Reverse Mortgage Foreclosure Issues in the Covid-19 Pandemic

May 21, 2020

This webinar will discuss the home-saving options for reverse mortgage borrowers and non-borrowing spouses, including specific updates about Covid-19 related protections.

Speakers:

Sarah Bolling Mancini, Staff Attorney at the National Consumer Law Center
Odette Williamson, Attorney at the National Consumer Law Center

Los Angeles County Ends PACE Program Marred by Fraud, Abuse, and Unaffordable Loans

FOR IMMEDIATE RELEASE: May 20, 2020

National Consumer Law Center contacts: John Rao (jrao@nclc.org) or Stephen Rouzer (srouzer@nclc.org)

Los Angeles County Ends PACE Program Marred by Fraud, Abuse, and Unaffordable Loans

Thousands of LA County homeowners have been trapped in unaffordable loans through the Property Assessed Clean Energy financing program

WASHINGTON, D.C – Effective May 13, 2020, Los Angeles County has discontinued new financing under its Property Assessed Clean Energy (PACE) loan program, concluding the County could not be certain the program can “provide sufficient protection for all consumers.”

“Los Angeles County has made the courageous decision to end a program that, while well-intentioned, has harmed far too many homeowners,” said John Rao, an attorney at the National Consumer Law Center. “We urge other local governments to ask the same tough questions about their PACE programs and follow the County’s lead by suspending or ending programs that cannot assure their residents will be protected.”
PACE programs offer loans for home improvements theoretically designed to improve energy and water efficiency, such as solar panels, HVAC systems, and new windows. Qualifying “green energy” improvements are offered through home improvement contractors often going door to door with contracts on tablets that commit people on the spot to property tax liens that can increase taxes by thousands of dollars a year without any assessment of affordability. Homeowners who cannot afford the increased taxes risk losing their homes. NCLC has documented the stories of many families who were denied the potential benefits of PACE by being sold unaffordable loans for home improvements, many of which did not give the deep energy savings homeowners were promised or resulted in shoddy or incomplete work.

“The potential benefit of the PACE program in Los Angeles County has been overshadowed by increasing criticism and concern about grifted customers who risked losing their homes,” added Rao.

Legal services agencies throughout California have been overrun with complaints related to PACE, including fraud, forgery, identity theft, price gouging, undisclosed costs and fees, and unpermitted or uncompleted work. These issues have been repeatedly raised to state and local lawmakers.

For its part, California has tried to preserve the program while enhancing consumer protections - through a series of bills enacted over the past ten years. Additional changes were made in response to an enforcement action brought by California District Attorneys. And the County took it a step further by strengthening its PACE consumer protection practices and establishing a hotline to confirm consumers’ acceptance of loan terms. Despite these efforts, problems continued and the County concluded it could not be certain the added measures will provide sufficient protection for all consumers.

Homeowners with existing PACE assessments are still required to make payments, and approved projects that are not yet completed or were on hold due to the Safer At Home Order will still be completed. Homeowners with additional questions should contact their PACE administrator (Renew Financial, Renovate America, or PACE Funding Group). Homeowners with legal questions or concerns should contact their local legal aid office or find an attorney at the website of the National Association of Consumer Advocates, consumeradvocates.org

For additional resources, visit NCLC’s Property Assessed Clean Energy (PACE) Loans page.

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Since 1969, the nonprofit National Consumer Law Center® (NCLC®) has worked for consumer justice and economic security for low-income and other disadvantaged people, including older adults, in the U.S. through its expertise in policy analysis and advocacy, publications, litigation, expert witness services, and training. www.nclc.org

FDIC to Repeal 36% Rate Cap and Bank Payday Loan Guidance, but Banks Should Not
WASHINGTON, D.C. – As our nation grapples with the economic fallout of the COVID-19 pandemic, the Federal Deposit Insurance Corp. (FDIC) announced plans today to repeal two guidances that protect consumers against high-cost bank payday loans over 36%, and four federal bank regulators issued small-dollar loan guidance that could open a crack to permit balloon-payment bank payday loans. By failing to warn against triple-digit interest rates and suggesting that banks may offer single-payment loans, new guidance from the FDIC, Office of the Comptroller of the Currency (OCC), Federal Reserve Board (FRB) and National Credit Union Administration (NCUA) might encourage some banks to make unaffordable loans that trap borrowers in a cycle of debt, advocates warned, though other parts of the guidance emphasize that loans must be affordable and not lead to repeat reborrowing.

