

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. 07-0268.01 Duane Gall

SENATE BILL 07-203

SENATE SPONSORSHIP

Groff, and Kester

HOUSE SPONSORSHIP

Marshall,

Senate Committees

State, Veterans & Military Affairs
Appropriations

House Committees

Business Affairs and Labor
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE REGULATION OF PERSONS PARTICIPATING IN**
102 **MORTGAGE LOAN TRANSACTIONS, AND, IN CONNECTION**
103 **THEREWITH, REQUIRING MORTGAGE BROKERS TO BE LICENSED,**
104 **SPECIFYING PROHIBITED ACTS AND GROUNDS FOR DISCIPLINE**
105 **OF LICENSEES, AND MAKING AN APPROPRIATION.**

Bill Summary

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

Changes the regulatory framework for mortgage brokers from registration to licensing. Requires mortgage brokers to maintain errors and omissions insurance coverage. Defines the grounds for denial,

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 18, 2007

SENATE
Amended 2nd Reading
April 17, 2007

revocation, or suspension of a license. Authorizes the director of the division of real estate (director) to impose fines and issue letters of admonition. Defines the procedure for administrative hearings, including the issuance of subpoenas by the director or an administrative law judge. Allows the director to seek and obtain injunctions in a court of law.

Where a mortgage broker is employed by a brokerage firm, makes the firm liable for the employee's wrongful acts only if the firm knew of the wrongful acts or was negligent in supervising the employee.

Requires all documents relating to a mortgage loan on residential real estate to be provided to the borrower at least 2 business days before closing. Gives the borrower a qualified right to rescind the transaction if any material term of the transaction is misstated or restated in such documents. Prohibits any attempt to waive a borrower's homestead rights in the subject property. In a refinancing transaction, prohibits any attempt to give a mortgage broker or other person connected with the transaction a quitclaim deed to the subject property or a power of attorney.

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

2 **SECTION 1.** The introductory portion to 12-61-905 (7) (b),
3 Colorado Revised Statutes, as enacted by Senate Bill 07-085, enacted at
4 the First Regular Session of the Sixty-sixth General Assembly, is
5 amended to read:

6 **12-61-905. Powers and duties of the director.** (7) (b) The
7 director, upon his or her own motion may, and, upon the complaint in
8 writing of any person, shall, investigate the activities of any ~~registrant~~
9 LICENSEE or any person who assumes to act in such capacity within the
10 state. In addition to any other penalty ~~which~~ THAT may be imposed
11 pursuant to this part 9, any person violating any provision of this part 9
12 or any rules promulgated pursuant to this article may be fined upon a
13 finding of misconduct by the director as follows:

14 **SECTION 2.** 12-61-910.3, Colorado Revised Statutes, as enacted
15 by Senate Bill 07-085, enacted at the First Regular Session of the
16 Sixty-sixth General Assembly, is amended to read:

1 **12-61-910.3. Rule-making authority.** The director may
2 ~~establish, and from time to time amend, such~~ ADOPT reasonable rules as
3 ~~are~~ necessary to enable the director to carry out the director's duties under
4 this part 9.

5 **SECTION 3.** 12-61-901, Colorado Revised Statutes, is amended
6 to read:

7 **12-61-901. Short title.** This part 9 shall be known and may be
8 cited as the "Mortgage Broker ~~Registration~~ LICENSING Act".

9 **SECTION 4.** 12-61-903, Colorado Revised Statutes, is amended
10 to read:

11 **12-61-903. License required - rules.** (1) (a) On or after January
12 1, ~~2007~~ 2008, unless ~~registered with the director~~ LICENSED BY THE
13 DIRECTOR, a person shall not broker a mortgage, offer to broker a
14 mortgage, act as a mortgage broker, or offer to act as a mortgage broker.

15 (b) A ~~registered~~ LICENSED mortgage broker shall apply for
16 ~~registration~~ LICENSE RENEWAL in accordance with subsection ~~(2)~~ (4) of
17 this section every three years.

18 (c) A MORTGAGE BROKER WHO WAS REGISTERED UNDER THE
19 PREDECESSOR TO THIS SECTION ON OR BEFORE JANUARY 1, 2008, SHALL
20 HAVE HIS OR HER REGISTRATION CONVERTED TO A LICENSE UPON
21 SATISFACTION OF ALL INITIAL LICENSING REQUIREMENTS THAT HE OR SHE
22 HAD NOT ALREADY SATISFIED WHEN APPLYING FOR REGISTRATION. THE
23 INITIAL TERM OF LICENSURE OF SUCH A MORTGAGE BROKER SHALL EXPIRE
24 ON THE THIRD ANNIVERSARY OF HIS OR HER INITIAL REGISTRATION.

25 (2) An applicant for ~~registration~~ INITIAL LICENSING shall submit
26 to the director the following:

27 (a) A criminal history ~~background~~ RECORD check in compliance

1 with subsection ~~(3)~~ (5) of this section;

2 (b) A disclosure of all administrative discipline taken against the
3 applicant concerning the categories listed in section 12-61-905 (1) (c);
4 and

5 (c) The application fee established by the director in accordance
6 with section 12-61-908.

7 (3) (a) IN ADDITION TO THE REQUIREMENTS IMPOSED BY
8 SUBSECTION (2) OF THIS SECTION, ON OR AFTER JANUARY 1, 2009, EACH
9 INDIVIDUAL APPLICANT FOR INITIAL LICENSING AS A MORTGAGE BROKER
10 SHALL HAVE SATISFACTORILY COMPLETED, WITHIN THE THREE YEARS
11 IMMEDIATELY PRECEDING THE DATE OF THE APPLICATION, A MORTGAGE
12 LENDING FUNDAMENTALS COURSE APPROVED BY THE DIRECTOR AND
13 CONSISTING OF AT LEAST NINE HOURS OF CLASSROOM INSTRUCTION IN
14 SUBJECTS RELATED TO MORTGAGE LENDING. IN ADDITION, THE APPLICANT
15 SHALL HAVE SATISFACTORILY COMPLETED A WRITTEN EXAMINATION
16 APPROVED BY THE DIRECTOR.

17 (b) THE DIRECTOR MAY CONTRACT WITH ONE OR MORE
18 INDEPENDENT TESTING SERVICES TO DEVELOP, ADMINISTER, AND GRADE
19 THE EXAMINATIONS REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (3)
20 AND TO MAINTAIN AND ADMINISTER LICENSEE RECORDS. THE CONTRACT
21 MAY ALLOW THE TESTING SERVICE TO RECOVER FROM APPLICANTS ITS
22 COSTS INCURRED IN CONNECTION WITH THESE FUNCTIONS. THE DIRECTOR
23 MAY CONTRACT SEPARATELY FOR THESE FUNCTIONS AND MAY ALLOW THE
24 COSTS TO BE COLLECTED BY A SINGLE CONTRACTOR FOR DISTRIBUTION TO
25 OTHER CONTRACTORS.

