

116TH CONGRESS  
2D SESSION

# H. R. 7889

To apply the Truth in Lending Act to small business financing, to regulate brokers and require the licensing of brokers, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

JULY 30, 2020

Ms. VELÁZQUEZ introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To apply the Truth in Lending Act to small business financing, to regulate brokers and require the licensing of brokers, 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 “Small Business Lend-  
5 ing Disclosure and Broker Regulation Act of 2020”.

1           **TITLE I—SMALL BUSINESS**  
2                           **FINANCING**

3   **SEC. 101. APPLICATION OF THE TRUTH IN LENDING TO**  
4                           **SMALL BUSINESS FINANCING.**

5           (a) IN GENERAL.—The Truth in Lending Act (15  
6 U.S.C. 1601 et seq.) is amended by adding at the end  
7 the following:

8                           **“CHAPTER 6—SMALL BUSINESS**  
9   **FINANCING**

“191. Definitions.

“192. Application of this title to small business financing.

“193. Additional disclosures.

“194. Restrictions on double-dipping.

“195. Additional provisions.

10   **“§ 191. Definitions**

11           “In this chapter:

12                   “(1) CLOSED-END COMMERCIAL CREDIT.—The  
13           term ‘closed-end commercial credit’—

14                           “(A) means a closed-end extension of cred-  
15           it, secured or unsecured, including financing  
16           with an established principal amount and in-  
17           cluding equipment financing that does not meet  
18           the definition of a lease under the Uniform  
19           Commercial Code (U.C.C.—§ 2A-103(j)) the  
20           proceeds of which the recipient does not intend  
21           to use primarily for personal, family or house-  
22           hold purposes; and

1           “(B) includes financing with an established  
2           principal amount and duration.

3           “(2) CONSUMER FINANCIAL PRODUCT OR SERV-  
4           ICE.—The term ‘consumer financial product or serv-  
5           ice’ has the meaning given that term under section  
6           1002 of the Consumer Financial Protection Act of  
7           2010.

8           “(3) DIRECTOR.—The term ‘Director’ means  
9           the Director of the Bureau.

10          “(4) FACTORING.—The term ‘factoring’ means  
11          a transaction that includes an agreement to pur-  
12          chase, transfer, or sell a legally enforceable claim for  
13          payment held by a recipient for goods the recipient  
14          has supplied or services the recipient has rendered  
15          that have been ordered but for which payment has  
16          not yet been made.

17          “(5) FINANCE CHARGE.—

18                 “(A) IN GENERAL.—The term ‘finance  
19                 charge’ means the cost of financing as a dollar  
20                 amount, and includes any charge payable di-  
21                 rectly or indirectly by the recipient of the fi-  
22                 nancing and imposed directly or indirectly by  
23                 the provider of the financing as an incident to  
24                 or a condition of the extension of financing.

1           “(B) CALCULATION IN OPEN-END COM-  
2           MERCIAL CREDIT PLANS.—In any open-end  
3           commercial credit plan, the finance charge shall  
4           be computed assuming the maximum amount of  
5           credit available to the recipient, in each case, is  
6           drawn and repaid at the minimum rate.

7           “(C) CALCULATION IN FACTORING TRANS-  
8           ACTIONS.—In any factoring transaction, the fi-  
9           nance charge shall include the discount taken  
10          on the face value of the accounts receivable.

11          “(D) CALCULATION IN LEASE FINANCING  
12          TRANSACTIONS.—In any lease financing trans-  
13          action, the finance charge shall include the sum  
14          of the lease payments and, if there is a fixed-  
15          price purchase option or a purchase option with  
16          a price that can be calculated at the time of  
17          disclosure, the purchase price listed in the con-  
18          tract that the lessee may pay to acquire the  
19          leased goods at the end of the lease, minus—

20                 “(i) if the finance company selects,  
21                 manufactures, or supplies the goods to be  
22                 leased, the price that the finance company  
23                 would sell the goods in a cash transaction;  
24                 or

1           “(ii) if the finance company does not  
2           select, manufacture, or supply the goods to  
3           be leased, the price the finance company  
4           will pay to acquire the property to be  
5           leased.

