

Second Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO

2nd REREVISED

*This Version Includes All Amendments  
Adopted in the Second House*

LLS NO. 10-0600.01 Duane Gall

**HOUSE BILL 10-1133**

**HOUSE SPONSORSHIP**

Massey,

**SENATE SPONSORSHIP**

Tochtrop,

**House Committees**  
Judiciary

**Senate Committees**  
Judiciary

**A BILL FOR AN ACT**

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

**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.

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.*

SENATE  
Recall 3rd Reading  
April 20, 2010

SENATE  
Amended 3rd Reading  
March 25, 2010

SENATE  
Amended 2nd Reading  
March 23, 2010

HOUSE  
Amended 3rd Reading  
February 23, 2010

HOUSE  
Amended 2nd Reading  
February 22, 2010

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

2 **SECTION 1.** 6-1-1103 (2)(a) and (7), Colorado Revised Statutes,  
3 are 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 (7) "Home owner" means the owner of a residence in foreclosure  
21 DWELLING WHO OCCUPIES IT AS HIS OR HER PRINCIPAL PLACE OF  
22 RESIDENCE, including a vendee under a contract for deed to real property,  
23 as that term is defined in section 38-35-126 (1) (b), C.R.S.

24 **SECTION 2.** The introductory portion to 6-1-1103 (4) (a) and  
25 6-1-1103 (8), Colorado Revised Statutes, are amended, and the said  
26 6-1-1103 is further amended BY THE ADDITION OF A NEW  
27 SUBSECTION, to read:

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

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

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

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

25           (9) "SHORT SALE" OR "SHORT SALE TRANSACTION" MEANS A  
26 TRANSACTION IN WHICH THE RESIDENCE IN FORECLOSURE IS SOLD WHEN:

27           (a) A HOLDER OF EVIDENCE OF DEBT AGREES TO RELEASE ITS LIEN

1 FOR AN AMOUNT THAT IS LESS THAN THE OUTSTANDING AMOUNT DUE AND  
2 OWING UNDER SUCH EVIDENCE OF DEBT; AND

3 (b) THE LIEN DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION  
4 (9) IS RECORDED IN THE REAL PROPERTY RECORDS OF THE COUNTY WHERE  
5 THE RESIDENCE IN FORECLOSURE IS LOCATED.

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

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

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

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

22 **SECTION 5.** The introductory portion to 6-1-1112 (1) (j),  
23 Colorado Revised Statutes, is amended to read:

24 **6-1-1112. Written contract - contents - notice.** (1) Every  
25 contract shall contain the entire agreement of the parties and shall include  
26 the following terms:

27 (j) The following notice, in at least ~~fourteen-point~~ NINE-POINT

1 bold-faced type, and completed with the name of the equity purchaser,  
2 immediately above the statement required by section 6-1-1114:

3 SECTION 6. The introductory portions to 6-1-1114 (2) and (2)  
4 (c), Colorado Revised Statutes, are amended to read:

5 6-1-1114. Notice of cancellation. (2) The contract shall be  
6 accompanied by duplicate completed forms, captioned "notice of  
7 cancellation" in at least ~~twelve-point~~ NINE-POINT bold-faced type if the  
8 contract is printed or in capital letters if the contract is typed, followed by  
9 a space in which the equity purchaser shall enter the date on which the  
10 home owner executed the contract. Such form shall:

11 (c) Contain the following statement, in at least ~~ten-point~~  
12 NINE-POINT type if the contract is printed or in capital letters if the  
13 contract is typed:

14 SECTION 7. 6-1-1120, Colorado Revised Statutes, is amended  
15 to read:

16 6-1-1120. Language. (1) Any contract, rental agreement, lease,  
17 option or right to repurchase, and any notice, conveyance, lien,  
18 encumbrance, consent, or other document or instrument signed by a home  
19 owner, shall be written in English; ~~and shall be accompanied by a written~~  
20 ~~translation from English into any other language principally spoken by the~~  
21 ~~home owner, certified by the person making the translation as a true and~~  
22 ~~correct translation of the English version. The translated version shall be~~  
23 ~~presumed to have equal status and credibility as the English version.~~  
24 EXCEPT THAT, IF THE EQUITY PURCHASER HAS ACTUAL OR CONSTRUCTIVE  
25 KNOWLEDGE THAT THE HOME OWNER'S PRINCIPAL LANGUAGE IS OTHER  
26 THAN ENGLISH, THE HOME OWNER SHALL BE PROVIDED WITH A NOTICE,  
27 WRITTEN IN THE HOME OWNER'S PRINCIPAL LANGUAGE, SUBSTANTIALLY

