

12 USC 5220: Assistance to homeowners

Text contains those laws in effect on June 18, 2018

From Title 12-BANKS AND BANKING

CHAPTER 52-EMERGENCY ECONOMIC STABILIZATION

SUBCHAPTER I-TRoubLED ASSETS RELIEF PROGRAM

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§5220. Assistance to homeowners**(a) Definitions**

As used in this section-

(1) the term "Federal property manager" means-

(A) the Federal Housing Finance Agency, in its capacity as conservator of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation;

(B) the Corporation, with respect to residential mortgage loans and mortgage-backed securities held by any bridge depository institution pursuant to section 1821(n) of this title; and

(C) the Board, with respect to any mortgage or mortgage-backed securities or pool of securities held, owned, or controlled by or on behalf of a Federal reserve bank, other than mortgages or securities held, owned, or controlled in connection with open market operations under sections 348a and 353 to 359 of this title,¹ or as collateral for an advance or discount that is not in default;

(2) the term "consumer" has the same meaning as in section 1602 of title 15;

(3) the term "insured depository institution" has the same meaning as in section 1813 of this title; and

(4) the term "servicer" has the same meaning as in section 2605(i)(2) of this title.

(b) Homeowner assistance by agencies**(1) In general**

To the extent that the Federal property manager holds, owns, or controls mortgages, mortgage backed ² securities, and other assets secured by residential real estate, including multifamily housing, the Federal property manager shall implement a plan that seeks to maximize assistance for homeowners and use its authority to encourage the servicers of the underlying mortgages, and considering net present value to the taxpayer, to take advantage of the HOPE for Homeowners Program under section 1715z-23 of this title or other available programs to minimize foreclosures.

(2) Modifications

In the case of a residential mortgage loan, modifications made under paragraph (1) may include-

(A) reduction in interest rates;

(B) reduction of loan principal; and

(C) other similar modifications.

(3) Tenant protections

In the case of mortgages on residential rental properties, modifications made under paragraph (1) shall ensure-

(A) the continuation of any existing Federal, State, and local rental subsidies and protections; and

(B) that modifications take into account the need for operating funds to maintain decent and safe conditions at the property.

(4) Timing

Each Federal property manager shall develop and begin implementation of the plan required by this subsection not later than 60 days after October 3, 2008.

(5) Reports to Congress

Each Federal property manager shall, 60 days after October 3, 2008, and every 30 days thereafter, report to Congress specific information on the number and types of loan modifications made and the number of actual

foreclosures occurring during the reporting period in accordance with this section.

(6) Consultation

In developing the plan required by this subsection, the Federal property managers shall consult with one another and, to the extent possible, utilize consistent approaches to implement the requirements of this subsection.

(c) Actions with respect to servicers

In any case in which a Federal property manager is not the owner of a residential mortgage loan, but holds an interest in obligations or pools of obligations secured by residential mortgage loans, the Federal property manager shall-

- (1) encourage implementation by the loan servicers of loan modifications developed under subsection (b); and
- (2) assist in facilitating any such modifications, to the extent possible.

(d) Limitation

The requirements of this section shall not supersede any other duty or requirement imposed on the Federal property managers under otherwise applicable law.

(Pub. L. 110-343, div. A, title I, §110, Oct. 3, 2008, 122 Stat. 3775 .)

REFERENCES IN TEXT

Sections 348a and 353 to 359 of this title, referred to in subsec. (a)(1)(C), was in the original a reference to "section 14 of the Federal Reserve Act (12 U.S.C. 353)". For classification of section 14 to the Code, see Codification note set out under section 353 of this title.

EFFECT OF FORECLOSURE ON PREEXISTING TENANCY

Pub. L. 111-22, div. A, title VII, §702, May 20, 2009, 123 Stat. 1660 , as amended by Pub. L. 111-203, title XIV, §1484(1), July 21, 2010, 124 Stat. 2204 , provided that:

"(a) IN GENERAL.-In the case of any foreclosure on a federally-related mortgage loan or on any dwelling or residential real property after the date of enactment of this title [May 20, 2009], any immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to-

"(1) the provision, by such successor in interest of a notice to vacate to any bona fide tenant at least 90 days before the effective date of such notice; and

"(2) the rights of any bona fide tenant-

"(A) under any bona fide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease, except that a successor in interest may terminate a lease effective on the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, subject to the receipt by the tenant of the 90 day notice under paragraph (1); or

"(B) without a lease or with a lease terminable at will under State law, subject to the receipt by the tenant of the 90 day notice under subsection (1),

except that nothing under this section shall affect the requirements for termination of any Federal- or State-subsidized tenancy or of any State or local law that provides longer time periods or other additional protections for tenants.

"(b) BONA FIDE LEASE OR TENANCY.-For purposes of this section, a lease or tenancy shall be considered bona fide only if-

"(1) the mortgagor or the child, spouse, or parent of the mortgagor under the contract is not the tenant;

"(2) the lease or tenancy was the result of an arms-length transaction; and

"(3) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property or the unit's rent is reduced or subsidized due to a Federal, State, or local subsidy.

"(c) DEFINITION.-For purposes of this section, the term 'federally-related mortgage loan' has the same meaning as in section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602). For purposes of this section, the date of a notice of foreclosure shall be deemed to be the date on which complete title to a property is transferred to a successor entity or person as a result of an order of a court or pursuant to provisions in a mortgage, deed of trust, or security deed."

[Section 704 of Pub. L. 111–22, as amended, formerly set out as a Termination Date of 2009 Amendment note under section 1437f of Title 42, The Public Health and Welfare, which provided that title VII of div. A of Pub. L. 111–22, and the amendments made such title, are repealed, and the requirements under such title terminated, effective Dec. 31, 2014, was repealed by Pub. L. 115–174, [title III, §304\(a\), \(c\), May 24, 2018](#), 132 Stat. 1339 , effective 30 days after May 24, 2018.]

[Section 702 of Pub. L. 111–22, provisions of law amended by such section, and any regulations promulgated pursuant to such section, as in effect on Dec. 30, 2014, restored and revived, see section 304(b) of Pub. L. 115–174, set out as a note under section 1437f of Title 42, The Public Health and Welfare.]

¹ See References in Text note below.

² So in original. Probably should be "mortgage-backed".