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STATE OF COLORADO

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BILL 8

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LLS NO. 14-0159.01 Bob Lackner x4350

INTERIM COMMITTEE BILL

Economic Opportunity Poverty Reduction Task Force

SHORT TITLE: "Community Development Financial Institutions"

A BILL FOR AN ACT

101 **CONCERNING CERTIFIED COMMUNITY DEVELOPMENT FINANCIAL**
102 **INSTITUTIONS, AND, IN CONNECTION THEREWITH, AUTHORIZING**
103 **THE INVESTMENT OF PUBLIC FUNDS IN SUCH INSTITUTIONS AND**
104 **ALLOWING THE INSTITUTIONS TO PRESENT A REQUEST FOR FULL**
105 **OR PARTIAL RELEASE OF COLLATERAL PLEDGED WITHOUT**
106 **PRESENTATION OF THE ORIGINAL PROMISSORY NOTE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

Economic Opportunity Poverty Reduction Task Force. Section 1 of the bill authorizes public funds to be invested in any security that is a general obligation of a community development financial institution (CDFI) as long as the institution is registered to operate and in good standing with the office of the Colorado secretary of state. Section 1 of the bill also specifies the conditions under which a security issued by a CDFI may be purchased using public funds.

Section 2 of the bill amends the definition of "qualified holder" in connection with statutory provisions governing foreclosure sales to include any entity with active certification under the United States department of the treasury certified community development financial institutions fund that originates, insures, guarantees, or purchases loans or a person acting on behalf of such an entity to enforce an evidence of debt or the deed of trust securing an evidence of debt.

Section 3 of the bill further allows the entities covered in section 2 of the bill to present a request for full or partial release of collateral pledged without presentation of the original promissory note.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 25-75-601.1, **add** (1)
3 (o) as follows:

4 **24-75-601.1. Legal investments of public funds.** (1) It is lawful
5 to invest public funds in any of the following securities:

6 (o) (I) ANY SECURITY THAT IS A GENERAL OBLIGATION OF A
7 COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION AS LONG AS THE
8 INSTITUTION IS REGISTERED TO OPERATE AND IN GOOD STANDING WITH
9 THE OFFICE OF THE COLORADO SECRETARY OF STATE. FOR PURPOSES OF
10 THIS PARAGRAPH (o), A COMMUNITY DEVELOPMENT FINANCIAL
11 INSTITUTION IS REFERRED TO AS A "CDFI".

12 (II) NO SECURITY ISSUED BY A CDFI MAY BE PURCHASED
13 PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (o) UNLESS:

14 (A) AT THE TIME OF PURCHASE OF THE SECURITY, THE CDFI HOLDS
15 CERTIFICATION FROM THE CDFI FUND OPERATED BY THE UNITED STATES
16 DEPARTMENT OF THE TREASURY THAT IS CURRENT;

1 (B) AT THE TIME OF THE PURCHASE OF THE SECURITY, THE CDFI
2 HAS BEEN RATED IN ONE OF THE TWO HIGHEST RATING CATEGORIES BY ONE
3 OR MORE NATIONALLY RECOGNIZED ORGANIZATIONS THAT RATE CDFIS;
4 AND

5 (C) THE PERIOD FROM THE DATE OF PURCHASE OF THE TYPE OF
6 SECURITY AT ISSUE TO THE MATURITY DATE OF THE SECURITY DOES NOT
7 EXCEED FIVE YEARS UNLESS THE GOVERNING BODY OF THE PUBLIC ENTITY
8 AUTHORIZES INVESTMENT IN THE SECURITY FOR A PERIOD IN EXCESS OF
9 FIVE YEARS.