1 AS FOLLOWS:

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

11 (2) IF A NOTICE IN THE HOME OWNER'S PRINCIPAL LANGUAGE IS  
12 REQUIRED TO BE PROVIDED UNDER SUBSECTION (1) OF THIS SECTION, THE  
13 NOTICE SHALL BE GIVEN TO THE HOME OWNER AS A SEPARATE DOCUMENT  
14 ACCOMPANYING THE WRITTEN CONTRACT REQUIRED BY SECTION 6-1-1111.

15 **SECTION 8.** Part 11 of article 1 of title 6, Colorado Revised  
16 Statutes, is amended BY THE ADDITION OF A NEW SECTION to  
17 read:

18 **6-1-1121. Short sales - subsequent purchaser - definition.**

19 (1) WITH RESPECT TO ANY SHORT SALE TRANSACTION IN WHICH AN  
20 EQUITY PURCHASER INTENDS TO RESELL THE RESIDENCE IN FORECLOSURE  
21 TO A SUBSEQUENT PURCHASER, THE EQUITY PURCHASER SHALL:

22 (a) PROVIDE FULL DISCLOSURE TO THE HOME OWNER AND TO THE  
23 HOLDERS OF THE EVIDENCE OF DEBT ON THE RESIDENCE IN FORECLOSURE,  
24 OR SUCH HOLDERS' REPRESENTATIVES, OF THE TERMS OF THE AGREEMENT  
25 BETWEEN THE EQUITY PURCHASER AND ANY SUBSEQUENT PURCHASER,  
26 INCLUDING BUT NOT LIMITED TO THE PURCHASE PRICE TO BE PAID BY THE  
27 SUBSEQUENT PURCHASER FOR THE RESIDENCE IN FORECLOSURE, WHICH

1 DISCLOSURE SHALL BE MADE WITHIN ONE BUSINESS DAY OF IDENTIFYING  
2 ANY SUCH SUBSEQUENT PURCHASER AND IN NO EVENT LATER THAN  
3 CLOSING ON THE SHORT SALE TRANSACTION;

4 (b) PROVIDE FULL DISCLOSURE TO ANY SUBSEQUENT PURCHASER  
5 AND TO ANY SUBSEQUENT PURCHASER'S LENDER, OR SUCH LENDER'S  
6 REPRESENTATIVE, AT THE TIME OF CONTRACT WITH THE EQUITY  
7 PURCHASER, OF THE TERMS OF THE AGREEMENT BETWEEN THE EQUITY  
8 PURCHASER AND THE HOME OWNER, INCLUDING BUT NOT LIMITED TO THE  
9 PURCHASE PRICE PAID BY THE EQUITY PURCHASER FOR THE RESIDENCE IN  
10 FORECLOSURE;

11 (c) COMPLY WITH ALL APPLICABLE RULES ADOPTED BY THE  
12 COLORADO REAL ESTATE COMMISSION WITH REGARD TO SHORT SALES;  
13 AND

14 (d) COMPLY WITH SECTION 38-35-125, C.R.S.

15 (2) AS USED IN THIS SECTION, A "SUBSEQUENT PURCHASER" MEANS  
16 ANY PERSON WHO ENTERS INTO A CONTRACT WITH AN EQUITY PURCHASER  
17 PRIOR TO THE DISBURSEMENT OF THE SHORT SALE TRANSACTION TO  
18 ACQUIRE THE RESIDENCE IN FORECLOSURE AND WHO ACQUIRES THE  
19 RESIDENCE IN FORECLOSURE WITHIN FOURTEEN DAYS AFTER THE  
20 DISBURSEMENT OF THE SHORT SALE TRANSACTION.

21 **SECTION 9. Act subject to petition - specified effective date.**

22 This act shall take effect January 1, 2011; except that, if a referendum  
23 petition is filed pursuant to section 1 (3) of article V of the state  
24 constitution against this act or an item, section, or part of this act within  
25 the ninety-day period after final adjournment of the general assembly,  
26 then the act, item, section, or part shall not take effect unless approved by  
27 the people at the general election to be held in November 2010 and shall

- 1 take effect on January 1, 2011, or on the date of the official declaration
- 2 of the vote thereon by the governor, whichever is later.