

1.1 moves to amend H.F. No. 8 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. [47.22] REFINANCING OPPORTUNITY REQUIRED; CERTAIN

1.4 UNDERWATER HOME MORTGAGE LOANS.

1.5 Subdivision 1. Qualifications. This section applies to:

1.6 (1) all mortgagees and their assignees and servicers; and

1.7 (2) a home mortgage loan customer of an entity described in clause (1) whose
mortgage loan:

1.9 (i) was originated prior to January 1, 2009;

1.10 (ii) is current on payments;

1.11 (iii) had not been delinquent at any time within the preceding 12 months;

1.12 (iv) has a current interest rate of 5.25 percent or higher; and

1.13 (v) has a loan-to-value ratio in excess of 100 percent.

1.14 Subd. 2. Opportunity to refinance. An entity described in subdivision 1, clause

1.15 (1), must offer to an existing home mortgage loan customer described in subdivision 1,

1.16 clause (2), an opportunity to refinance the loan at a lower interest rate. The offer must not

1.17 be conditional upon the customer's payment of fees to the entity described in subdivision

1.18 1, clause (1), that exceed the cost actually and reasonably incurred in connection with the

1.19 refinancing. The offer to refinance must be made no later than 60 days after the date of

1.20 enactment of this act. The offer must remain available for acceptance by the borrower for

1.21 at least 60 days after the date the offer is communicated.

1.22 Subd. 3. Consequence of noncompliance. If an entity described in subdivision 1,

1.23 clause (1), does not comply with subdivision 2, and the entity begins foreclosure of the

1.24 mortgage, the redemption period is 12 months, notwithstanding a shorter period specified

1.25 in section 580.23.

1.26 EFFECTIVE DATE. This section is effective the day following final enactment.

- 2.1 Sec. 2. [47.221] TRANSPARENCY IN LOAN MODIFICATION CRITERIA.
- 2.2 An entity described in section 47.22, subdivision 1, clause (1), shall provide to all of
- 2.3 its residential mortgage loan customers in writing the criteria the entity uses in determining
- 2.4 eligibility for a loan modification. The entity shall provide the criteria at least once per
- 2.5 year, within 30 days after each change in the criteria, and upon request. If the entity denies
- 2.6 an application for a loan modification, the entity shall notify the customer in writing within
- 2.7 five days of the decision and provide an explanation of how the customer failed to meet the
- 2.8 criteria. The entity must provide the customer with accurate information about the lender.
- 2.9 **EFFECTIVE DATE.** This section is effective the day following final enactment.
- 2.10 Sec. 3. [47.222] RESPONSE TO SHORT SALE REQUESTS.
- 2.11 Subdivision 1. **Short sale defined.** For purposes of this section, short sale means a
- 2.12 sale by a homeowner of the homeowner's mortgaged home to a buyer for a price that is
- 2.13 less than the amount owed on the mortgage loan.
- 2.14 Subd. 2. **Prompt response by lender.** If a homeowner requests approval of the
- 2.15 lender for a short sale of property on which the lender holds a mortgage, the lender must
- 2.16 respond in writing to the request, either accepting it, denying it, or accepting it subject to
- 2.17 conditions, within 30 days after receiving the request. The response by the lender must
- 2.18 state the reason or reasons for a denial or for an acceptance subject to conditions.
- 2.19 Subd. 3. **Effect of failure to respond by lender.** If the lender fails to respond
- 2.20 in compliance with subdivision 2, the homeowner becomes entitled to a redemption
- 2.21 period of 12 months and the loss of any right the lender might otherwise have to obtain
- 2.22 a deficiency judgment in the event of a future foreclosure of the loan. This subdivision
- 2.23 applies notwithstanding anything to the contrary in section 580.23.
- 2.24 Sec. 4. [47.223] NO FEES FOR SERVICES NOT PROVIDED.
- 2.25 A mortgage lender or mortgage broker shall not charge fees or other charges in
- 2.26 connection with origination of a mortgage loan for alleged services that the lender or
- 2.27 broker did not provide or fees or charges that exceed the cost paid to a third party for
- 2.28 products or services provided through the lender or broker by a third party.
- 2.29 Sec. 5. Minnesota Statutes 2012, section 580.01, is amended to read:
- 2.30 **580.01 LIMITATION.**

3.1 (a) Subject to the provisions of section 541.03, any mortgage of real estate
3.2 containing a power of sale, upon default being made in any condition thereof, may
3.3 be foreclosed by advertisement.

3.4 (b) Paragraph (a) does not apply to a mortgage foreclosure unless the first published
3.5 notice required under section 580.03 was published prior to April 1, 2013.

3.6 Sec. 6. Minnesota Statutes 2012, section 580.02, is amended to read:

3.7 **580.02 REQUISITES FOR FORECLOSURE.**

3.8 To entitle any party to make such foreclosure, it is requisite:

3.9 (1) that some default in a condition of such mortgage has occurred, by which the
3.10 power to sell has become operative;

3.11 (2) that no action or proceeding has been instituted at law to recover the debt then
3.12 remaining secured by such mortgage, or any part thereof, or, if the action or proceeding
3.13 has been instituted, that the same has been discontinued, or that an execution upon the
3.14 judgment rendered therein has been returned unsatisfied, in whole or in part;

3.15 (3) that the mortgage has been recorded and, if it has been assigned, that all
3.16 assignments thereof have been recorded; provided, that, if the mortgage is upon registered
3.17 land, it shall be sufficient if the mortgage and all assignments thereof have been duly
3.18 registered; and

3.19 (4) before the notice of pendency as required under section 580.032 is recorded, the
3.20 party has complied with section 580.021.; and

3.21 (5) that if the mortgagor has requested a loan modification of the mortgage loan on
3.22 the mortgagor's homestead, the mortgagee has rejected the request by notice in writing
3.23 to the mortgagor. This requirement does not apply to a mortgagor's request for a loan
3.24 modification made sooner than 60 days after a previous request by the mortgagor for
3.25 a loan modification on the same mortgage loan was rejected by the mortgagee. The
3.26 mortgagee cannot begin or continue a foreclosure if a loan modification request has been
3.27 submitted, is under consideration, is pending, or if there has been a loan modification and
3.28 the mortgagor is not in default on the modified loan.