10 **SECTION 2.** In Colorado Revised Statutes, 38-38-100.3, **amend**
11 (20) (i) and (20) (j); and **add** (20) (k) as follows:

12 **38-38-100.3. Definitions.** As used in articles 37 to 39 of this title,
13 unless the context otherwise requires:

14 (20) "Qualified holder" means a holder of an evidence of debt,
15 certificate of purchase, certificate of redemption, or confirmation deed
16 that is also one of the following:

17 (i) An entity created or sponsored by the federal or state
18 government that originates, insures, guarantees, or purchases loans or a
19 person acting on behalf of such an entity to enforce an evidence of debt
20 or the deed of trust securing an evidence of debt; ~~or~~

21 (j) Any entity ~~listed in paragraphs (a) to (i) of this subsection (20)~~
22 ~~acting in the capacity of agent, nominee except as otherwise specified in~~
23 ~~subsection (10) of this section, or trustee for another person WITH ACTIVE~~
24 CERTIFICATION UNDER THE UNITED STATES DEPARTMENT OF THE
25 TREASURY CERTIFIED COMMUNITY DEVELOPMENT FINANCIAL
26 INSTITUTIONS FUND THAT ORIGINATES, INSURES, GUARANTEES, OR
27 PURCHASES LOANS OR A PERSON ACTING ON BEHALF OF SUCH AN ENTITY

1 TO ENFORCE AN EVIDENCE OF DEBT OR THE DEED OF TRUST SECURING AN
2 EVIDENCE OF DEBT; OR

3 (k) ANY ENTITY LISTED IN PARAGRAPHS (a) TO (j) OF THIS
4 SUBSECTION (20) ACTING IN THE CAPACITY OF AGENT, NOMINEE EXCEPT
5 AS OTHERWISE SPECIFIED IN SUBSECTION (10) OF THIS SECTION, OR
6 TRUSTEE FOR ANOTHER PERSON.

7 **SECTION 3.** In Colorado Revised Statutes, 38-38-101, amend
8 (2) as follows:

9 **38-38-101. Holder of evidence of debt may elect to foreclose.**
10 **(2) Foreclosure by qualified holder without original evidence of debt,**
11 **original or certified copy of deed of trust, or proper indorsement.**

12 (a) A qualified holder, whether acting for itself or as agent, nominee, or
13 trustee under ~~section 38-38-100.3 (20) (j)~~ SECTION 38-38-100.3 (20), that
14 elects to foreclose without the original evidence of debt pursuant to
15 subparagraph (II) of paragraph (b) of subsection (1) of this section, or
16 without the original recorded deed of trust or a certified copy thereof
17 pursuant to subparagraph (II) of paragraph (c) of subsection (1) of this
18 section, or without the proper indorsement or assignment of an evidence
19 of debt under paragraph (b) of subsection (1) of this section shall, by
20 operation of law, be deemed to have agreed to indemnify and defend any
21 person liable for repayment of any portion of the original evidence of debt
22 in the event that the original evidence of debt is presented for payment to
23 the extent of any amount, other than the amount of a deficiency remaining
24 under the evidence of debt after deducting the amount bid at sale, and any
25 person who sustains a loss due to any title defect that results from reliance
26 upon a sale at which the original evidence of debt was not presented. The
27 indemnity granted by this subsection (2) shall be limited to actual

1 economic loss suffered together with any court costs and reasonable
2 attorney fees and costs incurred in defending a claim brought as a direct
3 and proximate cause of the failure to produce the original evidence of
4 debt, but such indemnity shall not include, and no claimant shall be
5 entitled to, any special, incidental, consequential, reliance, expectation,
6 or punitive damages of any kind. A qualified holder acting as agent,
7 nominee, or trustee shall be liable for the indemnity pursuant to this
8 subsection (2).

9 **SECTION 4. Act subject to petition - effective date.** This act
10 takes effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly (August
12 6, 2014, if adjournment sine die is on May 4, 2014); except that, if a
13 referendum petition is filed pursuant to section 1 (3) of article V of the
14 state constitution against this act or an item, section, or part of this act
15 within such period, then the act, item, section, or part will not take effect
16 unless approved by the people at the general election to be held in
17 November 2014 and, in such case, will take effect on the date of the
18 official declaration of the vote thereon by the governor.

