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By: **Delegates Marriott, R. Baker, Benson, Gladden, McIntosh, and Phillips**  
Introduced and read first time: February 11, 2000  
Assigned to: Commerce and Government Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law - Credit Regulation - Home Mortgage Loans**

3 FOR the purpose of prohibiting certain home loans from having certain payment  
4 schedules; prohibiting prepayment fees or penalties with respect to certain  
5 home loans; prohibiting certain lenders from engaging in certain practices and  
6 taking certain actions in connection with certain home loans; prohibiting certain  
7 high-cost home loans from having certain scheduled payments, terms, and  
8 provisions; providing that the provisions of this Act governing high-cost home  
9 loans apply to certain persons who take certain actions to avoid the application  
10 of the provisions of this Act; specifying the circumstances under which a lender  
11 that fails to comply with the provisions of this Act governing high-cost home  
12 loans will not be deemed to have violated the provisions of this Act; prohibiting  
13 lenders from making certain investments; requiring certain lenders to report  
14 certain information to the Commissioner of Financial Regulation at certain  
15 times and in a certain format; establishing a certain penalty for making a loan  
16 in violation of this Act; defining certain terms; providing for a delayed effective  
17 date; and generally relating to the regulation of lenders that make home  
18 mortgage loans.

19 BY adding to  
20 Article - Commercial Law  
21 Section 12-1201 through 12-1208, inclusive, to be under the new subtitle  
22 "Subtitle 12. Consumer Loans - Home Mortgage Loans"  
23 Annotated Code of Maryland  
24 (1990 Replacement Volume and 1999 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
26 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Commercial Law**

2 SUBTITLE 12. CONSUMER LOANS - HOME MORTGAGE LOANS.

3 12-1201.

4 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
5 INDICATED.6 (B) "AFFILIATE" MEANS ANY COMPANY THAT CONTROLS, IS CONTROLLED BY,  
7 OR IS UNDER COMMON CONTROL WITH ANOTHER COMPANY, AS SET FORTH IN THE  
8 FEDERAL BANK HOLDING COMPANY ACT OF 1956.9 (C) "ANNUAL PERCENTAGE RATE" MEANS THE ANNUAL PERCENTAGE RATE  
10 FOR A LOAN CALCULATED ACCORDING TO THE PROVISIONS OF THE FEDERAL  
11 TRUTH-IN-LENDING ACT, AND THE REGULATIONS PROMULGATED UNDER THE ACT  
12 BY THE FEDERAL RESERVE BOARD.13 (D) "BONA FIDE LOAN DISCOUNT POINTS" MEANS LOAN DISCOUNT POINTS  
14 THAT ARE KNOWINGLY PAID BY THE BORROWER FOR THE PURPOSE OF REDUCING,  
15 AND WHICH IN FACT RESULT IN A BONA FIDE REDUCTION OF, THE INTEREST RATE  
16 OR TIME-PRICE DIFFERENTIAL APPLICABLE TO A LOAN, PROVIDED THE AMOUNT OF  
17 THE INTEREST RATE REDUCTION PURCHASED BY THE DISCOUNT POINTS IS  
18 REASONABLY CONSISTENT WITH ESTABLISHED INDUSTRY NORMS AND PRACTICES  
19 FOR SECONDARY MORTGAGE MARKET TRANSACTIONS.20 (E) "COMMISSIONER" MEANS THE COMMISSIONER OF FINANCIAL  
21 REGULATION IN THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION.

22 (F) "EXCLUDED DISCOUNT POINTS" MEANS DISCOUNT POINTS:

