

EXCEPTIONS IN AREAS WHERE MAJOR DISASTER EXISTS

Board of Governors of Federal Reserve System authorized to make exceptions to requirements of this subchapter for transactions within an area in which the President has determined that a major disaster exists, if Board determines that exception can reasonably be expected to alleviate hardships to the public that outweigh possible adverse effects, see section 2 of Pub. L. 103-76, set out as a note under section 4008 of Title 12, Banks and Banking.

ADJUSTMENTS FOR INFLATION

Pub. L. 111-203, title X, §1100E(b), July 21, 2010, 124 Stat. 2111, provided that: "On and after December 31, 2011, the Bureau [of Consumer Financial Protection] shall adjust annually the dollar amounts described in sections 104(3) and 181(1) of the Truth in Lending Act [15 U.S.C. 1603(3), 1667(1)] (as amended by this section), by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers, as published by the Bureau of Labor Statistics, rounded to the nearest multiple of \$100, or \$1,000, as applicable."

§ 1604. Disclosure guidelines**(a) Promulgation, contents, etc., of regulations**

The Bureau shall prescribe regulations to carry out the purposes of this subchapter. Except with respect to the provisions of section 1639 of this title that apply to a mortgage referred to in section 1602(aa)¹ of this title, such regulations may contain such additional requirements, classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for all or any class of transactions, as in the judgment of the Bureau are necessary or proper to effectuate the purposes of this subchapter, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.

(b) Model disclosure forms and clauses; publication, criteria, compliance, etc.

The Bureau shall publish a single, integrated disclosure for mortgage loan transactions (including real estate settlement cost statements) which includes the disclosure requirements of this subchapter in conjunction with the disclosure requirements of the Real Estate Settlement Procedures Act of 1974 [12 U.S.C. 2601 et seq.] that, taken together, may apply to a transaction that is subject to both or either provisions of law. The purpose of such model disclosure shall be to facilitate compliance with the disclosure requirements of this subchapter and the Real Estate Settlement Procedures Act of 1974, and to aid the borrower or lessee in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures. In devising such forms, the Bureau shall consider the use by creditors or lessors of data processing or similar automated equipment. Nothing in this subchapter may be construed to require a creditor or lessor to use any such model form or clause prescribed by the Bureau under this section. A creditor or lessor shall be deemed to be in compliance with the disclosure provisions of this subchapter with respect to other than numerical disclosures if the creditor or lessor (1) uses any appropriate model form or clause as published

by the Bureau, or (2) uses any such model form or clause and changes it by (A) deleting any information which is not required by this subchapter, or (B) rearranging the format, if in making such deletion or rearranging the format, the creditor or lessor does not affect the substance, clarity, or meaningful sequence of the disclosure.

(c) Procedures applicable for adoption of model forms and clauses

Model disclosure forms and clauses shall be adopted by the Bureau after notice duly given in the Federal Register and an opportunity for public comment in accordance with section 553 of title 5.

(d) Effective dates of regulations containing new disclosure requirements

Any regulation of the Bureau, or any amendment or interpretation thereof, requiring any disclosure which differs from the disclosures previously required by this part, part D, or part E of this subchapter or by any regulation of the Bureau promulgated thereunder shall have an effective date of that October 1 which follows by at least six months the date of promulgation, except that the Bureau may at its discretion take interim action by regulation, amendment, or interpretation to lengthen the period of time permitted for creditors or lessors to adjust their forms to accommodate new requirements or shorten the length of time for creditors or lessors to make such adjustments when it makes a specific finding that such action is necessary to comply with the findings of a court or to prevent unfair or deceptive disclosure practices. Notwithstanding the previous sentence, any creditor or lessor may comply with any such newly promulgated disclosure requirements prior to the effective date of the requirements.

(f) ² Exemption authority**(1) In general**

The Bureau may exempt, by regulation, from all or part of this subchapter all or any class of transactions, other than transactions involving any mortgage described in section 1602(aa)¹ of this title, for which, in the determination of the Bureau, coverage under all or part of this subchapter does not provide a meaningful benefit to consumers in the form of useful information or protection.

(2) Factors for consideration

In determining which classes of transactions to exempt in whole or in part under paragraph (1), the Bureau shall consider the following factors and publish its rationale at the time a proposed exemption is published for comment:

(A) The amount of the loan and whether the disclosures, right of rescission, and other provisions provide a benefit to the consumers who are parties to such transactions, as determined by the Bureau.

(B) The extent to which the requirements of this subchapter complicate, hinder, or make more expensive the credit process for the class of transactions.

(C) The status of the borrower, including—

¹ See References in Text note below.

² So in original. No subsec. (e) has been enacted.

