Article - Commercial Law

[Previous][Next]

§12–311.

(a) (1) In this section the following words have the meanings indicated.

(2) "Fully indexed rate" means the index rate, as defined in the mortgage loan documents, prevailing at the time the mortgage loan is approved by the lender, plus the margin that will apply after the expiration of an introductory interest rate.

(3) (i) "Mortgage loan" has the meaning stated in § 11–501 of the Financial Institutions Article.

(ii) "Mortgage loan" does not include a reverse mortgage loan.

(b) A lender may not take as security for a loan any:

(1) Confession of judgment or power of attorney to him or to a third person to confess judgment or appear for the borrower in a judicial proceeding;

(2) Assignment or order for payment of wages;

(3) Instrument in which blanks are left to be filled after execution; or

(4) Note, promise to pay, or security instrument which does not state:

(i) The principal amount of the loan;

(ii) A schedule of payments or a description of the schedule; and

(iii) The agreed amount and rate of interest, charges, and fees.

(c) (1) A lender may not take any security interest in:

(i) Real property for any loan under $2,000 in value or amount; or

(ii) Personal property for any loan under $700 in value or amount.

(2) Any lien taken in violation of this subsection is void.

(3) This subsection does not apply to or affect a lien on an interest in real property which results from a judgment obtained by the lender based on a loan otherwise secured or unsecured.

(d) A lender may not make a mortgage loan without giving due regard to the borrower's ability to repay the mortgage loan in accordance with its terms, including the fully indexed rate of the mortgage loan, if applicable, and property taxes and homeowner's insurance whether or not an escrow account is established for the

collection and payment of these expenses.

(e) (1) Due regard to a borrower's ability to repay a mortgage loan must include:

(i) Consideration of the borrower's debt to income ratio, including existing debts and other obligations; and

(ii) Verification of the borrower's gross monthly income and assets by review of third–party written documentation reasonably believed by the lender to be accurate and complete.

(2) Acceptable third–party written documentation includes:

(i) The borrower's Internal Revenue Service form W–2;

(ii) A copy of the borrower's income tax return;

(iii) Payroll receipts;

(iv) The records of a financial institution; or

(v) Other third–party documents that provide reasonably reliable evidence of the borrower's income or assets.

(3) This subsection does not apply to a mortgage loan:

(i) Approved for government guaranty by the Federal Housing Administration, the Veterans Administration, the United States Department of Agriculture, the Maryland Department of Housing and Community Development, or the Community Development Administration; or

(ii) That refinances an existing mortgage loan if the refinance mortgage loan is:

1. Offered under the federal Homeowner Affordability and Stability Plan; and

2. Made available by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.

[Previous][Next]