

110TH CONGRESS
1ST SESSION

H. R. 3296

To amend the Truth in Lending Act to establish transparency and accountability requirements for mortgage brokers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 1, 2007

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

A BILL

To amend the Truth in Lending Act to establish transparency and accountability requirements for mortgage brokers, 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 “Mortgage Broker
5 Transparency and Accountability Act of 2007”.

6 **SEC. 2. MORTGAGE BROKER REQUIREMENTS.**

7 The Truth in Lending Act (15 U.S.C. 1601 et seq.)
8 is amended by inserting after section 129 the following
9 new section:

1 **“§ 129A. Duties of mortgage brokers**

2 “(a) DEFINITIONS.—For purposes of this section, the
3 following definitions shall apply:

4 “(1) HOME MORTGAGE LOAN.—The term ‘home
5 mortgage loan’ means any consumer credit trans-
6 action in which a security interest, including any
7 such interest arising by operation of law, is or will
8 be retained or acquired in any real property located
9 within the United States which is or, upon the com-
10 pletion of the transaction, will be used as the prin-
11 cipal residence of the consumer.

12 “(2) MORTGAGE BROKER.—The term ‘mortgage
13 broker’ means any person who, for compensation or
14 in anticipation of compensation, provides mortgage
15 brokerage services with respect to home mortgage
16 loans for which the person is not the creditor and
17 includes any loan correspondents that provide such
18 services.

19 “(3) MORTGAGE BROKERAGE SERVICES.—The
20 term ‘mortgage brokerage services’ means any of the
21 following services:

22 “(A) Arranging or negotiating, or attempt-
23 ing to arrange or negotiate, home mortgage
24 loans or commitments for such loans.

1 “(B) Referring consumer applicants or
2 prospective applicants for home mortgage loans
3 to creditors.

4 “(C) Selecting or offering to select, on be-
5 half of consumers, creditors to whom requests
6 for an extension of a home mortgage loan may
7 be made.

8 “(b) MORTGAGE BROKER RESPONSIBILITIES AND
9 DUTIES.—

10 “(1) AGENCY BY OPERATION OF LAW.—A mort-
11 gage broker who provides mortgage brokerage serv-
12 ices to any consumer shall be deemed to have an
13 agency relationship with the consumer for such pur-
14 poses and the broker shall be subject to all require-
15 ments for agents of consumers that are applicable
16 under State or Federal law in connection with pro-
17 viding such services.

18 “(2) BROKER DUTIES.—In providing any mort-
19 gage brokerage services to any consumer, the mort-
20 gage broker shall—

21 “(A) act with reasonable skill, care, and
22 diligence in providing any such services to the
23 consumer and provide the consumer with a rea-
24 sonable choice among available home mortgage

1 loan products that meet the consumer’s stated
2 needs for mortgage financing;

3 “(B) disclose to a consumer the risks and
4 benefits of each home mortgage loan product
5 offered to the borrower, including any possi-
6 bility of, and the possible extent of, a payment
7 increase at the time of any resetting of rate, the
8 extent of any prepayment penalties, balloon
9 payments, and the consumer’s responsibilities
10 to pay taxes and insurance with respect to such
11 product;

12 “(C) disclose to the consumer—

13 “(i) all fees or other payments the
14 mortgage broker may or will receive, if
15 any, from a creditor in connection with
16 each home mortgage loan product that is
17 offered or disclosed to the consumer, di-
18 rectly or indirectly, in the course of pro-
19 viding such services;

20 “(ii) the amount of each such fee or
21 payment;

22 “(iii) the rate used to determine the
23 amount of any such fee;

24 “(iv) how the consumer may use the
25 amount of such fees or payments to reduce

1 settlement costs otherwise applicable to the
2 consumer upon entering into consumer
3 credit transaction involving such home
4 mortgage loan product; and

5 “(v) all fees or other payments the
6 mortgage broker may or will receive, if
7 any, from the consumer in connection with
8 each home mortgage loan product that is
9 offered or disclosed to the consumer, di-
10 rectly or indirectly, in the course of pro-
11 viding such services;

12 “(D) meet all applicable licensing require-
13 ments under State or local law; and

14 “(E) obtain and permanently maintain a
15 bond—

16 “(i) for an amount equal to not less
17 than 1 percent of the aggregate value of all
18 direct and indirect fees received by the
19 mortgage broker in connection with pro-
20 viding mortgage brokerage services in the
21 calendar year preceding the date of the
22 transaction;

23 “(ii) that inures, first, to the benefit
24 of any consumer who has any claim
25 against the mortgage broker under this

1 title or any other applicable provision of
2 law; and, second, to the benefit of creditors
3 that deal with mortgage brokers in accord-
4 ance with this title; and

5 “(iii) under which any assignee or
6 subsequent transferee or trustee of a con-
7 sumer or creditor remains a beneficiary of
8 the bond.

9 “(3) STEERING PROHIBITED.—In connection
10 with a home mortgage loan, a mortgage broker may
11 not steer, counsel, or direct a consumer to a higher-
12 cost mortgage as evidenced by higher rates, charges,
13 principal amounts, or the inclusion of prepayment
14 penalties or other terms than a lower-cost mortgage
15 for which the consumer would otherwise qualify, con-
16 sidering the loan features requested by the con-
17 sumer.

18 “(c) STATUTORY OBLIGATION.—No requirement im-
19 posed on any mortgage broker under this section may be
20 waived by any consumer or by the terms of any agreement
21 executed between the mortgage broker and any consumer.

22 “(d) ENFORCEMENT.—For purposes of providing a
23 cause of action for any failure to comply with any require-
24 ment imposed this section, section 130(a) shall be applied
25 with respect to any such failure—

1 “(1) by substituting ‘mortgage broker’ for
2 ‘creditor’ each place such term appears in such sec-
3 tion; and

4 “(2) by treating all points, fees, and costs in-
5 curred in the origination of any home mortgage loan
6 as actual damages sustained by the consumer as a
7 result of the failure.”.

8 **SEC. 3. DISCLOSURE OF AFFILIATIONS.**

9 The Truth in Lending Act (15 U.S.C. 1601 et seq.)
10 is amended by inserting after section 129A (as added by
11 section 2 of this Act) the following new section:

12 **“§ 129B. Disclosures in connection with all home**
13 **mortgage loans**

14 “Each creditor, mortgage broker (as defined in sec-
15 tion 129A), or other person involved in making or obtain-
16 ing a home mortgage loan (as defined in section 129A)
17 to or for any consumer shall disclose to the consumer any
18 financial or other business relationship the creditor, mort-
19 gage broker, or other person has with any person that may
20 be involved in the transaction resulting in the home mort-
21 gage loan, including any real estate agent, any person pro-
22 viding title insurance, any person providing settlement
23 services (as defined in section 3 of the Real Estate Settle-
24 ment Procedures Act of 1974), or any person providing
25 table-top financing (in the case of a loan correspondent)

1 and information sufficient to inform the consumer about
2 the relationship, including whether the relationship is ex-
3 clusive.”.

4 **SEC. 4. CLERICAL AMENDMENT.**

5 The table of sections for chapter 2 of the Truth in
6 Lending Act is amended by inserting after the item relat-
7 ing to section 129 the following new items:

“129A. Duties of mortgage brokers.

“129B. Disclosures in connection with all home mortgage loans.”.

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