

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

**PREAMENDED**

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

LLS NO. 10-0600.01 Duane Gall

**HOUSE BILL 10-1133**

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**HOUSE SPONSORSHIP**

Massey,

**SENATE SPONSORSHIP**

(None),

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**House Committees**  
Judiciary

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING AMENDMENTS TO THE "COLORADO FORECLOSURE**  
102 **PROTECTION ACT".**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

The bill repeals subpart 3 of the "Colorado Foreclosure Protection Act", enacted in 2006, and the corresponding definition of an "equity purchaser". It retains subpart 2, regulating foreclosure consultants.

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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.*

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

2 **SECTION 1.** 6-1-1103 (2) (a), Colorado Revised Statutes, is  
3 amended, and the said 6-1-1103 (2) is further amended BY THE  
4 ADDITION OF A NEW PARAGRAPH, to read:

5 **6-1-1103. Definitions.** As used in this part 11, unless the context  
6 otherwise requires:

7 (2) "Equity purchaser" means a person, OTHER THAN A PERSON  
8 WHO ACQUIRES A PROPERTY FOR THE PURPOSE OF USING SUCH PROPERTY  
9 AS HIS OR HER PERSONAL RESIDENCE, ~~who in the course of the person's~~  
10 ~~business, vocation, or occupation,~~ acquires title to a residence in  
11 foreclosure; except that the term does not include a person who acquires  
12 such title:

13 ~~(a) For the purpose of using such property as his or her personal~~  
14 ~~residence for at least one year;~~

15 (h) AS A RESULT OF A SHORT SALE TRANSACTION IN WHICH A  
16 SHORT SALE ADDENDUM FORM, AS PROMULGATED BY THE COLORADO  
17 REAL ESTATE COMMISSION, IS PART OF THE CONTRACT USED TO ACQUIRE  
18 A RESIDENCE IN FORECLOSURE AND SUCH TRANSACTION COMPLIES WITH  
19 SECTION 6-1-1121.

20 **SECTION 2.** The introductory portion to 6-1-1103 (4) (a) and  
21 6-1-1103 (8), Colorado Revised Statutes, are amended, and the said  
22 6-1-1103 is further amended BY THE ADDITION OF A NEW  
23 SUBSECTION, to read:

24 **6-1-1103. Definitions.** As used in this part 11, unless the context  
25 otherwise requires:

26 (4) (a) "Foreclosure consultant" means a person who does not,  
27 directly or through an associate, take or acquire any interest in or title to

1 ~~the residence in foreclosure~~ A HOMEOWNER'S PROPERTY and who, in the  
2 course of such person's business, vocation, or occupation, makes a  
3 solicitation, representation, or offer to a home owner to perform, in  
4 exchange for compensation from the home owner or from the proceeds  
5 of any loan or advance of funds, a service that the person represents will  
6 do any of the following:

7 (8) (a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF  
8 THIS SUBSECTION (8), "residence in foreclosure" means a residence or  
9 dwelling, as defined in sections 5-1-201 and 5-1-301, C.R.S., that is  
10 occupied as the home owner's principal place of residence and that is  
11 encumbered by a residential mortgage loan that is at least thirty days  
12 delinquent or in default.

13 (b) WITH RESPECT TO SUBPART 3 OF THIS PART 11, "RESIDENCE IN  
14 FORECLOSURE" MEANS, A RESIDENCE OR DWELLING, AS DEFINED IN  
15 SECTIONS 5-1-201 AND 5-1-301, C.R.S., THAT IS OCCUPIED AS THE HOME  
16 OWNER'S PRINCIPAL PLACE OF RESIDENCE, IS ENCUMBERED BY A  
17 RESIDENTIAL MORTGAGE LOAN, AND AGAINST WHICH A FORECLOSURE  
18 ACTION HAS BEEN COMMENCED OR AS TO WHICH AN EQUITY PURCHASER  
19 OTHERWISE HAS ACTUAL KNOWLEDGE THAT THE LOAN IS AT LEAST THIRTY  
20 DAYS DELINQUENT OR IN DEFAULT.

21 (9) "SHORT SALE" OR "SHORT SALE TRANSACTION" MEANS A  
22 TRANSACTION IN WHICH THE RESIDENCE IN FORECLOSURE IS SOLD WITH  
23 THE CONSENT OF THE HOLDER OF EVIDENCE OF DEBT FOR AN AMOUNT  
24 THAT IS LESS THAN THE AMOUNT OF THE DEBTOR'S OUTSTANDING  
25 OBLIGATION UNDER SUCH EVIDENCE OF DEBT.

