

discount points, or other charges on any such loan, mortgage, or advance.

(June 27, 1934, ch. 847, title V, § 529, as added Pub. L. 96-153, title III, § 308, Dec. 21, 1979, 93 Stat. 1113.)

Statutory Notes and Related Subsidiaries

CHOICE OF HIGHEST APPLICABLE INTEREST RATE

In any case in which one or more provisions of, or amendments made by, title V of Pub. L. 96-221 [enacting sections 86a, 1730g, 1735f-7a, 1785(g), and 1831d of this title and section 687(i) of Title 15, Commerce and Trade, and enacting provisions set out as notes under sections 86a, 1730g, and 1735f-7 of this title], this section, or any other provisions of law, including section 85 of this title, apply with respect to the same loan, mortgage, credit sale, or advance, such loan, mortgage, credit sale, or advance may be made at the highest applicable rate, see section 528 of Pub. L. 96-221, set out as a note under section 1735f-7a of this title.

STATE CONSTITUTIONS OR LAWS LIMITING INTEREST, DISCOUNT POINTS, OR OTHER CHARGES; EXEMPTION UNTIL CLOSE OF MARCH 31, 1980

Pub. L. 96-161, title I, § 105, Dec. 28, 1979, 93 Stat. 1234, as amended by Pub. L. 96-221, title V, § 529, Mar. 31, 1980, 94 Stat. 168, provided that (a)(1) the provisions of the constitution or law of any State expressly limiting the rate or amount of interest, discount points, or other charges which could be charged, taken, received, or reserved were not to apply to any loan, mortgage, or advance which was secured by a first lien on residential real property or by a first lien on stock in a residential cooperative housing corporation where the loan, mortgage, or advance was used to finance the acquisition of such stock; made after Dec. 28, 1979; and described in section 1735f-5(b) of this title, except that the limitation described in section 1735f-5(b)(1) of this title that the property must be designed principally for the occupancy of from one to four families was not to apply, the requirement contained in section 1735f(5)(b)(1) of this title that the loan be secured by residential real property was not to apply to a loan secured by stock in a residential cooperative housing corporation, and for the purpose of this section, the term "lender" in section 1735f-5(b)(2)(A) of this title was also to be deemed to include any lender approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program under this chapter; (2) [Repealed by Pub. L. 96-221, title V, § 529, Mar. 31, 1980, 94 Stat. 168, eff. at the close of Mar. 31, 1980.]; that (b) the provisions of subsection (a)(1) were to apply to loans, mortgages, and advances made in any State unless and until the State adopted a provision of law (prior to the close of March 31, 1980) limiting the rate or amount of interest, discount points, or other charges on any such loan, mortgage, or advance, except that at any time after Dec. 28, 1979, any State could adopt a provision of law placing limitations on discount points or such other charges on any such loan, mortgage, or advance; that (c) the Federal Home Loan Bank Board was authorized to issue rules and regulations and to publish interpretations governing the implementation of this section; that (d) the provisions of subsection (a)(1) expired at the close of March 31, 1980, except that such provisions were to continue to apply to any loan, mortgage, or advance described in subsection (a)(1) for the duration of such loan, mortgage, or advance if made prior to such expiration or if made during the two-year period beginning on Dec. 28, 1979, pursuant to a commitment issued prior to such expiration, and that (e) for the purpose of this Act [Pub. L. 96-161] and any amendment made by this Act [see Tables for classification of Pub. L. 96-161], the term "State" included the several States, Puerto Rico, the District of Columbia, Guam, the Trust Territories of the Pacific Islands, and the Virgin Islands.

