

First Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

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

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 to read:

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

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

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

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

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22 a person whose ~~registration~~ LICENSE has been revoked shall not be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

25 (b) If the director or an administrative law judge determines that
26 an application contained a misstatement of fact or omitted a required
27 disclosure due to an unintentional error, the director shall allow the

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

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

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

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

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

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

26 **SECTION 8.** Part 9 of article 61 of title 12, Colorado Revised
27 Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW

1 SECTIONS to read:

2 **12-61-905.5. Disciplinary actions - grounds - procedures -**

3 **rules.** (1) THE DIRECTOR, UPON HIS OR HER OWN MOTION, MAY, AND,
4 UPON THE COMPLAINT IN WRITING OF ANY PERSON, SHALL, INVESTIGATE
5 THE ACTIVITIES OF ANY MORTGAGE BROKER, AND THE DIRECTOR HAS THE
6 POWER TO IMPOSE AN ADMINISTRATIVE FINE IN ACCORDANCE WITH
7 SECTION 12-61-905 AND TO CENSURE A LICENSEE, TO PLACE THE LICENSEE
8 ON PROBATION AND TO SET THE TERMS OF PROBATION, OR TO SUSPEND
9 OR REVOKE A LICENSE WHEN THE DIRECTOR FINDS THAT THE LICENSEE
10 HAS PERFORMED, IS PERFORMING, OR IS ATTEMPTING TO PERFORM ANY OF
11 THE FOLLOWING ACTS:

12 (a) KNOWINGLY MAKING ANY MISREPRESENTATION OR
13 KNOWINGLY MAKING USE OF ANY FALSE OR MISLEADING ADVERTISING;

14 (b) MAKING ANY PROMISE THAT INFLUENCES, PERSUADES, OR
15 INDUCES ANOTHER PERSON TO DETRIMENTALLY RELY ON SUCH PROMISE
16 WHEN THE LICENSEE COULD NOT OR DID NOT INTEND TO KEEP SUCH
17 PROMISE;

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

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

25 (e) ACTING FOR MORE THAN ONE PARTY IN A TRANSACTION
26 WITHOUT DISCLOSING ANY ACTUAL OR POTENTIAL CONFLICT OF INTEREST
27 OR WITHOUT DISCLOSING TO ALL PARTIES ANY FIDUCIARY OBLIGATION OR

1 OTHER LEGAL OBLIGATION OF THE MORTGAGE BROKER TO ANY PARTY:

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

5 (g) IN THE CASE OF A LICENSEE IN THE EMPLOY OF ANOTHER
6 MORTGAGE BROKER, FAILING TO PLACE, AS SOON AFTER RECEIPT AS IS
7 PRACTICABLY POSSIBLE, IN THE CUSTODY OF THAT LICENSED MORTGAGE
8 BROKER-EMPLOYER ANY DEPOSIT MONEY OR OTHER MONEY OR FUND
9 ENTRUSTED TO THE EMPLOYEE BY ANY PERSON DEALING WITH THE
10 EMPLOYEE AS THE REPRESENTATIVE OF THAT LICENSED MORTGAGE
11 BROKER-EMPLOYER;

12 (h) FAILING TO ACCOUNT FOR OR TO REMIT, WITHIN A REASONABLE
13 TIME, ANY MONEYS COMING INTO HIS OR HER POSSESSION THAT BELONG
14 TO OTHERS, WHETHER ACTING AS A MORTGAGE BROKER, REAL ESTATE
15 BROKER, SALESPERSON, OR OTHERWISE, AND FAILING TO KEEP RECORDS
16 RELATIVE TO SAID MONEYS, WHICH RECORDS SHALL CONTAIN SUCH
17 INFORMATION AS MAY BE PRESCRIBED BY THE RULES OF THE DIRECTOR
18 RELATIVE THERETO AND SHALL BE SUBJECT TO AUDIT BY THE DIRECTOR;

