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SENATE BILL 141

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

Michael Padilla

AN ACT

RELATING TO REAL PROPERTY; REQUIRING THE OPPORTUNITY FOR A
SETTLEMENT FACILITATION CONFERENCE PRIOR TO FORECLOSURE; MAKING
AN APPROPRIATION.

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

SECTION 1. [NEW MATERIAL] OPPORTUNITY FOR SETTLEMENT
FACILITATION CONFERENCE PRIOR TO FORECLOSURE.--

A. District courts shall refer all plaintiffs and
defendants in residential foreclosure actions by court order to
a mandatory settlement facilitation conference to explore
alternatives to foreclosure to resolve the case. Plaintiffs
may file a motion to the court to waive participation in the
settlement facilitation for good cause.

B. The plaintiff must identify a person who has
full authority to settle the case to attend the settlement

1 facilitation conference. The plaintiff's representative with
2 full authority to settle the case and the defendant must appear
3 at the settlement facilitation conference in person. The
4 settlement facilitator may appear by video conference.

5 C. All parties are required to participate in the
6 settlement facilitation conference in good faith.

7 D. The administrative office of the courts shall
8 ensure that all district courts provide foreclosure settlement
9 facilitation conference programs in residential foreclosure
10 actions. The administrative office of the courts shall impose
11 additional requirements on funded programs.

12 E. Settlement facilitation shall include
13 exploration of alternatives to foreclosure that increase
14 opportunities for homeowners to remain in their homes when
15 feasible and reduce the number of vacant homes in
16 neighborhoods. Alternatives to foreclosure include loan
17 modification, deed-in-lieu of foreclosure, cash for keys, short
18 sale, an expedited "fast track" judicial foreclosure process
19 for vacant and abandoned houses if the borrower signs a
20 statement that the borrower does not intend to return to and
21 maintain ownership of the home and an extended occupancy
22 program for homeowners who relinquish title to the lender in
23 exchange for either an affordable month-to-month rental
24 agreement or an affordable "lease-to-own" contract.

25 F. The foreclosure action shall be stayed for no

underscored material = new
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1 more than one hundred twenty days from the date of the court
2 referral for settlement facilitation.

3 G. As used in this section:

4 (1) "affordable" means thirty-one percent or
5 less of borrower income, the standard for affordability used by
6 the United States department of housing and urban development;

7 (2) "residential foreclosure action" means
8 foreclosure by a creditor on a home loan; and

9 (3) "settlement facilitation conference" means
10 a conference to achieve a voluntary, confidential resolution of
11 the dispute in which:

12 (a) the parties meet in person with a
13 neutral facilitator, together with their counsel or as self-
14 represented litigant. Foreclosure housing counselors may be
15 included;

16 (b) each party's positions and interests
17 are heard;

18 (c) the nature of the case is discussed;
19 and

20 (d) possible solutions are considered.

21 **SECTION 2. APPROPRIATION.**--One million five hundred
22 seventy-five thousand dollars (\$1,575,000) is appropriated from
23 the general fund to the administrative office of the courts for
24 expenditure in fiscal year 2016 to provide foreclosure
25 settlement facilitation conference programs in all district

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1 courts. Any unexpended or unencumbered balance remaining at
2 the end of fiscal year 2016 shall revert to the general fund.

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