

**FINAL  
FISCAL NOTE**

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<b>Drafting Number:</b> LLS 09-0348	<b>Date:</b> June 8, 2009
<b>Prime Sponsor(s):</b> Rep. Ferrandino Sen. Carroll M.	<b>Bill Status:</b> Signed into Law
	<b>Fiscal Analyst:</b> Harry Zeid (303-866-4753)

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**TITLE:** CONCERNING A DELAY IN THE FORECLOSURE OF RESIDENTIAL PROPERTY FOR ELIGIBLE BORROWERS.

<b>Fiscal Impact Summary</b>	<b>FY 2009-2010</b>	<b>FY 2010-2011</b>
<b>State Revenue</b>		
<b>State Expenditures</b>		
<b>FTE Position Change</b>		
<b>Effective Date:</b> The Governor signed the bill into law on June 2, 2009, and applies to foreclosures that are commenced by the filing of a notice of election and demand 60 days on or after that date.		
<b>Appropriation Summary for FY 2009-2010:</b> None required.		
<b>Local Government Impact:</b> See the Local Government Impact section.		

**Summary of Legislation**

The bill allows an eligible borrower to defer a foreclosure sale on a residential property for 90 days, or not to extend past the next scheduled sale date after 90 days. The borrower must contact a foreclosure counselor within 20 days after the notice of election and demand is received by the public trustee of the county in which the property is located. A notice of election and demand is the document that starts the foreclosure process once recorded. A foreclosure counselor is defined as a housing counselor employed by an agency approved by the United States Department of Housing and Urban Development, including housing counselors affiliated with the Colorado Foreclosure Hotline and the Hope for Homeowners Hotline. Foreclosure counselors would have immunity and would not be liable to any person for approving or failing to approve a borrower for a foreclosure deferment or for certifying or declining to certify an early termination.

If a loan holder receives notice that a borrower is eligible for a loan deferment, the loan holder must defer the foreclosure for 90 days. The bill identifies criteria that a foreclosure counselor must consider when determining whether a borrower is eligible for a loan deferment. The borrower must make payments during the 90-day deferment period equal to two-thirds of the monthly payment due prior to delinquency, plus one-twelfth of the annual amount due for taxes and insurance.

The Division of Housing in the Department of Local Affairs would provide a description of the foreclosure deferment program to foreclosure counselors. The division would also develop a standard form in English and Spanish that can be posted on the front door of a property that is the subject of a notice of election and demand that provides information regarding how to pursue a mortgage foreclosure deferment.

Finally, the bill authorizes the public trustee to collect a fee of \$75 from the holder of evidence of debt to cover the cost of filing required documents and posting notifications with regard to the change in the foreclosure deadlines. The bill is repealed, effective June 30, 2011.

### **State Expenditures**

The bill will not impact state revenue or expenditures. The Division of Housing will develop and maintain a list of certified housing counselors and will develop the form to be posted on doors of property that are subject to foreclosure. These functions can be accomplished within the division's existing budget.

### **Local Government Impact**

Public trustees in Colorado handle all public transactions for their counties, including foreclosure sales on properties and the release of deeds of trust to property owners after a mortgage has been paid off. The bill requires that the public trustee be notified by a separate document that a property requires the posting of notifications regarding the foreclosure. The bill authorizes the public trustee to collect a fee of \$75 from the holder of an evidence of debt. Revenue from this fee source has not been estimated. Salaries for public trustees are paid exclusively from fees paid to the trustee.

### **Departments Contacted**

Local Affairs