tor provides an application to a consumer, or receives an application from a consumer, for any type of refinancing for such loan that would cause the loan to lose the protection of such anti-deficiency law, the creditor or mortgage originator shall provide a written notice to the consumer describing the protection provided by the anti-deficiency law and the significance for the consumer of the loss of such protection before any agreement for any such refinancing is consummated.

(h) Policy regarding acceptance of partial payment

In the case of any residential mortgage loan, a creditor shall disclose prior to settlement or, in the case of a person becoming a creditor with respect to an existing residential mortgage loan, at the time such person becomes a creditor—

(1) the creditor's policy regarding the acceptance of partial payments; and

(2) if partial payments are accepted, how such payments will be applied to such mortgage and if such payments will be placed in escrow.

(i) Timeshare plans

This section and any regulations promulgated under this section do not apply to an extension of credit relating to a plan described in section 101(33D) of title 11.


REFERENCES IN TEXT


This part, referred to in subsec. (b)(2)(E)(iv)(IV), was in the original "this subtitle", and was translated as reading "this chapter", meaning chapter 2 of title I of Pub. L. 90–321, to reflect the probable intent of Congress.

The National Housing Act, referred to in subsec. (b)(3)(B)(i), is act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to chapter 13 (§1701 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.


AMENDMENTS


Subsecs. (c) to (f), Pub. L. 111–203, §1414(a), added subsecs. (c) to (f).

Subsec. (g), Pub. L. 111–203, §1414(c), added subsec. (g).

Subsecs. (h), (i), Pub. L. 111–203, §1414(d), added subsecs. (h) and (i).

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 1100A(2) of Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

Amendment by sections 1412 and 1414(a), (c), (d) of Pub. L. 111–203 effective on the date on which final regulations implementing that amendment take effect, or on the date that is 18 months after the designated transfer date, if such regulations have not been issued by that date, see section 1400(c) of Pub. L. 111–203, set out as a note under section 1601 of this title.

§1639d. Escrow or impound accounts relating to certain consumer credit transactions

(a) In general

Except as provided in subsection (b), (c), (d), or (e), a creditor, in connection with the consummation of a consumer credit transaction secured by a first lien on the principal dwelling of the consumer, other than a consumer credit transaction under an open end credit plan or a reverse mortgage, shall establish, before the consummation of such transaction, an escrow or impound account for the payment of taxes and hazard insurance, and, if applicable, flood insurance, mortgage insurance, ground rents, and any other required periodic payments or premiums with respect to the property or the loan terms, as provided in, and in accordance with this section.

(b) When required

No impound, trust, or other type of account for the payment of property taxes, insurance premiums, or other purposes relating to the property may be required as a condition of a real property sale contract or a loan secured by a first deed of trust or mortgage on the principal dwelling of the consumer, other than a consumer credit transaction under an open end credit plan or a reverse mortgage, except when—

(1) any such impound, trust, or other type of escrow or impound account for such purposes is required by Federal or State law;

(2) a loan is made, guaranteed, or insured by a State or Federal governmental lending or insuring agency;

(3) the transaction is secured by a first mortgage or lien on the consumer’s principal dwelling having an original principal obligation amount that—

(A) does not exceed the amount of the maximum limitation on the original principal obligation of mortgage in effect for a residence of the applicable size, as of the
date such interest rate set, pursuant to the sixth sentence of section 1454(a)(2) of title 12, and the annual percentage rate will exceed the average prime offer rate as defined in section 1639c of this title by 1.5 or more percentage points; or

(B) exceeds the amount of the maximum limitation on the original principal obligation of mortgage in effect for a residence of the applicable size, as of the date such interest rate set, pursuant to the sixth sentence of section 1454(a)(2) of title 12, and the annual percentage rate will exceed the average prime offer rate as defined in section 1639c of this title by 2.5 or more percentage points; or

(4) so required pursuant to regulation.

(c) Exemptions
The Bureau may, by regulation, exempt from the requirements of subsection (a) a creditor that—

(1) operates predominantly in rural or underserved areas;
(2) together with all affiliates, has total annual mortgage loan originations that do not exceed a limit set by the Bureau;
(3) retains its mortgage loan originations in portfolio; and
(4) meets any asset size threshold and any other criteria the Bureau may establish, consistent with the purposes of this part.

(d) Duration of mandatory escrow or impound account
An escrow or impound account established pursuant to subsection (b) shall remain in existence for a minimum period of 5 years, beginning with the date of the consummation of the loan, unless and until—

(1) such borrower has sufficient equity in the dwelling securing the consumer credit transaction so as to no longer be required to maintain private mortgage insurance;
(2) such borrower is delinquent;
(3) such borrower otherwise has not complied with the legal obligation, as established by rule; or
(4) the underlying mortgage establishing the account is terminated.

