

PROPOSED AMENDMENT
SENATE AMENDMENTS TO S.B. 1039
(Reference to printed bill)

Strike everything after the enacting clause and insert:

"Section 1. Section 41-3901, Arizona Revised Statutes, is amended to read:

41-3901. Definitions

In this article **AND ARTICLE 1.1 OF THIS CHAPTER**, unless the context otherwise requires:

1. "Agreement" means any loan or other agreement, contract, note, mortgage, deed of trust, trust indenture, lease, sublease or other such instrument entered into by the authority.

2. "Authority" means the Arizona housing finance authority.

3. "Board" means the board of directors of the authority.

4. "Bonds" means any bonds issued pursuant to this article.

5. "Certificates" means mortgage credit certificates **OR OTHER CERTIFICATES AND INSTRUMENTS ISSUED BY THE AUTHORITY.**

6. "Costs":

(a) Means all costs incurred in the issuance of bonds or certificates, including insurance policy, credit enhancement, legal, accounting, consulting, printing, advertising and travel expenses, plus any authority administrative fees.

(b) May include interest on bonds issued pursuant to this article for a reasonable time before and during the time the proceeds are used.

7. "Federal agency" means the United States or any agency or agencies of the United States.

8. "Housing facility":

(a) Means any work or undertaking that is designed and financed pursuant to this article for the primary purpose of providing decent, safe and sanitary dwelling accommodations.

1 (b) Includes any buildings, land, equipment, facilities or other real
2 or personal property the board finds necessary to ensure required occupancy.

3 9. "Trustee" means any bank or trust company with authority to
4 exercise trust powers in this state.

5 Sec. 2. Title 41, chapter 37, Arizona Revised Statutes, is amended by
6 adding article 1.1, to read:

7 ARTICLE 1.1. HOME CERTIFICATE PROGRAM

8 41-3921. Home certificate program: audit

9 A. THE HOME CERTIFICATE PROGRAM IS ESTABLISHED AND SHALL BE
10 ADMINISTERED BY THE AUTHORITY.

11 B. THE PROGRAM SHALL CONSIST OF THE FOLLOWING:

12 1. EXECUTION AND ISSUANCE OF TIMEOUT DEEDS OF TRUST AND NOTES TO
13 ELIGIBLE HOMEOWNERS IN EXCHANGE FOR LIEN RIGHTS ON THE PROPERTY IN FAVOR OF
14 THE AUTHORITY. NO OTHER LIEN RIGHTS ACCRUE ON THE REAL PROPERTY PURSUANT TO
15 THIS ARTICLE.

16 2. ISSUANCE OF HOME CERTIFICATES AND OTHER CERTIFICATES REPRESENTING
17 THE FINANCIAL INTERESTS OF THE ORIGINAL BORROWER, ORIGINAL LENDER, INSURER OR
18 GUARANTOR AND SUBSEQUENT INVESTORS OR LENDERS, AS WELL AS THE FINANCIAL
19 INTEREST OF THE PROGRAM ADMINISTRATOR AND THE PROGRAM INSURANCE FUND.
20 CERTIFICATES AND OTHER SECURITIES ISSUED PURSUANT TO THE PROGRAM SHALL NOT BE
21 SECURED BY LIEN RIGHTS OR OTHER SECURITY AGAINST THE REAL PROPERTY.

22 3. ASSESSMENT OF A FEE ON THE AMOUNT OF THE HOME CERTIFICATE TO BE
23 DIVIDED BETWEEN THE PROGRAM INSURANCE FUND AND THE PROGRAM ADMINISTRATOR FOR
24 THE PURPOSES OF ESTABLISHING AND ADMINISTERING THE FUND AND ESTABLISHING AND
25 ADMINISTERING THE PROGRAM.

26 4. EXECUTION OF EXCHANGES OF ISSUED AND NEW HOME CERTIFICATES AS
27 APPROPRIATE FOR MANAGING THE MONTHLY PAYMENT ON EXISTING OR NEW TIMEOUT DEEDS
28 OF TRUST AND RELATED INSTRUMENTS.

