

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 11-201—sHB 6351

Banks Committee

Judiciary Committee

AN ACT CONCERNING FORECLOSURE MEDIATION AND ASSISTANCE PROGRAMS, THE HIGHLY COMPENSATED EMPLOYEE EXEMPTION FOR MORTGAGE LOAN ORIGINATORS, GENERAL-USE PREPAID CARDS AND NEIGHBORHOOD PROTECTION

SUMMARY: This act makes changes in several programs and laws related to foreclosure as well as other banking- and housing-related issues.

It makes various changes in the judicial branch's foreclosure mediation program, including (1) extending the program's sunset date by two years, until July 1, 2014, for foreclosure actions with return dates on or after July 1, 2009; (2) extending the program to properties owned by religious organizations; (3) generally prohibiting the parties from making motions, other than those related to the mediation, for the eight months following the return date; and (4) increasing documentation requirements.

The act creates a task force to study the Connecticut Housing Finance Authority's (CHFA) loss mitigation programs.

It excludes from the state's overtime pay requirements mortgage loan originators designated as highly compensated employees under federal regulations, other than originators who work solely from an employer's office.

The act codifies into state law the federal Protecting Tenants at Foreclosure Act, with a sunset date of December 31, 2017, that extends its protections beyond the federal act's December 31, 2014 expiration.

The act prohibits a general-use prepaid card from including an expiration date for the underlying funds redeemable through its use, but it allows an expiration date for the card itself if certain requirements are met. It also explicitly excludes general-use prepaid cards from the definition of "gift certificate," but it applies to them the same prohibition on inactivity charges, fees, or penalties and exemption from state escheat provisions as apply to gift certificates.

In 2009, the legislature created a registration system for tracking the owners of uninhabited one-to-four family residential property obtained through foreclosure. The act establishes a new registration requirement that applies to a broader class of buildings when the foreclosure process begins, and expands the scope of the existing registration requirement. It provides civil penalties for violations. It also makes other changes to the mechanics of the registration process.

The act also makes minor, technical, and conforming changes.

EFFECTIVE DATE: Various, see below.

§§ 1-4 — FORECLOSURE MEDIATION PROGRAM

Extension of Program Sunset Date

The act extends the judicial foreclosure mediation program by two years, until July 1, 2014, for foreclosure actions with return dates on or after July 1, 2009.

Extension to Religious Organizations

The act extends the foreclosure mediation program to religious organizations that own real property, starting with foreclosures with return dates on or after October 1, 2011. It defines “religious organizations” as organizations that meet the religious purposes test for tax exemption under the Internal Revenue Code. To be eligible for the program, as is the case with existing requirements for residential owners, the religious organization must be the borrower on a mortgage encumbering a property located in Connecticut. Existing law requires the loan that is the subject of the foreclosure action to be primarily for personal, family, or household purposes. The act specifies that the loan may also be primarily for religious purposes.

As under existing law, the mediation must address all issues of foreclosure and be conducted by trained Judicial Department employees.

Changes to Mediation Process: Actions with Return Dates on or After July 1, 2009

Except as specified below, the following changes apply to residential foreclosures with return dates on or after July 1, 2009 and foreclosures of properties owned by religious organizations with return dates on or after October 1, 2011.

Mediation Information Form and Other Documents. By law, when bringing a foreclosure action, the mortgagee (i.e., the original lender or servicer, or successor or assignee) must provide the mortgagor (i.e., the borrower) with a (1) notice of foreclosure mediation, (2) foreclosure mediation certificate form, and (3) blank appearance form. The act adds to the required documents that a mortgagee must provide a residential mortgagor for foreclosures with return dates on or after October 1, 2011. For such foreclosure actions, the act requires mortgagees to provide the mortgagor with a (1) mediation information form and (2) notice containing contact information for consumer credit counseling agencies that CHFA approves. As is the case with the documents required by existing law as described above, these must be attached to the front of the foreclosure writ, summons, and complaint and must be in a chief court administrator-prescribed form.

