

**STATE and LOCAL
FISCAL IMPACT**

Drafting Number: LLS 14-0132
Prime Sponsor(s): Rep. McCann
 Sen. Ulibarri

Date: January 27, 2014
Bill Status: House Local Government
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SHORT TITLE: FORECLOSURE CURE REMIT UNPAID FEES TO BORROWER

Fiscal Impact Summary*	FY 2014-2015	FY 2015-2016
State Revenue		
State Expenditures	Minimal workload increase. See State Expenditures section.	
FTE Position Change		
Appropriation Required: None		

* This summary shows changes from current law under the bill for each fiscal year.

Summary of Legislation

This bill establishes procedure for cure statements in foreclosure actions, including a duty of lenders to retain relevant records, the duty to update cure statements to the public trustee, and the handling of funds by the public trustee. The public trustee must refund an overpayment directly to a borrower that has paid to cure a debt in foreclosure.

Background

In Colorado, the vast majority of foreclosure actions are administered through the public trustee system. Once notified by a lender that a borrower is in default, the public trustee follows a statutorily prescribed process to sell the foreclosed property. The lender prepares an itemized list of moneys owed, referred to as a cure statement, and obtains a court order allowing the sale of the property. Costs in the cure statement may include attorney fees, court filing costs, posting and mailing charges, and other costs associated with the court order.

Provided the borrower has given timely notice to the lender of intent to cure, by paying moneys owed and listed on the cure statement, and no more than 12 months have elapsed since the originally scheduled public trustee sale, the borrower has the right to cure at any time. The lender's action to seek a court order, a Rule 120 hearing, may or may not have been initiated or taken place prior to the preparation of a cure statement by the lender. The scope of a Rule 120 hearing concerns only the lender's right to foreclose and does not include any examination of the cure statement.

State Expenditures

The bill results in a minimal increase in the workload of the courts. By creating new duties related to the cure statement, the bill presents new issues that may be presented in litigation. While the cure statement and related procedure is administered by the public trustee, a minimal amount of additional workload in the courts may result from borrowers who use a defective cure statement to defend or counterclaim against foreclosure of their property. The bill does not change workload for the courts associated with Rule 120.

Local Government Impact

The bill may increase workload for public trustees by a minimal amount. Processing additional cure statements and disbursing funds (especially overpayments) to borrowers who have cured a default will require minimal time in a relatively small number of foreclosure cases. Public trustees may already follow procedures consistent with the bill.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature, and applies to foreclosure proceedings initiated after the effective date.

State and Local Government Contacts

Judicial Branch
Regulatory Agencies
Clerk and Recorders

Public Trustees
Counties
Sheriffs

Local Affairs
Municipalities