Real Estate Lending Application Disclosures and Escrow Requirements - By Jurisdiction

Executive Summary

REAL ESTATE LENDING

APPLICATION DISCLOSURES AND ESCROW REQUIREMENTS

ANNUAL REPORT EXECUTIVE SUMMARY

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Overview

The surveyed jurisdictions have differing approaches to loan application disclosures and escrow requirements. Many statutes and regulations have been subject to substantial revision and amendment since 2000, but approximately one-fifth of the provisions date from before 1985 (including statutory schemes established as early as 1966). Despite a proliferation of recent state legislation related to mortgages, mortgage fraud, and safe lending practices, relatively few revisions contain state disclosure requirements that are directly related to loan applications and are therefore within this survey's scope.

Mortgage Escrow Accounts

Approximately 19 percent of the surveyed jurisdictions have no statutory or regulatory provisions concerning mortgage escrow accounts. Most jurisdictions, however, address the issue, but vary in the degree to which they regulate bank and financial institution activity with regard to such accounts. California, for instance, sets forth detailed instructions broken out by the type of real estate purchase, but jurisdictions like Kentucky are more typical, requiring banks to make prompt deposits and to provide reasonable notices of actions. Some jurisdictions are less active, providing solely for reporting. For example, Kansas simply requires the lender to provide the mortgagor with an annual summary of all escrow account transactions.

States have made relatively few significant recent changes to their mortgage escrow account laws. Since December 2017:

- Maryland statutes were amended to include escrow accounts for the payment of water and sewer facilities, effective October 1, 2018; and

- Wisconsin amended its provisions governing interest on escrow accounts.

General and Bank Credit Application Disclosure Requirements

Fifty-two percent of the surveyed jurisdictions have general credit disclosure requirements, and 39 percent have bank credit application disclosure requirements. These required disclosures include insurance, fees, service charges, and federal truth-in-lending disclosures. Nevada is typical, requiring financial institutions to disclose clearly and conspicuously in writing all fees and charges for services before performing the services. During the past two years, three states revised their laws related to bank credit application disclosure requirements, and five states revised their general credit application disclosure requirements. All of these changes were minor, confirming, or not relevant to the topics addressed by this survey.

Truth-in-Lending

Only three states have their own truth-in-lending requirements that require disclosures in conjunction with real estate loan applications. The remaining jurisdictions either implicitly or expressly follow the federal truth-in-lending rules.

Real Estate Loan Application Disclosure Requirements

Most of surveyed jurisdictions require real estate loan application disclosures in some situations. Several jurisdictions provide specific disclosure language, including boilerplate for specified types of real estate loans. For instance, New Jersey requires specific disclosures for high-cost loans, while Minnesota specifies language for escrow discontinuation, and Pennsylvania gives disclosure language for variable rate loans.

In the past year:

- Illinois enacted a disclosure requirement of specific changes in the loan terms prior to the loan closing, which applies to residential mortgage loan licensees;

- New Jersey added disclosure requirements for mortgage loan servicers; and

- New York added provisions regarding disclosures when a mortgage is sold or transferred during the processing of a modification application.

Alabama

Alabama, Bank Credit Application Disclosure Requirements

No credit application disclosure provisions applicable only to banks were located.

Alabama, General Credit Application Disclosure Requirements

No state laws containing general credit disclosure requirements were located.

Alabama, Mortgage Escrow Accounts

No relevant provisions were located.

Alabama, Real Estate Loan Application Disclosure Requirements

No general real estate loan application disclosure requirements were located.

INSURANCE

If a creditor requires insurance against loss of or damage to property subject to a security interest, the creditor must give the debtor written notice that the insurance may be obtained through a person of the debtor's choice.

Statutory section amended 1996.

Ala. Code § 5-19-20(e) (2018)

Alabama, State Truth-In-Lending Credit Application Disclosure Requirements

Alabama has not enacted a state truth-in-lending act.

Alaska

Alaska, Bank Credit Application Disclosure Requirements

INSURANCE

Alaska's insurance statutes require a financial institution that sells insurance to make certain disclosures, including a statement that the consumer is not required to negotiate an insurance policy or contract through any particular person or group of persons as a condition of lending money or extending credit, except that the person may "impose reasonable requirements uniformly applied" that:

- relate to the required coverage amount and the insurer's financial soundness and services; and

- the standards may not discriminate against a specific type of insurer or "require disapproval of a policy containing coverage in addition to that required."

A financial institution must make these disclosures at the time of a credit application.

Statutory section amended 2001 and renumbered 2010.

Alaska Stat. § 21.36.323 (2018)

Alaska, General Credit Application Disclosure Requirements

No state laws containing general credit disclosure requirements were located.

Alaska, Mortgage Escrow Accounts

No relevant provisions were located.

Alaska, Real Estate Loan Application Disclosure Requirements

No generally applicable real estate loan application disclosure requirements were located.

Disclosure requirements applicable to mortgage lenders or mortgage brokers do not apply to banks and other specified financial institutions.

It is an unfair or deceptive act or practice under § 06.60.340 for a person who must be licensed under the state mortgage licensing provisions:

- to accept any undisclosed fees that are required to be disclosed by applicable law; or

- to misrepresent or conceal a material fact or to make a false promise that is likely to "influence, persuade, or induce" a mortgage loan applicant to enter into a mortgage loan transaction.

Statutory section 06.60.340 amended 2010; § 06.60.015 amended 2019. Regulation amended 2017.

Alaska Stat. §§ 06.60.015 (as amended by 2019 Alaska Laws ch. 9 (H.B. 104)); .340 (2018); Alaska Admin. Code tit. 3, § 14.515 (2019)

Alaska, State Truth-In-Lending Credit Application Disclosure Requirements

Alaska has not enacted a state truth-in-lending act.

Arizona

Arizona, Bank Credit Application Disclosure Requirements

No disclosure requirements applicable only to banks were located. The disclosure requirements that apply to loan originators do not apply to registered loan originators, which include registered employees of banks or other specified financial institutions.

Statutory section 6-991.01 amended 2009; § 6-991 amended 2012.

See Ariz. Rev. Stat. §§ 6-991, -991.01 (2018)

Arizona, General Credit Application Disclosure Requirements

No state laws containing general credit disclosure requirements were located.

Arizona, Mortgage Escrow Accounts

GENERAL REQUIREMENTS

A lender who receives payments that include an amount for a mortgage or deed of trust and an amount for an insurance policy premium or a property tax assessment must pay the premium or assessment in a timely manner, unless the mortgagor's payment is delinquent. If the payment is delinquent, the lender must use reasonable diligence in tendering the amounts for the insurance premium or tax assessment. The amount collected with each payment for insurance policy premiums or property taxes must approximately equal the amount necessary for the total received during the period to equal the actual amounts when due.

INTEREST REQUIREMENTS

No provisions addressing interest on escrow accounts were located.

Statutory section enacted 1991.

Ariz. Rev. Stat. § 6-115 (2018)

Arizona, Real Estate Loan Application Disclosure Requirements

Mortgage brokers and bankers must disclose to the person from whom the compensation is collected that the mortgage broker or banker is receiving compensation both for mortgage broker services, if applicable, and for real estate licensee services.

A loan originator may not collect compensation for real estate licensee services unless the employing mortgage broker or mortgage banker has, at the time the mortgage loan application is received, disclosed to the person paying the compensation that the loan originator is receiving compensation both for mortgage broker or mortgage banker services, if applicable, and for real estate licensee services.

No generally applicable provisions were located. However, note that pursuant to a criminal statute enacted in 2007, a "residential mortgage fraud" offense is not "based solely on information that is lawfully disclosed under federal disclosure laws, regulations and interpretations related to the mortgage lending process."

Statutory sections 6-942 and 6-972 amended 1997; § 13-2320 enacted 2007; §§ 6-909 and 6-947 amended 2008; § 6-991.02 amended 2011.

Ariz. Rev. Stat. §§ 6-909, -942, -947, -972, -991.02; 13-2320 (2018)

Arizona, State Truth-In-Lending Credit Application Disclosure Requirements

Arizona has not enacted a state truth-in-lending act.

Arkansas

Arkansas, Bank Credit Application Disclosure Requirements

No disclosure requirements applicable only to banks were located.

Arkansas, General Credit Application Disclosure Requirements

No state laws containing general credit disclosure requirements were located.

Arkansas, Mortgage Escrow Accounts

GENERAL REQUIREMENTS

Within 30 days after sufficient funds have accumulated, a bank or other financial institution that holds escrow funds for real property taxes must notify the county collector. If sufficient funds for the payment of one year's taxes have accumulated before the beginning of the period in which the collector may collect real property taxes for that year, this notification must be made within 30 days after the collector is authorized to collect taxes during the year. The escrow fund holders must remit payment for property taxes within 60 days of receipt of the tax bills from the collector.

Pursuant to the Arkansas Fair Mortgage Lending Act, it is generally unlawful for a lender in the course of a mortgage loan transaction to fail "to make payments in a timely manner from an escrow account held for the borrower to pay insurance, taxes, and other charges concerning the mortgage property without good cause, and the failure to pay results in late penalties or other negative activity."

INTEREST REQUIREMENTS

No statutory provisions addressing interest on escrow accounts were located.

However, the homeowner notice contained in Arkansas regulations addressing mortgage loan closing notices related to the assumption of HUD/FHA-insured mortgages provides the following: "Lender may not charge the Borrower for holding and applying the [escrow] Funds, annually analyzing the escrow account, verifying the Escrow Items, unless Lender pays Borrower interest on the [escrow] Funds and the applicable law permits Lender to make such a charge."

Statutory section 26-35-101 enacted 1987; § 23-39-513 amended 2019. Regulation adopted 2007.

Ark. Code §§ 23-39-513 (as amended by 2019 Ark. Act 200) ; 26-35-101 (West 2019); 109.03.07 Ark. Admin. Code Exhibit 7-Q (West 2017)

Arkansas, Real Estate Loan Application Disclosure Requirements

No general real estate loan application disclosure requirements were located.

Arkansas, State Truth-In-Lending Credit Application Disclosure Requirements

Arkansas has not enacted a state truth-in-lending act.

California

California, Bank Credit Application Disclosure Requirements

No general disclosure requirements applicable only to banks were located.

INSURANCE

In connection with the initial purchase of insurance from a bank (or other “covered person”), the bank must disclose the following to the consumer:

- that the insurance is not a deposit or guaranteed;

- that the insurance is not insured by the Federal Deposit Insurance Corporation, any other federal agency, the depository institution, or its affiliates; and

- if applicable, that the insurance involves an investment risk, including the possible loss of value.

The bank must provide these disclosures orally and in writing during any insurance solicitation.

If an application for credit in connection with which insurance is solicited, offered, or sold, a bank must disclose that it may not condition the credit extension on:

- the consumer's purchase of insurance from the bank; or

- the consumer's agreement not to obtain the insurance from an unaffiliated entity.

These disclosures must be made orally and in writing at the time the consumer applies for credit in connection with which the insurance is solicited, offered, or sold.

See § 762(2)—(4) for disclosure requirements if the sale is conducted by mail, by telephone or electronically.

The above disclosures must be:

- conspicuous, simple, direct, and easily understandable; and
- provided in a meaningful form.

The bank must obtain from the consumer, at the time the consumer receives the disclosures or at the time of initial purchase of the insurance, a written acknowledgment that the consumer received the disclosures.

Statutory section enacted 2002.

Cal. Ins. Code § 762 (2019)

California, General Credit Application Disclosure Requirements

No state laws containing general credit disclosure requirements were located.

California, Mortgage Escrow Accounts

GENERAL REQUIREMENTS

Single-family residence

A lender may not require an account for taxes, insurance premiums or other purposes as a condition of a loan secured by a deed of trust or mortgage on real property containing only a single-family, owner-occupied dwelling, unless:

- required by a state or federal regulatory authority;

- a loan is made, guaranteed, or insured by a state or federal governmental lending or insuring agency;

- the borrower fails to pay two consecutive tax installments on the property before the payments' delinquency dates;

- the original principal amount of the a loan is 90 percent or more of the sale price if the property is sold or 90 percent or more of the appraised value of the property securing the loan;

- the combined principal amount of all loans secured by the real property is greater than 80 percent of the appraised value of the property securing the loans;

- the loan is made in compliance with the requirements for higher priced mortgage loans established in Regulation Z, whether or not the loan is a higher priced mortgage loan; or

- the loan is refinanced or modified in connection with a lender's homeownership preservation program or a lender's participation in such a program sponsored by a government authority or a nonprofit organization.

However, a lender may establish an escrow account on terms mutually agreeable to the parties, if, before executing the loan agreement, the lender has provided the borrower with a written statement, which may be set forth in the loan application,

- providing that establishing the account is not required as a condition to the loan agreement, and

- stating whether or not interest will be paid on the funds.

A lender who maintains an escrow account may not:

- require the borrower to deposit in any month more than the amount that would be permitted in connection with a federally related mortgage loan pursuant to § 10 of the Real Estate Settlement Procedures Act of 1974;

- require the amounts maintained in the account to exceed the amount reasonably necessary to pay the obligations as they become due, with any excess amount refunded within 30 days unless the parties mutually agree otherwise; or

- make delinquent payments.

The lender may require additional amounts be paid into an impound account to recover any deficiency.

Upon the mortgagor's written request, a mortgagee must furnish for each calendar year within 60 days after year-end an itemized accounting of amounts paid for interest and principal and funds held in or disbursed from any impound or trust account. The mortgagor is entitled to one accounting each calendar year without charge and may receive additional accountings for one or more months upon written request and on payment in advance of the following fees:

- $0.50 per statement, if requested in advance on a monthly basis for one or more years;

- $1 per statement, if requested for only one month; or

- $5, if for a single cumulative statement giving information back to the last statement rendered.

No increase in the monthly payment of a mortgagor for impound or trust accounts is effective until after the mortgagee has furnished the mortgagor with:

- an accounting of the funds in the account;
- a statement of the new monthly payment; and
- an explanation of the factors necessitating the increase.

One- to four-family residences

A purchase-money mortgagee of property containing only a one- to four-family residence must furnish to the mortgagor, within 60 days after the end of each calendar year, a written statement showing:

- amounts received for interest and principal repayment, and late charges;
- funds held in or disbursed from any impound account for taxes, insurance premiums, bond assessments, or other purposes; and
- any interest credited to the account.

The mortgagor is entitled to receive one statement for each calendar year without charge and without request. The statement must include a notification in 10-point type that the mortgagor may request additional accountings on the terms described above.

In this context, “mortgage” includes a first or second mortgage, a first or second deed of trust, and a real property sale contract. These requirements are in addition to the requirements for single-family homes set forth above.

Holding the funds

Money held by a mortgagee in an impound account must be retained in California and may be invested only with California residents or entities or persons engaged in business in California. However, a mortgagee secured by a first lien on real property, may deposit money held in an impound account in an out-of-state depository institution insured by the Federal Deposit Insurance Corporation if the mortgagee is a bank or certain other financial institutions, among others.

INTEREST REQUIREMENTS

Servicing

Generally, benefits accruing from the placement in a non-interest-bearing account of a commercial bank of funds received by a licensee who services mortgage loans must inure to the licensee, unless otherwise agreed in writing by the licensee and the investor on whose behalf the licensee services the loan. The borrower shall receive at least two percent simple interest per annum on impound account payments covered by Cal. Civ. Code § 2954.8 (as described below in *General interest requirements*).

General interest requirements

A financial institution that makes loans secured by real property containing only a one- to four-family residence located in California and that receives money in advance for taxes, assessments, insurance, or other purposes, generally must pay interest on the account of at least two percent. The interest must be credited to the borrower's account the earlier of annually or upon the account’s termination. The financial institution may not impose any fee or charge in connection with maintaining or disbursing money from

the account, if the fee or charge results in an effective interest rate of less than two percent.

Statutory section 2954.1 amended 1983; § 2954.2 enacted 1976; § 2954.8 amended 1979; § 2955 amended 1995; § 50202 amended 2009; § 2954 amended 2010.

Cal. Fin. Code § 50202; Cal. Civ. Code §§ 2954, 2954.1, 2954.2, 2954.8, 2955 (2019)

California, Real Estate Loan Application Disclosure Requirements

GENERAL PROVISIONS

Before executing any mortgage payment instrument, the lender must provide full and complete disclosure of the nature and effect of the instrument and all costs or savings attributed to the instrument.

ADJUSTABLE-RATE MORTGAGES

Lenders offering adjustable-rate residential mortgage loans must provide to prospective borrowers, at the earlier of the borrower's request or when the lender first provides written information, the most recently available publication of the Federal Reserve Board designed to inform the public about such loans.

The lender need not provide the publication with direct-mail advertising.

Lenders making adjustable-rate mortgage loan disclosures pursuant to 12 C.F.R. ch. I, pt. 29 or 12 C.F.R. ch. V, pt. 563 may make the disclosure at the time required by the federal regulations, however, the lender must display and make available the descriptive information to the public in the lender's office.

For an adjustable-payment, adjustable-rate mortgage loan, an applicant must be given a lengthy prescribed disclosure notice at the time of the request for an application. See Cal. Civ. Code § 1916.7(c) for the text of the required notice.

PREPAYMENT

A lender receiving a borrower's obligation to pay a prepayment charge must furnish the borrower with a written disclosure describing

- the prepayment charge obligation,
- the conditions under which the prepayment charge is payable, and
- the method by which the prepayment charge amount will be determined.

If the borrower has a right to rescind, the disclosure must also inform the borrower

- of his right to rescind,
- how and when to exercise the right, and
- where to mail or deliver a rescission notice.

The disclosure may be separately furnished or may be included in the agreement or other loan document, provided that the borrower may retain a copy of the disclosure.

This requirement:

- applies to any installment loan secured by a deed of trust, mortgage, or other lien on residential property of four or fewer units, provided § 2954.9 (regarding prepayment of certain loans) does not apply to the installment loan; and

- does not apply to any loan that is subject to Section 10242.6 of the Business and Professions Code.

INSURANCE

A lender may not require a borrower, as a condition of receiving or maintaining a loan secured by real property, to provide hazard insurance coverage in an amount exceeding the property's improvements' replacement value. The lender must disclose this restriction to a borrower, in writing, as soon as practicable, but before executing any note or security documents.

FINANCE COMPANIES

A finance company must, by the earlier of (a) within three business days after receipt of a completed application for certain nontraditional loans or adjustable rate loans or (b) before the borrower becomes obligated on the note, provide the borrower with a written statement clearly and conspicuously disclosing "information comparing payment scenarios and loan balance scenarios among any nontraditional loan and adjustable rate loan products offered by the finance company." The same requirement applies to licensee under the California Residential Mortgage Lending Act.

COVERED LOANS

Cal. Fin. Code § 4973 provides that a covered loan may include a prepayment fee or penalty up to the first 36 months after closing if, among other things, the person who originates the covered loan has disclosed in writing to the consumer at least three business days before closing:

- the "terms of the prepayment fee or penalty to the consumer for accepting a covered loan with the prepayment penalty"; and

- the rates, points, and fees that would be available to the consumer for accepting a covered loan without a prepayment penalty.

A covered loan may not contain a provision for negative amortization so that the regular monthly payments' principal balances increase, unless the covered loan:

- is a first mortgage; and

- the person who originates the loan discloses that "the loan contains a negative amortization provision that may add principal to the balance of the loan."

Also, a lender making a covered loan must provide to the consumer, in 12-point font or larger and no later than three business days before closing, a notice entitled, "CONSUMER CAUTION AND HOME OWNERSHIP COUNSELING NOTICE." The required content of that notice is set forth in § 4973.

In this context, a "covered loan" is a consumer loan in which "the original principal balance of the loan does not exceed the most current conforming loan limit for a single-family first mortgage loan established by the Federal National Mortgage Association in the case of a mortgage or deed of trust," and where either:

- for a mortgage or deed of trust, the annual percentage rate will exceed by more than eight percentage points the yield on Treasury securities having comparable maturity periods as of the 15th day of the month immediately preceding the credit's application month; or

- the total points and fees payable by the consumer at or before closing for a mortgage or deed of trust will exceed 6 percent of the total loan amount.

A "consumer loan" is a consumer credit transaction secured by real property located in California that is used, or intended to be used or occupied, as the consumer's principal dwelling and that is improved by one to four residential units.

HOUSING FINANCIAL DISCRIMINATION ACT

California's Housing Financial Discrimination Act of 1977 requires a financial institution to provide each applicant for financial assistance and post in a conspicuous place a Fair Lending Notice. The notice must:

- set forth the act's prohibitions;
- describe the complaint procedures;
- list the name and address of the offices in which the applicant may file complaints and ask questions; and
- contain the following:

THE HOUSING FINANCIAL DISCRIMINATION ACT OF 1977 FAIR LENDING NOTICE

IT IS ILLEGAL TO DISCRIMINATE IN THE PROVISION OF OR IN THE AVAILABILITY OF FINANCIAL ASSISTANCE BECAUSE OF THE CONSIDERATION OF:

1. TRENDS, CHARACTERISTICS OR CONDITIONS IN THE NEIGHBORHOOD OR GEOGRAPHIC AREA SURROUNDING A HOUSING ACCOMMODATION, UNLESS THE FINANCIAL INSTITUTION CAN DEMONSTRATE IN THE PARTICULAR CASE THAT SUCH

CONSIDERATION IS REQUIRED TO AVOID AN UNSAFE AND UNSOUND BUSINESS PRACTICE; OR

2. RACE, COLOR, RELIGION, SEX, MARITAL STATUS, NATIONAL ORIGIN OR ANCESTRY.

IT IS ILLEGAL TO CONSIDER THE RACIAL, ETHNIC, RELIGIOUS OR NATIONAL ORIGIN COMPOSITION OF A NEIGHBORHOOD OR GEOGRAPHIC AREA SURROUNDING A HOUSING ACCOMMODATION OR WHETHER OR NOT SUCH COMPOSITION IS UNDERGOING CHANGE, OR IS EXPECTED TO UNDERGO CHANGE, IN APPRAISING A HOUSING ACCOMMODATION OR IN DETERMINING WHETHER OR NOT, OR UNDER WHAT TERMS AND CONDITIONS, TO PROVIDE FINANCIAL ASSISTANCE.

THESE PROVISIONS GOVERN FINANCIAL ASSISTANCE FOR THE PURPOSE OF THE PURCHASE, CONSTRUCTION, REHABILITATION OR REFINANCING OF ONE- TO FOUR-UNIT FAMILY RESIDENCES OCCUPIED BY THE OWNER AND FOR THE PURPOSE OF THE HOME IMPROVEMENT OF ANY ONE- TO FOUR-UNIT FAMILY RESIDENCE.

IF YOU HAVE QUESTIONS ABOUT YOUR RIGHTS, OR IF YOU WISH TO FILE A COMPLAINT, CONTACT THE MANAGEMENT OF THIS FINANCIAL INSTITUTION OR:

(name and address of Secretary's designee)

ACKNOWLEDGMENT OF RECEIPT

I (WE) RECEIVED A COPY OF THIS NOTICE. _____
_____ Signature of Applicant Date _____
_____ Signature of Applicant Date

HIGHER-PRICED MORTGAGE LOANS

A mortgage broker who arranges only higher-priced mortgage loans must disclose that fact to a borrower, both orally and in writing, at the time the broker initially engages in mortgage brokerage services with the borrower.

MORTGAGE LOAN ORIGINATORS

A mortgage loan originator must disclose his or her specified unique identifier on all mortgage loan applications, solicitations, or advertisements.

NONTRADITIONAL AND SUBPRIME MORTGAGE PRODUCTS

A real estate broker who negotiates a loan to be secured directly or collaterally by a lien on real property must, upon the earlier of three business days after receipt of a completed written loan application or before the borrower becomes obligated on the note, deliver to the borrower a written statement, containing all the information required by Cal. Bus. & Prof. Code § 10241. The Real Estate Commissioner publishes Form RE 885 for this purpose to aid real estate licensees in "providing the disclosure of material information in a uniform and effective manner to prospective borrowers relating to home loans on one-to-four unit single-family residences whose loans involve a 'nontraditional mortgage product'." In this context, a "nontraditional mortgage product" is generally a loan that allows borrowers to defer repayment of principal or interest.

CONDOMINIUM LOANS

A lender originating a loan secured by the borrower's separate interest in a condominium project that requires earthquake insurance or imposes a fee or other condition in place of insurance "pursuant to an underwriting requirement imposed by an institutional third-party purchaser" must disclose the following to the potential borrower:

- that the lender or the institutional third party "requires earthquake insurance or imposes a fee or any other condition in lieu thereof pursuant to an underwriting requirement imposed by an institutional third party purchaser";

- that not all lenders or institutional third parties require earthquake insurance or impose a fee or any other condition in place of the insurance;

- that earthquake insurance may be required on the entire condominium project; and

- that lenders or institutional third parties may also require a condominium project to maintain (or demonstrate an ability to maintain) financial reserves equal to the earthquake insurance deductible.

In this context, "institutional third party" means "the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Government National Mortgage Association," and other substantially similar public or private institutions.

The lender must make this disclosure in writing "as soon as reasonably practicable."

Statutory section 1920 amended 1997; § 1921 amended 1987; § 1916.7 enacted 1981; § 2954.11 enacted 1996; § 2955.5 amended 1999; § 10240 amended 2001; §§ 4995.2 and 22347 enacted 2009; § 2955.1 amended 2013; § 4970 amended 2019; § 4973 amended 2014. Regulation 7114 amended 2002; rr. 1436, 1950.314.8, and 2842 amended 2014.

Cal. Bus. & Prof. Code § 10240; Cal. Civ. Code §§ 1920, 1921, 2954.11, 2955.1, 2955.5, 1916.7; Cal. Fin. Code §§ 4970, 4973, 4995.2, 22347 (2019); Cal. Code Regs. tit. 10, §§ 1436, 1950.314.8, 2842; tit. 21, § 7114 (West 2019)

California, State Truth-In-Lending Credit Application Disclosure Requirements

California has not enacted a state truth-in-lending act.

Colorado

Colorado, Bank Credit Application Disclosure Requirements

No credit application disclosure requirements applicable only to banks were located.

Colorado, General Credit Application Disclosure Requirements

CONSUMER CREDIT CODE

Scope

Colorado has enacted a Consumer Credit Code that applies to consumer loans. A "consumer loan" is a loan arranged by a person regularly engaged in the business of making loans in which:

- the consumer is a person other than an organization;
- the debt is primarily for a personal, family, or household purposes;
- the debt is "by written agreement payable in installments or a finance charge is made"; and
- either (a) the principal is $75,000 or less, or (b) the debt is secured by an interest in land.

Unless the loan is made subject to the Consumer Credit Code by agreement, a consumer loan does not include a "loan primarily secured by an interest in land," except that the following apply:

- the disclosure provisions required by § 5-3-101;
- the consumers' remedies as described in § 5-5-204; and

- the administrator's powers and functions set forth in part 1 of article 6.

A "loan primarily secured by an interest in land" generally means a consumer loan secured by a mobile home or primarily secured by an interest in land if, at the time the loan is made, the collateral's value is substantial in relation to the loan amount, and:

- the finance charge rate does not exceed 12 percent per year; or

- except in the case of a precomputed loan, the loan is secured by a first mortgage or deed of trust lien against a dwelling (a) to finance the dwelling's acquisition, or (b) to refinance an existing loan made to finance the dwelling's acquisition, including a refinance loan that provides additional sums for any purpose.

With respect to loans secured by a first mortgage or deed of trust lien against a dwelling to refinance an existing loan that financed the acquisition of the dwelling, the lender must disclose to the consumer that:

- the refinance loan creates a lien against the dwelling or property; and

- the statutory limits regarding the amount of attorney fees that a lender may charge do not apply.

Federal law

A creditor must disclose to the consumer the information, disclosures, and notices required by the Federal Truth-in-Lending Act and any related regulations.

Balloon payments

If any scheduled payment in a consumer credit transaction is more than twice as large as the average scheduled payment, the consumer may refinance that payment at the creditor's prevailing rates, if the consumer meets the creditor's normal credit standards and if the creditor is still in the business of making such transactions. The creditor must disclose this right to the consumer in writing at the time the parties enter into the transaction.

Cosigners

An individual, other than the consumer's spouse, is not obligated as a cosigner or guarantor of a consumer credit transaction, unless, before or at the time he or she signs any obligation, the person receives a written notice that:

- contains a complete identification of the debt; and
- reasonably informs the cosigner of his or her obligation with respect to that debt.

The notice must be clear and conspicuous and may be set forth in the consumer's obligation agreement or in a separate writing.

A cosigner is also entitled to a notice of his right to cure.

Statutory section 5-1-301 amended 2004; § 5-3-101 amended 2001; §§ 5-3-105 and 5-3-208 reenacted 2000.

Colo. Rev. Stat. §§ 5-1-301; -3-101, -105, -208 (LexisNexis 2018)

Colorado, Mortgage Escrow Accounts

GENERAL REQUIREMENTS

A person who regularly collects payments for loans secured by mortgages or deeds of trust must promptly credit all escrow payments received.

A lender must:

- refund excess escrow funds each year; and

- annually adjust payments into an escrow accounts for taxes due in subsequent years, based upon the tax amount paid for the preceding year.

However, if the lender reasonably believes that the property has received substantial improvements not included within the previous year's assessment, a reasonable estimate of the taxes for the subsequent year may be used as a basis for establishing the payments.

All funds in excess of those the federal "Real Estate Settlement Procedures Act of 1974" and its related rules permit to be held in escrow to pay ad valorem taxes on property under any deed of trust, mortgage, or other agreement encumbering Colorado real property must be refunded to the property owner as required by the federal law and rules. This requirement applies even if the federal law and rules would not otherwise apply to the deed of trust, mortgage, or other agreement.

INTEREST REQUIREMENTS

No provisions addressing interest on escrow accounts were located.

Statutory section 38-40-103 reenacted 1990; § 39-1-119 amended 2015.

Colo. Rev. Stat. §§ 38-40-103; 39-1-119 (LexisNexis 2018)

Colorado, Real Estate Loan Application Disclosure Requirements

LATE PAYMENTS

In a real estate secured consumer credit transaction payable in installments, if the creditor credits late payments as of the date of receipt, the creditor must clearly and conspicuously disclose to the consumer at or before the time the credit is extended the effect of untimely payments using language similar to the following:

> The dollar amount of the finance charge disclosed to you for this credit transaction is based upon your payments being received by the creditor on the date payments are due. If your payments are received after the due date, even if received before the date a late fee applies, you may owe additional and substantial money at the end of the credit transaction and there may be little or no reduction of principal. This is due to the accrual of daily interest until a payment is received.

CREDIT REPORTS

Upon a consumer's request, a creditor that makes consumer loans secured by a dwelling and that uses credit scores for that purpose must provide to the consumer to whom the credit report relates a copy of the credit information. The creditor must provide that information as soon as practicable and reasonable, but in a period no longer than 30 days. The creditor may charge a reasonable fee for making the information available to the consumer.

"COVERED" LOANS

Scope

A "covered" loan is a consumer credit transaction secured by property located in Colorado that is considered a mortgage under § 152 of the federal "Home Ownership and Equity Protection Act of 1994," 15 U.S.C. § 1602(aa). However, if the total points and fees paid by the obligor at or before closing exceed six percent of the total loan amount, the loan is deemed to be a covered loan if the transaction otherwise meets the statutory requirements.

Prepayment penalties

A lender may not include a prepayment penalty fee in a covered loan unless the lender offers the borrower the option of choosing a loan without a prepayment penalty fee. The lender is deemed to

have complied with this requirement if the borrower receives and signs the following disclosure (which may be incorporated with any other required disclosure) within a reasonable time after determining that the loan would result in a covered loan:

CONSUMER CAUTION

If you obtain this loan, the lender will have a mortgage in Colorado; this is a deed of trust on your home. You could lose your home, and any money you have put into it, if you do not meet your obligations under the loan. Mortgage loan rates and closing costs and fees vary based on many factors, including your particular credit and financial circumstances, your earnings history, the loan-to-value requested, and the type of property that will secure your loan. The loan rate and fees could vary based on which lender or broker you select.

You are not required to complete any loan agreement merely because you have received these disclosures or have signed a loan application. If you proceed with this mortgage loan, you should also remember that you may face serious financial risks if you use this loan to pay off credit card debts and other debts in connection with this transaction and then later incur significant new credit card charges or other debts. If you continue to accumulate debt after this loan is closed and then experience financial difficulties, you could lose your home and any equity you have in it if you do not meet your mortgage loan obligations.

Property taxes and homeowner's insurance are your responsibility. Not all lenders provide escrow services for these payments. You should ask your lender about these services.

Your payments on existing debts contribute to your credit ratings. You should not accept any advice to ignore your regular payments to your existing creditors.

RESIDENTIAL LOANS

Colo. Rev. Stat. § 38-40-102, which previously addressed disclosures by persons (other than specified financial institutions) regularly engaged in making loans secured by a mortgage or deed of trust on a one- to four-family dwelling, was repealed effective March 16, 2016.

A *mortgage loan originator's* disclosures must comply with the federal Truth-in-Lending Act, Real Estate Settlement Procedures Act, Regulation X, and other applicable federal laws. A mortgage loan originator must provide copies of completed disclosure forms to all borrowers within three business days after receiving a loan application or funds from a borrower.

Effective March 17, 2017, for any loan application or transaction that is not "under the authority of the TILA-RESPA Integrated Disclosure Rule," a mortgage loan originator must deliver a Colorado Lock-in Disclosure form, which may be found on the Division of Real Estate's website. A mortgage loan originator may use an alternate form if it includes all required information. The mortgage loan originator must deliver the Colorado Lock-in Disclosure form within 3 business days after receiving a loan application.

Statutory sections 5-3.5-101, 5-3.5-102, and 5-3.5-103 amended 2003; § 38-40-102 repealed 2016; § 12-61-914 amended 2016; § 5-3-106 amended 2017. Regulations amended 2017.

Colo. Rev. Stat. Ann. §§ 5-3-106; 5-3.5-101, -102, -103; 12-61-914; 38-40-102 (repealed by 2016 Colo. Sess. Laws ch. 17) (LexisNexis 2018); 4 Colo. Code Regs. §§ 725-3:1.36, .38; :5.8, .14 (2019)

Colorado, State Truth-In-Lending Credit Application Disclosure Requirements

Colorado has not enacted a state truth-in-lending act.

Connecticut

Connecticut, Bank Credit Application Disclosure Requirements

No disclosure requirements applicable only to banks were located.

Connecticut, General Credit Application Disclosure Requirements

A creditor may not take adverse action based on a credit report against any consumer applying for credit for personal, family or household purposes, without first disclosing to the consumer the name and address of the credit rating agency that issued the report. In this context, “creditor” is broadly defined as a “person who extends credit in the ordinary course of business.”

Statutory section 36a-695 amended 1998; § 36a-696 amended 2011.

Conn. Gen. Stat. Ann. §§ 36a-695, -696(a) (2018)

Connecticut, Mortgage Escrow Accounts

GENERAL REQUIREMENTS

Connecticut statutes that address the payment of interest on mortgage escrow accounts do not impose other general requirements.

NONPRIME HOME LOANS

A lender may not make a nonprime home loan unless, for loans that are first mortgage loans for which the lender received an application on or after April 1, 2010, the lender requires and collects a monthly escrow for real property taxes and homeowners insurance. This requirement does not apply to:

- FHA loans; or
- a "nonprime home loan product which, in good faith, is generally designed and marketed to the public as a subordinate lien home equity loan product but is secured by a first mortgage loan."

In this context, "lender" means any person engaged in the business of the making of mortgage loans that is (a) required to be licensed by the commissioner pursuant to chapter 668 or (b) exempt from licensing. It does not include a mortgage broker or mortgage loan originator.

A "nonprime home loan" generally means any loan or extension of credit, except an open-end line of credit, certain insured or qualified mortgages, or a reverse mortgage, in which:

- the borrower is a natural person;

- the proceeds are to be used primarily for "personal family or household purposes";

- the loan is secured by a mortgage on a one- to four-family residential property that is located in Connecticut and that the borrower intends to use as a principal residence;

- the principal loan amount does not exceed $417,000;

- the loan is "not a CHFA loan"; and

- the loan meets certain interest-rate requirements.

Other statutory conditions apply to nonprime home loans.

INTEREST REQUIREMENTS

A state bank and trust company, a national banking association, or other specified financial institutions holding a mortgagor's funds in escrow for taxes and insurance premiums on Connecticut property is generally required to pay interest for each calendar year at a rate no less than the deposit index for that year rounded to the nearest one-tenth of one percent. The Banking Commissioner determines the deposit index and publishes it annually in the Department of Banking's news bulletin no later than December 15 of the preceding year.

Annually on December 31, a financial institution must credit interest payments toward each mortgagor's tax or insurance premium payments. If the mortgage is paid off before December 31 of any year, the institution must pay interest for that year to the payment date.

The Commissioner of Banking will adopt necessary regulations and specify the form mortgagees may use to report interest due pursuant to § 49-2a.

EXCEPTIONS

The above interest requirements apply only to mortgages on owner-occupied residential property consisting of no more than four living units or housing cooperatives occupied solely by the shareholders.

Also, financial institutions need not pay interest on escrow accounts if:

- there is a contract between the mortgagor and the mortgagee, entered into before October 1, 1975, which contains an express disclaimer of the mortgagee's obligation to pay interest;

- paying interest would violate a federal law or regulation;

- the accounts are maintained with a mortgage servicer that is not affiliated with or owned by the mortgagee, and the underlying written contract (or related mortgage agreement) was entered into before October 1, 1975, and does not permit the mortgage servicer to earn a return from its investment in the accounts;

- the accounts are maintained in connection with mortgage loans that were entered into on and after October 1, 1977, and before January 1, 1989, and that are serviced and held for sale for no more than one year by a mortgage servicer that is not affiliated with or owned by the mortgage loan purchaser; or

- the accounts are maintained in connection with mortgage loans that were entered into on and after January 1, 1989, and that are serviced and held for sale for no more than six months by a mortgage servicer, provided that servicer (a) pays interest on an escrow account maintained in connection with the mortgage loan if the loan is sold within the specified periods, and (b) continues to service the loan.

Interest is not required at a rate greater than 2 percent if:

- a contract between the mortgagor and the mortgagee entered into before October 1, 1977, contains an express agreement to pay interest at the rate of two percent per annum; or

- the accounts are maintained in connection with mortgage loans entered into before October 1, 1977, that are serviced and held for sale for no more than one year by a mortgage servicer that is not affiliated with or owned by the mortgage loan purchaser.

Statutory section 49-2b amended 2005; § 49-2c amended 2014; §§ 36a-760 and 36a-760d amended 2015; § 49-2a amended 2016; § 36a-26 enacted 2016.

Conn. Gen. Stat. Ann. §§ 49-2a, -2b, -2c; 36a-26, -760, -760d (2018)

Connecticut, Real Estate Loan Application Disclosure Requirements

ALTERNATIVE MORTGAGE LOANS

A Connecticut bank that offers or makes any type of alternative mortgage loan must disclose to each prospective mortgage loan applicant information concerning all types of mortgage loans offered by the bank. Each prospective applicant must have the choice of applying for a standard mortgage loan or any type of alternative mortgage loan offered.

