

(3) “financial organization” means any savings and loan association, building and loan association, credit union, or investment company engaged in business in the United States. (Pub. L. 93-495, title VI, §602, Oct. 28, 1974, 88 Stat. 1525.)

§ 2503. State entitlement to escheat or custody

Where any sum is payable on a money order, traveler’s check, or other similar written instrument (other than a third party bank check) on which a banking or financial organization or a business association is directly liable—

(1) if the books and records of such banking or financial organization or business association show the State in which such money order, traveler’s check, or similar written instrument was purchased, that State shall be entitled exclusively to escheat or take custody of the sum payable on such instrument, to the extent of that State’s power under its own laws to escheat or take custody of such sum;

(2) if the books and records of such banking or financial organization or business association do not show the State in which such money order, traveler’s check, or similar written instrument was purchased, the State in which the banking or financial organization or business association has its principal place of business shall be entitled to escheat or take custody of the sum payable on such money order, traveler’s check, or similar written instrument, to the extent of that State’s power under its own laws to escheat or take custody of such sum, until another State shall demonstrate by written evidence that it is the State of purchase; or

(3) if the books and records of such banking or financial organizations or business association show the State in which such money order, traveler’s check, or similar written instrument was purchased and the laws of the State of purchase do not provide for the escheat or custodial taking of the sum payable on such instrument, the State in which the banking or financial organization or business association has its principal place of business shall be entitled to escheat or take custody of the sum payable on such money order, traveler’s check, or similar written instrument, to the extent of that State’s power under its own laws to escheat or take custody of such sum, subject to the right of the State of purchase to recover such sum from the State of principal place of business if and when the law of the State of purchase makes provision for escheat or custodial taking of such sum.

(Pub. L. 93-495, title VI, §603, Oct. 28, 1974, 88 Stat. 1525.)

CHAPTER 27—REAL ESTATE SETTLEMENT PROCEDURES

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§ 2601. Congressional findings and purpose

(a) The Congress finds that significant reforms in the real estate settlement process are needed to insure that consumers throughout the Nation are provided with greater and more timely information on the nature and costs of the settlement process and are protected from unnecessarily high settlement charges caused by certain abusive practices that have developed in some areas of the country. The Congress also finds that it has been over two years since the Secretary of Housing and Urban Development and the Administrator of Veterans’ Affairs submitted their joint report to the Congress on “Mortgage Settlement Costs” and that the time has come for the recommendations for Federal legislative action made in that report to be implemented.

(b) It is the purpose of this chapter to effect certain changes in the settlement process for residential real estate that will result—

- (1) in more effective advance disclosure to home buyers and sellers of settlement costs;
- (2) in the elimination of kickbacks or referral fees that tend to increase unnecessarily the costs of certain settlement services;
- (3) in a reduction in the amounts home buyers are required to place in escrow accounts established to insure the payment of real estate taxes and insurance; and
- (4) in significant reform and modernization of local recordkeeping of land title information.

(Pub. L. 93-533, §2, Dec. 22, 1974, 88 Stat. 1724.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original “this Act”, meaning Pub. L. 93-533, Dec. 22, 1974, 88 Stat. 1724, known as the Real Estate Settlement Procedures Act of 1974, which is classified principally to this chapter (§2601 et seq.). For complete classification of this Act to the Code, see Short Title note below and Tables.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Reference to Administrator of Veterans’ Affairs deemed to refer to Secretary of Veterans Affairs pursuant to section 10 of Pub. L. 100-527, set out as a Department of Veterans Affairs Act note under section 301 of Title 38, Veterans’ Benefits.

EFFECTIVE DATE

Pub. L. 93-533, §20, formerly §19, Dec. 22, 1974, 88 Stat. 1731, renumbered §20, Pub. L. 94-205, §10, Jan. 2, 1976, 89

Stat. 1159, provided that: “The provisions of this Act, and the amendments made thereby [see Short Title note below], shall become effective one hundred and eighty days after the date of the enactment of this Act [Dec. 22, 1974].”

SHORT TITLE OF 2021 AMENDMENT

Pub. L. 116-342, §1, Jan. 13, 2021, 134 Stat. 5134, provided that: “This Act [amending section 2603 of this title and section 1604 of Title 15, Commerce and Trade, and enacting provisions set out as a note under section 2603 of this title] may be cited as the ‘Building Up Independent Lives and Dreams Act’ or the ‘BUILD Act’.”

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94-205, §1, Jan. 2, 1976, 89 Stat. 1157, provided: “That this Act [enacting section 2617 of this title, amending sections 2602, 2603, 2604, 2607, 2609 and 2616 of this title and section 1631 of Title 15, Commerce and Trade, repealing sections 2605 and 2606 of this title, enacting provisions set out as a note under section 2602 of this title and amending provisions set out as a note under this section] may be cited as the ‘Real Estate Settlement Procedures Act Amendments of 1975’.”

SHORT TITLE

Pub. L. 93-533, §1, Dec. 22, 1974, 88 Stat. 1724, provided that: “This Act [enacting this chapter and sections 1730f and 1831b of this title and provisions set out as notes under this section and section 1730f of this title] may be cited as the ‘Real Estate Settlement Procedures Act of 1974’.”

SIMPLIFICATION AND UNIFICATION OF DISCLOSURES REQUIRED UNDER RESPA AND TILA FOR MORTGAGE TRANSACTIONS

Pub. L. 104-208, div. A, title II, §2101, Sept. 30, 1996, 110 Stat. 3009-398, provided that:

“(a) IN GENERAL.—With respect to credit transactions which are subject to the Real Estate Settlement Procedures Act of 1974 [12 U.S.C. 2601 et seq.] and the Truth in Lending Act [15 U.S.C. 1601 et seq.], the Board of Governors of the Federal Reserve System (hereafter in this section referred to as the ‘Board’) and the Secretary of Housing and Urban Development (hereafter in this section referred to as the ‘Secretary’) shall take such action as may be necessary before the end of the 6-month period beginning on the date of enactment of this Act [Sept. 30, 1996]—

“(1) to simplify and improve the disclosures applicable to such transactions under such Acts, including the timing of the disclosures; and

“(2) to provide a single format for such disclosures which will satisfy the requirements of each such Act with respect to such transactions.

“(b) REGULATIONS.—To the extent that it is necessary to prescribe any regulation in order to effect any changes required to be made under subsection (a), the proposed regulation shall be published in the Federal Register before the end of the 6-month period referred to in subsection (a).

“(c) RECOMMENDATIONS FOR LEGISLATION.—If the Board and the Secretary find that legislative action may be necessary or appropriate in order to simplify and unify the disclosure requirements under the Real Estate Settlement Procedures Act of 1974 [12 U.S.C. 2601 et seq.] and the Truth in Lending Act [15 U.S.C. 1601 et seq.], the Board and the Secretary shall submit a report containing recommendations to the Congress concerning such action.”

§ 2602. Definitions

For purposes of this chapter—

(1) the term “federally related mortgage loan” includes any loan (other than temporary financing such as a construction loan) which—

(A) is secured by a first or subordinate lien on residential real property (including indi-

vidual units of condominiums and cooperatives) designed principally for the occupancy of from one to four families, including any such secured loan, the proceeds of which are used to prepay or pay off an existing loan secured by the same property; and

(B)(i) is made in whole or in part by any lender the deposits or accounts of which are insured by any agency of the Federal Government, or is made in whole or in part by any lender which is regulated by any agency of the Federal Government, or

(ii) is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by the Secretary or any other officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the Secretary or a housing or related program administered by any other such officer or agency; or

(iii) is intended to be sold by the originating lender to the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, or a financial institution from which it is to be purchased by the Federal Home Loan Mortgage Corporation; or

(iv) is made in whole or in part by any “creditor”, as defined in section 1602(f)¹ of title 15, who makes or invests in residential real estate loans aggregating more than \$1,000,000 per year, except that for the purpose of this chapter, the term “creditor” does not include any agency or instrumentality of any State;

(2) the term “thing of value” includes any payment, advance, funds, loan, service, or other consideration;

(3) the term “Settlement services” includes any service provided in connection with a real estate settlement including, but not limited to, the following: title searches, title examinations, the provision of title certificates, title insurance, services rendered by an attorney, the preparation of documents, property surveys, the rendering of credit reports or appraisals, pest and fungus inspections, services rendered by a real estate agent or broker, the origination of a federally related mortgage loan (including, but not limited to, the taking of loan applications, loan processing, and the underwriting and funding of loans), and the handling of the processing, and closing or settlement;

(4) the term “title company” means any institution which is qualified to issue title insurance, directly or through its agents, and also refers to any duly authorized agent of a title company;

(5) the term “person” includes individuals, corporations, associations, partnerships, and trusts;

(6) the term “Secretary” means the Secretary of Housing and Urban Development;

(7) the term “affiliated business arrangement” means an arrangement in which (A) a

¹ See References in Text note below.

person who is in a position to refer business incident to or a part of a real estate settlement service involving a federally related mortgage loan, or an associate of such person, has either an affiliate relationship with or a direct or beneficial ownership interest of more than 1 percent in a provider of settlement services; and (B) either of such persons directly or indirectly refers such business to that provider or affirmatively influences the selection of that provider;

(8) the term “associate” means one who has one or more of the following relationships with a person in a position to refer settlement business: (A) a spouse, parent, or child of such person; (B) a corporation or business entity that controls, is controlled by, or is under common control with such person; (C) an employer, officer, director, partner, franchisor, or franchisee of such person; or (D) anyone who has an agreement, arrangement, or understanding, with such person, the purpose or substantial effect of which is to enable the person in a position to refer settlement business to benefit financially from the referrals of such business; and

(9) the term “Bureau” means the Bureau of Consumer Financial Protection.

