



## Summary of Mortgage Related Provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act

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**BACKGROUND** – This summary describes key points in the Dodd-Frank Wall Street Reform and Consumer Protection Act that was signed into law on Wednesday, July 21, 2010.

**SCOPE OF SUMMARY** – The Dodd-Frank Act is a massive piece of legislation intended to address countless problem areas that are believed to have caused the financial crisis. It is more than 2,300 pages long and includes 16 titles.

Titles IX, X and XIV are of particular interest to MBA members. Title IX includes “risk retention” and “qualified residential mortgages” provisions as well as credit rating agency provisions. Title X establishes Consumer Financial Protection Bureau (CFPB) and its responsibilities. Title XIV, Mortgage Reform and Anti-Predatory Lending Act, is replete with provisions affecting the industry including originator compensation, underwriting requirements and qualified mortgage provisions, to name a few. This summary includes: (1) Brief Overview of Key Provisions of Dodd-Frank Bill; (2) Short Summary of Provisions of Particular Interest to MBA Members; and (3) Expanded Summary of Specific Provisions.

**BRIEF OVERVIEW OF KEY PROVISIONS OF THE DODD-FRANK ACT** – The act would:

- Establish Financial Stability Oversight Council to address systemic risks;
- Provide liquidation authority to permit orderly liquidation of systemically risky companies;
- Revise bank and bank holding company regulatory regime by transferring Office of Thrift Supervision functions to Office of Comptroller of Currency (OCC) and clarifying regulatory functions of Federal Deposit Insurance Corporation (FDIC) and Board of Governors of Federal Reserve (FRB);
- Establish regulation of investment advisers to hedge funds;
- Establish a new Federal Insurance Office to monitor insurance industry including regulatory gaps that could contribute to systemic risk;
- Restrict banks, bank affiliates and bank holding companies from proprietary trading or investing in a hedge fund or private equity fund;
- Increase regulation and transparency of over-the-counter derivatives markets;
- Establish new regulation of credit rating agencies;
- Establish new requirements regarding executive compensation including shareholder “say on pay;”
- Require securitizers to retain economic interest in assets they securitize;
- Empower new CFPB as an independent office in FRB with broad new authorities and functions and responsibilities under wide range of current consumer financial protection laws;
- Establish extensive requirements applicable to mortgage lending industry, including detailed requirements concerning mortgage originator compensation and underwriting, high-cost mortgages, servicing, appraisals, counseling and other matters; and
- Preserve enforcement powers of states respecting financial institutions and restrict preemption of state laws by federal banking regulators.

### SHORT SUMMARY OF PROVISIONS OF DODD-FRANK OF PARTICULAR INTEREST TO MORTGAGE LENDERS

- **Credit Risk Retention** – Requires federal banking agencies and Securities and Exchange Commission (SEC) to issue rules to require securitizers to retain an economic interest of at least

five percent of credit risk in assets they securitize. Also, requires regulators to establish and define a specific exemption for “qualified residential mortgages” taking into consideration underwriting and product features that historical loan performance data indicates result in lower risk of default. Also, authorizes alternative forms of risk retention for commercial mortgage backed securities.

- **Office of Credit Ratings:** Creates Office of Credit Ratings in SEC to monitor and enforce credit rating agency (CRA) rules including rules designed to increase transparency and reduce conflicts of interest.
- **Consumer Financial Protection Bureau (CFPB) Established** – Establishes CFPB as independent entity housed within FRB. Assigns CFPB broad authority to write rules to protect consumers from unfair or deceptive financial products, acts or practices and reassigns to CFPB responsibility for major consumer protection laws including RESPA, TILA, HOEPA, HMDA and more, detailed below. Assigns CFPB new responsibilities under RESPA to develop RESPA/TILA disclosure and establishes several new HMDA data requirements to be implemented by CFPB.
- **CFPB Authority** – Assigns CFPB regulatory and supervisory authority to examine and enforce consumer protection regulations respecting all mortgage-related businesses, large non-bank financial companies, and banks and credit unions with greater than \$10 billion in assets. Makes CFPB primary regulator for non-depository lenders. Exclusions from CFPB authority for real estate brokers, persons regulated by state insurance regulators, auto dealers, accountants, tax preparers, and others.
- **CFPB Transfer Date** – Requires Treasury, in consultation with FRB, FDIC, FTC, NCUA, OCC, OTS, HUD and OMB, to designate date for transfer of functions to CFPB within 60 days after enactment. Date generally must be between 180 days and 12 months of enactment. Authorizes Treasury to revise date after further consultation with agencies. If determined transfer of functions is not feasible within 12 months, Treasury must report to Congress.
- **Coverage of Mortgage Lending Provisions** – Includes mortgage originators who take or assist applications and negotiate terms of mortgages. Excludes creditors (except creditor in table funded transaction for anti-steering provisions) servicer employees, agents and contractors, persons or entities performing real estate brokerage activities and certain employees of manufactured home retailers from “originator” definition.
- **Duty of Care** – Requires loan originators to be qualified and licensed and registered, when required, and include on all loan documents the unique identifier of mortgage originator provided by Nationwide Mortgage Licensing System and Registry (NMLSR).
- **Prohibition on Steering/Loan Originator Compensation** – Establishes new prohibitions against steering for all mortgage loans that prohibit yield spread premiums and other compensation to mortgage originator that varies based on terms of mortgage loan, including rate. Would allow compensation to originator (1) to be based on principal amount of loan, (2) to be financed through loan’s rate as long as it is not based on loan’s rate and terms and originator does not receive any other compensation such as discount points, or origination points, or fees however denominated, other than third-party charges, from consumer (or anyone else), and (3) in form of incentive payments based on number of loans originated within specified period of time. Expressly permits compensation to be received by creditor upon sale of consummated loan to subsequent purchaser, i.e. compensation to lender from secondary market for sale of consummated loan but creditors in table-funded transactions are subject to anti-steering/compensation restrictions.
- **Minimum Standards for Mortgages/Ability to Repay** – Prohibits creditors from making residential mortgage loans unless creditor makes good faith determination, based on verified and documented information that, at time loan was consummated, consumer had reasonable ability to repay loan according to its terms, and all applicable taxes, insurance and assessments.

