

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.

spect to students attending the covered educational institution;

(B) the covered educational institution recommends to students or others the private educational lender or the private education loans of the private educational lender; and

(C) the private educational lender pays a fee or provides other material benefits, including profit sharing, to the covered educational institution in connection with the private education loans provided to students attending the covered educational institution or a borrower acting on behalf of a student.

(b) Prohibition on certain gifts and arrangements

A private educational lender may not, directly or indirectly—

(1) offer or provide any gift to a covered educational institution in exchange for any advantage or consideration provided to such private educational lender related to its private education loan activities; or

(2) engage in revenue sharing with a covered educational institution.

(c) Prohibition on co-branding

A private educational lender may not use the name, emblem, mascot, or logo of the covered educational institution, or other words, pictures, or symbols readily identified with the covered educational institution, in the marketing of private education loans in any way that implies that the covered educational institution endorses the private education loans offered by the private educational lender.

(d) Advisory Board compensation

Any person who is employed in the financial aid office of a covered educational institution, or who otherwise has responsibilities with respect to private education loans or other financial aid of the institution, and who serves on an advisory board, commission, or group established by a private educational lender or group of such lenders shall be prohibited from receiving anything of value from the private educational lender or group of lenders. Nothing in this subsection prohibits the reimbursement of reasonable expenses incurred by an employee of a covered educational institution as part of their service on an advisory board, commission, or group described in this subsection.

(e) Prohibition on prepayment or repayment fees or penalty

It shall be unlawful for any private educational lender to impose a fee or penalty on a borrower for early repayment or prepayment of any private education loan.

(f) Credit card protections for college students

(1) Disclosure required

An institution of higher education shall publicly disclose any contract or other agreement made with a card issuer or creditor for the purpose of marketing a credit card.

(2) Inducements prohibited

No card issuer or creditor may offer to a student at an institution of higher education any

tangible item to induce such student to apply for or participate in an open end consumer credit plan offered by such card issuer or creditor, if such offer is made—

(A) on the campus of an institution of higher education;

(B) near the campus of an institution of higher education, as determined by rule of the Bureau; or

(C) at an event sponsored by or related to an institution of higher education.

(3) Sense of the Congress

It is the sense of the Congress that each institution of higher education should consider adopting the following policies relating to credit cards:

(A) That any card issuer that markets a credit card on the campus of such institution notify the institution of the location at which such marketing will take place.

(B) That the number of locations on the campus of such institution at which the marketing of credit cards takes place be limited.

(C) That credit card and debt education and counseling sessions be offered as a regular part of any orientation program for new students of such institution.

(Pub. L. 90-321, title I, §140, as added Pub. L. 110-315, title X, §1011(a), Aug. 14, 2008, 122 Stat. 3479; amended Pub. L. 111-24, title III, §304, May 22, 2009, 123 Stat. 1749; Pub. L. 111-203, title X, §1100A(2), July 21, 2010, 124 Stat. 2107.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (a)(2)(B)(iv)(II), (7)(A)(i), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219. Title IV of the Act is classified generally to subchapter IV (§1070 et seq.) of chapter 28 of Title 20, Education, and part C (§2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

AMENDMENTS

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

2009—Subsec. (f). Pub. L. 111-24 added subsec. (f).

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 2009 AMENDMENT

Amendment by Pub. L. 111-24 effective 9 months after May 22, 2009, except as otherwise specifically provided, see section 3 of Pub. L. 111-24, set out as a note under section 1602 of this title.

EFFECTIVE DATE

Subsec. (c) of this section effective on the earlier of the date on which regulations issued under section 1002 of Pub. L. 110-315 (set out as a Regulations note under section 1638 of this title) become effective or 18 months after Aug. 14, 2008, see section 1003(b) of Pub. L. 110-315, set out as an Effective Date of 2008 Amendment note under section 1638 of this title. Such regulations were issued effective Sept. 14, 2009, with compliance optional until Feb. 14, 2010.

