

A RESOLUTION

23-410

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

May 5, 2020

To declare the existence of an emergency with respect to the need for a foreclosure moratorium as part of the District's response to the COVID-19 emergency.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Foreclosure Moratorium Emergency Declaration Resolution of 2020".

Sec. 2. (a) Although the District of Columbia Superior Court has instituted measures to automatically continue hearings in mortgage and tax foreclosure cases scheduled before May 1, 2020, those measures still leave significant gaps that would allow homeowners to lose their homes during the emergency.

(b) For example, some foreclosures take place outside the judicial system, including foreclosures by condominium associations for unpaid fees and by mortgage lenders who elect to participate in the District's non-judicial foreclosure process overseen by the District Department of Insurance, Securities, and Banking.

(c) With the court's measures to automatically continue all foreclosure hearings and the federal government's announcement that loans backed by the U.S. Department of Housing and Urban Development, Fannie Mae, or Freddie Mac will receive certain limited stays of foreclosure. Without legislation to close the gap, some homeowners will be protected from foreclosure during the pendency of this health emergency while others will be foreclosed on, without any principled justification for the difference. Condo owners will fare the worst, but those behind on their mortgages can also face foreclosure depending on the system that the lender chose to elect (judicial or non-judicial) and whether the court entered judgment before the state of emergency was declared.

(d) Furthermore, even with evictions on hold, displacement can still occur during this period if foreclosure auctions take place. Historically, investors are frequent purchasers at foreclosure auctions and often times some investors skirt the prohibition on self-help eviction and attempt to push foreclosed homeowners out prematurely. Foreclosed homeowners are

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vulnerable to believing they have no choice but to leave, resulting in displacement in the midst of a pandemic.

(e) Properties will likely be sold at auction for severely depressed prices in the current climate of the pandemic combined with widespread economic disruption. Foreclosed homeowners will recoup less money as a result when they have equity or owe even more when there is a deficiency as in the case of “upside down” properties.

(f) Homeowners who might be able to sell their homes on their own to avoid foreclosure under normal circumstances may be unable to do so during the pandemic for a variety of reasons. Auction sales at depressed prices will have broader negative impacts on neighborhood values at a time when other District homeowners not in foreclosure may need to rely on their equity to weather COVID-19-related loss of income or other financial difficulties.

(g) A foreclosure is qualitatively different than many other forms of debt collection; it results in permanent loss of title in a city already fighting to stem the tide of displacement. Foreclosure prevention may include preserving multi-generational homes and homeownership by District residents of color. In the experience of legal aid providers to low-income residents, homeowners with short or medium-term hardships are often able to resume making payments if given the time, resources, and support to work things out. A moratorium on foreclosures, including condo and other non-judicial foreclosures, will give homeowners the ability to negotiate payment plans and other workouts to avoid foreclosure after the crisis environment, once they are able to work again and the offices they need to work with are fully functioning.

(h) Prohibiting foreclosure auctions from occurring during the District’s public health emergency is critical for protecting the health and stability of District homeowners, many of whom are elderly, low-income, or otherwise vulnerable. Allowing foreclosure auctions to move forward during the current health emergency increases the risk of vulnerable homeowners falling victim to foreclosure rescue scams, is likely to result in substantially depressed auction prices and home values in light of current bidding conditions, increases the number of residents who will be facing evictions in the future, and have a destabilizing impact on individuals and families.

(i) Emergency legislation is needed to prevent District residents from undergoing additional, substantial stress and instability during a traumatic time. The legislation preserves affordable home ownership and avoids wealth loss, large deficiencies, and plummeting home and neighborhood values. The District should protect against more than loss of shelter during the pandemic.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Foreclosure Moratorium Emergency Amendment Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.