

REFERENCE TITLE: foreclosures; terms; rental; stay; abatement

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

HB 2765

Introduced by
Representatives Waters, Farley, Patterson: Fleming

AN ACT

AMENDING SECTIONS 9-499, 11-268 AND 33-807, ARIZONA REVISED STATUTES; AMENDING TITLE 33, CHAPTER 6.1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 33-807.01 AND 33-807.02; AMENDING SECTIONS 33-808, 33-809 AND 33-810, ARIZONA REVISED STATUTES; AMENDING TITLE 33, CHAPTER 6.1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-810.01; PROVIDING FOR THE DELAYED REPEAL OF SECTION 33-810.01, ARIZONA REVISED STATUTES; RELATING TO DEEDS OF TRUST.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-499, Arizona Revised Statutes, is amended to
3 read:

4 9-499. Removal of rubbish, trash, weeds, filth, debris and
5 dilapidated structures: removal by city: costs
6 assessed: collection: priority of assessment:
7 definitions

8 A. The governing body of a city or town, by ordinance, shall compel
9 the owner, lessee or occupant of property **OR THE BENEFICIARY OF A DEED OF**
10 **TRUST AS PROVIDED IN SUBSECTION G OF THIS SECTION** to remove rubbish, trash,
11 weeds or other accumulation of filth, debris or dilapidated structures ~~which~~
12 **THAT** constitute a hazard to public health and safety from buildings, grounds,
13 lots, contiguous sidewalks, streets and alleys. An ordinance shall require:

14 1. Written notice to the owner, the owner's authorized agent or the
15 owner's statutory agent and to the occupant or lessee. The notice shall be
16 served either by personal service or by certified mail. If notice is served
17 by certified mail, the notice shall be mailed to the last known address of
18 the owner, the owner's authorized agent or the owner's statutory agent and to
19 the address to which the tax bill for the property was last mailed. The
20 notice shall be given not less than thirty days before the day set for
21 compliance and shall include the legal description of the property and the
22 cost of such removal to the city or town if the owner, occupant or lessee
23 does not comply. The owner shall be given not less than thirty days to
24 comply. The city or town may record the notice in the county recorder's
25 office in the county in which the property is located. If the notice is
26 recorded and compliance with the notice is subsequently satisfied, the city
27 or town shall record a release of the notice.

28 2. Provisions for appeal to and a hearing by the governing body of the
29 city or town or a board of citizens that is appointed by the governing body
30 on both the notice and the assessments, unless the removal or abatement is
31 ordered by a court.

32 3. That any person, firm or corporation that places any rubbish,
33 trash, filth or debris upon any private or public property not owned or under
34 the control of that person, firm or corporation is guilty of a class 1
35 misdemeanor or a civil violation and, in addition to any fine or penalty
36 which may be imposed for a violation ~~of any provision~~ of this section, is
37 liable for all costs which may be assessed pursuant to this section for
38 removing, abating or enjoining the rubbish, trash, filth or debris.

39 B. The ordinance may provide that if any person with an interest in
40 the property, including an owner, lienholder, lessee or occupant, after
41 notice as required by subsection A, paragraph 1 of this section does not
42 remove such rubbish, trash, weeds, filth, debris or dilapidated structures
43 and abate the condition ~~which~~ **THAT** constitutes a hazard to public health and
44 safety, the city or town may remove, abate, enjoin or cause their removal.

1 C. The governing body of the city or town may prescribe by ordinance a
2 procedure for the removal or abatement, and for making the actual cost of the
3 removal or abatement, including the actual costs of any additional inspection
4 and other incidental connected costs, an assessment upon the property from
5 which the rubbish, trash, weeds or other accumulations are removed or abated.

6 D. The ordinance may provide that the cost of removal, abatement or
7 injunction of such rubbish, trash, weeds, filth, debris or dilapidated
8 structures from any lot or tract of land, and associated legal costs for
9 abatement or injunctions, shall be assessed on the property from which the
10 rubbish, trash, weeds, accumulations or dilapidated structures are removed,
11 abated or enjoined. The city or town may record the assessment in the county
12 recorder's office in the county in which the property is located, including
13 the date and amount of the assessment, the legal description of the property
14 and the name of the city or town imposing the assessment. Any assessment
15 recorded after July 15, 1996 is prior and superior to all other liens,
16 obligations, mortgages or other encumbrances, except liens for general taxes.
17 A sale of the property to satisfy an assessment obtained under ~~the provisions~~
18 ~~of~~ this section shall be made upon judgment of foreclosure and order of sale.
19 A city or town shall have the right to bring an action to enforce the
20 assessment in the superior court in the county in which the property is
21 located at any time after the recording of the assessment, but failure to
22 enforce the assessment by such action shall not affect its validity. The
23 recorded assessment shall be prima facie evidence of the truth of all matters
24 recited in the assessment and of the regularity of all proceedings prior to
25 the recording of the assessment.

26 E. Assessments that are imposed under subsection D of this section run
27 against the property until paid and are due and payable in equal annual
28 installments as follows:

29 1. Assessments of less than five hundred dollars shall be paid within
30 one year after the assessment is recorded.

31 2. Assessments of five hundred dollars or more but less than one
32 thousand dollars shall be paid within two years after the assessment is
33 recorded.

34 3. Assessments of one thousand dollars or more but less than five
35 thousand dollars shall be paid within three years after the assessment is
36 recorded.

37 4. Assessments of five thousand dollars or more but less than ten
38 thousand dollars shall be paid within six years after the assessment is
39 recorded.

40 5. Assessments of ten thousand dollars or more shall be paid within
41 ten years after the assessment is recorded.

42 F. An assessment that is past due accrues interest at the rate
43 prescribed by section 44-1201.

44 G. FOR ANY RESIDENTIAL PROPERTY FOR WHICH THE CITY OR TOWN RECEIVES A
45 NOTICE OF PENDING FORECLOSURE PURSUANT TO SECTION 33-809, THE CITY OR TOWN ON