3.29 **EFFECTIVE DATE.** This section is effective for foreclosures commenced on or
3.30 after June 1, 2013.

3.31 Sec. 7. [580.021] FORECLOSURE FORBEARANCE FOR FINANCIAL
3.32 HARDSHIP OF UNEMPLOYED LONG-TERM HOMEOWNERS.

4.1 (a) Upon request and proof of eligibility provided by the mortgagor, a mortgagee
4.2 shall defer commencement or continuation of a mortgage foreclosure for at least 12
4.3 months for mortgagors: (1) who have lived in their current home that is subject to the
4.4 mortgage for at least ten years; and (2) at least one of whom is unemployed and eligible
4.5 for unemployment compensation or whose eligibility for it has expired.
4.6 (b) Mortgagors who qualify under paragraph (a) and have lived in their current home
4.7 that is subject to the mortgage for at least 20 years may request, and the mortgagee must
4.8 provide, a deferral of commencement or continuation of foreclosure of at least 24 months.
4.9 (c) A mortgagor may request and receive a deferral under paragraph (a) or (b) at
4.10 any time before or during a foreclosure.

4.11 (d) Interest may continue to accrue on the loan, unless otherwise agreed between
4.12 the parties.

4.13 (e) The mortgagee may at any time during the deferral period request the district
4.14 court in the county in which the property is located to determine whether the mortgagor
4.15 has income sufficient to make partial monthly payments on the mortgage loan, not
4.16 to exceed 30 percent of the mortgagor's income, and the court may then condition
4.17 continuation of the deferral upon reasonable compliance with the payment obligation. The
4.18 mortgagee may make no more than one such request within any 12-month period.

4.19 (f) The mortgagee must notify in writing, as part of the notice of default, any
4.20 potentially eligible mortgagor of the mortgagor's rights under this section.

4.21 EFFECTIVE DATE. This section is effective the day following final enactment.

4.22 Sec. 8. Minnesota Statutes 2012, section 580.022, subdivision 2, is amended to read:

4.23 **Subd. 2. Notice of Counseling and Request for Contact Information form.** The
4.24 notice required in section 580.021, subdivision 4, must be substantially in the following
4.25 form:

4.26 **"PREFORECLOSURE NOTICE**

4.27 **NOTICE OF PROVISION OF FORECLOSURE PREVENTION COUNSELING**
4.28 **AND REQUEST FOR MORTGAGEE CONTACT INFORMATION**

4.29 [Insert agency name] has been contacted by your customer regarding foreclosure
4.30 prevention counseling in response to the current foreclosure proceedings involving the
4.31 customer's real property. Please provide the following contact information pursuant to
4.32 Minnesota Statutes, section 580.021, subdivision 4, by completing and returning this form
4.33 via fax [insert fax number] or via e-mail at [insert e-mail address].

4.34 **To be completed by Counseling Agency**
4.35 Consumer Name: _____

5.1 CONSUMER CONTACT INFORMATION:
 5.2 Address: _____
 5.3 City, State, Zip Code: _____
 5.4 Daytime Phone: _____
 5.5 Nighttime Phone: _____

5.6 PROPERTY AT RISK FOR FORECLOSURE (if differs from above):
 5.7 Address: _____
 5.8 City, State, Zip Code: _____

5.9 COUNSELING AGENCY CONTACT:
 5.10 Name: _____
 5.11 Agency: _____
 5.12 Phone: _____
 5.13 Fax: _____
 5.14 E-mail: _____

To be completed by Lender
 5.15 Contact Name: _____
 5.16 Address: _____
 5.17 City, State, Zip Code: _____
 5.18 Phone: _____
 5.19 Fax: _____
 5.20 E-mail: _____
 5.21 _____

To be completed by Lender
 5.22 Name of Current Owner of the Mortgage: _____
 5.23 Contact Name: _____
 5.24 Address: _____
 5.25 City, State, Zip Code: _____
 5.26 Phone: _____
 5.27 Fax: _____
 5.28 E-mail: _____
 5.29 _____

To be completed by Lender
 5.30 Name of Current Holder of the Mortgage: _____
 5.31 Contact Name: _____
 5.32 Address: _____
 5.33 City, State, Zip Code: _____
 5.34 Phone: _____
 5.35 Fax: _____
 5.36 E-mail: _____
 5.37 _____

To be completed by Lender
 5.38 Name of Current Mortgage Servicer: _____
 5.39 Contact Name: _____
 5.40 _____

6.1 Address: _____
 6.2 City, State, Zip Code: _____
 6.3 Phone: _____
 6.4 Fax: _____
 6.5 E-mail: _____

6.6 EFFECTIVE DATE. This section is effective August 1, 2013, and applies to
 6.7 preforeclosure notices provided on or after that date.

6.8 Sec. 9. [580.023] CERTAIN PREFORECLOSURE CALCULATIONS
 6.9 REQUIRED.

6.10 A mortgage lender, prior to initiating a foreclosure of a mortgage on residential
 6.11 property, has a duty of good faith and fair dealing to determine the net present value to the
 6.12 lender of the mortgage loan if it were modified in any way so as to permit the homeowner to
 6.13 retain the property, as compared to the net present value to the lender of foreclosure. If there
 6.14 is any possible loan modification that would cause the net present value to the lender of the
 6.15 modified loan to exceed the net present value of foreclosure, the lender has a duty to make a
 6.16 good-faith offer to modify the loan. In calculating the net present value of the alternatives,
 6.17 the lender shall use the same discount rate in both calculations. The lender shall provide
 6.18 the calculations to the borrower prior to commencing foreclosure and retain its calculations
 6.19 and analysis of the possible modifications, and records of the lender's communications
 6.20 with the borrower about those calculations and analysis, for at least six years.

6.21 EFFECTIVE DATE. This section is effective August 1, 2013, and applies to
 6.22 foreclosures commenced on or after that date.

