

may be cited as the ‘Real Estate Settlement Procedures Act of 1974.’”

SIMPLIFICATION AND UNIFICATION OF DISCLOSURES REQUIRED UNDER RESPA AND TILA FOR MORTGAGE TRANSACTIONS

Pub. L. 104-208, div. A, title II, §2101, Sept. 30, 1996, 110 Stat. 3009-398, provided that:

“(a) IN GENERAL.—With respect to credit transactions which are subject to the Real Estate Settlement Procedures Act of 1974 [12 U.S.C. 2601 et seq.] and the Truth in Lending Act [15 U.S.C. 1601 et seq.], the Board of Governors of the Federal Reserve System (hereafter in this section referred to as the ‘Board’) and the Secretary of Housing and Urban Development (hereafter in this section referred to as the ‘Secretary’) shall take such action as may be necessary before the end of the 6-month period beginning on the date of enactment of this Act [Sept. 30, 1996]—

“(1) to simplify and improve the disclosures applicable to such transactions under such Acts, including the timing of the disclosures; and

“(2) to provide a single format for such disclosures which will satisfy the requirements of each such Act with respect to such transactions.

“(b) REGULATIONS.—To the extent that it is necessary to prescribe any regulation in order to effect any changes required to be made under subsection (a), the proposed regulation shall be published in the Federal Register before the end of the 6-month period referred to in subsection (a).

“(c) RECOMMENDATIONS FOR LEGISLATION.—If the Board and the Secretary find that legislative action may be necessary or appropriate in order to simplify and unify the disclosure requirements under the Real Estate Settlement Procedures Act of 1974 [12 U.S.C. 2601 et seq.] and the Truth in Lending Act [15 U.S.C. 1601 et seq.], the Board and the Secretary shall submit a report containing recommendations to the Congress concerning such action.”

§ 2602. Definitions

For purposes of this chapter—

(1) the term “federally related mortgage loan” includes any loan (other than temporary financing such as a construction loan) which—

(A) is secured by a first or subordinate lien on residential real property (including individual units of condominiums and cooperatives) designed principally for the occupancy of from one to four families, including any such secured loan, the proceeds of which are used to prepay or pay off an existing loan secured by the same property; and

(B)(i) is made in whole or in part by any lender the deposits or accounts of which are insured by any agency of the Federal Government, or is made in whole or in part by any lender which is regulated by any agency of the Federal Government, or

(ii) is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by the Secretary or any other officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the Secretary or a housing or related program administered by any other such officer or agency; or

(iii) is intended to be sold by the originating lender to the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, or a financial institution from which it is to be purchased by the

Federal Home Loan Mortgage Corporation; or

(iv) is made in whole or in part by any “creditor”, as defined in section 1602(f)¹ of title 15, who makes or invests in residential real estate loans aggregating more than \$1,000,000 per year, except that for the purpose of this chapter, the term “creditor” does not include any agency or instrumentality of any State;

(2) the term “thing of value” includes any payment, advance, funds, loan, service, or other consideration;

(3) the term “Settlement services” includes any service provided in connection with a real estate settlement including, but not limited to, the following: title searches, title examinations, the provision of title certificates, title insurance, services rendered by an attorney, the preparation of documents, property surveys, the rendering of credit reports or appraisals, pest and fungus inspections, services rendered by a real estate agent or broker, the origination of a federally related mortgage loan (including, but not limited to, the taking of loan applications, loan processing, and the underwriting and funding of loans), and the handling of the processing, and closing or settlement;

(4) the term “title company” means any institution which is qualified to issue title insurance, directly or through its agents, and also refers to any duly authorized agent of a title company;

(5) the term “person” includes individuals, corporations, associations, partnerships, and trusts;

(6) the term “Secretary” means the Secretary of Housing and Urban Development;

(7) the term “affiliated business arrangement” means an arrangement in which (A) a person who is in a position to refer business incident to or a part of a real estate settlement service involving a federally related mortgage loan, or an associate of such person, has either an affiliate relationship with or a direct or beneficial ownership interest of more than 1 percent in a provider of settlement services; and (B) either of such persons directly or indirectly refers such business to that provider or affirmatively influences the selection of that provider;

(8) the term “associate” means one who has one or more of the following relationships with a person in a position to refer settlement business: (A) a spouse, parent, or child of such person; (B) a corporation or business entity that controls, is controlled by, or is under common control with such person; (C) an employer, officer, director, partner, franchisor, or franchisee of such person; or (D) anyone who has an agreement, arrangement, or understanding, with such person, the purpose or substantial effect of which is to enable the person in a position to refer settlement business to benefit financially from the referrals of such business; and

(9) the term “Bureau” means the Bureau of Consumer Financial Protection.

¹ See References in Text note below.

(Pub. L. 93-533, §3, Dec. 22, 1974, 88 Stat. 1724; Pub. L. 94-205, §2, Jan. 2, 1976, 89 Stat. 1157; Pub. L. 98-181, title I [title IV, §461(a)], Nov. 30, 1983, 97 Stat. 1230; Pub. L. 102-550, title IX, §908(a), (b), Oct. 28, 1992, 106 Stat. 3873, 3874; Pub. L. 104-208, div. A, title II, §2103(c)(1), Sept. 30, 1996, 110 Stat. 3009-400; Pub. L. 111-203, title X, §1098(1), July 21, 2010, 124 Stat. 2103.)