19 (i) CONVERTING FUNDS OF OTHERS, DIVERTING FUNDS OF OTHERS
20 WITHOUT PROPER AUTHORIZATION, COMMINGLING FUNDS OF OTHERS WITH
21 THE LICENSEE'S OWN FUNDS, OR FAILING TO KEEP SUCH FUNDS OF OTHERS
22 IN AN ESCROW OR A TRUSTEE ACCOUNT WITH A BANK OR RECOGNIZED
23 DEPOSITORY IN THIS STATE, WHICH ACCOUNT MAY BE ANY TYPE OF
24 CHECKING, DEMAND, PASSBOOK, OR STATEMENT ACCOUNT INSURED BY AN
25 AGENCY OF THE UNITED STATES GOVERNMENT, AND TO SO KEEP RECORDS
26 RELATIVE TO THE DEPOSIT THAT CONTAIN SUCH INFORMATION AS MAY BE
27 PRESCRIBED BY THE RULES OF THE DIRECTOR RELATIVE THERETO, WHICH

1 RECORDS SHALL BE SUBJECT TO AUDIT BY THE DIRECTOR;

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

5 (k) FAILING TO MAINTAIN POSSESSION, FOR FUTURE USE OR
6 INSPECTION BY AN AUTHORIZED REPRESENTATIVE OF THE DIRECTOR, FOR
7 A PERIOD OF FOUR YEARS, OF THE DOCUMENTS OR RECORDS PRESCRIBED
8 BY THE RULES OF THE DIRECTOR OR TO PRODUCE SUCH DOCUMENTS OR
9 RECORDS UPON REASONABLE REQUEST BY THE DIRECTOR OR BY AN
10 AUTHORIZED REPRESENTATIVE OF THE DIRECTOR;

11 (l) PAYING A COMMISSION OR VALUABLE CONSIDERATION FOR
12 PERFORMING ANY OF THE FUNCTIONS OF A MORTGAGE BROKER, AS
13 DESCRIBED IN THIS PART 9, TO ANY PERSON NOT LICENSED UNDER THIS
14 PART 9; EXCEPT THAT A LICENSED MORTGAGE BROKER MAY PAY A
15 FINDER'S FEE OR A SHARE OF ANY COMMISSION ON A COOPERATIVE SALE
16 WHEN SUCH PAYMENT IS MADE TO A MORTGAGE BROKER LICENSED IN
17 ANOTHER STATE OR COUNTRY. IF SUCH STATE OR COUNTRY DOES NOT
18 LICENSE MORTGAGE BROKERS, THEN THE PAYEE SHALL BE A CITIZEN OR
19 RESIDENT OF SAID STATE OR COUNTRY AND REPRESENT THAT THE PAYEE
20 IS IN THE MORTGAGE BROKERAGE BUSINESS IN SAID STATE OR COUNTRY.

21 (m) DISREGARDING OR VIOLATING ANY PROVISION OF THIS PART
22 9 OR OF ANY RULE ADOPTED BY THE DIRECTOR PURSUANT TO THIS PART 9;
23 VIOLATING ANY LAWFUL ORDERS OF THE DIRECTOR; OR AIDING AND
24 ABETTING A VIOLATION OF ANY RULE, ORDER OF THE DIRECTOR, OR
25 PROVISION OF THIS PART 9;

26 (n) CONVICTION OF, ENTERING A PLEA OF GUILTY TO, OR ENTERING
27 A PLEA OF NOLO CONTENDERE TO ANY CRIME IN ARTICLE 3 OF TITLE 18,

1 C.R.S., IN PARTS 1 TO 4 OF ARTICLE 4 OF TITLE 18, C.R.S., IN ARTICLE
2 5 OF TITLE 18, C.R.S., IN PART 3 OF ARTICLE 8 OF TITLE 18, C.R.S., IN
3 ARTICLE 15 OF TITLE 18, C.R.S., IN ARTICLE 17 OF TITLE 18, C.R.S., OR
4 ANY OTHER LIKE CRIME UNDER COLORADO LAW, FEDERAL LAW, OR THE
5 LAWS OF OTHER STATES. A CERTIFIED COPY OF THE JUDGMENT OF A
6 COURT OF COMPETENT JURISDICTION OF SUCH CONVICTION OR OTHER
7 OFFICIAL RECORD INDICATING THAT SUCH PLEA WAS ENTERED SHALL BE
8 CONCLUSIVE EVIDENCE OF SUCH CONVICTION OR PLEA IN ANY HEARING
9 UNDER THIS PART 9.