(e) Limited exemptions for loans secured by shares in a cooperative or in which an association must maintain a master insurance policy
Escrow accounts need not be established for loans secured by shares in a cooperative. Insurance premiums need not be included in escrow accounts for loans secured by dwellings or units, where the borrower must join an association as a condition of ownership, and that association has an obligation to the dwelling or unit owners to maintain a master policy insuring the dwellings or units.

(f) Clarification on escrow accounts for loans not meeting statutory test
For mortgages not covered by the requirements of subsection (b), no provision of this section shall be construed as precluding the establishment of an impound, trust, or other type of account for the payment of property taxes, insurance premiums, or other purposes relating to the property—

(1) on terms mutually agreeable to the parties to the loan;
(2) at the discretion of the lender or servicer, as provided by the contract between the lender or servicer and the borrower; or
(3) pursuant to the requirements for the escrowing of flood insurance payments for regulated lending institutions in section 102(d) of the Flood Disaster Protection Act of 1973 [42 U.S.C. 4012a(d)].

(g) Administration of mandatory escrow or impound accounts
(1) In general
Except as may otherwise be provided for in this subchapter or in regulations prescribed by the Bureau, escrow or impound accounts established pursuant to subsection (b) shall be established in a federally insured depository institution or credit union.

(2) Administration
Except as provided in this section or regulations prescribed under this section, an escrow or impound account subject to this section shall be administered in accordance with—

(A) the Real Estate Settlement Procedures Act of 1974 [12 U.S.C. 2601 et seq.] and regulations prescribed under such Act;
(B) the Flood Disaster Protection Act of 1973 and regulations prescribed under such Act; and
(C) the law of the State, if applicable, where the real property securing the consumer credit transaction is located.

(3) Applicability of payment of interest
If prescribed by applicable State or Federal law, each creditor shall pay interest to the consumer on the amount held in any impound, trust, or escrow account that is subject to this section in the manner as prescribed by that applicable State or Federal law.

(4) Penalty coordination with RESPA
Any action or omission on the part of any person which constitutes a violation of the Real Estate Settlement Procedures Act of 1974 or any regulation prescribed under such Act for which the person has paid any fine, civil money penalty, or other damages shall not give rise to any additional fine, civil money penalty, or other damages under this section, unless the action or omission also constitutes a direct violation of this section.

(h) Disclosures relating to mandatory escrow or impound account
In the case of any impound, trust, or escrow account that is required under subsection (b), the creditor shall disclose by written notice to the consumer at least 3 business days before the consummation of the consumer credit transaction giving rise to such account or in accordance with timeframes established in prescribed regulations the following information:

(1) The fact that an escrow or impound account will be established at consummation of the transaction.
(2) The amount required at closing to initially fund the escrow or impound account.
(3) The amount, in the initial year after the consummation of the transaction, of the estimated taxes and hazard insurance, including flood insurance, if applicable, and any other required periodic payments or premiums that reflect, as appropriate, either the taxable assessed value of the real property securing the transaction, including the value of any improvements on the property or to be constructed on the property (whether or not such construction will be financed from the proceeds of the transaction) or the replacement costs of the property.

(4) The estimated monthly amount payable to be escrowed for taxes, hazard insurance (including flood insurance, if applicable) and any other required periodic payments or premiums.

(5) The fact that, if the consumer chooses to terminate the account in the future, the consumer will become responsible for the payment of all taxes, hazard insurance, and flood insurance, if applicable, as well as any other required periodic payments or premiums on the property unless a new escrow or impound account is established.

(6) Such other information as the Bureau determines necessary for the protection of the consumer.

(i) Definitions

For purposes of this section, the following definitions shall apply:

(1) Flood insurance

The term “flood insurance” means flood insurance coverage provided under the national flood insurance program pursuant to the National Flood Insurance Act of 1968 [42 U.S.C. 4901 et seq.].

(2) Hazard insurance

The term “hazard insurance” shall have the same meaning as provided for “hazard insurance”, “casualty insurance”, “homeowner’s insurance”, or other similar term under the law of the State where the real property securing the consumer credit transaction is located.

(j) Disclosure notice required for consumers who waive escrow services

(1) In general

If—

(A) an impound, trust, or other type of account for the payment of property taxes, insurance premiums, or other purposes relating to real property securing a consumer credit transaction is not established in connection with the transaction; or

(B) a consumer chooses, and provides written notice to the creditor or servicer of such choice, at any time after such an account is established in connection with any such transaction and in accordance with any statute, regulation, or contractual agreement, to close such account,

the creditor or servicer shall provide a timely and clearly written disclosure to the consumer that advises the consumer of the responsibilities of the consumer and implications for the consumer in the absence of any such account.