6.23 Sec. 10. Minnesota Statutes 2012, section 580.041, subdivision 2, is amended to read:
 6.24 Subd. 2. Content of foreclosure advice notice. The foreclosure advice notice
 6.25 required by this section must appear substantially as follows:

6.26 "Help For Homeowners in Foreclosure
 6.27 The attorney preparing this foreclosure is:
 6.28 (Attorney name, address, phone)
 6.29 It is being prepared for:
 6.30
 6.31 (Lender name, loss mitigation phone number)

6.32 AS OF [insert date], this lender says that you owe \$[insert dollar amount] to bring
 6.33 your mortgage up to date (or "reinstate" your mortgage). You must pay this amount,

- 7.1 plus interest and other costs, to keep your house from going through a sheriff's sale.
- 7.2 The sheriff's sale is scheduled for [insert date] at [insert time] at [insert place].
- 7.3 Mortgage foreclosure is a complex process. People may contact you with advice and
- 7.4 offers to help "save" your home.
- 7.5 **Remember:** It is important that you learn as much as you can about foreclosure and
- 7.6 your situation. Find out about all your options before you make any agreements with
- 7.7 anyone about the foreclosure of your home.
- 7.8 **Getting Help**
- 7.9 As soon as possible, you should contact your lender at the above number to talk
- 7.10 about things you might be able to do to prevent foreclosure. You may be eligible for
- 7.11 a loan modification from your lender. You have the right to ask your lender for a
- 7.12 statement in writing describing how the lender decides whether to agree to modify a
- 7.13 loan. You should also consider contacting the foreclosure prevention counselor in
- 7.14 your area. A foreclosure prevention counselor can answer your questions, offer free
- 7.15 advice, and help you create a plan which makes sense for your situation.
- 7.16 Contact the Minnesota Home Ownership Center at 651-659-9336 or 866-462-6466
- 7.17 or www.hocmn.org or contact the United States Department of Housing and Urban
- 7.18 Development at 1-800-569-4287 or www.hud.gov to get the phone number and
- 7.19 location of the nearest certified counseling organization. Call today. The longer you
- 7.20 wait, the fewer options you may have for a desirable result."
- 7.21 Sec. 11. Minnesota Statutes 2012, section 580.041, subdivision 2a, is amended to read:
- 7.22 Subd. 2a. **Content of notice of redemption rights.** The notice of redemption rights
- 7.23 required by this section must appear substantially as follows:
- 7.24 **"What Happens After the Foreclosure Sale**
- 7.25 After the sheriff's sale, you have the right to "redeem." Redeem means that you pay the
- 7.26 amount bid for your house at the sheriff's sale, plus interest and costs, to keep your house.
- 7.27 You can keep living in your home for a period of time after the foreclosure sale. This is
- 7.28 called a "redemption period." The redemption period is [insert number of months] months
- 7.29 after the sheriff's sale.
- 7.30 At After the end of the redemption period, if you do not redeem or sell, you will have
- 7.31 to leave your home. You will have the right to remain in your home until four weeks before
- 7.32 the buyer of the home moves into the home. If you do not leave, the person or company that
- 7.33 bid on your home at the sheriff's sale has the right to file an eviction against you in court.
- 7.34 **Be Careful of Foreclosure Scams**

8.1 Be careful! After the foreclosure sale, people may approach you to buy your house
8.2 or ask you to transfer your house to them for little or no money.

8.3 Before you give up the rights to your house or sign any documents (including a
8.4 deed), be sure you know how much the house sold for at the sheriff's sale and decide if
8.5 you can save the house by paying the amount of the bid, plus interest and costs.

8.6 **How to Find Out How Much Your House Sold For at the Foreclosure Sale**

8.7 The amount you need to pay to redeem your house may be less than the amount you
8.8 owed on the mortgage before the sale. You can learn what this amount is (and who the
8.9 winning bidder at the sale was) by attending the sheriff's sale or by contacting the sheriff's
8.10 office after the sale.

8.11 **You Can Also Sell Your House**

8.12 During the redemption period, if you sell your home, you must sell it for enough
8.13 to pay off the winning bidder from the sheriff's sale and pay interest, fees, and other
8.14 claims against the property. If there is any money left from the sale of the house after all
8.15 these debts are paid, you can keep the money. You can also enter into a "short sale." A
8.16 short sale is an agreement in which the lender agrees to accept less than the full amount
8.17 you owe on the mortgage.

8.18 **Get More Information and Advice**

8.19 For more information and advice, contact an attorney or a mortgage
8.20 foreclosure prevention counselor. You can find a mortgage foreclosure
8.21 prevention counselor by contacting the Minnesota Home Ownership Center
8.22 at 651-659-9336 or 866-462-6466 or www.hocmn.org or contact the United
8.23 States Department of Housing and Urban Development at 1-800-569-4287 or
8.24 www.hud.gov/offices/hsg/sfh/hhec/hes-effn?webListAction=search=MN#searchArea to get
8.25 the phone number and location of the nearest certified counseling organization. "

8.26 **Sec. 12. [580.061] LIMITED RIGHT TO REMAIN IN HOME AFTER**
8.27 **REDEMPTION PERIOD.**

8.28 After the end of the redemption period of residential real property, the former owner
8.29 may retain possession and continue to occupy the property until four weeks prior to the
8.30 day a new owner moves into the property. For purposes of this section, "new owner"
8.31 means an individual who, or an entity that, purchased the property from the former owner's
8.32 lender or from an intermediary owner. "New owner" does not include the former lender.

8.33 **Sec. 13. [580.231] OBLIGATION TO OFFER PROPERTY TO FORMER**
8.34 **OWNER AFTER FORECLOSURE.**

9.1 A mortgagee shall, after the expiration of the redemption period after foreclosure
9.2 of a residential mortgage, offer the property for sale to the former owner at a price no
9.3 higher than the price the mortgagee could reasonably expect to obtain in an arms-length
9.4 sale and include in the offer financing for purchase of the property by the former owner at
9.5 the lowest interest rate then available from the lender. The offer must be available for at
9.6 least 60 days. The monthly payment must not exceed the guidelines of the United States
9.7 Department of Housing and Urban Development.

9.8 Sec. 14. [582.034] FORECLOSED PROPERTIES; SALE TO PERSONS WITH
9.9 UNREMEDIED HOUSING CODE VIOLATION PROHIBITED.

9.10 Subdivision 1. Definitions. (a) For purposes of this section, the terms defined in
9.11 this subdivision have the meanings given.

