

112TH CONGRESS
2D SESSION

S. 2120

To require the lender or servicer of a home mortgage, upon a request by the homeowner for a short sale, to make a prompt decision whether to allow the sale.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 16, 2012

Ms. MURKOWSKI (for herself, Mr. BROWN of Ohio, and Mr. BROWN of Massachusetts) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To require the lender or servicer of a home mortgage, upon a request by the homeowner for a short sale, to make a prompt decision whether to allow the sale.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Prompt Notification
5 of Short Sales Act”.

6 **SEC. 2. PROMPT DECISION REGARDING SHORT SALE.**

7 (a) REQUIREMENT FOR PROMPT DECISION.—

8 (1) IN GENERAL.—

1 (A) WRITTEN RESPONSE TO MORTGAGOR
2 REQUESTS REQUIRED.—

3 (i) IN GENERAL.—Each servicer shall
4 respond in writing to a mortgagor of a res-
5 idential mortgage loan who has submitted
6 a written request that meets the require-
7 ments of paragraph (2), not later than the
8 end of the 75-calendar day period begin-
9 ning on the date of receipt of such request,
10 subject to subparagraphs (B) and (C).

11 (ii) APPLICABILITY.—Clause (i) shall
12 apply, except as provided in subsection (b),
13 and notwithstanding any other provision of
14 law or of any contract, including a contract
15 between a servicer of a residential mort-
16 gage loan and a securitization vehicle or
17 other investment vehicle.

18 (B) CONTENT.—A written response by a
19 servicer under subparagraph (A) shall specify—

20 (i) a decision on whether such request
21 has been denied, approved, or that such re-
22 quest has been approved subject to speci-
23 fied changes; or

1 (ii) that additional time is required, in
2 which case the servicer shall provide a new
3 decision date.

4 (C) SINGLE EXTENSION OF NEW DECISION
5 DATE AUTHORIZED.—A servicer may, upon
6 written notice to the mortgagor, extend a new
7 decision date provided under subparagraph
8 (B)(ii) one single time, for a period of not
9 longer than 21 additional calendar days.

10 (2) MORTGAGOR SUBMISSION.—Paragraph (1)
11 shall apply in any case in which the mortgagor
12 under a residential mortgage loan submits to the
13 servicer thereof—

14 (A) a written offer for a short sale of the
15 dwelling or residential real property that is sub-
16 ject to the mortgage, deed of trust, or other se-
17 curity interest that secures the mortgage loan;
18 and

19 (B) all information required by the servicer
20 in connection with such a request (including a
21 copy of an executed contract between the owner
22 of the dwelling or property and the prospective
23 buyer that is subject to approval by the
24 servicer).

1 (3) CIVIL ACTIONS AUTHORIZED.—An ag-
2 grieved individual may bring an action in a court of
3 competent jurisdiction, asserting a violation of this
4 Act. Aggrieved individuals may be awarded all ap-
5 propriate relief, including equitable relief, and a
6 monetary award of \$1,000 per violation, plus reason-
7 able attorneys' fees, or such higher amount as may
8 be appropriate in the case of an established pattern
9 or practice of such failures.

10 (b) INAPPLICABILITY TO CERTAIN EXISTING MORT-
11 GAGES.—Subsection (a) shall not apply with respect to
12 any residential mortgage with respect to which the mort-
13 gagor and the mortgagee or servicer have entered into a
14 written agreement before the date of enactment of this Act
15 explicitly providing a procedure or terms for approval of
16 a short sale.

17 (c) TREATMENT OF OTHER TIME LIMITS.—This sec-
18 tion may not be construed to preempt, annul, or otherwise
19 affect any other provision of law or of any contract or pro-
20 gram that provides a shorter period than is provided under
21 subsection (a) for a decision by the servicer of a residential
22 mortgage loan regarding a short sale of the dwelling or
23 residential real property that is subject to the mortgage,
24 deed or trust, or other security interest that secures the
25 mortgage loan.

1 (d) DEFINITIONS.—For purposes of this Act, the fol-
2 lowing definitions shall apply:

3 (1) RESIDENTIAL MORTGAGE LOAN.—The term
4 “residential mortgage loan” means any consumer
5 credit transaction that is secured by a mortgage,
6 deed of trust, or other equivalent consensual security
7 interest on a dwelling or on residential real property
8 that includes a dwelling, other than a consumer
9 credit transaction under an open end credit plan or
10 an extension of credit relating to a plan described in
11 section 101(53D) of title 11, United States Code.

12 (2) SECURITIZATION VEHICLE.—The term
13 “securitization vehicle” means a trust, special pur-
14 pose entity, or other legal structure that is used to
15 facilitate the issuing of securities, participation cer-
16 tificates, or similar instruments backed by or refer-
17 ring to a pool of assets that includes residential
18 mortgage loans (or instruments that are related to
19 residential mortgage loans, such as credit-linked
20 notes).

21 (3) SERVICER.—The term “servicer” has the
22 same meaning as in section 129A, except that such
23 term includes a person who makes or holds a resi-
24 dential mortgage loan (including a pool of residential

1 mortgage loans), if such person also services the
2 loan.

3 (4) SHORT SALE.—The term “short sale”
4 means the sale of the dwelling or residential real
5 property that is subject to the mortgage, deed or
6 trust, or other security interest that secures a resi-
7 dential mortgage loan that—

8 (A) will result in proceeds in an amount
9 that is less than the remaining amount due
10 under the mortgage loan; and

11 (B) requires authorization by the securiti-
12 zation vehicle or other investment vehicle or
13 holder of the mortgage loan, or the servicer act-
14 ing on behalf of such a vehicle or holder.

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