

110TH CONGRESS  
1ST SESSION

# H. R. 3813

To amend the Truth in Lending Act to prohibit mortgage originators from receiving incentive compensation that varies with the terms of a residential mortgage loan and from steering consumers to residential mortgage loans that are not in the consumers' best interest, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 10, 2007

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

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## A BILL

To amend the Truth in Lending Act to prohibit mortgage originators from receiving incentive compensation that varies with the terms of a residential mortgage loan and from steering consumers to residential mortgage loans that are not in the consumers' best interest, 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 Kickback  
5 Prevention Act of 2007”.

1 **SEC. 2. ANTI-STEERING.**

2 (a) IN GENERAL.—Chapter 2 of the Truth in Lend-  
3 ing Act (15 U.S.C. 1631 et seq.) by inserting after section  
4 129 the following new section:

5 **“§ 129A. Anti-steering requirement**

6 “(a) PROHIBITION ON STEERING INCENTIVES.—No  
7 mortgage originator may receive from any person, and no  
8 person may pay to any mortgage originator, any incentive  
9 compensation (including yield spread premium) that ac-  
10 crues directly or indirectly to the mortgage originator that  
11 is based on, or varies with, the terms of any residential  
12 mortgage loan.

13 “(b) REGULATIONS.—

14 “(1) AUTHORIZED.—The Board and the Sec-  
15 retary, in consultation with the Commission, may  
16 prescribe regulations to—

17 “(A) further define the terms ‘incentive  
18 compensation’ and ‘terms of any residential  
19 mortgage loan’; and

20 “(B) provide exceptions to the application  
21 of paragraph (1), or additional requirements,  
22 with respect to incentive compensation.

23 “(2) CONDITIONS.—In prescribing any regula-  
24 tions that permit an exception to paragraph (1) or  
25 adds additional requirements, the Board and the  
26 Secretary shall ensure that such regulations—

1           “(A) promote the interest of the consumer  
2           in obtaining—

3                   “(i) the best terms for a residential  
4                   mortgage loan for which the consumer  
5                   qualifies; and

6                   “(ii) useful information on the nature  
7                   of the residential mortgage loan and the  
8                   relationship of the consumer with the  
9                   mortgage originator; and

10           “(B) prohibit mortgage originators from  
11           steering, counseling, or directing a consumer  
12           into any residential mortgage loan that is not in  
13           the consumer’s best interest, based on informa-  
14           tion known by, or provided in good faith to, the  
15           originator, the characteristics of the property  
16           that secures or will secure the extension of  
17           credit, and the loan terms for which the con-  
18           sumer qualifies.

19           “(c) DEFINITIONS.—For purposes of this section, the  
20           following definitions shall apply:

21                   “(1) MORTGAGE ORIGINATOR.—The term  
22                   ‘mortgage originator’—

23                           “(A) means a person who—

24                                   “(i) takes a residential mortgage loan  
25                                   application;

1           “(ii) assists a consumer in obtaining  
2           or applying to obtain a residential mort-  
3           gage loan; or

4           “(iii) offers or negotiates terms of a  
5           mortgage loan, for direct or indirect com-  
6           pensation or gain, or in the expectation of  
7           direct or indirect compensation or gain;

8           “(B) includes any person who represents  
9           to the public, through advertising or other  
10          means of communicating or providing informa-  
11          tion (including the use of business cards, sta-  
12          tionery, brochures, signs, rate lists, or other  
13          promotional items), that such individual can or  
14          will provide or perform any of the activities de-  
15          scribed in subparagraph (A); and

16          “(C) does not include any person who is  
17          not otherwise described in subparagraph (A) or  
18          (B) and who performs purely administrative or  
19          clerical tasks on behalf of a person who is de-  
20          scribed in any such subparagraph.

21          “(2) RESIDENTIAL MORTGAGE LOAN.—The  
22          term ‘residential mortgage loan’ means any con-  
23          sumer credit transaction that is secured by a mort-  
24          gage or deed of trust on residential real estate that  
25          includes a dwelling.”.

1           (b) CLERICAL AMENDMENT.—The table of sections  
2 for chapter 2 of the Truth in Lending Act is amended  
3 by inserting after the item relating to section 129 the fol-  
4 lowing new item:

“129A. Anti steering requirement.”.

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