“The evidence is clear that bank payday loans, like traditional payday loans, put consumers in a debt trap,” said Lauren Saunders, deputy director of the National Consumer Law Center. “The American public strongly supports limiting interest rates to 36%, so it’s shocking that in the middle of an economic crisis the FDIC would repeal its 36% rate guidance and its letter warning of the dangers of bank payday loans. Congress should pass a 36% rate cap for banks and other lenders, and banks should decline to take the bait and not risk their reputations by making high-cost loans.”

Around the time of the last recession, a handful of banks were making balloon-payment bank payday loans – so-called “deposit advance products” – that put borrowers in an average of 19 loans a year at over 200% annual interest. Most banks stopped making bank payday loans in 2013 after the OCC and FDIC issued guidance warning about the problems the loans cause. But the OCC repealed its guidance in 2017 and the FDIC announced today that it would repeal its deposit advance product guidance, along with its 2007 small dollar loan guidance that encouraged banks to limit interest rates on small dollar loans to 36%.

The new joint guidance encourages banks and credit unions to make “responsible” small dollar loans with appropriate underwriting and terms that support successful repayment rather than reborrowing, rollovers, or immediate collectability in the event of default. But the guidance offers few specifics, explicitly permits “shorter-term single payment structures,” and is vague on appropriate interest rates, though it does say that pricing should be reasonably related to the institution’s risks and costs.

“Banks should not read this guidance as an opening to return to bank payday loans, which cannot be made responsibly and lead to a cycle of debt. Any hint that bank payday loans or loans over 36% may be appropriate is especially dangerous coupled with the CFPB’s expected gutting of the payday loan
rule and the FDIC and OCC’s separate proposal that will encourage “rent-a-bank” schemes where banks help non-bank lenders make triple-digit interest loans that are illegal under state law,” Saunders explained.

“The continued assault by this Administration on protections against high-cost loans makes clear why Congress must step up and cap rates at no more than 36%. Bank small dollar loans must be fair and affordable – at annual rates no higher than 36% for small loans and lower for larger loans,” said Saunders. “We will monitor whether banks offer loans that help or loans that hurt families, especially low-income households and communities of color.”

Advocates Urge President Trump to Join Congress in Restoring Rule to Protect Student Loan Borrowers from School Fraud and Closures

FOR IMMEDIATE RELEASE: May 20, 2020
National Consumer Law Center contacts: Jan Kruse (jkruse@nclc.org) or Abby Shafroth (ashafroth@nclc.org)

Boston – National Consumer Law Center advocates urge President Trump to join with Congress in protecting student loan borrowers hurt by school fraud and closures by signing into law the bipartisan joint resolution preserving existing borrower defense rules against rollbacks planned to go into effect in July. Last night, Congress presented President Trump with Senate Joint Resolution 56, which applies the Congressional Review Act to block the 2019 Borrower Defense to Repayment rule from going into effect and to preserve the existing rules protecting borrowers from school fraud and closures. The President has 10 days to sign the bill into law.

“We cannot let the rights of the most hard-hit student loan borrowers—those who were scammed or whose schools closed unexpectedly — be quietly rolled back during the current national emergency. Now more than ever, struggling borrowers, including veterans and low-income students of color, who were left with heavy debt and worthless degrees—or no degrees at all—by predatory schools need a fair path to accessing the loan relief provided under the Higher Education Act,” said National Consumer Law Center attorney Abby Shafroth. “Congress has presented the President with a bipartisan bill standing up for students and protecting their access to loan relief, and we hope that the President will seize this opportunity to stand with Congress and struggling Americans against fraud, corruption, and bureaucratic red tape.”

The joint resolution is supported by broad coalitions of organizations representing veterans (who are disproportionately targeted by predatory schools for their GI Bill dollars), students, low-income consumers, and advocates for education. Last December, a diverse coalition of 57 organizations wrote that that if the 2019 Borrower Defense Rule goes into effect, it would limit relief to only about 3% of student borrowers who were victims of fraud and other illegal school conduct, and only 1% of schools that defrauded students would have to reimburse taxpayers. The rule would green light
school misconduct while making relief for defrauded borrowers all but impossible.

Forbearance Options and CARES Act Requirements

May 14, 2020

In this session, we will go into more depth about the language of the CARES Act and the ways different government entities are implementing its requirements. We will also touch on how servicers are handling forbearance requests, and strategies to deal with servicer noncompliance.