6           “(E) INCLUSION OF CERTAIN PREPAY-  
7           MENT CHARGES.—

8           “(i) IN GENERAL.—If, as a condition  
9           of obtaining the offered commercial financ-  
10          ing the provider requires the recipient to  
11          pay off the balance of an existing loan or  
12          advance from the same provider, any pre-  
13          payment charge or penalty required to be  
14          paid on the existing financing shall be in-  
15          cluded as a financing charge.

16          “(ii) TREATMENT WHEN REPAYMENT  
17          AMOUNT IS CALCULATED AS A FIXED  
18          AMOUNT.—For purposes of clause (i), for  
19          financing for which the total repayment  
20          amount is calculated as a fixed amount,  
21          the prepayment charge is equal to the  
22          original finance charge multiplied by the  
23          required prepayment amount as a percent-  
24          age of the total repayment amount, minus  
25          any portion of the total repayment amount

1           forgiven by the provider at the time of pre-  
2           payment.

3           “(6) OPEN-END COMMERCIAL CREDIT PLAN.—

4           The term ‘open-end commercial credit plan’ means  
5           any small business financing provided by a person  
6           under a plan in which the person reasonably con-  
7           templates repeat transactions, which prescribes the  
8           terms of such transactions, and which provides for  
9           a finance charge which may be computed from time  
10          to time on the outstanding unpaid balance.

11          “(7) PROVIDER.—The term ‘provider’ mean a  
12          person who offers or provides small business financ-  
13          ing.

14          “(8) RECIPIENT.—The term ‘recipient’ means a  
15          person who is presented an offer of small business  
16          financing.

17          “(9) SALES-BASED FINANCING.—The term  
18          ‘sales-based financing’—

19                 “(A) means a transaction where there is  
20                 an extension of financing to a recipient that is  
21                 repaid by the recipient, over time, as a percent-  
22                 age of sales or revenue, in which the payment  
23                 amount may increase or decrease according to  
24                 the volume of sales made or revenue received by  
25                 the recipient; and

1           “(B) includes transactions with a ‘true-up  
2           mechanism’.

3           “(10) SMALL BUSINESS.—The term ‘small busi-  
4           ness’ has the meaning given the term ‘small-business  
5           concern’ under section 3 of the Small Business Act  
6           (15 U.S.C. 632).

7           “(11) SMALL BUSINESS FINANCING.—The term  
8           ‘small business financing’—

9           “(A) means any line of credit, closed-end  
10           commercial credit, sales-based financing, or  
11           other non-equity obligation or alleged obligation  
12           of a partnership, corporation, cooperative, asso-  
13           ciation, or other entity that is \$2,500,000 or  
14           less; and

15           “(B) does not include any obligation or al-  
16           leged obligation of an individual that is pri-  
17           marily for personal, family, or household pur-  
18           poses.

19           “(12) SPECIFIC OFFER.—The term ‘specific  
20           offer’ means the specific terms of small business fi-  
21           nancing, including price or amount, that is quoted to  
22           a recipient, based on information obtained from, or  
23           about the recipient, which, if accepted by a recipient,  
24           shall be binding on the provider, as applicable, sub-

1       ject to any specific requirements stated in such  
2       terms.

3       **“§ 192. Application of this title to small business fi-**  
4                                   **nancing**

5           “(a) IN GENERAL.—This title shall apply to small  
6 business financing made to a small business to the same  
7 extent as this title applies to extensions of credit made  
8 to a consumer.

9           “(b) RULEMAKING.—The Director shall issue such  
10 rules as may be required to carry out this chapter.

11          “(c) BUREAU AUTHORITY.—For purposes of carrying  
12 out this chapter and other Federal laws, including the  
13 Consumer Financial Protection Act of 2010, the Bureau  
14 shall have the same authority with respect to small busi-  
15 ness financing as the Bureau has with respect to consumer  
16 financial products and services.

17       **“§ 193. Additional disclosures**

18           “(a) IN GENERAL.—Any provider offering small busi-  
19 ness financing to a small business shall disclose the fol-  
20 lowing pieces of information to a recipient at the time of  
21 extending a specific offer for small business financing:

22                   “(1) FINANCING AMOUNT.—The total amount  
23           to be paid to the small business, taking into account  
24           all fees and charges to be withheld at disbursement.