23 (1) UP TO AND INCLUDING TWO BONA FIDE LOAN DISCOUNT POINTS  
24 PAYABLE BY THE BORROWER IN CONNECTION WITH A LOAN TRANSACTION, BUT  
25 ONLY IF THE INTEREST RATE FROM WHICH THE LOAN'S INTEREST RATE WILL BE  
26 DISCOUNTED DOES NOT EXCEED BY MORE THAN ONE PERCENTAGE POINT THE  
27 REQUIRED NET YIELD FOR A 90-DAY STANDARD MANDATORY DELIVERY  
28 COMMITMENT FOR A REASONABLY COMPARABLE LOAN FROM EITHER THE FEDERAL  
29 NATIONAL MORTGAGE ASSOCIATION OR THE FEDERAL HOME LOAN MORTGAGE  
30 CORPORATION, WHICHEVER IS GREATER; AND31 (2) UP TO AND INCLUDING ONE BONA FIDE LOAN DISCOUNT POINT  
32 PAYABLE BY THE BORROWER IN CONNECTION WITH THE LOAN TRANSACTION, BUT  
33 ONLY IF THE INTEREST RATE FROM WHICH THE LOAN'S INTEREST RATE WILL BE  
34 DISCOUNTED DOES NOT EXCEED BY MORE THAN TWO PERCENTAGE POINTS THE  
35 REQUIRED NET YIELD FOR A 90-DAY STANDARD MANDATORY DELIVERY  
36 COMMITMENT FOR A REASONABLY COMPARABLE LOAN FROM EITHER THE FEDERAL  
37 NATIONAL MORTGAGE ASSOCIATION OR THE FEDERAL HOME LOAN MORTGAGE  
38 CORPORATION, WHICHEVER IS GREATER.

1 (G) "FLIPPING" MEANS THE MAKING OF A HOME LOAN TO A BORROWER WHO  
2 REFINANCES AN EXISTING HOME LOAN WHEN THE NEW LOAN DOES NOT HAVE A  
3 REASONABLE, TANGIBLE NET BENEFIT TO THE BORROWER CONSIDERING ALL OF  
4 THE CIRCUMSTANCES, INCLUDING THE TERMS OF BOTH THE NEW AND REFINANCED  
5 LOANS, THE COST OF THE NEW LOAN, AND THE BORROWER'S CIRCUMSTANCES.

6 (H) "HIGH-COST HOME LOAN" MEANS A HOME LOAN IN WHICH THE TERMS OF  
7 THE LOAN MEET ONE OR MORE OF THE FOLLOWING THRESHOLDS:

8 (1) THE ANNUAL PERCENTAGE RATE OF THE HOME LOAN AT  
9 CONSUMMATION EXCEEDS BY FIVE OR MORE PERCENTAGE POINTS THE WEEKLY  
10 AVERAGE YIELD ON U.S. TREASURY SECURITIES ADJUSTED TO A CONSTANT  
11 MATURITY OF 1 YEAR, AS MADE AVAILABLE BY THE FEDERAL RESERVE BOARD, AS OF  
12 THE WEEK IMMEDIATELY PRECEDING THE WEEK IN WHICH THE INTEREST RATE  
13 FOR THE LOAN IS ESTABLISHED;

14 (2) THE HOME LOAN IS A VARIABLE RATE LOAN IN WHICH THE ANNUAL  
15 PERCENTAGE RATE REASONABLY CAN BE EXPECTED TO INCREASE BEYOND THE  
16 THRESHOLD ESTABLISHED IN PARAGRAPH (1) OF THIS SUBSECTION;

17 (3) POTENTIAL OR SCHEDULED INCREASES IN THE ANNUAL  
18 PERCENTAGE RATE OF THE HOME LOAN ARE NOT DIRECTLY TIED TO FUTURE  
19 INCREASES IN A WIDELY USED FEDERAL OR PRIVATE MARKET MEASUREMENT THAT  
20 REFLECTS THE COST OF BORROWING MONEY, SUCH AS THE INTEREST RATE YIELD  
21 ON U.S. TREASURY SECURITIES, THE FEDERAL FUNDS RATE, OR THE PRIME  
22 INTEREST RATE; OR

23 (4) THE TOTAL POINTS AND FEES ON THE LOAN, LESS ANY EXCLUDED  
24 DISCOUNT POINTS, EXCEED:

25 (I) 3 PERCENT OF THE TOTAL LOAN AMOUNT IF THE TOTAL LOAN  
26 AMOUNT IS \$20,000 OR MORE;

27 (II) 4 PERCENT OF THE TOTAL LOAN AMOUNT IF THE TOTAL LOAN  
28 AMOUNT IS \$20,000 OR MORE AND THE LOAN IS A PURCHASE MONEY LOAN  
29 GUARANTEED BY THE FEDERAL HOUSING ADMINISTRATION OR THE VETERANS  
30 ADMINISTRATION; OR

31 (III) THE LESSER OF 5 PERCENT OF THE TOTAL LOAN AMOUNT OR  
32 \$800 IF THE TOTAL LOAN AMOUNT IS LESS THAN \$20,000.