MORTGAGE INSURANCE DISCLOSURES

If a mortgage lender requires a borrower to pay for mortgage insurance as a condition of making a first mortgage loan, it must disclose the following to the applicant in writing when the application is filed:

- that the purpose of the mortgage insurance is to protect the lender against loss if the borrower defaults;

- that mortgage insurance is required as a condition of obtaining the loan;

- under what conditions the lender may release the borrower from the obligation; and

- either (a) a good faith estimate of the initial or monthly cost of the required insurance; or (b) if the transaction is subject to the Federal Real Estate Settlement Procedures Act, that the cost of mortgage insurance will be disclosed with the good faith estimate of closing costs furnished in accordance with the Real Estate Settlement Procedures Act, the Truth-in-Lending Act, and related regulations.

These requirements do not apply to first mortgage loans insured or guaranteed by an agency of the federal, state, or municipal government or a quasi-governmental agency that requires mortgage insurance.

A mortgage lender must also disclose if it does not require mortgage insurance, but charges a higher interest rate for first mortgage loans in excess of an 80 percent loan-to-value ratio, if such is the case.

FEDERAL DISCLOSURE COMPLIANCE

A Connecticut bank making home purchase loans or home improvement loans must comply with the provisions of the Federal Home Mortgage Disclosure Act.

APPRAISAL FEE DISCLOSURES

A financial institution that charges an applicant a fee for an appraisal must, within 10 days after the appraisal report has been received or no later than the date the sale is consummated, either notify the applicant in writing of the availability of a copy of the appraisal report, or provide the applicant with a copy of the appraisal report at no charge.

INTERIM FINANCING DISCLOSURES

Creditors with a policy of not offering interim financing must disclose their policy to the applicant in plain written language when the mortgage loan application is filed. The applicant must sign the disclosure statement.

APPLICATION DISCLOSURES

When a mortgage loan application is filed, a creditor must notify the consumer debtor in writing and in plain language that:

- the debtor may have legal interests that differ from the creditor's interests;
- the creditor may not require the debtor to be represented by the creditor's attorney;
- the debtor may waive his or her right to be represented by an attorney; and
- the debtor may direct any complaints concerning violations of this requirement to the Department of Banking.

This notice must be:

- written in plain language; and
- signed by the consumer debtor to acknowledge receipt.

DISCLOSURES RELATED TO DISCRIMINATORY PRACTICES

Financial institutions must make certain disclosures to a federal agency regarding denied credit. A financial institution or a federal bank may not make any statement to a prospective applicant that would discourage a reasonable person from making an application for a loan to be secured by a one- to four-family owner-occupied, residential real property solely because the property is located in a low- or moderate-income neighborhood. Unless exempt, the financial institution must report on the federal home mortgage disclosure act loan application register the reason for denial in connection with each application subject to federal reporting that is denied credit.

MORTGAGE LENDERS

A mortgage lender, mortgage correspondent lender, or mortgage broker must obtain a statement, signed by the borrower, acknowledging receipt of a statement that discloses the full amount of any fee, commission or consideration paid to the mortgage lender, mortgage correspondent lender, or mortgage broker for all services in connection with a residential mortgage loan.

NONPRIME HOME LOANS

A lender must mail or deliver to applicants, no later than three business days after receipt of a completed application for a nonprime home loan, a notice containing a toll-free number that the borrower may use to obtain a list of nonprofit housing counselors approved by the United States Department of Housing and Urban Development.

Statutory section 36a-265 amended 2002; § 49-6d amended 1987; §§ 36a-738, 36a-755, and 49-6a amended 2008; § 36a-736 amended 2011; § 36a-726 amended 2015; § 36a-760e amended 2014; § 36a-493 amended 2018. Regulations amended 1996.

Conn. Gen. Stat. Ann. §§ 36a-265, -493, -726, -736, -738, -755, -760e; 49-6a, -6d (2018); Conn. Agencies Regs. §§ 36a-744-3, -4 (2019)

Connecticut, State Truth-In-Lending Credit Application Disclosure Requirements

No relevant provisions were located.

Delaware

Delaware, Bank Credit Application Disclosure Requirements

No general provisions specifically applicable only to banks were located.

SHORT-TERM CONSUMER LOANS

A bank may not make a short-term consumer loan unless the application, which must be written in both English and Spanish, contains a conspicuous disclosure that:

- the loan is designed as a short-term cash flow solution and not designed as a solution for longer term financial problems;
- additional fees may accrue if the loan is rolled over; and
- credit counseling services are available to consumers experiencing financial problems.

INSURANCE

A bank issuing insurance policies either directly or through a division or subsidiary, must disclose to all applicants:

- that the policies are not direct liabilities of the bank; and
- that only the assets of the issuing division or subsidiary apply to payments made under the policies.

A bank must also disclose simultaneously with every application for loan or credit in conjunction with which the institution offers to sell insurance, that the approval of the loan or credit may not be conditioned upon:

- the applicant's agreement to obtain additional credit, products or services from the bank or an affiliate;
- the applicant's agreement to provide additional credit, products or services to the bank an affiliate; or
- the applicant's agreement not to obtain other credit, products or services from any competing person or company.

Statutory section 930A enacted in 1990; § 978 enacted 2002. Regulation effective 1993.

Del. Code Ann. tit. 5, §§ 930A, 978 (2019); 5-903 Del. Code Regs. § 2.3 (2019)

Delaware, General Credit Application Disclosure Requirements

Delaware laws requiring credit disclosures by licensed lenders do not apply to banks.

Statutory section amended 1999.

See Del. Code Ann. tit. 5, § 2202 (2019)

Delaware, Mortgage Escrow Accounts

No relevant provisions were located.

Delaware, Real Estate Loan Application Disclosure Requirements

No generally applicable real estate loan application disclosure requirements were located.

However Delaware regulations contain a statement to "clarify how providers can offer subprime loans in a safe and sound manner that clearly discloses the risks that borrowers may assume." The Delaware statement is similar to the federal interagency "Subprime Statement," which applies to all banks and other financial institution, but non-depository institutions, such as independent mortgage lenders and mortgage brokers, must use the state's document when they originate subprime loans. Similar state disclosure provisions apply to non-depository institutions offering "nontraditional mortgage products." Neither of these state requirements apply to banks.

Regulations adopted 2007.

5-2108/2209 Del. Code Regs. §§ 1.2—.5; 5-2107/2208 Del. Code Regs. § 4.1 (2019)

Delaware, State Truth-In-Lending Credit Application Disclosure Requirements

Delaware has not enacted a state truth-in-lending act.

District of Columbia

District Of Columbia, Bank Credit Application Disclosure Requirements

No disclosure requirements applicable only to banks were located.

District Of Columbia, General Credit Application Disclosure Requirements

INSURANCE PREMIUM DISCLOSURES

In order for the credit life, accident, health or loss-of-income insurance premiums not to be considered interest,

- the lender must clearly and conspicuously disclose to the borrower that the lender does not require the insurance,
- the borrower must sign or initial a written request for the insurance after receiving the disclosure, and
- the lender must disclose to the borrower the terms and premiums for the insurance coverage.

Premiums for insurance against loss of or damage to property, or against liability arising from the ownership or use of property, are not considered interest only if the following conditions are met:

- the lender must clearly and conspicuously disclose to the borrower that the insurance coverage may be obtained from a source of the borrower's choice, subject to the lender's approval; and
- if the insurance is obtained from or by the lender, the term and amount of the premiums must be disclosed in a clear and conspicuous manner.

Statutory section amended 1984.

D.C. Code § 28-3311 (2019)

District Of Columbia, Mortgage Escrow Accounts

GENERAL REQUIREMENTS

A loan secured by a mortgage or deed of trust on residential real property must provide that a borrower who has made a down-payment of at least 20 percent of the property's purchase price or who has an equity interest in the property equal to or greater than 20% of the property's fair market value need not make advance payments of real estate taxes or casualty insurance premiums. The lender must provide the borrower with a separate written statement that clearly sets forth his right to pay the taxes and insurance premiums directly. However, during any period in which the loan is in default, the lender may require the borrower to make advance payments to enable the lender to have funds on hand for payment of taxes or insurance premiums.

INTEREST REQUIREMENTS

No provisions addressing interest on escrow accounts were located.

Statutory section amended 2011.

D.C. Code § 28-3301(f)(2) (2019)

District Of Columbia, Real Estate Loan Application Disclosure Requirements

MORTGAGE LENDER AND BROKER ACT DISCLOSURES

The disclosures required by the D.C. Mortgage Lender and Broker Act of 1996 do not apply to banks and other specified financial institutions. However, the District's "Mortgage Disclosure Amendment Act of 2007" requires a mortgage lender to provide to the borrower, within three business days of an application for a non-conventional mortgage loan, specific written disclosures executed by the lender.

RED FLAG DISCLOSURE NOTICE

A red flag disclosure must be sent for covered loans. A "covered loan" is a mortgage loan, secured by property located in the District (except certain federally or state insured or guaranteed mortgage loans or a reverse mortgage transaction), in which the terms of the mortgage loan are as follows:

- the loan is secured by a first mortgage on the borrower's principal dwelling and the annual percentage rate will exceed by more than 6 percent the yield on United States Treasury securities with comparable maturity periods as of the 15th of the immediately preceding month;

- the loan is secured by a junior mortgage on the borrower's principal dwelling and the annual percentage rate will exceed by more than 7 percent the yield on United States Treasury securities with comparable maturity periods measured as of the 15th of the immediately preceding month; or

- the origination or discount points and fees payable by the borrower at or before closing are more than 5% of the loan amount.

However, if the loan is made or purchased by a bank or other supervised institution, the term "covered loan" has the same meaning as a mortgage in the federal Truth-in-Lending Act and related regulations.

A lender making a covered loan must send to the borrower a Red Flag Warning Disclosure Notice. The borrower must receive the notice at least three business days before closing. The notice form is set forth in the Appendix to D.C. Mun. Regs., tit. 26-C, § 2005. The notice requirement is satisfied if a mortgage broker or lender sends the disclosure notice to the borrower, whether or not it is sent on behalf of a specific lender.

APPLICATION OF FEDERAL TRUTH-IN-LENDING PROVISIONS

For a loan or financial transaction secured by a mortgage or deed of trust on residential property, the lender must furnish the borrower, before the loan is executed, with:

- a separate written statement that complies with the disclosure provisions of the Federal Truth-in-Lending Act; and

- as applicable, a separate written statement that complies with the disclosure provisions of the Federal Alternative Mortgage Transaction Parity Act of 1982.

Statutory section 28-3301 amended 2011, § 26-1152.11 enacted 2002, § 26-1151.01 amended 2004; §§ 26-1102 and 26-1113 amended 2009. Regulation adopted 2002.

D.C. Code §§ 28-3301(f)(3); 26-1102, -1113(a-1), -1152.11, -1151.01(7)(A) (2019); D.C. Mun. Regs., tit. 26-C, § 2005 (West 2019)

District Of Columbia, State Truth-In-Lending Credit Application Disclosure Requirements

The District of Columbia has not enacted a truth-in-lending act.

Florida

Florida, Bank Credit Application Disclosure Requirements

No disclosure requirements applicable only to banks were located.

Florida, General Credit Application Disclosure Requirements

The disclosure requirements contained in the Florida Consumer Finance Act do not apply to banks.

Statutory section amended 2006.

See Fla. Stat. § 516.02(4) (2019)

Florida, Mortgage Escrow Accounts

GENERAL REQUIREMENTS

A lender of loans secured by a mortgage on Florida real estate who receives funds in escrow for property taxes or hazard insurance premiums, must promptly pay the taxes or insurance premiums when due if adequate escrow funds are deposited. If an escrow account is deficient, the lender must notify the property owner within 15 days after the lender receives the notification of taxes due from the county tax collector or receives the notification from the insurer that a premium is due.

If the lender fails to pay any tax or insurance premium when due and there are sufficient escrow funds on deposit, then the lender is liable for any loss resulting to the owner in an amount not to exceed the coverage limits of the lapsed insurance policy. If the lender does not promptly make a premium payment, but the payment is not more than 90 days overdue, the insurer must reinstate the insurance policy and the lender must reimburse the property owner for any resulting penalties or fees. If the premium payment is more than 90 days overdue or the insurer refuses to reinstate the policy, the lender must pay the difference between the cost of the previous policy and the cost of a new, comparable policy for two years. If the lender refuses to pay, it is liable to the property owner for reasonable attorneys' fees and costs.

Statutory section amended 2006.

Fla. Stat. § 501.137 (2019)

Florida, Real Estate Loan Application Disclosure Requirements

INSURANCE

When negotiations for a mortgage loan begin, but before the borrower pays any formal loan application or application fee, the mortgagee must notify the mortgagor of his or her rights regarding insurance. The notice must be in writing, the mortgagee must obtain and retain a copy of the signed notice, and the notice must

conform to Fla. Admin. Code Ann. r. 4124.013. The notice must contain an anticoercion statement in the following form:

> The Insurance Laws of this state provide that the lender may not require the borrower to take insurance through any particular insurance agent or company to protect the mortgaged property.
>
> The borrower, subject to the rules adopted by the Insurance Commissioner, has the right to have the insurance placed with an insurance agent or company of his choice, provided the company meets the requirements of the lender. The lender has the rights to designate reasonable financial requirements as to the company and the adequacy of the coverage.
>
> I have read the foregoing statement, or the rules of the Insurance Commissioner relative thereto, and understand my rights and privileges and those of the lender relative to the placing of such insurance.
>
> I have selected the _____ Insurance Agency, or _____ Insurance Company to write the hazard insurance covering property located at: _____.

MORTGAGE LENDERS

The disclosure requirements applicable to mortgage lenders, which were revised in 2007 to include additional disclosures regarding changes in the terms of a mortgage loan, do not apply to depository institutions or other specified persons.

Statutory section 494.00115 amended 2018; § 494.0038 amended 2014. Regulatory sections repromulgated 1974.

Fla. Stat. §§ 494.00115, .0038 (2019); Fla. Admin. Code Ann. r. 69B-124.002, .013; 69O-124.002, .013 (2019)

Florida, State Truth-In-Lending Credit Application Disclosure Requirements

Florida has not enacted a state truth-in-lending act.

Georgia

Georgia, Bank Credit Application Disclosure Requirements

No disclosure requirements applicable only to banks were located.

Georgia, General Credit Application Disclosure Requirements

No state laws containing general credit disclosure requirements were located.

Georgia, Mortgage Escrow Accounts

Although Georgia statutes provide that the department may promulgate rules regarding escrow accounts, no relevant rules were located.

Statutory section amended 2009.

See Ga. Code Ann. § 7-1-1015 (LexisNexis 2019)

Georgia, Real Estate Loan Application Disclosure Requirements

Georgia statutes establishing disclosure requirements for mortgage lenders, originators, or brokers apply to licensees or registrants, which include banks. Before accepting an application fee or any third-party fee, a bank must disclose to each mortgage loan applicant the fees payable and the conditions under which the fees may be refundable. Also, a mortgage lender must make available to each mortgage loan applicant at or before the time of commitment a written disclosure of the fees to be paid in connection with the loan commitment or the manner in which the fees will be determined and the conditions under which the fees may be refunded.

Georgia regulations expand on the disclosure requirement. Every mortgage broker or mortgage lender must make the following written disclosures to residential mortgage loan applicants:

- within three business days of receiving the application, but no later than seven business days before the loan is settled or closed, a loan estimate, as required by federal law;
- no later than three business days before settling or closing the loan, a closing agreement, as required by federal law;
- before accepting any fees, the amounts of all fees, including third-party fees;
- before accepting any fees, a statement regarding whether all or any part of any fee or charge is refundable before the loan is settled, and the terms and conditions for obtaining a refund, if available;

- before accepting any fees, the specific services that will be provided or performed in exchange for the application fee; and

- if the fees are "being accepted by a mortgage lender or mortgage broker that such lender or broker cannot guarantee approval of the loan application or acceptance into a particular loan program."

These disclosures:

- may appear on forms used to comply with otherwise applicable state or federal laws; and

- must be acknowledged in writing by the applicant.

The mortgage lender or mortgage broker must maintain a copy of the acknowledgment and give a copy of it to the applicant. Additional provisions apply to mail and phone applications.

A mortgage lender must also disclose to each mortgage loan borrower that failure to meet every condition of the mortgage loan may result in the loss of the borrower´s property. The borrower must sign the disclosure at or before closing.

Statutory section 7-1-1014 amended 2009; § 7-1-1001 amended 2019; § 7-1-1002 amended 2017. Regulation amended 2016.

Ga. Code Ann. §§ 7-1-1001 (as amended by 2019 Ga. Act 270, § 32), -1002(a), -1014 (LexisNexis 2019); Ga. Comp. R. & Regs. § 80-11-1-.01 (2019)

Georgia, State Truth-In-Lending Credit Application Disclosure Requirements

Georgia has not enacted a state truth-in-lending act.

Guam

Guam, Bank Credit Application Disclosure Requirements

No disclosure requirements applicable only to banks were located.

Guam, General Credit Application Disclosure Requirements

Guam's Uniform Consumer Credit Code provisions regarding disclosure were repealed by P.L. 16-73. Guam's regulations address the territory's reliance on federal disclosure requirements as follows:

> Under current federal law, the control of disclosure enforcement lies with the Federal Government and the provisions of such enforcement are contained under Regulation Z - Truth in Lending Act. This situation will continue until such time as Guam enacts an amendment to the present Guam Uniform Consumer Credit Code, bringing its disclosure standards up to those contained in federal legislation, the Federal Consumer Protection Act. After such amendment Guam can then become exempt under Federal Law by submitting this new program of enforcement for exemption certification. With such exemption, Guam will then have control over the enforcement of the disclosure provisions of the Code. Until such time, all disclosure requirements are governed and enforced by Federal Law.

Regulation dated 1997.

15 Guam Admin. R. & Regs. § 2106 (2019)

Guam, Mortgage Escrow Accounts

SCOPE AND APPLICATION

No relevant provisions were located.

INTEREST REQUIREMENTS

A bank must pay interest on home mortgage escrow accounts at a rate not less than that paid on regular passbook savings accounts, as calculated by each individual bank.

Also, a savings and loan association must "pay interest at a rate not less than that paid on regular passbook savings accounts as calculated by the individual savings and loans on Guam on home mortgage escrow accounts."

Statutory sections enacted 1979.

11 Guam Code Ann. §§ 106103, 130110 (2019)

Guam, Real Estate Loan Application Disclosure Requirements

No real estate loan application disclosure requirements were located.

Guam, State Truth-In-Lending Credit Application Disclosure Requirements

Guam has not enacted a truth-in-lending act. Guam's regulations address the territory's reliance on federal disclosure requirements as follows:

> Under current federal law, the control of disclosure enforcement lies with the Federal Government and the provisions of such enforcement are contained under Regulation Z - Truth in Lending Act. This situation will continue until such time as Guam enacts an amendment to the present Guam Uniform Consumer Credit Code, bringing its disclosure standards up to those contained in federal legislation, the Federal Consumer Protection Act. After such amendment Guam can then become exempt under Federal Law by submitting this new program of enforcement for exemption certification. With such exemption, Guam will then have control over the enforcement of the disclosure provisions of the Code. Until such time, all disclosure requirements are governed and enforced by Federal Law.

Regulation dated 1997.

15 Guam Admin. R. & Regs. § 2106 (2019)

Hawaii

Hawaii, Bank Credit Application Disclosure Requirements

No disclosure requirements applicable only to banks were located.

Hawaii, General Credit Application Disclosure Requirements

The Hawaii Credit Sales Act does not apply to most mortgage loans. A "credit sale" does not include a loan secured by real property in which the principal balance exceeds $25,000. If the act applies, the credit seller must include those disclosures set forth in §§ 476-3 and 476-4 in the credit sale contract, but no provisions apply to loan applications.

Statutory section amended 2008.

Haw. Rev. Stat. § 476-1 (2018)

Hawaii, Mortgage Escrow Accounts

No generally relevant provisions were located.

A mortgage servicer who receives funds to be held in escrow for taxes and insurance premiums must pay the borrower's taxes and insurance premiums to the appropriate entity and in the amount required and at the time the payments are due, in accordance with the Real Estate Settlement Procedures Act's requirements. If the amount in the escrow account as of the date the payments are due is insufficient, the mortgage servicer must pay the taxes and insurance premiums from the mortgage servicer's own funds if the borrower has paid the required amounts into the escrow account. If the mortgage servicer advances funds to pay a disbursement that is not the result of a borrower's payment default, the mortgage servicer must:

- conduct an escrow account analysis to determine the reasons for and the extent of the deficiency;
- provide a written explanation to the borrower before seeking repayment of the funds; and
- give the borrower the option of paying the shortage over a period of at least one year.

The mortgage servicer may not charge or collect interest on any shortage during the payment period.

Statutory section amended 2016.

Haw. Rev. Stat. § 454M-5(d) (2018)

Hawaii, Real Estate Loan Application Disclosure Requirements

Hawaii statutes establishing disclosure requirements for mortgage loan originators do not apply to an insured depository institution, an exempt registered mortgage loan originator (unless otherwise provided by chapter 454F), or an exempt sponsoring mortgage loan originator company, among others. An institution regulated by the Farm Credit Administration and "[e]mployees of government agencies or of housing finance agencies who act as mortgage loan originators" are also exempt from the state's mortgage-loan-originator disclosure requirements. No generally applicable provisions were located.

A seller of real property who offers or negotiates the terms of a residential mortgage loan that is financed by the seller and secured by the seller's real property need not comply with the disclosure requirements that apply to mortgage loan originators, provided the seller provides to the buyer the terms of the financing, including several specific provisions required by statute.

Statutory section amended 2016.

See Haw. Rev. Stat. § 454F-2 (2018)

Hawaii, State Truth-In-Lending Credit Application Disclosure Requirements

Hawaii has not enacted a state truth-in-lending act.

Idaho

Idaho, Bank Credit Application Disclosure Requirements

No disclosure requirements applicable only to banks were located.

Idaho, General Credit Application Disclosure Requirements

No state laws containing general disclosure requirements were located.

As of July 1, 2009, part 2 of the Idaho Residential Mortgage Practices Act, which applies to mortgage brokers and mortgage lenders, does not apply to banks.

FEDERAL LAW

A creditor must comply with the disclosures, information and notice requirements of the Federal Consumer Credit Protection Act with respect to those transactions to which the Act applies.

PREPAYMENT

The creditor must disclose any prepayment charge in a manner approved by the director.

Statutory section 28-43-201 enacted 1983, § 28-42-306 amended 1996, § 26-31-202 amended 2013.

Idaho Code §§ 26-31-202; 28-43-201, -42-306 (2019)

Idaho, Mortgage Escrow Accounts

MORTGAGE COMPANY REQUIREMENTS

Reserve account provisions that apply to mortgage companies do not apply to banks.

GENERAL REQUIREMENTS

No generally applicable provisions were located.

INTEREST REQUIREMENTS

No provisions addressing interest on escrow accounts were located.

Statutory section enacted 1990.

See Idaho Code § 26-2803 (2019)

Idaho, Real Estate Loan Application Disclosure Requirements

Pursuant to Idaho Residential Mortgage Practices Act regulations, upon receipt of a residential mortgage loan application and before receipt of any money from a borrower, a licensee under the Act must make available to each borrower information about the authorized services that the licensee may provide to a borrower. The licensee must also provide disclosures specific to the

residential mortgage loan application that comply with the Truth-in-Lending Act, Regulation Z, the Real Estate Settlement Procedures Act, and Regulation X.

Regulation amended 2016, reauthorized 2019.

Idaho Admin. Code r. 12.01.10.050 (2019)

Idaho, State Truth-In-Lending Credit Application Disclosure Requirements

FEDERAL COMPLIANCE

Idaho no longer has a state truth-in-lending act, but one of the underlying purposes and policies of the Idaho Credit Code is to conform the regulation of credit transactions to the policies of the Federal Consumer Credit Protection Act, including the Federal Truth-in-Lending Act.

Statutory section 28-41-102 enacted 1983; § 28-41-302 amended 2005.

See Idaho Code §§ 28-41-102; -302 (2019)

Illinois

Illinois, Bank Credit Application Disclosure Requirements

INSURANCE

A financial institution must clearly and conspicuously disclose in any written advertisement or informational material regarding an insurance product, that the insurance:

- is not a deposit;
- is not insured by the Federal Deposit Insurance Corporation;

- is not guaranteed by the financial institution or an affiliated insured depository institution; and

- if appropriate, involves investment risk, including potential loss of principal.

A financial institution that requires insurance in connection with a loan or a credit extension and that offers the insurance either directly or through an affiliate must clearly disclose the following to the customer at the time of written application or at closing if the financial institution does not obtain a written application:

> You may obtain insurance required in connection with your loan or extension of credit from any insurance agent, broker, or firm that sells such insurance. Your choice of insurance provider will not affect our credit decision or your credit terms.

This requirement does not apply to:

- direct or mass marketing to a group of persons in a manner that is not related to a customer's loan application or credit decision; or

- credit insurance, gap insurance, title insurance or insurance placed by a financial institution when a debtor breaches a contractual obligation to do so.

Statutory sections enacted 1997.

215 Ill. Comp. Stat. 5/1402, /1409, /1412 (2019)

Illinois, General Credit Application Disclosure Requirements

No state laws containing general credit disclosure requirements were located.

Although the interest limits set forth in 205/4a do not apply to banks, if interest is “contracted for or received under” § 205/4a, the bank may be required to disclose the following items to the borrower in a written statement before the loan closes:

- the loan amount and date;

- the amount of loan credit;

- every deduction from the amount financed or payment made for insurance and the type of insurance;

- every other deduction from the loan or payment made by the borrower in connection with obtaining the loan;

- the date on which the finance charge begins to accrue;

- the total loan charge amount;

- the finance charge expressed as an annual percentage rate;

- the number, amount and due dates of payments scheduled to repay the loan and the sum of the payments;

- the amount or method of computing any default or delinquency charges payable on late payments;

- the borrower's right to prepay the loan and the fact that prepayment will reduce the loan charge;

- a description of any security interest held by the lender in connection with the loan and a clear identification of the property to which the security interest relates;

- a description of any penalty charge that the lender may impose for prepayment with an explanation of the computation method and the conditions under which it may be imposed; and

- unless the contract provides otherwise, an identification of the method of computing any unearned portion of the finance charge upon prepayment.

The above disclosures must be made clearly, conspicuously, and in meaningful sequence on either:

- the note or other instrument evidencing the obligation on the same side of the page and above or adjacent to the place for the obligor's signature; or

- one side of a separate statement that identifies the transaction.

A lender or creditor who complies with the Federal Truth-in-Lending Act is deemed to be in compliance with the above provisions.

Effective July 16, 2014, the terms "real estate" and "real property," when used in this context, include a manufactured home that is real property.

Statutory section amended 2014.

815 Ill. Comp. Stat. 205/4a (2019)

Illinois, Mortgage Escrow Accounts

GENERAL REQUIREMENTS

No agreement for the mortgage of a single-family residence may require the mortgagor to maintain in an escrow account for real property taxes an amount greater than 150 percent of the previous year's assessed real property tax, except in the first year of the mortgage.

Instead of a mortgage lender establishing an escrow account or an "escrow-like arrangement," a borrower may pledge an interest-bearing time deposit with the mortgage lender in an amount sufficient to secure the payment of anticipated taxes. However, this provision does not apply to:

- mortgage loans made by a subprime mortgage lender in compliance with the requirements for higher-priced mortgage loans established in Regulation Z, whether or not the mortgage loan is a higher-priced mortgage loan, provided that (a) for loans that *are not* higher-priced mortgage loans, the escrow account must be terminated upon the borrower's request at no cost to the borrower, and (b) for loans that *are* higher-priced mortgage loans, the escrow account must be terminated upon the borrower's request at no cost to the borrower on terms no stricter than those set forth in 765 Ill. Comp. Stat. Ann. 910/6.5; or

- a refinance or modification made by a subprime mortgage lender under a homeownership preservation program that requires an escrow account, provided that the escrow account must be terminated upon the borrower's request at no cost to the borrower on terms no stricter than those set forth by statute.

When the mortgage is reduced by timely payments to 65 percent of its original amount and if the borrower is not in default, the lender must notify the borrower that he may terminate the escrow account or elect to continue it until the earlier of the date he requests its termination or the mortgage is paid in full. The borrower does not have the right to terminate the escrow arrangement in conjunction with mortgages insured, guaranteed, supplemented, or assisted by Illinois or the federal government that require an escrow arrangement.

If, after terminating an escrow arrangement, the borrower does not furnish to the lender sufficient evidence of payment of the taxes when due, the lender, after attempting to verify nonpayment, may establish or reestablish an escrow arrangement.

The above provisions do not apply to a mortgage lender using the capitalization method of accounting for receipt of tax payments. The required disclosures must be furnished in writing to the borrower at closing.

INTEREST REQUIREMENTS

No provisions addressing interest on escrow accounts were located.

Statutory section 910/2 amended 2006; §§ 910/5, 910/7, 910/8, 910/10, and 910/11 effective 1976; § 910/6 amended 1986; § 915/1 enacted 1975; § 910/6.5 enacted 2009.

765 Ill. Comp. Stat. 910/2, /5, /6, /6.5, /7, /8, /10, /11; 915/1 (2019)

Illinois, Real Estate Loan Application Disclosure Requirements

FEDERAL COMPLIANCE

A lender must disclose the existence of its security interest in real property or in a beneficial interest in a land trust to the borrower in compliance with the Federal Truth-in-Lending Act.

INSURANCE

If a lender requires private mortgage insurance for a mortgage on a principal residence, the mortgagee must disclose in writing:

- whether private mortgage insurance will be required;
- the period during which the insurance must be in effect;
- the conditions under which the mortgagor may cancel; and
- that the mortgagor will be notified at least annually of an address and telephone number that may be used to contact the mortgagee to determine whether or not the insurance may be terminated and, if the insurance may be terminated, the termination conditions and procedures.

HIGH-RISK HOME LOAN

A lender may not offer or make a high-risk home loan unless it has given the following notice (or a substantially similar notice) in writing, to the borrower:

> NOTICE TO BORROWER: YOU SHOULD BE AWARE THAT YOU MIGHT BE ABLE TO OBTAIN A LOAN AT A LOWER COST. YOU SHOULD SHOP AROUND AND COMPARE LOAN RATES AND FEES. LOAN RATES AND CLOSING COSTS AND FEES VARY BASED ON MANY FACTORS, INCLUDING YOUR PARTICULAR CREDIT AND FINANCIAL CIRCUMSTANCES, YOUR EMPLOYMENT HISTORY, THE LOAN-TO-VALUE REQUESTED, AND THE TYPE OF PROPERTY THAT WILL SECURE YOUR LOAN. THE LOAN RATE AND FEES COULD ALSO VARY BASED ON WHICH LENDER OR BROKER YOU SELECT. IF YOU ACCEPT THE TERMS OF THIS LOAN, THE LENDER WILL HAVE A MORTGAGE LIEN ON YOUR HOME. YOU COULD LOSE YOUR HOME AND ANY MONEY YOU PUT INTO IT IF YOU DO NOT MEET YOUR PAYMENT OBLIGATIONS UNDER THE LOAN. YOU SHOULD CONSULT AN ATTORNEY-AT-LAW AND AN APPROVED CREDIT COUNSELOR OR OTHER EXPERIENCED FINANCIAL ADVISOR REGARDING THE RATE, FEES, AND PROVISIONS OF THIS LOAN BEFORE YOU PROCEED. A LIST OF APPROVED CREDIT COUNSELORS IS AVAILABLE BY CONTACTING EITHER THE ILLINOIS DEPARTMENT OF FINANCIAL INSTITUTIONS OR THE ILLINOIS OFFICE OF BANKS AND REAL ESTATE. YOU ARE NOT REQUIRED TO COMPLETE THIS LOAN AGREEMENT MERELY BECAUSE YOU HAVE RECEIVED THIS DISCLOSURE OR HAVE SIGNED A LOAN APPLICATION. ALSO, YOUR PAYMENTS ON EXISTING DEBTS CONTRIBUTE TO YOUR CREDIT RATINGS. YOU SHOULD NOT ACCEPT ANY ADVICE TO IGNORE YOUR REGULAR PAYMENTS TO YOUR EXISTING LENDERS.

The borrower must acknowledge receipt of the notice in writing.

BORROWER INFORMATION DOCUMENT

Illinois regulations provide that before a mortgage loan applicant signs a completed residential mortgage loan application or gives a residential mortgage licensee any consideration, whichever comes first, the licensee must give the potential customer a Borrower Information Document. The following information must be included in the document:

- the following Regulatory Disclosure Statement: "This document is being provided to you pursuant to the Residential Mortgage License Act of 1987 and Rules promulgated thereunder (38 Ill. Adm. Code 1050). The purpose of this document is to set forth those exhibits and materials you should receive or be receiving in connection with your residential mortgage loan application with (name of licensee), holder of License (license number) and regulated by the State of Illinois, Division of Banking, under the aforesaid Act";

- "significant information" regarding the situations that could affect processing the loan but that may not be known at the time the licensee took the application, including

- an appraisal value different from the borrower's estimate;

- unreported credit obligations;

- a change in the borrower's financial circumstances; or

- a material change or discontinuation of a loan program;

- a "Your Home Loan Toolkit", if the mortgage is related to the purchase of the security real estate (a 2017 amendment replaced the previously required "Settlement Cost Booklet" with "Your Home Loan Toolkit");

- a good-faith or loan cost estimate;

- a copy of the loan application;

- if the mortgage is not FHA-insured or VA-guaranteed and relates to the purchase of owner-occupied, single-family real estate, unless it is certain that the lender will not require an escrow account for tax payments, a copy of the Mortgage Escrow Account Act and the document to be executed at closing regarding the use of a pledged time deposit account instead of an escrow account pursuant to that Act;

- if the mortgage is an adjustable-rate mortgage representing a first-lien on the real estate, the "Consumer Handbook on Adjustable Rate Mortgages";

- upon the applicant's request,
    - a sample of the note form and mortgage that will be executed; and

    - a general description of underwriting standards; and
- a provision for an applicant to acknowledge receipt of the required disclosures and the date.

MORTGAGE BROKERS AND RESIDENTIAL MORTGAGE LICENSEES

A mortgage broker generally must disclose to borrowers "all material facts of which the mortgage broker has knowledge which might reasonably affect the borrower's rights, interests, or ability to receive the borrower's intended benefit from the residential mortgage loan, but not facts which are reasonably susceptible to the knowledge of the borrower."

A residential mortgage licensee must disclose the discount a borrower will receive in consideration for a mortgage loan with a prepayment penalty.

If a licensee making, providing or arranging a mortgage loan discusses the subject of refinancing with a future loan, the licensee must disclose the circumstances under which a new loan could be considered. The disclosure must clearly state:

- that it is not a contract; and

- that the licensee is "not representing or promising that a new loan could or would be made at any time in
the future."

Effective December 19, 2018, a licensee must provide timely notice to the borrower of any material changes in the terms of the loan prior to the loan closing, which includes:

- a change in the type of loan being offered;

- a change in the term of the loan as reflected in the number of monthly payments;

- an increase of more that 0.15 percent in the interest rate, or an equivalent increase in the discount points charged;

- an increase of more than 5.0 percent in the regular monthly payment of principal and interest;

- a change in the requirement or amount of escrow of taxes or insurance;

- a change regarding private mortgage insurance;

- an increase of more than 10 percent or $100, whichever is greater, in any fees payable to the licensee.

These disclosure requirements related to disclosure of pre-closing changes do not apply to a licensee providing a notice of change in loan terms pursuant to the federal Consumer Financial Protection Bureau's Know Before You Owe mortgage disclosure procedure pursuant to the federal Truth in Lending Act and the federal Real Estate Settlement Procedures Act.

Statutory section 205/4.1 amended 2012; § 137/95 effective 2004; §§ 635/5-7, 635/5-8, and 635/5-12 enacted 2007; 635/5-9 enacted 2018. Regulation amended 2017.

815 Ill. Comp. Stat. 205/4.1, 137/95; 205 ILCS 635/5-7, -8, -9 -12 (2019); Ill. Admin. Code tit. 38, § 1050.1110 (2019)

Illinois, State Truth-In-Lending Credit Application Disclosure Requirements

Illinois has not enacted a state truth-in-lending act.

Indiana

Indiana, Bank Credit Application Disclosure Requirements

No disclosure requirements applicable only to banks were located.

Indiana, General Credit Application Disclosure Requirements

INDIANA CONSUMER CREDIT CODE

Scope

Indiana has enacted the Indiana Consumer Credit Code, which applies to consumer sales, leases and loans made in Indiana. "Consumer loan" is defined as a loan made by a person in the business of making loans in which:

- the debtor is a natural person;
- the debt is primarily for personal, family or household purposes;

- either the debt is payable in installments or a loan credit service charge is made; and

- either (1) the amount of credit extended, the written credit limit, or the initial advance does not exceed the exempt threshold amount, as adjusted according to the "annual adjustment of the exempt threshold amount, specified in Regulation Z", or (2) the debt is secured by an interest in land or by personal property that is the debtor's principal dwelling.

A "consumer loan" does not include a "first lien mortgage transaction," unless the loan is made subject to Ind. Code Ann. § 24-4.5-3 by agreement. "First lien mortgage transaction" is defined to include both a consumer loan and a consumer credit sale that the debtor will use "primarily for personal, family, or household purposes and that is secured by a mortgage or a land contract (or another consensual security interest equivalent to a mortgage or a land contract) that constitutes a first lien on a dwelling or on residential real estate upon which a dwelling is constructed or intended to be constructed."

Federal law

A lender must disclose to the debtor all information required by the Federal Truth-in-Lending Act.

Insurance

If the lender charges an additional fee for property insurance, the lender must furnish a clear and specific statement to the debtor in writing:

- setting forth the cost of the insurance if obtained through the lender;

- stating that the debtor may choose an alternative insurer, subject to the lender's reasonable approval; and

- for consumer credit insurance providing life, accident, unemployment, other loss of income or health coverage, the lender must disclose that the coverage is not a factor in the credit approval decision.

Solicitation

A lender soliciting loans using a negotiable check, facsimile or other negotiable instrument that a consumer may use to activate a new loan must conspicuously disclose the following in 10-point type:

"This is a solicitation for a loan. Read the enclosed disclosures before signing this agreement."

Statutory section 24-4.5-3-606 enacted 1999; § 24-4.5-3-301 amended 2010; § 24-4.5-1-201 amended 2013; § 244.5-3-301 amended 2017; § 24-4.5-1-301.5 amended 2019; 24-4.5-3105 amended 2018; § 24-4.5-3-202 amended 2019.

Ind. Code §§ 24-4.5-1-201(1), -301.5; -3-105, -202, -301, -606 (2019)

Indiana, Mortgage Escrow Accounts

No generally relevant provisions were located.

