

April 8, 2009

H 1222. MORTGAGE/RATE SPREAD & HIGH-COST LOANS. Filed 4/8/09. *TO UPDATE THE RATE SPREAD AND HIGH-COST HOME LOANS STATUTES.* Generally amends GS 24-1.1F (Rate spread home loans) and GS 24-1.1E(a)(5) (Restrictions and limitations on high-cost home loans). Deletes definition of *home loan* in GS 24-1.1F(a)(3) but uses a modified and expanded version of this definition in a substantially reorganized definition of a *rate spread home loan* in GS 24-1.1F(a)(7). Defines a rate spread home loan as a home loan in which (1) the loan is neither an equity line of credit, a construction loan, a reverse mortgage transaction, nor a bridge loan with a term of 12 months or less; (2) the borrower is a natural person; (3) the debt is incurred by the borrower primary for personal, family, or household purposes; (4) the principal amount does not exceed Fannie Mae's conforming loan size limit for a single-family dwelling; (5) the loan is secured either by (i) a security interest in a manufactured home that is or will be occupied by the borrower, (ii) a mortgage or deed of trust on real property that includes an existing structure for occupancy of from one to four families that will be occupied by the borrower; or (iii) a mortgage or deed of trust on real property that serves as a site for one or more structures designed for occupancy of from one to four families that will be occupied by the borrower. (These portions of the definition largely track the existing definition of a *home loan* that the bill would repeal.) The proposed definition of a rate spread home loan also requires feature number (6) that the loan's annual percentage rate exceeds the "average prime offer rate" for a comparable transaction as of the date the interest rate is set by either (i) 1 ½% or more if the loan is secured by a first lien or (ii) by 3 ½% or more if the loan is secured by a subordinate lien on a dwelling. Defines *average prime offer rate* as amended in GS 24-1.1F(a)(2) as the annual percentage rate published by the Federal Reserve Board and that is derived from average interest rates, points, and other loan pricing terms currently offered to consumers by a representative sample of creditors for mortgage transactions that have low-risk pricing characteristics.

Rewrites GS 24-1.1F(c) to prohibit a lender from making a rate spread home loan based on the borrower's collateral without "due regard" for the borrower's repayment ability as of consummation, including the borrower's current and reasonably expected income, employment, assets other than collateral, current obligations, and mortgage related obligations. Directs that the methodology and standards for the determination of a borrower's repayment ability set forth in Section 226.34(a)(4) of Title 12 of the Code of Federal Regulations and the related Federal Reserve Board's Official Staff Commentary on Regulation Z are to be applied to determine lenders' compliance with this requirement.

Makes changes to GS 24-1.1E so that the definition of *points and fees* clarifying that such charges include all items paid by the borrower at or before closing that are required to be disclosed or are listed in the federal code.

Effective October 1, 2009.

Intro. by Blue.

GS 24

May 5, 2009

H 1222. MORTGAGE/RATE SPREAD & HIGH-COST LOANS. Filed 4/8/09. House committee substitute makes the following changes to 1st edition. Reorganizes sections in the bill. Clarifies in proposed GS 24-1.1F(7)f. that a condition of a rate spread home loan is that it is a loan with an annual percentage rate that exceeds the average prime offer rate for a comparable transaction as of the date the interest rate *for the loan* is set by (1) 1.5% or more if the loan is secured by a first lien on a dwelling or (2) 3.5% or more if the loan is secured by a subordinate lien on a dwelling. Amends GS 24-1.1F(d) to provide that a borrower (was, obligor) is not entitled to recover twice for the same violation of the statute.

Changes the title to *AN ACT TO UPDATE THE RATE SPREAD AND HIGH-COST HOME LOANS STATUTES, AND TO MAKE A CONFORMING CHANGE TO THE EMERGENCY PROGRAM TO REDUCE HOME FORECLOSURES ACT.*

July 14, 2009

H 1222. MORTGAGE/RATE SPREAD & HIGH-COST LOANS. Filed 4/8/09. Senate committee substitute makes the following changes to 2nd edition. Includes in the definition of *rate spread*

home loan in proposed amended GS 24-1.1F(a)(7) that the loan's annual percentage rate must exceed (1) the average prime offer rate for a comparable transaction as of the date the interest rate for the loan is set by 1.5% or more, if the loan is secured by a first lien mortgage or deed of trust (was, on a dwelling); or 3.5% or more, if the loan is secured by a subordinate lien mortgage or deed of trust (was, on a dwelling), (2) the conventional mortgage rate by 1.75% or more, if the loan is secured by a first lien mortgage or deed of trust, or 3.75% or more, if the loan is secured by a subordinate lien mortgage or deed of trust; and (3) the yield on US Treasury securities having comparable periods of maturity by 3% or more, if the loan is secured by a first lien mortgage or deed of trust, or 5% or more, if the loan is secured by a subordinate lien mortgage or deed of trust. Also provides for (1) a definition of *conventional mortgage rate* and (2) the determination of the difference between the annual percentage rate and the yield on Treasury securities having comparable periods of maturity. Makes organizational conforming changes.

August 18, 2009

SL 2009-457 (H 1222). MORTGAGE/RATE SPREAD AND HIGH-COST LOANS. AN ACT TO UPDATE THE RATE SPREAD AND HIGH-COST HOME LOANS STATUTES, AND TO MAKE A CONFORMING CHANGE TO THE EMERGENCY PROGRAM TO REDUCE HOME FORECLOSURES ACT. Summarized in *Daily Bulletin* 4/8/09, 5/5/09, and 7/14/09. Enacted August 7, 2009. Effective October 1, 2009.