33 (I) "HOME LOAN" MEANS A LOAN, OTHER THAN AN OPEN-END CREDIT PLAN  
34 OR A REVERSE MORTGAGE TRANSACTION, WHERE:

35 (1) THE PRINCIPAL AMOUNT OF THE LOAN DOES NOT EXCEED THE  
36 CONFORMING LOAN SIZE LIMIT FOR A SINGLE-FAMILY DWELLING, AS ESTABLISHED  
37 FROM TIME TO TIME BY THE FEDERAL NATIONAL MORTGAGE ASSOCIATION;

38 (2) THE BORROWER IS A NATURAL PERSON;

1           (3)     THE DEBT IS INCURRED BY THE BORROWER PRIMARILY FOR  
2 PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES; AND

3           (4)     THE LOAN IS SECURED BY A MORTGAGE OR DEED OF TRUST ON REAL  
4 ESTATE ON WHICH THERE IS LOCATED OR THERE IS TO BE LOCATED A STRUCTURE  
5 OR STRUCTURES DESIGNED PRINCIPALLY FOR OCCUPANCY OF FROM ONE TO FOUR  
6 FAMILIES WHICH IS OR WILL BE OCCUPIED BY THE BORROWER AS THE BORROWER'S  
7 PRINCIPAL DWELLING.

8     (J)     "LENDER" MEANS AN ENTITY THAT ORIGINATED MORE THAN FIVE HOME  
9 LOANS WITHIN THE PAST 12-MONTH PERIOD, OR ACTED AS AN INTERMEDIARY  
10 BETWEEN ORIGINATORS AND BORROWERS ON MORE THAN FIVE HOME LOANS  
11 WITHIN THE PAST 12-MONTH PERIOD.

12    (K)     "OBLIGOR" MEANS EACH BORROWER, COBORROWER, COSIGNER, OR  
13 GUARANTOR OBLIGATED TO REPAY A LOAN.

14    (L)     (1)     "POINTS AND FEES" MEANS:

15                   (I)     ALL ITEMS REQUIRED TO BE DISCLOSED UNDER § 226.4(A) AND  
16 (B) OF TITLE 12 OF THE CODE OF FEDERAL REGULATIONS, EXCEPT INTEREST OR THE  
17 TIME-PRICE DIFFERENTIAL;

18                   (II)    ALL CHARGES FOR ITEMS LISTED UNDER § 226.4(C)(7) OF TITLE  
19 12 OF THE CODE OF FEDERAL REGULATIONS, BUT ONLY IF THE LENDER RECEIVES  
20 DIRECT OR INDIRECT COMPENSATION IN CONNECTION WITH THE CHARGE, OR THE  
21 CHARGE IS PAID TO AN AFFILIATE OF THE LENDER; AND

22                   (III)   ALL COMPENSATION PAID, DIRECTLY OR INDIRECTLY, TO A  
23 MORTGAGE BROKER, INCLUDING A BROKER THAT ORIGINATES A LOAN IN ITS OWN  
24 NAME IN A TABLE-FUNDED TRANSACTION, NOT OTHERWISE INCLUDED IN ITEM (I)  
25 OR (II) OF THIS PARAGRAPH.

26           (2)     "POINTS AND FEES" DO NOT INCLUDE:

27                   (I)     TAXES, FILING FEES, RECORDING FEES, AND OTHER CHARGES  
28 AND FEES PAID OR TO BE PAID TO PUBLIC OFFICIALS FOR DETERMINING THE  
29 EXISTENCE OF OR FOR PERFECTING, RELEASING, OR SATISFYING A SECURITY  
30 INTEREST; OR

31                   (II)    FEES AND CHARGES PAID TO A PERSON OTHER THAN A LENDER  
32 OR AN AFFILIATE OF THE LENDER OR TO THE MORTGAGE BROKER OR AN AFFILIATE  
33 OF THE MORTGAGE BROKER, AS FOLLOWS:

34                                 1.     FEES FOR FLOOD CERTIFICATION;

35                                 2.     FEES FOR PEST INFESTATION AND FLOOD  
36 DETERMINATIONS;

37                                 3.     APPRAISAL FEES;

