

109TH CONGRESS
1ST SESSION

H. R. 200

To authorize the Secretary of Housing and Urban Development to make grants to States, units of general local government, and nonprofit organizations for counseling and education programs for the prevention of predatory lending and to establish a toll-free telephone number for complaints regarding predatory lending, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 2005

Mr. SCOTT of Georgia introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To authorize the Secretary of Housing and Urban Development to make grants to States, units of general local government, and nonprofit organizations for counseling and education programs for the prevention of predatory lending and to establish a toll-free telephone number for complaints regarding predatory lending, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Prevention of Preda-
5 tory Lending Through Education Act”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds the following:

3 (1) While expanded access to credit from both
4 prime and subprime lenders has contributed to the
5 highest homeownership rates in the Nation's history,
6 there is growing evidence that some lenders are en-
7 gaging in predatory lending practices—excessive
8 front-end fees, single-premium credit life insurance,
9 and exorbitant prepayment penalties—that make
10 homeownership much more costly for families that
11 can least afford it.

12 (2) Borrowers with fair to good credit ratings
13 may be able to obtain loans in the “prime” mortgage
14 market, with the lowest interest rates and costs.

15 (3) Borrowers with blemished credit histories
16 obtain mortgage loans in the “subprime” mortgage
17 market, with higher interest rates and loan fees than
18 are obtainable in the prime market. Some subprime
19 lenders have been making loans on terms that are
20 regarded as “predatory”.

21 (4) Predatory lending involves home mortgages,
22 mortgage refinancing, home equity loans, and home
23 repair loans with unjustifiably high interest rates,
24 excessive fees, balloon payments, prepayment pen-
25 alties, and the imposition of other unreasonable, and
26 sometimes fraudulent, terms.

1 (5) Predatory loans are said to have grown rap-
2 idly in minority neighborhoods, often stripping away
3 wealth that may have taken owners decades or a
4 lifetime to accumulate.

5 (6) Some communities that have lacked access
6 to traditional institutions were being victimized by
7 second mortgage lenders, home improvement con-
8 tractors, and finance companies who peddled high
9 interest rate home equity loans with high loan fees
10 to cash-poor homeowners. Borrowers, who may not
11 have fully understood the terms of the loans, and
12 who may not have been offered adequate disclosures
13 of the loan terms, often have struggled to meet over-
14 whelming mortgage payments and too often ulti-
15 mately lost their homes through foreclosure.

16 (7) A joint report by the Department of Hous-
17 ing and Urban Development and the Treasury De-
18 partment, issued June 21, 2000, entitled “Curbing
19 Predatory Home Mortgage Lending”, urged the
20 Congress to adopt legislation that would restrict
21 abusive terms and conditions on high-cost loans,
22 prohibit harmful sales practices in mortgage mar-
23 kets, improve consumer literacy and disclosures, pro-
24 hibit government-sponsored enterprises from pur-

1 chasing loans with predatory features, and establish
2 predatory lending as a factor in CRA evaluations.

3 (8) The joint report proposed a four-point plan
4 to address predatory lending practices, as follows:

5 (A) To improve consumer literacy and dis-
6 closures, the report recommended requiring
7 lenders to recommend that applicants for high-
8 cost loans avail themselves of home mortgage
9 counseling, to disclose credit scores to all bor-
10 rowers upon request, and to give borrowers
11 more timely and more accurate information on
12 loan costs and terms.

13 (B) To prohibit harmful sales practices in
14 the mortgage market, the report recommended
15 the banning of practices such as loan “flipping”
16 and lending to borrowers without regard to
17 their ability to repay the loan, imposing new re-
18 quirements on mortgage brokers to document
19 the appropriateness of a high-cost loan for cer-
20 tain applicants, and requiring lenders who re-
21 port to credit bureaus to provide “full-file” pay-
22 ment history for their mortgage customers.

