

BUILDING UP INDEPENDENT LIVES AND DREAMS ACT

JULY 10, 2018.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HENSARLING, from the Committee on Financial Services,
submitted the following

R E P O R T

[To accompany H.R. 5953]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 5953) to provide regulatory relief to charitable organizations that provide housing assistance, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE AND SUMMARY

Introduced by Representative Barry Loudermilk on May 24, 2018, H.R. 5953, the “Building Up Independent Lives and Dreams Act” or the “BUILD Act” amends the Truth in Lending Act (TILA) and Real Estate Settlement Procedures Act (RESPA) to allow bona-fide nonprofit organizations—that are eligible for tax-exempt charitable donations and are making zero percent interest mortgage loans—to choose whether to use the truth in lending (TIL), good faith estimate (GFE), and HUD–1 forms in place of the TILA–RESPA Integrated Disclosure (TRID) form established under the Dodd-Frank Wall Street Reform and Consumer Protection Act.

BACKGROUND AND NEED FOR LEGISLATION

On November 20, 2013, the Bureau of Consumer Financial Protection (Bureau) issued the TILA–RESPA Integrated Disclosure (TRID) Final Rule that requires mortgage lenders to use more easily understood and streamlined mortgage disclosure forms. The TRID Rule applies to most closed-end consumer mortgages. It does not apply to home equity lines of credit (HELOCs), reverse mortgages, or mortgages secured by a mobile home or by a dwelling

that is not attached to real property. It also does not generally apply to loans made by persons who are not considered “creditors” under TILA. The TRID Rule became effective for mortgage applications received on or after October 3, 2015.

Before the TRID Rule, both TILA and RESPA required lenders to provide consumers disclosures about the estimated and actual real estate settlement costs and financial terms of the mortgages they offer. Among other requirements, RESPA requires standardized disclosures such as a Good Faith Estimate of the costs that borrowers should expect to pay at closing, and a list of closing costs, commonly known as the HUD-1 document. TILA requires lenders to disclose the cost of credit and the repayment terms of mortgage loans before borrowers enter into a transaction. These disclosures were intended to help consumers compare the terms and make informed decisions regarding the suitability of various mortgage products and services they are offered.

However, Title X of the Dodd-Frank Act required the Bureau promulgate “a single, integrated disclosure for mortgage loan transactions . . . to aid the borrower . . . in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures” that remains compliant with both TILA and RESPA. The final TRID forms thus combined elements of the Good Faith Estimate, the HUD-1, and the TILA Disclosure.

And while the Bureau designed these forms to be more consumer friendly, the forms include sections on balloon loans and adjustable rate mortgages that may be applicable to traditional mortgage lenders, but are not relevant to charitable organizations like Habitat for Humanity.

Additionally, the TRID integrated disclosure forms pose significant implementation and compliance challenges for charitable organizations because they include difficult-to-understand timing and delivery requirements and other practical implementation issues that go beyond the previous content requirements. The TRID Rule would require charities and other non-profit entities to purchase costly and complex software and then train their staff to use the software, which would divert resources from the charitable organization’s purpose, which the Bureau intended for traditional mortgage lenders. As such, many charitable organizations have difficulty with fulfilling the needed compliance related to origination and servicing of their loans.

HEARINGS

The Committee did not hold hearings to examine matters related to H.R. 5953.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on June 14, 2018, and ordered H.R. 5953 to be reported favorably by a recorded vote of 53 yeas to 0 nays (Record vote no. FC-168), a quorum being present.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The sole recorded vote was on a motion by Chairman Hensarling to report the bill favorably to the House without amendment. The motion was agreed to by a recorded vote of 53 yeas to 0 nays (Record vote no. FC-186), a quorum being present.

