

SUPREME COURT, STATE OF COLORADO

2 East 14th Avenue
Denver, Colorado 80203

ORIGINAL PROCEEDING PURSUANT TO
§ 1-40-107(2), C.R.S. (2007)

Petitioner:

Don Childears, Objector,

v.

Respondents:

Corrine Fowler and Stephen A. Brunette, Proponents,

v.

Title Board:

Suzanne Staiert, Sharon Eubanks, and David Blake

Attorneys for Petitioner:

Jason R. Dunn, #33011
Michael D. Hoke, #41034
BROWNSTEIN HYATT FARBER SCHRECK LLP
410 Seventeenth Street, Suite 2200
Denver, CO 80202-4432
Tel: 303.223.1100
Fax: 303.223.1111
jdunn@bhfs.com

FILED IN THE
SUPREME COURT

MAY - 2 2012

OF THE STATE OF COLORADO
Christopher T. Ryan, Clerk

▲ COURT USE ONLY ▲

Case Number:

12 SA 133

**PETITION FOR REVIEW OF FINAL ACTION OF THE TITLE
SETTING BOARD CONCERNING PROPOSED INITIATIVE
2011-2012 NO. 84**

Pursuant to section 1-40-107(2), Don Childears, though the undersigned counsel, respectfully petitions this court to review the title, ballot title, and submission clause set by the Ballot Title Setting Board for Proposed Initiative 2011-2012 #84 (the "Initiative").

I. ACTION OF THE TITLE BOARD

The Title Board conducted its initial public hearing and set the title for the Initiative on April 18, 2012. Petitioner subsequently filed a timely Motion for Rehearing on April 25, 2012. The Title Board considered the motion at its April 27, 2012 hearing and rejected Petitioner's challenges and denied the motion. Petitioner now seeks review of the Ballot Title Setting Board's actions under C.R.S. section 1-40-107(2).

II. ISSUES PRESENTED FOR REVIEW

- A. The measure is so vague and indefinite that the legislative staff's interpretation of the measure at review and comment was inconsistent with the interpretation of the Title Board, and the proponents themselves have offered two mutually contradictory interpretations. Did the Title Board err in determining that the measure was sufficiently clear that it could set a title that accurately reflects the measure's meaning and purpose?
- B. The proponents of the Initiative made changes to the underlying measure after the review and comment hearing that were substantive but not in direct response to substantive questions or comments posed at that hearing. Did the Title Board err in determining that it had jurisdiction to review the Initiative and set a title?

- C. The Initiative contains multiple separate subjects that bear no necessary or proper connection to each other. Did the Title Board err in approving the Initiative under Colorado's single-subject requirement?
- D. The title and ballot title and submission clause contain at least one impermissible catch-phrase that could form the basis of slogans for use by those who expect to carry out a campaign in favor of the measure. Did the Title Board err in setting the title and ballot title and submission clause for the Initiative?
- E. Did the Title Board err in setting a ballot title for the Initiative that fails to disclose major provisions of the measure and is otherwise vague and misleading?

III. SUPPORTING DOCUMENTATION

As required by section 1-40-107(2), attached is a certified copy of the petition with the title and submission clause of the proposed measure, a certified copy of the Motion for Rehearing, and final action by the Title Board.

IV. RELIEF REQUESTED

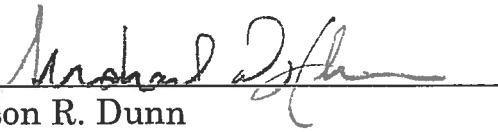
Petitioner respectfully requests that the court reverse the Title Board's denial of the Motion for Rehearing and find that the Title Board lacked jurisdiction to hear the measure and set a title for the Initiative.

Alternatively, Petitioner requests that the court reverse the Title Board's findings that the Initiative contains a single subject and find that the title set by the Board is misleading and vague. Should the Court find it appropriate to set a title for the Initiative, Petitioner requests that the title be amended

to eliminate impermissible catch-phrases and to accurately reflect the substance of the measure.

