

(2) Motor vehicle dealer

The term “motor vehicle dealer” means any person or resident in the United States, or any territory of the United States, who—

(A) is licensed by a State, a territory of the United States, or the District of Columbia to engage in the sale of motor vehicles; and

(B) takes title to, holds an ownership in, or takes physical custody of motor vehicles.

(Pub. L. 111–203, title X, §1029, July 21, 2010, 124 Stat. 2004.)

Editorial Notes**REFERENCES IN TEXT**

This title, referred to in subsec. (c), is title X of Pub. L. 111–203, July 21, 2010, 124 Stat. 1955, known as the Consumer Financial Protection Act of 2010, which enacted this subchapter and enacted, amended, and repealed numerous other sections and notes in the Code. For complete classification of title X to the Code, see Short Title note set out under section 5301 of this title and Tables.

Subtitle F, referred to in subsec. (c), is subtitle F (§§1061–1067) of title X of Pub. L. 111–203, July 21, 2010, 124 Stat. 2035, which is classified generally to part F (§5581 et seq.) of this subchapter. For complete classification of subtitle F to the Code, see Tables.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE**

Section effective on the designated transfer date, see section 1029A of Pub. L. 111–203, set out as a note under section 5511 of this title.

PART C—SPECIFIC BUREAU AUTHORITIES**§ 5531. Prohibiting unfair, deceptive, or abusive acts or practices****(a) In general**

The Bureau may take any action authorized under part E to prevent a covered person or service provider from committing or engaging in an unfair, deceptive, or abusive act or practice under Federal law in connection with any transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service.

(b) Rulemaking

The Bureau may prescribe rules applicable to a covered person or service provider identifying as unlawful unfair, deceptive, or abusive acts or practices in connection with any transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service. Rules under this section may include requirements for the purpose of preventing such acts or practices.

(c) Unfairness**(1) In general**

The Bureau shall have no authority under this section to declare an act or practice in connection with a transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service, to be unlawful on the grounds that such act or practice is unfair, unless the Bureau has a reasonable basis to conclude that—

(A) the act or practice causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers; and

(B) such substantial injury is not outweighed by countervailing benefits to consumers or to competition.

(2) Consideration of public policies

In determining whether an act or practice is unfair, the Bureau may consider established public policies as evidence to be considered with all other evidence. Such public policy considerations may not serve as a primary basis for such determination.

(d) Abusive

The Bureau shall have no authority under this section to declare an act or practice abusive in connection with the provision of a consumer financial product or service, unless the act or practice—

(1) materially interferes with the ability of a consumer to understand a term or condition of a consumer financial product or service; or

(2) takes unreasonable advantage of—

(A) a lack of understanding on the part of the consumer of the material risks, costs, or conditions of the product or service;

(B) the inability of the consumer to protect the interests of the consumer in selecting or using a consumer financial product or service; or

(C) the reasonable reliance by the consumer on a covered person to act in the interests of the consumer.

(e) Consultation

In prescribing rules under this section, the Bureau shall consult with the Federal banking agencies, or other Federal agencies, as appropriate, concerning the consistency of the proposed rule with prudential, market, or systemic objectives administered by such agencies.

(f) Consideration of seasonal income

The rules of the Bureau under this section shall provide, with respect to an extension of credit secured by residential real estate or a dwelling, if documented income of the borrower, including income from a small business, is a repayment source for an extension of credit secured by residential real estate or a dwelling, the creditor may consider the seasonality and irregularity of such income in the underwriting of and scheduling of payments for such credit.

(Pub. L. 111–203, title X, §1031, July 21, 2010, 124 Stat. 2005.)

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE**

Pub. L. 111–203, title X, §1037, July 21, 2010, 124 Stat. 2011, provided that: “This subtitle [subtitle C (§§1031–1037), enacting this part] shall take effect on the designated transfer date.”

[The term “designated transfer date” is defined in section 5481(9) of this title as the date established under section 5582 of this title.]

§ 5532. Disclosures**(a) In general**

The Bureau may prescribe rules to ensure that the features of any consumer financial product

or service, both initially and over the term of the product or service, are fully, accurately, and effectively disclosed to consumers in a manner that permits consumers to understand the costs, benefits, and risks associated with the product or service, in light of the facts and circumstances.

