

HOUSE BILL 944

I2

8lr2615

By: **Delegates Lafferty, Glenn, Haynes, Jameson, Levy, McHale, Mizeur, Murphy, Niemann, Schuh, Schuler, and Stein**

Introduced and read first time: February 6, 2008

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 27, 2008

CHAPTER _____

1 AN ACT concerning

2 **Credit Regulation - ~~Subprime~~ Advisory Loans - Requirements for Housing**
3 **Counseling Advice**

4 FOR the purpose of prohibiting a lender or credit grantor from ~~completing closing a~~
5 ~~loan application for a subprime~~ an advisory loan until the lender or credit
6 grantor receives proof that the primary borrower has completed certain home
7 buyer education or ~~housing counseling~~ obtained certain housing advice ~~under~~
8 ~~certain circumstances~~; requiring a lender, credit grantor, or mortgage broker to
9 provide a borrower of ~~a subprime~~ an advisory loan at a certain time with a ~~list~~
10 ~~of agencies and organizations that provide home buyer education or housing~~
11 ~~counseling under certain circumstances~~; certain notice; requiring the
12 Department of Housing and Community Development to provide to a lender,
13 credit grantor, or mortgage broker on request a list of government agencies and
14 nonprofit organizations that provide certain home buyer education or housing
15 advice; requiring the Department to adopt certain regulations; authorizing the
16 Department to adopt certain regulations; requiring the Department to maintain
17 and publish at least a certain number of times in a certain period of time a
18 certain list; providing that a violation of certain provisions of this Act is within
19 the scope of certain investigative and enforcement powers of the Commissioner
20 of Financial Regulation and the Division of Consumer Protection of the Office of
21 the Attorney General; defining certain terms; providing for the application of
22 this Act; and generally relating to requirements for home buyer education or
23 housing ~~counseling~~ advice in ~~subprime~~ connection with advisory loans.

24 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – Commercial Law
2 Section 12–124.1, 12–311, 12–409.1, and 12–1029
3 Annotated Code of Maryland
4 (2005 Replacement Volume and 2007 Supplement)

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

7 **Article – Commercial Law**

8 12–124.1.

9 (a) (1) In this section the following words have the meanings indicated.

10 (2) “Covered loan” means a mortgage loan made under this subtitle
11 that meets the criteria for a loan subject to the federal Home Ownership Equity
12 Protection Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by
13 Regulation Z, 12 C.F.R. Part 226, except that the comparison percentages for the
14 mortgage loan shall be one percentage point less than those specified in 15 U.S.C. §
15 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226.

16 (3) “Credit health insurance” has the meaning stated in § 13–101 of
17 the Insurance Article.

18 (4) “Credit involuntary unemployment benefit insurance” has the
19 meaning stated in § 13–101 of the Insurance Article.

20 (5) (i) “Credit life insurance” means insurance on the life of a
21 borrower that provides indemnity for repayment of a specific loan or credit transaction
22 on the death of the borrower.

23 (ii) “Credit life insurance” does not include life insurance
24 payable to a beneficiary designated by the borrower other than the obligee of a specific
25 loan or credit transaction.

26 (6) [“Home buyer education or housing counseling” means instruction
27 on preparing for home ownership, shopping for a home, obtaining a mortgage, loan
28 closing, and life as a homeowner.

29 (7) “Mortgage loan” has the meaning stated in § 11–501 of the
30 Financial Institutions Article.

31 [(8)] (7) “Premium” has the meaning stated in § 1–101 of the
32 Insurance Article.

33 [(9)] (8) “Single premium coverage” means insurance for which the
34 total premium is payable in one lump sum at or before the time coverage commences.

1 (b) (1) Except as provided in this subsection, a lender making a covered
 2 loan may not finance as a part of the covered loan transaction single premium
 3 coverage for:

4 (i) Credit health insurance;

5 (ii) Credit involuntary unemployment benefit insurance; or

6 (iii) Credit life insurance.

7 (2) Nothing in this subsection shall prohibit the financing of any
 8 insurance coverage in connection with a mobile home or its premises, as those terms
 9 are defined in § 8A-101 of the Real Property Article.

10 **12-124.2.**

11 [(c)] (A) (1) In this [subsection,] **SECTION THE FOLLOWING WORDS**
 12 **HAVE THE MEANINGS INDICATED.**

13 (2) (I) **“ADVISORY LOAN” MEANS A MORTGAGE LOAN MADE**
 14 **UNDER THIS SUBTITLE THAT BY ITS TERMS:**

15 **1. PERMITS INTEREST ONLY PAYMENTS;**

16 **2. MAY RESULT IN NEGATIVE AMORTIZATION;**

17 **3. HAS POINTS AND FEES PAYABLE BY THE**
 18 **BORROWER AT OR BEFORE CLOSING THAT WILL EXCEED 5% OF THE TOTAL**
 19 **LOAN AMOUNT;**

20 **4. INCLUDES A PREPAYMENT PENALTY; OR**

21 **5. HAS:**

22 **A. A VARIABLE RATE, AS THAT TERM IS USED IN THE**
 23 **FEDERAL TRUTH IN LENDING ACT; AND**

24 **B. A FULLY INDEXED RATE THAT WOULD CAUSE THE**
 25 **LOAN TO EXCEED BY 5% OR MORE THE YIELD ON THE APPLICABLE**
 26 **COMPARABLE TREASURY SECURITIES.**

27 (II) **“ADVISORY LOAN” DOES NOT INCLUDE:**

28 **1. AN OPEN-END OR REVOLVING HOME EQUITY LINE**
 29 **OF CREDIT;**

1 **2. A CONSTRUCTION LOAN;**

2 **3. A REVERSE MORTGAGE LOAN;**

3 **4. A LOAN WHERE THE INTEREST RATE IS FIXED FOR**
4 **THE ENTIRE LOAN TERM UNLESS THE LOAN BY ITS TERMS HAS POINTS AND**
5 **FEES PAYABLE BY THE BORROWER AT OR BEFORE CLOSING THAT WILL EXCEED**
6 **5% OF THE TOTAL LOAN AMOUNT; OR**

7 **5. A LOAN WHERE THE PRINCIPAL AMOUNT**
8 **EXCEEDS THE LIMITATIONS ON MAXIMUM LOAN AMOUNTS IN THE STATE FOR A**
9 **SINGLE-FAMILY DWELLING AS ESTABLISHED FOR THE FEDERAL NATIONAL**
10 **MORTGAGE ASSOCIATION UNDER 12 U.S.C. § 1717(B)(2).**

11 ~~(2)~~ **(3) “ANNUAL PERCENTAGE RATE” HAS THE MEANING**
12 **STATED IN 12 C.F.R. PART 226.**

13 **(4) “APPLICABLE COMPARABLE TREASURY SECURITIES” MEANS:**

14 **(I) FOR A MORTGAGE LOAN WITH AN INITIAL INTEREST**
15 **RATE THAT IS FIXED FOR MORE THAN 1 YEAR, COMPARABLE TREASURY**
16 **SECURITIES WITH A MATURITY MATCHING THE DURATION OF THE FIXED-RATE**
17 **PERIOD; AND**

18 **(II) FOR ALL OTHER MORTGAGE LOANS, COMPARABLE**
19 **TREASURY SECURITIES WITH A MATURITY OF 1 YEAR.**

20 **(5) “COMMISSIONER” MEANS THE COMMISSIONER OF FINANCIAL**
21 **REGULATION IN THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION.**

22 **(6) “COMPARABLE TREASURY SECURITIES” MEANS THE YIELD**
23 **ON TREASURY CONSTANT MATURITIES PUBLISHED IN THE FEDERAL RESERVE**
24 **BOARD’S STATISTICAL RELEASE H-15 AS OF THE 15TH DAY OF THE MONTH**
25 **IMMEDIATELY PRECEDING THE MONTH IN WHICH THE LOAN APPLICATION IS**
26 **RECEIVED BY THE LENDER.**

27 ~~(3)~~ **(7) “FULLY INDEXED RATE” MEANS THE INDEX RATE**
28 **APPLICABLE TO A MORTGAGE LOAN FOR A RESIDENTIAL REAL PROPERTY AT**
29 **THE TIME IT IS ORIGINATED, AS EXPECTED TO BE DEFINED IN THE MORTGAGE**
30 **LOAN DOCUMENTS, PREVAILING AT THE TIME THE LOAN APPLICATION IS**
31 **RECEIVED BY THE LENDER, PLUS THE MARGIN THAT WILL APPLY AFTER THE**
32 **EXPIRATION OF AN INTRODUCTORY INTEREST RATE.**

1 ~~(4)~~ **(8)** **(I)** **“HOME BUYER EDUCATION OR HOUSING**
 2 **~~COUNSELING ADVICE~~”** MEANS INSTRUCTION ON PREPARING FOR HOME
 3 OWNERSHIP, SHOPPING FOR A HOME, OBTAINING A MORTGAGE, LOAN CLOSING,
 4 AND LIFE AS A HOMEOWNER.