26 (4) AN APPLICANT FOR LICENSE RENEWAL SHALL SUBMIT TO THE
27 DIRECTOR THE FOLLOWING:

1 (a) A DISCLOSURE OF ALL ADMINISTRATIVE DISCIPLINE TAKEN
2 AGAINST THE APPLICANT CONCERNING THE CATEGORIES LISTED IN SECTION
3 12-61-905 (1) (c); AND

4 (b) THE RENEWAL FEE ESTABLISHED BY THE DIRECTOR IN
5 ACCORDANCE WITH SECTION 12-61-908.

6 ~~(3)~~ (5) Prior to submitting an application for ~~registration~~ A
7 LICENSE, an applicant shall submit a set of fingerprints to the Colorado
8 bureau of investigation. Upon receipt of the applicant's fingerprints, the
9 Colorado bureau of investigation shall use the fingerprints to conduct a
10 state and national criminal history record check using records of the
11 Colorado bureau of investigation and the federal bureau of investigation.
12 All costs arising from such criminal history record check shall be borne
13 by the applicant and shall be paid when the set of fingerprints is
14 submitted. Upon completion of the criminal history record check, the
15 bureau shall forward the results to the director.

16 ~~(4)~~ (6) Before ~~registering~~ GRANTING A LICENSE TO an applicant,
17 the director shall require the applicant to post a bond as required by
18 section 12-61-907.

19 ~~(5)~~ (7) The director shall issue or deny a ~~registration~~ LICENSE
20 within twenty-one days after receiving the completed criminal history
21 record check, completed application, application fee, and proof of the
22 posting of the surety bond.

23 (8) (a) THE DIRECTOR MAY REQUIRE, AS A CONDITION OF LICENSE
24 RENEWAL ON OR AFTER JANUARY 1, 2009, CONTINUING EDUCATION OF
25 LICENSEES FOR THE PURPOSE OF ENHANCING THE PROFESSIONAL
26 COMPETENCE AND PROFESSIONAL RESPONSIBILITY OF ALL LICENSEES.

27 (b) CONTINUING PROFESSIONAL EDUCATION REQUIREMENTS SHALL

1 BE DETERMINED BY THE DIRECTOR; EXCEPT THAT LICENSEES SHALL NOT
2 BE REQUIRED TO COMPLETE MORE THAN NINE CREDIT HOURS OF
3 CONTINUING EDUCATION WITHIN A THREE-YEAR PERIOD. THE DIRECTOR
4 MAY CONTRACT WITH ONE OR MORE INDEPENDENT SERVICE PROVIDERS TO
5 DEVELOP, REVIEW, OR APPROVE CONTINUING EDUCATION COURSES. THE
6 CONTRACT MAY ALLOW THE INDEPENDENT SERVICE PROVIDER TO
7 RECOVER FROM LICENSEES ITS COSTS INCURRED IN CONNECTION WITH
8 THESE FUNCTIONS. THE DIRECTOR MAY CONTRACT SEPARATELY FOR
9 THESE FUNCTIONS AND MAY ALLOW THE COSTS TO BE COLLECTED BY A
10 SINGLE CONTRACTOR FOR DISTRIBUTION TO OTHER CONTRACTORS.

11 (9) (a) THE DIRECTOR MAY REQUIRE CONTRACTORS AND
12 PROSPECTIVE CONTRACTORS FOR SERVICES UNDER SUBSECTIONS (3) AND
13 (8) OF THIS SECTION TO SUBMIT, FOR THE DIRECTOR'S REVIEW AND
14 APPROVAL, INFORMATION REGARDING THE CONTENTS AND MATERIALS OF
15 PROPOSED COURSES AND OTHER DOCUMENTATION REASONABLY
16 NECESSARY TO FURTHER THE PURPOSES OF THIS SECTION.

17 (b) THE DIRECTOR MAY SET FEES FOR THE INITIAL AND
18 CONTINUING REVIEW OF COURSES FOR WHICH CREDIT HOURS WILL BE
19 GRANTED. THE INITIAL FILING FEE FOR REVIEW OF MATERIALS SHALL NOT
20 EXCEED FIVE HUNDRED DOLLARS, AND THE FEE FOR CONTINUED REVIEW
21 SHALL NOT EXCEED TWO HUNDRED FIFTY DOLLARS PER YEAR PER COURSE
22 OFFERED.

23 (10) THE DIRECTOR MAY ADOPT REASONABLE RULES TO
24 IMPLEMENT THIS SECTION.

25 **SECTION 5.** Part 9 of article 61 of title 12, Colorado Revised
26 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
27 read:

1 **12-61-903.5. Errors and omissions insurance - duties of the**
2 **director - certificate of coverage - when required - group plan made**
3 **available - effect - rules.** (1) EVERY LICENSEE UNDER THIS PART 9,
4 EXCEPT AN INACTIVE MORTGAGE BROKER OR AN ATTORNEY LICENSEE WHO
5 MAINTAINS A POLICY OF PROFESSIONAL MALPRACTICE INSURANCE THAT
6 PROVIDES COVERAGE FOR ERRORS AND OMISSIONS FOR ACTIVITIES AS A
7 LICENSEE UNDER THIS PART 9, SHALL MAINTAIN ERRORS AND OMISSIONS
8 INSURANCE TO COVER ALL ACTIVITIES CONTEMPLATED UNDER THIS PART
9 9.

10 (2) THE DIRECTOR SHALL DETERMINE THE TERMS AND CONDITIONS
11 OF COVERAGE REQUIRED UNDER THIS SECTION, INCLUDING THE MINIMUM
12 LIMITS OF COVERAGE, THE PERMISSIBLE DEDUCTIBLE, AND PERMISSIBLE
13 EXEMPTIONS. EACH LICENSEE SHALL MAINTAIN EVIDENCE OF COVERAGE,
14 IN A MANNER SATISFACTORY TO THE DIRECTOR, DEMONSTRATING
15 CONTINUING COMPLIANCE WITH THE REQUIRED TERMS.

16 **SECTION 6.** 12-61-904 (1) (e), (1) (f) (I), and (1) (f) (III),
17 Colorado Revised Statutes, are amended to read:

18 **12-61-904. Exemptions.** (1) This part 9 shall not apply to the
19 following:

20 (e) ~~A federal housing administration approved mortgagee or an~~
21 ~~appointed federal housing administration correspondent, acting through~~
22 ~~officers, partners, members, exclusive agents, contractors, or employees~~
23 ~~of such entities when making or brokering any mortgage loan; or~~

24 (f) A person who:

25 (I) Funds a residential mortgage loan that has been originated and
26 processed by a ~~registered~~ LICENSED person or by an exempt person;

27 (III) Does not participate in the negotiation of residential

1 mortgage loans with the borrower, except for setting the terms under
2 which a person may buy or fund a residential mortgage loan originated by
3 a ~~registered~~ LICENSED or exempt person.

