

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

March 3, 2009
Date

Committee on Business Affairs and Labor.

After consideration on the merits, the Committee recommends the following:

HB09-1276 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, page 3, line 3, after the period, add "IF THE
2 DOCUMENT REQUIRED BY THIS PARAGRAPH (g) IS NOT FILED AT THE TIME
3 THE DOCUMENTS REQUIRED BY PARAGRAPHS (a) THROUGH (e) OF THIS
4 SUBSECTION (1) ARE FILED WITH THE PUBLIC TRUSTEE, AND THE HOLDER
5 DETERMINES AT A LATER DATE THAT THE PROPERTY REQUIRES POSTING,
6 THE HOLDER SHALL REQUEST THAT THE PUBLIC TRUSTEE RERECORD THE
7 NOTICE OF ELECTION AND DEMAND. THEREAFTER, ALL DEADLINES FOR
8 THE FORECLOSURE ACTION SHALL BE DETERMINED ACCORDING TO THE
9 DATE OF THE RERECORDING OF THE NOTICE OF ELECTION AND DEMAND AS
10 THOUGH THE FORECLOSURE WAS COMMENCED ON SUCH DATE, AND THE
11 PUBLIC TRUSTEE SHALL COLLECT A FEE OF SEVENTY-FIVE DOLLARS FROM
12 THE HOLDER.

13 **SECTION 3.** 38-38-109 (1) (c) (I), Colorado Revised Statutes, is
14 amended BY THE ADDITION OF A NEW SUB-SUBPARAGRAPH to
15 read:

16 **38-38-109. Continuance of sale - effect of bankruptcy -**
17 **withdrawal of sale. (1) Continuance.** (c) (I) (C) DURING A
18 FORECLOSURE DEFERMENT PURSUANT TO PART 8 OF THIS ARTICLE, ANY
19 CONTINUANCE REQUIRED BY SUB-SUBPARAGRAPHS (A) AND (B) OF THIS
20 SUBPARAGRAPH (I) SHALL RUN CONCURRENTLY TO THE FORECLOSURE
21 DEFERMENT."

1 Renumber succeeding sections accordingly.

2 Page 3, line 16, after the period, add "THE OFFICER IS NOT OBLIGATED TO
3 PROVIDE MORE THAN ONE NOTICE TO THE HOLDER OR THE HOLDER'S
4 ATTORNEY.";

5 strike lines 17 through 20 and substitute the following:

6 "(II) AFTER NOTICE IS MADE PURSUANT TO SUBPARAGRAPH (I) OF
7 THIS PARAGRAPH (D) THAT NO AFFIDAVIT WAS PROVIDED AND UNTIL THE
8 REQUIRED AFFIDAVIT IS PROVIDED, THE OFFICER SHALL CONTINUE THE
9 SALE OF THE PROPERTY IN ACCORDANCE WITH SECTION 38-38-109 AN
10 ADDITIONAL WEEK FOR EACH WEEK THAT THE HOLDER FAILS TO PROVIDE
11 THE REQUIRED AFFIDAVIT."

12 Page 4, line 23, strike "FOR HOMEOWNERS";

13 strike line 24 and substitute the following:

14 "NOW ALLIANCE, OR ITS SUCCESSOR ORGANIZATION.";

15 line 26, after "OR", insert "TO EXTEND PAST".

16 Page 5, line 5, before "DOCUMENTS" insert "COMPLETE AND ACCURATE".

17 Page 6, line 7, after "(5)", insert "(a)" and, before "DAYS", insert
18 "CALENDAR";

19 after line 10, insert the following:

20 "(b) IF THE HOLDER DOES NOT PROVIDE THE AFFIDAVIT REQUIRED
21 BY THIS SUBSECTION (5) TO THE PUBLIC TRUSTEE WITHIN THE
22 TWENTY-DAY PERIOD, THE SALE OF THE PROPERTY SHALL BE CONTINUED
23 IN ACCORDANCE WITH SECTION 38-38-103 (5) (d).

24 (c) THE AFFIDAVIT REQUIRED BY PARAGRAPH (a) OF THIS
25 SUBSECTION (5) SHALL CONTAIN AT LEAST THE FOLLOWING INFORMATION:

26 (I) THE FORECLOSURE CASE NUMBER;

27 (II) THE BORROWER'S NAME OR NAMES;

1 (III) THE ADDRESS OF THE PROPERTY AT WHICH THE POSTING WAS
2 MADE; AND

3 (IV) THE DATE OF THE POSTING.

4 (d) AN AFFIDAVIT FILED BY A QUALIFIED HOLDER SHALL BE SIGNED
5 BY THE ATTORNEY FOR THE HOLDER. AN AFFIDAVIT FILED BY A
6 NONQUALIFIED HOLDER SHALL BE SIGNED BY THE HOLDER AND PROPERLY
7 ACKNOWLEDGED BY A NOTARY PUBLIC."

8 Page 7, line 27, after "TRUSTEE", insert "SHALL COLLECT A FEE OF
9 SEVENTY-FIVE DOLLARS AND THEREAFTER" and, after "NOTICE" insert "OF
10 DEFERRED SALE".

11 Page 8, strike lines 4 and 5.

12 Page 12, line 27, strike "thirty" and substitute "sixty".

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