

Second Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 06-0541.01 Thomas Morris

HOUSE BILL 06-1141

HOUSE SPONSORSHIP

Hall, and Massey

SENATE SPONSORSHIP

Grossman,

House Committees

Business Affairs and Labor

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE AUTHORIZATION OF AFFILIATED BUSINESS
102 ARRANGEMENTS RELATING TO TITLE INSURANCE.

Bill Summary

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

Authorizes affiliated business arrangements between title insurance companies, title insurance agents, settlement producers, and real estate brokers if the arrangement does not involve compensation for the referral of title insurance business and does not violate existing prohibitions on such entities. Prohibits title insurance companies, title insurance agents, settlement producers, and real estate brokers from requiring the use of an affiliated business arrangement or any particular

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.

settlement producer or provider as a condition of obtaining a settlement service. Specifies that giving or receiving, or attempting to give or receive, remuneration in any form pursuant to any agreement or understanding for the referral of title insurance business is an unfair method of competition and an unfair or deceptive act or practice.

Requires the disclosure of an affiliated business arrangement to the consumer at the time of an initial real estate contract or when the offer to purchase real property is fully executed. Requires title insurance companies, title insurance agents, and real estate brokers to disclose the existence of their affiliated business arrangements to the division of insurance or division of real estate in connection with an application for a new or renewed license.

Authorizes the commissioner of insurance and the real estate commission to promulgate rules to regulate affiliated business arrangements. Specifies that the commissioner of insurance and the real estate commission must consult with one another in the promulgation of these rules. Requires such rules to be at least as stringent as those promulgated pursuant to the federal "Real Estate Settlement Procedures Act". Authorizes the divisions of insurance and real estate to share information derived from investigations of affiliated business arrangements.

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

2 **SECTION 1.** 10-11-102 (1), Colorado Revised Statutes, is
3 amended, and the said 10-11-102 is further amended BY THE
4 ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

5 **10-11-102. Definitions.** As used in this article, unless the context
6 otherwise requires:

7 (1) ~~"Alien title insurance company" means any title insurance~~
8 ~~company incorporated or organized under the laws of any foreign nation,~~
9 ~~or of any province or territory thereof, not included under the definition~~
10 ~~of foreign title insurance company.~~ "AFFILIATED BUSINESS
11 ARRANGEMENT" MEANS AN ARRANGEMENT IN WHICH:

12 (a) A SETTLEMENT PRODUCER OR AN ASSOCIATE OF SUCH
13 PRODUCER HAS EITHER AN AFFILIATE RELATIONSHIP WITH, OR A DIRECT

1 BENEFICIAL OWNERSHIP INTEREST OF MORE THAN ONE PERCENT IN, A TITLE
2 INSURANCE COMPANY OR TITLE INSURANCE AGENT; AND

3 (b) EITHER THE SETTLEMENT PRODUCER OR THE AGENT OF THE
4 SETTLEMENT PRODUCER DIRECTLY OR INDIRECTLY REFERS SETTLEMENT
5 SERVICE BUSINESS TO THAT DIFFERENT SETTLEMENT PRODUCER OR
6 AFFIRMATIVELY INFLUENCES THE SELECTION OF THAT DIFFERENT
7 SETTLEMENT PRODUCER.

8 (1.5) "ALIEN TITLE INSURANCE COMPANY" MEANS A TITLE
9 INSURANCE COMPANY INCORPORATED OR ORGANIZED UNDER THE LAWS OF
10 A FOREIGN NATION, OR OF ANY PROVINCE OR TERRITORY THEREOF, NOT
11 INCLUDED UNDER THE DEFINITION OF A FOREIGN TITLE INSURANCE
12 COMPANY.

13 (2.5) "ASSOCIATE" MEANS A PERSON WHO HAS ONE OR MORE OF
14 THE FOLLOWING RELATIONSHIPS WITH A PERSON IN A POSITION TO REFER
15 SETTLEMENT BUSINESS:

16 (a) A SPOUSE, PARENT, OR CHILD OF SUCH PERSON;

17 (b) A CORPORATION OR BUSINESS ENTITY THAT CONTROLS, IS
18 CONTROLLED BY, OR IS UNDER COMMON CONTROL WITH SUCH PERSON;

19 (c) AN EMPLOYER, OFFICER, DIRECTOR, PARTNER, FRANCHISER, OR
20 FRANCHISEE OF SUCH PERSON; OR

21 (d) ANYONE WHO HAS AN AGREEMENT, ARRANGEMENT, OR
22 UNDERSTANDING WITH SUCH PERSON, THE PURPOSE OR SUBSTANTIAL
23 EFFECT OF WHICH IS TO ENABLE THE PERSON IN A POSITION TO REFER
24 SETTLEMENT BUSINESS TO BENEFIT FINANCIALLY FROM REFERRALS OF
25 SUCH BUSINESS.