23 (C) To restrict abusive terms and condi-
24 tions on high-cost loans, the report rec-
25 ommended that the Congress increase the num-

1 ber of borrowers in the subprime market cov-
2 ered by legislative protections, further restrict
3 balloon payments on high-cost loans, restrict
4 prepayment penalties and the financing of
5 points and fees, prohibit mandatory arbitration
6 agreements on high-cost loans, and ban lump-
7 sum credit life insurance and similar products.

8 (D) To improve market structure, the re-
9 port recommended the award of credit under
10 the Community Reinvestment Act of 1977
11 (CRA) to lenders that promote borrowers from
12 the subprime to prime mortgage market, the
13 denial of CRA credit to lenders for the origina-
14 tion or purchase of loans that violate applicable
15 lending laws, the disclosure by lenders of the in-
16 cidence of high-cost loans in pools of mortgage-
17 backed securities, and the disclosure of the inci-
18 dence of such loans in the offering documents
19 for such securities.

20 (9) A recent study by the Center for Commu-
21 nity Change, entitled “Risk or Race? Racial Dispari-
22 ties and the Subprime Refinance Market” found a
23 geographic concentration of subprime lending in mi-
24 nority neighborhoods and to borrowers of color at all
25 income levels.

1 (10) A number of government agencies have be-
2 come involved in addressing various aspects of the
3 predatory lending issue in an attempt to reduce the
4 number of lenders that use high-pressure tele-
5 marketing sales techniques and mislead borrowers
6 about increases in interest rates and monthly pay-
7 ments on adjustable rate mortgages.

8 (11) Predatory lending threatens to undo the
9 work of many nonprofit organizations that have
10 worked with lenders and local governments to im-
11 prove distressed neighborhoods. More needs to be
12 done to assist borrowers who already have predatory
13 loans, to educate consumers about the dangers and
14 pitfalls of entering into a home loan, and to refer
15 consumers to appropriate governmental agencies or
16 consumer protection organizations for assistance.

17 **SEC. 3. GRANT PROGRAM FOR EDUCATION AND COUN-**
18 **SELING REGARDING PREDATORY LENDING.**

19 (a) **IN GENERAL.**—The Secretary of Housing and
20 Urban Development may make grants under this section
21 to States, units of general local government, and nonprofit
22 organizations, which shall be used only for costs of car-
23 rying out eligible anti-predatory lending activities under
24 subsection (b).

1 (b) ELIGIBLE ANTI-PREDATORY LENDING ACTIVI-
2 TIES.—Amounts from a grant under this section may be
3 used only for carrying out the following activities:

4 (1) EDUCATION PROGRAMS.—For education
5 programs to inform and educate consumers, particu-
6 larly those most vulnerable to being taken advantage
7 of by predatory and unscrupulous lending practices
8 relating to home loans (such as low-income bor-
9 rowers and senior citizens), regarding home mort-
10 gages, mortgage refinancing, home equity loans, and
11 home repair loans with unjustifiably high interest
12 rates, excessive fees, balloon payments, prepayment
13 penalties, and the imposition of other unreasonable,
14 and sometimes fraudulent, terms.

15 (2) COUNSELING PROGRAMS.—For programs,
16 provided only by organizations certified by the Sec-
17 retary as competent to provide homeownership coun-
18 seling, that counsel homeowners and prospective
19 homeowners regarding predatory and unscrupulous
20 lending practices relating to home loans.

21 (3) REFERRAL SERVICES.—For services that
22 provide referrals, for homeowners and prospective
23 homeowners—

24 (A) to education and counseling programs
25 described in paragraphs (1) and (2); or

1 (B) to appropriate agencies or authorities
2 responsible for handling consumer complaints,
3 allegations, or requests for assistance regarding
4 predatory and unscrupulous lending practices
5 relating to home loans or for investigating the
6 circumstances surrounding home loans for pos-
7 sible violations of law.

