

78B-2-313 Action to recover deficiency after short sale.

- (1) As used in this section:
 - (a) "Deficiency" means the balance owed to a secured lender under a secured loan after completion of a short sale of the secured property.
 - (b) "Obligor" means the person or persons obligated to pay a secured loan.
 - (c) "Secured lender" means the person or persons to whom the obligation under a secured loan is owed.
 - (d) "Secured loan" means a loan or other credit for personal, family, or household purposes secured by a mortgage or trust deed on secured property.
 - (e) "Secured property" means single-family, residential real property located in the state that is the subject of a mortgage or trust deed to secure a secured loan.
 - (f) "Short sale" means a sale:
 - (i) of secured property;
 - (ii) by the owner of the secured property;
 - (iii) that results in the secured lender being paid less than the balance owing under the secured loan; and
 - (iv) made with the secured lender's consent and resulting in the secured lender releasing the mortgage or reconveying the trust deed on the secured property.
- (2) An action to recover a deficiency is barred unless it is commenced no more than three months after the date of recording of a release of mortgage or reconveyance of trust deed with respect to secured property and resulting from a short sale of that property.
- (3) Subsection (2) does not apply if the obligor or owner engaged in fraud in connection with the short sale.
- (4) Subsection (2) does not apply to an agreement that:
 - (a) is executed:
 - (i) between one or more obligors under a secured loan and the secured lender; and
 - (ii) in connection with a short sale; and
 - (b) obligates an obligor to pay some or all of a deficiency.

Amended by Chapter 278, 2013 General Session