

# House Research Act Summary

**CHAPTER:** 115

**SESSION:** 2013 Regular Session

**TOPIC:** Mortgage foreclosure

**Analyst:** Mary Mullen

**Date:** June 5, 2013

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: [www.house.mn/hrd/](http://www.house.mn/hrd/).

---

## Overview

This act makes changes in Minnesota's mortgage foreclosure laws.

### Section

- 1**      **Requisites for foreclosure.** Amends the requirements for foreclosure to add compliance with section 4 of this act. Requires that requirement must be satisfied before the notice of pendency under section 580.032 is recorded.
- 2**      **Form and delivery of foreclosure advice notice.** Changes the requirement that the lender provide the foreclosure advice notice with each written communication mailed to the borrower, by eliminating the requirement that it continue to be sent between the day of the foreclosure sale and the end of the redemption period.
- 3**      **Loss mitigation; mortgage foreclosure dual tracking.**
  - Subd. 1. Definitions.** Defines the terms "borrower," "complete loan modification request," "dual tracking," loan modification request," "servicer," and "small servicer." The definition of "servicer" is especially important to understanding this act.
  - Subd. 2. Applicability.** Makes this section apply only to first lien mortgages secured by owner-occupied residential property that have no more than four residential units. Excludes mortgage loans secured by business, commercial, or agricultural purposes (even if the loan is also secured by the borrower's owner-occupied residence). Defines "owner-occupied." Provides that this section does not supersede the servicer's loss mitigation obligations.
  - Subd. 3. Compliance required.** Requires a servicer to comply with subdivisions 5, 6, and 7 before conducting a foreclosure sale.

**Section**

**Subd. 4. Small servicer requirements.** This section is not applicable to small servicers however small servicers are prevented from moving forward on a foreclosure when the homeowner is performing pursuant to a loan modification or other loss mitigation agreement.

**Subd. 5. Loss Mitigation.** Requires a servicer to provide notice of loss mitigation options, exercise reasonable diligence to complete the application for loss mitigation, evaluate the application in a timely manner, offer the loan modification or another loss mitigation option in a timely manner, and comply with any applicable appeal period or procedure applicable to the specific loss mitigation option.

**Subd. 6. Dual tracking.** Prevents a loan from being sent to an attorney for foreclosure if a loss mitigation application is pending or from moving forward on a foreclosure sale or from setting the sale date after the servicer receives a loss mitigation application until specific actions have been taken regarding the application.

**Subd. 7. Relief.** Provides a cause of action where this section has been violated and allows a foreclosure sale to be set aside and provides attorneys fees to a mortgagor who prevails in an action.

- 4 Mortgages; validating foreclosure sales.** Adds to the list of objects regarding the validity of a foreclosure sale the failure to comply with section 3 of this act regarding dual tracking.
- 5 Validation and objections.** Provides that an objection raised related to the failure to comply with section 3 of this act is to be raised by the applicable redemption period in statute.
- 6 Effective date.** Provides that sections 1, 4, and 5 are effective August 1, 2013, for foreclosures with a notice of pendency under Minnesota Statutes, section 580.032, or a lis pendens for a foreclosure under Minnesota Statutes, chapter 581, recorded on or after August 1, 2013. Provides that section 2 is effective on August 1, 2013, and that section 3 is effective August 1, 2013, for a foreclosure with a notice of pendency under Minnesota Statutes, section 580.032, or a lis pendens for a foreclosure under Minnesota Statutes, chapter 581, recorded on or after August 1, 2013, except that subdivision 6 is effective October 31, 2013.