officer, employee, controlling stockholder, or agent of a creditor, (2) any person who has filed or is required to file a change of control for an insured depository institution, or (3) any person who conducts the affairs of or controls the lending practices of a creditor.	No provision
Required disclosures	Lenders must provide borrowers with disclosures which state: "You are not required to complete this transaction merely because you have received these	No provision	This section of current law would be deleted.	Lenders would have to provide borrowers with additional disclosures which state that (1) the interest rate on the loan is higher than most people pay and therefore the chance of losing the home is greater, (2) a lower interest-rate loan may	No provision

Provision	Current law	H.R. 3901, the Anti-Predatory Lending Act of 2000	H.R. 4213, the Consumer Mortgage Protection Act of 2000	H.R. 4250/S. 2415 Predatory Lending Consumer Protection Act of 2000	S. 2405, the Predatory Lending Deterrence Act
	disclosures or have signed a loan application. If you obtain this loan, the lender will have a mortgage on your home. You could lose your home, and any money you have put into it, if you do not meet your obligations under the loan.”			be available and borrower has the right to seek counseling services and consult with other lenders to find a cheaper loan, and (3) if the loan is being taken to repay other loans the borrower should look at the total payment amount in addition to the monthly payment.	
Prohibiting balloon mortgages	For a high cost mortgage having a term of less than 5 years, the payment schedule must be such that the loan is completely repaid at the end of the loan term.	Would amend current law to strike “having a term of less than 5 years.”	No provision.	Would amend current law to strike “having a term of less than 5 years.”	A high cost mortgage would be prohibited from having terms under which any scheduled payment is more than twice the average of all other scheduled payments.

Provision	Current law	H.R. 3901, the Anti-Predatory Lending Act of 2000	H.R. 4213, the Consumer Mortgage Protection Act of 2000	H.R. 4250/S. 2415 Predatory Lending Consumer Protection Act of 2000	S. 2405, the Predatory Lending Deterrence Act
Prohibiting lender call provisions	No provision	Would provide that a high cost mortgage could not include terms which give the lender the option of prematurely demanding full repayment of the loan except in cases of default or some other provision unrelated to the payment schedule.	No provision	Would provide that a high cost mortgage could not include terms which give the lender the option of prematurely demanding full repayment of the loan except in cases of bona fide default.	Would provide that a high cost mortgage could not include terms which give the lender the option of prematurely demanding full repayment of the loan except in cases of default, a due-on-sale provision, or some other provision unrelated to the payment schedule.
No fees for loan modifications	No provision	Lenders would be prohibited from charging borrowers a fee for modifying the terms or deferring the payments due on a high cost mortgage.	No provision	Lenders would be prohibited from charging borrowers a fee for modifying the terms or deferring the payments due on a high cost mortgage unless (1) the action would provide a material benefit to the borrower and (2) the fee does not exceed 0.5% of the total loan amount or, in the case of a loan of \$60,000 or less, the fee does not exceed \$300.	Lenders would be prohibited from charging the borrower any fee for modifying, renewing, extending, or amending the terms of a high cost mortgage, or for deferring the payments due on such a mortgage.

Provision	Current law	H.R. 3901, the Anti-Predatory Lending Act of 2000	H.R. 4213, the Consumer Mortgage Protection Act of 2000	H.R. 4250/S. 2415 Predatory Lending Consumer Protection Act of 2000	S. 2405, the Predatory Lending Deterrence Act
Counseling requirement	No provision	Lenders would be prohibited from originating a high cost mortgage prior to receiving certification from a HUD-certified housing counseling agency that the borrower has received counseling on the advisability of the transaction.	No provision	Lenders would be prohibited from originating a high cost mortgage unless the borrower has been provided with (1) all warnings and disclosures regarding the risks of the mortgage, (2) a separate written statement recommending that the borrower take advantage of home ownership and credit counseling prior to agreeing to the terms of the mortgage, and (3) a written statement containing the names, addresses and telephone numbers of certified or approved counseling agencies.	Lenders would be prohibited from originating a high cost mortgage unless the lender has received certification that the borrower has received counseling on the advisability of the transaction from a counselor approved by HUD, a state housing finance agency, or other appropriate regulatory agency.
No mandatory arbitration	No provision	A high cost mortgage would not be permitted to include terms under which a mandatory arbitration clause limits the right of the borrower to seek relief through the courts.	No provision	A high cost mortgage would not be permitted to include terms requiring arbitration or other nonjudicial procedures as the method of resolving disputes. This provision would	A high cost mortgage would not be permitted to include terms under which a mandatory arbitration clause limits the right of the borrower to seek relief through