FIVE-STAR MORTGAGES

To qualify as a five-star mortgage, a mortgage must include, among other terms and conditions, an escrow account that:

- is established by the creditor, or a person acting on the creditor's behalf, for the debtor's benefit;

- is maintained by the creditor, or a person acting on behalf of the creditor, during the life of the mortgage; and

- is used to pay taxes and insurance owed with respect to the mortgaged dwelling.

The above requirements do not apply if the creditor does not "regularly establish and maintain, or contract for the establishment and maintenance of, escrow accounts for the payment of taxes and insurance, on behalf of the creditor's customers."

Statutory section amended 2014.

Ind. Code § 24-5-23.6-9 (2019)

Indiana, Real Estate Loan Application Disclosure Requirements

GENERAL REQUIREMENTS

See "General Credit Application Disclosure Requirements" for disclosure requirements that apply to real estate loans subject to the Consumer Credit Code.

HIGH-COST LOAN DISCLOSURE REQUIREMENTS

High-cost loan disclosure requirements do not apply to banks.

Except for home loans that are closed after June 30, 2009, and have an interest rate that is subject to change during the loan term, a creditor may not include a prepayment penalty fee in a high cost home loan unless the creditor offers the borrower the option of choosing a loan product without a prepayment fee. The document containing the offer must be clearly labeled in large bold type and include the following disclosure:

LOAN PRODUCT CHOICE

I was provided with an offer to accept a product both with and without a prepayment penalty provision. I have chosen to accept the product with a prepayment penalty.

FIRST-LIEN MORTGAGES

Indiana's First Lien Mortgage Lending Act provides that a creditor must comply with the "disclosure requirements applicable to first lien mortgage transactions in the Consumer Credit Protection Act," unless the transaction is exempt from the act.

Statutory sections 24-9-1-1 and 24-9-4-1 amended 2009; § 24-4.4-2-202 amended 2017.

Ind. Code §§ 24-9-1-1, -4-1(4); 24-4.4-2-202 (2019)

Indiana, State Truth-In-Lending Credit Application Disclosure Requirements

Lenders in a transaction subject to the Indiana Consumer Credit Code must disclose the information required by the Consumer Protection Act (15 U.S.C. § 1602 *et seq.*). This requirement applies to a loan that is a first lien mortgage transaction if the loan is otherwise a consumer loan. Indiana has not adopted separate truth-in-lending provisions.

Statutory section amended 2017.

Ind. Code § 24-4.5-3-301 (2019)

Iowa

Iowa, Bank Credit Application Disclosure Requirements

The Iowa Banking Act, Chapter 524, authorizes state banks to make permanent loans and construction loans secured by real estate. The loans are subject to rules adopted by the state superintendent of banking under the Iowa Administrative Procedure Act, which are intended to ensure, among other things, full and fair disclosure to borrowers of relevant loan provisions, including those:

- permitting change or adjustment of loan terms;

- permitting, requiring or prohibiting repayment by other than equal periodic installments of interest plus principal over a fixed term;

- imposing penalties for the borrower's noncompliance with loan terms; or

- allowing or requiring a borrower to choose between alternative courses of action during the loan term.

Statutory section amended 1983.

Iowa Code Ann. § 524.905(1) (2019)

Iowa, General Credit Application Disclosure Requirements

FEDERAL DISCLOSURE COMPLIANCE

The following consumer transactions must comply with the disclosure and notice requirements of the Federal Truth-in-Lending Act:

- a consumer credit sale of an interest in land;

- a consumer loan secured by an interest in land, regardless of the finance charge; and

- a loan in which the credit terms are varied.

INSURANCE DISCLOSURES

Property insurance

An additional charge may be made in a consumer transaction for insurance against loss of or damage to property or liability arising out of the property, only if the creditor furnishes a clear, conspicuous and specific written statement to the consumer

- setting forth the cost of the insurance if obtained from or through the creditor, and

- stating that the consumer may choose the person through whom he obtains the insurance.

Credit insurance

An additional charge may be made for consumer credit insurance coverage, only if

- the creditor does not require the coverage,

- this fact is clearly and conspicuously disclosed in writing to the consumer, and

- in order to obtain the insurance, the consumer gives a specific, affirmative written indication of his desire to purchase after the creditor gives the consumer a written disclosure of the cost.

Rate disclosures

A creditor may not state the finance charge rate to a consumer, in response to any inquiry or in any advertisement, in the form of an add-on or discount rate. The rate must be calculated according to the actuarial method as a percent per year on the unpaid balances of the amount financed or as the annual percentage rate required to be disclosed under the federal Truth-in-Lending Act.

Statutory section 537.3102 amended 2001; §§ 537.3201 and 537.3210 amended 1981; § 537.2501 amended 2019.

Iowa Code Ann. §§ 537.2501, .3102, .3201, .3210 (2019)

Iowa, Mortgage Escrow Accounts

GENERAL REQUIREMENTS

A lender may require a borrower to deposit money without interest in an escrow account for insurance premiums, property taxes and special assessments. Any lender who requires an escrow account may not require, as a condition to making a loan, that the borrower negotiate an insurance policy through a particular insurer, agent or broker. In this context, "loan" means a loan of money to be used to purchase single- or two-family real property to be occupied by the borrower, including the refinancing and assumption of a prior loan.

BANKS

A bank may require a borrower to pay each month 1/12 of the estimated annual real estate taxes, special assessments, hazard insurance premium, mortgage insurance premium, or any other payment agreed to by the borrower. A bank that maintains an escrow account must deliver to the mortgagor a written annual accounting of all transactions made with respect to the loan and escrow account.

INTEREST REQUIREMENTS

Although a lender generally need not pay interest on an escrow account pursuant to § 535.8, a bank receiving funds pursuant to an escrow agreement executed on or after July 1, 1982, in connection with a loan (as defined above), must pay interest to the borrower, calculated on a daily basis, at the rate the bank pays on funds in ordinary savings accounts.

Statutory section 524.905 amended 1983; § 507B.5 amended 2015; § 535.8 amended 2018.

Iowa Code Ann. §§ 507B.5(1)(a); 524.905; 535.8 (2019)

Iowa, Real Estate Loan Application Disclosure Requirements

ALTERNATIVE MORTGAGE LOANS

A financial institution that offers or makes an alternative mortgage loan must include in any disclosure of the rates or availability of mortgage loans, the rates and availability of reverse annuity mortgages or graduated payment mortgage loans, if and when such loans are offered. A prospective mortgage loan applicant must have the choice of applying for a mortgage loan or any type of alternative mortgage loan offered by the financial institution. In this context, "alternative mortgage loan" means a mortgage loan that is either a reverse annuity mortgage loan or graduated payment mortgage loan, which is a mortgage loan in which any principal and interest payments and any additional advances are scheduled to reflect mortgagor's prospective increasing or decreasing income.

Statutory section 528.5 enacted 1989; § 528.2 amended 2012.

Iowa Code Ann. §§ 528.2, .5 (2019)

Iowa, State Truth-In-Lending Credit Application Disclosure Requirements

Iowa has not enacted a state truth-in-lending act that is specifically related to loans secured by real property.

Kansas

Kansas, Bank Credit Application Disclosure Requirements

No application disclosure requirements applicable only to banks were located.

Kansas, General Credit Application Disclosure Requirements

CONSUMER CREDIT CODE

The Kansas Consumer Credit Code does not specifically address application disclosures. However, it does provide that a written agreement evidencing a consumer credit transaction other than open-end credit must contain a notice that the consumer:

- should not sign the agreement before reading it;

- is entitled to a copy of the agreement; and

- may prepay the unpaid balance at any time without penalty.

The Consumer Credit Code applies to consumer loans, which are loans made by a person regularly engaged in the business of making loans in which:

- the debtor is an individual;

- the debt is primarily for personal, family or household purposes;

- either the debt is payable by written agreement in more than four installments or a finance charge is made; and

- either the amount financed does not exceed $25,000 or the debt is secured by an interest in land.

However, unless the loan is made subject to the uniform consumer credit code by written agreement, a "consumer loan" does not include a loan secured by a first mortgage unless the loan-to-value ratio of the loan is greater than 100%, or the annual percentage rate of the loan exceeds the code mortgage rate.

Statutory section 16a-3-202 amended 1974; § 16a-1-301 amended 2006.

Kan. Stat. §§ 16a-1-301, -3-202 (2018)

Kansas, Mortgage Escrow Accounts

No generally applicable provisions were located. However, a purchasing lender requiring an escrow account must provide to the mortgagor annually on or before February 15 a summary of all transactions involving the escrow account.

Statutory section enacted 1988.

Kan. Stat. § 58-2339 (2018)

Kansas, Real Estate Loan Application Disclosure Requirements

No generally applicable real estate loan application disclosure requirements were located.

MORTGAGE BUSINESS

Banks and other specified financial institutions are exempt from the mortgage business disclosure requirements.

Statutory section amended 2016.

See Kan. Stat. § 9-2202 (2018)

Kansas, State Truth-In-Lending Credit Application Disclosure Requirements

Most of the Kansas truth-in-lending act was repealed in 1973, and none of the remaining provisions are relevant to this survey.

Kentucky

Kentucky, Bank Credit Application Disclosure Requirements

No application disclosure requirements applicable only to banks were located.

Kentucky, General Credit Application Disclosure Requirements

No state laws containing general credit disclosure requirements were located.

Kentucky, Mortgage Escrow Accounts

MORTGAGE LOAN COMPANIES

Scope and application

Kentucky statutes that regulate mortgage loan company escrow accounts do not apply to the following, among numerous others:

- regulated banks and other specified financial institutions;
- a natural person who makes a mortgage loan secured that person's residence, unless he or she is compensated by a mortgage loan company, mortgage loan broker, or other mortgage loan originator;
- a natural person who makes a mortgage loan to an immediate family member, unless the natural person is compensated by a mortgage loan company, mortgage loan broker, or other mortgage loan originator;
- a person other than a natural person that makes no more than four mortgage loans within a calendar year "with its own funds and secured by residential real property owned by the person making the mortgage loan, provided that the mortgage loan is made without the intent to resell the mortgage loan, and provided that the person does not hold itself out to the public as being primarily in the mortgage loan business";
- the United States of America, Kentucky, or other political subdivision; and
- the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Government National Mortgage Association.

General requirements

Payments for taxes or insurance premiums on property securing a loan made or serviced by a mortgage loan company must be promptly deposited in an escrow account. Upon reasonable notice, the mortgage loan company must account for funds paid to the account. The mortgage loan company must make insurance premium and other payments in a timely manner.

Interest requirements

Interest on funds in the escrow account held by a mortgage loan company belongs to the borrower and must be applied to expenses paid from the account.

High-cost home loans

A lender may not make a high-cost home loan that does not require an escrow account for taxes and insurance.

Statutory sections 286.8-130 and 360.100 amended 2010; § 286.8-020 amended 2012.

Ky. Rev. Stat. §§ 286.8-020, -130; 360.100 (2019)

Kentucky, Real Estate Loan Application Disclosure Requirements

MORTGAGE LOAN COMPANIES

Banks are exempt from chapter 286.8, which requires certain disclosures by mortgage loan companies, mortgage loan brokers, and other specified persons.

HIGH-COST HOME LOANS

Scope

A "high-cost home loan" is a loan, other than open-end credit or a reverse mortgage, in which:

- the principal amount of the loan exceeds $15,000, but does not exceed $200,000;
- the borrower is an individual;
- the debt is incurred primarily for personal, family, or household purposes;
- the loan is secured by a mortgage on the borrower's principal dwelling or collateral that has a mortgage lien interest in the borrower's principal dwelling; and
- the loan at closing is considered a "mortgage" under § 152 of the federal Home Ownership and Equity Protection Act of 1994.

Disclosure

A lender may not make a high-cost home loan unless it has provided the borrower the following written notice no later than the time notice is required pursuant to 12 C.F.R. § 226.31(c):

> NOTICE TO BORROWER
>
> IF YOU OBTAIN THIS LOAN, THE LENDER WILL HAVE A MORTGAGE ON YOUR HOME. YOU COULD LOSE YOUR HOME AND ANY MONEY YOU PUT INTO IT IF YOU DO NOT MEET YOUR OBLIGATIONS UNDER THE LOAN.

MORTGAGE LOAN RATES AND CLOSING COSTS AND FEES VARY BASED ON MANY FACTORS, INCLUDING YOUR PARTICULAR CREDIT AND FINANCIAL CIRCUMSTANCES, YOUR EMPLOYMENT HISTORY, THE LOAN-TO-VALUE REQUESTED AND THE TYPE OF PROPERTY THAT WILL SECURE YOUR LOAN. THE LOAN RATE AND FEES COULD ALSO VARY BASED ON WHICH LENDER OR BROKER YOU SELECT. YOU SHOULD SHOP AROUND AND COMPARE LOAN RATES AND FEES.

YOU SHOULD ALSO CONSIDER CONSULTING A QUALIFIED INDEPENDENT CREDIT COUNSELOR OR OTHER EXPERIENCED FINANCIAL ADVISOR REGARDING THE RATE, FEES, AND PROVISIONS OF THIS MORTGAGE LOAN BEFORE YOU PROCEED. YOU SHOULD CONTACT THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR A LIST OF CREDIT COUNSELORS AVAILABLE IN YOUR AREA.

YOU ARE NOT REQUIRED TO COMPLETE THIS LOAN AGREEMENT MERELY BECAUSE YOU HAVE RECEIVED THESE DISCLOSURES OR HAVE SIGNED A LOAN APPLICATION.

REMEMBER, PROPERTY TAXES AND HOMEOWNER'S INSURANCE ARE YOUR RESPONSIBILITY. NOT ALL LENDERS PROVIDE ESCROW SERVICES FOR THESE PAYMENTS. YOU SHOULD ASK YOUR LENDER ABOUT THESE SERVICES.

ALSO, YOUR PAYMENTS ON EXISTING DEBTS CONTRIBUTE TO YOUR CREDIT RATINGS. YOU SHOULD NOT ACCEPT ANY ADVICE TO IGNORE YOUR REGULAR PAYMENTS TO YOUR EXISTING CREDITORS.

No lender may make, provide, or arrange a high-cost home loan with a prepayment penalty unless:

- the lender offers the borrower a loan without a prepayment penalty;
- the offer is in writing; and

- the borrower initials the offer to indicate that the borrower has declined the offer.

The lender must disclose the discount rate received in consideration for a high-cost home loan with the prepayment penalty.

LOANS BY NATURAL PERSONS

Unless explicitly exempt, a natural person who makes a mortgage loan with his or her own funds for that person's investment without the intent to resell the mortgage loan must make the following disclosure to the borrower on a separate sheet of paper in at least 18-point type:

> DISCLOSURE
>
> (Name and address of lender) is not licensed or regulated by the Kentucky Department of Financial Institutions.
>
> (Name of lender) is making this mortgage loan with his or her own funds, for the person's own investment, without intent to resell the mortgage loan.
>
> (The phone number and address of the Kentucky Department of Financial Institutions.)

The natural person must retain a copy of the signed disclosure "for a period not to exceed three (3) years after the date the mortgage loan is paid in full."

The following natural persons are exempt from the disclosure requirement:

- one who makes a mortgage loan secured by his or her residence, unless he or she is compensated in connection with the transaction by a mortgage loan company, broker, or originator; or

- one who makes a mortgage loan to his or her immediate family member, unless the natural person is compensated in connection with that transaction by a mortgage loan company, broker, or originator.

Statutory section 360.100 amended 2010; § 286.8-020 amended 2012.

Ky. Rev. Stat. §§ 360.100; 286.8-020 (2019)

Kentucky, State Truth-In-Lending Credit Application Disclosure Requirements

Kentucky has not enacted a state truth-in-lending act.

Louisiana

Louisiana, Bank Credit Application Disclosure Requirements

No application disclosure requirements applicable only to banks were located.

Louisiana, General Credit Application Disclosure Requirements

INSURANCE-RELATED DISCLOSURES

S.A.F.E. Residential Mortgage Lending Act

Louisiana's S.A.F.E. Residential Mortgage Lending Act is the "primary law governing residential mortgage loans." However, parties to a consumer loan that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or on residential immovable property upon which is constructed (or intended to be constructed) a dwelling, may agree by contract that the loan will be governed by the Louisiana Consumer Credit Law. Louisiana's Consumer Credit Law requires that if a lender provides credit insurance to a consumer, it must either:

- disclose the consumer's option to purchase the insurance coverage; or
- make federally required disclosures.

Financial Institution Insurance Sales Law

At the time a written application for insurance is made, a financial institution must obtain a signed separate written statement, acknowledging that the customer has received and understands that:

- he or she is not required to purchase insurance through the financial institution; and

- the "customer's choice of another insurance provider will not affect the financial institution's credit decision or credit terms in any way."

The financial institution must give the customer this disclosure when it first informs the customer that required insurance is available from the financial institution if:

- insurance is required in order to obtain a loan;

- the loan's approval is contingent on the customer obtaining acceptable insurance; or

- the customer obtained the required insurance from another insurance provider and the financial institution is soliciting the sale of insurance to replace the customer's existing coverage.

This requirement does not apply to:

- credit insurance;

- insurance "placed by a financial institution in connection with collateral pledged as security for a loan when the debtor breaches the contractual obligation to provide that insurance";

- private mortgage insurance;

- annuities; or

- title insurance.

Statutory section 9:3512 amended 2006; § 9:3511 amended 2009; § 9:3542 amended 1998; § 9:3516 amended 2008; §§ 22:1594 and 22:1600 amended 2011.

La. Rev. Stat. §§ 9:3511, :3512, :3516, :3542; 22:1594, :1600 (2018)

Louisiana, Mortgage Escrow Accounts

No relevant provisions were located.

Louisiana, Real Estate Loan Application Disclosure Requirements

No generally applicable provisions were located. However, a person licensed to engage in residential mortgage loan transactions in Louisiana may charge a reasonable application fee in connection with a residential loan transaction if, before collecting the fee, the licensee provides the consumer a written disclosure that:

- states the fee amount; and

- informs the consumer that the application fee is refundable at any time before the licensee orders "any service required by the lender to evaluate the potential borrower's loan application."

If the lender is unable to approve the loan, the application fee must be refunded to the borrower.

Statutory section amended 2009.

La. Rev. Stat. 6:1096 (2018)

Louisiana, State Truth-In-Lending Credit Application Disclosure Requirements

Louisiana has not enacted a state truth-in-lending act.

Maine

Maine, Bank Credit Application Disclosure Requirements

ATTORNEY CHOICE

A financial institution that accepts an application for a residential mortgage loan for one to four residential units and that requires that an attorney search the title of the real estate must permit the prospective mortgagor to select a qualified attorney of the mortgagor's choice to do the title search. The financial institution must provide written notice to the prospective mortgagor that the mortgagor has the right to select a qualified attorney of the mortgagor's choice. The notice must inform the prospective mortgagor that, if the attorney meets the financial institution's requirements, it may not charge the mortgagor for title work. If the prospective mortgagor indicates on the written notice that the mortgagor does not wish to exercise the mortgagor's right to select an attorney, then the institution may recommend an attorney.

Statutory section amended 2009.

Me. Rev. Stat. tit. 9-B, § 241(4) (2018)

Maine, General Credit Application Disclosure Requirements

SCOPE

Maine has adopted a comprehensive Consumer Credit Code ("MCCC") that regulates a wide variety of consumer credit sales and consumer loans, and contains a comprehensive set of truth-in-lending provisions (see "State Truth-In-Lending Credit Application Disclosure Requirements" below). The MCCC generally applies to consumer credit transactions that are made or entered into in Maine, including, among others, consumer loans. However, the MCCC does not apply to a loan to finance or refinance the acquisition of real estate or the initial construction of a dwelling or a loan made by a creditor secured by a first mortgage on real estate, provided the security interest in real

estate is not made for the purpose of circumventing or evading the MCCC, and subject to the following:

- with respect to advances of additional funds on the loan or credit sale made more than 30 days after the initial advance, the exclusion applies only to advances made under the terms of a construction financing agreement, to protect the security or to perform the consumer's covenants, as negative amortization of principal under the terms of the financing agreement, from funds withheld at consummation pending the resolution of matters which would otherwise tend to delay or prevent closing, or under the terms of a reverse mortgage;

- this exemption does not apply to the requirements on the servicing of assigned supervised loans contained in Me. Rev. Stat. Ann. tit. 9-A, § 2-310; and

- with respect to a creditor other than a supervised financial organization, this exemption applies only to the following provisions of the MCCC: Article 2, which governs finance charges and related provisions; Article 3, which governs the regulation of consumer credit transaction agreements and practices; Article 4, which governs insurance; and Article 5, which governs remedies and penalties. However, the real estate loans described above are subject to the truth-in-lending provisions contained in Article 8-A of the MCCC.

In this context, "consumer loan" is a loan made by a person in the business of making loans in which:

- the debtor is a natural person;

- the debt is primarily for personal, family or household purposes;

- either the debt is payable in installments or a loan finance charge is made; and

- either the principal does not exceed $50,000, consistent with Title X of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act, or the debt is secured by manufactured housing or an interest in land. (This amount is automatically adjusted for inflation.)

GENERAL DISCLOSURE REQUIREMENTS

Article 8-A of the MCCC contains comprehensive truth-in-lending provisions applicable to consumer credit transactions, which are described in "State Truth-in-Lending Credit Application Disclosure Requirements" below.

OTHER DISCLOSURE REQUIREMENTS

Variable rate transactions

The MCCC requires a creditor to make certain written disclosures to consumers with variable rate consumer credit. As revised in 2014, that disclosure must be as set forth in Me. Rev. Stat. Ann. tit. 9-A, § 3-310.

A variation in the interest rate that is not in accord with the required disclosures of limits on interest rate changes and examples of the effects of a change, is considered a charge in excess of that allowed under the MCCC and subjects the creditor to the remedies and other provisions of Me. Rev. Stat. Ann. tit. 9-A, § 5-201(3), (4).

Consumer's right to choose title attorney

A lender offering residential mortgage loans requiring title searches by an attorney must permit the prospective borrower to choose his own attorney, and the lender must provide written notice to the borrower of this option. The lender may recommend an attorney if the borrower wishes and so indicates on the written notice.

Notice to cosigner

A consumer is not obligated as a cosigner with respect to a consumer credit transaction, unless, before or contemporaneously with signing any writing setting forth the terms of the debtor's agreement, the consumer receives certain written notices, including the material disclosures required under Article 8-A.

Statutory section 1-201 amended 2005; § 3-311 amended 1985; § 1-202 amended 2019; § 3-206 amended 2011; § 3-310 amended 2014; 1-301 amended 2017.

Me. Rev. Stat. tit. 9-A, §§ 1-201, -202, -301; 3-206, -310, -311 (2018)

Maine, Mortgage Escrow Accounts

CONSUMER LOAN SCOPE

The Maine Consumer Credit Code addresses escrow accounts in consumer loans. A "consumer loan" is generally a loan made by a person regularly engaged in the business of making loans in which:

- the debtor is an individual;
- the debt is incurred primarily for personal, family or household purposes;
- either the debt is payable in installments or a finance charge is made; and
- for loans made by a supervised financial organization, either (a) the amount financed does not exceed $50,000, consistent with Title X of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act, or the debt is secured by manufactured housing or an interest in land or (b) the supervised lender is other than a supervised financial organization, and either the amount financed does not exceed $50,000 or the debt is secured by manufactured housing or an interest in land. (These amounts are automatically adjusted for inflation.)

INTEREST REQUIREMENTS

General mortgage provisions

Pursuant to Maine's general mortgage provisions, a mortgage deed dated on or after January 1, 1992, must contain provisions for payment of interest on any escrow balance, if:

- the mortgage is on owner-occupied residential property of no more than 4 units; and
- the loan or note requires payments into a mandatory escrow account.

The above interest requirements do not apply to mortgage transactions if the payment of interest is prohibited by federal law. Otherwise, generally, interest must be paid on any funds in an escrow account on October 1, 1985, and to any funds deposited in an escrow account after that date.

Supervised lenders

The following must pay interest on escrow funds in accordance with tit. 9-B, § 429:

- a supervised lender that makes loans secured by a real estate mortgage and that holds a mortgagor's funds in an escrow account for taxes or insurance; and
- a creditor that enters into consumer credit transactions secured by a real estate mortgage and that holds mortgagor's funds in an escrow account for taxes or insurance premiums.

Title 9-B, § 429 provides that a mortgagee holding a mortgagor's funds in a required escrow account for taxes or insurance must pay the mortgagor, at least quarterly, dividends or interest on the account

at a rate of at least 50 percent of the 1-year Treasury Note rate. The dividends or interest may not be reduced by any charge for service or maintenance of the account. The interest must be:

- computed on the account's daily balances from the date of receipt to the disbursement date; and

- credited to the account as of the last business day of each quarter of a calendar or fiscal year.

If the account is closed before the last business day of a quarter, interest must be computed and credited as of the day the account is closed. In calculating interest, the mortgagee may:

- take into account debit balances resulting from advances; and

- elect to compute interest on the basis of either the actual number of days in each quarter and year or on the basis of a 30-day month and a 360-day year.

At least once a year, the mortgagee must give the mortgagor a statement showing the interest credited on the escrow account during the preceding period.

Statutory section 3-312 enacted 1983; § 9-305 enacted 1987; § 429 amended 2003; § 504 enacted 1991; § 1-301 amended 2017.

Me. Rev. Stat. tit. 9-A, §§ 1-301, 3-312, 9-305; tit. 9-B, § 429; tit. 33, § 504 (2018)

Maine, Real Estate Loan Application Disclosure Requirements

ATTORNEY CHOICE

Under Articles 9 and 9-A of the MCCC, a creditor must provide written notice to a prospective mortgagor that he or she has the right to select a qualified attorney of his or her own choice for the performance of title work. The notice must inform the prospective mortgagor that if the attorney chosen by the mortgagor meets the creditor's requirements, no additional fees may be charged for

title work. If the prospective mortgagor indicates on the written notice that he or she does not wish to exercise the right to select an attorney, then the creditor may recommend one.

APPRAISALS

Under Articles 3 and 9 of the MCCC and Title 9-B of the Maine Revised Statutes, any creditor or financial institution that imposes a fee for a real estate appraisal in connection with an application for credit to be secured by a lien on a dwelling must upon timely written request provide a copy to the applicant. The applicant must request a copy of the appraisal within 90 days after the later of the date the creditor has provided notice that it has taken action on the credit application or the closing date, or within 90 days after the application is withdrawn.

OTHER REQUIRED DISCLOSURES

Variable rate transactions

With respect to a closed-end transaction in which the interest rate may vary ruling the transaction's term, the creditor must make the disclosures required by Me. Rev. Stat. Ann. tit. 9-A, § 3-310.

Private mortgage insurance

For a residential real property mortgage loan where the loan's processor or underwriter also engages in the private mortgage insurance business, a supervised lender or a credit services organization loan broker must disclose to the loan applicant at the time of application that the processor or underwriter is also in the private mortgage insurance business. However, failure to provide this disclosure does not affect the mortgage loan's validity or enforceability.

Statutory section 3-311 amended 1985; § 9-303 enacted 1987; §§ 3-313 and 9-309 amended 1999; § 447 amended 1999; § 507 amended 2012; § 3-310 amended 2014.

Me. Rev. Stat. tit. 9-A, §§ 3-310, -311, -313; 9-303, -309; tit. 9-B, § 447; tit. 33, § 507 (2018)

Maine, State Truth-In-Lending Credit Application Disclosure Requirements

OVERVIEW

As of September 29, 2011, Maine's Consumer Credit Code was amended to conform with federal law. Act 427 repealed Article 8 of the Maine Consumer Credit Code and enacted Article 8-A, which requires creditors to comply with federal truth-in-lending laws and regulations.

The Legislature's findings elaborated as follows:

> [E]conomic stabilization would be enhanced and the competition among the various financial institutions and other firms engaged in the extension of consumer credit would be strengthened by the informed use of credit. The informed use of credit results from an awareness of the cost thereof by consumers. It is the purpose of this Article to ensure a meaningful disclosure of credit terms so that the consumer will be able to compare more readily the various credit terms available to the consumer and avoid the uninformed use of credit and to protect the consumer against inaccurate and unfair credit billing and credit card practices.

COMPLIANCE WITH FEDERAL TRUTH-IN-LENDING

A creditor must comply with "the Federal Truth in Lending Act, Title I of the federal Consumer Credit Protection Act, 15 United States Code, Section 1601 et seq. and its implementing regulations, Regulation Z, 12 Code of Federal Regulations, Section 1026.1 et seq. and Regulation M, 12 Code of Federal Regulations, Section 1013.1 et seq."

ENHANCED RESTRICTIONS ON CERTAIN CREDITORS

The Maine Consumer Credit Code - Truth-in-Lending Act enforces additional restrictions on certain creditors, including those making high-cost mortgage loans or higher-priced mortgage loans. However, none of those state restrictions explicitly require additional disclosures.

ENFORCEMENT

The administrator may adopt a reimbursement program that may order creditors "to make whatever adjustments are necessary to ensure that any person will not be required to pay a finance charge in excess of the finance charge actually disclosed or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower."

A person may be guilty of a Class D crime if that person:

- "willfully and knowingly gives false or inaccurate information";
- fails to provide information that the person is required to disclose;
- uses an authorized chart or table so as to understate the annual percentage rate consistently; or
- otherwise fails to comply with any requirement imposed by Article 8-A.

A creditor that fails to comply with the act's requirements is also civilly liable as provided by the Federal Consumer Credit Protection Act.

Statutory section 8-502 enacted 2011; §§ 8-504 and 8-505 amended 2013.

Me. Rev. Stat. tit. 9-A, §§ 8-502, -504, -505 (2018)

Maryland

Maryland, Bank Credit Application Disclosure Requirements

No application disclosure requirements applicable only to banks were located.

Maryland, General Credit Application Disclosure Requirements

FEDERAL COMPLIANCE

A statement that complies with the Federal Truth-in-Lending Act meets the requirements of Title 12 of Maryland Commercial Law.

DISCLOSURES REQUIRED ON REFINANCING

Any loan made before July 1, 1982, that is refinanced at a higher rate must comply with the specific disclosure requirements set forth in Md. Code Ann., Com. Law § 12-116.

Statutory section 12-106 amended 1999; § 12-116 amended 2013.

Md. Code, Com. Law §§ 12-106(b)(4), -116 (2019)

Maryland, Mortgage Escrow Accounts

GENERAL REQUIREMENTS

Except in a foreclosure, funds in an escrow account for taxes, insurance premiums, ground rents, and, effective October 1, 2018, water and sewer facilities assessments generally may not be used to reduce the principal or pay interest or other loan charges. However, if the balance in the escrow account periodically exceeds the amount provided by contract, the lender must give the borrower at least annually the option of:

- receiving a refund of the excess;

- applying the excess to the principal and interest; or

- leaving the excess in the escrow account.

Any refund must be made:

- within 60 days after the lender's receipt of the borrower's refund request; or

- within 60 days after the date the lender mailed the borrower notice of the excess amount, if the borrower has not notified the lender of his option.

These requirements do not apply to escrow accounts maintained in connection with a commercial or corporate loan.

A lender must keep funds in an escrow account separate from the creditor's funds, but a credit grantor may place escrow funds received in connection with more than one loan into a single escrow account.

A creditor or lender may not impose a collection fee or service charge for maintaining an escrow account on a first mortgage or first deed of trust.

A lending institution must provide the consumer borrower with an annual escrow balance statement.

If a lender or loan servicer determines that the amount a borrower must pay in escrow under a first mortgage or first deed of trust on residential real property must increase, the lender or servicer generally may not include that increase in any calculation of the amount of interest or fees due for one year. Similar restrictions apply to credit grantors.

Effective October 1, 2018, upon a borrower's request, a lending institution that makes a loan secured by a first mortgage or first deed of trust on residential property may, at the lending institution's option, create an escrow account solely for the purpose of paying water and sewer facilities assessments.

INTEREST REQUIREMENTS

Generally, a lending institution that loans money secured by a first mortgage or first deed of trust on residential real property must pay the borrower interest on the escrow funds at "an annual rate not less than the weekly average yield on United States Treasury securities adjusted to a constant maturity of 1 year," as published by the Federal Reserve in "Selected Interest Rates (Daily) - H.15," as of the calendar year's first business day.

Interest must be:

- adjusted, if applicable, as of each calendar year's first day to reflect the rate to be paid during that year;
- computed on the average monthly balance in the escrow account; and
- credited annually to the borrower’s escrow account.

This requirement generally does not apply:

- to a lending institution that provides for the payment of taxes, insurance, water and sewer facilities assessments (effective October 1, 2018), or other expenses under the “direct reduction method,” in which the expenses are paid by the lending institution and added to the loan’s outstanding principal balance; or
- if the loan is "purchased by an out–of–state lender through the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan

Mortgage Corporation" and the out–of–state lender elects to service the loan. However, the section applies if the out–of–state lender sells the loan to or places the loan for servicing with a Maryland lender.

Statutory section 12-109.2 reenacted without amendment 2011; § 12-109.1 amended 2011; §§ 12-109, 12-109.1, and 12-1026 amended 2018.

Md. Code, Com. Law §§ 12-109, -109.1, -109.2, -1026 (2019)

Maryland, Real Estate Loan Application Disclosure Requirements

REQUIRED NOTICE REGARDING REAL PROPERTY CLOSING COSTS

A lender that imposes fees for settlement or document review services must give a prospective borrower written notice of:

- the lender's requirements concerning selection of an attorney, title insurance company, or other person to perform settlement services relating to the real property purchase;
- the borrower's right to choose an attorney or title insurance company to perform these services; and
- a good faith estimate of the fees.

The lender must provide this notice at the time of or within three days of the loan application (or earlier upon request) and a notice copy, signed by the applicant, must accompany the executed loan application.

BALLOON PAYMENT, ESCROW, AND BINDING ARBITRATION DISCLOSURES

General requirements

A "regulated person" that offers to make or procure a mortgage loan secured by residential real property must provide the disclosures described below if the mortgage loan's terms:

- include a balloon payment;
- do not provide for an escrow account for taxes and insurance; or
- include mandatory binding arbitration.

These disclosures must:

- be written clearly and conspicuously;
- appear in at least a 10-point font; and
- appear together on a sheet or sheets of paper that contain no information other than the disclosures.

All of the disclosures may be printed on a sheet or sheets of paper that include check boxes that the regulated person may mark to indicate which disclosures apply.

The regulated person must deliver the disclosures to the borrower within 10 business days after the mortgage loan application is completed, and no less than 72 hours before the agreed settlement time. A mortgage loan application is "completed" at "the time of initial application."

In this context, a "regulated person" is an "individual, corporation, business trust, financial institution, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity that is subject to the regulatory authority of the Commissioner pursuant to Financial Institutions Article, or Commercial Law Article, Annotated Code of Maryland."

Balloon payment

If the mortgage loan contains a balloon payment, the regulated person must provide to the borrower a disclosure containing the following information in a substantially similar form:

> BALLOON PAYMENT: This mortgage loan contains a balloon payment provision. A balloon payment is a scheduled lump sum usually due at the end of the mortgage loan term that is significantly larger than the other regularly scheduled periodic payments. If you cannot pay the balloon payment when due, you may have to obtain a new loan to make the balloon payment or you may lose your property through foreclosure. Before deciding to take this loan, consider your ability to pay the balloon payment when it comes due. The balloon payment on the mortgage loan you have applied for is due (insert number of months) from the date your mortgage loan begins.

Escrow accounts

If a mortgage secured by a first-lien on residential real property does *not* require an escrow account for property tax and homeowner's insurance payments, the regulated person must provide to the borrower a disclosure containing the following information in a substantially similar form:

> YOU ARE RESPONSIBLE FOR PROPERTY TAX AND HOMEOWNER'S INSURANCE PAYMENTS IN ADDITION TO YOUR REGULARLY SCHEDULED PERIODIC MORTGAGE LOAN PAYMENT: The terms of your mortgage loan do not provide for the establishment of an escrow account from which your property taxes and homeowner's insurance will be paid. This means that your regularly scheduled periodic mortgage loan payment does not cover these sums and you are responsible for paying property taxes and home insurance premiums when the bills arrive. You will need to consider your ability to pay these tax and insurance amounts in addition to paying your regularly scheduled periodic mortgage loan payment.

Binding arbitration

If a mortgage loan requires the borrower to engage in binding arbitration to resolve disputes, the regulated person must provide to the borrower a disclosure containing the following information in a substantially similar form:

> MANDATORY BINDING ARBITRATION: The mortgage loan you have applied for contains a mandatory binding arbitration provision. This means that, as to the matters covered by the arbitration provision, you are giving up your right to a jury or court trial if you have a dispute with the lender. Read your mortgage loan documents carefully to understand how mandatory binding arbitration will impact your rights to resolve disputes.

Changes

If any change to a mortgage loan's terms requires additional or modified disclosures, the regulated person must deliver to the borrower a final set of disclosures at least 72 hours before the agreed settlement time.

NOTICE OF HOUSING COUNSELING PROGRAMS AND SERVICES

Unless a lender that makes a mortgage loan secured by owner–occupied residential real property located in Maryland is otherwise required to refer the borrower to housing counseling, a lender must provide the borrower with a written notice in a specified form that includes:

- a statement recommending that the borrower complete home buyer education or housing counseling; and

- information about available certified home buyer education and housing counseling programs and services provided by nonprofit and government organizations.

A lender may not close on a mortgage loan unless it has provided this notice to the borrower.

Statutory section 12-119 amended 1990; §§ 12-1302, 12-1303, and 12-1304 enacted 2010. Regulations amended 2010.

Md. Code, Com. Law §§ 12-119(b), -1302, -1303, -1304 (2019); Md. Code Regs. 09.03.10.01, .03 (2019)

Maryland, State Truth-In-Lending Credit Application Disclosure Requirements

Maryland has not enacted a state truth-in-lending act.

Massachusetts

Massachusetts, Bank Credit Application Disclosure Requirements

INSURANCE

A bank, through its licensed insurance producers, must disclose in writing to a potential insurance customer the following:

- that the available insurance products are not deposits of the bank, not protected by the FDIC or any other deposit insurance, not an obligation of or guaranteed by the bank, and may be subject to risk;

- that any insurance required as a condition of a credit extension by the bank need not be purchased from the bank, but may, without affecting credit approval, be purchased elsewhere; and

- that the customer may file any complaints with the Office of Consumer Affairs.

If, in connection with a credit-extension application, a bank solicits, offers, or sells insurance, the bank must make the above disclosures orally and in writing at the time the consumer applies for the credit extension. If the bank takes a credit application by mail, the bank is not required to make

the oral disclosures. If the bank takes the application by telephone, the bank may provide the disclosures by mail, if it mails them to the customer within "three days beginning the first business day after the application is taken, excluding Sundays and the legal public holidays specified under federal and state laws." The bank generally may provide the written disclosures through electronic media if:

- the customer "affirmatively consents" to receiving the disclosures electronically; and
- the disclosures are provided in a format that the consumer may retain or obtain later.

These disclosure requirements do not apply if a bank contacts a consumer "in the course of direct or mass marketing of insurance products to a group of persons in a manner that bears no relation to any such person's loan application or credit decision."

