

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

February 16, 2010
Date

Committee on Local Government.

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

HB10-1240 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, page 2, after line 1 insert:

2 "SECTION 1. 38-38-101 (1) (h), Colorado Revised Statutes, is
3 amended to read:

4 **38-38-101. Holder of evidence of debt may elect to foreclose.**
5 (1) **Documents required.** Whenever a holder of an evidence of debt
6 declares a violation of a covenant of a deed of trust and elects to publish
7 all or a portion of the property therein described for sale, the holder or the
8 attorney for the holder shall file the following with the public trustee of
9 the county where the property is located:

10 (h) A separate document notifying the public trustee that the
11 property referred to in the notice of election and demand is property that
12 requires posting under section 38-38-802. If the document required by
13 this paragraph (h) is not filed at the time the documents required by
14 paragraphs (a) to (e) of this subsection (1) are filed with the public
15 trustee, and the holder determines at a later date that the property requires
16 posting, the holder shall request that the public trustee rerecord the notice
17 of election and demand. Thereafter, all deadlines for the foreclosure
18 action shall be determined according to the date of the rerecording of the
19 notice of election and demand as though the foreclosure was commenced
20 on such date, and the public trustee shall collect a fee of seventy-five
21 dollars from the holder. IF THE DOCUMENT REQUIRED BY THIS PARAGRAPH

1 (h) IS FILED IN ERROR, THE HOLDER MAY WITHDRAW IT BY FILING WITH THE
2 PUBLIC TRUSTEE AN AFFIDAVIT SIGNED BY THE HOLDER OR THE ATTORNEY
3 FOR THE HOLDER AFFIRMING BOTH THAT THE DOCUMENT REQUIRED BY
4 THIS PARAGRAPH (h) WAS FILED IN ERROR, AND THAT THE PROPERTY HAS
5 NOT BEEN POSTED PURSUANT TO SECTION 38-38-802. IN ORDER TO BE
6 EFFECTIVE, AND THEREBY NOTIFY THE PUBLIC TRUSTEE THAT THE
7 PROPERTY IS NOT ELIGIBLE FOR POSTING, SUCH AFFIDAVIT SHALL BE FILED
8 WITH THE PUBLIC TRUSTEE NO LATER THAN FIFTEEN CALENDAR DAYS
9 AFTER THE DATE OF THE DETERMINATION OF THE PUBLIC TRUSTEE THAT
10 THE FILING IS COMPLETE IN ACCORDANCE WITH SECTION 38-38-102 (1).".

11 Renumber succeeding sections accordingly.

12 Page 2, line 11, strike "(a)".

13 Page 3, strike lines 8 through 20.

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