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

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

15 (q) HAVING DEMONSTRATED UNWORTHINESS OR INCOMPETENCY
16 TO ACT AS A MORTGAGE BROKER OR LOAN ORIGINATOR BY CONDUCTING
17 BUSINESS IN SUCH A MANNER AS TO ENDANGER THE INTEREST OF THE
18 PUBLIC;

19 (r) FAILING TO EXERCISE REASONABLE SUPERVISION OVER THE
20 ACTIVITIES OF LICENSED EMPLOYEES;

21 (s) PROCURING, OR ATTEMPTING TO PROCURE, A MORTGAGE
22 BROKER'S LICENSE OR RENEWING, REINSTATING, OR REACTIVATING, OR
23 ATTEMPTING TO RENEW, REINSTATE, OR REACTIVATE, A MORTGAGE
24 BROKER'S LICENSE BY FRAUD, MISREPRESENTATION, OR DECEIT OR BY
25 MAKING A MATERIAL MISSTATEMENT OF FACT IN AN APPLICATION FOR
26 SUCH LICENSE;

27 (t) CLAIMING, ARRANGING FOR, OR TAKING ANY SECRET OR

1 UNDISCLOSED AMOUNT OF COMPENSATION, COMMISSION, OR PROFIT OR
2 FAILING TO REVEAL TO THE LICENSEE'S PRINCIPAL OR EMPLOYER THE FULL
3 AMOUNT OF SUCH LICENSEE'S COMPENSATION, COMMISSION, OR PROFIT IN
4 CONNECTION WITH ANY ACTS FOR WHICH A LICENSE IS REQUIRED UNDER
5 THIS PART 9;

6 (u) EXERCISING AN OPTION TO PURCHASE IN ANY AGREEMENT
7 AUTHORIZING OR EMPLOYING SUCH LICENSEE TO SELL, BUY, OR EXCHANGE
8 REAL ESTATE FOR COMPENSATION OR COMMISSION EXCEPT WHEN SUCH
9 LICENSEE, PRIOR TO OR COINCIDENT WITH ELECTION TO EXERCISE SUCH
10 OPTION TO PURCHASE, REVEALS IN WRITING TO THE LICENSEE'S PRINCIPAL
11 OR EMPLOYER THE FULL AMOUNT OF THE LICENSEE'S PROFIT AND OBTAINS
12 THE WRITTEN CONSENT OF SUCH PRINCIPAL OR EMPLOYER APPROVING THE
13 AMOUNT OF SUCH PROFIT;

14 (v) FRAUD, MISREPRESENTATION, DECEIT, OR CONVERSION OF
15 TRUST FUNDS THAT RESULTS IN THE PAYMENT OF ANY CLAIM PURSUANT
16 TO THIS PART 9 OR THAT RESULTS IN THE ENTRY OF A CIVIL JUDGMENT FOR
17 DAMAGES;

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

21 (x) HAVING HAD A MORTGAGE BROKER'S LICENSE SUSPENDED OR
22 REVOKED IN ANY JURISDICTION, OR HAVING HAD ANY DISCIPLINARY
23 ACTION TAKEN AGAINST THE MORTGAGE BROKER IN ANY OTHER
24 JURISDICTION. A CERTIFIED COPY OF THE ORDER OF DISCIPLINARY ACTION
25 SHALL BE PRIMA FACIE EVIDENCE OF SUCH DISCIPLINARY ACTION.

26 (2) IF A FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY,
27 ASSOCIATION, OR CORPORATION OPERATING UNDER THE LICENSE OF A

1 MORTGAGE BROKER DESIGNATED AND LICENSED AS A REPRESENTATIVE OF
2 SAID FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, OR
3 CORPORATION IS GUILTY OF ANY OF THE ACTS SET OUT IN SUBSECTION (1)
4 OF THIS SECTION, THE DIRECTOR MAY SUSPEND OR REVOKE THE RIGHT OF
5 THE FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, OR
6 CORPORATION TO CONDUCT ITS BUSINESS UNDER THE LICENSE OF SAID
7 MORTGAGE BROKER, WHETHER OR NOT THE DESIGNATED MORTGAGE
8 BROKER HAD PERSONAL KNOWLEDGE THEREOF AND WHETHER OR NOT THE
9 DIRECTOR SUSPENDS OR REVOKES THE INDIVIDUAL LICENSE OF SAID
10 MORTGAGE BROKER.

