

**First Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 07-0895.01 Duane Gall

SENATE BILL 07-249

SENATE SPONSORSHIP

Veiga, Groff, Isgar, Keller, Kester, Penry, Schwartz, Tapia, Taylor, and Tochtrop

HOUSE SPONSORSHIP

Rice,

Senate Committees

Business, Labor and Technology

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE APPLICATION OF EXISTING REGULATIONS TO**
102 **PERSONS PERFORMING SERVICES IN CONNECTION WITH REAL**
103 **ESTATE TRANSACTIONS, AND, IN CONNECTION THEREWITH,**
104 **PROVIDING FOR THE REGISTRATION OF PERSONS PROVIDING**
105 **SETTLEMENT SERVICES WITH THE DIVISION OF REAL ESTATE,**
106 **ESTABLISHING A FUND TO INCREASE CONSUMER PROTECTION**
107 **WITH REGARD TO THE ACTIVITIES OF TITLE ENTITIES, AND**
108 **REQUIRING PERIODIC EXAMINATIONS OF TITLE ENTITIES.**

Bill Summary

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

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.

Establishes a cash fund from which appropriations will be made to the division of insurance to enhance enforcement of existing statutes and rules governing title entities to further protect the interests of consumers purchasing real estate in Colorado. Directs the division to collect and publish information relating to licensed title entities and to conduct periodic examinations of title entities, in accordance with rules adopted by the insurance commissioner. Requires the division to conduct a study of current practices in the title insurance industry, using all investigatory powers granted by existing statutes, and to refer suspected violations to the attorney general for further enforcement action when appropriate. Funds the additional enforcement activities through assessment of a fee on each title insurance policy issued.

Recognizes a new category of persons providing real estate settlement services separately rather than as part of the practice of real estate or title insurance. Defines this category as "settlement service providers". Requires settlement service providers to register with the director of the division of real estate under provisions similar to those adopted in 2006 for the registration of mortgage brokers. Directs the division of real estate to undertake a study of the efficacy of registration and to report its findings, together with legislative recommendations, to the general assembly by March 15, 2009.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds, determines, and declares that:

4 (a) Real estate brokers, mortgage brokers, and title insurance
5 companies are all subject to licensing or registration by state agencies,
6 and therefore they practice "regulated professions or occupations" within
7 the accepted meaning of that term;

8 (b) Real estate settlement services, including the handling of
9 escrow accounts and the preparation of closing documents, have
10 traditionally constituted a part of the practice of these regulated
11 professionals and have been offered only in connection with the other
12 services offered by these professionals;

13 (c) The point in a real estate transaction at which settlement

1 services are provided is the single point at which the money of those
2 purchasing the property, the money to be used to pay off an existing
3 mortgage, the money to pay the previously agreed-upon fees of licensed
4 professionals, and other transaction costs are handled by a singular entity
5 whose responsibility it is to disburse such funds and in whose name funds
6 are made payable;

7 (d) Recently, however, certain individuals and entities have begun
8 offering real estate settlement services on an independent basis, thus
9 splitting off these services into a new, unregulated market that is not
10 subject to oversight by any regulatory agency;

11 (e) These independent vendors are entrusted with large sums of
12 money, estimated at over sixteen billion dollars per year in Colorado,
13 creating a risk of loss to residential home buyers and others with little
14 recourse to recover such funds if the independent settlement service
15 provider ceases to exist; and

16 (f) It is appropriate to bring the provision of settlement services
17 once more within the ambit of state supervision where, until recently, it
18 resided exclusively.

19 (2) Accordingly, the general assembly finds that the extension of
20 existing regulatory requirements for the settlement service functions
21 provided through existing comprehensive services of licensed entities, so
22 as to cover the identical services provided by independent vendors, does
23 not constitute the regulation of a previously unregulated profession or
24 occupation, and therefore no sunrise review is necessary before such
25 reregulation can proceed.

