

Proposed Foreclosure Amendment to the Colorado Constitution:

It causes pain, and does no good.

The amendment's senseless paperwork hurts Coloradans (drastic cuts in mortgages thus home purchases and jobs, and increased costs). It won't stop foreclosures.

Lenders regret that many people are in tough situations, and lenders are doing all they can to avoid foreclosures. The truth is lenders do file documentation to show the right to foreclose. The amendment causes much damage and does no good. Lenders truly do not want to foreclose since they lose money on each one; it is the lender's last option.

SUMMARY: The amendment is unfair and damaging to homeowners, neighborhoods, new homebuyers and 98% of Coloradans who make their payments; it won't stop foreclosures.

- **Constitution** – They want to junk up the Colorado constitution with more poorly worded and vague language on foreclosures that only can be changed by another frustrating and expensive-to-taxpayers amendment. Its unclear restrictions would be permanently imbedded in the constitution.
- **Personal impact** – Coloradans won't be able to borrow against their homes to finance a small business, fund children's education, meet health needs... since the amendment deprives consumers of mortgage loans.
- **Higher prices** – The amendment will increase housing and borrowing costs for the 98% of Colorado homeowners who pay their bills on time.
- **Lower values, local damage** – It drags down property values for neighboring homes, and reduces fees collected by HOAs and taxes paid to local governments and schools.
- **No "wrongful" foreclosures** – The Colorado Attorney General's office reports no one has ever been foreclosed upon that was not in default on their mortgage.
- **ZERO help** – The amendment will not stop foreclosures. It simply creates paperwork the national market won't accept (thus far less money to lend for homes) and retroactively makes some mortgages unenforceable, with those costs passed on to all borrowers.
- **"No doc" foreclosures are a myth** – Lenders file copies of the evidence of debt and deed of trust now (as required by law and by Public Trustees) and borrowers have the right to challenge that in court. "No doc" is a myth.
- **No lawsuits** – The virtual nonexistence of successful lawsuits against lenders demonstrates the absence of "wrongful" foreclosures and that no problem exists (only 1 known case out of 20-30,000 foreclosures/year); lenders comply with law.
- **Red tape** – The amendment shackles lenders with red tape which allows people to occupy a house without paying the mortgage, costs all borrowers, and wastes taxpayers' money.
- **"Everyone else is wrong"** – Amendment proponents believe they're right and everyone else is wrong. They assert the law doesn't mean what it says.
 - They allege lawyers defraud homeowners. Attorneys would be prosecuted for such fraud and yet there aren't court cases to show that.
 - Proponents argue legislators who adopted the law 61-0 and 35-0 in 2002, and 62-0 and 35-0 in 2006 voted for unfair laws.
 - They claim that Public Trustees are not doing their job.
 - They contend judges ignore two Colorado Supreme Court decisions that homeowners have the right to challenge the documentation in court.
 - They ignore the Attorney General's office conclusion that out of 100s of investigated complaints of wrongful foreclosure they could not find a single one where the borrower wasn't in default.
 - They argue the Colorado Supreme Court's two decisions saying the borrower has the right to challenge the documentation don't say that.
 - Incredibly, they argue they're right and everyone else is wrong!
- **Hurts many** – A huge drop in lending (up to 90%) will prevent homebuyers from taking advantage of low real estate prices and low interest rates, destroy 1000s of jobs and small businesses, depress property values, and slow the real estate recovery. It creates Colorado's own recession. The proposed amendment will preclude local lenders from selling mortgages on the national market, where they've sold 90% of Colorado mortgages in the past. That means a very big drop in mortgage loans since the amendment imposes requirements the mortgage market prohibits.

The Colorado Bankers Association represents over 90% of the assets, offices and employees in the 160 regulated traditional banks in Colorado which have \$100 billion in assets, 1,700 branches, and 20,000 professionals.

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