Respectfully submitted this 2nd day of May, 2012.

BROWNSTEIN HYATT FARBER SCHRECK LLP

A handwritten signature in black ink, appearing to read "Michael D. Hoke", is written over a horizontal line.

Jason R. Dunn

Michael D. Hoke

Brownstein Hyatt Farber Schreck LLP

410 17th Street, #2200

Denver, Colorado 80202

(303) 223-1100

(303) 223-0914

jdunn@bhfs.com

Attorneys for Don Childears

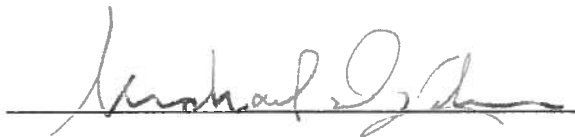
CERTIFICATE OF SERVICE

I hereby certify that on May 2, 2012, a true and correct copy of this

PETITION FOR REVIEW was delivered via U.S. Mail to the following:

Edward T. Ramey, Esq.
Heizer Paul Grueskin LLP
2401 15th Street, Suite 300
Denver, CO 80202
Attorney for Proponents

Maurice G. Knaizer, Esq.
Office of the Colorado Attorney General
1525 Sherman Street, 7th Floor
Denver, CO 80203
Attorney for the Title Board

A handwritten signature in black ink, appearing to read "Michael J. De...", is written over a horizontal line. The signature is cursive and somewhat stylized.

015899\0001\1680341.2



STATE OF COLORADO

**DEPARTMENT OF
STATE**

CERTIFICATE

I, **SCOTT GESSLER**, Secretary of State of the State of Colorado, do hereby certify that:

the attached are true and exact copies of the filed text, motion for rehearing, titles, and the rulings thereon of the Title Board on Proposed Initiative "2011-2012 #84 'Foreclosure Process'".....

..... **IN TESTIMONY WHEREOF** I have unto set my hand
and affixed the Great Seal of the State of Colorado, at the
City of Denver this 30th day of April, 2012.

A handwritten signature in black ink, appearing to read "Scott Gessler", is written over a horizontal line.

SECRETARY OF STATE

Ballot Title Setting Board

Proposed Initiative 2011-2012 #84¹

The title as designated and fixed by the Board is as follows:

An amendment to the Colorado constitution changing the existing evidentiary requirements for foreclosure of real property, and, in connection therewith, requiring evidence be filed to sufficiently establish a party's right to enforce a valid recorded security interest prior to the foreclosure of any real property.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be an amendment to the Colorado constitution changing the existing evidentiary requirements for foreclosure of real property, and, in connection therewith, requiring evidence be filed to sufficiently establish a party's right to enforce a valid recorded security interest prior to the foreclosure of any real property?

*Hearing April 4, 2012:
Single subject approved; staff draft amended; titles set.
Hearing adjourned 10:35 a.m.*

*Rehearing April 27, 2012
Motion for rehearing denied except to the extent that the Board made changes to the title.
Hearing adjourned 11:35 a.m.*

¹ Unofficially captioned "Foreclosure Process" by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

APR 25 2012

APR 25 2012

BUSINESS SECRETARY OF STATE



ELECTIONS SECRETARY OF STATE

COLORADO TITLE SETTING BOARD

IN THE MATTER OF THE TITLE AND BALLOT TITLE AND SUBMISSION CLAUSE FOR INITIATIVE 2011-2012 #84

MOTION FOR REHEARING

On behalf of Don Childears, a registered elector of the State of Colorado, the undersigned counsel hereby submits this Motion for Rehearing on Initiative 2011-2012 #84 and as grounds therefore states as follows:

On first glance, the measure appears to be a simple amendment relating to the evidentiary burden in foreclosure proceedings. But on closer inspection, it is apparent that the measure is so poorly drafted that it cannot be meaningfully interpreted for the purpose of setting a title. Nevertheless, under either of the distinct interpretations articulated by the proponents, it appears to encompass several conflicting subjects and will likely require substantive changes to disparate statutes and regulations that are not restricted to the foreclosure process. The title set by the Title Board does not—and cannot—accurately reflect any of these issues. Moreover, the measure was substantially altered after review and comment in ways that were not merely responsive to comments or questions presented at the review and comment hearing. The measure also impermissibly encompasses numerous subjects that are not interrelated and contains an improper catch phrase.