26 **SECTION 2.** 6-1-105 (1), Colorado Revised Statutes, is amended
27 **BY THE ADDITION OF A NEW PARAGRAPH** to read:

1 **6-1-105. Deceptive trade practices.** (1) A person engages in a
2 deceptive trade practice when, in the course of such person's business,
3 vocation, or occupation, such person:

4 (yy) KNOWINGLY VIOLATES ANY PROVISION OF ARTICLE 11 OF
5 TITLE 10, C.R.S., OR ANY RULES OF THE INSURANCE COMMISSIONER
6 GOVERNING TITLE ENTITIES.

7 **SECTION 3.** 10-3-1104 (1) (ee), Colorado Revised Statutes, is
8 amended to read:

9 **10-3-1104. Unfair methods of competition and unfair or**
10 **deceptive acts or practices.** (1) The following are defined as unfair
11 methods of competition and unfair or deceptive acts or practices in the
12 business of insurance:

13 (ee) Willfully or repeatedly violating ~~section 10-11-108 (1)(c) or~~
14 ~~(1)(d)~~ ANY PROVISION OF ARTICLE 11 OF THIS TITLE, including a willful
15 or repeated violation through the creation or operation of an improper
16 affiliated business arrangement.

17 **SECTION 4.** Article 11 of title 10, Colorado Revised Statutes, is
18 amended BY THE ADDITION OF THE FOLLOWING NEW
19 SECTIONS to read:

20 **10-11-127. Periodic examinations - public disclosures - rules**
21 **- coordination with attorney general - cash fund.** (1) IN ACCORDANCE
22 WITH RULES OF THE COMMISSIONER, PROMULGATED THROUGH
23 RULE-MAKING HEARINGS COMMENCED ON OR BEFORE AUGUST 1, 2007,
24 THE DIVISION SHALL:

25 (a) (I) ON AND AFTER JANUARY 1, 2008, CREATE AND IMPLEMENT
26 A PLAN OF EXAMINATIONS OF TITLE ENTITIES AS TO WHICH, IN THE
27 DIVISION'S JUDGMENT, THERE EXISTS REASONABLE CAUSE TO BELIEVE

1 THAT SUCH TITLE ENTITIES EITHER ARE NOT IN COMPLIANCE WITH THIS
2 ARTICLE OR RULES ADOPTED PURSUANT TO THIS ARTICLE OR ARE
3 ENGAGING IN ACTIONS OR CONDUCT THAT MAY LEAD TO SUCH
4 NONCOMPLIANCE.

5 (II) FOR PURPOSES OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a),
6 THE COMMISSIONER SHALL ADOPT RULES TO ESTABLISH GROUNDS FOR
7 REASONABLE CAUSE TO SUSPECT NONCOMPLIANCE OR ACTIONS OR
8 CONDUCT THAT MAY LEAD TO NONCOMPLIANCE. SUCH GROUNDS SHALL
9 INCLUDE, BUT ARE NOT LIMITED TO:

10 (A) AN INVALID CURRENT BUSINESS ADDRESS;

11 (B) DELINQUENT STANDING AS A BUSINESS ENTITY, AS SHOWN BY
12 RECORDS ON FILE WITH THE SECRETARY OF STATE;

13 (C) INACCURATE OR INCOMPLETE INFORMATION RELATING TO THE
14 APPROPRIATE LICENSE STATUS OF THE TITLE ENTITY AND ANY OF ITS
15 PRODUCERS;

16 (D) COMPLAINTS FILED AGAINST THE TITLE ENTITY OR ANY OF ITS
17 PRODUCERS;

18 (E) INFORMATION ACQUIRED BY THE DIVISION THROUGH ANY
19 PRIOR EXAMINATION OR DATA COLLECTED ON TITLE ENTITIES BY THE
20 DIVISION;

21 (F) INFORMATION PROVIDED TO THE DIVISION BY THE DIVISION OF
22 REAL ESTATE OR THE ATTORNEY GENERAL;

23 (G) INFORMATION PROVIDED TO THE DIVISION BY OTHER STATE OR
24 NATIONAL REGULATORY AGENCIES, GOVERNMENTAL ENTITIES, OR OTHER
25 SOURCES; AND

26 (H) VIOLATIONS OF FIDUCIARY AUTHORITY.

