

Disaster Relief

Policy Analysis

Reports

- Obtaining Mortgage Relief for Survivors of Disasters: A Practice Guide for Advocates by Alys Cohen, Margot Saunders, Emily Green Caplan and Odette Williamson, February 2020 [Note: To print, please select “Fit to Page” under Scale; for best online viewing, please open in Internet Explorer or Firefox]
 - Appendix A: Flow Chart: Homeowner Post-Disaster Road to Recovery [Note: To print, please select “Fit to Page” under Scale.]
 - Appendix B: Short Summaries of Loss Mitigation Rules for Government-Backed Loans
 - Appendix C: Long Summaries of Loss Mitigation Rules for Government-Backed Loans

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Comments & Letters

- Comment letter submitted to the Texas General Land Office regarding the State of Texas’s Disaster Recovery Plan, March 5, 2018
- Group comments to FCC re: Petition for Declaratory Ruling by the FHFA on emergency communications by mortgage servicers to borrowers after a declared disaster, Dec. 4, 2017
- Coalition letter to the federal banking/housing regulators urging stronger policies for homeowners in disaster-affected areas, Oct. 31, 2017
- Coalition letter for a Just and Complete Housing Recovery from Hurricanes Harvey, Irma and Maria, Sept. 28, 2017

Additional Resources

- National Disaster Legal Aid Resource Center
- Op-ed by National Consumer Law Center staff attorney Alys Cohen in **Government Executive** “How HUD Could Help More Families Affected by Natural Disasters,” October 19, 2018

FHA Loans

Policy Briefs, Reports and Press Releases

- Press Release: Advocates Applaud Halt to Foreclosures and Bills to Stabilize Homeownership and Protect Credit Reports but Highlight Need for Further Relief During Pandemic, March 19, 2020
- Policy brief: Recommendations to Improve FHA’s Foreclosure Avoidance Program, March 2020
- Press release: Government Report Shows Harm to Consumers from HUD Loan Auctions to

Private Equity Firms, Aug. 2, 2019

- Press release: Federal Reverse Mortgage Program Results in Widows Losing Their Homes After Death of Spouse, Mar. 12, 2018

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Letters

- Letter to HUD seeking delay on the Single-Family Loan Sale Program ANPR due to a need for data, May 31, 2019
- Group letter to HUD seeking time extension for commenting on FHA defect taxonomy and certifications, May 21, 2019
- Group letter to HUD and the Office of the Inspector General for HUD expressing serious concerns regarding a recent flawed report that incorrectly concluded that mortgage servicers complied with HUD rules prior to selling defaulted loans through its Distressed Asset Stabilization Program (DASP), April 29, 2019
- Coalition letter to HUD re: significant problems with the Home Equity Conversion Mortgage (HECM) program, June 13, 2018
- Coalition letter supporting HUD Disparate Impact Rule, Jan. 26, 2018
- Group letter to HUD recommending changes to FHA loss mitigation policy, Jan. 23, 2018
- NCLC & Legal Aid Society of Southwest Ohio letter to HUD re: Mortgagee Letter 20 16-14, Aug. 11, 2017

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Comments and Testimony

- Group comments to HUD re: Single Family Handbook Drafts Posted for Feedback, September 11, 2020
- Comments to HUD re: Mortgagee Letter 2019-15 (protections for non-borrowing spouses in homes with reverse mortgages), October 23, 2019
- Comments to HUD in response to their Proposed Rule on the Implementation of the Fair Housing Act's Disparate Impact Standard, Oct. 18, 2019
- Comments to HUD on Federal Housing Administration (FHA): Single-Family Loan Sale Program; Advance Notice of Proposed Rulemaking and Request for Public Comment, July 5, 2019
- NCLC and AFR comments to HUD on FHA mortgage servicing defect taxonomy, June 28, 2019
- Coalition comments to HUD on risks of Opportunity Zones, June 17, 2019
- Consumer Organization Comments to HUD on the FHA Disaster Standalone Partial Claim and Additional Disaster Relief Issues, Sept. 14, 2018
- [Group comments to Federal Housing Finance Agency regarding Housing Goals for Fannie Mae and Freddie Mac](#), Sept. 5, 2017
- Group Comments regarding FHA compliance with regulations addressing foreclosure alternatives, Jan. 30, 2017. Short comments.

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Mortgage Servicing Litigation

Below is a sampling of NCLC class action litigation efforts in the areas of mortgage servicing and loan modifications. Information on other NCLC litigation can be found [here](#).

HAMP Trial Period Plan (TPP) Contract Claims

NCLC, with its co-counsel, has filed five class action suits on behalf of Massachusetts residents to challenge the way the nation's major banks and mortgage servicers are implementing the Home Affordable Modification Program. The lawsuits cite the failure of Wells Fargo Bank, Bank of America, Litton Loan Servicing, Citimortgage, and J.P. Morgan Chase Bank to honor their written agreements with homeowners seeking a loan modification. All five cases have survived motions to dismiss brought by the defendants. Several cases have become or will shortly become part of multi-district litigation with similar cases brought in other states. As a result of the lawsuits, NCLC and our co-counsel have been able to get permanent modifications for some of the named plaintiffs and others have been protected from foreclosure pending the outcome of the cases

- Belyea v. Litton Loan Servicing: Amended Complaint; Order Denying Motion to Dismiss
- Bosque v. Wells Fargo: Amended Complaint; Order Denying Motion to Dismiss
- Calfee v. Citimortgage: Amended Complaint; MDL Order
- Durmic v. J.P. Morgan Chase: Complaint; Order Denying Motion to Dismiss; MDL Order
- Johnson v. Bank of America Home Loans Servicing: Amended Complaint; Order Denying Motion to Dismiss; MDL Order; Consolidated (MDL) Complaint

Foreclosure Fees and Costs

Wilborn v. Bank One

This lawsuit challenged provisions in mortgages that allow reinstatement of a loan after default only if the homeowner brings all payments current and also pays the attorney's fees incurred by the lender attempting to foreclose. NCLC and our co-counsel argued that these provisions were contrary to Ohio's public policy that creditors cannot collect attorney's fees from borrowers in debt collection actions. The Ohio Supreme Court found that because the right to reinstate was contractual, not statutory, the requirement to pay attorney's fees was an enforceable part of the bargain. However, the Court distinguished reinstatement from other circumstances such as redemption or paying off a home equity line of credit, where the borrower pays the entire debt and no contractual relationship remains - in those circumstances, the lender cannot collect its attorney's fees. The Ohio Supreme Court remanded that portion of the case which remains pending in the Ohio Court of Common Pleas.

- Class Action Complaint

"Robosigning" - Fraud in the Foreclosure Process

Archibald v. GMAC Mortgage

This lawsuit challenges the practice of GMAC Mortgage submitting certifications and affidavits in support of foreclosures in Maine that falsely state they are based on the "personal knowledge" of the signer and that they are signed in front of a notary. GMAC has been reprimanded by courts in other states for exactly this practice. NCLC and our co-counsel argued that these practices are an abuse of

process and are unfair and deceptive. Although the case was filed in state court, the defendant removed the case to federal court, where the judge found that the judicial proceedings privilege barred at least some of the claims. The judge certified a question with regard to the UDAP claim to the Supreme Judicial Court of Maine, where it is currently pending.

- Class Action Complaint (Exhibits 1-4, Exhibits 5-25)
- Certificate of Question to the Maine Supreme Judicial Court



The Institute for Foreclosure Legal Assistance

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