

MARS DISCLOSURES NO LONGER NEEDED WHEN FACILITATING SHORT SALES

The National Association of REALTORS® has made an important step in resolving the confusion caused by the Federal Trade Commission's (FTC) Mortgage Assistance Relief Services Rule (MARS) among real estate professionals who provide assistance to struggling homeowners in negotiating short sales with servicers on the sale of the home.

The FTC has announced that it will forbear from enforcing most provisions of its MARS Rule against real estate professionals who assist consumers in obtaining short sales from their lenders or servicers. Effective immediately, real estate professionals acting in their licensed capacity will no longer need to comply with most of the Rule's requirements, including the required disclosures, advance fee ban, and recordkeeping requirements.

This forbearance of enforcement will only apply to real estate brokers (and real estate agents under their direction and control) who are:

1. Licensed and maintain good standing pursuant to any applicable state law requirements;
2. In compliance with state laws governing the practices of real estate professionals; and
3. Assisting or attempting to assist a consumer in negotiating, obtaining or arranging a short sale of a dwelling in the course of securing the sale of the consumer's home.

The FTC will still enforce the Rule's prohibition against misrepresentations made by a real estate professional while assisting a consumer in negotiating or obtaining a short sale.

The FTC's forbearance should have the effect of resolving this issue for real estate professionals who are acting in their licensed capacity. While the Consumer Financial Protection Bureau and state attorneys general can still enforce the rule as written, both groups are expected to follow the FTC's lead. NAR will continue to work on obtaining a complete resolution of this issue. For additional information on the MARS Rule, visit www.realtor.org/topics/mars.

California Law Extends Protections for Short Sale Payments

Gov. Jerry Brown recently signed SB 458 into law, extending the protections of SB 931 (2010), to ensure that any lender that agrees to a short sale must accept the agreed upon short sale payment as payment in full of the outstanding balance of all loans.

Under previous law, a first mortgage holder could accept an agreed-upon short sale payment as full payment for the outstanding balance of the loan, but unfortunately, the rule did not apply to junior lien holders. SB 458 extends the protections of SB 931 to junior liens.

"The signing of this bill is a victory for California homeowners who have been forced to short sell their home only to find that the lender will pursue them after the short sale closes, and demand an additional payment to subsidize the difference," said C.A.R. President Beth

L. Pearce. "SB 458 brings closure and certainty to the short sale process and ensures that once a lender has agreed to accept a short sale payment on a property, all lien holders – those in first position and in junior positions – will consider the outstanding balance as paid in full and the homeowner will not be held responsible for any additional payments on the property."

Call for Action Urged on Conforming Loan Limits

NAR recently issued a Call For Action urging REALTORS® to contact Congress and clearly communicate

that Congress needs to prevent loan limits from expiring on Sept. 30.

Unless Congress acts, the current loan limits will expire on Sept. 30 and the cost of a mortgage could rise significantly. More than 30,000 California families will face higher down payments, higher mortgage rates, and stricter loan qualification requirements if conforming loan limits on mortgages backed by the Federal Housing Administration (FHA), Fannie Mae, and Freddie Mac are reduced beginning October 1, 2011, according to analysis by the California Association of REALTORS®.

Despite the Obama administration

claiming it will support a one-year extension of the current loan limits, Bank of America has already lowered their loan limits for new loans, and others will follow suit.

REALTORS® are encouraged to contact their representatives and communicate clearly that a housing recovery depends on keeping mortgages affordable and that Congress needs to prevent these higher loan limits from taking effect. Visit www.realtoraction-center.org to find out how to send this message.

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180 Otay Lakes Road, Suite 200
Bonita, CA 91902
619.470.4980