5 **(II)** **“HOME BUYER EDUCATION OR HOUSING ADVICE”**
 6 **INCLUDES INSTRUCTION, IN WHOLE OR IN PART, BY TELEPHONIC MEANS.**

7 ~~(5)~~ **(9)** [“loan] **“LOAN** application” has the meaning stated in §
 8 12–125 of this subtitle.

9 ~~(6)~~ **(10)** **“MORTGAGE BROKER”** HAS THE MEANING STATED IN §
 10 **11–501 OF THE FINANCIAL INSTITUTIONS ARTICLE.**

11 ~~(7)~~ **(11)** **(I)** **“MORTGAGE LOAN”** HAS THE MEANING STATED IN
 12 **§ 11–501 OF THE FINANCIAL INSTITUTIONS ARTICLE.**

13 **(II)** **“MORTGAGE LOAN”** **DOES NOT INCLUDE A LOAN OR**
 14 **EXTENSION OF CREDIT SECURED BY RESIDENTIAL REAL PROPERTY THAT IS NOT**
 15 **THE BORROWER’S PRINCIPAL DWELLING.**

16 ~~(8)~~ ~~“RESIDENTIAL REAL PROPERTY”~~ ~~MEANS OWNER OCCUPIED~~
 17 ~~REAL PROPERTY HAVING A DWELLING ON IT DESIGNED PRINCIPALLY AS A~~
 18 ~~RESIDENCE WITH ACCOMMODATIONS FOR NOT MORE THAN FOUR FAMILIES.~~

19 ~~(9)~~ ~~“SUBPRIME LOAN”~~ ~~MEANS:~~

20 **(I)** ~~IN THE CASE OF AN ADJUSTABLE RATE MORTGAGE~~
 21 ~~LOAN SECURED BY A FIRST LIEN ON RESIDENTIAL REAL PROPERTY THAT CAN~~
 22 ~~INCREASE IN INTEREST RATE BUT NOT DECREASE IN INTEREST RATE BELOW~~
 23 ~~THE FULLY INDEXED RATE AT THE TIME OF ORIGINATION, A MORTGAGE LOAN~~
 24 ~~FOR WHICH THE ANNUAL PERCENTAGE RATE IS GREATER THAN 2 PERCENTAGE~~
 25 ~~POINTS ABOVE THE YIELD ON UNITED STATES TREASURY SECURITIES HAVING~~
 26 ~~COMPARABLE PERIODS OF MATURITY;~~

27 ~~1. AS OF THE 15TH DAY OF THE PRECEDING MONTH~~
 28 ~~IF THE RATE IS SET BETWEEN THE FIRST AND 14TH DAY OF THE MONTH; AND~~

29 ~~2. AS OF THE 15TH DAY OF THE CURRENT MONTH IF~~
 30 ~~THE RATE IS SET ON OR AFTER THE 15TH DAY;~~

31 **(II)** ~~FOR ALL OTHER MORTGAGE LOANS SECURED BY A~~
 32 ~~FIRST LIEN ON RESIDENTIAL REAL PROPERTY, A MORTGAGE LOAN FOR WHICH~~
 33 ~~THE ANNUAL PERCENTAGE RATE IS GREATER THAN 3 PERCENTAGE POINTS~~

~~1 ABOVE THE YIELD ON UNITED STATES TREASURY SECURITIES HAVING
2 COMPARABLE PERIODS OF MATURITY;~~

~~3 1. AS OF THE 15TH DAY OF THE PRECEDING MONTH
4 IF THE RATE IS SET BETWEEN THE FIRST AND 14TH DAY OF THE MONTH; AND~~

~~5 2. AS OF THE 15TH DAY OF THE CURRENT MONTH IF
6 THE RATE IS SET ON OR AFTER THE 15TH DAY; AND~~

~~7 (III) FOR A MORTGAGE LOAN SECURED BY A SUBORDINATE
8 LIEN ON RESIDENTIAL REAL PROPERTY, A MORTGAGE LOAN FOR WHICH THE
9 ANNUAL PERCENTAGE RATE IS GREATER THAN 5 PERCENTAGE POINTS ABOVE
10 THE YIELD ON UNITED STATES TREASURY SECURITIES HAVING COMPARABLE
11 PERIODS OF MATURITY;~~

~~12 1. AS OF THE 15TH DAY OF THE PRECEDING MONTH
13 IF THE RATE IS SET BETWEEN THE FIRST AND 14TH DAY OF THE MONTH; AND~~

~~14 2. AS OF THE 15TH DAY OF THE CURRENT MONTH IF
15 THE RATE IS SET ON OR AFTER THE 15TH DAY.~~

~~16 (12) "POINTS AND FEES" HAS THE MEANING STATED IN
17 REGULATION Z, 12 C.F.R. § 226.32(B)(1).~~

~~18 (13) "TOTAL LOAN AMOUNT" HAS THE MEANING STATED IN
19 REGULATION Z, 12 C.F.R. § 226.32(A)(1).~~

~~20 [(2)] (B) (1) At the time a [borrower completes a loan application
21 for] LENDER OR MORTGAGE BROKER RECOMMENDS a [covered] SUBPRIME loan,
22 the THE lender OR MORTGAGE BROKER shall provide the borrower AN APPLICANT
23 FOR AN ADVISORY LOAN with A WRITTEN NOTICE IN THE FORM SPECIFIED IN
24 REGULATIONS ADOPTED BY THE DEPARTMENT OF HOUSING AND COMMUNITY
25 DEVELOPMENT UNDER THIS SECTION.[:~~

~~26 (i) A written recommendation that the borrower seek home
27 buyer education or housing counseling; and~~

~~28 (ii) A] A list of agencies and organizations approved by the
29 county in which the residential real property securing the [covered] SUBPRIME loan is
30 located [to] THAT provide home buyer education or housing counseling.~~

~~31 (2) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS
32 SUBSECTION:~~

~~33 (I) SHALL INCLUDE:~~

1 **1. THE LIST OF GOVERNMENT AGENCIES AND**
2 **NONPROFIT ORGANIZATIONS THAT HAVE BEEN APPROVED BY THE**
3 **DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT TO PROVIDE**
4 **HOME BUYER EDUCATION OR HOUSING ADVICE, AS MOST RECENTLY POSTED ON**
5 **THE WEBSITE OF THE DEPARTMENT; AND**

6 **2. ANY OTHER INFORMATION THE DEPARTMENT**
7 **DETERMINES IS RELEVANT; AND**

8 **(II) SHALL BE PROVIDED:**

9 **1. BY A MORTGAGE BROKER, WITHIN 10 BUSINESS**
10 **DAYS AFTER THE DATE THE INITIAL LOAN APPLICATION IS MADE; AND**

11 **2. BY A LENDER, AT THE TIME THE LENDER OFFERS**
12 **TO MAKE AN ADVISORY LOAN.**

13 **(3) THE DEPARTMENT SHALL PROVIDE TO A LENDER OR**
14 **MORTGAGE BROKER ON REQUEST A LIST OF GOVERNMENT AGENCIES AND**
15 **NONPROFIT ORGANIZATIONS APPROVED BY THE DEPARTMENT TO PROVIDE**
16 **HOME BUYER EDUCATION OR HOUSING ADVICE UNDER THIS SECTION.**

17 **(C) THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT:**

18 **(1) SHALL ADOPT REGULATIONS THAT:**

19 **(I) SPECIFY THE FORM OF THE WRITTEN NOTICE**
20 **REQUIRED UNDER SUBSECTION (B) OF THIS SECTION;**

21 **(II) ESTABLISH QUALIFICATIONS THAT A GOVERNMENT**
22 **AGENCY OR NONPROFIT ORGANIZATION MUST MEET TO PROVIDE HOME BUYER**
23 **EDUCATION OR HOUSING ADVICE TO A BORROWER UNDER THIS SECTION;**

24 **(III) SPECIFY THE CONTENT OF THE HOME BUYER**
25 **EDUCATION OR HOUSING ADVICE, WHICH SHALL INCLUDE ANY APPLICABLE**
26 **FEDERAL STANDARD, TO BE PROVIDED UNDER THIS SECTION; AND**

