

Report Documents Heirs Struggling to Save Family Homes, March 23, 2016

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CFPB Urged to Help “Successor” Homeowners Stave off Foreclosures

See full report, homeowner narratives, charts and additional materials

(WASHINGTON) An unsolved problem of the 2008 foreclosure crisis is the challenge faced by tens of thousands of homeowners across the nation fighting foreclosure of a home they inherited or were awarded in a divorce, and the Consumer Financial Protection Bureau should move quickly to address the problem, according to a new National Consumer Law Center report *Snapshots of Struggle: Saving the Family Home after a Death or Divorce*. “Many of these family members are domestic violence survivors awarded a home in a divorce, widows, widowers, and newly single parents struggling to raise children after the death of a spouse,” says National Consumer Law Center Attorney Alys Cohen, who authored the report. “It is urgent that the Consumer Financial Protection Bureau quickly finalize and implement its proposed rule to ensure these families, many already reeling from tragedy and trauma, may remain in their homes.”

The report details the problems of “successors in interest,” meaning homeowners who were not the original borrowers on the loans but often have lived in the home for years, sometimes decades. It includes the stories of successor homeowners in Illinois, Georgia, Connecticut, and Pennsylvania, who have encountered roadblocks with mortgage servicers refusing to grant loan modifications. Even for those successors who ultimately receive a permanent loan modification, they typically do so after months or even years of delay, increasing their debt, cutting into any equity they may have, and creating unneeded stress. Unfortunately, these examples are typical of the experiences of successor homeowners, many who have already lost their homes to foreclosure. The patchwork of current rules are simply not adequate as mortgage servicers erroneously claim no loan modification is possible, make duplicative or nonexistent document requests, and refuse to honor modifications extended to a successor without the absent borrower’s signature.

Key Recommendations

Successors need the following essential rules to protect their interests and reduce unnecessary foreclosures. The CFPB’s proposed servicing rules go a long way toward meeting these policy goals, although they could be enhanced to address the needs of survivors of family violence and to better ensure servicer compliance once successors have documented their status.

1. **Communication and Reasonable Document Requirements.** Successors need to be able to access information about the mortgage secured by their home, including monthly payment amounts, outstanding principal balances, insurance information, and payment histories. Successors should have a clear path to confirming their status and receiving loan information without the never-ending loop of document submissions and without having to provide documents that do not exist or cannot be produced.
2. **Access for Domestic Violence Survivors.** Successors who are domestic violence survivors face additional barriers in trying to save their homes. While many are divorced or otherwise have sole ownership of the property, some are in the process of a divorce or transfer of title. The rules must accommodate these successors, especially where there is a court order

of protection, without endangering them by requiring involvement of the abuser.

3. **Foreclosure Protections.** Like other homeowners, successors applying for hardship assistance are trying to avoid the loss of their home. Protections that pause the foreclosure process and any sale during the loss mitigation application and review period are essential, especially in light of the additional procedures successors face in proving their status.
4. **Enforceable Rights.** Even when there are rules on the books intended to help successors obtain loan modifications, successors still run into roadblocks because servicers do not comply with those rules. The CFPB's proposed regulations will create uniform requirements and also will promote compliance and enable successors to save their homes from unnecessary foreclosures by giving borrowers the ability to enforce those requirements. The CFPB proposal should be enhanced, however, to ensure that homeowners who document their successor status can avail themselves of the protections without delay.

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