

Subsec. (d)(2). Pub. L. 98-181, §461(c), substituted provisions setting forth the liability of persons violating the prohibitions or limitations of this section for provisions setting forth liability, in addition to penalties provided in par. (1), of persons violating subsecs. (a) and (b) of this section, plus costs and attorney's fees.

Subsec. (d)(3) to (6). Pub. L. 98-181, §461(c), added pars. (3) to (6).

1976—Subsec. (c). Pub. L. 94-205 added cls. (3) and (4).

#### Statutory Notes and Related Subsidiaries

##### 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 1983 AMENDMENT

Amendment by Pub. L. 98-181 effective Jan. 1, 1984, see section 461(f) of Pub. L. 98-181, set out as a note under section 2602 of this title.

##### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-205 effective Jan. 2, 1976, see section 12 of Pub. L. 94-205, set out as a note under section 2602 of this title.

##### 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.

##### TRANSFER OF FUNCTIONS

Federal Home Loan Bank Board abolished and functions transferred, see sections 401 to 406 of Pub. L. 101-73, set out as a note under section 1437 of this title.

#### § 2608. Title companies; liability of seller

(a) No seller of property that will be purchased with the assistance of a federally related mortgage loan shall require directly or indirectly, as a condition to selling the property, that title insurance covering the property be purchased by the buyer from any particular title company.

(b) Any seller who violates the provisions of subsection (a) shall be liable to the buyer in an amount equal to three times all charges made for such title insurance.

(Pub. L. 93-533, §9, Dec. 22, 1974, 88 Stat. 1728.)

#### Statutory Notes and Related Subsidiaries

##### 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.

#### § 2609. Limitation on requirement of advance deposits in escrow accounts

##### (a) In general

A lender, in connection with a federally related mortgage loan, may not require the borrower or prospective borrower—

(1) to deposit in any escrow account which may be established in connection with such loan for the purpose of assuring payment of taxes, insurance premiums, or other charges with respect to the property, in connection with the settlement, an aggregate sum (for such purpose) in excess of a sum that will be sufficient to pay such taxes, insurance premiums and other charges attributable to the

period beginning on the last date on which each such charge would have been paid under the normal lending practice of the lender and local custom, provided that the selection of each such date constitutes prudent lending practice, and ending on the due date of its first full installment payment under the mortgage, plus one-sixth of the estimated total amount of such taxes, insurance premiums and other charges to be paid on dates, as provided above, during the ensuing twelve-month period; or

(2) to deposit in any such escrow account in any month beginning with the first full installment payment under the mortgage a sum (for the purpose of assuring payment of taxes, insurance premiums and other charges with respect to the property) in excess of the sum of (A) one-twelfth of the total amount of the estimated taxes, insurance premiums and other charges which are reasonably anticipated to be paid on dates during the ensuing twelve months which dates are in accordance with the normal lending practice of the lender and local custom, provided that the selection of each such date constitutes prudent lending practice, plus (B) such amount as is necessary to maintain an additional balance in such escrow account not to exceed one-sixth of the estimated total amount of such taxes, insurance premiums and other charges to be paid on dates, as provided above, during the ensuing twelve-month period: *Provided, however,* That in the event the lender determines there will be or is a deficiency he shall not be prohibited from requiring additional monthly deposits in such escrow account to avoid or eliminate such deficiency.

##### (b) Notification of shortage in escrow account

If the terms of any federally related mortgage loan require the borrower to make payments to the servicer (as the term is defined in section 2605(i) of this title) of the loan for deposit into an escrow account for the purpose of assuring payment of taxes, insurance premiums, and other charges with respect to the property, the servicer shall notify the borrower not less than annually of any shortage of funds in the escrow account.

##### (c) Escrow account statements

###### (1) Initial statement

###### (A) In general

Any servicer that has established an escrow account in connection with a federally related mortgage loan shall submit to the borrower for which the escrow account has been established a statement clearly itemizing the estimated taxes, insurance premiums, and other charges that are reasonably anticipated to be paid from the escrow account during the first 12 months after the establishment of the account and the anticipated dates of such payments.

###### (B) Time of submission

The statement required under subparagraph (A) shall be submitted to the borrower at closing with respect to the property for which the mortgage loan is made or not

later than the expiration of the 45-day period beginning on the date of the establishment of the escrow account.

