AMENDMENT TO H.R. 5485, AS REPORTED
OFFERED BY MR. BARR OF KENTUCKY

At the end of title VI insert the following:

SEC. __ SAFE HARBOR FOR CERTAIN LOANS HELD ON
PORTFOLIO.

(a) In general.—Section 129C of the Truth in Lending Act (15 U.S.C. 1639c) is amended by adding at the end the following:

“(j) Safe Harbor for Certain Loans Held on Portfolio.—

“(1) Safe Harbor for Creditors that are Depository Institutions.—

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

“(i) the creditor has, since the origination of the loan, held the loan on the balance sheet of the creditor; and
“(ii) all prepayment penalties with respect to the loan comply with the limitations described under subsection (c)(3).

“(B) EXCEPTION FOR CERTAIN TRANSFERS.—In the case of a depository institution that transfers a loan originated by that institution to another depository institution by reason of the bankruptcy or failure of the originating depository institution or the purchase of the originating depository institution, the depository institution transferring such loan shall be deemed to have complied with the requirement under subparagraph (A)(i).

“(2) SAFE HARBOR FOR MORTGAGE ORIGINATORS.—A mortgage originator shall not be subject to suit for a violation of section 129B(e)(3)(B) for steering a consumer to a residential mortgage loan if—

“(A) the creditor of such loan is a depository institution and has informed the mortgage originator that the creditor intends to hold the loan on the balance sheet of the creditor for the life of the loan; and

“(B) the mortgage originator informs the consumer that the creditor intends to hold the

...
loan on the balance sheet of the creditor for the
life of the loan.

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

“(A) BANKING REGULATORS.—The term
‘banking regulators’ means the Federal banking
agencies, the Bureau, and the National Credit
Union Administration.

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

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

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