

REFERENCE TITLE: short sales; foreclosures; deficiency prohibited

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

HB 2584

Introduced by
Representatives Dial, Campbell, Carter, Gallego, Judd, Seel, Urie,
Senators Aboud, Allen, Griffin, Klein, Reagan: Representatives Brophy
McGee, Hobbs, Meyer, Robson, Ugenti, Senators Antenori, Jackson, McComish,
Shooter

AN ACT

AMENDING TITLE 33, CHAPTER 6, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-729.01; AMENDING TITLE 33, CHAPTER 6.1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-814.01; RELATING TO REAL PROPERTY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 33, chapter 6, article 2, Arizona Revised Statutes,
3 is amended by adding section 33-729.01, to read:

4 33-729.01. Liability for deficiency on short sale under
5 mortgage; applicability

6 A. IF A MORTGAGE IS GIVEN TO SECURE THE PAYMENT OF THE BALANCE OF THE
7 PURCHASE PRICE, OR TO SECURE A LOAN TO PAY ALL OR PART OF THE PURCHASE PRICE,
8 OF A PARCEL OF REAL PROPERTY OF TWO AND ONE-HALF ACRES OR LESS THAT IS
9 LIMITED TO AND UTILIZED FOR EITHER A SINGLE ONE-FAMILY OR SINGLE TWO-FAMILY
10 DWELLING, NO ACTION MAY BE MAINTAINED TO RECOVER ANY DIFFERENCE BETWEEN THE
11 AMOUNT OBTAINED BY SALE AND THE AMOUNT OF THE INDEBTEDNESS AND ANY INTEREST,
12 COSTS AND EXPENSES, AND THE DEBT MAY NOT OTHERWISE BE SATISFIED OUT OF OTHER
13 PROPERTY OF THE DEBTOR, IF ALL OF THE FOLLOWING APPLY:

14 1. THE PROPERTY IS SOLD IN A TRANSACTION IN WHICH THE MORTGAGE HOLDER
15 AGREES TO THE SALE OF THE SECURED PROPERTY FOR AN AMOUNT THAT DOES NOT
16 SATISFY THE FULL INDEBTEDNESS OF THE MORTGAGOR.

17 2. THE TRANSACTION IS NOT PURSUANT TO A FORECLOSURE ACTION.

18 B. THIS SECTION APPLIES TO MORTGAGEES ON A FIRST MORTGAGE WHO HAVE
19 AGREED TO THE SALE AND ANY JUNIOR LIEN HOLDERS WHO HAVE AGREED TO THE SALE,
20 AND THEIR SUCCESSORS AND ASSIGNS.

21 Sec. 2. Title 33, chapter 6.1, article 1, Arizona Revised Statutes, is
22 amended by adding section 33-814.01, to read:

23 33-814.01. Liability for deficiency on short sale under deed of
24 trust; applicability

25 A. IF TRUST PROPERTY OF TWO AND ONE-HALF ACRES OR LESS THAT IS LIMITED
26 TO AND UTILIZED FOR EITHER A SINGLE ONE-FAMILY OR A SINGLE TWO-FAMILY
27 DWELLING IS SOLD, NO ACTION MAY BE MAINTAINED TO RECOVER ANY DIFFERENCE
28 BETWEEN THE AMOUNT OBTAINED BY SALE AND THE AMOUNT OF THE INDEBTEDNESS AND
29 ANY INTEREST, COSTS AND EXPENSES IF ALL OF THE FOLLOWING APPLY:

30 1. THE PROPERTY IS SOLD IN A TRANSACTION IN WHICH THE BENEFICIARY
31 AGREES TO THE SALE OF THE SECURED PROPERTY FOR AN AMOUNT THAT DOES NOT
32 SATISFY THE FULL INDEBTEDNESS OF THE TRUSTOR UNDER THE DEED OF TRUST.

33 2. THE TRANSACTION IS NOT A TRUSTEE'S SALE.

34 B. THIS SECTION APPLIES TO BENEFICIARIES OF FIRST DEEDS OF TRUST WHO
35 HAVE AGREED TO THE SALE AND ANY JUNIOR LIEN HOLDERS WHO HAVE AGREED TO THE
36 SALE, AND THEIR SUCCESSORS AND ASSIGNS.

37 Sec. 3. Applicability

38 Sections 33-729.01 and 33-814.01, Arizona Revised Statutes, as added by
39 this act, apply to contracts for sale executed after the effective date of
40 this act.