

alternative mortgage transactions as issued by the National Credit Union Administration Board for Federal credit unions, to the extent that such regulations are authorized by rule-making authority granted to the National Credit Union Administration with regard to Federal credit unions under laws other than this section;

(3) with respect to all other housing creditors, including without limitation, savings and loan associations, mutual savings banks, and savings banks, only to transactions made on or before the designated transfer date, as determined under section 1062 of the Consumer Financial Protection Act of 2010, in accordance with regulations governing alternative mortgage transactions as issued by the Director of the Office of Thrift Supervision for federally chartered savings and loan associations, to the extent that such regulations are authorized by rulemaking authority granted to the Director of the Office of Thrift Supervision with regard to federally chartered savings and loan associations under laws other than this section; and

(4) with respect to transactions made after the designated transfer date, only in accordance with regulations governing alternative mortgage transactions, as issued by the Bureau of Consumer Financial Protection for federally chartered housing creditors, in accordance with the rulemaking authority granted to the Bureau of Consumer Financial Protection with regard to federally chartered housing creditors under provisions of law other than this section.

**(b) Transactions deemed in compliance with applicable regulations**

For the purpose of determining the applicability of this section, an alternative mortgage transaction shall be deemed to be made in accordance with the applicable regulation notwithstanding the housing creditor's failure to comply with the regulation, if—

- (1) the transaction is in substantial compliance with the regulation; and
- (2) within sixty days of discovering any error, the housing creditor corrects such error, including making appropriate adjustments, if any, to the account.

**(c) Preemption of State law**

An alternative mortgage transaction may be made by a housing creditor in accordance with this section, notwithstanding any State constitution, law, or regulation that prohibits an alternative mortgage transaction. For purposes of this subsection, a State constitution, law, or regulation that prohibits an alternative mortgage transaction does not include any State constitution, law, or regulation that regulates mortgage transactions generally, including any restriction on prepayment penalties or late charges.

**(d) Bureau actions**

The Bureau of Consumer Financial Protection shall—

- (1) review the regulations identified by the Comptroller of the Currency and the National Credit Union Administration,<sup>1</sup> (as those rules

exist on the designated transfer date), as applicable under paragraphs (1) through (3) of subsection (a);

(2) determine whether such regulations are fair and not deceptive and otherwise meet the objectives of the Consumer Financial Protection Act of 2010; and

(3) promulgate regulations under subsection (a)(4) after the designated transfer date.

**(e) Designated transfer date**

As used in this section, the term “designated transfer date” means the date determined under section 1062 of the Consumer Financial Protection Act of 2010 [12 U.S.C. 5582].

(Pub. L. 97-320, title VIII, §804, Oct. 15, 1982, 96 Stat. 1546; Pub. L. 101-73, title VII, §744(c), Aug. 9, 1989, 103 Stat. 438; Pub. L. 111-203, title X, §1083(a)(2), July 21, 2010, 124 Stat. 2080.)

**Editorial Notes**

**REFERENCES IN TEXT**

The Consumer Financial Protection Act of 2010, referred to in subsec. (d)(2), is title X of Pub. L. 111-203, July 21, 2010, 124 Stat. 1955, which enacted subchapter V (§5481 et seq.) of chapter 53 of this title and enacted, amended, and repealed numerous other sections and notes in the Code. 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. (a)(1), (2), (3). Pub. L. 111-203, §1083(a)(2)(A)(i), inserted “on or before the designated transfer date, as determined under section 1062 of the Consumer Financial Protection Act of 2010,” after “transactions made”.

Subsec. (a)(4). Pub. L. 111-203, §1083(a)(2)(A)(ii)–(iv), added par. (4).

Subsec. (c). Pub. L. 111-203, §1083(a)(2)(B), added subsec. (c) and struck out former subsec. (c). Prior to amendment, text read as follows: “An alternative mortgage transaction may be made by a housing creditor in accordance with this section, notwithstanding any State constitution, law, or regulation.”

Subsecs. (d), (e). Pub. L. 111-203, §1083(a)(2)(C), added subsecs. (d) and (e).

1989—Subsec. (a)(3). Pub. L. 101-73 substituted “Director of the Office of Thrift Supervision” for “Federal Home Loan Bank Board” wherever appearing.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE OF 2010 AMENDMENT**

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1083(b) of Pub. L. 111-203, set out as a note under section 3802 of this title.

**EFFECTIVE DATE**

Section effective Oct. 15, 1982, see section 807(a) of Pub. L. 97-320, set out as a note under section 3801 of this title.

