

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), 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) 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 with a covered educational institution, to the extent that such counseling or services are not undertaken to secure—

(I) applications for private education loans or private education loan volume;

(II) applications or loan volume for any loan made, insured, or guaranteed under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) [and 42 U.S.C. 2751 et seq.]; or

(III) the purchase of a product or service of a specific private educational lender;

(v) philanthropic contributions to a covered educational institution from a private educational lender that are unrelated to private education loans and are not made in exchange for any advantage related to private education loans; or

(vi) State education grants, scholarships, or financial aid funds administered by or on behalf of a State;

(3) the term "institution of higher education" has the same meaning as in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002);

(4) the term "postsecondary educational expenses" means any of the expenses that are included as part of the cost of attendance of a student, as defined under section 472 of the Higher Education Act of 1965 (20 U.S.C. 10877);

(5) the term "preferred lender arrangement" has the same meaning as in section 151 of the Higher Education Act of 1965 [20 U.S.C. 1019];

(6) the term "private educational lender" means—

(A) a financial institution, as defined in section 1813 of title 12 that solicits, makes, or extends private education loans;

(B) a Federal credit union, as defined in section 1752 of title 12 that solicits, makes, or extends private education loans; and

(C) any other person engaged in the business of soliciting, making, or extending private education loans;

(7) the term "private education loan"—

(A) means a loan provided by a private educational lender that—

(i) is not made, insured, or guaranteed under of¹ title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) [and 42 U.S.C. 2751 et seq.]; and

(ii) is issued expressly for postsecondary educational expenses to a borrower, regardless of whether the loan is provided through the educational institution that the subject student attends or directly to the borrower from the private educational lender; and

(B) does not include an extension of credit under an open end consumer credit plan, a reverse mortgage transaction, a residential mortgage transaction, or any other loan that is secured by real property or a dwelling; and

(8) the term "revenue sharing" means an arrangement between a covered educational institution and a private educational lender under which—

(A) a private educational lender provides or issues private education loans with re-

¹ So in original. The word "of" probably should not appear.