25                   “(2) ANNUAL PERCENTAGE RATE.—



1           “(A) CLOSED-END COMMERCIAL CREDIT.—  
2           With respect to closed-end commercial credit,  
3           the annual percentage rate, using only the  
4           words ‘annual percentage rate’ or the abbrevia-  
5           tion ‘APR’, expressed as a yearly rate, inclusive  
6           of any fees and finance charges that cannot be  
7           avoided by a recipient.

8           “(B) OPEN-END COMMERCIAL CREDIT  
9           PLANS.—With respect to open-end commercial  
10          credit plans, the annual percentage rate, using  
11          only the words ‘annual percentage rate’ or the  
12          abbreviation ‘APR’, expressed as a nominal  
13          yearly rate, inclusive of any fees and finance  
14          charges that cannot be avoided by a recipient,  
15          based on the maximum amount of credit avail-  
16          able to the recipient and the term resulting  
17          from making the minimum required payments  
18          term as disclosed.

19          “(C) SALES-BASED FINANCING.—

20                 “(i) IN GENERAL.—With respect to  
21                 sales-based financing, the estimated annual  
22                 percentage rate, using the words ‘annual  
23                 percentage rate’ or the abbreviation ‘APR’,  
24                 expressed as a yearly rate, inclusive of any  
25                 fees and finance charges, based on the esti-

1 mated term of repayment and the pro-  
2 jected periodic payment amounts.

3 “(ii) CALCULATION OF CERTAIN PAY-  
4 MENT AMOUNTS.—The estimated term of  
5 repayment and the projected periodic pay-  
6 ment amounts shall be calculated based on  
7 the projection of the recipient’s sales,  
8 called the projected sales volume.

9 “(iii) CALCULATION OF PROJECTED  
10 SALES VOLUMES.—For purposes of clause  
11 (ii), the projected sales volume may be cal-  
12 culated—

13 “(I) according to a method de-  
14 fined by the Director based on the re-  
15 cipient’s historical sales volume over a  
16 defined period of time that is used for  
17 all sales-based financing transactions  
18 by that provider; or

19 “(II) by another method defined  
20 by the provider and approved by the  
21 Director, with ongoing monitoring by  
22 the Director for accuracy based on a  
23 comparison of the annual percentage  
24 rate as disclosed to the recipient and

1 as calculated retrospectively upon re-  
2 payment of the financing.

3 “(D) FACTORING.—

4 “(i) IN GENERAL.—With respect to  
5 factoring, the estimated annual percentage  
6 rate, using that term.

7 “(ii) CALCULATION.—To calculate the  
8 estimated annual percentage rate under  
9 clause (i)—

10 “(I) the purchase amount shall  
11 be considered the financing amount;

12 “(II) the purchase amount minus  
13 the total cost of financing shall be  
14 considered the payment amount; and

15 “(III) the term is established by  
16 the payment due date of the receiv-  
17 ables.

18 “(iii) ALTERNATE METHOD TO ESTI-  
19 MATE TERM.—Notwithstanding clause  
20 (ii)(III), a provider may estimate the term  
21 for a factoring transaction as the average  
22 payment period, its historical data over a  
23 period not to exceed the previous twelve  
24 months, concerning payment invoices paid

1           by the party owing the accounts receivable  
2           in question.

3           “(3) PAYMENT AMOUNT.—With respect to  
4           small business financing other than factoring—

5           “(A) for payment amounts that are fixed—

6           “(i) the payment amounts and fre-  
7           quency (e.g., daily, weekly, monthly); and

8           “(ii) if the term is longer than one  
9           month and payment frequency is other  
10          than monthly, the average total monthly  
11          payment amount; or

12          “(B) for payment amounts that are vari-  
13          able—

14          “(i) a full payment schedule or a de-  
15          scription of the method used to calculate  
16          the amounts and frequency of payments;  
17          and

18          “(ii) if the term is longer than one  
19          month, the estimated average total month-  
20          ly payment amount.

