

CROATIAN PARLIAMENT

2390

Pursuant to Article 89 of the Constitution of the Republic of Croatia, I hereby issue the

DECISION

PROMULGATING THE ACT ON AMENDMENTS TO THE ACT ON CONSUMER HOUSING LOANS

I hereby promulgate the Act on Amendments to the Act On Consumer Housing Loans passed by the Croatian Parliament at its session on 15 December 2023.

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No.: 71-10-01/1-23-2

Zagreb, 20 December 2023

The President
of the Republic of Croatia
Zoran Milanović, m. p.

ACT

ON AMENDMENTS TO THE ACT ON CONSUMER HOUSING LOANS

Article 1

In the Act on Consumer Housing Loans (Official Gazette 101/2017 and 128/2022), Article 2 is amended to read:

"This Act transposes into the legal system of the Republic of Croatia Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010, as last amended by Directive (EU) 2021/2167 of the European Parliament and of the Council of 24 November 2021 on credit servicers and credit purchasers and amending Directives 2008/48/EC and 2014/17/EU (OJ L 438/1 8. 12. 2021) (Text with EEA relevance)."

Article 2

In Article 3, paragraph (1), after item (35), the full stop is deleted at the end of the sentence and item (36) is inserted which reads:

"36) '*non-performing loan agreement*' means a loan agreement classified as a non-performing exposure in accordance with Article 47a of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012."

Article 3

In Article 25, paragraph (1), the word: "housing" is replaced by the word: "such".

Article 4

After Article 27, Article 27a and its title are inserted which read:

"Information to consumers regarding the modification to the terms and conditions of an agreement on a consumer housing loan"

Article 27a

Prior to modifying the terms and conditions of the agreement on a consumer housing loan, the credit institution shall communicate the following information to the consumer in a timely manner, either in writing or on another durable medium:

- 1) a clear description of the proposed changes or information that the changes were introduced by operation of law;
- 2) the timescale for the implementation of the changes referred to in point 1) of this Article;
- 3) the means for complaint available to the consumer regarding the changes referred to in point 1) of this Article;

- 4) the time period available for lodging any such complaint;
- 5) information that such complaint can be lodged to the Croatian National Bank, and address for lodging such complaint."

Article 5

The title of Article 28 is amended to read: "Relationship with the consumer having difficulties in payment".

Article 28 is amended to read:

"(1) Credit institutions shall put in place processes to enable the early recognition of consumers with possible difficulties in payment.

(2) Credit institutions shall establish a function for monitoring and handling of loans to consumers having difficulties in payment and appoint a person in charge of such monitoring and handling of loans to consumers having difficulties in payment, adopt internal bylaws with the criteria for the early recognition of such consumer loans, as well as establish and regularly update policies and procedures for the effective handling of such loans.

(3) Credit institutions shall, as agreed in the loan agreement or through any other agreed form of communication, take reasonable steps to contact the consumers having difficulties in payment and provide them with all the appropriate information and support.

(4) Credit institutions shall document any case where they were unable to establish contact with the consumer referred to in paragraph (3) of this Article.

(5) Credit institutions shall ensure appropriate professional training for employees taking part in activities related to consumers having difficulties in payment.

(6) Prior to concluding the agreement for the purchase and sale of a non-performing consumer housing loan, before initiating foreclosure proceedings or activating collateral of a consumer housing loan, credit institutions shall take reasonable and justified action with the aim of reaching an agreement in relation to the collection of arrears under the agreement on a consumer housing loan with the consumer having difficulties in payment."

Article 6

After Article 28, Articles 28a to 28e and their titles are inserted which read:

"Measures for reaching an agreement

Article 28a

(1) Where it has been found that the consumer is having difficulties in payment, the credit institution shall jointly with the consumer determine their cause in order to take appropriate further steps to remedy such difficulties in payment.

(2) Credit institutions shall communicate with the consumer in a language which is clear and easily understandable to the consumer.

(3) When communicating with the consumer regarding the consumer's payment difficulties, the credit institution shall respect the consumer's privacy and maintain the level of contact and communication that is commercially justifiable in terms of requests for information.

(4) The credit institution shall provide support and the following information to the consumer having difficulties in payment:

- 1) the number of missed or partial payments;
- 2) the total amount of arrears;
- 3) the costs incurred as a result of default; and
- 4) the importance of the cooperation between the consumer and the credit institution in order to remedy payment difficulties.

(5) Should payment difficulties persist, the credit institution shall inform the consumer in writing about:

- 1) the implications of default; and
- 2) available governmental/public forms of assistance or support.

Measures to facilitate the repayment of a consumer housing loan

Article 28b

(1) When deciding on the measures to facilitate the repayment of a consumer housing loan, the credit institution shall take into account individual circumstances of the consumer, the consumer's rights and interests and his or her ability to continue repaying the loan.