26 (6.5) "SETTLEMENT PRODUCER" MEANS A PERSON WHO IS IN A
27 POSITION TO REFER BUSINESS THAT IS INCIDENT TO OR A PART OF A

1 SETTLEMENT SERVICE. "SETTLEMENT PRODUCER" INCLUDES, BUT IS NOT
2 LIMITED TO, A PERSON WHO:

- 3 (a) BUYS OR SELLS AN INTEREST IN REAL PROPERTY;
- 4 (b) MAKES LOANS SECURED BY AN INTEREST IN REAL PROPERTY;
- 5 (c) ACTS AS AN AGENT, REPRESENTATIVE, ATTORNEY, OR
6 EMPLOYEE OF A PERSON WHO:

- 7 (I) BUYS OR SELLS REAL PROPERTY; OR
- 8 (II) LENDS OR BORROWS MONEYS WITH AN INTEREST IN REAL
9 ESTATE AS SECURITY; OR

10 (d) IS AN ASSOCIATE OF A PERSON DESCRIBED IN THIS SUBSECTION
11 (6.5).

12 (6.7) "SETTLEMENT SERVICE" MEANS ANY SERVICE PROVIDED IN
13 CONNECTION WITH A REAL ESTATE SETTLEMENT. "SETTLEMENT SERVICES"
14 INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

- 15 (a) TITLE SEARCHES;
- 16 (b) TITLE EXAMINATIONS;
- 17 (c) THE PROVISION OF TITLE CERTIFICATES;
- 18 (d) TITLE INSURANCE;
- 19 (e) SERVICES RENDERED BY AN ATTORNEY;
- 20 (f) THE PREPARATION OF TITLE DOCUMENTS;
- 21 (g) PROPERTY SURVEYS;
- 22 (h) THE RENDERING OF CREDIT REPORTS OR APPRAISALS;
- 23 (i) PEST AND FUNGUS INSPECTIONS;
- 24 (j) SERVICES RENDERED BY A REAL ESTATE BROKER;
- 25 (k) SERVICES RENDERED BY A REAL ESTATE APPRAISER;
- 26 (l) HOME INSPECTION SERVICES;
- 27 (m) THE ORIGINATION OF A LOAN;

- 1 (n) THE TAKING OF A LOAN APPLICATION;
- 2 (o) PROCESSING OF A LOAN;
- 3 (p) UNDERWRITING AND FUNDING OF A LOAN;
- 4 (q) ESCROW HANDLING SERVICES;
- 5 (r) THE HANDLING OF THE PROCESSING; AND
- 6 (s) CLOSING OF SETTLEMENT.

7 **SECTION 2.** Article 11 of title 10, Colorado Revised Statutes, is
8 amended BY THE ADDITION OF THE FOLLOWING NEW
9 SECTIONS to read:

10 **10-11-124. Affiliated business arrangements - rules -**
11 **investigative information shared with the division of real estate.**

12 (1) (a) AN AFFILIATED BUSINESS ARRANGEMENT IS PERMITTED WHERE
13 THE PERSON REFERRING BUSINESS TO THE AFFILIATED BUSINESS
14 ARRANGEMENT RECEIVES PAYMENT ONLY IN THE FORM OF A RETURN ON
15 AN INVESTMENT AND WHERE IT DOES NOT VIOLATE THE PROVISIONS OF
16 SECTION 10-11-108 (1).

17 (b) A TITLE COMPANY OR A TITLE INSURANCE AGENT MAKING A
18 REFERRAL AS PART OF AN AFFILIATED BUSINESS ARRANGEMENT SHALL
19 DISCLOSE THE AFFILIATION IN ACCORDANCE WITH THE FEDERAL "REAL
20 ESTATE SETTLEMENT PROCEDURES ACT", 12 U.S.C. SEC. 2601 ET SEQ.

21 (c) NEITHER A TITLE INSURANCE COMPANY NOR A TITLE
22 INSURANCE AGENT SHALL REQUIRE THE USE OF AN AFFILIATED BUSINESS
23 ARRANGEMENT OR A PARTICULAR SETTLEMENT PRODUCER AS A
24 CONDITION OF OBTAINING TITLE INSURANCE SERVICES FROM THE
25 COMPANY OR AGENT. FOR THE PURPOSES OF THIS PARAGRAPH (c),
26 "REQUIRE THE USE" SHALL HAVE THE SAME MEANING AS "REQUIRED USE"
27 IN 24 CFR 3500.2 (b).