27 (III) A TITLE ENTITY EXAMINED UNDER THIS PARAGRAPH (a) SHALL

1 NOT BE SUBJECT TO AN EXAMINATION UNDER PARAGRAPH (b) OF THIS
2 SUBSECTION (1) FOR AT LEAST TWO YEARS.

3 (b) EXAMINE TITLE ENTITIES WITH SUFFICIENT FREQUENCY THAT
4 THE RATE OF COMPLIANCE WITH THIS ARTICLE, AND WITH ALL APPLICABLE
5 RULES ADOPTED PURSUANT TO THIS ARTICLE, MAY REASONABLY BE
6 PREDICTED TO EQUAL OR EXCEED THE AVERAGE COMPLIANCE RATE OF
7 STATES WITH COMPARABLE REGULATORY SCHEMES;

8 (c) PROVIDE A SIGNIFICANT DETERRENT TO INAPPROPRIATE
9 BEHAVIORS OR ACTIONS OF TITLE ENTITIES THAT WOULD INDICATE
10 NONCOMPLIANCE WITH THIS ARTICLE OR WITH APPLICABLE RULES
11 ADOPTED PURSUANT TO THIS ARTICLE;

12 (d) BEGINNING JANUARY 1, 2008, ENSURE THAT ALL NEWLY
13 LICENSED TITLE ENTITIES WILL HAVE AN APPROPRIATE EXAMINATION NO
14 SOONER THAN TWELVE MONTHS AFTER INITIAL LICENSURE AND NO LATER
15 THAN TWENTY-FOUR MONTHS AFTER INITIAL LICENSURE. A TITLE ENTITY
16 EXAMINED UNDER THIS PARAGRAPH (d) SHALL NOT BE SUBJECT TO
17 FURTHER EXAMINATION FOR AT LEAST THREE YEARS UNLESS IT IS
18 IDENTIFIED UNDER PARAGRAPH (a) OF THIS SUBSECTION (1).

19 (e) BEGINNING JANUARY 1, 2008:

20 (I) REQUIRE EACH TITLE ENTITY TO FILE AN ANNUAL REPORT
21 CONTAINING CURRENT INFORMATION AS REQUIRED BY THE DIVISION,
22 INCLUDING, WITHOUT LIMITATION:

23 (A) VERIFICATION OF THE ENTITY'S CURRENT BUSINESS ADDRESS;

24 (B) VERIFICATION OF THE ENTITY'S STANDING AS A BUSINESS
25 ENTITY, AS SHOWN BY RECORDS ON FILE WITH THE SECRETARY OF STATE;

26 (C) VERIFICATION THAT ALL OF THE ENTITY'S PRODUCERS ARE
27 APPROPRIATELY LICENSED; AND

1 (D) VERIFICATION OF THE ENTITY'S COMPLIANCE WITH ANNUAL
2 LICENSING REQUIREMENTS;

3 (II) MAKE THE ANNUAL REPORTS AND OTHER INFORMATION
4 SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (e) PUBLICLY
5 ACCESSIBLE IN A MANNER THAT ALLOWS READY IDENTIFICATION OF THE
6 LICENSE STATUS OF, AND ASSOCIATION BETWEEN, INDIVIDUAL PRODUCERS,
7 TITLE AGENTS, AND TITLE INSURERS. IN DETERMINING THE FORM AND
8 METHODS FOR DISPLAY OF SUCH INFORMATION, THE DIVISION IS
9 ENCOURAGED TO USE SAMPLE FORMATS DEVELOPED BY OTHER STATES,
10 INCLUDING, WITHOUT LIMITATION, THOSE USED BY THE STATE OF UTAH AS
11 OF MARCH 30, 2007.

