

**Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 08-1069.01 Duane Gall

HOUSE BILL 08-1402

HOUSE SPONSORSHIP

Gagliardi and Ferrandino, Benefield, Borodkin, Butcher, Carroll M., Casso, Fischer, Gallegos, Green, Kerr A., McGihon, Merrifield, Middleton, Peniston, Pommer, Primavera, Solano, Soper, and Todd

SENATE SPONSORSHIP

Bacon, Boyd, Groff, Morse, Tapia, and Tochtrop

House Committees

Business Affairs and Labor
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING ADDITIONAL PROTECTIONS FOR HOMEOWNERS FACING**
102 **FORECLOSURE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Requires a lender to give the borrower written notice at least 30 days in advance of a change in the interest rate or other factors affecting the size of a payment on a residential mortgage loan, and to provide contact information for the lender's representative and the Colorado foreclosure hotline in case the borrower is unable to make regular payments after the change.

In a hearing for a court order authorizing a foreclosure sale, directs

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

the court to extend the sale date for 90 days in the case of certain residential mortgages if the debtor shows either that required documentation was not duly served on the debtor or that a representative of the lender did not engage in good-faith loss mitigation efforts, defined as efforts to work with the borrower to extend or restructure the loan. Repeals the 90-day delay provision after 3 years.

Requires filing of notices to the debtor and affidavits of compliance with good-faith loss mitigation efforts along with the notice of election and demand to initiate a public trustee's sale. Excludes credit sales from the act.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 [REDACTED]
3 [REDACTED]
4 **SECTION 1.** 38-38-102.5, Colorado Revised Statutes, is
5 RECREATED AND REENACTED, WITH AMENDMENTS, to read:

6 **38-38-102.5. Notice prior to residential foreclosure - hotline.**

7 (1) AS USED IN THIS SECTION, "HOLDER" MEANS THE HOLDER OF AN
8 EVIDENCE OF DEBT CONSTITUTING A RESIDENTIAL MORTGAGE LOAN, AS
9 DEFINED IN SECTION 12-61-902, C.R.S., AND ANY LOAN SERVICER OR
10 OTHER PERSON ACTING [REDACTED] ON THE HOLDER'S BEHALF. "HOLDER" SHALL
11 NOT INCLUDE A PERSON WHOSE ONLY ACTIVITY AS A HOLDER IS AS THE
12 SELLER IN NOT MORE THAN THREE CREDIT SALES OR LOANS PER YEAR.

13 [REDACTED]
14 (2) AT LEAST THIRTY DAYS BEFORE FILING A NOTICE OF ELECTION
15 AND DEMAND AND AT LEAST THIRTY DAYS AFTER DEFAULT, THE HOLDER
16 SHALL MAIL A NOTICE ADDRESSED TO THE DEBTOR FROM WHOM IT HAS
17 BEEN COLLECTING PAYMENTS AT THE ADDRESS SHOWN ON ITS RECORDS,
18 CONTAINING THE TELEPHONE NUMBER OF THE COLORADO FORECLOSURE
19 HOTLINE AND THE DIRECT TELEPHONE NUMBER OF THE LOSS MITIGATION
20 DEPARTMENT.

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SECTION 2. Part 7 of article 32 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24-32-719. Foreclosure prevention - outreach efforts - grant fund - creation - administration. (1) THERE IS HEREBY CREATED IN THE STATE TREASURY THE FORECLOSURE PREVENTION GRANT FUND. THE FUND SHALL CONSIST OF MONEYS APPROPRIATED BY THE GENERAL ASSEMBLY AS WELL AS GIFTS, GRANTS, AND DONATIONS, WHICH THE DIVISION IS HEREBY AUTHORIZED AND DIRECTED TO SOLICIT, ACCEPT, AND DISBURSE FOR THE PURPOSE OF MAKING GRANTS AS PROVIDED IN THIS SECTION. ANY MONEYS IN SUCH FUND AT THE END OF ANY FISCAL YEAR SHALL NOT REVERT TO THE GENERAL FUND.

(2) UPON THE APPROVAL OF THE STATE HOUSING BOARD, THE DIVISION MAY MAKE A GRANT FROM MONEYS IN THE FUND TO ANY LOCAL HOUSING AUTHORITY, PUBLIC NONPROFIT CORPORATION, OR PRIVATE NONPROFIT CORPORATION FOR THE SOLE PURPOSE OF PROVIDING OUTREACH AND NOTICE OF FORECLOSURE PREVENTION ASSISTANCE TO PERSONS IN DANGER OF FORECLOSURE AND TO COMMUNITIES WITH HIGH FORECLOSURE RATES. GRANTS SHALL BE MADE SUBJECT TO PROPOSALS RECEIVED BY THE DIVISION AND AWARDED BASED UPON CRITERIA DETERMINED BY THE DIVISION, WHICH CRITERIA SHALL INCLUDE:

- (a) EVIDENCE OF THE ABILITY TO USE FUNDS EFFECTIVELY;
- (b) AN ESTABLISHED PRESENCE IN THE COMMUNITY, WITH PREFERENCE GIVEN TO ORGANIZATIONS WITH MEMBERS IN LOW- AND MODERATE-INCOME AREAS WITH HIGH FORECLOSURE RATES; AND
- (c) A DEMONSTRATED ABILITY TO REACH HOMEOWNERS FROM

1 CONSTITUENCIES AND COMMUNITIES WITH HIGH FORECLOSURE RATES.
2 (3) ON OR BEFORE JANUARY 1, 2009, AND ON OR BEFORE EACH
3 JANUARY 1 THEREAFTER, THE DIVISION SHALL REPORT TO THE BUSINESS
4 AFFAIRS AND LABOR COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND
5 THE BUSINESS, LABOR, AND TECHNOLOGY COMMITTEE OF THE SENATE, OR
6 THEIR SUCCESSOR COMMITTEES, ON THE DIVISION'S RECEIPTS AND
7 EXPENDITURES PURSUANT TO THIS SECTION. THE DIVISION'S REPORT
8 SHALL CONTAIN QUANTIFIED RESULTS OF OUTCOMES, INCLUDING DATA AS
9 TO THE NUMBER OF CALLS TO THE FORECLOSURE HOTLINE AND THE
10 NUMBERS OF DEFAULTS, FORECLOSURES, AND REDEMPTIONS IN IDENTIFIED
11 GEOGRAPHIC AREAS.

12 **SECTION 3. Appropriation.** (1) In addition to any other
13 appropriation, there is hereby appropriated, out of any moneys in the
14 general fund not otherwise appropriated, to the foreclosure prevention
15 grant fund created in section 24-32-719, Colorado Revised Statutes, for
16 the fiscal year beginning July 1, 2008, the sum of one hundred thousand
17 dollars (\$100,000), or so much thereof as may be necessary, for the
18 implementation of this act.

19 (2) In addition to any other appropriation, there is hereby
20 appropriated, out of any moneys in the foreclosure prevention grant fund
21 not otherwise appropriated, to the department of local affairs, for
22 allocation to the division of housing, for the fiscal year beginning July 1,
23 2008, the sum of one hundred thousand dollars (\$100,000), or so much
24 thereof as may be necessary, for the implementation of this act.

25 **SECTION 4. Effective date - applicability.** This act shall take
26 effect upon passage and shall apply to foreclosure actions filed on or after
27 said date.

1 **SECTION 5. Safety clause.** The general assembly hereby finds,
2 determines, and declares that this act is necessary for the immediate
3 preservation of the public peace, health, and safety.