Provision	Current law	H.R. 3901, the Anti-Predatory Lending Act of 2000	H.R. 4213, the Consumer Mortgage Protection Act of 2000	H.R. 4250/S. 2415 Predatory Lending Consumer Protection Act of 2000	S. 2405, the Predatory Lending Deterrence Act
				not, however, preclude borrowers from using arbitration or other nonjudicial methods for settling disputes. No mortgage provision or agreement between the parties would be interpreted as preventing a borrower from bringing court action to seek damages or other relief.	the courts.
Prohibiting evasions	No provision	The mortgage requirements of TILA would apply to parties who (1) seek to evade coverage by structuring the transaction as an open-end credit plan when the loan would have been a high cost mortgage if structured as a closed-end loan, (2) divide the transaction into separate parts with the intent of evading coverage under TILA, or (3) engage in any other subterfuge to evade coverage.	No provision	In general, would prohibit lenders from taking any action, such as (1) reciprocal arrangements with other lenders or division of the transaction into separate parts, with the intent to evade coverage under TILA, (2) structuring or restructuring a consumer credit transaction as another loan form such as a business loan with the intent to evade coverage under TILA or (3) any action	No provision

Provision	Current law	H.R. 3901, the Anti-Predatory Lending Act of 2000	H.R. 4213, the Consumer Mortgage Protection Act of 2000	H.R. 4250/S. 2415 Predatory Lending Consumer Protection Act of 2000	S. 2405, the Predatory Lending Deterrence Act
				<p>which Federal Reserve Board regulations define as constituting bad faith efforts to evade or circumvent TILA requirements. The Federal Reserve Board would be directed to prescribe such regulations.</p>	
Due diligence	No provision	No provision	No provision	No provision	<p>Would direct parties who purchase interests in high cost mortgages to exercise due diligence in determining whether the requirements of TILA have been met.</p>
Prohibition on encouraging default	No provision	<p>Lenders would be prohibited from encouraging default on existing debt on conventional mortgages.</p>	<p>Lenders would be prohibited from encouraging default on existing debt on high cost mortgages.</p>	<p>Lenders would be prohibited from encouraging default on existing debt on high cost mortgages.</p>	<p>For all mortgages, would amend current law to prohibit lenders from encouraging default on existing debt prior to or in connection with a loan that refinances</p>

Provision	Current law	H.R. 3901, the Anti-Predatory Lending Act of 2000	H.R. 4213, the Consumer Mortgage Protection Act of 2000	H.R. 4250/S. 2415 Predatory Lending Consumer Protection Act of 2000	S. 2405, the Predatory Lending Deterrence Act
					that existing debt and would prohibit the loans from including terms under which the interest rate that applies after default is higher than the rate that applies before default.
Liability for damage	Failure to comply with the Act's provisions regarding certain mortgages may result in the lender being liable for damages for the sum of all finance charges and fees paid by the borrower.	Would provide that the maximum damages could be the greater of (1) the amount determined under current law or (2) the principal and the finance charge on the mortgage.	No provision	No provision	No provision
Prepayment penalties	A high cost mortgage may contain prepayment penalties if (1) the borrower's monthly debt payments (including the	No provision	Would delete items (1) and (2) under current law, and amend the law to permit prepayment penalties as long as (1) the penalty does not exceed 3% of the loan amount when	Would provide that prepayment penalties may not exceed 3% of the loan amount and that no prepayment penalties are permitted if the loan is repaid after a 2-year period. Within that 2-year	Would amend current law to prohibit prepayment penalties on all mortgages which finance the purchase or construction of the

Provision	Current law	H.R. 3901, the Anti-Predatory Lending Act of 2000	H.R. 4213, the Consumer Mortgage Protection Act of 2000	H.R. 4250/S. 2415 Predatory Lending Consumer Protection Act of 2000	S. 2405, the Predatory Lending Deterrence Act
	<p>mortgage) is not greater than 50% of the borrower's gross income and the borrower's income and expenses have been verified, (2) the mortgage is not being prepaid with funds obtained by refinancing the loan from the same lender or one of its affiliates (3) the penalty does not apply after 5 years, and (4) the penalty is not prohibited under other law.</p>		<p>prepayment occurs during the first year of the loan, (2) the penalty does not exceed 2% of the loan amount when prepayment occurs during the second year of the loan, or (3) the penalty does not exceed 1% of the loan amount when prepayment occurs during the third year of the loan. Would prohibit penalties on loans prepaid after the third year.</p>	<p>period, no penalties would be permitted if the borrower financed points and fees that total 3% or more of the mortgage amount.</p>	<p>b o r r o w e r ' s residence.</p>

