

## CODIFICATION

Section is based on section 815 of title VIII of S. 2281, One Hundred Third Congress, as reported July 13, 1994, which was enacted into law by Pub. L. 103-327.

**§ 3765. Effect of sale**

A sale, made and conducted as prescribed in this chapter to a bona fide purchaser, shall bar all claims upon, or with respect to, the property sold, for each of the following persons:

**(1) Notice recipients**

Any person to whom the notice of default and foreclosure sale was mailed as provided in this chapter, and the heir, devisee, executor, administrator, successor, or assignee claiming under any such person.

**(2) Subordinate claimants with knowledge**

Any person claiming any interest in the property subordinate to that of the mortgage, if such person had actual knowledge of the foreclosure sale.

**(3) Nonrecorded claimants**

Any person claiming any interest in the property, whose assignment, mortgage, or other conveyance was not duly recorded or filed in the proper place for recording or filing, or whose judgment or decree was not duly docketed or filed in the proper place for docketing or filing, before the date on which the notice of the foreclosure sale was first served by publication, as required by section 3758(3) of this title, and the executor, administrator, or assignee of such a person.

**(4) Other persons**

Any person claiming an interest in the property under a statutory lien or encumbrance created subsequent to the recording or filing of the mortgage being foreclosed, and attaching to the title or interest of any person designated in any of the foregoing paragraphs.

(Pub. L. 103-327, title II, Sept. 28, 1994, 108 Stat. 2316.)

## CODIFICATION

Section is based on section 816 of title VIII of S. 2281, One Hundred Third Congress, as reported July 13, 1994, which was enacted into law by Pub. L. 103-327.

**§ 3766. Computation of time**

Periods of time provided for in this chapter shall be calculated in consecutive calendar days, including the day or days on which the actions or events occur or are to occur for which the period of time is provided and including the day on which an event occurs or is to occur from which the period is to be calculated.

(Pub. L. 103-327, title II, Sept. 28, 1994, 108 Stat. 2316.)

## CODIFICATION

Section is based on section 817 of title VIII of S. 2281, One Hundred Third Congress, as reported July 13, 1994, which was enacted into law by Pub. L. 103-327.

**§ 3767. Severability**

If any part of this chapter shall, for any reason, be adjudged by a court of competent juris-

diction to be invalid, or invalid as applied to a class of cases, such judgment shall not affect, impair, or invalidate the remainder thereof, and shall be confined in its operation to the part thereof directly involved in the controversy in which such judgment shall have been rendered. (Pub. L. 103-327, title II, Sept. 28, 1994, 108 Stat. 2316.)

## CODIFICATION

Section is based on section 818 of title VIII of S. 2281, One Hundred Third Congress, as reported July 13, 1994, which was enacted into law by Pub. L. 103-327.

**§ 3768. Deficiency judgment****(a) In general****(1) Referral to Attorney General**

If after deducting the payments provided for in section 3762 of this title, the price at which the security property is sold at a foreclosure sale is less than the unpaid balance of the debt secured by the security property, resulting in a deficiency, the Secretary may refer the matter to the Attorney General who may commence an action or actions against any or all debtors to recover the deficiency, unless such an action is specifically prohibited by the mortgage.

**(2) Other recoveries**

In any action instituted pursuant to this section the United States may recover—

- (A) any amount authorized by section 3011 of title 28; and
- (B) the costs of the action.

**(b) Limitation**

Any action commenced to recover a deficiency under this section must be brought not later than 6 years after the date of the last sale of the security property.

(Pub. L. 103-327, title II, Sept. 28, 1994, 108 Stat. 2316.)

## CODIFICATION

Section is based on section 819 of title VIII of S. 2281, One Hundred Third Congress, as reported July 13, 1994, which was enacted into law by Pub. L. 103-327.

**CHAPTER 39—ALTERNATIVE MORTGAGE TRANSACTIONS**

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**§ 3801. Findings and purpose**

(a) The Congress hereby finds that—

(1) increasingly volatile and dynamic changes in interest rates have seriously impaired<sup>1</sup> the ability of housing creditors to provide consumers with fixed-term, fixed-rate credit secured by interests in real property, cooperative housing, manufactured homes, and other dwellings;

(2) alternative mortgage transactions are essential to the provision of an adequate supply

<sup>1</sup> So in original. Probably should be "impaired".

of credit secured by residential property necessary to meet the demand expected during the 1980's; and

(3) the Comptroller of the Currency, the National Credit Union Administration, and the Director of the Office of Thrift Supervision have recognized the importance of alternative mortgage transactions and have adopted regulations authorizing federally chartered depository institutions to engage in alternative mortgage financing.

(b) It is the purpose of this chapter to eliminate the discriminatory impact that those regulations have upon nonfederally chartered housing creditors and provide them with parity with federally chartered institutions by authorizing all housing creditors to make, purchase, and enforce alternative mortgage transactions so long as the transactions are in conformity with the regulations issued by the Federal agencies.

(Pub. L. 97-320, title VIII, §802, Oct. 15, 1982, 96 Stat. 1545; Pub. L. 101-73, title VII, §744(c), Aug. 9, 1989, 103 Stat. 438.)

#### AMENDMENTS

1989—Subsec. (a)(3). Pub. L. 101-73 substituted "Director of the Office of Thrift Supervision" for "Federal Home Loan Bank Board".

#### SHORT TITLE

Pub. L. 97-320, title VIII, §801, Oct. 15, 1982, 96 Stat. 1545, provided that: "This title [enacting this chapter] may be cited as the 'Alternative Mortgage Transaction Parity Act of 1982'."

#### EFFECTIVE DATE

Pub. L. 97-320, title VIII, §807(a), Oct. 15, 1982, 96 Stat. 1548, provided that: "This title [enacting this chapter] shall be effective upon enactment [Oct. 15, 1982]."

#### IDENTIFICATION, DESCRIPTION AND PUBLICATION OF REGULATIONS INAPPLICABLE TO, OR CONFORMATION OF REGULATIONS FOR USE OF NONFEDERALLY CHARTERED HOUSING CREDITORS

Pub. L. 97-320, title VIII, §807(b), Oct. 15, 1982, 96 Stat. 1548, provided that: "Within sixty days of the enactment of this title [Oct. 15, 1982], the Comptroller of the Currency, the National Credit Union Administration, 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.