I. The Title Board lacks jurisdiction because the measure is so vague that it is impossible to set a title that accurately reflects the true purposes of the measure.

Under Article I, Section 1(5.5) of the Colorado Constitution, ballot measures are void to the extent any subject embraced in the measure is not clearly expressed in the title. When there is an incomprehensible subject, a single subject in the title cannot be stated. *See In re Title, Ballot Title & Submission Clause, & Summary for 1999-2000 No. 44*, 977 P.2d 856, 858 (Colo. 1999) (“Here, perhaps because the original text of the proposed initiative is difficult to comprehend, the titles and summary are not clear.”).

This ballot measure is so vague and ambiguous as written its own proponents have changed their interpretation of what it requires and have presented contradictory positions to the review and comment panel and to the Title Board as to its fundamental purpose. During the review and comment hearing, the staff read verbatim from the staff memorandum that:

The major purpose of the proposed amendment . . . appears to be to prohibit commencement of foreclosure proceedings until the party claiming the right to foreclose in the foreclosure proceedings files competent evidence of its right to foreclose with the clerk and recorder of the county in which the real property is located.

Counsel for the proponents expressly agreed with this statement. One of the proponents, a foreclosure attorney, suggested that the word “files” in that statement of purpose should be changed to “records” because the measure will require the “competent evidence” to have been recorded with the county clerk (as opposed to merely filing it in the foreclosure process). Likewise, after interviewing at least one proponent, the Denver Post described the purpose of the measure as being to ensure that “all loan papers are properly recorded with the county first.” (See attached Exhibit A.) The Title Board’s initial staff draft of the title also reflected the understanding that the measure required competent evidence to be filed with the county clerk.

But before the Title Board, the proponents argued precisely the opposite—that the competent evidence would not have to be filed or recorded with the county clerk, and the measure was not intended to prohibit “commencement” of foreclosure proceedings. Not only are these statements of purpose or intent fundamentally at odds, neither interpretation is entirely consistent with the final text of the measure itself, which appears to require the competent evidence to have been recorded with the county clerk before the foreclosure is commenced, but also requires that the evidence be “filed” in some indeterminate location and in some indeterminate fashion before any person is “deprived” of real property through foreclosure.

Given the lack of consistent interpretation of the measure by the proponents, and the lack of a plain meaning discernable from the measure’s text, the Title Board cannot set a clear title that accurately reflects the measure’s substance. The title adopted by the Title Board, which does not indicate that any evidence has to be recorded or that the recording must occur before the foreclosure process is commenced, does not accurately reflect the substance of the measure as submitted to the Title Board.

II. The measure was substantially amended after review and comment without being subjected to additional review and comment.

The Title Board lacks jurisdiction, and the title cannot be set, because the measure was substantially altered after review and comment but was not sent back for additional review and comment as required by C.R.S. § 1-40-105(2). Because these changes were substantial and not responsive to direct questions or comments by Legislative Council or Office of Legislative Legal Services staff, the Title Board lacks jurisdiction to set a title for the measure.