4 **SECTION 7.** The introductory portion to 12-61-905 (1) and
5 12-61-905 (2), (3), (5), (7), and (8), Colorado Revised Statutes, are
6 amended, and the said 12-61-905 is further amended BY THE
7 ADDITION OF A NEW SUBSECTION, to read:

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

11 (2) The director may investigate the activities of a ~~registrant~~
12 LICENSEE or other person that present grounds for disciplinary action
13 under this part 9 or that violate section 12-61-910 (1).

14 (3) (a) If the director has reasonable grounds to believe that a
15 mortgage broker is no longer qualified under subsection (1) of this
16 section, the director may summarily suspend the mortgage broker's
17 ~~registration~~ LICENSE pending a hearing to revoke the ~~registration~~ LICENSE.
18 A summary suspension shall conform to article 4 of title 24, C.R.S.

19 (b) The director shall suspend the ~~registration~~ LICENSE of a
20 MORTGAGE broker who fails to maintain the bond required by section
21 12-61-907 until the ~~registrant~~ LICENSEE complies with such section.

22 (5) (a) Except as provided in paragraph (b) of this subsection (5),
23 a person whose ~~registration~~ LICENSE has been revoked shall not be
24 eligible for ~~registration~~ LICENSURE for two years after the effective date
25 of the revocation.

26 (b) If the director or an administrative law judge determines that
27 an application contained a misstatement of fact or omitted a required

1 disclosure due to an unintentional error, the director shall allow the
2 applicant to correct the application. Upon receipt of the corrected and
3 completed application, the director or administrative law judge shall not
4 bar the applicant from being ~~registered~~ LICENSED on the basis of the
5 unintentional misstatement or omission.

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

10 (b) THE DIRECTOR, UPON HIS OR HER OWN MOTION MAY, AND,
11 UPON THE COMPLAINT IN WRITING OF ANY PERSON, SHALL, INVESTIGATE
12 THE ACTIVITIES OF ANY LICENSEE OR ANY PERSON WHO ASSUMES TO ACT
13 IN SUCH CAPACITY WITHIN THE STATE. IN ADDITION TO ANY OTHER
14 PENALTY THAT MAY BE IMPOSED PURSUANT TO THIS PART 9, A PERSON
15 VIOLATING ANY PROVISION OF THIS PART 9 OR ANY RULES PROMULGATED
16 PURSUANT TO THIS ARTICLE MAY BE FINED UPON A FINDING OF
17 MISCONDUCT BY THE DIRECTOR AS FOLLOWS:

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

20 (II) IN A SECOND OR SUBSEQUENT ADMINISTRATIVE PROCEEDING,
21 A FINE NOT LESS THAN ONE THOUSAND DOLLARS NOR IN EXCESS OF TWO
22 THOUSAND DOLLARS PER ACT OR OCCURRENCE.

23 (8) The director shall keep records of the persons ~~registered~~
24 LICENSED as mortgage brokers and of disciplinary proceedings. The
25 records kept by the director shall be open to public inspection in a
26 reasonable time and manner determined by the director.

27 (10) THE DIRECTOR SHALL PROMULGATE RULES TO ALLOW

1 LICENSED MORTGAGE BROKERS TO HIRE UNLICENSED MORTGAGE BROKERS
2 UNDER TEMPORARY LICENSES. IF SUCH AN UNLICENSED MORTGAGE
3 BROKER HAS INITIATED THE APPLICATION PROCESS FOR A LICENSE, HE OR
4 SHE SHALL BE ASSIGNED A TEMPORARY LICENSE FOR A REASONABLE
5 PERIOD UNTIL A LICENSE IS APPROVED OR DENIED. THE LICENSED
6 MORTGAGE BROKER WHO EMPLOYS SUCH AN UNLICENSED MORTGAGE
7 BROKER SHALL BE HELD RESPONSIBLE UNDER ALL APPLICABLE PROVISIONS
8 OF LAW, INCLUDING WITHOUT LIMITATION THIS PART 9 AND SECTION
9 38-40-105, C.R.S., FOR THE ACTIONS OF THE UNLICENSED MORTGAGE
10 BROKER TO WHOM A TEMPORARY LICENSE HAS BEEN ASSIGNED UNDER
11 THIS SUBSECTION (10).

12 SECTION 8. Part 9 of article 61 of title 12, Colorado Revised
13 Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW
14 SECTIONS to read:

15 12-61-905.5. Disciplinary actions - grounds - procedures -
16 rules. (1) THE DIRECTOR, UPON HIS OR HER OWN MOTION, MAY, AND,
17 UPON THE COMPLAINT IN WRITING OF ANY PERSON, SHALL, INVESTIGATE
18 THE ACTIVITIES OF ANY MORTGAGE BROKER, AND THE DIRECTOR HAS THE
19 POWER TO IMPOSE AN ADMINISTRATIVE FINE IN ACCORDANCE WITH
20 SECTION 12-61-905 AND TO CENSURE A LICENSEE, TO PLACE THE LICENSEE
21 ON PROBATION AND TO SET THE TERMS OF PROBATION, OR TO SUSPEND
22 OR REVOKE A LICENSE WHEN THE DIRECTOR FINDS THAT THE LICENSEE
23 HAS PERFORMED, IS PERFORMING, OR IS ATTEMPTING TO PERFORM ANY OF
24 THE FOLLOWING ACTS:

25 (a) KNOWINGLY MAKING ANY MISREPRESENTATION OR
26 KNOWINGLY MAKING USE OF ANY FALSE OR MISLEADING ADVERTISING;

27 (b) MAKING ANY PROMISE THAT INFLUENCES, PERSUADES, OR

1 INDUCES ANOTHER PERSON TO DETRIMENTALLY RELY ON SUCH PROMISE
2 WHEN THE LICENSEE COULD NOT OR DID NOT INTEND TO KEEP SUCH
3 PROMISE;

4 (c) KNOWINGLY MISREPRESENTING OR MAKING FALSE PROMISES
5 THROUGH AGENTS, SALESPERSONS, ADVERTISING, OR OTHERWISE;

6 (d) VIOLATING ANY PROVISION OF THE "COLORADO CONSUMER
7 PROTECTION ACT", ARTICLE 1 OF TITLE 6, C.R.S., AND, IF THE LICENSEE
8 HAS BEEN ASSESSED A CIVIL OR CRIMINAL PENALTY OR BEEN SUBJECT TO
9 AN INJUNCTION UNDER SAID ACT, THE DIRECTOR SHALL REVOKE THE
10 LICENSEE'S LICENSE;

11 (e) ACTING FOR MORE THAN ONE PARTY IN A TRANSACTION
12 WITHOUT DISCLOSING ANY ACTUAL OR POTENTIAL CONFLICT OF INTEREST
13 OR WITHOUT DISCLOSING TO ALL PARTIES ANY FIDUCIARY OBLIGATION OR
14 OTHER LEGAL OBLIGATION OF THE MORTGAGE BROKER TO ANY PARTY;

