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113TH CONGRESS
1ST SESSION

H. R. 839

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 HOUSE OF REPRESENTATIVES

FEBRUARY 26, 2013

Mr. ROONEY (for himself and Mr. ANDREWS) introduced the following bill; which was referred to the Committee on Financial Services

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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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Prompt Notification of Short Sales Act''.

SEC. 2. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

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

(b) SECURITIZATION VEHICLE.—The term ''securitization vehicle'' means a trust, special purpose entity, or other legal structure that is used to facilitate the issuing of securities, participation certificates, or similar instruments backed by or referring to a pool of assets that includes residential mortgage loans (or instruments that are related to residential mortgage loans, such as credit-linked notes).

(c) SERVICER.—The term ''servicer'' has the same meaning as in section 129A of the Truth in Lending Act (15 U.S.C. 1639a), except that such term includes a person who makes or holds a residential mortgage loan (including a pool of residential mortgage loans), if such person also services the loan.

(d) SHORT SALE.—The term ''short sale'' means the sale of the dwelling or residential real property that is subject to the mortgage, deed or trust, or other security interest that secures a residential mortgage loan that—

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

(2) requires authorization by the securitization vehicle or other investment vehicle or holder of the mortgage loan, or the servicer acting on behalf of such a vehicle or holder.

SEC. 3. PROMPT NOTIFICATIONS AND DECISION REGARDING SHORT SALE.

(a) REQUIREMENT FOR PROMPT NOTIFICATIONS, DECISIONS.—

(1) NOTIFICATIONS.—

(A) IN GENERAL.—Each servicer shall provide in writing to a mortgagor of a residential mortgage loan—

(i) an acknowledgment of receipt of a written request of the mortgagor, not later than 3 days after the date of such receipt;

(ii) a notice of any missing or incomplete information required with respect to such request, not later than 5 days after the date of such receipt; and

(iii) a definitive response to such request approving or denying such request, not later than 30 days after the date of such receipt.

(B) EXCEPTIONAL CIRCUMSTANCES.—In any case in which a servicer is unable to provide a decision with respect to a written request of a mortgagor of a residential mortgage loan during the 30-day period required by subparagraph (A), such period may be extended to not later than 60 days after the date of receipt of a completed application, except that the servicer shall, verbally or in writing—

(i) notify the mortgagor during the initial 30-day period that the application is still under review; and

(ii) each week thereafter provide to the mortgagor a status update indicating the reasons why a decision is pending beyond the required 30-day period.

(C) APPLICABILITY.—Subparagraph (A) shall apply, except as provided in subsection (b), and notwithstanding any other provision of law or of any contract, including a contract between a servicer of a residential mortgage loan and a securitization vehicle or other investment vehicle.

(D) CONTENT.—A written response by a servicer under subparagraph (A) shall specify a decision on whether such request has been denied, approved, or that such request has been approved subject to specified changes.

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

(A) a written offer for a short sale of the dwelling or residential real property that is subject to the mortgage, deed of trust, or other security interest that secures the mortgage loan; and

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

(3) CIVIL ACTIONS AUTHORIZED.—An aggrieved individual may bring an action in a court of competent jurisdiction, asserting a violation of this

Act. Aggrieved individuals may be awarded all appropriate relief, including equitable relief, and a monetary award of $1,000 per violation, plus reasonable attorneys' fees, or such higher amount as may be appropriate in the case of an established pattern or practice of such failures.

(b) INAPPLICABILITY TO CERTAIN EXISTING MORTGAGES.—Subsection (a) shall not apply with respect to any residential mortgage with respect to which the mortgagor and the mortgagee or servicer have entered into a written agreement before the date of enactment of this Act explicitly providing a procedure or terms for approval of a short sale.

(c) TREATMENT OF OTHER TIME LIMITS.—This section may not be construed to preempt, annul, or otherwise affect any other provision of law or of any contract or program that provides a shorter period than is provided under subsection (a) for a decision by the servicer of a residential mortgage loan regarding a short sale of the dwelling or residential real property that is subject to the mortgage, deed or trust, or other security interest that secures the mortgage loan.

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