29 C. WITHIN FIVE YEARS AFTER THE EFFECTIVE DATE OF THIS SECTION, THE
30 PROGRAM AND PROGRAM INSURANCE FUND ESTABLISHED BY THIS ARTICLE ARE SUBJECT TO
31 A SPECIAL AUDIT BY THE AUDITOR GENERAL AS PRESCRIBED BY SECTION 41-1279.03.

1 41-3922. Program insurance fund; program termination

2 A. THE PROGRAM INSURANCE FUND IS ESTABLISHED CONSISTING OF FEES PAID
3 BY USERS OF THE HOME CERTIFICATE PROGRAM, GIFTS, GRANTS AND DONATIONS.
4 MONIES IN THE PROGRAM INSURANCE FUND ARE HELD IN TRUST FOR THE BENEFIT OF THE
5 LENDERS, BORROWERS AND HOMEOWNERS WHO ARE PARTICIPATING IN THE PROGRAM AND
6 FOR THE PURCHASERS OF THE SECURITIES ISSUED BY THE AUTHORITY PURSUANT TO THIS
7 ARTICLE.

8 B. THIS STATE AND ANY OF ITS AGENCIES SHALL NOT HAVE A CLAIM ON THE
9 ASSETS OR PROCEEDS OF THE PROGRAM INSURANCE FUND FOR THE DURATION OF THE
10 PROGRAM. NOTWITHSTANDING SECTION 41-3102, ON REDEMPTION OF ALL CERTIFICATES
11 ISSUED BY THE AUTHORITY, THE PROGRAM SHALL TERMINATE AND ANY PROCEEDS
12 REMAINING AFTER PAYMENT OF ALL DEBTS AND LIABILITIES OF THE PROGRAM SHALL BE
13 TRANSFERRED FOR DEPOSIT IN THE STATE GENERAL FUND.

14 41-3923. Program administration; rules

15 A. THE AUTHORITY SHALL:

16 1. ADMINISTER THE PROGRAM EITHER DIRECTLY OR THROUGH THE USE OF A
17 PROGRAM ADMINISTRATOR.

18 2. ADOPT RULES TO IMPLEMENT AND ADMINISTER THE PROGRAM.

19 3. ISSUE THE TIMEOUT DEEDS OF TRUST AND NOTES AND OTHER DEBT
20 INSTRUMENTS AND SECURITIES REASONABLY NECESSARY FOR THE OPERATION OF THE
21 PROGRAM AND AS OTHERWISE PROVIDED BY LAW.

22 B. THE AUTHORITY SHALL PROVIDE FOR, AND THE PROGRAM SHALL INCLUDE, AT
23 LEAST THE FOLLOWING:

24 1. QUALIFICATIONS FOR ELIGIBLE HOMEOWNERS. ELIGIBLE HOMEOWNERS SHALL
25 BE LIMITED TO THOSE PERSONS WHO ARE CURRENT ON THEIR EXISTING MORTGAGE OR
26 DEED OF TRUST AT THE TIME THEY APPLY FOR THE PROGRAM.

27 2. TERMS FOR THE TIMEOUT DEEDS OF TRUST AND ANY RELATED NOTES. A DEED
28 OF TRUST SHALL INCLUDE A REQUIREMENT THAT THE DEED OF TRUST AND NOTE ARE
29 RECOURSE OBLIGATIONS OF THE HOMEOWNER AND THAT PERSONAL LIABILITY AND A
30 DEFICIENCY OBLIGATION MAY LAWFULLY ACCRUE AND BE ENFORCEABLE AGAINST THE
31 HOMEOWNER FOR A FAILURE TO PAY. A DEED OF TRUST AND NOTE ALSO MAY REQUIRE
32 THAT ANY SECOND OR SUBSEQUENT LIENHOLDERS UNDER THE ORIGINAL OBLIGATIONS HAVE

1 WAIVED THEIR LIEN RIGHTS BY OPERATION OF LAW AND BY THE ISSUANCE OF THE
2 TIMEOUT DEED OF TRUST AND NOTE.

3 3. PROVISIONS IN THE TIMEOUT DEEDS OF TRUST THAT PERMIT THE AUTHORITY
4 TO ACT AS TRUSTEE OR TO DELEGATE TO A TRUSTEE WITH A POWER OF SALE AS
5 OTHERWISE PRESCRIBED IN TITLE 33, CHAPTER 6.1."

6 Amend title to conform

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