§ 1735f-7a. State constitution or laws limiting mortgage interest, discount points, and finance or other charges; exemption for obligations made after March 31, 1980

(a) Applicability to loan, mortgage, credit sale, or advance; applicability to deposit, account, or obligation

(1) The provisions of the constitution or the laws of any State expressly limiting the rate or amount of interest, discount points, finance charges, or other charges which may be charged, taken, received, or reserved shall not apply to any loan, mortgage, credit sale, or advance which is—

(A) secured by a first lien on residential real property, by a first lien on all stock allocated to a dwelling unit in a residential cooperative housing corporation, or by a first lien on a residential manufactured home;

(B) made after March 31, 1980; and

(C) described in section 527(b) of the National Housing Act (12 U.S.C. 1735f-5(b)), except that for the purpose of this section—

(i) the limitation described in section 527(b)(1) of such Act that the property must be designed principally for the occupancy of from one to four families shall not apply;

(ii) the requirement contained in section 527(b)(1) of such Act that the loan be secured by residential real property shall not apply to a loan secured by stock in a residential cooperative housing corporation or to a loan or credit sale secured by a first lien on a residential manufactured home;

(iii) the term "federally related mortgage loan" in section 527(b) of such Act shall include a credit sale which is secured by a first lien on a residential manufactured home and which otherwise meets the definitional requirements of section 527(b) of such Act, as those requirements are modified by this section;

(iv) the term "residential loans" in section 527(b)(2)(D) of such Act shall also include loans or credit sales secured by a first lien on a residential manufactured home;

(v) the requirement contained in section 527(b)(2)(D) of such Act that a creditor make or invest in loans aggregating more than \$1,000,000 per year shall not apply to a creditor selling residential manufactured homes financed by loans or credit sales secured by first liens on residential manufactured homes if the creditor has an arrangement to sell such loans or credit sales in whole or in part, or if such loans or credit sales are sold in whole or in part to a lender, institution, or creditor described in section 527(b) of such Act or in this section or a creditor, as defined in section 103(f)¹ of the Truth in Lending Act, as such section was in effect on the day preceding March 31, 1980, if such creditor makes or invests in residential real estate loans or loans or credit sales secured by first liens on residential manufactured homes aggregating more than \$1,000,000 per year; and

(vi) the term "lender" in section 527(b)(2)(A) of such Act shall also be deemed

¹ See References in Text note below.

to include any lender approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act [12 U.S.C. 1701 et seq.], and any individual who finances the sale or exchange of residential real property or a residential manufactured home which such individual owns and which such individual occupies or has occupied as his principal residence.

(2) The provisions of the constitution or law of any State expressly limiting the rate or amount of interest which may be charged, taken, received, or reserved shall not apply to any deposit or account held by, or other obligation of a depository institution. For purposes of this paragraph, the term “depository institution” means—

- (i) any insured bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);
- (ii) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);
- (iii) any savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);
- (iv) any insured credit union as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752);
- (v) any member as defined in section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422); and
- (vi) any insured institution as defined in section 408¹ of the National Housing Act (12 U.S.C. 1730a).

(b) Applicability to loan, mortgage, credit sale, or advance made in any State after April 1, 1980

(1) Except as provided in paragraphs (2) and (3), the provisions of subsection (a)(1) shall apply to any loan, mortgage, credit sale, or advance made in any State on or after April 1, 1980.

(2) Except as provided in paragraph (3), the provisions of subsection (a)(1) shall not apply to any loan, mortgage, credit sale, or advance made in any State after the date (on or after April 1, 1980, and before April 1, 1983) on which such State adopts a law or certifies that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its terms that such State does not want the provisions of subsection (a)(1) to apply with respect to loans, mortgages, credit sales, and advances made in such State.

(3) In any case in which a State takes an action described in paragraph (2), the provisions of subsection (a)(1) shall continue to apply to—

- (A) any loan, mortgage, credit sale, or advance which is made after the date such action was taken pursuant to a commitment therefor which was entered during the period beginning on April 1, 1980, and ending on the date on which such State takes such action; and
- (B) any loan, mortgage, or advance which is a rollover of a loan, mortgage, or advance, as described in regulations of the Federal Home Loan Bank Board, which was made or committed to be made during the period beginning on April 1, 1980, and ending on the date on which such State takes any action described in paragraph (2).

(4) At any time after March 31, 1980, any State may adopt a provision of law placing limitations on discount points or such other charges on any loan, mortgage, credit sale, or advance described in subsection (a)(1).