(Pub. L. 93-533, §3, Dec. 22, 1974, 88 Stat. 1724; Pub. L. 94-205, §2, Jan. 2, 1976, 89 Stat. 1157; Pub. L. 98-181, title I [title IV, §461(a)], Nov. 30, 1983, 97 Stat. 1230; Pub. L. 102-550, title IX, §908(a), (b), Oct. 28, 1992, 106 Stat. 3873, 3874; Pub. L. 104-208, div. A, title II, §2103(c)(1), Sept. 30, 1996, 110 Stat. 3009-400; Pub. L. 111-203, title X, §1098(1), July 21, 2010, 124 Stat. 2103.)

Editorial Notes

REFERENCES IN TEXT

Section 1602(f) of title 15, referred to in par. (1)(B)(iv), was redesignated section 1602(g) of title 15 by Pub. L. 111-203, title X, §1100A(1)(A), July 21, 2010, 124 Stat. 2107.

AMENDMENTS

2010—Par. (9). Pub. L. 111-203 added par. (9).

1996—Par. (7). Pub. L. 104-208 substituted “affiliated business arrangement” for “controlled business arrangement”.

1992—Par. (1)(A). Pub. L. 102-550, §908(b), inserted “or subordinate” after “first” and “, including any such secured loan, the proceeds of which are used to prepay or pay off an existing loan secured by the same property” after “families”.

Par. (3). Pub. L. 102-550, §908(a), inserted “the origination of a federally related mortgage loan (including, but not limited to, the taking of loan applications, loan processing, and the underwriting and funding of loans),” after “broker.”.

1983—Pars. (7), (8). Pub. L. 98-181 added pars. (7) and (8).

1976—Par. (1). Pub. L. 94-205, §2(1), inserted “(other than temporary financing such as a construction loan)” in introductory text.

Par. (1)(A). Pub. L. 94-205, §2(2), inserted “a first lien on” after “is secured by”.

Par. (1)(B)(iii). Pub. L. 94-205, §2(3)–(5), substituted “is intended to be sold by the originating lender to” for “is eligible for purchase by” and “a” and “is to” for “from any” and “could”, respectively, and struck out “or” after “the Government National Mortgage Association”.

Par. (1)(B)(iv). Pub. L. 94-205, §2(6), inserted “, except that for the purpose of this chapter, the term ‘creditor’

does not include any agency or instrumentality of any State” after “more than \$1,000,000 per year”.

Statutory Notes and Related Subsidiaries

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 1992 AMENDMENT

Pub. L. 102-550, title IX, §908(d), Oct. 28, 1992, 106 Stat. 3874, provided that: “This section [amending this section and enacting provisions set out below] shall take effect on the date of enactment of this Act [Oct. 28, 1992] and shall not apply retroactively.”

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98-181, title I [title IV, §461(f)], Nov. 30, 1983, 97 Stat. 1232, provided that: “The amendments made by this section [amending this section and sections 2607, 2614, and 2617 of this title] shall become effective on January 1, 1984.”

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-205, §12, Jan. 2, 1976, 89 Stat. 1160, provided that: “The provisions of this Act and the amendments made hereby [enacting section 2617 of this title, amending this section, sections 2603, 2604, 2607, 2609, and 2616 of this title, and section 1631 of Title 15, Commerce and Trade, repealing sections 2605 and 2606 of this title, and enacting and amending provisions set out as notes under section 2601 of this title] shall become effective upon enactment [Jan. 2, 1976]. The Secretary may suspend for up to one hundred and eighty days from the date of enactment of this Act [Jan. 2, 1976] any provision of section 4 and section 5 of the Real Estate Settlement Procedures Act of 1974 [sections 2603 and 2604 of this title], as amended by this Act.”

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.

REGULATIONS

Pub. L. 102-550, title IX, §908(c), Oct. 28, 1992, 106 Stat. 3874, provided that: “The Secretary of Housing and Urban Development shall issue regulations to implement the amendments made by this section [amending this section] not later than the expiration of the 180-day period beginning on the date of the enactment of this Act [Oct. 28, 1992]. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).”

§ 2603. Uniform settlement statement

(a) Disclosure for mortgage loan transactions

The Bureau shall publish a single, integrated disclosure for mortgage loan transactions (including real estate settlement cost statements) which includes the disclosure requirements of this section and section 2604 of this title, in conjunction with the disclosure requirements of the Truth in Lending Act [15 U.S.C. 1601 et seq.] that, taken together, may apply to a transaction that is subject to both or either provisions of law. The purpose of such model disclosure shall be to facilitate compliance with the disclosure requirements of this chapter¹ and the

¹ See References in Text note below.

Truth in Lending Act, and to aid the borrower or lessee in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures. Such forms shall conspicuously and clearly itemize all charges imposed upon the borrower and all charges imposed upon the seller in connection with the settlement and shall indicate whether any title insurance premium included in such charges covers or insures the lender's interest in the property, the borrower's interest, or both. The Bureau may, by regulation, permit the deletion from the forms prescribed under this section of items which are not, under local laws or customs, applicable in any locality, except that such regulation shall require that the numerical code prescribed by the Bureau be retained in forms to be used in all localities. Nothing in this section may be construed to require that that part of the standard forms which relates to the borrower's transaction be furnished to the seller, or to require that that part of the standard forms which relates to the seller be furnished to the borrower.

(b) Availability for inspection; exceptions

The forms prescribed under this section shall be completed and made available for inspection by the borrower at or before settlement by the person conducting the settlement, except that (1) the Bureau may exempt from the requirements of this section settlements occurring in localities where the final settlement statement is not customarily provided at or before the date of settlement, or settlements where such requirements are impractical and (2) the borrower may, in accordance with regulations of the Bureau, waive his right to have the forms made available at such time. Upon the request of the borrower to inspect the forms prescribed under this section during the business day immediately preceding the day of settlement, the person who will conduct the settlement shall permit the borrower to inspect those items which are known to such person during such preceding day.

(c) Disclosure of fees

The standard form described in subsection (a) may include, in the case of an appraisal coordinated by an appraisal management company (as such term is defined in section 3350(11) of this title), a clear disclosure of—

- (1) the fee paid directly to the appraiser by such company; and
- (2) the administration fee charged by such company.

(d) Disclosure for charitable mortgage loan transactions

With respect to a mortgage loan transaction involving a residential mortgage loan offered at 0 percent interest with only bonafide and reasonable fees and that is primarily for charitable purposes, an organization described in section 501(c)(3) of title 26 and exempt from taxation under section 501(a) of such title may use forms HUD-1 and GFE (as defined under section 1024.2(b) of title 12, Code of Federal Regulations) together with a disclosure substantially in the form of the Loan Model Form H-2 (as depicted in Appendix H to part 1026 of title 12, Code of Fed-

eral Regulations), collectively, in lieu of the disclosure published under subsection (a) of this section.

(Pub. L. 93-533, § 4, Dec. 22, 1974, 88 Stat. 1725; Pub. L. 94-205, § 3, Jan. 2, 1976, 89 Stat. 1157; Pub. L. 104-208, div. A, title II, § 2103(g)(1), Sept. 30, 1996, 110 Stat. 3009-401; Pub. L. 111-203, title X, § 1098(2), title XIV, § 1475, July 21, 2010, 124 Stat. 2103, 2200; Pub. L. 116-342, § 2(b), Jan. 13, 2021, 134 Stat. 5134.)

Editorial Notes

REFERENCES IN TEXT

The Truth in Lending Act, referred to in subsec. (a), is title I of Pub. L. 90-321, May 29, 1968, 82 Stat. 146, which is classified generally to subchapter I (§1601 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

This chapter, referred to in subsec. (a), was in the original "this title" and was translated as reading "this Act", meaning Pub. L. 93-533, which is classified principally to this chapter, to reflect the probable intent of Congress, because Pub. L. 93-533 does not contain titles.

AMENDMENTS

2021—Subsec. (d). Pub. L. 116-342 added subsec. (d).