- **Presumption/Safe Harbor for Qualified Mortgages** – Allows any creditor and any assignee or securitizer of “qualified mortgage” to be presumed to meet “Ability to Repay” requirements, although presumption may be rebuttable.
- **Qualified Mortgages** – Includes loans that meet several requirements including that income relied on to qualify borrowers is verified and documented, underwriting and ratios are consistent with statutory and regulatory requirements, and total points and fees payable in connection with loan do not exceed 3 percent of total loan amount.
- **3 Percent Limit** – Applies definition in TILA with following exclusions: (1) up to and including 2 bona fide discount points depending on interest rate; (2) any government insurance premium and any private mortgage insurance (MI) premium up to amount of FHA insurance premium, provided MI premium is refundable on *pro rata* basis, and (3) any MI premium paid by consumer after closing, e.g., monthly.
- **Liability for Mortgage Originators** – Establishes mortgage originators are liable for violations of duty of care and anti-steering prohibitions up to greater of actual damages or amount equal to 3 times total amount of direct and indirect compensation or gain accruing to mortgage originator for loan involved, plus costs and reasonable attorney’s fees.
- **Discretionary Regulatory Authority** – Grants broad discretionary regulatory authority to CFPB to prohibit or condition terms, acts or practices relating to residential mortgage loans found abusive, unfair, deceptive, predatory.
- **Prepayment Penalties** – Prohibits prepayment penalties for “not qualified mortgages.” Restricts prepayment penalties to loans that are not adjustable and do not have APR that exceeds Average Prime Offer Rate (APOR) by 1.5 or more percentage points for first lien loans, 2.5 or more percentage points for jumbo loans, or 3.5 or more percentage points for subordinate lien loans. Also, requires three-year phase-out of prepayment penalties for qualified mortgages and prohibits offering loan with a prepayment penalty without offering loan that does not have prepayment penalty.
- **Average Prime Offer Rate (APOR)** – Means average prime offer rate for a comparable transaction as of date on which interest rate for transaction is set, as published by FRB.
- **Arbitration** – Prohibits mandatory arbitration for residential mortgages and open-end consumer credit secured by principal dwellings, except on reverse mortgages.
- **HOEPA Expansion** – Expands coverage of HOEPA and its restrictions governing high-cost mortgages to purchase mortgages. Also lowers APR triggers to cover loans with an APR more than 6.5 percent above comparable APOR for first lien loans (8.5 percent if dwelling is personal property and transaction is less than \$50,000) and 8.5 percent above for subordinate loans. Also, lowers point and fees trigger from 8 percent of total loan amount to 5 percent (lesser of 8 percent or \$1,000 for loans under \$20,000).
- **Appraisals, AMCs and AVMs** – Prohibits appraiser coercion and requires rulemaking by FRB, OCC, FDIC, NCUA, FHFA and CFPB on appraiser independence. Requires: interim rules by CFPB within 90 days of enactment on appraiser independence to replace Home Valuation Code of Conduct (HVCC); physical appraisal for every subprime mortgage and two appraisals for subprime mortgage when there has been purchase or acquisition of property at lower price within 180 days; Appraisal Subcommittee of Federal Financial Institutions Examination Council to monitor state and federal efforts to protect consumers from improper appraisal practices and unlicensed appraisers; FRB, OCC, FDIC, NCUA, FHFA and CFPB to prescribe minimum requirements for appraisers, appraisal management companies and standards for AVMs.
- **Servicing** – Requires escrows for certain mortgages and new escrow disclosures, shortens time frames for qualified written requests, establishes timelines for pay-off statements and crediting of

payments, and limits late fees for high-cost mortgages. Requires monthly statements on ARM loans. Establishes new requirements for force-placed insurance including notices to borrower. Expands scope of Protecting Tenants at Foreclosure Act.

- **Counseling** – Establishes Office of Housing Counseling within HUD headed by Director to carry out wide-range of counseling related activities including research, public outreach and policy development as well as coordinating and administering HUD counseling related program
- **Reach of Bill** – Bill directs certain provisions to all residential mortgage loans and other provisions to specified categories of mortgages, defined below, which include “qualified mortgages,” “not qualified mortgages,” “higher risk mortgages,” and “high-cost” or “HOEPA mortgages.”
- **Regulatory Authority** – Provisions assign regulatory authority to FRB, CFPB, federal banking agencies – FRB, OCC, FDIC and NCUA – and other agencies under various sections of act. Provisions assigned to FRB under title XIV are reassigned to CFPB, except for provisions relating to housing counseling and certain appraisal-related matters. Assigns HUD regulatory responsibility for housing counseling provisions.

## EXPANDED SUMMARY OF SPECIFIC PROVISIONS

### TITLE IX INVESTOR PROTECTIONS AND IMPROVEMENTS TO THE REGULATION OF SECURITIES

#### **Improvements to the Regulation of Credit Rating Agencies (Section 931 – 939H.)** –

- **Office of Credit Ratings:** Creates an Office of Credit Ratings in SEC to monitor and enforce credit rating agency (CRA) rules. Office would conduct annual examinations of CRAs and be charged with promoting accuracy of credit ratings and ensuring that such ratings are not unduly influenced by conflicts of interest.
- **Credit Rating Agency Disclosures:** Requires CRAs to disclose their history of performance and methodology used to determine ratings. The methodology must include inputs and assumptions, as well as any shortcomings or uncertainties associated with the rating.
- **Conflict of Interest Firewalls:** Requires CRAs to have policies/procedures in place to separate CRA’s sales and marketing activities from production of credit ratings.
- **Feasibility studies:** Federal agencies must review their regulations to evaluate impact of removing references to credit ratings. SEC must study how to maximize CRA independence and minimize conflicts of interest. GAO must study whether compensation models other than “issuer paid” model would improve CRA independence. SEC must study feasibility of establishing public or private utility that would assign CRA’s to determine credit ratings for structured finance products.

**Credit Risk Retention (Section 941)** – Requires federal banking agencies and SEC to jointly prescribe rules requiring securitizers to retain economic interest of at least five percent of credit risk of assets they securitize. Regulations must include separate requirements for different asset classes, and may allocate retention amount between originator and securitizer. HUD and Federal Housing Finance Agency (FHFA) must participate in joint rulemaking process for residential mortgage backed securities (MBS) risk retention requirements. The statute requires an exemption for “qualified residential mortgages” which shall be defined by regulators based on statutory *criteria* to ensure sound underwriting and lower risk of default such as:

- Documentation of borrower’s financial resources;
- Debt-to-income standards;

- Mitigating potential for payment shock on adjustable rate mortgages through product features and underwriting standards;
- Mortgage insurance or other credit enhancements to reduce risk of default; and
- Prohibiting use of loan features that have been demonstrated to exhibit a higher risk of borrower default.

Exempts loans insured or guaranteed by U.S. from risk retention requirements. For commercial MBS, regulators must give consideration to other types, forms and amounts of risk retention such as representations and warranties, underwriting criteria and first-loss positions. Within 90 days of enactment, requires FRB to complete study on combined impact of risk-retention and accounting standards requiring securitizations to be brought on balance sheet.