(2) Disclosure requirements

Any disclosure provided to a consumer under paragraph (1) shall include the following:

(A) Information concerning any applicable fees or costs associated with either the non-establishment of any such account at the time of the transaction, or any subsequent closure of any such account.

(B) A clear and prominent statement that the consumer is responsible for personally and directly paying the non-escrowed items, in addition to paying the mortgage loan payment, in the absence of any such account, and the fact that the costs for taxes, insurance, and related fees can be substantial.

(C) A clear explanation of the consequences of any failure to pay non-escrowed items, including the possible requirement for the forced placement of insurance by the creditor or servicer and the potentially higher cost (including any potential commission payments to the servicer) or reduced coverage for the consumer in the event of any such creditor-placed insurance.

(D) Such other information as the Bureau determines necessary for the protection of the consumer.
§ 1639e. Appraisal independence requirements

(a) In general
It shall be unlawful, in extending credit or in providing any services for a consumer credit transaction secured by the principal dwelling of the consumer, to engage in any act or practice that violates appraisal independence as described in or pursuant to regulations prescribed under this section.

(b) Appraisal independence
For purposes of subsection (a), acts or practices that violate appraisal independence shall include—

(1) any appraisal of a property offered as security for repayment of the consumer credit transaction that is conducted in connection with such transaction, or in which a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes, or intimidates a person, appraisal management company, or other entity conducting or involved in an appraisal, for the purpose of causing the appraiser to undertake 1 or more of the following:

(i) any appraisal of a property offered as security for repayment of the consumer credit transaction that is conducted in connection with such transaction, or in which a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes, or intimidates a person, appraisal management company, or other entity conducting or involved in an appraisal, for the purpose of causing the appraiser to undertake 1 or more of the following:

(ii) any appraisal of a property offered as security for repayment of the consumer credit transaction that is conducted in connection with such transaction, or in which a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes, or intimidates a person, appraisal management company, or other entity conducting or involved in an appraisal, for the purpose of causing the appraiser to undertake 1 or more of the following:

(iii) any appraisal of a property offered as security for repayment of the consumer credit transaction that is conducted in connection with such transaction, or in which a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes, or intimidates a person, appraisal management company, or other entity conducting or involved in an appraisal, for the purpose of causing the appraiser to undertake 1 or more of the following:

(iv) any appraisal of a property offered as security for repayment of the consumer credit transaction that is conducted in connection with such transaction, or in which a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes, or intimidates a person, appraisal management company, or other entity conducting or involved in an appraisal, for the purpose of causing the appraiser to undertake 1 or more of the following:

(v) any appraisal of a property offered as security for repayment of the consumer credit transaction that is conducted in connection with such transaction, or in which a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes, or intimidates a person, appraisal management company, or other entity conducting or involved in an appraisal, for the purpose of causing the appraiser to undertake 1 or more of the following:

(vi) any appraisal of a property offered as security for repayment of the consumer credit transaction that is conducted in connection with such transaction, or in which a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes, or intimidates a person, appraisal management company, or other entity conducting or involved in an appraisal, for the purpose of causing the appraiser to undertake 1 or more of the following:

(vii) any appraisal of a property offered as security for repayment of the consumer credit transaction that is conducted in connection with such transaction, or in which a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes, or intimidates a person, appraisal management company, or other entity conducting or involved in an appraisal, for the purpose of causing the appraiser to undertake 1 or more of the following:

(viii) any appraisal of a property offered as security for repayment of the consumer credit transaction that is conducted in connection with such transaction, or in which a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes, or intimidates a person, appraisal management company, or other entity conducting or involved in an appraisal, for the purpose of causing the appraiser to undertake 1 or more of the following:

(ix) any appraisal of a property offered as security for repayment of the consumer credit transaction that is conducted in connection with such transaction, or in which a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes, or intimidates a person, appraisal management company, or other entity conducting or involved in an appraisal, for the purpose of causing the appraiser to undertake 1 or more of the following:

(x) any appraisal of a property offered as security for repayment of the consumer credit transaction that is conducted in connection with such transaction, or in which a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes, or intimidates a person, appraisal management company, or other entity conducting or involved in an appraisal, for the purpose of causing the appraiser to undertake 1 or more of the following:

(xi) any appraisal of a property offered as security for repayment of the consumer credit transaction that is conducted in connection with such transaction, or in which a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes, or intimidates a person, appraisal management company, or other entity conducting or involved in an appraisal, for the purpose of causing the appraiser to undertake 1 or more of the following:

(xii) any appraisal of a property offered as security for repayment of the consumer credit transaction that is conducted in connection with such transaction, or in which a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes, or intimidates a person, appraisal management company, or other entity conducting or involved in an appraisal, for the purpose of causing the appraiser to undertake 1 or more of the following:

