

and the Federal Home Loan Bank Board shall identify, describe, and publish those portions or provisions of their respective regulations that are inappropriate for (and thus inapplicable to), or that need to be conformed for the use of, the nonfederally chartered housing creditors to which their respective regulations apply, including without limitation, making necessary changes in terminology to conform the regulatory and disclosure provisions to those more typically associated with various types of transactions including credit sales.”

§ 3802. Definitions

As used in this chapter—

(1) the term “alternative mortgage transaction” means a loan or credit sale secured by an interest in residential real property, a dwelling, all stock allocated to a dwelling unit in a residential cooperative housing corporation, or a residential manufactured home (as that term is defined in section 5402(6) of title 42), in which the interest rate or finance charge may be adjusted or renegotiated, described and defined by applicable regulation; and

(2) the term “housing creditor” means—

(A) a depository institution, as defined in section 501(a)(2) of the Depository Institutions Deregulation and Monetary Control Act of 1980;

(B) a lender approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act [12 U.S.C. 1701 et seq.];

(C) any person who regularly makes loans, credit sales, or advances secured by interests in properties referred to in paragraph (1); or

(D) any transferee of any of them.

A person is not a “housing creditor” with respect to a specific alternative mortgage transaction if, except for this chapter, in order to enter into that transaction, the person would be required to comply with licensing requirements imposed under State law, unless such person is licensed under applicable State law and such person remains, or becomes, subject to the applicable regulatory requirements and enforcement mechanisms provided by State law.

(Pub. L. 97-320, title VIII, §803, Oct. 15, 1982, 96 Stat. 1545; Pub. L. 111-203, title X, §1083(a)(1), July 21, 2010, 124 Stat. 2080.)

REFERENCES IN TEXT

Section 501(a)(2) of the Depository Institutions Deregulation and Monetary Control Act of 1980, referred to in par. (2)(A), is section 501(a)(2) of Pub. L. 96-221, title V, Mar. 31, 1980, 94 Stat. 161, which is set out as a note under section 1735f-7 of this title.

The National Housing Act, referred to in par. (2)(B), is act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to chapter 13 (§1701 et seq.) of this title. For complete classification of this Act to the Code, see section 1701 of this title and Tables.

AMENDMENTS

2010—Par. (1). Pub. L. 111-203 substituted “section 5402(6) of title 42), in which the interest rate or finance charge may be adjusted or renegotiated, described and defined by applicable regulation; and” for “section 5402(6) of title 42)—

“(A) in which the interest rate or finance charge may be adjusted or renegotiated;

“(B) involving a fixed-rate, but which implicitly permits rate adjustments by having the debt mature at the end of an interval shorter than the term of the amortization schedule; or

“(C) involving any similar type of rate, method of determining return, term, repayment, or other variation not common to traditional fixed-rate, fixed-term transactions, including without limitation, transactions that involve the sharing of equity or appreciation; described and defined by applicable regulation; and”.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-203, title X, §1083(b), July 21, 2010, 124 Stat. 2081, provided that: “This section [amending this section and section 3803 of this title and enacting provisions set out as a note under this section] and the amendments made by this section shall become effective on the designated transfer date.”

[For definition of “designated transfer date”, see section 5481 of this title.]

EFFECTIVE DATE

Section effective Oct. 15, 1982, see section 807(a) of Pub. L. 97-320, set out as a note under section 3801 of this title.

CONSTRUCTION OF 2010 AMENDMENT

Pub. L. 111-203, title X, §1083(c), July 21, 2010, 124 Stat. 2081, provided that: “The amendments made by subsection (a) [amending this section and section 3803 of this title] shall not affect any transaction covered by the Alternative Mortgage Transaction Parity Act of 1982 (12 U.S.C. 3801 et seq.) and entered into on or before the designated transfer date.”

[For definition of “designated transfer date”, see section 5481 of this title.]

§ 3803. Alternative mortgage authority

(a) General authority; compliance by banks, credit unions and all other housing creditors with applicable regulations

In order to prevent discrimination against State-chartered depository institutions, and other nonfederally chartered housing creditors, with respect to making, purchasing, and enforcing alternative mortgage transactions, housing creditors may make, purchase, and enforce alternative mortgage transactions, except that this section shall apply—

(1) with respect to banks, only to transactions made on or before the designated transfer date, as determined under section 1062 of the Consumer Financial Protection Act of 2010 [12 U.S.C. 5582], in accordance with regulations governing alternative mortgage transactions as issued by the Comptroller of the Currency for national banks, to the extent that such regulations are authorized by rule-making authority granted to the Comptroller of the Currency with regard to national banks under laws other than this section;

(2) with respect to credit unions, only to transactions made on or before the designated transfer date, as determined under section 1062 of the Consumer Financial Protection Act of 2010, in accordance with regulations governing alternative mortgage transactions as issued by the National Credit Union Administration Board for Federal credit unions, to the extent that such regulations are authorized by rule-making authority granted to the National Credit Union Administration with regard to Federal credit unions under laws other than this section;