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

C. As used in this section:

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

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

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

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

SECTION 2. APPLICABILITY.--The provisions of this act
shall apply to foreclosure proceedings instituted on or after
July 1, 2011.
SECTIONS 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2011.