9.12 (b) "Foreclosed property" means real property owned by a mortgage lender that has
9.13 acquired the real property through foreclosure of a mortgage secured by the real property.

9.14 (c) "Mortgage lender" means an individual or entity that regularly makes, purchases,
9.15 or owns loans secured by a mortgage on real property.

9.16 (d) "Unremedied property code violation" means a violation of a local government
9.17 housing code that has not been corrected or for which a fine or other penalty imposed as a
9.18 result of the violation has not been paid.

9.19 Subd. 2. Prohibition: sale to person with unremedied property code violation.

9.20 (a) A mortgage lender that owns a foreclosed property shall not sell or otherwise transfer
9.21 to an individual or entity title to the foreclosed property that has an unremedied property
9.22 code violation in the local governmental jurisdiction in which the property is located.

9.23 (b) A mortgage lender that violates paragraph (a) shall, no later than 30 days

9.24 after the transfer of title, remedy all unremedied housing code violations for which the
9.25 purchaser is responsible in the local governmental jurisdiction in which the property is
9.26 located, including payment of any outstanding fines. This requirement applies to all
9.27 unremedied violations and unpaid fines regarding all properties owned or formerly owned
9.28 by the purchaser, for which the purchaser is responsible.

9.29 (c) Upon compliance with paragraph (b), the mortgage lender has a cause of action
9.30 against the purchaser for the cost incurred by the mortgage lender under paragraph (b),
9.31 plus interest at twice the applicable judgment rate and the mortgage lender's reasonable
9.32 attorney fees, costs, and disbursements incurred in pursuing the course of action.

9.33 Subd. 3. Request to local jurisdiction for information. (a) A mortgage lender
9.34 may, prior to its transfer of ownership of a foreclosed property, submit a written request to
9.35 any local governmental unit in which the foreclosed property is located for information

- 10.1 regarding any unremedied property code violations or unpaid fines for which the
- 10.2 prospective purchaser is responsible to that local governmental unit.
- 10.3 (b) If the local governmental unit states to the mortgage lender in writing that the
- 10.4 prospective purchaser has no unremedied violations or unpaid fines, or fails to respond in
- 10.5 writing to the written request within ten business days, the mortgage lender may transfer
- 10.6 the property to the prospective purchaser without any liability to the local governmental
- 10.7 unit under subdivision 2, paragraph (b).
- 10.8 Subd. 4. **Mortgage lender's right to terminate purchase agreement.** If a
- 10.9 mortgage lender learns, through the process described in subdivision 3 or otherwise, that
- 10.10 the prospective purchaser has unremedied property code violations or unpaid fines in the
- 10.11 local governmental jurisdiction in which the property is located, the mortgage lender may,
- 10.12 at any time before the transfer of ownership of the property, unilaterally terminate the
- 10.13 purchase agreement regardless of whether the purchase agreement provides the mortgage
- 10.14 lender the right to terminate the agreement upon that contingency.
- 10.15 **EFFECTIVE DATE.** This section is effective for sales of foreclosed property that
- 10.16 occur on or after August 1, 2013.
- 10.17 Sec. 15. Minnesota Statutes 2012, section 582.30, subdivision 1, is amended to read:
- 10.18 Subdivision 1. **Deficiency allowed.** (a) Except as provided in this section, a person
- 10.19 holding a mortgage may obtain a deficiency judgment against the mortgagor if the amount
- 10.20 a person holding a mortgage receives from a foreclosure sale is less than:
- 10.21 (1) the amount remaining unpaid on the mortgage under chapter 580; or
- 10.22 (2) the amount of the judgment entered under chapter 581.
- 10.23 (b) Except as provided in subdivisions 3 and 5, the judgment may not be for more
- 10.24 than the difference between the amount received from the foreclosure sale less expenses
- 10.25 and costs and:
- 10.26 (1) for a foreclosure by advertisement, the total amount that attaches to the sale
- 10.27 proceeds under chapter 580; or
- 10.28 (2) for a foreclosure by action, the amount of the judgment entered under chapter 581.
- 10.29 (c) Subdivisions 3 to 9 do not apply to mortgages entered or amended on or after
- 10.30 May 22, 1999, if the mortgaged property is used in agricultural production only by a
- 10.31 tenant who is not the mortgagor.
- 10.32 (d) For foreclosures by advertisement or by action not completed prior to April 1,
- 10.33 2013, a deficiency judgment may not be obtained against the mortgagor if the foreclosed
- 10.34 property is the homestead of the mortgagor.

11.1 Sec. 16. [582.33] REDUCTION OF MORTGAGE AMOUNT TO REFLECT NET
11.2 BENEFIT OF FORECLOSURE TO LENDER.

11.3 (a) Before beginning a mortgage foreclosure, a mortgagee or mortgage servicer shall
11.4 determine the exact amount or reasonable estimates of the following dollar amounts:

11.5 (1) the amount owing on the mortgage loan;

11.6 (2) all costs of completing a foreclosure and selling the property, including costs

11.7 reasonably expected to be incurred during the redemption period, costs of maintaining the

11.8 property and preparing it for sale, payment of delinquent real estate taxes, and the real

11.9 estate commissions to be incurred in selling the property;

11.10 (3) the market value of the property at the end of the redemption period; and

11.11 (4) the expected value of foreclosure to the lender, consisting of clause (3) minus

11.12 clause (2).

11.13 (b) Prior to beginning a foreclosure on the property referenced in paragraph (a),

11.14 the mortgagee shall offer in writing to the owner the opportunity to replace the existing

11.15 mortgage loan with a new mortgage loan in an amount equal to the amount determined

11.16 under paragraph (a), clause (4), with a rate of interest at the current market rate but no

11.17 higher than the existing mortgage loan and with a 30-year amortization period unless the

11.18 borrower requests a shorter amortization.

11.19 (c) After receiving the offer required under paragraph (b), the owner shall have 60

11.20 days to decide whether to accept the offer. The mortgagee and owner may agree on a

11.21 different arrangement. The owner may also obtain a loan from another source to pay the

11.22 lender the amount specified in this paragraph.

