

**Amendments to HB 09-1276  
L.002**

HB1276\_L.002 addresses procedural changes requested by public trustees and title insurance lawyers. In short, it does the following:

1. HB 1276 concerns owner-occupied primary residences only and requires that a foreclosing party must post a notice on such property describing the opportunity for a foreclosure deferment. It also provides that a foreclosing party
  - a. at the time it files its initial foreclosure papers, must notify the public trustee if the property at issue is subject to posting, and
  - b. must file with the public trustee an affidavit that the posting occurred.

The amendment addresses the consequences of the foreclosing party's mistakenly omitting the notice that a property is subject to posting: it clarifies how timelines run in that event and requires payment of \$75 to the public trustee. (p.1, ll. 1-10) It also addresses the public trustee's obligation if the subsequent affidavit of posting is not filed, namely a one-time-only obligation to notify a foreclosing party that the posting affidavit has not been filed. (1, l. 21-p.2, l. 1)

2. The bill provides that if the foreclosing party does not file a posting affidavit on a property subject to this bill, the public trustee will continue the foreclosure sale from week to week until the posting affidavit is filed.

The amendment conforms the language about continuance of sale in the context of a missing posting affidavit to the language in HB 09-1207, the public trustees' clean-up bill, that will apply to a similar continuance. (p.2, ll. 3-8)

3. The amendment specifies that during a foreclosure deferment, any continuance of a foreclosure sale related to a borrower's efforts to cure his or her delinquency will run concurrently with the foreclosure deferment. (p. 1, ll. 14-19)
4. The bill as introduced misnamed the organization that runs the national foreclosure hotline. The amendment corrects the mistake. (p. 2, ll. 9-11)
5. The amendment makes a grammatical change in the definition of foreclosure deferment (p. 2, l. 12) and a clarifying change to a time line, namely that a twenty-day reference is to 20 "calendar" days. (p. 2. ll. 14-15)
6. The amendment specifies that timelines run from the filing of complete and accurate initial foreclosure papers, and are not triggered by an incomplete or defective filing. (p. 2. l. 13)
7. In a technical change, the amendment clarifies that the posting affidavit provision in section 4 ties to the continuance provision in section 3. (p. 2, ll. 17-20)

8. The amendment lays out required contents of the posting affidavit that permit a public trustee to assure that the affidavit is associated with the proper foreclosure file and is signed by an attorney or a holder, as appropriate. (p. 2, l. 16 – p. 3. l. 5)
9. The amendment tightens up the language describing the fee to be charged by the public trustee if the foreclosure resumes after a deferment. (p. 3, ll. 6-9)
10. Finally, the amendment extends the time at which the bill becomes applicable to new foreclosures (rather than applying to foreclosures commenced 30 days after passage, it will affect foreclosures commenced 60 days after passage) in order to accommodate the time necessary for coding changes in public trustees' software systems that will be required by the bill. (p. 3, l. 10)