2010—Subsec. (a). Pub. L. 111-203, § 1098(2), substituted "The Bureau shall publish a single, integrated disclosure for mortgage loan transactions (including real estate settlement cost statements) which includes the disclosure requirements of this section and section 2604 of this title, in conjunction with the disclosure requirements of the Truth in Lending Act that, taken together, may apply to a transaction that is subject to both or either provisions of law. The purpose of such model disclosure shall be to facilitate compliance with the disclosure requirements of this chapter and the Truth in Lending Act, and to aid the borrower or lessee in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures." for "The Secretary, in consultation with the Administrator of Veteran's Affairs, the Federal Deposit Insurance Corporation, and the Director of the Office of Thrift Supervision, shall develop and prescribe a standard form for the statement of settlement costs which shall be used (with such variations as may be necessary to reflect differences in legal and administrative requirements or practices in different areas of the country) as the standard real estate settlement form in all transactions in the United States which involve federally related mortgage loans.", "Such forms" for "Such form", "Bureau may" for "Secretary may", "the forms" for "the form", and "prescribed by the Bureau" for "prescribed by the Secretary" and substituted "standard forms" for "standard form" in two places.

Subsec. (b). Pub. L. 111-203, § 1098(2)(B), (C), substituted "forms" for "form" wherever appearing and "Bureau" for "Secretary" in two places.

Subsec. (c). Pub. L. 111-203, § 1475, added subsec. (c).

1996—Subsec. (a). Pub. L. 104-208 substituted "Director of the Office of Thrift Supervision" for "Federal Home Loan Bank Board".

1976—Subsec. (a). Pub. L. 94-205, § 3(1)-(3), designated existing provisions as subsec. (a), struck out "minimum" after "with such" and "unavoidable" after "necessary to reflect" in parenthetical provisions covering allowable regional variations in the uniform settlement statement, and substituted provisions authorizing the Secretary to permit deletions from the standard form for provisions requiring that the standard form contain all the information and data required under the Truth in Lending Act.

Subsec. (b). Pub. L. 94-205, §3(4), added subsec. (b).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 116-342, §2(c), Jan. 13, 2021, 134 Stat. 5135, provided that: “The amendments made by subsections (a) and (b) [amending this section and section 1604 of Title 15, Commerce and Trade] shall take effect on the date of the enactment of this Act [Jan. 13, 2021].”

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 1098(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 section 1475 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 Title 15, Commerce and Trade.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-205 effective Jan. 2, 1976, with the Secretary authorized to suspend for up to 180 days from Jan. 2, 1976, any provision of this section as amended by Pub. L. 94-205, 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.

§ 2604. Home buying information booklets

(a) Preparation and distribution

The Director of the Bureau of Consumer Financial Protection (hereafter in this section referred to as the “Director”) shall prepare, at least once every 5 years, a booklet to help consumers applying for federally related mortgage loans to understand the nature and costs of real estate settlement services. The Director shall prepare the booklet in various languages and cultural styles, as the Director determines to be appropriate, so that the booklet is understandable and accessible to homebuyers of different ethnic and cultural backgrounds. The Director shall distribute such booklets to all lenders that make federally related mortgage loans. The Director shall also distribute to such lenders lists, organized by location, of homeownership counselors certified under section 1701x(e) of this title for use in complying with the requirement under subsection (c) of this section.

(b) Contents

Each booklet shall be in such form and detail as the Director shall prescribe and, in addition to such other information as the Director may provide, shall include in plain and understandable language the following information:

(1) A description and explanation of the nature and purpose of the costs incident to a real estate settlement or a federally related mortgage loan. The description and explanation shall provide general information about the mortgage process as well as specific information concerning, at a minimum—

- (A) balloon payments;
- (B) prepayment penalties;

(C) the advantages of prepayment; and
(D) the trade-off between closing costs and the interest rate over the life of the loan.

(2) An explanation and sample of the uniform settlement statement required by section 2603 of this title.

(3) A list and explanation of lending practices, including those prohibited by the Truth in Lending Act or other applicable Federal law, and of other unfair practices and unreasonable or unnecessary charges to be avoided by the prospective buyer with respect to a real estate settlement.

(4) A list and explanation of questions a consumer obtaining a federally related mortgage loan should ask regarding the loan, including whether the consumer will have the ability to repay the loan, whether the consumer sufficiently shopped for the loan, whether the loan terms include prepayment penalties or balloon payments, and whether the loan will benefit the borrower.

(5) An explanation of the right of rescission as to certain transactions provided by sections 125 and 129 of the Truth in Lending Act [15 U.S.C. 1635, 1639].

(6) A brief explanation of the nature of a variable rate mortgage and a reference to the booklet entitled “Consumer Handbook on Adjustable Rate Mortgages”, published by the Director, or to any suitable substitute of such booklet that the Director may subsequently adopt pursuant to such section.

(7) A brief explanation of the nature of a home equity line of credit and a reference to the pamphlet required to be provided under section 127A of the Truth in Lending Act [15 U.S.C. 1637a].

(8) Information about homeownership counseling services made available pursuant to section 1701x(a)(4) of this title, a recommendation that the consumer use such services, and notification that a list of certified providers of homeownership counseling in the area, and their contact information, is available.

(9) An explanation of the nature and purpose of escrow accounts when used in connection with loans secured by residential real estate and the requirements under section 2609 of this title regarding such accounts.

(10) An explanation of the choices available to buyers of residential real estate in selecting persons to provide necessary services incidental to a real estate settlement.

(11) An explanation of a consumer’s responsibilities, liabilities, and obligations in a mortgage transaction.

(12) An explanation of the nature and purpose of real estate appraisals, including the difference between an appraisal and a home inspection.

(13) Notice that the Office of Housing of the Department of Housing and Urban Development has made publicly available a brochure regarding loan fraud and a World Wide Web address and toll-free telephone number for obtaining the brochure.

(14) An explanation of flood insurance and the availability of flood insurance under the National Flood Insurance Program or from a private insurance company, whether or not

the real estate is located in an area having special flood hazards, and the following statement: “Although you may not be required to maintain flood insurance on all structures, you may still wish to do so, and your mortgage lender may still require you to do so to protect the collateral securing the mortgage. If you choose to not maintain flood insurance on a structure, and it floods, you are responsible for all flood losses relating to that structure.”.

The booklet prepared pursuant to this section shall take into consideration differences in real estate settlement procedures that may exist among the several States and territories of the United States and among separate political subdivisions within the same State and territory.

(c) Estimate of charges

Each lender shall include with the booklet a good faith estimate of the amount or range of charges for specific settlement services the borrower is likely to incur in connection with the settlement as prescribed by the Bureau. Each lender shall also include with the booklet a reasonably complete or updated list of homeownership counselors who are certified pursuant to section 1701x(e) of this title and located in the area of the lender.

(d) Distribution by lenders to loan applicants at time of receipt or preparation of applications

Each lender referred to in subsection (a) shall provide the booklet described in such subsection to each person from whom it receives or for whom it prepares a written application to borrow money to finance the purchase of residential real estate. The lender shall provide the booklet in the version that is most appropriate for the person receiving it. Such booklet shall be provided by delivering it or placing it in the mail not later than 3 business days after the lender receives the application, but no booklet need be provided if the lender denies the application for credit before the end of the 3-day period.

(e) Printing and distribution by lenders of booklets approved by Bureau

Booklets may be printed and distributed by lenders if their form and content are approved by the Bureau as meeting the requirements of subsection (b) of this section.

(Pub. L. 93-533, §5, Dec. 22, 1974, 88 Stat. 1725; Pub. L. 94-205, §4, Jan. 2, 1976, 89 Stat. 1158; Pub. L. 102-550, title IX, §951, Oct. 28, 1992, 106 Stat. 3892; Pub. L. 111-203, title X, §1098(3), title XIV, §1450, July 21, 2010, 124 Stat. 2104, 2174; Pub. L. 112-141, div. F, title II, §100222, July 6, 2012, 126 Stat. 934; Pub. L. 113-89, §13(b), Mar. 21, 2014, 128 Stat. 1026.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this title” and was translated as reading “this Act”, meaning Pub. L. 93-533, which is classified principally to this chapter, to reflect the probable intent of Congress, because Pub. L. 93-533 does not contain titles.

The Truth in Lending Act, referred to in subsec. (b)(3), is title I of Pub. L. 90-321, May 29, 1968, 82 Stat.

146, which is classified generally to subchapter I (§1601 et seq.) of chapter 41 of Title 15, Commerce and Trade. Two sections 129 of the Act have been enacted and are classified to sections 1639 and 1639a of Title 15. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

AMENDMENTS

2014—Subsec. (b)(14). Pub. L. 113-89 inserted before period at end “, and the following statement: ‘Although you may not be required to maintain flood insurance on all structures, you may still wish to do so, and your mortgage lender may still require you to do so to protect the collateral securing the mortgage. If you choose to not maintain flood insurance on a structure, and it floods, you are responsible for all flood losses relating to that structure.’” and transferred par. (14) to appear after par. (13).

2012—Subsec. (b)(14). Pub. L. 112-141 added par. (14) at end of subsec. (b).

