

Second Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0411.01 Duane Gall

HOUSE BILL 10-1084

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HOUSE SPONSORSHIP

Acree,

SENATE SPONSORSHIP

Mitchell,

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House Committees  
Judiciary

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING MEASURES TO ENCOURAGE THE VOLUNTARY CLEANUP OF  
102 UNOCCUPIED REAL PROPERTY.

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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>.)*

Under current law, a person who goes into the yard of a foreclosed home or other unoccupied property to clean up trash, remove weeds, or water the lawn may be considered a trespasser and, if the person injures himself or herself while doing so, may have a claim against the landowner for negligence.

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.*

**Section 1** of the bill specifies that persons who go onto unoccupied property on an unpaid basis to clean up trash, remove weeds, or water the lawn have the implied consent of the landowner to do so, and are owed an intermediate duty of care concerning hazardous conditions on the property that is more than is owed to trespassers, but less than is owed to guests or business customers. **Sections 2 and 3** amend the civil and criminal trespassing laws, respectively, to exempt persons who engage in such activity, but only to the extent of that activity and so long as they do no actual damage to the property.

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

2 **SECTION 1.** 13-21-115 (5) (b), Colorado Revised Statutes, is  
3 amended to read:

4 **13-21-115. Actions against landowners.** (5) As used in this  
5 section:

6 (b) "Licensee" means a person who enters or remains on the land  
7 of another for the licensee's own convenience or to advance his OR HER  
8 own interests, pursuant to the landowner's permission or consent.

9 "Licensee" includes a social guest. A PERSON DESCRIBED IN SECTION  
10 13-21-116.5 (2), ACTING IN GOOD FAITH, SHALL BE PRESUMED TO HAVE  
11 THE LANDOWNER'S IMPLIED CONSENT.

12 **SECTION 2.** Part 1 of article 21 of title 13, Colorado Revised  
13 Statutes, is amended BY THE ADDITION OF A NEW SECTION to  
14 read:

15 **13-21-116.5. Civil liability for trespass - limited immunity -**  
16 **volunteers cleaning up unoccupied property - definition.** (1) AS USED  
17 IN THIS SECTION, "UNOCCUPIED PROPERTY" MEANS RESIDENTIAL OR  
18 COMMERCIAL REAL PROPERTY AS TO WHICH IT WOULD APPEAR TO A  
19 REASONABLE OBSERVER THAT:

20 (a) IF RESIDENTIAL PROPERTY, NO ONE IS LIVING IN IT, AND IF

1 COMMERCIAL PROPERTY, NO LAWFUL BUSINESS IS BEING CONDUCTED  
2 THERE;

3 (b) THE PROPERTY IS NOT A COMMON ELEMENT OF A COMMON  
4 INTEREST COMMUNITY; AND

5 (c) THERE IS ON THE PROPERTY AN ACCUMULATION OF WEEDS,  
6 BRUSH, TRASH, OR DEBRIS; OR THE GRASS OR OTHER VEGETATION IS  
7 SUFFERING FROM LACK OF WATER; OR BOTH.

8 (2) ANY PERSON WHO GOES ONTO UNOCCUPIED PROPERTY ON AN  
9 UNPAID, VOLUNTARY BASIS TO TRIM OR WATER VEGETATION OR REMOVE  
10 ACCUMULATED WEEDS, BRUSH, TRASH, OR DEBRIS FROM THE PROPERTY:

11 (a) SHALL NOT, AS A RESULT OF SUCH ACTIVITY, BE LIABLE FOR  
12 ANY NOMINAL OR PRESUMED DAMAGES IN TRESPASS;

13 (b) SHALL BE LIABLE FOR ACTUAL DAMAGES CAUSED DURING  
14 ENTRY AND STAY UPON A LANDOWNER'S LAND; AND

15 (c) (I) SHALL HAVE THE STATUS OF A LICENSEE AS DEFINED IN  
16 SECTION 13-21-115 WHILE ENGAGED IN SUCH ACTIVITIES. UNDER NO  
17 CIRCUMSTANCES SHALL THE LANDOWNER BE LIABLE TO ANY SUCH PERSON  
18 FOR A SELF-INFLICTED INJURY.

19 (II) FOR PURPOSES OF THIS PARAGRAPH (c):

20 (A) IN THE CASE OF A PROPERTY THAT IS LISTED FOR SALE,  
21 "LANDOWNER" INCLUDES THE LISTING AGENT AND ANY REAL ESTATE  
22 BROKER SHOWING THE PROPERTY.

23 (B) IN THE CASE OF A PROPERTY THAT IS IN DEFAULT OR SUBJECT  
24 TO FORECLOSURE, "LANDOWNER" INCLUDES THE HOLDER OF A MORTGAGE,  
25 DEED OF TRUST, CERTIFICATE OF REDEMPTION, LIEN, OR OTHER INTEREST  
26 IN THE PROPERTY AND ANY TRUSTEE, TITLE COMPANY, MANAGING AGENT,  
27 OR OTHER AGENT OF SUCH INTEREST HOLDER.