27 **(IV) ESTABLISH A PROCEDURE BY WHICH A GOVERNMENT**
28 **AGENCY OR NONPROFIT ORGANIZATION MAY OBTAIN APPROVAL FROM THE**
29 **DEPARTMENT TO PROVIDE HOME BUYER EDUCATION OR HOUSING ADVICE**
30 **UNDER THIS SECTION; AND**

31 **(2) MAY ADOPT REGULATIONS TO CARRY OUT OTHER**
32 **PROVISIONS OF THIS SECTION.**

1 ~~(C)~~ (D) A LENDER MAY NOT ~~COMPLETE A LOAN APPLICATION FOR A~~
 2 ~~SUBPRIME~~ CLOSE AN ADVISORY LOAN UNTIL THE LENDER RECEIVES PROOF
 3 THAT THE PRIMARY BORROWER HAS COMPLETED HOME BUYER EDUCATION OR
 4 HOUSING ~~COUNSELING~~ ADVICE PROVIDED BY A GOVERNMENT AGENCY OR
 5 NONPROFIT ORGANIZATION APPROVED BY THE DEPARTMENT OF HOUSING AND
 6 COMMUNITY DEVELOPMENT.

7 (E) THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
 8 SHALL MAINTAIN AND PUBLISH AT LEAST ONCE EACH CALENDAR QUARTER A
 9 LIST OF APPROVED GOVERNMENT AGENCIES AND NONPROFIT ORGANIZATIONS
 10 THAT EMPLOY HOUSING ADVISORS.

11 (F) A VIOLATION OF SUBSECTION (D) OF THIS SECTION IS WITHIN THE
 12 SCOPE OF THE INVESTIGATIVE AND ENFORCEMENT POWERS OF:

13 (1) THE COMMISSIONER UNDER §§ 2-113 THROUGH 2-116 OF
 14 THE FINANCIAL INSTITUTIONS ARTICLE;

15 (2) THE COMMISSIONER AS A VIOLATION OF TITLE 11, SUBTITLE
 16 5 OF THE FINANCIAL INSTITUTIONS ARTICLE; OR

17 (3) THE DIVISION OF CONSUMER PROTECTION OF THE OFFICE
 18 OF THE ATTORNEY GENERAL UNDER TITLE 13 OF THIS ARTICLE.

19 12-311.

20 (a) (1) In this section the following words have the meanings indicated.

21 (2) “Covered loan” means a mortgage loan made under this subtitle
 22 that meets the criteria for a loan subject to the federal Home Ownership Equity
 23 Protection Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by
 24 Regulation Z, 12 C.F.R. Part 226, except that the comparison percentages for the
 25 mortgage loan shall be one percentage point less than those specified in 15 U.S.C. §
 26 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226.

27 (3) [“Home buyer education or housing counseling” means instruction
 28 on preparing for home ownership, shopping for a home, obtaining a mortgage, loan
 29 closing, and life as a homeowner.

30 (4)] “Residential real property” means owner-occupied real property
 31 having a dwelling on it designed principally as a residence with accommodations for
 32 not more than four families.

33 (b) A lender may not take as security for a loan any:

1 (1) Confession of judgment or power of attorney to him or to a third
2 person to confess judgment or appear for the borrower in a judicial proceeding;

3 (2) Assignment or order for payment of wages;

4 (3) Instrument in which blanks are left to be filled after execution; or

5 (4) Note, promise to pay, or security instrument which does not state:

6 (i) The principal amount of the loan;

7 (ii) A schedule of payments or a description of the schedule; and

8 (iii) The agreed amount and rate of interest, charges, and fees.

9 (c) (1) A lender may not take any security interest in:

10 (i) Real property for any loan under \$2,000 in value or amount;

11 or

12 (ii) Personal property for any loan under \$700 in value or

13 amount.

14 (2) Any lien taken in violation of this subsection is void.

15 (3) This subsection does not apply to or affect a lien on an interest in
16 real property which results from a judgment obtained by the lender based on a loan
17 otherwise secured or unsecured.

18 (d) (1) A lender may not make a covered loan without giving due regard to
19 the borrower's ability to repay the loan in accordance with its terms.

20 (2) A borrower is presumed to be able to repay a loan if at the time the
21 loan is made the borrower's total scheduled monthly payment obligations, including
22 the required loan payment, do not exceed 45 percent of the borrower's monthly gross
23 income.

24 (3) This subsection does not apply to a covered loan to a borrower
25 whose monthly gross income is greater than 120 percent of the median family income
26 for the metropolitan statistical area in which the residential real property securing the
27 loan is located.

28 **12-311.1.**

29 [(e)] (A) (1) In this [subsection,] SECTION THE FOLLOWING WORDS
30 HAVE THE MEANINGS INDICATED.

1 **(2) (I) "ADVISORY LOAN" MEANS A MORTGAGE LOAN MADE**
2 **UNDER THIS SUBTITLE THAT BY ITS TERMS:**

3 **1. PERMITS INTEREST ONLY PAYMENTS;**

4 **2. MAY RESULT IN NEGATIVE AMORTIZATION;**

5 **3. HAS POINTS AND FEES PAYABLE BY THE**
6 **BORROWER AT OR BEFORE CLOSING THAT WILL EXCEED 5% OF THE TOTAL**
7 **LOAN AMOUNT;**

8 **4. INCLUDES A PREPAYMENT PENALTY; OR**

9 **5. HAS:**

10 **A. A VARIABLE RATE, AS THAT TERM IS USED IN THE**
11 **FEDERAL TRUTH IN LENDING ACT; AND**

12 **B. A FULLY INDEXED RATE THAT WOULD CAUSE THE**
13 **LOAN TO EXCEED BY 5% OR MORE THE YIELD ON THE APPLICABLE**
14 **COMPARABLE TREASURY SECURITIES.**

15 **(II) "ADVISORY LOAN" DOES NOT INCLUDE:**

16 **1. AN OPEN-END OR REVOLVING HOME EQUITY LINE**
17 **OF CREDIT;**

18 **2. A CONSTRUCTION LOAN;**

19 **3. A REVERSE MORTGAGE LOAN;**

20 **4. A LOAN WHERE THE INTEREST RATE IS FIXED FOR**
21 **THE ENTIRE LOAN TERM UNLESS THE LOAN BY ITS TERMS HAS POINTS AND**
22 **FEES PAYABLE BY THE BORROWER AT OR BEFORE CLOSING THAT WILL EXCEED**
23 **5% OF THE TOTAL LOAN AMOUNT; OR**

24 **5. A LOAN WHERE THE PRINCIPAL AMOUNT**
25 **EXCEEDS THE LIMITATIONS ON MAXIMUM LOAN AMOUNTS IN THE STATE FOR A**
26 **SINGLE-FAMILY DWELLING AS ESTABLISHED FOR THE FEDERAL NATIONAL**
27 **MORTGAGE ASSOCIATION UNDER 12 U.S.C. § 1717(B)(2).**

28 **(2) (3) "ANNUAL PERCENTAGE RATE" HAS THE MEANING**
29 **STATED IN 12 C.F.R. PART 226.**

1 **(4) “APPLICABLE COMPARABLE TREASURY SECURITIES” MEANS:**

2 **(I) FOR A MORTGAGE LOAN WITH AN INITIAL INTEREST**
3 **RATE THAT IS FIXED FOR MORE THAN 1 YEAR, COMPARABLE TREASURY**
4 **SECURITIES WITH A MATURITY MATCHING THE DURATION OF THE FIXED-RATE**
5 **PERIOD; AND**

6 **(II) FOR ALL OTHER MORTGAGE LOANS, COMPARABLE**
7 **TREASURY SECURITIES WITH A MATURITY OF 1 YEAR.**

8 **(5) “COMMISSIONER” MEANS THE COMMISSIONER OF FINANCIAL**
9 **REGULATION IN THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION.**

10 **(6) “COMPARABLE TREASURY SECURITIES” MEANS THE YIELD**
11 **ON TREASURY CONSTANT MATURITIES PUBLISHED IN THE FEDERAL RESERVE**
12 **BOARD’S STATISTICAL RELEASE H-15 AS OF THE 15TH DAY OF THE MONTH**
13 **IMMEDIATELY PRECEDING THE MONTH IN WHICH THE LOAN APPLICATION IS**
14 **RECEIVED BY THE LENDER.**