2010—Pub. L. 111-203, §1450(1), substituted “Home buying” for “Special” in section catchline.

Pub. L. 111-203, §1098(3)(A), substituted “Bureau” for “Secretary” wherever appearing.

Subsec. (a). Pub. L. 111-203, §1450(2), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: “The Bureau shall prepare and distribute booklets jointly addressing compliance with the requirements of the Truth in Lending Act and the provisions of this chapter, in order to help persons borrowing money to finance the purchase of residential real estate better to understand the nature and costs of real estate settlement services. The Bureau shall distribute such booklets to all lenders which make federally related mortgage loans.”

Pub. L. 111-203, §1098(3)(B), substituted “The Bureau shall prepare and distribute booklets jointly addressing compliance with the requirements of the Truth in Lending Act and the provisions of this chapter, in order to help persons borrowing money to finance the purchase of residential real estate better to understand the nature and costs of real estate settlement services.” for “The Secretary shall prepare and distribute booklets to help persons borrowing money to finance the purchase of residential real estate better to understand the nature and costs of real estate settlement services.”

Subsec. (b). Pub. L. 111-203, §1450(2), added subsec. (b) and struck out former subsec. (b) which related to form and detail, cost elements, standard settlement form, escrow accounts, selection of persons for settlement services; and consideration of differences in settlement procedures.

Subsec. (c). Pub. L. 111-203, §1450(3), inserted at end “Each lender shall also include with the booklet a reasonably complete or updated list of homeownership counselors who are certified pursuant to section 1701x(e) of this title and located in the area of the lender.”

Subsec. (d). Pub. L. 111-203, §1450(4), inserted “The lender shall provide the booklet in the version that is most appropriate for the person receiving it.” after the first sentence.

1992—Subsec. (d). Pub. L. 102-550 substituted “Such booklet shall be provided by delivering it or placing it in the mail not later than 3 business days after the lender receives the application, but no booklet need be provided if the lender denies the application for credit before the end of the 3-day period.” for “Such booklet shall be provided at the time of receipt or preparation of such application.”

1976—Subsecs. (c) to (e). Pub. L. 94-205 added subsec. (c), redesignated former subsec. (c) as (d), substituted “or for whom it prepares a written application” for “an application” and inserted “or preparation” after “receipt”, and redesignated former subsec. (d) as (e).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 1098(3) 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 section 1450 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 Title 15, Commerce and Trade.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-205 effective Jan. 2, 1976, with the Secretary authorized to suspend for up to 180 days from Jan. 2, 1976, any provision of this section as amended by Pub. L. 94-205, 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.

§ 2605. Servicing of mortgage loans and administration of escrow accounts

(a) Disclosure to applicant relating to assignment, sale, or transfer of loan servicing

Each person who makes a federally related mortgage loan shall disclose to each person who applies for the loan, at the time of application for the loan, whether the servicing of the loan may be assigned, sold, or transferred to any other person at any time while the loan is outstanding.

(b) Notice by transferor of loan servicing at time of transfer

(1) Notice requirement

Each servicer of any federally related mortgage loan shall notify the borrower in writing of any assignment, sale, or transfer of the servicing of the loan to any other person.

(2) Time of notice

(A) In general

Except as provided under subparagraphs (B) and (C), the notice required under paragraph (1) shall be made to the borrower not less than 15 days before the effective date of transfer of the servicing of the mortgage loan (with respect to which such notice is made).

(B) Exception for certain proceedings

The notice required under paragraph (1) shall be made to the borrower not more than 30 days after the effective date of assignment, sale, or transfer of the servicing of the mortgage loan (with respect to which such notice is made) in any case in which the assignment, sale, or transfer of the servicing of the mortgage loan is preceded by—

(i) termination of the contract for servicing the loan for cause;

(ii) commencement of proceedings for bankruptcy of the servicer; or

(iii) commencement of proceedings by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation for conservatorship or receivership of the servicer (or an entity by which the servicer is owned or controlled).

(C) Exception for notice provided at closing

The provisions of subparagraphs (A) and (B) shall not apply to any assignment, sale,

or transfer of the servicing of any mortgage loan if the person who makes the loan provides to the borrower, at settlement (with respect to the property for which the mortgage loan is made), written notice under paragraph (3) of such transfer.

(3) Contents of notice

The notice required under paragraph (1) shall include the following information:

(A) The effective date of transfer of the servicing described in such paragraph.

(B) The name, address, and toll-free or collect call telephone number of the transferee servicer.

(C) A toll-free or collect call telephone number for (i) an individual employed by the transferor servicer, or (ii) the department of the transferor servicer, that can be contacted by the borrower to answer inquiries relating to the transfer of servicing.

(D) The name and toll-free or collect call telephone number for (i) an individual employed by the transferee servicer, or (ii) the department of the transferee servicer, that can be contacted by the borrower to answer inquiries relating to the transfer of servicing.

(E) The date on which the transferor servicer who is servicing the mortgage loan before the assignment, sale, or transfer will cease to accept payments relating to the loan and the date on which the transferee servicer will begin to accept such payments.

(F) Any information concerning the effect the transfer may have, if any, on the terms of or the continued availability of mortgage life or disability insurance or any other type of optional insurance and what action, if any, the borrower must take to maintain coverage.

(G) A statement that the assignment, sale, or transfer of the servicing of the mortgage loan does not affect any term or condition of the security instruments other than terms directly related to the servicing of such loan.

(c) Notice by transferee of loan servicing at time of transfer

(1) Notice requirement

Each transferee servicer to whom the servicing of any federally related mortgage loan is assigned, sold, or transferred shall notify the borrower of any such assignment, sale, or transfer.

(2) Time of notice

(A) In general

Except as provided in subparagraphs (B) and (C), the notice required under paragraph (1) shall be made to the borrower not more than 15 days after the effective date of transfer of the servicing of the mortgage loan (with respect to which such notice is made).

(B) Exception for certain proceedings

The notice required under paragraph (1) shall be made to the borrower not more than 30 days after the effective date of assignment, sale, or transfer of the servicing of the mortgage loan (with respect to which such

notice is made) in any case in which the assignment, sale, or transfer of the servicing of the mortgage loan is preceded by—

- (i) termination of the contract for servicing the loan for cause;
- (ii) commencement of proceedings for bankruptcy of the servicer; or
- (iii) commencement of proceedings by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation for conservatorship or receivership of the servicer (or an entity by which the servicer is owned or controlled).

(C) Exception for notice provided at closing

The provisions of subparagraphs (A) and (B) shall not apply to any assignment, sale, or transfer of the servicing of any mortgage loan if the person who makes the loan provides to the borrower, at settlement (with respect to the property for which the mortgage loan is made), written notice under paragraph (3) of such transfer.

(3) Contents of notice

Any notice required under paragraph (1) shall include the information described in subsection (b)(3).

(d) Treatment of loan payments during transfer period

During the 60-day period beginning on the effective date of transfer of the servicing of any federally related mortgage loan, a late fee may not be imposed on the borrower with respect to any payment on such loan and no such payment may be treated as late for any other purposes, if the payment is received by the transferor servicer (rather than the transferee servicer who should properly receive payment) before the due date applicable to such payment.

(e) Duty of loan servicer to respond to borrower inquiries

(1) Notice of receipt of inquiry

(A) In general

If any servicer of a federally related mortgage loan receives a qualified written request from the borrower (or an agent of the borrower) for information relating to the servicing of such loan, the servicer shall provide a written response acknowledging receipt of the correspondence within 5 days (excluding legal public holidays, Saturdays, and Sundays) unless the action requested is taken within such period.

(B) Qualified written request

For purposes of this subsection, a qualified written request shall be a written correspondence, other than notice on a payment coupon or other payment medium supplied by the servicer, that—

- (i) includes, or otherwise enables the servicer to identify, the name and account of the borrower; and
- (ii) includes a statement of the reasons for the belief of the borrower, to the extent applicable, that the account is in error or provides sufficient detail to the servicer regarding other information sought by the borrower.

(2) Action with respect to inquiry

Not later than 30 days (excluding legal public holidays, Saturdays, and Sundays) after the receipt from any borrower of any qualified written request under paragraph (1) and, if applicable, before taking any action with respect to the inquiry of the borrower, the servicer shall—

(A) make appropriate corrections in the account of the borrower, including the crediting of any late charges or penalties, and transmit to the borrower a written notification of such correction (which shall include the name and telephone number of a representative of the servicer who can provide assistance to the borrower);

(B) after conducting an investigation, provide the borrower with a written explanation or clarification that includes—

- (i) to the extent applicable, a statement of the reasons for which the servicer believes the account of the borrower is correct as determined by the servicer; and
- (ii) the name and telephone number of an individual employed by, or the office or department of, the servicer who can provide assistance to the borrower; or

(C) after conducting an investigation, provide the borrower with a written explanation or clarification that includes—

- (i) information requested by the borrower or an explanation of why the information requested is unavailable or cannot be obtained by the servicer; and
- (ii) the name and telephone number of an individual employed by, or the office or department of, the servicer who can provide assistance to the borrower.