1 (2) THE COMMISSIONER MAY PROMULGATE RULES CONCERNING
2 THE CREATION AND CONDUCT OF AN AFFILIATED BUSINESS ARRANGEMENT,
3 INCLUDING, BUT NOT LIMITED TO, RULES DEFINING WHAT CONSTITUTES A
4 SHAM AFFILIATED BUSINESS ARRANGEMENT. NOTHING IN THIS
5 SUBSECTION (2) SHALL BE CONSTRUED TO INCREASE A FEE OR CREATE A
6 LICENSURE PROGRAM FOR AFFILIATED BUSINESS ARRANGEMENTS. THE
7 COMMISSIONER MAY ADOPT THE RULES, POLICIES, OR GUIDELINES ISSUED
8 BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN
9 DEVELOPMENT CONCERNING THE FEDERAL "REAL ESTATE SETTLEMENT
10 PROCEDURES ACT", 12 U.S.C. SEC. 2601 ET SEQ. RULES ADOPTED BY THE
11 COMMISSIONER SHALL BE AT LEAST AS STRINGENT AS THE FEDERAL RULES
12 AND SHALL ENSURE THAT CONSUMERS ARE ADEQUATELY INFORMED
13 ABOUT AFFILIATED BUSINESS ARRANGEMENTS. THE COMMISSIONER SHALL
14 CONSULT WITH THE REAL ESTATE COMMISSION PURSUANT TO SECTION
15 12-61-113.2 (5), C.R.S., CONCERNING RULES THE REAL ESTATE
16 COMMISSION MAY PROMULGATE CONCERNING AFFILIATED BUSINESS
17 ARRANGEMENTS. NEITHER THE RULES PROMULGATED BY THE
18 COMMISSIONER NOR THE REAL ESTATE COMMISSION MAY CREATE A
19 CONFLICTING REGULATORY BURDEN ON AN AFFILIATED BUSINESS
20 ARRANGEMENT.

21 (3) THE DIVISION MAY SHARE INFORMATION GATHERED DURING AN
22 INVESTIGATION OF AN AFFILIATED BUSINESS ARRANGEMENT WITH THE
23 DIVISION OF REAL ESTATE.

24 **10-11-125. Affiliated business arrangements - enforcement -**
25 **penalties.** (1) THE COMMISSIONER SHALL HAVE THE SAME REMEDIES
26 AVAILABLE TO HIM OR HER AS THOSE AVAILABLE TO THE ADMINISTRATOR
27 OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT IN THE

1 FEDERAL "REAL ESTATE SETTLEMENT PROCEDURES ACT", 12 U.S.C. SEC.
2 2607.

3 (2) IN ADDITION TO ANY OTHER REMEDIES AVAILABLE TO THE
4 COMMISSIONER PURSUANT TO THIS TITLE, AFTER NOTICE AND A HEARING
5 PURSUANT TO SECTION 24-4-105, C.R.S., THE COMMISSIONER MAY ASSESS
6 A PENALTY FOR A VIOLATION OF THIS ARTICLE OR A RULE PROMULGATED
7 UNDER THIS ARTICLE. THE PENALTY SHALL BE THE AMOUNT OF
8 REMUNERATION IMPROPERLY PAID AND SHALL BE PAID TO THE PERSON
9 AGGRIEVED BY THE VIOLATION OR APPORTIONED AMONG MULTIPLE
10 AGGRIEVED PERSONS AS DETERMINED BY THE COMMISSIONER.

11 **SECTION 3.** 10-2-401, Colorado Revised Statutes, is amended
12 BY THE ADDITION OF A NEW SUBSECTION to read:

13 **10-2-401. License required.** (6) A TITLE INSURANCE AGENT AND
14 A TITLE INSURANCE COMPANY, AS DEFINED IN SECTION 10-11-102 (9) AND
15 (10), SHALL DISCLOSE THE NAMES OF ALL AFFILIATED BUSINESS
16 ARRANGEMENTS TO WHICH THE COMPANY OR AGENT IS A PARTY AT THE
17 TIME OF APPLICATION FOR A NEW LICENSE, ON THE CONTINUATION DUE
18 DATE OF AN EXISTING LICENSE, AND UPON A CHANGE TO ANY IDENTIFYING
19 INFORMATION, IN A FORM AND MANNER ACCEPTABLE TO THE
20 COMMISSIONER. THE DISCLOSURE SHALL INCLUDE THE PHYSICAL
21 LOCATION OF THE AFFILIATED BUSINESSES, IDENTIFY THE SETTLEMENT
22 PRODUCER WITH WHOM THE COMPANY OR AGENT IS ASSOCIATED, AND
23 IDENTIFY THE UNDERWRITER OF THE TITLE INSURANCE BUSINESS.

