

PUBLIC LAW 111-22—MAY 20, 2009

**PREVENTING MORTGAGE FORECLOSURES
AND ENHANCING MORTGAGE CREDIT**

Public Law 111–22
111th Congress

An Act

May 20, 2009
[S. 896]

To prevent mortgage foreclosures and enhance mortgage credit availability.

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

Helping Families
Save Their
Homes Act of
2009.

**DIVISION A—PREVENTING MORTGAGE
FORECLOSURES**

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

12 USC 5201
note.

(a) **SHORT TITLE.**—This division may be cited as the “Helping Families Save Their Homes Act of 2009”.

(b) **TABLE OF CONTENTS.**—The table of contents of this division is the following:

Sec. 1. Short title; table of contents.

TITLE I—PREVENTION OF MORTGAGE FORECLOSURES

Sec. 101. Guaranteed rural housing loans.

Sec. 102. Modification of housing loans guaranteed by the Department of Veterans Affairs.

Sec. 103. Additional funding for HUD programs to assist individuals to better withstand the current mortgage crisis.

Sec. 104. Mortgage modification data collecting and reporting.

Sec. 105. Neighborhood Stabilization Program Refinements.

TITLE II—FORECLOSURE MITIGATION AND CREDIT AVAILABILITY

Sec. 201. Servicer safe harbor for mortgage loan modifications.

Sec. 202. Changes to HOPE for Homeowners Program.

Sec. 203. Requirements for FHA-approved mortgagees.

Sec. 204. Enhancement of liquidity and stability of insured depository institutions to ensure availability of credit and reduction of foreclosures.

Sec. 205. Application of GSE conforming loan limit to mortgages assisted with TARP funds.

Sec. 206. Mortgages on certain homes on leased land.

Sec. 207. Sense of Congress regarding mortgage revenue bond purchases.

TITLE III—MORTGAGE FRAUD TASK FORCE

Sec. 301. Sense of the Congress on establishment of a Nationwide Mortgage Fraud Task Force.

TITLE IV—FORECLOSURE MORATORIUM PROVISIONS

Sec. 401. Sense of the Congress on foreclosures.

Sec. 402. Public-Private Investment Program; Additional Appropriations for the Special Inspector General for the Troubled Asset Relief Program.

Sec. 403. Removal of requirement to liquidate warrants under the TARP.

Sec. 404. Notification of sale or transfer of mortgage loans.

TITLE V—FARM LOAN RESTRUCTURING

Sec. 501. Congressional Oversight Panel special report.

TITLE VI—ENHANCED OVERSIGHT OF THE TROUBLED ASSET RELIEF PROGRAM

Sec. 601. Enhanced oversight of the Troubled Asset Relief Program.

TITLE VII—PROTECTING TENANTS AT FORECLOSURE ACT

Sec. 701. Short title.
Sec. 702. Effect of foreclosure on preexisting tenancy.
Sec. 703. Effect of foreclosure on section 8 tenancies.
Sec. 704. Sunset.

TITLE VIII—COMPTROLLER GENERAL ADDITIONAL AUDIT AUTHORITIES

Sec. 801. Comptroller General additional audit authorities.

TITLE I—PREVENTION OF MORTGAGE FORECLOSURES

SEC. 101. GUARANTEED RURAL HOUSING LOANS.

(a) GUARANTEED RURAL HOUSING LOANS.—Section 502(h) of the Housing Act of 1949 (42 U.S.C. 1472(h)) is amended—

(1) by redesignating paragraphs (13) and (14) as paragraphs (16) and (17), respectively; and

(2) by inserting after paragraph (12) the following new paragraphs:

“(13) LOSS MITIGATION.—Upon default or imminent default of any mortgage guaranteed under this subsection, mortgagees shall engage in loss mitigation actions for the purpose of providing an alternative to foreclosure (including actions such as special forbearance, loan modification, pre-foreclosure sale, deed in lieu of foreclosure, as required, support for borrower housing counseling, subordinate lien resolution, and borrower relocation), as provided for by the Secretary.

“(14) PAYMENT OF PARTIAL CLAIMS AND MORTGAGE MODIFICATIONS.—The Secretary may authorize the modification of mortgages, and establish a program for payment of a partial claim to a mortgagee that agrees to apply the claim amount to payment of a mortgage on a 1- to 4-family residence, for mortgages that are in default or face imminent default, as defined by the Secretary. Any payment under such program directed to the mortgagee shall be made at the sole discretion of the Secretary and on terms and conditions acceptable to the Secretary, except that—

“(A) the amount of the partial claim payment shall be in an amount determined by the Secretary, and shall not exceed an amount equivalent to 30 percent of the unpaid principal balance of the mortgage and any costs that are approved by the Secretary;

“(B) the amount of the partial claim payment shall be applied first to any outstanding indebtedness on the mortgage, including any arrearage, but may also include principal reduction;

“(C) the mortgagor shall agree to repay the amount of the partial claim to the Secretary upon terms and conditions acceptable to the Secretary;

“(D) expenses related to a partial claim or modification are not to be charged to the borrower;

“(E) the Secretary may authorize compensation to the mortgagee for lost income on monthly mortgage payments due to interest rate reduction;

shall have access, upon request, to any information, data, schedules, books, accounts, financial records, reports, files, electronic communications, or other papers, things, or property belonging to or in use by the TARP, any entity established by the Secretary under this Act, any entity that is established by a Federal reserve bank and receives funding from the TARP, or any entity (other than a governmental unit) participating in a program established under the authority of this Act, and to the officers, employees, directors, independent public accountants, financial advisors and any and all other agents and representatives thereof, at such time as the Comptroller General may request.

