

SB 1150 (Leno- Galgiani)

As Introduced February 18, 2016

Homeowner Survivor Bill of Rights To Preserve the Family Home and Age in Place

FACT SHEET

SUMMARY

When a homeowner passes away, a surviving spouse often holds title to the home, but is not named on the mortgage note. SB 1150 provides clarity to lenders and mortgage servicers on how to handle these situations, and helps protect surviving homeowners from needless foreclosures.

BACKGROUND

California led the nation in 2012 with its Homeowners' Bill of Rights (HBOR), requiring a single point of contact and prohibiting dual-tracking of borrowers, a practice of driving owners to foreclosure even while working on loan modifications.

HBOR is credited with having slowed down foreclosures in 2013 as servicers attended to the new homeowner protections. HBOR helps stabilize families, neighborhoods, and local economies. However, there's more to be done.

In California and across the country legal aid organizations have documented that the very abuses HBOR prohibits are being endured by widows, widowers, and other survivors who are losing their homes to foreclosure because the mortgage servicer

refuses to consider them for a loan assumption or modification.

BAD BEHAVIOR

Homeownership remains the primary way that Americans build wealth for themselves and their families. Our continued failure to protect surviving spouses and children devastates families' ability to build for their financial future, frustrates the ability to transfer wealth to the next generation and exacerbates racial and wealth inequalities. In the most common scenario, a surviving widow owns her home, but is not listed on its mortgage loan. She attempts to apply for a loan assumption and to get information on loan modification options, just as her spouse could have done under HBOR.

At that point, she faces a mortgage servicer who exhibits the same problematic behaviors that convinced the legislature to pass HBOR: refusing to talk to the homeowner, creating a confusing labyrinth of processes, losing documents repeatedly, transferring responsibilities between multiple employees, giving inaccurate information, and foreclosing on the homeowner without ever considering her for a loan modification.

SENIORS

California is poised to experience an exponential growth in our senior population. There is a growing focus on “aging in place” as we deal with both an unprecedented housing crisis and a lack of resources to care for seniors outside of the home.

Unnecessary foreclosures are secret, silent killers. Seniors forced from their home are likely to suffer devastating health impacts. With rents at historic highs and still rising across California, the loss of the family home is increasingly likely to cause homelessness.

INNEFFECTIVE RULES

In 2013, the federal Consumer Financial Protection Bureau recognized the personal devastation and wider community impacts of these unwarranted foreclosures and enacted regulations that have proven inadequate. That same year, Fannie Mae and Freddie Mac enacted rules that also attempted to address the problem. The U.S. Department of Treasury followed suit with the Home Affordable Modification Program (HAMP) guidelines.

Unfortunately, loan servicers are not following these rules. Without accountability, multiple surveys by the California Reinvestment Coalition and borrower stories show that servicers do not follow the law. In a 2013 survey of 84 nonprofit housing counselors and legal service lawyers, over 80% of respondents reported having clients who were surviving spouses, children or other heirs who faced difficulty communicating with servicers and faced foreclosure. Clear direction and strong accountability is needed to protect surviving homeowners.

SOLUTION

Surviving homeowners deserve a fair chance to take responsibility for the mortgage loan attached to their homes. They deserve the respect of receiving clear communication and accurate information, especially during the stressful time following the death of a loved one.

SB 1150 clarifies the responsibilities of a lender when a borrower dies leaving a surviving homeowner who wishes to assume the loan.

These responsibilities include:

- Requesting reasonable documentation of the borrower’s death and the identity of the survivor.
- Providing accurate information about loan assumption and foreclosure avoidance programs.
- Appointing a single point of contact with the lender and providing specified follow-up communication.
- Allowing a survivor to simultaneously apply for loan assumption and modification.

The bill also extends the protection of a private right of action under limited circumstances. These rights and responsibilities are similar to those in the Homeowner Bill of Rights, and do not force a lender to enter into a contact with a survivor who is not qualified to assume a loan.

California must step in to protect widows, widowers, and other survivors, just as it did with HBOR for borrowers.

SUPPORT

Co-Sponsors

Housing and Economic Rights
Advocates (HERA)
California Reinvestment Coalition
(CRC)
California Alliance for Retired
Americans (CARA)

- The Arc and United Cerebral Palsy
California Collaboration
- CALPIRG
- Consumer Federation of California
- Justice in Aging
- National Center for Lesbian Rights
- Public Counsel (Los Angeles)
- Public Law Center (Orange County)
- Renaissance Entrepreneurship
Center (San Francisco)
- Rural Community Assistance
Corporation (Sacramento)
- UNITE HERE

Contact: Carrie Martin, 916-651-4011

Version: March 9, 2016