12 (2) WHEN CONDUCTING AN EXAMINATION OF A TITLE ENTITY
13 PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE DIVISION SHALL
14 APPLY A TYPE AND METHOD OF EXAMINATION THAT BALANCES THE NEED
15 FOR INFORMATION TO ASSESS THE TITLE ENTITY'S COMPLIANCE AGAINST
16 THE DANGER OF IMPOSING AN UNDUE FINANCIAL BURDEN UPON THE TITLE
17 ENTITY. A TITLE ENTITY SUBJECT TO A PENDING EXAMINATION SHALL BE
18 GIVEN THE OPPORTUNITY TO REQUEST A CHANGE IN THE TYPE OF
19 EXAMINATION TO BE APPLIED. THE DIVISION SHALL DETERMINE ANY SUCH
20 REQUEST BASED UPON EVIDENCE, ADDUCED AT A PUBLIC HEARING,
21 TENDING TO INDICATE THAT THE TITLE ENTITY WOULD SUFFER
22 IRREPARABLE FINANCIAL HARDSHIP UNLESS THE REQUEST FOR A CHANGE
23 WERE GRANTED.

24 (3) THE DIVISION SHALL COOPERATE WITH THE DEPARTMENT OF
25 LAW AND THE DIVISION OF REAL ESTATE IN INVESTIGATING AND
26 REFERRING FOR ENFORCEMENT ACTION BY THE ATTORNEY GENERAL,
27 WHERE APPROPRIATE, ANY SUSPECTED VIOLATIONS OF THIS ARTICLE OR OF

1 THE "COLORADO CONSUMER PROTECTION ACT", ARTICLE 1 OF TITLE 6,
2 C.R.S. IN ADDITION, THE COMMISSIONER SHALL HAVE THE POWER AND
3 DUTY TO ASSIST IN THE COLLECTION OF INFORMATION AND THE
4 INVESTIGATION AND PROSECUTION OF VIOLATIONS USING ALL AUTHORITY
5 GRANTED TO THE COMMISSIONER UNDER SECTIONS 10-1-108 AND
6 10-1-201 TO 10-1-218.

7 (4) THE COSTS INCURRED BY THE DIVISION AND THE DEPARTMENT
8 OF LAW IN CONNECTION WITH THE IMPLEMENTATION OF THIS SECTION,
9 INCLUDING EXAMINATIONS AND ENFORCEMENT ACTIONS, AND THE
10 CREATION OF THE REPORTS REQUIRED BY SECTION 10-11-128 SHALL BE
11 RECOVERED THROUGH THE ASSESSMENT OF FEES UPON PERSONS LICENSED
12 UNDER THIS ARTICLE. THE AMOUNT AND MANNER OF COLLECTION OF
13 SUCH FEES SHALL BE ESTABLISHED BY THE COMMISSIONER IN A MANNER
14 SUBSTANTIALLY SIMILAR TO THAT SET FORTH IN SECTION 24-34-105,
15 C.R.S., AND SUBJECT TO SECTION 24-75-402, C.R.S.; EXCEPT THAT THE
16 AMOUNT OF THE FEE SHALL NOT EXCEED ONE DOLLAR AND FIFTY CENTS
17 PER TITLE POLICY ISSUED AND SHALL BE PERIODICALLY ADJUSTED,
18 PURSUANT TO RULES ADOPTED BY THE COMMISSIONER, SO THAT THE
19 BALANCE OF THE FUND CREATED IN SUBSECTION (5) OF THIS SECTION DOES
20 NOT EXCEED FIVE HUNDRED THOUSAND DOLLARS. THE COMMISSIONER
21 SHALL INITIATE RULE-MAKING TO IMPLEMENT THIS SUBSECTION (4) ON A
22 SCHEDULE THAT WILL PERMIT THE COLLECTION AND DISBURSEMENT OF
23 FEE REVENUES SUFFICIENT TO BEGIN IMPLEMENTING THIS SUBSECTION (4)
24 BY SEPTEMBER 1, 2007.

