

## CHAPTER 440

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**PROPERTY**


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**HOUSE BILL 08-1402**

BY REPRESENTATIVE(S) Gagliardi and Ferrandino, Benefield, Borodkin, Butcher, Carroll M., Casso, Fischer, Gallegos, Green, Kerr A., McGihon, Merrifield, Middleton, Peniston, Pommer, Primavera, Solano, Soper, Todd, Carroll T., Labuda, Madden, and Rice;  
also SENATOR(S) Bacon, Boyd, Groff, Morse, Tapia, Tochtrop, Gibbs, Isgar, Sandoval, Schwartz, Shaffer, Tupa, Veiga, Williams, and Windels.

**AN ACT**

**CONCERNING ADDITIONAL PROTECTIONS FOR HOMEOWNERS FACING FORECLOSURE, AND MAKING AN APPROPRIATION THEREFOR.**

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

**SECTION 1.** 38-38-102.5, Colorado Revised Statutes, is RECREATED AND REENACTED, WITH AMENDMENTS, to read:

**38-38-102.5. Notice prior to residential foreclosure - hotline.** (1) AS USED IN THIS SECTION, "HOLDER" MEANS THE HOLDER OF AN EVIDENCE OF DEBT CONSTITUTING A RESIDENTIAL MORTGAGE LOAN, AS DEFINED IN SECTION 12-61-902, C.R.S., OR THAT HOLDER'S LOAN SERVICER OR OTHER PERSON ACTING ON THE HOLDER'S BEHALF. "HOLDER" SHALL NOT INCLUDE A PERSON WHOSE ONLY ACTIVITY AS A HOLDER IS AS THE SELLER IN NOT MORE THAN THREE CREDIT SALES OR LOANS PER YEAR.

(2) AT LEAST THIRTY DAYS BEFORE FILING A NOTICE OF ELECTION AND DEMAND AND AT LEAST THIRTY DAYS AFTER DEFAULT, THE HOLDER SHALL MAIL A NOTICE ADDRESSED TO THE DEBTOR AT THE ADDRESS SHOWN ON ITS RECORDS, CONTAINING THE TELEPHONE NUMBER OF THE COLORADO FORECLOSURE HOTLINE AND THE DIRECT TELEPHONE NUMBER OF THE HOLDER'S LOSS MITIGATION REPRESENTATIVE OR DEPARTMENT.

(3) (a) THIS SECTION SHALL APPLY ONLY TO A DEFAULT CONSISTING SOLELY OF THE DEBTOR'S FAILURE TO MAKE ONE OR MORE REQUIRED PAYMENTS.

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

(b) WITH RESPECT TO DEFAULTS ON THE SAME OBLIGATION, AFTER THE HOLDER HAS ONCE GIVEN THE DEBTOR A NOTICE AS SPECIFIED IN SUBSECTION (2) OF THIS SECTION, THIS SECTION IMPOSES NO LIMITATION ON THE HOLDER'S RIGHT TO FORECLOSE WITH RESPECT TO ANY SUBSEQUENT DEFAULT THAT OCCURS WITHIN TWELVE MONTHS AFTER SUCH NOTICE.

**SECTION 2.** Part 7 of article 32 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**24-32-719. Foreclosure prevention - outreach efforts - grant fund - creation - administration - repeal.** (1) THERE IS HEREBY CREATED IN THE STATE TREASURY THE FORECLOSURE PREVENTION GRANT FUND. THE FUND SHALL CONSIST OF MONEYS APPROPRIATED BY THE GENERAL ASSEMBLY AS WELL AS GIFTS, GRANTS, AND DONATIONS, WHICH THE DIVISION IS HEREBY AUTHORIZED AND DIRECTED TO SOLICIT, ACCEPT, EXPEND, AND DISBURSE FOR THE PURPOSE OF MAKING GRANTS AS PROVIDED IN THIS SECTION. ANY MONEYS IN SUCH FUND AT THE END OF THE 2008-2009 FISCAL YEAR SHALL NOT REVERT TO THE GENERAL FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AS OF JUNE 30, 2010, SHALL REVERT TO THE GENERAL FUND.

(2) UPON THE APPROVAL OF THE STATE HOUSING BOARD, THE DIVISION MAY MAKE A GRANT FROM MONEYS IN THE FUND TO ANY LOCAL HOUSING AUTHORITY, PUBLIC NONPROFIT CORPORATION, OR PRIVATE NONPROFIT CORPORATION FOR THE SOLE PURPOSE OF PROVIDING OUTREACH AND NOTICE OF FORECLOSURE PREVENTION ASSISTANCE TO PERSONS IN DANGER OF FORECLOSURE AND TO COMMUNITIES WITH HIGH FORECLOSURE RATES. GRANTS SHALL BE MADE SUBJECT TO PROPOSALS RECEIVED BY THE DIVISION AND AWARDED BASED UPON CRITERIA DETERMINED BY THE DIVISION, WHICH CRITERIA SHALL INCLUDE:

(a) EVIDENCE OF THE ABILITY TO USE FUNDS EFFECTIVELY;

(b) AN ESTABLISHED PRESENCE IN THE COMMUNITY, WITH PREFERENCE GIVEN TO ORGANIZATIONS WITH MEMBERS IN LOW- AND MODERATE-INCOME AREAS WITH HIGH FORECLOSURE RATES; AND

(c) A DEMONSTRATED ABILITY TO REACH HOMEOWNERS FROM CONSTITUENCIES AND COMMUNITIES WITH HIGH FORECLOSURE RATES.

(3) ON OR BEFORE JANUARY 1, 2009, AND ON OR BEFORE EACH JANUARY 1 THEREAFTER, THE DIVISION SHALL REPORT TO THE BUSINESS AFFAIRS AND LABOR COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND THE BUSINESS, LABOR, AND TECHNOLOGY COMMITTEE OF THE SENATE, OR THEIR SUCCESSOR COMMITTEES, ON THE DIVISION'S RECEIPTS AND EXPENDITURES PURSUANT TO THIS SECTION. THE DIVISION'S REPORT SHALL CONTAIN QUANTIFIED RESULTS OF OUTCOMES, INCLUDING DATA AS TO THE NUMBER OF CALLS TO THE FORECLOSURE HOTLINE AND THE NUMBERS OF DEFAULTS, FORECLOSURES, AND REDEMPTIONS IN IDENTIFIED GEOGRAPHIC AREAS.

(4) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2010.

**SECTION 3. Appropriation - adjustments to the 2008 long bill.** (1) In

addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the foreclosure prevention grant fund created in section 24-32-719 (1), Colorado Revised Statutes, for the fiscal year beginning July 1, 2008, the sum of one hundred thousand dollars (\$100,000), or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the foreclosure prevention grant fund created in section 24-32-719 (1), Colorado Revised Statutes, not otherwise appropriated, to the department of local affairs, for allocation to the division of housing, for the fiscal year beginning July 1, 2008, the sum of one hundred thousand dollars (\$100,000) reappropriated funds, or so much thereof as may be necessary, for the implementation of this act. Said sum shall remain available through June 30, 2009.

(3) For the implementation of this act, the general fund appropriation to the controlled maintenance trust fund made in section 23 of the annual general appropriation act, for the fiscal year beginning July 1, 2008, shall be decreased by one hundred thousand dollars (\$100,000).

**SECTION 4. Effective date - applicability.** This act shall take effect upon passage and shall apply to foreclosure actions filed on or after August 1, 2008.

**SECTION 5. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 5, 2008