## **TITLE X BUREAU OF CONSUMER FINANCIAL PROTECTION**

**CFPB (Sections 1011 – 1100G)** – Establishes CFPB as independent entity housed within FRB. Provides CFPB broad authority to write rules to ensure that all consumers have access to consumer financial products and services, and to ensure markets are fair, transparent and competitive. Assigns CFPB direct authority to examine and enforce consumer protection regulations for:

- All mortgage-related businesses such as lenders, servicers, and mortgage brokers;
- Large non-bank financial companies (such as large payday lenders, debt collectors, and consumer reporting agencies); and
- Banks and credit unions with greater than \$10 billion in assets.

**Director (Sections 1011, 1013)** – CFPB would be led by Director appointed by President and have specific offices for fair lending and equal opportunity, financial education, and consumer protections for military personnel and older Americans.

**Specific Authorities (Section 1021 – 22)** – Includes:

1. Providing timely/understandable information, protecting against unfair, deceptive, and abusive practices and enforcement;
2. Collecting, investigating and responding to consumer complaints;
3. Conducting financial education programs out of special office of financial literacy.
4. Researching, monitoring, and publishing information relevant to functioning of consumer financial products and services markets to identify risks to consumers;
5. Operating two special offices, one for military personnel and one for older Americans;
6. Supervising and examining entities for compliance with Federal consumer financial law, and taking appropriate enforcement action to address violations including:
  - A. Non-depository lenders, brokers and payday lenders; and
  - B. “Large” banks and credit unions; and
7. Exercising authorities including Issuing rules, orders, and guidance implementing Federal consumer financial protection laws.

**Exclusions (Sections 1026 – 27)** – Banks with assets of \$10 billion or less would be examined by their respective prudential regulator. Exclusions from CFPB’s authority are provided for real estate brokers, persons regulated by a state insurance regulator, auto dealers, accountants, tax preparers, and others.

**Transfer Date (Section 1062)** – Within 60 days of enactment, Treasury must designate date for transfer of functions to CFPB. Treasury must consult with FRB, FDIC, FTC, NCUA, OCC, OTS, HUD and OMB in establishing date which must be between 180 days and 12 months of enactment. Treasury can subsequently revise date after further consultation with agencies listed above, however, if it is determined that transferring functions is not feasible within 12 months, Treasury must report reason for extension to Congress.

**Conforming Amendments (Subtitle H, Sections 1081 – 1100G)** – Requires CFPB to assume designated responsibilities under Truth in Lending Act (TILA); Home Ownership and Equity Protection Act (HOEPA); Truth in Savings Act; Real Estate Settlement Procedures Act (RESPA); Secure and Fair

Enforcement for Mortgage Licensing Act (SAFE); Interstate Land Sales Full Disclosure Act; Telemarketing and Consumer Fraud and Abuse Prevention Act; Inspector General Act; Privacy Act; Alternative Mortgage Transaction Parity Act (AMTPA); Electronic Fund Transfer Act (EFTA); Equal Credit Opportunity Act (ECOA); Expedited Funds Availability Act; Fair Credit Billing Act; Fair Credit Reporting Act (FCRA); Fair Debt Collection Practices Act; Federal Deposit Insurance Act (FDIA); Federal Financial Institutions Examination Council Act; Federal Trade Commission Act; Gramm-Leach Bliley Act (GLB); Omnibus Appropriations Act, 2009; Right to Financial Privacy Act. Changes required in Subtitle become effective on designated transfer date.

In process of revising certain laws to transfer authority, makes significant changes including:

- **HMDA (Section 1094)** – Significantly increases data elements to be collected, and reported to CFPB under HMDA to include: age and credit score of mortgagors and mortgage applicants, in such form as CFPB prescribes; points and fees at origination; rate spread or difference between APR for loan and benchmark rate for all loans; term in months of prepayment penalties; property value; actual or proposed term in months of any introductory period after which rate may change; presence of contractual terms or proposed terms that would allow mortgagor or applicant to make other than fully amortizing payments during loan term; actual or proposed term in months of loan; mortgage channel through which application made including retail, broker, or other categories. Also, requires, as Bureau determines appropriate: unique loan originator identifier under S.A.F.E. Mortgage Licensing Act of 2008; universal loan identifier, parcel number corresponding to real property pledged or proposed to be pledged as collateral; and such other information Board requires.
- **RESPA (Section 1098)** – Requires CFPB to publish single, integrated disclosure, using readily understandable language, for mortgage loan transactions that meet RESPA and TILA requirements to apply to transactions that are subject to either or both laws. Also requires CFPB to prepare and distribute booklets jointly addressing RESPA and TILA requirements to help inform borrowers about real estate settlement services. Gives CFPB, HUD Secretary or attorney general or insurance commissioner of State authority to bring action to enjoin violations of Section 8 with CFPB having primary authority.

## **TITLE XIV MORTGAGE REFORM AND ANTI-PREDATORY LENDING ACT**

**Regulations, Effective Date (Section 1400)** – Provides that Subtitle A, B, C and E below and sections 1471,1472,1475 and 1476 are designated consumer laws and under Title X above come under CFPB. In Title XIV. For these titles and sections use of term Board ultimately means CFPB. Requires regulations under Title XIV to be prescribed in final form before 18 months after transfer date and take effect not later than 12 months after date of issuance of final regulations. Generally, requires provisions of title will take effect when final regulations implementing such provision take effect. However, provides sections of title for which regulations have not been issued on date that is 18 months after designated transfer date will take effect on such date.

### **SUBTITLE A – RESIDENTIAL MORTGAGE LOAN ORIGINATION STANDARDS**

**Definitions Include Mortgage Originator (Section 1401)** – Means any person who for direct or indirect compensation or gain: (i) takes residential mortgage loan application; (ii) assists consumer in obtaining or applying to obtain residential mortgage loan; or (iii) offers or negotiates terms of residential mortgage loan as well as any person who represents to public that it will provide any services in (i) - (iii). Does not include any person who: (1) performs purely administrative or clerical tasks; (2) is employee of manufactured home retailer who does not advise consumer on loan terms; (3) only performs real estate brokerage activities and is licensed or registered in accordance with applicable state law, unless such person or entity is compensated by lender, mortgage broker, or other originator or their agents; (4) person, estate or trust that provides mortgage financing for sale of 3 properties in any 12-month period provided loan is fully amortizing, where borrower has ability to repay and is either fixed or adjustable only after five years and meets other conditions; (5) is servicer or servicer employee, agent or contractor, including but not limited to those who offer or negotiate terms of residential mortgage loan for purposes of renegotiating, modifying, replacing and subordinating principal of existing mortgage where borrower is behind in payments, in

default, or has reasonable likelihood of being in default or falling behind; and (6) excludes creditor except creditor in a table funded transaction under anti-steering provisions.