11 (3) UPON REQUEST OF THE DIRECTOR, WHEN ANY MORTGAGE
12 BROKER IS A PARTY TO ANY SUIT OR PROCEEDING, EITHER CIVIL OR
13 CRIMINAL, ARISING OUT OF ANY TRANSACTION INVOLVING A RESIDENTIAL
14 MORTGAGE LOAN AND WHEN SUCH MORTGAGE BROKER PARTICIPATED IN
15 SUCH TRANSACTION IN HIS OR HER CAPACITY AS A LICENSED MORTGAGE
16 BROKER, IT SHALL BE THE DUTY OF SUCH MORTGAGE BROKER TO SUPPLY
17 TO THE DIRECTOR A COPY OF THE COMPLAINT, INDICTMENT, INFORMATION,
18 OR OTHER INITIATING PLEADING AND THE ANSWER FILED, IF ANY, AND TO
19 ADVISE THE DIRECTOR OF THE DISPOSITION OF THE CASE AND OF THE
20 NATURE AND AMOUNT OF ANY JUDGMENT, VERDICT, FINDING, OR
21 SENTENCE THAT MAY BE MADE, ENTERED, OR IMPOSED THEREIN.

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

25 (5) COMPLAINTS OF RECORD IN THE OFFICE OF THE DIRECTOR AND
26 THE RESULTS OF STAFF INVESTIGATIONS MAY, IN THE DISCRETION OF THE
27 DIRECTOR, BE CLOSED TO PUBLIC INSPECTION, EXCEPT AS PROVIDED BY

1 COURT ORDER, DURING THE INVESTIGATORY PERIOD AND UNTIL DISMISSED
2 OR UNTIL NOTICE OF HEARING AND CHARGES ARE SERVED ON A LICENSEE.

3 (6) WHEN A COMPLAINT OR AN INVESTIGATION DISCLOSES AN
4 INSTANCE OF MISCONDUCT THAT, IN THE OPINION OF THE DIRECTOR, DOES
5 NOT WARRANT FORMAL ACTION BY THE DIRECTOR BUT THAT SHOULD NOT
6 BE DISMISSED AS BEING WITHOUT MERIT, THE DIRECTOR MAY SEND A
7 LETTER OF ADMONITION BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED,
8 TO THE LICENSEE AGAINST WHOM A COMPLAINT WAS MADE AND A COPY
9 THEREOF TO THE PERSON MAKING THE COMPLAINT, BUT THE LETTER SHALL
10 ADVISE THE LICENSEE THAT THE LICENSEE HAS THE RIGHT TO REQUEST IN
11 WRITING, WITHIN TWENTY DAYS AFTER PROVEN RECEIPT, THAT FORMAL
12 DISCIPLINARY PROCEEDINGS BE INITIATED TO ADJUDICATE THE PROPRIETY
13 OF THE CONDUCT UPON WHICH THE LETTER OF ADMONITION IS BASED. IF
14 SUCH REQUEST IS TIMELY MADE, THE LETTER OF ADMONITION SHALL BE
15 DEEMED VACATED, AND THE MATTER SHALL BE PROCESSED BY MEANS OF
16 FORMAL DISCIPLINARY PROCEEDINGS.

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

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

24 (b) IF A PERSON'S LICENSE WAS SUSPENDED OR REVOKED DUE TO
25 CONDUCT THAT RESULTED IN FINANCIAL LOSS TO ANOTHER PERSON, NO
26 NEW LICENSE SHALL BE GRANTED, NOR SHALL A SUSPENDED LICENSE BE
27 REINSTATED, UNTIL FULL RESTITUTION HAS BEEN MADE TO THE PERSON

1 SUFFERING SUCH FINANCIAL LOSS. THE AMOUNT OF RESTITUTION SHALL
2 INCLUDE INTEREST, REASONABLE ATTORNEY FEES, AND COSTS OF ANY SUIT
3 OR OTHER PROCEEDING UNDERTAKEN IN AN EFFORT TO RECOVER THE
4 LOSS.

