

HOMEBUYERS ASSISTANCE ACT

OCTOBER 1, 2015.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HENSARLING, from the Committee on Financial Services,
submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 3192]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 3192) to provide for a temporary safe harbor from the enforcement of integrated disclosure requirements for mortgage loan transactions under the Real Estate Settlement Procedures Act of 1974 and the Truth in Lending Act, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE AND SUMMARY

Introduced by Representative Hill, the Homebuyers Assistance Act provides a temporary legal safe harbor (until February 1, 2016) from enforcement of the Bureau of Consumer Financial Protection's ("CFPB's) TILA-RESPA Integrated Disclosure Rule set to take effect October 3, 2015, as long as a good faith effort is made to comply with the rule.

BACKGROUND AND NEED FOR LEGISLATION

On November 20, 2013, the CFPB finalized the TILA-RESPA Integrated Disclosure Rule (TRID), which combined certain disclosures that consumers receive in applying for and closing on a residential mortgage loan, including disclosures required under the Truth in Lending Act (TILA) and the Real Estate Settlement Proce-

dures Act (RESPA). The new disclosures are generally referred to as the “combined” or “integrated” disclosures. The TRID applies to most closed-end consumer mortgages and includes a number of substantive changes and additions to RESPA and TILA. The final rule was originally to become effective for mortgage applications received on or after August 1, 2015.

The TRID requires loan originators who receive an application to provide consumers a loan estimate form that combines the initial TILA disclosure and the Good Faith Estimate. The rule also requires loan originators to provide consumers a Closing Disclosure form, which combines the final TILA disclosure and the HUD-1 Settlement Statement, at least three business days prior to consummation of the mortgage. The TRID also imposes record retention requirements and restricts mortgage originators from imposing certain fees, providing estimates, or requiring consumers to verify information before providing consumers with a Loan Estimate form.

On January 20, 2015, the CFPB promulgated a series of amendments to the TRID, including:

1. An extension of the time frame to issue a revised Loan Estimate when an interest rate moves from floating to locked from one to three business days, and
2. A provision allowing for the disclosure that a creditor has reserved its right to issue a revised Loan Estimate for loans funding new construction.

While intended to streamline the current duplicative disclosure regime under TILA and RESPA, the TRID poses significant implementation and compliance challenges because it increases the number of disclosures mortgage lenders must provide. The TRID also makes significant changes to the origination, processing, and closing of mortgage loans; requires business decisions at all stages of the transaction; and includes difficult-to-understand timing and delivery requirements and other practical implementation issues that go beyond the form content requirements.

On May 14, 2015, the Subcommittee on Housing and Insurance held a hearing entitled “TILA-RESPA Integrated Disclosure: Examining the Costs and Benefits of Changes to the Real Estate Settlement Process,” at which industry stakeholders testified on their efforts to comply with the TRID rule. During the hearing, a bipartisan group of Committee members expressed support for a hold-harmless period that extends until the end of the year. Additionally, a bipartisan group of nearly 300 Senators and House Members have written to the CFPB asking for a formalized hold harmless period.

On June 17, 2015 Director Cordray announced that the CFPB would delay the effective date of the TRID, citing an “administrative error.” The error was failing to timely file a report with Congress pursuant to the Congressional Review Act, which requires the filing of a rule report and stays the effective date of any rule for 60 days pending Congressional review. Because the CFPB did not file the required report until June 16, 2015, the Act stayed the effective date past August 1, the date specified in the CFPB’s final rule. On July 21, the CFPB issued a revised final rule moving the effective date to October 3, 2015.

HEARINGS

The Committee on Financial Services' Subcommittee on Housing and Insurance held a hearing examining matters relating to H.R. 3192 on May 14, 2015. In addition, the full Committee held a hearing on September 29, 2015, at which matters relating to the bill were discussed.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on July 28, 2015 and July 29, 2015, and ordered H.R. 3192 to be reported favorably to the House without amendment by a recorded vote of 45 yeas to 13 nays (Record vote no. FC-50), a quorum being present.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The sole vote in committee was a motion by Chairman Hensarling to report the bill favorably to the House without amendment. The motion was agreed to by a recorded vote of 45 yeas to 13 nays (Record vote no. FC-50), a quorum being present.

Record vote no. FC-50

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Hensarling	X			Ms. Waters (CA)		X	
Mr. King (NY)	X			Mrs. Maloney (NY)		X	
Mr. Royce	X			Ms. Velázquez		X	
Mr. Lucas	X			Mr. Sherman	X		
Mr. Garrett	X			Mr. Meeks		X	
Mr. Neugebauer	X			Mr. Capuano		X	
Mr. McHenry	X			Mr. Hinojosa		X	
Mr. Pearce	X			Mr. Clay		X	
Mr. Posey	X			Mr. Lynch		X	
Mr. Fitzpatrick	X			Mr. David Scott (GA)	X		
Mr. Westmoreland	X			Mr. Al Green (TX)		X	
Mr. Luetkemeyer	X			Mr. Cleaver			
Mr. Huizenga (MI)	X			Ms. Moore		X	
Mr. Duffy	X			Mr. Ellison		X	
Mr. Hurt (VA)	X			Mr. Perlmutter		X	
Mr. Stivers	X			Mr. Himes	X		
Mr. Fincher	X			Mr. Carney			
Mr. Stutzman	X			Ms. Sewell (AL)		X	
Mr. Mulvaney	X			Mr. Foster	X		
Mr. Hultgren	X			Mr. Kildee	X		
Mr. Ross	X			Mr. Murphy (FL)	X		
Mr. Pittenger	X			Mr. Delaney	X		
Mrs. Wagner	X			Ms. Sinema	X		
Mr. Barr	X			Mrs. Beatty	X		
Mr. Rothfus	X			Mr. Heck (WA)	X		
Mr. Messer	X			Mr. Vargas	X		
Mr. Schweikert	X						
Mr. Guinta	X						
Mr. Tipton	X						
Mr. Williams	X						
Mr. Poliquin	X						
Mrs. Love	X						
Mr. Hill	X						
Mr. Emmer	X						

