

# Housing and Economic Recovery Act of 2008/ Division B/Title V

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## TITLE V—MORTGAGE DISCLOSURE IMPROVEMENT ACT

### SEC. 2501. SHORT TITLE.

This title may be cited as the "**Mortgage Disclosure Improvement Act of 2008**".

### SEC. 2502. ENHANCED MORTGAGE LOAN DISCLOSURES.

(a) Truth in Lending Act Disclosures.—

Section 128(b)(2) of the Truth in Lending Act (15 U.S.C. 1638(b)(2)) is amended—

- (1) by inserting "(A)" before "In the";
- (2) by striking "a residential mortgage transaction, as defined in section 103(w)" and inserting "any extension of credit that is secured by the dwelling of a consumer";
- (3) by striking "before the credit is extended, or" and inserting "and";
- (4) by inserting ", which shall be at least 7 business days before consummation of the transaction" after "written application";
- (5) by striking ", whichever is earlier"; and
- (6) by striking "If the" and all that follows through the end of the paragraph and inserting the following:

"(B) In the case of an extension of credit that is secured by the dwelling of a consumer, the disclosures provided under subparagraph (A), shall be in addition to the other disclosures required by subsection (a), and shall—

"(i) state in conspicuous type size and format, the following: 'You are not required to complete this agreement merely because you have received these disclosures or signed a loan application.'; and

"(ii) be provided in the form of final disclosures at the time of consummation of the transaction, in the form and manner prescribed by this section.

"(C) In the case of an extension of credit that is secured by the dwelling of a consumer, under which the annual rate of interest is variable, or with respect to which the regular payments may otherwise be variable, in addition to the other disclosures required by subsection (a), the disclosures provided under this subsection shall do the following:

"(i) Label the payment schedule as follows: 'Payment Schedule: Payments Will Vary Based on Interest Rate Changes'.

"(ii) State in conspicuous type size and format examples of adjustments to the regular required payment on the extension of credit based on the change in the interest rates specified by the contract for such extension of credit. Among the examples required to be provided under this clause is an example that reflects the maximum payment amount of the regular required payments on the extension of credit, based on the maximum interest rate allowed under the contract, in accordance with the rules of the Board. Prior to issuing any rules pursuant to this clause, the Board shall conduct consumer testing to determine the appropriate format for providing the disclosures required under this

subparagraph to consumers so that such disclosures can be easily understood, including the fact that the initial regular payments are for a specific time period that will end on a certain date, that payments will adjust afterwards potentially to a higher amount, and that there is no guarantee that the borrower will be able to refinance to a lower amount.

"(D) In any case in which the disclosure statement under subparagraph (A) contains an annual percentage rate of interest that is no longer accurate, as determined under section 107(c), the creditor shall furnish an additional, corrected statement to the borrower, not later than 3 business days before the date of consummation of the transaction.

"(E) The consumer shall receive the disclosures required under this paragraph before paying any fee to the creditor or other person in connection with the consumer's application for an extension of credit that is secured by the dwelling of a consumer. If the disclosures are mailed to the consumer, the consumer is considered to have received them 3 business days after they are mailed. A creditor or other person may impose a fee for obtaining the consumer's credit report before the consumer has received the disclosures under this paragraph, provided the fee is bona fide and reasonable in amount.

"(F) Waiver of timeliness of disclosures.—To expedite consummation of a transaction, if the consumer determines that the extension of credit is needed to meet a bona fide personal financial emergency, the consumer may waive or modify the timing requirements for disclosures under subparagraph (A), provided that—

"(i) the term 'bona fide personal emergency' may be further defined in regulations issued by the Board;

"(ii) the consumer provides to the creditor a dated, written statement describing the emergency and specifically waiving or modifying those timing requirements, which statement shall bear the signature of all consumers entitled to receive the disclosures required by this paragraph; and

"(iii) the creditor provides to the consumers at or before the time of such waiver or modification, the final disclosures required by paragraph (1).

"(G) The requirements of subparagraphs (B), (C), (D) and (E) shall not apply to extensions of credit relating to plans described in section 101(53D) of title 11, United States Code."

(b) Civil Liability.—

Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended—

(1) in paragraph (2)(A)(iii), by striking "not less than \$200 or greater than \$2,000" and inserting "not less than \$400 or greater than \$4,000"; and

(2) in the penultimate sentence of the undesignated matter following paragraph (4)—

(A) by inserting "or section 128(b)(2)(C)(ii)," after "128(a),"; and

(B) by inserting "or section 128(b)(2)(C)(ii)" before the period.

(c) Effective Dates.—

(1) General disclosures.—

Except as provided in paragraph (2), the amendments made by subsection (a) shall become effective 12 months after the date of enactment of this Act.

(2) Variable interest rates.—

Subparagraph (C) of section 128(b)(2) of the Truth in Lending Act (15 U.S.C. 1638(b)(2)(C)), as added by subsection (a) of this section, shall become effective on the earlier of—

- (A) the compliance date established by the Board for such purpose, by regulation; or
- (B) 30 months after the date of enactment of this Act.

**SEC. 2503. COMMUNITY DEVELOPMENT INVESTMENT AUTHORITY FOR DEPOSITORY INSTITUTIONS.**

(a) National Banks.—

The first sentence of the paragraph designated as the "Eleventh" of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) is amended by striking "promotes the public welfare by benefitting primarily" and inserting "is designed primarily to promote the public welfare, including the welfare of".

(b) State Member Banks.—

The first sentence of the 23rd paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 338a) is amended by striking "promotes the public welfare by benefitting primarily" and inserting "is designed primarily to promote the public welfare, including the welfare of".

# Article Sources and Contributors

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