8 (c) ELIGIBILITY AND APPLICATION.—To be eligible
9 for a grant under this section, a State, unit of general
10 local government, or nonprofit organization shall submit
11 to the Secretary an application for a grant in such form
12 and including such information as the Secretary shall re-
13 quire, which shall include such information as the Sec-
14 retary considers appropriate to ensure that the grant
15 amounts are used for activities eligible under subsection
16 (b).

17 (d) MAXIMUM GRANT AMOUNT.—The maximum
18 amount of grant funds that may be provided under this
19 section to any single grantee for any single fiscal year shall
20 be \$1,000,000.

21 (e) SELECTION OF APPLICANTS.—The Secretary
22 shall provide for States, units of general local government,
23 and nonprofit organizations to submit applications for
24 grants under this section. The Secretary shall select appli-

1 cations to receive such grants according to selection cri-
2 teria, which the Secretary shall establish.

3 **SEC. 4. TOLL-FREE TELEPHONE NUMBER FOR PREDATORY**
4 **LENDING COMPLAINTS.**

5 The Secretary shall, using any amounts reserved
6 under section 7(1), provide for the establishment, oper-
7 ation, and publication of a nationwide toll-free telephone
8 number to receive consumer complaints regarding preda-
9 tory and unscrupulous lending practices relating to home
10 loans, provide information about predatory lending, refer
11 borrowers who already have predatory loans to the appro-
12 priate governmental agencies or consumer protection orga-
13 nizations for assistance, and coordinate between existing
14 State and nonprofit community organizations to create a
15 resource database of information for consumers.

16 **SEC. 5. PREDATORY LENDING ADVISORY COUNCIL.**

17 (a) ESTABLISHMENT.—There is established in the
18 Department of Housing and Urban Development a Preda-
19 tory Lending Advisory Council (in this section referred to
20 as the “Council”) to advise the Secretary on policies and
21 issues relating to predatory and unscrupulous lending
22 practices relating to home loans.

23 (b) MEMBERSHIP.—The Council shall be composed of
24 13 members appointed by the Secretary, who shall in-
25 clude—

1 (1) 4 members who are representatives of com-
2 munity-based organizations that work with con-
3 sumers, lenders, and State and local governments to
4 improve distressed neighborhoods, assist borrowers
5 who already have predatory loans, educate con-
6 sumers about the dangers and pitfalls of entering
7 into a home loan, and refer consumers to appro-
8 priate governmental agencies or consumer protection
9 organizations for assistance;

10 (2) 3 members who are officials of State agen-
11 cies or offices for consumer affairs or consumer pro-
12 tection;

13 (3) 3 members who are private homeowners
14 who are familiar with home mortgages, mortgage re-
15 financing, home equity loans, and home repair loans;
16 and

17 (4) 3 members who are representatives of the
18 private real estate industry, such as realtors, mort-
19 gage brokers, and bankers.

20 (c) TERMS AND VACANCIES.—Members of the Coun-
21 cil shall serve terms of two years, except that, of the initial
22 members appointed, half shall serve terms of one year and
23 half shall serve terms of two years. A vacancy in the Coun-
24 cil shall be filled in the manner in which the original ap-
25 pointment was made.

1 (d) TRAVEL EXPENSES.—Members of the Council
2 shall serve without compensation but shall receive travel
3 expenses, including per diem in lieu of subsistence, in ac-
4 cordance with sections 5702 and 5703 of title 5, United
5 States Code.

6 (e) CHAIRPERSON.—The Secretary shall designate a
7 chairperson of the Council at the time of appointment.

8 (f) MEETINGS AND HEARINGS.—The Council shall
9 meet upon the call of the chairperson, except that the
10 council shall meet not fewer than 3 times per year. The
11 Council shall have the authority, when a majority of the
12 members deem necessary, to hold public hearings and to
13 take testimony and receive evidence from individuals and
14 organizations.

