

AN ACT

*Codification
District of
Columbia
Official Code*

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend, on a temporary basis, An Act To establish a code of law for the District of Columbia to provide that a borrower shall have the same rights for a defective notice of default on residential mortgage as the law provides for a defective notice of intention to foreclose on a residential mortgage, to provide that a foreclosure sale shall be void if a lender files a notice of intention to foreclose on a residential mortgage without a mediation certificate, to provide for a new definition for residential mortgage, and to change the Foreclosure Mediation Fund provisions to allow mortgage-related or foreclosure-related settlement funds to be transferred into the fund and allow those funds to be used for specified mortgage-related or foreclosure-related matters.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Saving D.C. Homes from Foreclosure Enhanced Temporary Amendment Act of 2012”.

Sec. 2. An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1189; codified in scattered cites throughout the District of Columbia Official Code), is amended as follows:

(a) Section 539a(a) (D.C. Official Code § 42-815.01(a)) is amended by striking the phrase “at least one of which is the principal place of abode of the debtor or his immediate family”.

Note,
§ 42-815.01

(b) Section 539b (D.C. Official Code § 42-815.02) is amended as follows:

Note,
§ 42-815.02

(1) Designate the 2nd subsection (e) as subsection (f).

(2) Designate subsection (f) as subsection (g).

(3) Designate subsection (g) as subsection (h).

(4) Designate subsection (h) as subsection (i).

(5) Designate subsection (i) as subsection (j).

(6) The newly designated subsection (h) is repealed.

(7) New subsections (h-1), (h-2), (h-3), and (h-4) are added to read as follows:

“(h-1) A foreclosure sale of property secured by a residential mortgage shall be void if a lender files a notice of intention to foreclose on a residential mortgage without a mediation certificate.

“(h-2) A borrower shall have the same rights to assert a claim for a defective notice of default on residential mortgage as the law provides for a defective notice of intention to foreclose on a residential mortgage.

“(h-3) Except as provided in subsections (h-1) and (h-2) of this section, a mediation certificate shall serve as conclusive evidence that all other provisions of this act and implementing regulations have been complied with and can be relied upon by a bona fide purchaser and a bona fide purchaser’s lender or assigns.

“(h-4) Nothing in this act shall be construed to limit a borrower’s right to assert a claim for fraud or monetary damages against the borrower’s lender.”.

(c) Section 539c(a) (D.C. Official Code § 42-815.03(a)) is amended to read as follows:

Note,
§ 42-815.03

“(a) There is established as a nonlapsing fund the Foreclosure Mediation Fund (“Fund”), into which shall be deposited the fees and penalties generated by the foreclosure mediation program, the District’s share of proceeds from the February 2012 consent judgments between the federal government and participating states, and any future designated settlements or funds. The February 2012 consent judgments are with Citibank, Wells Fargo, Ally Financial as successor of GMAC, Bank of America, and J.P. Morgan Chase.

“(b) The Fund shall be used for one or more of the following purposes:

- “(1) Payment of mortgage-related or foreclosure-related counseling;
- “(2) Mortgage-related or foreclosure-related legal assistance or advocacy;
- “(3) Mortgage-related or foreclosure-related mediation;
- “(4) Outreach or assistance to help current and former homeowners secure the benefits for which they are eligible under mortgage-related or foreclosure-related settlements or judgments; and
- “(5) Enforcement work in the area of financial fraud or consumer protection.”.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved

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December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.

Chairman
Council of the District of Columbia

Mayor
District of Columbia