(c) Applicability to loan, mortgage, credit sale, or advance secured by first lien on residential manufactured home

The provisions of subsection (a)(1) shall not apply to a loan, mortgage, credit sale, or advance which is secured by a first lien on a residential manufactured home unless the terms and conditions relating to such loan, mortgage, credit sale, or advance comply with consumer protection provisions specified in regulations prescribed by the Federal Home Loan Bank Board. Such regulations shall—

- (1) include consumer protection provisions with respect to balloon payments, prepayment penalties, late charges, and deferral fees;
- (2) require a 30-day notice prior to instituting any action leading to repossession or foreclosure (except in the case of abandonment or other extreme circumstances);
- (3) require that upon prepayment in full, the debtor shall be entitled to a refund of the unearned portion of the precomputed finance charge in an amount not less than the amount which would be calculated by the actuarial method, except that the debtor shall not be entitled to a refund which is less than \$1; and
- (4) include such other provisions as the Federal Home Loan Bank Board may prescribe after a finding that additional protections are required.

(d) Implementation of provisions applicable to residential manufactured home

The provisions of subsection (c) shall not apply to a loan, mortgage, credit sale, or advance secured by a first lien on a residential manufactured home until regulations required to be issued pursuant to paragraphs (1), (2), and (3) of subsection (c) take effect, except that the provisions of subsection (c) shall apply in the case of such a loan, mortgage, credit sale, or advance made prior to the date on which such regulations take effect if the loan, mortgage, credit sale, or advance includes a precomputed finance charge and does not provide that, upon prepayment in full, the refund of the unearned portion of the precomputed finance charge is in an amount not less than the amount which would be calculated by the actuarial method, except that the debtor shall not be entitled to a refund which is less than \$1. The Federal Home Loan Bank Board shall issue regulations pursuant to the provisions of paragraphs (1), (2), and (3) of subsection (c) that shall take effect prospectively not less than 30 days after publication in the Federal Register and not later than 120 days from March 31, 1980.

(e) Definitions

For the purpose of this section—

(1) a “prepayment” occurs upon—

- (A) the refinancing or consolidation of the indebtedness;
- (B) the actual prepayment of the indebtedness by the consumer whether voluntarily or following acceleration of the payment obligation by the creditor; or

(C) the entry of a judgment for the indebtedness in favor of the creditor;

(2) the term “actuarial method” means the method of allocating payments made on a debt between the outstanding balance of the obligation and the precomputed finance charge pursuant to which a payment is applied first to the accrued precomputed finance charge and any remainder is subtracted from, or any deficiency is added to, the outstanding balance of the obligation;

(3) the term “precomputed finance charge” means interest or a time price differential within the meaning of sections 106(a)(1) and (2) of the Truth in Lending Act (15 U.S.C. 1605(a)(1) and (2)) as computed by an add-on or discount method; and

(4) the term “residential manufactured home” means a manufactured home as defined in section 603(6) of the National Mobile Home Construction and Safety Standards Act of 1974 [42 U.S.C. 5402(6)] which is used as a residence.

(f) Rules, regulations, and interpretations

The Federal Home Loan Bank Board is authorized to issue rules and regulations and to publish interpretations governing the implementation of this section.

(g) Effective date

This section takes effect on April 1, 1980.

(Pub. L. 96-221, title II, §207(b)(11), title V, §501, Mar. 31, 1980, 94 Stat. 144, 161; Pub. L. 96-399, title III, §§308(c)(6), 324(a), (e), Oct. 8, 1980, 94 Stat. 1641, 1647, 1648; Pub. L. 97-35, title III, §384, Aug. 13, 1981, 95 Stat. 432.)

Editorial Notes

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (a), is act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to this chapter (§1701 et seq.). Section 408 of the National Housing Act, which was classified to section 1730a of this title, was repealed by Pub. L. 101-73, title IV, §407, Aug. 9, 1989, 103 Stat. 363. For complete classification of this Act to the Code, see section 1701 of this title and Tables.

