

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

February 8, 2010
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB10-1133 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

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

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

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

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

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

1 SECTION 6-1-1121.

2 **SECTION 2.** The introductory portion to 6-1-1103 (4) (a) and
3 6-1-1103 (8), Colorado Revised Statutes, are amended, and the said
4 6-1-1103 is further amended BY THE ADDITION OF A NEW
5 SUBSECTION, to read:

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

8 (4) (a) "Foreclosure consultant" means a person who does not,
9 directly or through an associate, take or acquire any interest in or title to
10 ~~the residence in foreclosure~~ A HOMEOWNER'S PROPERTY and who, in the
11 course of such person's business, vocation, or occupation, makes a
12 solicitation, representation, or offer to a home owner to perform, in
13 exchange for compensation from the home owner or from the proceeds
14 of any loan or advance of funds, a service that the person represents will
15 do any of the following:

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

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

30 (9) "SHORT SALE" OR "SHORT SALE TRANSACTION" MEANS A
31 TRANSACTION IN WHICH THE RESIDENCE IN FORECLOSURE IS SOLD WITH
32 THE CONSENT OF THE HOLDER OF EVIDENCE OF DEBT FOR AN AMOUNT
33 THAT IS LESS THAN THE AMOUNT OF THE DEBTOR'S OUTSTANDING
34 OBLIGATION UNDER SUCH EVIDENCE OF DEBT.

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

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

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

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

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

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

30 **THIS TRANSACTION INVOLVES IMPORTANT AND COMPLEX**
31 **LEGAL CONSEQUENCES, INCLUDING YOUR RIGHT TO**
32 **CANCEL THIS TRANSACTION WITHIN THREE BUSINESS**
33 **DAYS FOLLOWING THE DATE YOU SIGNED THIS**
34 **CONTRACT. YOU SHOULD CONSULT WITH AN ATTORNEY**
35 **OR SEEK ASSISTANCE FROM A HOUSING COUNSELOR BY**

1 **CALLING THE COLORADO FORECLOSURE HOTLINE AT**
2 _____ [CURRENT, CORRECT TELEPHONE
3 NUMBER].

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

7 **6-1-1121. Short sales.** (1) WITH RESPECT TO ANY SHORT SALE
8 OFFER MADE TO A HOME OWNER OF A RESIDENCE IN FORECLOSURE, THE
9 EQUITY PURCHASER SHALL:

10 (a) PROVIDE FULL DISCLOSURE, BOTH TO THE HOMEOWNER AND TO
11 THE HOLDER OF THE EVIDENCE OF DEBT ON THE RESIDENCE IN
12 FORECLOSURE, OF THE EXISTENCE OF ANY SUBSEQUENT PURCHASER OF
13 THE RESIDENCE IN FORECLOSURE FROM THE EQUITY PURCHASER;

14 (b) COMPLY WITH ALL APPLICABLE RULES ADOPTED BY THE
15 COLORADO REAL ESTATE COMMISSION WITH REGARD TO SHORT SALES;
16 AND

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

18 **SECTION 7. Act subject to petition - effective date.** This act
19 shall take effect at 12:01 a.m. on the day following the expiration of the
20 ninety-day period after final adjournment of the general assembly (August
21 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a
22 referendum petition is filed pursuant to section 1 (3) of article V of the
23 state constitution against this act or an item, section, or part of this act
24 within such period, then the act, item, section, or part shall not take effect
25 unless approved by the people at the general election to be held in
26 November 2010 and shall take effect on the date of the official
27 declaration of the vote thereon by the governor."

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