5 (9) WHEN THE DIRECTOR OR THE DIVISION BECOMES AWARE OF
6 FACTS OR CIRCUMSTANCES THAT FALL WITHIN THE JURISDICTION OF A
7 CRIMINAL JUSTICE OR OTHER LAW ENFORCEMENT AUTHORITY UPON
8 INVESTIGATION OF THE ACTIVITIES OF A LICENSEE, THE DIRECTOR OR
9 DIVISION SHALL, IN ADDITION TO THE EXERCISE OF ITS AUTHORITY UNDER
10 THIS PART 9, REFER AND TRANSMIT SUCH INFORMATION, WHICH MAY
11 INCLUDE ORIGINALS OR COPIES OF DOCUMENTS AND MATERIALS, TO ONE
12 OR MORE CRIMINAL JUSTICE OR OTHER LAW ENFORCEMENT AUTHORITIES
13 FOR INVESTIGATION AND PROSECUTION AS AUTHORIZED BY LAW.

14 **12-61-905.6. Hearing - administrative law judge - review -**
15 **rules.** (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, ALL
16 PROCEEDINGS BEFORE THE DIRECTOR WITH RESPECT TO DISCIPLINARY
17 ACTIONS AND DENIAL OF LICENSURE UNDER THIS PART 9, AT THE
18 DISCRETION OF THE DIRECTOR, MAY BE CONDUCTED BY AN
19 ADMINISTRATIVE LAW JUDGE PURSUANT TO SECTIONS 24-4-104 AND
20 24-4-105, C.R.S.

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

1 ADDRESS.

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

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

16 (5) IN A JUDICIAL REVIEW PROCEEDING, THE COURT MAY STAY THE
17 EXECUTION OR EFFECT OF ANY FINAL ORDER OF THE DIRECTOR; BUT A
18 HEARING SHALL BE HELD AFFORDING THE PARTIES AN OPPORTUNITY TO BE
19 HEARD FOR THE PURPOSE OF DETERMINING WHETHER THE PUBLIC HEALTH,
20 SAFETY, AND WELFARE WOULD BE ENDANGERED BY STAYING THE
21 DIRECTOR'S ORDER. IF THE COURT DETERMINES THAT THE ORDER SHOULD
22 BE STAYED, IT SHALL ALSO DETERMINE AT THE HEARING THE AMOUNT OF
23 THE BOND AND ADEQUACY OF THE SURETY, WHICH BOND SHALL BE
24 CONDITIONED UPON THE FAITHFUL PERFORMANCE BY SUCH PETITIONER OF
25 ALL OBLIGATIONS AS A MORTGAGE BROKER AND UPON THE PROMPT
26 PAYMENT OF ALL DAMAGES ARISING FROM OR CAUSED BY THE DELAY IN
27 THE TAKING EFFECT OF OR ENFORCEMENT OF THE ORDER COMPLAINED OF

1 AND FOR ALL COSTS THAT MAY BE ASSESSED OR REQUIRED TO BE PAID IN
2 CONNECTION WITH SUCH PROCEEDINGS.

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

8 **12-61-905.7. Subpoena - misdemeanor.** (1) THE DIRECTOR OR
9 THE ADMINISTRATIVE LAW JUDGE APPOINTED FOR HEARINGS MAY ISSUE A
10 SUBPOENA COMPELLING THE ATTENDANCE AND TESTIMONY OF WITNESSES
11 AND THE PRODUCTION OF BOOKS, PAPERS, OR RECORDS PURSUANT TO AN
12 INVESTIGATION OR HEARING OF THE DIRECTOR. SUCH SUBPOENAS SHALL
13 BE SERVED IN THE SAME MANNER AS SUBPOENAS ISSUED BY DISTRICT
14 COURTS AND SHALL BE ISSUED WITHOUT DISCRIMINATION BETWEEN
15 PUBLIC OR PRIVATE PARTIES REQUIRING THE ATTENDANCE OF WITNESSES
16 AND THE PRODUCTION OF DOCUMENTS AT HEARINGS. IF A PERSON FAILS
17 OR REFUSES TO OBEY A SUBPOENA ISSUED BY THE DIRECTOR OR THE
18 APPOINTED ADMINISTRATIVE LAW JUDGE, THE DIRECTOR MAY PETITION
19 THE DISTRICT COURT HAVING JURISDICTION FOR ISSUANCE OF A SUBPOENA
20 IN THE PREMISES, AND THE COURT SHALL, IN A PROPER CASE, ISSUE ITS
21 SUBPOENA.

