

**First Regular Session  
Sixty-sixth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 07-0518.01 Thomas Morris

**SENATE BILL 07-085**

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**SENATE SPONSORSHIP**

**Veiga,**

**HOUSE SPONSORSHIP**

**Massey,**

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**Senate Committees**

Business, Labor and Technology  
Appropriations

**House Committees**

Business Affairs and Labor  
Appropriations

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**A BILL FOR AN ACT**

101     **CONCERNING ADDITIONAL CONSUMER PROTECTIONS RELATING TO**  
102             **REAL ESTATE TRANSACTIONS, AND MAKING AN APPROPRIATION**  
103             **IN CONNECTION THEREWITH.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Prohibits a mortgage broker from improperly influencing a real estate appraisal and makes such improper influencing a deceptive trade practice. Specifies criminal penalties for such misconduct. Authorizes the director of the division of registrations in the department of regulatory agencies to revoke a mortgage broker's registration when the broker has improperly influenced a real estate appraisal or has, in the previous 5

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  
3rd Reading Unamended  
April 23, 2007

SENATE  
Amended 2nd Reading  
April 20, 2007

years, been enjoined by a court in any state from brokering a mortgage.

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

2           **SECTION 1.** The introductory portion to 12-61-905 (1) (c) and  
3 12-61-905 (7), Colorado Revised Statutes, are amended, and the said  
4 12-61-905 (1) is further amended BY THE ADDITION OF THE  
5 FOLLOWING NEW PARAGRAPHS, to read:

6           **12-61-905. Powers and duties of the director.** (1) The director  
7 shall deny, refuse to renew, or revoke the registration of an applicant who  
8 has:

9           (c) WITHIN THE LAST FIVE YEARS, had a license, registration, or  
10 certification issued by Colorado or another state revoked or suspended for  
11 fraud, deceit, material misrepresentation, theft, or the breach of a  
12 fiduciary duty, and such discipline denied the person authorization to  
13 practice as:

14           (d) BEEN ENJOINED WITHIN THE IMMEDIATELY PRECEDING FIVE  
15 YEARS UNDER THE LAWS OF THIS OR ANY OTHER STATE OR OF THE UNITED  
16 STATES FROM ENGAGING IN DECEPTIVE CONDUCT RELATING TO THE  
17 BROKERING OF A MORTGAGE LOAN;

18           (e) BEEN FOUND TO HAVE VIOLATED THE PROVISIONS OF SECTION  
19 12-61-910.2.

20           (7) (a) If the director has reasonable cause to believe that a person  
21 is violating this part 9, including but not limited to section 12-61-910 (1),  
22 the director may enter an order requiring such person to cease and desist  
23 such violations.

24           (b) THE DIRECTOR, UPON HIS OR HER OWN MOTION MAY, AND,  
25 UPON THE COMPLAINT IN WRITING OF ANY PERSON, SHALL, INVESTIGATE

1 THE ACTIVITIES OF ANY REGISTRANT OR ANY PERSON WHO ASSUMES TO  
2 ACT IN SUCH CAPACITY WITHIN THE STATE. IN ADDITION TO ANY OTHER  
3 PENALTY WHICH MAY BE IMPOSED PURSUANT TO THIS PART 9, ANY PERSON  
4 VIOLATING ANY PROVISION OF THIS PART 9 OR ANY RULES PROMULGATED  
5 PURSUANT TO THIS ARTICLE MAY BE FINED UPON A FINDING OF  
6 MISCONDUCT BY THE DIRECTOR AS FOLLOWS:

7 (I) IN THE FIRST ADMINISTRATIVE PROCEEDING, A FINE NOT IN  
8 EXCESS OF ONE THOUSAND DOLLARS PER ACT OR OCCURRENCE;

9 (II) IN ANY SUBSEQUENT ADMINISTRATIVE PROCEEDING, A FINE  
10 NOT LESS THAN ONE THOUSAND DOLLARS NOR IN EXCESS OF TWO  
11 THOUSAND DOLLARS PER ACT OR OCCURRENCE.

12 (c) ALL FINES COLLECTED PURSUANT TO THIS SUBSECTION (7)  
13 SHALL BE TRANSFERRED TO THE STATE TREASURER, WHO SHALL CREDIT  
14 SUCH MONEYS TO THE CASH FUND CREATED IN SECTION 12-61-908.

15 **SECTION 2.** 12-61-908 (1), Colorado Revised Statutes, is  
16 amended to read:

17 **12-61-908. Fees.** (1) The director may set the fee for registration  
18 under this part 9. The fee shall be set in an amount not to exceed two  
19 hundred dollars, that offsets the direct and indirect costs of implementing  
20 this part 9. The moneys collected pursuant to this section shall be  
21 transferred to the state treasurer, who shall credit them to the mortgage  
22 broker registration cash fund.