Speakers:

John Rao, Staff Attorney at the National Consumer Law Center
Steve Sharpe, Of Counsel to the National Consumer Law Center
Tara Twomey, Of Counsel to the National Consumer Law Center


National Consumer Law Center Advocates’ Statement Regarding U.S. House Passage of HEROES Act

FOR IMMEDIATE RELEASE: MAY 15, 2020
National Consumer Law Center contact: Jan Kruse (jkruse@nclc.org)

Washington, D.C. – Today, the U.S. House passed a $3 trillion dollar package in response to the COVID-19 crisis. In the consumer area, the bill provides desperately needed help for families dealing with the economic crisis, beyond the modest start in the previous CARES Act. In particular, the HEROES Act, HR 6800:

- Provides immensely needed funds to help families cover necessities through increased stimulus payments, extended unemployment benefits, and, for the poorest families, increased
support for food, rent, home energy, water, and basic broadband service.

- Expands recently passed debt forbearance relief to most mortgages, federal and private student loans, and rent.
- Stops debt collection activities that endanger stimulus payments, wages, bank accounts, homes, utilities, and cars.
- Creates a path to recovery by halting negative credit reporting and by requiring creditors to offer affordable repayment options.

“The HEROES Act recognizes that people need much more direct support to pay for basic necessities, and much broader forbearances to ensure that they do not lose their homes or face debt collectors over loans they cannot repay right now due to no fault of their own. The HEROES Act focuses on real people because consumers drive our economy and we can’t just leave American families to trickle-down help from businesses,” said Lauren Saunders, associate director of the National Consumer Law Center.

Mortgages and Housing: “The HEROES Act builds on the vital relief offered to homeowners by the CARES Act by expanding forbearance protections to the whole mortgage market while offering essential new housing protections,” said Alys Cohen, attorney at the National Consumer Law Center. “The HEROES Act will ensure homeowners receive accurate information about their forbearance rights and other hardship assistance, and sustainable and streamlined ways to repay past due amounts. And the HEROES Act makes certain that no homeowner who has obtained assistance will face an imminent foreclosure before having a chance to make affordable arrangements to retain their family home.”

Student Loans: “The HEROES Act extends vital protection to the nine million student loan borrowers who were left out of the CARES Act. But making sure that all borrowers have access to a temporary hiatus from making payments, though necessary, is insufficient,” said Persis Yu, staff attorney and director of NCLC’s Student Loan Borrower Assistance Project. “Unfortunately, the paired down federal and private student loan forgiveness provisions will leave many borrowers without long-term relief. Many borrowers – especially low-income borrowers, borrowers of color, and those who lost their jobs due to the pandemic – will still be burdened with historically high student loan debt and will face a potentially devastated economy when they start making payments again. Their student loan payments will likely prevent them from recovering and contributing to rebuilding our economy. Widespread debt cancellation is imperative.”

Debt Collection and Debt Repayment: “It is astonishing that during this challenging public health and economic crisis, debt collectors are still trying to grab stimulus payments, wages, and assets in bank accounts, and people are still facing threats of eviction, utility shut-offs, and car repossessions,” said Margot Saunders, senior counsel at the National Consumer Law Center. “The HEROES Act addresses those problems by imposing a temporary halt to debt collection activities and by giving people time to repay their debts after the economic crisis eases.”

Autos: “The HEROES Act protects a family’s car, often their lifeline to work, groceries, testing and so much more, from repossession by prohibiting repossessions both in person and electronically, for at least the next four months,” said John Van Alst, attorney at the National Consumer Law Center.

Criminal justice debt: “The last thing that we need right now is to have people in unsafe prisons and jails for the crime of being poor,” said Abby Shafroth, attorney at the National Consumer Law Center. “By prohibiting the government from incarcerating people for nonpayment of debts, restricting the use of money bail to detain poor people who have not been convicted of a crime, and incentivizing state and local governments to suspend imposition and collection of fines and fees
during the crisis, the HEROES Act protects people from being imprisoned or trapped in the broken criminal justice system merely because they are unable to afford a debt or a fine.”

**Home energy, water, and broadband assistance:** “The HEROES Act’s emergency benefit for broadband service will help protect public health by ensuring vulnerable households have critical broadband service so that every member of a household can perform essential tasks online from home,” said Olivia Wein, attorney at the National Consumer Law Center. “The bill also provides $1.5 billion to help low-income households stay connected to vital water and wastewater service, a critical human need, but even more so to protect health and safety during this COVID-19 crisis. However, the magnitude of the need will require more robust funding for water assistance.”