Record vote no. FC-186

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Hensarling	X			Ms. Maxine Waters (CA)	X		
Mr. McHenry				Mrs. Carolyn B. Maloney (NY) ..	X		
Mr. King	X			Ms. Velázquez	X		
Mr. Royce (CA)	X			Mr. Sherman	X		
Mr. Lucas	X			Mr. Meeks	X		
Mr. Pearce	X			Mr. Capuano	X		
Mr. Posey	X			Mr. Clay	X		
Mr. Luetkemeyer	X			Mr. Lynch	X		
Mr. Huizenga	X			Mr. David Scott (GA)	X		
Mr. Duffy	X			Mr. Al Green (TX)	X		
Mr. Stivers	X			Mr. Cleaver	X		
Mr. Hultgren	X			Ms. Moore	X		
Mr. Ross	X			Mr. Ellison			
Mr. Pittenger	X			Mr. Perlmutter	X		
Mrs. Wagner	X			Mr. Himes	X		
Mr. Barr	X			Mr. Foster	X		
Mr. Rothfus	X			Mr. Kildee	X		
Mr. Messer				Mr. Delaney	X		
Mr. Tipton	X			Ms. Sinema	X		
Mr. Williams	X			Mrs. Beatty			
Mr. Poliquin	X			Mr. Heck			
Mrs. Love	X			Mr. Vargas	X		
Mr. Hill	X			Mr. Gottheimer	X		
Mr. Emmer	X			Mr. Gonzalez (TX)			
Mr. Zeldin	X			Mr. Crist	X		
Mr. Trott				Mr. Kihuen	X		
Mr. Loudermilk	X						
Mr. Mooney (WV)	X						
Mr. MacArthur	X						
Mr. Davidson	X						
Mr. Budd	X						
Mr. Kustoff (TN)	X						
Ms. Tenney	X						
Mr. Hollingsworth	X						

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the Committee based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee states that H.R. 5953 will reduce regulatory burden on charitable housing organizations by permitting them to choose whether to use the TIL, GFE, and HUD-1 mortgage disclosure forms instead of the TRID forms.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 10, 2018.

Hon. JEB HENSARLING,
Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5953, the BUILD Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Stephen Rabent.

Sincerely,

MARK P. HADLEY
(For Keith Hall, Director).

Enclosure.

H.R. 5953—BUILD Act

Under current law, the Consumer Financial Protection Bureau (CFPB) requires mortgage lenders to disclose certain information regarding the terms and costs of home loans to consumers at the beginning and closing of mortgage transactions. H.R. 5953 would allow lenders offering residential mortgages to tax-exempt organizations at a zero percent interest rate to satisfy those disclosure requirements by instead filing three different disclosure forms if the loan is primarily for charitable purposes. The information on those

three forms is generally included in the disclosures required under current law.

Using information from the CFPB, CBO estimates that enacting H.R. 5953 would increase direct spending by less than \$500,000 for the agency to issue a rule to implement the changes to the disclosure requirements.

Because enacting H.R. 5953 would affect direct spending, pay-as-you-go procedures apply. Enacting the bill would not affect revenues.

CBO estimates that enacting H.R. 5953 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

H.R. 5953 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Stephen Rabent. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995.

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of the section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

DUPLICATION OF FEDERAL PROGRAMS

In compliance with clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published

pursuant to the Federal Program Information Act (Pub. L. No. 95–220, as amended by Pub. L. No. 98–169).

DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(i) of H. Res. 5, (115th Congress), the following statement is made concerning directed rulemakings: The Committee estimates that the bill requires one directed rulemaking within the meaning of such section. This directed rulemaking will ensure that the CFPB revises the TILA RESPA Rule to exempt non-profit tax exempt organizations from TRID requirements.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section cites H.R. 5953 as the “Building Up Independent Lives and Dreams Act or the “BUILD Act”.

Section 2. Mortgage loan transaction disclosure requirements

This section amends Section 105 of the Truth in Lending Act and Section 4 of the Real Estate Settlement Procedures Act to allow non-profit entities which are eligible to receive tax-exempt charitable contributions and are making zero percent interest mortgage loans to choose whether to use the TIL, HUD–1, and GFE mortgage disclosure forms in lieu of the TILA RESPA Integrated Disclosures forms.

