



THE RIGHT OF RESCISSION:

The Minimum Remedy Needed to Make Wall Street Accountable for Buying Abusive Subprime Loans

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Today when homeowners get an abusive subprime loan, they have very limited options for avoiding foreclosure. The Truth in Lending Act provides borrowers with a remedy known as “rescission” for violations of some of its most crucial mortgage protections. H.R. 3915 would help homeowners by extending the same remedy to some of its protections.

What is Truth in Lending “rescission”?

TIL rescission is a legal remedy that, in effect, “unwinds” the mortgage transaction where the lender violated the law in a few especially important ways. It is designed to return the parties to the status quo before the deal was made.

Under rescission, the homeowner must return any real benefits received to the party that owns the loan, such as the amount used to pay off a prior mortgage. The money to be returned by the borrower is called the “tender” amount. The person that owns the mortgage, gets back that part of the investment, but it cannot profit from the deal – it is only entitled to the “tender”, not to interest or loan charges

Struggling homeowners who received an illegal loan are often able to use this remedy to stay in their homes. They can more easily refinance this new amount owed after rescission, for example, which enables them to stay in their home, while making payments on a legal, affordable loan.

Is this a tested remedy?

Rescission has been a part of the Truth in Lending Act since its beginning, in 1969. Rescission is available under the Act when the most important consumer asset is at stake – the consumer’s home. As is abundantly apparent from the home equity lending market in the years since then, it has had no impact on the liquidity of the mortgage market. It has, however, been one of *the* most significant remedies available to help consumers avoid foreclosure and save their homes when they received loans that violated the law in crucially important respects.

Why Congress Must Support Rescission in H.R. 3915

- It’s a balanced remedy: a party that holds a mortgage gets their basic investment back.
- Homeowners have a better chance of continuing to pay their loan and avoiding foreclosure.
- This is the minimum type of remedy needed to make Wall Street accountable for its part in supporting a reckless subprime market.

H.R. 3915 provides reasonable provisions for rescission. **Please support this bill, but stress that the bill can only work if it is strengthened, not weakened.**