

HOUSING

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Foreclosure		
HB 09-1197 (Enacted) <i>Foreclosure Reports By Division Of Housing</i>	HB 09-1207 (Enacted) <i>Foreclosure Procedures and Deeds of Trust</i>	HB 09-1276 (Enacted) <i>Delay Foreclosure Residential Property</i>
Manufactured Homes		
HB 09-1171 (Enacted) <i>Modifications to Manufactured Installation Requirements</i>	SB 09-040 (Enacted) <i>Regulation of Manufactured Homes</i>	

The General Assembly considered several bills concerning local governments and housing. Specifically, the legislation addressed assessed values, affordable housing, energy efficiency, foreclosures, manufactured homes, and rent control.

Under current law, residential personal property that is used as rental property is subject to a higher taxable assessed value. **House Bill 09-1110** clarifies existing law to require owners of furnished rental property, or their agents, to provide identifying information about the property to county assessors. County assessors can only request this information twice in any year from owners or agents who advertise furnished property for rent. The bill does not specify a penalty or consequence for failing to report the required information.

Affordable housing. Two bills were adopted by the General Assembly to address the state's affordable housing efforts and to allow unit owners to promote affordable or workforce housing. A third bill was considered to clarify existing prohibitions on a local government's ability to control rent on private property, but was postponed indefinitely.

The Division of Housing in the Department of Local Affairs coordinates the state's affordable housing efforts and works to foster cooperation between private enterprise and local, state, and federal agencies. Among its other responsibilities, the division administers the State Housing Development Grant Program. **House Bill 09-1213** creates the Housing Development Grant Fund in the State Treasury to be administered by the Division of Housing. The fund will consist of

moneys appropriated to the Colorado Affordable Housing Construction Grants and Loan Program for the Division of Housing to make grants or loans to improve, preserve, or expand the supply of affordable housing and to finance foreclosure prevention activities in Colorado. Public housing authorities will be eligible to apply for grants or loans from the Division of Housing to improve, preserve, or expand the supply of affordable housing in Colorado.

House Bill 09-1220 amends the Colorado Common Interest Ownership Act to allow a unit owner to specify or restrict:

- the sale price, rental rate, or lease rate of a unit; or
- occupancy or other requirements designed to promote affordable or workforce housing.

These provisions only apply to counties that have a population of less than 100,000 and that have a licensed ski lift, but do not apply to a declarant-controlled community, or phased community where a group of homeowners share a common interest or plan for the community and retain development rights. The bill amends the Colorado Common Interest Ownership Act and, regardless of current home owner association rules, a person who purchases a property under a specification or restriction authorized under the bill may lift the specification or restriction as long as the conditions are transferred to a similar property in the same common interest community. The law goes into effect August 5, 2009.

House Bill 09-1138, which was postponed indefinitely by the House Local Government Committee, would have clarified that local governments may not pass any ordinance that controls rent on private property or restricts a private owner from providing rent-controlled housing. The bill provided that local governments could enter into contracts with private owners to provide rent-controlled housing under specific conditions.

***Energy efficient homes.* House Bill 09-1149** requires homebuilders of each home for which a buyer is under contract to offer prospective buyers the opportunity to have the residence's electrical or plumbing system include one of the following:

- a residential photovoltaic solar generation system or a residential solar thermal system;
- upgrades of wiring or plumbing or systems; or
- a chase or conduit constructed to allow ease of future installation of the necessary wiring or plumbing for such systems.

This offer must be made in accordance with the builder's construction schedule for the residence. Homebuilders are required to provide every buyer who is under contract a list of solar installers who can assess the home's solar energy generation potential. The law also requires the Governor's Energy Office (GEO) to maintain a publicly available, master list of Colorado solar installers. Finally, the GEO or its designees are directed to offer periodic training sessions on residential photovoltaic solar generation systems or solar thermal system to homebuilders. The GEO will cover the cost of these training sessions through a registration fee to attend the trainings.

The requirements of **House Bill 09-1149** would have been broadened under **House Bill 09-1354**; however the bill was postponed indefinitely in the House Transportation and Energy Committee. Specifically, this bill would have required homebuilders of each home for which a buyer is under contract to offer prospective buyers of single-family detached residences the opportunity to have the residence's electrical or plumbing system constructed to accommodate renewable energy generation devices, including wind-electric generators. House Bill 09-1149 only requires that this option be provided for solar electric generation or solar thermal systems. In addition, homebuilders would have been required to provide every buyer under contract with a list of renewable energy generation device installers and contractors, maintained by the Governor's Energy Office (GEO). The bill also specified that renewable energy generation devices or upgrades could have been financed to the same extent and under the same terms as the realty on which they were installed.

House Bill 09-1247, which was postponed indefinitely by the Senate Local Government and Energy Committee, would have required the seller of an existing residence to provide the buyer with the property's energy billing and usage history for the 12-month period immediately preceding the listing of the property. The information would have had to be provided to the buyer within five days after entering into a sales contract. The requirement would have applied to residential land and residential improvements, including mobile homes and manufactured homes that are permanently affixed to a foundation. Hotels and motels were excluded from the requirement. Compliance with the disclosure requirements of the bill would have relieved the seller and the seller's real estate agent from liability for any damages resulting from an alleged inadequacy of the property's insulation or excessive energy consumption.

