

§8-505. Enforcement

1. Enforcement under Article 6. The administrator shall enforce this Article under the provisions of Article 6. When the Superintendent of Financial Institutions is acting as administrator, the superintendent may, in addition to the enforcement authority under Article 6, use any authority provided in Title 9-B for the supervision of financial institutions.

[PL 2011, c. 427, Pt. A, §15 (NEW).]

2. Reimbursement. The administrator may adopt by rule a reimbursement program such that creditors subject to an administrative order under section 6-108 may be ordered to make whatever adjustments are necessary to ensure that any person will not be required to pay a finance charge in excess of the finance charge actually disclosed or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower. In determining any readjustment, the administrator shall apply, with respect to the annual percentage rate, a tolerance allowed under the Federal Truth in Lending Act, 15 United States Code, Section 1607 and its implementing regulation, Regulation Z, 12 Code of Federal Regulations, Section 1026.1 et seq. and, with respect to the finance charge, a corresponding numerical tolerance as generated by the tolerance allowed by the Federal Truth in Lending Act and its implementing regulations for the annual percentage rate. The administrator may order partial adjustment or partial payments over an extended period if the administrator determines that a partial adjustment or making partial payments over an extended period is necessary to avoid causing the creditor to become undercapitalized pursuant to the Federal Deposit Insurance Act.

[PL 2013, c. 464, §5 (AMD).]

3. Criminal liability for willful and knowing violation. Whoever willfully and knowingly gives false or inaccurate information or fails to provide information that the person is required to disclose under the provisions of this Article or any regulation issued thereunder, uses any chart or table authorized by the administrator under this Article in such a manner as to consistently understate the annual percentage rate determined under this Article or otherwise fails to comply with any requirement imposed under this Article is guilty of a Class D crime.

[PL 2011, c. 427, Pt. A, §15 (NEW).]

4. Penalties inapplicable to governmental agencies. A civil or criminal penalty provided under this Article for any violation thereof may not be imposed upon the United States or any agency thereof, or upon any state or political subdivision thereof, or any agency of any state or political subdivision thereof.

[PL 2011, c. 427, Pt. A, §15 (NEW).]

5. Civil liability. Except as otherwise provided for transactions subject to section 8-506, subsection 6, any creditor that fails to comply with the requirements imposed under this Article with respect to any person is liable to that person as provided for in the Federal Consumer Credit Protection Act, 15 United States Code, Section 1640.

[PL 2011, c. 427, Pt. A, §15 (NEW).]

6. Liability of assignees. Except as otherwise provided for transactions subject to section 8-506, subsection 3, any civil action for a violation of this Article that may be brought against a creditor may be maintained against any assignee of such creditor as provided for in the federal Consumer Credit Protection Act, 15 United States Code, Section 1641.

[PL 2011, c. 427, Pt. A, §15 (NEW).]

7. Attorney General. The Attorney General has jurisdiction to enforce this Article against mortgage brokers as defined in section 8-506, subsection 1, paragraph J and supervised lenders that are not supervised financial organizations through their general regulatory powers and through civil process. The administrator, through the Attorney General, may bring a civil action to restrain any person from violating this Article.

[PL 2011, c. 427, Pt. A, §15 (NEW).]

SECTION HISTORY

PL 2011, c. 427, Pt. A, §15 (NEW). PL 2013, c. 464, §5 (AMD).

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