

**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA – JACKSONVILLE DIVISION**

**CASE NO. 3:09-bk-07047-JAF  
CHAPTER 11**

**IN RE:**

**Taylor Bean & Whitaker  
Mortgage Corp.,**

**Debtor.**

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**AMERICAN HOME’S MOTION FOR RELIEF  
FROM THE AUTOMATIC STAY  
(1001 S Bay Road NE, Olympia, Washington 98506)**

**COMES NOW**, American Home Mortgage Service, Inc. as servicer for U.S. Bank National Association, as Trustee for TBW Mortgage-Backed Trust Series 2006-4, TBW Mortgage Pass-Through Certificates, Series 2006-4, its Successors and/or Assigns (“Secured Creditor”), by and through its undersigned counsel, moves for Relief from the Automatic Stay, and states as follows:

1. The Court has jurisdiction over this matter pursuant to 11 U.S.C. § 362, FRBP 4001(a) and the various other applicable provisions of the United States Bankruptcy Code, Federal Rules of Bankruptcy Procedure and the laws of the United States of America.
2. The Debtor listed above (the “Debtor”) filed a voluntary petition pursuant to Chapter 11 of the Bankruptcy Code on August 24, 2009.
3. The aforementioned Mortgage gives Secured Creditor a first mortgage position on said property, legally described as:

THAT PART OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 18, TOWNSHIP 18 NORTH, RANGE 1 WEST, W.M., DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE SOUTH 5 ACRES OF THAT PART OF THE NORTH 967 FEET OF THAT PART OF SAID NORTHWEST QUARTER OF THE NORTHWEST QUARTER LYING WESTERLY OF CENTER LINE OF COUNTY ROAD KNOWN AS SOUTH BAY ROAD AS SAME EXISTED ON DECEMBER 10, 1926;  
RUNNING THENCE SOUTH ALONG THE WEST LINE OF SAID SECTION TO A POINT 802 FEET SOUTH OF THE NORTHWEST CORNER THEREOF;  
THENCE EAST TO THE WESTERLY LINE OF SAID SOUTH BAY ROAD AS ESTABLISHED IN 1929;  
THENCE NORTHERLY ALONG SAID WESTERLY LINE OF ROAD TO SAID NORTH LINE OF 5 ACRE TRACT;  
THENCE WEST ALONG SAID NORTH LINE TO THE POINT OF BEGINNING;

EXCEPTING THEREFROM TRACT CONVEYED TO LEONARD D. RAYL BY DEED EXECUTED MAY 17, 1936 AND RECORDED IN VOLUME 149 OF DEEDS, PAGE 330, TRACT CONVEYED TO J.W. RAYL AND WIFE BY DEED DATED OCTOBER 18, 1937 AND RECORDED IN VOLUME 152 OF DEEDS, PAGE 203, AND EXCEPTING ALSO THAT PART LYING WESTERLY OF CENTER LINE OF DITCH KNOWN AS BALCK DITCH;

SITUATE IN THE **COUNTY OF THURSTON**, STATE OF WASHINGTON.

4. Secured Creditor holds a security interest in the Debtor's real property located at 1001 S Bay Road NE, Olympia, Washington 98506, by virtue of a Mortgage dated May 31, 2006, which was recorded in the Public Records of Thurston County, Washington, on June 5, 2006, in ID #3837091, Pages 1-17. Said Mortgage secures a Note in the amount of \$154,000.00. See Exhibit "A" attached hereto.

5. The Debtor holds a junior mortgage on the above reference property with a loan amount of \$38,500.00 and recorded in Thurston County, Washington on June 5, 2006 at Aud. File # 3837092.

6. The Debtor is unable to adequately protect the interest of the Secured Creditor.

7. There is no equity in the property.

8. Secured Creditor is prohibited from instituting and/or completing a foreclosure action in the State Court because of the pendency of the Bankruptcy action and that, in the

absence of the Court's Order allowing Secured Creditor to proceed with the Foreclosure action, the Secured Creditor's security will be significantly jeopardized.

9. In support of this Motion is an Affidavit of Attorney attached as Exhibit "B".

10. Secured Creditor maintains that cause exists pursuant to 11 U.S.C. § 362(d)(1) for the automatic stay to be lifted to allow Secured Creditor to pursue its *in rem* remedies.

11. Pursuant to 11 U.S.C. § 362(e), Secured Creditor hereby requests that in the event a hearing becomes necessary one be held within thirty (30) days.

12. Secured Creditor respectfully requests the Court waives the fourteen (14) day stay of the Order Granting Relief pursuant to Bankruptcy Rule 4001 (a)(3), so the Secured Creditor can pursue its *in rem* remedies without further delay.

**WHEREFORE**, Secured Creditor moves for this Honorable Court to enter an Order allowing it to initiate or continue a foreclosure which includes Debtor as necessary party Defendant, and for such other relief as the Court may deem just and proper.

#### **CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that I am admitted to the Bar of the United States District Court for the Southern District of Florida and I am in compliance with the additional qualifications to practice in this Court set forth in Local Rule 2090-1 (A).

**I HEREBY CERTIFY** that a true and correct copy of the foregoing was delivered to the addressees on the attached mailing list by First Class U. S. Mail postage pre-paid and/or by Electronic Filing this 17<sup>th</sup> day of September, 2010 pursuant Local Rule 1007(d).

Respectfully Submitted,

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