(2) ''business association'' means any corporation (other than a public corporation), joint stock company, business trust, partnership, or any association for business purposes of two or more individuals; and

(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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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 15 section 1638; title 42 sections 3541, 4012a, 8232.

§ 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.)

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, as amended, 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.

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

Section 20, formerly 19, of Pub. L. 93–533, as renumbered by 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 1976 AMENDMENT

Section 1 of Pub. L. 94–205, 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

Section 1 of Pub. L. 93–533 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 individual 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 institu-

tion 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) 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 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; and

(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.

(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 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.)

AMENDMENTS

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''.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 908(d) of Pub. L. 102–550 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

Section 461(f) of Pub. L. 98–181 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

Section 12 of Pub. L. 94–205 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.''

REGULATIONS

Section 908(c) of Pub. L. 102–550 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) 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 form 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 Secretary may, by regulation, permit the deletion from the form 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 Secretary 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 form which relates to the borrower's transaction be furnished to the seller, or to require that that part of the standard form which relates to the seller be furnished to the borrower.

(b) The form 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 Secretary 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 Secretary, waive his right to have the form made available at such time. Upon the request of the borrower to inspect the form 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.

(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.)

AMENDMENTS

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).

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 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2604, 2609, 2610 of this title.

§ 2604. Special information booklets

(a) Distribution by Secretary to lenders to help borrowers

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. The Secretary shall distribute such booklets to all lenders which make federally related mortgage loans.

(b) Form and detail; cost elements, standard settlement form, escrow accounts, selection of persons for settlement services; consideration of differences in settlement procedures

Each booklet shall be in such form and detail as the Secretary shall prescribe and, in addition to such other information as the Secretary may provide, shall include in clear and concise language—

(1) a description and explanation of the nature and purpose of each cost incident to a real estate settlement;

(2) an explanation and sample of the standard real estate settlement form developed and prescribed under section 2603 of this title;

(3) a description and explanation of the nature and purpose of escrow accounts when used in connection with loans secured by residential real estate;

(4) an explanation of the choices available to buyers of residential real estate in selecting persons to provide necessary services incident to a real estate settlement; and

(5) an explanation of the unfair practices and unreasonable or unnecessary charges to be avoided by the prospective buyer with respect to a real estate settlement.

Such booklets shall take into consideration differences in real estate settlement procedures which 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 Secretary.

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

Each lender referred to in subsection (a) of this section 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. 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 Secretary

Booklets may be printed and distributed by lenders if their form and content are approved by the Secretary 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.)

AMENDMENTS

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).

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2607 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) of this section.

(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 20 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 60 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 bor-

rower 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).

(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 $1,000.

(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 $1,000 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) $500,000; 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.

(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) of this section 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) of this section that arises before the regulations referred to in paragraph (3) take effect.

(3) Regulations and effective date

The Secretary shall, by regulations that shall take effect not later than April 20, 1991, establish any requirements necessary to carry out this section. Such regulations shall include the model disclosure statement required under subsection (a)(2) of this section.

(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.)

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

AMENDMENTS

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).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2609, 2610, 2614 of this title; title 15 section 1641.

§ 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 Secretary 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 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.)

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

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

§ 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

[1] See References in Text note below.

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

[1] So in original.

(d) Penalties for violations; joint and several liability; treble damages; actions for injunction by 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) of this section 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 Secretary, the Attorney General of any State, or the insurance commissioner of any State may bring an action to enjoin violations of this section.

(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 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.)

AMENDMENTS

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

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

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

1991—Subsec. (c)(5). Pub. L. 102–54 substituted ''Secretary of Veterans Affairs'' for ''Administrator of Veterans' Affairs''.

1988—Subsec. (c)(5). Pub. L. 100–242 substituted ''clause (4)(B)'' for ''clause 4(B)''.

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

Subsec. (d)(2). Pub. L. 98–181, § 461(c), substituted provisions setting forth the liability of persons violating

the prohibitions or limitations of this section for provisions setting forth liability, in addition to penalties provided in par. (1), of persons violating subsecs. (a) and (b) of this section, plus costs and attorney's fees.

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

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

EFFECTIVE DATE OF 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.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2614 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) of this section 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.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2614 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 Secretary 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) of this section, 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] of this section 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.)

AMENDMENTS

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.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2605, 2610 of this title; title 42 section 4012a.

[1] So in original. Probably should be subsection "(c)".

§ 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.)

REFERENCES IN TEXT

Truth in Lending Act, referred to in text, is title I of Pub. L. 90–321, May 29, 1968, 82 Stat. 146, as amended, 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".

§§ 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 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 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.)

AMENDMENTS

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.

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.

§ 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.)

§ 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 Secretary is authorized to determine whether such inconsistencies exist. The Secretary may not determine that any State law is inconsistent with any provision of this chapter if the Secretary determines that such law gives greater protection to the consumer. In making these determinations the Secretary 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.)

AMENDMENTS

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.

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.

§ 2617. Authority of Secretary

(a) Issuance of regulations; exemptions

The Secretary 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 Secretary 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 Secretary 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 Secretary is authorized to hold such hearings, administer such oaths, and require by subpena the attendance and testimony of such witnesses and production of such documents as the Secretary 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 subpena of the Secretary 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 Fed-

eral 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 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.)

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–208 added subsec. (d).
1983—Subsec. (c). Pub. L. 98–181 added subsec. (c).

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2606 of this title.

CHAPTER 28—EMERGENCY MORTGAGE RELIEF

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§ 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.)

SHORT TITLE

Section 1 of Pub. L. 94–50 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'.''

Section 101 of title I of Pub. L. 94–50 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 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 that circumstances (such as the volume of delinquent loans in its portfolio) 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, except that such statement by