

TITLE 15 - COMMERCE AND TRADE
CHAPTER 41 - CONSUMER CREDIT PROTECTION
SUBCHAPTER I - CONSUMER CREDIT COST DISCLOSURE
Part C - Credit Advertising

§ 1665b. Advertising of open end consumer credit plans secured by consumer's principal dwelling

(a) In general

If any advertisement to aid, promote, or assist, directly or indirectly, the extension of consumer credit through an open end consumer credit plan under which extensions of credit are secured by the consumer's principal dwelling states, affirmatively or negatively, any of the specific terms of the plan, including any periodic payment amount required under such plan, such advertisement shall also clearly and conspicuously set forth the following information, in such form and manner as the Board may require:

(1) Loan fees and opening cost estimates

Any loan fee the amount of which is determined as a percentage of the credit limit applicable to an account under the plan and an estimate of the aggregate amount of other fees for opening the account, based on the creditor's experience with the plan and stated as a single amount or as a reasonable range.

(2) Periodic rates

In any case in which periodic rates may be used to compute the finance charge, the periodic rates expressed as an annual percentage rate.

(3) Highest annual percentage rate

The highest annual percentage rate which may be imposed under the plan.

(4) Other information

Any other information the Board may by regulation require.

(b) Tax deductibility

(1) In general

If any advertisement described in subsection (a) of this section contains a statement that any interest expense incurred with respect to the plan is or may be tax deductible, the advertisement shall not be misleading with respect to such deductibility.

(2) Credit in excess of fair market value

Each advertisement described in subsection (a) of this section that relates to an extension of credit that may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall include a clear and conspicuous statement that—

(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.

(c) Certain terms prohibited

No advertisement described in subsection (a) of this section with respect to any home equity account may refer to such loan as "free money" or use other terms determined by the Board by regulation to be misleading.

(d) Discounted initial rate

(1) In general

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

If any advertisement described in subsection (a) of this section includes an initial annual percentage rate that is not determined by the index or formula used to make later interest rate adjustments, the advertisement shall also state with equal prominence the current annual percentage rate that would have been applied using the index or formula if such initial rate had not been offered.

(2) Quoted rate must be reasonably current

The annual percentage rate required to be disclosed under the paragraph (1) rate must be current as of a reasonable time given the media involved.

(3) Period during which initial rate is in effect

Any advertisement to which paragraph (1) applies shall also state the period of time during which the initial annual percentage rate referred to in such paragraph will be in effect.

(e) Balloon payment

If any advertisement described in subsection (a) of this section contains a statement regarding the minimum monthly payment under the plan, the advertisement shall also disclose, if applicable, the fact that the plan includes a balloon payment.

(f) “Balloon payment” defined

For purposes of this section and section 1637a of this title, the term “balloon payment” means, with respect to any open end consumer credit plan under which extensions of credit are secured by the consumer’s principal dwelling, any repayment option under which—

- (1) the account holder is required to repay the entire amount of any outstanding balance as of a specified date or at the end of a specified period of time, as determined in accordance with the terms of the agreement pursuant to which such credit is extended; and
- (2) the aggregate amount of the minimum periodic payments required would not fully amortize such outstanding balance by such date or at the end of such period.

(Pub. L. 90–321, title I, § 147, as added Pub. L. 100–709, § 2(c), Nov. 23, 1988, 102 Stat. 4730; amended Pub. L. 109–8, title XIII, § 1302(a)(2), Apr. 20, 2005, 119 Stat. 208.)

Amendments

2005—Subsec. (b). Pub. L. 109–8 designated existing provisions as par. (1), inserted par. heading, and added par. (2).

Effective Date of 2005 Amendment

Amendment by Pub. L. 109–8 effective 180 days after Apr. 20, 2005, and not applicable with respect to cases commenced under Title 11, Bankruptcy, before such effective date, except as otherwise provided, see section 1501 of Pub. L. 109–8, set out as a note under section 101 of Title 11.

Effective Date

For effective date of section, see Regulations; Effective Date note below.

Regulations; Effective Date

For provisions relating to promulgation of regulations to implement amendment by Pub. L. 100–709 [enacting this section], and effective date of such amendment in connection with those regulations, see section 7 of Pub. L. 100–709, set out as a note under section 1637a of this title.