

sumer in connection with an application to open an account under an open end consumer credit plan described in such section (other than a variable feature of the plan) changes before the account is opened, and if, as a result of such change, the consumer elects not to enter into the plan agreement, the creditor shall refund all fees paid by the consumer in connection with such application.

**(e) Additional requirements relating to refunds and imposition of nonrefundable fees**

**(1) In general**

No nonrefundable fee may be imposed by a creditor or any other person in connection with any application by a consumer to establish an account under any open end consumer credit plan which provides for extensions of credit which are secured by a consumer's principal dwelling before the end of the 3-day period beginning on the date such consumer receives the disclosure required under section 1637a(a) of this title and the pamphlet required under section 1637a(e) of this title with respect to such application.

**(2) Constructive receipt**

For purposes of determining when a nonrefundable fee may be imposed in accordance with this subsection if the disclosures and pamphlet referred to in paragraph (1) are mailed to the consumer, the date of the receipt of the disclosures by such consumer shall be deemed to be 3 business days after the date of mailing by the creditor.

(Pub. L. 90-321, title I, §137, as added Pub. L. 100-709, §3, Nov. 23, 1988, 102 Stat. 4731; amended Pub. L. 103-325, title I, §154(c), Sept. 23, 1994, 108 Stat. 2197; Pub. L. 111-203, title X, §1100A(2), July 21, 2010, 124 Stat. 2107.)

AMENDMENTS

2010—Subsec. (c)(4)(B). Pub. L. 111-203 substituted “Bureau” for “Board” in heading and text.

1994—Subsec. (b). Pub. L. 103-325 inserted at end “This subsection does not apply to reverse mortgage transactions.”

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.

EFFECTIVE DATE

For effective date of section, see Regulations; Effective Date note below.

REGULATIONS; EFFECTIVE DATE

For provisions relating to promulgation of regulations to implement amendment by Pub. L. 100-709 [enacting this section], and effective date of such amendment in connection with those regulations, see section 7 of Pub. L. 100-709, set out as a note under section 1637a of this title.

**§ 1648. Reverse mortgages**

**(a) In general**

In addition to the disclosures required under this subchapter, for each reverse mortgage, the creditor shall, not less than 3 days prior to consummation of the transaction, disclose to the

consumer in conspicuous type a good faith estimate of the projected total cost of the mortgage to the consumer expressed as a table of annual interest rates. Each annual interest rate shall be based on a projected total future credit extension balance under a projected appreciation rate for the dwelling and a term for the mortgage. The disclosure shall include—

(1) statements of the annual interest rates for not less than 3 projected appreciation rates and not less than 3 credit transaction periods, as determined by the Bureau, including—

(A) a short-term reverse mortgage;

(B) a term equaling the actuarial life expectancy of the consumer; and

(C) such longer term as the Bureau deems appropriate; and

(2) a statement that the consumer is not obligated to complete the reverse mortgage transaction merely because the consumer has received the disclosure required under this section or has signed an application for the reverse mortgage.

**(b) Projected total cost**

In determining the projected total cost of the mortgage to be disclosed to the consumer under subsection (a) of this section, the creditor shall take into account—

(1) any shared appreciation or equity that the lender will, by contract, be entitled to receive;

(2) all costs and charges to the consumer, including the costs of any associated annuity that the consumer elects or is required to purchase as part of the reverse mortgage transaction;

(3) all payments to and for the benefit of the consumer, including, in the case in which an associated annuity is purchased (whether or not required by the lender as a condition of making the reverse mortgage), the annuity payments received by the consumer and financed from the proceeds of the loan, instead of the proceeds used to finance the annuity; and

(4) any limitation on the liability of the consumer under reverse mortgage transactions (such as nonrecourse limits and equity conservation agreements).

(Pub. L. 90-321, title I, §138, as added Pub. L. 103-325, title I, §154(b), Sept. 23, 1994, 108 Stat. 2196; amended Pub. L. 111-203, title X, §1100A(2), July 21, 2010, 124 Stat. 2107.)

AMENDMENTS

2010—Subsec. (a)(1). Pub. L. 111-203 substituted “Bureau” for “Board” in two places.

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.