15 ~~**(3) (7)**~~ **“FULLY INDEXED RATE” MEANS THE INDEX RATE**
16 **APPLICABLE TO A MORTGAGE LOAN FOR A RESIDENTIAL REAL PROPERTY AT**
17 **THE TIME IT IS ORIGINATED, AS EXPECTED TO BE DEFINED IN THE MORTGAGE**
18 **LOAN DOCUMENTS, PREVAILING AT THE TIME THE LOAN APPLICATION IS**
19 **RECEIVED BY THE LENDER, PLUS THE MARGIN THAT WILL APPLY AFTER THE**
20 **EXPIRATION OF AN INTRODUCTORY INTEREST RATE.**

21 ~~**(4) (8)**~~ **(I) “HOME BUYER EDUCATION OR HOUSING**
22 **COUNSELING ADVICE” MEANS INSTRUCTION ON PREPARING FOR HOME**
23 **OWNERSHIP, SHOPPING FOR A HOME, OBTAINING A MORTGAGE, LOAN CLOSING,**
24 **AND LIFE AS A HOMEOWNER.**

25 **(II) “HOME BUYER EDUCATION OR HOUSING ADVICE”**
26 **INCLUDES INSTRUCTION, IN WHOLE OR IN PART, BY TELEPHONIC MEANS.**

27 ~~**(5) (9)**~~ [“loan] **“LOAN application” has the meaning stated in §**
28 **12-125 of this title.**

29 ~~**(6) (10)**~~ **“MORTGAGE BROKER” HAS THE MEANING STATED IN §**
30 **11-501 OF THE FINANCIAL INSTITUTIONS ARTICLE.**

31 ~~**(7) (11)**~~ **(I) “MORTGAGE LOAN” HAS THE MEANING STATED IN**
32 **§ 11-501 OF THE FINANCIAL INSTITUTIONS ARTICLE.**

1 (II) "MORTGAGE LOAN" DOES NOT INCLUDE A LOAN OR
2 EXTENSION OF CREDIT SECURED BY RESIDENTIAL REAL PROPERTY THAT IS NOT
3 THE BORROWER'S PRINCIPAL DWELLING.

4 ~~(8) "RESIDENTIAL REAL PROPERTY" MEANS OWNER OCCUPIED~~
5 ~~REAL PROPERTY HAVING A DWELLING ON IT DESIGNED PRINCIPALLY AS A~~
6 ~~RESIDENCE WITH ACCOMMODATIONS FOR NOT MORE THAN FOUR FAMILIES.~~

7 ~~(9) "SUBPRIME LOAN" MEANS:~~

8 ~~(i) IN THE CASE OF AN ADJUSTABLE RATE MORTGAGE~~
9 ~~LOAN SECURED BY A FIRST LIEN ON RESIDENTIAL REAL PROPERTY THAT CAN~~
10 ~~INCREASE IN INTEREST RATE BUT NOT DECREASE IN INTEREST RATE BELOW~~
11 ~~THE FULLY INDEXED RATE AT THE TIME OF ORIGINATION, A MORTGAGE LOAN~~
12 ~~FOR WHICH THE ANNUAL PERCENTAGE RATE IS GREATER THAN 2 PERCENTAGE~~
13 ~~POINTS ABOVE THE YIELD ON UNITED STATES TREASURY SECURITIES HAVING~~
14 ~~COMPARABLE PERIODS OF MATURITY;~~

15 ~~1. AS OF THE 15TH DAY OF THE PRECEDING MONTH~~
16 ~~IF THE RATE IS SET BETWEEN THE FIRST AND 14TH DAY OF THE MONTH; AND~~

17 ~~2. AS OF THE 15TH DAY OF THE CURRENT MONTH IF~~
18 ~~THE RATE IS SET ON OR AFTER THE 15TH DAY;~~

19 ~~(ii) FOR ALL OTHER MORTGAGE LOANS SECURED BY A~~
20 ~~FIRST LIEN ON RESIDENTIAL REAL PROPERTY, A MORTGAGE LOAN FOR WHICH~~
21 ~~THE ANNUAL PERCENTAGE RATE IS GREATER THAN 3 PERCENTAGE POINTS~~
22 ~~ABOVE THE YIELD ON UNITED STATES TREASURY SECURITIES HAVING~~
23 ~~COMPARABLE PERIODS OF MATURITY;~~

24 ~~1. AS OF THE 15TH DAY OF THE PRECEDING MONTH~~
25 ~~IF THE RATE IS SET BETWEEN THE FIRST AND 14TH DAY OF THE MONTH; AND~~

26 ~~2. AS OF THE 15TH DAY OF THE CURRENT MONTH IF~~
27 ~~THE RATE IS SET ON OR AFTER THE 15TH DAY; AND~~

28 ~~(iii) FOR A MORTGAGE LOAN SECURED BY A SUBORDINATE~~
29 ~~LIEN ON RESIDENTIAL REAL PROPERTY, A MORTGAGE LOAN FOR WHICH THE~~
30 ~~ANNUAL PERCENTAGE RATE IS GREATER THAN 5 PERCENTAGE POINTS ABOVE~~
31 ~~THE YIELD ON UNITED STATES TREASURY SECURITIES HAVING COMPARABLE~~
32 ~~PERIODS OF MATURITY;~~

33 ~~1. AS OF THE 15TH DAY OF THE PRECEDING MONTH~~
34 ~~IF THE RATE IS SET BETWEEN THE FIRST AND 14TH DAY OF THE MONTH; AND~~

1 ~~2. AS OF THE 15TH DAY OF THE CURRENT MONTH IF~~
2 ~~THE RATE IS SET ON OR AFTER THE 15TH DAY.~~

3 (12) "POINTS AND FEES" HAS THE MEANING STATED IN
4 REGULATION Z, 12 C.F.R. § 226.32(B)(1).

5 (13) "TOTAL LOAN AMOUNT" HAS THE MEANING STATED IN
6 REGULATION Z, 12 C.F.R. § 226.32(A)(1).

7 ~~[(2)] (B) (1) At the time a [borrower completes a loan application~~
8 ~~for] LENDER OR MORTGAGE BROKER RECOMMENDS a [covered] SUBPRIME loan,~~
9 ~~the~~ THE lender OR MORTGAGE BROKER shall provide ~~the borrower~~ AN APPLICANT
10 FOR AN ADVISORY LOAN with A WRITTEN NOTICE IN THE FORM SPECIFIED IN
11 REGULATIONS ADOPTED BY THE DEPARTMENT OF HOUSING AND COMMUNITY
12 DEVELOPMENT UNDER THIS SECTION.[:

13 (i) A written recommendation that the borrower seek home
14 buyer education or housing counseling; and

15 (ii) ~~A] A list of agencies and organizations approved by the~~
16 ~~county in which the residential real property securing the [covered] SUBPRIME loan is~~
17 ~~located [to] THAT provide home buyer education or housing counseling.~~

18 (2) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS
19 SUBSECTION:

20 (I) SHALL INCLUDE:

21 1. THE LIST OF GOVERNMENT AGENCIES AND
22 NONPROFIT ORGANIZATIONS THAT HAVE BEEN APPROVED BY THE
23 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT TO PROVIDE
24 HOME BUYER EDUCATION OR HOUSING ADVICE, AS MOST RECENTLY POSTED ON
25 THE WEBSITE OF THE DEPARTMENT; AND

26 2. ANY OTHER INFORMATION THE DEPARTMENT
27 DETERMINES IS RELEVANT; AND

28 (II) SHALL BE PROVIDED:

29 1. BY A MORTGAGE BROKER, WITHIN 10 BUSINESS
30 DAYS AFTER THE DATE THE INITIAL LOAN APPLICATION IS MADE; AND

31 2. BY A LENDER, AT THE TIME THE LENDER OFFERS
32 TO MAKE AN ADVISORY LOAN.

