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112TH CONGRESS
2D SESSION

S. 3177

To amend the Truth in Lending Act to require servicers to provide responses to mortgagors requesting residential mortgage loan refinancing, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 15, 2012

Mr. HELLER introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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A BILL

To amend the Truth in Lending Act to require servicers to provide responses to mortgagors requesting residential mortgage loan refinancing, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Stopping Ongoing Lender Delays Act'' or the ''SOLD Act''.

SEC. 2. TRUTH IN LENDING ACT AMENDMENTS.

Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting before section 130 (15 U.S.C. 1640) the following new section:

"SEC. 129I. RESPONSES REQUIRED FOR MORTGAGOR REQUESTS FOR REFINANCING.

"(a) IN GENERAL.—

"(1) WRITTEN RESPONSE TO MORTGAGOR REQUESTS REQUIRED.—

"(A) IN GENERAL.—Each servicer shall respond in writing to a mortgagor of a residential mortgage loan who has submitted a written request that meets the requirements of subsection (b), not later than the end of the 30-calendar day period beginning on the date of receipt of such request, subject to paragraphs (2) and (3).

"(B) APPLICABILITY.—Subparagraph (A) shall apply, except as provided in subsection (b), and notwithstanding any other provision of law or of any contract, including a contract between a servicer of a residential mortgage loan and a securitization vehicle or other investment vehicle.

"(2) CONTENT.—A written response by a servicer under paragraph (1) shall specify—

"(A) a decision on whether such request has been denied or approved, or that such request has been approved subject to specified changes; or

"(B) that additional time is required, in which case the servicer shall provide a new decision date.

"(3) SINGLE EXTENSION OF NEW DECISION DATE AUTHORIZED.—A servicer may, upon written notice to the mortgagor, extend a new decision date provided under paragraph (2)(B) a single time, for a period of not longer than 30 additional calendar days.

"(b) INAPPLICABILITY TO CERTAIN EXISTING MORTGAGES.—Subsection (a) shall not apply with respect to any residential mortgage with respect to which the mortgagor and the mortgagee or servicer have entered into a written agreement before the date of enactment of this Act explicitly providing a procedure or terms for approval of a short sale.

"(c) MORTGAGOR SUBMISSION.—Subsection (a) shall apply in any case in which the mortgagor under a residential mortgage loan submits to the servicer thereof—

"(1) a written offer for a short sale of the dwelling or residential real property that is subject to the mortgage, deed of trust, or other security interest that secures the mortgage loan; and

"(2) all information required by the servicer in connection with such a request (including a copy of

an executed contract between the owner of the dwelling or property and the prospective buyer that is subject to approval by the servicer).

"(d) CIVIL ACTIONS AUTHORIZED.—An aggrieved individual may bring an action in a court of competent jurisdiction, asserting a violation of this section. Aggrieved individuals may be awarded all appropriate relief, including equitable relief, and a monetary award of $1,000 per violation, plus reasonable attorneys' fees, or such higher amount as may be appropriate in the case of an established pattern or practice of such failures.

"(e) DEFINITIONS.—

"(1) RESIDENTIAL MORTGAGE LOAN.—The term 'residential mortgage loan' means any consumer credit transaction that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or on residential real property that includes a dwelling, other than a consumer credit transaction under an open end credit plan or an extension of credit relating to a plan described in section 101(53D) of title 11, United States Code.

"(2) SERVICER.—The term 'servicer' has the same meaning as in section 129A, except that such term includes a person who makes or holds a resi-

dential mortgage loan (including a pool of residential mortgage loans), if such person also services the loan.

"(3) SHORT SALE.—The term 'short sale' means the sale of the dwelling or residential real property that is subject to the mortgage, deed or trust, or other security interest that secures a residential mortgage loan that—

"(A) will result in proceeds in an amount that is less than the remaining amount due under the mortgage loan; and

"(B) requires authorization by the securitization vehicle or other investment vehicle or holder of the mortgage loan, or the servicer acting on behalf of such a vehicle or holder.".

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