

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 174

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

AN ACT

RELATING TO REAL PROPERTY; ENACTING THE FORECLOSURE FAIRNESS  
ACT; ALLOWING RECOVERY OF ATTORNEY FEES FOR THE PREVAILING  
DEFENDANT IN A FORECLOSURE ACTION.

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

**SECTION 1. SHORT TITLE.**--This act may be cited as the  
"Foreclosure Fairness Act".

**SECTION 2. FORECLOSURE--ATTORNEY FEES--COSTS.--**

A. The court shall award reasonable attorney fees  
and costs to a defendant who prevails in a claim of foreclosure  
on a mortgage note secured by the defendant's primary  
residence, provided that the plaintiff in such an action is not  
an individual bringing the claim on the individual's own behalf  
or on behalf of a sole proprietorship owned by the plaintiff.

B. For the purposes of this section, a defendant

1 who exercises the defendant's right of reinstatement or  
2 redemption shall not be considered a prevailing party.

3 SECTION 3. EFFECTIVE DATE.--The effective date of the  
4 provisions of this act is July 1, 2011.