**Duty of Care (Section 1402)** – Requires all loan originators, subject to regulations prescribed by federal banking agencies in consultation with HUD and FTC to: (1) be qualified and licensed and registered, when required; and (2) include on all loan documents any unique identifier of mortgage originator provided by Nationwide Mortgage Licensing System and Registry. Requires CFPB to prescribe regulations requiring depository institutions to establish and maintain procedures to assure and monitor depository institution, operating subsidiary and employee compliance with requirements of section 1507 of SAFE.

**Prohibition on Steering Incentives (Section 1403)** –

- **Prohibition** – Prohibits mortgage originator from receiving from any person, or any person from paying mortgage originator, directly or indirectly, compensation that varies based on terms of loan (other than amount of principal). With the exceptions below, generally prohibits a mortgage originator from receiving from any person other than consumer, who knows or has reason to know that a consumer has directly compensated or will directly compensate mortgage originator, from paying mortgage originator any fee or charge except *bona fide* third-party charges not retained by creditor, mortgage originator, or affiliate of creditor or mortgage originator. Intended to prohibit yield spread premiums or other similar compensation based on terms including rate that would cause originator to “steer” borrower to particular mortgage products.
- **Exceptions** – Does not limit compensation to originator based on principal amount of loan. Also, does not restrict person other than consumer from receiving, or person other than consumer from paying, origination fee or charge if: (1) originator does not receive any compensation directly from consumer; and (2) consumer does not pay discount points, origination points or fees however denominated (other than *bona fide* third-party charges not retained by originator, creditor or affiliate of creditor or originator), except that Board may, by rule, waive or provide exemptions to restriction if Board determines waiver is in interest of consumers and public.
- **Regulations** – Requires CFPB to prescribe regulations prohibiting mortgage originators from: (1) steering any consumer to loan that (A) consumer lacks reasonable ability to repay, or (B) has predatory characteristics or effects such as equity stripping, excessive fees or abusive terms; (2) steering any consumer from a “qualified mortgage” to “not qualified” mortgage when consumer qualifies for “qualified mortgage;” (3) abusive or unfair lending practices that promote disparities among consumers of equal creditworthiness but of different race, ethnicity, gender, or age; (4) mischaracterizing credit history of consumer or residential loans available to consumer; (5) mischaracterizing or inducing mischaracterization of appraised value of property securing extension of credit; or (6) if unable to suggest, offer or recommend to consumer loan that is not more expensive than loan for which consumer qualifies, discouraging consumer from seeking mortgage from another originator.
- **Rules of Construction** – While expressly prohibiting any yield spread premium or similar compensation that would permit total amount of direct and indirect compensation from all sources to originator to vary based on loan terms other than amount of principal, expressly permits compensation to a creditor upon sale of a consummated loan to a subsequent purchaser, i.e. compensation to lender from secondary market for sale of consummated loan. Also does not restrict: (1) consumer’s ability to finance at option of consumer through principal or rate, any origination fees or costs as long as fees or costs do not vary based on terms of loan or consumer’s decision to finance such fees; or (2) incentive payments to mortgage originator based on number of loans originated within specified period.

**Liability (Section 1404)** – Establishes mortgage originators are liable for violations of new Section 129B of Truth in Lending Act including duty of care and prohibition against steering incentives. Maximum amount of liability to originators is greater of actual damages or an amount equal to 3 times total amount of direct and indirect compensation or gain accruing to mortgage originator for loan

involved in violation, plus costs and reasonable attorney's fees.

**Regulations and Discretionary Regulatory Authority (Section 1405)** – Grants broad discretionary regulatory authority to CFPB to prohibit or condition terms, acts or practices relating to residential mortgage loans that CFPB finds abusive, unfair, deceptive, predatory, necessary or proper to ensure responsible affordable mortgage credit remains available to consumers, necessary or proper to ensure that responsible, affordable mortgage credit remains available to consumers in manner consistent with sections 129 B and C of TILA to prevent circumvention or evasion or facilitate compliance with sections or are not in interest of borrower.

**Study of Shared Appreciation Mortgages (Section 1406)** – Requires HUD to conduct comprehensive study to determine prudent statutory and regulatory requirements for wide-spread use of shared appreciation mortgages and report to Congress within 6 months after date of enactment.

## **SUBTITLE B – MINIMUM STANDARDS FOR MORTGAGES**

**Ability to Repay Loans (Section 1411)** – Under regulations to be prescribed, CFPB would prohibit creditors from making residential mortgage loans unless creditor makes good faith determination, based on verified and documented information, that at time loan was consummated, consumer had reasonable ability to repay loan according to its terms, and all applicable taxes, insurance and assessments. Provides nothing in title should be construed as requiring depository institution to apply mortgage underwriting standards that do not meet minimum underwriting standards required by appropriate regulator of depository.

- **Multiple Loans** – Provides if creditor knows or has reason to know that 1 or more loans secured by same dwelling will be made to consumer, also requires creditor to make reasonable and good faith determination based on verified and documented information that consumer has reasonable ability to repay combined payments of all loans on same dwelling according to terms of loans and all applicable taxes, insurance and assessments.
- **Basis for Determination** – Requires that determination of consumer's ability to repay residential mortgage loan shall include consideration of credit history, current income, expected income consumer is reasonably assured of receiving, current obligations, debt-to-income ratio or residual income after paying non-mortgage debt and mortgage-related obligations, employment status and other financial resources other than consumer's equity in dwelling or real property that secures repayment of loan. Requires creditor to determine ability of consumer to repay using payment schedule fully amortizing loan over its term.
- **Verification of Income** – Requires creditor to verify amounts of income or assets including expected income or assets, by reviewing Internal Revenue Service Form W-2, tax returns, payroll receipts, financial institution records, or other third-party documents that provide reasonably reliable evidence of consumer's income or assets. Exempts certain streamlined loans made, guaranteed or insured by federal departments or agencies from verification requirements as long as certain conditions are met including: (A) consumer is not more than 30 days past due on existing loan; (B) refinancing does not increase principal balance outstanding on prior loan except for fees and charges allowed by department or agency making, guaranteeing, or insuring refinancing; (C) total points and fees do not exceed 3 percent of total new loan amount; (D) interest rate on refinanced loan is lower than interest rate of original loan, unless borrower is refinancing from adjustable rate to fixed-rate loan under department or agency guidelines; (E) refinancing is subject to payment schedule that will fully amortize refinancing in accordance with agency or department regulations; (F) no balloon payment, and (G) both residential mortgage loan being refinanced and refinancing satisfy all applicable requirements of department or agency making, guaranteeing or insuring the refinancing.

