

Sec.

- (a) Business referrals.
 - (b) Splitting charges.
 - (c) Fees, salaries, compensation, or other payments.
 - (d) Penalties for violations; joint and several liability; treble damages; actions for injunction by Secretary and by State officials; costs and attorney fees; construction of State laws.
2608. Title companies; liability of seller.
2609. Limitation on requirement of advance deposits in escrow accounts.
- (a) In general.
 - (b) Notification of shortage in escrow account.
 - (c) Escrow account statements.
 - (d) Penalties.
2610. Prohibition of fees for preparation of truth-in-lending, uniform settlement, and escrow account statements.
- 2611 to 2613. Repealed.
2614. Jurisdiction of courts; limitations.
2615. Contracts and liens; validity.
2616. State laws unaffected; inconsistent Federal and State provisions.
2617. Authority of Secretary.
- (a) Issuance of regulations; exemptions.
 - (b) Liability for acts done in good faith in conformity with rule, regulation, or interpretation.
 - (c) Investigations; hearings; failure to obey order; contempt.
 - (d) Delay of effectiveness of recent final regulation relating to payments to employees.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 4903 of this title; title 15 section 1638; title 42 sections 3541, 4012a, 8232.

§ 2601. Congressional findings and purpose

(a) The Congress finds that significant reforms in the real estate settlement process are needed to insure that consumers throughout the Nation are provided with greater and more timely information on the nature and costs of the settlement process and are protected from unnecessarily high settlement charges caused by certain abusive practices that have developed in some areas of the country. The Congress also finds that it has been over two years since the Secretary of Housing and Urban Development and the Administrator of Veterans' Affairs submitted their joint report to the Congress on "Mortgage Settlement Costs" and that the time has come for the recommendations for Federal legislative action made in that report to be implemented.

(b) It is the purpose of this chapter to effect certain changes in the settlement process for residential real estate that will result—

- (1) in more effective advance disclosure to home buyers and sellers of settlement costs;
- (2) in the elimination of kickbacks or referral fees that tend to increase unnecessarily the costs of certain settlement services;
- (3) in a reduction in the amounts home buyers are required to place in escrow accounts established to insure the payment of real estate taxes and insurance; and
- (4) in significant reform and modernization of local recordkeeping of land title information.

(Pub. L. 93-533, § 2, Dec. 22, 1974, 88 Stat. 1724.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 93-533, Dec. 22, 1974, 88 Stat. 1724, as amended, known as the Real Estate Settlement Procedures Act of 1974, which is classified principally to this chapter (§2601 et seq.). For complete classification of this Act to the Code, see Short Title note below and Tables.

CHANGE OF NAME

Reference to Administrator of Veterans' Affairs deemed to refer to Secretary of Veterans Affairs pursuant to section 10 of Pub. L. 100-527, set out as a Department of Veterans Affairs Act note under section 301 of Title 38, Veterans' Benefits.

EFFECTIVE DATE

Section 20, formerly 19, of Pub. L. 93-533, as renumbered by Pub. L. 94-205, § 10, Jan. 2, 1976, 89 Stat. 1159, provided that: "The provisions of this Act, and the amendments made thereby [see Short Title note below], shall become effective one hundred and eighty days after the date of the enactment of this Act [Dec. 22, 1974]."

SHORT TITLE OF 1976 AMENDMENT

Section 1 of Pub. L. 94-205, Jan. 2, 1976, 89 Stat. 1157, provided: "That this Act [enacting section 2617 of this title, amending sections 2602, 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, enacting provisions set out as a note under section 2602 of this title and amending provisions set out as a note under this section] may be cited as the 'Real Estate Settlement Procedures Act Amendments of 1975'."

SHORT TITLE

Section 1 of Pub. L. 93-533 provided that: "This Act [enacting this chapter and sections 1730f and 1831b of this title and provisions set out as notes under this section and section 1730f of this title] 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) 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; and

(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.

(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 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.)

AMENDMENTS

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".