(3) Protection of credit rating

During the 60-day period beginning on the date of the servicer's receipt from any borrower of a qualified written request relating to a dispute regarding the borrower's payments, a servicer may not provide information regarding any overdue payment, owed by such borrower and relating to such period or qualified written request, to any consumer reporting agency (as such term is defined under section 1681a of title 15).

(4) Limited extension of response time

The 30-day period described in paragraph (2) may be extended for not more than 15 days if, before the end of such 30-day period, the servicer notifies the borrower of the extension and the reasons for the delay in responding.

(f) Damages and costs

Whoever fails to comply with any provision of this section shall be liable to the borrower for each such failure in the following amounts:

(1) Individuals

In the case of any action by an individual, an amount equal to the sum of—

- (A) any actual damages to the borrower as a result of the failure; and
- (B) any additional damages, as the court may allow, in the case of a pattern or practice of noncompliance with the requirements of this section, in an amount not to exceed \$2,000.

(2) Class actions

In the case of a class action, an amount equal to the sum of—

(A) any actual damages to each of the borrowers in the class as a result of the failure; and

(B) any additional damages, as the court may allow, in the case of a pattern or practice of noncompliance with the requirements of this section, in an amount not greater than \$2,000 for each member of the class, except that the total amount of damages under this subparagraph in any class action may not exceed the lesser of—

(i) \$1,000,000; or

(ii) 1 percent of the net worth of the servicer.

(3) Costs

In addition to the amounts under paragraph (1) or (2), in the case of any successful action under this section, the costs of the action, together with any attorneys fees incurred in connection with such action as the court may determine to be reasonable under the circumstances.

(4) Nonliability

A transferor or transferee servicer shall not be liable under this subsection for any failure to comply with any requirement under this section if, within 60 days after discovering an error (whether pursuant to a final written examination report or the servicer's own procedures) and before the commencement of an action under this subsection and the receipt of written notice of the error from the borrower, the servicer notifies the person concerned of the error and makes whatever adjustments are necessary in the appropriate account to ensure that the person will not be required to pay an amount in excess of any amount that the person otherwise would have paid.

(g) Administration of escrow accounts

If the terms of any federally related mortgage loan require the borrower to make payments to the servicer of the loan for deposit into an escrow account for the purpose of assuring payment of taxes, insurance premiums, and other charges with respect to the property, the servicer shall make payments from the escrow account for such taxes, insurance premiums, and other charges in a timely manner as such payments become due. Any balance in any such account that is within the servicer's control at the time the loan is paid off shall be promptly returned to the borrower within 20 business days or credited to a similar account for a new mortgage loan to the borrower with the same lender.

(h) Preemption of conflicting State laws

Notwithstanding any provision of any law or regulation of any State, a person who makes a federally related mortgage loan or a servicer shall be considered to have complied with the provisions of any such State law or regulation requiring notice to a borrower at the time of application for a loan or transfer of the servicing of a loan if such person or servicer complies with the requirements under this section regarding timing, content, and procedures for notification of the borrower.

(i) Definitions

For purposes of this section:

(1) Effective date of transfer

The term "effective date of transfer" means the date on which the mortgage payment of a borrower is first due to the transferee servicer of a mortgage loan pursuant to the assignment, sale, or transfer of the servicing of the mortgage loan.

(2) Servicer

The term "servicer" means the person responsible for servicing of a loan (including the person who makes or holds a loan if such person also services the loan). The term does not include—

(A) the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, in connection with assets acquired, assigned, sold, or transferred pursuant to section 1823(c) of this title or as receiver or conservator of an insured depository institution; and

(B) the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Resolution Trust Corporation, or the Federal Deposit Insurance Corporation, in any case in which the assignment, sale, or transfer of the servicing of the mortgage loan is preceded by—

(i) termination of the contract for servicing the loan for cause;

(ii) commencement of proceedings for bankruptcy of the servicer; or

(iii) commencement of proceedings by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation for conservatorship or receivership of the servicer (or an entity by which the servicer is owned or controlled).

(3) Servicing

The term "servicing" means receiving any scheduled periodic payments from a borrower pursuant to the terms of any loan, including amounts for escrow accounts described in section 2609 of this title, and making the payments of principal and interest and such other payments with respect to the amounts received from the borrower as may be required pursuant to the terms of the loan.

(j) Transition**(1) Originator liability**

A person who makes a federally related mortgage loan shall not be liable to a borrower because of a failure of such person to comply with subsection (a) with respect to an application for a loan made by the borrower before the regulations referred to in paragraph (3) take effect.

(2) Servicer liability

A servicer of a federally related mortgage loan shall not be liable to a borrower because of a failure of the servicer to perform any duty under subsection (b), (c), (d), or (e) that arises before the regulations referred to in paragraph (3) take effect.

(3) Regulations and effective date

The Bureau shall establish any requirements necessary to carry out this section. Such regu-

lations shall include the model disclosure statement required under subsection (a)(2).

(k) Servicer prohibitions

(1) In general

A servicer of a federally related mortgage shall not—

(A) obtain force-placed hazard insurance unless there is a reasonable basis to believe the borrower has failed to comply with the loan contract's requirements to maintain property insurance;

(B) charge fees for responding to valid qualified written requests (as defined in regulations which the Bureau of Consumer Financial Protection shall prescribe) under this section;

(C) fail to take timely action to respond to a borrower's requests to correct errors relating to allocation of payments, final balances for purposes of paying off the loan, or avoiding foreclosure, or other standard servicer's duties;

(D) fail to respond within 10 business days to a request from a borrower to provide the identity, address, and other relevant contact information about the owner or assignee of the loan; or

(E) fail to comply with any other obligation found by the Bureau of Consumer Financial Protection, by regulation, to be appropriate to carry out the consumer protection purposes of this chapter.

(2) Force-placed insurance defined

For purposes of this subsection and subsections (l) and (m), the term "force-placed insurance" means hazard insurance coverage obtained by a servicer of a federally related mortgage when the borrower has failed to maintain or renew hazard insurance on such property as required of the borrower under the terms of the mortgage.

(l) Requirements for force-placed insurance

A servicer of a federally related mortgage shall not be construed as having a reasonable basis for obtaining force-placed insurance unless the requirements of this subsection have been met.

(1) Written notices to borrower

A servicer may not impose any charge on any borrower for force-placed insurance with respect to any property securing a federally related mortgage unless—

(A) the servicer has sent, by first-class mail, a written notice to the borrower containing—

(i) a reminder of the borrower's obligation to maintain hazard insurance on the property securing the federally related mortgage;

(ii) a statement that the servicer does not have evidence of insurance coverage of such property;

(iii) a clear and conspicuous statement of the procedures by which the borrower may demonstrate that the borrower already has insurance coverage; and

(iv) a statement that the servicer may obtain such coverage at the borrower's ex-

pense if the borrower does not provide such demonstration of the borrower's existing coverage in a timely manner;

(B) the servicer has sent, by first-class mail, a second written notice, at least 30 days after the mailing of the notice under subparagraph (A) that contains all the information described in each clause of such subparagraph; and

(C) the servicer has not received from the borrower any demonstration of hazard insurance coverage for the property securing the mortgage by the end of the 15-day period beginning on the date the notice under subparagraph (B) was sent by the servicer.

(2) Sufficiency of demonstration

A servicer of a federally related mortgage shall accept any reasonable form of written confirmation from a borrower of existing insurance coverage, which shall include the existing insurance policy number along with the identity of, and contact information for, the insurance company or agent, or as otherwise required by the Bureau of Consumer Financial Protection.

(3) Termination of force-placed insurance

Within 15 days of the receipt by a servicer of confirmation of a borrower's existing insurance coverage, the servicer shall—

(A) terminate the force-placed insurance; and

(B) refund to the consumer all force-placed insurance premiums paid by the borrower during any period during which the borrower's insurance coverage and the force-placed insurance coverage were each in effect, and any related fees charged to the consumer's account with respect to the force-placed insurance during such period.

(4) Clarification with respect to Flood Disaster Protection Act

No provision of this section shall be construed as prohibiting a servicer from providing simultaneous or concurrent notice of a lack of flood insurance pursuant to section 4012a(e) of title 42.

(m) Limitations on force-placed insurance charges

All charges, apart from charges subject to State regulation as the business of insurance, related to force-placed insurance imposed on the borrower by or through the servicer shall be bona fide and reasonable.

(Pub. L. 93-533, § 6, as added Pub. L. 101-625, title IX, § 941, Nov. 28, 1990, 104 Stat. 4405; amended Pub. L. 102-27, title III, § 312(a), Apr. 10, 1991, 105 Stat. 154; Pub. L. 103-325, title III, § 345, Sept. 23, 1994, 108 Stat. 2239; Pub. L. 104-208, div. A, title II, § 2103(a), Sept. 30, 1996, 110 Stat. 3009-399; Pub. L. 111-203, title X, § 1098(4), title XIV, § 1463, July 21, 2010, 124 Stat. 2104, 2182.)