Regulation amended 2017.

211 Mass. Code Regs. 142.05(6)–(8) (2019)

Massachusetts, General Credit Application Disclosure Requirements

INSURANCE DISCLOSURES

Credit insurance

Charges for credit life, accident, health, or unemployment insurance written in connection with a consumer credit transaction must be included in the finance charge unless:

- the insurance is not a factor in the creditor's approval, and this fact is clearly disclosed in writing to the person applying for the credit; and
- the person to whom the credit is extended indicates in writing his desire to purchase the insurance after receiving written disclosure of the cost.

Property insurance

Charges or premiums for property insurance written in connection with any consumer credit transaction must be included in the finance charge unless the creditor provides a clear and specific written statement,

- setting forth the cost of the insurance if obtained from the creditor, and

- stating that the debtor may choose the insurer.

FEES AND CHARGES

If any of the following is itemized and disclosed in accordance with the commissioner's regulations, then the creditor need not include that item in computing the finance charge:

- fees and charges paid to public officials for determining the existence of or satisfying any security related to the transaction;

- the premium payable for any insurance that replaces perfecting any security interest otherwise required by the creditor in connection with the transaction; and

- any tax levied on security instruments or on documents evidencing debt, if the payment is required before the mortgage may be recorded.

Statutory section amended 1996.

Mass. Gen. Laws ch. 140D, § 4 (2019)

Massachusetts, Mortgage Escrow Accounts

GENERAL REQUIREMENTS

A mortgagee that requires the prepayment of real estate taxes must pay the proper authority the amount due on or before the due date, provided the mortgagor has paid sufficient funds to the mortgagee. If the account does not contain sufficient funds, the mortgagee must pay to the taxing authority an amount equal to the amount the mortgagor has paid to the mortgagee.

INTEREST REQUIREMENTS

If a mortgagee with a first mortgage on one- to four-family dwelling occupied by the mortgagor requires advance payments for real estate taxes, the mortgagee must pay interest at least once a year at a rate and in a manner to be determined by the mortgagee. A mortgagee showing a net loss from investing the funds may file with the bank commissioner a request for an exemption from the interest requirement.

HIGHER-PRICED MORTGAGES

Massachusetts amended its regulation that previously applied to an escrow for a higher-priced loan secured by a first lien on a principal dwelling. The relevant truth-in-lending regulation now simply provides that "[c]ompliance with 12 CFR 1026.35 constitutes compliance with 209 CMR 32.35."

Statutory section 61 amended 2002; § 62 amended 1976. Regulation amended 2016.

Mass. Gen. Laws ch. 183, §§ 61, 62 (2019); 209 Mass. Code Regs. 32.35 (2019)

Massachusetts, Real Estate Loan Application Disclosure Requirements

SCOPE

Although Massachusetts does not have statutes that apply generally to all loans secured by a first lien on real property, numerous Massachusetts regulations apply to first

mortgage lenders. Several of these regulations were amended in 2014 for the purpose of "amend[ing] the 'Truth-in-Lending' regulation in a way to incorporate future federal changes while preserving the Massachusetts differences deemed more advantageous to consumers."

CLOSED-END CREDIT

Massachusetts amended its regulation that previously addressed the content of disclosures for closed-end credit. The relevant truth-in-lending regulation now simply provides that "[c]ompliance with 12 CFR 1026.18 constitutes compliance with 209 CMR 32.18."

RESIDENTIAL MORTGAGES

Disclosures in residential mortgages are subject to the following:

- good-faith estimates of the disclosures required for closed-end credit transactions must be made pursuant to regulations of the banking Commissioner under Mass. Gen. Laws Ann. ch. 140D, § 7(c), or delivered or mailed no later than three business days after the creditor receives a written application from the consumer; and

- if a disclosure statement is rendered inaccurate in a manner provided in ch. 140D, § 5(c), the creditor is required to provide another statement at closing.

MORTGAGE TRANSACTIONS SUBJECT TO RESPA

Massachusetts amended its regulation that previously addressed disclosures related to certain mortgages subject to the federal Real Estate Settlement Procedures Act and secured by the consumer's dwelling. The relevant truth-in-lending regulation now simply provides that "[c]ompliance with 12 CFR 1026.19 constitutes compliance with 209 CMR 32.19."

HIGH-COST LOANS

Pursuant to 209 Mass. Code Regs. 40.04 as revised in 2016, it is "an unfair act or practice for a lender not subject to 209 CMR 32.00: Truth in Lending, other than a broker, to fail to make any of the disclosures required under 12 CFR 1026.32(c)."

If the creditor does not know whether the borrower's application is a high-cost home-loan application, the disclosure must be made as soon as the creditor determines that it is a high-cost home loan application, or no later than 24 hours after such determination is made.

At or prior to taking an application, a creditor must also deliver, place in the mail, fax or electronically transmit to the borrower a statement in substantially the following form:

> "Although your aggregate monthly debt payment may decrease, the high cost home loan may increase both:
> 1. your aggregate number of monthly debt payments and
> 2. the aggregate amount paid by you over the term of the high cost home loan if such are likely the case."

A creditor must also deliver, mail, fax or electronically transmit the following notice in at least 12-point type to the borrower at the time of application: "You should consider financial counseling prior to executing loan documents. The enclosed list of counselors is provided by the Division of Banks or the Executive Office of Elder Affairs."

For a telephone application, the disclosures must be made immediately after receipt of the application by telephone, but at least three days before the closing. The disclosure must be on a separate form. For an electronic transmission, the creditor must first obtain either written or electronically transmitted permission from the borrower.

At or before closing, the creditor must either obtain evidence that the borrower has conducted financial counseling or obtain a signed waiver indicating that the borrower was advised of his rights to seek financial counseling but has chosen not to exercise that right.

For certain high-cost mortgages, 209 Mass. Code Regs. 32.32, as amended in 2015, provides that "[c]ompliance with 12 CFR 1026.32(c) constitutes compliance with 209 CMR 32.32(3)."

INSURANCE DISCLOSURES

A bank, through its licensed insurance producers, must disclose in writing to a potential insurance customer that:

- the available insurance products are not deposits of the bank, are not protected by the federal deposit insurance corporation or any other type of deposit insurance, are not an obligation of or guaranteed by the bank, and may be subject to risk;

- any insurance required as a condition of the bank's credit extension need not be purchased from the bank, and may be purchased from an agent or insurance company of the customer's choice; and

- the customer may file any complaints with the Office of Consumer Affairs.

A bank must provide the disclosures in writing, and the customer must acknowledge receipt of the disclosures in writing.

The disclosure requirement does not apply to a lender that does not accept deposits.

LOAN FEES

A mortgagee may not charge a loan fee, finder's fee, or points in a mortgage transaction involving residential property of four or fewer units and occupied by the mortgagor, except to the extent that the fees or points have been previously disclosed to the mortgagor in writing.

FIRST MORTGAGE LENDERS

Massachusetts statutes that previously required a first mortgage lender to provide specific disclosures at the time the lender first provided a first mortgage loan application form to a prospective borrower and specific written notices to any mortgage borrower whose application had been determined to be substantially complete, were repealed effective July 1, 2006.

Every application for a mortgage loan on one- to four-family residential property that is occupied by the obligor must be made on a printed form that must contain the following statements in type that is at least two points larger than the other type used on the application:

- "The responsibility of the attorney for the mortgagee is to protect the interest of the mortgagee"; and

- "Mortgagors may, at their own expense, engage an attorney of their selection to represent their interests in the transaction."

The lender must give the mortgagor a printed copy of the above statements at the time of application.

LICENSEE DISCLOSURES

A mortgage loan originator must disclose in writing his or her license number to all clients and residential mortgage loan applicants at the time a fee is paid or a mortgage loan application is accepted.

Regulation 42.15, which previously required a mortgage lender or broker must disclose in writing its license type and number to all clients and residential mortgage loan applicants at the time a fee is paid or a mortgage loan application is accepted, was repealed in 2016.

Statutory sections 5 and 12 enacted 1981; § 7 amended 1996; § 63 amended 1994; § 17B amended 2006. Regulations 32.18, 32.19, 32.32, 40.04 41.10, and 49.06 amended 2016; r. 42.15 repealed 2016.

Mass. Gen. Laws ch. 140D, §§ 5, 7, 12; ch. 183, § 63, ch. 184, § 17B (2019); 209 Mass. Code Regs. 32.18, .19, .32; 40.04; 41.10; 49.06 (2019)

Massachusetts, State Truth-In-Lending Credit Application Disclosure Requirements

SCOPE AND APPLICATION

The Massachusetts Consumer Credit Cost Disclosure Act ("Act") and the regulations promulgated under the Act govern closed-end consumer credit loans.

Massachusetts amended its regulation that previously exempted specified transactions from the Act. The relevant truth-in-lending regulation now provides that "[t]ransactions exempt pursuant to 12 CFR 1026.3 are exempt under 209 CMR 32.03."

The Massachusetts truth-in-lending regulations were amended in 2014 for the purpose of "amend[ing] the 'Truth-in-Lending' regulation in a way to incorporate future federal changes while preserving the Massachusetts differences deemed more advantageous to consumers."

GENERAL PROVISIONS

Multiple obligors

In a credit transaction involving more than one obligor, the creditor generally need make the required disclosures only to the primary obligor. The Bank Commissioner may allow disclosures in the form of estimates if the lender does not have exact information.

Form of disclosures

Information must be disclosed clearly and conspicuously, as required by the bank commissioner. Annual percentage rates and finance charges must be disclosed more conspicuously than other information, except information identifying the creditor.

A creditor is not required to disclose information in the order presented in chapter 140D, and may use different terminology if it conveys the same meaning. Additional information generally may also be supplied.

Model disclosure forms

The use of model disclosure forms and clauses is permissible, but not required, to comply with the disclosure provisions of chapter 140D.

DISCLOSURES REGARDING CERTAIN VARIABLE-RATE TRANSACTIONS

Massachusetts amended its regulation that previously addressed required disclosures in variable-rate transactions. The relevant truth-in-lending regulation now provides that "[c]ompliance with 12 CFR 1026.19 constitutes compliance with 209 CMR 32.19."

DISCLOSURES REGARDING INTEREST

Massachusetts amended its regulation that previously addressed oral responses to a consumer's inquiry about the cost of closed-end credit. The relevant truth-in-lending regulation now provides that "[c]ompliance with 12 CFR 1026.26 constitutes compliance with 209 CMR 32.26."

Statutory section 2 amended 1983; § 7 amended 1996; §§ 8, 12, and 17 enacted 1981; §§ 1, 3, and 18 amended 2014. Regulations amended 2016.

Mass. Gen. Laws ch. 140D, §§ 1, 2, 3, 7, 8, 12, 17, 18 (2019); 209 Mass. Code Regs. 32.03, .19, .26 (2019)

Michigan

Michigan, Bank Credit Application Disclosure Requirements

INSURANCE

If a lender requires insurance as a condition of obtaining a loan and if the required insurance is available through the lender or its affiliate, the lender must disclose the following to the applicant:

- that the lender will not require the borrower to purchase insurance through a particular agent, agency, or with a particular insurer;
- except as otherwise provided by law, that the lender will not require the borrower to purchase insurance from the lender or its affiliate; and
- that the purchase of insurance from the lender or an affiliate is optional and will not affect the lender's credit decisions.

This disclosure must be made at the earlier of:

- the time the loan applicant asks about the availability of the required insurance; or
- the time the lender advises the loan applicant that the required insurance is available through the lender or its affiliate.

The applicant must sign the written disclosure no later than the closing date.

Statutory section amended 2001.

Mich. Comp. Laws § 500.1243(16) (2019)

Michigan, General Credit Application Disclosure Requirements

No state laws containing general credit disclosure requirements were located.

Michigan, Mortgage Escrow Accounts

GENERAL REQUIREMENTS

If a mortgagor is required to make periodic payments that include escrowed amounts for taxes, insurance or property improvements, the mortgagee receiving the payments must furnish the mortgagor with a statement within 60 days of the calendar year-end, showing

- the fund's beginning balance,
- the total amount received during the year,
- an itemized statement of all expenditures during the calendar year, and
- the balance in the fund at the end of the year.

However, this statement is not required if the mortgagor is provided with a monthly billing form or passbook that provides the fund balance and a record of expenditures for taxes.

SERVICER REQUIREMENTS

A mortgage servicer must deliver to the borrower annually a statement of the borrower's account showing the unpaid principal balance of the mortgage loan at the end of the

previous year, the interest paid, and the amounts deposited into and disbursed from the escrow account during the year. In addition, within 25 days after receipt of a written request from the borrower, a mortgage servicer must deliver to the borrower a ledger history of the borrower's account showing the date and amount of all payments made or credited to the account, but in no event for a period greater than the immediately preceding 12-month period. However, a mortgage servicer need not furnish to the borrower more than one annual statement and one ledger history in any 12-month period. The servicer may not charge a fee for the annual statement or the ledger history.

OTHER REQUIREMENTS

A mortgage loan or land contract under certain exceptions to the general usury requirements may not require that the borrower maintain a deposit with the lender, except that an escrow deposit account may be required as a condition for a mortgage loan or land contract secured by a lien on the borrower's residence if

- the account bears interest that is credited to the account,
- the account is pledged as additional security for the loan or contract,
- withdrawals of specified amounts are made periodically in accordance with the mortgage or land contract and are applied against the periodic payments otherwise due from the borrower, and
- the mortgage or land contract specifically provides the amount by which payments are supplemented by withdrawals and the time during which withdrawals will be made.

A regulated depository financial institution may require a borrower on a mortgage loan or land contract that provides for biweekly payments to maintain an interest-bearing account with funds sufficient to make automatic withdrawals of the biweekly payments.

INTEREST REQUIREMENTS

No additional provisions generally addressing interest on escrow accounts were located.

Statutory sections 565.161 and 565.162 enacted 1966; § 445.1674 enacted 1987, § 438.31c amended 1990; § 565.164 enacted 1993.

Mich. Comp. Laws §§ 438.31c; 445.1674; 565.161, .162, .164 (2019)

Michigan, Real Estate Loan Application Disclosure Requirements

CONSUMER MORTGAGE PROTECTION ACT

Borrower's Bill of Rights

Effective June 13, 2016, Mich. Stat. § 445.1636 no longer contains a Borrowers' Bill of Rights. Instead, at the time a person applies for a mortgage loan, the lender must provide the applicant with a copy of the Special Information Booklet described in 12 C.F.R. 1024.6, issued pursuant to the Real Estate Settlement Procedures Act of 1974. If the federal government amends that regulation or otherwise ceases publication of that booklet, the state Department of Insurance and Financial Services must prepare a document that describes a borrower's rights in mortgage loan transactions.

Credit counseling

Mich. Stat. § 445.1637, which previously contained a mandatory credit counseling notice, was repealed effective June 13, 2016.

RESIDENTIAL MORTGAGE FRAUD

A person that knowingly, with the intent to defraud, does any of the following (among other acts), is guilty of the crime of residential mortgage fraud:

- "[m]akes a false statement or misrepresentation concerning a material fact or deliberately conceals or fails to disclose a material fact during the mortgage lending process"; or

- "uses or facilitates the use of a false statement or misrepresentation made by another person concerning a material fact or deliberately uses or facilitates the use of another person's concealment or failure to disclose a material fact during the mortgage lending process."

A crime of residential mortgage fraud is not "predicated solely upon information lawfully disclosed under federal disclosure laws, regulations, or interpretations related to the mortgage lending process."

Statutory section 455.1633 enacted 2002; § 750.219d enacted 2011; § 455.1636 amended 2016; § 455.1637 repealed 2016.

Mich. Comp. Laws §§ 445.1633, .1636, .1637; 750.219d (2019)

Michigan, State Truth-In-Lending Credit Application Disclosure Requirements

Michigan has not enacted a state truth-in-lending act.

Minnesota

Minnesota, Bank Credit Application Disclosure Requirements

COMPLIANCE WITH FEDERAL ACT

Financial institutions must comply with the federal Truth-in-Lending Act in connection with a consumer loan if the federal act applies.

INSURANCE

An additional charge may be made for mortgage or credit insurance if the financial institution does not require the insurance and that fact is clearly and conspicuously disclosed in writing to the borrower.

Statutory section amended 2013.

Minn. Stat. § 47.59, subds. 6, 12 (2018)

Minnesota, General Credit Application Disclosure Requirements

A person who intends to access the Bureau of Criminal Apprehension's website to check a credit applicant's public criminal history must disclose that intention to the applicant.

Statutory section amended 2012.

Minn. Stat. § 13.87, subd. 3 (2018)

Minnesota, Mortgage Escrow Accounts

GENERAL REQUIREMENTS

Disbursements

A lender requiring mortgagor's funds to be paid into an escrow account to pay taxes or insurance premiums on a mortgaged one- to four-family owner-occupied residence in Minnesota must pay the taxes or insurance premiums in a timely manner as the obligations become due, provided that sufficient funds have been paid into the account. The lender must promptly notify the mortgagor if there is a shortage in the account. The lender may make a payment on behalf of the mortgagor even though there are not sufficient funds in the account. In this context, "lender" includes all state banks and trust companies and national banking associations, among other financial institutions.

Discontinuing the account

A mortgagee generally must allow a mortgagor to elect to discontinue escrowing for taxes and insurance after the seventh anniversary of the mortgage date, unless the mortgagor has been more than 30 days delinquent during the previous 12 months. The mortgagor's election must be in writing.

See “Real Estate Loan Application Disclosure Requirements” below for disclosure requirements regarding escrow accounts.

The mortgagee

- need not permit the mortgagor to discontinue an escrow account at any time the account has a negative balance or a shortage,

- generally must return any funds remaining in the account to the mortgagor within 60 days after the mortgagor elects to discontinue the account,

- may not charge a direct fee for administering the escrow account, and

- may not charge a fee for allowing the mortgagor to discontinue the escrow account.

As of January 1, 1998, a mortgagee must notify the mortgagor, within 60 days after the fifth anniversary of the mortgage date, of the mortgagor’s right to discontinue the escrow account.

Reestablishing the account

A mortgagee may require a mortgagor to reestablish the escrow account if the mortgagor fails to make timely payments for two consecutive payment periods at any time during

the mortgage's remaining term, or the mortgagor fails to pay taxes or insurance premiums when due.

INTEREST REQUIREMENTS

Each mortgagee requiring a mortgagor's funds to be paid into an escrow account to pay taxes or homeowner's insurance premiums for a mortgaged one- to four-family, owner-occupied residence in Minnesota must calculate interest on the funds at an annual rate of no less than three percent; provided, however, that this interest requirement does not apply if the account is

- required by federal law or regulation,
- maintained in connection with a conventional loan in an original principal amount of more than 80 percent of the lender's appraised value, or
- made or maintained in connection with loans insured or guaranteed by certain federal agencies.

The mortgagee must compute the interest on the average monthly balance in the account on the first of each month for the immediately preceding 12 months and must annually credit the interest to the remaining principal balance on the mortgage, or, at mortgagee's option, pay the interest to the mortgagor. The mortgagee must pay to the mortgagor any interest that exceeds the remaining balance. The requirement to pay interest applies to escrow accounts created in conjunction with mortgage loans made before July 1, 1996.

In this context, "mortgagee" includes all state banks and trust companies, national banking associations, mortgage banks, and certain other financial institutions.

Statutory section 47.205 amended 1995; § 47.20 amended 2014.

Minn. Stat. §§ 47.20, subd. 9; 47.205 (2018)

Minnesota, Real Estate Loan Application Disclosure Requirements

ESCROW ACCOUNT DISCLOSURES

For mortgages made on or after August 1, 1997, the lender or mortgage broker must

- notify a mortgage applicant
- at or before closing
- of the applicant's right to discontinue an escrow account.

The notice must read substantially as follows:

NOTICE OF RIGHT TO DISCONTINUE ESCROW

If your mortgage loan involves an escrow account for taxes and homeowner's insurance, you may have the right in five years to discontinue the account and pay your own taxes and homeowner's insurance. If you are eligible to discontinue the escrow account, you will be notified in five years.

CONSTRUCTION LOANS

The additional one-percent service charge permitted for a construction loan must be itemized and a copy of the itemization must be furnished to the borrower.

FUTURE APPRECIATION

Before making a loan, the lender must disclose to the mortgagor the terms and conditions upon which the lender will receive any share of future appreciation of the mortgaged property.

GRADUATED PAYMENT LOANS

A lender must give a prospective borrower considering a graduated payment home loan materials that explain the loan in reasonably simple terms and that compare graduated loans to standard conventional or cooperative apartment loans with fixed interest rates and level payments. The notice must include:

- a comparison of the terms of the graduated payment loan and a standard conventional loan or cooperative apartment loan;
- payment schedules for each type of loans;
- the total payment in dollars over the full term for each type of loan;
- a description of the option to convert to a standard loan; and
- a prominent statement that the borrower may elect a standard conventional loan or cooperative apartment loan.

DISCOUNT POINT AGREEMENT DISCLOSURES

A lender offering borrowers the opportunity to enter into an interest rate or discount point agreement before closing must disclose to the borrower in writing the following when the offer is made:

- a definite expiration date or term of the agreement;

- the circumstances under which the borrower will be able to close at a lower interest rate or points than expressed in the agreement;

- the steps required to process, approve and close the loan, including the actions required of the lender and borrower;

- that the agreement is enforceable by the borrower; and

- the consideration required for the agreement.

The expiration date or term of an interest rate or discount point agreement may not be less than the reasonably anticipated date or time required to process, approve and close the loan.

RESIDENTIAL MORTGAGE ORIGINATORS

The first time a residential mortgage originator orally informs a borrower of the periodic payment amount for a first-lien residential mortgage loan that does not include an amount for payment of property taxes and hazard insurance, the residential mortgage originator must inform the borrower that an additional amount will be due for taxes and insurance and, if known, disclose that amount.

Statutory sections 47.201 and 47.206 amended 1998; § 58.13 amended 2019; § 47.20 amended 2014.

Minn. Stat. §§ 47.20, subds. 2, 9, 4b; .201, subd. 6; .206, subd. 2 (2018); 58.13, subd. 1(a)(26) (as amended by 2019 Minn. Laws ch. 19)

Minnesota, State Truth-In-Lending Credit Application Disclosure Requirements

Minnesota has not enacted a state truth-in-lending act.

Mississippi

Mississippi, Bank Credit Application Disclosure Requirements

INSURANCE DISCLOSURES

A financial institution must prominently, clearly and concisely disclose in writing to customers that any insurance product offered, recommended, sponsored, or sold:

- is not a deposit;
- is not insured by the Federal Deposit Insurance Corporation;
- is not guaranteed by the insured financial institution or an affiliated depository institution; and
- if appropriate, involves investment risk, including potential loss of the principal.

A financial institution that requires a customer to obtain insurance in connection with a loan and that offers insurance either directly or through an affiliate must disclose to the customer that the customer's choice of insurance provider will not affect the financial institution's credit decision. The lender must obtain the customer's written acknowledgement of receipt of the disclosure. The acknowledgement must:

- include the date of receipt and the customer's name and address;
- be executed before or at the time of the execution of any application for insurance sold by the financial institution; and
- be contained in a separately executed document or in a separately signed section of the insurance application.

The acknowledgement is not required if an executed insurance application is not submitted in writing or executed by the customer.

Regulation amended 2011.

19-001-23 Miss. Code R. 23-11 (2019)

Mississippi, General Credit Application Disclosure Requirements

No state laws containing general credit disclosure requirements were located.

Mississippi, Mortgage Escrow Accounts

MORTGAGE COMPANY ESCROW REQUIREMENTS

All funds paid to a licensee under chapter 81-18 for taxes, loan commitment deposits, work completion deposits, appraisals, credit reports, or insurance premiums on property that secures a loan must be deposited in a separate account, insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration. Upon reasonable notice, the licensee must account to a debtor for any funds paid to the licensee for taxes or insurance premiums.

“Licensee” means a person required to be licensed as a mortgage broker or mortgage lender under chapter 81-18. Depository institutions, among others listed in Miss. Code § 81-18-5, are not subject to the chapter's provisions, unless otherwise provided.

Note that the repeal date of chapter 81-18, which was July 1, 2016, has been extended to July 1, 2020.

GENERAL REQUIREMENTS

No generally applicable provisions were located.

INTEREST REQUIREMENTS

No provisions addressing interest on escrow accounts were located.

Statutory section 81-18-36 amended 2007 and reenacted without change 2016; §§ 81-18-3 and 81-18-5 amended 2013 and reenacted without change 2016; § 81-18-51 amended and reenacted 2016.

Miss. Code §§ 81-18-3(k), -5, -36, (as all three were reenacted by 2016 Miss. Laws ch. 360 (S.B. 2504)) -51 (as amended and reenacted by 2016 Miss. Laws ch. 360 (S.B. 2504)) (LexisNexis 2018)

Mississippi, Real Estate Loan Application Disclosure Requirements

Mississippi statutes, which establish certain disclosure requirements for real estate loans subject to chapter 81-18, do not apply to depository institutions, certain non-profit organizations, and employees of government or housing financing agencies, among others listed in Miss. Code § 81-18-5. No generally applicable provisions were located.

Lenders subject to chapter 81-18 must maintain individual borrower files that contain, among other items, the following:

- a good faith estimate within three working days of taking an application; and
- an initial Truth-in-Lending disclosure.

Note that the repeal date of chapter 81-18, which was July 1, 2016, has been extended to July 1, 2020.

Statutory sections 81-18-3 and 81-18-5 amended 2013 and reenacted without change 2016; § 81-18-51 amended and reenacted 2016. Regulation amended 2013.

Miss. Code §§ 81-18-3, -5 (as both were reenacted by 2016 Miss. Laws ch. 360 (S.B. 2504)), -51 (as amended and reenacted by 2016 Miss. Laws ch. 360 (S.B. 2504)) (LexisNexis 2018) ; 5-002-1 Miss. Code R. 1.8 (2019)

Mississippi, State Truth-In-Lending Credit Application Disclosure Requirements

Mississippi has not enacted a state truth-in-lending act.

Missouri

Missouri, Bank Credit Application Disclosure Requirements

STATE FINANCIAL INSTITUTIONS

Upon receipt of a written application for a loan, a state financial institution must provide the applicant with a written statement of the amount and purpose of each of the institution's charges for processing the application.

Statutory section amended 1995.

Mo. Rev. Stat. § 408.580 (2019)

Missouri, General Credit Application Disclosure Requirements

No state laws containing general credit disclosure requirements were located.

Missouri, Mortgage Escrow Accounts

GENERAL REQUIREMENTS

Financial institutions that act as mortgage servicers, must pay property taxes from escrow accounts in one annual payment before January 1 of the year following the year for which the tax is levied. Escrow accounts may disallow the payment of property taxes more than once a year.

INTEREST REQUIREMENTS

No provisions addressing interest on escrow accounts were located.

Statutory section enacted 1999.

Mo. Rev. Stat. § 443.453 (2019)

Missouri, Real Estate Loan Application Disclosure Requirements

GENERAL REQUIREMENTS

No general real estate loan application disclosure requirements were located.

INSURANCE DISCLOSURES

Every person who lends money or extends credit and who solicits insurance on real property must explain to the borrower in writing that he or she may purchase the insurance from an insurer or agent of the borrower's choice, subject only to the lender's right to reject the insurer or agent. Compliance with the insurance disclosures required by the state or federal truth-in-lending laws complies with this requirement.

RESIDENTIAL MORTGAGE LOAN BROKERS

A residential mortgage loan broker must make specified disclosures within his or her loan brokerage disclosure statement.

Statutory section 375.937 amended 2004; § 443.867 amended 2009.

Mo. Rev. Stat. §§ 375.937; 443.867 (2019)

Missouri, State Truth-In-Lending Credit Application Disclosure Requirements

Missouri has not enacted a state truth-in-lending act.

Montana

Montana, Bank Credit Application Disclosure Requirements

No disclosure requirements applicable only to banks were located.

Montana, General Credit Application Disclosure Requirements

No state laws containing general credit disclosure requirements were located.

Montana, Mortgage Escrow Accounts

GENERAL REQUIREMENTS

If a lending institution requires a borrower with a real property mortgage to pay into a reserve fund for the payment of property taxes, insurance premiums, and other expenses, the amount of funds on reserve may not exceed 110 percent of the estimated amount necessary to pay the expenses. However, if the borrower desires, the parties may enter into a written contract pursuant to which they agree that the funds on reserve may exceed the 110-percent limit. The lending institution must keep an itemized record of each payment into and each disbursement withdrawn from the reserve fund. The lending institution must mail an annual statement of total receipts and disbursements to each borrower.

INTEREST REQUIREMENTS

No provisions addressing interest on escrow accounts were located.

MORTGAGE LENDERS

The "Montana Residential Mortgage Lender Licensing Act" was repealed as of July 1, 2009, and replaced with the "Montana Mortgage Broker, Mortgage Lender, and Mortgage Loan Originator Licensing Act." The new act provides that an escrow fund authorized for any purpose by a mortgage loan contract is subject to applicable state and federal requirements. Such money received by a licensed mortgage lender or mortgage servicer from a borrower must:

- be considered as held in trust immediately upon receipt;

- be placed in a depository institution before the end of the third business day following their receipt; and

- be held in a separate account established to hold only borrowers' funds and designated and maintained for the benefit of borrowers.

Statutory sections 71-1-114 and 71-1-115 enacted 1979; § 71-1-113 amended 2009; § 32-9-145 amended 2011.

Mont. Code §§ 32-9-145; 71-1-113, -114, -115 (2017)

Montana, Real Estate Loan Application Disclosure Requirements

A *mortgage lender* must disclose the loan's terms to the borrower in compliance with the disclosure requirements of the federal Real Estate Settlement Procedures Act of 1974, Truth-in-Lending Act, and related regulations. A mortgage broker or mortgage lender may not accept any fees or compensation that were not disclosed as required by state or federal law.

A mortgage lender must also disclose the terms of any prepayment penalty, including the amount of or the formula for calculating the prepayment penalty. A mortgage lender must comply with all federal laws and rules regarding prepayment penalties.

Also, generally, a person who lends money and solicits insurance on real property after a potential borrower indicates an interest in securing a first-mortgage credit extension must explain to the borrower in writing that insurance related to the credit extension "may be purchased from an insurer or insurance producer of the borrower's choice, subject only to the lender's right to reject a given insurer or insurance producer." Compliance with insurance disclosures "required by truth-in-lending laws or comparable state laws" complies with this requirement.

Within three business days of taking an application, a mortgage loan originator working for a mortgage broker must, in addition to other required disclosures, provide the borrower with the written disclosure required by department rule.

Statutory section 33-18-501 amended 1991; § 32-9-148 amended 2011; § 32-9-124 amended 2013.

Mont. Code §§ 32-9-148, -124; 33-18-501 (2017)

Montana, State Truth-In-Lending Credit Application Disclosure Requirements

Montana has not enacted a state truth-in-lending act.

Nebraska

Nebraska, Bank Credit Application Disclosure Requirements

No disclosure requirements applicable only to banks were located.

Nebraska, General Credit Application Disclosure Requirements

No state laws containing general credit disclosure requirements were located.

Nebraska, Mortgage Escrow Accounts

GENERAL REQUIREMENTS

A lender may not require a mortgage loan borrower or a prospective borrower:

- to deposit before or on the settlement date in an escrow account established to assure payment of taxes, insurance premiums, or other charges, a sum greater than the total amount of 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 practices and ending on the due date of the first full installment payment, plus a cushion of no more than 1/6 of the estimated total annual payments to be made from the escrow account during the 12-month period beginning on the settlement date; or

- to deposit in any month more than 1/12 of the total annual escrow account payments that the lender reasonably anticipates paying for taxes, insurance premiums, and other charges plus a cushion of no more than 1/6 of the estimated total annual payments to be made from the account, except that if the lender determines that a shortage exists or that there will be a deficiency on the due date, the lender may require additional monthly deposits of the pro rata amount of the shortage or deficiency.

Escrow accounts are not required.

Residential Mortgage Licensing Act

A licensee under the Residential Mortgage Licensing Act must:

- disburse "required funds" paid by the borrower and held in escrow for insurance payments no later than the date the premium is due;

- disburse funds paid by the borrower and held in escrow for real estate taxes before the date the taxes become delinquent;

- pay any penalty incurred by the borrower because of the licensee's failure to make the above payments, unless the licensee shows that the failure was solely due to the fact that "the borrower was sent a written notice of the amount due more than fifteen calendar days before the due date to the borrower's last-known address and failed to timely remit the amount due to the licensee"; and

- perform an annual escrow analysis.

If there is a change in the amount of the periodic payments, the licensee must mail to the borrower a written notice of the change at least 20 days before the effective date of the payment change.

Statutory section 45-101.05 amended 1997; § 45-101.06 enacted 1976; § 45-737 amended 2019.

Neb. Rev. Stat. §§ 45-101.05, .06; -737 (2019)

Nebraska, Real Estate Loan Application Disclosure Requirements

No real estate loan application disclosure requirements were located.

Nebraska, State Truth-In-Lending Credit Application Disclosure Requirements

Nebraska has not enacted a state truth-in-lending act.

Nevada

Nevada, Bank Credit Application Disclosure Requirements

A financial institution must clearly and conspicuously disclose in writing all fees and charges for services before the customer receives the service.

Statutory section amended 2017.

Nev. Rev. Stat. § 657.120 (2017)

Nevada, General Credit Application Disclosure Requirements

No state laws containing general credit disclosure requirements were located.

Nevada, Mortgage Escrow Accounts

GENERAL REQUIREMENTS

If a loan requires the deposit of money in an escrow account to pay taxes, assessments, insurance, or other obligations related to the encumbered property, the lender must:

- require contributions in an amount reasonably necessary to pay the obligations as they become due;

- unless money in the account is insufficient, pay the obligations as they become due; and

- analyze the account at least annually to determine whether "sufficient money is contributed to the account on a monthly basis to pay for the projected disbursements from the account."

At least 30 days before the effective date of any increased contribution, the lender must send a statement to the borrower showing:

- the method of determining the amount of money in the account;

- the projected disbursements; and

- the reserves that may be held pursuant to federal guidelines.

If the account does not contain enough money to make the necessary payments, the borrower may make up the deficiency in one lump sum or in increased monthly payments. Except for payments made by a borrower for a lender to recover previous deficiencies in the account, the borrower is entitled to the amount by which the borrower's contributions exceed the amount reasonably necessary to pay the annual obligations, together with interest.

If the account has more money than required to make the necessary payments, the lender must, no later than 30 days after completion of its annual account review, notify the borrower:

- of the amount by which the contributions and interest earned exceed the amount reasonably necessary to pay the annual obligations due from the account; and

- that the borrower may, no later than 20 days after receipt of the notice, specify that the lender either (a) repay the excess money and interest promptly to the borrower, (b) apply the excess money and interest to the outstanding principal balance, or (c) retain the excess money and interest in the account.

If the borrower fails to specify the disposition of the excess money and interest, the lender must maintain the excess money and interest in the account. If any payment is delinquent, the lender must apply the excess money and interest to the delinquency.

The provisions described above apply exclusively to:

- a loan secured by a single family residence; and

- a unit in a common-interest community that is used exclusively for residential use.

INTEREST REQUIREMENTS

No provisions addressing interest on escrow accounts were located.

Statutory section 100.091 amended 2017; previously applicable § 645E.430 repealed 2017.

Nev. Rev. Stat. §§ 100.091 (2017)

Nevada, Real Estate Loan Application Disclosure Requirements

Nevada statutes establishing disclosure requirements for mortgage brokers and agents do not apply to banks or other specified lending entities or natural persons, including that entity's subsidiary or holding company. No generally applicable provisions were located.

However, Nevada regulations regarding mortgage brokers, mortgage agents, and mortgage bankers require a real estate licensee acting in a dual capacity to make specific disclosures to a borrower at the time of the loan application in the form provided by regulation.

A person commits mortgage lending fraud (a category C felony), if he or she is a mortgage lending transaction participant who knowingly conceals or fails to disclose a material fact, among other things.

Statutory section 205.372 amended 2017; § 645B.015 amended 2019. Regulation 290 effective 2004; r. 235 amended 2017.

Nev. Rev. Stat. §§ 205.372; 645B.015 (2017); Nev. Admin. Code ch. 645B, § 235; ch. 645E, § 290 (2019)

Nevada, State Truth-In-Lending Credit Application Disclosure Requirements

Nevada has not enacted a state truth-in-lending act.

New Hampshire

New Hampshire, Bank Credit Application Disclosure Requirements

No disclosure requirements applicable only to banks were located.

New Hampshire, General Credit Application Disclosure Requirements

FINANCE CHARGE DISCLOSURE REQUIREMENTS

All persons in the business of extending credit, which includes loans or residential mortgages or deeds of trust, among others, must provide to every person to whom credit is extended a clear written statement setting forth

- the finance charge in dollars,
- the interest rate,

- the monthly charge rate, or

- any combination of the above to be paid in connection with the credit.

A finance charge statement or disclosure made in conformity with Regulation Z fulfills the finance charge statement requirements.

Statutory sections 399-B:1 and 399-B:2 enacted 1961; § 399-B:2-a amended 1999.

N.H. Rev. Stat. §§ 399-B:1, :2, :2-a (2018)

New Hampshire, Mortgage Escrow Accounts

GENERAL REQUIREMENTS

Effective August 20, 2016, a nondepository mortgage banker, mortgage broker, or mortgage servicer that receives funds from a mortgagor to be held in escrow for taxes and insurance premiums must pay the mortgagor's taxes and insurance premiums to the appropriate entity in the amount required and at the time due, if:

- the licensee has been provided with the tax or insurance bills at least 15 days before the payment's due date; and

- the mortgagor has paid the required amounts before the date the taxes and insurance premiums are due.

A licensee must determine and notify the mortgagor of the amounts necessary to be paid into the escrow account to assure that sufficient funds will be available for the tax and insurance premium payments as of their due dates.

If the amount held in the escrow account as of a payment due date is insufficient to pay the taxes and insurance premiums despite the mortgagor's compliance, the licensee must pay the taxes and insurance premiums from its own funds. The licensee must then give the mortgagor the option of paying the deficiency over a period of not less than 12 months. The licensee may not charge or collect interest on the deficiency during the 12-month period.

CONDOMINIUM ACT PROVISIONS

A lien for certain unpaid regular monthly common assessments, together with collection costs, are prior to the first mortgage. After notification to the first mortgage institutional lender of a delinquency, the institutional lender may require a residential unit owner to place an amount equal to no more than six months of "current regular assessments" in escrow in addition to any previously agreed to or required escrow amounts.

INTEREST REQUIREMENTS

A depository bank that requires or accepts funds for deposit in escrow accounts to pay taxes or insurance premiums related to loans of property secured by real estate mortgages must credit the account with interest at a minimum rate set for a 6-month period by the bank commissioner on February 1 and August 1 of each year. The rate is one percent below the mean interest rate paid by depository banks on regular savings accounts during the applicable period.

