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(3) *Refinancings within one-year period.* Within one year of having extended credit subject to §226.32, refinance any loan subject to §226.32 to the same borrower into another loan subject to §226.32, unless the refinancing is in the borrower's interest. An assignee holding or servicing an extension of mortgage credit subject to §226.32, shall not, for the remainder of the one-year period following the date of origination of the credit, refinance any loan subject to §226.32 to the same borrower into another loan subject to §226.32, unless the refinancing is in the borrower's interest. A creditor (or assignee) is prohibited from engaging in acts or practices to evade this provision, including a pattern or practice of arranging for the refinancing of its own loans by affiliated or unaffiliated creditors, or modifying a loan agreement (whether or not the existing loan is satisfied and replaced by the new loan) and charging a fee.

(4) *Repayment ability.* Engage in a pattern or practice of extending credit subject to §226.32 to a consumer based on the consumer's collateral without regard to the consumer's repayment ability, including the consumer's current and expected income, current obligations, and employment. There is a presumption that a creditor has violated this paragraph (a)(4) if the creditor engages in a pattern or practice of making loans subject to §226.32 without verifying and documenting consumers' repayment ability.

(b) *Prohibited acts or practices for dwelling-secured loans; open-end credit.* In connection with credit secured by the consumer's dwelling that does not meet the definition in §226.2(a)(20), a creditor shall not structure a home-secured loan as an open-end plan to evade the requirements of §226.32.

[Reg. Z, 66 FR 65618, Dec. 20, 2001]

§226.35 [Reserved]

APPENDIX A TO PART 226—EFFECT ON STATE LAWS

REQUEST FOR DETERMINATION

A request for a determination that a State law is inconsistent or that a State law is substantially the same as the Act and regulation shall be in writing and addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551. The request shall be made pursuant to the procedures herein and the Board's Rules of Procedure (12 CFR Part 262).

SUPPORTING DOCUMENTS

A request for a determination shall include the following items:

(1) The text of the State statute, regulation, or other document that is the subject of the request.

(2) Any other statute, regulation, or judicial or administrative opinion that implements, interprets, or applies the relevant provision.

(3) A comparison of the State law with the corresponding provision of the Federal law, including a full discussion of the basis for the requesting party's belief that the State provision is either inconsistent or substantially the same.

(4) Any other information that the requesting party believes may assist the Board in its determination.

PUBLIC NOTICE OF DETERMINATION

Notice that the Board intends to make a determination (either on request or on its own motion) will be published in the FEDERAL REGISTER, with an opportunity for public comment, unless the Board finds that notice and opportunity for comment would be impracticable, unnecessary, or contrary to the public interest and publishes its reasons for such decision.

Subject to the Board's Rules Regarding Availability of Information (12 CFR Part 261), all requests made, including any documents and other material submitted in support of the requests, will be made available for public inspection and copying.

NOTICE AFTER DETERMINATION

Notice of a final determination will be published in the FEDERAL REGISTER, and the Board will furnish a copy of such notice to the party who made the request and to the appropriate State official.

Reversal of Determination

The Board reserves the right to reverse a determination for any reason bearing on the coverage or effect of State or Federal law.

Notice of reversal of a determination will be published in the FEDERAL REGISTER and a copy furnished to the appropriate State official.

[Reg. Z, 46 FR 20892, Apr. 7, 1981; 46 FR 29246, June 1, 1981]