23 **SECTION 3.** Part 9 of article 61 of title 12, Colorado Revised  
24 Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW  
25 SECTIONS to read:

26 **12-61-910.2. Prohibited conduct - influencing a real estate**  
27 **appraisal.** (1) A MORTGAGE BROKER SHALL NOT, DIRECTLY OR

1 INDIRECTLY, COMPENSATE, COERCE, OR INTIMIDATE AN APPRAISER, OR  
2 ATTEMPT, DIRECTLY OR INDIRECTLY, TO COMPENSATE, COERCE, OR  
3 INTIMIDATE AN APPRAISER, FOR THE PURPOSE OF INFLUENCING THE  
4 INDEPENDENT JUDGMENT OF THE APPRAISER WITH RESPECT TO THE VALUE  
5 OF A DWELLING OFFERED AS SECURITY FOR REPAYMENT OF A MORTGAGE  
6 LOAN. THIS PROHIBITION SHALL NOT BE CONSTRUED AS PROHIBITING A  
7 MORTGAGE BROKER FROM REQUESTING AN APPRAISER TO:

8 (a) CONSIDER ADDITIONAL, APPROPRIATE PROPERTY  
9 INFORMATION;

10 (b) PROVIDE FURTHER DETAIL, SUBSTANTIATION, OR EXPLANATION  
11 FOR THE APPRAISER'S VALUE CONCLUSION; OR

12 (c) CORRECT ERRORS IN THE APPRAISAL REPORT.

13 **12-61-910.3. Rule-making authority.** THE DIRECTOR SHALL  
14 HAVE THE AUTHORITY TO PROMULGATE RULES AS NECESSARY TO  
15 ENABLE THE DIRECTOR TO CARRY OUT THE DIRECTOR'S DUTIES UNDER THIS  
16 PART 9.

17 **SECTION 4.** Part 7 of article 1 of title 6, Colorado Revised  
18 Statutes, is amended BY THE ADDITION OF A NEW SECTION to  
19 read:

20 **6-1-717. Influencing a real estate appraisal.** (1) A PERSON  
21 ENGAGES IN A DECEPTIVE TRADE PRACTICE WHEN, IN THE COURSE OF SUCH  
22 PERSON'S BUSINESS, VOCATION, OR OCCUPATION, THE PERSON:

23 (a) KNOWINGLY SUBMITS A FALSE OR MISLEADING APPRAISAL IN  
24 CONNECTION WITH A DWELLING OFFERED AS SECURITY FOR REPAYMENT  
25 OF A MORTGAGE LOAN; OR

26 (b) DIRECTLY OR INDIRECTLY COMPENSATES, COERCES, OR  
27 INTIMIDATES AN APPRAISER, OR ATTEMPTS, DIRECTLY OR INDIRECTLY, TO

1 COMPENSATE, COERCE, OR INTIMIDATE AN APPRAISER, FOR THE PURPOSE  
2 OF INFLUENCING THE INDEPENDENT JUDGMENT OF THE APPRAISER WITH  
3 RESPECT TO THE VALUE OF A DWELLING OFFERED AS SECURITY FOR  
4 REPAYMENT OF A MORTGAGE LOAN.

5 (2) THE PROHIBITION REFERRED TO IN SUBSECTION (1) OF THIS  
6 SECTION SHALL NOT BE CONSTRUED AS PROHIBITING A PERSON FROM  
7 REQUESTING AN APPRAISER TO:

8 (a) CONSIDER ADDITIONAL, APPROPRIATE PROPERTY  
9 INFORMATION;

10 (b) PROVIDE FURTHER DETAIL, SUBSTANTIATION, OR EXPLANATION  
11 FOR THE APPRAISER'S VALUE CONCLUSION; OR

12 (c) CORRECT ERRORS IN THE APPRAISAL REPORT.

13 **SECTION 5.** 6-1-105 (1), Colorado Revised Statutes, is  
14 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

15 **6-1-105. Deceptive trade practices.** (1) A person engages in a  
16 deceptive trade practice when, in the course of such person's business,  
17 vocation, or occupation, such person:

18 (yy) VIOLATES ANY PROVISION OF SECTION 6-1-717.

19 **SECTION 6.** 6-1-114, Colorado Revised Statutes, is amended to  
20 read:

21 **6-1-114. Criminal penalties.** Upon a first conviction any person  
22 who promotes a pyramid promotional scheme in this state or who violates  
23 any provision of section 6-1-701 ~~is~~ OR 6-1-717 IS guilty of a class 1  
24 misdemeanor, as defined in section 18-1.3-501, C.R.S., and upon a  
25 second or subsequent conviction OF SECTION 6-1-701 is guilty of a class  
26 6 felony, as defined in section 18-1.3-401, C.R.S.