(b) Model disclosures

(1) In general

Any final rule prescribed by the Bureau under this section requiring disclosures may include a model form that may be used at the option of the covered person for provision of the required disclosures.

(2) Format

A model form issued pursuant to paragraph (1) shall contain a clear and conspicuous disclosure that, at a minimum—

- (A) uses plain language comprehensible to consumers;
- (B) contains a clear format and design, such as an easily readable type font; and
- (C) succinctly explains the information that must be communicated to the consumer.

(3) Consumer testing

Any model form issued pursuant to this subsection shall be validated through consumer testing.

(c) Basis for rulemaking

In prescribing rules under this section, the Bureau shall consider available evidence about consumer awareness, understanding of, and responses to disclosures or communications about the risks, costs, and benefits of consumer financial products or services.

(d) Safe harbor

Any covered person that uses a model form included with a rule issued under this section shall be deemed to be in compliance with the disclosure requirements of this section with respect to such model form.

(e) Trial disclosure programs

(1) In general

The Bureau may permit a covered person to conduct a trial program that is limited in time and scope, subject to specified standards and procedures, for the purpose of providing trial disclosures to consumers that are designed to improve upon any model form issued pursuant to subsection (b)(1), or any other model form issued to implement an enumerated statute, as applicable.

(2) Safe harbor

The standards and procedures issued by the Bureau shall be designed to encourage covered persons to conduct trial disclosure programs. For the purposes of administering this subsection, the Bureau may establish a limited period during which a covered person conducting a trial disclosure program shall be deemed to be in compliance with, or may be exempted from, a requirement of a rule or an enumerated consumer law.

(3) Public disclosure

The rules of the Bureau shall provide for public disclosure of trial disclosure programs,

which public disclosure may be limited, to the extent necessary to encourage covered persons to conduct effective trials.

(f) Combined mortgage loan disclosure

Not later than 1 year after the designated transfer date, the Bureau shall propose for public comment rules and model disclosures that combine the disclosures required under the Truth in Lending Act [15 U.S.C. 1601 et seq.] and sections 2603 and 2604 of this title, into a single, integrated disclosure for mortgage loan transactions covered by those laws, unless the Bureau determines that any proposal issued by the Board of Governors and the Secretary of Housing and Urban Development carries out the same purpose.

(Pub. L. 111–203, title X, §1032, July 21, 2010, 124 Stat. 2006.)

Editorial Notes

REFERENCES IN TEXT

The Truth in Lending Act, referred to in subsec. (f), is title I of Pub. L. 90–321, May 29, 1968, 82 Stat. 146, which is classified generally to subchapter I (§1601 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on the designated transfer date, see section 1037 of Pub. L. 111–203, set out as a note under section 5531 of this title.

§ 5533. Consumer rights to access information

(a) In general

Subject to rules prescribed by the Bureau, a covered person shall make available to a consumer, upon request, information in the control or possession of the covered person concerning the consumer financial product or service that the consumer obtained from such covered person, including information relating to any transaction, series of transactions, or to the account including costs, charges and usage data. The information shall be made available in an electronic form usable by consumers.

(b) Exceptions

A covered person may not be required by this section to make available to the consumer—

- (1) any confidential commercial information, including an algorithm used to derive credit scores or other risk scores or predictors;
- (2) any information collected by the covered person for the purpose of preventing fraud or money laundering, or detecting, or making any report regarding other unlawful or potentially unlawful conduct;
- (3) any information required to be kept confidential by any other provision of law; or
- (4) any information that the covered person cannot retrieve in the ordinary course of its business with respect to that information.

(c) No duty to maintain records

Nothing in this section shall be construed to impose any duty on a covered person to maintain or keep any information about a consumer.

(d) Standardized formats for data

The Bureau, by rule, shall prescribe standards applicable to covered persons to promote the development and use of standardized formats for information, including through the use of machine readable files, to be made available to consumers under this section.

