

ance of the evidence that such violation was not intentional and resulted from a bona fide error notwithstanding maintenance of procedures that are reasonably adapted to avoid such error.

(4) The Bureau, the Secretary, or the attorney general or the insurance commissioner of any State may bring an action to enjoin violations of this section. Except, to the extent that a person is subject to the jurisdiction of the Bureau, the Secretary, or the attorney general or the insurance commissioner of any State, the Bureau shall have primary authority to enforce or administer this section, subject to subtitle B of the Consumer Financial Protection Act of 2010 [12 U.S.C. 5511 et seq.].

(5) In any private action brought pursuant to this subsection, the court may award to the prevailing party the court costs of the action together with reasonable attorneys fees.

(6) No provision of State law or regulation that imposes more stringent limitations on affiliated business arrangements shall be construed as being inconsistent with this section.

(Pub. L. 93-533, § 8, Dec. 22, 1974, 88 Stat. 1727; Pub. L. 94-205, § 7, Jan. 2, 1976, 89 Stat. 1158; Pub. L. 98-181, title I [title IV, § 461(b), (c)], Nov. 30, 1983, 97 Stat. 1231; Pub. L. 100-242, title V, § 570(g), Feb. 5, 1988, 101 Stat. 1950; Pub. L. 102-54, § 13(d)(4), June 13, 1991, 105 Stat. 275; Pub. L. 104-208, div. A, title II, § 2103(c)(2), (d), Sept. 30, 1996, 110 Stat. 3009-400; Pub. L. 111-203, title X, § 1098(6), (7), July 21, 2010, 124 Stat. 2104.)

REFERENCES IN TEXT

The Consumer Financial Protection Act of 2010, referred to in subsec. (d)(4), is title X of Pub. L. 111-203, July 21, 2010, 124 Stat. 1955. Subtitle B of the Act is classified generally to part B (§ 5511 et seq.) of subchapter V of chapter 53 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

AMENDMENTS

2010—Subsec. (c)(5). Pub. L. 111-203, § 1098(6), which directed substituting “Bureau” for “Secretary”, was executed by making the substitution for “Secretary” the first time appearing, to reflect the probable intent of Congress.

Subsec. (d). Pub. L. 111-203, § 1098(7)(A), inserted “Bureau and” before “Secretary” in heading that had been supplied editorially.

Subsec. (d)(4). Pub. L. 111-203, § 1098(7)(B), added par. (4) and struck out former par. (4) which read as follows: “The Secretary, the Attorney General of any State, or the insurance commissioner of any State may bring an action to enjoin violations of this section.”

1996—Subsec. (c)(4). Pub. L. 104-208, § 2103(c)(2), substituted “affiliated business arrangements” for “controlled business arrangements”.

Subsec. (c)(4)(A). Pub. L. 104-208, § 2103(d), amended subcl. (A) generally. Prior to amendment, subcl. (A) read as follows: “at or prior to the time of the referral a disclosure is made of the existence of such an arrangement to the person being referred and, in connection with the referral, such person is provided a written estimate of the charge or range of charges generally made by the provider to which the person is referred, except that where a lender makes the referral, this requirement may be satisfied as part of and at the time that the estimates of settlement charges required under section 2604(c) of this title are provided.”

Subsec. (d)(6). Pub. L. 104-208, § 2103(c)(2), substituted “affiliated business arrangements” for “controlled business arrangements”.

1991—Subsec. (c)(5). Pub. L. 102-54 substituted “Secretary of Veterans Affairs” for “Administrator of Veterans Affairs”.

1988—Subsec. (c)(5). Pub. L. 100-242 substituted “clause (4)(B)” for “clause 4(B)”.

1983—Subsec. (c). Pub. L. 98-181, § 461(b), redesignated cl. (4) as (5), added cl. (4) and provisions following cl. (5), as so redesignated, relating to arrangements which shall not be considered a violation of cl. (4)(B).

Subsec. (d)(2). Pub. L. 98-181, § 461(c), substituted provisions setting forth the liability of persons violating the prohibitions or limitations of this section for provisions setting forth liability, in addition to penalties provided in par. (1), of persons violating subsecs. (a) and (b) of this section, plus costs and attorney’s fees.

Subsec. (d)(3) to (6). Pub. L. 98-181, § 461(c), added pars. (3) to (6).

1976—Subsec. (c). Pub. L. 94-205 added cls. (3) and (4).

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by 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.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-181 effective Jan. 1, 1984, see section 461(f) of Pub. L. 98-181, set out as a note under section 2602 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-205 effective Jan. 2, 1976, see section 12 of Pub. L. 94-205, set out as a note under section 2602 of this title.

EFFECTIVE DATE

Section effective 180 days after Dec. 22, 1974, see section 20 of Pub. L. 93-533, set out as a note under section 2601 of this title.

TRANSFER OF FUNCTIONS

Federal Home Loan Bank Board abolished and functions transferred, see sections 401 to 406 of Pub. L. 101-73, set out as a note under section 1437 of this title.

§ 2608. Title companies; liability of seller

(a) No seller of property that will be purchased with the assistance of a federally related mortgage loan shall require directly or indirectly, as a condition to selling the property, that title insurance covering the property be purchased by the buyer from any particular title company.

(b) Any seller who violates the provisions of subsection (a) shall be liable to the buyer in an amount equal to three times all charges made for such title insurance.

(Pub. L. 93-533, § 9, Dec. 22, 1974, 88 Stat. 1728.)

EFFECTIVE DATE

Section effective 180 days after Dec. 22, 1974, see section 20 of Pub. L. 93-533, set out as a note under section 2601 of this title.

§ 2609. Limitation on requirement of advance deposits in escrow accounts

(a) In general

A lender, in connection with a federally related mortgage loan, may not require the borrower or prospective borrower—

(1) to deposit in any escrow account which may be established in connection with such loan for the purpose of assuring payment of taxes, insurance premiums, or other charges with respect to the property, in connection with the settlement, an aggregate sum (for such purpose) in excess of a sum that will be