

CHAPTER 145

PROPERTY

SENATE BILL 01-027

BY SENATOR(S) Nichol, Fitz-Gerald, Tate, Taylor, and Windels;
also REPRESENTATIVE(S) Larson, Mace, Tochtrop, and Vigil.

AN ACT

CONCERNING THE REQUIREMENT THAT AN OWNER OF A CONSUMER CREDIT TRANSACTION SECURED BY RESIDENTIAL REAL PROPERTY GIVE NOTICE TO EACH PERSON LIABLE ON THE LOAN THAT THE OWNER INTENDS TO FORECLOSE ON THE DEED OF TRUST PRIOR TO THE COMMENCEMENT OF FORECLOSURE PROCEEDINGS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Part 1 of article 38 of title 38, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

38-38-102.5. Notice prior to residential foreclosure. (1) FOR THE PURPOSES OF THIS SECTION UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CONSUMER LOAN" MEANS A CONSUMER LOAN AS DEFINED IN SECTION 5-1-301 (15) (a) AND (15) (b), C.R.S., AND SHALL NOT EXCLUDE A LOAN PRIMARILY SECURED BY AN INTEREST IN LAND AS DEFINED IN SECTION 5-1-301 (26), C.R.S.

(b) "DWELLING" SHALL HAVE THE SAME MEANING AS DEFINED IN SECTION 5-1-301 (18), C.R.S.

(c) "RESIDENCE" SHALL HAVE THE SAME MEANING AS DEFINED IN SECTION 5-1-201 (6), C.R.S.

(2) WITH RESPECT TO ANY CONSUMER LOAN SECURED BY A DEED OF TRUST OR MORTGAGE, RECORDED AFTER JANUARY 1, 2002, WHICH ENCUMBERS A DWELLING, AFTER A DEFAULT CONSISTING SOLELY OF A FAILURE TO MAKE ANY REQUIRED PAYMENT, THE OWNER OF THE EVIDENCE OF INDEBTEDNESS SHALL, NOT MORE THAN FORTY-FIVE DAYS AFTER INITIAL DEFAULT AND AT LEAST TWENTY DAYS PRIOR TO THE RECORDING OF A NOTICE OF ELECTION AND DEMAND, OR THE INITIATION OF A SUIT FOR

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

FORECLOSURE, PROVIDE WRITTEN NOTICE OF SUCH DEFAULT AND THE OPPORTUNITY TO CURE, TO ALL PERSONS LIABLE ON THE DEBT AT THE ADDRESS OF THE RESIDENCE OF EACH SUCH PERSON. THE FAILURE TO PROVIDE THE NOTICE AND OPPORTUNITY TO CURE SPECIFIED HEREIN SHALL NOT AFFECT THE VALIDITY OF THE DEED OF TRUST OR MORTGAGE, THE ABILITY OF THE OWNER OF THE INDEBTEDNESS TO FORECLOSE PURSUANT TO THE DEED OF TRUST OR MORTGAGE, THE FORECLOSURE PROCEEDING OR ANY PROCEEDING CONDUCTED IN CONNECTION THEREWITH.

(3) THE NOTICE TO BE GIVEN PURSUANT TO THIS SECTION SHALL CONTAIN THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE OWNER OF THE INDEBTEDNESS TO WHICH PAYMENT IS TO BE MADE, A BRIEF IDENTIFICATION OF THE CREDIT TRANSACTION, THE RIGHT TO CURE THE DEFAULT, AND THE AMOUNT OF PAYMENT AND DATE BY WHICH PAYMENT MUST BE RECEIVED TO CURE THE DEFAULT.

SECTION 2. Effective date. This act shall take effect January 1, 2002, unless a referendum petition is filed during the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution. If such a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: April 20, 2001