(e) Consultation

The Bureau shall, when prescribing any rule under this section, consult with the Federal banking agencies and the Federal Trade Commission to ensure, to the extent appropriate, that the rules—

- (1) impose substantively similar requirements on covered persons;
- (2) take into account conditions under which covered persons do business both in the United States and in other countries; and
- (3) do not require or promote the use of any particular technology in order to develop systems for compliance.

(Pub. L. 111-203, title X, §1033, July 21, 2010, 124 Stat. 2008.)

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE**

Section effective on the designated transfer date, see section 1037 of Pub. L. 111-203, set out as a note under section 5531 of this title.

§ 5534. Response to consumer complaints and inquiries**(a) Timely regulator response to consumers**

The Bureau shall establish, in consultation with the appropriate Federal regulatory agencies, reasonable procedures to provide a timely response to consumers, in writing where appropriate, to complaints against, or inquiries concerning, a covered person, including—

- (1) steps that have been taken by the regulator in response to the complaint or inquiry of the consumer;
- (2) any responses received by the regulator from the covered person; and
- (3) any follow-up actions or planned follow-up actions by the regulator in response to the complaint or inquiry of the consumer.

(b) Timely response to regulator by covered person

A covered person subject to supervision and primary enforcement by the Bureau pursuant to section 5515 of this title shall provide a timely response, in writing where appropriate, to the Bureau, the prudential regulators, and any other agency having jurisdiction over such covered person concerning a consumer complaint or inquiry, including—

- (1) steps that have been taken by the covered person to respond to the complaint or inquiry of the consumer;
- (2) responses received by the covered person from the consumer; and
- (3) follow-up actions or planned follow-up actions by the covered person to respond to the complaint or inquiry of the consumer.

(c) Provision of information to consumers**(1) In general**

A covered person subject to supervision and primary enforcement by the Bureau pursuant

to section 5515 of this title shall, in a timely manner, comply with a consumer request for information in the control or possession of such covered person concerning the consumer financial product or service that the consumer obtained from such covered person, including supporting written documentation, concerning the account of the consumer.

(2) Exceptions

A covered person subject to supervision and primary enforcement by the Bureau pursuant to section 5515 of this title, a prudential regulator, and any other agency having jurisdiction over a covered person subject to supervision and primary enforcement by the Bureau pursuant to section 5515 of this title may not be required by this section to make available to the consumer—

- (A) any confidential commercial information, including an algorithm used to derive credit scores or other risk scores or predictors;
- (B) any information collected by the covered person for the purpose of preventing fraud or money laundering, or detecting or making any report regarding other unlawful or potentially unlawful conduct;
- (C) any information required to be kept confidential by any other provision of law; or
- (D) any nonpublic or confidential information, including confidential supervisory information.

(d) Agreements with other agencies

The Bureau shall enter into a memorandum of understanding with any affected Federal regulatory agency regarding procedures by which any covered person, and the prudential regulators, and any other agency having jurisdiction over a covered person, including the Secretary of the Department of Housing and Urban Development and the Secretary of Education, shall comply with this section.

(Pub. L. 111-203, title X, §1034, July 21, 2010, 124 Stat. 2008.)

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE**

Section effective on the designated transfer date, see section 1037 of Pub. L. 111-203, set out as a note under section 5531 of this title.

§ 5535. Private Education Loan Ombudsman**(a) Establishment**

The Secretary, in consultation with the Director, shall designate a Private Education Loan Ombudsman (in this section referred to as the “Ombudsman”) within the Bureau, to provide timely assistance to borrowers of private education loans.

(b) Public information

The Secretary and the Director shall disseminate information about the availability and functions of the Ombudsman to borrowers and potential borrowers, as well as institutions of higher education, lenders, guaranty agencies, loan servicers, and other participants in private education student loan programs.

(c) Functions of Ombudsman

The Ombudsman designated under this subsection shall—

(1) in accordance with regulations of the Director, receive, review, and attempt to resolve informally complaints from borrowers of loans described in subsection (a), including, as appropriate, attempts to resolve such complaints in collaboration with the Department of Education and with institutions of higher education, lenders, guaranty agencies, loan servicers, and other participants in private education loan programs;

(2) not later than 90 days after the designated transfer date, establish a memorandum of understanding with the student loan ombudsman established under section 1018(f) of title 20, to ensure coordination in providing assistance to and serving borrowers seeking to resolve complaints related to their private education or Federal student loans;

(3) compile and analyze data on borrower complaints regarding private education loans; and

(4) make appropriate recommendations to the Director, the Secretary, the Secretary of Education, the Committee on Banking, Housing, and Urban Affairs and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Financial Services and the Committee on Education and Labor of the House of Representatives.