11.23 **EFFECTIVE DATE.** This section is effective for mortgage foreclosures

11.24 commenced on or after August 1, 2013.

11.25 Sec. 17. [584.01] DEFINITIONS.

11.26 Subdivision 1. Scope. For purposes of this chapter, the terms defined in this section
11.27 have the meanings given.

11.28 Subd. 2. Affidavit of compliance. "Affidavit of compliance" means a sworn

11.29 affidavit recorded by the mortgagee with the county recorder or registrar of titles as

11.30 required under section 584.02.

11.31 Subd. 3. Completed loan modification application. "Completed loan modification

11.32 application" means all the documents and information reasonably necessary for a

11.33 mortgagee to determine the mortgagor's eligibility for a loan modification program have
11.34 been provided to the mortgagee.

12.1 Subd. 4. Foreclosure. "Foreclosure" means foreclosure of a residential mortgage

12.2 loan by advertisement under chapter 580, by action under chapter 581, or by any other

12.3 method permitted by law.

12.4 Subd. 5. Incomplete loan modification application. "Incomplete loan modification

12.5 application" means a loan modification application that lacks documents or information

12.6 necessary for a completed loan modification application, or a written submission from or

12.7 on behalf of a mortgagor demonstrating the mortgagor's intent to seek a loan modification.

12.8 Subd. 6. Loan modification. "Loan modification" means a permanent alteration to

12.9 the terms and conditions of a residential mortgage loan under a loan modification program.

12.10 Subd. 7. Loan modification notice. "Loan modification notice" means the notice

12.11 required by section 584.04.

12.12 Subd. 8. Loan modification program. "Loan modification program" means any

12.13 federal, state, or local government program that requires the mortgagee to make a loan

12.14 modification to a residential mortgage loan or any other loan modification program

12.15 the mortgagee offers voluntarily or offers or is required to offer in compliance with a

12.16 settlement, court judgment, consent decree, or other resolution of a legal proceeding.

12.17 Subd. 9. Mortgagee. "Mortgagee" means a person foreclosing a residential

12.18 mortgage, and any agent or employee of that person acting in connection with the

12.19 foreclosure of a residential mortgage, including but not limited to a mortgagee, a mortgage

12.20 servicer, or the owner of the mortgage loan.

12.21 Subd. 10. Residential mortgage loan. "Residential mortgage loan" means a

12.22 mortgage loan on real property consisting of one to four family dwelling units, one of

12.23 which the owner occupies as the owner's principal place of residency at the time of default.

12.24 Subd. 11. Telephone contact attempt. "Telephone contact attempt" means an

12.25 attempt by the mortgagee to contact the mortgagor that complies with the requirements

12.26 of section 584.03, subdivision 4.

12.27 Sec. 18. [584.02] REQUISITES TO FORECLOSE.

12.28 Subdivision 1. Required recording of loan modification affidavit of compliance

12.29 before foreclosure. No foreclosure shall commence until the mortgagee has complied

12.30 with this chapter. Before the notice required by section 580.021 is provided to the

12.31 mortgagor, the mortgagee must record an affidavit of compliance. The affidavit must be

12.32 accurate and must attach supporting documents that establish that all requirements of

12.33 this chapter have been met. The affidavit must include the date, time, and name of the

12.34 representative who made each required telephone contact attempt. Within five days of

12.35 recording this affidavit, the mortgagee shall mail a copy of the affidavit to the mortgagor.

- 13.1 Subd. 2. Form of affidavit of compliance. To comply with the requirements of this
- 13.2 chapter, a mortgagee must record an affidavit of compliance that appears substantially
- 13.3 as follows:

13.4 **LOAN MODIFICATION AFFIDAVIT OF COMPLIANCE**

- 13.5 [Identifying information relating to the case, such as party names, addresses, contact
- 13.6 information, etc.]

- 13.7 The undersigned, being duly sworn, hereby deposes and says:

- 13.8 1. I am the [job title] of [mortgagee] and am authorized to sign on behalf of
- 13.9 [mortgagee].

- 13.10 2. I am familiar with the business records and procedures of [mortgagee].

- 13.11 3. I have specific knowledge of the mortgage loan held by the mortgagor and of
- 13.12 all information sworn to in this affidavit.

- 13.13 4. [Mortgagee] has the right to proceed with foreclosure and is not required to offer
- 13.14 a loan modification to mortgagor because (mortgagee MUST list one of the following
- 13.15 reasons):

- 13.16 (1) Prior to mortgagor applying for a loan modification, [mortgagee] had reliable
- 13.17 information that led the [mortgagee] in good faith to conclude that the mortgagor is
- 13.18 ineligible for a loan modification program and has notified the mortgagor of that; (2)
- 13.19 mortgagor did not send to [mortgagee] a loan modification application within 60 days
- 13.20 of the sending of the loan modification notice; (3) mortgagor sent an incomplete loan
- 13.21 modification application, was notified by [mortgagee] of the deficiencies, and has not
- 13.22 remedied the missing information by the deadline for a completed loan modification
- 13.23 application; (4) mortgagor sent a completed loan modification application, but based
- 13.24 upon reliable information, and in good faith, [mortgagee] has concluded that mortgagor
- 13.25 is ineligible for a modification and has notified the mortgagor; (5) mortgagor has sent a
- 13.26 completed loan modification application and has been offered a loan modification, but
- 13.27 has elected not to accept the modification offer; (6) [mortgagee] has previously granted a
- 13.28 mortgage loan modification to mortgagor, and mortgagor is in default on that mortgage
- 13.29 loan modification agreement; and (7) [mortgagee] has concluded in good faith that
- 13.30 mortgagor is not eligible for any additional mortgage loan modification.

- 13.31 5. [Mortgagee] has notified the mortgagor of the reason listed above and complied
- 13.32 with all notice requirements of this chapter.

- 13.33 6. Attached are documents which [mortgagee] represents to be accurate and correct
- 13.34 and which support the reason listed above.

- 13.35 [Mortgagee must attach supporting documents that establish that all requirements
- 13.36 of this chapter have been met].

