

course, also be fully informed of any non-loan portions of the transaction, that will require payment of funds by him at closing or earlier. These purposes are accomplished when the borrower is furnished written statements of the type noted above.

Our members will continue to follow their present disclosure practices as a matter of policy.

We understand that the Board of Governors of the Federal Reserve System and the Under Secretary of the Treasury have recommended that loans secured by a first mortgage on real estate be excluded from the provisions of truth-in-lending legislation because adequate disclosure is already made to the borrower in this type of transaction. The National League confirms this reasoning as to its member savings and loan associations, all of which have savings accounts insured by the Federal Savings and Loan Insurance Corporation and are therefore regulated by the Federal Home Loan Bank Board, an independent agency of the Federal government.

The present main concern of National League members is that the differences between a real estate mortgage transaction and a retail credit transaction be accommodated in any statute enacted in this field. Retail credit transactions do not normally involve the type of payments at closing that have come to be customary in real estate mortgage transactions.

Some other distinctions between the two types of transactions follow. Some real estate mortgages contain provisions relating to penalties that may be optionally charged by the mortgagee or its assignee for late payments not made timely pursuant to the payment schedule. Some real estate mortgages contain provisions permitting the mortgagee or its assignee to charge a premium if the mortgagor exercises his privilege of prepaying a substantial portion of the outstanding balance due on the mortgage. While often referred to as a "penalty", this payment in reality helps reimburse the lender for the expense of finding and making use of a suitable reinvestment medium for funds in connection with which it had already incurred placement expenses when advanced as a loan to the mortgagor. This is also a charge left within the discretion of the mortgage holder if the borrower triggers the occasion for its use. The premium provision is usually not invoked if the borrower is using his own funds to exercise his privilege of prepayment rather than merely using funds borrowed elsewhere at a cost lower than the interest rate on the mortgage being prepaid.

When such late charge or prepayment premium options do exist, they are fully set forth in the mortgage document itself, so the information concerning them is available to the borrower. In addition initiation of the circumstances making such charges applicable rests not with the mortgagee or its assignee, but rather with the borrower.

Since the cause for invoking the charges may never occur, it would not seem appropriate to require any more than a caution to the borrower that he or his advisers should carefully read the mortgage instruments involved.

It is urged that suitable exclusions be made from those provisions of the bill dealing primarily with retail credit transactions, in order to recognize the differing situation prevailing in real estate mortgage loan transactions.

It is further requested that if mortgage loans are included in the legislation, the Committee report on the bill encourage the Board of Governors of the Federal Reserve System to make liberal use of the authority section 205(b) of the Federal Reserve Act as proposed to be added by H.R. 11601 and section 6(b) of H.R. 11602 would confer upon it to exempt from the requirements of the Act any credit transactions or class of transactions it determines to be effectively regulated under State laws. In fact we would encourage the Subcommittee to insert the words "or business practice substantially similar to the requirements under that section" after the word "enforcement" in proposed section 205(b) of H.R. 11601 in line 20 on page 21. The comparable amendment in H.R. 11602 would occur in line 2 on page 18. Such an amendment would permit the Federal Reserve Board to take cognizance of the fact that the disclosure practices already followed by savings and loan associations in making mortgage loans on real estate make available to the borrower the information it is the purpose of this legislation to supply to him.

We stand ready to respond to any invitation from you to work with you and members of your Subcommittee or its staff to discuss further ways to implement the ideas set forth in this letter.