Foreclosure. Under current law, each county of the state has a public trustee to provide for a system of checks and balances between borrowers and lenders. The foreclosure process begins when a lender files a notice of election and demand with the Public Trustee's Office in the county where the property is located. **House Bill 09-1207** makes a number of changes related to real estate foreclosures, primarily addressing the operations and procedures of the public trustee and associated parties involved in foreclosure proceedings and the enforcement of a lien. The bill also authorizes public trustees to increase the required deposit to cover the fees and costs incurred by public trustees. The bill allows public trustees to require a deposit up to \$650, or the amount of the fees and costs public trustee's office, whichever is greater at the time the notice of election and demand is filed.

Under **House Bill 09-1276**, the lender must also file a document notifying the public trustee that the property referred to in the notice of election and demand is property that requires a posting of a notice related to foreclosure deferment and that the property has received a posting. The posted notice must contain:

- a description of the foreclosure deferment opportunity and the procedures an eligible borrower may follow to seek a foreclosure deferment;
- the number of the Colorado Foreclosure Hotline and the address of the United States Housing and Urban Development website identifying approved housing counselor agencies in Colorado; and
- the date the notice was posted and the deadline by which an eligible borrower seeking a foreclosure deferment must contact a foreclosure counselor.

An eligible borrower may be eligible to defer a foreclosure for 90 days if the borrower contacts a foreclosure counselor within 20 days after the posting of the notice of deferment by the lender. A foreclosure counselor will determine whether an eligible borrower qualifies for a foreclosure deferment by calculating whether, considering the eligible borrower's household expenses and gross monthly income, the nature of the loan, any written loan modification agreement between the eligible borrower and the lender entered into during the preceding 12 months, and any other relevant factors, there is a reasonable likelihood that the lender and eligible borrower can achieve a mutually acceptable agreement to avoid foreclosure. In making a determination, the housing counselor must determine:

- what the eligible borrower is able to pay in monthly housing expenses, including principal, interest, taxes, insurance, and any applicable homeowners association dues on a sustainable basis; and
- whether the lender would be likely to receive greater revenue from the modification necessary to achieve such a monthly payment than it would be likely to receive from a completed foreclosure.

An eligible borrower will not qualify for a foreclosure deferment if he or she:

- has abandoned the property;
- provided materially false information to obtain credit;
- has engaged in gross waste of the property, has been cited for major code violations, or has used the property for illegal purposes;
- is currently in a bankruptcy proceeding in which the property subject to the notice of election and demand is property of the bankruptcy estate or within the preceding 24 months has been discharged from a chapter seven bankruptcy in which the property subject to the notice of election and demand was property of the bankruptcy estate; or
- within the immediately preceding 24 months, been discharged from a chapter 13 bankruptcy with a modified loan agreement for which the property subject to the notice of election and demand is the security.

A borrower is only eligible for one foreclosure deferment on the same property. The act went into effect on June 2, 2009, and applies to all foreclosures that are commenced 60 days after June 2.

House Bill 09-1197 requires the Division of Housing in the Department of Local Affairs to collect and compile home foreclosure data from each county and issue quarterly reports until January 1, 2015. Under the bill, each public trustee is required to provide the requested foreclosure data to the Division of Housing on a quarterly basis. This report will be the official foreclosure data for the state and used when citing state foreclosure statistics. The report shall include the following information for the previous quarter, and the same quarter in the previous two years:

- the number of foreclosure filings that were initiated;
- the number of foreclosure auction sales that were completed;
- the number of homeowners who cured a default on a home for which a foreclosure filing had been initiated;
- a comparison of foreclosure data from various counties in which there has been a relatively large occurrence of foreclosure activity;
- an analysis of the regional difference in foreclosure activity; and
- a forecast of how foreclosure data may change in the next quarter and over the next year.

Manufactured homes. Factory built (modular) housing, commercial structures, and manufactured homes sold in the state must meet state safety standards. The Division of Housing in the Department of Local Affairs inspects these buildings to ensure the health and safety of residents who purchase the units.

Under current law, applicants seeking to renew their registration as a manufactured home installer must provide proof of liability insurance and proof that they have completed eight hours of education approved by the Division of Housing within the past 12 months. **House Bill 09-1171** reinstates a requirement that applicants provide a letter of credit, certificate of deposit, or surety bond at the time of applying for renewal, in addition to providing proof of insurance and continuing education.

Under current law, the Division of Housing is required to conduct an inspection if requested. The act also gives the division the discretion to inspect the installation of a manufactured home if requested by the home's owner, installer, manufacturer, or retailer.

Senate Bill 09-040 modifies the recording requirements for documents related to a manufactured home. The bill changes rules regarding the submission of information for recording, requesting title, deeds, certificates, abandonment, and other legal real or personal property documentation concerning manufactured housing. The bill defines the terms "manufactured home," "mobile home," and "modular home."