The act requires that the mediation information form be designed to elicit current financial information and other nonfinancial information from the mortgagor that will be useful in mediation, as the chief court administrator determines in consultation with banking industry representatives and consumer advocates. The form’s instructions must explain that the completed form, plus any accompanying documents reasonably requested in the instructions, must be delivered to the mortgagee’s counsel within 15 business days before the first

OLR PUBLIC ACT SUMMARY

mediation session. The act specifies that the mediation information form and accompanying documentation may not be made public unless the mortgagor explicitly agrees in writing.

By law, the court must issue a notice of foreclosure mediation to the mortgagor within three business days of the mortgagee returning the writ to the court. Under the act, the notice must remind the mortgagor to deliver the completed mediation information form and the accompanying documents. The notice must also encourage the mortgagor to deliver the form and accompanying documents earlier than the law requires.

The act requires the notice to be accompanied by chief court administrator-prescribed materials from the Banking Department, which describe community-based resources available to the mortgagor. These resources must include CHFA-approved housing counseling agencies that may help the mortgagor (1) prepare the mediation information form and (2) apply for mortgage assistance programs.

First Mediation Session. The act provides that, on or after October 1, 2011, the first mediation session must be held within 35 calendar days, rather than 15 business days, of the court sending the notice to each appearing party scheduling the first mediation session.

Account History and Contact Information. Under the act, on and after October 1, 2011, the mortgagee must deliver to the mortgagor an account history identifying all credits and debits assessed to the mortgagor's loan account in the immediately preceding 12 months. The mortgagee must do so at least 15 business days before the first session.

During this same time period, the mortgagee must also provide the mortgagor with specified contact information for an individual able to process requests to refinance or modify the mortgage or take other action to avoid foreclosure. The required contact information is the person's name, business mailing address, electronic mail address, facsimile number, and direct telephone number. The act requires mortgagees, with reasonable promptness, to provide the mortgagors and their counsel with updates to this contact information.

Prohibition on Motions and Judgments. Under existing law, when the mediation period is required and available, a court cannot enter a judgment of strict foreclosure or foreclosure by sale until the mediation period has expired or otherwise ends, whichever is earlier. The act extends this restriction to 15 days after the mediation period has ended, if it ends fewer than eight months after the action's return date.

The act further limits what can transpire during the litigation for a period up to eight months from the return date. During this period, the parties cannot make a motion, request, or demand with respect to each other, other than those relating to the mediation. This restriction does not apply to a mortgagor's motion to dismiss that challenges the court's jurisdiction, or to a mortgagee's response to such a motion. Under the act, if the mortgagor makes any other type of motion, request, or demand with respect to the mortgagee within the eight-month period, the restriction no longer applies to either party. These provisions do not affect any motions made, or defaults or judgments entered, on or before June 30, 2011.

Under the act, in foreclosure actions with return dates on or after July 1, 2011,

OLR PUBLIC ACT SUMMARY

after the eight-month or 15-day periods described above, mortgagees may simultaneously file (1) a motion for default and (2) a motion for judgment of strict foreclosure or foreclosure by sale with respect to the mortgagor. This applies despite any contrary law.

Failure Regarding Documents. Under the act, either party's failure to comply with any of the law's documentation requirements for the foreclosure mediation program is not grounds for ending the mediation period before a second session has been conducted.

Changes to Mediation Process: All Eligible Actions

The following changes apply to all foreclosure actions eligible for the mediation program, i.e., residential foreclosures with return dates on or after July 1, 2008 and foreclosures of properties owned by religious organizations with return dates on or after October 1, 2011.

Parties' Appearance at Mediation. By law, the mortgagor and mortgagee must appear in person at each mediation session and must have authority to agree to a proposed settlement. Prior law allowed the mortgagee's attorney to appear instead if he or she had the authority to agree to a proposed settlement and the mortgagee was available by telephone. The act adds the requirement that the mortgagee also be available to participate in the mediation session by speakerphone. In addition, it provides that, when a mortgagee's attorney appears instead of the mortgagee, there must be an opportunity for the mortgagee and his or her counsel to engage in confidential discussions.