24 **SECTION 4.** 10-3-1104 (1), Colorado Revised Statutes, is
25 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

26 **10-3-1104. Unfair methods of competition and unfair or**
27 **deceptive acts or practices.** (1) The following are defined as unfair

1 methods of competition and unfair or deceptive acts or practices in the
2 business of insurance:

3 (ee) VIOLATING SECTION 10-11-108 (1) (c) OR (1) (d), INCLUDING
4 A VIOLATION THROUGH THE CREATION OF AN IMPROPER AFFILIATED
5 BUSINESS ARRANGEMENT.

6 **SECTION 5.** 12-61-113.2, Colorado Revised Statutes, is
7 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

8 **12-61-113.2. Affiliated business arrangements - definitions -**
9 **disclosures - enforcement and penalties - reporting - rules -**
10 **investigation information shared with the division of insurance.**

11 (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
12 REQUIRES:

13 (a) "AFFILIATED BUSINESS ARRANGEMENT" MEANS AN
14 ARRANGEMENT IN WHICH:

15 (I) A SETTLEMENT PROVIDER OR AN ASSOCIATE OF SUCH PROVIDER
16 HAS EITHER AN AFFILIATE RELATIONSHIP WITH OR A DIRECT BENEFICIAL
17 OWNERSHIP INTEREST OF MORE THAN ONE PERCENT IN A PROVIDER OF
18 SETTLEMENT SERVICES; AND

19 (II) EITHER THE SETTLEMENT PROVIDER OR THE ASSOCIATE OF THE
20 SETTLEMENT PROVIDER DIRECTLY OR INDIRECTLY REFERS SUCH BUSINESS
21 TO THAT SETTLEMENT PROVIDER OR AFFIRMATIVELY INFLUENCES THE
22 SELECTION OF THAT SETTLEMENT PROVIDER.

23 (b) "ASSOCIATE" MEANS A PERSON WHO HAS ONE OR MORE OF THE
24 FOLLOWING RELATIONSHIPS WITH A PERSON IN A POSITION TO REFER
25 SETTLEMENT BUSINESS:

26 (I) A SPOUSE, PARENT, OR CHILD OF SUCH PERSON;

27 (II) A CORPORATION OR BUSINESS ENTITY THAT CONTROLS, IS

1 CONTROLLED BY, OR IS UNDER COMMON CONTROL WITH SUCH PERSON;

2 (III) AN EMPLOYER, OFFICER, DIRECTOR, PARTNER, FRANCHISER,
3 OR FRANCHISEE OF SUCH PERSON, INCLUDING A BROKER ACTING AS AN
4 INDEPENDENT CONTRACTOR; OR

5 (IV) ANYONE WHO HAS AN AGREEMENT, ARRANGEMENT, OR
6 UNDERSTANDING WITH SUCH PERSON, THE PURPOSE OR SUBSTANTIAL
7 EFFECT OF WHICH IS TO ENABLE THE PERSON IN A POSITION TO REFER
8 SETTLEMENT BUSINESS TO BENEFIT FINANCIALLY FROM REFERRALS OF
9 SUCH BUSINESS.

10 (c) "SETTLEMENT PROVIDER" MEANS A PERSON WHO IS IN A
11 POSITION TO REFER BUSINESS THAT IS INCIDENT TO OR A PART OF A
12 SETTLEMENT SERVICE. "SETTLEMENT PROVIDER" INCLUDES, BUT IS NOT
13 LIMITED TO, A PERSON WHO:

14 (I) BUYS OR SELLS AN INTEREST IN REAL PROPERTY;

15 (II) MAKES LOANS SECURED BY AN INTEREST IN REAL PROPERTY;

16 (III) ACTS AS AN AGENT, REPRESENTATIVE, ATTORNEY, OR
17 EMPLOYEE OF A PERSON WHO:

18 (A) BUYS OR SELLS REAL PROPERTY; OR

19 (B) LENDS OR BORROWS MONEYS WITH AN INTEREST IN REAL
20 ESTATE AS SECURITY; OR

21 (IV) IS AN ASSOCIATE OF A PERSON DESCRIBED IN THIS PARAGRAPH

22 (c).