(d) Annual reports**(1) In general**

The Ombudsman shall prepare an annual report that describes the activities, and evaluates the effectiveness of the Ombudsman during the preceding year.

(2) Submission

The report required by paragraph (1) shall be submitted on the same date annually to the Secretary, the Secretary of Education, the Committee on Banking, Housing, and Urban Affairs and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Financial Services and the Committee on Education and Labor of the House of Representatives.

(e) Definitions

For purposes of this section, the terms “private education loan” and “institution of higher education” have the same meanings as in section 1650 of title 15.

(Pub. L. 111–203, title X, § 1035, July 21, 2010, 124 Stat. 2009.)

Statutory Notes and Related Subsidiaries**CHANGE OF NAME**

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

EFFECTIVE DATE

Section effective on the designated transfer date, see section 1037 of Pub. L. 111–203, set out as a note under section 5531 of this title.

§ 5536. Prohibited acts**(a) In general**

It shall be unlawful for—

(1) any covered person or service provider—

(A) to offer or provide to a consumer any financial product or service not in conformity with Federal consumer financial law, or otherwise commit any act or omission in violation of a Federal consumer financial law; or

(B) to engage in any unfair, deceptive, or abusive act or practice;

(2) any covered person or service provider to fail or refuse, as required by Federal consumer financial law, or any rule or order issued by the Bureau thereunder—

(A) to permit access to or copying of records;

(B) to establish or maintain records; or

(C) to make reports or provide information to the Bureau; or

(3) any person to knowingly or recklessly provide substantial assistance to a covered person or service provider in violation of the provisions of section 5531 of this title, or any rule or order issued thereunder, and notwithstanding any provision of this title,¹ the provider of such substantial assistance shall be deemed to be in violation of that section to the same extent as the person to whom such assistance is provided.

(b) Exception

No person shall be held to have violated subsection (a)(1) solely by virtue of providing or selling time or space to a covered person or service provider placing an advertisement.

(Pub. L. 111–203, title X, § 1036, July 21, 2010, 124 Stat. 2010.)

Editorial Notes**REFERENCES IN TEXT**

This title, where footnoted in subsec. (a)(3), is title X of Pub. L. 111–203, July 21, 2010, 124 Stat. 1955, known as the Consumer Financial Protection Act of 2010, which enacted this subchapter and enacted, amended, and repealed numerous other sections and notes in the Code. For complete classification of title X to the Code, see Short Title note set out under section 5301 of this title and Tables.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE**

Section effective on the designated transfer date, see section 1037 of Pub. L. 111–203, set out as a note under section 5531 of this title.

§ 5537. Senior investor protections**(a) Definitions**

As used in this section—

(1) the term “eligible entity” means—

(A) a securities commission (or any agency or office performing like functions) of a State that the Office determines has adopted rules on the appropriate use of designations in the offer or sale of securities or the provi-

¹ See References in Text note below.

sion of investment advice that meet or exceed the minimum requirements of the NASAA Model Rule on the Use of Senior-Specific Certifications and Professional Designations (or any successor thereto);

(B) the insurance commission (or any agency or office performing like functions) of any State that the Office determines has—

(i) adopted rules on the appropriate use of designations in the sale of insurance products that, to the extent practicable, conform to the minimum requirements of the National Association of Insurance Commissioners Model Regulation on the Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities (or any successor thereto); and

(ii) adopted rules with respect to fiduciary or suitability requirements in the sale of annuities that meet or exceed the minimum requirements established by the Suitability in Annuity Transactions Model Regulation of the National Association of Insurance Commissioners (or any successor thereto); or

(C) a consumer protection agency of any State, if—

(i) the securities commission (or any agency or office performing like functions) of the State is eligible under subparagraph (A); or