The act provides that, when there are multiple mortgagors, only one must appear at mediation sessions after the first unless there is good cause for all to appear. If only one mortgagor appears, the others must be available during the session to participate by speakerphone, and there must be an opportunity for the mortgagors and their attorney to engage in confidential discussions.

By law, a court may not award attorney's fees to a mortgagee for time spent in a mediation session if it does not comply with the requirements for personal or attorney appearance described above, unless the court finds reasonable cause for the failure.

Referral to CHFA Mortgage Assistance Programs. By law, the mediator can refer the mortgagor to certain CHFA mortgage assistance programs at any time during the mediation. Under the act, this applies only to residential mortgagors, not religious organizations.

EFFECTIVE DATE: July 1, 2011, except a conforming change is effective October 1, 2011.

§ 5 — TASK FORCE ON CHFA LOSS MITIGATION PROGRAMS

The act establishes a task force to review and evaluate the loss mitigation programs that CHFA administers. The members are the following, or their designees:

1. the governor,
2. the six legislative leaders,

OLR PUBLIC ACT SUMMARY

3. the chairpersons of the Banks and Housing committees,
4. the banking commissioner, and
5. CHFA's chief housing officer.

The task force must elect a chairperson from among its members. The chairperson must schedule the first meeting, which must be within 60 days of the act's passage. The act requires the Banks Committee's administrative staff to also serve in that capacity for the task force.

The act requires the task force to submit a report on its findings and recommendations by January 1, 2012 to the Banks Committee. The task force terminates when it submits its report or on January 1, 2012, whichever is later.

EFFECTIVE DATE: Upon passage

§ 6 — MORTGAGE LOAN ORIGINATORS – EXCLUSION FROM OVERTIME REQUIREMENTS

The act excludes from the state's overtime pay requirements (time and one-half after 40 hours a week) mortgage loan originators considered to be highly compensated employees under federal regulations, except for people who perform the functions of an originator solely from their employer's office. It specifies that, for this purpose, an originator's home office is not considered an employer's office. The act applies the banking statute's existing definition of mortgage loan originator (see BACKGROUND).

Under federal regulations, someone with total annual compensation of at least \$100,000, whose primary duty includes office or non-manual work, and who customarily and regularly performs exempt duties or responsibilities of an executive, administrative, or professional employee as identified by regulation, is exempt from the minimum wage and overtime pay requirements of the federal Fair Labor Standards Act (29 C.F.R. § 541.601). The act provides that starting on October 1, 2012, the total annual compensation of a mortgage loan originator for the purpose of determining whether the person meets this compensation threshold must be increased annually, effective each October 1. The increase must be based on the annual percentage increase in the average weekly earnings of all workers as the labor commissioner determines under law.

EFFECTIVE DATE: Upon passage

§§ 7-8 — PROTECTIONS FOR TENANTS OF FORECLOSED HOMES

The act provides protections for certain tenants of foreclosed homes. These provisions are nearly identical to those in the federal Protecting Tenants at Foreclosure Act (P.L. 111-22, Title VII). The federal act expires on December 31, 2014 but this act's provisions regarding tenants of foreclosed homes will sunset on December 31, 2017.

Tenants of Foreclosed Homes

The following provisions apply to foreclosures with return dates on or after the act's passage through December 31, 2017. The foreclosure must be on a federally related mortgage loan or on any dwelling or residential property. Under

OLR PUBLIC ACT SUMMARY

the act, a “federally related mortgage loan” has the same meaning as in the federal Real Estate Settlement Procedures Act (see BACKGROUND).

Under the act, an immediate successor in interest to any such foreclosed property takes the property subject to the rights of bona fide tenants, as specified below, as of the date absolute title vests in the successor in interest. A successor in interest must provide tenants with a notice to vacate 90 days before the notice is effective.

