

Regulations of Connecticut State Agencies

TITLE 36a. The Banking Law of Connecticut

Agency

Department of Banking

Subject

Home Mortgage Disclosure Act

Inclusive Sections

§§ 36a-744-1—36a-744-8

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(Transferred from § 36-455)

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Home Mortgage Disclosure Act

(Transferred from § 36-455)

Sec. 36a-744-1. Authority, scope, purpose

(a) Sections 36a-744-1 to 36a-744-8, inclusive, comprise the regulations adopted by the commissioner pursuant to the Home Mortgage Disclosure Act, Part IX of Chapter 669 of the Connecticut General Statutes.

(b) Sections 36a-744-1 to 36a-744-8, inclusive, of the Regulations of Connecticut State Agencies apply to all financial institutions except as otherwise provided in sections 36a-744-1 to 36a-744-8, inclusive, of the Regulations of Connecticut State Agencies. Sections 36a-744-1 to 36a-744-8, inclusive, of the Regulations of Connecticut State Agencies require a financial institution that makes home purchase loans, home improvement loans or other mortgage loans to disclose loan data at certain of its offices and to report the data to the commissioner.

(c) The purpose of sections 36a-744-1 to 36a-744-8, inclusive, of the Regulations of Connecticut State Agencies is (1) to prohibit the arbitrary denial of home purchase loans, home improvement loans or other mortgage loans on the basis of the location of the property to be mortgaged; (2) to encourage an increase in the availability of mortgage capital to neighborhoods to which such investment capital has generally been denied; (3) to provide the citizens and public officials of the state with sufficient information to enable them to determine which financial institutions are fulfilling their obligations to serve the housing needs of the communities and neighborhoods in which they are located; and (4) to assist public officials at both state and local levels in their determination of the distribution of public sector investments in a manner designed to improve the private investment environment and to aid state and local interests and priorities.

(d) Nothing in sections 36a-744-1 to 36a-744-8, inclusive, of the Regulations of Connecticut State Agencies is intended to, nor shall those sections be construed to, encourage unsound lending practices or the allocation of credit.

(Effective December 19, 1990; Transferred April 24, 1995; Amended January 30, 1996)

Sec. 36a-744-2. Definitions

As used in sections 36a-744-1 to 36a-744-8, inclusive, of the Regulations of Connecticut State Agencies, unless the context otherwise requires:

(1) “Act” means the Home Mortgage Disclosure Act (Part IX of Chapter 669 of the Connecticut General Statutes).

(2) “Applicant” means any person who applies for a home purchase loan, home improvement loan or other mortgage loan whether or not the loan is granted.

(3) “Application” means an oral or written request for a home purchase loan, home improvement loan or other mortgage loan that is made in accordance with procedures established by a financial institution.

(4) “Branch office” means any office approved as a branch of A financial institution by

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the commissioner, and any office of a majority-owned for-profit mortgage-lending subsidiary of a financial institution which comes within the definition of “branch office” under the federal Home Mortgage Disclosure Act, but shall not include free-standing electronic terminals such as satellite devices.

(5) “Commissioner” means the commissioner of banking. With respect to any function of the commissioner, “commissioner” includes any person authorized or designated by the commissioner to carry out that function.

(6) “Dwelling” shall have the same meaning as provided in the federal Home Mortgage Disclosure Act.

(7) “Federal Home Mortgage Disclosure Act” means the Home Mortgage Disclosure Act of 1975, 12 U.S.C. Section 2801 et seq., as from time to time amended, and any regulations promulgated by the Federal Reserve Board pursuant to that act, as from time to time amended, except, for purposes of Part IX of Chapter 669 of the Connecticut General Statutes and sections 36a-744-1 to 36a-744-8, inclusive, of the Regulations of Connecticut State Agencies, the supervisory agency shall be the commissioner.

(8) “Fair market value” means the highest price in terms of money which a residential real property will bring in a competitive and open market, the buyer and seller each acting prudently and knowledgeably.

(9) “Financial institution” means any Connecticut bank or Connecticut credit union which makes home purchase loans or home improvement loans or any for-profit mortgage lending institution other than a Connecticut bank or Connecticut credit union, whose home purchase loan originations equaled or exceeded ten per cent of its loan origination volume, measured in dollars, in the preceding calendar year, if such mortgage lending institution is licensed under sections 36a-485 to 36a-498, inclusive, or 36a-510 to 36a-524, inclusive, of the Connecticut General Statutes. Any majority-owned for-profit mortgage-lending subsidiary of a financial institution which subsidiary is not itself a financial institution is deemed to be part of its parent financial institution.

