

By Senator Soto

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1 A bill to be entitled
2 An act relating to short sale debt relief; creating
3 the "Short Sale Debt Relief Act"; defining terms;
4 providing that a debtor does not owe a deficiency to a
5 lienholder related to an eligible real property sold
6 pursuant to a bona fide short sale if an offer is
7 received by a debtor within a specified time period
8 and under specified conditions; providing for the
9 distribution of proceeds; requiring a lienholder to
10 approve the short sale of property and execute any
11 document necessary to close the sale within a
12 specified time period if a debtor procures a buyer who
13 makes an offer in writing equal to the fair market
14 value of the eligible property; providing that a
15 debtor has a claim against a lienholder for actual
16 damages, costs, elimination of the lien, and attorney
17 fees if the lienholder violates the act; providing an
18 effective date.

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20 Be It Enacted by the Legislature of the State of Florida:

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22 Section 1. (1) This act may be cited as the "Short Sale
23 Debt Relief Act."

24 (2) As used in this act, the term:

25 (a) "Bona fide short sale" means a sale of eligible real
26 property which is the result of an arms-length transaction
27 between two parties who are unrelated by family or contractual
28 ties other than the short sale.

29 (b) "Deficiency" means a debt owed related to a mortgage,

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30 note, or other lien on eligible real property which exceeds any
31 money received by a lienholder pursuant to a bona fide short
32 sale.

33 (c) "Eligible real property" means any first home, second
34 home, or single-family rental property located in this state
35 which has total mortgage-related debt greater than 20 percent of
36 the fair market value of the property as determined by a
37 licensed appraiser.

38 (d) "Proceeds" means an amount equal to the purchase price
39 of a bona fide short sale less any applicable fees and taxes;
40 however, new fees may not be created by a lienholder as a result
41 of this act.

42 (e) "Short sale" means the purchase and sale of real
43 property in which all of the following apply:

44 1. The grantor's interest is encumbered by one or more
45 mortgages securing indebtedness in an aggregate amount greater
46 than the consideration paid or given by the grantee.

47 2. A mortgagee releases the real property from its mortgage
48 in exchange for a payment of less than the total of the
49 outstanding mortgage indebtedness owed to the releasing
50 mortgagee.

51 3. The releasing mortgagee does not receive, directly or
52 indirectly, any interest in the property transferred.

53 4. The releasing mortgagee is not controlled by or related
54 to the grantor or the grantee.

55 (3) A debtor does not owe a deficiency to a lienholder
56 related to eligible real property sold pursuant to a bona fide
57 short sale if an offer is received by a debtor pursuant to
58 subsection (5) within 3 years after July 1, 2013, and closing

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59 occurs within 60 days thereafter.

60 (4) (a) A first lienholder is entitled to 90 percent of the
61 proceeds of the short sale.

62 (b) A second or subsequent lienholder is entitled to a
63 combined total of 10 percent of the proceeds of the short sale,
64 which must be distributed proportionally to the amount of debt
65 held by the second or subsequent lienholder.

66 (5) If a debtor procures a buyer who makes an offer in
67 writing equal to the fair market value of the eligible property
68 for a bona fide short sale, the lienholder shall approve the
69 sale of the property and execute any document necessary to close
70 the sale within 45 days of the sale.

71 (6) A debtor may file a claim against a lienholder for
72 actual damages, costs, elimination of the lien under equity, and
73 attorney fees if the lienholder violates this act.

74 Section 2. This act shall take effect July 1, 2013.