15 (f) REPRESENTING OR ATTEMPTING TO REPRESENT A MORTGAGE
16 BROKER OTHER THAN THE LICENSEE'S EMPLOYER WITHOUT THE EXPRESS
17 KNOWLEDGE AND CONSENT OF THAT EMPLOYER;

18 (g) IN THE CASE OF A LICENSEE IN THE EMPLOY OF ANOTHER
19 MORTGAGE BROKER, FAILING TO PLACE, AS SOON AFTER RECEIPT AS IS
20 PRACTICABLY POSSIBLE, IN THE CUSTODY OF THAT LICENSED MORTGAGE
21 BROKER-EMPLOYER ANY DEPOSIT MONEY OR OTHER MONEY OR FUND
22 ENTRUSTED TO THE EMPLOYEE BY ANY PERSON DEALING WITH THE
23 EMPLOYEE AS THE REPRESENTATIVE OF THAT LICENSED MORTGAGE
24 BROKER-EMPLOYER;

25 (h) FAILING TO ACCOUNT FOR OR TO REMIT, WITHIN A REASONABLE
26 TIME, ANY MONEYS COMING INTO HIS OR HER POSSESSION THAT BELONG
27 TO OTHERS, WHETHER ACTING AS A MORTGAGE BROKER, REAL ESTATE

1 BROKER, SALESPERSON, OR OTHERWISE, AND FAILING TO KEEP RECORDS
2 RELATIVE TO SAID MONEYS, WHICH RECORDS SHALL CONTAIN SUCH
3 INFORMATION AS MAY BE PRESCRIBED BY THE RULES OF THE DIRECTOR
4 RELATIVE THERETO AND SHALL BE SUBJECT TO AUDIT BY THE DIRECTOR;

5 (i) CONVERTING FUNDS OF OTHERS, DIVERTING FUNDS OF OTHERS
6 WITHOUT PROPER AUTHORIZATION, COMMINGLING FUNDS OF OTHERS WITH
7 THE LICENSEE'S OWN FUNDS, OR FAILING TO KEEP SUCH FUNDS OF OTHERS
8 IN AN ESCROW OR A TRUSTEE ACCOUNT WITH A BANK OR RECOGNIZED
9 DEPOSITORY IN THIS STATE, WHICH ACCOUNT MAY BE ANY TYPE OF
10 CHECKING, DEMAND, PASSBOOK, OR STATEMENT ACCOUNT INSURED BY AN
11 AGENCY OF THE UNITED STATES GOVERNMENT, AND TO SO KEEP RECORDS
12 RELATIVE TO THE DEPOSIT THAT CONTAIN SUCH INFORMATION AS MAY BE
13 PRESCRIBED BY THE RULES OF THE DIRECTOR RELATIVE THERETO, WHICH
14 RECORDS SHALL BE SUBJECT TO AUDIT BY THE DIRECTOR;

15 (j) FAILING TO PROVIDE THE PARTIES TO A RESIDENTIAL MORTGAGE
16 LOAN TRANSACTION WITH SUCH INFORMATION AS MAY BE PRESCRIBED BY
17 THE RULES OF THE DIRECTOR;

18 (k) FAILING TO MAINTAIN POSSESSION, FOR FUTURE USE OR
19 INSPECTION BY AN AUTHORIZED REPRESENTATIVE OF THE DIRECTOR, FOR
20 A PERIOD OF FOUR YEARS, OF THE DOCUMENTS OR RECORDS PRESCRIBED
21 BY THE RULES OF THE DIRECTOR OR TO PRODUCE SUCH DOCUMENTS OR
22 RECORDS UPON REASONABLE REQUEST BY THE DIRECTOR OR BY AN
23 AUTHORIZED REPRESENTATIVE OF THE DIRECTOR;

24 (l) PAYING A COMMISSION OR VALUABLE CONSIDERATION FOR
25 PERFORMING ANY OF THE FUNCTIONS OF A MORTGAGE BROKER, AS
26 DESCRIBED IN THIS PART 9, TO ANY PERSON NOT LICENSED UNDER THIS
27 PART 9; EXCEPT THAT A LICENSED MORTGAGE BROKER MAY PAY A

1 FINDER'S FEE OR A SHARE OF ANY COMMISSION ON A COOPERATIVE SALE
2 WHEN SUCH PAYMENT IS MADE TO A MORTGAGE BROKER LICENSED IN
3 ANOTHER STATE OR COUNTRY. IF SUCH STATE OR COUNTRY DOES NOT
4 LICENSE MORTGAGE BROKERS, THEN THE PAYEE SHALL BE A CITIZEN OR
5 RESIDENT OF SAID STATE OR COUNTRY AND REPRESENT THAT THE PAYEE
6 IS IN THE MORTGAGE BROKERAGE BUSINESS IN SAID STATE OR COUNTRY.

7 (m) DISREGARDING OR VIOLATING ANY PROVISION OF THIS PART
8 9 OR OF ANY RULE ADOPTED BY THE DIRECTOR PURSUANT TO THIS PART 9;
9 VIOLATING ANY LAWFUL ORDERS OF THE DIRECTOR; OR AIDING AND
10 ABETTING A VIOLATION OF ANY RULE, ORDER OF THE DIRECTOR, OR
11 PROVISION OF THIS PART 9;

12 (n) CONVICTION OF, ENTERING A PLEA OF GUILTY TO, OR ENTERING
13 A PLEA OF NOLO CONTENDERE TO ANY CRIME IN ARTICLE 3 OF TITLE 18,
14 C.R.S., IN PARTS 1 TO 4 OF ARTICLE 4 OF TITLE 18, C.R.S., IN ARTICLE
15 5 OF TITLE 18, C.R.S., IN PART 3 OF ARTICLE 8 OF TITLE 18, C.R.S., IN
16 ARTICLE 15 OF TITLE 18, C.R.S., IN ARTICLE 17 OF TITLE 18, C.R.S., OR
17 ANY OTHER LIKE CRIME UNDER COLORADO LAW, FEDERAL LAW, OR THE
18 LAWS OF OTHER STATES. A CERTIFIED COPY OF THE JUDGMENT OF A
19 COURT OF COMPETENT JURISDICTION OF SUCH CONVICTION OR OTHER
20 OFFICIAL RECORD INDICATING THAT SUCH PLEA WAS ENTERED SHALL BE
21 CONCLUSIVE EVIDENCE OF SUCH CONVICTION OR PLEA IN ANY HEARING
22 UNDER THIS PART 9.

