

A MEMORIAL

REQUESTING THE UNITED SOUTH BROADWAY CORPORATION, A NONPROFIT COMMUNITY DEVELOPMENT CORPORATION THAT PROVIDES HOUSING COUNSELING AND FORECLOSURE LEGAL DEFENSE STATEWIDE, TO CONVENE A TASK FORCE TO STUDY THE FORECLOSURE PROCESS IN NEW MEXICO AND MAKE RECOMMENDATIONS THAT WILL PROTECT NEIGHBORHOOD AND COMMUNITY STABILITY, PREVENT UNNECESSARY AND IMPROPER FORECLOSURES AND PRESERVE THE DUE PROCESS RIGHTS OF FINANCIALLY STRAPPED FAMILIES.

WHEREAS, many New Mexico families and communities are still reeling from the foreclosure crisis that began in 2007 with the nation's worst financial crisis since the Great Depression; and

WHEREAS, eleven thousand seven hundred forty-seven home loans in New Mexico, which constitute four and one-half percent of total home loans in the state, were delinquent sixty days or more at the end of September 2013; and

WHEREAS, during the first three quarters of 2013, five thousand eight hundred ninety-eight New Mexico homeowners faced foreclosure, and this foreclosure activity has dislocated families; destabilized communities; increased vandalism and crime in those neighborhoods with abandoned properties; increased homelessness; lowered property values; and resulted in a decreased tax base leading to loss of

funding for vital public services; and

WHEREAS, when family homes go into foreclosure, the negative effects extend beyond individual families to the economic vitality of New Mexico because foreclosures decrease the value of surrounding properties; and

WHEREAS, statewide lost home equity due to foreclosures in 2009 through 2012 was two billion one hundred million dollars (\$2,100,000,000); and

WHEREAS, this estimate does not account for the direct costs to taxpayers, which the United States congress joint economic committee estimated to be nineteen thousand two hundred twenty-nine dollars (\$19,229) per abandoned foreclosed property; and

WHEREAS, children are the invisible victims of the foreclosure crisis, as they face family instability and the loss of their homes, as well as the risk of falling behind academically when they are forced to switch neighborhoods and schools; and

WHEREAS, between 2004 and 2007, seventeen thousand New Mexico children lived in homes that were either foreclosed or seriously delinquent; and

WHEREAS, lax underwriting and abusive lending practices in parts of the subprime mortgage market, hand-in-hand with a federal regulatory system that lagged behind structural changes in the industry, contributed to the housing crisis the

nation is facing; and

WHEREAS, as Ben Bernanke, chairman of the board of governors of the federal reserve system, wrote on July 14, 2008, "Although the high rate of delinquency has a number of causes, it seems clear that unfair or deceptive acts and practices by lenders resulted in the extension of many loans, particularly high-cost loans, that were inappropriate or misled the borrower"; and

WHEREAS, Brian Moynihan, chief executive officer of Bank of America, testified before the congressional financial crisis inquiry commission that, "Over the course of this crisis, we as an industry caused a lot of damage. Never has it been clearer how mistakes made by financial companies can affect Main street, and we need to learn the lessons of the past few years"; and

WHEREAS, New Mexicans continue to lose their homes needlessly because of improper foreclosures, and New Mexico is part of a multibillion dollar agreement with several of the nation's largest banks to settle claims that the banks improperly foreclosed on homeowners with violations such as failing to process people for loan modifications in time to avoid foreclosure; proceeding with foreclosures while homeowners were still working on payment plans with the loan servicer; robo-signing documents without reviewing them; improper or repeatedly lost paperwork; denying borrowers the

opportunity to obtain accurate information about their loans; understaffing loan-servicing personnel, making it difficult for homeowners to negotiate reasonable loan terms to prevent foreclosure in a timely fashion; and selling and reselling loans to new loan servicers without transferring paperwork with the sale and then requiring homeowners to go through the time-consuming process of filing new applications with each resale of the loan; and

WHEREAS, homeowners still face time-consuming delays imposed by these servicing practices, leading to unnecessary foreclosures; and

WHEREAS, the constitution of New Mexico provides that "No person shall be deprived of life, liberty or property without due process of law" and the Home Loan Protection Act provides critical due process rights for a borrower with either a traditional mortgage or a deed of trust, including the right to have a day in court before losing one's home; and

WHEREAS, the Home Loan Protection Act protects all homeowners from losing their homes to sale by a trustee or lender before the adjudication of a default or based on fraudulent or inaccurate documents or subject to other pervasive abuses as described in this memorial;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NEW MEXICO that it affirms its commitment to preserving due process rights guaranteed under

the Home Loan Protection Act for all New Mexicans threatened with the loss of their homes through foreclosure; and

BE IT FURTHER RESOLVED that the United South Broadway corporation be requested to convene a task force to study the foreclosure process in New Mexico and that includes itself and representatives from at least the following organizations:

- A. Tierra del Sol housing corporation, with offices in Anthony and Las Cruces;
- B. the independent living resource center, serving the housing needs of people with disabilities;
- C. the senior citizens law office;
- D. the New Mexico mortgage finance authority;
- E. representatives of veterans' organizations;
- F. either the New Mexico municipal league or the New Mexico association of counties;
- G. representatives from community banking and the New Mexico mortgage lenders association and other interested mortgage industry stakeholders;
- H. the New Mexico land title association; and
- I. the consumer protection division of the office of the attorney general; and

BE IT FURTHER RESOLVED that the membership include:

- A. a housing counselor with a minimum of ten years' experience counseling homeowners in person;
- B. a homeowner;

C. a member of the New Mexico bar from the New Mexico foreclosure defense group; and

D. a retired member of the judiciary; and

BE IT FURTHER RESOLVED that the task force:

A. recommend the means and methods to improve the foreclosure process in order to prevent unnecessary and improper foreclosures, promote community stability and protect the due process rights of financially strapped families threatened with foreclosure; and

B. develop a plan for the education and training of homeowners, lenders, loan servicers and the judiciary on methods of removing impediments to meaningful loss mitigation and preventing improper or unnecessary foreclosures; and

BE IT FURTHER RESOLVED that the United South Broadway corporation's fair lending center coordinate and staff the task force; and

BE IT FURTHER RESOLVED that the task force report its findings and recommendations to the appropriate interim committees by November 1, 2014 and to the house and senate judiciary committees by January 21, 2015; and

BE IT FURTHER RESOLVED that copies of this memorial be transmitted to the United South Broadway corporation.