

May 15, 2008

H 2188. EARLIER NOTIFICATION OF MORTGAGE SERVICER FEE. Filed 5/15/08. *TO REQUIRE THAT ANY FEE INCURRED BY A HOME LOAN SERVICER BE CLEARLY AND CONSPICUOUSLY EXPLAINED TO THE BORROWER WITHIN THIRTY DAYS AFTER THE FEE IS ASSESSED, TO CLARIFY THAT THE SERVICER IS NOT REQUIRED TO SEND A STATEMENT TO THE BORROWER UNDER CERTAIN CIRCUMSTANCES, AND TO PROVIDE THAT A SERVICER IS NOT REQUIRED TO PROVIDE NOTIFICATION TO THE BORROWER IF A PARTIAL PAYMENT IS ACCEPTED AND CREDITED IN ACCORDANCE WITH A WRITTEN AGREEMENT.*

Amends GS 45-91 to provide that the servicer must mail an explanation of a fee to the borrower within 30 days (was, at least 30 days) after assessing the fee. Provides that the explanation is not necessary for a fee for a service requested by the borrower, paid by the borrower at the time of service, not collected by the servicer, and not charged to the loan account. Provides that the servicer need not send notice of a payment not credited if the treatment of the payment is pursuant to a written agreement for the acceptance and crediting of partial payments. Effective October 1, 2008.

Intro. by Blue, Church.

GS 45

June 23, 2008

H 2188. EARLIER NOTIFICATION OF MORTGAGE SERVICER FEE. Filed 5/15/08. House committee substitute makes the following changes to 1st edition.

Amends GS 45-91 to delete language providing that a fee not collected by the mortgage servicer (servicer) is among the occurrences for which a servicer is not required to send an explanation to the borrower. Clarifies that a servicer is not required to send a statement for a fee that results from a service that the borrower *affirmatively* requests. Current law requires a servicer to notify a borrower if a payment is not credited when it is received. Deletes provision that excused a servicer from notifying a borrower when there was a written agreement providing for the acceptance and crediting of partial payments and the payments were applied as provided in the agreement. Instead provides that if a servicer is complying with the terms of an agreement and with all applicable laws, the servicer does not have to notify the borrower if (1) the borrower enters into a written agreement that changes the payment requirement and specifies how the payments will be applied and credited, (2) the borrower chooses to participate in an alternative payment plan that specifies how payments will be applied and credited, or (3) the borrower is making payments under a bankruptcy plan.

Amends GS 24-1.1E(a)(6) to change the definition of the term *points and fees* to include all compensation paid to a mortgage broker from any source.

Amends GS 53-243.11 (regarding prohibited activities under the Mortgage Lending Act) to prohibit a mortgage lender or broker from receiving compensation that changes in connection with a rate-spread loan.

Makes a conforming change to the title.

July 3, 2008

H 2188. EARLIER NOTIFICATION OF MORTGAGE SERVICER FEE. Filed 5/15/08. Senate committee substitute makes the following changes to 2nd edition. Specifies that the new proposed subdivision in revised GS 53-243.11, which prohibits any mortgage broker from receiving compensation that changes based on the terms of the loan, does not prohibit compensation based on the principal balance of the loan. Makes technical and clarifying changes.

August 20, 2008

SL 2008-227 (H 2188). EARLIER NOTIFICATION FOR MORTGAGE SERVICER FEE. AN ACT TO REQUIRE THAT ANY FEE INCURRED BY A HOME LOAN SERVICER BE CLEARLY AND CONSPICUOUSLY EXPLAINED TO THE BORROWER WITHIN THIRTY DAYS AFTER THE FEE IS ASSESSED, TO CLARIFY THAT THE SERVICER IS NOT REQUIRED TO SEND A

STATEMENT TO THE BORROWER UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE THAT A SERVICER IS NOT REQUIRED TO PROVIDE NOTIFICATION TO THE BORROWER IF A PARTIAL PAYMENT IS ACCEPTED AND CREDITED IN ACCORDANCE WITH A WRITTEN AGREEMENT, TO MAKE CONFORMING CHANGES IN THE DEFINITION OF HIGH COST HOME LOANS, AND TO ADD TO THE LIST OF PROHIBITED ACTS UNDER THE MORTGAGE LENDING ACT. Summarized in *Daily Bulletin* 5/15/08, 6/23/08, and 7/3/08. Enacted August 17, 2008. Effective October 1, 2008.