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CFPB Clarifies Mortgage Lending Rules to Assist Surviving Family Members



Bureau Interpretive Rule Clears the Way for Heirs to Take Over Mortgages When Loved Ones Die

Washington, D.C. – Today, the Consumer Financial Protection Bureau (CFPB) is issuing 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. This clarification will help surviving family members who acquire title to a property to take over their loved one's mortgage, and to be considered for a loan workout, if necessary, to keep their home.

"Losing a loved one should not mean also losing your home. Today's interpretive rule makes it clear that when family members inherit property, they can take over the mortgage without jumping through unnecessary hoops," said CFPB Director Richard Cordray. "This gives heirs an opportunity to work with the lender to pay off the loan or seek a loan modification."

The interpretive rule is available at:

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

In January 2013, the CFPB finalized several mortgage rules, most of which took effect in January 2014. Among these rules, the Ability-to-Repay rule protects consumers from irresponsible mortgage lending by requiring that lenders generally make a reasonable, good-faith determination that prospective borrowers have the ability to repay their loans.

When property legally transfers from family members to their heirs and there is still an outstanding loan on the property, there can be significant consequences if an heir is not able to add their name to the mortgage. For example, if the heir seeks a modification to ensure they can retain the home, the creditor may refuse to modify the debt on the grounds that the heir is not officially named on the mortgage.

Today's interpretive rule explains that because an heir has already acquired the title to the home, adding the heir as a borrower on the mortgage does not trigger the Ability-to-Repay requirements. The rule does not require the creditor to determine the heir's ability to repay the mortgage before formally recognizing the heir as the borrower. As the named borrower, the heir may more easily be able to obtain account information, pay off the loan, or seek a loan modification. The interpretive rule can also apply to other transfers, including transfers to living trusts, transfers during life from parents to children, transfers resulting from divorce or legal separation, and other family-related transfers.

In October 2013, the CFPB provided clarifications on the role of mortgage servicers when a borrower dies. Mortgage servicers are responsible for collecting payments from

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mortgage borrowers on behalf of loan owners or creditors. The [bulletin](#) said servicers must have policies and procedures in place to ensure that they promptly identify and communicate with surviving family members and others who have a legal interest in the home. The bulletin provided examples of such policies and procedures, including allowing heirs to continue to pay the mortgage.

The CFPB has been working to ensure a smooth transition to compliance with the new mortgage rules. The Bureau has coordinated with other agencies, published plain-language guides and other compliance aids, and had regular contact with industry participants, consumer advocates, legal aid attorneys, housing counselors, and others to answer questions. The CFPB also has provided educational materials to the public about their new protections under the rules.

The CFPB maintains a regulatory implementation website, which consolidates all of the new 2013 mortgage rules and related implementation materials. It is available at: <http://www.consumerfinance.gov/regulatory-implementation>

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The Consumer Financial Protection Bureau is a 21st century agency that helps consumer finance markets work by making rules more effective, by consistently and fairly enforcing those rules, and by empowering consumers to take more control over their economic lives. For more information, visit [consumerfinance.gov](http://www.consumerfinance.gov).

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▼ 2014

- [JULY 2014](#) (1)
- [JUNE 2014](#) (13)
- [MAY 2014](#) (11)
- [APRIL 2014](#) (14)
- [MARCH 2014](#) (12)
- [FEBRUARY 2014](#) (11)
- [JANUARY 2014](#) (13)

- ▶ 2013
- ▶ 2012
- ▶ 2011
- ▶ 2010



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