22 (2) ANY PERSON WHO WILLFULLY FAILS OR NEGLECTS TO APPEAR
23 AND TESTIFY OR TO PRODUCE BOOKS, PAPERS, OR RECORDS REQUIRED BY
24 SUBPOENA, DULY SERVED UPON HIM OR HER IN ANY MATTER CONDUCTED
25 UNDER THIS PART 9, IS GUILTY OF A MISDEMEANOR AND, UPON
26 CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF ONE HUNDRED
27 DOLLARS, OR IMPRISONMENT IN THE COUNTY JAIL FOR NOT MORE THAN

1 THIRTY DAYS FOR EACH SUCH OFFENSE, OR BY BOTH SUCH FINE AND
2 IMPRISONMENT. EACH DAY SUCH PERSON SO REFUSES OR NEGLECTS
3 CONSTITUTES A SEPARATE OFFENSE.

4 **12-61-910.3. Rule-making authority.** THE DIRECTOR MAY
5 ADOPT REASONABLE RULES AS NECESSARY TO ENABLE THE DIRECTOR TO
6 CARRY OUT THE DIRECTOR'S DUTIES UNDER THIS PART 9.

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

9 **12-61-907. Bond required.** (1) ~~Prior to registration~~ BEFORE
10 RECEIVING A LICENSE, an applicant ~~for registration~~ shall post with the
11 director a surety bond, or an alternative authorized by article 35 of title
12 11, C.R.S., of twenty-five thousand dollars. A ~~registered~~ LICENSED
13 mortgage broker shall maintain such bond at all times.

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

16 **12-61-908. Fees.** (1) The director may set the ~~fee~~ FEES for
17 ~~registration~~ ISSUANCE AND RENEWAL OF LICENSES under this part 9. The
18 ~~fee~~ FEES shall be set in ~~an amount, not to exceed two hundred dollars,~~
19 AMOUNTS that ~~offsets~~ OFFSET the direct and indirect costs of
20 implementing this part 9 AND SECTION 38-40-105, C.R.S. The moneys
21 collected pursuant to this section shall be transferred to the state treasurer,
22 who shall credit them to the mortgage broker ~~registration~~ LICENSING cash
23 fund.

24 (2) There is hereby created in the state treasury the mortgage
25 broker ~~registration~~ LICENSING cash fund. Moneys in the fund shall be
26 spent only to implement this part 9 AND SECTION 38-40-105, C.R.S., and
27 shall not revert to the general fund at the end of the fiscal year. The fund

1 shall be subject to annual appropriation by the general assembly.

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

4 **12-61-910. Violations - injunctions.** (1) (a) ~~Brokering a~~
5 ~~mortgage or practicing as a mortgage broker without registering under~~
6 ~~this part 9 shall be~~ ANY NATURAL PERSON, FIRM, PARTNERSHIP, LIMITED
7 LIABILITY COMPANY, OR ASSOCIATION OR ANY CORPORATION VIOLATING
8 THIS PART 9 BY ACTING AS A MORTGAGE BROKER IN THIS STATE WITHOUT
9 HAVING OBTAINED A LICENSE OR BY ACTING AS A MORTGAGE BROKER
10 AFTER THAT PERSON'S LICENSE HAS BEEN REVOKED OR DURING ANY
11 PERIOD FOR WHICH SAID LICENSE MAY HAVE BEEN SUSPENDED IS GUILTY
12 OF a class 1 misdemeanor and shall be punished as provided in section
13 18-1.3-501, C.R.S.; EXCEPT THAT, IF THE VIOLATOR IS NOT A NATURAL
14 PERSON, THE VIOLATOR SHALL BE PUNISHED BY A FINE OF NOT MORE THAN
15 FIVE THOUSAND DOLLARS.

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

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

22

23 **SECTION 12.** 12-61-911 (1) and (2), Colorado Revised Statutes,
24 are amended to read:

25 **12-61-911. Repeal.** (1) The provisions of section 24-34-104,
26 C.R.S., concerning the termination schedule for regulatory bodies of the
27 state unless extended, apply to the ~~registration~~ LICENSING of mortgage

1 brokers under this part 9.

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

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

9 **12-61-911.5. Acts of employee - mortgage broker's liability.**

10 AN UNLAWFUL ACT OR VIOLATION OF THIS PART 9 UPON THE PART OF AN
11 EMPLOYEE, OFFICER, OR MEMBER OF A LICENSED MORTGAGE BROKER
12 SHALL NOT BE CAUSE FOR DISCIPLINARY ACTION AGAINST A MORTGAGE
13 BROKER UNLESS IT APPEARS THAT THE MORTGAGE BROKER KNEW OR
14 SHOULD HAVE KNOWN OF THE UNLAWFUL ACT OR VIOLATION OR HAD BEEN
15 NEGLIGENT IN THE SUPERVISION OF THE EMPLOYEE.

