

cent of the gross revenues of the liable party, as determined by the court;

- (3) costs of the action; and
- (4) reasonable attorney fees, as determined by the court.

(b) Timing of actions

No action may be brought by a mortgagor under subsection (a) of this section later than 2 years after the date of the discovery of the violation that is the subject of the action.

(c) Limitations on liability

(1) In general

With respect to a residential mortgage transaction, the failure of a servicer to comply with the requirements of this chapter due to the failure of a mortgage insurer or a mortgagee to comply with the requirements of this chapter, shall not be construed to be a violation of this chapter by the servicer.

(2) Rule of construction

Nothing in paragraph (1) shall be construed to impose any additional requirement or liability on a mortgage insurer, a mortgagee, or a holder of a residential mortgage.

(Pub. L. 105-216, §8, July 29, 1998, 112 Stat. 905.)

§ 4908. Effect on other laws and agreements

(a) Effect on State law

(1) In general

With respect to any residential mortgage or residential mortgage transaction consummated after the effective date of this chapter, and except as provided in paragraph (2), the provisions of this chapter shall supersede any provisions of the law of any State relating to requirements for obtaining or maintaining private mortgage insurance in connection with residential mortgage transactions, cancellation or automatic termination of such private mortgage insurance, any disclosure of information addressed by this chapter, and any other matter specifically addressed by this chapter.

(2) Protection of existing State laws

(A) In general

The provisions of this chapter do not supersede protected State laws, except to the extent that the protected State laws are inconsistent with any provision of this chapter, and then only to the extent of the inconsistency.

(B) Inconsistencies

A protected State law shall not be considered to be inconsistent with a provision of this chapter if the protected State law—

- (i) requires termination of private mortgage insurance or other mortgage guaranty insurance—
 - (I) at a date earlier than as provided in this chapter; or
 - (II) when a mortgage principal balance is achieved that is higher than as provided in this chapter; or
- (ii) requires disclosure of information—
 - (I) that provides more information than the information required by this chapter; or

(II) more often or at a date earlier than is required by this chapter.

(C) Protected State laws

For purposes of this paragraph, the term “protected State law” means a State law—

- (i) regarding any requirements relating to private mortgage insurance in connection with residential mortgage transactions;
- (ii) that was enacted not later than 2 years after July 29, 1998; and
- (iii) that is the law of a State that had in effect, on or before January 2, 1998, any State law described in clause (i).

(b) Effect on other agreements

The provisions of this chapter shall supersede any conflicting provision contained in any agreement relating to the servicing of a residential mortgage loan entered into by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or any private investor or note holder (or any successors thereto).

(Pub. L. 105-216, §9, July 29, 1998, 112 Stat. 906.)

REFERENCES IN TEXT

The effective date of this chapter, referred to in subsec. (a)(1), is 1 year after July 29, 1998, see section 13 of Pub. L. 105-216, set out as an Effective Date note under section 4901 of this title.

§ 4909. Enforcement

(a) In general

Subject to subtitle B of the Consumer Financial Protection Act of 2010 [12 U.S.C. 5511 et seq.], compliance with the requirements imposed under this chapter shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818], by the appropriate Federal banking agency (as defined in section 3(q) of that Act [12 U.S.C. 1813(q)]), with respect to—

(A) insured depository institutions (as defined in section 3(c)(2) of that Act [12 U.S.C. 1813(c)(2)]);

(B) depository institutions described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act [12 U.S.C. 1461(b)(1)(A)] which are not insured depository institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act [12 U.S.C. 1813(c)(2)]); and

(C) depository institutions described in clause (v) or (vi) of section 19(b)(1)(A) of the Federal Reserve Act [12 U.S.C. 1461(b)(1)(A)] which are not insured depository institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act [12 U.S.C. 1813(c)(2)]);

(2) the Federal Credit Union Act [12 U.S.C. 1751 et seq.], by the National Credit Union Administration Board in the case of depository institutions described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act [12 U.S.C. 461(b)(1)(A)];

(3) part C of title V of the Farm Credit Act of 1971 (12 U.S.C. 2261 et seq.), by the Farm Credit Administration in the case of an institution that is a member of the Farm Credit System; and

(4) subtitle E of the Consumer Financial Protection Act of 2010 [12 U.S.C. 5561 et seq.], by the Bureau of Consumer Financial Protection, with respect to any person subject to this chapter.

