

114TH CONGRESS
1ST SESSION

H. R. 3203

To require prompt responses by mortgage owners of homes in foreclosure to short sale offers to purchase such homes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 23, 2015

Mr. HIGGINS introduced the following bill; which was referred to the
Committee on Financial Services

A BILL

To require prompt responses by mortgage owners of homes in foreclosure to short sale offers to purchase such homes, and for other purposes.

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 “Vacant Homes Act
5 of 2015”.

6 **SEC. 2. PROMPT RESPONSE REQUIRED.**

7 (a) BEFORE FORECLOSURE.—

8 (1) 90 DAYS PROVIDED TO RESPOND.—With re-
9 spect to a home in foreclosure, the mortgage owner
10 of such home who receives notice from the owner of

1 such home (or from such owner's designee) of a
2 qualified offer to buy such home in a short sale
3 shall, no later than 90 days after receipt of such no-
4 tice, provide a response to—

5 (A) such homeowner; and

6 (B) the person who made such offer.

7 (2) CERTIFICATION REQUIRED WHEN OWNER
8 IN IMMINENT DEFAULT.—If such home is a home in
9 foreclosure only because the owner is in imminent
10 default on a loan secured by a mortgage of such
11 home, a communication from such owner (or des-
12 ignee) to such mortgage owner does not constitute
13 “notice” under paragraph (1) unless such owner cer-
14 tifies in such notice that he or she is in imminent
15 default on such loan.

16 (3) CONTENTS OF RESPONSE.—A response de-
17 scribed under paragraph (1) shall—

18 (A) state that such mortgage owner ac-
19 cepts the offer; or

20 (B) state that such mortgage owner rejects
21 the offer and adequately provide a reason for
22 such rejection.

23 (4) SUFFICIENT RESPONSES.—A response de-
24 scribed under paragraph (1) which states that such

1 mortgage owner rejects the offer adequately provides
2 a reason for such rejection only if it provides—

3 (A) a counteroffer stating—

4 (i) an alternative price at which the
5 mortgage owner would approve the offer;
6 and

7 (ii) an economic analysis dem-
8 onstrating a reasonable expectation that,
9 within the 1-year period following the 90-
10 day period under subsection (a), the
11 home's fair market value will likely be
12 equal or greater than such alternative
13 price;

14 (B) proof that the home's title is encum-
15 bered such that the transfer of title proposed by
16 the offer is prohibited;

17 (C) proof that another mortgage owner of
18 the home prohibits its being the subject of a
19 short sale; or

20 (D) proof that an enforceable contract be-
21 tween the mortgage owner and another person
22 prohibits the mortgage owner from approving
23 the offer.

24 (b) AFTER FORECLOSURE.—

1 (1) 90 DAYS PROVIDED TO RESPOND.—With re-
2 spect to a foreclosed home, the owner of such home
3 (or a servicer acting on behalf of the owner) who re-
4 ceives a qualified offer to buy such home shall, no
5 later than 90 days after receipt of such offer, pro-
6 vide a response to the person who made such offer.

7 (2) CONTENTS OF RESPONSE.—A response de-
8 scribed under paragraph (1) shall—

9 (A) state that such owner or servicer ac-
10 cepts the offer; or

11 (B) state that such owner or servicer re-
12 jects the offer and adequately provide a reason
13 for such rejection.

14 (3) SUFFICIENT RESPONSES.—A response de-
15 scribed under paragraph (1) which states that such
16 mortgage owner rejects the offer adequately provides
17 a reason for such rejection only if it provides—

18 (A) a counteroffer stating—

19 (i) an alternative price at which the
20 mortgage owner would approve the offer;
21 and

22 (ii) an economic analysis dem-
23 onstrating a reasonable expectation that,
24 within the 1-year period following the 90-
25 day period under subsection (a), the

1 home's fair market value will likely be
2 equal or greater than such alternative
3 price; or

4 (B) proof that the home's title is encum-
5 bered such that the transfer of title proposed by
6 the offer is prohibited.

7 **SEC. 3. PRIVATE RIGHTS OF ACTION.**

8 (a) FOR HOMEOWNERS.—A homeowner who has pro-
9 vided a mortgage owner with notice of a qualified offer
10 under section 2(a) and does not within 90 days receive
11 the response required thereunder may bring a civil action
12 in the district court of the United States for the district
13 in which such home is located against an entity required
14 to provide such response.

15 (b) FOR OFFERORS.—A person who has made a
16 qualified offer to purchase a home in foreclosure or a fore-
17 closed home and does not receive a response within the
18 90-day period applicable under section 2(a) or 2(b) may
19 bring a civil action in the district court of the United
20 States for the district in which such home is located
21 against an entity required to provide such response.

