

Since 2002, the Colorado legislature has addressed foreclosure during every session, save one. This creates myriad problems for lenders and their customers, as rules are a moving target – and existing laws haven't been given ample time for testing before new ones are made.

Foreclosure Bills Enacted Since 2002

2002

SB02 – 161 Modifications of Procedures For the Foreclosure of Deeds of Trust (Perlmutter (D) /Smith (R))

2003

HB03 – 1257 Recodification of Banking Statutes (Marshall (D)/Lamborn (R))

2004

Nothing amended 38-38-101

2005

SB05-100 Homeowners Property Rights (Hagedorn (D)/Carroll M.(D))
HB05-1168 Public Trustee Foreclosure Admin (Garcia (D)/Kester (R))

2006

SB06-071 Residential Foreclosure Agreement Regulation (Veiga (D)/Massey (R))
HB06-1387 Foreclosure Law (Garcia (D)/Veiga (D))

2007

HB07-1157 Real Estate Foreclosure (Garcia (D)/Veiga (D))

2008

HB08-1365 Foreclosure Of Lien On Time Share Estate (McFadyen (D)/Gibbs (D))
HB08-1402 ARM Notice Foreclosure Temporary Timeout (Gagliardi (D), Ferrandino (D)/Bacon (D))

2009

HB09-1109 Foreclosure Protect Delinquency Default (Priola (R)/Veiga (D))
HB09 – 1197 Foreclosure Reports By Div Of Housing (McNulty (R)/Harvey (R))
HB09-1207 Foreclosure Procedures & Deeds Of Trust (Gardner (R) /Veiga (D))
HB09- 1276 Delay Foreclosure Residential Property (Ferrandino (D) /Carroll (D))

2010

HB10-1133 Foreclosure Amend Equity Purchaser Provider (Massey(R) /Tochtrop (D))
HB10-1240 Residential Foreclosure Deferments (Ferrandino (D)/Carroll (D))
HB10-1249 Expedited Residential Foreclosure Sales (Labuda (D) /Johnson (D))

2011

HB11-1023 Continue Foreclosure Deferment Program. (Ferrandino (D)/CARROLL (D))

2012

SB12-030 Public Trustee & Foreclosure Sales (Jahn (D)/Liston (R))

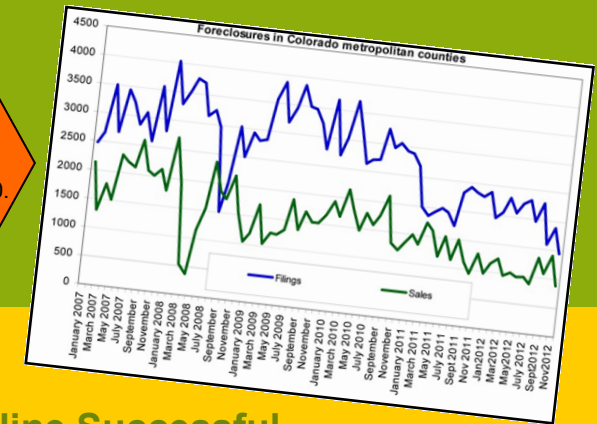


Colorado Bankers Association
 140 19th Avenue, Suite 400 ▪ Denver, Colorado 80203 ▪ 303.825.1575
www.coloradobankers.org ▪ www.financialinfo.org ▪ www.smallbizlending.org

What Foreclosure Looks Like in Colorado— The Real Story

Less than two percent of mortgage loans in Colorado are in foreclosure.

Foreclosure sales have continued to drop to the lowest levels seen in six years and down 40 percent from 2010.



Foreclosure Rates Decrease - Foreclosure Hotline Successful

Colorado's Attorney General, John Suthers, said January 10th that the Colorado Foreclosure Hotline has logged more than 165,000 phone calls since it launched in 2006. He stressed that in the last year, 80 percent of underwater borrowers who met with a hotline counselor successfully avoided foreclosure. He was proud to announce, "At the start of the New Year, Coloradans are beginning to feel a sense of hope about our economy for the first time in quite a while, and a big reason for that is a rebounding housing market."



A January 8, 2013 Wall Street Journal piece argues state foreclosure reform bills and mortgage servicing bills ... "will undermine the housing recoveries in the states of implementation."

Also in January, the Consumer Financial Protection Bureau issued an 804 page [qualified mortgage rule](#) that will impose strict lending standards and result in 15 percent fewer mortgage loans – particularly to lower income families. **At least six other major federal real estate lending rules are proposed and will restrict lending further. Foreclosure changes by**

Put simply, **banks don't know what the rules will be tomorrow for loans they're making today.** The volume of burdensome legislation comes at a price: it means fewer home loans in Colorado – particularly to low income families.

Many foreclosure efforts upset the secondary market, apply retroactively, impose unlimited liability, increased litigation expense... These tactics simply further delay a bad situation for both borrower and lender where the bottom line is the borrower hasn't paid for the house and can't afford to keep it under current circumstances. Keeping an individual in a home they can no longer afford hurts that individual.

Colorado will only exacerbate that.

Banks work to avoid foreclosures, as they – as well as the borrower – lose money when one takes place. To keep residents in their homes, banks take a number of steps to help them at the first sign of struggle.

- Banks contact borrowers as soon as loans are delinquent – and borrowers are encouraged to do the same. This is the beginning of a partnership to keep borrowers in their homes.
- Nationwide, banks use a number of measures to help borrowers, including one bank **contacting a borrower at least 110 times** before beginning the foreclosure process and another sending pre-paid cell phones to struggling homeowners to encourage communication.
- Banks have **opened regional counseling centers** and hired additional loan counselors to work with borrowers to address foreclosure. Those counselors have helped buyers with a variety of tools including modified repayment plans; rate adjustments; partial principal forgiveness and partnering with the government to purchase sub-prime and alt-A loans to work toward solutions with borrowers.
- Many banks have employed a voluntary foreclosure pause (30 to 90 days) for borrowers who can benefit from having more time. In 2009, the **CBA supported HB-1276 (Rep. Ferrandino) which allowed for a foreclosure delay for borrowers who sought counseling and were eligible for deferment. We supported the extension of this program in 2011.**

- **Lenders follow a lengthy and tedious foreclosure process (managed by public officials).**
- **It generally takes more than a year to have an auction on a foreclosed property.**
- **Lenders produce documentation in order to foreclose. Colorado law requires a lender to provide either the original evidence of debt or a copy of the evidence of debt in order to foreclose. Lenders may also buy a bond, but this is very expensive and used in fewer than one percent of foreclosures.**
- **The Consumer Financial Protection Bureau recently adopted a regulation requiring a borrower be delinquent at least 120 days before a lender may file a foreclosure.**
- **Lenders furnish the Hotline number on all delinquent notices. We want the borrower to get the help they need. Banks played a large role in founding the Hotline, and funding it.**