Under the act, tenants with a lease entered into before absolute title vests in the successor must generally be allowed to remain until the end of the lease term. But despite a lease, tenants can be evicted on 90 days’ notice as provided above if (1) the successor in interest sells the unit to a buyer who will occupy it as his or her primary residence or (2) the lease was terminable at will. Tenants who did not have leases can also be evicted on 90 days’ notice.

These protections apply only to “bona fide” leases or tenancies, which are those (1) in which the mortgagor or the mortgagor’s child, spouse, or parent is not the tenant; (2) that were the result of an arms-length transaction; and (3) that require rent that (a) is not substantially less than fair market rent for the property or (b) is reduced or subsidized due to a federal, state, or local subsidy.

The act provides that these provisions do not affect (1) the termination requirements for any federal- or state-subsidized tenancy (see below for changes regarding Section 8 tenants) or (2) any state or local laws that provide tenants with longer time periods or additional protections.

The act specifies that for these purposes, the date of a notice of foreclosure is considered to be the date when complete title to a property is transferred to a successor entity or person under a court order or under the provisions in a mortgage, deed of trust, or security deed.

Section 8 Tenants

The act also provides greater protections for tenants who are receiving assistance under the federal Housing Choice Voucher Program (i.e., Section 8 tenants).

The act limits the circumstances in which an owner who is an immediate successor in interest to a property following foreclosure may terminate the lease of a Section 8 tenant. On or before December 31, 2017, the act allows the owner to terminate the tenancy on the date of taking ownership, if the owner (1) will occupy the unit as his or her primary residence and (2) has provided the tenant a notice to vacate at least 90 days before its effective date. Otherwise, vacating the property before sale cannot be considered good cause for terminating the tenant’s lease.

Under the act, on or before December 31, 2017, for foreclosures involving federally related mortgage loans (as specified above) or any residential property occupied by a Section 8 tenant, the immediate successor in interest takes the property subject to the (1) lease between the tenant and prior owner and (2) housing assistance payments contract between the prior owner and the public housing agency that administers the program.

The act provides that these provisions related to section 8 tenants do not affect

OLR PUBLIC ACT SUMMARY

any state or local law that provide tenants with longer time periods or other protections.

EFFECTIVE DATE: Upon passage

§§ 9-12 — GENERAL-USE PREPAID CARDS

Definition

The act specifically excludes general-use prepaid cards from the definition of gift certificate. A “general-use prepaid card” is a card, code, or other device issued to a consumer in exchange for payment, on a prepaid basis and in a specific amount, primarily for personal, family, or household purposes. It is redeemable when presented at multiple, unaffiliated merchants for goods or services, and can be used at automated teller machines.

By law, a “gift certificate” is a record evidencing a promise, made for consideration, by the seller or issuer of the certificate that goods or services will be provided to the certificate’s owner to the value shown in the certificate. It includes (1) a prefunded record containing a microprocessor chip, magnetic stripe, or other means to store information and for which an amount is deducted from the stored value upon each use; (2) a gift card or electronic gift card; and (3) a stored-value card or certificate, among others. It does not include prepaid calling cards or prepaid commercial mobile radio services (CGS § 3-56a(5)).

Existing law prohibits gift certificates from having a dormancy, abandoned property, unclaimed property, escheat, or inactivity fee or charge or any similar charge, fee, or penalty for inactivity. Language on them or in any agreement relating to them suggesting that there is a charge, fee, or penalty for inactivity, is also prohibited. Gift certificates are exempt from state escheat provisions. The act explicitly applies these fee, charge, and penalty prohibitions and the escheat exemption to general-use prepaid cards.

Expiration Date Requirements

Under the act, a general-use prepaid card itself can include an expiration date if it provides the following information:

1. that the underlying funds do not expire and a consumer can obtain a replacement card from the issuer and
2. a toll-free telephone number and an Internet website address, if one is available, that a card holder can use to replace it after it expires.

This information must be in writing. An issuer can satisfy this disclosure requirement by providing disclosures consistent with federal regulation (see BACKGROUND). The disclosure that the underlying funds do not expire and that a replacement general-use prepaid card can be obtained must be made with equal prominence and near the expiration date on the card.