Escrow accounts of credit unions, federal credit unions, and foreign credit unions with escrow accounts in New Hampshire are subject to the same interest requirements, and similar interest requirements apply to nondepository first mortgage bankers and brokers.

Statutory section 356-B:46 amended 2010; §§ 383-B:3-303 and 383-E:4-415 enacted 2015; §§ 397-A:9 and 397-A:16 repealed and reenacted 2016.

N.H. Rev. Stat. §§ 356-B:46, 383-B:3-303, 383-E:4-415, 397–A:9, 397-A:16 (2018)

New Hampshire, Real Estate Loan Application Disclosure Requirements

MORTGAGE LOAN REQUIREMENTS

Effective August 20, 2016, mortgage bankers, mortgage brokers, or mortgage servicers may charge fees and points for services rendered in conjunction with the origination, closing, and servicing of loans. However, if any fee is collected in advance of the closing, the mortgage banker or mortgage broker must provide the borrower with a written explanation of the fee's purpose and disposition.

If the payment is applied on the date received, the licensee must provide to the borrower, at the time it takes the loan application, a separate written disclosure explaining how the payments will be applied.

INSURANCE DISCLOSURES

A financial institution must obtain a written statement at the time that a customer applying for a loan is first informed that insurance is available through the financial institution, acknowledging that the customer applying for credit has received the disclosure required by the state insurance laws.

Statutory section 397-A:14 amended 2019; § 397-A:16 repealed and reenacted 2016. Regulation 3204.06 effective 1999.

N.H. Rev. Stat. §§ 397-A:14, :16 (2018); N.H. Code Admin. R. Ins 3204.06 (2019)

New Hampshire, State Truth-In-Lending Credit Application Disclosure Requirements

New Hampshire has not enacted a state truth-in-lending law.

New Jersey

New Jersey, Bank Credit Application Disclosure Requirements

No disclosure requirements applicable only to banks were located.

New Jersey, General Credit Application Disclosure Requirements

FEDERAL COMPLIANCE

To the extent that the provisions of any of numerous specified New Jersey laws are inconsistent with the Federal Truth-in-Lending Act and related regulations, compliance with the federal law and regulations is deemed to be compliance with New Jersey law.

Statutory section enacted 1969.

N.J. Stat. Ann. § 17:3B-1 (2019)

New Jersey, Mortgage Escrow Accounts

GENERAL REQUIREMENTS

A mortgagee that requires a mortgagor to make payments into an escrow account must make each disbursement before the amount due becomes delinquent, provided the account contains sufficient funds. If there is a shortage, the mortgagee must promptly notify the mortgagor.

The mortgagee may make a payment even though there are insufficient funds in the escrow account.

Penalties and interest for late payments must be paid, but may not be charged to the mortgagor unless the penalty was the result of the mortgagor's error or omission. A mortgagee must notify a mortgagor in writing within 30 days after his escrow account is charged a penalty for late payment.

See N.J. Stat. Ann. § 17:16F-19 for specified, limited situations in which the mortgagee may charge a mortgagor for a duplicate copy of the tax bill.

Upon a mortgagee’s failure to resolve a tax payment delinquency within 30 days, the mortgagor may:

- pay the delinquent property taxes; and

- arrange to make all future payments for property taxes, insurance and other charges.

INTEREST REQUIREMENTS

No provisions addressing interest on escrow accounts were located.

Statutory sections 17:16F-18 and 17:16F-19 enacted 1990; § 17:16F-25 amended 1991.

N.J. Stat. Ann. §§ 17:16F-18, -19, -25 (2019)

New Jersey, Real Estate Loan Application Disclosure Requirements

OFFER TO MAKE LOAN

If a lender makes a written offer to a borrower to make a loan secured by real property, the lender must disclose to the borrower, in writing, prominently and in bold type, before the borrower's acceptance, that:

- the lender's and debtor's interests are or may be different and may conflict;

- the lender's attorney does not represent the borrower; and

- the borrower is "advised to employ an attorney of the borrower's choice."

BEFORE COMMITMENT

If a lender makes a written offer to a borrower to make a loan secured by real property in New Jersey, the lender must disclose the following to the borrower, in writing, as part of the loan commitment, or within 10 days after issuing the commitment and before the borrower accepts:

- the basis for calculating any charge that the borrower must pay to the lender's attorney for services rendered in connection with the loan; and

- a good faith estimate of any charge that the borrower will be expected to pay to the lender's attorney for those services.

If a lender becomes aware that a good faith estimate will be materially exceeded, the lender must notify the borrower of the increase before the loan's closing. If the lender fails to advise the borrower of additional charges, the lender may not seek payment of the excess from the borrower. Also, the lender's failure to give a good faith estimate or to notify the borrower of additional charges will "not affect the validity or enforceability of the loan commitment, the loan, or the security for the loan."

TITLE INSURANCE

If a mortgagee requires a title insurance policy on a purchase money mortgage on a one- to four-family dwelling, the title insurance company must, before mortgage funds are disbursed, advise the mortgagor in writing of:

- the fact that such a policy is to be issued;

- the name of the insured;

- the policy’s face amount; and

- the mortgagor's right to obtain title insurance for his or her own benefit, if it has not already been ordered or obtained.

Before or at the closing of a mortgage transaction, the title insurance company must obtain from the mortgagor a written statement that the mortgagor has received this notice.

DISCLOSURE OF FEES

Permissible fees and charges include premiums, discounts, commissions and other charges for making the loan, provided the charges are disclosed in writing:

- at least 12 days before closing; or

- immediately upon the signing of an agreement for the sale of real estate, if that occurs fewer than 12 days before closing.

REGULATORY REQUIREMENTS

Before a lender or broker accepts an application fee or any third-party fee, the lender or broker must disclose in writing to the borrower (which disclosure may be contained in the application) the following:

- a description and the amount of each fee;

- whether all or any part of the fees are refundable;

- the terms and conditions for any refund;

- a realistic estimate of the number of days required to issue a commitment following the lender's receipt of the fees;

- the name or title of a person within the lender's organization to whom the borrower may address questions, comments, or complaints; and

- for correspondent mortgage lenders, a statement indicating that the licensee is a correspondent mortgage lender and does not hold mortgage loans or service mortgage loans for more than 90 days in the regular course of business.

These disclosures must be acknowledged in writing by the borrower.

No later than the earlier of three business days after the lender receives the borrower's application or before the loan closing, the lender must provide the borrower with a good faith estimate of each settlement service fee that the borrower is likely to incur.

For settlement service fees imposed on a borrower by the lender, rather than third parties, the lender must indicate which fees are refundable and the terms and conditions for any refund.

Good faith estimates of settlement service fees that are made pursuant to Federal Regulation X generally satisfy these disclosure requirements, provided the lender also indicates which fees are refundable.

HIGH-COST HOME LOANS

A lender may not make a high-cost home loan unless it has given the following written and acknowledged notice to the borrower:

NOTICE TO BORROWER

YOU SHOULD BE AWARE THAT YOU MIGHT BE ABLE TO OBTAIN A LOAN AT A LOWER COST. YOU SHOULD SHOP AROUND AND COMPARE LOAN RATES AND FEES. MORTGAGE LOAN RATES AND CLOSING COSTS AND FEES VARY BASED ON MANY FACTORS, INCLUDING YOUR PARTICULAR CREDIT AND FINANCIAL CIRCUMSTANCES, YOUR EMPLOYMENT HISTORY, THE LOAN-TO-VALUE REQUESTED AND THE TYPE OF PROPERTY THAT WILL SECURE YOUR LOAN. THE LOAN RATE AND FEES COULD ALSO VARY BASED ON WHICH CREDITOR OR BROKER YOU SELECT.

IF YOU ACCEPT THE TERMS OF THIS LOAN, THE CREDITOR WILL HAVE A MORTGAGE LIEN ON YOUR HOME. YOU COULD LOSE YOUR HOME AND ANY MONEY YOU PUT INTO IT IF YOU DO NOT MEET YOUR PAYMENT OBLIGATIONS UNDER THE LOAN.

YOU SHOULD CONSULT AN ATTORNEY-AT-LAW AND A QUALIFIED INDEPENDENT CREDIT COUNSELOR OR OTHER EXPERIENCED FINANCIAL ADVISOR REGARDING THE RATE, FEES AND PROVISIONS OF THIS MORTGAGE LOAN BEFORE YOU PROCEED. A LIST OF QUALIFIED COUNSELORS IS AVAILABLE BY CONTACTING THE NEW JERSEY DEPARTMENT OF BANKING AND INSURANCE.

YOU ARE NOT REQUIRED TO COMPLETE THIS LOAN AGREEMENT MERELY BECAUSE YOU HAVE RECEIVED THIS DISCLOSURE OR HAVE SIGNED A LOAN APPLICATION.

REMEMBER, PROPERTY TAXES AND HOMEOWNER'S INSURANCE ARE YOUR RESPONSIBILITY. NOT ALL CREDITORS PROVIDE ESCROW SERVICES FOR THESE PAYMENTS. YOU SHOULD ASK YOUR CREDITOR ABOUT THESE SERVICES.

ALSO, YOUR PAYMENTS ON EXISTING DEBTS CONTRIBUTE TO YOUR CREDIT RATINGS. YOU SHOULD NOT ACCEPT ANY ADVICE

TO IGNORE YOUR REGULAR PAYMENTS TO YOUR EXISTING CREDITORS.

INSURANCE

A financial institution licensed as an insurance producer must inform prospective borrowers in writing of their right to acquire insurance coverage from independent sources, if the insurance coverage is required to secure or renew a loan or mortgage. The disclosure must be printed in at least 10-point type, given to the borrower at the time the insurance issue first arises, and worded as follows:

DISCLOSURE NOTICE

The Insurance Laws of New Jersey provide that the lender may not require the borrower to take insurance through any particular insurer or insurance producer (for example, agent or broker). The borrower has the right to have the insurance placed with or through an insurance producer and insurer of his or her choice, provided that they meet the reasonable requirements of the lender. Subject to the rules adopted by the Commissioner, the lender has the right to designate reasonable requirements as to the insurer and the insurance producer and as to the adequacy of the coverage. The lender cannot require the borrower to cancel insurance with another insurance producer and insurer unless the continuation of such coverage and relationship would be unreasonable within the meaning of this notice and N.J.A.C. 11:17A-2.5.

I have read the foregoing statement and understand my rights and privileges and those of the lender relative to the placing of insurance.

I have selected _____ (insert name) as the Insurance Company/Agency/Insurance Producer to provide the required _____ (insert type) insurance.

RESIDENTIAL MORTGAGE LENDERS, BROKERS AND SERVICERS

The "New Jersey Residential Mortgage Lending Act" provides that if a residential mortgage lender or broker assesses a reasonable charge for issuing a certified, cashier's, teller's, or bank check or for arranging an electronic fund transfer, he or she must fully disclose that charge at application or at or before issuing the loan commitment.

This requirement does not apply to depository institutions, among others, although a depository institution's subsidiaries and service corporations are not exempt from the act.

The 2019 "Mortgage Servicers Licensing Act" provides that upon assignment of servicing rights on a residential mortgage loan, the mortgage servicer must disclose to the mortgagor:

- any notice required by the RESPA (12 U.S.C. § 2601 *et seq.*), and the regulations promulgated thereunder, and within the applicable time periods; and

- "a schedule of the ranges and categories of its costs and fees for its servicing-related activities, which shall comply with State and federal law and, if the disclosure is made by a mortgage servicer licensee, shall not exceed those reported to the commissioner. "

REAL ESTATE LICENSEES

A real estate licensee who provides mortgage financing services to buyers must provide written disclosure to the buyer and to the seller as a condition of receiving compensation in addition to a share of the brokerage commission on the sale. The licensee must provide the written disclosure to the buyer before charging, accepting, or contracting for any fees for "mortgage financing services and providing such services other than prequalification." The written disclosure must include:

- the amount of all fees the buyer will be expected to pay to the licensee for mortgage services;

- whether and under what circumstances the fees are refundable;

- the amount and source of any compensation or reimbursement the licensee will receive for providing mortgage financing services to the buyer;

- if the licensee takes applications for or places loans exclusively with any three or fewer lenders, or is affiliated with any lender or mortgage broker, disclosure of that fact and the lenders' names, and the following statement:

YOU ARE UNDER NO OBLIGATION TO USE THE MORTGAGE SERVICES OFFERED BY THIS REAL ESTATE LICENSE. YOU MAY OBTAIN YOUR MORTGAGE LOAN FROM ANOTHER SOURCE.

If the licensee or agency is also representing the seller in the sales transaction, the disclosure must include additional information, as set forth in N.J. Admin. Code tit. 11, § 5-6.7(e). Also, a listing broker who represents only the seller and who offers to provide mortgage financing services to buyers for compensation or reimbursement must provide written disclosures to the seller.

Whenever a real estate licensee refers a buyer to a mortgage lender or mortgage broker with whom the licensee is affiliated, the licensee must provide written disclosure of the affiliation to the buyer. The licensee must make this disclosure even if the licensee will receive no fees or compensation for the referral and even if the licensee also refers the buyer to other, unaffiliated mortgage financing sources.

Statutory section 46:10A-3 enacted 1964; § 46:10A-6 amended 1993; § 46:10B-9 enacted 1968; § 46:10B-26 enacted 2003; § 17:11C-75 enacted 2009; § 17:16F-36 enacted 2019. Regulation 1-16.3 amended 2010; r. 17A-2.5 readopted 2010; r. 11:5-6.7 readopted 2009; r. 11:5-6.8 amended 2012.

N.J. Stat. Ann. §§ 17:11C-75; :16F-36; 46:10A-3, -6; :10B-9, -26 (2019); N.J. Admin. Code tit. 3, § 1-16.3; tit. 11, §§ 5-6.7, 5-6.8, 17A-2.5 (LexisNexis 2019)

New Jersey, State Truth-In-Lending Credit Application Disclosure Requirements

New Jersey has not enacted a state truth-in-lending act. However, New Jersey law provides that compliance with the Federal Truth-in-Lending Act is deemed compliance with any state requirements regarding disclosure of information in connection with credit transactions. Also, closed-end credit agreements are generally subject to the Federal Truth-in-Lending Act.

Additionally, a mortgage servicer must comply with all applicable federal laws and regulations relating to mortgage loan servicing, including, but not limited to, the Federal Truth-in-Lending Act

Statutory section 17:3B-1 enacted 1969; § 17:3B-25 enacted 1985; § 17:16F-37 enacted 2019.

N.J. Stat. Ann. §§ 17:3B-1, -25; :16F-37 (2019)

New Mexico

New Mexico, Bank Credit Application Disclosure Requirements

GENERAL (§§ 58-21B-3, -4)

No disclosure requirements applicable only to banks were located.

The "New Mexico Mortgage Loan Originator Licensing Act," which includes certain disclosure requirements, does *not* apply to registered mortgage loan originators who are acting for:

- a depository institution;
- a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency; or
- an institution regulated by the farm credit administration.

INSURANCE (§ 59A-12-10)

The previously applicable statute that provided that if insurance is required as a condition of obtaining a loan, a lending institution must complete the credit and insurance transactions independently and through separate documents, was repealed effective July 1, 2017.

Statutory sections 58-21B-3 and 58-21B-4 enacted 2009; § 59A-12-10 amended 2013 and repealed effective July 1, 2017.

N.M. Code §§ 58-21B-3, -4 (2019)

New Mexico, General Credit Application Disclosure Requirements

No state laws containing general credit disclosure requirements were located.

New Mexico, Mortgage Escrow Accounts

GENERAL REQUIREMENTS

A mortgagee may escrow funds for taxes, insurance premiums and other charges required by the terms of a mortgage. Upon the mortgagor's demand, but no more than once each year, the lender must credit to the mortgage loan principal (or as otherwise provided by contract) any balance in the escrow fund that exceeds two months' total escrow charges, plus the pro rata accrual for the taxes, premiums and other charges. If a mortgagee fails to credit upon demand any excess accumulation of escrow funds as required above, the mortgagee must pay the mortgagor a penalty of six percent per year on the excess escrow funds.

HOME LOAN PROTECTION ACT REQUIREMENTS

A creditor may not make or originate a home loan with an 80 percent or higher loan-to-value ratio for an owner-occupied residence unless the creditor has established an escrow account for real estate taxes and property insurance. In this context a "creditor" means "a person who regularly offers or makes a home loan."

INTEREST REQUIREMENTS

No provisions addressing interest on escrow accounts were located.

Statutory section 48-7-8 enacted 1971; §§ 58-21A-3 and 58-21A-4 amended 2009.

N.M. Stat. §§ 48-7-8; 58-21A-3, -4 (2019)

New Mexico, Real Estate Loan Application Disclosure Requirements

GENERAL

New Mexico regulations provide that the disclosure required by the federal Truth-in-Lending Act and Regulation Z meet the state disclosure requirements for business, commercial and agricultural loans or credit sales of $50,000 or less.

MORTGAGE LOAN ORIGINATORS

A mortgage loan originator enters into a fiduciary relationship with the borrower. As such, the originator has the following duties, among others:

- to make a "full and fair disclosure" of all facts within the originator's knowledge that "are or may be material to the borrower's decision, rights or interests"; and

- to disclose the existence of all loans available to the originator, for which the borrower qualifies and that have terms that are "as favorable or more favorable than those loans" the originator offered to the borrower.

A mortgage loan originator must make additional disclosures at or before closing.

A "mortgage loan originator" is "an individual who for compensation or gain or in the expectation of compensation or gain takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan." "Mortgage loan originator" generally does *not* include:

- an individual engaged solely as a loan processor or underwriter;

- a licensed or registered person that performs only real estate brokerage activities, unless the person is compensated by a lender, a mortgage loan company, or another mortgage loan originator; and

- a person solely involved in credit extensions relating to timeshare plans.

MORTGAGE LOAN COMPANIES

A mortgage loan company must:

- make all disclosures required by applicable federal and state laws;
- provide a revised "good faith estimate" and a copy of the borrower's lock-in agreement within three days of locking in the loan rate, pricing, and terms; and
- make a full and fair disclosure of all facts within the mortgage loan company's knowledge that "are or may be material" to the borrower's decision, rights or interests.

Additional disclosures are required at or before closing.

A "mortgage loan company" includes any person who, for compensation or gain, directly or indirectly:

- accepts a mortgage loan application;
- negotiates terms for a mortgage loan;
- "solicits, processes, originates, brokers or makes mortgage loans for others";
- offers to do the above; or

- closes mortgage loans that may be in the mortgage loan company's own name with funds provided by others and that are assigned to the mortgage lenders funding the loans.

Statutory section 58-21-2 amended 2009; §§ 58-21-31, 58-21B-3, and 58-21B-20 enacted 2009. Regulation amended 1997 and recompiled 2001.

N.M. Code §§ 58-21-2, -31; 58-21B-3, -20 (2019); N.M. Code R. 12.15.2.8 (2019)

New Mexico, State Truth-In-Lending Credit Application Disclosure Requirements

New Mexico has not enacted a state truth-in-lending act.

New York

New York, Bank Credit Application Disclosure Requirements

DEPARTMENT OF FINANCIAL SERVICES REGULATION

The Superintendent of Financial Services must adopt regulations regarding loans by personal loan departments that include provisions requiring disclosure to the borrower of

- the circumstances under which the rate may increase,
- any limitations on the increase,
- the effect of an increase,
- an example of the payment terms that would result from an increase,
- a history of the index fluctuations over a reasonable period, and

- notice to the borrower before any rate increase or change in terms of payment.

With respect to variable-rate agreements, the superintendent must adopt regulations requiring a bank or trust company to disclose to the borrower

- the circumstances under which the interest rate may increase,
- any limitations on increases,
- the effect of an increase,
- an example of the payment terms that would result from a rate increase, and
- a history of index movements over a reasonable period.

A bank must provide notice to the borrower before increasing the rate or changing the payment terms.

VARIABLE RATE LOANS

A written agreement establishing credit may provide for either a fixed or variable introductory interest rate. The agreement must disclose the terms of the introductory rate, including, if applicable, the date when the rate will terminate. The disclosure must be contained on an application form or pre-approved written solicitation.

MODIFICATION APPLICATION

If a mortgage that is subject to an application for modification of its terms is sold or transferred during the modification process, the bank or financial institution selling or transferring the mortgage must provide the borrower with a written list of all documents relating to the modification application that were provided to the transferee bank or financial institution.

Statutory section 108 amended 2015; § 6-n enacted 2019.

N.Y. Banking Law §§ 108, 6-n (2019)

New York, General Credit Application Disclosure Requirements

VARIABLE RATE LOANS

Banks and certain other financial institutions making variable rate, closed-end personal loans must disclose to the borrower:

- the index used in varying the loan rate and where the index figures are available;
- the circumstances under which the rate may vary;
- the intervals at which the lender may change the rate;
- the times or dates when the lender calculates the rate;
- any conditions or events on which the rate changes are contingent;
- the effects that an increase in the rate may have on the monthly payment amount, the number of monthly payments, or the final payment amount;

- an example of the effects of a rate increase on the monthly payment amount, the number of monthly payments, or the final payment amount;

- the history of the movements in the selected index;

- the fact that the borrower will be notified before any rate increase or payment term change;

- the time periods within which any notifications will be sent;

- limits on the amount of any rate increase or on the extent of all increases in the rate over the life of the loan;

- any ceilings or floors; and

- options regarding balloon payments.

Regulation amended 2002.

N.Y. Comp. Codes R. & Regs. tit. 3, § 33.2 (West 2019)

New York, Mortgage Escrow Accounts

INSURANCE ESCROW ACCOUNTS

General requirements

A financial institution must:

- timely make all insurance payments;

- pay at least the minimum interest rate on each real property insurance escrow account;

- deposit funds from a real property insurance escrow account in an institution whose deposits are federally insured; and

- provide an annual analysis of the escrow account.

The financial institution may debit a mortgagor's real property insurance escrow account for insurance premiums payments only if actual payment for the premiums is made within 21 days of the debit.

Disclosures

A financial institution must disclose the following in writing at the time an insurance escrow account is established:

- that the institution must make all insurance payments for which the real property insurance escrow account is maintained, and that if any payments are not timely, the institution is responsible for the penalties and interest and liable for all damages resulting from its failure;

- that, if the insurer sends a real property insurance premium notice to the mortgagor, the mortgagor must promptly transmit the notice to the institution;

- that the mortgagor must pay 1/12 of the real property insurance premiums each month to the institution, unless there is a deficiency or surplus in the account, in which case a greater or lesser amount may be required; and

- that, in some cases, the financial institution must deposit the escrow payments in a bank whose deposits are federally insured.

Transfers

A financial institution must provide written notice to a mortgagor no later than 10 business days after the transfer of the right to receive payments from the mortgagor, including escrow payments. The notice must include the name, address and telephone number of the institution to which the rights have been transferred.

Upon mortgagor's request, the institution must advise the mortgagor of the amount of money in the account as of the transfer date.

Final payment

No later than 30 days after the final payment on the mortgage loan, a mortgagee must send the mortgagor a written statement:

- stating that the insurance escrow account is terminated;

- stating that, unless the mortgagor establishes a new real property insurance escrow account, he will be obliged to pay to the appropriate insurer real property insurance premiums as they become due;

- setting forth the termination date;

- providing the name and address of each insurer; and

- advising the mortgagor to contact the insurer for billing information.

Interest requirements

The Superintendent of Financial Services has the power to prescribe a minimum interest rate to be paid on each escrow account maintained with respect to a mortgage on a one- to six-family residence occupied by the owner or on any property owned by a cooperative apartment corporation. The rate must be greater than the interest rate that is required pursuant to §§ 5-601 or 5-602 of the General Obligations Law.

Interest is not required on escrow accounts if:

- there is a contract between the mortgagor and the financial institution, entered into before 1974, containing an express disclaimer of an obligation to pay interest;
- paying interest would violate any federal law or regulation; or
- the accounts are maintained with an unaffiliated mortgage servicing company under a contract entered into before 1974, and the contract does not permit interest.

A financial institution must credit the account quarterly with dividends or interest at a rate no less than the greater of two percent per year or the rate prescribed by the Superintendent of Financial Services pursuant to § 14-b of the Banking Law (as described above). The institution may not impose a service charge in connection with maintaining an escrow account unless the charge was provided for in a loan contract executed before 1974.

Mortgage servicers

A servicer that receives funds from a borrower to be held in escrow for tax or insurance premium payments must make the payments "in accordance with the requirements of RESPA, 24 C.F.R section 3500.17, Real Property Tax Law Article 9, Title 3-A and Banking Law section 6-k." The servicer must disclose any payments from the escrow account clearly and conspicuously in the borrower's next periodic statement.

If a servicer must advance funds to pay a disbursement and that payment is not the result of the borrower's default, the servicer must:

- conduct an escrow account analysis to determine the reason for the deficiency and the deficiency amount; and

- provide the borrower with a written explanation before seeking repayment.

At least annually and within 30 days of the end of the computation year, a servicer must deliver to the borrower a plain language account statement showing specific information, including the amounts deposited into and disbursed from escrow during the period. The servicer may not charge the borrower a fee for this annual escrow statement.

A servicer generally must handle any shortage, surplus, or deficiency in the escrow account in accordance with the provisions of RESPA. However, with the borrower's consent, the servicer may apply any excess balance to the principal.

TAX ESCROWS

Interest and general requirements

A financial institution must:

- timely make all payments for taxes for which they hold a real property tax escrow account;

- if subject to Banking Law § 14-b, pay at least the minimum interest rate on each real property tax escrow account, unless the account was established for “non-mortgagors”; and

- deposit the funds in a banking institution whose deposits are federally insured.

A mortgage investing institution may not impose a service charge or any other fee in connection with the tax escrow account or for the direct payment of real property taxes. The institution may debit a mortgagor's real property tax escrow account for tax payments only if actual payment is made within 21 days of the debit.

A financial institution must, at least annually and without charge, provide the mortgagor with an analysis of the real property tax escrow account, containing at least the following:

- interest earned;

- the amount of taxes paid from the real property tax escrow account;

- the account balance as of the beginning of the period; and

- the ending account balance as of a specified date within 45 days before the analysis.

The analysis must also state

- that the financial institution is obligated to make all payments for taxes for which the real property tax escrow account is maintained, and that if any payments are not timely, the institution is responsible for the payments and any penalties and interest;

- that the mortgagor must pay 1/12 of the taxes each month, unless there is a deficiency or surplus in the account, in which case the institution may require a greater or lesser amount;

- that the institution may be required to deposit the escrow payments in a bank whose deposits are federally insured; and

- that the mortgage investing institution cannot impose fees on the real property tax escrow account.

Upon the mortgagor's request, the institution must provide to the mortgagor, without charge, the dates of the tax payments made from the account.

Transfers

A financial institution must provide written notice to a mortgagor no later than 10 business days after any transfer of the right to receive payments from the mortgagor, including escrow payments.

Final payment

A mortgage investing institution must, no later than 21 days after the final mortgage loan payment, send the mortgagor a written statement including the following information:

- that the real property tax escrow account is terminated;

- that, unless the mortgagor establishes a new real property tax escrow account, the mortgagor must pay taxes directly;

- the effective date of the termination; and

- the name, address and telephone number of a tax officer or office, advising the mortgagor to contact that officer or office for tax billing information.

Non-mortgagors

See Real Prop. Tax Law § 953-a for provisions that apply to real property tax escrow accounts for non-mortgagors.

ADDITIONAL INTEREST REQUIREMENTS

If a mortgage escrow account or insurance draft escrow account must be closed before the last business day of a quarter, interest must be computed and credited from the day as of which interest was last credited through the day on which the account is closed.

Note that New York regulations provide detailed provisions regarding the computation of interest to be paid on escrow accounts.

HIGH-COST HOME LOANS

A lender may not make a high-cost home loan after July 1, 2010, unless the lender requires and collects a monthly escrow for property taxes and hazard insurance. The borrower may waive this escrow requirement by notifying the lender in writing after one year from the loan closing. This escrow requirement does not apply to a subordinate high-cost home loan if the taxes and insurance are escrowed through another home loan or if the borrower can demonstrate a "record of twelve months of timely payments of taxes and insurance on a previous home loan."

SUBPRIME HOME LOANS

A lender may not make a subprime home loan after July 1, 2010, unless the lender requires and collects a monthly escrow for property taxes and hazard insurance. The borrower may waive this escrow requirement by notifying the lender in writing after one year from the loan closing date. This escrow requirement does not apply to a subordinate subprime home loan if the taxes and insurance are escrowed through another home loan or if the

borrower can demonstrate a "record of twelve months of timely payments of taxes and insurance on a previous home loan."

Statutory sections 5-601 and 5-602 amended 2011; §§ 6-k, 6-*l*, 14-b, and 953 amended 2012; § 6-m amended 2014. Regulatory section 10.1 amended 1987; rr. 419.5 and 419.7 amended 2017.

N.Y. Banking Law §§ 6-k, 6-*l*, 6-m, 14-b; N.Y. Gen. Oblig. Law §§ 5-601, -602; N.Y. Real Prop. Tax § 953 (2019); *see* N.Y. Comp. Codes R. & Regs. tit. 3, §§ 10.1, 419.5, 419.7 (West 2019)

New York, Real Estate Loan Application Disclosure Requirements

INTEREST RATE EFFECTIVE DATE

Every mortgage lending institution and mortgage banker that originates loans secured by real property must provide a separate disclosure form with every application stating whether the interest rate will be the rate in effect at the time of application, commitment, closing, or any other time, as determined by the lender.

ALTERNATIVE MORTGAGE LOANS

Any rules or regulations that the Superintendent of Financial Services adopts regarding alternative mortgages must provide for disclosures and notices to the borrower regarding the terms and conditions of the loan and mortgage. The Board may require the adoption of uniform disclosure and notice forms.

ENTITY ACTING AS BROKER

Before accepting an application, application fee, credit report fee, or property appraisal fee, every mortgage banker or exempt organization acting in a mortgage brokerage capacity must disclose in writing the following, among other things:

- that the mortgage banker or exempt organization will not make the mortgage loan;

- a statement that the rate, points, fees and other terms quoted at commitment constitute the consideration the mortgage banker or exempt organization will receive from the lender;

- the specific consideration;

- the specific services to be provided;

- the application fee amount and the good-faith estimate of the credit report or property appraisal fee, and the terms and conditions under which such fees may be refundable;

- the toll-free telephone number to which the applicant may address questions, comments or complaints, or the circumstances under which collect calls will be accepted;

- if applicable, the loss of certain consumer protections and lender disclosures if the loan is placed with a private lender; and

- a notice that the requirement that the term of a balloon mortgage must be at least three years does not apply to a loan placed with a private lender; and

- if applicable, the fact that a combination of mortgage brokers, mortgage bankers or exempt organizations are dividing fees and the dollar amount or percentage of the fee each will receive.

For any transaction in which a mortgage broker solicits, processes, places, or negotiates a home loan, the broker must clearly disclose to the borrower, no later than three days after receipt of the loan application, all material information (as specified by the superintendent) that "might reasonably affect the rights, interests, or ability of the borrower to receive the borrower's intended benefit from the home loan," including the total compensation that the broker would receive from any of the loan options that the lender or broker presents to the borrower.

See regulation 38.3 of Title 3 for additional details regarding application disclosures and procedures.

INTEREST RATES

Each mortgage banker and exempt organization must disclose in writing to each mortgage loan applicant when the interest rate for the loan will be set.

If the applicant is allowed to choose when the rate will be set, the disclosure must contain a statement to that effect.

MORTGAGE BANKERS AND EXEMPT ORGANIZATIONS

Before accepting an application, application fee, credit-report fee or property-appraisal fee, a mortgage banker or exempt organization must make the following disclosures in writing to the applicant:

- the application fee, an estimate of the credit report fee and property appraisal fee, and the terms and conditions under which fees are refundable; and

- the toll-free number the applicant can call with questions, comments or complaints, or the circumstances under which collect calls will be accepted.

COMMITMENT DISCLOSURES ON MORTGAGE LOANS TO FINANCE DWELLINGS

At the time of commitment and before acceptance of a commitment fee or any points, a mortgage banker must disclose the following in writing to each applicant for a mortgage loan to finance the acquisition of a dwelling:

- the entity making commitment;
- the borrower;
- the property securing loan;
- the loan principal;
- the loan term;
- the initial interest rate;
- the initial monthly principal and interest payment;
- whether a balloon payment is necessary;
- the frequency of change, index, margin and relevant caps on an adjustable rate loan;
- whether private mortgage insurance is necessary;

- whether flood insurance is required (if the property is in a flood zone);

- if negative amortization applies;

- conditions under which the mortgage is assumable;

- if funds are to be escrowed;

- total points to be accepted;

- a separate identification of points; and

- a separate identification of any premiums or bonuses that the lender will pay the mortgage broker.

When the broker fees and points are paid from the loan proceeds and not considered as a cost of the credit, a statement must be included to the effect that such points and fees are costs of obtaining the loan that the borrower may have to repay with interest over the mortgage loan term. However, when the broker fees and points are paid directly to the broker in full at or before the closing and are not considered as a cost of the credit, a statement must be included to the effect that such points and fees are costs of obtaining the loan and are in addition to the amount the borrower will receive from the loan.

The lender must also disclose the following terms and conditions of the commitment:

- the time when the commitment is irrevocable, which must not be less than five calendar days;

- the fees and charges payable at the time of commitment; and

- the commitment’s expiration date.

The following items relating to the real property must be produced before closing:

- the title report and insurance,
- the property survey,
- a copy of the certificate of occupancy for use,
- a satisfactory final inspection of new construction,
- appropriate evidence of hazard and flood insurance,
- the master policy insurance certificate,
- the termite inspection report,
- the radon test report,
- the well-water test report, and
- the septic inspection report.

A mortgage banker must provide an applicant with

- a list of foreseeable conditions and documents that will be necessary for closing of a mortgage loan, and

- notice of the commitment period's expiration, which must be provided in a separate document no fewer than 12 business days nor more than 20 business days before the commitment period expires.

GUARANTEED RATES AND LOCK-IN AGREEMENTS

Before accepting any points or a lock-in fee, a mortgage banker must provide a lock-in agreement signed by both parties. The lock-in agreement must provide the following information:

- an identification of the property;

- the loan's principal amount;

- the loan term;

- the initial interest rate;

- the points;

- any commitment fees;

- any lock-in fees;
- whether and when the rate is fixed or variable;
- whether a balloon payment will be required;
- whether funds will be escrowed;
- whether private mortgage insurance is necessary;
- the length of the lock-in period;
- notice that, if the applicant provides incomplete or incorrect credit information, the lock-in fee may be forfeited;
- whether and when the lock-in fee is refundable;
- the application, credit report and property appraisal fees; and
- a list of property-related documents and conditions normally required to close a mortgage loan.

Notice of the expiration of the lock-in period must be a separate document and mailed to the applicant no fewer than 12 business days nor more than 20 business days before the lock-in period expires.

INSURANCE

A mortgage banker who requires a mortgagor to maintain hazard insurance as a condition of granting a mortgage loan must make the following disclosures at the time of commitment or application:

- that hazard insurance is necessary; and
- that the mortgage banker cannot require the mortgagor to maintain a policy in excess of the replacement cost of the property improvements.

JUNIOR LIEN MORTGAGES

A contract, note or instrument on a junior mortgage loan must contain a notice in bold 10-point or larger type, stating:

DEFAULT IN THE PAYMENT OF THIS LOAN AGREEMENT MAY RESULT IN THE LOSS OF THE PROPERTY SECURING THE LOAN. UNDER FEDERAL LAW, YOU MAY HAVE THE RIGHT TO CANCEL THIS AGREEMENT. IF YOU HAVE THIS RIGHT, THE CREDITOR IS REQUIRED TO PROVIDE YOU WITH A SEPARATE WRITTEN NOTICE SPECIFYING THE CIRCUMSTANCES AND TIMES UNDER WHICH YOU CAN EXERCISE THIS RIGHT.

Before accepting an application for a loan, a lender must disclose the terms of the loan the applicant seeks, including:

- the term;
- the initial interest rate;

- the initial payment amount;

- an explanation of the amortization schedule;

- an explanation of how the interest rate, payment, loan balance or term may be adjusted and the effects of any adjustments;

- the fact that the borrower will be notified of rate increases or changes in payment terms, what will appear in the notice, and when the notice will be sent;

- any prepayment penalties;

- any provisions for escrow payments and an explanation of the purpose of escrow payments;

- an example of the effects of an increase in the rate on the monthly payment amount, the number of payments, or the final payment amount;

- the index movement history;

- notices as provided in N.Y. Comp. Codes R. & Regs. tit. 3, § 80.4(b) in case of a balloon-payment mortgage loan; and

- a statement reading: "YOU SHOULD CHECK WITH YOUR LEGAL ADVISOR WITH OTHER MORTGAGE LIEN HOLDERS AS TO WHETHER ANY PRIOR LIENS CONTAIN ACCELERATION CLAUSES WHICH WOULD BE ACTIVATED BY A JUNIOR ENCUMBRANCE."

ALTERNATIVE LOANS

Before accepting an alternative loan application, a lender must disclose

- the term;
- the initial interest rate;
- the first payment amount;
- an amortization schedule explanation;
- an explanation of how the interest rate, payment, loan balance or term may be adjusted and the effects of such changes;
- the information that will be contained in any adjustments notice and in the maturity notice, and when such notice will be provided;
- any prepayment penalties;
- a statement regarding escrow payments;
- an example of the effects of a rate increase on the monthly payment amount, the number of payments, or the final payment amount; and
- the index movement history.

A disclosure must be made regarding a balloon payment mortgage loan as provided in § 82.6(b) of the regulations.

In a graduated payment mortgage loan, the lender must disclose and explain that the loan's interest costs will be higher than the interest costs for a fixed-rate amortizing loan of the same term and for the same amount.

In a pledged-account mortgage loan, the lender must disclose an example of the difference in interest cost between a loan secured by property and a savings account and a loan secured only by property.

For a step mortgage loan, the lender must disclose

- the initial interest rate,
- the monthly payment amount, and
- a table indicating the monthly payments at identified interest rates for the entire term.

For preferred-rate mortgage loans, the lender must disclose

- the event that would allow an interest rate increase,
- the rules on termination of the preferred rate,
- fees charged upon a rate change, and

- how the new rate is determined.

A financial institution that complies with Regulation Z (12 CFR part 226) or the provisions of 12 CFR 563.99 are deemed to be in compliance with the disclosure requirements regarding adjustable-rate first lien mortgage loan transactions.

APPRAISALS

Upon the applicant's written request, a lender who requires a loan applicant to bear the appraisal costs or consumer report costs as a condition of processing the application must provide the applicant a copy of the appraisal or the consumer report at no extra cost.

HIGH-COST HOME LOANS

A lender or mortgage broker must, at the time of application, deliver, mail, fax or electronically transmit to a borrower applying for a high-cost home loan the following notice: “You should consider financial counseling prior to executing loan documents. The enclosed list of counselors is provided by the New York Department of Financial Services.”

If the lender does not know whether the borrower's application is for a high-cost home loan, the required disclosures must be made as soon as the lender determines that it is a high-cost home loan application. In the event of a telephone application, the disclosure must be made immediately after receipt of the application by telephone. The borrower must give permission for any electronic transmissions. The lender must provide a list of approved counselors at the time the disclosure is given.