15 (g) ADVISORY FUNCTIONS.—The Council shall pro-
16 vide advice to the Secretary regarding—

17 (1) the grant program under section 3, includ-
18 ing advice regarding criteria for selection of applica-
19 tions to receive grant amounts;

20 (2) the establishment, operation, and publica-
21 tion of the toll-free telephone number under section
22 4;

23 (3) coordination of activities of the Secretary
24 regarding prevention of predatory and unscrupulous

1 lending practices relating to home loans with such
2 activities of lending institutions; and

3 (4) any other matters regarding predatory and
4 unscrupulous lending practices relating to home
5 loans that the Secretary considers appropriate.

6 (h) STUDY OF DEFAULTS AND FORECLOSURES.—

7 The Council shall conduct an extensive study of the root
8 causes of default and foreclosure of home loans, using as
9 much empirical data as are available. The Council shall
10 submit a report to the Secretary and the Congress, not
11 later than 12 months after the full membership of the
12 Council is first appointed, regarding the results of the
13 study, which shall include recommendations for consumer
14 protection legislation regarding predatory and unscrupu-
15 lous lending practices relating to home loans.

16 **SEC. 6. DEFINITIONS.**

17 For purposes of this Act, the following definitions
18 shall apply:

19 (1) HOME LOAN.—The term “home loan”
20 means a loan or agreement to extend credit made to
21 a natural person, which loan is secured by a deed to
22 secure debt, security deed, mortgage, security instru-
23 ment, deed of trust, or other document representing
24 a security interest or lien upon any interest in one-
25 to four-family residential property or a manufac-

1 tured home, regardless of where made, including the
2 renewal or refinancing of any such loan. Such term
3 includes a home equity line of credit or home im-
4 provement loan or other similar agreement.

5 (2) NONPROFIT ORGANIZATION.—The term
6 “nonprofit organization” has the meaning given
7 such term in section 104(5) of the Cranston-Gon-
8 zalez National Affordable Housing Act (42 U.S.C.
9 12704(5)), except that subparagraph (D) of such
10 section shall not apply for purposes of this Act.

11 (3) PREDATORY OR UNSCRUPULOUS LENDING
12 PRACTICE.—The term “predatory or unscrupulous
13 lending practice” includes—

14 (A) making any loan that—

15 (i) is solely based on the borrower’s
16 home equity;

17 (ii) is made without regard to the bor-
18 rower’s ability to repay the obligation; and

19 (iii) is unaffordable to the borrower,
20 as may be evidenced by a failure to fully
21 understand the terms of the loans, a fail-
22 ure to offer adequate disclosures of the
23 loan terms, a difficulty in meeting over-
24 whelming mortgage payments, loss of a
25 home through foreclosure, or otherwise;

1 (B) inducing a borrower to refinance a
2 loan repeatedly and charging additional points
3 and fees, even though refinancing may not be in
4 the borrower's interest; and

5 (C) engaging in fraud or deception to con-
6 ceal the true nature of the loan obligation from
7 an unsuspecting or unsophisticated borrower.

8 (4) SECRETARY.—The term “Secretary” means
9 the Secretary of Housing and Urban Development.

10 (5) STATE.—The term “State” means each of
11 the several States, the Commonwealth of Puerto
12 Rico, the District of Columbia, the Commonwealth
13 of the Northern Mariana Islands, Guam, the Virgin
14 Islands, American Samoa, the Trust Territories of
15 the Pacific, or any other possession of the United
16 States.

17 (6) UNIT OF GENERAL LOCAL GOVERNMENT.—
18 The term “unit of general local government” means
19 any city, town, township, parish, village, or other
20 general purpose political subdivision of a State.

21 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

22 There is authorized to be appropriated for carrying
23 out this Act \$55,000,000 for each of fiscal years 2006
24 through 2010, of which—

1 (1) not more than \$2,000,000 in each such fis-
2 cal year shall be for carrying out section 4; and

3 (2) not more than \$5,000,000 in each such fis-
4 cal year shall be for carrying out section 5.

5 **SEC. 8. REGULATIONS.**

6 The Secretary may issue any regulations necessary
7 to carry out this Act.

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