III. The proposed measure impermissibly contains multiple subjects that are not necessarily connected.

The measure violates the single-subject requirement of Article 5, Section 1(5.5), of the Colorado Constitution, because it includes the following separate and distinct subjects:

1. Altering the evidentiary burden in foreclosure proceedings by requiring “competent evidence” and modifying the current standard permitted under C.R.S. § 38-38-101(1)(b)(I)–(III);
2. Eliminating substantive foreclosure rights in the event that there is any defect in assignments or indorsements of the evidence of debt, and thereby invalidating C.R.S. § 38-38-101(6)(b);
3. Prospectively prohibiting foreclosure pursuant to unrecorded security interests;

4. Retroactively eliminating substantive foreclosure rights, as established by private contract, of current holders of unrecorded security interests or of interests obtained through unrecorded assignments or transfers;
5. Substantially burdening or eliminating access to the secondary mortgage market for loans issued on Colorado real property;
6. Substantially burdening or eliminating use of the modern MERS system for tracking ownership of loans and servicing rights;
7. Implicitly amending C.R.S. § 4-3-104 to exclude promissory notes as freely assignable negotiable instruments;
8. Altering the title process for real property in Colorado (*see* Exhibit A, Denver Post article in which proponent Brunette is quoted as saying “[t]he intent is to ensure there are no gaps in the line of title Title records now are being totally messed with.”).
9. Requiring public filing of private financial data, possibly restricting the holding in *Charnes v. DiGiacomo*, 200 Colo. 94, 612 P.2d 1117 (Colo. 1980) and restricting individuals’ privacy interests in certain financial data; and
10. Requiring counties to accept filings or recording of evidence of debt and related assignments and transfers.

IV. The title is misleading and does not accurately reflect the multiple subjects addressed by the measure.

The title also violates C.R.S. § 1-40-106(3) because it is misleading, is likely to create confusion among voters, does not correctly and fairly express the true intent and meaning of the initiative or the multiple subjects encompassed by it, and does not unambiguously state the principle of the provision sought to be added. For example, the purpose of the measure as expressed by the proponents during the review and comment hearing is to “overrule” C.R.S. § 38-38-101(6)(b), which permits foreclosure in cases where the evidence of debt is without proper indorsement or assignment, but the title does not mention § 38-38-101(6)(b) or the function or purpose of that section. Nor does the title indicate that parties will no longer be permitted to foreclose by posting corporate surety bonds as currently permitted by § 38-38-101(1)(b)(I).

Moreover, given the numerous, unconnected substantive rights that will likely be altered or burdened by the measure, it is important that the title accurately reflect those substantive effects. Yet the title set by the Title Board does not clearly state, for example, that current holders of interests secured by real property stand to lose those rights if the measure is adopted. Nor does the title reflect the important substantive effect the measure will have on the public availability of personal financial data if promissory notes or other evidence of debt must be recorded with the county clerk.

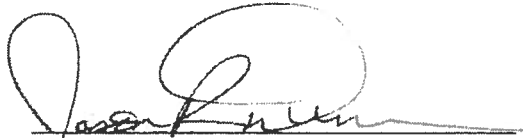
V. The title contains impermissible catch-phrases.

The title impermissibly contains two catch phrases—“competent evidence” and “deprivation of any real property”—that could form basis of slogans for use by those who expect

to carry out a campaign in favor of the measure. "Competent evidence" is impermissible because it suggests to an uninformed voter that "incompetent evidence" is currently permitted in foreclosure proceedings and does not accurately convey the nature of the evidence required. "Deprivation of any real property" suggests a forcible intervention to deny persons of their rightful property, and misstates the nature of a foreclosure proceeding.

Please set this matter for rehearing, pursuant to C.R.S. § 1-40-107(1).