- 1 4. FEES FOR INSPECTIONS PERFORMED PRIOR TO CLOSING;
- 2 5. FEES FOR CREDIT REPORTS;
- 3 6. FEES FOR SURVEYS;
- 4 7. ATTORNEY'S FEES, IF THE BORROWER HAS THE RIGHT TO  
5 SELECT THE ATTORNEY FROM AN APPROVED LIST OR OTHERWISE;
- 6 8. NOTARY FEES;
- 7 9. ESCROW CHARGES, IF NOT OTHERWISE INCLUDED UNDER  
8 PARAGRAPH (1)(I) OF THIS SUBSECTION;
- 9 10. TITLE INSURANCE PREMIUMS; AND
- 10 11. FIRE INSURANCE AND FLOOD INSURANCE PREMIUMS,  
11 PROVIDED THAT THE CONDITIONS SET FORTH IN § 226.4(D) OF TITLE 12 OF THE CODE  
12 OF FEDERAL REGULATIONS ARE MET.

13 (M) "TOTAL LOAN AMOUNT" HAS THE MEANING STATED IN § 226.32 OF TITLE 12  
14 OF THE CODE OF FEDERAL REGULATIONS, AND SHALL BE CALCULATED IN  
15 ACCORDANCE WITH THE FEDERAL RESERVE BOARD'S OFFICIAL STAFF  
16 COMMENTARY TO § 226.32 OF TITLE 12 OF THE CODE OF FEDERAL REGULATIONS.

17 12-1202.

18 (A) NO PREPAYMENT FEES OR PENALTIES MAY BE CONTRACTED BY THE  
19 BORROWER AND LENDER WITH RESPECT TO ANY HOME LOAN.

20 (B) A HOME LOAN MAY NOT HAVE A PAYMENT SCHEDULE WITH REGULAR  
21 PERIODIC PAYMENTS THAT RESULT IN AN INCREASE IN THE PRINCIPAL BALANCE, A  
22 PRACTICE KNOWN AS NEGATIVE AMORTIZATION.

23 (C) A LENDER MAY NOT KNOWINGLY OR INTENTIONALLY ENGAGE IN THE  
24 PRACTICE OF FLIPPING A HOME LOAN.

25 (D) A LENDER MAY NOT RECOMMEND OR ENCOURAGE DEFAULT ON AN  
26 EXISTING LOAN OR OTHER DEBT PRIOR TO AND IN CONNECTION WITH THE CLOSING  
27 OR PLANNED CLOSING OF A CONSUMER HOME LOAN THAT REFINANCES ALL OR ANY  
28 PORTION OF THE EXISTING LOAN OR OTHER DEBT.

29 (E) A LENDER MAY NOT MAKE A HOME LOAN UNLESS THE LENDER  
30 REASONABLY BELIEVES AT THE TIME THE LOAN IS CONSUMMATED THAT ONE OR  
31 MORE OF THE OBLIGORS, WHEN CONSIDERED INDIVIDUALLY OR COLLECTIVELY,  
32 WILL BE ABLE TO MAKE THE SCHEDULED PAYMENTS TO REPAY THE OBLIGATION  
33 BASED ON A CONSIDERATION OF THEIR CURRENT AND EXPECTED INCOME,  
34 CURRENT OBLIGATIONS, EMPLOYMENT STATUS, AND OTHER FINANCIAL  
35 RESOURCES, OTHER THAN THE BORROWER'S EQUITY IN THE DWELLING WHICH  
36 SECURES REPAYMENT OF THE LOAN.

1 (F) A LENDER MAY NOT COMPENSATE, DIRECTLY OR INDIRECTLY, AN  
2 APPRAISER OR COERCE OR INTIMIDATE AN APPRAISER FOR THE PURPOSE OF  
3 INFLUENCING THE INDEPENDENT JUDGMENT OF THE APPRAISER WITH RESPECT TO  
4 THE VALUE OF REAL ESTATE THAT IS TO BE COVERED BY A RESIDENTIAL  
5 MORTGAGE, OR THAT IS BEING OFFERED AS SECURITY ACCORDING TO AN  
6 APPLICATION FOR A RESIDENTIAL MORTGAGE LOAN.

7 (G) (1) A LENDER MAY NOT FINANCE, DIRECTLY OR INDIRECTLY, ANY  
8 CREDIT LIFE, CREDIT DISABILITY, OR CREDIT UNEMPLOYMENT INSURANCE, OR ANY  
9 OTHER LIFE OR HEALTH INSURANCE PREMIUMS THROUGH A HOME LOAN.

