

CHAPTER 81

CONSUMER AND COMMERCIAL TRANSACTIONS

HOUSE BILL 15-1223

BY REPRESENTATIVE(S) Williams, Nordberg, Fields;
also SENATOR(S) Balmer and Jahn, Holbert.**AN ACT****CONCERNING THE EXTENSION OF CURRENT STANDARDS REGARDING HOME SERVICE CONTRACTS
TO NEW HOMES.***Be it enacted by the General Assembly of the State of Colorado:***SECTION 1.** In Colorado Revised Statutes, 12-61-602, **repeal** (5) and (6); and **add** (2.3) and (2.5) as follows:**12-61-602. Definitions.** As used in this part 6, unless the context otherwise requires:

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

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

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

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

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

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

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

(I) ANY CONTRACT OR AGREEMENT WHEREBY A PUBLIC UTILITY UNDERTAKES FOR A PREDETERMINED FEE, WITH RESPECT TO A SPECIFIED PERIOD OF TIME, TO REPAIR OR REPLACE ANY OR ALL OF THE ELEMENTS OF A SPECIFIED NEW OR PREOWNED HOME AS SPECIFIED IN SUBPARAGRAPH (II) OR (III) OF PARAGRAPH (a) OF THIS SUBSECTION (2.5); OR

(II) A BUILDER'S WARRANTY PROVIDED IN CONNECTION WITH THE SALE OF A NEW HOME.

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

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

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

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

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

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

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

12-61-611. Purchase of service contract not to be compulsory. ~~No~~ A company selling, offering to sell, or effecting the issuance of a ~~preowned~~ home warranty service contract under this part 6 shall NOT in any manner require a home buyer or seller, or prospective home buyer or seller, or person refinancing a home to purchase a ~~preowned~~ home warranty service contract.

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

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

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

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

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

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

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

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

12-61-615. Repeal of part. This part 6 is repealed, effective July 1, 2017 2020. Prior to ~~such~~ THE repeal, ~~the provisions in~~ this part 6 shall be reviewed as provided for in section 24-34-104, C.R.S.

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

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

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

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

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

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

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

(h) A BUILDER'S WARRANTY PROVIDED IN CONNECTION WITH THE SALE OF A NEW HOME.

SECTION 8. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 5, 2015, if adjournment sine die is on May 6, 2015); except that, if a referendum petition is filed pursuant to section 1 (3)

of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2016 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: April 8, 2015