Provision	Current law	H.R. 3901, the Anti-Predatory Lending Act of 2000	H.R. 4213, the Consumer Mortgage Protection Act of 2000	H.R. 4250/S. 2415 Predatory Lending Consumer Protection Act of 2000	S. 2405, the Predatory Lending Deterrence Act
Prohibiting advance payments	A high cost mortgage may not include terms under which more than two required payments are paid in advance from the loan proceeds.	No provision	Would amend current law to provide that no required payments may be paid in advance from the loan proceeds.	No provision	Identical to current law.
Limiting refinancing	No provision	No provision	Would amend current law to provide that a mortgage which is less than 1 year old may not be refinanced with a high cost mortgage unless all points and fees are based solely on the new transaction, or the annual percentage rate is 2 or more percentage points lower than the rate on the existing loan.	No provision	No provision
Reporting to credit bureaus	No provision	No provision	Would require quarterly reports of both favorable and unfavorable payment history regarding borrowers with high cost mortgages.	No provision	No provision

Provision	Current law	H.R. 3901, the Anti-Predatory Lending Act of 2000	H.R. 4213, the Consumer Mortgage Protection Act of 2000	H.R. 4250/S. 2415 Predatory Lending Consumer Protection Act of 2000	S. 2405, the Predatory Lending Deterrence Act
No profiting from foreclosures	No provision	No provision	Lenders would be prohibited from profiting from the foreclosure sale of property secured by high cost mortgages.	No provision	No provision
Providing payoff information	No provision	No provision	Would require that lenders holding high cost mortgages provide borrowers payoff information within 3 business days of receiving such a request.	No provision	No provision
Assessing ability to pay	Lenders are prohibited from making high cost mortgages without regard to the borrower's ability to repay the obligation.	No provision	No provision	Would amend current law to require that the lender determine that one or more of the borrowers will be able to make the scheduled payments without regard to the equity in the property.	Would prohibit high cost mortgages unless the lender has verified that, after obtaining the loan, the borrower's total monthly debt would not exceed 50% of the borrower's monthly gross income.

Provision	Current law	H.R. 3901, the Anti-Predatory Lending Act of 2000	H.R. 4213, the Consumer Mortgage Protection Act of 2000	H.R. 4250/S. 2415 Predatory Lending Consumer Protection Act of 2000	S. 2405, the Predatory Lending Deterrence Act
Delivering disclosures	Any mortgage which contains a provision prohibited by this section of the Act will be deemed to have failed to deliver the required disclosures.	No provision	No provision	A high cost mortgage which contains a provision prohibited by this section or does not contain a provision required by the section, or a lender who fails to comply with this section by act or omission will be treated as a failure to deliver the required disclosures.	No provision
Prohibiting single premium insurance.	No provision	No provision	No provision	Would prohibit high cost mortgages from being written which require the advance payment of a single premium for insurance on the life, health, employment, or property of the borrower regardless of whether the insurance would be paid by the borrower or added to the mortgage.	Would prohibit all mortgages under which any credit life, credit disability, credit unemployment, or other life or health insurance is financed in the loan except for insurance paid monthly by the borrower which may be canceled at any time at the option of the borrower.

Provision	Current law	H.R. 3901, the Anti-Predatory Lending Act of 2000	H.R. 4213, the Consumer Mortgage Protection Act of 2000	H.R. 4250/S. 2415 Predatory Lending Consumer Protection Act of 2000	S. 2405, the Predatory Lending Deterrence Act
Limits on financing points and fees	No provision	No provision	No provision	Subject to current law, points and fees that may be financed on a high cost mortgage would be limited to the greater of \$600 or 3% of the loan amount. Lenders would be prohibited from financing any prepayment penalties if the mortgage is being prepaid with funds obtained by refinancing a high rate loan from the same lender or one of its affiliates. Additionally, lenders would be prohibited from financing any point, fees or other charges if the new mortgage is being obtained to refinance a high rate loan from the same lender or one of its affiliates.	Lenders would be prohibited from originating high cost mortgages that directly or indirectly finance (1) any prepayment penalties if the mortgage is being prepaid with funds obtained by refinancing a high rate loan from the same lender or one of its affiliates, (2) any points and fees, or (3) any other charges payable to third parties.