“The HEROES Act also provides a much-needed additional $1.5 billion in funds for the Low Income Home Energy Assistance Program,” added Charlie Harak, attorney at the National Consumer Law Center. “Increased Low Income Home Energy Assistance funds will keep many households connected to life-saving home heating and cooling services, but much more will be needed to help families trying to avoid termination of their utility services.”

**Credit Reporting:** The HEROES Act includes a temporary moratorium on negative credit reporting and a permanent ban on reporting medical debt related to COVID-19, which will greatly help consumers whose finances have been devastated by the economic crisis caused by COVID-19. “By recognizing the need to stop negative credit reporting for at least four months and by providing further relief to consumers experiencing continuing hardship, the HEROES Act will help tens of millions of consumers who have lost their jobs, small businesses, or other income from this pandemic,” said National Consumer Law Center attorney Chi Chi Wu. “The HEROES Act will prevent the current financial catastrophe from haunting the credit reports of consumers for the next seven years, which could otherwise impede their ability to find housing, jobs, and generally financially recover once the crisis is over.”

**Prison phone justice:** “The need for communication between incarcerated people and their families is greater than ever during this crisis, with in-person visits suspended and family members facing grave threats to their health. But even absent the widespread economic hardship caused by the crisis, the cost of prison calls can be prohibitively expensive to families,” said Ariel Nelson, attorney at the National Consumer Law Center. “The HEROES Act takes a critical step towards helping families to stay connected by immediately capping the cost of calls and prohibiting exploitative practices that take advantage of families’ basic need to connect to generate revenue.”

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**NCLC Advocates Praise U.S. House HEROES Act for Giving a Lifeline for Student Loan Borrowers Drowning in Debt**

FOR IMMEDIATE RELEASE: May 14, 2020

National Consumer Law Center contacts: Persis Yu (pyu@nclc.org) or Jan Kruse (jkruse@nclc.org)
The U.S. House has proposed a $3 trillion bill in response to the COVID-19 crisis that will include debt relief for student loan borrowers. The following is a statement by Persis Yu, National Consumer Law Center staff attorney and director of NCLC’s Student Loan Borrower Assistance Project:

“We applaud Speaker Pelosi’s leadership in ensuring that student loan borrowers get real relief in this next stimulus package. Making sure that all borrowers have access to a temporary hiatus from making payments, though necessary, is insufficient. Struggling borrowers – especially low-income borrowers and borrowers of color – still burdened with historically high student loan debt will face a potentially devastated economy when they start making payments again. Their student loan payments will likely prevent them from recovering and contributing to rebuilding our economy. Debt cancellation is imperative. The $10,000 of federal loan forgiveness and $10,000 of private student loan forgiveness provided by the HEROES Act will help ensure that balances go down so borrowers can make ends meet now and then recover along with the economy.”

**Kyra Taylor, Staff Attorney**

Kyra Taylor is a staff attorney, focusing on student loans. Prior to joining NCLC, Kyra was a staff attorney at Harvard Law’s Legal Services Center, where she worked in the Project on Predatory Student Lending. Kyra also litigated consumer class actions as a public interest fellow at the Washington DC plaintiffs’ firm Tycko & Zavareei LLP and Public Justice. Prior to becoming a lawyer, Kyra was an elementary school teacher in Baton Rouge, Louisiana and East Harlem, New York. She is a graduate of University of California, Berkeley School of Law and Temple University.
COVID-19 and Mortgage Relief for Homeowners: CARES Act Protections

May 7, 2020

This webinar will provide an overview of the forbearance and post-forbearance options for federally-backed mortgages, including an explanation of what the CARES Act requires and a discussion of the servicing policies of Fannie Mae, Freddie Mac, FHA, VA, and USDA.

Speakers:
Sarah Bolling Mancini, National Consumer Law Center
Andrea Bopp Stark, National Consumer Law Center

Helping Those Harmed Financially by COVID-19 Policy & Practice: An Overview

April 23, 2020

With millions of Americans out of work due to the COVID-19 emergency, it is more important than ever to identify what we can do to help ease their financial burden. There are actions you can take and resources you can access to help consumers now. Join us for a broad overview of how you can (1) advocate for policies in your state to help consumers facing financial hardships due to the COVID-19 emergency (first half) and (2) help consumers navigate and access the financial relief they need during the COVID-19 emergency (second half).

Speakers:

- Andrea Bopp Stark, National Consumer Law Center
- Michael Best, National Consumer Law Center
Additional Material: Answered Q & A