25 (5) NOTWITHSTANDING ANY PROVISION OF SECTION 10-1-108 (9)
26 TO THE CONTRARY, ALL FEES COLLECTED PURSUANT TO THIS SECTION
27 SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL DEPOSIT

1 THE SAME IN THE TITLE INSURANCE ENFORCEMENT CASH FUND, WHICH
2 FUND IS HEREBY ESTABLISHED IN THE STATE TREASURY. AT THE END OF
3 EACH FISCAL YEAR, ANY UNEXPENDED AND UNENCUMBERED MONEYS
4 REMAINING IN THE FUND, TOGETHER WITH ANY INTEREST EARNED ON THE
5 DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND, SHALL REMAIN IN THE
6 FUND AND SHALL NOT REVERT TO THE GENERAL FUND. MONEYS IN THE
7 FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION TO THE DIVISION AND
8 TO THE DEPARTMENT OF LAW FOR THE PURPOSES SET FORTH IN THIS
9 SECTION AND IN SECTION 10-11-128.

10 **10-11-128. Analysis - biennial reports - repeal.** (1) THE
11 DIVISION SHALL CONDUCT AN ANALYSIS OF MARKET TRENDS, THE DATA
12 COLLECTED AS REQUIRED BY SECTION 10-11-127, REGULATORY
13 ENFORCEMENT ACTIONS, AND CONSUMER COMPLAINTS RELATED TO TITLE
14 INSURANCE IN COLORADO. THE ANALYSIS SHALL EVALUATE DATA
15 COLLECTED FROM JANUARY 1, 2008, THROUGH DECEMBER 31, 2008, AND
16 FOR EVERY TWO-YEAR PERIOD THEREAFTER, BEGINNING JANUARY 1, 2009,
17 INCLUDING DATA COLLECTED PURSUANT TO SECTION 10-11-127 AND, TO
18 THE EXTENT PERMISSIBLE BY LAW, INFORMATION ON ANY PENDING
19 INVESTIGATIONS OR REGULATORY ACTIONS. THE DIVISION SHALL REPORT
20 ITS FINDINGS BASED ON SUCH ANALYSIS, INCLUDING THE DIVISION'S
21 RECOMMENDATIONS, IF ANY, FOR LEGISLATION DEALING WITH THE
22 REGULATION OF TITLE ENTITIES, TO THE BUSINESS AFFAIRS AND LABOR
23 COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND BUSINESS, LABOR,
24 AND TECHNOLOGY COMMITTEE OF THE SENATE, OR ANY SUCCESSOR
25 COMMITTEES, ON OR BEFORE MARCH 15, 2009, AND ON OR BEFORE MARCH
26 15 OF EACH ODD-NUMBERED YEAR THEREAFTER.

27 (2) TO THE EXTENT FEASIBLE AND APPROPRIATE, THE DIVISION

1 SHALL INCORPORATE IN ITS ANALYSIS AND REPORT ANY INFORMATION
2 GATHERED BY THE REAL ESTATE COMMISSION THROUGH INVESTIGATIONS
3 PURSUANT TO SECTION 12-61-113.2, C.R.S., AND ANY INFORMATION
4 GATHERED BY THE DIVISION OR THE DEPARTMENT OF LAW THROUGH
5 EXAMINATIONS AND INVESTIGATIONS PURSUANT TO SECTION 10-11-127.

6 (3) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2015.

