

Regulation Z

Truth in Lending Act



Background and Purpose

- The Truth in Lending Act – 1968
- Promote the informed use of credit
- Gives consumers the right to cancel certain credit transactions
- Regulates certain credit card practices
- Requires maximum interest rate stated in variable rate loans
- Imposes limitations on home equity plans
- Imposes limitations on certain closed-end home mortgages

Coverage

- Consumers
- Subject to a finance charge or payable in more than four installments
- Credit primarily for personal, family or household purposes

Definitions

- Consumer
 - Natural Person to whom credit is offered or extended
 - Includes Natural Person in whose principal dwelling a security interest is or will be taken

Definitions - continued

- Consumer Credit
 - Credit extended for personal, family, or household purposes

Definitions- continued

Dwelling: A residential structure that contains 1-4 units, whether or not attached to real property

- Use as a residence
 - Mobile homes, boats, trailers, condominium units, vacation or second home
- Principal residence
 - Right of rescission
 - Residential mortgage transaction
- Relation to exemptions
 - Exemption for credit over a specified threshold, not applicable

Definitions - Continued

Residential Mortgage Transaction

Transaction in which a mortgage, deed of trust, purchase money security interest arising under an installment sales contract, or equivalent consensual security interest is created or retained in the consumer's principal dwelling to finance the acquisition or initial construction of that dwelling.

- Relation to other sections
 - Exclusions from the finance charge
 - Exemptions from the right of rescission
 - Whether or not the obligation is assumable
 - Special timing rules
 - Disclosure requirements for assumptions

Definitions – Continued

Prepaid Finance Charges

Prepaid finance charges must be taken into account in computing the disclosed amount financed and disclosed in the itemization of amount financed. Common

Examples:

Buyers points

Service fees

Loan fees

Finders fees

Loan guarantee insurance

Credit investigation fees

Exempt Transactions

- Business, commercial, agricultural, or organizational credit
 - An extension of credit primarily for a business, commercial, or agricultural purpose
 - An extension of credit to other than a natural person
- Credit over a specified threshold (\$51,800 in 2012), adjusted annually, not secured by real property or a dwelling

Exempt Transactions - Continued

- Primary Purpose – Factors
 - Relationship of borrower's primary occupation to the acquisition
 - Degree of management/personal involvement
 - Ratio of income from the acquisition to total income
 - Size of the transaction
 - Statement of purpose

Exempt Transactions - Continued

- Rental Property
 - Non-owner occupied
 - Credit to acquire, improve or maintain rental property regardless of number of units is business purpose
 - If owner occupied for more than 14 days during coming year, not considered non-owner occupied
 - Owner occupied
 - Credit extended to acquire rental property is business purpose if more than two units
 - Credit to improve or maintain rental property is business if more than four units

Exempt Transactions - Continued

- Business credit later refinanced
 - Remains exempt unless existing obligation is satisfied and replaced

Exempt Transactions - Continued

- Agricultural purpose
 - Planting, propagating, nurturing, harvesting, catching, storing, exhibiting, marketing, transporting, processing, or manufacturing of food, beverages, flowers, trees, livestock, poultry, bees, wildlife, fish, or shellfish by a natural person engaged in these activities.
 - Includes real property that includes a dwelling if transaction is primarily for agricultural purposes.

Exempt Transactions - Continued

- Credit over a specified threshold (\$51,800 for 2012) not secured by real property or a dwelling
- Real property or dwelling later added as security to exempt loan, **NO LONGER EXEMPT**