1 ITS OWN MOTION MAY INSPECT THE EXTERIOR OF THE PROPERTY AND SEND NOTICE
 2 PURSUANT TO SUBSECTION A OF THIS SECTION TO THE BENEFICIARY OF THE DEED OF
 3 TRUST TO REMOVE RUBBISH, TRASH, WEEDS OR OTHER ACCUMULATION OF FILTH, DEBRIS
 4 OR DILAPIDATED STRUCTURES THAT CONSTITUTE A HAZARD TO PUBLIC HEALTH AND
 5 SAFETY FROM BUILDINGS, GROUNDS AND LOTS OF THE TRUST PROPERTY. THEREAFTER,
 6 THE BENEFICIARY IS PROPERLY NOTICED AS A PARTY TO ANY ORDER TO REMOVE OR
 7 ABATE THE HAZARD PURSUANT TO THIS SECTION, INCLUDING ANY ORDER REGARDING
 8 PAYMENT OF COSTS OR AN ASSESSMENT. THE TRUSTEE SHALL PAY ALL ASSESSMENTS
 9 LEVIED PURSUANT TO THIS SECTION AGAINST THE TRUST PROPERTY AND, ON
 10 RECORDATION OF A RELEASE OF ASSESSMENT LIEN BY THE CITY OR TOWN, MAY PROCEED
 11 WITH A NOTICE OF SALE PURSUANT TO SECTION 33-809. IF THE CITY OR TOWN DOES
 12 NOT SEND A NOTICE PURSUANT TO SUBSECTION A OF THIS SECTION TO THE BENEFICIARY
 13 WITHIN NINETY DAYS AFTER RECEIVING THE NOTICE OF PENDING FORECLOSURE, THE
 14 CITY OR TOWN WAIVES ITS AUTHORITY TO ORDER ANY REMOVAL AGAINST THE
 15 BENEFICIARY PURSUANT TO THIS SECTION, AND THE BENEFICIARY MAY PROCEED WITH A
 16 NOTICE OF SALE PURSUANT TO SECTION 33-809.

17 ~~G.~~ H. A prior assessment for the purposes provided in this section
 18 shall not be a bar to a subsequent assessment or assessments for these
 19 purposes, and any number of assessments on the same lot or tract of land may
 20 be enforced in the same action.

21 ~~H.~~ I. This section applies to all cities and towns organized and
 22 operating under the general law of this state, and cities and towns organized
 23 and operating under a special act or charter.

24 ~~I.~~ J. For THE purposes of this section:

- 25 1. "Property" includes buildings, grounds, lots and tracts of land.
- 26 2. "Structures" includes buildings, improvements and other structures
 27 that are constructed or placed on land.

28 Sec. 2. Section 11-268, Arizona Revised Statutes, is amended to read:

29 11-268. Removal of rubbish, trash, weeds, filth, debris and
 30 dilapidated buildings; violation; classification;
 31 removal by county; costs assessed; collection;
 32 priority of lien; definition

33 A. The board of supervisors, by ordinance, shall compel the owner,
 34 lessee or occupant, ~~OR THE BENEFICIARY OF A DEED OF TRUST AS PROVIDED IN~~
 35 ~~SUBSECTION F OF THIS SECTION,~~ of buildings, grounds or lots located in the
 36 unincorporated areas of the county to remove rubbish, trash, weeds, filth,
 37 debris or dilapidated buildings ~~which~~ THAT constitute a hazard to public
 38 health and safety from buildings, grounds, lots, contiguous sidewalks,
 39 streets and alleys. Any such ordinance shall require and include:

- 40 1. Reasonable written notice to the owner, any lienholder, THE
 41 occupant or THE lessee. The notice shall be given not less than thirty days
 42 before the day set for compliance and shall include the estimated cost to the
 43 county for the removal if the owner, occupant or lessee does not comply. The
 44 notice shall be either personally served or mailed by certified mail to the
 45 owner, occupant or lessee at his last known address, or the address to which

1 the tax bill for the property was last mailed. If the owner does not reside
2 on the property, a duplicate notice shall also be sent to the owner at the
3 owner's last known address.

4 2. Provisions for appeal to the board of supervisors on both the
5 notice and the assessments.

6 3. That any person, firm or corporation that places any rubbish,
7 trash, filth or debris upon any private or public property located in the
8 unincorporated areas of the county not owned or under the control of the
9 person, firm or corporation is guilty of a class 1 misdemeanor and, in
10 addition to any fine which may be imposed for a violation ~~of any provision~~ of
11 this section, is liable for all costs which may be assessed pursuant to this
12 section for the removal of the rubbish, trash, filth or debris.

13 B. The ordinance may provide that if any person with an interest in
14 the property, including an owner, lienholder, lessee or occupant of the
15 buildings, grounds or lots, after notice as required by subsection A,
16 paragraph 1, does not remove the rubbish, trash, weeds, filth, debris or
17 dilapidated buildings and abate the condition ~~which~~ THAT constitutes a hazard
18 to public health and safety, the county ~~may~~, at the expense of the owner,
19 lessee or occupant, ~~MAY~~ remove, abate, enjoin or cause the removal of the
20 rubbish, trash, weeds, filth, debris or dilapidated buildings.

21 C. The board of supervisors may prescribe by the ordinance a procedure
22 for such removal or abatement and for making the actual cost of such removal
23 or abatement, including the actual costs of any additional inspection and
24 other incidental costs in connection with the removal or abatement, an
25 assessment upon the lots and tracts of land from which the rubbish, trash,
26 weeds, filth, debris or dilapidated buildings are removed.

27 D. The ordinance may provide that the cost of removal, abatement or
28 injunction of the rubbish, trash, weeds, filth, debris or dilapidated
29 buildings from any lot or tract of land located in the unincorporated areas
30 of the county and associated legal costs be assessed in the manner and form
31 prescribed by ordinance of the county upon the property from which the
32 rubbish, trash, weeds, filth, debris or dilapidated buildings are removed,
33 abated or enjoined. The county shall record the assessment in the county
34 recorder's office in the county in which the property is located, including
35 the date and amount of the assessment and the legal description of the
36 property. Any assessment recorded after ~~the effective date of this amendment~~
37 ~~to this section~~ AUGUST 6, 1999 is prior and superior to all other liens,
38 obligations or other encumbrances, except liens for general taxes and prior
39 recorded mortgages. A sale of the property to satisfy an assessment obtained
40 under this section shall be made on judgment of foreclosure and order of
41 sale. The county may bring an action to enforce the lien in the superior
42 court in the county in which the property is located at any time after the
43 recording of the assessment, but failure to enforce the lien by such action
44 does not affect its validity. The recorded assessment is prima facie

1 evidence of the truth of all matters recited in the assessment and of the
2 regularity of all proceedings before the recording of the assessment.

3 E. Assessments that are imposed under subsection D run against the
4 property until they are paid and are due and payable in equal annual
5 installments as follows:

6 1. Assessments of less than five hundred dollars shall be paid within
7 one year after the assessment is recorded.

8 2. Assessments of five hundred dollars or more but less than one
9 thousand dollars shall be paid within two years after the assessment is
10 recorded.

11 3. Assessments of one thousand dollars or more but less than five
12 thousand dollars shall be paid within three years after the assessment is
13 recorded.