Includes rules for determining ability to repay for: nonstandard loans including loans that defer principal and interest, interest-only loans; calculations for negative amortization; calculation process for loans which do and do not have substantially equal monthly payments; and refinancing of hybrid loans with current lender. Also defines fully indexed rate as index rate at time loan is made plus margin. If documented income,



creditor can consider seasonality and irregularity of income in underwriting process.

Section does not apply to any reverse mortgage or bridge loan with a term of 12 months or less.

### **Safe Harbor and Rebuttable Presumption of Ability to Repay for Qualified Mortgage (Section 1412) –**

Permits creditor and any assignee of a residential mortgage loan subject to liability under title to presume loan meets ability to repay requirement if loan is a “qualified mortgage.” However, presumption is rebuttable.

- **Definition – Qualified Mortgage** – Defines “qualified mortgage” as any residential mortgage loan:
  1. Where regular periodic payments do not result in increase in principal and, except for balloon loans under specified circumstances, does not allow borrower to defer principal;
  2. Except for balloon loans under specified circumstances, does not include balloon payment that is twice as large as average of earlier scheduled payments;
  3. For which income and financial resources of consumer are verified and documented;
  4. For fixed rate loan, underwriting based on payment schedule fully amortizing loan over loan term and taking into account all applicable taxes, insurance, and assessments;
  5. For adjustable rate loan, underwriting based on maximum rate permitted under loan during first 5 years, payment schedule that fully amortizes loan over loan term and takes into account all applicable taxes, insurance, and assessments;
  6. Complies with guidelines or regulations established by CFPB relating to ratios of total monthly debt to monthly income or alternative measures of ability to pay regular expenses after payment of total monthly debt, taking into account income of borrower and such other factors CFPB determines relevant and consistent with purposes;
  7. For which total points and fees payable in connection with loan do not exceed 3 percent of total loan amount;
  8. For which loan term does not exceed 30 years, except as such term may be extended by CFPB such as in high-cost areas; and
  9. In case of a reverse mortgage (except for purposes of subsection 9 (a) of section 129C, to extent that such mortgages are exempt altogether from those requirements), a reverse mortgage which meets standards for a qualified mortgage, as set by CFPB.
  
- **3 Percent Limit – Calculation of Points and Fees – Qualified Mortgages** – For purposes of calculating points and fees subject to 3 percent of loan amount limit for qualified mortgages, definition at section 103 (aa) (4) of TILA is used with following exclusions: (1) up to and including 2 bona fide discount points if interest rate from which mortgage’s interest rate will be discounted does not exceed average prime offer rate by more than 1 percent, or 1 bona fide discount point if interest rate from which mortgage’s interest rate will be discounted does not exceed average prime offer rate by more than 2 percentage points; (2) any government insurance premium and any private insurance premium up to amount of FHA insurance premium, provided PMI premium is refundable on a pro rata basis; and (3) any premium paid by consumer after closing, e.g. monthly MI.
  
- **Smaller Loans – Qualified Mortgages** – Requires CFPB to prescribe rules adjusting 3 percent of loan amount limitation on points and fees to permit lenders that extend smaller loans to meet requirements of presumption of compliance. Directs CFPB in prescribing rules to consider impact of rules on rural and other areas where home prices are lower.
  
- **Balloon Payment – Qualified Mortgages** – Authorizes CFPB to determine qualified mortgage includes balloon loan under specified circumstances.
  
- **Discretion – Qualified Mortgages** – Authorizes CFPB to prescribe regulations to revise, add to, or subtract from criteria that define qualified mortgage upon finding that such regulations are necessary or proper to ensure that affordable mortgage credit remains available to consumers in manner consistent with bill’s purposes.

- **Government Loans – Qualified Mortgages** – Authorizes HUD, VA, Agriculture and Rural Housing Service in consultation with CFPB to prescribe rules defining types of loans they insure, guarantee or administer that are qualified mortgages which may revise add to, or subtract from criteria used to define qualified mortgages.

**Defense to Foreclosure (Section 1413)** – Permits borrower to assert a defense to foreclosure against creditor or assignee or other holder of mortgage loan in judicial or nonjudicial foreclosure or any other action to collect debt in connection with mortgage loan when there is a violation of anti-steering and ability to repay provisions. Claim can lead to actual damages, statutory damages and enhanced damages including return of finance charges.

**Additional Standards and Requirements (Section 1414)** –

- **Prohibition on Prepayment Penalties** – Prohibits prepayment penalties for all loans that are not qualified mortgages. Prepayment penalties must be phased out for qualified mortgages so during first year following consummation, prepays do not exceed three percent of outstanding loan balance, second year - two percent and third year - one percent, with no prepayment penalty imposed on a qualified mortgage after three years. Also, requires offering of loan without a prepayment penalty along with loan with prepayment penalty.
- **Single Premium Credit Life Insurance** – Prohibits creditors from directly or indirectly financing any single premium credit life, credit disability, credit property insurance, or similar insurance in connection with any residential mortgage loan or open-end line of credit. Exempts unemployment insurance where lender or affiliate receives no compensation. Permits insurance premiums or debt cancellation or suspension fees calculated and paid in full monthly.
- **Arbitration** – Prohibits provisions for mandatory arbitration in residential mortgages and open-end consumer credit secured by principal dwellings.
- **Negative Amortization** – Requires disclosure and counseling for first-time borrowers prior to consummation of loans with negative amortization secured by “dwelling.”
- **Loss of Anti-Deficiency Protection** – Requires creditors subject to state anti-deficiency law to provide notice before consummation describing protection provided by law and significance of loss of protection.
- **Disclosures Regarding Partial Payments** – Requires disclosure prior to settlement (or upon becoming a creditor) creditor’s policy regarding acceptance of partial payments and if such payments are accepted, how they will be applied to mortgage and if they will be placed in escrow.

**Rule of Construction (Section 1415)** – Clarifies that any amendments to TILA under this legislation are not to be construed as superseding or affecting any other rights or remedies of any person under any other provisions of TILA or other federal or state law.

**Amendments to Civil Liability Provisions (Section 1416)** – Increases civil money penalties for certain violations under TILA and provides three-year statute of limitations for TILA §129 violations.

**Lender Right Regarding Borrower Deception (Section 1417)** – Exempts creditors and assignees from TILA liability if borrower or co-borrower is convicted of obtaining residential mortgage loan by actual fraud.

**Six Month Notice Before Hybrid ARM Reset (Section 1418)** – Amends TILA by requiring written notices to consumers at closing and during one-month period that ends six months prior to end of introductory period of hybrid ARM, that includes: index, explanation of new interest rate calculated, estimated monthly payment, etc.