1 (C) IN THE CASE OF A UNIT IN A COMMON INTEREST COMMUNITY,  
2 "LANDOWNER" INCLUDES THE UNIT OWNERS' ASSOCIATION AND ANY  
3 PROPERTY MANAGER OR OTHER AGENT ACTING ON BEHALF OF THE UNIT  
4 OWNERS' ASSOCIATION.

5 **SECTION 3.** Part 5 of article 4 of title 18, Colorado Revised  
6 Statutes, is amended BY THE ADDITION OF A NEW SECTION to  
7 read:

8 **18-4-515.5. Voluntary cleanup of unoccupied property -**  
9 **exception to criminal trespass - definition.** (1) AS USED IN THIS  
10 SECTION, "UNOCCUPIED PROPERTY" MEANS RESIDENTIAL OR COMMERCIAL  
11 REAL PROPERTY AS TO WHICH IT WOULD APPEAR TO A REASONABLE  
12 OBSERVER THAT:

13 (a) IF RESIDENTIAL PROPERTY, NO ONE IS LIVING IN IT, AND IF  
14 COMMERCIAL PROPERTY, NO LAWFUL BUSINESS IS BEING CONDUCTED  
15 THERE;

16 (b) THE PROPERTY IS NOT A COMMON ELEMENT OF A COMMON  
17 INTEREST COMMUNITY; AND

18 (c) THERE IS ON THE PROPERTY AN ACCUMULATION OF WEEDS,  
19 BRUSH, TRASH, OR DEBRIS; OR THE GRASS OR OTHER VEGETATION IS  
20 SUFFERING FROM LACK OF WATER; OR BOTH.

21 (2) ANY PERSON WHO GOES ONTO UNOCCUPIED PROPERTY ON AN  
22 UNPAID, VOLUNTARY BASIS TO TRIM OR WATER VEGETATION OR REMOVE  
23 ACCUMULATED WEEDS, BRUSH, TRASH, OR DEBRIS FROM THE PROPERTY:

24 (a) SHALL NOT, AS A RESULT OF SUCH ACTIVITY, BE DEEMED IN  
25 VIOLATION OF THE TRESPASS LAWS OF THIS PART 5; AND

26 (b) (I) SHALL HAVE THE STATUS OF A LICENSEE AS DEFINED IN  
27 SECTION 13-21-115, C.R.S., WHILE ENGAGED IN SUCH ACTIVITIES. UNDER

1 NO CIRCUMSTANCES SHALL THE LANDOWNER BE LIABLE TO ANY SUCH  
2 PERSON FOR A SELF-INFLICTED INJURY.

3 (II) FOR PURPOSES OF THIS PARAGRAPH (b):

4 (A) IN THE CASE OF A PROPERTY THAT IS LISTED FOR SALE,  
5 "LANDOWNER" INCLUDES THE LISTING AGENT AND ANY REAL ESTATE  
6 BROKER SHOWING THE PROPERTY.

7 (B) IN THE CASE OF A PROPERTY THAT IS IN DEFAULT OR SUBJECT  
8 TO FORECLOSURE, "LANDOWNER" INCLUDES THE HOLDER OF A MORTGAGE,  
9 DEED OF TRUST, CERTIFICATE OF REDEMPTION, LIEN, OR OTHER INTEREST  
10 IN THE PROPERTY AND ANY TRUSTEE, TITLE COMPANY, MANAGING AGENT,  
11 OR OTHER AGENT OF SUCH INTEREST HOLDER.

12 (C) IN THE CASE OF A UNIT IN A COMMON INTEREST COMMUNITY,  
13 "LANDOWNER" INCLUDES THE UNIT OWNERS' ASSOCIATION AND ANY  
14 PROPERTY MANAGER OR OTHER AGENT ACTING ON BEHALF OF THE UNIT  
15 OWNERS' ASSOCIATION.

16 **SECTION 4. Act subject to petition - effective date -**  
17 **applicability.** (1) This act shall take effect at 12:01 a.m. on the day  
18 following the expiration of the ninety-day period after final adjournment  
19 of the general assembly (August 11, 2010, if adjournment sine die is on  
20 May 12, 2010); except that, if a referendum petition is filed pursuant to  
21 section 1 (3) of article V of the state constitution against this act or an  
22 item, section, or part of this act within such period, then the act, item,  
23 section, or part shall not take effect unless approved by the people at the  
24 general election to be held in November 2010 and shall take effect on the  
25 date of the official declaration of the vote thereon by the governor.

26 (2) The provisions of this act shall apply to acts occurring on or  
27 after the applicable effective date of this act.