

**HOUSE BILL NO. 317**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES GARA, Dick

Introduced: 2/10/12

Referred: Labor and Commerce

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to residential real property foreclosures."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 \* **Section 1.** AS 06.60 is amended by adding a new section to read:

4 **Sec. 06.60.345. Compliance with foreclosure requirements.** A mortgage  
5 licensee shall comply with the requirements that apply to a mortgage business under  
6 AS 09.45.175 and AS 34.20.070(o).

7 \* **Sec. 2.** AS 09.45 is amended by adding a new section to read:

8 **Sec. 09.45.175. Foreclosure prerequisites.** (a) In addition to any other  
9 requirements applicable to the action, a mortgage business may not bring an action  
10 under AS 09.45.170 to foreclose on or sell the real property that secures a mortgage  
11 unless the mortgage business complies with (b) of this section before bringing a  
12 foreclosure action under AS 09.45.170.

13 (b) A mortgage business shall record in the office of the recorder of the  
14 recording district where the real property that secures the mortgage is located an  
15 affidavit stating that

1 (1) the mortgage business has

2 (A) made reasonable efforts to allow the borrower to prove that  
3 the borrower has made the borrower's scheduled payments on the mortgage;  
4 and

5 (B) offered the borrower a reasonable payment plan that allows  
6 the borrower to catch up on payments that are in arrears and has offered to  
7 meet with the borrower in person to determine the contents of the payment  
8 plan; and

9 (2) the borrower has

10 (A) failed to satisfy the borrower's obligations under the  
11 mortgage; and

12 (B) refused to accept a reasonable payment plan offered under  
13 (1)(B) of this subsection or failed materially to comply with a payment plan  
14 agreement entered into by the mortgage business and borrower under (1)(B) of  
15 this subsection.

16 (c) If a provision of this section conflicts with or is otherwise preempted by  
17 federal law in a particular situation, the provision does not apply to the extent of the  
18 preemption or conflict.

19 (d) In this section,

20 (1) "borrower" has the meaning given in AS 06.60.990;

21 (2) "mortgage" means a lien on real property that is based on a  
22 residential mortgage loan on the borrower's primary residence; in this paragraph,  
23 "residential mortgage loan" has the meaning given in AS 06.60.990;

24 (3) "mortgage business" means a person who is a mortgage broker,  
25 mortgage lender, mortgage loan originator, or an agent of a mortgage broker,  
26 mortgage lender, or mortgage loan originator; in this paragraph, "mortgage broker,"  
27 "mortgage lender," and "mortgage loan originator" have the meanings given in  
28 AS 06.60.990.

29 \* **Sec. 3.** AS 34.20.070 is amended by adding a new subsection to read:

30 (o) A trustee or an agent of a trustee may not sell real property under this  
31 section unless the requirements of AS 09.45.175(b) have been satisfied before the sale.

1     \* **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to  
2 read:

3             **APPLICABILITY.** This Act applies to a residential mortgage loan that is entered into  
4 on or after the effective date of this Act. In this section, "residential mortgage loan" has the  
5 meaning given in AS 06.60.990.