REFERENCES IN TEXT

Section 1602(f) of title 15, referred to in par. (1)(B)(iv), was redesignated section 1602(g) of title 15 by Pub. L. 111-203, title X, §1100A(1)(A), July 21, 2010, 124 Stat. 2107.

AMENDMENTS

2010—Par. (9). Pub. L. 111-203 added par. (9).

1996—Par. (7). Pub. L. 104-208 substituted “affiliated business arrangement” for “controlled business arrangement”.

1992—Par. (1)(A). Pub. L. 102-550, §908(b), inserted “or subordinate” after “first” and “, including any such secured loan, the proceeds of which are used to prepay or pay off an existing loan secured by the same property” after “families”.

Par. (3). Pub. L. 102-550, §908(a), inserted “the origination of a federally related mortgage loan (including, but not limited to, the taking of loan applications, loan processing, and the underwriting and funding of loans),” after “broker,”.

1983—Pars. (7), (8). Pub. L. 98-181 added pars. (7) and (8).

1976—Par. (1). Pub. L. 94-205, §2(1), inserted “(other than temporary financing such as a construction loan)” in introductory text.

Par. (1)(A). Pub. L. 94-205, §2(2), inserted “a first lien on” after “is secured by”.

Par. (1)(B)(iii). Pub. L. 94-205, §2(3)-(5), substituted “is intended to be sold by the originating lender to” for “is eligible for purchase by” and “a” and “is to” for “from any” and “could”, respectively, and struck out “or” after “the Government National Mortgage Association”.

Par. (1)(B)(iv). Pub. L. 94-205, §2(6), inserted “, except that for the purpose of this chapter, the term ‘creditor’ does not include any agency or instrumentality of any State” after “more than \$1,000,000 per year”.

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 1992 AMENDMENT

Pub. L. 102-550, title IX, §908(d), Oct. 28, 1992, 106 Stat. 3874, provided that: “This section [amending this section and enacting provisions set out below] shall take effect on the date of enactment of this Act [Oct. 28, 1992] and shall not apply retroactively.”

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98-181, title I [title IV, §461(f)], Nov. 30, 1983, 97 Stat. 1232, provided that: “The amendments made by this section [amending this section and sections 2607, 2614, and 2617 of this title] shall become effective on January 1, 1984.”

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-205, §12, Jan. 2, 1976, 89 Stat. 1160, provided that: “The provisions of this Act and the amendments made hereby [enacting section 2617 of this title, amending this section, sections 2603, 2604, 2607, 2609, and 2616 of this title, and section 1631 of Title 15, Commerce and Trade, repealing sections 2605 and 2606 of this title, and enacting and amending provisions set out as notes under section 2601 of this title] shall become effective upon enactment [Jan. 2, 1976]. The Secretary may sus-

pend for up to one hundred and eighty days from the date of enactment of this Act [Jan. 2, 1976] any provision of section 4 and section 5 of the Real Estate Settlement Procedures Act of 1974 [sections 2603 and 2604 of this title], as amended by this Act.”

EFFECTIVE DATE

Section effective 180 days after Dec. 22, 1974, see section 20 of Pub. L. 93-533, set out as a note under section 2601 of this title.

REGULATIONS

Pub. L. 102-550, title IX, §908(c), Oct. 28, 1992, 106 Stat. 3874, provided that: “The Secretary of Housing and Urban Development shall issue regulations to implement the amendments made by this section [amending this section] not later than the expiration of the 180-day period beginning on the date of the enactment of this Act [Oct. 28, 1992]. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).”

§ 2603. Uniform settlement statement**(a) Disclosure for mortgage loan transactions**

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 section and section 2604 of this title, in conjunction with the disclosure requirements of the Truth in Lending Act [15 U.S.C. 1601 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 chapter¹ and the Truth in Lending Act, and to aid the borrower or lessee in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures. Such forms shall conspicuously and clearly itemize all charges imposed upon the borrower and all charges imposed upon the seller in connection with the settlement and shall indicate whether any title insurance premium included in such charges covers or insures the lender's interest in the property, the borrower's interest, or both. The Bureau may, by regulation, permit the deletion from the forms prescribed under this section of items which are not, under local laws or customs, applicable in any locality, except that such regulation shall require that the numerical code prescribed by the Bureau be retained in forms to be used in all localities. Nothing in this section may be construed to require that that part of the standard forms which relates to the borrower's transaction be furnished to the seller, or to require that that part of the standard forms which relates to the seller be furnished to the borrower.

(b) Availability for inspection; exceptions

The forms prescribed under this section shall be completed and made available for inspection by the borrower at or before settlement by the person conducting the settlement, except that (1) the Bureau may exempt from the requirements of this section settlements occurring in localities where the final settlement statement

¹ See References in Text note below.