§ 1651. Procedure for timely settlement of estates of decedent obligors

The Bureau, in consultation with the Bureau¹ and each other agency referred to in section 1607(a) of this title, shall prescribe regulations to require any creditor, with respect to any credit card account under an open end consumer credit plan, to establish procedures to ensure that any administrator of an estate of any deceased obligor with respect to such account can resolve outstanding credit balances in a timely manner.

(Pub. L. 90-321, title I, §140A, as added Pub. L. 111-24, title V, §504(a), May 22, 2009, 123 Stat. 1756; amended Pub. L. 111-203, title X, §1100A(2), (3), July 21, 2010, 124 Stat. 2107.)

AMENDMENTS

2010—Pub. L. 111-203, §1100A(3), substituted “the Bureau” for “the Federal Trade Commission”.

Pub. L. 111-203, §1100A(2), substituted “The Bureau” for “The Board”.

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

Section effective 9 months after May 22, 2009, except as otherwise specifically provided, see section 3 of Pub. L. 111-24, set out as an Effective Date of 2009 Amendment note under section 1602 of this title.

PART C—CREDIT ADVERTISING AND LIMITS ON CREDIT CARD FEES

§ 1661. Catalogs and multiple-page advertisements

For the purposes of this part, a catalog or other multiple-page advertisement shall be considered a single advertisement if it clearly and conspicuously displays a credit terms table on which the information required to be stated under this part is clearly set forth.

(Pub. L. 90-321, title I, §141, May 29, 1968, 82 Stat. 158.)

EFFECTIVE DATE

Pub. L. 90-321, title V, §504(b), May 29, 1968, 82 Stat. 167, provided that chapter 3 of title I, which enacted sections 1661 to 1665 of this title, is effective July 1, 1969.

§ 1662. Advertising of downpayments and installments

No advertisement to aid, promote, or assist directly or indirectly any extension of consumer credit may state

(1) that a specific periodic consumer credit amount or installment amount can be arranged, unless the creditor usually and customarily arranges credit payments or installments for that period and in that amount.

(2) that a specified downpayment is required in connection with any extension of consumer credit, unless the creditor usually and customarily arranges downpayments in that amount.

¹ So in original.

(Pub. L. 90-321, title I, §142, May 29, 1968, 82 Stat. 158.)

§ 1663. Advertising of open end credit plans

No advertisement to aid, promote, or assist directly or indirectly the extension of consumer credit under an open end credit plan may set forth any of the specific terms of that plan unless it also clearly and conspicuously sets forth all of the following items:

(1) Any minimum or fixed amount which could be imposed.

(2) In any case in which periodic rates may be used to compute the finance charge, the periodic rates expressed as annual percentage rates.

(3) Any other term that the Bureau may by regulation require to be disclosed.

(Pub. L. 90-321, title I, §143, May 29, 1968, 82 Stat. 158; Pub. L. 96-221, title VI, §§613(f), 619(a), Mar. 31, 1980, 94 Stat. 177, 183; Pub. L. 111-203, title X, §1100A(2), July 21, 2010, 124 Stat. 2107.)

AMENDMENTS

2010—Par. (3). Pub. L. 111-203 substituted “Bureau” for “Board”.

1980—Pub. L. 96-221 in existing introductory text struck out applicability of rate determined under section 1637(a)(5) of this title, and amended section generally substituting items setting forth minimum or fixed amount, etc., set out in pars. (1) to (3), for items time period, etc., set out in pars. (1) to (5).

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 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.

§ 1664. Advertising of credit other than open end plans

(a) Exclusion of open end credit plans

Except as provided in subsection (b), this section applies to any advertisement to aid, promote, or assist directly or indirectly any consumer credit sale, loan, or other extension of credit subject to the provisions of this subchapter, other than an open end credit plan.

(b) Advertisements of residential real estate

The provisions of this section do not apply to advertisements of residential real estate except to the extent that the Bureau may by regulation require.

(c) Rate of finance charge expressed as annual percentage rate

If any advertisement to which this section applies states the rate of a finance charge, the advertisement shall state the rate of that charge expressed as an annual percentage rate.

(d) Requisite disclosures in advertisement

If any advertisement to which this section applies states the amount of the downpayment, if