1 **(3) THE DEPARTMENT SHALL PROVIDE TO A LENDER OR**
2 **MORTGAGE BROKER ON REQUEST A LIST OF GOVERNMENT AGENCIES AND**
3 **NONPROFIT ORGANIZATIONS APPROVED BY THE DEPARTMENT TO PROVIDE**
4 **HOME BUYER EDUCATION OR HOUSING ADVICE UNDER THIS SECTION.**

5 **(C) THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT:**

6 **(1) SHALL ADOPT REGULATIONS THAT:**

7 **(I) SPECIFY THE FORM OF THE WRITTEN NOTICE**
8 **REQUIRED UNDER SUBSECTION (B) OF THIS SECTION;**

9 **(II) ESTABLISH QUALIFICATIONS THAT A GOVERNMENT**
10 **AGENCY OR NONPROFIT ORGANIZATION MUST MEET TO PROVIDE HOME BUYER**
11 **EDUCATION OR HOUSING ADVICE TO A BORROWER UNDER THIS SECTION;**

12 **(III) SPECIFY THE CONTENT OF THE HOME BUYER**
13 **EDUCATION OR HOUSING ADVICE, WHICH SHALL INCLUDE ANY APPLICABLE**
14 **FEDERAL STANDARD, TO BE PROVIDED UNDER THIS SECTION; AND**

15 **(IV) ESTABLISH A PROCEDURE BY WHICH A GOVERNMENT**
16 **AGENCY OR NONPROFIT ORGANIZATION MAY OBTAIN APPROVAL FROM THE**
17 **DEPARTMENT TO PROVIDE HOME BUYER EDUCATION OR HOUSING ADVICE**
18 **UNDER THIS SECTION; AND**

19 **(2) MAY ADOPT REGULATIONS TO CARRY OUT OTHER**
20 **PROVISIONS OF THIS SECTION.**

21 **(~~C~~) (D) A LENDER MAY NOT ~~COMPLETE A LOAN APPLICATION FOR A~~**
22 **~~SUBPRIME~~ CLOSE AN ADVISORY LOAN UNTIL THE LENDER RECEIVES PROOF**
23 **THAT THE PRIMARY BORROWER HAS COMPLETED HOME BUYER EDUCATION OR**
24 **HOUSING ~~COUNSELING~~ ADVICE PROVIDED BY A GOVERNMENT AGENCY OR**
25 **NONPROFIT ORGANIZATION APPROVED BY THE DEPARTMENT OF HOUSING AND**
26 **COMMUNITY DEVELOPMENT.**

27 **(E) THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**
28 **SHALL MAINTAIN AND PUBLISH AT LEAST ONCE EACH CALENDAR QUARTER A**
29 **LIST OF APPROVED GOVERNMENT AGENCIES AND NONPROFIT ORGANIZATIONS**
30 **THAT EMPLOY HOUSING ADVISORS.**

31 **(F) A VIOLATION OF SUBSECTION (D) OF THIS SECTION IS WITHIN THE**
32 **SCOPE OF THE INVESTIGATIVE AND ENFORCEMENT POWERS OF:**

1 **(1) THE COMMISSIONER UNDER §§ 2-113 THROUGH 2-116 OF**
2 **THE FINANCIAL INSTITUTIONS ARTICLE;**

3 **(2) THE COMMISSIONER AS A VIOLATION OF TITLE 11, SUBTITLE**
4 **5 OF THE FINANCIAL INSTITUTIONS ARTICLE; OR**

5 **(3) THE DIVISION OF CONSUMER PROTECTION OF THE OFFICE**
6 **OF THE ATTORNEY GENERAL UNDER TITLE 13 OF THIS ARTICLE.**

7 12-409.1.

8 (a) (1) In this section the following words have the meanings indicated.

9 (2) “Covered loan” means a mortgage loan made under this subtitle
10 that meets the criteria for a loan subject to the federal Home Ownership Equity
11 Protection Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by
12 Regulation Z, 12 C.F.R. Part 226, except that the comparison percentages for the
13 mortgage loan shall be one percentage point less than those specified in 15 U.S.C. §
14 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226.

15 (3) [“Home buyer education or housing counseling” means instruction
16 on preparing for home ownership, shopping for a home, obtaining a mortgage, loan
17 closing, and life as a homeowner.

18 (4)] “Residential real property” means owner-occupied real property
19 having a dwelling on it designed principally as a residence with accommodations for
20 not more than four families.

21 (b) (1) A lender may not make a covered loan without giving due regard to
22 the borrower’s ability to repay the loan in accordance with its terms.

23 (2) A borrower is presumed to be able to repay a loan if at the time the
24 loan is made the borrower’s total scheduled monthly payment obligations, including
25 the required loan payment, do not exceed 45 percent of the borrower’s monthly gross
26 income.

27 (3) This subsection does not apply to a covered loan to a borrower
28 whose monthly gross income is greater than 120 percent of the median family income
29 for the metropolitan statistical area in which the residential real property securing the
30 loan is located.

31 **12-409.2.**

32 [(c)] (A) (1) In this [subsection,] **SECTION THE FOLLOWING WORDS**
33 **HAVE THE MEANINGS INDICATED.**

1 **(2) (I) “ADVISORY LOAN” MEANS A MORTGAGE LOAN MADE**
 2 **UNDER THIS SUBTITLE THAT BY ITS TERMS:**

3 **1. PERMITS INTEREST ONLY PAYMENTS;**
 4 **2. MAY RESULT IN NEGATIVE AMORTIZATION;**
 5 **3. HAS POINTS AND FEES PAYABLE BY THE**
 6 **BORROWER AT OR BEFORE CLOSING THAT WILL EXCEED 5% OF THE TOTAL**
 7 **LOAN AMOUNT;**

8 **4. INCLUDES A PREPAYMENT PENALTY; OR**
 9 **5. HAS:**
 10 **A. A VARIABLE RATE, AS THAT TERM IS USED IN THE**
 11 **FEDERAL TRUTH IN LENDING ACT; AND**

12 **B. A FULLY INDEXED RATE THAT WOULD CAUSE THE**
 13 **LOAN TO EXCEED BY 5% OR MORE THE YIELD ON THE APPLICABLE**
 14 **COMPARABLE TREASURY SECURITIES.**

15 **(II) “ADVISORY LOAN” DOES NOT INCLUDE:**

16 **1. AN OPEN-END OR REVOLVING HOME EQUITY LINE**
 17 **OF CREDIT;**

18 **2. A CONSTRUCTION LOAN;**

19 **3. A REVERSE MORTGAGE LOAN;**

20 **4. A LOAN WHERE THE INTEREST RATE IS FIXED FOR**
 21 **THE ENTIRE LOAN TERM UNLESS THE LOAN BY ITS TERMS HAS POINTS AND**
 22 **FEES PAYABLE BY THE BORROWER AT OR BEFORE CLOSING THAT WILL EXCEED**
 23 **5% OF THE TOTAL LOAN AMOUNT; OR**

24 **5. A LOAN WHERE THE PRINCIPAL AMOUNT**
 25 **EXCEEDS THE LIMITATIONS ON MAXIMUM LOAN AMOUNTS IN THE STATE FOR A**
 26 **SINGLE-FAMILY DWELLING AS ESTABLISHED FOR THE FEDERAL NATIONAL**
 27 **MORTGAGE ASSOCIATION UNDER 12 U.S.C. § 1717(B)(2).**

28 ~~(2)~~ **(3) “ANNUAL PERCENTAGE RATE” HAS THE MEANING**
 29 **STATED IN 12 C.F.R. PART 226.**

30 **(4) “APPLICABLE COMPARABLE TREASURY SECURITIES” MEANS:**

1 **(I) FOR A MORTGAGE LOAN WITH AN INITIAL INTEREST**
2 **RATE THAT IS FIXED FOR MORE THAN 1 YEAR, COMPARABLE TREASURY**
3 **SECURITIES WITH A MATURITY MATCHING THE DURATION OF THE FIXED-RATE**
4 **PERIOD; AND**

5 **(II) FOR ALL OTHER MORTGAGE LOANS, COMPARABLE**
6 **TREASURY SECURITIES WITH A MATURITY OF 1 YEAR.**

7 **(5) “COMMISSIONER” MEANS THE COMMISSIONER OF FINANCIAL**
8 **REGULATION IN THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION.**

9 **(6) “COMPARABLE TREASURY SECURITIES” MEANS THE YIELD**
10 **ON TREASURY CONSTANT MATURITIES PUBLISHED IN THE FEDERAL RESERVE**
11 **BOARD’S STATISTICAL RELEASE H-15 AS OF THE 15TH DAY OF THE MONTH**
12 **IMMEDIATELY PRECEDING THE MONTH IN WHICH THE LOAN APPLICATION IS**
13 **RECEIVED BY THE LENDER.**

14 **(7) “FULLY INDEXED RATE” MEANS THE INDEX RATE, AS**
15 **EXPECTED TO BE DEFINED IN THE MORTGAGE LOAN DOCUMENTS, PREVAILING**
16 **AT THE TIME THE LOAN APPLICATION IS RECEIVED BY THE LENDER, PLUS THE**
17 **MARGIN THAT WILL APPLY AFTER THE EXPIRATION OF AN INTRODUCTORY**
18 **INTEREST RATE.**