21          “(4) TERM.—For financing other than fac-  
22          toring, the term of the small business financing, ei-  
23          ther in months or in years, or, if the term is not  
24          fixed, the estimated term, calculated using the same

1 assumptions used to calculate the estimated annual  
2 percentage rate.

3 “(5) FINANCE CHARGE.—The finance charge of  
4 the small business financing, broken down to show  
5 what expenses and fees are included in the finance  
6 charge.

7 “(6) PREPAYMENT COST OR SAVINGS.—In the  
8 event that a recipient elects to pay off or refinance  
9 the small business financing prior to full repayment,  
10 the provider must disclose—

11 “(A) whether the recipient would be re-  
12 quired to pay any finance charges other than  
13 interest accrued since the recipient’s last pay-  
14 ment; and

15 “(B) if the recipient is required to pay the  
16 finance charges described under subparagraph  
17 (A), the percentage of any unpaid portion of  
18 the finance charge and maximum dollar amount  
19 the recipient could be required to pay; and

20 “(C) whether the recipient would be re-  
21 quired to pay any additional fees not already in-  
22 cluded in the finance charge.

23 “(7) COLLATERAL REQUIREMENTS.—Any col-  
24 lateral requirement that will be imposed on the small

1 business in connection with the small business fi-  
2 nancing.

3 “(b) FORM OF DISCLOSURES.—

4 “(1) IN GENERAL.—Disclosures made pursuant  
5 to this section shall be in writing, at the time a spe-  
6 cific offer is made, and in a manner that is clear,  
7 conspicuous, complete, and allows the small business  
8 to compare the range of small business financing op-  
9 tions that the small business may be considering.

10 “(2) PROMINENCE OF DISCLOSURES.—In mak-  
11 ing any disclosure pursuant to this section, the dis-  
12 closures required under paragraphs (1), (2), and (3)  
13 of subsection (a) shall be displayed most promi-  
14 nently.

15 **“§ 194. Restrictions on double-dipping**

16 “When a lender of small business financing refi-  
17 nances or modifies an existing loan with a fixed fee as  
18 the primary financing charge, the lender may not charge  
19 a fee on the small business’s outstanding principal unless  
20 there is a tangible benefit to the small business.

21 **“§ 195. Additional provisions**

22 “(a) RULE OF CONSTRUCTION.—Nothing in this  
23 chapter may be construed to prevent a provider from pro-  
24 viding or disclosing additional information on a small busi-  
25 ness financing being offered to a recipient, provided how-

1 ever, that such additional information may not be dis-  
2 closed as part of the disclosure required by this chapter.

3 “(b) USE OF TERMS.—

4 “(1) RATE.—If other metrics of financing cost  
5 are disclosed or used in the application process of a  
6 small business financing, these metrics shall not be  
7 presented as a ‘rate’ if they are not the annual in-  
8 terest rate or the annual percentage rate.

9 “(2) INTEREST.—The term ‘interest’, when  
10 used to describe a percentage rate to a recipient or  
11 potential recipient, shall only be used to describe  
12 annualized percentage rates, such as the annual in-  
13 terest rate.

14 “(c) REQUIREMENT TO STATE APR.—When a pro-  
15 vider states in writing a rate of finance charge or a financ-  
16 ing amount to a recipient during an application process  
17 for small business financing, the provider shall also state  
18 the annual percentage rate or, in the case of sales-based  
19 financing or factoring, the estimated annual percentage  
20 rate, with equal or greater prominence, using the term ‘an-  
21 nual percentage rate’ or the abbreviation ‘APR.’.”

22 (b) CLERICAL AMENDMENT.—The table of chapters  
23 for the Truth in Lending Act is amended by adding at  
24 the end the following:

“6. SMALL BUSINESS FINANCING ... 191”.

1 (c) RULEMAKING DEADLINE.—Not later than the  
2 end of the 24-month period beginning on the date of en-  
3 actment of this Act, the Director of the Bureau of Con-  
4 sumer Financial Protection shall issue final rules to carry  
5 out the amendments made by this section.

