CALIFORNIA MORTGAGE RELIEF

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KEY TERMS

AMERICAN RESCUE PLAN ACT

The American Rescue Plan Act of 2021 was a $1.9 trillion economic stimulus package signed into law by President Joseph R. Biden, Jr. on March 11, 2021. The Act's Homeowner Assistance Fund earmarked $9.96 billion to U.S. states and territories for direct assistance for mortgage payments, property insurance, utilities and other housing-related needs, with exact criteria for dispersal of these funds determined by individual states approved by the United States Department of Treasury.

AREA MEDIAN INCOME (AMI)

Area Median Income (AMI) are limits developed by HUD to determine eligibility for various government-funded programs, including property set aside as affordable housing, and how much families chosen for such programs will pay. AMI represents the midpoint of a region's family income distribution and changes from year-to-year. The Homeowner Assistance Fund has its own set of income limits and is listed on the HUD website.

CONFORMING LOAN LIMIT

The conforming loan limit is a dollar cap on the size of mortgages that will be purchased or guaranteed by the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corp. (Freddie Mac), established in 2008 as part of the Housing and Economic Recovery Act (HERA). The limit is adjusted on an annual basis by the Federal Housing Finance Agency to remain in line with the average home price in the United States.

DEFAULT

To "default" on a loan simply means that the borrower has violated the power of sale clause in their mortgage or deed of trust. It generally takes four consecutive non-payments to trigger this clause, and afterwards are subject to a bank or mortgage servicer initiating foreclosure proceedings against them.

FORBEARANCE

Forbearance is a grace period – or period of reduced payments – offered by most mortgage servicers when homeowners are unable to meet the terms of their mortgage, so that borrowers may attempt to work out a payment schedule or otherwise put their loans back into good standing. The CARES Act offered additional protections to homeowners that included an automatic forbearance period, and the right to request an extension of that period.

HOMEOWNER ASSISTANCE FUND

The Homeowner Assistance Fund was created by the American Rescue Plan Act of 2021 to help homeowners who have fallen behind on their housing payments get caught up. While it is a federal program, it is being administered at the state level, with individual states developing assistance programs to disburse their share of the fund.

HOUSING-TO-INCOME RATIO (HTI)

Also known as Housing Expense Ratio, HTI is a rule of thumb used by lenders when underwriting mortgages. While lenders vary on the exact formula, a household is generally thought to be in acceptable range of HTI when it spends no more than 28% of its gross monthly income on housing expenses. The California Mortgage Relief Program defines HTI as mortgage payment, taxes and insurance divided by gross income.

LENDER NEGOTIATIONS

A new rule for mortgage servicers went into effect at the end of August, 2021, in anticipation of the expiration of certain Covid-19 foreclosure protections, that increases the protection of homeowners in default. Effective through the end of this year, mortgage servicers are required by the federal government to make a good faith effort to work out a possible agreement with a borrower before foreclosure can proceed. A complete rundown of these new policies can be found at the U.S. Consumer Financial Protection Bureau's website.

LIQUID ASSETS

The California Mortgage Relief Program defines a liquid asset as an asset that can easily be converted into cash in a short amount of time, including things like cash, money market instruments, and marketable securities. A liquid asset does not include savings in a tax-advantaged retirement account.

LOSS MITIGATION OPTIONS

Loss mitigation is an umbrella term used by mortgage servicers to describe several methods in which a homeowner may attempt to avoid foreclosure. These methods include:

- Forbearance: a period of time when loan payments are paused or reduced;
- Loan modification: an agreement altering the original terms of the mortgage;
- Deed in lieu of foreclosure: a process where the borrower transfers ownership to the lender in exchange for releasing the borrower from their debt obligations; or
- Short sale: the property is sold for less than the balance owed on the mortgage, leaving the borrower with a final balance to settle.

Lenders will typically seek to work out loan mitigation options with borrowers before proceeding with a foreclosure action.

MORTGAGE SERVICER

Banks that hold the actual titles to homes, hire mortgage servicers to manage the day-to-day processing of mortgages. They are typically the intermediary representatives who homeowners will deal with directly.

MORTGAGE WORKOUT

A mortgage workout is an agreement between a borrower and a lender to try one or more loan mitigation options before proceeding with a foreclosure. Those options typically include forbearance, repayment plans (a detailed plan that includes making current payments while paying an extra amount each month to get caught up on past due payments) and a reinstatement plan, where a borrower agrees to pay the balance owed in a lump sum by an agreed-upon date.

NOTICE OF DEFAULT

In the first official step of a foreclosure process, mortgage servicers will file Notices of Default against delinquent borrowers. Typically, after this notice is received by registered mail, the homeowner will have a period of time – usually three months – in which they can further attempt to resolve the debt. This is referred to as the "cure period".

NOTICE OF SALE

Following an unsuccessful cure period, a lender can file a Notice of Sale, which will both be posted physically on the home in question and printed in an authorized local newspaper. The foreclosure sale or auction will generally take place within 20 days of this notice.

ONE-ACTION RULE

California has what is called a "one-action" rule; lenders may either sue borrowers for the full amount owed on a mortgage, or conduct a foreclosure sale, but not both. In effect this means that once a foreclosure sale is conducted, the borrower's debt is considered paid in full, regardless of whether or not the proceeds from the sale cover the full amount owed, and the bank cannot attempt to collect additional money owed by the borrower. The opposite of the one-action rule is a Deficiency Judgment, where a judge can rule that additional money owed beyond the foreclosure sale can be taken through regular collection methods, including liens and wage-garnishment.