7 **SECTION 5.** Article 61 of title 12, Colorado Revised Statutes, is
8 amended BY THE ADDITION OF A NEW PART to read:

9 **PART 10**
10 **INDEPENDENT SETTLEMENT**
11 **SERVICE PROVIDERS**

12 **12-61-1001. Short title.** THIS PART 10 SHALL BE KNOWN AND
13 MAY BE CITED AS THE "SETTLEMENT SERVICE PROVIDER REGISTRATION
14 ACT".

15 **12-61-1002. Definitions.** AS USED IN THIS PART 10, UNLESS THE
16 CONTEXT OTHERWISE REQUIRES:

17 (1) "AFFILIATE" MEANS A PERSON WHO, EITHER DIRECTLY OR
18 INDIRECTLY, THROUGH INTERMEDIARIES, CONTROLS, IS CONTROLLED BY,
19 OR IS UNDER COMMON CONTROL WITH, ANOTHER PERSON COVERED BY
20 THIS PART 10.

21 (2) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OF REAL
22 ESTATE.

23 (3) "DIVISION" MEANS THE DIVISION OF REAL ESTATE.

24 (4) "SETTLEMENT SERVICE" MEANS ANY SERVICE PROVIDED FOR
25 THE BENEFIT OF ANY PARTY IN CONNECTION WITH THE SALE, LEASE,
26 ENCUMBRANCE, MORTGAGE, OR CREATION OF A SECURED INTEREST IN AND
27 TO REAL PROPERTY OR IN CONNECTION WITH THE RECEIPT AND

1 DISBURSEMENT OF MONEY IN CONNECTION WITH ANY SALE, LEASE,
2 ENCUMBRANCE, MORTGAGE, OR DEED OF TRUST. "SETTLEMENT SERVICES"
3 INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

- 4 (a) TITLE SEARCHES;
- 5 (b) TITLE EXAMINATIONS;
- 6 (c) THE PROVISION OF TITLE CERTIFICATES;
- 7 (d) TITLE INSURANCE;
- 8 (e) SERVICES RENDERED BY AN ATTORNEY;
- 9 (f) THE PREPARATION OF TITLE DOCUMENTS;
- 10 (g) PROPERTY SURVEYS;
- 11 (h) THE RENDERING OF CREDIT REPORTS OR APPRAISALS;
- 12 (i) PEST AND FUNGUS INSPECTIONS;
- 13 (j) SERVICES RENDERED BY A REAL ESTATE BROKER;
- 14 (k) SERVICES RENDERED BY A REAL ESTATE APPRAISER;
- 15 (l) HOME INSPECTION SERVICES;
- 16 (m) THE ORIGINATION OF A LOAN;
- 17 (n) THE TAKING OF A LOAN APPLICATION;
- 18 (o) PROCESSING OF A LOAN;
- 19 (p) UNDERWRITING AND FUNDING OF A LOAN;
- 20 (q) ESCROW HANDLING SERVICES;
- 21 (r) HANDLING AND PROCESSING OF DOCUMENTS ASSOCIATED WITH
22 THE CLOSING; AND
- 23 (s) CLOSING OF SETTLEMENT.

24 (5) "SETTLEMENT SERVICE PROVIDER" MEANS AN INDIVIDUAL OR
25 ENTITY THAT PROVIDES SETTLEMENT SERVICES, REGARDLESS OF WHETHER
26 SUCH PERSON OR ENTITY DESIGNATES ITSELF AS AN ESCROW AGENT,
27 CLOSING COMPANY, OR BY ANY OTHER DESIGNATION OR TITLE.

1 **12-61-1003. Registration required.** (1) (a) ON OR AFTER
2 JANUARY 1, 2008, UNLESS REGISTERED WITH THE DIRECTOR, A PERSON
3 SHALL NOT ACT OR OFFER TO ACT AS A SETTLEMENT SERVICE PROVIDER.

4 (b) A SETTLEMENT SERVICE PROVIDER SHALL APPLY FOR
5 REGISTRATION IN ACCORDANCE WITH SUBSECTION (2) OF THIS SECTION
6 EVERY THREE YEARS.