Provision	Current law	H.R. 3901, the Anti-Predatory Lending Act of 2000	H.R. 4213, the Consumer Mortgage Protection Act of 2000	H.R. 4250/S. 2415 Predatory Lending Consumer Protection Act of 2000	S. 2405, the Predatory Lending Deterrence Act
Right of rescission	Provides that, on any credit transaction which is secured by the principal residence of the borrower, the borrower has the right to rescind the contract within 3 business days.	No provision	No provision	Would provide that a borrower's waiver of the right of rescission would not be effective if (1) the waiver was required by the lender as a condition of the loan, (2) the lender advised or encouraged the borrower to waive the right of rescission, or (3) the lender had a discussion with the borrower about the waiver during a period to be determined by the Federal Reserve Board.	No provision
Individual damages	Provides that for a violation of TILA involving a transaction secured by a dwelling or real property an individual may be awarded damages of not less than \$200 or greater than \$2,000.	No provision	No provision	Would amend the law to provide that damages for an individual may be up to \$10,000.	No provision

Provision	Current law	H.R. 3901, the Anti-Predatory Lending Act of 2000	H.R. 4213, the Consumer Mortgage Protection Act of 2000	H.R. 4250/S. 2415 Predatory Lending Consumer Protection Act of 2000	S. 2405, the Predatory Lending Deterrence Act
Class action damages	Provides that in a class action involving violations of TILA damages may be the lesser of \$500,000 or 1% of the net worth of the lender.	No provision	No provision	Would amend the law to provide that damages would be the greater of (1) \$10,000 times the number of individuals in the class or (2) 2% of the net worth of the lender.	No provision
Preemption of state law	No provision	No provision	Would provide that the provisions enacted under this bill could not be preempted by any state law.	No provision	No provision
Statute of limitations	Provides that a borrower may bring a court action for violations of TILA within 1 year of the violation.	No provision	No provision	Amends the law to provide that a borrower may bring a court action within 3 years of the violation.	No provision
General prohibitions on all home purchase mortgage loans or all mortgages which qualify for sale to Fannie Mae	No provision	Would amend TILA to provide the following limitations and prohibitions to conventional mortgages which qualify for sale to Fannie Mae: (1) lenders would be prohibited from			Would amend current law to apply the following prohibitions and limitations to all mortgage loans which finance the purchase or construction of the borrower's

Provision	Current law	H.R. 3901, the Anti-Predatory Lending Act of 2000	H.R. 4213, the Consumer Mortgage Protection Act of 2000	H.R. 4250/S. 2415 Predatory Lending Consumer Protection Act of 2000	S. 2405, the Predatory Lending Deterrence Act
		<p>charging fees for early payoff of mortgages, (2) mortgages may not have a payment schedule which would cause the loan balance to increase, (3) a lender may not engage in the practice of extending mortgages without regard to the borrower's ability to make the scheduled payments, (4) lenders would be prohibited from refinancing conventional mortgages when there is no tangible financial benefit to the borrower, (5) lenders would be prohibited from encouraging default on existing debt on conventional mortgages, (6) lenders would be prohibited from trying to influence the real estate appraiser evaluating the conventional mortgage, (7) lenders would be prohibited from financing credit, health, or life</p>			<p>residence: (1) would prohibit prepayment penalties for paying all or part of the principal before the due date (2) would prohibit lenders from encouraging default on existing debt prior to or in connection with a loan that refinances that existing debt and would prohibit the loans from including terms under which the interest rate that applies after default is higher than the rate that applies before default, (3) would prohibit mortgages under which any credit life, credit disability, credit unemployment, or other life or health insurance is financed in the loan except for insurance paid monthly by the</p>