(i) any related financial arrangements of the borrower, as determined by the Bureau;

(ii) the financial sophistication of the borrower relative to the type of transaction; and

(iii) the importance to the borrower of the credit, related supporting property, and coverage under this subchapter, as determined by the Bureau;

(D) whether the loan is secured by the principal residence of the consumer; and

(E) whether the goal of consumer protection would be undermined by such an exemption.

(g) Waiver for certain borrowers

(1) In general

The Bureau, by regulation, may exempt from the requirements of this subchapter certain credit transactions if—

(A) the transaction involves a consumer—

(i) with an annual earned income of more than \$200,000; or

(ii) having net assets in excess of \$1,000,000 at the time of the transaction; and

(B) a waiver that is handwritten, signed, and dated by the consumer is first obtained from the consumer.

(2) Adjustments by the Bureau

The Bureau, at its discretion, may adjust the annual earned income and net asset requirements of paragraph (1) for inflation.

(i)³ Authority of the Board to prescribe rules

Notwithstanding subsection (a), the Board shall have authority to prescribe rules under this subchapter with respect to a person described in section 5519(a) of title 12. Regulations prescribed under this subsection may contain such classifications, differentiations, or other provisions, as in the judgment of the Board are necessary or proper to effectuate the purposes of this subchapter, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.

(Pub. L. 90–321, title I, § 105, May 29, 1968, 82 Stat. 148; Pub. L. 96–221, title VI, § 605, Mar. 31, 1980, 94 Stat. 170; Pub. L. 103–325, title I, § 152(e)(2)(A), Sept. 23, 1994, 108 Stat. 2194; Pub. L. 104–208, div. A, title II, §§ 2102(b), 2104, Sept. 30, 1996, 110 Stat. 3009–399, 3009–401; Pub. L. 111–203, title X, § 1100A(2), (4)–(7), title XIV, § 1472(c), July 21, 2010, 124 Stat. 2107, 2108, 2190.)

AMENDMENT OF SECTION

Pub. L. 111–203, title XIV, §§ 1400(c), 1472(c), July 21, 2010, 124 Stat. 2136, 2190, provided that, effective on the date on which final regulations implementing that amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, this section is amended by adding at the end the following:

“(h) Deference

“Notwithstanding any power granted to any Federal agency under this subchapter, the deference

that a court affords to the Bureau with respect to a determination made by the Bureau relating to the meaning or interpretation of any provision of this subchapter, other than section 1639e or 1639h of this title, shall be applied as if the Bureau were the only agency authorized to apply, enforce, interpret, or administer the provisions of this subchapter.”

See Effective Date of 2010 Amendment notes below.

REFERENCES IN TEXT

Section 1602(aa) of this title, referred to in subsecs. (a) and (f)(1), was redesignated section 1602(bb) of this title by Pub. L. 111–203, title X, § 1100A(1)(A), July 21, 2010, 124 Stat. 2107.

The Real Estate Settlement Procedures Act of 1974, referred to in subsec. (b), is Pub. L. 93–533, Dec. 22, 1974, 88 Stat. 1724, which is classified principally to chapter 27 (§2601 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 12 and Tables.

AMENDMENTS

Subsec. (a). Pub. L. 111–203, § 1100A(2), (4), substituted “Bureau” for “Board” in two places, substituted “Except with respect to the provisions of section 1639 of this title that apply to a mortgage referred to in section 1602(aa) of this title, such regulations may contain such additional requirements,” for “Except in the case of a mortgage referred to in section 1602(aa) of this title, these regulations may contain such”, and inserted “all or” after “exceptions for”.

Subsec. (b). Pub. L. 111–203, § 1100A(2), (5), substituted “Bureau” for “Board” wherever appearing in last three sentences and substituted first two sentences for former first sentence which read as follows: “The Board shall publish model disclosure forms and clauses for common transactions to facilitate compliance with the disclosure requirements of this subchapter and to aid the borrower or lessee in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures.”

Subsecs. (c), (d). Pub. L. 111–203, § 1100A(2), substituted “Bureau” for “Board” wherever appearing.

Subsec. (f). Pub. L. 111–203, § 1100A(2), (6), substituted “Bureau” for “Board” wherever appearing and inserted “all or” after “from all or part of this subchapter” in par. (1).

Subsec. (g). Pub. L. 111–203, § 1100A(2), substituted “Bureau” for “Board” in pars. (1) and (2).

Subsec. (i). Pub. L. 111–203, § 1100A(7), added subsec. (i).

1996—Subsec. (f). Pub. L. 104–208, § 2102(b), added subsec. (f).

Subsec. (g). Pub. L. 104–208, § 2104, added subsec. (g). 1994—Subsec. (a). Pub. L. 103–325 substituted “Except in the case of a mortgage referred to in section 1602(aa) of this title, these” for “These” in second sentence.

1980—Pub. L. 96–221 designated existing provisions as subsec. (a) and added subsecs. (b) to (d).