However, for purposes of complying with the compilation of data and disclosure requirements of Sections 36a-744-4 and 36a-744-5 of the Regulations of Connecticut State Agencies, any such subsidiary shall be treated as a distinct entity.

(10) “Home improvement loan” shall have the same meaning as provided in the federal Home Mortgage Disclosure Act.

(11) “Home purchase loan” shall have the same meaning as provided in the Federal Home Mortgage Disclosure Act.

(12) “Mortgage loan” means a loan which is secured by residential real property.

(13) “Residential real property” means improved real property used or to be used for residential purposes, including single-family homes, dwellings for from two to four families, multi-family dwellings, and individual units of condominiums and cooperatives.

(Effective December 19, 1990; Transferred April 24, 1995; Amended January 30, 1996)

Sec. 36a-744-3. Prohibited practices

(a) No financial institution and no federal bank shall discriminate, on a basis that is arbitrary or unsupported by a reasonable analysis of the lending risks associated with the applicant for a given loan or the condition of the property to secure it, in the granting, withholding, extending, modifying, renewing or in the fixing of the rates, terms, conditions or provisions of any home purchase loan, home improvement loan or other mortgage loan on one to four family owner-occupied residential real property, solely because such property is located in a low-income or moderate-income neighborhood or geographical area. The following factors shall be included in the determination of the disposition of the application: (1) The willingness and the financial ability of the applicant to repay the loan, and (2) the fair market value and condition of any residential real property proposed as security for the loan.

(b) It shall be a discriminatory practice for a financial institution or a federal bank to make any oral or written statement, in advertising or otherwise, to applicants or prospective applicants that would discourage a reasonable person from making or pursuing an application on one to four family owner-occupied residential real property solely because the secured property is located in a low-income or moderate-income neighborhood or geographical area. Any such statement constitutes a prohibited practice under Section 36a-737 of the act. Written or oral statements of underwriting criteria that are used which do not conflict with the Connecticut General Statutes shall not be construed to be a violation of this subsection.

(c) No financial institution and no federal bank shall utilize arbitrary policies which are discriminatory in effect with regard to any home purchase loan, home improvement loan or other mortgage loan on one to four family owner-occupied residential real property unless the financial institution or federal bank can demonstrate that such policies are necessary to avoid unsafe or unsound lending practices. Such arbitrary policies include, but are not limited to, the refusal to lend on two, three or four family owner-occupied dwellings, and the refusal to lend on dwellings on the basis of age. Such policies represent underwriting criteria that do not conform to the requirements of Section 36a-737 of the act.

(d) No financial institution and no federal bank shall discriminate on the basis of arbitrary or unsupported assertions or assumptions regarding the effect of a trend in the neighborhood or geographic area on the present or future value of secured property consisting of one to four family owner-occupied residential real property so as to avoid contributing to the deterioration of the neighborhood unless the financial institution or federal bank can demonstrate that such considerations in the particular case are necessary to avoid unsafe or unsound lending practices.

(e) No financial institution and no federal bank shall discriminate on the basis of racial or ethnic composition of a neighborhood, or trends in the racial or ethnic composition of a neighborhood. Such considerations do not constitute a reasonable analysis of the lending risks associated with the applicant for a given loan, or the condition of secured property consisting of one to four family owner-occupied residential real property.

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(f) As used in this section, “federal bank” shall have the same meaning as set forth in section 36a-2 of the Connecticut General Statutes.

(Effective December 19, 1990; Transferred April 24, 1995; Amended January 30, 1996)

Sec. 36a-744-4. Compilation of mortgage loan data

(a) Unless exempt under Section 36a-744-6 of the Regulations of Connecticut State Agencies, financial institutions shall compile the loan data required under the federal Home Mortgage Disclosure Act.

(b) Unless exempt under section 36a-744-6 of the Regulations of Connecticut State Agencies, each financial institution shall 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 by the financial institution.

(Effective December 19, 1990; Transferred April 24, 1995; Amended January 30, 1996)

Sec. 36a-744-5. Disclosure requirements

(a) A financial institution which becomes subject to the requirements of Sections 36a-744-1 to 36a-744-8, inclusive, of the Regulations of Connecticut State Agencies, shall compile loan data beginning with the calendar year following the year in which it becomes no longer exempt.

(b) A financial institution shall make its mortgage loan disclosure statements prepared by the Federal Financial Institutions Examination Council available to the public, as required by the federal Home Mortgage Disclosure Act, and shall submit such statements to the commissioner pursuant to Section 36a-738 of the act not later than thirty calendar days after the financial institution receives such statements.