27 **SECTION 7.** Part 7 of article 38 of title 38, Colorado Revised

1 Statutes, is amended BY THE ADDITION OF A NEW SECTION to  
2 read:

3 **38-38-705. Curative provisions.** (1) IF THE PUBLIC TRUSTEE  
4 FAILS TO COMPLY WITH ANY OF THE NOTICE DEADLINES SET FORTH IN THIS  
5 ARTICLE, UNLESS THE FORECLOSURE HAS ALREADY BEEN WITHDRAWN BY  
6 THE HOLDER OF THE EVIDENCE OF DEBT OR THE HOLDER'S ATTORNEY,  
7 FOLLOWING WRITTEN NOTICE TO THE HOLDER OF THE EVIDENCE OF DEBT  
8 OR THE HOLDER'S ATTORNEY, THE PUBLIC TRUSTEE MAY RERECORD THE  
9 NOTICE OF ELECTION AND DEMAND, AND THE PUBLIC TRUSTEE SHALL  
10 THEREAFTER COMPLY WITH ALL SUCH NOTICE DEADLINES FROM THE LAST  
11 RECORDING DATE AS SET FORTH ON THE RERECORDED NOTICE OF ELECTION  
12 AND DEMAND AS THOUGH SUCH FORECLOSURE HAD BEEN COMMENCED ON  
13 SUCH DATE.

14 (2) IN THE EVENT OF AN ERROR CONTAINED IN ANY CERTIFICATE  
15 OF PURCHASE, CERTIFICATE OF REDEMPTION, PUBLIC TRUSTEE'S DEED, OR  
16 OTHER RECORDED DOCUMENT PREPARED BY THE OFFICE OF THE PUBLIC  
17 TRUSTEE, THE PUBLIC TRUSTEE MAY CORRECT SUCH ERROR BY EXECUTING  
18 AND RECORDING A SCRIVENER'S ERROR AFFIDAVIT AS SET FORTH IN  
19 SECTION 38-35-109 (5).

20 **SECTION 8.** 38-38-103 (1) (a) (II), Colorado Revised Statutes,  
21 as it will become effective July 1, 2007, is amended BY THE ADDITION  
22 OF A NEW SUB-SUBPARAGRAPH to read:

23 **38-38-103. Combined notice - publication - providing**  
24 **information.** (1) (a) The public trustee shall mail a combined notice as  
25 described in subsection (4) of this section to the following persons as set  
26 forth in the initial mailing list as follows:

27 (II) No more than sixty calendar days nor less than forty-five

1 calendar days prior to the first scheduled date of sale, to the following  
2 persons as set forth in the supplemental mailing list:

3 (F) THE OWNER ASSOCIATION, AT THE ADDRESS OF THE  
4 REGISTERED AGENT AND REGISTERED OFFICE OF THAT OWNER  
5 ASSOCIATION, AS MAINTAINED BY THE OWNER ASSOCIATION WITH THE  
6 OFFICE OF THE SECRETARY OF STATE, IF THE LIEN SOUGHT TO BE  
7 FORECLOSED IS A LIEN THAT HAS, CLAIMS, OR MAY CLAIM PRIORITY OVER  
8 THE STATUTORY LIEN OF THE OWNER ASSOCIATION, AS ALLOWED TO THE  
9 OWNER ASSOCIATION UNDER SECTION 38-33.3-316 (1).

10 **SECTION 9. Appropriation.** (1) In addition to any other  
11 appropriation, there is hereby appropriated, out of any moneys in the  
12 mortgage broker registration cash fund created in section 12-61-908 (2),  
13 Colorado Revised Statutes, not otherwise appropriated, to the department  
14 of regulatory agencies, for the fiscal year beginning July 1, 2007, the sum  
15 of fifty-six thousand six hundred ninety-six dollars (\$56,696), cash funds,  
16 and 0.3 FTE, or so much thereof as may be necessary, for the  
17 implementation of this act. Of said sum, forty thousand six hundred  
18 sixty-two dollars (\$40,662) shall be allocated to the executive director's  
19 office for the purchase of legal services from the department of law and  
20 sixteen thousand thirty-four dollars (\$16,034) and 0.3 FTE shall be  
21 allocated to the division of real estate.

22 (2) In addition to any other appropriation, there is hereby  
23 appropriated, to the department of law, for the fiscal year beginning July  
24 1, 2007, the sum of forty thousand six hundred sixty-two dollars  
25 (\$40,662) and 0.3 FTE, or so much thereof as may be necessary, for the  
26 provision of legal services to the department of regulatory agencies  
27 related to the implementation of this act. Said sum shall be from cash

1 funds exempt received from the department of regulatory agencies,  
2 executive director's office out of the appropriation for legal services in  
3 subsection (1) of this section.

4 **SECTION 10. Applicability.** This act shall apply to acts  
5 occurring on or after the effective date of this act.

6 **SECTION 11. Safety clause.** The general assembly hereby finds,  
7 determines, and declares that this act is necessary for the immediate  
8 preservation of the public peace, health, and safety.