Editorial Notes

PRIOR PROVISIONS

A prior section 2605, Pub. L. 93-533, § 6, Dec. 22, 1974, 88 Stat. 1726, related to advanced itemized disclosure of settlement costs by the lender and liability of the lend-

er for failure to comply, prior to repeal by Pub. L. 94-205, § 5, Jan. 2, 1976, 89 Stat. 1158.

AMENDMENTS

2010—Subsec. (e)(1)(A). Pub. L. 111-203, § 1463(c)(1), substituted “5 days” for “20 days”.

Subsec. (e)(2). Pub. L. 111-203, § 1463(c)(2), substituted “30 days” for “60 days” in introductory provisions.

Subsec. (e)(4). Pub. L. 111-203, § 1463(c)(3), added par. (4).

Subsec. (f)(1)(B), (2)(B). Pub. L. 111-203, § 1463(b)(1), substituted “\$2,000” for “\$1,000”.

Subsec. (f)(2)(B)(i). Pub. L. 111-203, § 1463(b)(2), substituted “\$1,000,000” for “\$500,000”.

Subsec. (g). Pub. L. 111-203, § 1463(d), inserted at end “Any balance in any such account that is within the servicer’s control at the time the loan is paid off shall be promptly returned to the borrower within 20 business days or credited to a similar account for a new mortgage loan to the borrower with the same lender.”

Subsec. (j)(3). Pub. L. 111-203, § 1098(4), substituted “Bureau” for “Secretary” and struck out “, by regulations that shall take effect not later than April 20, 1991,” before “establish”.

Subsecs. (k) to (m). Pub. L. 111-203, § 1463(a), added subsecs. (k) to (m).

1996—Subsec. (a). Pub. L. 104-208 amended heading and text of subsec. (a) generally. Prior to amendment, text consisted of pars. (1) to (3) relating to requirements for lenders of federally related mortgage loans to disclose to applicants whether servicing of such loan may be assigned, sold, or transferred, directed Secretary to develop model disclosure statement, and required signature of applicant on all such disclosure statements.

1994—Subsec. (a)(1)(B). Pub. L. 103-325 substituted “(B) at the choice of the person making a federally related mortgage loan—

“(i) for each of the most recent” for “(B) for each of the most recent”, redesignated cls. (i) and (ii) as subcls. (I) and (II), respectively, and realigned margins, substituted “or” for “and” at end of subcl. (II), and added cl. (ii).

1991—Subsec. (j). Pub. L. 102-27 added subsec. (j).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 1098(4) 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 section 1463 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 Title 15, Commerce and Trade.

§ 2606. Exempted transactions

(a) In general

This chapter does not apply to credit transactions involving extensions of credit—

- (1) primarily for business, commercial, or agricultural purposes; or
- (2) to government or governmental agencies or instrumentalities.

(b) Interpretation

In prescribing regulations under section 2617(a) of this title, the Bureau shall ensure that, with respect to subsection (a) of this section, the exemption for credit transactions involving extensions of credit primarily for business, commercial, or agricultural purposes, as provided in subsection (a)(1)¹ of this section

¹ See References in Text note below.

shall be the same as the exemption for such credit transactions under section 1603(1) of title 15.

(Pub. L. 93-533, § 7, as added Pub. L. 103-325, title III, § 312, Sept. 23, 1994, 108 Stat. 2221; amended Pub. L. 104-208, div. A, title II, § 2103(b), Sept. 30, 1996, 110 Stat. 3009-399; Pub. L. 111-203, title X, § 1098(5), July 21, 2010, 124 Stat. 2104.)

Editorial Notes

REFERENCES IN TEXT

Subsection (a)(1) of this section, referred to in subsec. (b), was in the original “section 7(1) of the Real Estate Settlement Procedures Act of 1974”, and was translated as referring to section 7(a)(1) of that Act to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 2606, Pub. L. 93-533, § 7, Dec. 22, 1974, 88 Stat. 1727, related to seller or his agent confirming that information concerning an existing residence was disclosed to buyer in writing before a commitment for a mortgage loan was made, prior to repeal by Pub. L. 94-205, § 6, Jan. 2, 1976, 89 Stat. 1158.

AMENDMENTS

2010—Subsec. (b). Pub. L. 111-203 substituted “Bureau” for “Secretary”.

1996—Pub. L. 104-208 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

Statutory Notes and Related Subsidiaries

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.

§ 2607. Prohibition against kickbacks and unearned fees

(a) Business referrals

No person shall give and no person shall accept any fee, kickback, or thing of value pursuant to any agreement or understanding, oral or otherwise, that business incident to or a part of a real estate settlement service involving a federally related mortgage loan shall be referred to any person.

(b) Splitting charges

No person shall give and no person shall accept any portion, split, or percentage of any charge made or received for the rendering of a real estate settlement service in connection with a transaction involving a federally related mortgage loan other than for services actually performed.

(c) Fees, salaries, compensation, or other payments

Nothing in this section shall be construed as prohibiting (1) the payment of a fee (A) to attorneys at law for services actually rendered or (B) by a title company to its duly appointed agent for services actually performed in the issuance of a policy of title insurance or (C) by a lender to its duly appointed agent for services actually performed in the making of a loan, (2) the payment to any person of a bona fide salary or compensation or other payment for goods or facilities actually furnished or for services actually

performed, (3) payments pursuant to cooperative brokerage and referral arrangements or agreements between real estate agents and brokers, (4) affiliated business arrangements so long as (A) a disclosure is made of the existence of such an arrangement to the person being referred and, in connection with such 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 (i) in the case of a face-to-face referral or a referral made in writing or by electronic media, at or before the time of the referral (and compliance with this requirement in such case may be evidenced by a notation in a written, electronic, or similar system of records maintained in the regular course of business); (ii) in the case of a referral made by telephone, within 3 business days after the referral by telephone,¹ (and in such case an abbreviated verbal disclosure of the existence of the arrangement and the fact that a written disclosure will be provided within 3 business days shall be made to the person being referred during the telephone referral); or (iii) in the case of a referral by a lender (including a referral by a lender to an affiliated lender), at the time the estimates required under section 2604(c) of this title are provided (notwithstanding clause (i) or (ii)); and any required written receipt of such disclosure (without regard to the manner of the disclosure under clause (i), (ii), or (iii)) may be obtained at the closing or settlement (except that a person making a face-to-face referral who provides the written disclosure at or before the time of the referral shall attempt to obtain any required written receipt of such disclosure at such time and if the person being referred chooses not to acknowledge the receipt of the disclosure at that time, that fact shall be noted in the written, electronic, or similar system of records maintained in the regular course of business by the person making the referral), (B) such person is not required to use any particular provider of settlement services, and (C) the only thing of value that is received from the arrangement, other than the payments permitted under this subsection, is a return on the ownership interest or franchise relationship, or (5) such other payments or classes of payments or other transfers as are specified in regulations prescribed by the Bureau, after consultation with the Attorney General, the Secretary of Veterans Affairs, the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, and the Secretary of Agriculture. For purposes of the preceding sentence, the following shall not be considered a violation of clause (4)(B): (i) any arrangement that requires a buyer, borrower, or seller to pay for the services of an attorney, credit reporting agency, or real estate appraiser chosen by the lender to represent the lender's interest in a real estate transaction, or (ii) any arrangement where an attorney or law firm represents a client in a real estate transaction and issues or arranges for the issuance of a policy of title insurance in the transaction directly as agent or through a separate corporate title insurance agency that may be established by that

¹ So in original.

attorney or law firm and operated as an adjunct to his or its law practice.

(d) Penalties for violations; joint and several liability; treble damages; actions for injunction by Bureau and Secretary and by State officials; costs and attorney fees; construction of State laws

(1) Any person or persons who violate the provisions of this section shall be fined not more than \$10,000 or imprisoned for not more than one year, or both.

(2) Any person or persons who violate the prohibitions or limitations of this section shall be jointly and severally liable to the person or persons charged for the settlement service involved in the violation in an amount equal to three times the amount of any charge paid for such settlement service.

(3) No person or persons shall be liable for a violation of the provisions of subsection (c)(4)(A) if such person or persons proves by a preponderance 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.)

Editorial Notes

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).

Statutory Notes and Related Subsidiaries

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.)