**Consumer Disclosures (Section 1419)** – Adds several new TILA disclosures for consumers including: (1) under variable loans, maximum initial monthly payment amount; (2) for loans with escrows, initial monthly

amounts to cover taxes and insurance; and (3) aggregate amount of settlement charges for all services provided in connection with loan and amount of charges that are paid outside of closing and included in loan; rate of wholesale funds, total fees paid to mortgage originator, amount of fees paid directly by consumer; fees paid by creditor to originator; total amount of interest creditor will pay over life of loan.

**Monthly Statements (Section 1420)** – Amends TILA §128 to require monthly statements noting principal balance, interest rate, next reset date, description of late fees, servicer's telephone number or email, contact information for counseling agencies but exempts coupon books for fixed rate loans that provide substantially same information from requirement. Charges CFPB with developing and prescribing standard form to carry out requirement.

**GAO Report (Section 1421)** – Requires Comptroller General to conduct study and report to Congress within one year on effects of legislation on availability and affordability of credit for consumers, small businesses, homebuyers and mortgage lending and effects of risk retention provisions on non-qualified mortgages and credit markets.

**State AG Enforcement (Section 1422)** – Expands authority of state Attorneys General to enforce TILA\_§ 129, 129B through 129H.

### **SUBTITLE C – HIGH-COST MORTGAGES**

**HOEPA High-Cost Mortgages (Section 1431)** – Amends HOEPA and expands its coverage to home purchase loans. Revises APR triggers for HOEPA loans to greater than 6.5 percent above APOR for comparable transactions for first lien loans (8.5 percent if dwelling is personal property and transaction is less than \$50,000) and greater than 8.5 percent above for subordinate lien loans. Also, lowers point and fees trigger from 8 percent of total loan amount to 5 percent (lesser of 8 percent or \$1,000 for loans under \$20,000). Also, creates new HOEPA trigger for loans with prepayment penalties beyond 36 months and exceeding two percent. Allows FRB to increase or decrease APR triggers within limits. Calculates APR for loans where rate varies with index using current index and maximum contractual margin.

Expands definition of points and fees to include all compensation paid by consumer or creditor directly or indirectly to mortgage originator, premiums for credit life, disability, unemployment and property insurance not paid on monthly basis, maximum prepayment penalty that can be collected under new loan and prepayment penalties incurred by consumer if loan refinances previous loan made by or held by same creditor or affiliate of creditor. Excludes from point and fees trigger up to two *bona fide* discount points under specific conditions. Also, excludes any government insurance premium and any private insurance premium up to amount of FHA insurance premium, provided PMI premium is refundable on pro rata basis, and any premium paid by consumer after closing.

**Amendments to Existing Requirements for Certain Mortgages (Section 1432)** – Prohibits balloon payments and prepayment penalties for high-cost mortgage loans.

**Additional Requirements for Certain Mortgages (Section 1433)** – TILA §129 are amended as follows regarding high-cost loans:

- **Recommend Default** – Prohibits creditor from recommending or encouraging default on existing loan in connection with closing of high-cost refinance loan.
- **Late Fees** – Limits late fees to four percent of payment due on high-cost loans.
- **Pyramiding of Late Fees** – Prohibits pyramiding of late fees (grants states right to enforce existing law). When mortgage agreement applies payments to principal first, creditors may impose separate late fees for any principal due until default is cured.
- **Unilateral Acceleration** – Prohibits unilateral acceleration of mortgage except in case of monetary default, due-on-sale, and “material violations” of provision in documents.

- **Financing Prepayment Penalty** – Prohibits creditor from financing: (1) prepayment fee if it is current note holder or its subsidiary; and (2) points and fees are on high-cost loan.
- **No Modification or Deferral Fee** – Prohibits creditor or third-party from charging fee to modify, renew, extend or amend high-cost mortgage or to defer payment.
- **Pay-off Statements** – Before charging fee, requires servicer to notify borrower that pay-off statements can be free; requires four free pay-off statements per year. Requires pay-off statements to be provided within 5 business days of request. Allows a processing fee to cover cost of faxing or using courier service to transmit information but must be comparable to fees on non-high-cost mortgages.
- **Pre-loan Counseling** – Requires certification from HUD approved counselor before creditor can extend high-cost loan to consumer.
- **Corrections and Unintentional Violations** – Allows creditors and assignees 60 days in which to cure good faith violation of section. Borrower may select remedy of (1) correcting violation or (2) changing terms so loan is no longer a high-cost loan.

## **SUBTITLE D – OFFICE OF HOUSING COUNSELING**

**Short Title (Section 1441)** – Subtitle may be cited as “Expand and Preserve Homeownership Through Counseling Act.”

**Establishment of Office of Housing Counseling (Section 1442)** – Establishes Office of Housing Counseling within HUD headed by Director to perform wide range of activities including research, public outreach, and policy development related to counseling as well as establishment, coordination and administration of HUD counseling related programs and other activities authorized under Act.

**Counseling Procedures (Section 1443)** – Adds new section that provides Secretary is responsible for establishing, coordinating, and monitoring administration of counseling procedures for homeownership and rental counseling. This includes standards and performance measures related to homeownership and rental housing counseling. It also provides that Secretary, in consultation with advisory committee establishes standards for materials and forms used by organizations providing homeownership counseling services. Makes Secretary responsible for providing certification of various computer software programs for consumers to evaluate different residential mortgage loan proposals. These functions will happen in tandem while Director develops, implements, and conducts public service multimedia campaigns concerning availability of homeownership counseling that provide contact information.

**Grants for Housing Counseling Assistance (Section 1444)** – Authorizes up to \$45 million for financial assistance to HUD-approved counseling agencies and state housing finance agencies for efficient and successful counseling programs.

**Requirements to Use HUD-Certified Counselors under HUD Programs (Section 1445)** – Limits assistance for counseling activities to HUD certified counselors or counseling organizations.

**Study of Defaults and Foreclosures (Section 1446)** – Requires HUD to conduct an extensive study of root causes of foreclosures using empirical data.

**Default and Foreclosure Database (Section 1447)** – Requires HUD in consultation with Federal financial regulatory agencies to establish and maintain data base on foreclosures and defaults that would be collected, aggregated and made available on census tract basis.

**Definitions for Counseling-Related Programs (Section 1448)** – Includes definitions for counseling-related programs including assistance recipients.

**Accountability and Transparency for Grant Recipients (Section 1449)** – Requires HUD to track

counseling assistance and requires reimbursement of misused funds.

**Updating and Simplification of Mortgage Information Booklet (Section 1450)** – Requires HUD every five years to prepare booklet in various languages and cultural styles concerning mortgage process to help consumers applying for federally related mortgage loans that includes information prescribed in section including nature and purpose of costs, lending practices, questions consumers should ask as well as other information identified or deemed necessary by Secretary.