The act also prohibits a general-use prepaid card from including an expiration date if a fee or charge is imposed on the holder for replacing it or providing the holder with its remaining balance, so long as it has not been lost or stolen. It requires the seller of a card with an expiration date to have policies and procedures that give consumers a reasonable opportunity to purchase a card with

at least five years remaining until it expires.
EFFECTIVE DATE: October 1, 2011

§§ 13-15 — REGISTRATION REQUIREMENTS FOR FORECLOSURES

Properties Subject to Registration Requirement

The act expands the scope of the requirement that foreclosed properties be registered. Under prior law, the registration requirement applied only to vacant, one-to-four family residential properties. The act requires registration of both vacant and occupied properties. It requires registration of all buildings containing at least one dwelling unit, including commercial buildings, when such properties are in foreclosure or someone takes title to them after foreclosure, as explained below. Under the act, a dwelling unit is a house, building, or portion of either that is occupied or designed to be occupied, or is rented, leased, or hired out to be occupied, exclusively as a home or residence for at least one person. The act exempts from the registration requirement foreclosures that were in process before its effective date.

The act excludes properties from registration when the mortgage being foreclosed is held by an individual. It also specifies that any individual or entity, including a government entity, that meets the act’s requirements must register subject properties.

Registration Requirement

Registration by Plaintiffs in Foreclosure Action. The act also requires that registration occur earlier in the foreclosure process. Prior law required registration after a person took title to the foreclosed property. The act additionally requires registration by people or entities who, on or after October 1, 2011, bring a foreclosure action concerning a subject property. The required registration information at this stage is generally similar to that required under prior law and the act for registration by those who take title to foreclosed properties (see below).

Anyone subject to this requirement must register the property with the town clerk in the municipality where the property is located. They must do so at the time and place that the notice of *lis pendens* regarding the property is recorded, according to the law’s requirements for such a notice. The act specifies that the municipality must maintain the registration separate from the land records.

The act requires the registration to contain the name, address, telephone number, and electronic mail address (“contact information”) of the plaintiff in the foreclosure action. Plaintiffs must indicate on the registration whether they prefer to be contacted by first class or electronic mail and the preferred addresses for such communications. If the plaintiff is an individual or entity residing out of state, it must provide contact information for a direct contact in Connecticut, if such a contact is available.

The act requires plaintiffs to also provide contact information for the local property maintenance company or other person or entity serving as the plaintiff’s contact with the municipality for matters concerning the property. The registration must contain the following heading, in at least 10-point, boldface capital letters:

OLR PUBLIC ACT SUMMARY

NOTICE TO MUNICIPALITY: REGISTRATION OF PROPERTY BEING FORECLOSED.

Under the act, plaintiffs must report to the town clerk any change in the information provided on the registration within 30 days following the change. They may do so by mail or other delivery form. The act requires plaintiffs, when registering, to pay a land record filing fee to the municipality as specified in law. The land record filing fee is generally \$53 for the first page and \$5 for each additional page (see Related Acts).

Registration by Owners After Title Vests. Prior law required anyone in whom title to a subject property vested after October 1, 2009 through a foreclosure action (whether strict foreclosure or foreclosure by sale), to register the property with the town clerk of the municipality where the property is located or with the Mortgage Electronic Registration Systems (MERS), an online system the real estate finance industry created for originating, selling, and servicing rights.

The act modifies the registration requirement for anyone taking title to such a property following foreclosure on or after October 1, 2011. Under the act, registration must be with the municipality, not MERS. The registration must be mailed or delivered to the town clerk. Under prior law, the registration deadline depended on when the property became vacant. The act instead requires registration within 15 days of absolute title vesting in the person.

Under the act, if the registering owner was also the plaintiff in the foreclosure action, rather than registering anew, the person must update its prior registration with any change needed to comply with the act's requirements for other registrants who take title to foreclosed property, as specified below. This update must occur within 15 days of absolute title vesting in the person. The updated registration must include, in at least 10-point boldface capital letters, the following heading: NOTICE TO MUNICIPALITY: UPDATED REGISTRATION FOR PROPERTY ACQUIRED THROUGH FORECLOSURE.