14 4. Assessments of five thousand dollars or more but less than ten
15 thousand dollars shall be paid within six years after the assessment is
16 recorded.

17 5. Assessments of ten thousand dollars or more shall be paid within
18 ten years after the assessment is recorded.

19 F. FOR ANY RESIDENTIAL PROPERTY FOR WHICH THE COUNTY RECEIVES A NOTICE
20 OF PENDING FORECLOSURE PURSUANT TO SECTION 33-809, THE COUNTY ON ITS OWN
21 MOTION MAY INSPECT THE EXTERIOR OF THE PROPERTY AND SEND NOTICE PURSUANT TO
22 SUBSECTION A OF THIS SECTION TO THE BENEFICIARY OF THE DEED OF TRUST TO
23 REMOVE RUBBISH, TRASH, WEEDS OR OTHER ACCUMULATION OF FILTH, DEBRIS OR
24 DILAPIDATED STRUCTURES THAT CONSTITUTE A HAZARD TO PUBLIC HEALTH AND SAFETY
25 FROM BUILDINGS, GROUNDS AND LOTS OF THE TRUST PROPERTY. THEREAFTER, THE
26 BENEFICIARY IS PROPERLY NOTICED AS A PARTY TO ANY ORDER TO REMOVE OR ABATE
27 THE HAZARD PURSUANT TO THIS SECTION, INCLUDING ANY ORDER REGARDING PAYMENT OF
28 COSTS OR AN ASSESSMENT. THE TRUSTEE SHALL PAY ALL ASSESSMENTS LEVIED
29 PURSUANT TO THIS SECTION AGAINST THE TRUST PROPERTY AND, ON RECORDATION OF A
30 RELEASE OF ASSESSMENT LIEN BY THE COUNTY, MAY PROCEED WITH A NOTICE OF SALE
31 PURSUANT TO SECTION 33-809. IF THE COUNTY DOES NOT SEND A NOTICE PURSUANT TO
32 SUBSECTION A OF THIS SECTION TO THE BENEFICIARY WITHIN NINETY DAYS AFTER
33 RECEIVING THE NOTICE OF PENDING FORECLOSURE, THE COUNTY WAIVES ITS AUTHORITY
34 TO ORDER ANY REMOVAL AGAINST THE BENEFICIARY PURSUANT TO THIS SECTION, AND
35 THE BENEFICIARY MAY PROCEED WITH A NOTICE OF SALE PURSUANT TO SECTION 33-809.

36 ~~F.~~ G. A prior assessment for the purposes provided in this section is
37 not a bar to a subsequent assessment or assessments for such purposes, and
38 any number of liens on the same lot or tract of land may be enforced in the
39 same action.

40 ~~G.~~ H. Before the removal of a dilapidated building the board of
41 supervisors shall consult with the state historic preservation officer to
42 determine if the building is of historical value.

43 ~~H.~~ I. If a county removes a dilapidated building pursuant to this
44 section, the county assessor shall adjust the valuation of the property on
45 the property assessment tax rolls from the date of removal.

1 ~~I.~~ J. As used in this section, occupant does not include any
2 corporation or association operating or maintaining rights-of-way for and on
3 behalf of the United States government, either under contract or under
4 federal law.

5 ~~J.~~ K. ~~As used in~~ FOR THE PURPOSES OF this section, "dilapidated
6 building" means any real property structure that is in such disrepair or is
7 damaged to the extent that its strength or stability is substantially less
8 than a new building or it is likely to burn or collapse and its condition
9 endangers the life, health, safety or property of the public.

10 Sec. 3. Section 33-807, Arizona Revised Statutes, is amended to read:

11 33-807. Sale of trust property; power of trustee; foreclosure
12 of trust deed

13 A. By virtue of ~~his~~ THE TRUSTEE'S position, a power of sale is
14 conferred upon the trustee of a trust deed under which the trust property may
15 be sold, in the manner provided in this chapter, after a breach or default in
16 performance of the contract or contracts, for which the trust property is
17 conveyed as security, or a breach or default of the trust deed. At the
18 option of the beneficiary, a trust deed may be foreclosed in the manner
19 provided by law for the foreclosure of mortgages on real property in which
20 event chapter 6 of this title governs the proceedings. The beneficiary or
21 trustee shall constitute the proper and complete party plaintiff in any
22 action to foreclose a deed of trust. The power of sale may be exercised by
23 the trustee without express provision therefor in the trust deed.

24 B. The trustee or beneficiary may file and maintain an action to
25 foreclose a deed of trust at any time before the trust property has been sold
26 under the power of sale. A sale of trust property under the power of sale
27 shall not be held after an action to foreclose the deed of trust has been
28 filed unless the foreclosure action has been dismissed.

29 C. The trustee or beneficiary may file an action for the appointment
30 of a receiver according to sections 12-1241 and 33-702. The right to
31 appointment of a receiver shall be independent of and may precede the
32 exercise of any other right or remedy.

33 D. EXCEPT FOR OWNER-OCCUPIED RESIDENTIAL PROPERTY, the power of sale
34 of trust property conferred upon the trustee shall not be exercised before
35 the ninety-first day after the date of the recording of the notice of the
36 sale. The sale shall not be set for a Saturday or legal holiday. The
37 trustee may schedule more than one sale for the same date, time and place.

38 E. FOR OWNER-OCCUPIED RESIDENTIAL PROPERTY, THE POWER OF SALE OF TRUST
39 PROPERTY CONFERRED ON THE TRUSTEE SHALL NOT BE EXERCISED UNTIL AFTER
40 COMPLIANCE WITH THE CONDITIONS PRESCRIBED IN THIS CHAPTER. IF THE
41 BENEFICIARY FAILS TO COMPLY WITH THIS CHAPTER, THE POWER OF SALE CONFERRED ON
42 THE TRUSTEE SHALL NOT BE EXERCISED UNTIL AT LEAST ONE YEAR AFTER THE DATE THE
43 NOTICE OF SALE IS RECORDED IF THE TRUSTOR CONTINUES TO MEET THE PAYMENT
44 CONDITIONS PRESCRIBED IN SECTION 33-808.01.

1 ~~E.~~ F. The trustee need only be joined as a party in legal actions
2 pertaining to a breach of the trustee's obligation under this chapter or
3 under the deed of trust. Any order of the court entered against the
4 beneficiary is binding upon the trustee with respect to any actions that the
5 trustee is authorized to take by the trust deed or by this chapter. If the
6 trustee is joined as a party in any other action, the trustee is entitled to
7 be immediately dismissed and to recover costs and reasonable attorney fees
8 from the person joining the trustee.