**Home Inspection Counseling (Section 1451)** – Requires HUD to take necessary actions to inform potential homebuyers of importance of obtaining independent home inspection.

**Warnings to Homeowners of Foreclosure Rescue Scams (Section 1452)** – Provides assistance to Neighborhood Reinvestment Corporation to provide notice to delinquent borrowers concerning rescue scams.

## **SUBTITLE E – MORTGAGE SERVICING**

**Escrows for Certain Mortgages (Section 1461)** – Amends TILA to require creditors to establish escrow accounts for certain first lien mortgages for minimum of five years, unless and until sufficient equity is reached comparable to that required under PMI cancellation laws, borrower is delinquent, and other conditions. Requires mandatory escrows when: (1) required by state law; (2) loan is made, guaranteed or insured by state or federal government; or (3) transaction is secured by first mortgage on consumer's principal dwelling where loan does not exceed conforming loan limit and APR will exceed APOR by 1.5 percent *or* a loan whose principal balance exceeds conforming loan limit and which has APR that exceeds APOR by 2.5 percent; or (4) required by regulation. Requirement excludes junior liens, open-end credit plans and loans secured by coops and insurance premiums on condos covered by master policy. CFPB can exempt creditors from requirement that operate in rural areas, retain mortgages in portfolio or meet asset and origination size thresholds to be determined. CFPB can revise, add to or subtract from types of loans that require mandatory escrows if in interest of consumer or public.

- **Interest** – Creditors shall pay interest on amounts held in escrow if prescribed by state or federal law.
- **Penalty Coordination with RESPA** – A violation of RESPA does not result in TILA penalties unless TILA as amended is also violated.
- **Disclosures Prior to Closing** – Requires creditors to disclose to consumer at least 3 days prior to consummation that escrows will be established, amount required at closing to fund escrow account, amount to be collected in first year (based on improved value); estimated monthly amount payable to escrow, and consumer's obligation to pay such items if consumer chooses to terminate account in future.

**Disclosure Notice Required for Non-Escrowed Loans (Section 1462)** – Amends TILA to require disclosures to consumers who do not establish escrow accounts advising them of their responsibilities of paying escrow items and implications of non-payment.

### **Miscellaneous RESPA Amendments (Section 1463)** –

- **Force-placed Insurance** - Prohibits servicers from: obtaining force-placed insurance unless there is reasonable basis to believe borrower has failed to comply; charging fees for valid qualified written requests (to be defined by regulation); failing to take timely action to respond to borrower's requests to correct errors; failing to respond within 10 days to requests from borrower for information about owner/assignee of loan; failing to comply with any other obligation required by CFPB. For force-placed insurance, servicer must provide two notices to borrower prior to placing coverage and must terminate and refund force-placed premiums within 15 days of confirmation of borrower obtained coverage. Acceptable demonstration of insurance is a written confirmation of existing coverage, which includes policy number and

contact information for insurance company or agent, or requirement to be determined by CFPB. Requires charges, other than those subject to state regulation as business of insurance, imposed on borrower by or through servicer to be *bona fide* and reasonable.

- **Penalties** – Increases penalties for certain violations of RESPA from \$1,000 to \$2,000 per violation and \$500,000 to \$1 million for class actions.
- **Qualified Written Requests** – Shortens required time frames for acknowledging qualified written requests (QWRs) under RESPA from 20 to 5 business days and reduces timeframe for a final response from 60 to 30 business days. Permits additional 15-day extension if borrower is notified.
- **Escrow Refunds** – Requires escrow refunds (or credits) within 20 business days of payoff.

#### **Truth in Lending Act Amendments (Section 1464)** –

- **Prompt Crediting of Payments** – Creates new TILA § 129F. Requires servicers to credit payments as of date of receipt except when a delay does not result in a charge or negative credit reporting. If servicer accepts non-conforming payment, it shall be credited within five days of receipt.
- **Pay-off Statements** – Creates new TILA §129G. Pay-off statements must be sent within reasonable time, but no more than seven business days after receipt of written request.

**Escrows Included in Repayment Analysis (Section 1465)** – For first lien mortgages on principal dwellings, requires TILA repayment analysis to include taxes and insurance payments and “other periodic payments.” Requires use of taxable assessed value of real property including improvements (versus raw land). Excluded from requirement are open-end-lines of credit and reverse mortgages.

#### **SUBTITLE F – APPRAISAL ACTIVITIES**

**Property Appraisal Requirements (Section 1471)** – Requires physical appraisal for higher -risk mortgage by certified appraiser that performs work in accordance with Uniform Standards of Professional Appraisal Practice (USPAP). Also, requires second appraisal if property was previously purchased within 180 days of subject purchase. Additionally, requires creditors to provide to consumer one copy of each appraisal conducted for higher-risk mortgage, at least three days prior to closing, without charge. Higher-risk mortgage means any first lien residential mortgage loan with an APR that exceeds APOR for a comparable transaction by 1.5 percentage points or more for mortgage loan having original principal obligation that does not exceed conforming loan limit, 2.5 percentage points or more for jumbo loan having a principal obligation that is greater than conforming loan limit, and 3.5 percentage points or more for subordinate lien residential mortgage loan. Rules are to be promulgated by FRB, OCC, FDIC, NCUA, FHFA and CFPB.

**Appraisal Independence Requirements (Section 1472)** – Prohibits any act or practice of extending credit or in providing services for consumer credit transaction that violates appraiser independence including compensating, coercing, extorting, colluding, instructing, inducing, bribing or intimidating appraiser for purpose of causing appraised value assigned to property to be based on any factor other than independent judgment of appraiser but allows person with interest in real estate transaction to ask appraiser to consider additional information, provide further detail or correct errors. Requires lenders, brokers, AMCs and others involved in real estate transaction to report any appraiser who is believed to be violating USPAP. Rules are to be promulgated by FRB, OCC, FDIC, NCUA, FHFA and CFPB. Requires FRB to prescribe interim final regulations no later than 90 days after date of enactment of section defining with specificity acts or practices that violate appraisal independence in provision of mortgage lending services for consumer credit transaction secured by principal dwelling of consumer or mortgage brokerage services for such transaction and defining any terms. At issuance of interim regulations, Home Valuation Code of Conduct (HVCC) shall sunset. Also, OCC, FDIC, NCUA, FHFA and CFPB *may* jointly issue regulations that address issue of appraisal report portability including regulations that ensure portability of appraisal report between lenders or mortgage brokerage services for transaction. Establishes civil

penalties of up to \$10,000 per day for first violations and \$20,000 for subsequent violations.

