

**§ 3767. Severability**

If any part of this chapter shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, or invalid as applied to a class of cases, such judgment shall not affect, impair, or invalidate the remainder thereof, and shall be confined in its operation to the part thereof directly involved in the controversy in which such judgment shall have been rendered.

(Pub. L. 103-327, title II, Sept. 28, 1994, 108 Stat. 2316.)

CODIFICATION

Section is based on section 818 of title VIII of S. 2281, One Hundred Third Congress, as reported July 13, 1994, which was enacted into law by Pub. L. 103-327.

**§ 3768. Deficiency judgment**

**(a) In general**

**(1) Referral to Attorney General**

If after deducting the payments provided for in section 3762 of this title, the price at which the security property is sold at a foreclosure sale is less than the unpaid balance of the debt secured by the security property, resulting in a deficiency, the Secretary may refer the matter to the Attorney General who may commence an action or actions against any or all debtors to recover the deficiency, unless such an action is specifically prohibited by the mortgage.

**(2) Other recoveries**

In any action instituted pursuant to this section the United States may recover—

- (A) any amount authorized by section 3011 of title 28; and
- (B) the costs of the action.

**(b) Limitation**

Any action commenced to recover a deficiency under this section must be brought not later than 6 years after the date of the last sale of the security property.

(Pub. L. 103-327, title II, Sept. 28, 1994, 108 Stat. 2316.)

CODIFICATION

Section is based on section 819 of title VIII of S. 2281, One Hundred Third Congress, as reported July 13, 1994, which was enacted into law by Pub. L. 103-327.

**CHAPTER 39—ALTERNATIVE MORTGAGE TRANSACTIONS**

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- 3801. Findings and purpose.
- 3802. Definitions.
- 3803. Alternative mortgage authority.
  - (a) General authority; compliance by banks, credit unions and all other housing creditors with applicable regulations.
  - (b) Transactions deemed in compliance with applicable regulations.
  - (c) Preemption of State constitutions, laws or regulations.
- 3804. Applicability of preemption provisions.
- 3805. Applicability of consumer protection provisions.
- 3806. Adjustable rate mortgage caps.
  - (a) In general.

Sec.

- (b) Regulations.
- (c) Enforcement.
- (d) Definitions.
- (e) Effective date.

**§ 3801. Findings and purpose**

(a) The Congress hereby finds that—

(1) increasingly volatile and dynamic changes in interest rates have seriously impaired<sup>1</sup> the ability of housing creditors to provide consumers with fixed-term, fixed-rate credit secured by interests in real property, cooperative housing, manufactured homes, and other dwellings;

(2) alternative mortgage transactions are essential to the provision of an adequate supply of credit secured by residential property necessary to meet the demand expected during the 1980's; and

(3) the Comptroller of the Currency, the National Credit Union Administration, and the Director of the Office of Thrift Supervision have recognized the importance of alternative mortgage transactions and have adopted regulations authorizing federally chartered depository institutions to engage in alternative mortgage financing.

(b) It is the purpose of this chapter to eliminate the discriminatory impact that those regulations have upon nonfederally chartered housing creditors and provide them with parity with federally chartered institutions by authorizing all housing creditors to make, purchase, and enforce alternative mortgage transactions so long as the transactions are in conformity with the regulations issued by the Federal agencies.

(Pub. L. 97-320, title VIII, §802, Oct. 15, 1982, 96 Stat. 1545; Pub. L. 101-73, title VII, §744(c), Aug. 9, 1989, 103 Stat. 438.)

AMENDMENTS

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

SHORT TITLE

Section 801 of title VIII of Pub. L. 97-320 provided that: "This title [enacting this chapter] may be cited as the 'Alternative Mortgage Transaction Parity Act of 1982'."

EFFECTIVE DATE

Section 807(a) of Pub. L. 97-320 provided that: "This title [enacting this chapter] shall be effective upon enactment [Oct. 15, 1982]."

IDENTIFICATION, DESCRIPTION AND PUBLICATION OF REGULATIONS INAPPLICABLE TO, OR CONFORMATION OF REGULATIONS FOR USE OF NONFEDERALLY CHARTERED HOUSING CREDITORS

Section 807(b) of Pub. L. 97-320 provided that: "Within sixty days of the enactment of this title [Oct. 15, 1982], the Comptroller of the Currency, the National Credit Union Administration, and the Federal Home Loan Bank Board shall identify, describe, and publish those portions or provisions of their respective regulations that are inappropriate for (and thus inapplicable to), or that need to be conformed for the use of, the nonfederally chartered housing creditors to which their respective regulations apply, including without limitation,

<sup>1</sup> So in original. Probably should be "impaired".