23 (d) "SETTLEMENT SERVICE" MEANS ANY SERVICE PROVIDED IN
24 CONNECTION WITH A REAL ESTATE SETTLEMENT INCLUDING, BUT NOT
25 LIMITED TO, THE FOLLOWING:

26 (I) TITLE SEARCHES;

27 (II) TITLE EXAMINATIONS;

- 1 (III) THE PROVISION OF TITLE CERTIFICATES;
- 2 (IV) TITLE INSURANCE;
- 3 (V) SERVICES RENDERED BY AN ATTORNEY;
- 4 (VI) THE PREPARATION OF TITLE DOCUMENTS;
- 5 (VII) PROPERTY SURVEYS;
- 6 (VIII) THE RENDERING OF CREDIT REPORTS OR APPRAISALS;
- 7 (IX) REAL ESTATE APPRAISAL SERVICES;
- 8 (X) HOME INSPECTION SERVICES;
- 9 (XI) SERVICES RENDERED BY A REAL ESTATE BROKER;
- 10 (XII) THE ORIGINATION OF A LOAN;
- 11 (XIII) THE TAKING OF A LOAN APPLICATION;
- 12 (XIV) THE PROCESSING OF A LOAN;
- 13 (XV) UNDERWRITING AND FUNDING OF A LOAN;
- 14 (XVI) ESCROW HANDLING SERVICES;
- 15 (XVII) THE HANDLING OF THE PROCESSING; AND
- 16 (XVIII) CLOSING OF SETTLEMENT.

17 (2) (a) AN AFFILIATED BUSINESS ARRANGEMENT IS PERMITTED
18 WHERE THE PERSON REFERRING BUSINESS TO THE AFFILIATED BUSINESS
19 ARRANGEMENT RECEIVES PAYMENT ONLY IN THE FORM OF A RETURN ON
20 AN INVESTMENT AND WHERE IT DOES NOT VIOLATE THE PROVISIONS OF
21 SECTION 12-61-113.

22 (b) IF A LICENSEE OR THE EMPLOYING BROKER OF A LICENSEE IS
23 PART OF AN AFFILIATED BUSINESS ARRANGEMENT WHEN AN OFFER TO
24 PURCHASE REAL PROPERTY IS FULLY EXECUTED, THE LICENSEE SHALL
25 DISCLOSE TO ALL PARTIES TO THE REAL ESTATE TRANSACTION THE
26 EXISTENCE OF THE ARRANGEMENT. THE DISCLOSURE SHALL BE WRITTEN,
27 SHALL BE SIGNED BY ALL PARTIES TO THE REAL ESTATE TRANSACTION,

1 AND SHALL COMPLY WITH THE FEDERAL "REAL ESTATE SETTLEMENT
2 PROCEDURES ACT", 12 U.S.C. SEC. 2601 ET SEQ.

3 (c) A LICENSEE SHALL NOT REQUIRE THE USE OF AN AFFILIATED
4 BUSINESS ARRANGEMENT OR A PARTICULAR SETTLEMENT PROVIDER AS A
5 CONDITION OF OBTAINING SERVICES FROM THAT LICENSEE FOR ANY
6 SETTLEMENT SERVICE. FOR THE PURPOSES OF THIS PARAGRAPH (c),
7 "REQUIRE THE USE" SHALL HAVE THE SAME MEANING AS "REQUIRED USE"
8 IN 24 CFR 3500.2 (b).

9 (d) NO LICENSEE SHALL GIVE OR ACCEPT ANY FEE, KICKBACK, OR
10 OTHER THING OF VALUE PURSUANT TO ANY AGREEMENT OR
11 UNDERSTANDING, ORAL OR OTHERWISE, THAT BUSINESS INCIDENT TO OR
12 PART OF A SETTLEMENT SERVICE INVOLVING AN AFFILIATED BUSINESS
13 ARRANGEMENT SHALL BE REFERRED TO ANY SETTLEMENT PROVIDER.

14 (3) ON AND AFTER JULY 1, 2006, A LICENSEE SHALL DISCLOSE AT
15 THE TIME THE LICENSEE ENTERS INTO OR CHANGES AN AFFILIATED
16 BUSINESS ARRANGEMENT, IN A FORM AND MANNER ACCEPTABLE TO THE
17 COMMISSION, THE NAMES OF ALL AFFILIATED BUSINESS ARRANGEMENTS
18 TO WHICH THE LICENSEE IS A PARTY. THE DISCLOSURE SHALL INCLUDE
19 THE PHYSICAL LOCATION OF THE AFFILIATED BUSINESSES.