14.1 Signature: [agent of mortgage]

14.2 Legibly printed name [agent of mortgage]

14.3 **Sec. 19. [584.03] NOTICE REQUIREMENTS.**

14.4 Subdivision 1. General. Notices required by this chapter must comply with the

14.5 requirements of this section.

14.6 Subd. 2. Form of written notice. Written notices required by this chapter must

14.7 be in 14-point boldface type. The color and format of the notice must not obscure or

14.8 overshadow the content of the notice. The title of the notice must be in 20-point boldface

14.9 type. The notice must be on its own separate page and must not be accompanied by any

14.10 other documents or notices other than as specified in this chapter. The envelope or mailing

14.11 package in which the notice is sent must be colored and contain the phrase "LOAN

14.12 MODIFICATION INFORMATION" and "NOTICE REQUIRED BY THE STATE OF

14.13 MINNESOTA" in a minimum of 14-point boldface type, located above the recipient's

14.14 name and address. The written notices required by this chapter shall not contain any bills,

14.15 requests for payment of current or past due amounts, collection notices, or references to

14.16 collection of any kind, unless any such information is necessary for the determination

14.17 of loan modification or is requested by the mortgagor. Any time a written response is

14.18 required by the mortgagor, the mailing must include a return-addressed envelope. Any

14.19 return-addressed envelope required by this chapter must state conspicuously, "Please

14.20 consider sending this letter by a method that provides proof of delivery."

14.21 Subd. 3. Delivery of written notices. Notices required by this chapter must be

14.22 sent to the last known address of the mortgagor. Notices must be sent by a method that

14.23 provides proof of delivery. Notices required by this chapter shall also be transmitted

14.24 within one business day in substantially similar form by e-mail to the mortgagor if the

14.25 mortgagee has a valid e-mail address for the mortgagor.

14.26 Subd. 4. Telephone contact attempt. A telephone contact attempt by a mortgagee

14.27 under this chapter must meet the following requirements:

14.28 (1) the mortgagee shall use the last known telephone number of the mortgagor;

14.29 (2) no call shall be initiated by the mortgagee between 9:00 p.m. and 8:00 a.m. in

14.30 the mortgagor's time zone;

14.31 (3) all calls must be conducted by a live representative, and the use of automated

14.32 dialers is prohibited; and

14.33 (4) the representative of the mortgagee must be authorized to and reasonably capable

14.34 of discussing available loan modification programs and must encourage the mortgagor to

14.35 take the next applicable steps for loan modification.

15.1 Subd. 5. Transparency of loan modification formula. The mortgagee shall publish
15.2 on a Web site any net present value (NPV) formula the mortgagee uses to make any
15.3 determination of eligibility under a loan modification program. Any NPV or similar tests
15.4 and any data inputs used for making the determination of eligibility for a loan modification
15.5 for a mortgageor must be retained by the mortgagee for a period of three years and must be
15.6 provided to the mortgageor within seven days of request by the mortgageor.

15.7 Sec. 20. [584.04] NOTICES OF LOAN MODIFICATION AVAILABILITY.

15.8 Subdivision 1. Notice required. A mortgagee shall provide to the mortgageor the
15.9 notices required by this section. The mortgagee may record an affidavit of compliance if
15.10 the mortgageor fails to mail to the mortgagee a completed loan modification application
15.11 or an incomplete loan modification application within 60 days of the mortgagee sending
15.12 the notices.

15.13 Subd. 2. Loan modification notice. The mortgagee shall send to the mortgageor a
15.14 notice that appears substantially as follows:

15.15 Loan Modification Notice

15.16 Date of Notice: (insert date sent)

15.17 Name of Mortgageor(s):

15.18 Why You are Getting This Notice

15.19 You may be eligible to prevent foreclosure by receiving a loan modification under
15.20 a loan modification program. If you apply for a loan modification within 60 days from
15.21 the date of this notice, you will have certain rights under Minnesota law to a prompt
15.22 evaluation of your request for a loan modification.

15.23 You may apply for a loan modification by completing the enclosed Loan
15.24 Modification Application and providing all requested information. We have included a
15.25 return-addressed envelope for your convenience. Please consider sending these documents
15.26 by a method that provides proof of delivery to ensure accurate record keeping.

15.27 Please Read Carefully

15.28 Please make sure to read this letter carefully so that you can take advantage of your
15.29 potential options for a loan modification. Please make sure all documents mentioned in this
15.30 letter are enclosed or available to you, and contact us immediately if a document is missing.

15.31 Foreclosure Prevention Counselor

15.32 We strongly encourage you to contact a foreclosure prevention counselor from the
15.33 list below, and have the counselor review and assist you with your loan modification
15.34 application.

15.35 Contact Information

16.1 [Mortgagee contact information, including mailing address, toll-free telephone
16.2 number, and e-mail address.]

16.3 [Contact information for at least one HUD-certified foreclosure counseling agency
16.4 that serves the county in which the mortgagor lives and contact information for the
16.5 Minnesota Home Ownership Center. Include: name, mailing address, toll-free telephone
16.6 number, e-mail address, and Web site.]

16.7 Subd. 3. **Application for loan modification.** The mortgagee shall send with the
16.8 notice required by subdivision 2 an application form that appears substantially as follows:

16.9 **Application for Loan Modification**

16.10 **YOU MAY BE ELIGIBLE FOR A LOAN MODIFICATION TO AVOID FORECLOSURE**

16.11 Date of Notice: (insert date sent)

16.12 Name of Mortgagor(s):

16.13 Property Address:

16.14 Please complete this loan application form and attach the documents and information
16.15 requested from the "required documents list." Return the completed application to the
16.16 address at the bottom of this form within 60 days of the date of this form.

16.17 For questions or assistance completing this application, please contact [mortgagee
16.18 representative(s) who can provide assistance] at [telephone number of representative(s)] or
16.19 [e-mail address of representative(s)] immediately; OR [loan counselor(s) who can provide
16.20 assistance] at [telephone number of counselor(s)] or [e-mail address of counselor(s)].]

16.21 Required Documents List. The following documents must be sent to us in order for
16.22 us to process your loan modification application.

16.23 [All documents required by the applicable Loan Modification Program, listed
16.24 separately and numbered, with attached documents listed first.]