19 ~~(3)~~ **(8) (I) “HOME BUYER EDUCATION OR HOUSING**
20 **COUNSELING ADVICE” MEANS INSTRUCTION ON PREPARING FOR HOME**
21 **OWNERSHIP, SHOPPING FOR A HOME, OBTAINING A MORTGAGE, LOAN CLOSING,**
22 **AND LIFE AS A HOMEOWNER.**

23 **(II) “HOME BUYER EDUCATION OR HOUSING ADVICE”**
24 **INCLUDES INSTRUCTION, IN WHOLE OR IN PART, BY TELEPHONIC MEANS.**

25 ~~(4)~~ **(9)** [“loan] **“LOAN application” has the meaning stated in §**
26 **12-125 of this title.**

27 ~~(5)~~ **(10) “MORTGAGE BROKER” HAS THE MEANING STATED IN §**
28 **11-501 OF THE FINANCIAL INSTITUTIONS ARTICLE.**

29 ~~(6)~~ **(11) (I) “MORTGAGE LOAN” HAS THE MEANING STATED IN**
30 **§ 11-501 OF THE FINANCIAL INSTITUTIONS ARTICLE.**

31 **(II) “MORTGAGE LOAN” DOES NOT INCLUDE A LOAN OR**
32 **EXTENSION OF CREDIT SECURED BY RESIDENTIAL REAL PROPERTY THAT IS NOT**
33 **THE BORROWER’S PRINCIPAL DWELLING.**

1 ~~(7) "RESIDENTIAL REAL PROPERTY" MEANS OWNER OCCUPIED~~
2 ~~REAL PROPERTY HAVING A DWELLING ON IT DESIGNED PRINCIPALLY AS A~~
3 ~~RESIDENCE WITH ACCOMMODATIONS FOR NOT MORE THAN FOUR FAMILIES.~~

4 ~~(8) "SUBPRIME LOAN" MEANS A MORTGAGE LOAN SECURED BY A~~
5 ~~SUBORDINATE LIEN ON RESIDENTIAL REAL PROPERTY FOR WHICH THE ANNUAL~~
6 ~~PERCENTAGE RATE IS GREATER THAN 5 PERCENTAGE POINTS ABOVE THE YIELD~~
7 ~~ON UNITED STATES TREASURY SECURITIES HAVING COMPARABLE PERIODS OF~~
8 ~~MATURITY;~~

9 ~~(I) AS OF THE 15TH DAY OF THE PRECEDING MONTH IF THE~~
10 ~~RATE IS SET BETWEEN THE FIRST AND 14TH DAY OF THE MONTH; AND~~

11 ~~(II) AS OF THE 15TH DAY OF THE CURRENT MONTH IF THE~~
12 ~~RATE IS SET ON OR AFTER THE 15TH DAY.~~

13 (12) "POINTS AND FEES" HAS THE MEANING STATED IN
14 REGULATION Z, 12 C.F.R. § 226.32(B)(1).

15 (13) "TOTAL LOAN AMOUNT" HAS THE MEANING STATED IN
16 REGULATION Z, 12 C.F.R. § 226.32(A)(1).

17 ~~[(2)] (B) (1) At the time a [borrower completes a loan application~~
18 ~~for] LENDER OR MORTGAGE BROKER RECOMMENDS a [covered] SUBPRIME loan,~~
19 ~~the THE lender OR MORTGAGE BROKER shall provide the borrower AN APPLICANT~~
20 ~~FOR AN ADVISORY LOAN with A WRITTEN NOTICE IN THE FORM SPECIFIED IN~~
21 ~~REGULATIONS ADOPTED BY THE DEPARTMENT OF HOUSING AND COMMUNITY~~
22 ~~DEVELOPMENT UNDER THIS SECTION.]:~~

23 (i) A written recommendation that the borrower seek home
24 buyer education or housing counseling; and

25 (ii) A] ~~A list of agencies and organizations approved by the~~
26 ~~county in which the residential real property securing the [covered] SUBPRIME loan is~~
27 ~~located [to] THAT provide home buyer education or housing counseling.~~

28 (2) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS
29 SUBSECTION:

30 (I) SHALL INCLUDE:

31 1. THE LIST OF GOVERNMENT AGENCIES AND
32 NONPROFIT ORGANIZATIONS THAT HAVE BEEN APPROVED BY THE
33 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT TO PROVIDE

1 HOME BUYER EDUCATION OR HOUSING ADVICE, AS MOST RECENTLY POSTED ON
2 THE WEBSITE OF THE DEPARTMENT; AND

3 2. ANY OTHER INFORMATION THE DEPARTMENT
4 DETERMINES IS RELEVANT; AND

5 (II) SHALL BE PROVIDED:

6 1. BY A MORTGAGE BROKER, WITHIN 10 BUSINESS
7 DAYS AFTER THE DATE THE INITIAL LOAN APPLICATION IS MADE; AND

8 2. BY A LENDER, AT THE TIME THE LENDER OFFERS
9 TO MAKE AN ADVISORY LOAN.

10 (3) THE DEPARTMENT SHALL PROVIDE TO A LENDER OR
11 MORTGAGE BROKER ON REQUEST A LIST OF GOVERNMENT AGENCIES AND
12 NONPROFIT ORGANIZATIONS APPROVED BY THE DEPARTMENT TO PROVIDE
13 HOME BUYER EDUCATION OR HOUSING ADVICE UNDER THIS SECTION.

14 (C) THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT:

15 (1) SHALL ADOPT REGULATIONS THAT:

16 (I) SPECIFY THE FORM OF THE WRITTEN NOTICE
17 REQUIRED UNDER SUBSECTION (B) OF THIS SECTION;

18 (II) ESTABLISH QUALIFICATIONS THAT A GOVERNMENT
19 AGENCY OR NONPROFIT ORGANIZATION MUST MEET TO PROVIDE HOME BUYER
20 EDUCATION OR HOUSING ADVICE TO A BORROWER UNDER THIS SECTION;

21 (III) SPECIFY THE CONTENT OF THE HOME BUYER
22 EDUCATION OR HOUSING ADVICE, WHICH SHALL INCLUDE ANY APPLICABLE
23 FEDERAL STANDARD, TO BE PROVIDED UNDER THIS SECTION; AND

24 (IV) ESTABLISH A PROCEDURE BY WHICH A GOVERNMENT
25 AGENCY OR NONPROFIT ORGANIZATION MAY OBTAIN APPROVAL FROM THE
26 DEPARTMENT TO PROVIDE HOME BUYER EDUCATION OR HOUSING ADVICE
27 UNDER THIS SECTION; AND

28 (2) MAY ADOPT REGULATIONS TO CARRY OUT OTHER
29 PROVISIONS OF THIS SECTION.

30 ~~(C) (D)~~ A LENDER MAY NOT COMPLETE A LOAN APPLICATION FOR A
31 SUBPRIME CLOSE AN ADVISORY LOAN UNTIL THE LENDER RECEIVES PROOF
32 THAT THE PRIMARY BORROWER HAS COMPLETED HOME BUYER EDUCATION OR

1 HOUSING ~~COUNSELING~~ **ADVICE PROVIDED BY A GOVERNMENT AGENCY OR**
2 **NONPROFIT ORGANIZATION APPROVED BY THE DEPARTMENT OF HOUSING AND**
3 **COMMUNITY DEVELOPMENT.**

4 **(E) THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**
5 **SHALL MAINTAIN AND PUBLISH AT LEAST ONCE EACH CALENDAR QUARTER A**
6 **LIST OF APPROVED GOVERNMENT AGENCIES AND NONPROFIT ORGANIZATIONS**
7 **THAT EMPLOY HOUSING ADVISORS.**

8 **(F) A VIOLATION OF SUBSECTION (D) OF THIS SECTION IS WITHIN THE**
9 **SCOPE OF THE INVESTIGATIVE AND ENFORCEMENT POWERS OF:**

10 **(1) THE COMMISSIONER UNDER §§ 2-113 THROUGH 2-116 OF**
11 **THE FINANCIAL INSTITUTIONS ARTICLE;**

12 **(2) THE COMMISSIONER, AS A VIOLATION OF TITLE 11, SUBTITLE**
13 **5, OF THE FINANCIAL INSTITUTIONS ARTICLE; OR**

14 **(3) THE DIVISION OF CONSUMER PROTECTION OF THE OFFICE**
15 **OF THE ATTORNEY GENERAL UNDER TITLE 13 OF THIS ARTICLE.**

16 12-1029.

