



HOUSE OF REPRESENTATIVES

HB 2018

NOW: mortgages; trust deeds; deficiency actions

Sponsor: Representative Lovas

DP Committee on Insurance and Retirement

DPA Caucus and COW

X As Transmitted to the Governor

OVERVIEW

HB 2018 exempts mortgages and deeds of trust on defined types of property from “anti-deficiency protection.”

HISTORY

Properties that are sold at auction, either by an action to foreclose or by a trustee’s sale, may be sold at an amount that is less than the amount owed to the lender. The difference in this amount is called a “deficiency”. In some cases, the lender may be permitted to seek a judgment in the amount of the deficiency against the mortgagor or trustor, called a “deficiency judgment”.

Arizona Revised Statutes (A.R.S.) §§ 33-729 and 33-814 are commonly referred to as the “anti-deficiency statutes” which exempt a mortgagor or trustor from a deficiency judgment if the property in question is 2.5 acres or less and limited to and utilized as a single one or two family dwelling.

Additionally, A.R.S. § 33-729, provides another requirement to exempt the mortgage from a deficiency judgment: the loan secured by the mortgage is required to be used to pay some or the entire purchase price of the mortgaged property.

PROVISIONS

- Specifies that “anti-deficiency” protection does not apply to mortgages and deeds of trust that originate after December 31, 2014 for the following types of property:
 - Owned by a person who is engaged in the business of construction and selling dwellings that were acquired by the person in the course of that business and that is subject to a mortgage or deed of trust given to secure payment of a loan for construction of a dwelling on the property for sale to another person;
 - Contains a dwelling that was never substantially completed; and
 - Contains a dwelling that is intended to be utilized as a dwelling but is never actually utilized as a dwelling.
- Provides the conditions in which a dwelling is substantially completed.