16.25 Attached Documents List. To make your application as easy as possible, we have
16.26 included some of the documents you need to complete in order to apply for a modification.

16.27 These documents are listed below. Remember that they must be sent with all materials
16.28 listed in the Required Documents List. Please verify that every document listed below is
16.29 included:

16.30 [All documents required by the applicable loan modification program which can be
16.31 provided by the mortgagee must be attached, listed separately, and numbered.]

16.32 If any of these documents is not included in this packet, please contact [mortgagee
16.33 representative(s) who can forward the missing information] at [telephone number of
16.34 representative(s)] or [e-mail address of representative(s)] immediately.

16.35 PLEASE MAKE A COPY OF ALL ENCLOSED FORMS AND DOCUMENTS
16.36 FOR YOUR RECORDS.

- 17.1 For accurate record keeping, we strongly encourage you to send this completed form
- 17.2 and all requested documents with return receipt requested or by other method with proof
- 17.3 of delivery to the address below:
- 17.4 [mortgagee's mailing address]
- 17.5 Thank you. [Mortgagee] will contact you within 30 days of receipt to inform you of
- 17.6 the status of your loan modification application.
- 17.7 Subd. 4. Required attached documents. The mortgagee shall enclose any
- 17.8 documents required for a completed loan modification application which can be provided
- 17.9 by the mortgagee.
- 17.10 Subd. 5. Telephone contact attempt required. The mortgagee is required to make
- 17.11 six telephone contact attempts to inform the mortgagor of possible eligibility for a loan
- 17.12 modification program within 50 days after the date the loan modification notice is sent. If
- 17.13 the mortgagee speaks with the mortgagor or someone authorized to speak on behalf of the
- 17.14 mortgagor, no further contact attempts are required under this subdivision.
- 17.15 Subd. 6. Deadline notice. If the mortgagee has not received a completed loan
- 17.16 modification application or incomplete loan modification application 50 days after the date
- 17.17 the loan modification notice is sent, the mortgagor shall within five days do the following:
- 17.18 (1) make one telephone contact attempt to inform the mortgagor of the approaching
- 17.19 deadline and communicate to the mortgagor the documents necessary to submit a loan
- 17.20 modification application; and (2) if mortgagee has an e-mail address for the mortgagor,
- 17.21 send an e-mail to the mortgagor stating the approaching deadline.

17.22 **Sec. 21. [584.05] NOTICE OF INCOMPLETE LOAN MODIFICATION**

17.23 **APPLICATION.**

- 17.24 Subdivision 1. Receipt of incomplete loan modification application. If the
- 17.25 mortgagor mails an incomplete loan modification application within 60 days of the
- 17.26 date the loan modification notice is sent by the mortgagee, the mortgagee must send to
- 17.27 the mortgagor the notice required by subdivision 2 within ten days of the receipt of the
- 17.28 incomplete loan application. The mortgagee may record an affidavit of compliance if the
- 17.29 mortgagor has not mailed to the mortgagee a completed loan application within 30 days
- 17.30 after the date of mailing of the notice required by subdivision 2, but not less than 60 days
- 17.31 after the date the loan modification notice is sent by the mortgagee.

- 17.32 Subd. 2. Incomplete loan modification application notice. If an incomplete loan
- 17.33 modification application has been received by the mortgagee, the mortgagee must send a
- 17.34 notice to the mortgagor that appears substantially as follows:

17.35 NOTICE OF INCOMPLETE LOAN MODIFICATION APPLICATION

- 18.1 Date of Notice: (insert date sent)
- 18.2 Name of Mortgagor(s):
- 18.3 You recently submitted an application for a loan modification. Unfortunately, it was not complete. We require more information to evaluate your eligibility for a modification.
- 18.4 PLEASE SUBMIT THE FOLLOWING DOCUMENTS AS SOON AS POSSIBLE:
- 18.5 [numbered list of all missing or incomplete documents, described in plain language.
- 18.6 For each incomplete document, the mortgagee must describe in plain language the information that is missing.]
- 18.7
- 18.8
- 18.9 PLEASE NOTE: We must receive this information within 30 days of the date of this notice for you to protect certain rights under Minnesota law to a prompt evaluation of your request for a loan modification.
- 18.10
- 18.11 Subd. 3. **Inclusions with incomplete loan modification application.** The second page of this notice must be a glossary describing the nature of any missing or incomplete documents and in plain language where the documents are available and how to submit them. If the mortgagor has partially completed a form from section 584.04, any information from that form must be included on the copy sent to the mortgagor pursuant to this section, with the locations of the missing information conspicuously marked.
- 18.12
- 18.13
- 18.14
- 18.15
- 18.16 Subd. 4. **Telephone contact attempts.** The mortgagee must make three telephone contact attempts to inform the mortgagor of any deficiencies necessary to make a completed loan modification application. The first telephone contact attempt must be made within ten days of receipt of the incomplete loan modification application and all three attempts must be completed within 15 days of the first attempt.
- 18.17
- 18.18
- 18.19
- 18.20
- 18.21
- 18.22
- 18.23 Sec. 22. **[584.06] NOTICE OF DETERMINATION.**
- 18.24 Subdivision 1. **Determination required.** The mortgagee must determine eligibility for each loan modification program for which the mortgagor may be eligible and issue a notice of determination as specified under this section within 30 days of the receipt of a completed loan modification application. The mortgagee shall comply with all guidelines and requirements of each loan modification program in connection with this determination.
- 18.25
- 18.26
- 18.27 Subd. 2. **Loan modification offer.** If the mortgagee determines that the mortgagor is eligible for a loan modification program, the mortgagee shall state the following in plain language in a written notice of the loan modification offer or offers for each loan modification program for which the mortgagor is eligible: a description of the terms of the modified loan offer; an explanation of any required timeline to respond to the offer; that the mortgagee is permitted to initiate foreclosure proceedings upon failure of the mortgagor to
- 18.28
- 18.29
- 18.30
- 18.31
- 18.32
- 18.33
- 18.34

19.1 accept the offer; instructions regarding how the mortgagor should respond to the offer;
19.2 and accurate contact information for how the mortgagor should respond to the offer.