17 (a) [(1)] In this section [the following words have the meanings indicated.

18 (2) “Covered], **“COVERED** loan” means a mortgage loan made under
19 this subtitle that meets the criteria for a loan subject to the federal Home Ownership
20 and Equity Protection Act set forth in 15 U.S.C. § 1602(aa), as modified from time to
21 time by Regulation Z, 12 C.F.R. Part 226, except that the comparison percentages for
22 the mortgage loan shall be one percentage point less than those specified in 15 U.S.C.
23 § 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226.

24 [(3) “Home buyer education or housing counseling” means instruction
25 on preparing for home ownership, shopping for a home, obtaining a mortgage, loan
26 closing, and life as a homeowner.]

27 (b) (1) A credit grantor may not make a covered loan without giving due
28 regard to the borrower’s ability to repay the loan in accordance with its terms.

29 (2) A borrower is presumed to be able to repay a loan if at the time the
30 loan is made the borrower’s total scheduled monthly payment obligations, including
31 the required loan payment, do not exceed 45 percent of the borrower’s monthly gross
32 income.

33 (3) This subsection does not apply to a loan to a borrower whose
34 monthly gross income is greater than 120 percent of the median family income for the

1 metropolitan statistical area in which the residential real property securing the loan is
2 located.

3 **12-1029.1.**

4 [(c)] (A) (1) In this [subsection,] SECTION THE FOLLOWING WORDS
5 HAVE THE MEANINGS INDICATED.

6 (2) (I) “ADVISORY LOAN” MEANS A MORTGAGE LOAN MADE
7 UNDER THIS SUBTITLE THAT BY ITS TERMS:

8 1. PERMITS INTEREST ONLY PAYMENTS;

9 2. MAY RESULT IN NEGATIVE AMORTIZATION;

10 3. HAS POINTS AND FEES PAYABLE BY THE
11 BORROWER AT OR BEFORE CLOSING THAT WILL EXCEED 5% OF THE TOTAL
12 LOAN AMOUNT;

13 4. INCLUDES A PREPAYMENT PENALTY; OR

14 5. HAS:

15 A. A VARIABLE RATE, AS THAT TERM IS USED IN THE
16 FEDERAL TRUTH IN LENDING ACT; AND

17 B. A FULLY INDEXED RATE THAT WOULD CAUSE THE
18 LOAN TO EXCEED BY 5% OR MORE THE YIELD ON THE APPLICABLE
19 COMPARABLE TREASURY SECURITIES.

20 (II) “ADVISORY LOAN” DOES NOT INCLUDE:

21 1. AN OPEN-END OR REVOLVING HOME EQUITY LINE
22 OF CREDIT;

23 2. A CONSTRUCTION LOAN;

24 3. A REVERSE MORTGAGE LOAN;

25 4. A LOAN WHERE THE INTEREST RATE IS FIXED FOR
26 THE ENTIRE LOAN TERM UNLESS THE LOAN BY ITS TERMS HAS POINTS AND
27 FEES PAYABLE BY THE BORROWER AT OR BEFORE CLOSING THAT WILL EXCEED
28 5% OF THE TOTAL LOAN AMOUNT; OR

1 **5. A LOAN WHERE THE PRINCIPAL AMOUNT**
2 **EXCEEDS THE LIMITATIONS ON MAXIMUM LOAN AMOUNTS IN THE STATE FOR A**
3 **SINGLE-FAMILY DWELLING AS ESTABLISHED FOR THE FEDERAL NATIONAL**
4 **MORTGAGE ASSOCIATION UNDER 12 U.S.C. § 1717(B)(2).**

5 ~~(2)~~ **(3)** **“ANNUAL PERCENTAGE RATE” HAS THE MEANING**
6 **STATED IN 12 C.F.R. PART 226.**

7 **(4) “APPLICABLE COMPARABLE TREASURY SECURITIES” MEANS:**

8 **(I) FOR A MORTGAGE LOAN WITH AN INITIAL INTEREST**
9 **RATE THAT IS FIXED FOR MORE THAN 1 YEAR, COMPARABLE TREASURY**
10 **SECURITIES WITH A MATURITY MATCHING THE DURATION OF THE FIXED-RATE**
11 **PERIOD; AND**

12 **(II) FOR ALL OTHER MORTGAGE LOANS, COMPARABLE**
13 **TREASURY SECURITIES WITH A MATURITY OF 1 YEAR.**

14 **(5) “COMMISSIONER” MEANS THE COMMISSIONER OF FINANCIAL**
15 **REGULATION IN THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION.**

16 **(6) “COMPARABLE TREASURY SECURITIES” MEANS THE YIELD**
17 **ON TREASURY CONSTANT MATURITIES PUBLISHED IN THE FEDERAL RESERVE**
18 **BOARD’S STATISTICAL RELEASE H-15 AS OF THE 15TH DAY OF THE MONTH**
19 **IMMEDIATELY PRECEDING THE MONTH IN WHICH THE LOAN APPLICATION IS**
20 **RECEIVED BY THE CREDIT GRANTOR.**

21 ~~(3)~~ **(7)** **“FULLY INDEXED RATE” MEANS THE INDEX RATE**
22 **~~APPLICABLE TO A MORTGAGE LOAN FOR A RESIDENTIAL REAL PROPERTY AT~~**
23 **~~THE TIME IT IS ORIGINATED, AS EXPECTED TO BE DEFINED IN THE MORTGAGE~~**
24 **~~LOAN DOCUMENTS, PREVAILING AT THE TIME THE LOAN APPLICATION IS~~**
25 **~~RECEIVED BY THE CREDIT GRANTOR, PLUS THE MARGIN THAT WILL APPLY~~**
26 **~~AFTER THE EXPIRATION OF AN INTRODUCTORY INTEREST RATE.~~**

27 ~~(4)~~ **(8)** **(I) “HOME BUYER EDUCATION OR HOUSING**
28 **COUNSELING ADVICE” MEANS INSTRUCTION ON PREPARING FOR HOME**
29 **OWNERSHIP, SHOPPING FOR A HOME, OBTAINING A MORTGAGE, LOAN CLOSING,**
30 **AND LIFE AS A HOMEOWNER.**

31 **(II) “HOME BUYER EDUCATION OR HOUSING ADVICE”**
32 **INCLUDES INSTRUCTION, IN WHOLE OR IN PART, BY TELEPHONIC MEANS.**

33 ~~(5)~~ **(9)** **[“loan] “LOAN application” has the meaning stated in §**
34 **12-125 of this title.**

1 ~~(6)~~ **(10)** **“MORTGAGE BROKER” HAS THE MEANING STATED IN §**
2 **11-501 OF THE FINANCIAL INSTITUTIONS ARTICLE.**

3 ~~(7)~~ **(11)** **(I) “MORTGAGE LOAN” HAS THE MEANING STATED IN**
4 **§ 11-501 OF THE FINANCIAL INSTITUTIONS ARTICLE.**

5 **(II) “MORTGAGE LOAN” DOES NOT INCLUDE A LOAN OR**
6 **EXTENSION OF CREDIT SECURED BY RESIDENTIAL REAL PROPERTY THAT IS NOT**
7 **THE BORROWER’S PRINCIPAL DWELLING.**

8 ~~(8)~~ **“SUBPRIME LOAN” MEANS:**

9 **(I) ~~IN THE CASE OF AN ADJUSTABLE RATE MORTGAGE~~**
10 **~~LOAN SECURED BY A FIRST LIEN ON RESIDENTIAL REAL PROPERTY THAT CAN~~**
11 **~~INCREASE IN INTEREST RATE BUT NOT DECREASE IN INTEREST RATE BELOW~~**
12 **~~THE FULLY INDEXED RATE AT THE TIME OF ORIGINATION, A MORTGAGE LOAN~~**
13 **~~FOR WHICH THE ANNUAL PERCENTAGE RATE IS GREATER THAN 2 PERCENTAGE~~**
14 **~~POINTS ABOVE THE YIELD ON UNITED STATES TREASURY SECURITIES HAVING~~**
15 **~~COMPARABLE PERIODS OF MATURITY;~~**

16 **1. ~~AS OF THE 15TH DAY OF THE PRECEDING MONTH~~**
17 **~~IF THE RATE IS SET BETWEEN THE FIRST AND 14TH DAY OF THE MONTH; AND~~**

