

HOUSE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

February 8, 2007  
Date

Committee on Business Affairs and Labor.

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

HB07-1157 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, after line 2, insert the following:
- 2           **"SECTION 2.** Article 37 of title 38, Colorado Revised Statutes,
- 3 is amended BY THE ADDITION OF A NEW SECTION to read:
- 4           **38-37-100.5. Definitions.** THE DEFINITIONS IN SECTION
- 5 38-38-100.3 APPLY TO THIS ARTICLE UNLESS THE CONTEXT OTHERWISE
- 6 REQUIRES."
- 7 Renumber succeeding sections accordingly.
- 8 Page 4, line 14, strike "OR CONVEYANCE AS SECURITY FOR";
- 9 strike line 15 and substitute the following:
- 10 "OPTION, LEASE, EASEMENT,";
- 11 line 16, strike "38-38-305." and substitute "38-38-305, OR CONVEYANCE
- 12 AS SECURITY FOR THE PERFORMANCE OF THE GRANTOR."
- 13 Page 10, line 13, strike "nine" and substitute "~~nine~~ TWELVE".
- 14 Page 16, line 23, strike "A NEW SECTION" and substitute "THE
- 15 FOLLOWING NEW SECTIONS";

- 1 line 25, strike "THE" and substitute "IF THE";
- 2 line 26, strike "OR" and substitute "IS THE HOLDER OF THE EVIDENCE OF  
3 DEBT FORECLOSING THE DEED OF TRUST OR OTHER LIEN, THEN SUCH  
4 SUCCESSFUL BIDDER,";
- 5 line 27, strike "OR".
- 6 Page 17, line 1, strike "38-38-403 OR THE ASSIGNEE'S ATTORNEY," and  
7 substitute "38-38-403, OR THE ASSIGNEE'S ATTORNEY";
- 8 line 9, strike "FORECLOSED, WHICH" and substitute "FORECLOSED. THE".
- 9 Page 19, after line 23, insert the following:
- 10 **"38-38-114. Unclaimed refunds - disposition under**  
11 **"Unclaimed Property Act".** MONEYS PAYABLE AS A REFUND FOR  
12 OVERPAYMENT OF A CURE OF DEFAULT PURSUANT TO SECTION 38-38-104  
13 OR FOR OVERPAYMENT OF A REDEMPTION PURSUANT TO PART 3 OF THIS  
14 ARTICLE THAT REMAIN UNCLAIMED BY THE OWNER ONE YEAR AFTER THE  
15 MONEYS BECAME PAYABLE ARE PRESUMED ABANDONED AND SHALL BE  
16 REPORTED AND PAID TO THE STATE TREASURER IN ACCORDANCE WITH  
17 SECTIONS 38-13-110 AND 38-13-112."
- 18 Page 20, line 8, strike "INSTRUMENT," and substitute "INSTRUMENT OR A  
19 CERTIFIED COPY THEREOF,".
- 20 Page 22, line 8, strike "HIGHEST INTEREST RATE" and substitute  
21 "APPLICABLE INTEREST RATE AS".
- 22 Page 23, after line 1, insert the following:
- 23 **"SECTION 16.** The introductory portion to 38-38-402 (1),  
24 Colorado Revised Statutes, as it will become effective July 1, 2007, is  
25 amended, and the said 38-38-402 (1), is further amended BY THE  
26 ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:
- 27 **38-38-402. Certificate of purchase - issuance.** (1) No sooner  
28 than fifteen business days following a sale but no later than five business  
29 days following an officer's receipt of ~~redemption~~ PURCHASE money paid



1 under section 38-38-302, the officer shall execute and record in each  
2 county where the property or a portion thereof is located a certificate of  
3 ~~redemption~~ PURCHASE containing:

4 (f) AN ATTACHED EXHIBIT CONTAINING A COPY OF THE EXECUTED  
5 ORDER AUTHORIZING THE SALE THAT BEARS THE PUBLIC TRUSTEE SALE  
6 NUMBER OR CIVIL DOCKET NUMBER IN THE CASE OF A JUDICIAL  
7 FORECLOSURE; AND

8 (g) AN ATTACHED EXHIBIT CONTAINING A COPY OF THE INITIAL  
9 MAILING LIST AND ANY SUPPLEMENTAL OR AMENDED MAILING LIST THAT  
10 BEARS THE PUBLIC TRUSTEE SALE NUMBER OR CIVIL DOCKET NUMBER IN  
11 THE CASE OF A JUDICIAL FORECLOSURE."

12 Renumber succeeding sections accordingly.

13 Page 25, after line 17, insert the following:

14 **"SECTION 21.** Part 1 of article 39 of title 38, Colorado Revised  
15 Statutes, is amended BY THE ADDITION OF A NEW SECTION to  
16 read:

17 **38-39-100.5. Definitions.** THE DEFINITIONS IN SECTION  
18 38-38-100.3 APPLY TO THIS ARTICLE UNLESS THE CONTEXT OTHERWISE  
19 REQUIRES."