22 (c) RELIEF.—The relief sought in a civil action under
23 subsection (a) or (b) may include an order requiring the
24 defendant to comply with section 2.

1 **SEC. 4. AUTHORITY GRANTED TO THE BUREAU OF CON-**
2 **SUMER FINANCIAL PROTECTION.**

3 (a) **ENFORCEMENT AUTHORITY.**—The Bureau of
4 Consumer Financial Protection may apply to the district
5 court of the United States for the district in which a home
6 in foreclosure or a foreclosed home is located for an order
7 requiring—

8 (1) the mortgage owner of such home in fore-
9 closure to comply with section 2, and for such other
10 relief as the court may deem appropriate to carry
11 out this Act; or

12 (2) the owner of such foreclosed home (or a
13 servicer acting on behalf of such owner) to comply
14 with section 2, and for such other relief as the court
15 may deem appropriate to carry out this Act.

16 (b) **RULEMAKING AUTHORITY.**—The Bureau of Con-
17 sumer Financial Protection shall have the power to make
18 such rules as may be necessary or appropriate to carry
19 out this Act.

20 **SEC. 5. DEFINITIONS.**

21 As used in this Act:

22 (a) **DWELLING; HOME.**—The terms “dwelling” and
23 “home” have the meaning given the term “dwelling”
24 under section 103 of the Truth in Lending Act (15 U.S.C.
25 1602).

1 (b) FORECLOSED HOME.—The term “foreclosed
2 home” means a dwelling whose owner obtained such dwell-
3 ing—

4 (1) by reason of the acceptance by such owner
5 (or by a servicer acting on behalf of such owner) of
6 a deed in lieu of foreclosure on a mortgage of that
7 dwelling; or

8 (2) by reason of foreclosure on a mortgage of
9 that dwelling by such owner (or by a servicer acting
10 on behalf of such owner).

11 (c) HOME IN FORECLOSURE.—The term “home in
12 foreclosure” means a dwelling—

13 (1) whose owner is in imminent default on a
14 loan secured by a mortgage of such dwelling;

15 (2) whose owner has defaulted on a loan se-
16 cured by a mortgage of such dwelling; or

17 (3) which is the subject of a foreclosure pro-
18 ceeding.

19 (d) IMMINENT DEFAULT.—The term “imminent de-
20 fault” with respect to a loan obligation means a situation
21 in which the obligor under such loan—

22 (1) is current, or delinquent by less than 30
23 days, on the obligation under such loan; and

24 (2) is experiencing a significant reduction in in-
25 come or other hardship that will severely limit his or

1 her ability to make the next required payment on
2 such loan.

3 (e) MORTGAGE.—The term “mortgage” includes a
4 deed of trust or other security interest in real property.

5 (f) MORTGAGE OWNER.—The term “mortgage
6 owner” with respect to a dwelling means—

7 (1) the mortgagee of such dwelling;

8 (2) the obligee of a loan secured by a mortgage
9 of such dwelling; or

10 (3) the servicer of a loan secured by a mortgage
11 of such dwelling.

12 (g) QUALIFIED OFFER.—

13 (1) IN GENERAL.—The term “qualified offer”
14 means an offer to buy a home for at least the lowest
15 of—

16 (A) half the assessed value of a home for
17 the purposes of State or local taxation; or

18 (B) half the value of a home as established
19 by a private appraisal.

20 (2) NO APPRAISAL OR ASSESSMENT.—If a home
21 that is the subject of an offer to buy has not been
22 assessed for tax purposes or by a private appraisal,
23 such offer shall be deemed to be a qualified offer if
24 it includes an offer to pay at least half the home’s
25 value as estimated for accounting purposes by—

1 (A) if it is a foreclosed home, its owner; or

2 (B) if it is a home in foreclosure, its mort-

3 gage owner.

4 (h) SERVICER.—The term “servicer” has the mean-

5 ing given such term under section 6(i)(2) of the Real Es-

6 tate Settlement Procedures Act of 1974 (12 U.S.C.

7 2605(i)(2)), and includes a person who was a servicer of

8 a loan secured by a dwelling before that dwelling became

9 a foreclosed home.

10 (i) SHORT SALE.—The term “short sale” means a

11 transaction—

12 (1) involving the sale of a dwelling that is the

13 subject of a mortgage securing a loan for less than

14 the amount of the outstanding obligation under such

15 loan; and

16 (2) in which the mortgage owner of such dwell-

17 ing—

18 (A) accepts the proceeds of such sale in

19 partial or complete satisfaction of such loan;

20 and

21 (B) releases the mortgage of such dwelling.

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