Section 103(f) of the Truth in Lending Act, referred to in subsec. (a)(1)(C)(v), was redesignated section 103(g) of the Truth in Lending Act by Pub. L. 111-203, title X, §1100A(1)(A), July 21, 2010, 124 Stat. 2107, and is classified to section 1602(g) of Title 15, Commerce and Trade.

CODIFICATION

Section was enacted as part of the Depository Institutions Deregulation and Monetary Control Act of 1980, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

1981—Subsec. (a)(1)(C)(vi). Pub. L. 97-35 inserted reference to a residential manufactured home.

1980—Subsec. (a)(1)(A). Pub. L. 96-399, §324(a), substituted “all stock allocated to a dwelling unit” for first reference to “stock” and struck out “where the loan, mortgage, or advance is used to finance the acquisition of such stock” after “housing corporation”.

Subsec. (a)(1)(C)(vi). Pub. L. 96-399, §324(e), inserted reference to any person who finances the sale or exchange of residential real property which such individual owns and which such individual occupies or has occupied as his principal residence.

Subsec. (a)(2). Pub. L. 96-221, §207(b)(11), struck out “(A)” after “(2)” and struck out subpar. (B) which pro-

vided that this paragraph shall not apply to any such deposit, account, or obligation which is payable only at an office of an insured bank, as defined in section 3 of the Federal Deposit Insurance Act, located in the Commonwealth of Puerto Rico.

Subsec. (e)(4). Pub. L. 96-399, §308(c)(6), substituted “manufactured” for “mobile”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-221, title II, §207(b), Mar. 31, 1980, 94 Stat. 144, provided in part that the amendment made by that section is effective 6 years after Mar. 31, 1980.

SEVERABILITY

Pub. L. 96-221, title V, §526, Mar. 31, 1980, 94 Stat. 167, provided that: “If any provision of this Act [for classification of Act to the Code, see Short Title of 1980 Amendment note set out under section 226 of this title and Tables] or the application of such provision to any person or circumstance shall be held invalid, the remainder of this Act and the application of such provision to any person or circumstance other than that as to which it is held invalid shall not be affected thereby.”

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.

CHOICE OF HIGHEST APPLICABLE INTEREST RATE

Pub. L. 96-221, title V, §528, Mar. 31, 1980, 94 Stat. 168, provided that: “In any case in which one or more provisions of, or amendments made by, this title [enacting sections 86a, 1730g, 1735f-7a, and 1831d of this title, amending section 1785 of this title and section 687 of Title 15, Commerce and Trade, and enacting provisions set out as notes under sections 86a, 1730g, and 1735f-7 of this title], section 529 of the National Housing Act [section 1735f-7 of this title], or any other provision of law, including section 5197 of the Revised Statutes (12 U.S.C. 85), apply with respect to the same loan, mortgage, credit sale, or advance, such loan, mortgage, credit sale, or advance may be made at the highest applicable rate.”

DEFINITION OF “STATE”

Pub. L. 96-221, title V, §527, Mar. 31, 1980, 94 Stat. 168, as amended by Pub. L. 96-221, title II, §207(b)(12), Mar. 31, 1980, 94 Stat. 144, provided that: “For purposes of this title [enacting sections 86a, 1730g, 1735f-7a, and 1831d of this title, amending section 1785 of this title and section 687 of Title 15, Commerce and Trade, and enacting provisions set out as notes under sections 86a, 1730g, 1735f-7, and 1735f-7a of this title] the term ‘State’ includes the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Trust Territories of the Pacific Islands, the Northern Mariana Islands, and the Virgin Islands.”

[Pub. L. 96-221, title II, §207(b), Mar. 31, 1980, 94 Stat. 144, provided that the amendment of above note made by that section is effective 6 years after Mar. 31, 1980.]

[For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.]

§ 1735f-8. Time of payment of premium charges

In carrying out the provisions of subchapters I, II, IV,¹ VII, VIII, IX-B, and X pertaining to the payment of loan or mortgage insurance premium charges by a financial institution, other mortgagees, or agent thereof to the Federal Government in connection with a loan or mort-

¹ See References in Text note below.