Statutory Notes and Related Subsidiaries

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 sufficient to pay such taxes, insurance premiums and other charges attributable to the period beginning on the last date on which each such charge would have been paid under the normal lending practice of the lender and local custom, provided that the selection of each such date constitutes prudent lending practice, and ending on the due date of its first full installment payment under the mortgage, plus one-sixth of the estimated total amount of such taxes, insurance premiums and other charges to be paid on dates, as provided above, during the ensuing twelve-month period; or

(2) to deposit in any such escrow account in any month beginning with the first full installment payment under the mortgage a sum (for the purpose of assuring payment of taxes, insurance premiums and other charges with respect to the property) in excess of the sum of (A) one-twelfth of the total amount of the estimated taxes, insurance premiums and other charges which are reasonably anticipated to be paid on dates during the ensuing twelve months which dates are in accordance with the normal lending practice of the lender and local custom, provided that the selection of each such date constitutes prudent lending practice, plus (B) such amount as is necessary to maintain an additional balance in such escrow account not to exceed one-sixth of the estimated total amount of such taxes, insurance premiums and other charges to be paid on dates, as provided above, during the ensuing twelve-month period: *Provided, however,* That in the event the lender determines there will be or is a deficiency he shall not be prohibited from requiring additional monthly deposits in such escrow account to avoid or eliminate such deficiency.

(b) Notification of shortage in escrow account

If the terms of any federally related mortgage loan require the borrower to make payments to the servicer (as the term is defined in section 2605(i) of this title) of the loan for deposit into an escrow account for the purpose of assuring payment of taxes, insurance premiums, and other charges with respect to the property, the servicer shall notify the borrower not less than annually of any shortage of funds in the escrow account.

(c) Escrow account statements**(1) Initial statement****(A) In general**

Any servicer that has established an escrow account in connection with a federally related mortgage loan shall submit to the borrower for which the escrow account has been established a statement clearly itemizing the estimated taxes, insurance premiums, and other charges that are reasonably anticipated to be paid from the escrow account during the first 12 months after the establishment of the account and the anticipated dates of such payments.

(B) Time of submission

The statement required under subparagraph (A) shall be submitted to the borrower at closing with respect to the property for which the mortgage loan is made or not later than the expiration of the 45-day period beginning on the date of the establishment of the escrow account.

(C) Initial statement at closing

Any servicer may submit the statement required under subparagraph (A) to the borrower at closing and may incorporate such statement in the uniform settlement statement required under section 2603 of this title. The Bureau shall issue regulations prescribing any changes necessary to the uniform settlement statement under section 2603 of this title that specify how the statement required under subparagraph (A) of this section shall be incorporated in the uniform settlement statement.

(2) Annual statement**(A) In general**

Any servicer that has established or continued an escrow account in connection with a federally related mortgage loan shall submit to the borrower for which the escrow account has been established or continued a statement clearly itemizing, for each period described in subparagraph (B) (during which the servicer services the escrow account), the amount of the borrower's current monthly payment, the portion of the monthly payment being placed in the escrow account, the total amount paid into the escrow account during the period, the total amount paid out of the escrow account during the period for taxes, insurance premiums, and other charges (as separately identified), and the balance in the escrow account at the conclusion of the period.

(B) Time of submission

The statement required under subparagraph (A) shall be submitted to the borrower

not less than once for each 12-month period, the first such period beginning on the first January 1st that occurs after November 28, 1990, and shall be submitted not more than 30 days after the conclusion of each such 1-year period.

(d) Penalties**(1) In general**

In the case of each failure to submit a statement to a borrower as required under subsection (c), the Secretary shall assess to the lender or escrow servicer failing to submit the statement a civil penalty of \$50 for each such failure, but the total amount imposed on such lender or escrow servicer for all such failures during any 12-month period referred to in subsection (b)¹ may not exceed \$100,000.

(2) Intentional violations

If any failure to which paragraph (1) applies is due to intentional disregard of the requirement to submit the statement, then, with respect to such failure—

(A) the penalty imposed under paragraph (1) shall be \$100; and

(B) in the case of any penalty determined under subparagraph (A), the \$100,000 limitation under paragraph (1) shall not apply.

(Pub. L. 93-533, §10, Dec. 22, 1974, 88 Stat. 1728; Pub. L. 94-205, §8, Jan. 2, 1976, 89 Stat. 1158; Pub. L. 101-625, title IX, §942(a), Nov. 28, 1990, 104 Stat. 4411; Pub. L. 104-208, div. A, title II, §2103(g)(2), Sept. 30, 1996, 110 Stat. 3009-401; Pub. L. 111-203, title X, §1098(8), July 21, 2010, 124 Stat. 2104.)

Editorial Notes

AMENDMENTS

2010—Subsec. (c)(1)(C). Pub. L. 111-203, which directed amendment of “section 10(c) (12 U.S.C. 2609(c) and (d))” by substituting “Bureau” for “Secretary”, was executed by making the substitution only in subsec. (c) as directed.

1996—Subsec. (c)(1)(C). Pub. L. 104-208 substituted “The Secretary” for “Not later than the expiration of the 90-day period beginning on November 28, 1990, the Secretary” in second sentence.

1990—Pub. L. 101-625 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) to (d).

1976—Pub. L. 94-205 provided that in addition to amounts required for the payment of taxes, insurance premiums, and other charges due at settlement, the buyer could not be required at settlement to place into an escrow account more than one-sixth of the estimated total amount of such taxes, insurance premiums, and other charges payable within a twelve month period beginning on the date of settlement, but the buyer could be required to make monthly payments into an escrow account sufficient to maintain a surplus of one-sixth of the estimated total amount payable in the coming twelve month period.

Statutory Notes and Related Subsidiaries

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.

¹ So in original. Probably should be subsection “(c)”.

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.

§ 2610. Prohibition of fees for preparation of truth-in-lending, uniform settlement, and escrow account statements

No fee shall be imposed or charge made upon any other person (as a part of settlement costs or otherwise) by a lender in connection with a federally related mortgage loan made by it (or a loan for the purchase of a mobile home), or by a servicer (as the term is defined under section 2605(i) of this title), for or on account of the preparation and submission by such lender or servicer of the statement or statements required (in connection with such loan) by sections 2603 and 2609(c) of this title or by the Truth in Lending Act [15 U.S.C. 1601 et seq.].

(Pub. L. 93-533, §12, Dec. 22, 1974, 88 Stat. 1729; Pub. L. 101-625, title IX, §942(b), Nov. 28, 1990, 104 Stat. 4412.)

Editorial Notes

REFERENCES IN TEXT

The Truth in Lending Act, referred to in text, is title I of Pub. L. 90-321, May 29, 1968, 82 Stat. 146, which is classified generally to subchapter I (§1601 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

AMENDMENTS

1990—Pub. L. 101-625 substituted present section catchline for “Fee for preparation of truth-in-lending and uniform settlement statements”, inserted after first comma “or by a servicer (as the term is defined under section 2605(i) of this title)”, and substituted “lender or servicer” for second reference to “lender” and “2609(c)” for “2605”.

Statutory Notes and Related Subsidiaries

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.

§§ 2611 to 2613. Repealed. Pub. L. 104-208, div. A, title II, § 2103(h), Sept. 30, 1996, 110 Stat. 3009-401

Section 2611, Pub. L. 93-533, §13, Dec. 22, 1974, 88 Stat. 1730, related to establishment of land parcel recordation system on demonstration basis.

Section 2612, Pub. L. 93-533, §14, Dec. 22, 1974, 88 Stat. 1730, directed Secretary of Housing and Urban Development to report on necessity for further legislation involving real estate settlements.

Section 2613, Pub. L. 93-533, §15, Dec. 22, 1974, 88 Stat. 1730, directed Secretary of Housing and Urban Development to determine, and report to Congress on, feasibility of including statements of settlement costs in special information booklets.

§ 2614. Jurisdiction of courts; limitations

Any action pursuant to the provisions of section 2605, 2607, or 2608 of this title may be

brought in the United States district court or in any other court of competent jurisdiction, for the district in which the property involved is located, or where the violation is alleged to have occurred, within 3 years in the case of a violation of section 2605 of this title and 1 year in the case of a violation of section 2607 or 2608 of this title from the date of the occurrence of the violation, except that actions brought by the Bureau, the Secretary, the Attorney General of any State, or the insurance commissioner of any State may be brought within 3 years from the date of the occurrence of the violation.

(Pub. L. 93-533, §16, Dec. 22, 1974, 88 Stat. 1731; Pub. L. 98-181, title I [title IV, §461(d)], Nov. 30, 1983, 97 Stat. 1232; Pub. L. 104-208, div. A, title II, §2103(e), Sept. 30, 1996, 110 Stat. 3009-400; Pub. L. 111-203, title X, §1098(9), July 21, 2010, 124 Stat. 2104.)

Editorial Notes

AMENDMENTS

2010—Pub. L. 111-203 inserted “the Bureau,” before “the Secretary”.

1996—Pub. L. 104-208 substituted “section 2605, 2607, or 2608 of this title” for “section 2607 or 2608 of this title” and “within 3 years in the case of a violation of section 2605 of this title and 1 year in the case of a violation of section 2607 or 2608 of this title” for “within one year”.

1983—Pub. L. 98-181 amended section generally, striking out a reference to section 2605 of this title, and inserting provision allowing action in district where violation is alleged to have occurred, and provision relating to time limitations in actions brought by the Secretary, the Attorney General of any State, or the insurance commissioner of any State.