(2) Prior to the conclusion of the agreement for the purchase and sale of a non-performing consumer housing loan, before initiating foreclosure proceedings or activating collateral of a consumer housing loan, the credit institution shall inform the consumer having difficulties in payment in writing of the action the credit institution intends to take and offer the consumer one or more measures to facilitate the repayment of the consumer housing loan.

(3) Measures to facilitate the repayment of a consumer housing loan referred to in paragraph (2) of this Article include:

- 1) total or partial refinancing of a loan agreement; and/or
- 2) modification of the existing terms and conditions of a loan agreement, which may, among other possibilities include:
 - a) extending the term for loan repayment;
 - b) changing the type of a consumer housing loan;
 - c) deferring payment of all or part of the repayment of instalments or annuities for a period;
 - d) changing the interest rate;
 - e) offering a payment holiday;
 - f) partial repayments;
 - g) currency conversions; or
 - h) partial forgiveness and debt consolidation.

Transfer of ownership of immovable property

Article 28c

(1) The credit institution, consumer and pledgor may agree that the transfer of ownership of the immovable property as collateral for the consumer housing loan to the credit institution is considered sufficient to fully meet all outstanding obligations under the agreement on a consumer housing loan.

(2) Where the option referred to in paragraph (1) of this Article is set out in the agreement on a consumer housing loan, the credit institution shall unconditionally and irrevocably accept the consumer's request and, within eight days of the receipt of the request, invite the pledgor to deliver the document suitable for the entry of transfer of ownership into the land registry.

Fees and foreclosure proceedings

Article 28d

(1) The credit institution shall not impose fees on consumers having difficulties in payment or charge consumers having difficulties in payment fees arising from default under the agreement on a consumer housing loan.

(2) Within the meaning of this Act, default interest shall not be regarded as a fee.

(3) Where upon the completion of foreclosure proceedings the debt is not fully settled, the credit institution shall take reasonable and justified measures to facilitate the debt repayment for the consumer and other participants in the credit relationship.

(4) Forced collection from the collateral of a consumer housing loan shall be performed in accordance with the law governing foreclosure.

Documenting the procedure when taking measures to facilitate the repayment of a consumer housing loan

Article 28e

(1) With regard to loans to consumers in payment difficulty, the credit institution shall, as part of the documentation on the consumer housing loan, also document all the phases of the implemented procedure and communication with the consumer.

(2) The credit institution shall in particular include in the documentation an explanation of why the measures to facilitate the repayment of a consumer housing loan offered to the consumer are deemed suitable to the consumer's individual circumstances.

(3) The credit institution shall keep the documentation and all the records of established contact, proposed measures to facilitate the repayment of a consumer housing loan and agreements reached with the consumer in payment difficulty over the duration of the contractual relationship or until the final conclusion of any initiated legal proceedings."

Article 7

Article 40 is amended to read:

"(1) The credit institution shall inform the consumer about the purchase and sale of a non-performing loan as set out in the act governing the methods, conditions and procedure for servicing and sale of receivables, unless the credit institution, in agreement with the acquirer, continues to service the loan vis-à-vis the consumer.

(2) In addition to any complaints against the purchaser, the consumer is entitled to also lodge any complaints he or she might have had against the credit institution."

Article 8

In Article 41, paragraph (1), item (86), the word: "housing" is replaced by the word: "such".

Items (93) to (98) are amended to read:

"93) contrary to Article 27a of this Act, they fail to timely communicate to the consumer all the information about modifications to the agreement on a consumer housing loan prior to such modifications, either in writing or on another durable medium;

94) contrary to Article 28, paragraph (1) of this Act, they fail to put in place processes to enable the early recognition of consumers with possible difficulties in payment;

95) contrary to Article 28, paragraph (2) of this Act, they fail to establish a function for monitoring and handling of loans to consumers having payment difficulties or if they fail to appoint a person in charge of monitoring and handling of loans to consumers having payment difficulties or if they fail to adopt internal bylaws with the criteria for the early recognition of such loans or if they fail to establish and regularly update policies and procedures for the effective handling of such loans;

96) contrary to Article 28, paragraph (3) of this Act, they fail to take reasonable steps to establish contact with the consumers who have difficulties in payment and fail to provide them with all the appropriate information and support or, contrary to Article 28, paragraph (4) of this Act, they fail to document that they were unable to establish contact with the consumer;

97) contrary to Article 28, paragraph (5) of this Act, they fail to ensure appropriate professional training for employees taking part in activities related to consumers having difficulties in payment;

98) contrary to Article 28, paragraph (6) of this Act, they fail to take reasonable and justified action with the aim of reaching an agreement in relation to the collection of arrears under the agreement on a consumer housing loan with the consumer having difficulties in payment prior to concluding the agreement for the purchase and sale of a non-performing consumer housing loan, before initiating foreclosure proceedings or activating collateral of the consumer housing loan".

