

SENATE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

March 19, 2007  
Date

Committee on State, Veterans & Military Affairs.

After consideration on the merits, the Committee recommends the following:

SB07-203 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, page 3, line 11, strike "**required.**" and substitute  
2 "**required - rules.**";

3 line 16, strike "(3)" and substitute "(4)";

4 after line 17, insert the following:

5           "(c) A MORTGAGE BROKER WHO WAS REGISTERED UNDER THE  
6 PREDECESSOR TO THIS SECTION ON OR BEFORE JANUARY 1, 2008, SHALL  
7 HAVE HIS OR HER REGISTRATION CONVERTED TO A LICENSE UPON  
8 SATISFACTION OF ALL INITIAL LICENSING REQUIREMENTS THAT HE OR SHE  
9 HAD NOT ALREADY SATISFIED WHEN APPLYING FOR REGISTRATION. THE  
10 INITIAL TERM OF LICENSURE OF SUCH A MORTGAGE BROKER SHALL EXPIRE  
11 ON THE THIRD ANNIVERSARY OF HIS OR HER INITIAL REGISTRATION.";

12 line 21, strike "(4)" and substitute "(5)";

13 after line 26, insert the following:

14           "(3) (a) IN ADDITION TO THE REQUIREMENTS IMPOSED BY  
15 SUBSECTION (2) OF THIS SECTION, ON OR AFTER JANUARY 1, 2009, EACH  
16 INDIVIDUAL APPLICANT FOR INITIAL LICENSING AS A MORTGAGE BROKER  
17 SHALL HAVE SATISFACTORILY COMPLETED, WITHIN THE THREE YEARS  
18 IMMEDIATELY PRECEDING THE DATE OF THE APPLICATION, A MORTGAGE

1 LENDING FUNDAMENTALS COURSE APPROVED BY THE DIRECTOR AND  
2 CONSISTING OF AT LEAST NINE HOURS OF CLASSROOM INSTRUCTION IN  
3 SUBJECTS RELATED TO MORTGAGE LENDING. IN ADDITION, THE APPLICANT  
4 SHALL HAVE SATISFACTORILY COMPLETED A WRITTEN EXAMINATION  
5 APPROVED BY THE DIRECTOR.

6 (b) THE DIRECTOR MAY CONTRACT WITH ONE OR MORE  
7 INDEPENDENT TESTING SERVICES TO DEVELOP, ADMINISTER, AND GRADE  
8 THE EXAMINATIONS REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (3)  
9 AND TO MAINTAIN AND ADMINISTER LICENSEE RECORDS. THE CONTRACT  
10 MAY ALLOW THE TESTING SERVICE TO RECOVER FROM APPLICANTS ITS  
11 COSTS INCURRED IN CONNECTION WITH THESE FUNCTIONS. THE DIRECTOR  
12 MAY CONTRACT SEPARATELY FOR THESE FUNCTIONS AND MAY ALLOW THE  
13 COSTS TO BE COLLECTED BY A SINGLE CONTRACTOR FOR DISTRIBUTION TO  
14 OTHER CONTRACTORS.";

15 line 27, strike "(3)" and substitute "(4)".

16 Page 4, line 7, strike "(4)" and substitute "(5)";

17 line 17, strike "(5)" and substitute "(6)";

18 line 20, strike "(6)" and substitute "(7)";

19 after line 23, insert the following:

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

24 (b) CONTINUING PROFESSIONAL EDUCATION REQUIREMENTS SHALL  
25 BE DETERMINED BY THE DIRECTOR; EXCEPT THAT LICENSEES SHALL NOT  
26 BE REQUIRED TO COMPLETE MORE THAN NINE CREDIT HOURS OF  
27 CONTINUING EDUCATION WITHIN A THREE-YEAR PERIOD. THE DIRECTOR  
28 MAY CONTRACT WITH ONE OR MORE INDEPENDENT SERVICE PROVIDERS TO  
29 DEVELOP, REVIEW, OR APPROVE CONTINUING EDUCATION COURSES. THE  
30 CONTRACT MAY ALLOW THE INDEPENDENT SERVICE PROVIDER TO  
31 RECOVER FROM LICENSEES ITS COSTS INCURRED IN CONNECTION WITH  
32 THESE FUNCTIONS. THE DIRECTOR MAY CONTRACT SEPARATELY FOR  
33 THESE FUNCTIONS AND MAY ALLOW THE COSTS TO BE COLLECTED BY A

1 SINGLE CONTRACTOR FOR DISTRIBUTION TO OTHER CONTRACTORS.

2 (9) (a) THE DIRECTOR MAY REQUIRE CONTRACTORS AND  
3 PROSPECTIVE CONTRACTORS FOR SERVICES UNDER SUBSECTIONS (3) AND  
4 (8) OF THIS SECTION TO SUBMIT, FOR THE DIRECTOR'S REVIEW AND  
5 APPROVAL, INFORMATION REGARDING THE CONTENTS AND MATERIALS OF  
6 PROPOSED COURSES AND OTHER DOCUMENTATION REASONABLY  
7 NECESSARY TO FURTHER THE PURPOSES OF THIS SECTION.

8 (b) THE DIRECTOR MAY SET FEES FOR THE INITIAL AND  
9 CONTINUING REVIEW OF COURSES FOR WHICH CREDIT HOURS WILL BE  
10 GRANTED. THE INITIAL FILING FEE FOR REVIEW OF MATERIALS SHALL NOT  
11 EXCEED FIVE HUNDRED DOLLARS, AND THE FEE FOR CONTINUED REVIEW  
12 SHALL NOT EXCEED TWO HUNDRED FIFTY DOLLARS PER YEAR PER COURSE  
13 OFFERED.