9 Sec. 4. Title 33, chapter 6.1, article 1, Arizona Revised Statutes, is
10 amended by adding sections 33-807.01 and 33-807.02, to read:

11 33-807.01. Limits on foreclosure; right to rent foreclosure
12 property; applicability

13 A. A BENEFICIARY OR TRUSTEE UNDER A TRUST DEED SHALL NOT EXERCISE THE
14 POWER OF SALE UNTIL AFTER THE BENEFICIARY HAS PROVIDED NOTICE IN
15 SUBSTANTIALLY THE FOLLOWING FORM TO THE TRUSTOR WHO IS IN DEFAULT:

16 OFFICIAL NOTICE TO TRUSTOR (BORROWER)

17 YOU ARE IN DEFAULT ON YOUR MORTGAGE OR DEED OF TRUST, AND
18 FORECLOSURE MAY BEGIN AGAINST YOUR PROPERTY. STATE LAW GIVES
19 YOU THE RIGHT TO CONTINUE TO OCCUPY THE PROPERTY AS A RENTER
20 UNTIL _____ (DATE) IF YOU DO ALL OF THE FOLLOWING:

- 21 1. NOTIFY THE LENDER-BENEFICIARY BEFORE _____ (DATE)
- 22 THAT YOU INTEND TO EXERCISE YOUR RIGHT TO RENT.
- 23 2. MAKE TIMELY MONTHLY RENTAL PAYMENTS IN AN AMOUNT
- 24 DETERMINED BY THE JUSTICE OF THE PEACE COURT LISTED BELOW.
- 25 3. CONTINUE TO USE THE PROPERTY AS YOUR PRIMARY
- 26 RESIDENCE.

27 IF YOU WISH TO OCCUPY YOUR PROPERTY AS A RENTER, YOU MUST
28 GIVE WRITTEN NOTICE TO THE LENDER-BENEFICIARY AND TO THE JUSTICE
29 OF THE PEACE COURT PRECINCT THAT HAS JURISDICTION OVER YOUR
30 PROPERTY FOR PURPOSES OF ANY LANDLORD AND TENANT ISSUE. THAT
31 JUSTICE OF THE PEACE PRECINCT IS _____ (NAME), LOCATED
32 AT _____ (ADDRESS AND TELEPHONE NUMBER).

33 B. A BENEFICIARY SHALL INCLUDE ON THE NOTICE THE NAME, ADDRESS AND
34 TELEPHONE NUMBER OF THE JUSTICE OF THE PEACE PRECINCT THAT WOULD HAVE
35 JURISDICTION OVER THE TRUST PROPERTY FOR PURPOSES OF ANY RESIDENTIAL LANDLORD
36 AND TENANT ACTION, AND SHALL SPECIFY THE DUE DATE FOR THE RECEIPT OF NOTICE
37 FROM THE TRUSTOR, WHICH SHALL BE AT LEAST THIRTY DAYS AFTER THE DATE THE
38 NOTICE IS MAILED OR POSTED, WHICHEVER OCCURS LATER. THE NOTICE SHALL BE
39 DELIVERED BY FIRST CLASS MAIL TO THE TRUSTOR AT THE TRUSTOR'S MAILING ADDRESS
40 AND SHALL ALSO BE POSTED PROMINENTLY ON THE FRONT DOOR OF THE TRUST PROPERTY.

41 C. THE BENEFICIARY AND THE TRUSTEE MAY NOT EXERCISE THE POWER OF SALE
42 ON THE TRUST PROPERTY FOR AT LEAST ONE YEAR AFTER THE DATE THE TRUSTOR
43 PROPERLY NOTIFIES THE BENEFICIARY THAT THE TRUSTOR WISHES TO OCCUPY THE
44 PROPERTY AS A RENTER, AND A MONTH-TO-MONTH PERIODIC TENANCY BETWEEN THE
45 BENEFICIARY AND TRUSTOR EXISTS IF ALL OF THE FOLLOWING OCCUR:

1 1. THE TRUSTOR TIMELY PAYS MONTHLY RENT IN THE AMOUNT DETERMINED BY
2 THE JUSTICE COURT PURSUANT TO SECTION 33-807.02.

3 2. THE TRUSTOR CONTINUES TO OCCUPY THE PREMISES AS THE TRUSTOR'S
4 PRINCIPAL RESIDENCE.

5 3. THE TRUSTOR DOES NOT ENGAGE IN A MATERIAL NONCOMPLIANCE WITH THE
6 TENANT'S OBLIGATIONS UNDER CHAPTER 10 OF THIS TITLE. THE TRUSTOR MAY
7 TERMINATE THE MONTH-TO-MONTH TENANCY BY GIVING ONE MONTH'S NOTICE TO THE
8 BENEFICIARY-LANDLORD AS PROVIDED IN CHAPTER 10 OF THIS TITLE.

9 D. ON COMPLETION OF THE ONE-YEAR PERIOD FOR WHICH THE TRUSTOR MAY BE A
10 RENTER OF THE TRUST PROPERTY, THE BENEFICIARY OR TRUSTEE MAY EXERCISE THE
11 POWER OF SALE ON THE TRUST PROPERTY AS OTHERWISE PROVIDED BY LAW. IF THE
12 BENEFICIARY OR TRUSTEE DOES NOT EXERCISE THE POWER OF SALE, THE TRUSTOR MAY
13 CONTINUE TO RENT AS A MONTH-TO-MONTH TENANT.

14 E. THIS SECTION AND SECTION 33-807.02 APPLY TO REAL PROPERTY THAT
15 COMPLIES WITH ALL OF THE FOLLOWING:

16 1. THE PROPERTY IS A SINGLE ONE-FAMILY OR TWO-FAMILY DWELLING,
17 INCLUDING A UNIT IN A CONDOMINIUM AS DEFINED IN CHAPTER 9 OF THIS TITLE AND A
18 UNIT IN A PLANNED COMMUNITY AS DEFINED IN CHAPTER 16 OF THIS TITLE.

19 2. THE PROPERTY IS USED AS THE PRINCIPAL RESIDENCE OF THE TRUSTOR FOR
20 AT LEAST TWO YEARS BEFORE DEFAULT.

21 3. THE DEED OF TRUST ON THE PROPERTY SECURES A PURCHASE PRICE THAT IS
22 LESS THAN THE MEDIAN PURCHASE PRICE FOR RESIDENCES THAT ARE LOCATED IN THE
23 SAME METROPOLITAN STATISTICAL AREA FOR THAT RESIDENCE, OR IF NOT IN A
24 METROPOLITAN STATISTICAL AREA, FOR THIS STATE. THE MEDIAN PRICE SHALL BE
25 DETERMINED BASED ON THE GENERALLY ACCEPTED STATISTICAL MEASURES USED BY THE
26 REAL ESTATE INDUSTRY FOR THAT AREA OR FOR THIS STATE.

