

PRIORITY OF MORTGAGES (EXCERPT)
Act 348 of 1990

565.903a Priority of residential future advance mortgage.

Sec. 3a.

(1) Sections 2 and 3 do not apply to a residential future advance mortgage, except to the extent the mortgage secures a protective advance unless there are set forth in a conspicuous manner on the first page of the mortgage or on the first page of an amendment to the mortgage both of the following statements:

(a) "This is a future advance mortgage".

(b) A statement of the maximum principal amount, excluding protective advances, that may be secured by the mortgage.

(2) For purposes of subsection (1), a printed heading in capitals is conspicuous, and language in the body of a mortgage or amendment to a mortgage is conspicuous if it is in larger or other contrasting type.

(3) Except as provided in subsection (4), if a residential future advance mortgage is amended to contain the statements required in subsection (1), then the mortgage has priority with respect to a future advance secured by the mortgage as if the future advance were made at the time the amendment was recorded.

(4) Notwithstanding subsections (1) and (3), if a residential future advance mortgage was recorded before the effective date of the amendatory act that added this section, and if another mortgage, lien, or other interest in the property was recorded after the residential future advance mortgage was recorded, after March 31, 1991, and before the effective date of the amendatory act that added this section, then the residential future advance mortgage has priority, in accordance with sections 2 and 3, with respect to a future advance secured by the mortgage, over the other mortgage, lien, or other interest, even though the residential future advance mortgage does not contain the statements described in subsection (1). If a mortgage is amended to become a residential future advance mortgage, then for purposes of this subsection the mortgage is considered to have been recorded at the time the amendment was recorded.

(5) If sections 2 and 3 do not apply to a residential future advance mortgage with respect to a future advance secured by the mortgage, then the priority of the mortgage with respect to the advance shall be determined by the law that would have applied in the absence of this act, except as provided in subsection (4).

History: Add. 1992, Act 35, Eff. July 1, 1992