(ii) the insurance commission (or any agency or office performing like functions) of the State is eligible under subparagraph (B);

(2) the term “financial product” means a security, an insurance product (including an insurance product that pays a return, whether fixed or variable), a bank product, and a loan product;

(3) the term “misleading designation”—

(A) means a certification, professional designation, or other purported credential that indicates or implies that a salesperson or adviser has special certification or training in advising or servicing seniors; and

(B) does not include a certification, professional designation, license, or other credential that—

(i) was issued by or obtained from an academic institution having regional accreditation;

(ii) meets the standards for certifications and professional designations outlined by the NASAA Model Rule on the Use of Senior-Specific Certifications and Professional Designations (or any successor thereto) or by the Model Regulations on the Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities, adopted by the National Association of Insurance Commissioners (or any successor thereto); or

(iii) was issued by or obtained from a State;

(4) the term “misleading or fraudulent marketing” means the use of a misleading des-

ignation by a person that sells to or advises a senior in connection with the sale of a financial product;

(5) the term “NASAA” means the North American Securities Administrators Association;

(6) the term “Office” means the Office of Financial Literacy of the Bureau;

(7) the term “senior” means any individual who has attained the age of 62 years or older; and

(8) the term “State” has the same meaning as in section 78c(a) of title 15.

(b) Grants to States for enhanced protection of seniors from being misled by false designations

The Office shall establish a program under which the Office may make grants to States or eligible entities—

(1) to hire staff to identify, investigate, and prosecute (through civil, administrative, or criminal enforcement actions) cases involving misleading or fraudulent marketing;

(2) to fund technology, equipment, and training for regulators, prosecutors, and law enforcement officers, in order to identify salespersons and advisers who target seniors through the use of misleading designations;

(3) to fund technology, equipment, and training for prosecutors to increase the successful prosecution of salespersons and advisers who target seniors with the use of misleading designations;

(4) to provide educational materials and training to regulators on the appropriateness of the use of designations by salespersons and advisers in connection with the sale and marketing of financial products;

(5) to provide educational materials and training to seniors to increase awareness and understanding of misleading or fraudulent marketing;

(6) to develop comprehensive plans to combat misleading or fraudulent marketing of financial products to seniors; and

(7) to enhance provisions of State law to provide protection for seniors against misleading or fraudulent marketing.

(c) Applications

A State or eligible entity desiring a grant under this section shall submit an application to the Office, in such form and in such a manner as the Office may determine, that includes—

(1) a proposal for activities to protect seniors from misleading or fraudulent marketing that are proposed to be funded using a grant under this section, including—

(A) an identification of the scope of the problem of misleading or fraudulent marketing in the State;

(B) a description of how the proposed activities would—

(i) protect seniors from misleading or fraudulent marketing in the sale of financial products, including by proactively identifying victims of misleading and fraudulent marketing who are seniors;

(ii) assist in the investigation and prosecution of those using misleading or fraudulent marketing; and

(iii) discourage and reduce cases of misleading or fraudulent marketing; and

(C) a description of how the proposed activities would be coordinated with other State efforts; and

(2) any other information, as the Office determines is appropriate.

(d) Performance objectives and reporting requirements

The Office may establish such performance objectives and reporting requirements for States and eligible entities receiving a grant under this section as the Office determines are necessary to carry out and assess the effectiveness of the program under this section.

(e) Maximum amount

The amount of a grant under this section may not exceed—

(1) \$500,000 for each of 3 consecutive fiscal years, if the recipient is a State, or an eligible entity of a State, that has adopted rules—

(A) on the appropriate use of designations in the offer or sale of securities or investment advice that meet or exceed the minimum requirements of the NASAA Model Rule on the Use of Senior-Specific Certifications and Professional Designations (or any successor thereto);

(B) on the appropriate use of designations in the sale of insurance products that, to the extent practicable, conform to the minimum requirements of the National Association of Insurance Commissioners Model Regulation on the Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities (or any successor thereto); and

(C) with respect to fiduciary or suitability requirements in the sale of annuities that meet or exceed the minimum requirements established by the Suitability in Annuity Transactions Model Regulation of the National Association of Insurance Commissioners (or any successor thereto); and