27 4. THE DEED OF TRUST WAS EXECUTED BEFORE JULY 1, 2007.

28 33-807.02. Determination of rent; justice court proceeding;
29 fair market value

30 A. ON RECEIPT OF WRITTEN NOTICE FROM A TRUSTOR PURSUANT TO SECTION
31 33-807.01 THAT THE TRUSTOR WISHES TO OCCUPY THE TRUST PROPERTY AS A RENTER,
32 THE JUSTICE OF THE PEACE COURT FOR THE PRECINCT IN WHICH THE TRUST PROPERTY
33 IS LOCATED SHALL DEEM THE NOTICE THE INITIATION OF A JUSTICE COURT ACTION FOR
34 A DETERMINATION OF FAIR MARKET RENTAL VALUE FOR THE TRUST PROPERTY, WITH THE
35 TRUSTOR AS THE PLAINTIFF AND THE BENEFICIARY AS THE DEFENDANT IN THE ACTION.
36 WRITTEN NOTICE TO THE BENEFICIARY AS PRESCRIBED IN SECTION 33-807.01
37 CONSTITUTES SERVICE OF PROCESS FOR PURPOSES OF THE ACTION TO DETERMINE FAIR
38 MARKET RENTAL VALUE, AND A HEARING SHALL BE SCHEDULED.

39 B. THE JUSTICE COURT SHALL APPOINT A PERSON WHO IS LICENSED IN THIS
40 STATE AS A RESIDENTIAL REAL ESTATE APPRAISER PURSUANT TO TITLE 32, CHAPTER 36
41 TO PRESENT EVIDENCE OF THE FAIR MARKET RENTAL VALUE OF THE PROPERTY AT A
42 HEARING CALLED FOR THAT PURPOSE. ON COMPLETION OF THE HEARING, THE COURT
43 SHALL DETERMINE THE FAIR MARKET RENTAL VALUE, WHICH CONSTITUTES THE AMOUNT OF
44 MONTHLY RENT DUE FROM THE TRUSTOR TO THE BENEFICIARY UNDER THE MONTH-TO-MONTH
45 RENTAL AGREEMENT PRESCRIBED BY SECTION 33-807.01.

1 C. NO EARLIER THAN ONE YEAR AFTER THE ISSUANCE OF THE COURT'S FAIR
2 MARKET RENTAL VALUE DETERMINATION, THE BENEFICIARY OF THE TRUST PROPERTY OR
3 THE TRUSTOR OF THE TRUST PROPERTY MAY FILE A REQUEST FOR A REDETERMINATION OF
4 FAIR MARKET RENTAL TO REFLECT CHANGED MARKET CONDITIONS. THE COURT SHALL
5 HOLD A HEARING ON FAIR MARKET RENTAL VALUE IF THE PARTY REQUESTING THE
6 HEARING PAYS THE COSTS FOR THE APPRAISER.

7 Sec. 5. Section 33-808, Arizona Revised Statutes, is amended to read:
8 33-808. Notice of trustee's sale

9 A. The trustee shall give written notice of the time and place of sale
10 legally describing the trust property to be sold by each of the following
11 methods:

12 1. Recording a notice in the office of the recorder of each county
13 where the trust property is situated.

14 2. Giving notice as provided in section 33-809 to the extent
15 applicable.

16 3. Posting a copy of the notice of sale, at least twenty days before
17 the date of sale in some conspicuous place on the trust property to be sold,
18 if posting can be accomplished without a breach of the peace. If access to
19 the trust property is denied because a common entrance to the property is
20 restricted by a limited access gate or similar impediment, the property shall
21 be posted by posting notice at that gate or impediment. Notice shall also be
22 posted at one of the places provided for posting public notices at any
23 building that serves as a location of the superior court in the county where
24 the trust property is to be sold. Posting is deemed completed on the date
25 the trust property is posted. The posting of notice at the superior court
26 location is deemed a ministerial act.

27 4. Publication of the notice of sale in a newspaper of general
28 circulation in each county in which the trust property to be sold is
29 situated. The notice of sale shall be published at least once a week for
30 four consecutive weeks. The last date of publication shall not be less than
31 ten days ~~prior to~~ BEFORE the date of sale. Publication is deemed completed
32 on the date of the first of the four publications of the notice of sale
33 pursuant to this paragraph. **FOR OWNER-OCCUPIED RESIDENTIAL TRUST PROPERTY,
34 THE NOTICE OF SALE SHALL BE PUBLISHED IN A NEWSPAPER OF LOCAL CIRCULATION IN
35 THE AREA OF THE COUNTY WHERE THE TRUST PROPERTY IS LOCATED.**

36 B. The sale shall be held at the time and place designated in the
37 notice of sale on a day other than a Saturday or legal holiday between 9:00
38 a.m. and 5:00 p.m. mountain standard time at a specified place on the trust
39 property, at a specified place at any building that serves as a location of
40 the superior court or at a specified place at a place of business of the
41 trustee, in any county in which part of the trust property to be sold is
42 situated.

43 C. The notice of sale shall contain:

44 1. The date, time and place of the sale. The date, time and place
45 shall be set pursuant to section 33-807, subsection D. The date shall be no

1 sooner than the ninety-first day after the date that the notice of sale was
2 recorded.

3 2. The street address, if any, or identifiable location as well as the
4 legal description of the trust property.

5 3. The county assessor's tax parcel number for the trust property or
6 the tax parcel number of a larger parcel of which the trust property is a
7 part.

8 4. The original principal balance as shown on the deed of trust. If
9 the amount is not shown on the deed of trust, it shall be listed as
10 "unspecified".

11 5. The names and addresses, as of the date the notice of sale is
12 recorded, of the beneficiary and the trustee, the name and address of the
13 original trustor as stated in the deed of trust, the signature of the trustee
14 and the basis for the trustee's qualification pursuant to section 33-803,
15 subsection A, including an express statement of the paragraph under
16 subsection A on which the qualification is based. The address of the
17 beneficiary shall not be in care of the trustee.

18 6. The telephone number of the trustee.

19 7. The name of the state or federal licensing or regulatory body or
20 controlling agency of the trustee as prescribed by section 33-803,
21 subsection A.

22 8. THE NAME, ADDRESS, TELEPHONE NUMBER AND ELECTRONIC MAIL ADDRESS OF
23 THE BENEFICIARY.

24 9. THE NAMES AND ADDRESSES OF HOUSING COUNSELORS WHO CAN PROVIDE
25 ASSISTANCE TO AND ATTEND NEGOTIATIONS WITH THE BENEFICIARY OF AN
26 OWNER-OCCUPIED RESIDENTIAL TRUST PROPERTY.

