

111TH CONGRESS  
1ST SESSION

# H. R. 4229

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.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 8, 2009

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

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## 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.

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 “Borrowers’ Right to  
5       Inspect Closing Documents Act of 2009”.

1 **SEC. 2. FURNISHING OF CLOSING DOCUMENTS TO BOR-**  
2 **ROWER.**

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

6 “(b) FURNISHING OF CLOSING DOCUMENTS TO BOR-  
7 ROWER THREE DAYS BEFORE SETTLEMENT.—

8 “(1) LENDER RESPONSIBILITIES.—The lender  
9 shall furnish to the person conducting the settlement  
10 (in this subsection referred to as the ‘settlement  
11 agent’), at least four business days before the sched-  
12 uled date of settlement, the completed promissory  
13 note, deed of trust or other mortgage instrument, as  
14 the case may be, all items that are needed to com-  
15 plete the uniform settlement statement, the final  
16 Truth-in-Lending Act disclosure, and the final clos-  
17 ing instructions.

18 “(2) FURNISHING OF CLOSING DOCUMENTS TO  
19 BORROWERS.—

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

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

4           “(ii) the completed uniform settlement  
5           statement,

6           as long as the lender has timely provided the  
7           requisite items and documents to the settlement  
8           agent. The settlement agent shall not be re-  
9           sponsible for the lender’s failure to comply with  
10          paragraph (1).

11          “(B) METHODS OF FURNISHING DOCU-  
12          MENTS.—The borrower may select to have the  
13          documents required under subparagraph (A)  
14          furnished by—

15               “(i) electronic mail, subject to the  
16               Electronic Signatures in Global and Na-  
17               tional Commerce Act (15 U.S.C. 7001 et  
18               seq.);

19               “(ii) telephone facsimile machine; or

20               “(iii) making the documents available  
21               for personal inspection at the office of the  
22               settlement agent and providing a copy of  
23               the documents to the borrower to retain.

24          “(3) CORRECTIONS.—

1           “(A) IN GENERAL.—Notwithstanding any  
2 provision of paragraph (2) to the contrary, the  
3 settlement agent may make corrections to the  
4 uniform settlement statement and any related  
5 documents prior to the scheduled date of settle-  
6 ment, if—

7                   “(i) an update of the title search and  
8 examination of the prospective mortgaged  
9 property reveals any defects, liens, encum-  
10 brances, or other matters not discovered in  
11 previous searches;

12                   “(ii) subject to the lender’s approval,  
13 the borrower’s inspection of the prospective  
14 mortgaged property requires financial ad-  
15 justments;

16                   “(iii) the borrower and lender agree to  
17 make material changes to the loan trans-  
18 action; or

19                   “(iv) any other permissible correc-  
20 tions, as identified by regulation by the  
21 Secretary, are made.

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

1           apply to any uniform settlement statement and  
2           related documents corrected pursuant to sub-  
3           paragraph (A) of this paragraph.

4           “(4) EXEMPTION BY SECRETARY.—The Sec-  
5           retary may exempt from the requirements of this  
6           subsection the following settlements:

7                   “(A) Settlements occurring in localities  
8                   where the final settlement statement is not cus-  
9                   tomarily provided at or before the date of set-  
10                  tlement.

11                  “(B) Settlements under which compliance  
12                  with the requirements of this subsection is im-  
13                  practical.”.

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