

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 15-0815.01 Yelana Love x2295

HOUSE BILL 15-1223

HOUSE SPONSORSHIP

Williams, Nordberg

SENATE SPONSORSHIP

Balmer and Jahn,

House Committees
Business Affairs and Labor

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE EXTENSION OF CURRENT STANDARDS REGARDING
102 HOME SERVICE CONTRACTS TO NEW HOMES.

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>.)

Current law regulates the sale of home service contracts for preowned homes. The bill extends this regulation to home service contracts for new homes. The bill excludes a builder's warranty against defects in construction provided in connection with the sale of a new home from the definition of "home warranty service contract" and from the standards related to consumer goods service contracts.

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 bill extends the automatic repeal of the home service contract standards from July 1, 2017, to July 1, 2020.

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

2 **SECTION 1.** In Colorado Revised Statutes, 12-61-602, **repeal** (5)
3 and (6); and **add** (2.3) and (2.5) as follows:

4 **12-61-602. Definitions.** As used in this part 6, unless the context
5 otherwise requires:

6 (2.3) "HOME WARRANTY SERVICE COMPANY", REFERRED TO IN
7 THIS PART 6 AS THE "COMPANY", MEANS ANY PERSON WHO UNDERTAKES
8 A CONTRACTUAL OBLIGATION ON A NEW OR PREOWNED HOME THROUGH
9 A HOME WARRANTY SERVICE CONTRACT.

10 (2.5) (a) "HOME WARRANTY SERVICE CONTRACT" MEANS ANY
11 CONTRACT OR AGREEMENT WHEREBY A PERSON UNDERTAKES FOR A
12 PREDETERMINED FEE, WITH RESPECT TO A SPECIFIED PERIOD OF TIME, TO
13 MAINTAIN, REPAIR, OR REPLACE ANY OR ALL OF THE FOLLOWING
14 ELEMENTS OF A SPECIFIED NEW OR PREOWNED HOME:

15 (I) STRUCTURAL COMPONENTS, SUCH AS THE ROOF, FOUNDATION,
16 BASEMENT, WALLS, CEILINGS, OR FLOORS;

17 (II) UTILITY SYSTEMS, SUCH AS ELECTRICAL, AIR CONDITIONING,
18 PLUMBING, AND HEATING SYSTEMS, INCLUDING FURNACES; AND

19 (III) APPLIANCES, SUCH AS STOVES, WASHERS, DRYERS, AND
20 DISHWASHERS.

21 (b) "HOME WARRANTY SERVICE CONTRACT" DOES NOT INCLUDE:

22 (I) ANY CONTRACT OR AGREEMENT WHEREBY A PUBLIC UTILITY
23 UNDERTAKES FOR A PREDETERMINED FEE, WITH RESPECT TO A SPECIFIED
24 PERIOD OF TIME, TO REPAIR OR REPLACE ANY OR ALL OF THE ELEMENTS OF
25 A SPECIFIED NEW OR PREOWNED HOME AS SPECIFIED IN SUBPARAGRAPH

1 (II) OR (III) OF PARAGRAPH (a) OF THIS SUBSECTION (6); OR

2 (II) A BUILDER'S WARRANTY AGAINST DEFECTS IN CONSTRUCTION
3 PROVIDED IN CONNECTION WITH THE SALE OF A NEW HOME.

4 (5) ~~"Preowned home warranty service company", referred to in this~~
5 ~~part 6 as the "company", means any person who undertakes a contractual~~
6 ~~obligation on a preowned home through a preowned home warranty~~
7 ~~service contract.~~

8 (6) (a) ~~"Preowned home warranty service contract" means any~~
9 ~~contract or agreement whereby a person undertakes for a predetermined~~
10 ~~fee, with respect to a specified period of time, to maintain, repair, or~~
11 ~~replace any or all of the following elements of a specified preowned~~
12 ~~home:~~

13 (I) ~~Structural components, such as the roof, foundation, basement,~~
14 ~~walls, ceilings, or floors;~~

15 (II) ~~Utility systems, such as electrical, air conditioning, plumbing,~~
16 ~~and heating systems, including furnaces; and~~