19.3 Subd. 3. **Refusal to offer loan modification.** If the mortgagee determines that the
19.4 mortgagor is not eligible for any loan modification program, the mortgagee shall state the
19.5 following in plain language in a written notice: the timeline and procedures, if applicable,
19.6 for how the mortgagor may request review of the determination; that failure to do so will
19.7 free the mortgagee to initiate foreclosure proceedings; and the toll-free telephone number,
19.8 address, e-mail address, and other contact information that will provide access during
19.9 regular business hours to a live representative authorized to discuss the determination
19.10 on behalf of the mortgagee. The timeline for the mortgagor to request a review of the
19.11 determination must be at least 30 days after the date of mailing of the written notice of
19.12 ineligibility and must be stated prominently in the written notice of ineligibleity. The
19.13 written notice of ineligibleity must be accompanied by a form for the mortgagee to use in
19.14 appealing the determination of ineligibleity. The mortgagee may record an affidavit of
19.15 compliance after making a determination in good faith that the mortgagor is ineligible for
19.16 a loan modification, but the mortgagee shall not record an affidavit of compliance until at
19.17 least 35 days after mailing the notice of ineligibleity.

19.18 Subd. 4. **General inclusions.** Any notice described in this section must contain
19.19 a detailed, clear description of any and all net present value (NPV) calculations used in
19.20 making the determination, instructions explaining how to access the published NPV
19.21 calculations contained on the mortgagee's Web site as required under section 584.03,
19.22 subdivision 5, and a plain language statement that if the mortgagor believes there is an
19.23 error in any element of the determination that the mortgagor has the right to contact an
19.24 attorney or loan counselor for assistance. This mailing must include any and all data
19.25 inputs used in the NPV calculations, which must be on a separate piece of paper.

19.26 Sec. 23. **[584.07] NOTICE FOR INELIGIBLE HOMEOWNER.**

19.27 The mortgagee may record an affidavit of compliance if, prior to sending the loan
19.28 modification notices, the mortgagee has reliable information that leads the mortgagee in
19.29 good faith to conclude that the mortgagor is ineligible for any applicable loan modification
19.30 program. Ten days prior to recording the affidavit of compliance, the mortgagee must
19.31 send a written communication to the ineligible mortgagor. This written communication
19.32 must contain a plain language statement explaining why the mortgagor is ineligible,
19.33 and a toll-free telephone number, address, and e-mail address of a representative of the
19.34 mortgagee that the mortgagor may contact to dispute any finding of ineligibleity. The

20.1 plain language statement must state that the mortgagor may contact a loan counselor or
20.2 foreclosure prevention counselor for advice.

20.3 Sec. 24. [584.081] ENFORCEMENT; REMEDIES.

20.4 Subdivision 1. Private right of action. A mortgagee who fails to comply with any
20.5 provision of this chapter is liable to a mortgagor for actual, incidental, and consequential
20.6 damages in a private right of action and for any or all other remedies specified in this section.

20.7 Subd. 2. Statutory damages. (a) A mortgagee who violates any provision of this
20.8 chapter is liable to the mortgagor for up to \$2,000 for each violation.

20.9 (b) De minimus violations are not subject to the statutory damages available under
20.10 this subdivision.

20.11 Subd. 3. Punitive damages. (a) A mortgagor is entitled to punitive damages under
20.12 paragraphs (b) and (c) and section 549.20.

20.13 (b) The court may award punitive damages if the mortgagee has failed to issue
20.14 a notice of determination within 30 days of the mortgagee's receipt of a completed
20.15 loan modification application. There is a rebuttable presumption that all required
20.16 documentation has been provided to the mortgagee for purposes of a completed loan
20.17 modification application if the mortgagor can provide:

20.18 (1) copies of all such required documents to the court; and either

20.19 (2) proof of mortgagee's receipt of a completed loan modification application; or

20.20 (3) a sworn affidavit by a HUD-approved counseling agency or substantially similar
20.21 third party that those documents were sent to the mortgagee.

20.22 (c) The court may award punitive damages to the mortgagor if the mortgagee did not
20.23 in good faith attempt to comply with the standards, duties, prohibitions, or requirements of
20.24 this chapter. Factors the court must consider in determining a lack of good faith include,
20.25 but are not limited to:

20.26 (1) the frequency, nature, and persistence of noncompliance;

20.27 (2) a pattern of violations;

20.28 (3) the extent to which the violation was reckless or intentional; or

20.29 (4) a violation that results in, or substantially contributes to, the mortgagor's loss
20.30 of home.

20.31 Subd. 4. Injunctive relief. The court may issue an injunction to prevent violations
20.32 of this chapter and to enjoin foreclosure in violation of this chapter.

20.33 Subd. 5. Reimbursement for litigation costs. A prevailing plaintiff shall recover
20.34 costs and disbursements of the action, plus reasonable attorney fees.

21.1 Subd. 6. Remedies cumulative. The remedies provided in this section are cumulative and do not restrict any remedy that is otherwise available.

21.2
21.3 Subd. 7. Public enforcement. (a) The attorney general may enforce this chapter under section 8.31.

21.4
21.5 (b) The commissioner of commerce may enforce this chapter under chapter 45.

21.6 Sec. 25. [584.09] APPLICABILITY TO PRIORITY OF LOANS.

21.7 A loan modification, as defined in section 584.01, does not affect the priority of the
21.8 lien of the mortgage that secures the loan.

21.9 Sec. 26. FUNDING FOR MORTGAGE FORECLOSURE COUNSELING.

21.10 \$...... is appropriated from the general fund in fiscal year 2014 to the commissioner
21.11 of the Housing Finance Agency, for a grant to the Minnesota Home Ownership Center
21.12 to provide funding for mortgage foreclosure counseling of residents of this state who
21.13 face mortgage foreclosure.

21.14 EFFECTIVE DATE. This section is effective the day following final enactment.

21.15 Sec. 27. EFFECTIVE DATE; APPLICABILITY.

21.16 Except as otherwise provided, this act is effective 60 days after enactment and
21.17 applies to foreclosures of residential mortgages commenced on or after that date."

21.18 Amend the title accordingly