(2) \$100,000 for each of 3 consecutive fiscal years, if the recipient is a State, or an eligible entity of a State, that has adopted—

(A) rules on the appropriate use of designations in the offer or sale of securities or investment advice that meet or exceed the minimum requirements of the NASAA Model Rule on the Use of Senior-Specific Certifications and Professional Designations (or any successor thereto); or

(B) rules—

(i) on the appropriate use of designations in the sale of insurance products that, to the extent practicable, conform to the minimum requirements of the National Association of Insurance Commissioners Model Regulation on the Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities (or any successor thereto); and

(ii) with respect to fiduciary or suitability requirements in the sale of annuities that meet or exceed the minimum re-

quirements established by the Suitability in Annuity Transactions Model Regulation of the National Association of Insurance Commissioners (or any successor thereto).

(f) Subgrants

A State or eligible entity that receives a grant under this section may make a subgrant, as the State or eligible entity determines is necessary to carry out the activities funded using a grant under this section.

(g) Reapplication

A State or eligible entity that receives a grant under this section may reapply for a grant under this section, notwithstanding the limitations on grant amounts under subsection (e).

(h) Authorization of appropriations

There are authorized to be appropriated to carry out this section, \$8,000,000 for each of fiscal years 2011 through 2015.

(Pub. L. 111-203, title IX, § 989A, July 21, 2010, 124 Stat. 1941.)

Editorial Notes

CODIFICATION

Section was not enacted as part of subtitle C of title X of Pub. L. 111-203, which comprises this part.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111-203, set out as a note under section 5301 of this title.

§ 5538. Mortgage loans; rulemaking procedures; enforcement

(a)(1) The Bureau of Consumer Financial Protection shall have authority to prescribe rules with respect to mortgage loans in accordance with section 553 of title 5. Such rulemaking shall relate to unfair or deceptive acts or practices regarding mortgage loans, which may include unfair or deceptive acts or practices involving loan modification and foreclosure rescue services. Any violation of a rule prescribed under this paragraph shall be treated as a violation of a rule prohibiting unfair, deceptive, or abusive acts or practices under the Consumer Financial Protection Act of 2010 and a violation of a rule under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) regarding unfair or deceptive acts or practices.

(2) The Bureau of Consumer Financial Protection shall enforce the rules issued under paragraph (1) in the same manner, by the same means, and with the same jurisdiction, powers, and duties, as though all applicable terms and provisions of the Consumer Financial Protection Act of 2010 were incorporated into and made part of this subsection.

(3) Subject to subtitle B of the Consumer Financial Protection Act of 2010 [12 U.S.C. 5511 et seq.], the Federal Trade Commission shall enforce the rules issued under paragraph (1), in the same manner, by the same means, and with the same jurisdiction, as though all applicable terms and provisions of the Federal Trade Commission Act [15 U.S.C. 41 et seq.] were incorporated into and made part of this section.

(b)(1) Except as provided in paragraph (6), in any case in which the attorney general of a State has reason to believe that an interest of the residents of the State has been or is threatened or adversely affected by the engagement of any person subject to a rule prescribed under subsection (a) in practices that violate such rule, the State, as *parens patriae*, may bring a civil action on behalf of its residents in an appropriate district court of the United States or other court of competent jurisdiction—

(A) to enjoin that practice;

(B) to enforce compliance with the rule;

(C) to obtain damages, restitution, or other compensation on behalf of the residents of the State; or

(D) to obtain penalties and relief provided under the Consumer Financial Protection Act of 2010, the Federal Trade Commission Act [15 U.S.C. 41 et seq.], and such other relief as the court deems appropriate.

(2) The State shall serve written notice to the Bureau of Consumer Financial Protection or the Commission, as appropriate¹ of any civil action under paragraph (1) at least 60 days prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action, except that if it is not feasible for the State to provide such prior notice, the State shall provide notice immediately upon instituting such civil action.

(3) Upon receiving the notice required by paragraph (2), and subject to subtitle B of the Consumer Financial Protection Act of 2010 [12 U.S.C. 5511 et seq.], the Bureau of Consumer Financial Protection or the Commission, as appropriate¹ may intervene in such civil action and upon intervening—

(A) be heard on all matters arising in such civil action;

(B) remove the action to the appropriate United States district court; and

(C) file petitions for appeal of a decision in such civil action.