20 (4) ON AND AFTER JULY 1, 2006, AN EMPLOYING BROKER, IN A
21 FORM AND MANNER ACCEPTABLE TO THE COMMISSION, SHALL AT LEAST
22 ANNUALLY DISCLOSE THE NAMES OF ALL AFFILIATED BUSINESS
23 ARRANGEMENTS TO WHICH THE EMPLOYING BROKER IS A PARTY. THE
24 DISCLOSURE SHALL INCLUDE THE PHYSICAL LOCATION OF THE AFFILIATED
25 BUSINESSES.

26 (5) THE COMMISSION MAY PROMULGATE RULES CONCERNING THE
27 CREATION AND CONDUCT OF AN AFFILIATED BUSINESS ARRANGEMENT,

1 INCLUDING, BUT NOT LIMITED TO, RULES DEFINING WHAT CONSTITUTES A
2 SHAM AFFILIATED BUSINESS ARRANGEMENT. THE COMMISSION MAY
3 ADOPT THE RULES, POLICIES, OR GUIDELINES ISSUED BY THE UNITED
4 STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
5 CONCERNING THE FEDERAL "REAL ESTATE SETTLEMENT PROCEDURES
6 ACT", 12 U.S.C. SEC. 2601 ET SEQ. RULES ADOPTED BY THE COMMISSION
7 SHALL BE AT LEAST AS STRINGENT AS THE FEDERAL RULES AND SHALL
8 ENSURE THAT CONSUMERS ARE ADEQUATELY INFORMED ABOUT
9 AFFILIATED BUSINESS ARRANGEMENTS. THE COMMISSION SHALL CONSULT
10 WITH THE INSURANCE COMMISSIONER PURSUANT TO SECTION 10-11-124
11 (2), C.R.S., CONCERNING RULES THE INSURANCE COMMISSIONER MAY
12 PROMULGATE CONCERNING AFFILIATED BUSINESS ARRANGEMENTS.
13 NEITHER THE RULES PROMULGATED BY THE COMMISSIONER NOR THE REAL
14 ESTATE COMMISSION MAY CREATE A CONFLICTING REGULATORY BURDEN
15 ON AN AFFILIATED BUSINESS ARRANGEMENT.

16 (6) THE DIVISION MAY SHARE INFORMATION GATHERED DURING AN
17 INVESTIGATION OF AN AFFILIATED BUSINESS ARRANGEMENT WITH THE
18 DIVISION OF INSURANCE.

19 **SECTION 6.** 12-61-113 (1), Colorado Revised Statutes, is
20 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

21 **12-61-113. Investigation - revocation - actions against licensee**
22 **- repeal.** (1) The commission, upon its own motion, may, and, upon the
23 complaint in writing of any person, shall, investigate the activities of any
24 licensee or any person who assumes to act in such capacity within the
25 state, and the commission, after the holding of a hearing pursuant to
26 section 12-61-114, has the power to impose an administrative fine not to
27 exceed two thousand five hundred dollars for each separate offense and

1 to censure a licensee, to place the licensee on probation and to set the
2 terms of probation, or to temporarily suspend or permanently revoke a
3 license when the licensee has performed, is performing, or is attempting
4 to perform any of the following acts and is guilty of:

5 (x) (I) VIOLATING ANY PROVISION OF SECTION 12-61-113.2.

6 (II) IN ADDITION TO ANY OTHER REMEDIES AVAILABLE TO THE
7 COMMISSION PURSUANT TO THIS TITLE, AFTER NOTICE AND A HEARING
8 PURSUANT TO SECTION 24-4-105, C.R.S., THE COMMISSION MAY ASSESS A
9 PENALTY FOR A VIOLATION OF SECTION 12-61-113.2 OR OF ANY RULE
10 PROMULGATED PURSUANT TO SECTION 12-61-113.2. THE PENALTY SHALL
11 BE THE AMOUNT OF REMUNERATION IMPROPERLY PAID AND SHALL BE
12 TRANSMITTED TO THE STATE TREASURER AND CREDITED TO THE GENERAL
13 FUND.

14 **SECTION 7. Effective date - applicability.** This act shall take
15 effect July 1, 2006, and shall apply to acts occurring on or after said date.

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