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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 29

01/10/2013 Authored by Mullery

The bill was read for the first time and referred to the Committee on Housing Finance and Policy

1.1 A bill for an act
1.2 relating to mortgage lending; requiring lenders to make certain calculations prior
1.3 to foreclosure; proposing coding for new law in Minnesota Statutes, chapter 580.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. **[580.023] CERTAIN PREFORECLOSURE CALCULATIONS**
1.6 **REQUIRED.**

1.7 A mortgage lender, prior to initiating a foreclosure of a mortgage on residential
1.8 property, has a duty of good faith and fair dealing to determine the net present value to the
1.9 lender of the mortgage loan if it were modified in any way so as to permit the homeowner to
1.10 retain the property, as compared to the net present value to the lender of foreclosure. If there
1.11 is any possible loan modification that would cause the net present value to the lender of the
1.12 modified loan to exceed the net present value of foreclosure, the lender has a duty to make a
1.13 good-faith offer to modify the loan. In calculating the net present value of the alternatives,
1.14 the lender shall use the same discount rate in both calculations. The lender shall provide
1.15 the calculations to the borrower prior to commencing foreclosure and retain its calculations
1.16 and analysis of the possible modifications, and records of the lender's communications
1.17 with the borrower about those calculations and analysis, for at least six years.

1.18 **EFFECTIVE DATE.** This section is effective August 1, 2013, and applies to
1.19 foreclosures commenced on or after that date.