20 Renumber succeeding sections accordingly.

21 Page 26, line 8, strike "(3.5)" and substitute "~~(3.5)~~ (3)".

22 Page 27, line 1, after "(3)", insert "(a)" and, strike "if" and substitute "if";

23 strike lines 2 through 5 and substitute the following:

24 ~~"such original evidence of debt cannot be produced, the public trustee~~  
25 ~~may accept one of the following in lieu thereof:~~

26 ~~(a) An indemnification agreement accompanied by a certified";~~

27 line 18, strike "IF THE HOLDER OF THE EVIDENCE OF" and substitute "A  
28 HOLDER OF THE ORIGINAL EVIDENCE OF DEBT THAT";



1 line 19, strike "DEBT";

2 strike lines 20 through 27.

3 Page 28, strike lines 1 and 2;

4 line 3, strike "EVIDENCE OF DEBT," and substitute "MAY REQUEST THE  
5 RELEASE OF A DEED OF TRUST WITHOUT PRODUCING OR EXHIBITING THE  
6 ORIGINAL EVIDENCE OF DEBT. A HOLDER THAT REQUESTS THE RELEASE OF  
7 A DEED OF TRUST PURSUANT TO THIS PARAGRAPH (a)";

8 line 4, strike "THE PUBLIC TRUSTEE FOR" and substitute "AND DEFEND THE  
9 PUBLIC TRUSTEE AGAINST";

10 line 5, strike "DAMAGES, COSTS," and substitute "DAMAGES RESULTING  
11 FROM";

12 strike line 6;

13 line 8, strike "REQUEST, AND NO" and substitute "REQUEST. THE  
14 INDEMNITY GRANTED BY THIS PARAGRAPH (a) IS LIMITED TO ACTUAL  
15 ECONOMIC LOSS SUFFERED AND ANY COURT COSTS AND REASONABLE  
16 ATTORNEY FEES AND COSTS INCURRED IN DEFENDING A CLAIM BROUGHT  
17 AS A DIRECT AND PROXIMATE RESULT OF THE FAILURE TO PRODUCE THE  
18 ORIGINAL EVIDENCE OF DEBT, BUT THE INDEMNITY DOES NOT INCLUDE  
19 AND NO CLAIMANT IS ENTITLED TO ANY SPECIAL, INCIDENTAL,  
20 CONSEQUENTIAL, RELIANCE, EXPECTATION, OR PUNITIVE DAMAGES. NO";

21 line 10, strike "A" and substitute "~~A~~ WITH RESPECT TO EITHER  
22 SUBSECTION (1) OR (2) OF THIS SECTION, THE HOLDER OF THE EVIDENCE OF  
23 DEBT MAY REQUEST THE RELEASE OF A DEED OF TRUST WITHOUT  
24 PRODUCING OR EXHIBITING THE ORIGINAL EVIDENCE OF DEBT. A HOLDER  
25 THAT REQUESTS THE RELEASE OF A DEED OF TRUST PURSUANT TO THIS  
26 PARAGRAPH (b) SHALL DELIVER TO THE PUBLIC TRUSTEE A";

27 line 14, after "to", insert "ONE AND ONE-HALF TIMES";

28 line 17, strike "An indemnification agreement from" and substitute "~~An~~  
29 ~~indemnification agreement from~~ WITH RESPECT TO EITHER SUBSECTION  
30 (1) OR (2) OF THIS SECTION,";



1 line 18, strike "in a form acceptable to the public" and substitute "in a  
2 form acceptable to the public";

3 strike line 19 and substitute the following:

4 "~~trustee indemnifying the public trustee from any and all~~ MAY REQUEST  
5 THE RELEASE OF A DEED OF TRUST WITHOUT PRODUCING OR EXHIBITING  
6 THE ORIGINAL EVIDENCE OF DEBT. A COMPANY THAT REQUESTS THE  
7 RELEASE OF A DEED OF TRUST PURSUANT TO THIS PARAGRAPH (c) SHALL  
8 BE DEEMED TO HAVE AGREED TO INDEMNIFY AND DEFEND THE PUBLIC  
9 TRUSTEE AGAINST ANY CLAIM MADE";

10 strike lines 21 through 23 and substitute the following:

11 "~~damages as the result of issuing such release, accompanied by~~  
12 RESULTING FROM THE ACTION TAKEN BY THE PUBLIC TRUSTEE IN  
13 ACCORDANCE WITH THE REQUEST. THE INDEMNITY GRANTED BY THIS  
14 PARAGRAPH (c) IS LIMITED TO ACTUAL ECONOMIC LOSS SUFFERED AND  
15 ANY COURT COSTS AND REASONABLE ATTORNEY FEES AND COSTS  
16 INCURRED IN DEFENDING A CLAIM BROUGHT AS A DIRECT AND PROXIMATE  
17 RESULT OF THE FAILURE TO PRODUCE THE ORIGINAL EVIDENCE OF DEBT,  
18 BUT THE INDEMNITY DOES NOT INCLUDE AND NO CLAIMANT IS ENTITLED  
19 TO ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, RELIANCE, EXPECTATION,  
20 OR PUNITIVE DAMAGES. NO SEPARATE INDEMNIFICATION AGREEMENT  
21 SHALL BE NECESSARY FOR THE AGREEMENT TO INDEMNIFY TO BE  
22 EFFECTIVE; HOWEVER, THE COMPANY SHALL PROVIDE TO THE PUBLIC  
23 TRUSTEE an affidavit executed by an officer of".

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