

AN ACT

ENTITLED, An Act to provide for certain asset-backed securitizations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That chapter 54-1 be amended by adding thereto a NEW SECTION to read as follows:

For purposes of this Act, a securitization is the pooling and repackaging by a special purpose entity of assets or other credit exposures that can be sold to investors. Securitization includes transactions that create stratified credit risk positions whose performance is dependent upon an underlying pool of credit exposures, including loans and commitments.

Section 2. That chapter 54-1 be amended by adding thereto a NEW SECTION to read as follows:

Notwithstanding any other provisions of law specifically including § 57A-9-623, to the extent set forth in the transaction documents relating to a securitization transaction:

- (1) Any property, assets, or rights purported to be transferred, in whole or in part, in the securitization transaction shall be deemed to no longer be the property, assets, or rights of the transferor;
- (2) A transferor in the securitization transaction, its creditors or, in any insolvency proceeding with respect to the transferor or the transferor's property, a bankruptcy trustee, receiver, debtor, debtor in possession, or similar person, to the extent the issue is governed by South Dakota law, have no rights, legal or equitable, whatsoever to reacquire, reclaim, recover, repudiate, disaffirm, redeem, or recharacterize as property of the transferor, any property, assets, or rights purported to be transferred, in whole or in part, by the transferor; and
- (3) In the event of a bankruptcy, receivership, or other insolvency proceeding with respect to the transferor or the transferor's property, to the extent the issue is governed by South Dakota law, such property, assets, and rights may not be deemed to be part of the

transferor's property, assets, rights, or estate.

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I certify that the attached Act
originated in the
SENATE as Bill No. 171

Secretary of the Senate

President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 171
File No. _____
Chapter No. _____

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Received at this Executive Office
this ____ day of _____,
20__ at _____ M.

By _____
for the Governor

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The attached Act is hereby
approved this _____ day of
_____, A.D., 20__

Governor

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STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State