**§ 1649. Certain limitations on liability**

**(a) Limitations on liability**

For any closed end consumer credit transaction that is secured by real property or a dwelling, that is subject to this subchapter, and

that is consummated before September 30, 1995, a creditor or any assignee of a creditor shall have no civil, administrative, or criminal liability under this subchapter for, and a consumer shall have no extended rescission rights under section 1635(f) of this title with respect to—

(1) the creditor's treatment, for disclosure purposes, of—

(A) taxes described in section 1605(d)(3) of this title;

(B) fees described in section 1605(e)(2) and (5) of this title;

(C) fees and amounts referred to in the 3rd sentence of section 1605(a) of this title; or

(D) borrower-paid mortgage broker fees referred to in section 1605(a)(6) of this title;

(2) the form of written notice used by the creditor to inform the obligor of the rights of the obligor under section 1635 of this title if the creditor provided the obligor with a properly dated form of written notice published and adopted by the Bureau or a comparable written notice, and otherwise complied with all the requirements of this section regarding notice; or

(3) any disclosure relating to the finance charge imposed with respect to the transaction if the amount or percentage actually disclosed—

(A) may be treated as accurate for purposes of this subchapter if the amount disclosed as the finance charge does not vary from the actual finance charge by more than \$200;

(B) may, under section 1605(f)(2) of this title, be treated as accurate for purposes of section 1635 of this title; or

(C) is greater than the amount or percentage required to be disclosed under this subchapter.

#### (b) Exceptions

Subsection (a) of this section shall not apply to—

(1) any individual action or counterclaim brought under this subchapter which was filed before June 1, 1995;

(2) any class action brought under this subchapter for which a final order certifying a class was entered before January 1, 1995;

(3) the named individual plaintiffs in any class action brought under this subchapter which was filed before June 1, 1995; or

(4) any consumer credit transaction with respect to which a timely notice of rescission was sent to the creditor before June 1, 1995.

(Pub. L. 90-321, title I, §139, as added Pub. L. 104-29, §4(a), Sept. 30, 1995, 109 Stat. 273; amended Pub. L. 104-208, div. A, title II, §2107(a), Sept. 30, 1996, 110 Stat. 3009-402; Pub. L. 111-203, title X, §1100A(2), July 21, 2010, 124 Stat. 2107.)

#### AMENDMENTS

2010—Subsec. (a)(2). Pub. L. 111-203 substituted “Bureau” for “Board”.

1996—Subsec. (a). Pub. L. 104-208 substituted “For any closed end consumer credit transaction that is secured by real property or a dwelling, that is subject to this subchapter, and” for “For any consumer credit transaction subject to this subchapter”.

#### 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.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-208, div. A, title II, §2107(b), Sept. 30, 1996, 110 Stat. 3009-402, provided that: “The amendment made by subsection (a) [amending this section] shall be effective as of September 30, 1995.”

### § 1650. Preventing unfair and deceptive private educational lending practices and eliminating conflicts of interest

#### (a) Definitions

As used in this section—

(1) the term “covered educational institution”—

(A) means any educational institution that offers a postsecondary educational degree, certificate, or program of study (including any institution of higher education); and

(B) includes an agent, officer, or employee of the educational institution;

(2) the term “gift”—

(A)(i) means any gratuity, favor, discount, entertainment, hospitality, loan, or other item having more than a de minimis monetary value, including services, transportation, lodging, or meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred; and

(ii) includes an item described in clause (i) provided to a family member of an officer, employee, or agent of a covered educational institution, or to any other individual based on that individual's relationship with the officer, employee, or agent, if—

(I) the item is provided with the knowledge and acquiescence of the officer, employee, or agent; and

(II) the officer, employee, or agent has reason to believe the item was provided because of the official position of the officer, employee, or agent; and

(B) does not include—

(i) standard informational material related to a loan, default aversion, default prevention, or financial literacy;

(ii) food, refreshments, training, or informational material furnished to an officer, employee, or agent of a covered educational institution, as an integral part of a training session or through participation in an advisory council that is designed to improve the service of the private educational lender to the covered educational institution, if such training or participation contributes to the professional development of the officer, employee, or agent of the covered educational institution;

(iii) favorable terms, conditions, and borrower benefits on a private education loan provided to a student employed by the covered educational institution, if such terms, conditions, or benefits are not provided because of the student's employment with the covered educational institution;

(iv) the provision of financial literacy counseling or services, including counseling or services provided in coordination