7 (2) AN APPLICANT FOR REGISTRATION SHALL SUBMIT TO THE
8 DIRECTOR THE FOLLOWING:

9 (a) A CRIMINAL HISTORY RECORD CHECK IN COMPLIANCE WITH
10 SUBSECTION (3) OF THIS SECTION;

11 (b) A DISCLOSURE OF ALL ADMINISTRATIVE DISCIPLINE TAKEN
12 AGAINST THE APPLICANT CONCERNING THE CATEGORIES LISTED IN SECTION
13 12-61-1005 (1) (c); AND

14 (c) THE APPLICATION FEE ESTABLISHED BY THE DIRECTOR IN
15 ACCORDANCE WITH SECTION 12-61-1009.

16 (3) PRIOR TO SUBMITTING AN APPLICATION FOR REGISTRATION, AN
17 APPLICANT SHALL SUBMIT A SET OF FINGERPRINTS TO THE COLORADO
18 BUREAU OF INVESTIGATION. UPON RECEIPT OF THE APPLICANT'S
19 FINGERPRINTS, THE COLORADO BUREAU OF INVESTIGATION SHALL USE THE
20 FINGERPRINTS TO CONDUCT A STATE AND NATIONAL CRIMINAL HISTORY
21 RECORD CHECK USING RECORDS OF THE COLORADO BUREAU OF
22 INVESTIGATION AND THE FEDERAL BUREAU OF INVESTIGATION. ALL COSTS
23 ARISING FROM SUCH CRIMINAL HISTORY RECORD CHECK SHALL BE BORNE
24 BY THE APPLICANT AND SHALL BE PAID WHEN THE SET OF FINGERPRINTS IS
25 SUBMITTED. UPON COMPLETION OF THE CRIMINAL HISTORY RECORD
26 CHECK, THE BUREAU SHALL FORWARD THE RESULTS TO THE DIRECTOR.

27 (4) BEFORE REGISTERING AN APPLICANT, THE DIRECTOR SHALL

1 REQUIRE THE APPLICANT TO POST A BOND AS REQUIRED BY SECTION
2 12-61-1007.

3 (5) THE DIRECTOR SHALL ISSUE OR DENY A REGISTRATION WITHIN
4 TWENTY-ONE DAYS AFTER RECEIVING THE COMPLETED CRIMINAL HISTORY
5 RECORD CHECK, COMPLETED APPLICATION, APPLICATION FEE, AND PROOF
6 OF THE POSTING OF THE SURETY BOND.

7 **12-61-1004. Exemptions.** (1) THIS PART 10 SHALL NOT APPLY TO
8 AN INDIVIDUAL OR ENTITY THAT IS LICENSED OR REGISTERED AS A REAL
9 ESTATE BROKER, MORTGAGE BROKER, ATTORNEY, BANK, INSURER, OR
10 OTHER PRACTITIONER OF A REGULATED PROFESSION OR OCCUPATION AND
11 PROVIDES SETTLEMENT SERVICES AS PART OF ITS PRACTICE OF THAT
12 REGULATED PROFESSION OR OCCUPATION.

13 (2) THE EXEMPTIONS IN SUBSECTION (1) OF THIS SECTION SHALL
14 NOT APPLY TO PERSONS ACTING BEYOND THE SCOPE OF SUCH EXEMPTIONS.

