

TILA NOTIFICATION DOES NOT APPLY RETROACTIVELY

A 2009 amendment to the Truth in Lending Act requires a creditor who obtains a mortgage loan by sale or transfer to notify the borrower of the transfer in writing. 15 U.S.C. § 1641(g). In [*Talaie v. Wells Fargo Bank, NA*](#), 808 F.3d 410 (9th Cir. 2015) (No. 13-56314), the Ninth Circuit held, as a matter of first impression, that this requirement did not apply retroactively to creditors who had acquired mortgage loans before the amendment was enacted. In so holding, the court acknowledged that there was a presumption against retroactive legislation that can only be overcome where Congress expresses a clear and unambiguous intent to do so. The court concluded that neither the text nor legislative history of Section 1641(g) provided a clear indication that Congress intended for it to apply to loans that had been transferred before its enactment. Moreover, while other provisions of TILA contain express effective dates, Section 1641(g) does not, which further indicates that Section 1641(g) applies prospectively and does not extend to loan transfers predating its enactment.