

SB0042S01 compared with SB0042

~~deleted text~~ shows text that was in SB0042 but was deleted in SB0042S01.

inserted text shows text that was not in SB0042 but was inserted into SB0042S01.

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Senator Wayne L. Niederhauser proposes the following substitute bill:

LIMITATION ON ACTION TO RECOVER DEFICIENCY

FOLLOWING SHORT SALE

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne L. Niederhauser

House Sponsor: _____

LONG TITLE

General Description:

This bill enacts a provision establishing a time limit for an action to recover a deficiency following a specified sale of residential real property.

Highlighted Provisions:

This bill:

- ▶ bars an action to recover a deficiency following a short sale of single-family residential property unless the action is commenced no later than ~~90 days~~ three months after the short sale.

Money Appropriated in this Bill:

None

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Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

78B-2-313, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **78B-2-313** is enacted to read:

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

(1) As used in this section:

(a) "Deficiency" means the ~~{amount remaining owing}~~balance owed to a secured lender under a ~~{loan to the owner of secured property after the }~~secured ~~{lender is paid proceeds from}~~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 ~~{a lender whose loan to the owner of residential real property is}~~the person or persons to whom the obligation under a secured loan is owed.

(d) "Secured loan" means an obligation evidenced by a note and secured by a mortgage or trust deed on ~~{that}~~secured property.

~~{c}~~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~~{ to the owner of the property}~~.

~~{d}~~f "Short sale" means a sale:

(i) of secured property;

(ii) by the owner of the secured property;

(iii) ~~{for a price }~~that results in ~~{a deficiency}~~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 ~~{90 days}~~three months after the date of ~~{the closing of}~~recording of a release of mortgage or reconveyance of trust deed with respect to secured property and resulting from a short sale of

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that property.

(3) Subsection (2) does not apply if the obligor has engaged in fraud in connection with the short sale.

†

Legislative Review Note

— as of 1-23-12 5:23 PM

— ~~Office of Legislative Research and General Counsel~~; (4) The limitation under Subsection (2) does not apply to an obligation evidenced by an agreement that:

(a) is separate from the secured loan;

(b) is executed between an obligor and a secured lender in connection with a short sale;

and

(c) obligates the obligor to pay some or all of a deficiency.