**Amendments Relating to Appraisal Subcommittee of FFIEC, Appraiser Independence Monitoring, Approved Appraiser Education, Appraisal Management Companies, Appraiser Complaint Hotline, Automated Valuation Models, and Broker Price Opinions (Section 1473) –**

- **Appraisal Subcommittee and Appraiser and Appraiser Independence Monitoring** – Amends Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) to require Appraisal Subcommittee of Federal Financial Institutions Examination Council (FFIEC) to annually report to Congress on its assigned functions. Also, assigns Appraisal Subcommittee responsibility to monitor requirements established by states for certification and licensing of individuals who are qualified to perform appraisals including code of professional responsibility and for operations and activities of appraisal management companies.
- **Appraiser Independence Monitoring** – Requires Appraisal Subcommittee to monitor each state appraiser certifying and licensing agency to determine whether such agency's policies and practices are consistent with maintaining appraiser independence.
- **Appraiser Education and Complaint Hotline** – Requires Appraisal Subcommittee to encourage states to accept courses approved by Appraiser Qualification Board's Course Approval Program and to establish appraisal complaint hotline if it determines within 6 months after enactment that no national hotline exists to receive complaints regarding appraisal independence and USPAP practices.
- **Appraisal Management Companies** – Requires FRB, OCC, FDIC, NCUA, FHFA and CFPB to establish minimum requirements to be applied by state in registration of Appraisal Management Companies (AMCs), including that they be registered with and subject to supervision by state appraiser certifying and licensing agency, only licensed or certified appraisers are used for federally related transactions, AMC appraisals coordinated by an appraisal management company comply with USPAP, and appraisals are conducted independently and free of inappropriate influence and coercion. Rules apply to subsidiaries of institutions regulated by federal regulatory agency but such subsidiaries are not required to register with state. Provides nothing in section shall be construed as preventing states from establishing requirements in addition to agencies' rules.
- **Automated Valuation Models (AVMs)** – Requires FRB, OCC, FDIC, NCUA, FHFA and CFPB in consultation with staff of Appraisal Subcommittee and Appraisal Standards Board of Appraisal Foundation to establish regulations implementing quality control standards for AVMs.
- **Broker Price Opinions** – Prohibits use of broker price opinions for purchase of consumer's principal dwelling as primary basis to determine value of property for purpose of loan secured by property.

**Equal Credit Opportunity Act Amendment (Section 1474)** – Requires creditor to furnish applicant copy of any and all written appraisals and valuations developed in connection with applicant's application for loan upon appraisal's completion, but no later than 3 days prior to closing.

**RESPA Amendment Relating to Appraisal Management Company Fees (Section 1475)** – Provides HUD-1 may – but is not required to – include in case of an appraisal coordinated by an appraisal management company, clear disclosure of fee paid directly to appraiser by appraisal management company and administration fee charged by such company.

**GAO Study on the Effectiveness and Impact of Various Appraisal Methods (Section 1476)** – Requires that GAO conduct study of effectiveness and impact of appraisal methods, appraisal valuation models, appraisal distribution channels including appraisal management companies and independent appraisers, HVCC and Appraisal Subcommittee's functions. Requires GAO to submit a status report and any

preliminary findings to Committees of Congress within 90 days after enactment and submit study 12 months after enactment.

## **SUBTITLE G – MORTGAGE RESOLUTION AND MODIFICATION**

**Multifamily Mortgage Resolution Program (Section 1481)** – Authorizes development of HUD administered program to provide foreclosure assistance to promote transfer of properties with five or more units that are at risk of foreclosure. As result of foreclosure, tenants would be protected from losing their homes. Section calls for Secretary to develop program that can provide financing, addresses affordability, and might include subsidies, rehabilitation and reserves for property. The goal of program would be to transfer property to new, responsible and lawful owners committed to continued affordability of property and to maintain services to existing tenants.

**HAMP Guidelines (Section 1482)** – Treasury must revise its guidelines to require servicers to provide borrower with data inputs it used to obtain NPV determination if borrower is denied HAMP. Requires creation of website for borrowers to conduct NPV analysis, submit applications for HAMP and get Treasury’s NPV calculation methodology.

**Public Availability of Information of MHA Program (Section 1483)** – Increases data reported to public and Congress and breaks such information down by servicer and by individual record level.

**Protecting Tenants at Foreclosure Act (PTFA) (Section 1484)** – Expands scope of PTFA to now protect tenants who sign leases prior to “complete” title transfer to successor or person. Extends PTFA from year 2012 to 2014.

## **SUBTITLE H – MISCELLANEOUS PROVISIONS**

**Sense of Congress Regarding The Importance Of GSE Reform (Section 1491)** – Sets forth several findings about government-sponsored enterprises and sense of Congress that meaningful structural reform of government-sponsored enterprises is necessary to enhance protection, limitation and regulation of terms and practices of residential mortgage credit.

**GAO Study on Government Efforts to Combat Mortgage Foreclosure Rescue Scams (Section 1492)** – Comptroller General must report to Congress on effectiveness of inter-agency task force to combat mortgage foreclosure rescue and modification fraud scams, recommendations for legislative protections, sufficiency of resources to crackdown on scams.

**Reporting of Mortgage Data by State (Section 1493)** – Requires modification data currently collected by OCC and OTS to be reported to Congress quarterly by state.

**Study on Effect of Drywall Presence on Foreclosures (Section 1494)** – Requires HUD, in consultation with Treasury, to conduct study on effects of drywall imported from China between 2004 – 2007, on residential mortgage loan foreclosures and availability of property insurance for properties.

**Definitions of “Designated Transfer Date” (Section 1495)** – Defines designated transfer date as “date established under 1062 of Act.”

**Emergency Mortgage Relief (Section 1496)** – Effective October 1, 2010, \$1 billion is made available to HUD to establish Emergency Homeowners’ Relief Fund, which will allocate grants and loans to certain delinquent borrowers to pay portions of their mortgages. Maximum amount homeowner can receive is \$50,000. Section addresses various terms of loans or grants.

**Additional Assistance for Neighborhood Stabilization Program (Section 1497)** – Additional \$1 billion is allocated from funds in Treasury to HUD for assistance to states and local government for redevelopment of abandoned and foreclosed homes under Neighborhood Stabilization Program.

**Legal Assistance for Foreclosure Related Issues (Section 1498)** – Authorizes \$35 million for FY 2011 and 2012 for Secretary to establish program to make grants available to state and local organizations to



provide foreclosure related legal services to low-and moderate-income homeowners and tenants. Priority consideration for grants would be given to 125 metropolitan areas with highest foreclosure rates. Funds cannot be used to support class actions. Effective date is date of enactment.

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