“(ii) VERIFICATION.—The Comptroller General shall be afforded full facilities for verifying transactions with the balances or securities held by, among others, depositories, fiscal agents, and custodians.

“(iii) COPIES.—The Comptroller General may make and retain copies of such books, accounts, and other records as the Comptroller General determines appropriate.

“(D) AGREEMENT BY ENTITIES.—Each contract, term sheet, or other agreement between the Secretary or the TARP (or any TARP vehicle, officer, director, employee, independent public accountant, financial advisor, or other TARP agent or representative) and an entity (other than a governmental unit) participating in a program established under this Act shall provide for access by the Comptroller General in accordance with this section.

“(E) RESTRICTION ON PUBLIC DISCLOSURE.—

“(i) IN GENERAL.—The Comptroller General may not publicly disclose proprietary or trade secret information obtained under this section.

“(ii) EXCEPTION FOR CONGRESSIONAL COMMITTEES.—This subparagraph does not limit disclosures to congressional committees or members thereof having jurisdiction over a private or public entity referred to under subparagraph (C).

“(iii) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to alter or amend the prohibitions against the disclosure of trade secrets or other information prohibited by section 1905 of title 18, United States Code, section 714(c) of title 31, United States Code, or other applicable provisions of law.”.

TITLE VII—PROTECTING TENANTS AT FORECLOSURE ACT

Protecting
Tenants at
Foreclosure Act
of 2009.

12 USC 5201
note.

SEC. 701. SHORT TITLE.

This title may be cited as the “Protecting Tenants at Foreclosure Act of 2009”.

12 USC 5220
note.

SEC. 702. EFFECT OF FORECLOSURE ON PREEXISTING TENANCY.

(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, 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, as of the date of such notice of foreclosure—

(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).

SEC. 703. EFFECT OF FORECLOSURE ON SECTION 8 TENANCIES.

Section 8(o)(7) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(7)) is amended—

(1) by inserting before the semicolon in subparagraph (C) the following: “and in the case of an owner who is an immediate successor in interest pursuant to foreclosure during the term of the lease vacating the property prior to sale shall not constitute other good cause, except that the owner may terminate the tenancy effective on the date of transfer of the unit to the owner if the owner—

“(i) will occupy the unit as a primary residence;

and

“(ii) has provided the tenant a notice to vacate at least 90 days before the effective date of such notice.”; and

(2) by inserting at the end of subparagraph (F) the following: “In the case of any foreclosure on any federally-related mortgage loan (as that term is defined in section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602)) or on any residential real property in which a recipient of

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assistance under this subsection resides, the immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to the lease between the prior owner and the tenant and to the housing assistance payments contract between the prior owner and the public housing agency for the occupied unit, except that this provision and the provisions related to foreclosure in subparagraph (C) shall not shall not affect any State or local law that provides longer time periods or other additional protections for tenants.”.

12 USC 5201
note.
12 USC 5220
note.
42 USC 1437f
and note.

SEC. 704. SUNSET.

This title, and any amendments made by this title are repealed, and the requirements under this title shall terminate, on December 31, 2012.

**TITLE VIII—COMPTROLLER GENERAL
ADDITIONAL AUDIT AUTHORITIES**

SEC. 801. COMPTROLLER GENERAL ADDITIONAL AUDIT AUTHORITIES.

(a) BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.—Section 714 of title 31, United States Code, is amended—

(1) in subsection (a), by striking “Federal Reserve Board,” and inserting “Board of Governors of the Federal Reserve System (in this section referred to as the ‘Board’),”; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking “Federal Reserve Board,” and inserting “Board”; and

(B) in paragraph (4), by striking “of Governors”.

(b) CONFIDENTIAL INFORMATION.—Section 714(c) of title 31, United States Code, is amended by striking paragraph (3) and inserting the following:

“(3) Except as provided under paragraph (4), an officer or employee of the Government Accountability Office may not disclose to any person outside the Government Accountability Office information obtained in audits or examinations conducted under subsection (e) and maintained as confidential by the Board or the Federal reserve banks.

“(4) This subsection shall not—

“(A) authorize an officer or employee of an agency to withhold information from any committee or subcommittee of jurisdiction of Congress, or any member of such committee or subcommittee; or

“(B) limit any disclosure by the Government Accountability Office to any committee or subcommittee of jurisdiction of Congress, or any member of such committee or subcommittee.”.

(c) ACCESS TO RECORDS.—Section 714(d) of title 31, United States Code, is amended—

(1) in paragraph (1), by inserting “The Comptroller General shall have access to the officers, employees, contractors, and other agents and representatives of an agency and any entity established by an agency at any reasonable time as the Comptroller General may request. The Comptroller General may make and retain copies of such books, accounts, and other records as the Comptroller General determines appropriate.” after the first sentence;

“Sec. 492. Use of FHMA inventory for transitional housing for homeless persons and for turnkey housing.”.

Approved May 20, 2009.

LEGISLATIVE HISTORY—S. 896 (H.R. 1106):

CONGRESSIONAL RECORD, Vol. 155 (2009):

Apr. 30, May 1, 4–6, considered and passed Senate.

May 19, considered and passed House, amended. Senate concurred in House amendment.

DAILY COMPILATION OF PRESIDENTIAL DOCUMENTS (2009):

May 20, Presidential remarks.