27 10. THE STATEMENT THAT AN OWNER-OCCUPIED RESIDENTIAL PROPERTY WILL NOT
28 BE SUBJECT TO FORECLOSURE FOR UP TO ONE YEAR AFTER THE DATE THAT THE NOTICE
29 IS RECORDED IF THE OWNER FILES AN AFFIDAVIT AND OTHERWISE COMPLIES WITH
30 SECTION 33-810.01.

31 D. The notice of sale shall be sufficient if made in substantially the
32 following form:

33 Notice of Trustee's Sale

34 The following legally described trust property will be
35 sold, pursuant to the power of sale under that certain trust
36 deed recorded in docket or book _____ at page
37 _____ records of _____ county, Arizona, at public
38 auction to the highest bidder at (specific place of sale as
39 permitted by law) _____, in _____ county, in
40 or near _____, Arizona, on _____, _____, at
41 _____ o'clock ____m. of said day, UNLESS OTHERWISE PROVIDED
42 BY LAW:

1 (street address, if any, or identifiable
2 location of trust property)
3 (legal description of trust property)
4 Tax parcel number _____
5 Original principal balance \$ _____
6 Name and address of beneficiary _____
7 _____
8 _____
9 Name and address of original trustor _____
10 _____
11 _____
12 Name, address and telephone number of trustee _____
13 _____
14 _____
15 Signature of trustee _____
16 Manner of trustee qualification _____
17 Name of trustee's regulator _____
18 Dated this _____ day of _____, _____.
19 (Acknowledgement)

20 E. Any error or omission in the information required by subsection C
21 or D of this section, other than an error in the legal description of the
22 trust property or an error in the date, time or place of sale, shall not
23 invalidate a trustee's sale. Any error in the legal description of the trust
24 property shall not invalidate a trustee's sale if considered as a whole the
25 information provided is sufficient to identify the trust property being sold.
26 If there is an error or omission in the legal description so that the trust
27 property cannot be identified, or if there is an error in the date, time or
28 place of sale, the trustee shall record a cancellation of notice of sale.
29 The trustee or any person furnishing information to the trustee shall not be
30 subject to liability for any error or omission in the information required by
31 subsection C of this section except for the wilful and intentional failure to
32 provide such information. This subsection does not apply to claims made by
33 an insured under any policy of title insurance.

34 F. The notice of trustee sale may not be rerecorded for any reason.
35 This subsection does not prohibit the recording of a new or subsequent notice
36 of sale regarding the same property.

37 Sec. 6. Section 33-809, Arizona Revised Statutes, is amended to read:
38 33-809. Request for copies of notice of sale; mailing by
39 trustee; disclosure of information regarding trustee
40 sale

41 A. A person desiring a copy of a notice of sale under a trust deed, at
42 any time subsequent to the recording of the trust deed and ~~prior to~~ BEFORE
43 the recording of a notice of sale pursuant thereto, shall record in the
44 office of the county recorder in any county in which part of the trust
45 property is situated a duly acknowledged request for a copy of any such

1 notice of sale. The request shall set forth the name and address of the
2 person or persons requesting a copy of such notice and shall identify the
3 trust deed by setting forth the county, docket or book and page of the
4 recording data thereof and by stating the names of the original parties to
5 such deed, the date the deed was recorded and the legal description of the
6 entire trust property and shall be in substantially the following form:

7 Request for Notice

8 Request is hereby made that a copy of any notice of sale
9 under the trust deed recorded in docket or book _____ at
10 page _____, records of _____ county, Arizona,
11 _____,
12 (legal description of trust property)

13 Executed by _____ as trustor, in which
14 _____ is named as beneficiary and _____ as
15 trustee, be mailed to _____ at _____.

16 Dated this _____ day of _____, ____.

17 _____
18 Signature

19 (Acknowledgement)

20 B. Not later than thirty days after recording the notice of sale, the
21 trustee shall mail by certified or registered mail, with postage prepaid, a
22 copy of the notice of sale that reflects the recording date together with any
23 notice required to be given by subsection C of this section, addressed as
24 follows:

25 1. To each person whose name and address are set forth in a request
26 for notice, which has been recorded ~~prior to~~ BEFORE the recording of the
27 notice of sale, directed to the address designated in such request.

28 2. To each person who, at the time of recording of the notice of sale,
29 appears on the records of the county recorder in the county in which any part
30 of the trust property is situated to have an interest in any of the trust
31 property. The copy of the notice sent pursuant to this paragraph shall be
32 addressed to the person whose interest appears of record at the address set
33 forth in the document. If no address for the person is set forth in the
34 document, the copy of the notice may be addressed in care of the person to
35 whom the recorded document evidencing such interest was directed to be mailed
36 at the time of its recording or to any other address of the person known or
37 ascertained by the trustee. If the interest that appears on the records of
38 the county recorder is a deed of trust, a copy of the notice only needs to be
39 mailed to the beneficiary under the deed of trust. If any person having an
40 interest of record or the trustor, or any person who has recorded a request
41 for notice, desires to change the address to which notice shall be mailed,
42 the change shall be accomplished by a request as provided under this section.

43 3. For single family residential properties only, to the property
44 address, except that the copy mailed pursuant to this paragraph may be mailed
45 by first class mail.

1 4. FOR AN OWNER-OCCUPIED RESIDENTIAL PROPERTY, TO THE INCORPORATED
2 CITY OR TOWN, IF ANY, AND THE COUNTY IN WHICH THE PROPERTY IS LOCATED.

3 C. The trustee, within five business days after the recordation of a
4 notice of sale, shall mail by certified or registered mail, with postage
5 prepaid, a copy of the notice of sale to each of the persons who were parties
6 to the trust deed except the trustee. The copy of the notice mailed to the
7 parties need not show the recording date of the notice. The notice sent
8 pursuant to this subsection shall be addressed to the mailing address
9 specified in the trust deed. In addition, notice to each party shall contain
10 a statement that a breach or nonperformance of the trust deed or the contract
11 or contracts secured by the trust deed, or both, has occurred, and setting
12 forth the nature of such breach or nonperformance and of the beneficiary's
13 election to sell or cause to be sold the trust property under the trust deed
14 and the additional notice shall be signed by the beneficiary or the
15 beneficiary's agent. A copy of the additional notice shall also be sent with
16 the notice provided for in subsection B, paragraph 2 of this section to all
17 persons whose interest in the trust property is subordinate in priority to
18 that of the deed of trust along with a written statement that the interest
19 may be subject to being terminated by the trustee's sale. The written
20 statement may be contained in the statement of breach or nonperformance.

