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SENATE MEMORIAL 11

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

INTRODUCED BY

Michael Padilla

A MEMORIAL

REQUESTING THE UNITED SOUTH BROADWAY CORPORATION, A NONPROFIT COMMUNITY DEVELOPMENT CORPORATION THAT PROVIDES HOUSING COUNSELING AND FORECLOSURE LEGAL DEFENSE STATEWIDE, TO CONVENE A TASK FORCE TO STUDY THE FORECLOSURE PROCESS IN NEW MEXICO AND MAKE RECOMMENDATIONS THAT WILL PROTECT NEIGHBORHOOD AND COMMUNITY STABILITY, PREVENT UNNECESSARY AND IMPROPER FORECLOSURES AND PRESERVE THE DUE PROCESS RIGHTS OF FINANCIALLY STRAPPED FAMILIES.

WHEREAS, many New Mexico families and communities are still reeling from the foreclosure crisis that began in 2007 with the nation's worst financial crisis since the Great Depression; and

WHEREAS, eleven thousand seven hundred forty-seven home loans in New Mexico, which constitute four and one-half percent

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1 of total home loans in the state, were delinquent sixty days or
2 more at the end of September 2013; and

3 WHEREAS, during the first three quarters of 2013, five
4 thousand eight hundred ninety-eight New Mexico homeowners faced
5 foreclosure, and this foreclosure activity has dislocated
6 families; destabilized communities; increased vandalism and
7 crime in those neighborhoods with abandoned properties;
8 increased homelessness; lowered property values; and resulted
9 in a decreased tax base leading to loss of funding for vital
10 public services; and

11 WHEREAS, when family homes go into foreclosure, the
12 negative effects extend beyond individual families to the
13 economic vitality of New Mexico because foreclosures decrease
14 the value of surrounding properties; and

15 WHEREAS, statewide lost home equity due to foreclosures in
16 2009 through 2012 was two billion one hundred million dollars
17 (\$2,100,000,000); and

18 WHEREAS, this estimate does not account for the direct
19 costs to taxpayers, which the United States congress joint
20 economic committee estimated to be nineteen thousand two
21 hundred twenty-nine dollars (\$19,229) per abandoned foreclosed
22 property; and

23 WHEREAS, children are the invisible victims of the
24 foreclosure crisis, as they face family instability and the
25 loss of their homes, as well as the risk of falling behind

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1 academically when they are forced to switch neighborhoods and
2 schools; and

3 WHEREAS, between 2004 and 2007, seventeen thousand New
4 Mexico children lived in homes that were either foreclosed or
5 seriously delinquent; and

6 WHEREAS, lax underwriting and abusive lending practices in
7 parts of the subprime mortgage market, hand-in-hand with a
8 federal regulatory system that lagged behind structural changes
9 in the industry, contributed to the housing crisis the nation
10 is facing; and

11 WHEREAS, as Ben Bernanke, chairman of the board of
12 governors of the federal reserve system, wrote on July 14,
13 2008, "Although the high rate of delinquency has a number of
14 causes, it seems clear that unfair or deceptive acts and
15 practices by lenders resulted in the extension of many loans,
16 particularly high-cost loans, that were inappropriate or misled
17 the borrower"; and

18 WHEREAS, Brian Moynihan, chief executive officer of Bank
19 of America, testified before the congressional financial crisis
20 inquiry commission that, "Over the course of this crisis, we as
21 an industry caused a lot of damage. Never has it been clearer
22 how mistakes made by financial companies can affect Main
23 street, and we need to learn the lessons of the past few
24 years"; and

25 WHEREAS, New Mexicans continue to lose their homes

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1 needlessly because of improper foreclosures, and New Mexico is
2 part of a multibillion dollar agreement with several of the
3 nation's largest banks to settle claims that the banks
4 improperly foreclosed on homeowners with violations such as
5 failing to process people for loan modifications in time to
6 avoid foreclosure; proceeding with foreclosures while
7 homeowners were still working on payment plans with the loan
8 servicer; robo-signing documents without reviewing them;
9 improper or repeatedly lost paperwork; denying borrowers the
10 opportunity to obtain accurate information about their loans;
11 understaffing loan-servicing personnel, making it difficult for
12 homeowners to negotiate reasonable loan terms to prevent
13 foreclosure in a timely fashion; and selling and reselling
14 loans to new loan servicers without transferring paperwork with
15 the sale and then requiring homeowners to go through the time-
16 consuming process of filing new applications with each resale
17 of the loan; and

18 WHEREAS, homeowners still face time-consuming delays
19 imposed by these servicing practices, leading to unnecessary
20 foreclosures; and

21 WHEREAS, the constitution of New Mexico provides that "No
22 person shall be deprived of life, liberty or property without
23 due process of law" and the Home Loan Protection Act provides
24 critical due process rights for a borrower with either a
25 traditional mortgage or a deed of trust, including the right to

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1 have a day in court before losing one's home; and

2 WHEREAS, the Home Loan Protection Act protects all
3 homeowners from losing their homes to sale by a trustee or
4 lender before the adjudication of a default or based on
5 fraudulent or inaccurate documents or subject to other
6 pervasive abuses as described in this memorial;

7 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE
8 OF NEW MEXICO that it affirms its commitment to preserving due
9 process rights guaranteed under the Home Loan Protection Act
10 for all New Mexicans threatened with the loss of their homes
11 through foreclosure; and

12 BE IT FURTHER RESOLVED that the United South Broadway
13 corporation be requested to convene a task force to study the
14 foreclosure process in New Mexico and that includes itself and
15 representatives from at least the following organizations:

16 A. Tierra del Sol housing corporation, with offices
17 in Anthony and Las Cruces;

18 B. the independent living resource center, serving
19 the housing needs of people with disabilities;

20 C. the senior citizens law office;

21 D. the New Mexico mortgage finance authority;

22 E. representatives of veterans' organizations;

23 F. either the New Mexico municipal league or the
24 New Mexico association of counties;

25 G. the independent community bankers association of

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1 New Mexico or the New Mexico mortgage lenders association;

2 H. the New Mexico land title association; and

3 I. the consumer protection division of the office
4 of the attorney general; and

5 BE IT FURTHER RESOLVED that the membership include:

6 A. a housing counselor with a minimum of ten years'
7 experience counseling homeowners in person;

8 B. a homeowner;

9 C. a member of the New Mexico bar from the New
10 Mexico foreclosure defense group; and

11 D. a retired member of the judiciary; and

12 BE IT FURTHER RESOLVED that the task force:

13 A. recommend the means and methods to improve the
14 foreclosure process in order to prevent unnecessary and
15 improper foreclosures, promote community stability and protect
16 the due process rights of financially strapped families
17 threatened with foreclosure; and

18 B. develop a plan for the education and training of
19 homeowners, lenders, loan servicers and the judiciary on
20 methods of removing impediments to meaningful loss mitigation
21 and preventing improper or unnecessary foreclosures; and

22 BE IT FURTHER RESOLVED that the United South Broadway
23 corporation's fair lending center coordinate and staff the task
24 force; and

25 BE IT FURTHER RESOLVED that the task force report its

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1 findings and recommendations to the appropriate interim
2 committees by November 1, 2014 and to the house and senate
3 judiciary committees by January 21, 2015; and

4 BE IT FURTHER RESOLVED that copies of this memorial be
5 transmitted to the United South Broadway corporation.

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