Respectfully submitted this 25th day of April, 2012,



Jason R. Dunn
Michael D. Hoke
Brownstein Hyatt Farber Schreck, LLP
410 17th Street, #2200
Denver, Colorado 80202
(303) 223-1100
(303) 223-0914
jdunn@bhfs.com

Attorneys for Don Childers

Address of Petitioner:
Don Childers
Colorado Bankers Association
One Sherman Place
140 East 19th Avenue, Suite 400
Denver, CO 80203

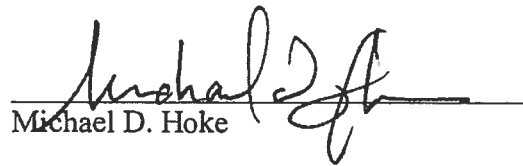
CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of April, 2012, a copy of this Motion for Rehearing was sent to the designated representatives and their counsel by email as follows:

Corrine Fowler
corrine@progressivecoalition.org

Stephen A. Brunette
stephen@gasperlaw.com

Edward T. Ramey
eramey@hpgfirm.com


Michael D. Hoke

Failed bill on foreclosure filing in Colorado may get second chance on November ballot

By David Migoya *The Denver Post* *The Denver Post*
Posted:

DenverPost.com

Undaunted that legislators killed a bill requiring that lenders prove their right to foreclose on a home, backers of the failed proposal have filed it as a ballot initiative with a harder approach: Foreclosures can't happen unless all loan papers are properly recorded with the county first.

That means anytime a lender sells or transfers a note, as has been the practice for several years in the mortgage-backed securities business, the holder must file it with the county recorder of deeds.

Colorado has not required assignments — the legal word for when a mortgage or note exchanges hands — to be recorded for years, a critical part of the problem in determining who actually owns a note during a foreclosure, proponents of the initiative say.

"The intent is to ensure there are no gaps in the line of title," attorney Stephen Brunette said. "Title records now are being totally messed with. Colorado's foreclosure process today is fundamentally unsound."

The ballot initiative — called the Foreclosure Due Process and Fraud Prevention Initiative — squarely takes on Colorado law that uniquely allows for "no-doc" foreclosures, where lenders can take a home without ever having to prove they have that right.

"In other states, courts are scrutinizing whether the foreclosing party has the right to foreclose and concluding that in most cases (they haven't) demonstrated that right with proper documentation," said Debra Fortenberry, a Colorado Springs attorney who helped draft the initiative with Brunette and the Colorado Progressive Coalition.

"In Colorado, there is nothing to scrutinize," she said.

No other state allows for a foreclosure without the lender first proving it is the right entity to do so. Colorado allows foreclosure lawyers to sign a "statement of qualified holder," which basically says they think their client owns the note or mortgage without ever actually seeing it — a practice some states have labeled as "robo-signing."

Colorado law allows a foreclosure to continue even if the lawyer gets it wrong — and doesn't hold anyone accountable for the mistake. It's a crime in Nevada, one of the states to use deeds of trust like Colorado.

Initiative hearing set

Opponents of House Bill 1156 who helped kill it in a Republican-controlled committee March 13 said the initiative could push lenders from the market.

"Our one concern is that nothing hurt lending in Colorado," said Don Childears, president of the Colorado Bankers Association. "We're not jumping to a conclusion that it's automatically bad and have organizations against it tomorrow. But we're aggressively thinking through its impact."

HB 1156 sought to have lenders provide proof — theoretically a certified copy of a mortgage or loan note — that they had the right to foreclose on a property. It also would have required a judge to review the paperwork and certify a lender's standing before ordering the public auction of a foreclosed home.

The proposed initiative is scheduled for a hearing at the Legislative Council on April 6, the first step to reaching November's ballot. The proposal would need more than 87,100 validated signatures to get on the ballot, according to the Colorado secretary of state's office.

"Foreclosure is the only civil proceeding in Colorado where no disclosures are required," Brunette said. "Even in small-claims court, you have to produce the evidence so you can sue, but to take a home, they don't have to produce

a thing."

Tracking ownership

Mortgages were bought and sold so often in what became toxic mortgage-backed securities that it became difficult — and costly — to file each of the resulting transfers with a county.

Colorado does not require every ownership transfer of a mortgage to be recorded, but other states do.

Thousands of homeowners facing foreclosure — even those who simply wanted to refinance as interest rates tumbled — have recounted experiences of simply trying to determine who owned their mortgage.