Statutory Notes and Related Subsidiaries

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

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.

§ 2615. Contracts and liens; validity

Nothing in this chapter shall affect the validity or enforceability of any sale or contract for the sale of real property or any loan, loan agreement, mortgage, or lien made or arising in connection with a federally related mortgage loan.

(Pub. L. 93-533, §17, Dec. 22, 1974, 88 Stat. 1731.)

Statutory Notes and Related Subsidiaries

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.

§ 2616. State laws unaffected; inconsistent Federal and State provisions

This chapter does not annul, alter, or affect, or exempt any person subject to the provisions

of this chapter from complying with, the laws of any State with respect to settlement practices, except to the extent that those laws are inconsistent with any provision of this chapter, and then only to the extent of the inconsistency. The Bureau is authorized to determine whether such inconsistencies exist. The Bureau may not determine that any State law is inconsistent with any provision of this chapter if the Bureau determines that such law gives greater protection to the consumer. In making these determinations the Bureau shall consult with the appropriate Federal agencies.

(Pub. L. 93-533, §18, Dec. 22, 1974, 88 Stat. 1731; Pub. L. 94-205, §9, Jan. 2, 1976, 89 Stat. 1159; Pub. L. 111-203, title X, §1098(10), July 21, 2010, 124 Stat. 2104.)

Editorial Notes

AMENDMENTS

2010—Pub. L. 111-203 substituted “Bureau” for “Secretary” wherever appearing.

1976—Pub. L. 94-205 struck out “(a)” before “This chapter” and struck out subsec. (b) which provided for Federal protection against liability for acts done or omitted in good faith in accordance with the rules, regulations, or interpretations issued by the Secretary. See section 2617 (b) of this title.

Statutory Notes and Related Subsidiaries

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 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.

§ 2617. Authority of Bureau

(a) Issuance of regulations; exemptions

The Bureau is authorized to prescribe such rules and regulations, to make such interpretations, and to grant such reasonable exemptions for classes of transactions, as may be necessary to achieve the purposes of this chapter.

(b) Liability for acts done in good faith in conformity with rule, regulation, or interpretation

No provision of this chapter or the laws of any State imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Bureau or the Attorney General, notwithstanding that after such act or omission has occurred, such rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(c) Investigations; hearings; failure to obey order; contempt

(1) The Secretary¹ may investigate any facts, conditions, practices, or matters that may be deemed necessary or proper to aid in the enforcement of the provisions of this chapter, in prescribing of rules and regulations thereunder, or in securing information to serve as a basis for recommending further legislation concerning real estate settlement practices. To aid in the investigations, the Bureau is authorized to hold such hearings, administer such oaths, and require by subpoena the attendance and testimony of such witnesses and production of such documents as the Bureau deems advisable.

(2) Any district court of the United States within the jurisdiction of which an inquiry is carried on may, in the case of contumacy or refusal to obey a subpoena of the Bureau issued under this section, issue an order requiring compliance therewith; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(d) Delay of effectiveness of recent final regulation relating to payments to employees

(1) In general

The amendment to part 3500 of title 24 of the Code of Federal Regulations contained in the final regulation prescribed by the Secretary and published in the Federal Register on June 7, 1996, which will, as of the effective date of such amendment—

(A) eliminate the exemption for payments by an employer to employees of such employer for referral activities which is currently codified as section 3500.14(g)(1)(vii) of such title 24; and

(B) replace such exemption with a more limited exemption in new clauses (vii), (viii), and (ix) of section 3500.14 of such title 24,

shall not take effect before July 31, 1997.

(2) Continuation of prior rule

The regulation codified as section 3500.14(g)(1)(vii) of title 24 of the Code of Federal Regulations, relating to employer-employee payments, as in effect on May 1, 1996, shall remain in effect until the date the amendment referred to in paragraph (1) takes effect in accordance with such paragraph.

(3) Public notice of effective date

The Secretary shall provide public notice of the date on which the amendment referred to in paragraph (1) will take effect in accordance with such paragraph not less than 90 days and not more than 180 days before such effective date.

(Pub. L. 93-533, §19, as added Pub. L. 94-205, §10, Jan. 2, 1976, 89 Stat. 1159; amended Pub. L. 98-181, title I [title IV, §461(e)], Nov. 30, 1983, 97 Stat. 1232; Pub. L. 104-208, div. A, title II, §2103(f), Sept. 30, 1996, 110 Stat. 3009-401; Pub. L. 111-203, title X, §1098(11), July 21, 2010, 124 Stat. 2104.)

¹ Probably should be “The Bureau”.

Editorial Notes

AMENDMENTS

2010—Pub. L. 111-203, §1098(11)(A), substituted “Bureau” for “Secretary” in section catchline.

Subsec. (a). Pub. L. 111-203, §1098(11)(B), substituted “Bureau” for “Secretary”.

Subsecs. (b), (c). Pub. L. 111-203, §1098(11)(C), substituted “the Bureau” for “the Secretary” wherever appearing.

1996—Subsec. (d). Pub. L. 104-208 added subsec. (d).

1983—Subsec. (c). Pub. L. 98-181 added subsec. (c).

Statutory Notes and Related Subsidiaries

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

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

CHAPTER 28—EMERGENCY MORTGAGE RELIEF

Sec.	
2701.	Congressional findings and declaration of purpose.
2702.	Mortgages eligible for assistance.
2703.	Manner of assistance and repayment.
2704.	Insurance for emergency mortgage loans and advances.
2705.	Emergency mortgage relief payments.
2706.	Emergency Homeowners' Relief Fund.
2707.	Authority of Secretary.
2708.	Expiration date.
2709, 2710.	Repealed.
2711.	Nonapplicability of other laws.
2712.	Repealed.

§ 2701. Congressional findings and declaration of purpose

(a) The Congress finds that—

(1) the Nation is in a severe recession and that the sharp downturn in economic activity has driven large numbers of workers into unemployment and has reduced the incomes of many others;

(2) as a result of these adverse economic conditions the capacity of many homeowners to continue to make mortgage payments has deteriorated and may further deteriorate in the months ahead, leading to the possibility of widespread mortgage foreclosures and distress sales of homes; and

(3) many of these homeowners could retain their homes with temporary financial assistance until economic conditions improve.

(b) It is the purpose of this chapter to provide a standby authority which will prevent widespread mortgage foreclosures and distress sales of homes resulting from the temporary loss of employment and income through a program of emergency loans and advances and emergency mortgage relief payments to homeowners to defray mortgage expenses.

(Pub. L. 94-50, title I, §102, July 2, 1975, 89 Stat. 249.)

Statutory Notes and Related Subsidiaries

SHORT TITLE

Pub. L. 94-50, §1, July 2, 1975, 89 Stat. 249, provided: “That this Act [enacting this chapter, amending sections 1723e and 1735b of this title and sections 1452 and 4106 of Title 42, The Public Health and Welfare, enacting provisions set out as a note under this section, and amending provisions set out as a note under section 1723e of this title] may be cited as the ‘Emergency Housing Act of 1975.’”

Pub. L. 94-50, title I, §101, July 2, 1975, 89 Stat. 249, provided that: “This title [enacting this chapter] may be cited as the ‘Emergency Homeowners’ Relief Act.’”

§ 2702. Mortgages eligible for assistance

No assistance shall be extended with respect to any mortgage under this chapter unless—

(1) the holder of the mortgage has indicated to the mortgagor its intention to foreclose;

(2) the mortgagor and holder of the mortgage have certified that circumstances make it probable that there will be a foreclosure and that the mortgagor is in need of emergency mortgage relief as authorized by this chapter;

(3) payments under the mortgage have been delinquent for at least three months;

(4) the mortgagor has incurred a substantial reduction in income as a result of involuntary unemployment or underemployment due to adverse economic conditions or medical conditions and is financially unable to make full mortgage payments;

(5) there is a reasonable prospect that the mortgagor will be able to make the adjustments necessary for a full resumption of mortgage payments; and

(6) the mortgaged property is the principal residence of the mortgagor.

(Pub. L. 94-50, title I, §103, July 2, 1975, 89 Stat. 249; Pub. L. 111-203, title XIV, §1496(b)(1), July 21, 2010, 124 Stat. 2207.)

Editorial Notes

AMENDMENTS

2010—Par. (2). Pub. L. 111-203, §1496(b)(1)(A), substituted “have certified” for “have indicated in writing to the Secretary of Housing and Urban Development (hereinafter referred to as the ‘Secretary’) and to any agency or department of the Federal Government responsible for the regulation of the holder” and struck out “(such as the volume of delinquent loans in its portfolio)” after “circumstances” and “, except that such statement by the holder of the mortgage may be waived by the Secretary if in his judgment such waiver would further the purposes of this chapter” after “by this chapter”.

Par. (4). Pub. L. 111-203, §1496(b)(1)(B), inserted “or medical conditions” after “adverse economic conditions”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by 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 Title 15, Commerce and Trade.