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 1100A(2), (4)–(7) of 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.

Amendment by section 1472(c) of Pub. L. 111–203 effective on the date on which final regulations implementing that amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, see section 1400(c) of Pub. L. 111–203, set out as a note under section 1601 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–221 effective on expiration of two years and six months after Mar. 31, 1980, with all

³For text of subsec. (h), see Amendment of Section note below.

regulations, forms, and clauses required to be prescribed to be promulgated at least one year prior to such effective date, and allowing any creditor to comply with any amendments, in accordance with the regulations, forms, and clauses prescribed by the Board prior to such effective date, see section 625 of Pub. L. 96-221, set out as a note under section 1602 of this title.

§ 1605. Determination of finance charge

(a) "Finance charge" defined

Except as otherwise provided in this section, the amount of the finance charge in connection with any consumer credit transaction shall be determined as the sum of all charges, payable directly or indirectly by the person to whom the credit is extended, and imposed directly or indirectly by the creditor as an incident to the extension of credit. The finance charge does not include charges of a type payable in a comparable cash transaction. The finance charge shall not include fees and amounts imposed by third party closing agents (including settlement agents, attorneys, and escrow and title companies) if the creditor does not require the imposition of the charges or the services provided and does not retain the charges. Examples of charges which are included in the finance charge include any of the following types of charges which are applicable:

- (1) Interest, time price differential, and any amount payable under a point, discount, or other system or additional charges.
- (2) Service or carrying charge.
- (3) Loan fee, finder's fee, or similar charge.
- (4) Fee for an investigation or credit report.
- (5) Premium or other charge for any guarantee or insurance protecting the creditor against the obligor's default or other credit loss.
- (6) Borrower-paid mortgage broker fees, including fees paid directly to the broker or the lender (for delivery to the broker) whether such fees are paid in cash or financed.

(b) Life, accident, or health insurance premiums included in finance charge

Charges or premiums for credit life, accident, or health insurance written in connection with any consumer credit transaction shall be included in the finance charges unless

- (1) the coverage of the debtor by the insurance is not a factor in the approval by the creditor of the extension of credit, and this fact is clearly disclosed in writing to the person applying for or obtaining the extension of credit; and
- (2) in order to obtain the insurance in connection with the extension of credit, the person to whom the credit is extended must give specific affirmative written indication of his desire to do so after written disclosure to him of the cost thereof.

(c) Property damage and liability insurance premiums included in finance charge

Charges or premiums for insurance, written in connection with any consumer credit transaction, against loss of or damage to property or against liability arising out of the ownership or use of property, shall be included in the finance charge unless a clear and specific statement in writing is furnished by the creditor to the per-

son to whom the credit is extended, setting forth the cost of the insurance if obtained from or through the creditor, and stating that the person to whom the credit is extended may choose the person through which the insurance is to be obtained.

(d) Items exempted from computation of finance charge in all credit transactions

If any of the following items is itemized and disclosed in accordance with the regulations of the Bureau in connection with any transaction, then the creditor need not include that item in the computation of the finance charge with respect to that transaction:

- (1) Fees and charges prescribed by law which actually are or will be paid to public officials for determining the existence of or for perfecting or releasing or satisfying any security related to the credit transaction.
- (2) The premium payable for any insurance in lieu of perfecting any security interest otherwise required by the creditor in connection with the transaction, if the premium does not exceed the fees and charges described in paragraph (1) which would otherwise be payable.
- (3) Any tax levied on security instruments or on documents evidencing indebtedness if the payment of such taxes is a precondition for recording the instrument securing the evidence of indebtedness.

(e) Items exempted from computation of finance charge in extensions of credit secured by an interest in real property

The following items, when charged in connection with any extension of credit secured by an interest in real property, shall not be included in the computation of the finance charge with respect to that transaction:

- (1) Fees or premiums for title examination, title insurance, or similar purposes.
- (2) Fees for preparation of loan-related documents.
- (3) Escrows for future payments of taxes and insurance.
- (4) Fees for notarizing deeds and other documents.
- (5) Appraisal fees, including fees related to any pest infestation or flood hazard inspections conducted prior to closing.
- (6) Credit reports.

(f) Tolerances for accuracy

In connection with credit transactions not under an open end credit plan that are secured by real property or a dwelling, the disclosure of the finance charge and other disclosures affected by any finance charge—

- (1) shall be treated as being accurate for purposes of this subchapter if the amount disclosed as the finance charge—
 - (A) does not vary from the actual finance charge by more than \$100; or
 - (B) is greater than the amount required to be disclosed under this subchapter; and
- (2) shall be treated as being accurate for purposes of section 1635 of this title if—
 - (A) except as provided in subparagraph (B), the amount disclosed as the finance charge does not vary from the actual finance charge