This section also requires the Director of the Bureau of Consumer Financial Protection to issue regulations within 180 days of enactment as may be necessary to implement changes to the Truth in Lending Act and Real Estate Settlement Procedures Act. Finally, this section specifies that the option provided in Section 2(a) and 2(b) shall take effect on the date of enactment.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

TRUTH IN LENDING ACT

* * * * *

TITLE I—CONSUMER CREDIT COST DISCLOSURE

* * * * *

CHAPTER 1—GENERAL PROVISIONS

* * * * *

§ 105. Regulations

(a) The Bureau shall prescribe regulations to carry out the purposes of this title. Except with respect to the provisions of section 129 that apply to a mortgage referred to in section 103(aa), such regulations may contain such additional requirements, classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for all or any class of transactions, as in the judgment of the Bureau are necessary or proper to effectuate the purposes of this title, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.

(b) The Bureau shall publish a single, integrated disclosure for mortgage loan transactions (including real estate settlement cost statements) which includes the disclosure requirements of this title in conjunction with the disclosure requirements of the Real Estate Settlement Procedures Act of 1974 that, taken together, may apply to a transaction that is subject to both or either provisions of law. The purpose of such model disclosure shall be to facilitate compliance with the disclosure requirements of this title and the Real Estate Settlement Procedures Act of 1974, and to aid the borrower or lessee in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures. In devising such forms, the Bureau shall consider the use by creditors or lessors of data processing or similar automated equipment. Nothing in this title may be construed to require a creditor or lessor to use any such model form or clause prescribed by the Bureau under this section. A creditor or lessor shall be deemed to be in compliance with the disclosure provisions of this title with respect to other than numerical disclosures if the creditor or lessor (1) uses any appropriate model form or clause as published by the Bureau, or (2) uses any such model form or clause and changes it by (A) deleting any information which is not required by this title, or (B) rearranging the format, if in making such deletion or rearranging the format, the creditor or lessor does not affect the substance, clarity, or meaningful sequence of the disclosure.

(c) Model disclosure forms and clauses shall be adopted by the Bureau after notice duly given in the Federal Register and an opportunity for public comment in accordance with section 553 of title 5, United States Code.

(d) Any regulation of the Bureau, or any amendment or interpretation thereof, requiring any disclosure which differs from the disclosures previously required by this chapter, chapter 4, or chapter 5, or by any regulation of the Bureau promulgated thereunder shall have an effective date of that October 1 which follows by at least six months the date of promulgation, except that the Bureau may at its discretion take interim action by regulation, amendment, or interpretation to lengthen the period of time permitted for creditors

or lessors to adjust their forms to accommodate new requirements or shorten the length of time for creditors or lessors to make such adjustments when it makes a specific finding that such action is necessary to comply with the findings of a court or to prevent unfair or deceptive disclosure practices. Notwithstanding the previous sentence, any creditor or lessor may comply with any such newly promulgated disclosure requirements prior to the effective date of the requirements.

(e) *DISCLOSURE FOR CHARITABLE MORTGAGE LOAN TRANSACTIONS.*—*With respect to a mortgage loan transaction involving a residential mortgage loan offered at zero percent interest primarily for charitable purposes by an organization having tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986, forms HUD-1 and GFE (as defined under section 1024.2(b) of title 12, Code of Federal Regulations), together with a disclosure substantially in the form of the Loan Model Form H-2 (as defined under Appendix H to section 1026 of title 12, Code of Federal Regulations) shall, collectively, be an appropriate model form for purposes of subsection (b).*

(f) *EXEMPTION AUTHORITY.*—

(1) *IN GENERAL.*—The Bureau may exempt, by regulation, from all or part of this title all or any class of transactions, other than transactions involving any mortgage described in section 103(aa), for which, in the determination of the Bureau, coverage under all or part of this title does not provide a meaningful benefit to consumers in the form of useful information or protection.

(2) *FACTORS FOR CONSIDERATION.*—In determining which classes of transactions to exempt in whole or in part under paragraph (1), the Bureau shall consider the following factors and publish its rationale at the time a proposed exemption is published for comment:

(A) The amount of the loan and whether the disclosures, right of rescission, and other provisions provide a benefit to the consumers who are parties to such transactions, as determined by the Bureau.

(B) The extent to which the requirements of this title complicate, hinder, or make more expensive the credit process for the class of transactions.