After item (98), items (98a) to (98m) are inserted which read:

"98a) contrary to Article 28a, paragraph (1) of this Act, where it has been found that the consumer is having difficulties in payment, they fail to determine, jointly with the consumer, the cause of such difficulty in order to take appropriate further steps;

98b) contrary to Article 28a, paragraph (2) of this Act, they fail to communicate with the consumer in a language which is clear and easily understandable to the consumer;

98c) contrary to Article 28a, paragraph (3) of this Act, they fail to respect the consumer's privacy and maintain the level of contact and communication that is commercially justifiable in terms of requests for information;

98d) contrary to Article 28a, paragraph (4) of this Act, they fail to provide support and information to the consumer having difficulties in payment;

98e) contrary to Article 28a, paragraph (5) of this Act, where payment difficulties persist, they fail to notify the consumer in writing about the implications of default and inform the consumer about available governmental/public forms of assistance or support;

98f) contrary to Article 28b, paragraph (1) of this Act, when deciding on the measures to facilitate the repayment of a consumer housing loan, they fail to take into account individual circumstances of the consumer, the consumer's rights and interests and his or her ability to continue repaying the loan;

98g) contrary to Article 28b, paragraph (2) of this Act, they fail to inform the consumer facing payment difficulties in writing of the action they intend to take and offer the consumer one or more measures to facilitate the repayment of a consumer housing loan prior to the conclusion of the agreement for the purchase and sale of a non-performing consumer housing loan, before initiating foreclosure proceedings or activating collateral of a consumer housing loan;

98h) contrary to Article 28c, paragraph (2) of this Act, they fail to allow, where thus agreed, the transfer of ownership of the immovable property as instrument of collateral for the consumer housing loan to the credit institution to fully meet all outstanding obligations under the agreement on a consumer housing loan or fail to unconditionally and irrevocably grant the consumer's request and invite the pledgor, within eight days, to deliver the document suitable for the entry of transfer of ownership into the land registry;

98i) contrary to Article 28d, paragraph (1) of this Act, they impose fees on consumers having difficulties in payment or charge consumers having difficulties in payment fees arising from default under the agreement on a consumer housing loan;

98j) contrary to Article 28d, paragraph (3) of this Act, they fail to take reasonable and justified measures to facilitate the debt repayment for the consumer and other participants in the credit relationship or they fail to offer them, if applicable, some of the measures to facilitate the repayment of the consumer housing loan referred to in Article 28b of this Act;

98k) contrary to Article 28e, paragraph (1) of this Act, they fail to document all the phases of the implemented procedure and communication with the consumer having difficulties in payment;

98l) contrary to Article 28e, paragraph (2) of this Act, they fail to include in the documentation an explanation of why the measures to facilitate the repayment of a consumer housing loan offered to the consumer are deemed suitable to the consumer's individual circumstances;

98m) contrary to Article 28e, paragraph (3) of this Act, they fail to keep the documentation and all the records of established contact, proposed measures to facilitate the repayment of a consumer housing loan and agreements reached with the consumer in payment difficulty over the duration of the contractual relationship or until the final conclusion of legal proceedings".

Item (112) is amended to read:

"112) contrary to Article 40, paragraph (1) of this Act, they fail to inform the consumer about the purchase and sale of a non-performing loan as set out in the act governing the methods, conditions and procedure for servicing and sale of receivables, unless they have continued to service the loan vis-à-vis the consumer in agreement with the acquirer".

TRANSITIONAL AND FINAL PROVISIONS

Bringing in compliance

Article 9

(1) The Croatian National Bank shall ensure compliance of the Decision on the additional criteria for the assessment of consumer creditworthiness and on the procedure of collection of arrears and voluntary foreclosure (Official Gazette 107/2017) with the provisions of this Act within 60 days of the entry into force of this Act.

(2) The credit institution shall bring its operation in compliance with the provisions of this Act within 90 days of the entry into force of this Act.

(3) If the loan agreement has been cancelled before the entry into force of this Act, the credit institution shall not be obligated to offer the consumer one or more measures to facilitate the repayment of a consumer housing loan referred to in Article 28b, inserted by Article 6 of this Act.

Entry into force

Article 10

This Act shall enter into force on the eighth day after the date of its publication in the Official Gazette, with the exception of Article 8 of this Act, which shall enter into force within 90 days of the date of the publication of this Act in the Official Gazette.

Class: 022-02/23-01/79
Zagreb, 15 December 2023

CROATIAN PARLIAMENT

The President
of the Croatian Parliament
Gordan Jandroković, m. p.