

# HOUSE RESEARCH

## Bill Summary

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**Subject:** Mortgage foreclosure notice requirements and limits on “dual tracking”

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### Overview

This bill amends and adds provisions related to foreclosure processes affecting residential foreclosures in Minnesota. It adds a single point of contact to the foreclosure notice requirements and sets the requirements for and defines a single point of contact. It provides for a 90 day stay prior to or during a foreclosure if the borrower has requested a loan modification to prevent dual tracking, which would allow the mortgage servicer to pursue foreclosure while re-negotiating with the borrower. The bill requires mandatory mediation prior to foreclosure. The bill also requires a notice to members of the armed services notifying them of rights under the Servicemember Civil Relief Act. Finally, the bill creates a civil penalty if a landlord fails to follow lease regulations on properties in foreclosure.

### Section

- 1 Foreclosure; civil penalty for lease violation.** Adds a \$500 civil penalty against landlords who fail to follow the regulations regarding notifying tenants or prospective tenants that a property is in foreclosure.
- 2 Single Point of Contact.** Requires a single point of contact (“SPOC”) to be listed on a pre-foreclosure notice and the foreclosure notice sent to the homeowner in a foreclosure process. Requires specific contact information and provides that a servicer must notify the borrower if the SPOC has changed and what to do if the SPOC is unavailable. Requires a SPOC to know or have access to many documents and information, including specific information about the borrower’s situation.
- 3 Mediation notice.** Adds language to the pre-foreclosure notice to inform the borrower that mediation is available and that a mediation hearing will be scheduled.

## Section

- 4**      **Notice on Rights of Servicemembers.** Requires the mortgage lender to send a statement to the borrower providing notice that if a borrower is a services member or the dependent of a service member, they may be entitled to protection under the federal Servicemembers Civil Relief Act including services member's interest rate and counseling that is available to them. This section includes a \$500 civil penalty for failure to comply with these requirements.
- 5**      **Foreclosure advice notice.** Requires the foreclosure advice notice to include the SPOC information and that the borrower has a civil penalty of \$500 if the servicer fails to do so.
- 6**      **Foreclosure advice notice form.** Includes the SPOC contact information in the foreclosure advice notice form and adds a notice to the borrower about the ability to postpone the date of sheriff's sale under current law, Minn. Stat. § 580.07.
- 7**      **Dual Tracking.** Prohibits "dual tracking" by requiring a mortgage lender to defer beginning or stop the process of a foreclosure for 90 days when a borrower has requested a loan modification, forbearance, payment deferral, alternate repayment plan, or deed in lieu of foreclosure. The servicer is barred from pursuing the foreclosure until they provide a response to the request. This section adds a cause of action for a borrower who incurs a loss and damages as a result of dual tracking by the lender, and includes reasonable attorney's fees for the borrower. This section includes an action for injunctive relief to prevent a foreclosure from proceeding if the servicer has violated this section. The relief in this section applies during the redemption period.
- 8**      **Mandatory Mediation.** Requires borrowers and the party foreclosing to participate in mediation prior to commencing a foreclosure action. The mediation is to occur through the Office of Administrative Hearings (OAH) and is scheduled once the servicer notifies OAH of the default. The servicer is required to pay \$160 to OAH towards the cost of the mediation. The servicer adds \$40 to the borrower's loan once they have participated in the mediation. The borrower is required to call to learn about counseling resources prior to the mediation and can bring representation to the mediation. The servicer is required to bring someone who has the authority to negotiate a deal to the mediation. OAH sets up and schedules the mediation and provides notice to each party, the borrower has to confirm their attendance to the mediation within ten days of the mediation or it will be cancelled. Both parties are required to engage in mediation in good faith, this section outlines what is required to mediate in good faith and what will happen if the mediator suspects either of the parties of acting in bad faith.

**Effective Date.** This bill is effective August 1, 2013.