§10-102. Definitions

As used in this article, unless the context otherwise indicates, the following terms have the following meanings. [PL 1989, c. 70, §3 (NEW).]

1. "Loan broker" is defined as follows.

A. "Loan broker" means any person who, with respect to the extension of consumer credit by others, provides or offers to provide, in return for the separate payment of money or other valuable consideration, any of the following services:

(1) Improving a consumer's credit record, history or rating;

(2) Arranging for or obtaining an extension of credit for a consumer; or

(3) Providing advice or assistance to a consumer with respect to subparagraph (1) or (2).

"Loan broker" also means any person who serves as a facilitator of a refund anticipation loan or refund anticipation check, whether or not in return for the separate payment of money or other valuable consideration. [PL 2009, c. 248, §2 (AMD).]

B. "Loan broker" does not include:

(1) A supervised financial organization;

(2) A supervised lender other than a supervised financial organization, except that, with respect to any transaction in which a supervised lender other than a supervised financial organization is acting solely as a loan broker, section 10-302 applies;

(3) A person licensed by the Real Estate Commission to the extent that the person is engaged in activities regulated by that commission;

(4) A person currently admitted to the practice of law in this State;

(5) Any nonprofit organization exempt from taxation under the United States Internal Revenue Code, Section 501(c)(3) to the extent that the organization's activities are consistent with those set forth in its application for tax exemption to the Internal Revenue Service;

(6) A consumer reporting agency, as defined in the Fair Credit Reporting Act, Title 10, chapter 209-B;

(7) An affiliate of a supervised lender when the affiliate provides services described in paragraph A, subparagraph (1), (2) or (3) for or on behalf of that supervised lender and when the affiliate is not compensated by the consumer for those services;

(8) An employee of a supervised lender or an employee of an affiliate of a supervised lender when the employee provides services described in paragraph A, subparagraph (1), (2) or (3) for or on behalf of that supervised lender or affiliate and when the employee or the affiliate is not compensated by the consumer for those services;

(9) A person paid by a supervised lender or a consumer to document a loan, attend or conduct a loan closing, disburse loan proceeds or record or file loan documents;

(10) A person who performs marketing services for a creditor, such as a telemarketer, an advertising agency or a mailing house, when the person is not compensated by the consumer for those services;

(11) A seller of consumer goods or services that provides services described in paragraph A, subparagraph (1), (2) or (3) in connection with a sale or proposed sale of consumer goods or services by that seller when the seller is not compensated by a consumer for those services; or

(12) An employee of a seller of consumer goods or services that provides services described in paragraph A, subparagraph (1), (2) or (3) in connection with a sale or proposed sale of consumer goods or services by that seller when the employee or seller is not compensated by a consumer for those services.

For the purposes of this paragraph, "affiliate" has the same meaning as defined in Title 9-B, section 131, subsection 1-A. [PL 2013, c. 588, Pt. C, §2 (AMD).]

[PL 2013, c. 588, Pt. C, §2 (AMD).]

2. "Bona fide 3rd-party fee" means a verifiable fee paid to a 3rd party for a credit report, appraisal, investigation, title examination or survey.

[PL 1989, c. 70, §3 (NEW).]

2-A. "Facilitator of a refund anticipation loan or refund anticipation check" means a person who individually or in conjunction or cooperation with another person:

A. Solicits the execution of, processes, receives or accepts application or agreement for a refund anticipation loan or refund anticipation check; [PL 2009, c. 248, §3 (NEW).]

B. Services or collects upon a refund anticipation loan or refund anticipation check; or [PL 2009, c. 248, §3 (NEW).]

C. Facilitates the making of a refund anticipation loan or refund anticipation check in any other manner. [PL 2009, c. 248, §3 (NEW).]

If there is no 3rd-party facilitator of a refund anticipation loan or refund anticipation check because a creditor directly solicits the execution of, receives or accepts application or agreement for a refund anticipation loan or refund anticipation check, that creditor is considered a facilitator of a refund anticipation loan or refund anticipation check for purposes of this subsection. For purposes of this subsection, "creditor" means any person who makes a refund anticipation loan or who takes assignment of a refund anticipation loan.

[PL 2009, c. 248, §3 (NEW).]

3.

[PL 2011, c. 427, Pt. B, §14 (RP).]

4. "Refund anticipation check" means a check, stored value card or other payment mechanism representing the proceeds of the consumer's tax refund that was issued by a depository institution or other person that received a direct deposit of the consumer's tax refund or tax credit and for which the consumer has paid a fee or other consideration.

[PL 2009, c. 248, §4 (NEW).]

5. "Refund anticipation loan" means a loan that is secured by or that the creditor arranges to be repaid directly or indirectly from the proceeds of the consumer's income tax refund or tax credits. A refund anticipation loan also includes any sale, assignment or purchase of a consumer's tax refund at a discount or for a fee, whether or not the consumer is required to repay the buyer or assignee if the federal Internal Revenue Service reduces the consumer's tax refund.

[PL 2009, c. 248, §5 (NEW).]

6. "Refund anticipation loan fee" means the charge, fee or other consideration charged or imposed directly or indirectly by the creditor for the making of or in connection with a refund anticipation loan. "Refund anticipation loan fee" includes any charge, fee or other consideration for a deposit account if the deposit account is used for the receipt of the consumer's tax refund to repay the amount owed on the loan.

[PL 2009, c. 248, §6 (NEW).]

7. "Refund anticipation loan interest rate" or "interest rate" means the interest rate based on the creditor's reasonable estimate of the time the refund will be delivered.

[PL 2011, c. 427, Pt. D, §13 (AMD).]

SECTION HISTORY

PL 1989, c. 70, §3 (NEW). PL 1991, c. 824, §A10 (AMD). PL 1993, c. 495, §1 (AMD). PL 1997, c. 66, §5 (AMD). PL 2001, c. 371, §6 (AMD). PL 2001, c. 509, §§1,2 (AMD). PL 2005, c. 164, §8 (AMD). PL 2005, c. 274, §4 (AMD). PL 2009, c. 248, §§2-7 (AMD). PL 2011, c. 427, Pt. B, §14 (AMD). PL 2011, c. 427, Pt. D, §13 (AMD). PL 2013, c. 588, Pt. C, §2 (AMD).

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