(4) Nothing in this subsection shall prevent the attorney general of a State from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence. Nothing in this section shall prohibit the attorney general of a State, or other authorized State officer, from proceeding in State or Federal court on the basis of an alleged violation of any civil or criminal statute of that State.

(5) In a civil action brought under paragraph (1)—

(A) the venue shall be a judicial district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28; and

(B) process may be served without regard to the territorial limits of the district or of the State in which the civil action is instituted.

(6) Whenever a civil action or an administrative action has been instituted by or on behalf of the Bureau of Consumer Financial Protection or

the Commission for violation of any provision of law or rule described in paragraph (1), no State may, during the pendency of such action instituted by or on behalf of the Bureau of Consumer Financial Protection or the Commission, institute a civil action under that paragraph against any defendant named in the complaint in such action for violation of any law or rule as alleged in such complaint.

(7) If the attorney general of a State prevails in any civil action under paragraph (1), the State can recover reasonable costs and attorney fees from the lender or related party.

(Pub. L. 111–8, div. D, title VI, § 626(a), (b), Mar. 11, 2009, 123 Stat. 678; Pub. L. 111–24, title V, § 511(a), May 22, 2009, 123 Stat. 1763; Pub. L. 111–203, title X, § 1097, July 21, 2010, 124 Stat. 2102.)

Editorial Notes

REFERENCES IN TEXT

The Consumer Financial Protection Act of 2010, referred to in subsecs. (a) and (b)(1)(D), (3), is title X of Pub. L. 111–203, July 21, 2010, 124 Stat. 1955, which enacted this subchapter and enacted, amended, and repealed numerous other sections and notes in the Code. Subtitle B of title X is classified generally to part B (§ 5511 et seq.) of this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

The Federal Trade Commission Act, referred to in subsecs. (a)(3) and (b)(1)(D), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, which is classified generally to subchapter I (§ 41 et seq.) of chapter 2 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

CODIFICATION

Section was enacted as part of the Omnibus Appropriations Act, 2009, and not as part of subtitle C of title X of Pub. L. 111–203, which comprises this part.

Section was formerly set out as a note under section 1638 of Title 15, Commerce and Trade.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111–203, § 1097(1), added subsec. (a) and struck out former subsec. (a) which read as follows:

“(a)(1) Within 90 days after March 11, 2009, the Federal Trade Commission shall initiate a rulemaking proceeding with respect to mortgage loans in accordance with section 553 of title 5. Such rulemaking shall relate to unfair or deceptive acts or practices regarding mortgage loans, which may include unfair or deceptive acts or practices involving loan modification and foreclosure rescue services. Any violation of a rule prescribed under this subsection shall be treated as a violation of a rule under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) regarding unfair or deceptive acts or practices.

“(2) Paragraph (1) shall not be construed to authorize the Federal Trade Commission to promulgate a rule with respect to an entity that is not subject to enforcement of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) by the Commission.

“(3) Before issuing a final rule pursuant to the proceeding initiated under paragraph (1), the Federal Trade Commission shall consult with the Federal Reserve Board concerning any portion of the proposed rule applicable to acts or practices to which the provisions of the Truth in Lending Act (15 U.S.C. 1601 et seq.) may apply.

“(4) The Federal Trade Commission shall enforce the rules issued under paragraph (1) in the same manner, by the same means, and with the same jurisdiction,

¹ So in original. Probably should be followed by a comma.

powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made part of this section.”

Subsec. (b)(1). Pub. L. 111-203, §1097(2)(A), added par. (1) and struck out former par. (1) which read as follows: “Except as provided in paragraph (6), in any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person subject to a rule prescribed under subsection (a) in a practice that violates such rule, the State, as *parens patriae*, may bring a civil action on behalf of the residents of the State in an appropriate district court of the United States or other court of competent jurisdiction—

“(A) to enjoin that practice;

“(B) to enforce compliance with the rule;

“(C) to obtain damages, restitution, or other compensation on behalf of residents of the State; or

“(D) to obtain penalties and relief provided by the Federal Trade Commission Act and such other relief as the court considers appropriate.”