21 D. No request for a copy of a notice recorded pursuant to this
22 section, nor any statement or allegation in any request, nor any record of
23 request, shall affect the title to the trust property or be deemed notice to
24 any person that a person requesting a copy of notice of sale has or claims
25 any interest in, or claim upon, the trust property.

26 E. At any time that the trust deed is subject to reinstatement
27 pursuant to section 33-813, but not sooner than thirty days after recordation
28 of the notice of trustee's sale, the trustee shall upon receipt of a written
29 request, provide, if actually known to the trustee, the following information
30 relating to the trustee's sale and the trust property:

31 1. The unpaid principal balance of the note or other obligation ~~which~~
32 ~~THAT~~ is secured by the deed of trust.

33 2. The name and address of record of the owner of the trust property
34 as of the date of recordation of the notice of trustee's sale.

35 3. A list of the liens and encumbrances upon the trust property as of
36 the date of recordation of the notice of trustee's sale, excluding those
37 matters set forth in section 33-438, subsection A.

38 If the trustee elects to charge a fee for providing the information
39 requested, the fee shall not exceed five per cent of the amount the trustee
40 may charge pursuant to section 33-813, subsection B, paragraph 4, except that
41 the trustee shall not charge a fee that is more than one hundred dollars or
42 be required to accept a fee that is less than thirty dollars but may accept a
43 lesser fee at the trustee's discretion. The trustee, or any other person
44 furnishing information pursuant to this subsection to the trustee, shall not
45 be subject to liability for any error or omission in providing the

1 information requested, except for the wilful and intentional failure to
2 provide information in the trustee's actual possession.

3 F. Beginning at 9:00 a.m. and continuing until 5:00 p.m. mountain
4 standard time on the last business day preceding the day of sale and
5 beginning at 9:00 a.m. mountain standard time and continuing until the time
6 of sale on the day of the sale, the trustee shall make available the actual
7 bid or a good faith estimate of the credit bid the beneficiary is entitled to
8 make at the sale. If the actual bid or good faith estimate is not available
9 during the prescribed time period, the trustee shall postpone the sale until
10 the trustee is able to comply with this subsection.

11 G. In providing information pursuant to subsections E and F of this
12 section, the trustee, without obligation or liability for the accuracy or
13 completeness of the information, may respond to oral requests, respond orally
14 or in writing or provide additional information not required by such
15 subsections. With respect to property that is the subject of a trustee's
16 sale, the beneficiary of such deed of trust or the holder of any prior lien
17 may, but shall not be required to, provide information concerning such deed
18 of trust or any prior lien that is not required by subsection E or F of this
19 section and may charge a reasonable fee for providing the information. The
20 providing of such information by any beneficiary or holder of a prior lien
21 shall be without obligation or liability for the accuracy or completeness of
22 the information.

23 Sec. 7. Section 33-810, Arizona Revised Statutes, is amended to read:
24 33-810. Sale by public auction; postponement of sale

25 A. On the date and at the time and place designated in the notice of
26 sale, the trustee shall offer to sell the trust property at public auction
27 for cash to the highest bidder. The trustee may schedule more than one sale
28 for the same date, time and place. The attorney or agent for the trustee may
29 conduct the sale and act at such sale as the auctioneer for the trustee. Any
30 person, including the trustee or beneficiary, may bid at the sale. Only the
31 beneficiary may make a credit bid in lieu of cash at sale. The trustee shall
32 require every bidder, except the beneficiary **OR THE INCORPORATED CITY OR TOWN**
33 **OR THE COUNTY IN WHICH AN OWNER-OCCUPIED RESIDENTIAL PROPERTY IS LOCATED**, to
34 provide a ten thousand dollar deposit in any form that is satisfactory to the
35 trustee as a condition of entering a bid. The trustee or auctioneer may
36 control the means and manner of the auction. Every bid shall be deemed an
37 irrevocable offer until the sale is completed, except that a subsequent bid
38 by the same bidder for a higher amount shall cancel that bidder's lower bid.
39 To determine the highest price bid, the trustor or beneficiary present at the
40 sale may recommend the manner in which the known lots, parcels or divisions
41 of the trust property described in the notice of sale be sold. The trustee
42 shall conditionally sell the trust property under each recommendation, and,
43 in addition, shall conditionally sell the trust property as a whole. The
44 trustee shall determine which conditional sale or sales result in the highest
45 total price bid for all of the trust property. The trustee shall return

1 deposits to all but the bidder or bidders whose bid or bids result in the
2 highest bid price. The sale shall be completed on payment by the purchaser
3 of the price bid in a form satisfactory to the trustee, **EXCEPT THAT A WARRANT**
4 **FROM A GOVERNMENT ENTITY THAT IS BIDDING ON THE PROPERTY IS DEEMED TO BE IN**
5 **SATISFACTORY FORM.** The subsequent execution, delivery and recordation of the
6 trustee's deed as prescribed by section 33-811 are ministerial acts. If the
7 trustee's deed is recorded in the county in which the trust property is
8 located within fifteen business days after the date of the sale, the
9 trustee's sale is deemed perfected at the appointed date and time of the
10 trustee's sale. If the highest price bid at a completed sale is less than
11 the amount of that bidder's deposit, the amount of the deposit in excess of
12 the bid price shall be refunded by the trustee at the time of delivery of the
13 trustee's deed.

14 B. The person conducting the sale may postpone or continue the sale
15 from time to time or change the place of the sale to any other location
16 authorized pursuant to this chapter by giving notice of the new date, time
17 and place by public declaration at the time and place last appointed for the
18 sale. Any new sale date shall be a fixed date within ninety calendar days of
19 the date of the declaration. After a sale has been postponed or continued,
20 the trustee, on request, shall make available the date and time of the next
21 scheduled sale and, if the location of the sale has been changed, the new
22 location of the sale until the sale has been conducted or canceled and
23 providing this information shall be without obligation or liability for the
24 accuracy or completeness of the information. No other notice of the
25 postponed, continued or relocated sale is required except as provided in
26 subsection C of this section.

27 C. A sale shall not be complete if the sale as held is contrary to or
28 in violation of any federal statute in effect because of an unknown or
29 undisclosed bankruptcy. A sale so held shall be deemed to be continued to a
30 date, time and place announced by the trustee at the sale and shall comply
31 with subsection B of this section or, if not announced, shall be continued to
32 the same place and at the same time twenty-eight days later, unless the
33 twenty-eighth day falls on a Saturday or legal holiday, in which event it
34 shall be continued to the first business day thereafter. In the event a sale
35 is continued because of an unknown or undisclosed bankruptcy, the trustee
36 shall notify by registered or certified mail, with postage prepaid, all
37 bidders who provide their names, addresses and telephone numbers in writing
38 to the party conducting the sale of the continuation of the sale.

