

formation to be disclosed in the signed evidence of indebtedness, and added par. (2).

Subsec. (c). Pub. L. 96-221, §614(c), designated existing provisions as par. (1), substituted “total sale” for “deferred payment”, and added par. (2).

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 1100A(2) 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 sections 1419, 1420, and 1465 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 2008 AMENDMENT

Pub. L. 110-343, div. A, title I, §130(b), Oct. 3, 2008, 122 Stat. 3797, provided that: “The amendments made by subsection (a) [amending this section] shall take effect as if included in the amendments made by section 2502 of the Mortgage Disclosure Improvement Act of 2008 (Public Law 110-289) [amending this section and section 1640 of this title].”

Pub. L. 110-315, title X, §1003, Aug. 14, 2008, 122 Stat. 3478, provided that:

“(a) IN GENERAL.—Except as provided in subsection (b) and as otherwise provided in this title [see Short Title of 2008 Amendment note set out under section 1601 of this title], this title and the amendments made by this title shall become effective on the date of enactment of this Act [Aug. 14, 2008].

“(b) EFFECT NOTWITHSTANDING REGULATIONS.—Paragraphs (1), (2), (3), (4), (6), (7), and (8) of section 128(e) [15 U.S.C. 1638(e)] and section 140(c) of the Truth in Lending Act [15 U.S.C. 1650(c)], as added by this title, shall become effective on the earlier of the date on which regulations issued under section 1002 [set out as a note below] become effective [Such regulations were issued effective Sept. 14, 2009, with compliance optional until Feb. 14, 2010. See 74 F.R. 41194.] or 18 months after the date of enactment of this Act [Aug. 14, 2008].”

Pub. L. 110-289, div. B, title V, §2502(c), July 30, 2008, 122 Stat. 2857, provided that:

“(1) GENERAL DISCLOSURES.—Except as provided in paragraph (2), the amendments made by subsection (a) [amending this section] shall become effective 12 months after the date of enactment of this Act [July 30, 2008].

“(2) VARIABLE INTEREST RATES.—Subparagraph (C) of section 128(b)(2) of the Truth in Lending Act (15 U.S.C. 1638(b)(2)(C)), as added by subsection (a) of this section, shall become effective on the earlier of—

“(A) the compliance date established by the Board for such purpose, by regulation; or

“(B) 30 months after the date of enactment of this Act [July 30, 2008].”

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-8 effective 180 days after Apr. 20, 2005, and not applicable with respect to cases commenced under Title 11, Bankruptcy, before such effective date, except as otherwise provided, see section 1501 of Pub. L. 109-8, set out as a note under section 101 of Title 11.

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 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.

REGULATIONS

Pub. L. 110-315, title X, §1002, Aug. 14, 2008, 122 Stat. 3478, provided that: “Not later than 365 days after the date of enactment of this Act [Aug. 14, 2008], the Board of Governors of the Federal Reserve System shall issue regulations in final form to implement paragraphs (1), (2), (3), (4), (6), (7), and (8) of section 128(e) [15 U.S.C. 1638(e)] and section 140(c) of the Truth in Lending Act [15 U.S.C. 1650(c)], as added by this title, which regulations shall become effective not later than 6 months after their date of issuance.”

§ 1638a. Reset of hybrid adjustable rate mortgages

(a) Hybrid adjustable rate mortgages defined

For purposes of this section, the term “hybrid adjustable rate mortgage” means a consumer credit transaction secured by the consumer’s principal residence with a fixed interest rate for an introductory period that adjusts or resets to a variable interest rate after such period.

(b) Notice of reset and alternatives

During the 1-month period that ends 6 months before the date on which the interest rate in effect during the introductory period of a hybrid adjustable rate mortgage adjusts or resets to a variable interest rate or, in the case of such an adjustment or resetting that occurs within the first 6 months after consummation of such loan, at consummation, the creditor or servicer of such loan shall provide a written notice, separate and distinct from all other correspondence to the consumer, that includes the following:

(1) Any index or formula used in making adjustments to or resetting the interest rate and a source of information about the index or formula.

(2) An explanation of how the new interest rate and payment would be determined, including an explanation of how the index was adjusted, such as by the addition of a margin.

(3) A good faith estimate, based on accepted industry standards, of the creditor or servicer of the amount of the monthly payment that will apply after the date of the adjustment or reset, and the assumptions on which this estimate is based.

