

TITLE XIV: MORTGAGE REFORM AND ANTI-PREDATORY LENDING ACT

- **Duty of Care:** Each mortgage originator must be qualified, registered and licensed (when required) and submit the required information to the Nationwide Mortgage Licensing System and Registry.
- **Prohibits “Steering” Payments:** Mortgage originators may not receive compensation that varies based upon the terms of the loan (not including the loan amount).
- **Establishes Ability to Pay Standards:** Creditors cannot make a residential mortgage loan without determining that the customer has the ability to repay the loan.
- **Requires Verification of Income:** Creditors are required to verify repayment ability by documentation such as a customer’s W-2’s, tax returns, payroll receipts, or other documents that provide reasonably reliable evidence of a consumer’s income or assets.
- **Limits Mortgage Refinancing:** Creditors must determine that the refinancing will provide a “net tangible benefit,” a term to be defined by future regulation.
- **Safe Harbor and Rebuttable Presumption:** Loans are presumed to meet the ability to repay requirement and the net tangible benefit requirement for refinances if the loan does not: contain periodic payments that increase the principal balance, defer repayment of principal, result in a balloon payment, or cause the consumer’s monthly debts to exceed the regulatory set percentage of the consumer’s monthly gross income. Further, customer income must be verified and documented, points and fees payable cannot exceed 3% of the total loan amount, and the term of the loan may not exceed 30 years.
- **Prohibits Prepayment Penalties:** Applies to mortgages that have adjustable rates or are certain subprime loans. For all other loans, there are certain restrictions in amount and time for prepayment penalties.
- **Creates Foreclosure Defense:** Home owners have a foreclosure defense if originators have violated the steering or ability to repay standards in any material way. There is no statute of limitations to this defense.
- **Additional Limitations on Mortgages:** Prohibits mandatory arbitration, limits negative amortization loans, prohibits balloon payments, and prohibits flipping for high cost loans.
- **Changes Definition of High Cost Mortgages:** Definition now captures a first mortgage secured by the consumer’s principal dwelling if the APR exceeds prime by more than 6.5%. The definition of points and fees now includes all

compensation paid directly or indirectly by a consumer to a mortgage originator from any source.

- **Establishes the Office of House Counseling:** Placed in HUD, will carry out all HUD homeownership and rental housing counseling programs.
- **Escrow Accounts:** Requires escrow accounts for certain mortgages and disclosures for consumers who waive escrow accounts.
- **Forced-placed Hazard Insurance:** Amends RESPA to put restrictions on creditor forced-place hazard insurance.
- **Appraisals:** Establishes strong and enforceable Federal appraisal independence standards with tough penalties, allowing appraisers to avoid conflicts of interest and act as independent verifiers of property values.