(xiii) any appraisal of a property offered as security for repayment of the consumer credit transaction that is conducted in connection with such transaction, or in which a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes, or intimidates a person, appraisal management company, or other entity conducting or involved in an appraisal, for the purpose of causing the appraiser to undertake 1 or more of the following:

(xiv) any appraisal of a property offered as security for repayment of the consumer credit transaction that is conducted in connection with such transaction, or in which a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes, or intimidates a person, appraisal management company, or other entity conducting or involved in an appraisal, for the purpose of causing the appraiser to undertake 1 or more of the following:

(xv) any appraisal of a property offered as security for repayment of the consumer credit transaction that is conducted in connection with such transaction, or in which a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes, or intimidates a person, appraisal management company, or other entity conducting or involved in an appraisal, for the purpose of causing the appraiser to undertake 1 or more of the following:

(xvi) any appraisal of a property offered as security for repayment of the consumer credit transaction that is conducted in connection with such transaction, or in which a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes, or intimidates a person, appraisal management company, or other entity conducting or involved in an appraisal, for the purpose of causing the appraiser to undertake 1 or more of the following:

(xvii) any appraisal of a property offered as security for repayment of the consumer credit transaction that is conducted in connection with such transaction, or in which a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes, or intimidates a person, appraisal management company, or other entity conducting or involved in an appraisal, for the purpose of causing the appraiser to undertake 1 or more of the following:

(xviii) any appraisal of a property offered as security for repayment of the consumer credit transaction that is conducted in connection with such transaction, or in which a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes, or intimidates a person, appraisal management company, or other entity conducting or involved in an appraisal, for the purpose of causing the appraiser to undertake 1 or more of the following:

(xix) any appraisal of a property offered as security for repayment of the consumer credit transaction that is conducted in connection with such transaction, or in which a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes, or intimidates a person, appraisal management company, or other entity conducting or involved in an appraisal, for the purpose of causing the appraiser to undertake 1 or more of the following:

(xx) any appraisal of a property offered as security for repayment of the consumer credit transaction that is conducted in connection with such transaction, or in which a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes, or intimidates a person, appraisal management company, or other entity conducting or involved in an appraisal, for the purpose of causing the appraiser to undertake 1 or more of the following:

(2) mischaracterizing, or suborning any mischaracterization of, the appraised value of the property securing the extension of the credit;

(3) seeking to influence an appraiser or otherwise to encourage a targeted value in order to facilitate the making or pricing of the transaction; and

(4) withholding or threatening to withhold timely payment for an appraisal report or for appraisal services rendered when the appraisal report or services are provided for in accordance with the contract between the parties.

(c) Exceptions
The requirements of subsection (b) shall not be construed as prohibiting a mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, consumer, or any other person with an interest in a real estate transaction from asking an appraiser to undertake 1 or more of the following:

(1) Consider additional, appropriate property information, including the consideration of additional comparable properties to make or support an appraisal.

(2) Provide further detail, substantiation, or explanation for the appraiser's value conclusion.

(3) Correct errors in the appraisal report.

(d) Prohibitions on conflicts of interest
No certified or licensed appraiser conducting, or no appraisal management company procuring or facilitating, an appraisal in connection with a consumer credit transaction secured by the principal dwelling of a consumer may have a direct or indirect interest, financial or otherwise, in the property or transaction involving the appraisal.

(e) Mandatory reporting
Any mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, or any other person involved in a real estate transaction involving an appraisal in connection with a consumer credit transaction secured by the principal dwelling of a consumer who has a reasonable basis to believe an appraiser is failing to comply with the Uniform Standards of Professional Appraisal Practice, is violating applicable laws, or is otherwise engaging in unethical or unprofessional conduct, shall refer the matter to the applicable State appraiser certifying and licensing agency.

(f) No extension of credit
In connection with a consumer credit transaction secured by a consumer’s principal dwelling, a creditor who knows, at or before loan consummation, of a violation of the appraisal independence standards established in subsections (b) or (d) shall not extend credit based on such appraisal unless the creditor documents that the creditor has acted with reasonable diligence to determine that the appraisal does not materially misstate or misrepresent the value of such dwelling.

(g) Rules and interpretive guidelines

(1) In general
Except as provided under paragraph (2), the Board, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, the Federal Housing Finance Agency, and the Bureau may jointly issue rules, interpretive guidelines, and general statements of policy with respect to acts or practices that violate appraisal independence in the provision of mortgage lending services for a consumer credit transaction secured by the principal dwelling of the consumer and mortgage brokerage services for such a transaction, within the meaning of subsections (a), (b), (c), (d), (e), (f), (h), and (i).

(2) Interim final regulations
The Board shall, for purposes of this section, prescribe interim final regulations no later

1So in original. Probably should be “subsection”.  