

HOUSE COMMITTEE OF REFERENCE REPORT

\_\_\_\_\_  
Chairman of Committee

February 1, 2006  
Date

Committee on Business Affairs and Labor.

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

HB06-1141 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

- 1 Amend printed bill, page 2, line 12, after "(a)" insert "(I)".
- 2 Page 3, line 2 strike "AND" and substitute "OR";
- 3 after line 2, insert the following:
  - 4 "(II) A TITLE INSURANCE COMPANY OR A TITLE INSURANCE AGENT
  - 5 WHO HAS EITHER AN AFFILIATE RELATIONSHIP WITH, OR A DIRECT
  - 6 BENEFICIAL OWNERSHIP INTEREST OF MORE THAN ONE PERCENT IN A
  - 7 SETTLEMENT PRODUCER; AND";
- 8 line 3, after "(b), insert "(I)";
- 9 line 5, strike "DIFFERENT SETTLEMENT PRODUCER" and substitute "TITLE
- 10 INSURANCE COMPANY OR TITLE INSURANCE AGENT";
- 11 line 6, strike "DIFFERENT";
- 12 strike line 7 and substitute the following:
  - 13 "TITLE INSURANCE COMPANY OR TITLE INSURANCE AGENT; OR
  - 14 (II) EITHER THE TITLE INSURANCE COMPANY OR THE TITLE
  - 15 INSURANCE AGENT DIRECTLY OR INDIRECTLY REFERS SETTLEMENT
  - 16 SERVICES BUSINESS TO A SETTLEMENT PRODUCER OR ASSOCIATE OR

1 AFFIRMATIVELY INFLUENCES THE SELECTION OF THE SETTLEMENT  
2 PRODUCER OR ASSOCIATE."

3 Page 4, line 5, after "(c)" insert "(I)";

4 line 7, strike "(I)" and substitute "(A)";

5 line 8, strike "(II)" and substitute "(B)";

6 line 9, strike "SECURITY; OR" and substitute "SECURITY.";

7 after line 9, insert the following:

8 "(II) NOTHING IN THIS PARAGRAPH (c) SHALL BE CONSTRUED TO  
9 INCLUDE A TITLE INSURANCE COMPANY OR A TITLE INSURANCE AGENT."

10 Page 6, line 7, strike "MAY" and substitute "SHALL";

11 after line 23, insert the following:

12 "**10-11-125. Fees, salaries, compensation, or other payments.**  
13 (1) NOTHING IN SECTIONS 10-11-124 OR 10-11-126 SHALL BE CONSTRUED  
14 TO PROHIBIT PAYMENT OF A FEE TO:

15 (a) AN ATTORNEY FOR SERVICES ACTUALLY RENDERED;

16 (b) A TITLE COMPANY TO ITS DULY APPOINTED AGENT FOR  
17 SERVICES ACTUALLY PERFORMED IN THE ISSUANCE OF A POLICY OF TITLE  
18 INSURANCE; OR

19 (c) A LENDER TO ITS DULY APPOINTED AGENT FOR SERVICES  
20 ACTUALLY PERFORMED IN THE MAKING OF A LOAN.

21 (2) NOTHING IN SECTIONS 10-11-124 OR 10-11-126 SHALL BE  
22 CONSTRUED TO PROHIBIT PAYMENT TO ANY PERSON OF:

23 (a) A BONA FIDE SALARY OR COMPENSATION OR OTHER PAYMENT  
24 FOR GOODS OR FACILITIES ACTUALLY FURNISHED OR FOR SERVICES  
25 ACTUALLY PERFORMED; OR

26 (b) A FEE PURSUANT TO COOPERATIVE BROKERAGE AND REFERRAL  
27 ARRANGEMENTS OR AGREEMENTS BETWEEN REAL ESTATE BROKERS.

1 (3) IT SHALL NOT BE A VIOLATION OF SECTION 10-11-124:

2 (a) FOR AN AFFILIATED BUSINESS ARRANGEMENT TO REQUIRE A  
3 BUYER, BORROWER, OR SELLER TO PAY FOR THE SERVICES OF ANY  
4 ATTORNEY, CREDIT REPORTING AGENCY, OR REAL ESTATE APPRAISER  
5 CHOSEN BY THE LENDER TO REPRESENT THE LENDER'S INTEREST IN A REAL  
6 ESTATE TRANSACTION; OR

7 (b) FOR AN AFFILIATED BUSINESS ARRANGEMENT WHERE AN  
8 ATTORNEY OR LAW FIRM REPRESENTS A CLIENT IN A REAL ESTATE  
9 TRANSACTION AND ISSUES OR ARRANGES FOR THE ISSUANCE OF A POLICY  
10 OF TITLE INSURANCE IN THE TRANSACTION DIRECTLY AS AGENT OR  
11 THROUGH A SEPARATE CORPORATE TITLE INSURANCE AGENCY THAT MAY  
12 BE ESTABLISHED BY THAT ATTORNEY OR LAW FIRM AND OPERATED AS AN  
13 ADJUNCT TO HIS OR HER LAW PRACTICE."

14 Renumber succeeding C.R.S. section accordingly.

15 Page 7, after line 10, insert the following:

16 "(3) NO PERSON SHALL BE LIABLE FOR A VIOLATION OF SECTION  
17 10-11-124 IF SUCH PERSON PROVES BY A PREPONDERANCE OF THE  
18 EVIDENCE THAT SUCH VIOLATION WAS NOT INTENTIONAL AND RESULTED  
19 FROM A BONA FIDE ERROR NOTWITHSTANDING MAINTENANCE OF  
20 PROCEDURES THAT ARE REASONABLY ADOPTED TO AVOID SUCH ERROR."