**(C) Initial statement at closing**

Any servicer may submit the statement required under subparagraph (A) to the borrower at closing and may incorporate such statement in the uniform settlement statement required under section 2603 of this title. The Bureau shall issue regulations prescribing any changes necessary to the uniform settlement statement under section 2603 of this title that specify how the statement required under subparagraph (A) of this section shall be incorporated in the uniform settlement statement.

**(2) Annual statement**

**(A) In general**

Any servicer that has established or continued an escrow account in connection with a federally related mortgage loan shall submit to the borrower for which the escrow account has been established or continued a statement clearly itemizing, for each period described in subparagraph (B) (during which the servicer services the escrow account), the amount of the borrower's current monthly payment, the portion of the monthly payment being placed in the escrow account, the total amount paid into the escrow account during the period, the total amount paid out of the escrow account during the period for taxes, insurance premiums, and other charges (as separately identified), and the balance in the escrow account at the conclusion of the period.

**(B) Time of submission**

The statement required under subparagraph (A) shall be submitted to the borrower not less than once for each 12-month period, the first such period beginning on the first January 1st that occurs after November 28, 1990, and shall be submitted not more than 30 days after the conclusion of each such 1-year period.

**(d) Penalties**

**(1) In general**

In the case of each failure to submit a statement to a borrower as required under subsection (c), the Secretary shall assess to the lender or escrow servicer failing to submit the statement a civil penalty of \$50 for each such failure, but the total amount imposed on such lender or escrow servicer for all such failures during any 12-month period referred to in subsection (b)<sup>1</sup> may not exceed \$100,000.

**(2) Intentional violations**

If any failure to which paragraph (1) applies is due to intentional disregard of the requirement to submit the statement, then, with respect to such failure—

(A) the penalty imposed under paragraph (1) shall be \$100; and

(B) in the case of any penalty determined under subparagraph (A), the \$100,000 limitation under paragraph (1) shall not apply.

<sup>1</sup> So in original. Probably should be subsection "(c)".

(Pub. L. 93-533, §10, Dec. 22, 1974, 88 Stat. 1728; Pub. L. 94-205, §8, Jan. 2, 1976, 89 Stat. 1158; Pub. L. 101-625, title IX, §942(a), Nov. 28, 1990, 104 Stat. 4411; Pub. L. 104-208, div. A, title II, §2103(g)(2), Sept. 30, 1996, 110 Stat. 3009-401; Pub. L. 111-203, title X, §1098(8), July 21, 2010, 124 Stat. 2104.)

**Editorial Notes**

AMENDMENTS

2010—Subsec. (c)(1)(C). Pub. L. 111-203, which directed amendment of "section 10(c) (12 U.S.C. 2609(c) and (d))" by substituting "Bureau" for "Secretary", was executed by making the substitution only in subsec. (c) as directed.

1996—Subsec. (c)(1)(C). Pub. L. 104-208 substituted "The Secretary" for "Not later than the expiration of the 90-day period beginning on November 28, 1990, the Secretary" in second sentence.

1990—Pub. L. 101-625 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) to (d).

1976—Pub. L. 94-205 provided that in addition to amounts required for the payment of taxes, insurance premiums, and other charges due at settlement, the buyer could not be required at settlement to place into an escrow account more than one-sixth of the estimated total amount of such taxes, insurance premiums, and other charges payable within a twelve month period beginning on the date of settlement, but the buyer could be required to make monthly payments into an escrow account sufficient to maintain a surplus of one-sixth of the estimated total amount payable in the coming twelve month period.

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE OF 2010 AMENDMENT

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EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-205 effective Jan. 2, 1976, see section 12 of Pub. L. 94-205, set out as a note under section 2602 of this title.

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.

**§ 2610. Prohibition of fees for preparation of truth-in-lending, uniform settlement, and escrow account statements**

No fee shall be imposed or charge made upon any other person (as a part of settlement costs or otherwise) by a lender in connection with a federally related mortgage loan made by it (or a loan for the purchase of a mobile home), or by a servicer (as the term is defined under section 2605(i) of this title), for or on account of the preparation and submission by such lender or servicer of the statement or statements required (in connection with such loan) by sections 2603 and 2609(c) of this title or by the Truth in Lending Act [15 U.S.C. 1601 et seq.].

(Pub. L. 93-533, §12, Dec. 22, 1974, 88 Stat. 1729; Pub. L. 101-625, title IX, §942(b), Nov. 28, 1990, 104 Stat. 4412.)