(4) A list of alternatives consumers may pursue before the date of adjustment or reset, and descriptions of the actions consumers must take to pursue these alternatives, including—

- (A) refinancing;
- (B) renegotiation of loan terms;
- (C) payment forbearances; and
- (D) pre-foreclosure sales.

(5) The names, addresses, telephone numbers, and Internet addresses of counseling agencies or programs reasonably available to the consumer that have been certified or approved and made publicly available by the Secretary of Housing and Urban Development or a State housing finance authority (as defined in section 1441a-1 of title 12).

(6) The address, telephone number, and Internet address for the State housing finance authority (as so defined) for the State in which the consumer resides.

(c) Savings clause

The Board may require the notice in paragraph (b) or other notice consistent with this

chapter for adjustable rate mortgage loans that are not hybrid adjustable rate mortgage loans.

(Pub. L. 90-321, title I, §128A, as added Pub. L. 111-203, title XIV, §1418(a), July 21, 2010, 124 Stat. 2153.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original “this Act” meaning Pub. L. 90-321, May 29, 1968, 82 Stat. 146, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of this title and Tables.

EFFECTIVE DATE

Section effective on the date on which final regulations implementing such section 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 an Effective Date of 2010 Amendment note under section 1601 of this title.

§ 1639. Requirements for certain mortgages

(a) Disclosures

(1) Specific disclosures

In addition to other disclosures required under this subchapter, for each mortgage referred to in section 1602(aa)¹ of this title, the creditor shall provide the following disclosures in conspicuous type size:

(A) “You are not required to complete this agreement merely because you have received these disclosures or have signed a loan application.”

(B) “If you obtain this loan, the lender will have a mortgage on your home. You could lose your home, and any money you have put into it, if you do not meet your obligations under the loan.”

(2) Annual percentage rate

In addition to the disclosures required under paragraph (1), the creditor shall disclose—

(A) in the case of a credit transaction with a fixed rate of interest, the annual percentage rate and the amount of the regular monthly payment; or

(B) in the case of any other credit transaction, the annual percentage rate of the loan, the amount of the regular monthly payment, a statement that the interest rate and monthly payment may increase, and the amount of the maximum monthly payment, based on the maximum interest rate allowed pursuant to section 3806 of title 12.

(b) Time of disclosures

(1) In general

The disclosures required by this section shall be given not less than 3 business days prior to consummation of the transaction.

(2) New disclosures required

(A) In general

After providing the disclosures required by this section, a creditor may not change the terms of the extension of credit if such changes make the disclosures inaccurate,

unless new disclosures are provided that meet the requirements of this section.

(B) Telephone disclosure

A creditor may provide new disclosures pursuant to subparagraph (A) by telephone, if—

(i) the change is initiated by the consumer; and

(ii) at the consummation of the transaction under which the credit is extended—

(I) the creditor provides to the consumer the new disclosures, in writing; and

(II) the creditor and consumer certify in writing that the new disclosures were provided by telephone, by not later than 3 days prior to the date of consummation of the transaction.

(3) Modifications

The Bureau may, if it finds that such action is necessary to permit homeowners to meet bona fide personal financial emergencies, prescribe regulations authorizing the modification or waiver of rights created under this subsection, to the extent and under the circumstances set forth in those regulations.

(c) No prepayment penalty

(1) In general²

(A) Limitation on terms

A mortgage referred to in section 1602(aa)¹ of this title may not contain terms under which a consumer must pay a prepayment penalty for paying all or part of the principal before the date on which the principal is due.

(B) Construction

For purposes of this subsection, any method of computing a refund of unearned scheduled interest is a prepayment penalty if it is less favorable to the consumer than the actuarial method (as that term is defined in section 1615(d) of this title).

(d) Limitations after default

A mortgage referred to in section 1602(aa)¹ of this title may not provide for an interest rate applicable after default that is higher than the interest rate that applies before default. If the date of maturity of a mortgage referred to in subsection³ 1602(aa)¹ of this title is accelerated due to default and the consumer is entitled to a rebate of interest, that rebate shall be computed by any method that is not less favorable than the actuarial method (as that term is defined in section 1615(d) of this title).

(e) No balloon payments

No high-cost mortgage may contain a scheduled payment that is more than twice as large as the average of earlier scheduled payments. This subsection shall not apply when the payment schedule is adjusted to the seasonal or irregular income of the consumer.

(f) No negative amortization

A mortgage referred to in section 1602(aa)¹ of this title may not include terms under which

¹ See References in Text note below.

² So in original. There is no par. (2).

³ So in original. Probably should be “section”.