Subsec. (b)(2). Pub. L. 111-203, §1097(2)(B), substituted “the Bureau of Consumer Financial Protection or the Commission, as appropriate” for “the primary Federal regulator”.

Subsec. (b)(3). Pub. L. 111-203, §1097(2)(B), (C), inserted “and subject to subtitle B of the Consumer Financial Protection Act of 2010,” after “paragraph (2),” and substituted “the Bureau of Consumer Financial Protection or the Commission, as appropriate” for “the primary Federal regulator”.

Subsec. (b)(6). Pub. L. 111-203, §1097(2)(D), substituted “the Bureau of Consumer Financial Protection or the Commission” for “the primary Federal regulator” in two places.

2009—Subsec. (a). Pub. L. 111-24, §511(a), designated existing provisions as par. (1), inserted “Such rulemaking shall relate to unfair or deceptive acts or practices regarding mortgage loans, which may include unfair or deceptive acts or practices involving loan modification and foreclosure rescue services.”, and added pars. (2) to (4).

Subsec. (b)(1). Pub. L. 111-24, §511(a)(2)(A), added par. (1) and struck out former par. (1) which read as follows: “Except as provided in paragraph (6), a State, as *parens patriae*, may bring a civil action on behalf of its residents in an appropriate State or district court of the United States to enforce the provisions of section 128 of the Truth in Lending Act (15 U.S.C. 1638), any other provision of the Truth in Lending Act, or any mortgage loan rule promulgated by the Federal Trade Commission to obtain penalties and relief provided under such Act or rule whenever the attorney general of the State has reason to believe that the interests of the residents of the State have been or are being threatened or adversely affected by a violation of such Act or rule.”

Subsec. (b)(2), (3), (6). Pub. L. 111-24, §511(a)(2)(B), substituted “primary Federal regulator” for “Commission” wherever appearing.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-24, title V, §511(b), May 22, 2009, 123 Stat. 1764, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on March 12, 2009.”

PART D—PRESERVATION OF STATE LAW

§ 5551. Relation to State law

(a) In general

(1) Rule of construction

This title,¹ other than sections 1044 through 1048,¹ may not be construed as annulling, altering, or affecting, or exempting any person subject to the provisions of this title¹ from complying with, the statutes, regulations, orders, or interpretations in effect in any State, except to the extent that any such provision of law is inconsistent with the provisions of this title,¹ and then only to the extent of the inconsistency.

(2) Greater protection under State law

For purposes of this subsection, a statute, regulation, order, or interpretation in effect in any State is not inconsistent with the provisions of this title¹ if the protection that such statute, regulation, order, or interpretation affords to consumers is greater than the protection provided under this title.¹ A determination regarding whether a statute, regulation, order, or interpretation in effect in any State is inconsistent with the provisions of this title¹ may be made by the Bureau on its own motion or in response to a nonfrivolous petition initiated by any interested person.

(b) Relation to other provisions of enumerated consumer laws that relate to State law

No provision of this title,¹ except as provided in section 1083,¹ shall be construed as modifying, limiting, or superseding the operation of any provision of an enumerated consumer law that relates to the application of a law in effect in any State with respect to such Federal law.

(c) Additional consumer protection regulations in response to State action

(1) Notice of proposed rule required

The Bureau shall issue a notice of proposed rulemaking whenever a majority of the States has enacted a resolution in support of the establishment or modification of a consumer protection regulation by the Bureau.

(2) Bureau considerations required for issuance of final regulation

Before prescribing a final regulation based upon a notice issued pursuant to paragraph (1), the Bureau shall take into account whether—

(A) the proposed regulation would afford greater protection to consumers than any existing regulation;

(B) the intended benefits of the proposed regulation for consumers would outweigh any increased costs or inconveniences for consumers, and would not discriminate unfairly against any category or class of consumers; and

(C) a Federal banking agency has advised that the proposed regulation is likely to present an unacceptable safety and soundness risk to insured depository institutions.

(3) Explanation of considerations

The Bureau—

¹ See References in Text note below.