

**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**

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**SENATE SPONSORSHIP**

**Groff,** and Kester

**HOUSE SPONSORSHIP**

**Marshall,**

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**Senate Committees**

State, Veterans & Military Affairs  
Appropriations

**House Committees**

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**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             **AND SPECIFYING PROHIBITED ACTS AND GROUNDS FOR**  
105             **DISCIPLINE OF LICENSEES.**

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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.)*

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.*

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.

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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 (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. The moneys collected pursuant to this section  
21 shall be transferred to the state treasurer, who shall credit them to the  
22 mortgage broker ~~registration~~ LICENSING cash fund.

23 (2) There is hereby created in the state treasury the mortgage  
24 broker ~~registration~~ LICENSING cash fund. Moneys in the fund shall be  
25 spent only to implement this part 9 and shall not revert to the general fund  
26 at the end of the fiscal year. The fund shall be subject to annual  
27 appropriation by the general assembly.

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

3           **12-61-910. Violations - injunctions.** (1) (a) ~~Brokering a~~  
4 ~~mortgage or practicing as a mortgage broker without registering under~~  
5 ~~this part 9 shall be~~ ANY NATURAL PERSON, FIRM, PARTNERSHIP, LIMITED  
6 LIABILITY COMPANY, OR ASSOCIATION OR ANY CORPORATION VIOLATING  
7 THIS PART 9 BY ACTING AS A MORTGAGE BROKER IN THIS STATE WITHOUT  
8 HAVING OBTAINED A LICENSE OR BY ACTING AS A MORTGAGE BROKER  
9 AFTER THAT PERSON'S LICENSE HAS BEEN REVOKED OR DURING ANY  
10 PERIOD FOR WHICH SAID LICENSE MAY HAVE BEEN SUSPENDED IS GUILTY  
11 OF a class 1 misdemeanor and shall be punished as provided in section  
12 18-1.3-501, C.R.S.; EXCEPT THAT, IF THE VIOLATOR IS NOT A NATURAL  
13 PERSON, THE VIOLATOR SHALL BE PUNISHED BY A FINE OF NOT MORE THAN  
14 FIVE THOUSAND DOLLARS.

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

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

21

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

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

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

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

8 **12-61-911.5. Acts of employee - mortgage broker's liability.**

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

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

17 **38-40-105. Prohibited acts by originators of certain mortgage**  
18 **loans.** (1) The following acts by any mortgage broker or mortgage  
19 originator with respect to any loan that is secured by a first or subordinate  
20 mortgage or deed or trust lien against a dwelling are prohibited:

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

24            

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

27 **38-40-105. Prohibited acts by originators of certain mortgage**

1 loans. (1.5) A MORTGAGE BROKER OR THE BROKER'S AGENT SHALL  
2 PROVIDE THE BORROWER WITH DRAFT COPIES OF THE MORTGAGE LOAN  
3 AGREEMENT AND ALL OTHER DOCUMENTS MATERIAL TO THE  
4 TRANSACTION, INCLUDING WITHOUT LIMITATION THE DEED AND TITLE  
5 DOCUMENTS, COMPLETED TO THE EXTENT POSSIBLE IN ACCORDANCE WITH  
6 GOOD-FAITH ESTIMATES, AT LEAST ONE BUSINESS DAY BEFORE CLOSING.  
7 THERE SHALL BE NO BLANK SPACES REMAINING ON THE AGREEMENT FORM  
8 AND NO CHANGE TO ANY MATERIAL TERM OF THE AGREEMENT OR OF ANY  
9 ACCOMPANYING DOCUMENT DURING THIS TIME.

10 SECTION 16. 38-40-105 (2), Colorado Revised Statutes, is  
11 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

12 **38-40-105. Prohibited acts by originators of certain mortgage**  
13 **loans. (2) (d) IF THE TRANSACTION INVOLVES THE PURCHASE AND SALE**  
14 **OF RESIDENTIAL REAL PROPERTY AND THE BORROWER HAS PAID EARNEST**  
15 **MONEY TO THE SELLER, RESCISSION UNDER THIS SUBSECTION (2) SHALL**  
16 **NOT ENTITLE THE BORROWER TO A REFUND OF THE EARNEST MONEY**  
17 **UNLESS THE SELLER KNEW OR REASONABLY SHOULD HAVE KNOWN OF A**  
18 **MATERIAL OMISSION, MISSTATEMENT, OR DEFECT IN THE DOCUMENTS**  
19 **PROVIDED TO THE BORROWER.**

20 **SECTION 17. Effective date - applicability.** (1) This act shall  
21 take effect January 1, 2008; except that sections 1 and 2 of this act shall  
22 take effect only if Senate Bill 07-085 is enacted at the First Regular  
23 Session of the Sixty-sixth General Assembly and becomes law.

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

27 **SECTION 18. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.