23 (o) VIOLATING OR AIDING AND ABETTING IN THE VIOLATION OF THE
24 COLORADO OR FEDERAL FAIR HOUSING LAWS;

25 (p) FAILING TO IMMEDIATELY NOTIFY THE DIRECTOR IN WRITING
26 OF A CONVICTION, PLEA, OR VIOLATION PURSUANT TO PARAGRAPH (n) OR
27 (o) OF THIS SUBSECTION (1);

1 (q) HAVING DEMONSTRATED UNWORTHINESS OR INCOMPETENCY
2 TO ACT AS A MORTGAGE BROKER BY CONDUCTING BUSINESS IN SUCH A
3 MANNER AS TO ENDANGER THE INTEREST OF THE PUBLIC;

4 (r) FAILING TO EXERCISE REASONABLE SUPERVISION OVER THE
5 ACTIVITIES OF LICENSED EMPLOYEES;

6 (s) PROCURING, OR ATTEMPTING TO PROCURE, A MORTGAGE
7 BROKER'S LICENSE OR RENEWING, REINSTATING, OR REACTIVATING, OR
8 ATTEMPTING TO RENEW, REINSTATE, OR REACTIVATE, A MORTGAGE
9 BROKER'S LICENSE BY FRAUD, MISREPRESENTATION, OR DECEIT OR BY
10 MAKING A MATERIAL MISSTATEMENT OF FACT IN AN APPLICATION FOR
11 SUCH LICENSE;

12 (t) CLAIMING, ARRANGING FOR, OR TAKING ANY SECRET OR
13 UNDISCLOSED AMOUNT OF COMPENSATION, COMMISSION, OR PROFIT OR
14 FAILING TO REVEAL TO THE LICENSEE'S PRINCIPAL OR EMPLOYER THE FULL
15 AMOUNT OF SUCH LICENSEE'S COMPENSATION, COMMISSION, OR PROFIT IN
16 CONNECTION WITH ANY ACTS FOR WHICH A LICENSE IS REQUIRED UNDER
17 THIS PART 9;

18 (u) EXERCISING AN OPTION TO PURCHASE IN ANY AGREEMENT
19 AUTHORIZING OR EMPLOYING SUCH LICENSEE TO SELL, BUY, OR EXCHANGE
20 REAL ESTATE FOR COMPENSATION OR COMMISSION EXCEPT WHEN SUCH
21 LICENSEE, PRIOR TO OR COINCIDENT WITH ELECTION TO EXERCISE SUCH
22 OPTION TO PURCHASE, REVEALS IN WRITING TO THE LICENSEE'S PRINCIPAL
23 OR EMPLOYER THE FULL AMOUNT OF THE LICENSEE'S PROFIT AND OBTAINS
24 THE WRITTEN CONSENT OF SUCH PRINCIPAL OR EMPLOYER APPROVING THE
25 AMOUNT OF SUCH PROFIT;

26 (v) FRAUD, MISREPRESENTATION, DECEIT, OR CONVERSION OF
27 TRUST FUNDS THAT RESULTS IN THE PAYMENT OF ANY CLAIM PURSUANT

1 TO THIS PART 9 OR THAT RESULTS IN THE ENTRY OF A CIVIL JUDGMENT FOR
2 DAMAGES;

3 (w) ANY OTHER CONDUCT, WHETHER OF THE SAME OR A
4 DIFFERENT CHARACTER THAN SPECIFIED IN THIS SUBSECTION (1), THAT
5 EVINCES A LACK OF GOOD FAITH AND FAIR DEALING;

6 (x) HAVING HAD A MORTGAGE BROKER'S LICENSE SUSPENDED OR
7 REVOKED IN ANY JURISDICTION, OR HAVING HAD ANY DISCIPLINARY
8 ACTION TAKEN AGAINST THE MORTGAGE BROKER IN ANY OTHER
9 JURISDICTION. A CERTIFIED COPY OF THE ORDER OF DISCIPLINARY ACTION
10 SHALL BE PRIMA FACIE EVIDENCE OF SUCH DISCIPLINARY ACTION.

11 (2) IF A FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY,
12 ASSOCIATION, OR CORPORATION OPERATING UNDER THE LICENSE OF A
13 MORTGAGE BROKER DESIGNATED AND LICENSED AS A REPRESENTATIVE OF
14 SAID FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, OR
15 CORPORATION IS GUILTY OF ANY OF THE ACTS SET OUT IN SUBSECTION (1)
16 OF THIS SECTION, THE DIRECTOR MAY SUSPEND OR REVOKE THE RIGHT OF
17 THE FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, OR
18 CORPORATION TO CONDUCT ITS BUSINESS UNDER THE LICENSE OF SAID
19 MORTGAGE BROKER, WHETHER OR NOT THE DESIGNATED MORTGAGE
20 BROKER HAD PERSONAL KNOWLEDGE THEREOF AND WHETHER OR NOT THE
21 DIRECTOR SUSPENDS OR REVOKES THE INDIVIDUAL LICENSE OF SAID
22 MORTGAGE BROKER.

23 (3) UPON REQUEST OF THE DIRECTOR, WHEN ANY MORTGAGE
24 BROKER IS A PARTY TO ANY SUIT OR PROCEEDING, EITHER CIVIL OR
25 CRIMINAL, ARISING OUT OF ANY TRANSACTION INVOLVING A RESIDENTIAL
26 MORTGAGE LOAN AND WHEN SUCH MORTGAGE BROKER PARTICIPATED IN
27 SUCH TRANSACTION IN HIS OR HER CAPACITY AS A LICENSED MORTGAGE

1 BROKER, IT SHALL BE THE DUTY OF SUCH MORTGAGE BROKER TO SUPPLY
2 TO THE DIRECTOR A COPY OF THE COMPLAINT, INDICTMENT, INFORMATION,
3 OR OTHER INITIATING PLEADING AND THE ANSWER FILED, IF ANY, AND TO
4 ADVISE THE DIRECTOR OF THE DISPOSITION OF THE CASE AND OF THE
5 NATURE AND AMOUNT OF ANY JUDGMENT, VERDICT, FINDING, OR
6 SENTENCE THAT MAY BE MADE, ENTERED, OR IMPOSED THEREIN.

7 (4) THIS PART 9 SHALL NOT BE CONSTRUED TO RELIEVE ANY
8 PERSON FROM CIVIL LIABILITY OR CRIMINAL PROSECUTION UNDER THE
9 LAWS OF THIS STATE.

10 (5) COMPLAINTS OF RECORD IN THE OFFICE OF THE DIRECTOR AND
11 THE RESULTS OF STAFF INVESTIGATIONS MAY, IN THE DISCRETION OF THE
12 DIRECTOR, BE CLOSED TO PUBLIC INSPECTION, EXCEPT AS PROVIDED BY
13 COURT ORDER, DURING THE INVESTIGATORY PERIOD AND UNTIL DISMISSED
14 OR UNTIL NOTICE OF HEARING AND CHARGES ARE SERVED ON A LICENSEE.