17 (III) ~~Appliances, such as stoves, washers, dryers, and dishwashers.~~

18 (b) ~~"Preowned home warranty service contract" does not include~~
19 ~~any contract or agreement whereby a public utility undertakes for a~~
20 ~~predetermined fee, with respect to a specified period of time, to repair or~~
21 ~~replace any or all of the elements of a specified preowned home as~~
22 ~~specified in subparagraph (II) or (III) of paragraph (a) of this subsection~~
23 ~~(6).~~

24 **SECTION 2.** In Colorado Revised Statutes, **amend** 12-61-611 as
25 follows:

26 **12-61-611. Purchase of service contract not to be compulsory.**

27 ~~No~~ A company selling, offering to sell, or effecting the issuance of a

1 ~~preowned~~ home warranty service contract under this part 6 shall NOT in
2 any manner require a home buyer or seller, or prospective home buyer or
3 seller, or person refinancing a home to purchase a ~~preowned~~ home
4 warranty service contract.

5 **SECTION 3.** In Colorado Revised Statutes, 12-61-611.5, **amend**
6 (1) introductory portion, (1) (e), (1) (f), and (1) (g) as follows:

7 **12-61-611.5. Contract requirements.** (1) Every ~~preowned~~ home
8 warranty service contract shall contain the following information:

9 (e) The specific duration of the ~~preowned~~ home warranty service
10 contract, including an exact termination date that is not contingent upon
11 an unspecified future closing date or other indefinite event;

12 (f) A statement as to whether the ~~preowned~~ home warranty service
13 contract is transferable;

14 (g) A statement that actions under a ~~preowned~~ home warranty
15 service contract may be covered by the provisions of the "Colorado
16 Consumer Protection Act" or the "Unfair Practices Act", articles 1 and 2
17 of title 6, C.R.S., and that a party to such a contract may have a right of
18 civil action under ~~such~~ THOSE laws, including obtaining the recourse or
19 penalties specified in ~~such~~ THOSE laws.

20 **SECTION 4.** In Colorado Revised Statutes, **amend** 12-61-614 as
21 follows:

22 **12-61-614. Prohibitions.** It ~~shall be~~ IS unlawful for any lending
23 institution to require the purchase of ~~preowned~~ home warranty insurance
24 as a condition for granting financing for the purchase of ~~said~~ THE home.

25 **SECTION 5.** In Colorado Revised Statutes, **amend** 12-61-615 as
26 follows:

27 **12-61-615. Repeal of part.** This part 6 is repealed, effective July

1 1, 2017 2020. Prior to such THE repeal, the provisions in this part 6 shall
2 be reviewed as provided for in section 24-34-104, C.R.S.

3 **SECTION 6.** In Colorado Revised Statutes, 10-3-903, **amend** (2)
4 introductory portion and (2) (g) as follows:

5 **10-3-903. Definition of transacting insurance business.** (2) ~~The~~
6 ~~provisions of~~ This section ~~do~~ DOES not apply to:

7 (g) The transaction of business by a ~~pre-owned~~ home warranty
8 service company pursuant to part 6 of article 61 of title 12, C.R.S.;

9 **SECTION 7.** In Colorado Revised Statutes, 10-4-1602, **amend**
10 (1) (f) and (1) (g); and **add** (1) (h) as follows:

11 **10-4-1602. Exemptions.** (1) The following items are exempt
12 from this part 16:

13 (f) ~~Pre-owned~~ Home warranty service contracts governed by part
14 6 of article 61 of title 12, C.R.S.; and

15 (g) Motor vehicle service contracts governed by article 11 of title
16 42, C.R.S.; AND

17 (h) A BUILDER'S WARRANTY AGAINST DEFECTS IN CONSTRUCTION
18 PROVIDED IN CONNECTION WITH THE SALE OF A NEW HOME.

19 **SECTION 8. Act subject to petition - effective date.** This act
20 takes effect at 12:01 a.m. on the day following the expiration of the
21 ninety-day period after final adjournment of the general assembly
22 (August 5, 2015, if adjournment sine die is on May 6, 2015); except that,
23 if a referendum petition is filed pursuant to section 1 (3) of article V of
24 the state constitution against this act or an item, section, or part of this act
25 within such period, then the act, item, section, or part will not take effect
26 unless approved by the people at the general election to be held in

1 November 2016 and, in such case, will take effect on the date of the
2 official declaration of the vote thereon by the governor.