

House Research Act Summary

CHAPTER: 141 (S.F. 708/H.F. 903)

SESSION: 2009 Regular Session

TOPIC: Regulation of foreclosure consultants

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Analyst: Tom Pender, 651-296-1885

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Overview

This act makes changes in an existing law that regulates contracts between consumers and foreclosure consultants. Foreclosure consultants are persons that enter into a contract with a homeowner to help the homeowner avoid or mitigate a mortgage foreclosure. Minnesota law started regulating those contracts in 2004. All of the changes involve the definition of “foreclosure consultant,” and involve contracts in which a person claims to be able to negotiate with a mortgage lender to get changes in an existing mortgage loan. This act adds such a person to the definition of “foreclosure consultant,” and the definition applies regardless of whether the property is already in foreclosure or not.

Section

- 1** **Definitions.** (a)(9) Adds negotiating changes in an existing residential mortgage to the list of promises that cause a person to fit the definition of a foreclosure consultant. This applies regardless of whether the property is in foreclosure.
- (b)(8) Limits a current exemption that applies to people licensed as mortgage originators or servicers, to say that one regulation does apply to them if they negotiate or offer to negotiate changes in an existing residential mortgage. That regulation is that they must fully perform the services they promise to perform as a foreclosure consultant before collecting a fee.
- (b)(9) Continues an existing exemption for nonprofit agencies that offer foreclosure counseling or advice, but requires them to comply with a provision requiring them to charge a fee only after completing performance of whatever they promise to do. Clarifies that the exemption applies only to nonprofits that have been approved by the Internal Revenue Service as a charitable organization under section 501(c)(3) of the Internal Revenue Code.
- (e)(3) Amends the definition of “service” for purposes of the definition of a foreclosure

consultant to include contacting creditors or mortgage servicers to negotiate or offer to negotiate changes in an existing mortgage loan. This broadens the current definition to make it apply regardless of whether the owner's residence is already in foreclosure.