15 (6) WHEN A COMPLAINT OR AN INVESTIGATION DISCLOSES AN
16 INSTANCE OF MISCONDUCT THAT, IN THE OPINION OF THE DIRECTOR, DOES
17 NOT WARRANT FORMAL ACTION BY THE DIRECTOR BUT THAT SHOULD NOT
18 BE DISMISSED AS BEING WITHOUT MERIT, THE DIRECTOR MAY SEND A
19 LETTER OF ADMONITION BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED,
20 TO THE LICENSEE AGAINST WHOM A COMPLAINT WAS MADE AND A COPY
21 THEREOF TO THE PERSON MAKING THE COMPLAINT, BUT THE LETTER SHALL
22 ADVISE THE LICENSEE THAT THE LICENSEE HAS THE RIGHT TO REQUEST IN
23 WRITING, WITHIN TWENTY DAYS AFTER PROVEN RECEIPT, THAT FORMAL
24 DISCIPLINARY PROCEEDINGS BE INITIATED TO ADJUDICATE THE PROPRIETY
25 OF THE CONDUCT UPON WHICH THE LETTER OF ADMONITION IS BASED. IF
26 SUCH REQUEST IS TIMELY MADE, THE LETTER OF ADMONITION SHALL BE
27 DEEMED VACATED, AND THE MATTER SHALL BE PROCESSED BY MEANS OF

1 FORMAL DISCIPLINARY PROCEEDINGS.

2 (7) ALL ADMINISTRATIVE FINES COLLECTED PURSUANT TO THIS
3 SECTION SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL
4 CREDIT THE SAME TO THE MORTGAGE BROKER LICENSING CASH FUND
5 CREATED IN SECTION 12-61-908.

6 (8) (a) THE DIRECTOR SHALL NOT CONSIDER AN APPLICATION FOR
7 LICENSURE FROM A PERSON WHOSE LICENSE HAS BEEN REVOKED UNTIL
8 TWO YEARS AFTER THE DATE OF REVOCATION.

9 (b) IF A PERSON'S LICENSE WAS SUSPENDED OR REVOKED DUE TO
10 CONDUCT THAT RESULTED IN FINANCIAL LOSS TO ANOTHER PERSON, NO
11 NEW LICENSE SHALL BE GRANTED, NOR SHALL A SUSPENDED LICENSE BE
12 REINSTATED, UNTIL FULL RESTITUTION HAS BEEN MADE TO THE PERSON
13 SUFFERING SUCH FINANCIAL LOSS. THE AMOUNT OF RESTITUTION SHALL
14 INCLUDE INTEREST, REASONABLE ATTORNEY FEES, AND COSTS OF ANY SUIT
15 OR OTHER PROCEEDING UNDERTAKEN IN AN EFFORT TO RECOVER THE
16 LOSS.

17 (9) WHEN THE DIRECTOR OR THE DIVISION BECOMES AWARE OF
18 FACTS OR CIRCUMSTANCES THAT FALL WITHIN THE JURISDICTION OF A
19 CRIMINAL JUSTICE OR OTHER LAW ENFORCEMENT AUTHORITY UPON
20 INVESTIGATION OF THE ACTIVITIES OF A LICENSEE, THE DIRECTOR OR
21 DIVISION SHALL, IN ADDITION TO THE EXERCISE OF ITS AUTHORITY UNDER
22 THIS PART 9, REFER AND TRANSMIT SUCH INFORMATION, WHICH MAY
23 INCLUDE ORIGINALS OR COPIES OF DOCUMENTS AND MATERIALS, TO ONE
24 OR MORE CRIMINAL JUSTICE OR OTHER LAW ENFORCEMENT AUTHORITIES
25 FOR INVESTIGATION AND PROSECUTION AS AUTHORIZED BY LAW.

26 **12-61-905.6. Hearing - administrative law judge - review -**
27 **rules.** (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, ALL

1 PROCEEDINGS BEFORE THE DIRECTOR WITH RESPECT TO DISCIPLINARY
2 ACTIONS AND DENIAL OF LICENSURE UNDER THIS PART 9, AT THE
3 DISCRETION OF THE DIRECTOR, MAY BE CONDUCTED BY AN
4 ADMINISTRATIVE LAW JUDGE PURSUANT TO SECTIONS 24-4-104 AND
5 24-4-105, C.R.S.

6 (2) PROCEEDINGS SHALL BE HELD IN THE COUNTY WHERE THE
7 DIRECTOR HAS HIS OR HER OFFICE OR IN SUCH OTHER PLACE AS THE
8 DIRECTOR MAY DESIGNATE. IF THE LICENSEE IS EMPLOYED BY ANOTHER
9 LICENSED MORTGAGE BROKER OR BY A REAL ESTATE BROKER, THE
10 DIRECTOR SHALL ALSO NOTIFY THE LICENSEE'S EMPLOYER BY MAILING, BY
11 FIRST-CLASS MAIL, A COPY OF THE WRITTEN NOTICE REQUIRED UNDER
12 SECTION 24-4-104 (3), C.R.S., TO THE EMPLOYER'S LAST-KNOWN BUSINESS
13 ADDRESS.

14 (3) AN ADMINISTRATIVE LAW JUDGE SHALL CONDUCT ALL
15 HEARINGS FOR DENYING, SUSPENDING, OR REVOKING A LICENSE OR
16 CERTIFICATE ON BEHALF OF THE DIRECTOR, SUBJECT TO APPROPRIATIONS
17 MADE TO THE DEPARTMENT OF PERSONNEL. EACH ADMINISTRATIVE LAW
18 JUDGE SHALL BE APPOINTED PURSUANT TO PART 10 OF ARTICLE 30 OF
19 TITLE 24, C.R.S. THE ADMINISTRATIVE LAW JUDGE SHALL CONDUCT THE
20 HEARING IN ACCORDANCE WITH SECTIONS 24-4-104 AND 24-4-105, C.R.S.
21 NO LICENSE SHALL BE DENIED, SUSPENDED, OR REVOKED UNTIL THE
22 DIRECTOR HAS MADE HIS OR HER DECISION.

23 (4) THE DECISION OF THE DIRECTOR IN ANY DISCIPLINARY ACTION
24 OR DENIAL OF LICENSURE UNDER THIS SECTION IS SUBJECT TO JUDICIAL
25 REVIEW UNDER SECTION 24-4-106, C.R.S. IN ORDER TO EFFECTUATE THE
26 PURPOSES OF THIS PART 9, THE DIRECTOR HAS THE POWER TO PROMULGATE
27 RULES PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S. == ==

1 (5) IN A JUDICIAL REVIEW PROCEEDING, THE COURT MAY STAY THE
2 EXECUTION OR EFFECT OF ANY FINAL ORDER OF THE DIRECTOR; BUT A
3 HEARING SHALL BE HELD AFFORDING THE PARTIES AN OPPORTUNITY TO BE
4 HEARD FOR THE PURPOSE OF DETERMINING WHETHER THE PUBLIC HEALTH,
5 SAFETY, AND WELFARE WOULD BE ENDANGERED BY STAYING THE
6 DIRECTOR'S ORDER. IF THE COURT DETERMINES THAT THE ORDER SHOULD
7 BE STAYED, IT SHALL ALSO DETERMINE AT THE HEARING THE AMOUNT OF
8 THE BOND AND ADEQUACY OF THE SURETY, WHICH BOND SHALL BE
9 CONDITIONED UPON THE FAITHFUL PERFORMANCE BY SUCH PETITIONER OF
10 ALL OBLIGATIONS AS A MORTGAGE BROKER AND UPON THE PROMPT
11 PAYMENT OF ALL DAMAGES ARISING FROM OR CAUSED BY THE DELAY IN
12 THE TAKING EFFECT OF OR ENFORCEMENT OF THE ORDER COMPLAINED OF
13 AND FOR ALL COSTS THAT MAY BE ASSESSED OR REQUIRED TO BE PAID IN
14 CONNECTION WITH SUCH PROCEEDINGS.