Within three days after determining that a loan is a high-cost home loan, but no fewer than 10 days before closing, a lender or mortgage broker must deliver to the borrower in writing, the following notice in at least 12-point type:

CONSUMER CAUTION AND HOME OWNERSHIP COUNSELING NOTICE

If you obtain this loan, which pursuant to New York State Law is a High-Cost Home Loan, the lender will have a mortgage on your home. You could lose your home, and any money you have put into it, if you do not meet your obligations under the loan.

You should shop around and compare loan rates and fees. Mortgage loan rates and closing costs and fees vary based on many factors, including your particular credit and financial circumstances, your earnings history, the loan- to-value requested, and the type of property that will secure your loan. The loan rate and fees could vary based on which lender or mortgage broker you select. Higher rates and fees may be related to the individual circumstances of a particular consumer's application.

You should consider consulting a qualified independent credit counselor or other experienced financial adviser regarding the rate, fees, and provisions of this mortgage loan before you proceed. The enclosed list of counselors is provided by the New York Department of Financial Services.

You are not required to complete any loan agreement merely because you have received these disclosures or have signed a loan application. If you proceed with this mortgage loan, you should also remember that you may face serious financial risks if you use this loan to pay off credit card debts and other debts in connection with this transaction and then subsequently incur significant new credit card charges or other debts. If you continue to accumulate debt after this loan is closed and then experience financial difficulties, you could lose your home and any equity you have in it if you do not meet your mortgage loan obligations.

Property taxes and homeowner's insurance are your responsibility. Not all lenders provide escrow services for these payments. You should ask your lender about these services.

Your payments on existing debts contribute to your credit ratings. You should not accept any advice to ignore your regular payments to your existing creditors. Accordingly, it is important that you make regular payments to your existing creditors.

Effective July 1, 2010, the paragraph in the above notice related to property taxes and homeowner's insurance is no longer included in the required counseling notice.

If this notice is given separately from the counseling notice, then the list of counselors enclosed in the counseling notice disclosure must also be enclosed with this disclosure notice.

A mortgage broker or lender must also disclose, if true, that, although the aggregate monthly debt payment may decrease, a high-cost home loan may increase both the number of monthly debt payments and the amount the borrower pays over the loan term.

The following statement in a minimum of 12-point type must appear directly above the borrower's signature line on the application: "The loan which may be offered to you is not necessarily the least expensive loan available to you and you are advised to shop around to determine comparative interest rates, points and other fees and charges." For telephone applications, the lender or broker must make this disclosure within three days of receipt of an application, and at least 10 days before closing. If the lender or broker does not know whether the borrower's application is a high-cost home loan application, it must make the disclosure within three days after determining that it is a high-cost home loan application, and at least 10 days before closing. If a government-sponsored entity prescribes the mortgage application form, the statement must be placed on a separate document and attached to the front of the mortgage application.

As of August 17, 2012, New York law no longer explicitly requires a mortgage broker arranging a high-cost home loan to disclose within three days after receiving the application the "exact amount and methodology" of total compensation that the broker will receive.

For a high-cost home loan, the first time a borrower is informed of the "anticipated or actual periodic payment amount in connection with a first-lien residential mortgage loan for a specific property," the lender or mortgage broker must

- inform the borrower that an additional amount will be due for taxes and insurance; and

- disclose to the borrower as soon as reasonably possible the approximate amount of the initial periodic payment for property taxes and hazard insurance.

SUBPRIME HOME LOANS

A lender or mortgage broker must, at the time of application, deliver, place in the mail, fax, or electronically transmit the following notice in at least 12-point type to the borrower of a subprime home loan: "You should consider financial counseling prior to executing loan documents. The enclosed list of counselors is provided by the New York Department of Financial Services."

The disclosure must include a list of approved counselors. For a telephone application, the disclosures must be made immediately after receipt of the application by telephone. The disclosure must be on a separate form.

Effective August 17, 2012, New York law no longer explicitly requires a mortgage broker arranging a subprime home loan to disclose, within three days of receiving an application, "the exact amount and methodology for determining the total compensation that the broker will receive."

The first time a borrower is informed of the anticipated or actual periodic payment amount in connection with a first-lien residential mortgage loan for a specific property, the lender or mortgage broker must

- inform the borrower that an additional amount will be due for taxes and insurance; and

- disclose to the borrower "as soon as reasonably possible the approximate amount of the initial periodic payment for property taxes and hazard insurance."

PRE-COMMITMENT DISCLOSURES

Before accepting a commitment fee or any points, a lender making a mortgage loan must disclose in writing or by electronic transmission to each applicant for a mortgage loan the fees to be paid in connection with the commitment and the terms and conditions under which the fees may be refunded. The lender must also disclose the following terms and conditions of the loan in the commitment document:

- identification of entity making the commitment;
- borrowers' identification;
- property identification;
- principal amount of the loan;
- loan term;
- initial interest rate;
- initial monthly principal and interest payment;
- a statement that a balloon payment will be required, if true;
- if the loan is an adjustable rate loan, the frequency of change, the index, the margin, and any relevant caps;
- a statement that private mortgage insurance will be required, if true, and the conditions under which the insurance would no longer be required;

- a statement that flood insurance may be required if the property is in a flood zone;

- a statement that negative amortization may apply, if applicable;

- whether and under what conditions the mortgage is assumable;

- a statement that funds are to be escrowed, if applicable;

- total points to be accepted by or on behalf of the mortgage banker or exempt organization at or before closing;

- separately identified points, including premium pricing, payable by the lender to a mortgage broker, if acting in a mortgage brokerage capacity, including an explanation of the basis for the premium pricing payment;

- if applicable, any premiums or bonuses to be paid to a mortgage broker by the lender and the basis of the mortgage broker's eligibility to receive the funds; and

- the amount of or formula for calculating any prepayment penalty and its terms.

The lender must also disclose the terms and conditions of the commitment, including

- the time during which the commitment is irrevocable and may be accepted by the borrower, which must not be fewer than seven calendar days from the later of the commitment or the mailing date;

- the amount of fees and charges payable at commitment; and

- the commitment's expiration date.

The lender must also make the following mandatory disclosure: "IF YOU SIGN THIS COMMITMENT, AND YOU DO NOT CLOSE THIS LOAN IN ACCORDANCE WITH THE DESCRIBED TERMS, YOU MAY LOSE SOME OR ALL OF THE FEES OR CHARGES YOU HAVE PAID."

No points may be required by the lender as a condition for closing a mortgage loan if they have not previously been disclosed to the borrower.

MORTGAGE LOAN ORIGINATORS

A mortgage loan originator must clearly show his or her unique identifier on all residential mortgage loan application forms, solicitations, or advertisements.

DUAL AGENCY BROKER DISCLOSURES

Where the mortgage broker is also the real estate broker in the same residential real estate transaction, that must be disclosed at the first substantive contact between the mortgage broker and the buyer/borrower. "In addition, any regular business relationship that the mortgage broker maintains with any lender to which he/she presents loan applications, if he/she intends to utilize three or fewer lenders, must also be disclosed at the first substantive contact between the mortgage broker and the buyer/borrower." The appropriate disclosure form and acknowledgment set forth in Rule 38.12 must be provided to and signed by the buyer/borrower and the seller before services as a mortgage broker may be rendered.

Statutory section 254-c amended 1996; § 599-p enacted 2009; §§ 9-o, 6-f, and 590-a amended 2011; §§ 6-*l* and 590-b amended 2012; § 6-m amended 2014. Regulations 38.9, 38.4, and 38.6 amended 1998; rr. 80.4 and 82.6 amended 2002; r. 82.9 amended 1997; rr. 38.3, 41.3, and 41.4 amended 2013.

N.Y. Banking Law §§ 9-o, 6-f, 6-*l*, 6-m, 590-a, 590-b, 599-p; N.Y. Real Prop. Law § 254-c

(2019); N.Y. Comp. Codes R. & Regs. tit. 3, §§ 38.3, .4, .6, .9, .12; 41.3, .4; 80.4; 82.6, .9 (West 2019)

New York, State Truth-In-Lending Credit Application Disclosure Requirements

New York has not enacted a state truth-in-lending act.

North Carolina

North Carolina, Bank Credit Application Disclosure Requirements

No disclosure requirements applicable only to banks were located.

North Carolina, General Credit Application Disclosure Requirements

The North Carolina Consumer Finance Act does not apply to banks or other specified institutions or to the "business of negotiating loans on real estate."

Statutory section amended 1969.

See N.C. Gen. Stat. § 53-191 (2018)

North Carolina, Mortgage Escrow Accounts

It is unlawful for any person in the course of a residential mortgage loan transaction to fail to make payments from an escrow account held for borrower for insurance, taxes, and other charges. The payments must be made in a timely manner "so as to ensure that no late penalties are assessed or other negative consequences result regardless of whether the loan is delinquent," unless:

- there are not sufficient funds in the account to cover the payments; and
- the mortgage servicer has "a reasonable basis to believe that recovery of the funds will not be possible."

Statutory section 53-244.111 amended 2014.

N.C. Gen. Stat. § 53-244.111 (2018)

North Carolina, Real Estate Loan Application Disclosure Requirements

APPRAISALS

A bank and other financial institutions organized under North Carolina or federal law must, upon the borrower's request, provide without charge a copy of any appraisal for which the lender has collected a fee.

MORTGAGE BROKERS

A mortgage broker engaged in the mortgage business must "timely and clearly disclose to the borrower material information" that:

- may be expected to influence the borrower's decision; and
- is reasonably accessible to the mortgage broker.

The disclosure must include the total compensation the mortgage broker expects to receive from sources in connection with each loan option presented to the borrower.

ADJUSTABLE RATE MORTGAGE LOANS

A person, who in the course of a residential mortgage loan transaction brokers "a rate spread adjustable rate mortgage loan," must disclose to the borrower the terms and costs associated with a fixed rate loan from the same lender at the lowest annual percentage rate for which the borrower qualifies.

Statutory section 24-10 amended 1991; §§ 53-244.109 enacted 2009; § 53-244.11 amended 2014.

N.C. Gen. Stat. §§ 24-10; 53-244.109, .111 (2018)

North Carolina, State Truth-In-Lending Credit Application Disclosure Requirements

North Carolina has not enacted a state truth-in-lending act.

North Dakota

North Dakota, Bank Credit Application Disclosure Requirements

No credit application disclosure provisions applicable only to banks were located.

North Dakota, General Credit Application Disclosure Requirements

No state laws containing general credit disclosure requirements were located.

North Dakota, Mortgage Escrow Accounts

GENERAL REQUIREMENTS

A banking institution that maintains an escrow account for taxes, assessments, insurance premiums, and other charges on the mortgagor's residence must provide the mortgagor with an annual detailed statement showing all debits and credits to the account.

A residential mortgagee intending to maintain an escrow account must furnish the mortgagor with a detailed annual statement of all activity on the account.

SECONDARY MORTGAGE SERVICERS

If an escrow account maintained by a secondary residential mortgage servicer contains an “excess amount,” the servicer must notify the borrower in writing, on or before March 1 of the following year, of the balance in the account after the annual payment of taxes and special assessments. In this context, “excess amount” means any amount received during a calendar year that exceeds $300 plus the amount necessary to pay real estate taxes, special assessments, and insurance premiums during that year.

INTEREST REQUIREMENTS

No provisions addressing interest on escrow accounts were located.

Statutory sections 6-08-29 and 47-10.2-05 amended 2003; §§ 47-10.2-01 and 47-10.2-02 enacted 1991.

N.D. Cent. Code §§ 6-08-29; 47-10.2-01, -02, -05 (2019)

North Dakota, Real Estate Loan Application Disclosure Requirements

No state real estate loan application disclosure requirements were located.

State regulations provide that a money broker who arranges a loan for a borrower must prepare and provide to the borrower the loan disclosures mandated by applicable federal law. The broker must also provide general information concerning the loan, including:

- the principal and interest payable, the interest rate, the number and frequency of payments, and whether there is "a final or balloon payment to pay off the loan in full" (cautionary instructions must be printed in bold type if there is a balloon payment);
- other necessary information, including the land description, the types of instruments to be executed, and the lien type;
- any "prepayment penalty on full disclosure of the terms thereof"; and
- whether credit life or credit disability will be required.

Regulation amended 2013.

See N.D. Admin. R. 13-05-01-04 (2019)

North Dakota, State Truth-In-Lending Credit Application Disclosure Requirements

North Dakota has not enacted a state truth-in-lending act.

Ohio

Ohio, Bank Credit Application Disclosure Requirements

INSURANCE

A lender that solicits insurance for personal, family, or household purposes in connection with a loan must disclose to the customer, in writing, that the customer may purchase the insurance from an insurer or agent of the customer's choice. The disclosure must also inform the customer that the customer's choice of an insurer or agent will not affect the credit decision or credit terms. The lender must obtain a written acknowledgement from the customer of his receipt of the disclosure. Electronic acknowledgements are acceptable if:

- the customer affirmatively consents to receiving the disclosure electronically; and
- the disclosure is provided in a format that the customer may retain.

A depository institution that solicits, sells, advertises, or offers insurance must disclose to the customer in writing before the sale, in a clear and conspicuous manner, that the insurance:

- is not a deposit;
- is not insured by the federal deposit insurance corporation or any other federal agency;

- is not guaranteed by the depository institution;

- when applicable, that the insurance is not guaranteed by an affiliate of the depository institution or any other person; and

- involves investment, risk including the possible loss of value, if appropriate.

The lender must also obtain a written acknowledgement of the customer's receipt of the disclosure.

Statutory section amended 2005.

Ohio Rev. Code § 3901.211 (2018)

Ohio, General Credit Application Disclosure Requirements

No state laws containing general credit disclosure requirements were located.

Ohio, Mortgage Escrow Accounts

No relevant provisions were located.

Ohio, Real Estate Loan Application Disclosure Requirements

COVERED LOANS

Scope

A "covered loan" means a consumer credit mortgage loan transaction that:

- involves Ohio property;

- is secured by the consumer's principal dwelling; and

- meets either of the following criteria:

    - the annual percentage rate exceeds the amount established by § 152(a) of the Home Ownership and Equity Protection Act of 1994, 15 U.S.C. 1602(aa), as amended, and related regulations; or

    - the total points and fees payable by the consumer at or before closing exceeds five percent of the loan if the total loan amount is $25,000 or more, or eight percent if the total loan amount is less than $25,000.

A "consumer credit mortgage loan transaction" does not include:

- a residential mortgage transaction; or

- a reverse mortgage transaction,

as both are defined in § 152(a) of the "Home Ownership and Equity Protection Act of 1994," 15 U.S.C. 1602, as amended.

Disclosures

A creditor must provide the following disclosures, in conspicuous type size and in substantially the following form:

- "You are not required to complete this agreement merely because you have received these disclosures or have signed a loan application"; and

- "If you obtain this loan, the lender will have a mortgage on your home. You could lose your home, and any money you have put into it, if you do not meet your obligations under the loan."

For a fixed-rate loan, the lender must also disclose:

- the annual percentage rate;
- the regular monthly payment; and
- the amount of any balloon payment.

For any other credit transaction, the lender must disclose:

- the annual percentage rate;
- the regular monthly payment;
- a statement that the interest rate and monthly payment may increase; and
- the amount of the maximum monthly payment, based on the maximum interest rate allowed.

Generally, each creditor must provide the disclosures required under this section not less than three business days before consummation of the transaction. Compliance with §§ 226.31(c)(1) and 226.32(c) of Title 12 of the Code of Federal Regulations is deemed compliance with this section.

HOME MORTGAGE LOAN INFORMATION DOCUMENTS

All consumers who are applying for a mortgage loan must receive an "Informational Document" and an “Acknowledgement of Receipt” form. The "supplier who takes the consumer's mortgage loan application" must provide the required forms free of cost:

- at the time of application, if the consumer submits the loan application in person; or
- within five business days after taking the application, if the consumer does not submit the loan in person.

The "Acknowledgment of Receipt" must:

- be in writing and "in duplicate";
- be printed in at least 14-point type;
- be signed and dated by the consumer; and
- read as set forth in addendum A of regulation 109:4-3-29.

A consumer may not waive these requirements.

MORTGAGE BROKERS AND LOAN ORIGINATORS

The provisions of chapter 1322 that require certain disclosures by mortgage brokers do not apply to banks or other specified financial entities.

The provisions relating to disclosures by mortgage loan brokers and originators that required the delivery to the buyer, within three business days after taking a residential mortgage loan application, of a disclosure statement that contained the information set forth in Ohio Rev. Stat. § 1322.062 were repealed in 2018.

Statutory section 1349.25 amended 2007; § 1349.26 enacted 2002; § 1322.01 amended 2018; §§ 1322.062, 1322,063 and 1322.064 repealed 2018. Regulation amended 2016.

Ohio Rev. Code §§ 1322.01, 1349.25, .26 (2018); Ohio Admin. Code 109:4-3-29 (2019)

Ohio, State Truth-In-Lending Credit Application Disclosure Requirements

Ohio has not enacted a state truth-in-lending act.

Oklahoma

Oklahoma, Bank Credit Application Disclosure Requirements

No credit application disclosure provisions applicable only to banks were located.

Oklahoma, General Credit Application Disclosure Requirements

GENERAL REQUIREMENTS

A lender must disclose to a debtor to whom it is extending a consumer loan the information required by the Federal Consumer Credit Protection Act.

CLOSED-END CONSUMER LOANS

In a closed-end consumer loan, the creditor must disclose the following information to the debtor:

- the identity of the lender required to make disclosure;

- the amount financed;

- the consumer's right to obtain, upon written request, a written itemization of the amount financed, and if the buyer makes the request, the written itemization;

- the finance charge not itemized;

- the finance charge expressed as an "annual percentage rate"; except that this disclosure need not be made for a finance charge that does not exceed specified threshold amounts;

- the "total of payments," which is the amount financed plus the finance charge;

- the number, amount and due dates or payment periods scheduled to repay the loan;

- descriptive explanations of "amount financed," "finance charge," "annual percentage rate," and "total of payments";

- if the credit is secured, a statement that a security interest has been taken in the property purchased or in other property identified by item or type;

- any late payment;

- a statement that, upon refinancing or prepayment in full, the buyer either is or is not entitled to a refund of any finance charge if the obligation involves a pre-computed finance charge or is subjected to a penalty;

- a statement directing the consumer to refer to the contract for information about nonpayment, default, the right to accelerate the maturity of the debt, and prepayment rebates and penalties;

- in a residential mortgage transaction, a statement of whether a subsequent purchaser may assume the loan; and

- specified information regarding any variable rate.

A creditor must make the required disclosures clearly and conspicuously in writing and in a form that the consumer may keep. The disclosures may be provided in electronic form, subject to the consumer-consent and other applicable provisions of the Electronic Signatures in Global and National Commerce Act, except certain specified disclosures may be provided without regard to that act in certain circumstances. The required disclosures must:

- be grouped together;

- be segregated from everything else; and

- not contain any information not directly related to the disclosures required by r. 160:45-5-2 or 160:45-13-2.

Oklahoma regulations also require specified disclosures to certain high-rate consumer credit transactions that are secured by the consumer's principal dwelling. However, the requirements do not apply to residential mortgage transactions.

Statutory section 3-306 amended 2000; § 3-310 amended 2012; § 3-301.1 enacted 2014. Regulation 160:45-5-2 amended 2000; r. 160:45-9-2 amended 2011; r. 160:45-5-1 amended 2013.

Okla. Stat. Ann. tit. 14A, §§ 3-301.1, -306, -310 (2018); Okla. Admin. Code §§ 160:45-5-1, -5-2, -9-2 (2019)

Oklahoma, Mortgage Escrow Accounts

No generally relevant provisions were located.

HIGHER-PRICED MORTGAGE LOAN

Generally, a creditor may not extend a loan secured by a first lien on a principal dwelling unless an escrow account is established for payment of property taxes and premiums for mortgage-related insurance required by the creditor. Escrow accounts need not be established for loans secured by cooperative shares, and certain insurance premiums need not be included in escrow accounts for loans secured by condominium units, if the condominium association has an obligation to the condominium unit owners to maintain a master policy.

A "higher-priced mortgage loan" is defined as a "consumer credit transaction secured by the consumer's principal dwelling with an annual percentage rate that exceeds the average prime offer rate for a comparable transaction as of the date the interest rate is set by 1.5 or more percentage points for loans secured by a first lien on a dwelling, or by 3.5 or more percentage points for loans secured by a subordinate lien on a dwelling."

Regulation adopted 2009.

Okla. Admin. Code 160:45-9-5 (2019)

Oklahoma, Real Estate Loan Application Disclosure Requirements

FORM OF DISCLOSURE

A lender must disclose to a debtor to whom it is extending credit with respect to a consumer loan the information required by the Federal Consumer Credit Protection Act.

The required disclosures may be provided in electronic form, subject to the consumer-consent and other applicable provisions of the Electronic Signatures in Global and National Commerce Act, except certain specified disclosures may be provided without regard to that act in certain circumstances. The required disclosures must:

- be grouped together;

- be segregated from everything else; and

- not contain any information not directly related to the disclosures required by regulation 160:45-5-2 or 160:45-13-2.

MORTGAGE TRANSACTIONS SUBJECT TO RESPA

In a mortgage transaction subject to the Federal Real Estate Settlement Procedures Act that is secured by the consumer's dwelling (other than certain home equity lines of credit), a creditor must make good faith estimates of the disclosures required by regulation 160:45-5-2 and place them in the mail no later than the third business day after the creditor receives the consumer's written application.

If the consumer accesses an application in electronic form, certain required disclosures may be provided in electronic form on or with the application.

Additional disclosures are required by regulation.

VARIABLE RATE MORTGAGE LOANS

The following must be given to the consumer on a variable rate mortgage transaction secured by the consumer's principal dwelling the earlier of the time the application is provided or before the consumer pays a nonrefundable fee:

- the booklet titled *Consumer Handbook on Adjustable Rate Mortgages* published by the Federal Home Loan Bank Board, or a suitable equivalent; and

- a loan program disclosure for each variable rate program in which the consumer expresses an interest.

The loan program disclosure must include:

- a statement that the interest rate, payment, or term of the loan may change;
- the index or formula used to make adjustments;
- an explanation of the interest rate and payment determinations;
- a statement that the consumer should ask about the current margin value and interest rate;
- a statement that the interest rate will be discounted and the consumer should ask about the amount of the interest rate discount;
- the frequency of interest rate and payment changes;
- any rules regarding changes, such as limitations, negative amortization, and interest rate carryover;
- either an example of how a $10,000 loan would have been affected by interest rate changes over the past 15 years or the maximum interest rate and payment for a $10,000 loan originated at the most recent rate, assuming maximum permissible increases;
- an explanation of how the consumer may calculate payments;

- a statement that the loan program contains a demand feature;

- the type of information that will be provided in adjustment notices; and

- a statement that disclosure forms are available for the creditor's other variable rate loan programs.

Oklahoma regulations provide that each bank that offers adjustable rate mortgage loans, graduated payment adjustable mortgage loans, or reverse annuity mortgage loans must give borrowers and prospective borrowers written disclosure notices as provided by the Oklahoma Consumer Credit Code, the Federal Truth-in-Lending Act and Regulation Z of the Federal Reserve Board to the extent the federal law is applicable to the institution.

MORTGAGE BROKER OR LOAN ORIGINATOR

Upon a mortgage broker's or loan originator's receipt of a loan application and before the receipt of any monies from a borrower, the mortgage broker or loan originator must provide the borrower with the disclosures required by the RESPA and Regulation X.

Statutory section 3-105 amended 1980; § 2095.15 enacted 2009; § 3-301.1 enacted 2014. Regulation 85:10-11-7 amended 2008; rr. 160:45-5-1 and 160:45-5-3 amended 2013.

Okla. Stat. Ann. tit. 14A, §§ 3-105, -301.1; tit. 59, § 2095.15 (2018); Okla. Admin. Code §§ 85:10-11-7; 160:45-5-1, -3 (2019)

Oklahoma, State Truth-In-Lending Credit Application Disclosure Requirements

Oklahoma adopted the truth-in-lending provisions of the Federal Consumer Credit Protection Act as part of the Oklahoma Uniform Consumer Credit Code. However, compliance with either the Oklahoma Consumer Credit Code or the Federal Truth-in-Lending Act is sufficient disclosure for a consumer loan. Also, Oklahoma Administrative Code § 160:45-1-1 *et seq*., conforms to the Federal Truth-in-Lending regulations.

Truth-in-Lending disclosures may be made in a language other than English if the disclosures are made available in English upon the consumer's request.

Statutory sections amended 1990. Regulation 160:45-7-3 amended 2004; r. 160:45-1-1 amended 2010.

Okla. Stat. Ann. tit. 14A, §§ 2-301, 3-301 (2018); Okla. Admin. Code § 160:45-1-1, -7-3 (2019)

Oregon

Oregon, Bank Credit Application Disclosure Requirements

No application disclosure requirements applicable only to banks were located.

Oregon, General Credit Application Disclosure Requirements

No state laws containing general credit disclosure requirements were located.

Oregon, Mortgage Escrow Accounts

GENERAL REQUIREMENTS

In a real estate loan agreement for which a lender does not require a lender's security protection provision, the parties may agree to any arrangement pursuant to which the borrower prepays for property taxes, insurance premiums and similar charges related the real property.

Before entering into such an arrangement, the lender must provide a notice to the borrower that states:

- that the arrangement is not a condition to the real estate loan agreement;
- if it is an escrow account, whether interest will be paid and at what rate; and

- whether a service charge will be made.

Any service charge on an escrow account may not exceed the interest earned on the account.

The maximum amount a lender may require a borrower to deposit in an escrow account at or before settlement is the estimated total of:

- the charges that actually are due on the settlement date;

- the pro rata portion that has accrued; and

- 1/6 of the estimated total amount of the charges that will become due during the 12-month period beginning on the settlement date.

SECURITY PROTECTION PROVISIONS

A lender may require a security protection provision, either as a direct reduction provision, an escrow account, or a pledge of an interest-bearing savings account:

- in an amount no greater than the maximum amount the lender may require a borrower to deposit pursuant to § 86.240 (as set forth above); and

- bearing interest at a rate no less than that required on lender's security protection provisions by § 86.245.

A "lender's security protection provision" is a provision that is part of a real estate loan agreement, pursuant to the terms of which the borrower prepays, pledges, or otherwise commits in advance cash or other assets the borrower owns for property taxes, insurance premiums, and similar charges

relating to the property in order to ensure their timely payment and protect the lender's security interest. In this context, "real estate loan" or "real estate loan agreement" mean any agreement that:

- provides for a loan on residential property that the borrower occupies; and

- is secured by real property located in Oregon.

The terms include, but are not limited to, mortgages, trust deeds, and conditional land sales contracts. Note that the previously applicable restriction to loans of $100,000 or less was deleted by amendment effective January 1, 2014.

A real estate loan lender generally may not require a borrower or prospective borrower in any month after settlement to deposit in an escrow account more than 1/6 of the estimated total amount of the property taxes, insurance premiums or similar charges that will become due during the 12-month period beginning on the first day of the month. However, if the lender determines that there will be a deficiency, pro rata portions of the deficiency may be added to the required monthly deposits.

In real estate loan agreements subject to the federal Real Estate Settlement Procedures Act and Regulation X, compliance with the federal laws constitutes compliance with § 86.240.

MORTGAGE SERVICERS

Effective August 2, 2017, if a residential mortgage loan agreement requires a mortgage loan servicer licensee to establish an escrow account and make payments from that account, the servicer must:

- collect funds into an escrow account; and

- make any payments due for property taxes, insurance, and other charges related to the real property that secures a residential mortgage loan.

The servicer must perform this duty in a manner that ensures that the borrower is not subject to late fees, penalties, or other negative consequences arising from late payments. The servicer complies with these requirements if the servicer complies with RESPA.

A servicer must also provide to a borrower annually a written statement that specifies, among other items:

- the balance in any escrow account; and
- the amount of any deficiency in the escrow account of which the licensee is aware.

In addition, a servicer must respond in writing no more than 15 days after receiving a written request for information from a borrower, provided the borrower's request includes the borrower's name and account number, states that the account is or might be in error, and describes "in sufficient detail" the information the borrower seeks. The licensee's response must contain information specified by statute.

If a borrower requests additional detailed information, the licensee must respond no more than 15 business days after receiving the borrower's request.

INTEREST REQUIREMENTS

Generally, a lender who requires a lender's security protection provision in connection with a real estate loan agreement must pay interest on the funds at a rate not less than the discount rate, as determined using the most recent auction date before May 15 and November 15 of each year. The interest rate is adjusted semiannually on May 15 and November 15 each year to reflect changes in the discount rate. "Discount rate" means the "auction average rate on 91-day United States Treasury bills, as established by the most recent auction of such Treasury bills, . . . less 100 basis points." Interest must be:

- computed on the average monthly balance in the account; and

- paid at least quarterly by crediting the interest due to the escrow account.

These requirements do not apply to real estate loan agreements entered into before September 1, 1975, or on which the payment of interest violates any state or federal law. Also, if a federal law or regulation does not prohibit the payment of interest on a lender's security protection provision by federally chartered or organized lenders, then the above interest requirement applies to the federally chartered or organized lenders and similar state chartered or organized lenders with respect to a lender's security protection provision executed in connection with real estate loan agreements entered into before September 1, 1975.

A lender requiring security protection on which the lender must pay interest may not impose a service charge in connection with the account.

Statutory section 86.245 amended 2005; § 86.210 amended 1987; § 86.240 amended 1995; §§ 86.250 and 86.255 enacted 1975; § 86.205 amended 2013; mortgage servicer provisions enacted 2017.

Or. Rev. Stat. §§ 86.205, .210, .240, .245, .250, .255; 86A.324, .333 (2017)

Oregon, Real Estate Loan Application Disclosure Requirements

No generally applicable real estate loan application disclosure requirements were located. The mortgage banker disclosure requirements contained in chapter 59 do not apply to financial institutions, among others.

Statutory section amended and renumbered 2013.

See Or. Rev. Stat. § 86A.100 (2017)

Oregon, State Truth-In-Lending Credit Application Disclosure Requirements

Oregon has not enacted a state truth-in-lending act.

Pennsylvania

Pennsylvania, Bank Credit Application Disclosure Requirements

No state disclosure requirements applicable only to banks were located. In connection with any loan or credit extension, an institution must make the disclosures required by applicable federal law, including the Real Estate Settlement Procedures Act of 1974, the Truth-in-Lending Act, and the Equal Credit Opportunity Act, "in lieu of any disclosure requirement that may be imposed under Pennsylvania law."

Statutory section amended 2012.

Pa. Stat. tit. 7, § 303 (2018)

Pennsylvania, General Credit Application Disclosure Requirements

No state laws containing general credit disclosure requirements were located.

Pennsylvania, Mortgage Escrow Accounts

GENERAL REQUIREMENTS

Upon payment of the loan, any funds remaining in any escrow account for tax payments or insurance premiums must be returned to the mortgagor within 30 days.

INTEREST REQUIREMENTS

No provisions addressing interest on escrow accounts were located.

Statutory section enacted 1986.

Pa. Stat. tit. 21, § 705 (2018)

Pennsylvania, Real Estate Loan Application Disclosure Requirements

FEDERAL LAW

A residential mortgage lender must provide disclosures required by the Federal Truth-in-Lending Act, the Real Estate Settlement Procedures Act of 1974, and related regulations. Residential mortgage lenders are not required to provide disclosures to residential mortgage debtors under § 401 if no disclosures are required by federal law.

VARIABLE RATE MORTGAGE LOANS

Statutory provisions that previously set forth specific notice and disclosure requirements applicable to variable rate mortgages were deleted effective December 24, 2012.

LICENSEE BROKER OR LENDER DISCLOSURES

Pennsylvania regulations require a licensee broker or lender (or a partially exempt entity under the Mortgage Act) to disclose to a loan applicant the following on the prescribed form:

- whether the lender will escrow for property taxes and hazard insurance;
- whether the licensee is a lender with the ability to directly lock-in a loan interest rate;
- whether the loan has a variable interest rate or a balloon payment;
- whether the loan includes a prepayment penalty; and
- whether the loan has a negative amortization feature.

The licensee must:

- sign and date the disclosure form;

- deliver or place the disclosure form in the mail within three business days after the licensee receives or prepares the application;

- issue an updated disclosure form if the licensee knows or reasonably should know that the initial disclosure form is inaccurate;

- require an applicant to sign and date the disclosure form within 10 business days after delivery or mailing; and

- retain the original executed disclosure form in the applicant's loan file.

A licensee broker taking an application need not provide this disclosure form if the lender making the loan elects to provide it.

Statutory section 401 amended 1977; previously applicable § 301 amended 2012. Regulation 7.9 adopted 1988; rr. 46.1 and 46.2 adopted 2009.

Pa. Stat. § 401 (2018); 10 Pa. Code §§ 7.9; 46.1, .2 (2019)

Pennsylvania, State Truth-In-Lending Credit Application Disclosure Requirements

Pennsylvania has not enacted a state truth-in-lending act.

Puerto Rico

Puerto Rico, Bank Credit Application Disclosure Requirements

No disclosure requirements applicable only to banks were located.

Puerto Rico, General Credit Application Disclosure Requirements

INSURANCE

Before a debtor chooses to purchase consumer credit insurance the *insurer* must furnish the following information to the debtor in writing:

- that the purchase of the consumer credit insurance is optional and not a condition to obtaining credit approval;

- if more than one type of consumer credit insurance is being offered, whether the debtor can purchase coverage separately or only as a package;

- eligibility conditions;

- that if the consumer has another policy that covers the risk, he or she may not need the insurance;

- that the debtor may cancel the coverage within 30 days and be entitled to reimbursement or full credit for the total unearned premium, and after the term has elapsed, "the debtor may cancel the policy or certificate at any time during the term of the credit transaction and receive full reimbursement or credit for the total unearned premium";

- a brief description of the coverage; and

- that if the premium is financed in the credit transaction, it is subject to finance charges.

The disclosures regarding consumer credit insurance offered concurrently with a credit extension must be made clearly and conspicuously in writing.

Statutory section amended 2008.

P.R. Laws Ann. tit. 26, § 1819 (LexisNexis 2019)

Puerto Rico, Mortgage Escrow Accounts

A mortgage lending licensee may not "charge fees that could be considered excessive to keep money in escrow accounts with the sole purpose of affording the lender greater protection in the mortgage loan."

Statutory section enacted 2010.

P.R. Laws Ann. tit. 7, § 3053f (LexisNexis 2019)

Puerto Rico, Real Estate Loan Application Disclosure Requirements

No real estate loan application disclosure requirements were located.

Puerto Rico, State Truth-In-Lending Credit Application Disclosure Requirements

Puerto Rico has not enacted a truth-in-lending act.

Rhode Island

Rhode Island, Bank Credit Application Disclosure Requirements

REQUIRED DISPLAYS

Any bank, credit union or other financial institution doing business in Rhode Island must display a notice that states that the financial institution may impose charges of which the customer may not be aware.

Statutory section enacted 1999.

R.I. Gen. Laws § 19-9-21.1 (2018)

Rhode Island, General Credit Application Disclosure Requirements

APPLICATION OF TRUTH-IN-LENDING REQUIREMENTS

The Rhode Island Truth-In-Lending and Retail Selling Act applies to a variety of creditors and credit transactions, including loans, mortgages, and deeds of trust, among others. See "State Truth-In-Lending Credit Application Disclosure Requirements" below for the truth-in-lending provisions that are applicable to certain consumer notes.

Statutory section amended 1989.

R.I. Gen. Laws § 6-27-3 (2018)

Rhode Island, Mortgage Escrow Accounts

INTEREST REQUIREMENTS

A mortgagee holding a mortgagor's funds in escrow to pay taxes and insurance premiums with respect to mortgaged property located in Rhode Island must pay or credit interest on those funds at a rate equal to:

- the rate paid to the mortgagee on its regular savings account, if offered; and
- "otherwise at a rate not less than the prevailing market rate of interest for regular savings accounts offered by local financial institutions as determined by the director" annually on the first business day of the year.

The interest credit must:

- accrue on the daily balance; and

- be made annually on December 31.

If the mortgage debt is paid before December 31 in any year, the mortgagee must pay interest to the payment date. This requirement:

- applies only to mortgages on owneroccupied residential real property consisting of not more than four living units;

- may not be waived;

- applies to mortgages executed on or after June 20, 1995, although for mortgages in existence as of June 20, 1995, that were executed on or after July 1, 1979, compliance was mandatory as of June 20, 1995; and

- does not apply to certain federally insured or guaranteed mortgages, to private mortgage insurers licensed to do business in Rhode Island, or to mortgages made by the Rhode Island Housing and Mortgage Finance Corporation.

ESCROW ACCOUNTS FOR INSURANCE PREMIUMS

All banks and lending institutions that, in connection with a loan secured by Rhode Island owner-occupied residential property consisting of four or fewer units, require the mortgagor to escrow for hazard insurance premiums, must generally pay the annual premium to the insurance company on or before the latest of the following dates:

- 10 days after receipt of the annual insurance premium bill; or

- seven days before the insurance policy's effective date.

No payment is required if the mortgagor does not have sufficient funds escrowed for the annual premium.

OTHER ESCROW REQUIREMENTS

Monthly billings to mortgagors must show the allocation of the prior monthly payment to principal, interest and escrow, if applicable.

THIRD-PARTY LOAN SERVICERS

Effective July 1, 2015, it is a violation of chapter 19-14.11 (regarding third-party loan services) for a person to:

- "[k]nowingly misapply or recklessly apply payments to escrow accounts"; or
- fail to manage and maintain escrow accounts in accordance with Section 19-9-2.

Statutory section 19-9-2 amended 2008; § 19-9-2.1 enacted 2006; § 27-5-6.2 enacted 1987; § 19-14.11-4 enacted 2014. Regulations refiled 2001 and 2012.

R.I. Gen. Laws §§ 19-9-2, -2.1; 19-14.11-4; 27-5-6.2 (2018); 230 R.I. Code R. 40-10-5 (2019)

Rhode Island, Real Estate Loan Application Disclosure Requirements

FEE DISCLOSURES

If a loan is secured by real estate containing not more than four dwelling units, then the following must be disclosed within the mortgage documents (but not necessarily in the application):

- brokerage fees,

- loan fees,
- points,
- finders' fees,
- origination fees, or
- similar charges.

If any brokerage fees, loan fees, points, finders' fees, origination fees, or similar charges are imposed on a secured mortgage loan on real estate containing no more than four dwelling units, those charges are not subject to refund if the underlying loan contract is prepaid in full *provided* the loan originator, broker, or lender gives the following disclosure to the loan applicant in writing no later than three business days after the application is received:

> Notice regarding nonrefundability of loan fees: You have received a good faith estimate of fees and charges showing the loan fees and similar charges you are likely to pay to obtain this loan. As provided in section 34-23-6, none of these or other fees and charges will be refunded in the event the loan is prepaid in whole or in part.

