

CHAPTER 57

FINANCIAL INSTITUTIONS

HOUSE BILL 14-1215

BY REPRESENTATIVE(S) Ginal, Kraft-Tharp, McNulty, Navarro, Nordberg, Szabo, Williams, Melton, Ryden, Fields, Hamner, Holbert, Hullinghorst, Mitsch Bush, Rosenthal, Schafer;
also SENATOR(S) Tochtrop.

AN ACT**CONCERNING THE ABILITY OF A FEDERAL HOME LOAN BANK TO ENFORCE ITS RIGHTS WITH REGARD TO COLLATERAL SUBJECT TO A SECURITY AGREEMENT.**

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

SECTION 1. In Colorado Revised Statutes, 10-3-502, **add** (6.5) as follows:

10-3-502. Definitions. As used in this part 5, unless the context otherwise requires:

(6.5) "FEDERAL HOME LOAN BANK" MEANS AN INSTITUTION CHARTERED UNDER THE "FEDERAL HOME LOAN BANK ACT", 12 U.S.C. SEC. 1421 ET SEQ., OR ITS SUCCESSOR STATUTE.

SECTION 2. In Colorado Revised Statutes, 10-3-505, **add** (3) as follows:

10-3-505. Injunctions - orders. (3) NOTWITHSTANDING SUBSECTIONS (1) AND (2) OF THIS SECTION AND ANY OTHER PROVISION OF THIS TITLE, A FEDERAL HOME LOAN BANK SHALL NOT BE STAYED, ENJOINED, OR PROHIBITED FROM EXERCISING OR ENFORCING ANY RIGHT OR CAUSE OF ACTION REGARDING COLLATERAL PLEDGED UNDER A SECURITY AGREEMENT OR UNDER ANY PLEDGE AGREEMENT, SECURITY AGREEMENT, COLLATERAL AGREEMENT, GUARANTEE AGREEMENT, OR OTHER SIMILAR ARRANGEMENT OR CREDIT ENHANCEMENT RELATING TO A SECURITY AGREEMENT TO WHICH THE FEDERAL HOME LOAN BANK IS A PARTY.

SECTION 3. In Colorado Revised Statutes, 10-3-514, **add** (4) as follows:

10-3-514. Actions by and against rehabilitator. (4) NOTWITHSTANDING

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

SUBSECTION (1) OF THIS SECTION AND ANY OTHER PROVISION OF THIS TITLE, A FEDERAL HOME LOAN BANK SHALL NOT BE STAYED, ENJOINED, OR PROHIBITED FROM EXERCISING OR ENFORCING ANY RIGHT OR CAUSE OF ACTION REGARDING COLLATERAL PLEDGED UNDER A SECURITY AGREEMENT OR UNDER ANY PLEDGE AGREEMENT, SECURITY AGREEMENT, COLLATERAL AGREEMENT, GUARANTEE AGREEMENT, OR OTHER SIMILAR ARRANGEMENT OR CREDIT ENHANCEMENT RELATING TO A SECURITY AGREEMENT TO WHICH THE FEDERAL HOME LOAN BANK IS A PARTY.

SECTION 4. In Colorado Revised Statutes, 10-3-520, **amend** (1) (m) as follows:

10-3-520. Powers of liquidator. (1) The liquidator shall have the power:

(m) To enter into such contracts as are necessary to carry out the order to liquidate, and to affirm or disavow any contracts to which the insurer is a party; EXCEPT THAT THE LIQUIDATOR SHALL NOT DISAVOW, REJECT, OR REPUDIATE A FEDERAL HOME LOAN BANK SECURITY AGREEMENT OR ANY PLEDGE AGREEMENT, SECURITY AGREEMENT, COLLATERAL AGREEMENT, GUARANTEE AGREEMENT, OR OTHER SIMILAR ARRANGEMENT OR CREDIT ENHANCEMENT RELATING TO A SECURITY AGREEMENT TO WHICH A FEDERAL HOME LOAN BANK IS A PARTY;

SECTION 5. In Colorado Revised Statutes, 10-3-525, **add** (5) as follows:

10-3-525. Fraudulent transfers prior to petition. (5) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION AND ANY OTHER PROVISION OF THIS TITLE, A RECEIVER SHALL NOT AVOID ANY TRANSFER OF, OR ANY OBLIGATION TO TRANSFER, MONEY OR ANY OTHER PROPERTY ARISING UNDER OR IN CONNECTION WITH A FEDERAL HOME LOAN BANK SECURITY AGREEMENT OR ANY PLEDGE AGREEMENT, SECURITY AGREEMENT, COLLATERAL AGREEMENT, GUARANTEE AGREEMENT, OR OTHER SIMILAR ARRANGEMENT OR CREDIT ENHANCEMENT RELATING TO A SECURITY AGREEMENT TO WHICH A FEDERAL HOME LOAN BANK IS A PARTY; EXCEPT THAT A TRANSFER MAY BE AVOIDED UNDER THIS SECTION IF IT WAS MADE WITH ACTUAL INTENT TO HINDER, DELAY, OR DEFRAUD EITHER EXISTING OR FUTURE CREDITORS.

SECTION 6. In Colorado Revised Statutes, 10-3-526, **add** (5) as follows:

10-3-526. Fraudulent transfer after petition. (5) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION AND ANY OTHER PROVISION OF THIS TITLE, A RECEIVER SHALL NOT AVOID ANY TRANSFER OF, OR ANY OBLIGATION TO TRANSFER, MONEY OR ANY OTHER PROPERTY ARISING UNDER OR IN CONNECTION WITH A FEDERAL HOME LOAN BANK SECURITY AGREEMENT OR ANY PLEDGE AGREEMENT, SECURITY AGREEMENT, COLLATERAL AGREEMENT, GUARANTEE AGREEMENT, OR OTHER SIMILAR ARRANGEMENT OR CREDIT ENHANCEMENT RELATING TO A SECURITY AGREEMENT TO WHICH A FEDERAL HOME LOAN BANK IS A PARTY; EXCEPT THAT A TRANSFER MAY BE AVOIDED UNDER THIS SECTION IF IT WAS MADE WITH ACTUAL INTENT TO HINDER, DELAY, OR DEFRAUD EITHER EXISTING OR FUTURE CREDITORS.

SECTION 7. In Colorado Revised Statutes, 10-3-527, **add** (1) (d) as follows:

10-3-527. Voidable preferences and liens. (1) (d) NOTWITHSTANDING PARAGRAPH (b) OF THIS SUBSECTION (1) AND ANY OTHER PROVISION OF THIS TITLE,

A LIQUIDATOR OR RECEIVER SHALL NOT AVOID ANY PREFERENCE ARISING UNDER OR IN CONNECTION WITH A FEDERAL HOME LOAN BANK SECURITY AGREEMENT OR ANY PLEDGE AGREEMENT, SECURITY AGREEMENT, COLLATERAL AGREEMENT, GUARANTEE AGREEMENT, OR OTHER SIMILAR ARRANGEMENT OR CREDIT ENHANCEMENT RELATING TO A SECURITY AGREEMENT TO WHICH A FEDERAL HOME LOAN BANK IS A PARTY.

SECTION 8. 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: March 21, 2014