18 **2. ~~AS OF THE 15TH DAY OF THE CURRENT MONTH IF~~**
19 **~~THE RATE IS SET ON OR AFTER THE 15TH DAY;~~**

20 **(II) ~~FOR ALL OTHER MORTGAGE LOANS SECURED BY A~~**
21 **~~FIRST LIEN ON RESIDENTIAL REAL PROPERTY, A MORTGAGE LOAN FOR WHICH~~**
22 **~~THE ANNUAL PERCENTAGE RATE IS GREATER THAN 3 PERCENTAGE POINTS~~**
23 **~~ABOVE THE YIELD ON UNITED STATES TREASURY SECURITIES HAVING~~**
24 **~~COMPARABLE PERIODS OF MATURITY;~~**

25 **1. ~~AS OF THE 15TH DAY OF THE PRECEDING MONTH~~**
26 **~~IF THE RATE IS SET BETWEEN THE FIRST AND 14TH DAY OF THE MONTH; AND~~**

27 **2. ~~AS OF THE 15TH DAY OF THE CURRENT MONTH IF~~**
28 **~~THE RATE IS SET ON OR AFTER THE 15TH DAY; AND~~**

29 **(III) ~~FOR A MORTGAGE LOAN SECURED BY A SUBORDINATE~~**
30 **~~LIEN ON RESIDENTIAL REAL PROPERTY, A MORTGAGE LOAN FOR WHICH THE~~**
31 **~~ANNUAL PERCENTAGE RATE IS GREATER THAN 5 PERCENTAGE POINTS ABOVE~~**
32 **~~THE YIELD ON UNITED STATES TREASURY SECURITIES HAVING COMPARABLE~~**
33 **~~PERIODS OF MATURITY;~~**

1 ~~1. AS OF THE 15TH DAY OF THE PRECEDING MONTH~~
 2 ~~IF THE RATE IS SET BETWEEN THE FIRST AND 14TH DAY OF THE MONTH; AND~~

3 ~~2. AS OF THE 15TH DAY OF THE CURRENT MONTH IF~~
 4 ~~THE RATE IS SET ON OR AFTER THE 15TH DAY.~~

5 (12) "POINTS AND FEES" HAS THE MEANING STATED IN
 6 REGULATION Z, 12 C.F.R. § 226.32 (B)(1).

7 (13) "TOTAL LOAN AMOUNT" HAS THE MEANING STATED IN
 8 REGULATION Z, 12 C.F.R. § 226.32 (A)(1).

9 [(2)] (B) (1) ~~At the time a [borrower completes a loan application~~
 10 ~~for] CREDIT GRANTOR OR MORTGAGE BROKER RECOMMENDS a [covered]~~
 11 ~~SUBPRIME loan, the THE credit grantor OR MORTGAGE BROKER shall provide the~~
 12 ~~borrower AN APPLICANT FOR AN ADVISORY LOAN with A WRITTEN NOTICE IN THE~~
 13 ~~FORM SPECIFIED IN REGULATIONS ADOPTED BY THE DEPARTMENT OF~~
 14 ~~HOUSING AND COMMUNITY DEVELOPMENT UNDER THIS SECTION.[:~~

15 (i) A written recommendation that the borrower seek home
 16 buyer education or housing counseling; and

17 (ii) A] ~~A list of agencies and organizations approved by the~~
 18 ~~county in which the residential real property securing the [covered] SUBPRIME loan is~~
 19 ~~located [to] THAT provide home buyer education or housing counseling.~~

20 (2) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS
 21 SUBSECTION:

22 (I) SHALL INCLUDE:

23 1. THE LIST OF GOVERNMENT AGENCIES AND
 24 NONPROFIT ORGANIZATIONS THAT HAVE BEEN APPROVED BY THE
 25 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT TO PROVIDE
 26 HOME BUYER EDUCATION OR HOUSING ADVICE, AS MOST RECENTLY POSTED ON
 27 THE WEBSITE OF THE DEPARTMENT; AND

28 2. ANY OTHER INFORMATION THE DEPARTMENT
 29 DETERMINES IS RELEVANT; AND

30 (II) SHALL BE PROVIDED:

1 **1. BY A MORTGAGE BROKER, WITHIN 10 BUSINESS**
2 **DAYS AFTER THE DATE THE INITIAL LOAN APPLICATION IS MADE; AND**

3 **2. BY A CREDIT GRANTOR, AT THE TIME THE**
4 **~~LENDER~~ CREDIT GRANTOR OFFERS TO MAKE AN ADVISORY LOAN.**

5 **(3) THE DEPARTMENT SHALL PROVIDE TO A CREDIT GRANTOR**
6 **OR MORTGAGE BROKER ON REQUEST A LIST OF GOVERNMENT AGENCIES AND**
7 **NONPROFIT ORGANIZATIONS APPROVED BY THE DEPARTMENT TO PROVIDE**
8 **HOME BUYER EDUCATION OR HOUSING ADVICE UNDER THIS SECTION.**

9 **(C) THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT:**

10 **(1) SHALL ADOPT REGULATIONS THAT:**

11 **(I) SPECIFY THE FORM OF THE WRITTEN NOTICE**
12 **REQUIRED UNDER SUBSECTION (B) OF THIS SECTION;**

13 **(II) ESTABLISH QUALIFICATIONS THAT A GOVERNMENT**
14 **AGENCY OR NONPROFIT ORGANIZATION MUST MEET TO PROVIDE HOME BUYER**
15 **EDUCATION OR HOUSING ADVICE TO A BORROWER UNDER THIS SECTION;**

16 **(III) SPECIFY THE CONTENT OF THE HOME BUYER**
17 **EDUCATION OR HOUSING ADVICE, WHICH SHALL INCLUDE ANY APPLICABLE**
18 **FEDERAL STANDARD, TO BE PROVIDED UNDER THIS SECTION; AND**

19 **(IV) ESTABLISH A PROCEDURE BY WHICH A GOVERNMENT**
20 **AGENCY OR NONPROFIT ORGANIZATION MAY OBTAIN APPROVAL FROM THE**
21 **DEPARTMENT TO PROVIDE HOME BUYER EDUCATION OR HOUSING ADVICE**
22 **UNDER THIS SECTION; AND**

23 **(2) MAY ADOPT REGULATIONS TO CARRY OUT OTHER**
24 **PROVISIONS OF THIS SECTION.**

25 **~~(C)~~ (D) A CREDIT GRANTOR MAY NOT ~~COMPLETE A LOAN~~**
26 **~~APPLICATION FOR A SUBPRIME~~ CLOSE AN ADVISORY LOAN UNTIL THE CREDIT**
27 **GRANTOR RECEIVES PROOF THAT THE PRIMARY BORROWER HAS COMPLETED**
28 **HOME BUYER EDUCATION OR HOUSING ~~COUNSELING~~ ADVICE PROVIDED BY A**
29 **GOVERNMENT AGENCY OR NONPROFIT ORGANIZATION APPROVED BY THE**
30 **DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.**

31 **(E) THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**
32 **SHALL MAINTAIN AND PUBLISH AT LEAST ONCE EACH CALENDAR QUARTER A**

1 LIST OF APPROVED GOVERNMENT AGENCIES AND NONPROFIT ORGANIZATIONS
2 THAT EMPLOY HOUSING ADVISORS.

3 (F) A VIOLATION OF SUBSECTION (D) OF THIS SECTION IS WITHIN THE
4 SCOPE OF THE INVESTIGATIVE AND ENFORCEMENT POWERS OF:

5 (1) THE COMMISSIONER UNDER §§ 2-113 THROUGH 2-116 OF
6 THE FINANCIAL INSTITUTIONS ARTICLE;

7 (2) THE COMMISSIONER AS A VIOLATION OF TITLE 11, SUBTITLE
8 5 OF THE FINANCIAL INSTITUTIONS ARTICLE; OR

9 (3) THE DIVISION OF CONSUMER PROTECTION OF THE OFFICE
10 OF THE ATTORNEY GENERAL UNDER TITLE 13 OF THIS ARTICLE.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall not apply
12 to any lender, mortgage broker, or credit grantor until:

13 (1) the Department of Housing and Community Development has
14 determined that there are a sufficient number of housing advisors, in a sufficient
15 number of locations, to serve all areas of the State;

16 (2) the Department has specified the form of the written notice
17 required under this Act; and

18 (3) the Department has made the list of approved government
19 agencies and nonprofit organizations available through posting on the Department's
20 website for not less than 60 days.

21 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That, subject to Section 2 of
22 this Act, this Act shall take effect October 1, 2008.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.