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee states that H.R. 3192 will facilitate the orderly implementation of the TILA-RESPA Integrated Disclosure Rule while reducing compliance risk for regulated entities by providing such entities with a temporary safe harbor provided they make a good faith effort to comply with the Rule's disclosure requirements.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 28, 2015.

Hon. JEB HENSARLING,
Chairman, Committee on Financial Services, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3192, the Homebuyers Assistance Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susan Willie.

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 3192—Homebuyers Assistance Act

The Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111–203) directed the Consumer Financial Protection Bureau (CFPB) to develop a rule that combined certain disclosures that mortgage lenders must make under the Truth in Lending Act and the Real Estate Settlement and Procedures Act. The CFPB has completed that rulemaking; the final rule will become effective on October 3, 2015. H.R. 3192 would establish February 1, 2016, as the new effective date for the new rule. During the time between the date of enactment of the bill and the new effective date, lenders would not be liable for violations of the integrated disclosure requirements so long as they made a good faith effort to comply with the requirements.

Based on information from the CFPB, CBO estimates that enacting H.R. 3192 would affect direct spending; therefore, pay-as-you-go procedures apply. However, we expect those effects would be negligible because the agency has completed the required rulemaking and the delay would have a minor effect on the agency's workload. Enacting H.R. 3192 would not affect revenues. Implementing the bill would not affect discretionary costs because the CFPB is permanently authorized to spend amounts transferred from the Federal Reserve System.

H.R. 3192 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Susan Willie. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of the section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

H.R. 3192 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to section 3(g) of H. Res. 5, 114th Cong. (2015), the Committee states that no provision of H.R. 3192 establishes or authorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included

in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(i) of H. Res. 5, 114th Cong. (2015), the Committee states that H.R. 3192 does not require any directed rulemakings.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Provides that the Act may be cited as the “Homebuyers Assistance Act.”

Section 2. Enforcement safe harbor

Provides that the integrated disclosure requirements under section 4(a) of RESPA, section 105(b) of TILA, and regulations issued under such sections may not be enforced against any person until February 1, 2016, and no suit may be filed against any person for a violation of such requirements occurring before such date, so long as such person has made a good faith effort to comply with such requirements.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

H.R. 3192 does not amend any section of a statute. Therefore, the Office of Legislative Counsel did not prepare the report contemplated by clause 3(e)(1)(B) of rule XIII of the House of Representatives.

MINORITY VIEWS

Clarifying and combining the required disclosure forms for the Truth in Lending Act and the Real Estate Settlement Procedures Act has been a shared goal of the mortgage lending industry and consumer advocates for many years. The Dodd-Frank Act required the Consumer Financial Protection Bureau (CFPB) to use its expertise to solve this problem, and create a unified form that would work for consumers and the industry. Everybody agrees that the CFPB has succeeded in that goal.

When the CFPB promulgated its Ability-to-Repay rule and defined the terms of Qualified Mortgages, CFPB Director Cordray assured the industry, and especially smaller banks and lenders, that the Bureau would not aggressively enforce technical mistakes, and that they would strongly consider good-faith efforts to comply with the new rules before bringing any actions.

Similarly, in the implementation of the new disclosures, Director Cordray has made many comments to assuage industry concerns. He has assured lenders, service providers and Congress that good faith efforts to comply with the new rules will be an important consideration under the enforcement regime for several months into next year. The Bureau has also extended the deadline for implementation by two months in order to provide industry with a chance to modify its compliance operations. The CFPB's website also has numerous materials to assist small businesses in training their employees and adopting new compliance practices. The Bureau has indicated in every way possible that it intends to work cooperatively with industry to meet the shared goal of adopting shorter, simpler, easier to understand disclosures for mortgages.

For these reasons, it is unnecessary for Congress to micromanage the CFPB's supervision and enforcement decisions, which is one of the goals of this bill.

H.R. 3192 would also have a detrimental impact on American homebuyers. The Truth in Lending Act provides borrowers an opportunity for recourse through the courts if a lender acts in bad faith and fails to disclose or obscures important information to the borrower. These rights are crucial for protecting consumers that likely are making one of the biggest financial commitments of their lives: buying a home. This bill would eliminate that right for all borrowers during the hold harmless period. Stripping back this consumer protection could have a profound impact on consumer safety, mortgage applications, and the broader economy.

The Truth in Lending Act already provides limited liability for disclosure related violations and allows lenders to cure errors made in good faith. While most lenders are acting in the best interests of the borrower, there are a small number of bad actors who can have an enormously costly impact on their victims. A small but important amount of private litigation is brought under TILA protec-

tions in these cases, which promotes trust in the mortgage lending system.

Removing these important protections for all loans originated in the proposed period could discourage all borrowers, potentially stalling the nascent recovery in housing markets.

MAXINE WATERS.
CAROLYN B. MALONEY.