14 (10) THE DIRECTOR MAY ADOPT REASONABLE RULES TO  
15 IMPLEMENT THIS SECTION."

16 Page 6, line 4, after "(5)", insert "(7)".

17 Page 7, after line 3, insert the following:

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

22 (b) THE DIRECTOR, UPON HIS OR HER OWN MOTION MAY, AND,  
23 UPON THE COMPLAINT IN WRITING OF ANY PERSON, SHALL, INVESTIGATE  
24 THE ACTIVITIES OF ANY LICENSEE OR ANY PERSON WHO ASSUMES TO ACT  
25 IN SUCH CAPACITY WITHIN THE STATE. IN ADDITION TO ANY OTHER  
26 PENALTY THAT MAY BE IMPOSED PURSUANT TO THIS PART 9, A PERSON  
27 VIOLATING ANY PROVISION OF THIS PART 9 OR ANY RULES PROMULGATED  
28 PURSUANT TO THIS ARTICLE MAY BE FINED UPON A FINDING OF  
29 MISCONDUCT BY THE DIRECTOR AS FOLLOWS:

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

32 (II) IN A SECOND OR SUBSEQUENT ADMINISTRATIVE PROCEEDING,



1 A FINE NOT LESS THAN ONE THOUSAND DOLLARS NOR IN EXCESS OF TWO  
2 THOUSAND DOLLARS PER ACT OR OCCURRENCE.";

3 line 15, strike "NOT TO EXCEED ONE";

4 strike line 16 and substitute the following:

5 "IN ACCORDANCE WITH SECTION 12-61-905 AND TO CENSURE A";

6 line 18, strike "TEMPORARILY" and, strike "PERMANENTLY";

7 line 24, strike "OF A CHARACTER".

8 Page 8, strike line 9 and substitute the following:

9 "WITHOUT DISCLOSING ANY ACTUAL OR POTENTIAL CONFLICT OF INTEREST  
10 OR WITHOUT DISCLOSING TO ALL PARTIES ANY FIDUCIARY OBLIGATION OR  
11 OTHER LEGAL OBLIGATION OF THE MORTGAGE BROKER TO ANY PARTY;".

12 Page 10, strike lines 3 and 4 and substitute the following:

13 "9 OR OF ANY RULE ADOPTED BY THE DIRECTOR PURSUANT TO THIS PART";

14 line 10, strike "18, C.R.S., IN PARTS 1 TO" and substitute "18, C.R.S., IN";

15 line 11, strike "8 OF".

16 Page 12, strike line 2 and substitute the following:

17 "EVINCES A LACK OF GOOD FAITH AND FAIR DEALING;"

18 strike lines 6 and 7 and substitute the following:

19 "JURISDICTION. A CERTIFIED COPY OF THE ORDER".

20 Page 15, line 26, strike "THE DIRECTOR MAY";

21 strike line 27.

22 Page 17, after line 15, insert the following:



1           **"12-61-910.3. Rule-making authority.** THE DIRECTOR MAY  
2 ADOPT REASONABLE RULES AS NECESSARY TO ENABLE THE DIRECTOR TO  
3 CARRY OUT THE DIRECTOR'S DUTIES UNDER THIS PART 9."

4 Page 18, line 10, strike "(1), (2), and (3)," and substitute "(1) and (2),".

5 Page 19, strike lines 3 through 18.

6 Page 20, line 9, strike "TO THE SATISFACTION OF THE DIRECTOR";

7 line 10, strike "HAD ACTUAL KNOWLEDGE" and substitute "KNEW OR  
8 SHOULD HAVE KNOWN";

9 strike lines 22 through 27.

10 Strike page 21.

11 Page 22, strike lines 1 through 6 and substitute the following:

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

14           **38-40-105. Prohibited acts by originators of certain mortgage**  
15 **loans.** (1.5) A MORTGAGE BROKER OR THE BROKER'S AGENT SHALL  
16 PROVIDE THE BORROWER WITH DRAFT COPIES OF THE MORTGAGE LOAN  
17 AGREEMENT AND ALL OTHER DOCUMENTS MATERIAL TO THE  
18 TRANSACTION, INCLUDING WITHOUT LIMITATION THE DEED AND TITLE  
19 DOCUMENTS, COMPLETED TO THE EXTENT POSSIBLE IN ACCORDANCE WITH  
20 GOOD-FAITH ESTIMATES, AT LEAST ONE BUSINESS DAY BEFORE CLOSING.  
21 THERE SHALL BE NO BLANK SPACES REMAINING ON THE AGREEMENT FORM  
22 AND NO CHANGE TO ANY MATERIAL TERM OF THE AGREEMENT OR OF ANY  
23 ACCOMPANYING DOCUMENT DURING THIS TIME.

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

26           **38-40-105. Prohibited acts by originators of certain mortgage**  
27 **loans.** (2) (d) IF THE TRANSACTION INVOLVES THE PURCHASE AND SALE  
28 OF RESIDENTIAL REAL PROPERTY AND THE BORROWER HAS PAID EARNEST  
29 MONEY TO THE SELLER, RESCISSION UNDER THIS SUBSECTION (2) SHALL  
30 NOT ENTITLE THE BORROWER TO A REFUND OF THE EARNEST MONEY

- 1 UNLESS THE SELLER KNEW OR REASONABLY SHOULD HAVE KNOWN OF A
- 2 MATERIAL OMISSION, MISSTATEMENT, OR DEFECT IN THE DOCUMENTS
- 3 PROVIDED TO THE BORROWER."
  
- 4 Renumber succeeding sections accordingly.
  
- 5 Page 22, line 8, strike "upon passage;" and substitute "January 1, 2008;".

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