

## CHAPTER 155

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**CRIMINAL LAW AND PROCEDURE**


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**HOUSE BILL 09-1227**

BY REPRESENTATIVE(S) Frangas, Ferrandino, Looper, Ryden, Todd;  
also SENATOR(S) Hudak, Carroll M., Tochtrop.

**AN ACT****CONCERNING EQUITY SKIMMING OF REAL PROPERTY.**

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

**SECTION 1.** 18-5-802 (1) and (4) (a), Colorado Revised Statutes, are amended to read:

**18-5-802. Equity skimming of real property.** (1) A person commits the crime of equity skimming of real property if ~~he~~ THE PERSON knowingly:

(a) Acquires an interest in real property ~~which~~ THAT is encumbered by a loan secured by a mortgage or deed of trust and the loan is in arrears at the time ~~he~~ THE PERSON acquires the interest or is placed in default within eighteen months after ~~acquiring such~~ THE PERSON ACQUIRES THE interest; ~~in real property~~; and

(b) EITHER:

~~(b)~~ (I) Fails to apply all rent derived from ~~his~~ THE PERSON'S interest in the real property first toward the satisfaction of all outstanding payments due on the loan and second toward any fees due to any association of real property owners ~~which~~ THAT charges such fees for the upkeep of the housing facility, or common area including buildings and grounds thereof, of which the real property is a part before appropriating the remainder of such rent or any part thereof for any other purpose except for the purpose of repairs necessary to prevent waste of the real property; OR

(II) AFTER A FORECLOSURE IN WHICH TITLE HAS VESTED PURSUANT TO SECTION 38-38-501, C.R.S., COLLECTS RENT ON BEHALF OF ANY PERSON OTHER THAN THE OWNER OF THE REAL PROPERTY.

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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.*

(4) It shall be an affirmative defense to this section:

(a) That all deficiencies in all underlying encumbrances at the time of acquisition have been fully satisfied and brought current and that, in addition, any regular payments on the underlying encumbrances during the succeeding nine months after the date of acquisition have been timely paid in full; EXCEPT THAT THIS SHALL NOT BE AN AFFIRMATIVE DEFENSE TO A CRIME THAT INCLUDES THE ELEMENT SET FORTH IN SUBPARAGRAPH (II) OF PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION;

**SECTION 2. Act subject to petition - effective date - applicability.** (1) This act shall take effect September 1, 2009.

(2) However, if a referendum petition is filed against this act or an item, section, or part of this act during the 90-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, then the act, item, section, or part, shall not take effect unless approved by the people at a biennial regular general election and shall take effect on the date specified in subsection (1) or on the date of the official declaration of the vote thereon by proclamation of the governor, whichever is later.

(3) The provisions of this act shall apply to acts committed on or after the applicable effective date of this act.

Approved: April 21, 2009