Under prior law, a corporation or individual residing out of state who registered with a municipality rather than MERS had to provide contact information for a direct contact in Connecticut. The act extends this requirement to any out-of-state registrant (not just individuals or corporations), as long as an in-state direct contact is available. As under prior law, the act requires registrants to provide their own contact information.

Prior law required registrants to also provide contact information for the local property maintenance company responsible for the property's security and maintenance (or maintenance only if registration was with MERS), if there was one. The act also requires such information, and specifies that the responsible person or entity need not be a property maintenance company. The registration must indicate the date when absolute title vested in the registrant. It must also contain the following heading, in the same form as the headings described above: NOTICE TO MUNICIPALITY: REGISTRATION OF PROPERTY ACQUIRED THROUGH FORECLOSURE.

Prior law required those who registered with a municipality, but not with MERS, to pay a \$100 fee to the municipality. The act instead requires all

OLR PUBLIC ACT SUMMARY

registrants (including those who were plaintiffs in the foreclosure action and are updating their prior registration) to pay to the municipality a land record filing fee as specified by law.

The act also requires registrants, by mail or other delivery form, to report to the town clerk any change in registration information within 30 days of the change. Prior law required those who registered with municipalities to update their information within 10 days.

Prior law required those registering with municipalities to indicate their preferred contact method and address. The act eliminates this requirement, but as described above, it imposes the requirement on registering plaintiffs to foreclosure actions.

Violation Notices

Under prior law, if a registrant violated any state law or municipal ordinance on the repair or maintenance of real estate, the municipality could issue a notice citing the violating conditions. The act permits a municipality to issue such a violation notice only for registrations after title has vested following foreclosure, including updated registrations by those who previously registered as plaintiffs, as specified above.

By law, violation notices must be sent by first class or electronic mail, or both, to the registrant. Prior law also required a copy of the notice to be sent by first class or electronic mail to the local property maintenance company, if one was identified on the registration. The act instead requires a copy to be sent to the property maintenance company or other person or entity designated on the registration as responsible for the property's security and maintenance. By law, the notice must also meet the same standards as notices to remedy a health, housing, or safety code violation (i.e., notice must be sent to the lienholder).

Prior law required the notice to provide a date by which the registrant could remedy the conditions in question. The act instead requires a date by which the registrant must do so. By law, the date must be reasonable under the circumstances. Prior law also provided that if the registrant or property maintenance company failed to remedy the violating conditions, the municipality could enforce its rights under the relevant statute or ordinance. The act deletes this specific reference to property maintenance company and allows the municipality to enforce its rights if the registrant, or its contact or agent, fails to remedy the violation.

Restriction on Other Registration Requirements

By law, municipalities may not impose additional registration requirements for foreclosed properties unless they were in effect before the passage of PA 09-144 (the act that instituted the registration requirements that this act amends). This act specifies that this prohibition applies in the same manner regarding other requirements for plaintiffs in foreclosure actions whom the act requires to register.

Civil Penalties

The act provides civil penalties for anyone who fails to register as it requires.

OLR PUBLIC ACT SUMMARY

For foreclosing plaintiffs, the penalty is \$100 per violation, up to a maximum of \$5,000. For those who take title to foreclosed properties and who fail to register within 30 days of absolute title vesting in them, the penalty is \$250 per violation, up to a maximum of \$25,000. In either case, the act specifies that each property for which someone fails to register is a separate violation. The act permits authorized municipal officials to bring a civil action to collect the penalties, which are payable to the municipality's treasurer.

The act specifies that these penalties do not create or constitute a lien against the property. It also provides that registration by a foreclosing party, or such a party's failure to register, does not imply or create any legal obligation on that party to repair, maintain, or secure the property before that party takes title to it.