15 (6) IN ANY HEARING CONDUCTED BY THE DIRECTOR IN WHICH
16 THERE IS A POSSIBILITY OF THE DENIAL, SUSPENSION, OR REVOCATION OF
17 A LICENSE BECAUSE OF THE CONVICTION OF A FELONY OR OF A CRIME
18 INVOLVING MORAL TURPITUDE, THE DIRECTOR SHALL BE GOVERNED BY
19 SECTION 24-5-101, C.R.S.

20 **12-61-905.7. Subpoena - misdemeanor.** (1) THE DIRECTOR OR
21 THE ADMINISTRATIVE LAW JUDGE APPOINTED FOR HEARINGS MAY ISSUE A
22 SUBPOENA COMPELLING THE ATTENDANCE AND TESTIMONY OF WITNESSES
23 AND THE PRODUCTION OF BOOKS, PAPERS, OR RECORDS PURSUANT TO AN
24 INVESTIGATION OR HEARING OF THE DIRECTOR. SUCH SUBPOENAS SHALL
25 BE SERVED IN THE SAME MANNER AS SUBPOENAS ISSUED BY DISTRICT
26 COURTS AND SHALL BE ISSUED WITHOUT DISCRIMINATION BETWEEN
27 PUBLIC OR PRIVATE PARTIES REQUIRING THE ATTENDANCE OF WITNESSES

1 AND THE PRODUCTION OF DOCUMENTS AT HEARINGS. IF A PERSON FAILS
2 OR REFUSES TO OBEY A SUBPOENA ISSUED BY THE DIRECTOR OR THE
3 APPOINTED ADMINISTRATIVE LAW JUDGE, THE DIRECTOR MAY PETITION
4 THE DISTRICT COURT HAVING JURISDICTION FOR ISSUANCE OF A SUBPOENA
5 IN THE PREMISES, AND THE COURT SHALL, IN A PROPER CASE, ISSUE ITS
6 SUBPOENA.

7 (2) ANY PERSON WHO WILLFULLY FAILS OR NEGLECTS TO APPEAR
8 AND TESTIFY OR TO PRODUCE BOOKS, PAPERS, OR RECORDS REQUIRED BY
9 SUBPOENA, DULY SERVED UPON HIM OR HER IN ANY MATTER CONDUCTED
10 UNDER THIS PART 9, IS GUILTY OF A MISDEMEANOR AND, UPON
11 CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF ONE HUNDRED
12 DOLLARS, OR IMPRISONMENT IN THE COUNTY JAIL FOR NOT MORE THAN
13 THIRTY DAYS FOR EACH SUCH OFFENSE, OR BY BOTH SUCH FINE AND
14 IMPRISONMENT. EACH DAY SUCH PERSON SO REFUSES OR NEGLECTS
15 CONSTITUTES A SEPARATE OFFENSE.

16 **12-61-910.3. Rule-making authority.** THE DIRECTOR MAY
17 ADOPT REASONABLE RULES AS NECESSARY TO ENABLE THE DIRECTOR TO
18 CARRY OUT THE DIRECTOR'S DUTIES UNDER THIS PART 9.

19 **SECTION 9.** 12-61-907 (1), Colorado Revised Statutes, is
20 amended to read:

21 **12-61-907. Bond required.** (1) ~~Prior to registration~~ BEFORE
22 RECEIVING A LICENSE, an applicant ~~for registration~~ shall post with the
23 director a surety bond, or an alternative authorized by article 35 of title
24 11, C.R.S., of twenty-five thousand dollars. A ~~registered~~ LICENSED
25 mortgage broker shall maintain such bond at all times.

26 **SECTION 10.** 12-61-908, Colorado Revised Statutes, is amended
27 to read:

1 **12-61-908. Fees.** (1) The director may set the ~~fee~~ FEES for
2 ~~registration~~ ISSUANCE AND RENEWAL OF LICENSES under this part 9. The
3 ~~fee~~ FEES shall be set in ~~an amount, not to exceed two hundred dollars,~~
4 AMOUNTS that ~~offsets~~ OFFSET the direct and indirect costs of
5 implementing this part 9 AND SECTION 38-40-105, C.R.S. The moneys
6 collected pursuant to this section shall be transferred to the state treasurer,
7 who shall credit them to the mortgage broker ~~registration~~ LICENSING cash
8 fund.

9 (2) There is hereby created in the state treasury the mortgage
10 broker ~~registration~~ LICENSING cash fund. Moneys in the fund shall be
11 spent only to implement this part 9 AND SECTION 38-40-105, C.R.S., and
12 shall not revert to the general fund at the end of the fiscal year. The fund
13 shall be subject to annual appropriation by the general assembly.

14 **SECTION 11.** 12-61-910 (1) and (2). Colorado Revised Statutes,
15 are amended to read:

16 **12-61-910. Violations - injunctions.** (1) (a) ~~Brokering a~~
17 ~~mortgage or practicing as a mortgage broker without registering under~~
18 ~~this part 9 shall be~~ ANY NATURAL PERSON, FIRM, PARTNERSHIP, LIMITED
19 LIABILITY COMPANY, OR ASSOCIATION OR ANY CORPORATION VIOLATING
20 THIS PART 9 BY ACTING AS A MORTGAGE BROKER IN THIS STATE WITHOUT
21 HAVING OBTAINED A LICENSE OR BY ACTING AS A MORTGAGE BROKER
22 AFTER THAT PERSON'S LICENSE HAS BEEN REVOKED OR DURING ANY
23 PERIOD FOR WHICH SAID LICENSE MAY HAVE BEEN SUSPENDED IS GUILTY
24 OF a class 1 misdemeanor and shall be punished as provided in section
25 18-1.3-501, C.R.S.; EXCEPT THAT, IF THE VIOLATOR IS NOT A NATURAL
26 PERSON, THE VIOLATOR SHALL BE PUNISHED BY A FINE OF NOT MORE THAN
27 FIVE THOUSAND DOLLARS.

1 (b) Each mortgage brokered by an ~~unregistered~~ UNLICENSED
2 person shall be a separate violation of this subsection (1).

3 (2) ~~The director may forward information concerning possible~~
4 ~~violations of the law committed by or complaints filed against a mortgage~~
5 ~~broker to the attorney general, a district attorney, or a state or federal law~~
6 ~~enforcement agency.~~

7 ==
8 **SECTION 12.** 12-61-911 (1) and (2), Colorado Revised Statutes,
9 are amended to read:

10 **12-61-911. Repeal.** (1) The provisions of section 24-34-104,
11 C.R.S., concerning the termination schedule for regulatory bodies of the
12 state unless extended, apply to the ~~registration~~ LICENSING of mortgage
13 brokers under this part 9.