6 (d) EFFECTIVE DATE.—Chapter 6 of the Truth in  
7 Lending Act, as added by subsection (a), shall take effect  
8 after the end of the 36-month period beginning on the date  
9 of enactment of this Act.

## 10 **TITLE II—REGULATION OF** 11 **BROKERS**

### 12 **SEC. 201. OFFICE OF BROKER REGULATION.**

13 Section 1013 of the Consumer Financial Protection  
14 Act of 2010 (12 U.S.C. 5493) is amended by adding at  
15 the end the following:

16 “(i) OFFICE OF BROKER REGULATION.—There is es-  
17 tablished in the Bureau an Office of Broker Regulation,  
18 which shall be responsible for carrying out section 1018.”.

### 19 **SEC. 202. REGULATION OF BROKERS.**

20 (a) IN GENERAL.—The Consumer Financial Protec-  
21 tion Act of 2010 (12 U.S.C. 5481 et seq.) is amended—

22 (1) by redesignating section 1018 as section  
23 1019; and

24 (2) by inserting after section 1017 the fol-  
25 lowing:



1 **“SEC. 1018. REGULATION OF BROKERS.**

2 “(a) DEFINITIONS.—In this section:

3 “(1) BROKER.—The term ‘broker’ means a nat-  
4 ural person who—

5 “(A) is not a creditor or purchaser; and

6 “(B) solicits and presents offers of com-  
7 mercial financing on behalf of a third party.

8 “(2) DIRECTOR.—The term ‘Director’ means  
9 the Director of the Bureau of Consumer Financial  
10 Protection.

11 “(3) STATE.—The term ‘State’ means each of  
12 the several States, the District of Columbia, and the  
13 territories and possessions of the United States.

14 “(4) OTHER TERMS.—The terms ‘small busi-  
15 ness’ and ‘small business financing’ have the mean-  
16 ing given those terms under section 193 of the  
17 Truth in Lending Act.

18 “(b) REGULATIONS.—

19 “(1) IN GENERAL.—A broker shall, in facili-  
20 tating financing offered by a third-party lender for  
21 a small business—

22 “(A) provide the small business with a dis-  
23 closure containing the information described  
24 under paragraph (2); and

25 “(B) educate the small business on each  
26 small business financing option and ensure that

1 the small business reasonably understands the  
2 cost and terms of the small business financing  
3 as well as the pros and cons of the small busi-  
4 ness financing decision before the small busi-  
5 ness enters into a contract for such small busi-  
6 ness financing.

7 “(2) CONTENTS OF DISCLOSURE.—Each disclo-  
8 sure required under paragraph (1) shall include:

9 “(A) A list of all small business financing  
10 options for which the small business qualifies  
11 through the broker’s services and, with respect  
12 to each such small business financing option,  
13 the disclosures described under section 193 of  
14 the Truth in Lending Act.

15 “(B) The lowest annual percentage rate  
16 option.

17 “(C) All the lenders to which the broker  
18 has sent or will send small business financing  
19 applications on the small business’s behalf.

20 “(D) All compensation that will be paid to  
21 the broker, including—

22 “(i) all charges that will be paid di-  
23 rectly or indirectly by the small business;  
24 and

1           “(ii) whether such compensation paid  
2           to the broker will be paid up front or fi-  
3           nanced through the life of the small busi-  
4           ness financing.

5           “(E) All conflicts of interest the broker  
6           may have.

7           “(F) A break down and explanation of the  
8           broker’s fee structure, including—

9                   “(i) any financial or economic interest  
10                  the broker has in offering a product to the  
11                  small business; and

12                   “(ii) whether the broker will receive a  
13                  higher fee for brokering a certain small  
14                  business financing over another small busi-  
15                  ness financing.

16           “(3) PUBLIC DISCLOSURE OF PREVIOUS BOR-  
17           ROWER RESULTS.—

18                   “(A) WEBSITE DISCLOSURE.—Each broker  
19                  shall post clearly and prominently on the  
20                  website of the broker the anonymous and aggre-  
21                  gated results of previous small business bor-  
22                  rowers who have obtained small business fi-  
23                  nancing through the broker’s services, in terms  
24                  of annual percentage rate and financing prod-  
25                  uct.

