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FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Regulation Z; Docket No. R-0844]

Truth in Lending

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; temporary exceptions.

SUMMARY: The Board is amending Regulation Z (which implements the Truth in Lending Act) to provide relief in areas in the South recently affected by major flooding. The amendments provide a temporary exception from provisions of the regulation that prohibit a creditor from using a preprinted form by a creditor to obtain a consumer's waiver of the right to rescind certain home-secured loans when loan proceeds are needed immediately to meet a consumer's bona fide personal financial emergency. In addition, a consumer's need to obtain funds immediately shall be regarded as a bona fide personal financial emergency for purposes of Regulation Z for transactions secured by a consumer's principal dwelling located in areas of the South recently declared to be major disaster areas because of extensive flooding. Generally, Regulation Z requires a mandatory three day waiting period on rescindable transactions before funds can be disbursed. The special exceptions expire one year from the date the area was declared a major disaster.

EFFECTIVE DATE: July 29, 1994.

FOR FURTHER INFORMATION CONTACT: Jane Jensen Gell, Staff Attorney, or Adrienne D. Hurt, Managing Counsel, Division of Consumer and Community Affairs, at (202) 452-2412 or (202) 452-3667; for the hearing impaired only, contact Dorothea Thompson, Telecommunications Device for the Deaf (TDD), at (202) 452-3544, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Truth in Lending Act (TILA), 15 U.S.C 1601-1666j, and Regulation Z, 12 CFR Part 226, with some exceptions, a consumer has the right to rescind a credit obligation secured by the consumer's principal dwelling for three days after becoming obligated, due to the risk of loss of the consumer's home in the event of default. There is a mandatory waiting period of three business days before funds can be

disbursed in order to give consumers an opportunity to reflect on the loan terms and to elect to cancel the transaction (12 CFR 226.15 and 226.23). A consumer may modify or waive this right of rescission to meet a bona fide personal financial emergency. The consumer must provide the creditor a written, signed and dated waiver statement that describes the emergency. Under Regulation Z, 12 CFR 226.15(e) and 226.23(e), the waiver statement may not be executed on a preprinted form.

The Board has previously adopted an exception to Regulation Z for transactions in areas affected by Hurricanes Andrew and Iniki and the April 1992 Los Angeles civil unrest (57 FR 53545 (1992)); extensive flooding in the Midwest (58 FR 40582 (1993)); and most recently, a major earthquake in California (59 FR 6532 (1994)). The Board's exception permitted a temporary waiver of the provisions in Regulation Z that prohibit an institution's use of a preprinted form to obtain a consumer's waiver of the right to rescind certain home-secured loans when loan funds were needed immediately to meet a consumer's bona fide personal financial emergency. In addition, a consumer's need to obtain funds immediately was regarded as a bona fide personal financial emergency for purposes of Regulation Z, where the home securing the loan was located in the disaster area.

II. Relief for Flood Affected Communities

During the summer of 1994, extensive flooding has occurred in several Southern States, including Alabama, Florida, and Georgia. As a result, the President has determined that extensive major disaster areas exist in those states. In order to aid consumers in obtaining credit speedily to begin repairs in these areas and to ease the paperwork burden on banks extending credit in these areas, the Board has determined to provide a temporary exception in this situation to the restrictions in Secs. 226.15(e) and 23(e) of Regulation Z in flood affected areas. This exception will expire one year from the date the President determined that an area was a major disaster.

The Board is amending Regulation Z to permit a temporary exception to its provisions that prohibit the use of a preprinted form by an institution to obtain a consumer's waiver of the right to rescind certain home-secured loans when the home is located in an area that the President has determined, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, (42 U.S.C. 5170 (1989)), is a major disaster area as a result of the extensive flooding in 1994 in the South. The Board notes, however, that the consumer must still sign and date the waiver statement. The following counties in Alabama, Florida, and Georgia have been declared major disaster areas.