39 D. A sale is postponed by operation of law to the next business day at
40 the same scheduled time and place if an act of force majeure prevents access
41 to the sale location for the conduct of the sale.

1 Sec. 8. Title 33, chapter 6.1, article 1, Arizona Revised Statutes, is
2 amended by adding section 33-810.01, to read:

3 33-810.01. Stay of trustee's sale; affidavit; one-year period

4 A. ON RECEIPT OF A NOTICE OF SALE, THE OWNER OF THE PROPERTY MAY
5 DELIVER TO THE TRUSTEE AN AFFIDAVIT FOR TEMPORARY STAY OF TRUSTEE'S SALE.
6 THE AFFIDAVIT SHALL BE SIGNED BY AT LEAST ONE OF THE OWNERS OF THE TRUST
7 PROPERTY AND SHALL CONTAIN THE STATEMENT OF THAT OWNER AS FOLLOWS:

8 1. THE OWNER IS A NATURAL PERSON.

9 2. THE LOAN THAT IS SECURED BY THE PROPERTY WAS INCURRED PRIMARILY FOR
10 PERSONAL, FAMILY OR HOUSEHOLD PURPOSES.

11 3. THE LOAN IS SECURED BY A FIRST OR SECOND DEED OF TRUST OR A HOME
12 EQUITY LOAN ON REAL PROPERTY THAT IS IMPROVED WITH ONE TO FOUR RESIDENTIAL
13 UNITS.

14 4. THE REAL PROPERTY THAT IS SUBJECT TO FORECLOSURE IS THE PRINCIPAL
15 RESIDENCE OF THE OWNER.

16 5. THE OWNER OWNS NO OTHER REAL PROPERTY.

17 6. THE REAL PROPERTY IS LOCATED IN THIS STATE.

18 B. THE AFFIDAVIT SHALL ALSO INCLUDE THE OWNER'S TELEPHONE NUMBER,
19 MAILING ADDRESS AND ANY OTHER CONTACT INFORMATION FOR THE OWNER.

20 C. THE AFFIDAVIT SHALL BE SWORN TO AND SIGNED BY AT LEAST ONE OF THE
21 OWNERS AND THE OWNER'S SIGNATURE SHALL BE NOTARIZED.

22 D. THE OWNER SHALL MAIL THE AFFIDAVIT TO THE TRUSTEE AT THE ADDRESS
23 PROVIDED BY THE TRUSTEE IN THE NOTICE OF SALE. ON RECEIPT OF AN AFFIDAVIT
24 THAT APPEARS ON ITS FACE TO BE COMPLETE, THE TRUSTEE SHALL POSTPONE THE SALE
25 FOR AT LEAST SIXTY DAYS AND SHALL PROVIDE NOTICE OF THE POSTPONEMENT OF THE
26 SALE TO ALL PERSONS WHO ARE REQUIRED TO RECEIVE A NOTICE OF SALE.

27 E. DURING THE SIXTY-DAY POSTPONEMENT PERIOD, THE OWNER SHALL HAVE THE
28 OPPORTUNITY TO NEGOTIATE A REVISED PAYMENT OR OTHER REVISED TERMS OF THE LOAN
29 AND MAY ACCEPT THE ASSISTANCE OF A REPRESENTATIVE OF A PRIVATE NONPROFIT
30 ORGANIZATION, A REPRESENTATIVE OF A CITY, TOWN, COUNTY OR STATE GOVERNMENT OR
31 A REPRESENTATIVE OF A FEDERAL AGENCY TO ASSIST THE OWNER IN MEETING WITH AND
32 NEGOTIATING A RESOLUTION WITH THE LENDER. THE TRUSTEE SHALL ASSIST IN
33 PROVIDING INFORMATION, INCLUDING LENDER CONTACT INFORMATION, AND SHALL
34 COOPERATE WITH ANY MEETINGS AND NEGOTIATIONS THAT OCCUR BETWEEN THE OWNER AND
35 LENDER.

36 F. DURING THE SIXTY-DAY POSTPONEMENT PERIOD, THE OWNER SHALL MAKE
37 PAYMENTS ON THE LOAN THAT IS IN FORECLOSURE IN AN AMOUNT THAT THE OWNER AND
38 LENDER AGREE IS JUST AND EQUITABLE. FAILURE TO MAKE THE PAYMENT AGREED TO
39 PURSUANT TO THIS SUBSECTION TERMINATES THE STAY OF FORECLOSURE, AND ON NOTICE
40 FROM THE LENDER OF FAILURE TO MAKE A PAYMENT AFTER THE EXPIRATION OF THE
41 SIXTY-DAY PERIOD, THE TRUSTEE MAY RESCHEDULE THE TRUSTEE'S SALE. IF THE
42 OWNER CONTINUES TO MAKE A TIMELY MONTHLY PAYMENT IN THE AMOUNT AGREED TO
43 PURSUANT TO THIS SUBSECTION, A TRUSTEE'S SALE MAY NOT BE HELD ANY EARLIER
44 THAN ONE YEAR AFTER THE DATE OF THE ORIGINALLY SCHEDULED TRUSTEE SALE. ON
45 COMPLETION OF THE ONE-YEAR PERIOD, AND UNLESS THE LENDER HAS REVISED THE

1 TERMS OF THE LOAN AND DIRECTED THE TRUSTEE TO CANCEL THE SALE, THE TRUSTEE'S
2 SALE MAY PROCEED AS OTHERWISE PROVIDED BY LAW.

3 Sec. 9. Delayed repeal

4 Section 33-810.01, Arizona Revised Statutes, as amended by this act, is
5 repealed from and after June 30, 2013.

6 Sec. 10. Severability

7 If a provision of this act or its application to any person or
8 circumstance is held invalid, the invalidity does not affect other provisions
9 or applications of the act that can be given effect without the invalid
10 provision or application, and to this end the provisions of this act are
11 severable.

12 Sec. 11. Legislative intent

13 The legislature declares that a serious public emergency exists with
14 respect to real estate foreclosures in this state due to widespread and
15 fundamentally unsound lending practices for mortgage loans, second mortgages
16 and home equity loans. These lending practices have skewed the real estate
17 and mortgage market in this state, have caused distress to consumers,
18 neighborhoods and communities and have adversely affected the economic health
19 of this state. The legislature declares that it is in the interests of this
20 state that during this time of serious economic strain, homeowners should be
21 permitted an opportunity to work with their lenders to reconfigure their
22 obligations in a manner that preserves neighborhoods and protects both
23 consumers and lenders.