1           “(B) BROKERS WITHOUT WEBSITES.—  
2           Notwithstanding subparagraph (A), if a broker  
3           does not have a website, the broker shall dis-  
4           close the information described in subparagraph  
5           (A) in a paper format, upon request by any  
6           small business borrower.

7           “(4) SMALL BUSINESS COMPLAINTS WITH RE-  
8           SPECT TO BROKERS.—The Director shall—

9                   “(A) collect complaints from small busi-  
10                  nesses with respect to their experiences with  
11                  brokers; and

12                   “(B) make such complaints available to the  
13                  public on the website of the Bureau of Con-  
14                  sumer Financial Protection.

15           “(5) RESTRICTION ON BEST INTEREST  
16           CLAIMS.—A broker that is paid higher fees with cer-  
17           tain lenders, small business financing types, or  
18           through terms other than the size of the small busi-  
19           ness financing may not state that the broker is act-  
20           ing in the best interest of the potential small busi-  
21           ness borrower.

22           “(6) PROHIBITION ON STEERING.—A loan  
23           originator or broker may not steer a small business  
24           to small business financing that is not in the small  
25           business’s best interest.

1 “(7) RESTRICTIONS ON CERTAIN FEES.—

2 “(A) NO FEE IF PARTIES DO NOT COME TO  
3 AN AGREEMENT.—A broker may not charge a  
4 small business any fee if—

5 “(i) the broker is unable to find the  
6 small business financing; or

7 “(ii) the small business chooses not to  
8 accept financing through the broker’s serv-  
9 ices.

10 “(B) REPLACEMENT OF EXISTING FINANC-  
11 ING.—If a broker or third-party lender offers  
12 an existing small business customer new financ-  
13 ing, neither the broker nor the third-party lend-  
14 er may charge the small business a new financ-  
15 ing charge for the financing being replaced.

16 “(c) BROKER LICENSING AND ENFORCEMENT.—

17 “(1) STATE BROKER LICENSING.—A person  
18 may only perform the function of a broker in a State  
19 if the person is licensed as a broker—

20 “(A) with respect to a State that has a  
21 covered broker licensing law, by the State; or

22 “(B) with respect to a State that does not  
23 have a covered broker licensing law, by the Bu-  
24 reau.

1           “(2) COVERED BROKER LICENSING LAW.—With  
2           respect to a State, the term ‘covered broker licensing  
3           law’ means a State law that the Director determines  
4           meets the following requirements:

5                   “(A) LICENSING.—The law provides for a  
6                   process to license brokers operating in the  
7                   State.

8                   “(B) PROHIBITION ON UNLICENSED BRO-  
9                   KERS.—The law prohibits any person from act-  
10                  ing as a broker in the State unless such person  
11                  is licensed by the State as a broker.

12                  “(C) PROHIBITION ON LICENSING CERTAIN  
13                  INDIVIDUALS.—The law prohibits licensing an  
14                  individual as a broker if such individual—

15                          “(i) has had a State license revoked  
16                          for cause in any State;

17                          “(ii) has had a Federal license re-  
18                          voked for cause; or

19                          “(iii) has been convicted of any crime  
20                          involving lying, deceit, or misappropriation  
21                          of the truth.

22                  “(D) LIMITATION ON BROKER EMPLOY-  
23                  EES.—The law prohibits a broker from employ-  
24                  ing any individual, other than a clerical em-

1 ployee, who is described under clause (i), (ii), or  
2 (iii) of subparagraph (C).

3 “(E) EXAMINATION.—The law requires a  
4 licensed broker to undergo State audits and  
5 provides for examination of the broker by State  
6 regulators.

7 “(F) ENFORCEMENT.—With respect to  
8 any violation of a State law or regulation in  
9 connection with performing the duties of a  
10 broker, the law provides for—

11 “(i) an initial warning being given to  
12 the broker;

13 “(ii) a cure period offered to the  
14 broker during which the broker can cure  
15 the violation; and

16 “(iii) if the broker fails to cure the  
17 violation, civil or criminal penalties which  
18 include—

19 “(I) the revocation of any broker  
20 license granted to the violator; and

21 “(II) a ban on the violator being  
22 granted any other professional license  
23 for a period of not less than 5 years.