(b) Additional enforcement powers

(1) Violation of this chapter treated as violation of other Acts

For purposes of the exercise by any agency referred to in subsection (a) of this section of such agency's powers under any Act referred to in such subsection, a violation of a requirement imposed under this chapter shall be deemed to be a violation of a requirement imposed under that Act.

(2) Enforcement authority under other Acts

In addition to the powers of any agency referred to in subsection (a) of this section under any provision of law specifically referred to in such subsection, each such agency may exercise, for purposes of enforcing compliance with any requirement imposed under this chapter, any other authority conferred on such agency by law, subject to subtitle B of the Consumer Financial Protection Act of 2010 [12 U.S.C. 5511 et seq.].

(c) Enforcement and reimbursement

In carrying out its enforcement activities under this section, each agency referred to in subsection (a) of this section shall—

(1) notify the mortgagee or servicer of any failure of the mortgagee or servicer to comply with 1 or more provisions of this chapter;

(2) with respect to each such failure to comply, require the mortgagee or servicer, as applicable, to correct the account of the mortgagor to reflect the date on which the mortgage insurance should have been canceled or terminated under this chapter; and

(3) require the mortgagee or servicer, as applicable, to reimburse the mortgagor in an amount equal to the total unearned premiums paid by the mortgagor after the date on which the obligation to pay those premiums ceased under this chapter.

(Pub. L. 105-216, § 10, July 29, 1998, 112 Stat. 907; Pub. L. 111-203, title X, § 1095, July 21, 2010, 124 Stat. 2101.)

REFERENCES IN TEXT

The Consumer Financial Protection Act of 2010, referred to in subsecs. (a) and (b)(2), is title X of Pub. L. 111-203, July 21, 2010, 124 Stat. 1955. Subtitle B of the Act is classified generally to part B (§5511 et seq.) of subchapter V of chapter 53 of this title. Subtitle E of the Act is classified generally to part E (§5561 et seq.) of subchapter V of chapter 53 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 105-216, July 29, 1998, 112 Stat. 897, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

The Federal Credit Union Act, referred to in subsec. (a)(2), is act June 26, 1934, ch. 750, 48 Stat. 1216, which is classified generally to chapter 14 (§1751 et seq.) of this title. For complete classification of this Act to the Code, see section 1751 of this title and Tables.

The Farm Credit Act of 1971, referred to in subsec. (a)(3), is Pub. L. 92-181, Dec. 10, 1971, 85 Stat. 583. Part

C of title V of the Act is classified generally to part C (§2261 et seq.) of subchapter V of chapter 23 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2001 of this title and Tables.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111-203, §1095(1)(A), inserted introductory provisions and added par. (1) and struck out former introductory provisions and par. (1) which read as follows: "Compliance with the requirements imposed under this chapter shall be enforced under—

"(1) section 8 of the Federal Deposit Insurance Act—

"(A) by the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) in the case of insured depository institutions (as defined in section 3(c)(2) of such Act);

"(B) by the Federal Deposit Insurance Corporation in the case of depository institutions described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act that are not insured depository institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act); and

"(C) by the Director of the Office of Thrift Supervision in the case of depository institutions described in clause (v) and or (vi) of section 19(b)(1)(A) of the Federal Reserve Act that are not insured depository institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act);".

Subsec. (a)(4). Pub. L. 111-203, §1095(1)(B)–(D), added par. (4).

Subsec. (b)(2). Pub. L. 111-203, §1095(2), inserted ", subject to subtitle B of the Consumer Financial Protection Act of 2010" before the period.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

§ 4910. Construction

(a) PMI not required

Nothing in this chapter shall be construed to impose any requirement for private mortgage insurance in connection with a residential mortgage transaction.

(b) No preclusion of cancellation or termination agreements

Nothing in this chapter shall be construed to preclude cancellation or termination, by agreement between a mortgagor and the holder of the mortgage, of a requirement for private mortgage insurance in connection with a residential mortgage transaction before the cancellation or termination date established by this chapter for the mortgage.

(Pub. L. 105-216, § 11, July 29, 1998, 112 Stat. 908.)

CHAPTER 50—CHECK TRUNCATION

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