

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 171

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

AN ACT

RELATING TO REAL PROPERTY; PROHIBITING DEFICIENCY JUDGMENTS IN
CERTAIN MORTGAGE FORECLOSURES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of Chapter 39, Article 5 NMSA
1978 is enacted to read:

"~~[NEW MATERIAL]~~ DEFICIENCY JUDGMENTS PROHIBITED.--

A. There shall be no deficiency judgment entered in
a foreclosure action on a home loan against a debtor who
occupies the real property that is the subject of the
foreclosure on the debtor's primary residence; provided that
the debtor has occupied the real property as the debtor's
primary residence for no fewer than one hundred twenty days
prior to the initiation of the foreclosure action.

B. A deficiency judgment for the diminution in

1 value of the property may be entered against a debtor who
2 damages the property, including damage beyond normal wear and
3 tear, removal of structures on the property or removal of
4 fixtures to the premises.

5 C. As used in this section:

6 (1) "home loan" means a loan, including an
7 open-end credit plan, other than a reverse mortgage transaction
8 or a bridge loan, where the principal amount does not exceed
9 the conforming loan size limit for a single-family dwelling as
10 established by the federal national mortgage association and
11 where the loan is secured by:

12 (a) a mortgage or deed of trust on real
13 estate in this state upon which there is located or there is to
14 be located a structure: 1) designed principally for occupancy
15 by one to four families; and 2) that is or will be occupied by
16 a borrower as the borrower's principal residence; or

17 (b) a security interest on a
18 manufactured home that is or will be occupied by a borrower as
19 the borrower's principal residence; and

20 (2) "mortgage" means any document creating a
21 security interest in a residence owned by a person to secure
22 the payment of a home loan."

23 SECTION 2. APPLICABILITY.--The provisions of this act
24 shall apply to foreclosure proceedings instituted on or after
25 July 1, 2011.

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