

PRIORITY OF MORTGAGES (EXCERPT)
Act 348 of 1990

565.901 Definitions.

Sec. 1. As used in this act:

(a) "Future advance" means an indebtedness or other obligation that is secured by a mortgage and arises or is incurred after the mortgage has been recorded, whether or not the future advance was obligatory or optional on the part of the mortgagee.

(b) "Future advance mortgage" means a mortgage that secures a future advance and is recorded either prior to or after the effective date of this act. If a recorded mortgage is amended to secure, expressly and not by implication, a future advance arising after the amendment, the mortgage becomes a future advance mortgage at the time the amendment is recorded.

(c) "Protective advance" means a future advance that arises because the mortgagee makes an expenditure or expenditures for 1 or more of the following:

(i) To fulfill or perform an obligation of the mortgagor under the mortgage, with respect to the mortgaged property, that the mortgagor has failed to fulfill or perform.

(ii) To preserve the priority of the mortgage or the value of the mortgaged property.

(iii) For attorneys fees or other expenses that are incurred in exercising a right or remedy under the mortgage or that the mortgagor has agreed in the mortgage to reimburse to the mortgagee.

(d) "Residential future advance mortgage" means a future advance mortgage upon 1 or more of the following:

(i) A single structure designed principally for the occupancy of from 1 to 4 families.

(ii) A single manufactured home designed principally for the occupancy of from 1 to 4 families.

(iii) A single condominium unit or cooperative unit, designed principally for the occupancy of from 1 to 4 families.

(iv) Land upon which the mortgagor intends to construct a single structure designed principally for the occupancy of from 1 to 4 families, if the structure is to be constructed using proceeds of a loan secured by the mortgage, unless the mortgagor intends to resell the structure without occupying it as a dwelling.

(v) Land upon which the mortgagor intends to place a single manufactured home, if it will be purchased using proceeds of a loan secured by the mortgage, unless the mortgagor intends to resell the manufactured home without occupying it as a dwelling.

(e) Notwithstanding subdivision (d), a mortgage is not a "residential future advance mortgage" if the land subject to the mortgage is more than 25 acres in size.

History: 1990, Act 348, Eff. Apr. 1, 1991;—Am. 1992, Act 35, Eff. July 1, 1992.