

IN THE SENATE

SENATE BILL NO. 1355

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO COMMERCIAL TRANSACTIONS; AMENDING CHAPTER 45, TITLE 28, IDAHO  
2 CODE, BY THE ADDITION OF A NEW SECTION 28-45-110, IDAHO CODE, TO PROVIDE  
3 APPLICABILITY, TO PROVIDE NOTICE REQUIREMENTS IN CERTAIN INSTANCES,  
4 AND TO PROVIDE THAT THE RIGHTS OF A CREDITOR SHALL NOT BE INVALIDATED,  
5 ALTERED, OR IMPAIRED IN CERTAIN INSTANCES; AND DECLARING AN EMERGENCY  
6 AND PROVIDING AN EFFECTIVE DATE.  
7

8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. That Chapter 45, Title 28, Idaho Code, be, and the same is  
10 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
11 ignated as Section 28-45-110, Idaho Code, and to read as follows:

12 28-45-110. RESTRICTION ON ACTIONS ARISING FROM A REGULATED CREDIT  
13 TRANSACTION PRIMARILY SECURED BY A MORTGAGE OR DEED OF TRUST ON RESIDENTIAL  
14 REAL PROPERTY. (1) The provisions of this section shall apply to a regulated  
15 credit transaction made on or after July 1, 2022, that is secured by a subor-  
16 dinate lien on real property that is improved with a residence consisting of  
17 one (1) to four (4) family dwelling units, one (1) of which the owner occupies  
18 as the owner's principal place of residency.

19 (2) If a senior mortgage or other senior secured interest on the real  
20 property is foreclosed and a consumer is in default under the terms of an ex-  
21 isting obligation as described in subsection (1) of this section:

22 (a) Within ninety (90) days after the date of a foreclosure sale, a  
23 creditor or assignee of a lien described in subsection (1) of this sec-  
24 tion must send to the consumer's last known address written notice to  
25 the consumer of the consumer's liability under the outstanding regu-  
26 lated credit transaction. A notice required under this paragraph must  
27 include the following statement:

28 "Your liability under this account is subject to a statute  
29 of limitations, which may bar recovery after a date certain.  
30 This notification is not intended to provide legal advice,  
31 and you should seek your own legal counsel to determine your  
32 rights and obligations."; and

33 (b) Upon sale or assignment of an account subject to the notice re-  
34 quirement in paragraph (a) of this subsection, a creditor or assignee  
35 must send written notice to the consumer, at the consumer's last known  
36 address, notifying the consumer of his obligation under the outstanding  
37 regulated credit transaction. A notice delivered under this paragraph  
38 must contain the statement required in paragraph (a) of this subsec-  
39 tion.

40 (3) The failure to provide the notification required by subsection (2)  
41 of this section shall not invalidate or otherwise alter or impair a credi-  
42 tor's right to attempt to collect the obligation owed by the consumer.

1           SECTION 2. An emergency existing therefor, which emergency is hereby  
2 declared to exist, this act shall be in full force and effect on and after  
3 July 1, 2022.