

115TH CONGRESS
1ST SESSION

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To amend the Truth in Lending Act to provide a safe harbor from certain requirements related to qualified mortgages for residential mortgage loans held on an originating depository institution's portfolio, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 26, 2017

Mr. PERDUE introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Truth in Lending Act to provide a safe harbor from certain requirements related to qualified mortgages for residential mortgage loans held on an originating depository institution's portfolio, 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 "Portfolio Lending and
5 Mortgage Access Act".

1 **SEC. 2. SAFE HARBOR FOR CERTAIN LOANS HELD ON**
2 **PORTFOLIO.**

3 (a) IN GENERAL.—Section 129C of the Truth in
4 Lending Act (15 U.S.C. 1639c) is amended by adding at
5 the end the following:

6 “(j) SAFE HARBOR FOR CERTAIN LOANS HELD ON
7 PORTFOLIO.—

8 “(1) SAFE HARBOR FOR CREDITORS THAT ARE
9 DEPOSITORY INSTITUTIONS.—

10 “(A) IN GENERAL.—A creditor that is a
11 depository institution shall not be subject to
12 suit for failure to comply with subsection (a),
13 (c)(1), or (f)(2) of this section or section 129H
14 with respect to a residential mortgage loan, and
15 the banking regulators shall treat such loan as
16 a qualified mortgage, if—

17 “(i) the creditor has, since the origi-
18 nation of the loan, held the loan on the
19 balance sheet of the creditor; and

20 “(ii) all prepayment penalties with re-
21 spect to the loan comply with the limita-
22 tions described under subsection (c)(3).

23 “(B) EXCEPTION FOR CERTAIN TRANS-
24 FERS.—In the case of a depository institution
25 that transfers a loan originated by that institu-
26 tion to another depository institution by reason

1 of the bankruptcy or failure of the originating
2 depository institution or the purchase of the
3 originating depository institution, the depository
4 institution transferring such loan shall be
5 deemed to have complied with the requirement
6 under subparagraph (A)(i).

7 “(2) SAFE HARBOR FOR MORTGAGE ORIGINA-
8 TORS.—A mortgage originator shall not be subject
9 to suit for a violation of section 129B(c)(3)(B) for
10 steering a consumer to a residential mortgage loan
11 if—

12 “(A) the creditor of such loan is a deposi-
13 tory institution and has informed the mortgage
14 originator that the creditor intends to hold the
15 loan on the balance sheet of the creditor for the
16 life of the loan; and

17 “(B) the mortgage originator informs the
18 consumer that the creditor intends to hold the
19 loan on the balance sheet of the creditor for the
20 life of the loan.

21 “(3) DEFINITIONS.—For purposes of this sub-
22 section:

23 “(A) BANKING REGULATORS.—The term
24 ‘banking regulators’ means the Federal banking

1 agencies, the Bureau, and the National Credit
2 Union Administration.

3 “(B) DEPOSITORY INSTITUTION.—The
4 term ‘depository institution’ has the meaning
5 given that term under section 19(b)(1) of the
6 Federal Reserve Act (12 U.S.C. 505(b)(1)).

7 “(C) FEDERAL BANKING AGENCIES.—The
8 term ‘Federal banking agencies’ has the mean-
9 ing given that term under section 3 of the Fed-
10 eral Deposit Insurance Act.”.

11 (b) RULE OF CONSTRUCTION.—Nothing in the
12 amendment made by this Act may be construed as pre-
13 venting a balloon loan from qualifying for the safe harbor
14 provided under section 129C(j) of the Truth in Lending
15 Act if the balloon loan otherwise meets all of the require-
16 ments under such subsection (j), regardless of whether the
17 balloon loan meets the requirements described under
18 clauses (i) through (iv) of section 129C(b)(2)(E) of such
19 Act.

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