



**Colorado
Legislative
Council
Staff**

HB17-1199

**FINAL
FISCAL NOTE**

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 17-0809
Prime Sponsor(s): Rep. Rosenthal
Sen. Cooke

Date: June 12, 2017
Bill Status: Postponed Indefinitely
Fiscal Analyst: Anna Gerstle (303-866-4375)

BILL TOPIC: FORECLOSURE SALE PROCESSES

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
State Revenue		
State Expenditures	Minimal workload impact.	
Appropriation Required: None.		
Future Year Impacts: Ongoing minimal workload impact.		

NOTE: This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

Summary of Legislation

The bill changes state law related to foreclosure sales conducted by a public trustee or county sheriff (officer). Under current law, a petition for bankruptcy automatically stays a foreclosure sale. The bill clarifies that if a sale is held in violation of the automatic stay provision and:

- if the officer receives full payment of a successful bid prior to a bankruptcy order being filed, the debt or deed of trust being foreclosed on is immediately reinstated; or
- if the officer has not received full payment of a successful bid prior to being notified of the bankruptcy, the sale is void, and the officer must return any funds received from the sale and follow procedures specified in the bill.

Under current law, an officer conducting a foreclosure may postpone the sale to a later date at any time prior to the start of the sale. The bill clarifies that the deadline for the officer conducting a foreclosure to continue the sale is the scheduled date and time of the sale. In addition, the bill:

- sets procedures that must be followed by an officer if a foreclosure sale is set aside by the court order;
- excludes violations of the single point of contact or dual tracking requirements from the information that must be included in the published notice prior to a foreclosure sale; and
- specifies that a person rescinding a foreclosure sale is no longer required to send envelopes along with his or her recession paperwork.

Background

Foreclosure of residential real estate is governed by statutory procedure, including various notices, remedial opportunities, and judicial review of a foreclosure case prior to sale. In Colorado, the public trustee or sheriff may release, foreclose and sell property in default, or take other action related to deeds of trust.

State Expenditures

The bill impacts the workload in the Judicial Department by a minimal amount beginning in FY 2017-18. Very few foreclosure actions are challenged in court, but clarifying the foreclosure procedures may result in a minimal increase in workload to the trial courts as interested parties familiarize themselves with changing procedures. To the extent that the bill reduces the number of foreclosures challenged in court, the workload in the trial courts may decrease. Any workload impact is expected to be minimal and does not require a change in appropriations.

Local Government Impact

The bill may increase the workload for public trustees or county sheriffs to adjust foreclosure procedures to align with the bill's requirements. The fiscal note assumes that any increase in workload is minimal.

Effective Date

The bill was postponed indefinitely by the House Local Government Committee on March 8, 2017.

State and Local Government Contacts

Counties
Public Trustees

Judicial
Regulatory Agencies

Municipalities
Sheriffs