24 “(G) PUBLIC AVAILABILITY OF DISCIPLI-  
25 NARY ACTIONS.—The law requires the State

1           agency in charge of licensing brokers to main-  
2           tain a website that lists all disciplinary actions  
3           taken against brokers.

4           “(3) BUREAU BROKER LICENSING.—Not later  
5           than the end of the 12-month period beginning on  
6           the date of enactment of this section, the Director  
7           shall establish a Federal broker licensing program  
8           that, to the extent practicable, meets the require-  
9           ments for a covered broker licensing law described  
10          under paragraph (2).

11          “(4) EFFECTIVE DATE.—

12                 “(A) IN GENERAL.—Subsection (a) shall  
13                 take effect after the end of the 2-year period  
14                 beginning on the date of enactment of this sec-  
15                 tion.

16                 “(B) SAFE HARBOR.—Notwithstanding  
17                 subsection (a), a person acting as broker in a  
18                 State on the date of enactment of this section  
19                 who has applied for a broker license under a  
20                 State covered broker licensing law (or, with re-  
21                 spect to a State that does not have a covered  
22                 broker licensing law, with the Federal broker li-  
23                 censing program established under paragraph  
24                 (3)) may continue to act as a broker in such  
25                 State while the application is pending.



1       “(d) RULEMAKING.—The Director may issue such  
2 rules as may be necessary to carry out this section.

3       “(e) PENALTIES.—

4           “(1) CIVIL PENALTIES.—Any person who vio-  
5 lates a provision of this section shall—

6               “(A) be fined not less than \$5,000 and not  
7 more than \$72,000;

8               “(B) disgorge any funds or other property  
9 obtained in connection with such violation;

10              “(C) in the case of an individual licensed  
11 as a broker by the Bureau, have such license  
12 suspended for 1 year; and

13              “(D) in the case of an individual licensed  
14 as a broker by the Bureau who has violated a  
15 provision of this section previously, have such li-  
16 cense permanently revoked.

17           “(2) CRIMINAL PENALTY.—Any person who vio-  
18 lates a provision of this section in an egregious man-  
19 ner shall be fined not more than \$5,000,000 or im-  
20 prisoned not more than 20 years, or both.

21           “(3) LIABILITY FOR EMPLOYER.—Any person  
22 employing a broker at the time the broker violates  
23 a provision of this section shall—

24               “(A) be fined not more than \$853,062;

1           “(B) disgorge any funds or other property  
2 obtained in connection with such violation;

3           “(C) be prohibited from taking any action  
4 involving small business lending or the broker-  
5 age industry for not more than 30 business  
6 days; and

7           “(D) in the case of a violation that was in  
8 an egregious manner, be prohibited from taking  
9 any action involving small business lending or  
10 the brokerage industry for more than 30 busi-  
11 ness days, which may include a permanent pro-  
12 hibition on the person taking any action involv-  
13 ing small business lending or the brokerage in-  
14 dustry.

15           “(4) FEDERAL BAR FOR STATE VIOLATORS.—If  
16 an individual has their State broker license revoked  
17 by reason of violating a State law or regulation in  
18 connection with performing the duties of a broker—

19           “(A) any professional license granted to  
20 the individual by the Federal Government shall  
21 be terminated; and

22           “(B) the individual may not receive a pro-  
23 fessional license from the Federal Government  
24 before the end of the 5-year period beginning  
25 on the date of such revocation.

1           “(5) STATE ENFORCEMENT AUTHORITY.—An  
2           action to enforce a violation of this section may also  
3           be brought by a State attorney general in any appro-  
4           priate United States district court, or any other  
5           court of competent jurisdiction.”.

6           (b) CLERICAL AMENDMENT.—The table of contents  
7           in section 1(b) of the Dodd-Frank Wall Street Reform and  
8           Consumer Protection Act is amended by striking the item  
9           relating to section 1017 and inserting the following:

“Sec. 1017. Regulation of brokers.

“Sec. 1018. Effective date.”.

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