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

18 **38-40-105. Prohibited acts by originators of certain mortgage**
19 **loans.** (1) The following acts by any mortgage broker or mortgage
20 originator with respect to any loan that is secured by a first or subordinate
21 mortgage or deed or trust lien against a dwelling are prohibited:

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

25

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

1 **38-40-105. Prohibited acts by originators of certain mortgage**
2 **loans - definitions.** (1.5) (a) A MORTGAGE BROKER, MORTGAGE LENDER,
3 OR THE AGENT OF EITHER A MORTGAGE BROKER OR MORTGAGE LENDER
4 SHALL PROVIDE THE BORROWER WITH DRAFT COPIES OF THE MORTGAGE
5 LOAN AGREEMENT AND ALL OTHER DOCUMENTS MATERIAL TO THE
6 TRANSACTION, ___ COMPLETED TO THE EXTENT POSSIBLE IN ACCORDANCE
7 WITH GOOD-FAITH ESTIMATES, AT LEAST ONE BUSINESS DAY BEFORE
8 CLOSING. THERE SHALL BE NO BLANK SPACES REMAINING ON THE
9 AGREEMENT FORM AND NO CHANGE TO ANY MATERIAL TERM OF THE
10 AGREEMENT OR OF ANY ACCOMPANYING DOCUMENT DURING THIS TIME.

11 ___
12 (b) AS USED IN THIS SUBSECTION (1.5), "DOCUMENTS MATERIAL TO
13 THE TRANSACTION" INCLUDE, WITHOUT LIMITATION, THE DEED OF
14 CONVEYANCE, EXCEPT IN THE CASE OF A REFINANCING, THE LOAN
15 AGREEMENT, AND THE TITLE DOCUMENTS IF REQUESTED BY THE
16 BORROWER.

17 **SECTION 16. Appropriation.** In addition to any other
18 appropriation, there is hereby appropriated, out of any moneys in the
19 mortgage broker registration cash fund created in Section 12-61-908 (2),
20 Colorado Revised Statutes, not otherwise appropriated, to the department
21 of regulatory agencies, for the fiscal year beginning July 1, 2007, the sum
22 of four hundred twenty-two thousand four hundred sixty-three dollars
23 (\$422,463), cash funds, and 1.8 FTE, or so much thereof as may be
24 necessary, for the implementation of this act. Of said sum, fifty-nine
25 thousand two hundred ninety-nine dollars (\$59,299) shall be allocated to
26 the executive director's office for the purchase of legal services from the
27 department of law and three hundred sixty-three thousand one hundred

1 sixty-four dollars (\$363,164) and 1.8 FTE shall be allocated to the
2 division of real estate.

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

12 (b) In addition to any other appropriation, there is hereby
13 appropriated, to the department of law, for the fiscal year beginning July
14 1, 2007, to the department of law, for allocation to the consumer
15 protection section, for the fiscal year beginning July 1, 2007, the sum of
16 one hundred eighty-six thousand three hundred forty-nine dollars
17 (\$186,349) and 2.3 FTE, or so much thereof as may be necessary, for the
18 implementation of this act. Said sum shall be from cash funds exempt
19 received from the department of regulatory agencies, executive director's
20 office out of the appropriation for to the division of real estate in section
21 16 of this act.

22 (2) In addition to any other appropriation, there is hereby
23 appropriated, to the department of public safety, Colorado bureau of
24 investigation, for the fiscal year beginning July 1, 2007, the sum of two
25 hundred ninety-seven thousand two hundred eighty-eight dollars
26 (\$297,288), or so much thereof as may be necessary, for fingerprint
27 processing services related to the implementation of this act. Of this sum,

1 eighty-six thousand eighty-eight dollars (\$86,088) shall be cash funds
2 from fingerprint and name check processing fees collected by the
3 department, and two hundred eleven thousand two hundred dollars
4 (\$211,200) shall be cash funds exempt from fingerprint and name check
5 processing fees collected by the department for transmittal to the federal
6 bureau of investigation.

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

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

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