The initiative nearly replicates a similar law recently passed in Nevada, which requires that all mortgage loan documents and their transfers be recorded. If not, the lender is not allowed to foreclose.

"If lenders have their stuff in a row, all their documents properly filed like they used to do it, there will absolutely be no problem," Brunette said. "This solves the problems."

David Migoya: 303-954-1506, dmigoya@denverpost.com,

Ballot proposal

This is the text of the foreclosure initiative filed with the Colorado secretary of state's office. Once a legislative measure, the plan was killed in committee:

No person shall be deprived of real property through a foreclosure unless the party claiming the right to foreclose files in the foreclosure proceeding competent evidence of its right to enforce a valid security interest, recorded before the foreclosure is commenced, with the clerk and recorder of the county in which the real property is located, in accord with Article XIV, Section 8 of this Constitution. Competent evidence shall include (1) the evidence of debt; (2) endorsements, assignments, or transfers, if any, of the evidence of debt to the foreclosing party; and (3) duly recorded assignments, if any, of the recorded security interest to the foreclosing party. Any statutes inconsistent with this Article II, Section 25(a) are repealed on the effective date of this Section.

Foreclosure Due Process Initiative 2012

Proponent representatives:

Corrine Fowler
4249 S. Lincoln St.
Englewood, CO 80113
(303) 867-0302 (voice)
(303) 832-6416 (facsimile)
corrine@progressivecoalition.org

9:00 A.M.
S.WARD

RECEIVED
APR 06 2012
ELECTIONS/LICENSING
SECRETARY OF STATE

Stephen A. Brunette
128 S. Tejon Street, Ste. 100
Colorado Springs, CO 80903
(719) 227-7779 (voice)
(719) 328-0329 (facsimile)
stephen@gasperlaw.com

Proposed text:

Be it Enacted by the People of the State of Colorado:

In the constitution of the state of Colorado, **add** section 25a to article II as follows:

Section 25a. Foreclosure due process. NO PERSON SHALL BE DEPRIVED OF REAL PROPERTY THROUGH A FORECLOSURE UNLESS THE PARTY CLAIMING THE RIGHT TO FORECLOSE IN THE FORECLOSURE PROCEEDING FILES COMPETENT EVIDENCE OF ITS RIGHT TO ENFORCE A VALID SECURITY INTEREST, RECORDED BEFORE THE FORECLOSURE IS COMMENCED WITH THE RECORDER OF DEEDS, CREATED BY SECTION 8 OF ARTICLE XIV OF THIS CONSTITUTION, IN THE COUNTY IN WHICH THE REAL PROPERTY IS LOCATED. COMPETENT EVIDENCE INCLUDES:

- (1) THE EVIDENCE OF DEBT;
- (2) ENDORSEMENTS, ASSIGNMENTS, OR TRANSFERS, IF ANY, OF THE EVIDENCE OF DEBT TO THE FORECLOSING PARTY; AND
- (3) DULY RECORDED ASSIGNMENTS, IF ANY, OF THE RECORDED SECURITY INTEREST TO THE FORECLOSING PARTY.

RECEIVED

APR 06 2012

ELECTIONS/LICENSING
SECRETARY OF STATE

9:00 A.M.
S.WARD

2011-2012 #84
Foreclosure Process
Amended Text

Foreclosure Due Process and Fraud Prevention Initiative 2012

Proponent representatives:

Corrine Fowler
4249 S. Lincoln St.
Englewood, CO 80113
(303) 867-0302 (voice)
(303) 832-6416 (facsimile)
corrine@progressivecoalition.org

Stephen A. Brunette
128 S. Tejon Street, Ste. 100
Colorado Springs, CO 80903
(719) 227-7779 (voice)
(719) 328-0329 (facsimile)
stephen@jasperlav.com

~~Proposed Bill Title: Foreclosure Due Process and Fraud Prevention~~

Proposed text:

Be it Enacted by the People of the State of Colorado:

~~An amendment to the Bill of Rights of the Constitution of the State of Colorado by the addition of Article II, § 25a~~ In the constitution of the state of Colorado, add section 25a to article II as follows:

Formatted: Font: Bold

~~Section 25a. Foreclosure due process. NO PERSON SHALL BE DEPRIVED OF REAL PROPERTY THROUGH A FORECLOSURE UNLESS THE PARTY CLAIMING THE RIGHT TO FORECLOSE FILES IN THE FORECLOSURE PROCEEDING FILES COMPETENT EVIDENCE OF ITS RIGHT TO ENFORCE A VALID SECURITY INTEREST, RECORDED BEFORE THE FORECLOSURE IS COMMENCED, WITH THE CLERK AND RECORDER OF THE COUNTY IN WHICH THE REAL PROPERTY IS LOCATED, IN ACCORD WITH RECORDER OF DEEDS. CREATED BY SECTION 8 OF ARTICLE XIV, SECTION 8 OF THIS CONSTITUTION CONSTITUTION, IN THE COUNTY IN WHICH THE REAL PROPERTY IS LOCATED. COMPETENT EVIDENCE SHALL INCLUDES:~~

Formatted: Small caps

Formatted: Indent: Left: 0"

Formatted: Font: Bold

Formatted: Small caps

- ~~(1) THE EVIDENCE OF DEBT;~~
- ~~(2) ENDORSEMENTS, ASSIGNMENTS, OR TRANSFERS, IF ANY, OF THE EVIDENCE OF DEBT TO THE FORECLOSING PARTY; AND~~
- ~~(3) DULY RECORDED ASSIGNMENTS, IF ANY, OF THE RECORDED SECURITY INTEREST TO THE FORECLOSING PARTY. ANY STATUTES INCONSISTENT WITH THIS ARTICLE II, SECTION 25(A) ARE REPEALED ON THE EFFECTIVE DATE OF THIS SECTION.~~

Formatted: Small caps

Formatted: Small caps

Formatted: Small caps

Formatted: Small caps

Formatted: Small caps

Formatted: Small caps

Formatted: Small caps

Formatted: Small caps

Respectfully submitted,

Corrine Fowler

Stephen A. Brunette

Foreclosure Due Process and Fraud Prevention Initiative 2012

Proponent representatives:

Corrine Fowler
4249 S. Lincoln St.
Englewood, CO 80113
(303) 867-0302 (voice)
(303) 832-6416 (facsimile)
corrine@progressivecoalition.org

Stephen A. Brunette
128 S. Tejon Street, Ste. 100
Colorado Springs, CO 80903
(719) 227-7779 (voice)
(719) 328-0329 (facsimile)
stephen@gasperlaw.com

2011-2012 #84
Foreclosure Process
Original Text

9:00 A.M.
S.WARD

RECEIVED

APR 06 2012

**ELECTIONS/LICENSING
SECRETARY OF STATE**

Proposed Bill Title: Foreclosure Due Process and Fraud Prevention

Proposed text:

An amendment to the Bill of Rights of the Constitution of the State of Colorado by the addition of Article II, § 25a:

No person shall be deprived of real property through a foreclosure unless the party claiming the right to foreclose files in the foreclosure proceeding competent evidence of its right to enforce a valid security interest, recorded before the foreclosure is commenced, with the clerk and recorder of the county in which the real property is located, in accord with Article XIV, Section 8 of this Constitution. Competent evidence shall include (1) the evidence of debt; (2) endorsements, assignments, or transfers, if any, of the evidence of debt to the foreclosing party; and (3) duly recorded assignments, if any, of the recorded security interest to the foreclosing party. Any statutes inconsistent with this Article II, Section 25(a) are repealed on the effective date of this Section.

Respectfully submitted,

Corrine Fowler

Stephen A. Brunette