21 Page 8, line 15, after "(I)" insert "(A)";

22 line 17, strike "PROVIDER OF";

23 strike line 18 and substitute the following:

24 "TITLE INSURANCE COMPANY OR TITLE INSURANCE AGENT, AS DEFINED IN  
25 SECTION 10-11-103 (9) AND (10), C.R.S.; OR

26 (B) A TITLE INSURANCE COMPANY OR A TITLE INSURANCE AGENT,  
27 AS DEFINED IN SECTION 10-11-103 (9) AND (10), C.R.S., WHO HAS EITHER  
28 AN AFFILIATE RELATIONSHIP WITH, OR A DIRECT BENEFICIAL OWNERSHIP  
29 INTEREST OF MORE THAN ONE PERCENT IN A SETTLEMENT PRODUCER;  
30 AND";

31 line 19, after "(II)" insert "(A)";

1 line 21, strike "THAT SETTLEMENT PROVIDER" and substitute "A TITLE  
2 INSURANCE COMPANY OR A TITLE INSURANCE AGENT, AS DEFINED IN  
3 SECTION 10-11-103 (9) AND (10), C.R.S.,";

4 strike line 22 and substitute the following:

5 "SELECTION OF THAT TITLE INSURANCE COMPANY OR A TITLE INSURANCE  
6 AGENT, AS DEFINED IN SECTION 10-11-103 (9) AND (10), C.R.S.; OR

7 (B) EITHER THE TITLE INSURANCE COMPANY OR THE TITLE  
8 INSURANCE AGENT, AS DEFINED IN SECTION 10-11-103 (9) AND (10),  
9 C.R.S., DIRECTLY OR INDIRECTLY REFERS SETTLEMENT SERVICES BUSINESS  
10 TO A SETTLEMENT PRODUCER OR ASSOCIATE OR AFFIRMATIVELY  
11 INFLUENCES THE SELECTION OF THE SETTLEMENT PRODUCER OR  
12 ASSOCIATE."

13 Page 10, after line 9, insert the following:

14 "(XII) PEST AND FUNGUS INSPECTIONS;"

15 Renumber succeeding subparagraphs accordingly.

16 Page 11, after line 13, insert the following:

17 "(e) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT  
18 PAYMENT OF A FEE TO:

19 (I) AN ATTORNEY FOR SERVICES ACTUALLY RENDERED;

20 (II) A TITLE COMPANY TO ITS DULY APPOINTED AGENT FOR  
21 SERVICES ACTUALLY PERFORMED IN THE ISSUANCE OF A POLICY OF TITLE  
22 INSURANCE;

23 (III) A LENDER TO ITS DULY APPOINTED AGENT FOR SERVICES  
24 ACTUALLY PERFORMED IN THE MAKING OF A LOAN.

25 (f) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT  
26 PAYMENT TO ANY PERSON OF:

27 (I) A BONA FIDE SALARY OR COMPENSATION OR OTHER PAYMENT  
28 FOR GOODS OR FACILITIES ACTUALLY FURNISHED OR FOR SERVICES  
29 ACTUALLY PERFORMED;

1 (II) A FEE PURSUANT TO COOPERATIVE BROKERAGE AND REFERRAL  
2 ARRANGEMENTS OR AGREEMENTS BETWEEN REAL ESTATE BROKERS.

3 (g) IT SHALL NOT BE A VIOLATION OF THIS SECTION FOR AN  
4 AFFILIATED BUSINESS ARRANGEMENT:

5 (I) TO REQUIRE A BUYER, BORROWER, OR SELLER TO PAY FOR THE  
6 SERVICES OF ANY ATTORNEY, CREDIT REPORTING AGENCY, OR REAL  
7 ESTATE APPRAISER CHOSEN BY THE LENDER TO REPRESENT THE LENDER'S  
8 INTEREST IN A REAL ESTATE TRANSACTION; OR

9 (II) IF AN ATTORNEY OR LAW FIRM REPRESENTS A CLIENT IN A  
10 REAL ESTATE TRANSACTION AND ISSUES OR ARRANGES FOR THE ISSUANCE  
11 OF A POLICY OF TITLE INSURANCE IN THE TRANSACTION DIRECTLY AS  
12 AGENT OR THROUGH A SEPARATE CORPORATE TITLE INSURANCE AGENCY  
13 THAT MAY BE ESTABLISHED BY THAT ATTORNEY OR LAW FIRM AND  
14 OPERATED AS AN ADJUNCT TO HIS OR HER LAW PRACTICE.

15 (h) NO PERSON SHALL BE LIABLE FOR A VIOLATION OF THIS  
16 SECTION IF SUCH PERSON PROVES BY A PREPONDERANCE OF THE EVIDENCE  
17 THAT SUCH VIOLATION WAS NOT INTENTIONAL AND RESULTED FROM A  
18 BONA FIDE ERROR NOTWITHSTANDING MAINTENANCE OF PROCEDURES  
19 THAT ARE REASONABLY ADOPTED TO AVOID SUCH ERROR."

20 Page 12, line 11, strike "RULES" and substitute "RULES, POLICIES, OR  
21 GUIDELINES" and strike "MAY";

22 line 12, strike "PROMULGATE" and substitute "ADOPTS".

\*\* \*\*\* \*\* \*\*\* \*\*