Provision	Current law	H.R. 3901, the Anti-Predatory Lending Act of 2000	H.R. 4213, the Consumer Mortgage Protection Act of 2000	H.R. 4250/S. 2415 Predatory Lending Consumer Protection Act of 2000	S. 2405, the Predatory Lending Deterrence Act
		insurance in conventional mortgages, and (8) if a conventional mortgage is negotiated in a language other than English, then the borrower must be provided with disclosures that are written in that language.			borrower which may be cancelled at any time at the option of the borrower, and (4) would prohibit lenders from refinancing existing mortgages unless the new loan would be of tangible net benefit to the borrower when considering the terms of both loans, the cost of the new loan, and the ability of the borrower to repay the new loan.
Fair Credit Reporting Act Amendments					
Reporting to credit bureaus	No provision	No provision	No provision	Would provide that lenders involved in high cost mortgages report the payment history of borrowers to nationwide credit reporting agencies at least quarterly or more frequently as required by regulation or by the guidelines of participants in the secondary mortgage market.	No provision

Provision	Current law	H.R. 3901, the Anti-Predatory Lending Act of 2000	H.R. 4213, the Consumer Mortgage Protection Act of 2000	H.R. 4250/S. 2415 Predatory Lending Consumer Protection Act of 2000	S. 2405, the Predatory Lending Deterrence Act
Real Estate Settlement Procedures Act Amendments					
Form for statement of settlement costs	Directs the regulators to prescribe a standard form for the statement of settlement costs and provides that “such forms shall conspicuously and clearly itemize all charges imposed upon the borrower and all charges imposed upon the seller in connection with the settlement ...”	No provision	Would amend the law to read “Such form shall conspicuously and clearly itemize all charges imposed directly upon the borrower and all charges imposed directly upon the seller (whether paid outside of closing or otherwise) in connection with the settlement. This subsection shall not be construed to require that the standard form shall itemize fees earned by any settlement service provided in connection with the transaction to the extent such fees are paid by the lender and reflect the present value of interest yielded by the federally related mortgage loan.”	No provision	No provision

Provision	Current law	H.R. 3901, the Anti-Predatory Lending Act of 2000	H.R. 4213, the Consumer Mortgage Protection Act of 2000	H.R. 4250/S. 2415 Predatory Lending Consumer Protection Act of 2000	S. 2405, the Predatory Lending Deterrence Act
Booklet for consumers	Directs HUD to prepare and distribute a booklet to help borrowers understand the nature and cost of real estate settlement services.	No provision	Would amend the law to require that the booklet include an explanation of the fact that a mortgage broker may be compensated for its services by payments from the borrower, by payments from the lender, or by some combination of both.	No provision	No provision
Good faith estimate of settlement costs	Directs lenders to include a good faith estimate of the amount of settlement charges “a borrower is likely to incur.”	No provision	Would amend present law to direct lenders to include a good faith estimate of the amount of settlement charges “likely to be imposed directly upon the borrower.”	No provision	No provision
Disclosures in good faith estimate	No provision	No provision	Would amend the law to require that the good faith estimate include the following statement, “If you obtain this loan, the lender will have a mortgage on your home. You could lose your home, and any money you have put into it, if you do not	No provision	No provision

Provision	Current law	H.R. 3901, the Anti-Predatory Lending Act of 2000	H.R. 4213, the Consumer Mortgage Protection Act of 2000	H.R. 4250/S. 2415 Predatory Lending Consumer Protection Act of 2000	S. 2405, the Predatory Lending Deterrence Act
			meet your obligations under the loan.”		
Miscellaneous Amendments					
Additional enforcement authority	No provision	No provision	No provision	No provision	Would provide that, in addition to existing penalties, violations of the Truth in Lending Act covering high cost mortgages would be subject to penalties contained in the Bank Holding Company Act of 1956.
Unfair and deceptive practices	No provision	No provision	No provision	No provision	Would provide that a creditor would be deemed to have engaged in an unfair or deceptive act or practice under the Federal Trade Commission Act if it intentionally: (1) structures a high cost mortgage as an open end credit plan, (2) provides misleading information to a consumer or otherwise engages in fraudulent

Provision	Current law	H.R. 3901, the Anti-Predatory Lending Act of 2000	H.R. 4213, the Consumer Mortgage Protection Act of 2000	H.R. 4250/S. 2415 Predatory Lending Consumer Protection Act of 2000	S. 2405, the Predatory Lending Deterrence Act
					behavior, or (3) engages in any subterfuge intended to misrepresent the terms of the agreement.
Meeting community needs	No provision	No provision	No provision	No provision	Would provide that high cost loans may not be counted towards determining whether an institution is meeting its Community Reinvestment Act requirement to serve the lending needs of its community. Violations would be enforced by the Federal Trade Commission.