(C) The status of the borrower, including—

(i) any related financial arrangements of the borrower, as determined by the Bureau;

(ii) the financial sophistication of the borrower relative to the type of transaction; and

(iii) the importance to the borrower of the credit, related supporting property, and coverage under this title, as determined by the Bureau;

(D) whether the loan is secured by the principal residence of the consumer; and

(E) whether the goal of consumer protection would be undermined by such an exemption.

(g) *WAIVER FOR CERTAIN BORROWERS.*—

(1) *IN GENERAL.*—The Bureau, by regulation, may exempt from the requirements of this title certain credit transactions if—

- (A) the transaction involves a consumer—
 - (i) with an annual earned income of more than \$200,000; or
 - (ii) having net assets in excess of \$1,000,000 at the time of the transaction; and
 - (B) a waiver that is handwritten, signed, and dated by the consumer is first obtained from the consumer.
- (2) ADJUSTMENTS BY THE BOARD.—The Bureau, at its discretion, may adjust the annual earned income and net asset requirements of paragraph (1) for inflation.

(i) AUTHORITY OF THE BOARD TO PRESCRIBE RULES.—Notwithstanding subsection (a), the Board shall have authority to prescribe rules under this title with respect to a person described in section 1029(a) of the Consumer Financial Protection Act of 2010. Regulations prescribed under this subsection may contain such classifications, differentiations, or other provisions, as in the judgment of the Board are necessary or proper to effectuate the purposes of this title, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.

(h) DEFERENCE.—Notwithstanding any power granted to any Federal agency under this title, the deference that a court affords to the Bureau with respect to a determination made by the Bureau relating to the meaning or interpretation of any provision of this title, other than section 129E or 129H, shall be applied as if the Bureau were the only agency authorized to apply, enforce, interpret, or administer the provisions of this title.

* * * * *

REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974

* * * * *

UNIFORM SETTLEMENT STATEMENT

SEC. 4. (a) The Bureau shall publish a single, integrated disclosure for mortgage loan transactions (including real estate settlement cost statements) which includes the disclosure requirements of this section and section 5, in conjunction with the disclosure requirements of the Truth in Lending Act that, taken together, may apply to a transaction that is subject to both or either provisions of law. The purpose of such model disclosure shall be to facilitate compliance with the disclosure requirements of this title and the Truth in Lending Act, and to aid the borrower or lessee in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures. Such forms shall conspicuously and clearly itemize all charges imposed upon the borrower and all charges imposed upon the seller in connection with the settlement and shall indicate whether any title insurance premium included in such charges covers or insures the lender's interest in the property, the borrower's interest, or both. The Bureau may, by regulation, permit the deletion from the forms prescribed under this section of items which are not, under local

laws or customs, applicable in any locality, except that such regulation shall require that the numerical code prescribed by the Bureau be retained in forms to be used in all localities. Nothing in this section may be construed to require that that part of the standard forms which relates to the borrower's transaction to be furnished to the seller, or to require that that part of the standard forms which relates to the seller be furnished to the borrower.

(b) The forms prescribed under this section shall be completed and made available for inspection by the borrower at or before settlement by the person conducting the settlement, except that (1) the Bureau may exempt from the requirements of this section settlements occurring in localities where the final settlement statement is not customarily provided at or before the date of settlement, or settlements where such requirements are impractical and (2) the borrower may, in accordance with regulations of the Bureau, waive his right to have the forms made available at such time. Upon the request of the borrower to inspect the forms prescribed under this section during the business day immediately preceding the day of settlement, the person who will conduct the settlement shall permit the borrower to inspect those items which are known to such person during such preceding day.

(c) The standard form described in subsection (a) may include, in the case of an appraisal coordinated by an appraisal management company (as such term is defined in section 1121(11) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350(11))), a clear disclosure of—

(1) the fee paid directly to the appraiser by such company;

and

(2) the administration fee charged by such company.

(d) *With respect to a mortgage loan transaction involving a residential mortgage loan offered at zero percent interest primarily for charitable purposes, an organization having tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986 may use forms HUD-1 and GFE (as defined under section 1024.2(b) of title 12, Code of Federal Regulations) together with a disclosure substantially in the form of the Loan Model Form H-2 (as defined under Appendix H to section 1026 of title 12, Code of Federal Regulations), collectively, in lieu of the disclosure published under subsection (a).*

* * * * *