10 (2) INSURANCE PREMIUMS CALCULATED AND PAID ON A MONTHLY  
11 BASIS SHALL NOT BE CONSIDERED FINANCED BY THE LENDER.

12 (H) A HOME LOAN CONTRACT IN WHICH BLANKS ARE LEFT TO BE FILLED IN  
13 AFTER THE CONTRACT IS SIGNED SHALL NOT BE ENFORCEABLE UNDER THE LAW.

14 12-1203.

15 (A) (1) A HIGH-COST HOME LOAN MAY NOT HAVE A SCHEDULED PAYMENT  
16 THAT IS MORE THAN TWICE AS LARGE AS THE AVERAGE OF EARLIER SCHEDULED  
17 PAYMENTS.

18 (2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY WHEN THE  
19 PAYMENT SCHEDULE IS ADJUSTED TO THE SEASONAL OR IRREGULAR INCOME OF  
20 THE BORROWER.

21 (B) A HIGH-COST HOME LOAN MAY NOT INCLUDE TERMS UNDER WHICH  
22 MORE THAN TWO PERIODIC PAYMENTS REQUIRED UNDER THE LOAN ARE  
23 CONSOLIDATED AND PAID IN ADVANCE FROM THE LOAN PROCEEDS PROVIDED TO  
24 THE BORROWER.

25 (C) (1) A HIGH-COST HOME LOAN MAY NOT HAVE A PROVISION THAT  
26 INCREASES THE INTEREST RATE AFTER DEFAULT.

27 (2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO INTEREST  
28 RATE CHANGES IN A VARIABLE RATE LOAN OTHERWISE CONSISTENT WITH THE  
29 PROVISIONS OF THE LOAN DOCUMENTS, PROVIDED THE CHANGE IN THE INTEREST  
30 RATE IS NOT TRIGGERED BY THE EVENT OF DEFAULT OR THE ACCELERATION OF  
31 THE INDEBTEDNESS.

32 (D) (1) A HIGH-COST HOME LOAN MAY NOT HAVE A PROVISION WHICH  
33 PERMITS THE LENDER, IN ITS SOLE DISCRETION, TO INCREASE THE INDEBTEDNESS.

34 (2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY WHEN  
35 REPAYMENT OF THE LOAN HAS BEEN ACCELERATED BY DEFAULT, PURSUANT TO A  
36 DUE-ON-SALE PROVISION, OR PURSUANT TO SOME OTHER PROVISION OF THE LOAN  
37 DOCUMENTS UNRELATED TO THE PAYMENT SCHEDULE.

1 (E) A LENDER MAY NOT CHARGE A BORROWER ANY FEES OR OTHER CHARGES  
2 TO MODIFY, RENEW, EXTEND, OR AMEND A HIGH-COST HOME LOAN OR TO DEFER  
3 ANY PAYMENT DUE UNDER THE TERMS OF A HIGH-COST HOME LOAN.

4 (F) A LENDER MAY NOT MAKE A HIGH-COST HOME LOAN WITHOUT FIRST  
5 RECEIVING CERTIFICATION FROM A COUNSELOR APPROVED BY THE U.S.  
6 DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT THAT THE BORROWER HAS  
7 RECEIVED COUNSELING ON THE ADVISABILITY OF THE LOAN TRANSACTION AND  
8 THE APPROPRIATE LOAN FOR THE BORROWER.

9 (G) A HIGH-COST HOME LOAN MAY NOT INCLUDE A MANDATORY  
10 ARBITRATION CLAUSE THAT LIMITS IN ANY WAY THE RIGHT OF THE BORROWER TO  
11 SEEK RELIEF THROUGH THE JUDICIAL PROCESS.

12 (H) A LENDER MAY NOT PAY A CONTRACTOR UNDER A HOME IMPROVEMENT  
13 CONTRACT FROM THE PROCEEDS OF A HIGH-COST HOME LOAN OTHER THAN:

14 (1) BY AN INSTRUMENT PAYABLE TO THE BORROWER OR JOINTLY TO  
15 THE BORROWER AND THE CONTRACTOR; OR

16 (2) AT THE ELECTION OF THE BORROWER, THROUGH A THIRD-PARTY  
17 ESCROW AGENT IN ACCORDANCE WITH TERMS ESTABLISHED IN A WRITTEN  
18 AGREEMENT SIGNED BY THE BORROWER, THE LENDER, AND THE CONTRACTOR  
19 PRIOR TO THE DISBURSEMENT.