14 (2) The sunset review, performed pursuant to section 24-34-104,
15 C.R.S., shall include an analysis of the number and types of complaints
16 and whether the ~~registration~~ LICENSING of mortgage brokers correlates
17 with the public being protected from fraudulent activities.

18 **SECTION 13.** Part 9 of article 61 of title 12, Colorado Revised
19 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
20 read:

21 **12-61-911.5. Acts of employee - mortgage broker's liability.**
22 AN UNLAWFUL ACT OR VIOLATION OF THIS PART 9 UPON THE PART OF AN
23 EMPLOYEE, OFFICER, OR MEMBER OF A LICENSED MORTGAGE BROKER
24 SHALL NOT BE CAUSE FOR DISCIPLINARY ACTION AGAINST A MORTGAGE
25 BROKER UNLESS IT APPEARS == THAT THE MORTGAGE BROKER KNEW OR
26 SHOULD HAVE KNOWN OF THE UNLAWFUL ACT OR VIOLATION OR HAD BEEN
27 NEGLIGENT IN THE SUPERVISION OF THE EMPLOYEE.

1 **SECTION 14.** 38-40-105 (1), Colorado Revised Statutes, is
2 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

3 **38-40-105. Prohibited acts by originators of certain mortgage**
4 **loans.** (1) The following acts by any mortgage broker or mortgage
5 originator with respect to any loan that is secured by a first or subordinate
6 mortgage or deed or trust lien against a dwelling are prohibited:

7 (e) TO KNOWINGLY FACILITATE THE CONSUMMATION OF A
8 MORTGAGE LOAN TRANSACTION THAT VIOLATES, OR THAT IS CONNECTED
9 WITH A VIOLATION OF, SUBSECTION (1.5) OF THIS SECTION.

10 == =====

11 **SECTION 15.** 38-40-105, Colorado Revised Statutes, is amended
12 BY THE ADDITION OF A NEW SUBSECTION to read:

13 **38-40-105. Prohibited acts by originators of certain mortgage**
14 **loans - definitions.** (1.5) (a) A MORTGAGE BROKER OR THE BROKER'S
15 AGENT SHALL PROVIDE THE BORROWER WITH DRAFT COPIES OF THE
16 MORTGAGE LOAN AGREEMENT AND ALL OTHER DOCUMENTS MATERIAL TO
17 THE TRANSACTION, _____ COMPLETED TO THE EXTENT POSSIBLE IN
18 ACCORDANCE WITH GOOD-FAITH ESTIMATES, AT LEAST ONE BUSINESS DAY
19 BEFORE CLOSING. THERE SHALL BE NO BLANK SPACES REMAINING ON THE
20 AGREEMENT FORM AND NO CHANGE TO ANY MATERIAL TERM OF THE
21 AGREEMENT OR OF ANY ACCOMPANYING DOCUMENT DURING THIS TIME.

22 ==

23 (b) AS USED IN THIS SUBSECTION (1.5), "DOCUMENTS MATERIAL TO
24 THE TRANSACTION" INCLUDE, WITHOUT LIMITATION, THE DEED OF
25 CONVEYANCE, EXCEPT IN THE CASE OF A REFINANCING, THE LOAN
26 AGREEMENT, AND THE TITLE DOCUMENTS IF REQUESTED BY THE
27 BORROWER.

1 **SECTION 16. Appropriation.** In addition to any other
2 appropriation, there is hereby appropriated, out of any moneys in the
3 mortgage broker registration cash fund created in Section 12-61-908 (2),
4 Colorado Revised Statutes, not otherwise appropriated, to the department
5 of regulatory agencies, for the fiscal year beginning July 1, 2007, the sum
6 of four hundred twenty-two thousand four hundred sixty-three dollars
7 (\$422,463), cash funds, and 1.8 FTE, or so much thereof as may be
8 necessary, for the implementation of this act. Of said sum, fifty-nine
9 thousand two hundred ninety-nine dollars (\$59,299) shall be allocated to
10 the executive director's office for the purchase of legal services from the
11 department of law and three hundred sixty-three thousand one hundred
12 sixty-four dollars (\$363,164) and 1.8 FTE shall be allocated to the
13 division of real estate.

14 **SECTION 17. Appropriation.** (1) (a) In addition to any other
15 appropriation, there is hereby appropriated, to the department of law, for
16 the fiscal year beginning July 1, 2007, the sum of fifty-nine thousand two
17 hundred ninety-nine dollars (\$59,299) and 0.5 FTE, or so much thereof
18 as may be necessary, for the provision of legal services to the department
19 of regulatory agencies related to the implementation of this act. Said sum
20 shall be from cash funds exempt received from the department of
21 regulatory agencies, executive director's office out of the appropriation
22 for legal services in section 16 of this act.

23 (b) In addition to any other appropriation, there is hereby
24 appropriated, to the department of law, for the fiscal year beginning July
25 1, 2007, to the department of law, for allocation to the consumer
26 protection section, for the fiscal year beginning July 1, 2007, the sum of
27 one hundred eighty-six thousand three hundred forty-nine dollars

1 (\$186,349) and 2.3 FTE, or so much thereof as may be necessary, for the
2 implementation of this act. Said sum shall be from cash funds exempt
3 received from the department of regulatory agencies, executive director's
4 office out of the appropriation for to the division of real estate in section
5 16 of this act.

6 (2) In addition to any other appropriation, there is hereby
7 appropriated, to the department of public safety, Colorado bureau of
8 investigation, for the fiscal year beginning July 1, 2007, the sum of three
9 hundred seventy-nine thousand sixty-four dollars (\$379,064),
10 or so much thereof as may be necessary, for fingerprint processing
11 services related to the implementation of this act. Of this sum, one
12 hundred sixty-seven thousand eight hundred sixty-four dollars (\$167,864)
13 shall be cash funds from fingerprint and name check processing fees
14 collected by the department, and two hundred eleven thousand two
15 hundred dollars (\$211,200) shall be cash funds exempt from fingerprint
16 and name check processing fees collected by the department for
17 transmittal to the federal bureau of investigation.

18 **SECTION 18. Effective date - applicability.** (1) This act shall
19 take effect January 1, 2008; except that sections 1 and 2 of this act shall
20 take effect only if Senate Bill 07-085 is enacted at the First Regular
21 Session of the Sixty-sixth General Assembly and becomes law.

22 (2) This act shall apply to acts or omissions occurring, and
23 mortgage broker licenses issued or renewed, on or after the effective date
24 of this act.

25 **SECTION 19. Safety clause.** The general assembly hereby finds,
26 determines, and declares that this act is necessary for the immediate
27 preservation of the public peace, health, and safety.