26 **SECTION 3.** 6-1-1104 (4), Colorado Revised Statutes, is  
27 amended to read:

1           **6-1-1104. Foreclosure consulting contract.** (4) A foreclosure  
2 consulting contract shall be dated and personally signed, with each page  
3 being initialed, by each home owner of the residence in foreclosure and  
4 the foreclosure consultant and shall be acknowledged by a notary public  
5 in the presence of the home owner at the time the contract is signed by the  
6 home owner.

7           **SECTION 4.** 6-1-1111, Colorado Revised Statutes, is amended  
8 to read:

9           **6-1-1111. Written contract required.** Every contract shall be  
10 written in at least twelve-point, ~~bold-faced~~ LEGIBLE type and fully  
11 completed, signed, and dated by the home owner and equity purchaser  
12 prior to the execution of any instrument quit-claiming, assigning,  
13 transferring, conveying, or encumbering an interest in the residence in  
14 foreclosure.

15           **SECTION 5.** 6-1-1120, Colorado Revised Statutes, is amended  
16 to read:

17           **6-1-1120. Language.** Any contract, rental agreement, lease,  
18 option or right to repurchase, and any notice, conveyance, lien,  
19 encumbrance, consent, or other document or instrument signed by a home  
20 owner, shall be written in English; ~~and shall be accompanied by a written~~  
21 ~~translation from English into any other language principally spoken by the~~  
22 ~~home owner, certified by the person making the translation as a true and~~  
23 ~~correct translation of the English version. The translated version shall be~~  
24 ~~presumed to have equal status and credibility as the English version.~~  
25 EXCEPT THAT, IF THE HOME OWNER'S PRINCIPAL LANGUAGE IS OTHER THAN  
26 ENGLISH, THE HOME OWNER SHALL BE PROVIDED WITH A NOTICE, WRITTEN  
27 IN THE HOME OWNER'S PRINCIPAL LANGUAGE, AS FOLLOWS:

1           **THIS TRANSACTION INVOLVES IMPORTANT AND COMPLEX**  
2           **LEGAL CONSEQUENCES, INCLUDING YOUR RIGHT TO**  
3           **CANCEL THIS TRANSACTION WITHIN THREE BUSINESS**  
4           **DAYS FOLLOWING THE DATE YOU SIGNED THIS**  
5           **CONTRACT. YOU SHOULD CONSULT WITH AN ATTORNEY**  
6           **OR SEEK ASSISTANCE FROM A HOUSING COUNSELOR BY**  
7           **CALLING THE COLORADO FORECLOSURE HOTLINE AT**  
8           \_\_\_\_\_ [CURRENT, CORRECT TELEPHONE  
9           NUMBER].

10           **SECTION 6.** Part 11 of article 1 of title 6, Colorado Revised  
11 Statutes, is amended BY THE ADDITION OF A NEW SECTION to  
12 read:

13           **6-1-1121. Short sales.** (1) WITH RESPECT TO ANY SHORT SALE  
14 OFFER MADE TO A HOME OWNER OF A RESIDENCE IN FORECLOSURE, THE  
15 EQUITY PURCHASER SHALL:

16           (a) PROVIDE FULL DISCLOSURE, BOTH TO THE HOMEOWNER AND TO  
17 THE HOLDER OF THE EVIDENCE OF DEBT ON THE RESIDENCE IN  
18 FORECLOSURE, OF THE EXISTENCE OF ANY SUBSEQUENT PURCHASER OF  
19 THE RESIDENCE IN FORECLOSURE FROM THE EQUITY PURCHASER;

20           (b) COMPLY WITH ALL APPLICABLE RULES ADOPTED BY THE  
21 COLORADO REAL ESTATE COMMISSION WITH REGARD TO SHORT SALES;

22 AND

23           (c) COMPLY WITH SECTION 38-35-125, C.R.S.

24           **SECTION 7. Act subject to petition - effective date.** This act  
25 shall take effect at 12:01 a.m. on the day following the expiration of the  
26 ninety-day period after final adjournment of the general assembly (August  
27 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a

1 referendum petition is filed pursuant to section 1 (3) of article V of the  
2 state constitution against this act or an item, section, or part of this act  
3 within such period, then the act, item, section, or part shall not take effect  
4 unless approved by the people at the general election to be held in  
5 November 2010 and shall take effect on the date of the official  
6 declaration of the vote thereon by the governor.