(Effective December 19, 1990; Transferred April 24, 1995; Amended January 30, 1996)

Sec. 36a-744-6. Exemptions

A financial institution is exempt from the compilation of data and disclosure requirements contained in Sections 36a-744-4 and 36a-744-5 of the Regulations of Connecticut State Agencies if the financial institution meets the requirements for exemption based on asset size or location contained in Regulation C (12 C.F.R. Part 203) of the Board of Governors of the Federal Reserve System, Section 203.3(a).

(Effective December 19, 1990; Transferred April 24, 1995; Amended January 30, 1996)

Sec. 36a-744-7. Compliance and investigation

(a) In order to provide for adequate records by which to monitor compliance with the provisions of the act, each financial institution shall retain all applications subject to the act and sections 36a-744-1 to 36a-744-8, inclusive, of the Regulations of Connecticut State Agencies, and other materials made part of such applications or which are used to evaluate such loans whether or not the applications are approved, for a period of twenty-five months after the date on which action is taken on the applications. Included in the retained materials

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shall be the notification of action taken and the statement of specific reasons for adverse action, as required by Regulation B (12 C.F.R. Part 202) of the Board of Governors of the Federal Reserve System, Section 202.9. Such information may be retained in original form or a copy thereof, and shall, in accordance with the provisions of Section 36a-21 of the Connecticut General Statutes and Section 36a-742 of the act, be made available to the commissioner and to appropriate federal authorities for the purpose of monitoring compliance with provisions of the act, and remain otherwise confidential.

(b) When adverse action is taken on applications, financial institutions shall inform the applicants of their right: (1) To know the reasons for denial or adjustment in the terms of a loan and (2) to register complaints with the commissioner. A financial institution satisfies the requirements of this subsection if the notification of action taken as required by Regulation B (12 C.F.R. PART 202) of the Board of Governors of the Federal Reserve System, Section 202.9, includes the following statement:

THE CONNECTICUT HOME MORTGAGE DISCLOSURE ACT PROHIBITS DISCRIMINATION AGAINST HOME PURCHASE LOAN, HOME IMPROVEMENT LOAN OR OTHER MORTGAGE LOAN APPLICANTS SOLELY ON THE BASIS OF THE LOCATION OF THE PROPERTY TO BE USED AS SECURITY. THE AGENCY WHICH ENFORCES COMPLIANCE WITH THIS LAW IS:

DEPARTMENT OF BANKING
260 CONSTITUTION PLAZA
HARTFORD, CONNECTICUT 06103

IF YOU BELIEVE YOU HAVE BEEN UNFAIRLY DISCRIMINATED AGAINST, YOU MAY FILE A WRITTEN COMPLAINT WITH THE COMMISSIONER OF BANKING AT THE ABOVE ADDRESS.

(c) The commissioner shall conduct an investigation as provided for by section 36a-17 of the Connecticut General Statutes, upon receipt of a written complaint alleging specific violations of the provisions of the act or of sections 36a-744-1 to 36a-744-8, inclusive, of the Regulations of Connecticut State Agencies.

(d) The commissioner shall analyze the practices and actions of the financial institutions in the home financing area in relationship to its customers and to the housing needs and condition of the state. A report of the commissioner's findings shall be made annually to the governor pursuant to section 36a-14 of the Connecticut General Statutes.

(Effective December 19, 1990; Transferred April 24, 1995; Amended January 30, 1996)

Sec. 36a-744-8. Violations and sanctions

(a) Any applicant who has been discriminated against as a result of a violation of Section 36a-737 of the act and Section 36a-744-3 of the Regulations of Connecticut State Agencies may bring an action in a court of competent jurisdiction pursuant to section 36a-740 of the act.

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(b) A violation of the act or sections 36a-744-1 to 36a-744-8, inclusive, of the Regulations of Connecticut State Agencies is subject to sanctions as provided in the act.

(c) It shall not be a violation of Section 36a-737 of the act if the home purchase loan, home improvement loan or other mortgage loan is made pursuant to a specific public or private program, the purpose of which is to increase the availability of home purchase loans, home improvement loans or other mortgage loans within a low-income or moderate-income neighborhood or geographical area in which such investment capital has generally been denied.

(d) An error in compiling or reporting required loan data shall not be deemed to be a violation of the act or sections 36a-744-1 to 36a-744-8, inclusive, of the Regulations of Connecticut State Agencies if the error was unintentional and resulted from a bona fide mistake notwithstanding the maintenance of procedures reasonably adopted to avoid any such error.

(Effective December 19, 1990; Transferred April 24, 1995; Amended January 30, 1996)