Municipal Authority to Recover Expenses

By law, municipalities may recover from a property owner expenses incurred for the inspection, repair, demolition, maintenance, removal, or other disposition of real estate to secure the property, make it safe and sanitary, or remedy a blighted condition. Municipalities may place a lien on the owner's interest in the real estate or on an insurance policy covering the real estate, but the law limits the insurance provisions to property other than single- or two-family dwellings. Under prior law, the limitation did not apply to vacant residential properties subject to the registration requirements for foreclosed properties. The act deletes the requirement that the properties be vacant in order for the limitation not to apply.

EFFECTIVE DATE: October 1, 2011

BACKGROUND

Mortgage Loan Originators

The banking law defines "mortgage loan originator" as an individual who takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan, for or with the expectation of compensation or gain. The law specifically excludes:

1. an individual engaged solely as a loan processor or underwriter, except those acting as independent contractors (PA 11-216 (§ 8), effective October 1, 2011, deletes the exception for independent contractors);
2. a person who only performs real estate brokerage activities and is licensed under the statutes governing real estate brokers and salespersons, unless the person is paid by a mortgage lender, correspondent lender, broker, or other originator or by an agent of any such people;
3. a person solely involved in extensions of credit relating to timeshare plans; or
4. any individual who only renegotiates terms for existing mortgages and does not otherwise act as an originator, unless the U.S. Department of Housing and Urban Development (HUD) or a court of competent jurisdiction determines the individual needs to be licensed under the federal S.A.F.E. Act (PA 11-110 (§ 3), effective July 21, 2011, adds to this

OLR PUBLIC ACT SUMMARY

someone whom the federal Bureau of Consumer Financial Protection determines needs to be licensed under the S.A.F.E. Act. PA 11-216 (§ 8), effective October 1, 2011, adds the requirement that the person renegotiating terms for existing mortgages does so on a mortgagee's behalf.) (CGS § 36a-485(15)).

Related Federal Law

Federally Related Mortgage Loan Under RESPA. Under the federal Real Estate Settlement Procedures Act (RESPA) (12 U.S.C. § 2602), a “federally related mortgage loan” includes any loan, other than temporary financing such as a construction loan, that is secured by a first or subordinate lien on residential property (including units of condominiums and cooperatives) designed principally for one-to-four family occupancy, including any such secured loan, the proceeds of which are used to prepay or pay off an existing loan secured by the same property. The loan must also:

1. be made in whole or part by any lender (a) whose deposits or accounts are insured by a federal agency or (b) that is federally regulated;
2. be made in whole or part, or insured, guaranteed, supplemented, or assisted in any way, by the HUD secretary or any other federal officer or agency, or under or in connection with a housing or urban development program administered by the HUD secretary or a housing or related program administered by any other federal officer or agency;
3. be intended to be sold by the originating lender to the Federal National Mortgage Association (Fannie Mae), the Government National Mortgage Association (Ginnie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), or a financial institution from which it is to be purchased by Freddie Mac; or
4. be made in whole or part by any creditor, as defined in federal law regarding consumer credit disclosure, who makes or invests in residential real estate loans totaling more than \$1 million annually, excluding any state agency or instrumentality.

General-Use Prepaid Cards. Federal regulations establish disclosure requirements for selling or issuing a general-use prepaid card with an expiration date (12 C.F.R. § 205.20). In general, they require:

1. an expiration date for underlying funds or a statement that the underlying funds do not expire;
2. a toll-free number and website address, if one is maintained, that a consumer can use to obtain a replacement card after it expires if underlying funds are available; and
3. a statement that (a) the card expires but the underlying funds do not or expire later than the card itself and (b) the consumer can contact the issuer for a replacement card.

These disclosures must be provided on the card.

Related Acts

OLR PUBLIC ACT SUMMARY

PA 11-48 (§§ 133-135) makes permanent a \$10 increase in the fee people pay to town clerks when filing documents in land records, and rearranges the distribution formula for the fee proceeds.

PA 11-51 (§§ 31-32) also extends the judicial foreclosure mediation program by two years, until July 1, 2014, for foreclosure actions with return dates on or after July 1, 2009.

OLR Tracking: JO:KM:JL:ro/ts