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NCLC Advocates Applaud Rule Clarifying Mortgage Rights of Heirs; Urge Further Action

(WASHINGTON, D.C.) Today, the Consumer Financial Protection Bureau (CFPB) issued an [interpretive rule](#) to clarify that when a borrower dies, the name of the borrower's heir generally may be added to the mortgage without triggering the Bureau's Ability-to-Repay rule. The rule makes it easier for surviving family members and others who acquire title to a property from a loved one to be considered for an affordable loan modification in order to retain their home.

"The CFPB's announcement is a crucial step toward assisting widows, other heirs, and divorced spouses seeking to keep their family home after a tragic loss or change in family situation," says Alys Cohen, staff attorney at the National Consumer Law Center's Washington, D.C. office. "The rule clarifies that the requirements for new loans do not apply to these homeowners, and that these homeowners also have the right to receive routine notices about the loan. We hope the CFPB will go further and build on its October 2013 guidance to make clear that mortgage companies should accept loan modification requests from successors-in-interest before requiring that person to assume the debt."

The rule announced today clarifies several points, including:

- The Dodd-Frank Ability to Repay requirement only applies to assumptions where an unrelated party is using the arrangement as part of buying the home;
- Assumption of a note by a homeowner who already has acquired title to the property as a result of, or prior to, a family loss, is not subject to the Ability to Repay analysis because the homeowner already has title to the property;
- The creditor can recognize the heir or other homeowner as the borrower in order to provide account information, receive loan payments or process a loan modification request; and
- Transfers protected by this rule include not only those affecting the spouse of the deceased but also other transfers, such as transfers to living trusts, transfers during life from parents to children, transfers resulting from divorce or legal separation, and other family-related transfers.

The CFPB interpretive rule is available at:

http://files.consumerfinance.gov/f/201407_cfpb_bulletin_mortgage-lending-rules_successors.pdf

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