APPRAISAL FEES

A lending institution that accepts an application for a mortgage loan requiring the payment of an appraisal fee must, before payment of the fee, inform the applicant that the fee may not be refunded if the mortgage is not approved. Upon request, the lending institution must provide the applicant with a copy of the appraisal.

TITLE SEARCHES

Every lending institution that accepts an application for a mortgage loan on Rhode Island property and that engages a title attorney to search the title of the real estate must require that attorney to offer to the applicant, at the usual premium rate, an owner's title policy for the property. If the applicant does not wish to purchase the policy, he or she has a right to reject the offer, but the rejection must be in writing and signed by the applicant.

INSURANCE SALES

A financial institution must prominently disclose to its customers in writing and in clear and concise language, that insurance offered, recommended, sponsored, or sold by the financial institution:

- is not a deposit,
- is not insured by the federal deposit insurance corporation,
- is not guaranteed by the financial institution or an affiliated insured depository institution, and
- where appropriate, involves investment risk, including potential loss of principal.

If a financial institution requires insurance, it must clearly disclose in writing to its customers before they sign the loan or mortgage application, that by law the purchase of insurance from that financial institution cannot be required as a condition of loan or mortgage approval. The disclosures must be made to each customer or prospective customer no later than the beginning of a solicitation.

HOME LOAN PROTECTION ACT

Rhode Island's Home Loan Protection Act generally applies to a "creditor," which is defined as a person "who regularly makes available a home loan." However, the act does not apply to:

- a national bank, federal savings bank, federal credit union, credit union, or financial institution, or their wholly-owned subsidiary; or

- the Federal Housing Administration, Department of Veterans Affairs, or other state or federal housing finance agency.

Rhode Island regulations provide that each person subject to the Home Loan Protection Act must:

- provide Disclosure Form 1, "Rhode Island Home Loan Protection Act Disclosure—Prohibited Acts and Practices Disclosure Regarding All Home Loans," and Disclosure Form 2, "Rhode Island Home Loan Protection Act Disclosure—Prohibited Acts and Practices Regarding High-Cost Home Loans" to all applicants, within three business days of application;

- provide Disclosure Form 3, "Rhode Island Home Loan Protection Act Disclosure—Tangible Net Benefit" to all applicants who refinance a loan that was consummated during the previous 60 months; and

- provide Disclosure Form 4, "High-Cost Home Loan," and Disclosure Form 5, "Consumer Caution and Homeowner Ship Counseling Notice and Certification" to all applicants who are applying for a high-cost home loan, once the creditor determines that the new loan is a high-cost home loan, but in "sufficient time as to enable the Applicant to receive, prior to closing the loan, face-to-face counseling on the advisability of the High-Cost Home Loan transaction, with a third-party nonprofit organization."

All creditors subject to the act must use the disclosure forms attached to the regulations as Appendix 5. The creditor may not alter the forms in any manner.

Statutory sections 19-9-3 and 19-9-5 enacted 1995; § 27-58-7 enacted 1996; §§ 34-23-6 and 34-25.2-11 amended 2011; § 34-25.2-4 enacted 2006. Reg. 3 amended 2018.

R.I. Gen. Laws §§ 19-9-3, -5; 27-58-7; 34-25.2-4, -11; 34-23-6 (2018); R.I. Dep't of Business Reg. Banking Reg. 3 (2019)

Rhode Island, State Truth-In-Lending Credit Application Disclosure Requirements

APPLICATION

Rhode Island's truth-in-lending provisions generally govern disclosure requirements imposed on creditors in connection with

- consumer notes,
- revolving or open-end credit plans in general, and
- openend consumer credit plans secured by a consumer's principal residence.

"Credit" includes a loan, mortgage, or deed of trust, among other transactions, and a "creditor" includes any person engaged in the business of extending credit, including any person who as a regular business practice makes loans or sells or rents property or services on a time, credit or installment basis, either as principal or as an agent and who requires, as an incident to the credit extension, the payment of a finance charge.

OPEN-ENDED CREDIT PLANS SECURED BY CONSUMER'S PRINCIPAL RESIDENCE

The Rhode Island truth-in-lending act sets forth extensive disclosures that are required in connection with any open-end consumer credit plan secured by a consumer's principal residence, which are beyond the scope of this survey.

Statutory section 6-27-3 amended 1989; §§ 6-27-10 and 6-27-11 amended 2014.

R.I. Gen. Laws §§ 6-27-3, -10, -11 (2018)

South Carolina

South Carolina, Bank Credit Application Disclosure Requirements

SCOPE

The South Carolina Consumer Credit Code applies to a consumer loan, which is

- a loan *other than* a loan secured by a first lien in real estate,

- made by a person regularly engaged in the business of making loans in which
  - the debtor is a natural person;

    - the debt is incurred primarily for a personal, family or household purpose;

    - either the debt is payable in installments or a loan finance charge is made; and

    - either the principal does not exceed $67,500, or the debt is secured by an interest in land.

Loans excluded from the definition of a "consumer loan" are subject to the provisions of chapter 7 (consumer credit counseling), chapter 10 (miscellaneous loan provisions), chapter 22 (mortgage lending), and chapter 23 (high-cost and consumer home loans) of title 37, some of which contain disclosure requirements.

FEDERAL LAW

A lender must provide to the consumer the disclosures, information and notices required by the Federal Truth-inLending Act.

POSTING OF RATE SCHEDULE

Every creditor making supervised loans or restricted loans must file a rate schedule with the Department of Consumer Affairs. The lender must post a maximum rate schedule issued by the department in a conspicuous place in every place of business in South Carolina where the lender makes consumer loans. However, a lender that issues a certain credit cards may instead:

- disclose its maximum rate in the initial Truth-in-Lending Act disclosure statement to the debtor,

- notify the debtor of changes in its maximum rate on or before the change's commencement, and

- post the maximum rate schedule at its central and branch offices (other than free-standing automatic teller machines).

The maximum rate schedule must list the loan finance charge's maximum rate (stated as an annual percentage rate, determined in accordance with the Federal Truth-In-Lending Act and Regulation Z) in real estate mortgage loans, and all other types of credit.

The department must reproduce the filed rate schedule in at least 14-point type for posting and the terms "Loan Finance Charge" and "Annual Percentage Rate" must be printed in larger size type than the other terms in the posted rate schedule. The following statement must be included *verbatim* in the posted rate schedule:

> "Consumers: All supervised and restricted creditors making consumer loans in South Carolina are required by law to post a schedule showing the maximum rate of LOAN FINANCE CHARGES stated as ANNUAL PERCENTAGE RATES that the creditor intends to charge for various types of consumer credit transactions.

The purpose of this requirement is to assist you in comparing the maximum rates that creditors charge, thereby furthering your understanding of the terms of consumer credit transactions and helping you to avoid the uninformed use of credit.

NOTE: Creditors are prohibited only from granting consumer credit at rates higher than those specified above. A creditor may be willing to grant you credit at rates that are lower than those specified, depending on the amount, terms, collateral and your credit worthiness."

CONSUMER CREDIT INSURANCE

A lender making an additional charge for consumer credit insurance must clearly disclose its cost in writing to the debtor, with a statement similar to the following appearing in caps, underlined, or disclosed in another prominent manner: "CONSUMER CREDIT INSURANCE IS NOT REQUIRED TO OBTAIN CREDIT AND WILL NOT BE PROVIDED UNLESS YOU SIGN AND AGREE TO PAY THE ADDITIONAL COST." After disclosure, the creditor must obtain a specific, dated and separately signed affirmative written indication from the debtor of his or her desire to obtain the coverage.

COSIGNERS

To be obligated as a cosigner, guarantor or similar party to a consumer loan, a natural person, other than the original debtor's spouse, must receive written notice identifying the debt the person may have to pay and reasonably informing the person of the debt obligation before or at the time any agreement is signed.

Written notice must be provided in the debtor's agreement or in a separate writing, clearly and conspicuously stating substantially the following:

NOTICE

You agree to pay the debt identified below although you may not personally receive any property, services, or money. You may be sued for payment although the person who receives the property, services, or money is able to pay. This notice is not the contract that obligates you to pay the debt. Read the contract for the exact terms of your obligation.

IDENTIFICATION OF DEBT YOU MAY HAVE TO PAY

INSURANCE

In addition to the permitted loan finance charge, a lender may contract for the charges for insurance if certain disclosures are made.

Property insurance

A lender may contract for charges for liability or property insurance, if it gives a clear written statement to the debtor

- of the cost of any insurance obtained from the lender, and
- stating that the debtor may choose the person through whom the insurance is obtained.

Consumer credit insurance

A lender may contract for charges for consumer credit insurance providing life, accident and health, or unemployment insurance coverage, if

- the lender does not require the insurance coverage, and
- this fact is clearly disclosed in writing to the debtor.

Vendor's single-interest insurance

A lender may contract for charges for vendor's single-interest insurance only if

- the insurer has no subrogation right against the debtor;
- the insurance does not duplicate other liability or property insurance coverage; and
- a clear written statement is given by the creditor to the debtor of the cost of the insurance if obtained from or through the creditor, stating that the debtor may choose the person through whom the insurance is obtained.

Noncredit term life insurance

A lender may contract for charges for noncredit term life insurance, provided the lender clearly and conspicuously disclosed to the insured before the insurance purchase the right to cancel and provides the insured with a form clearly and conspicuously stating the following at a readability level no higher than seventh grade:

- the statement, "The purchase of this insurance is not required to obtain credit and will not be provided unless you sign this form and agree to pay the additional cost.";
- that the interest rates and charges do not depend on the purchase of the insurance;
- that the insured may pay the premium either from his or her own funds or from the loan proceeds;
- that the insured may cancel the insurance by mailing a signed cancellation request and the policy to the insurer or creditor within 30 days after the policy is received, in which case the entire premium will be promptly refunded;

- the premium and coverage description, including the face amount, coverage term, exceptions, restrictions or limitations;

- that termination is governed by South Carolina law;

- that the policy should be consulted for more information;

- that the insurance is not tied in any manner to the loan and will remain in force if the loan is terminated, unless otherwise terminated under the agreement between the debtor and the insurer;

- the lender's name, address and phone number; and

- the insurer's name, address and phone number and the process for filing claims.

Statutory section 37-3-301 amended 1974; § 37-3-104 amended 1991; § 37-3-105 amended 2009; § 37-4-209 enacted 1999; §§ 37-3-303 and 37-3-202 amended 2004; § 37-3-305 amended 2016. Regulation amended 2018.

S.C. Code §§ 37-3-104, -105, -202, -301, -303, -305; -4-209 (2018); S.C. Code Regs. 2870 (2019)

South Carolina, General Credit Application Disclosure Requirements

South Carolina has enacted a version of the Uniform Consumer Credit Code ("UCCC"). Generally, unless the loan is made subject to the UCCC by agreement, a consumer loan subject to the act does not include a loan secured by a first lien on real estate. However, certain disclosure provisions contained in the act apply to first mortgage loans.

Statutory section amended 2009.

S.C. Code § 37-3-105 (2018)

South Carolina, Mortgage Escrow Accounts

No generally applicable provisions were located.

South Carolina, Real Estate Loan Application Disclosure Requirements

FEDERAL LAW

On all loans secured by a lien against real estate that are for personal, family or household purposes, a lender must comply with the applicable Federal Truth-In-Lending Act's disclosure requirements.

APPLICATION OF CONSUMER LOAN LAWS

A loan secured by a first lien or equivalent security is not a "consumer loan" under the South Carolina Consumer Protection Code, unless the parties agree that it is subject to the Code. Such loans are, however, subject to the Consumer Protection Code provisions concerning civil liability for disclosure violations, among other things.

ALTERNATIVE MORTGAGE LOANS

An “alternative mortgage loan” is a loan secured by a first or junior lien on real estate other than a loan that

- is a fully amortized loan repayable by the direct reduction method, and
- has a fixed nonvariable loan finance charge.

Alternative mortgage loans include, without limitation,

- renegotiable rate mortgages,
- variable rate mortgages,
- adjusted and graduated payment mortgages,
- shared appreciation mortgages, and
- reverse annuity mortgages.

With respect to a consumer loan that is secured by a real estate lien, provided the total of all sums advanced does not exceed $100,000.00, state-chartered banks and certain other financial institutions may make alternative mortgage loans provided, among other things, that disclosures related to rate variations comply with the variable rate disclosure requirements of the Federal Truth-in-Lending Act, as implemented by Federal Reserve Board Regulation Z.

State-chartered savings and loan associations may offer graduated-payment mortgages and reverse-annuity mortgages. However, the association must disclose to the prospective borrower the difference between a loan secured by both real estate and savings and a loan secured by only real estate. The prospective borrower must also receive materials explaining in reasonably simple terms the type of graduated-payment or variable-rate mortgage offered and the differences between it and a comparable standard mortgage instrument.

MORTGAGE LENDING DISCLOSURES

A person licensed under chapter 37-22 must clearly display the unique identifier assigned by the Nationwide Mortgage Licensing System and Registry on all mortgage loan forms, solicitations, or advertisements. Also, he or she may not collect a fee before providing the required disclosures.

MORTGAGE BROKER FEES

Within three business days of receiving a mortgage loan application, a mortgage broker must provide a fee agreement that discloses:

- the total estimated charges for the mortgage loan; and
- an itemization of the charges, if required under federal or state law.

A mortgage broker must disclose to applicants all fees earned for services rendered as a mortgage broker, as required by federal or state law.

A mortgage broker may not collect any fee before providing required disclosures.

Additional disclosure requirements set forth in chapter 10 (miscellaneous loan provisions) and chapter 23 (high-cost and consumer home loans) of Title 37 also apply to mortgage brokers.

Statutory section 37-3-105 amended 2009; § 37-5-203 amended 2003; §§ 40-58-70, 40-58-75, and 37-1-301 amended 2009; §§ 37-22-190 and 37-22-210 amended 2017. Regulation 15-31 effective 1980; r. 15-39Q adopted 1985.

S.C. Code §§ 37-1-301, -3-105, -5-203; 37-22-190, -210; 40-58-70, -75 (2018); S.C. Code Regs. 15-31, -39Q (2019)

South Carolina, State Truth-In-Lending Credit Application Disclosure Requirements

South Carolina has not enacted a state truth-in-lending act.

South Dakota

South Dakota, Bank Credit Application Disclosure Requirements

No application disclosure requirements applicable only to banks were located.

South Dakota, General Credit Application Disclosure Requirements

South Dakota statutes establishing disclosure requirements for installment loan licensees do not apply to banks. No generally applicable provisions were located.

Statutory section amended 2004.

See S.D. Codified Laws § 54-4-37 (2018)

South Dakota, Mortgage Escrow Accounts

No relevant provisions were located.

South Dakota, Real Estate Loan Application Disclosure Requirements

No generally applicable real estate loan application disclosure requirements were located.

However, if a real estate broker arranges a loan for a borrower, a mortgage loan disclosure statement as follows must "be prepared by the broker and the borrower":

- summary of loan terms, including principal amount, estimated deductions, and estimated cash payable to borrower;
- principal and interest amounts payable;
- interest rate;

- number of payments;

- whether payments are monthly or quarterly;

- whether there is a final or balloon payment, in which case the following cautionary instructions must be printed in bold type on the contract: "CAUTION TO BORROWER: IF YOU DO NOT HAVE THE FUNDS TO PAY THE BALLOON PAYMENT WHEN DUE, IT MAY BE NECESSARY FOR YOU TO OBTAIN A NEW LOAN AGAINST YOUR PROPERTY FOR THIS PURPOSE AND YOU MAY BE REQUIRED AGAIN TO PAY COMMISSION AND EXPENSES FOR ARRANGING THE LOAN. KEEP THIS IN MIND IN DECIDING UPON THE AMOUNT AND TERMS OF THE LOAN THAT YOU OBTAIN AT THIS TIME";

- other necessary information, including property description, instruments to be executed, and type of lien;

- any prepayment penalty and its terms;

- whether the borrower will be required to obtain credit life or credit disability; and

- loan proceed deductions, including estimated costs and expenses and an estimate of the liens and other amounts to be paid out of the principal.

Regulation amended 1999.

S.D. Admin. R. 20:69:08:11 (2019)

South Dakota, State Truth-In-Lending Credit Application Disclosure Requirements

South Dakota has not enacted a separate state truth-in-lending act.

Tennessee

Tennessee, Bank Credit Application Disclosure Requirements

No disclosure requirements applicable only to banks were located. A bank must disclose the terms and conditions of the loan as required under the Federal Consumer Credit Protection Act.

Statutory section amended 1979.

Tenn. Code § 45-2-1107 (LexisNexis 2019)

Tennessee, General Credit Application Disclosure Requirements

The Tennessee general usury statute provides that compliance with the Federal Truth-In-Lending Act constitutes compliance with Tennessee statutes concerning disclosure of information in connection with credit transactions.

Statutory section amended 2001.

Tenn. Code § 47-14-125 (LexisNexis 2019)

Tennessee, Mortgage Escrow Accounts

No relevant provisions were located.

Tennessee, Real Estate Loan Application Disclosure Requirements

RESIDENTIAL LENDING REQUIREMENTS

Effective January 1, 2010, Tennessee rewrote its "Residential Lending, Brokerage and Servicing Act." However, the act does not establish state disclosure requirements that apply to depository institutions.

MORTGAGE LOAN ORIGINATORS

A mortgage loan originator's sponsoring registrant must ensure that each residential mortgage loan application contains the registrant's name and registration and the mortgage loan originator's name, signature, license number, and unique identifier.

If a deposit is required in connection with an application for a residential mortgage loan, the parties must sign a written agreement that addresses:

- the deposit's disposition;
- whether the loan is finally consummated or not; and
- the term for which the agreement is to remain in force before the borrower can require the return of the deposit for nonperformance.

HIGH-COST LOANS

A lender may not make a high-cost home loan unless the lender has given the written notice required by Tenn. Code § 45-20-103(16), in at least 12-point bold type, to the borrower, acknowledged in writing and signed by the borrower, not later than the time the notice provided by 12 C.F.R. § 226.31(c) is required:

Statutory sections 45-13-206 and 45-13-207 enacted 2009; § 45-13-201 amended 2013; § 45-20-103 enacted 2006.

See Tenn. Code §§ 45-13-201(b), -206(c), -207(d); 45-20-103 (LexisNexis 2019)

Tennessee, State Truth-In-Lending Credit Application Disclosure Requirements

Tennessee has not enacted a state truth-in-lending act.

Texas

Texas, Bank Credit Application Disclosure Requirements

LOANS IN EXCESS OF $50,000

In a transaction involving a written loan agreement of more than $50,000, a financial institution must give the following conspicuous notice to the borrower in a separate document signed by the debtor or incorporated into the loan agreement:

"This written loan agreement represents the final agreement between the parties and may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements of the parties. There are no unwritten oral agreements between the parties."

All financial institutions must conspicuously post notices that inform borrowers of the above provisions of § 26.02.

Statutory section amended 1999.

Tex. Bus. & Com. Code § 26.02(e) (2017)

Texas, General Credit Application Disclosure Requirements

VARIABLE RATE LOANS

An agreement for credit extended primarily for personal, family or household use that provides for a variable interest rate, must disclose the following in at least 10-point type:

> NOTICE TO CONSUMER: UNDER TEXAS LAW, IF YOU CONSENT TO THIS AGREEMENT, YOU MAY BE SUBJECT TO A FUTURE RATE AS HIGH AS 24 PERCENT PER YEAR.

However, this requirement does not apply to an agreement for which a disclosure relating to variable rates or amounts is required or provided by federal law or regulation.

OTHER DISCLOSURE REQUIREMENTS

Texas law requires a manufactured-home retailer to provide certain disclosures, but a federally insured financial institution or certain HUD-approved lenders that fully comply

with federal Truth-in-Lending disclosures concerning the terms of a manufactured housing transaction are exempt from the disclosure provisions.

Statutory section 303.015 enacted 1999; § 1201.162 amended 2017.

Tex. Fin. Code § 303.015; Occ. Code § 1201.162 (2017)

Texas, Mortgage Escrow Accounts

AGRICULTURAL LAND LOAN REQUIREMENTS

The Texas Tax Code provides that any provision in an instrument for a loan secured by a lien on agricultural land that requires the borrower to make a payment to protect the lender from loss because of additional taxes and interest is void unless the provision:

- requires the borrower to pay into an escrow account established by the lender an amount equal to the additional taxes and interest that would be due if a sale or change of use occurred on January 1 of the year in which the loan is granted or amended;

- requires the escrow account to bear interest to be credited to the account monthly;

- permits the lender to apply money in the escrow account to the payment of additional taxes and interest before the loan is paid and requires the lender to refund the balance remaining in the escrow account after the bills are paid; and

- requires the lender to refund the escrow account balance when the loan is paid.

OPEN-SPACE LAND LOAN REQUIREMENTS

A provision in an instrument pertaining to a loan secured by a lien on open-space land that requires the borrower to make a payment to protect the lender from additional taxes and interest because of a change of use is void unless the provision:

- requires the borrower to pay into an escrow account an amount equal to the additional taxes and interest that would be due under § 23.55 if a change of use occurred on January 1 of the year in which the loan is granted or amended;

- requires the escrow account to bear interest credited to the account monthly;

- permits the lender to apply money in the escrow account to the payment of the additional taxes and interest under § 23.55 before the loan is paid;

- requires the lender to refund the escrow account balance after the bills are paid; and

- requires the lender to refund the escrow account balance when the loan is paid.

INTEREST REQUIREMENTS

No generally applicable provisions addressing interest on escrow accounts were located.

Statutory sections enacted 1995.

Tex. Tax Code §§ 23.47, .58 (2017)

Texas, Real Estate Loan Application Disclosure Requirements

GENERAL DISCLOSURE REQUIREMENTS

Tex. Fin. Code § 343.102, which contained required disclosures for home loans, expired on its own terms on September 1, 2003.

INSURANCE REQUIREMENTS

A lender may not offer credit life, disability, or unemployment insurance on a prepaid single premium basis in conjunction with a home loan unless the lender provides the following notice to each applicant no later than the third business day after receiving the application:

> INSURANCE NOTICE TO APPLICANT
>
> You may elect to purchase credit life, disability, or involuntary unemployment insurance in conjunction with this mortgage loan. If you elect to purchase this insurance coverage, you may pay for it either on a monthly premium basis or with a single premium payment at the time the lender closes this loan. If you choose the single premium payment, the cost of the premium will be financed at the interest rate provided for in the mortgage loan.
>
> This insurance is NOT required as a condition of closing the mortgage loan and will be included with the loan only at your request.
>
> You have the right to cancel this credit insurance once purchased. If you cancel it within 30 days of the date of your loan, you will receive either a full refund or a credit against your loan account. If you cancel this insurance at any other time, you will receive either a refund or credit against your loan account of any unearned premium. YOU MUST CANCEL WITHIN 30 DAYS OF THE DATE OF THE LOAN TO RECEIVE A FULL REFUND OR CREDIT.
>
> To assist you in making an informed choice, the following estimates of premiums are being provided along with an example of the cost of financing. The examples assume that the term of the insurance product is ____ years and that the interest rate is _____ percent (a rate that has recently been available

for the type of loan you are seeking). PLEASE NOTE THAT THE ACTUAL LOAN TERMS YOU QUALIFY FOR MAY VARY FROM THIS EXAMPLE. "Total amount paid" is the amount that would be paid if you financed only the total insurance premium for a ___ year period and is equal to the amount you would have paid if you made all scheduled payments. This is NOT the total of payments on your loan.

CREDIT LIFE INSURANCE: Estimated premium of $_____

DISABILITY INSURANCE: Estimated premium of $_____

INVOLUNTARY UNEMPLOYMENT INSURANCE: Estimated premium of $_____

TOTAL INSURANCE PREMIUMS: $_____

TOTAL AMOUNT PAID: $_____

MORTGAGE BANKERS AND MORTGAGE LOAN ORIGINATORS

Texas statutes containing disclosure requirements for mortgage bankers and mortgage loan originators do not apply to federally insured banks or other financial institutions.

A mortgage banker that is a residential mortgage loan originator must include with a residential mortgage loan application a notice on a form the finance commission provides by rule. The form must:

- include contact information for the Department of Savings and Mortgage Lending;
- contain information on how to file a complaint or recovery fund claim; and
- prescribe a method for proof of delivery.

Also, a residential mortgage loan originator's unique identifier must be clearly shown on each residential mortgage loan application form, solicitation, or advertisement and on any other document required by rule.

At the time an applicant submits an application to a residential mortgage loan originator sponsored by and conducting business for a licensed or registered residential mortgage loan company, the residential mortgage loan originator must provide the applicant with a disclosure that specifies:

- the nature of the relationship between the applicant and the residential mortgage loan originator;
- the residential mortgage loan originator's duties; and
- how the residential mortgage loan originator will be compensated.

Statutory section 343.104 enacted 2001; § 180.151 enacted 2009; §§ 156.004, 157.004, and 157.007 amended 2013; § 157.0021 (formerly 157.007) renumbered 2013.

Tex. Fin. Code §§ 156.004; 157.004, .0021; 180.151; 343.104 (2017)

Texas, State Truth-In-Lending Credit Application Disclosure Requirements

Texas has not adopted a state truth-in-lending act.

Utah

Utah, Bank Credit Application Disclosure Requirements

No disclosure requirements applicable only to banks were located.

Utah, General Credit Application Disclosure Requirements

No state laws containing general credit disclosure requirements were located.

Utah, Mortgage Escrow Accounts

SCOPE AND APPLICATION

Pursuant to Utah statutes addressing reserve accounts, a “real estate loan" means a loan secured by a one- to four-housing unit, owner-occupied residential property. A "lender" means any person, including a commercial bank, who regularly makes real estate loans.

GENERAL REQUIREMENTS

A lender administering a reserve account must make timely payments of taxes, insurance premiums and other charges for which the account is established, provided the funds paid into the account are sufficient. A lender generally may not require a borrower to deposit in a reserve account:

- before or at closing, an amount greater than the estimated total payments that will be due and payable on the closing date, plus the pro rata portion of the amounts that have accrued, plus 1/6th of the estimated total taxes, insurance premiums, and other charges that will become due during the 12-month period beginning on the closing date; or

- in any month after closing, an amount greater than 1/12th of the total estimated amount that will become due and payable during the next 12-month period plus the amount necessary to maintain the additional balance, which may not exceed 1/6th of the total estimated taxes, insurance premiums, or other charges that will become due and payable during the 12-month period beginning on the first day of the month.

If the lender does not require a reserve account, it must offer the borrower the following options:

- the borrower may elect to maintain a non-interest-bearing reserve account at no charge; or

- the borrower may manage the payment of insurance premiums, taxes and other charges.

The lender must give written notice of the options to the borrower at or prior to the closing of the loan.

The borrower must select one of the options at closing, and, if the borrower selects the first option described above, the lender need not account for any earnings on the account. If a borrower who selects the second option fails to pay taxes or insurance premiums in a timely manner, the lender, subject to specified conditions, may require a reserve account without interest. However, these provisions do not apply to loans made, renewed, or modified on or after May 6, 2002.

A lender must furnish to the borrower, without charge and within 60 days after the end of each calendar year, a statement of the amounts received for interest and principal repayment and any amounts received for or disbursed from a reserve account.

INTEREST REQUIREMENTS

A lender that requires a reserve account must, on a yearly basis as of December 31, calculate and credit to the account interest on the account's average daily balance at a rate of:

- 5-1/2%;
- the average of the 11th District monthly weighted average cost of funds, less 1-1/2 percent; or
- the savings or share account rate that the institution offers on accounts of a similar size.

However, these interest requirements do not apply to:

- a reserve account required by a governmental insurer;
- a reserve account maintained in connection with a real estate loan in an original principal amount of more than 80 percent of the lender's appraised value of the property, until the principal balance of the loan is paid down to 80 percent of the lender's appraised value; or

- loans for which the payment of interest is prohibited by federal law or regulations.

Statutory section 7-12-2 amended 1981; § 7-17-5 enacted 1979; § 7-17-3 amended 1996; §§ 7-17-4 and 7-17-6 amended 2010; § 7-17-7 amended 1996.

Utah Code §§ 7-17-2, -3, -4, -5, -6, -7 (2019)

Utah, Real Estate Loan Application Disclosure Requirements

SERVICING (§§ 70D-2-102, -103, -302, -303, r. 343-11-3)

If true, a lender or broker must notify in writing each applicant for a mortgage loan that:

- the mortgage loan or its servicing may be sold or assigned; and

- the mortgage loan will not necessarily be held or serviced by the lender that originated it.

The lender or broker must provide the written notice at the time of receipt or preparation of the written mortgage loan application.

At closing, the lender must notify the mortgagor in writing of:

- the initial loan servicer's name; and

- the loan payment address.

In this context, a "lender" generally is "a person who in the regular course of business originates a loan secured by a mortgage." The term includes a mortgage lender, but it does *not* include a person who:

- as a seller receives one or more mortgages as security for a purchase money obligation; or

- receives a mortgage as security for an obligation that is payable on an installment or deferred payment basis and arises out of materials furnished or services rendered to improve real property.

The above disclosure requirements do *not* apply to:

- a nonprofit corporation that grants a first mortgage loan to promote home ownership for low and moderate income borrowers;

- certain specified agencies that grant a first mortgage loan under a specific federal or state law;

- a "casual lender" that makes fewer than five mortgage loans per year; or

- a mortgage loan with a term of two years or less.

Utah regulations provide that the following federal laws and their related federal regulations apply to mortgage lenders, brokers, or servers subject to the jurisdiction of the Department of Financial Institutions:

- Truth-in-Lending Act;

- Equal Credit Opportunity Act;

- Real Estate Settlement Procedures Act;

- Fair Credit Reporting Act; and

- Home Mortgage Disclosure Act.

REFUNDS (§ 70D-2-305)

Before a mortgage lender or broker may accept a fee or deposit from a mortgage loan applicant, it must provide the applicant with a written statement that is:

- signed by the applicant;

- states whether the fee or deposit is refundable; and

- describes any conditions under which all or a part of the fee or deposit will be refunded.

A lender or broker may accept a fee or deposit from a mortgage loan applicant if the lender or broker receives an email from the applicant acknowledging that he or she was provided the above information.

RESIDENTIAL MORTGAGE PRACTICES AND LICENSING ACT (§ 61-2C-301)

A person transacting a residential mortgage loan business in Utah may not, among other acts:

- charge a fee in connection with a residential mortgage loan transaction without providing the loan applicant with a signed written statement signed stating whether the fee or deposit is refundable and describing any conditions under which all or a portion of the fee or deposit will be refunded; or

- fail to provide a prospective borrower a copy of each appraisal and any other written valuation developed in connection with an application for credit that is to be secured by a first lien on a dwelling.

A copy of each appraisal and any other written valuation developed in connection with an application for credit that is to be secured by a first lien on a dwelling must be provided:

- as soon as reasonably possible after the appraisal or other valuation is complete; or

- three business days before the settlement date.

Unless otherwise prohibited by law, a prospective borrower may waive this timing requirement and agree to receive each appraisal and any other written valuation:

- less than three business days before the settlement date; or

- at the settlement.

Generally, a prospective borrower must submit the waiver at least three business days before the settlement date.

If a prospective borrower submits a waiver and the transaction never completes, the person transacting the residential mortgage loan business must provide a copy of each appraisal or any other written valuation to the applicant no later than 30 days after the date on which the person knows the transaction will not be completed.

Statutory sections 70D-2-103, 70D-2-302, and 70D-2-303 renumbered and amended 2009; § 70D-2-305 amended 2014; § 70D-2-102 amended 2016; § 61-2C-301 amended 2017. Regulation amended 2017.

Utah Code §§ 61-2C-301; 70D-2-102, -103, -302, -303, -305 (2019); Utah Admin. Code r. 343-11-3 (2019)

Utah, State Truth-In-Lending Credit Application Disclosure Requirements

Utah has not enacted a state truth-in-lending act.

Vermont

Vermont, Bank Credit Application Disclosure Requirements

Vermont statutes contain numerous disclosure requirements for licensed lenders, but the following, among others, need not be licensed:

- a depository institution or a financial institution;
- a federal agency or other federal public instrumentality; or
- an individual who offers or negotiates the terms of a residential mortgage loan secured by a dwelling that was his or her residence, including a vacation home or inherited property, provided the individual "does not act as a mortgage loan originator or provide financing for such sales so frequently and under such circumstances that it constitutes a habitual activity and acting in a commercial context."

Pursuant to the licensed lender laws, before a lender collects any fees or when the borrower gives a lender a signed application, the lender must give the borrower a written disclosure containing:

- all interest rate provisions; and

- a specific statement regarding whether the lender may change its role to that of a mortgage broker.

These disclosure requirements do not apply to commercial loans.

Statutory section 2220 amended 2009; § 2201 amended 2019.

Vt. Stat. tit. 8, §§ 2201 (as amended by 2019 Vt. Acts & Resolves ch. 20), 2220 (2018)

Vermont, General Credit Application Disclosure Requirements

No state laws containing general credit disclosure requirements were located.

Vermont, Mortgage Escrow Accounts

GENERAL REQUIREMENTS

A lender may not require a borrower to deposit into an escrow account an amount greater than that necessary to pay taxes, insurance premiums and other charges with respect to the residential real estate, except for the following (as amended effective July 1, 2017):

- a lender may require annual deposits of no more than the reasonably estimated total annual charges plus 1/6 of the total; and

- a lender may require monthly deposits of no more than 1/12 of the reasonably estimated total annual charges plus the amount necessary to maintain an additional account balance of no more than 1/6 of the total.

A lender must:

- make timely payments of all charges payable from the escrow account;

- maintain escrow accounts in federally insured depository institutions;

- effective July 1, 2017, conduct an escrow account analysis at least annually to determine the borrower's monthly escrow account payments for the next year based on the borrower's current tax liability after any adjustment for a state credit on property taxes, if the tax liability is made available to the lender;

- effective July 1, 2017, within 30 days of receiving a revised property tax bill and verifying that it has been reduced, conduct a new escrow account analysis, recalculate the borrower's monthly escrow payment, and notify the borrower of any change; and

- provide annually and, effective July 1, 2017, whenever an escrow account analysis is conducted, or upon borrower's request, financial statements relating to the escrow account in a manner and on a form consistent with the federal Real Estate Settlement Procedures Act.

Any financial institution that requires a borrower to establish and maintain a home loan escrow account must comply with the provisions of § 10404, described above.

INTEREST REQUIREMENTS

A lender must pay interest on escrow funds under the same conditions as the lender's regular savings account, if offered, or otherwise at a rate not less than the prevailing market interest rate for regular savings accounts offered by local financial institutions. The interest must be calculated on the account's average monthly balance and credited on the first day of each quarter. However, this requirement does not apply

when a lender requires payment into an escrow account because a borrower has failed within the past year, to make timely payments for property taxes and insurance as required by the loan agreement.

Statutory section 104302 enacted 2000; § 10404 amended 2017.

Vt. Stat. tit. 8, §§ 10404, 14302 (2018)

Vermont, Real Estate Loan Application Disclosure Requirements

VARIABLE RATE LOANS

In the case of a variable rate loan secured by the borrower's residence, the lender must disclose at the time the loan commitment letter is issued, any introductory discount or similar deduction from the index or other measure that determines the interest rate or the loan terms. Any subsequent adjustment is not enforceable if it is not disclosed.

HIGH-RATE HIGH-POINT MORTGAGE LOANS

For every loan secured by a first lien on residential real estate in which the borrower is expected to be charged more than 4 points or more than 3 percent over the declared rate, the lender must give the borrower the following information in conjunction with the good-faith estimate required by Regulation Z or at any time the lender notifies the borrower that the lender will offer only such a loan:

- in uppercase, bold, at least 14-point type, distinguishable from other text, the following notice: "YOU MAY BE ELIGIBLE FOR A LOAN WITH EITHER A LOWER INTEREST RATE, FEWER POINTS, OR BOTH, FROM ANOTHER LENDER";

- that the borrower is applying for a loan with an interest rate that exceeds the declared rate by more than 3 percent or for which the lender will charge more than 4 points;

- a statement informing the borrower that a list of other lenders can be obtained by calling or writing the Department of Financial Regulation, including the Department's phone number and address; and

- the lender's and all borrowers' signatures.

These disclosures must be printed in at least 12-point type on a single sheet of colored paper easily distinguishable from all other documents given to the borrower.

ALTERNATIVE MORTGAGE FINANCE LAWS

Alternative mortgages include:

- adjustable rate mortgages;

- graduated payment mortgages;

- growth equity mortgages;

- shared appreciation mortgages; and

- reverse annuity mortgages.

A lender may offer an alternative mortgage if the lender:

- also offers the prospective borrower a conventional mortgage;

- explains the difference between a conventional mortgage contract and an alternative mortgage contract to prospective borrowers before the borrower decides which mortgage to take;

- the borrower signs a certificate that indicates an understanding of his or her obligations;

- participates in a residential mortgage program that provides home ownership opportunities for Vermont residents; and

- complies with federal regulations that apply to alternative mortgage instruments.

The above provision does not apply to commercial loans.

ADJUSTABLE RATE MORTGAGES

A lender must provide each applicant for an adjustable rate mortgage with disclosure:

- not more than three business days after the lender receives the borrower's written application;

- in documents separate from the loan document; and

- in plain language.

The disclosure documents must include:

- the lender's rights under any due-on-sale clause;
- a statement of whether late charges are authorized, the amount of any late charge, and the manner in which any late charge is determined;
- if escrow payments are stipulated, a statement explaining the purpose of the escrow payments, how the payments are determined, and the lender's rights upon failure to make escrow payments;
- the maturity date or the manner in which the maturity date will be established;
- the initial interest rate or the manner of establishing the rate;
- the initial payment amount, if known;
- an explanation of the method used to determine the initial payment, including a reference to the initial loan balance, the interest rate, and the scheduled term;
- if adjustment is allowed for the interest rate, the payment, the loan balance, or the loan term, an explanation of how the adjustments will be made, including the indices used, how the borrower may obtain the index values, and how adjustment of one item will affect other items;
- the information to be included in adjustment notices;

- the information to be included in the maturity notice if the loan is a non-amortized or partially-amortized loan;

- the notice period for any adjustment or maturity notices;

- a description of the contractual circumstances, other than the borrower's breach or failure to perform, under which a loan may become due, or a forced sale of the home may occur;

- for non-amortized or partially-amortized loans, notice that a large payment will be due at the loan's maturity, and a statement that the lender is not obligated to refinance the loan, unless the lender is unconditionally obligated to refinance the loan;

- if the lender has the right to call the loan due and payable, notice that a large payment may be due after a certain number of years or when a specified event that is external to the loan occurs, and a statement that the lender has no obligation to refinance the loan; and

- an example of how the variable features of the loan may interact over a period of time.

SHARED APPRECIATION MORTGAGES

A lender must give an appreciation mortgage applicant a disclosure notice in the form set forth in the regulations at the time the applicant requests an application. Vermont Regulations also provide a required format for a side-by-side comparison of a shared appreciation mortgage and a comparable standard mortgage.

