

114TH CONGRESS
1ST SESSION

H. R. 4182

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

DECEMBER 3, 2015

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

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. DEFINITIONS.**

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

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

10 (b) SECURITIZATION VEHICLE.—The term
11 “securitization vehicle” means a trust, special purpose en-
12 tity, or other legal structure that is used to facilitate the
13 issuing of securities, participation certificates, or similar
14 instruments backed by or referring to a pool of assets that
15 includes residential mortgage loans (or instruments that
16 are related to residential mortgage loans, such as credit-
17 linked notes).

18 (c) SERVICER.—The term “servicer” has the same
19 meaning as in section 129A of the Truth in Lending Act
20 (15 U.S.C. 1639a), except that such term includes a per-
21 son who makes or holds a residential mortgage loan (in-
22 cluding a pool of residential mortgage loans), if such per-
23 son also services the loan.

24 (d) SHORT SALE.—The term “short sale” means the
25 sale of the dwelling or residential real property that is sub-

1 ject to the mortgage, deed or trust, or other security inter-
2 est that secures a residential mortgage loan that—

3 (1) will result in proceeds in an amount that is
4 less than the remaining amount due under the mort-
5 gage loan; and

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

10 **SEC. 3. PROMPT NOTIFICATIONS AND DECISION REGARD-**
11 **ING SHORT SALE.**

12 (a) REQUIREMENT FOR PROMPT NOTIFICATIONS,
13 DECISIONS.—

14 (1) NOTIFICATIONS.—

15 (A) IN GENERAL.—Each servicer shall pro-
16 vide in writing to a mortgagor of a residential
17 mortgage loan—

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

21 (ii) a notice of any missing or incom-
22 plete information required with respect to
23 such request, not later than 5 days after
24 the date of such receipt; and

1 (iii) a definitive response to such re-
2 quest approving or denying such request,
3 not later than 30 days after the date of
4 such receipt.

5 (B) EXCEPTIONAL CIRCUMSTANCES.—In
6 any case in which a servicer is unable to provide
7 a decision with respect to a written request of
8 a mortgagor of a residential mortgage loan dur-
9 ing the 30-day period required by subparagraph
10 (A), such period may be extended to not later
11 than 60 days after the date of receipt of a com-
12 pleted application, except that the servicer shall,
13 verbally or in writing—

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

17 (ii) each week thereafter provide to
18 the mortgagor a status update indicating
19 the reasons why a decision is pending be-
20 yond the required 30-day period.

21 (C) APPLICABILITY.—Subparagraph (A)
22 shall apply, except as provided in subsection
23 (b), and notwithstanding any other provision of
24 law or of any contract, including a contract be-
25 tween a servicer of a residential mortgage loan

1 and a securitization vehicle or other investment
2 vehicle.

3 (D) CONTENT.—A written response by a
4 servicer under subparagraph (A) shall specify a
5 decision on whether such request has been de-
6 nied, approved, or that such request has been
7 approved subject to specified changes.

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

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

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

23 (3) CIVIL ACTIONS AUTHORIZED.—An ag-
24 grieved individual may bring an action in a court of
25 competent jurisdiction, asserting a violation of this

1 Act. Aggrieved individuals may be awarded all ap-
2 propriate relief, including equitable relief, and a
3 monetary award of \$1,000 per violation, plus reason-
4 able attorneys' fees, or such higher amount as may
5 be appropriate in the case of an established pattern
6 or practice of such failures.

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

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

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