20 12-1204.

21 (A) THE PROVISIONS OF § 12-1203 OF THIS SUBTITLE SHALL APPLY TO ANY  
22 PERSON WHO, IN BAD FAITH, ATTEMPTS TO AVOID ITS APPLICATION BY:

23 (1) STRUCTURING A LOAN TRANSACTION AS AN OPEN-END CREDIT  
24 PLAN FOR THE PURPOSE AND WITH THE INTENT OF EVADING THE PROVISIONS OF §  
25 12-1203 OF THIS SUBTITLE WHEN THE LOAN WOULD HAVE BEEN A HIGH-COST HOME  
26 LOAN IF THE LOAN HAD BEEN STRUCTURED AS A CLOSED-END LOAN;

27 (2) DIVIDING ANY LOAN TRANSACTION INTO SEPARATE PARTS FOR THE  
28 PURPOSE AND WITH THE INTENT OF EVADING THE PROVISIONS OF § 12-1203 OF THIS  
29 SUBTITLE; OR

30 (3) ANY OTHER SUBTERFUGE.

31 (B) (1) A LENDER WHO MAKES A HIGH-COST HOME LOAN AND WHO, ACTING  
32 IN GOOD FAITH, FAILS TO COMPLY WITH THE PROVISIONS OF § 12-1203 OF THIS  
33 SUBTITLE, WILL NOT BE DEEMED TO HAVE VIOLATED § 12-1203 OF THIS SUBTITLE IF  
34 THE LENDER ESTABLISHES THAT EITHER:

35 (I) WITHIN 30 DAYS OF THE LOAN CLOSING AND PRIOR TO THE  
36 INSTITUTION OF ANY ACTION UNDER § 12-1203 OF THIS SUBTITLE, THE BORROWER IS  
37 NOTIFIED OF THE COMPLIANCE FAILURE, APPROPRIATE RESTITUTION IS MADE, AND

1 WHATEVER NECESSARY ADJUSTMENTS ARE MADE TO THE LOAN TO EITHER, AT THE  
2 ELECTION OF THE BORROWER:

3 1. MAKE THE HIGH-COST HOME LOAN SATISFY THE  
4 REQUIREMENTS OF § 12-1203 OF THIS SUBTITLE; OR

5 2. CHANGE THE TERMS OF THE LOAN IN A MANNER  
6 BENEFICIAL TO THE BORROWER SO THAT THE LOAN WILL NO LONGER BE  
7 CONSIDERED A HIGH-COST HOME LOAN SUBJECT TO THE PROVISIONS OF § 12-1203  
8 OF THIS SUBTITLE; OR

9 (II) THE COMPLIANCE FAILURE WAS NOT INTENTIONAL AND  
10 RESULTED FROM A BONA FIDE ERROR, NOTWITHSTANDING THE MAINTENANCE OF  
11 PROCEDURES REASONABLY ADAPTED TO AVOID THE ERROR, AND WITHIN 60 DAYS  
12 AFTER THE DISCOVERY OF THE COMPLIANCE FAILURE AND PRIOR TO THE  
13 INSTITUTION OF ANY ACTION UNDER § 12-1203 OF THIS SUBTITLE OR THE RECEIPT  
14 OF WRITTEN NOTICE OF THE COMPLIANCE FAILURE, THE BORROWER IS NOTIFIED  
15 OF THE COMPLIANCE FAILURE, APPROPRIATE RESTITUTION IS MADE, AND  
16 WHATEVER NECESSARY ADJUSTMENTS ARE MADE TO THE LOAN TO EITHER, AT THE  
17 ELECTION OF THE BORROWER:

18 1. MAKE THE HIGH-COST HOME LOAN SATISFY THE  
19 REQUIREMENTS OF § 12-1203 OF THIS SUBTITLE; OR

20 2. CHANGE THE TERMS OF THE LOAN IN A MANNER  
21 BENEFICIAL TO THE BORROWER SO THAT THE LOAN WILL NO LONGER BE  
22 CONSIDERED A HIGH-COST HOME LOAN SUBJECT TO THE PROVISIONS OF § 12-1203  
23 OF THIS SUBTITLE.