Alabama: Barbour, Coffee, Covington, Dale, Geneva, Henry, Houston, Randolph

Florida: Calhoun, Gulf, Holmes, Jackson, Walton, Washington

Georgia: Baker, Bibb, Butts, Calhoun, Clay, Clayton, Coweta, Crawford, Crisp, Decatur, Dooly, Dougherty, Early, Fayette, Fulton, Henry, Houston, Jones, Lamar, Lee, Macon, Meriwether, Miller, Mitchell, Monroe, Peach, Pike, Pulaski, Randolph, Seminole, Spalding, Stewart, Sumter, Talbot, Taylor, Terrell, Troup, Twiggs, Upson, Webster, Wilcox, Worth

III. Public Comment and Effective Date

The Administrative Procedures Act (APA) grants specific exemptions from its notice and public comment requirements for rulemakings when these requirements are contrary to the public interest (5 U.S.C. 553(b)(3)(B)). The amendments in the final rule provide a temporary exemption to Regulation Z and remove a restriction that may impair the availability of loans to consumers who have encountered a bona fide personal financial emergency as a result of having a home located in an area where a major disaster has occurred. The Board finds that it is in the public interest to permit this relief immediately and without advance notice and public comment. As explained above, the amendment to Regulation Z may reduce the paperwork burden on banks extending credit in certain disaster areas and aid in making credit speedily available to consumers in these areas. In addition, consumers continue to have the right to rescind certain loans unless that right is specifically waived. Moreover, the exemption is limited in scope and duration and would provide immediate assistance to consumers' and lenders' ongoing efforts to reconstruct and rehabilitate only in certain areas that have been affected by recent major disasters recognized under the appropriate federal relief statutes.

For reasons explained above, the Board also believes that deferring the effective date of this action is contrary to the public interest in connection with the adoption of the final rule. The APA grants a specific exemption from its requirements relating to this item in these instances (5 U.S.C. 553 (d)(3)). Accordingly, the amendments to Regulation Z are effective immediately.

IV. Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Board does not believe that the adoption of this final rule would have a significant adverse impact on a substantial number of small entities. The amendment imposes no new requirements and temporarily removes a restriction imposed by Regulation Z on entities subject to the regulation.

V. Paperwork Reduction Act Analysis

No collection of information pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) are contained in these changes.

List of Subjects in 12 CFR Part 226

Advertising, Banks, banking, Consumer protection, Credit, Federal Reserve System, Finance, Penalties, Rate limitations, Reporting and recordkeeping requirements, Truth in lending.

For the reasons set forth in the preamble, the Board is amending 12 CFR part 226 as follows:

PART 226--TRUTH IN LENDING (REGULATION Z)

1. The authority citation for part 226 is revised to read as follows:

Authority: 12 U.S.C. 3806; 15 U.S.C. 1604 and 1637(c)(5).

Subart B--Open-End Credit

Sec. 226.16 [Amended]

2. In Sec. 226.16 footnotes 36b and 36c are redesignated 36c and 36d, respectively.

3. In Sec. 226.15 a new paragraph (e)(3) and footnote 36b are added to read as follows:

Sec. 226.15 Right of rescission.

* * * * *

(e) * * *

(3) The consumer's need to obtain funds immediately shall be regarded as a bona fide personal financial emergency provided that the dwelling securing the extension of credit is located in an area declared during June through September 1994 to be a major disaster area, pursuant to 42 U.S.C. 5170, because of severe storms and flooding in the South.<SUP>36b In this instance, creditors may use printed forms for the consumer to waive the right to rescind. This exemption to paragraph (e)(1) of this section shall expire one year from the date an area was declared a major disaster.

\\3\\6bA list of the affected areas will be maintained and published by the Board. Such areas now include parts of Alabama, Florida, and Georgia.

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Subpart C--Closed-End Credit

4. In Sec. 226.23 a new paragraph (e)(3) and footnote 48(b) are added to read as follows:

Sec. 226.23 Right of rescission.

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(e) * * *

(3) The consumer's need to obtain funds immediately shall be regarded as a bona fide personal financial emergency provided that the dwelling securing the extension of credit is located in an area declared during June through September 1994 to be a major disaster area, pursuant to 42 U.S.C. 5170, because of severe storms and flooding in the South.<SUP>48b In this instance, creditors may use printed forms for the consumer to waive the right to rescind. This exemption to paragraph (e)(1) of this section shall expire one year from the date an area was declared a major disaster.

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By order of the Board of Governors of the Federal Reserve
System, July 29, 1994.

William W. Wiles,
Secretary of the Board.

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