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(Original Signature of Member)

111TH CONGRESS
1ST SESSION

H. R. _____

To amend the Real Estate Settlement Procedures Act of 1974 to ensure that borrowers under federally related mortgage loans have an opportunity to inspect closing documents.

IN THE HOUSE OF REPRESENTATIVES

Ms. BEAN (for herself and Mrs. CAPITO) introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Real Estate Settlement Procedures Act of 1974 to ensure that borrowers under federally related mortgage loans have an opportunity to inspect closing documents.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Borrowers' Right to Inspect Closing Documents Act of 2009''.

SEC. 2. FURNISHING OF CLOSING DOCUMENTS TO BORROWER.

Section 4 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2603) is amended by striking subsection (b) and inserting the following new subsection:

"(b) FURNISHING OF CLOSING DOCUMENTS TO BORROWER THREE DAYS BEFORE SETTLEMENT.—

"(1) LENDER RESPONSIBILITIES.—The lender shall furnish to the person conducting the settlement (in this subsection referred to as the 'settlement agent'), at least four business days before the scheduled date of settlement, the completed promissory note, deed of trust or other mortgage instrument, as the case may be, all items that are needed to complete the uniform settlement statement, the final Truth-in-Lending Act disclosure, and the final closing instructions.

"(2) FURNISHING OF CLOSING DOCUMENTS TO BORROWERS.—

"(A) REQUIREMENT.—Except as provided in paragraphs (3) and (4), the settlement agent shall furnish to the borrower, at least three business days preceding the scheduled date of settlement and using the method selected by the borrower pursuant to subparagraph (B) of this paragraph—

"(i) the completed documents set forth in paragraph (1), except for the final closing instructions, and

"(ii) the completed uniform settlement statement,

as long as the lender has timely provided the requisite items and documents to the settlement agent. The settlement agent shall not be responsible for the lender's failure to comply with paragraph (1).

"(B) METHODS OF FURNISHING DOCUMENTS.—The borrower may select to have the documents required under subparagraph (A) furnished by—

"(i) electronic mail, subject to the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001 et.seq.);

"(ii) telephone facsimile machine; or

"(iii) making the documents available for personal inspection at the office of the settlement agent and providing a copy of the documents to the borrower to retain.

"(3) CORRECTIONS.—

"(A) IN GENERAL.—Notwithstanding any provision of paragraph (2) to the contrary, the settlement agent may make corrections to the uniform settlement statement and any related documents prior to the scheduled date of settlement, if—

"(i) an update of the title search and examination of the prospective mortgaged property reveals any defects, liens, encumbrances, or other matters not discovered in previous searches;

"(ii) subject to the lender's approval, the borrower's inspection of the prospective mortgaged property requires financial adjustments;

"(iii) the borrower and lender agree to make material changes to the loan transaction; or

"(iv) any other permissible corrections, as identified by regulation by the Secretary, are made.

"(B) TIMING.—The requirement under paragraph (2) to provide completed documents and the completed settlement statement at least three business days before settlement shall not

apply to any uniform settlement statement and related documents corrected pursuant to subparagraph (A) of this paragraph.

''(4) EXEMPTION BY SECRETARY.—The Secretary may exempt from the requirements of this subsection the following settlements:

''(A) Settlements occurring in localities where the final settlement statement is not customarily provided at or before the date of settlement.

''(B) Settlements under which compliance with the requirements of this subsection is impractical.''.