24 (2) A "BONA FIDE ERROR" FOR PURPOSES OF PARAGRAPH (1)(II) OF THIS  
25 SUBSECTION INCLUDES A COMPUTER MALFUNCTION, CLERICAL, CALCULATION,  
26 PROGRAMMING, AND PRINTING ERROR, BUT DOES NOT INCLUDE AN ERROR OF  
27 LEGAL JUDGMENT WITH RESPECT TO A PERSON'S OBLIGATIONS UNDER § 12-1203 OF  
28 THIS SUBTITLE.

29 12-1205.

30 A LENDER MAY NOT MAKE INVESTMENTS THAT ARE BACKED BY HOME LOANS  
31 THAT VIOLATE § 12-1202 OR § 12-1203 OF THIS SUBTITLE.

32 12-1206.

33 (A) A LENDER THAT IS EXEMPT FROM THE REPORTING REQUIREMENTS OF 12  
34 U.S.C. § 2803 SOLELY BECAUSE THE HOME PURCHASE LOANS, INCLUDING  
35 REFINANCINGS, THAT THE LENDER ORIGINATED IN THE PRECEDING CALENDAR  
36 YEAR TOTALED LESS THAN 10 PERCENT OF ITS TOTAL LOAN ORIGINATION VOLUME  
37 MEASURED IN DOLLARS, SHALL REPORT TO THE COMMISSIONER THE SAME  
38 INFORMATION THAT NONEXEMPT LENDERS ARE REQUIRED TO REPORT UNDER 12  
39 U.S.C. § 2803(B).

1 (B) A LENDER SHALL REPORT THE INFORMATION REQUIRED UNDER  
2 SUBSECTION (A) OF THIS SECTION IN THE FORMAT ESTABLISHED BY THE U.S.  
3 DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PURSUANT TO 12 U.S.C. §  
4 2803(H)(5).

5 (C) (1) A LENDER SHALL REPORT THE INFORMATION REQUIRED UNDER  
6 SUBSECTION (A) OF THIS SECTION ON OR BEFORE FEBRUARY 1 OF EACH YEAR,  
7 BEGINNING FEBRUARY 1, 2002.

8 (2) THE INFORMATION REPORTED SHALL BE FOR THE PRECEDING  
9 CALENDAR YEAR.

10 12-1207.

11 (A) A LENDER SHALL REPORT TO THE COMMISSIONER THE AVERAGE AND  
12 MEDIAN INTEREST RATES OF MORTGAGE LOANS AND HOME IMPROVEMENT LOANS  
13 THAT THE LENDER ORIGINATES, GROUPED ACCORDING TO THE CATEGORIES  
14 ESTABLISHED UNDER 12 U.S.C. § 2803(B)(4) FOR CENSUS TRACT, INCOME LEVEL,  
15 RACIAL CHARACTERISTICS, AND GENDER.

16 (B) IN CALCULATING THE INTEREST RATE FOR VARIABLE RATE LOANS TO  
17 FULFILL THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION, A LENDER  
18 SHALL USE THE AVERAGE INTEREST RATE ON THE VARIABLE RATE LOAN FOR THE 12  
19 MONTHS OF THE REPORTING PERIOD ESTABLISHED UNDER 12 U.S.C. § 2803(D), WHICH  
20 IS THE CALENDAR YEAR.

21 (C) A LENDER SHALL REPORT THE INFORMATION REQUIRED UNDER  
22 SUBSECTION (A) OF THIS SECTION IN A FORMAT SIMILAR TO THE ONE THE LENDER  
23 USES TO REPORT INFORMATION TO THE APPROPRIATE FEDERAL AGENCY UNDER 12  
24 U.S.C. § 2803(H)(5) OR TO THE COMMISSIONER UNDER § 12-1206 OF THIS SUBTITLE.

25 (D) (1) A LENDER SHALL REPORT THE INFORMATION REQUIRED UNDER  
26 SUBSECTION (A) OF THIS SECTION ON OR BEFORE FEBRUARY 1 OF EACH YEAR,  
27 BEGINNING FEBRUARY 1, 2002.

28 (2) THE INFORMATION REPORTED SHALL BE FOR THE PRECEDING  
29 CALENDAR YEAR.

30 12-1208.

31 A LENDER THAT MAKES A LOAN IN VIOLATION OF ANY PROVISION OF THIS  
32 SUBTITLE IS SUBJECT TO FORFEITURE OF ALL PRINCIPAL AND INTEREST ON THE  
33 LOAN.

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
35 January 1, 2001.