**§ 3804. Applicability of preemption provisions**

(a) The provisions of section 3803 of this title shall not apply to any alternative mortgage transaction in any State made on or after the effective date (if such effective date occurs on or after October 15, 1982, and prior to a date three years after October 15, 1982) of a State law or a certification that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its

<sup>1</sup> So in original. The comma probably should not appear.

terms that such State does not want the preemption provided in section 3803 of this title to apply with respect to alternative mortgage transactions (or to any class or type of alternative mortgage transaction) subject to the laws of such State, except that section 3803 of this title shall continue to apply to—

(1) any alternative mortgage transaction undertaken on or after such date pursuant to an agreement to undertake such alternative mortgage transaction which was entered into on or after October 15, 1982, and prior to such later date (the “preemption period”); and

(2) any renewal, extension, refinancing, or other modification of an alternative mortgage transaction that was entered into during the preemption period.

(b) An alternative mortgage transaction shall be deemed to have been undertaken during the preemption period to which this section applies if it—

(1) is funded or extended in whole or in part during the preemption period, regardless of whether pursuant to a commitment or other agreement therefor made prior to that period; or

(2) is a renewal, extension, refinancing, or other modification of an alternative mortgage transaction entered into before the preemption period and such renewal, extension, or other modification is made during such period with the written consent of any person obligated to repay such credit.

(Pub. L. 97-320, title VIII, §805, Oct. 15, 1982, 96 Stat. 1547; Pub. L. 98-181, title I [title IV, §472], Nov. 30, 1983, 97 Stat. 1237.)

#### Editorial Notes

##### AMENDMENTS

1983—Subsec. (a). Pub. L. 98-181 inserted “(or to any class or type of alternative mortgage transaction)”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section effective Oct. 15, 1982, see section 807(a) of Pub. L. 97-320, set out as a note under section 3801 of this title.

#### § 3805. Applicability of consumer protection provisions

Section 501(c)(1) of the Depository Institutions Deregulation and Monetary Control Act of 1980 shall not apply to transactions which are subject to this chapter.

(Pub. L. 97-320, title VIII, §806, Oct. 15, 1982, 96 Stat. 1548.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 501(c)(1) of the Depository Institutions Deregulation and Monetary Control Act of 1980, referred to in text, is section 501(c)(1) of Pub. L. 96-221, title V, Mar. 31, 1980, 94 Stat. 161, which is set out as a note under section 1735f-7 of this title.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section effective Oct. 15, 1982, see section 807(a) of Pub. L. 97-320, set out as a note under section 3801 of this title.

#### § 3806. Adjustable rate mortgage caps

##### (a) In general

Any adjustable rate mortgage loan originated by a creditor shall include a limitation on the maximum interest rate that may apply during the term of the mortgage loan.

##### (b) Regulations

The Board of Governors of the Federal Reserve System shall prescribe regulations to carry out the purposes of this section.

##### (c) Enforcement

Any violation of this section shall be treated as a violation of the Truth in Lending Act [15 U.S.C. 1601 et seq.] and shall be subject to administrative enforcement under section 108 [15 U.S.C. 1607] or civil damages under section 130 [15 U.S.C. 1640] of such Act, or both.

##### (d) Definitions

For the purpose of this section—

(1) the term “creditor” means a person who regularly extends credit for personal, family, or household purposes; and

(2) the term “adjustable rate mortgage loan” means any consumer loan secured by a lien on a one- to four-family dwelling unit, including a condominium unit, cooperative housing unit, or mobile home, where the loan is made pursuant to an agreement under which the creditor may, from time to time, adjust the rate of interest.

##### (e) Effective date

This section shall take effect upon the expiration of 120 days after August 10, 1987.

(Pub. L. 100-86, title XII, §1204, Aug. 10, 1987, 101 Stat. 662; Pub. L. 102-550, title IX, §952, Oct. 28, 1992, 106 Stat. 3893.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Truth in Lending Act, referred to in subsec. (c), 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.

##### CODIFICATION

Section was enacted as part of the Competitive Equality Banking Act of 1987, and not as part of the Alternative Mortgage Transaction Parity Act of 1982 which comprises this chapter.

##### AMENDMENTS

1992—Subsec. (d)(2). Pub. L. 102-550 substituted “any consumer loan” for “any loan”.

#### CHAPTER 40—INTERNATIONAL LENDING SUPERVISION

Sec.

3901. Congressional declaration of policy.