

1 A MEMORIAL

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

10
11 WHEREAS, many New Mexico families and communities are
12 still reeling from the foreclosure crisis that began in 2007
13 with the nation's worst financial crisis since the Great
14 Depression; and

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

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

1 funding for vital public services; and

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

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

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

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

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

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

1 the nation is facing; and

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

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

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

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

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

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

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

24 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE
25 STATE OF NEW MEXICO that it affirms its commitment to

1 preserving due process rights guaranteed under the Home Loan
2 Protection Act for all New Mexicans threatened with the loss
3 of their homes through foreclosure; and

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

9 A. Tierra del Sol housing corporation, with
10 offices in Anthony and Las Cruces;

11 B. the independent living resource center, serving
12 the housing needs of people with disabilities;

13 C. the senior citizens law office;

14 D. the New Mexico mortgage finance authority;

15 E. representatives of veterans' organizations;

16 F. either the New Mexico municipal league or the
17 New Mexico association of counties;

18 G. representatives from community banking and the
19 New Mexico mortgage lenders association and other interested
20 mortgage industry stakeholders;

21 H. the New Mexico land title association; and

22 I. the consumer protection division of the office
23 of the attorney general; and

24 BE IT FURTHER RESOLVED that the membership include:

25 A. a housing counselor with a minimum of ten

1 years' experience counseling homeowners in person;

2 B. a homeowner;

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

5 D. a retired member of the judiciary; and

6 BE IT FURTHER RESOLVED that the task force:

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

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

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

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

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