GRADUATED PAYMENT MORTGAGES

A lender must give a borrower materials explaining in simple terms the graduated payment mortgage and the standard mortgage, including:

- a side-by-side comparison of interest rates and terms;
- the payment schedule, including periodic loan balances;
- the total payment in dollars for the entire term of each loan type;
- a description of the conversion option; and
- a prominently displayed statement that borrowers have the option to choose a standard mortgage.

GROWTH EQUITY MORTGAGES

Before making a growth equity loan, a lender must provide the borrower with an accurate schedule stating:

- the first installment due date;
- the first installment amount;
- the amount of subsequent installments; and
- the date any increases are effective.

REVERSE ANNUITY MORTGAGES

Lenders must provide prospective reverse annuity mortgage borrowers with written explanatory material explaining the mortgage and its terms. The explanatory materials must include:

- a brief description of reverse annuity mortgages;
- a prominent notice that the borrower must make a large payment at the end of the loan term, if refinancing is not guaranteed;
- a breakdown of the items included in any lump sum payment;
- a schedule and explanation of payments, including whether insurance and property taxes will be deducted;
- a schedule of the outstanding debt over time;
- any interest rate changes;
- the loan maturity repayment date or the event that will cause the loan to become due;
- any repayment method;
- the repayment schedule;

- any contract provisions that could result in the forced sale of the home;

- the interest payable on the loan, including the interest rate, the annual percentage rate, and the total interest amount;

- for purchased annuities, the effective interest rate, the interest expected to be earned based on standard mortality tables, and the name and address of the insurance company that issued the annuity;

- the initial loan fees and charges;

- a description of any prepayment provisions;

- a description of any refinancing provisions;

- a statement that reverse annuity mortgages affect tax and estate planning; and may affect levels and eligibility for government benefits, grants or pensions;

- a suggestion that the borrower explore the implications of tax and estate planning with qualified authorities; and

- an example of how the mortgage operates.

If the contract provides for periodic adjustment of the interest rate, the lender must provide the borrower with disclosures that parallel those required for adjustable rate mortgages.

DISCOUNTS

At the time the lender gives the borrower a loan commitment letter, the lender must disclose any discounts and reductions from the index that determines the interest rate or loan term on variable rate loans secured by the borrower's residence.

LICENSED LENDERS

The unique identifier of any person originating a residential mortgage loan must be clearly shown on all residential mortgage loan application forms, among other specified documents. Similarly, the unique identifier issued by the Nationwide Mortgage Licensing System and Registry of any person engaging in the business of lending or acting as a mortgage broker or sales finance company must be clearly shown on all loan application forms and any other documents as established by rule or order.

Before a mortgage lender takes a fee or collects a charge for a mortgage loan, or at the time the prospective borrower submits a signed application, the mortgage lender must provide the prospective borrower with a written disclosure that sets forth:

- all provisions relating to interest rates applicable to the loan; and

- a "specific disclosure regarding any possibility that the lender may change its role to that of a mortgage broker."

This requirement does not apply to commercial loans.

Statutory sections 2216 and 2220 amended 2009; § 103 amended 2015; § 2244 amended 2017. Regulation adopted 1999.

Vt. Stat. tit. 8, § 2216, 2220, 2244; tit. 9, § 103(b) (2018); Vt. Code R. B-1998-02 (2019)

Vermont, State Truth-In-Lending Credit Application Disclosure Requirements

Vermont has not enacted a state truth-in-lending act.

Virgin Islands

Virgin Islands, Bank Credit Application Disclosure Requirements

No disclosure requirements applicable only to banks were located.

Virgin Islands, General Credit Application Disclosure Requirements

Any person engaged in the business of extending credit must post in a conspicuous public place a list of all fees and charges for credit and other financial transactions, including application processing fees and interest on first priority mortgage loans.

Statutory section amended 2005.

9 V.I. Code § 257 (LexisNexis 2018)

Virgin Islands, Mortgage Escrow Accounts

GENERAL REQUIREMENTS

Banks or Lending Institutions

If a bank or lending institution requires a mortgagor to make periodic payments that include sums to be allocated to an escrow account for taxes, insurance or improvements to the mortgaged property, the bank or lending institution must furnish the mortgagor with a statement within 60 days of the close of the calendar year, showing:

- the escrow fund's beginning balance;
- the total amount received by the fund during the calendar year;
- an itemized statement of all expenditures from the fund during the calendar year;
- the fund balance at the end of the calendar year; and

- the interest accrued on the escrow account.

This annual statement is not required if the bank provides the mortgagor with a monthly billing form or mortgagor passbook that provides the required information.

Licensed Mortgage Lenders

A licensed mortgage lender may not require a borrower to make advance payments of the real estate taxes or casualty insurance premiums if the borrower:

- has made a down payment of 20 percent or more of the property's total purchase price; or

- has an equity interest in the property equal to at least 20 percent of the property's fair market value.

A licensed mortgage lender must provide such borrowers with a separate written statement that clearly and conspicuously sets forth the right to pay taxes and insurance premiums directly. This provision does not prohibit a licensed mortgage lender from obtaining, during any period during which the loan is in default and in consideration for the lender not exercising its available remedies, a written agreement from the borrower to make advance payments to enable the mortgage lender to have funds on hand for taxes or insurance premiums.

INTEREST REQUIREMENTS

Every banking or lending institution that requires a mortgagor to maintain an escrow account for taxes, insurance, improvements or insurance settlements must pay interest on the account's average quarterly balance at the prevailing percentage rate credited to the bank's passbook savings accounts.

Statutory section 66 enacted 1974; § 67 amended 1990; § 375 enacted 2005.

9 V.I. Code §§ 66, 67, 375 (LexisNexis 2018)

Virgin Islands, Real Estate Loan Application Disclosure Requirements

Disclosure requirements applicable to mortgage lenders do not apply to regulated financial institutions or banks. No generally applicable provisions were located.

Statutory sections enacted 2005.

See 9 V.I. Code §§ 361, 362, 373 (LexisNexis 2018)

Virgin Islands, State Truth-In-Lending Credit Application Disclosure Requirements

The Virgin Islands has not enacted a truth-in-lending act.

Virginia

Virginia, Bank Credit Application Disclosure Requirements

REAL ESTATE BROKERAGE REFERRALS

A state bank that refers a person to its affiliated real estate brokerage firm must clearly and conspicuously disclose in writing and in a separate document to any person who applies for credit (or for prequalification or preapproval for credit) related to a real estate transaction, that the person need not "consult with, contract for, or enter into an arrangement for real estate brokerage services" with the affiliated real estate brokerage firm. The affiliated real estate brokerage firm must make a similar disclosure.

Statutory section amended 2010.

Va. Code § 6.2-888 (2019)

Virginia, General Credit Application Disclosure Requirements

FEDERAL COMPLIANCE

Every person subject to the federal Truth-in-Lending Act and Regulation Z must comply with those statutes and regulations when offering or extending consumer credit.

CREDIT INSURANCE DISCLOSURES

Multiple plans

If a creditor makes available more than one credit involuntary unemployment insurance plan or more than one credit property insurance plan, the creditor must inform the debtor of all plans for which they are eligible.

Not mandatory

If elective credit property insurance or elective credit involuntary unemployment insurance is offered, the creditor must give the borrower a written disclosure that:

- purchasing the insurance is not required and not a factor in granting credit; and
- the borrower has the right to use alternative coverage or to buy insurance elsewhere.

Single premium payment

If creditor gives the debtor a contract that includes a single premium payment to be charged for elective credit property insurance or elective credit involuntary unemployment insurance, the creditor must also give the debtor:

- a contract that does not include the elective insurance premiums; or

- a form that clearly discloses the difference in premiums charged for a contract with the elective insurance and a contract without the elective insurance.

The creditor may combine this disclosure with other required disclosure forms.

Credit property insurance

If a creditor offers credit property insurance and requires evidence of specified insurance coverage, the debtor must have the option of:

- furnishing the required insurance through existing policies; or

- obtaining the required coverage through an insurer authorized to transact insurance in Virginia.

The creditor must inform the debtor of this option in writing and obtain the debtor's signature acknowledging that he or she understands the option. The creditor may combine this disclosure with other required disclosure forms.

Refund rights

An insurance contract paid in advance or by a single premium must include a notice prominently disclosing the right to a premium refund if the insurance is terminated before its scheduled maturity date or if the insured debt is terminated or paid off early.

Life insurance

If a creditor makes more than one credit life insurance plan or more than one credit accident and sickness insurance plan available, a debtor must be informed of all such plans for which he or she is

eligible. The creditor must also make those disclosures set forth in § 38.2-3735, which are similar to the disclosures described above for credit involuntary unemployment insurance.

Statutory section 38.2-233 amended 2009; § 38.2-3735 amended 2010; § 6.2-436 amended 2016.

Va. Code §§ 6.2-436; 38.2-233, -3735 (2019)

Virginia, Mortgage Escrow Accounts

GENERAL REQUIREMENTS

If a lender or other person maintains an escrow account for taxes or insurance and fails to make timely payments, the lender or other escrow-account holder is liable for any penalty, late charge, or cancellation for nonpayment if the escrow account contained sufficient funds at least five days before the payment's due date. The lender is also liable for any loss that results from the property being uninsured for nonpayment.

REQUIRED ESCROW ACCOUNTS

Industrial Loan Associations

An industrial loan association may not require a borrower to pay amounts in escrow for taxes and insurance premiums in connection with a loan secured by a subordinate mortgage or deed of trust unless escrows for those purposes are not being maintained in connection with a superior mortgage loan.

Mortgage Lenders

A licensed mortgage lender may not require a borrower to pay amounts in escrow for taxes and insurance premiums in connection with a subordinate mortgage loan unless escrows for such purposes are not being maintained in connection with the superior mortgage loan.

INTEREST REQUIREMENTS

No provisions addressing interest on escrow accounts were located.

Statutory sections amended 2010.

Va. Code §§ 6.2-414, -1417, -1618 (2019)

Virginia, Real Estate Loan Application Disclosure Requirements

GENERAL DISLCOSURE REQUIREMENTS

A lender making or a broker arranging loans secured by a first mortgage or first deed of trust on owner-occupied residential real estate consisting of one- to four-family dwelling units must disclose the following in writing at the time loan applicant submits a loan application:

- a description of when the quoted interest, points, and fees will be locked in; and

- a good-faith estimate of the processing time required for the loan, which estimate must take into account the time needed for any local government inspections or other functions necessary to close the loan.

The above requirements do *not* apply to a lender that makes 10 or fewer loans secured by a first mortgage or first deed of trust on owner-occupied residential real estate during any 12-month period.

ASSUMPTIONS

An owner of residential real estate that is improved with four or fewer dwelling units and is encumbered by a mortgage or deed of trust has the right, upon written request, to receive a written disclosure of whether the holder will permit a qualified purchaser to assume the mortgage or deed of trust. If so, the mortgage holder must disclose the terms of the assumption.

Statutory section 6.2-419 amended 2010; § 6.2-406 amended 2016.

Va. Code §§ 6.2-406, -419 (2019)

Virginia, State Truth-In-Lending Credit Application Disclosure Requirements

Virginia has not enacted a state truth-in-lending act.

Washington

Washington, Bank Credit Application Disclosure Requirements

No credit application disclosure requirements applicable only to banks were located.

Washington, General Credit Application Disclosure Requirements

A creditor in a credit agreement must provide the following written notice in conspicuous type, either with a credit agreement or before it is made:

> Oral agreements or oral commitments to loan money, extend credit, or to forbear from enforcing repayment of a debt are not enforceable under Washington law.

Statutory section enacted 1990.

Wash. Rev. Code Ann. § 19.36.140 (2019)

Washington, Mortgage Escrow Accounts

GENERAL REQUIREMENTS

A residential mortgage loan servicer that exercises the authority to collect escrow amounts on a residential mortgage loan held to pay insurance, taxes, and other charges with respect to the property must:

- collect and make all such payments from the escrow account; and

- ensure that "no late penalties are assessed or other negative consequences result for the borrower."

INTEREST REQUIREMENTS

No relevant provisions were located.

Statutory section amended 2015.

Wash. Rev. Code § 31.04.290 (209)

Washington, Real Estate Loan Application Disclosure Requirements

MORTGAGE LOAN SERVICING (§ 19.148.030)

Before or during a loan closing, a lender must disclose in writing:

- if the servicing of a loan is subject to sale, transfer, or assignment; and

- that, when the servicing is sold, transferred, or assigned, the purchasing servicing agent must notify the mortgagor.

APPRAISALS (§ 19.149.020)

Before a purchase-money residential mortgage loan closing, a lender must provide to the borrower copies of all appraisals or other documents the lender relied upon in evaluating the dwelling's value. A borrower may waive in writing the lender's disclosure duty, but, in that case, the lender must provide the information to the borrower at a reasonable later date.

MORTGAGE INSURANCE (§ 61.10.020)

If a borrower is required to obtain mortgage insurance as a condition of entering into a residential mortgage transaction, the lender must disclose to the borrower whether and under what conditions the borrower may cancel the mortgage insurance in the future. This disclosure must include:

- any identifying loan or insurance information;
- the conditions that are required to be satisfied before the borrower may cancel the mortgage insurance; and
- the procedures the borrower must follow to cancel the mortgage insurance.

The disclosure must be made in writing at the time the parties enter into the transaction.

This requirement does not apply to:

- a "mortgage funded with bond proceeds issued under an indenture requiring mortgage insurance for the life of the loan"; or
- loans insured by the federal housing administration or the veterans administration.

A lender or person servicing a residential mortgage transaction who complies with federal requirements regarding mortgage insurance disclosures and notifications is deemed to be in compliance with the above requirements.

MORTGAGE LOAN BROKERS AND LOAN ORIGINATORS (§§ 19.146.010, .020, .030)

Washington statutes regarding mortgage loan brokers and loan originators define a "loan originator" to include an individual who:

- for compensation or gain takes a residential mortgage loan application; or

- offers or negotiates a residential mortgage loan's terms.

A licensed person or entity that performs only real estate brokerage activities (unless the person or entity is compensated by a lender, a mortgage broker, or other mortgage loan originator or its agent) is explicitly excluded from the definition of "loan originator." A "loan originator" includes an individual who, for compensation or gain, performs or holds himself or herself out as being able to perform residential mortgage loan modification services.

The following, among others, are exempt from the provisions relating to mortgage brokers and loan originators, as contained in chapter 19.146:

- a commercial bank, savings bank, trust company, savings and loan association, credit union and other specified financial institutions;

- a licensed real estate broker or salesperson who (a) obtains financing for a real estate transaction involving a real estate sale in which he or she is performing his or her duties as a licensee and (b) receives only the customary real estate broker's or salesperson's commission in connection with the transaction; and

- a real estate broker who (a) provides only information regarding rates, terms, and lenders in connection with a computer loan information system, (b) receives a fee for providing the information, (c) conforms to all rules related to providing the service, and (d) discloses on an approved form that "to obtain a loan the borrower must deal directly with a mortgage broker or lender."

A real estate broker is not exempt if he or she:

- holds himself or herself out as able to obtain a loan from a lender;
- accepts a loan application;
- submits a loan application to a lender;
- accepts a deposit for third-party services or loan fees from a borrower;
- negotiates rates or terms with a lender on behalf of a borrower; or
- provides the disclosure required by § 19.146.030(1).

Parties that are not exempt must comply with the disclosure provisions of § 19.146.030, which require that within three business days following the receipt of a loan application from a borrower, a mortgage broker or loan originator must provide a written disclosure that:

- contains an itemization and explanation of all fees and costs that the borrower must pay in connection with obtaining a residential mortgage loan;
- specifies the mortgage broker's fee; and
- provides other disclosures as may be required by rule.

The disclosure must include a good faith estimate of a fee or cost if the exact amount is unknown.

The written disclosure must contain the following information:

- certain information regarding the loan's financial terms (disclosure that complies with the federal Truth-in-Lending Act and Reg. Z complies with this requirement);

- specified itemized costs (disclosure that complies with RESPA and Regulation X comply with this requirement);

- certain information regarding any lock-in agreement;

- if applicable, a statement that if the borrower is unable to obtain a loan, the mortgage broker must, upon the borrower's written request, give copies of any appraisal, title report, or credit report paid for by the borrower to the borrower;

- whether and under what conditions any lock-in fees are refundable; and

- a statement providing that funds paid by the borrower to the mortgage broker for third-party services are held in a trust account and any remaining funds after payments to third-party providers will be refunded.

Wash. Admin. Code 208-660-430 provides additional details regarding mortgage broker and loan originator disclosure requirements. Disclosures that comply with federal regulations are deemed to comply with the disclosure requirements of § 19.146.030(2), but § 19.146.030(1) governs the "delivery requirement."

RESPONSIBLE MORTGAGE LENDING (§ 19.144.020; r. 208-620-511)

In addition to any other state or federal requirements, "a residential mortgage loan may not be made unless a disclosure summary of all material terms . . . is placed on a separate sheet of paper and has been provided by a financial institution to the borrower within three business days following receipt of a loan application." If any material terms of the residential mortgage loan change before closing, the financial institution must provide a new disclosure summary the earlier of (a) within three days of the change or (b) at least three days before closing. The department of financial institutions must adopt a disclosure summary form that includes, but is not be limited to, the following:

- fees and discount points;
- interest rates;
- broker fees;
- "the broker's yield spread premium as a dollar amount";
- whether the loan contains prepayment penalties or a balloon payment;
- whether property taxes and property insurance are escrowed;
- whether "loan payments will adjust at the fully indexed rates"; and
- whether "there is a price added or premium charged because the loan is based on reduced documentation."

The director may require by rule the disclosure of other information relating to a residential mortgage loan if he or she determines it is "necessary to protect consumers."

Disclosure in compliance with the federal Real Estate Settlement Procedures Act is deemed to comply with these disclosure requirements.

CONSUMER LOAN LICENSEES (§ 31.04.102; r. 208-620-510, -511)

For all loans made by a licensee under chapter 31.04 that are secured by a real property lien, the licensee must provide to each borrower within three business days following receipt of a loan application a "written disclosure containing an itemized estimation and explanation of all fees and costs that the borrower is required to pay in connection with obtaining a loan from the licensee." The licensee must provide a good faith estimate of a fee or cost if the exact amounts are not available.

In addition, for all loans made by the licensee that are secured by a real property lien, the licensee must provide to the borrower within three days of receipt of a loan application:

- an estimate of the loan's annual percentage rate; and

- a disclosure of whether the loan contains a prepayment penalty.

A disclosure that complies with the requirements of the federal Truth-in-Lending Act, Regulation Z, RESPA, Regulation X, and all other applicable federal laws and regulations constitute compliance with this disclosure requirement.

For all consumer loans made by a licensee that are secured by a real property lien, the licensee must comply with Wash. Rev. Code § 19.144.020.

The following rate-lock disclosures are required within three days of receipt of a residential loan application:

- if a rate-lock agreement has not been entered into, disclosure to the borrower that the disclosed interest rate and terms are subject to change;

- if a rate-lock agreement has been entered into, whether the rate-lock agreement is guaranteed and whether and under what conditions any rate-lock fees are refundable to the borrower; and

- if the borrower wants to lock the rate after the initial disclosure, additional disclosures are required.

Washington regulations provide specific schedules for the delivery of federally required disclosures and other disclosures related to brokered loans and shared-appreciation mortgages.

See Wash. Admin. Code 208-620-510 and -511 for details regarding required disclosures.

Statutory section 19.148.030 enacted 1989; § 19.149.020 enacted 1994; § 61.10.020 enacted 1998; § 19.144.020 amended 2012; §§ 19.146.010, 19.146.020, and 19.146.030 amended 2015; § 31.04.102 amended 2018. Regulations amended 2016; 208-620-510 amended 2018.

Wash. Rev. Code Ann. §§ 19.144.020; .146.010, .020, .030; .148.030; .149.020; 31.04.102; 61.10.020 (2019); Wash. Admin. Code 208-660-430, -620-510, -620-511 (2019)

Washington, State Truth-In-Lending Credit Application Disclosure Requirements

Washington has not enacted a state truth-in-lending act.

West Virginia

West Virginia, Bank Credit Application Disclosure Requirements

No disclosure requirements applicable only to banks were located.

West Virginia, General Credit Application Disclosure Requirements

CONSUMER CREDIT AND PROTECTION ACT

Application

The West Virginia Consumer Credit and Protection Act generally applies consumer transactions, including "consumer loans," which are loans made by a person regularly engaged in the business of making loans in which:

- the debtor is a person, not an organization;
- the debt is incurred primarily for personal, family, household or agricultural purposes;
- either the debt is payable in installments or a loan finance charge is made; and
- either the principal does not exceed $45,000 or the debt is secured by an interest in land or a factory-built home.

Balloon Payments

Whenever a scheduled payment on a consumer loan is at least twice as large as the smallest of all earlier scheduled payments other than the down payment, any writing containing the parties' agreement must contain language substantially similar in form and substance to the following:

- "THIS CONTRACT IS NOT PAYABLE IN INSTALLMENTS OF EQUAL AMOUNTS"; and

- if there is only one installment which is at least twice as large, the notice must state "AN INSTALLMENT OF $..... WILL BE DUE ON ....," or if there is more than one installment which is at least twice as large, the notice must state "LARGER INSTALLMENTS WILL BE DUE AS FOLLOWS," with the amount of each payment and its due date inserted.

However, this requirement does not apply to payments adjusted to the consumer's seasonal or irregular income.

Refinancing and Consolidation

Certain disclosures apply to "any nonrevolving consumer loan or consumer credit sale that is not secured by residential real estate that is refinanced or consolidated with a new loan under this article after September 1, 2009, at a higher annual percentage rate than the consumer loan or consumer credit sale being refinanced." (Note that a nonrevolving consumer loan or consumer credit sale that is secured by residential real estate may not be refinanced or consolidated with a new loan secured by residential real estate and made under article 46A-4 unless the new loan has a "reasonable, tangible net benefit to the borrower considering all of the circumstances, including the terms of both the new and the refinanced loans, the cost of the new loan and the borrower's circumstances." No related disclosures are required, but the lender must document on a mandatory form and maintain in the loan file the required "reasonable, tangible net benefit.")

If no substantial benefit is provided, the lender in a fixed-rate transaction generally must give the following disclosures in writing to the borrower before the new agreement is executed: "If you do agree to consolidate your existing obligation, you will be paying an annual percentage rate of __% on the existing balance of $__, instead of the rate of __% which you are now paying."

The Commissioner may provide and require a modified disclosure form for similar transactions involving adjustable or variable rates and, in such cases, the lender must give the borrower conspicuous, written notice of the provisions discussed above in addition to the disclosure form required by the Commissioner.

Cosigners

A cosigner may not be held liable under the West Virginia Consumer Credit and Protection Act unless, before signing any instrument, he or she receives and signs a separate notice which clearly explains his or her liability in event of default along with a copy of the disclosure required by the federal law.

The notice shall be sufficient if it appears under the conspicuous caption "NOTICE TO COSIGNER," typed or printed in at least 12-point, bold, upper-case type, and contains substantially the following language typed or printed in at least eight-point regular type:

> You are being asked to guarantee this debt. Think carefully before you do. If the borrower doesn't pay the debt, you will have to. Be sure you can afford to pay it if you have to, and that you want to accept this responsibility.
>
> You may have to pay up to the full amount of the debt if the borrower does not pay. You may also have to pay late fees or collection costs, which increase this amount.
>
> The creditor can collect this debt from you without first trying to collect from the borrower. The creditor can use the same collection methods against you that can be used against the borrower, such as suing you, garnishing your wages, etc. If this debt is ever in default, that fact may become a part of your credit record.
>
> This notice is not the contract that makes you liable for the debt.

Insurance

With respect to insurance against loss of or damage to property or against liability, a creditor must give the debtor a clear and specific written statement:

- setting forth the insurance cost if it is obtained from or through the creditor; and

- stating that the debtor may choose the person through whom the insurance is to be obtained.

Statutory sections 46A-1-102, 46A-1-104, and 46A-2-104 amended 1996; § 46A-3-109 amended 2008; § 46A-4-111 amended 2009; § 46A-2-105 amended 2017.

W. Va. Code Ann. §§ 46A-1-102(15), -104; -2-104, -105; -3-109; -4-111 (2018)

West Virginia, Mortgage Escrow Accounts

No relevant provisions were located.

West Virginia, Real Estate Loan Application Disclosure Requirements

West Virginia's law previously provided that disclosure requirements for mortgage lenders did not apply to loans by any lender licensed and under a federal agency's regular supervision. However, that provision was eliminated as of June 8, 2012.

West Virginia, State Truth-In-Lending Credit Application Disclosure Requirements

West Virginia has not adopted a state truth-in-lending act.

Wisconsin

Wisconsin, Bank Credit Application Disclosure Requirements

No disclosure requirements applicable only to banks were located.

Wisconsin, General Credit Application Disclosure Requirements

WISCONSIN CONSUMER CREDIT CODE

Scope and application

The Wisconsin Consumer Credit Code applies to consumer credit transactions, including consumer loans made in Wisconsin.

"Consumer loan" means a loan made by a lender to a customer that is payable in installments or for which a finance charge is imposed. In the Consumer Credit Code, "security interest" includes a real property mortgage or deed of trust.

Federal compliance

A creditor must disclose in a writing the disclosures required by Wisconsin statute in addition to the disclosures required by the Federal Truth-in-Lending Act.

Form of general disclosure requirements

Disclosures under the Consumer Credit Code:

- must be clear and conspicuous;
- must be in writing;
- unless prescribed by the Administrator, need not be contained in a one writing or made in a specific order;
- may be supplemented; and
- need be made only to the extent they apply and only for items for which the seller assesses a separate charge.

The creditor must make the required disclosures before closing.

Guarantors

Guarantors are personally liable for the debt only if, in addition to signing the writing evidencing the consumer credit transaction or a separate guaranty or similar instrument,

- they receive either a copy of each instrument, document, agreement and contract signed by the customer, or

- they sign and receive a separate instrument with the following notice:

  EXPLANATION OF PERSONAL OBLIGATION

  (a) You have agreed to pay amounts owing or to be owing in the future as a result of charges made by . . . (name of customer) on his or her charge account with . . . (name of creditor) in an amount not exceeding $. . ..

  (b) You will be liable and fully responsible for payment of the above amount even though you may not be entitled to any of the goods, services or loan furnished thereunder. If you wish to terminate your guarantee with respect to future transactions, you must notify . . . (name of creditor) in writing.

  (c) You may be sued in court for the payment of the amount due under this consumer credit transaction even though the customer named above may be working or have funds to pay the amount due.

  (d) This explanation is not the agreement under which you are obligated, and the guaranty or agreement you have executed must be consulted for the exact terms of your obligations.

(e) You are entitled now, or at any time, to one free copy of any document you sign evidencing this transaction.

(f) The undersigned acknowledges receipt of an exact copy of this notice.

Spouses

Every written application for credit governed by Chapters 421 to 427 must include a notice that no marital property agreement, § 766.70 court decree or § 766.59 unilateral statement adversely affects the creditor unless the creditor either

- is given a copy of the document before the credit is granted, or
- has actual knowledge of an adverse provision at the time the debt is incurred.

If a creditor extends credit to a spouse in a credit transaction governed by Chapters 421 to 427 and the credit extension may result in an obligation incurred in the family interest, the creditor must give the nonapplicant spouse written notice of the credit extension before payment is due. The creditor may satisfy the notice requirement by providing a copy of the document evidencing the debt or any required credit disclosure given to the applicant spouse, or by a separate writing describing the credit granted. Notice is deemed given on the date it is mailed to a nonapplicant spouse's address, and is considered given if the nonapplicant spouse

- has actual knowledge of the credit, or
- waives the notice requirement in a signed writing.

Statutory section 421.201 amended 1995; § 421.301 amended 2005; §§ 422.301, 422.302, and 422.305 amended 1979; § 422.303 amended 1995; § 766.55 amended 2019; § 766.56 amended 2016.

Wis. Stat. Ann. §§ 421.201, .301; 422.301, .302, .303, .305; 766.55, .56 (2019)

Wisconsin, Mortgage Escrow Accounts

GENERAL REQUIREMENTS

A borrower may require an escrow agent who receives escrow payments for property taxes to do any of the following, provided the borrower notifies the escrow agent and is current in his or her loan payments:

- send the borrower a check in the amount of the funds held in escrow for property taxes, made payable to the borrower and the treasurer authorized to collect the tax;
- pay the property taxes by December 31, if the escrow agent has received a tax statement for the property by December 20; or
- pay the property taxes when due.

INTEREST REQUIREMENTS

If a lender requires an escrow account to assure payment of taxes or insurance, the borrower must receive interest of at least 5.25 percent per year on the outstanding balance of the account on transactions occurring on or after November 1, 1981. If a loan originated after January 31, 1983, and before January 1, 1994, and the bank or other financial institution requires an escrow account for taxes or insurance, the borrower must receive interest of at least 5.25 percent per year, unless the money is held by a third party in a noninterest bearing account. If a bank or other financial institution originates a loan on or after January 1, 1994 and before April 18, 2018, and required escrow funds are not held in a third-party noninterest bearing, account, the borrower must receive interest at a variable rate established annually using the average interest rate paid on regular passbook deposit accounts. This rate also applies to loans that originated after January 31, 1983, and before January 1, 1994, if the loan agreement does not specify an interest rate. The legislative reference bureau publishes the average rates in the Wisconsin Administrative

Register. For 2017, the interest rate required to be paid on applicable escrow accounts is 0.14 percent.

If the lender sells more than 75 percent of its interest in a loan to an unrelated third party and the third party holds the escrow funds, the parties may agree to waive the payment of escrow interest.

DISCLOSURE

Generally, if an escrow for taxes is required, a financial institution that originates a loan on or after July 1, 1988, must, before the loan closing, provide the borrower with a written notice clearly stating

- that the borrower may require the escrow agent to make tax payments in any manner from the amount escrowed, and

- the responsibilities of the borrower and escrow agent.

Statutory section 138.051 amended 1999; § 138.052 amended 2017. Regulation adopted 2016.

Wis. Stat. Ann. §§ 138.051, .052 (2019); 2016 Wis. Reg. Text 443734 (West 2016)

Wisconsin, Real Estate Loan Application Disclosure Requirements

RESIDENTIAL MORTGAGE LOANS

The following provisions generally govern residential mortgage loans, except that the regulations and restrictions of §§ 138.051 and 138.052 do not apply to residential mortgage loans insured by the United States Secretary of Housing and Urban Development or guaranteed under 38 U.S.C. §§ 3701—3727 or 7 U.S.C. §§ 1921—1995.

After receiving an application for a residential mortgage loan, a lender must disclose to the applicant in writing:

- whether the application fee or similar charge is refundable if the application is denied or the loan does not close;

- whether the loan terms, including interest and fees, are fixed through the loan closing; and

- any terms the lender may change if the loan is not closed on or before the specified closing date.

If a lender takes adverse action on a loan application, the lender must provide a written statement explaining the reasons for the adverse action when the lender communicates the decision to the applicant.

VARIABLE RATE CONTRACTS

A contract authorizing a variable interest rate must clearly and conspicuously disclose to the borrower in writing, before the loan documents are executed:

- that the loan contract contains a variable interest rate;

- the index used to compute the interest rate changes;

- the index's current base; and

- any prepayment rights of the borrower upon receiving notice of an interest rate change.

VARIABLE RATE LOANS

Before making a variable rate loan, the lender must disclose to at least one of the borrowers:

- that the loan contract provides for variable interest rates;
- the approved index used in the loan contract;
- the current index base;
- the borrower's rights to prepay the loan upon receipt of notice of an interest rate change; and
- that the borrower must be given notice of any rate increase.

Effective approximately March 25, 2006, a lender generally may not include a prepayment penalty in a variable rate loan using an approved index unless, among other things:

- the lender also makes variable rate loans without prepayment penalties;
- the lender provides the borrower with a written statement that the lender also makes variable rate loans without prepayment penalties;

- at the time the lender offers the variable rate loan, the borrower acknowledges, in writing, receipt of the above statement; and

- the prepayment is not made in connection with the sale of a dwelling or manufactured home securing the loan. (The revisor will establish the date after which this statute will apply.)

FIRST-LIEN REAL ESTATE LOAN ACT

The provisions of Chapter 428, the First Lien Real Estate Loan Act, apply to first lien real estate loans of $25,000 or less. Any cosigner, other than the customer's spouse, must be given a notice as required by § 422.305 and a copy of the document evidencing the debt.

HIGH-COST LOANS

A lender may not include a prepayment penalty in a covered loan unless the lender offers the customer the option of choosing a loan without a prepayment penalty. A "covered loan" is defined as a consumer credit mortgage loan other than an open-end credit plan or reverse mortgage in which all of the following apply:

- the customer is an individual;

- the debt is incurred by the customer primarily for personal, family, or household purposes;

- the loan is secured by a mortgage on residential real property that is or will be occupied by the customer as his or her principal dwelling; and

- the loan terms provide either of the following: (a) that the loan transaction is considered a mortgage under 15 USC 1602(aa) and related regulations; or (b) that the total points and fees payable by the customer at or before closing, excluding fees for bona fide services, exceed 6 percent of the total loan amount.

Statutory section 138.051 amended 1999; §§ 138.055 and 428.103 amended 2003; § 428.2095 enacted 2003; § 428.202 amended 2009; § 138.052 amended 2017; § 138.056 amended 2015.

Wis. Stat. Ann. §§ 138.051, .052, .055, .056; 428.103, .202, .2095 (2019)

Wisconsin, State Truth-In-Lending Credit Application Disclosure Requirements

Wisconsin has not enacted a state truth-in-lending act.

Wyoming

Wyoming, Bank Credit Application Disclosure Requirements

No credit application disclosure requirements applicable only to banks were located.

Wyoming, General Credit Application Disclosure Requirements

Wyoming has enacted the Wyoming Uniform Consumer Credit Code, which contains numerous disclosure requirements, many of which apply to certain real estate loans. (See "Real Estate Loan Application Disclosure Requirements" below.)

Statutory section enacted 1971.

See Wyo. Stat. § 40-14-101 *et seq.* (LexisNexis 2019)

Wyoming, Mortgage Escrow Accounts

No relevant provisions were located.

Wyoming, Real Estate Loan Application Disclosure Requirements

APPLICABILITY

Although Wyoming has few laws specifically applicable to residential first mortgage loans and lenders, the provisions of the Consumer Credit Code may apply if the parties agree that a "loan primarily secured by an interest in land" is subject to the Code. A "loan primarily secured by an interest in land" that is a first mortgage loan that is not precomputed will not be considered a "consumer loan" for the general purposes of the Consumer Credit Code if:

- the loan finance charge does not exceed 18 percent per year, according to the actuarial method, on the outstanding principal balance, assuming that the debt will be paid according to its terms and will not be paid before maturity; and

- at the time the loan is made the value of the collateral property is substantial in relation to the amount of the loan.

However, regardless of any other provisions, a "loan primarily secured by an interest in land" is subject to the provisions of the Consumer Credit Code governing required disclosures and debtor's remedies.

DISCLOSURES

Consumer Credit Code loans

The Consumer Credit Code applies to “consumer loans”, which are defined as loans made by a person in the business of making loans, in which:

- the debtor is a natural person;

- the debt is for personal, family or household use;

- either the debt is payable in installments or a loan finance charge is made; and

- either the principal is not more than $75,000 or the debt is secured by an interest in land or a dwelling. A "dwelling" is defined as a residential structure located in Wyoming that contains one to four units, whether or not the structure is attached to real property. A "dwelling," if used as a residence, includes an individual condominium unit, a cooperative unit, a mobile home or a trailer.

Parties to a loan may agree in writing that a loan is subject to the statutory provisions that apply to consumer loans.

A "consumer related loan" is a loan that is not subject to the Consumer Credit Code provisions applying to consumer loans, and in which the principal does not exceed $75,000, if:

- the debtor is a natural person; or

- the debt is primarily secured by a one- or two-family dwelling occupied by a person related to the debtor.

However, unless made subject to the Code by agreement, a "loan primarily secured by an interest in land" is not a "consumer loan" if at the time the loan is made:

- the value of the real property collateral is "substantial in relation to the amount of the loan";

- the finance charge is not greater than 18% per year under the actuarial method, assuming that the loan will be paid according to its terms and on maturity; and

- the loan is secured by a first mortgage that is not precomputed.

The required disclosures must include a full statement of the closing costs, which must be presented at the time the borrower makes any down payment, or, in the case of a consumer residential mortgage loan, at the time the creditor makes a commitment.

Wyoming Residential Mortgage Practices Act

Chapter 40-23, which requires specific disclosures of mortgage lender fees within three days of receipt of a loan application, does not apply to banks or financial institutions, among others.

FEDERAL LAW

Wyoming regulations that previously provided that Wyoming credit transactions were generally exempt from the disclosure requirements of the Federal Truth-in-Lending Act have been superseded by a regulation that adopts the Federal Truth-in-Lending Act, as amended as of October 1, 2011, with the modifications noted above.

INSURANCE

Wyoming regulations that previously provided specific disclosure requirements regarding credit and property insurance have been superseded by a regulation that adopts the Federal Truth-in-Lending Act, as amended as of October 1, 2011, with the modifications noted above.

MORTGAGE LOAN LICENSEE REQUIREMENTS

The Wyoming Residential Mortgage Practices Act, which establishes disclosure requirements for mortgage loan brokers and lenders, does not apply to banks.

Within three working days of taking a mortgage loan application and before receiving any consideration from the borrower (except third party fees), a mortgage lender must disclose a loan's terms to the borrower in compliance with:

- the federal Truth-in-Lending Act and Real Estate Settlement Procedures Act;

- regulations associated with those federal acts; and

- any other applicable federal and state requirements.

If a prepayment penalty may be a condition of the residential mortgage loan offered to a borrower:

- the mortgage lender must separately disclose that fact to the borrower in writing; and

- the borrower must agree in writing to accept the prepayment penalty provision.

The disclosure must:

- "state that a borrower refinances or pays off the mortgage loan before the date for repayment stated in the loan agreement";

- be in the form prescribed by the commissioner;

- initially be delivered along with the good faith estimate of settlement costs within three business days after accepting an application; and

- subsequently be provided by the lender and signed by the borrower at the same time the borrower is given the final federal Truth-in-Lending Act disclosure.

Statutory section 40-14-354 enacted 1971; § 40-14-305 amended 1979; § 40-23-113 amended 2009; § 40-23-105 amended 2019; §§ 40-14-304, 40-14-320, 40-14-355, and 40-14-640 amended 2013.

Wyo. Stat. §§ 40-14-304, -305, -320, -354, -355, -640; -23-105, -113 (LexisNexis 2019)

Wyoming, State Truth-In-Lending Credit Application Disclosure Requirements

Wyoming does not have a state truth-in-lending act. Regulations in chapter 2 of the state's Uniform Consumer Credit Code that explicitly adopted the federal Truth-in-Lending Act were repealed in 2016.

See Wyo. Admin. Code UCCC, ch. 2, §§ 2, 3 (repealed by 2016 Wyo. Reg. Text 440525 (West 2016))