15 **12-61-1005. Powers and duties of the division.** (1) THE
16 DIRECTOR SHALL DENY, REFUSE TO RENEW, OR REVOKE THE REGISTRATION
17 OF AN APPLICANT WHO HAS:

18 (a) FILED AN APPLICATION WITH THE DIRECTOR CONTAINING
19 MATERIAL MISSTATEMENTS OF FACT OR OMITTED ANY DISCLOSURE
20 REQUIRED BY THIS PART 10;

21 (b) WITHIN THE LAST FIVE YEARS, BEEN CONVICTED OF OR PLED
22 GUILTY OR NOLO CONTENDERE TO A CRIME INVOLVING FRAUD, DECEIT,
23 MATERIAL MISREPRESENTATION, THEFT, OR THE BREACH OF A FIDUCIARY
24 DUTY; OR

25 (c) HAD A LICENSE, REGISTRATION, OR CERTIFICATION ISSUED BY
26 COLORADO OR ANOTHER STATE REVOKED OR SUSPENDED FOR FRAUD,
27 DECEIT, MATERIAL MISREPRESENTATION, THEFT, OR THE BREACH OF A

1 FIDUCIARY DUTY, AND SUCH DISCIPLINE DENIED THE PERSON
2 AUTHORIZATION TO PRACTICE AS:

3 (I) A MORTGAGE BROKER;

4 (II) A REAL ESTATE BROKER, AS DEFINED BY SECTION 12-61-101
5 (2);

6 (III) A REAL ESTATE SALESPERSON, AS DEFINED BY SECTION
7 12-61-101 (3);

8 (IV) A REAL ESTATE APPRAISER, AS DEFINED BY SECTION
9 12-61-702 (5);

10 (V) AN INSURANCE PRODUCER, AS DEFINED BY SECTION 10-2-103
11 (6), C.R.S.;

12 (VI) AN ATTORNEY;

13 (VII) A SECURITIES BROKER-DEALER, AS DEFINED BY SECTION
14 11-51-201 (2), C.R.S.;

15 (VIII) A SECURITIES SALES REPRESENTATIVE, AS DEFINED BY
16 SECTION 11-51-201 (14), C.R.S.;

17 (IX) AN INVESTMENT ADVISOR, AS DEFINED BY SECTION 11-51-201
18 (9.5), C.R.S.;

19 (X) AN INVESTMENT ADVISOR REPRESENTATIVE, AS DEFINED BY
20 SECTION 11-51-201 (9.6), C.R.S.; OR

21 (XI) A SETTLEMENT SERVICES PROVIDER.

22 (2) THE DIRECTOR MAY INVESTIGATE THE ACTIVITIES OF A
23 REGISTRANT OR OTHER PERSON THAT PRESENT GROUNDS FOR
24 DISCIPLINARY ACTION UNDER THIS PART 10 OR THAT VIOLATE SECTION
25 12-61-1011 (1).

26 (3) (a) IF THE DIRECTOR HAS REASONABLE GROUNDS TO BELIEVE
27 THAT A SETTLEMENT SERVICE PROVIDER IS NO LONGER QUALIFIED UNDER

1 SUBSECTION (1) OF THIS SECTION, THE DIRECTOR MAY SUMMARILY
2 SUSPEND THE SETTLEMENT SERVICE PROVIDER'S REGISTRATION PENDING
3 A HEARING TO REVOKE THE REGISTRATION. A SUMMARY SUSPENSION
4 SHALL CONFORM TO ARTICLE 4 OF TITLE 24, C.R.S.

5 (b) THE DIRECTOR SHALL SUSPEND THE REGISTRATION OF A
6 SETTLEMENT SERVICE PROVIDER WHO FAILS TO MAINTAIN THE BOND
7 REQUIRED BY SECTION 12-61-1007 UNTIL THE REGISTRANT COMPLIES WITH
8 SUCH SECTION.

9 (4) THE DIRECTOR OR AN ADMINISTRATIVE LAW JUDGE APPOINTED
10 PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S., SHALL
11 CONDUCT DISCIPLINARY HEARINGS CONCERNING SETTLEMENT SERVICE
12 PROVIDERS. SUCH HEARINGS SHALL CONFORM TO ARTICLE 4 OF TITLE 24,
13 C.R.S.

14 (5) (a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF
15 THIS SUBSECTION (5), A PERSON WHOSE REGISTRATION HAS BEEN REVOKED
16 SHALL NOT BE ELIGIBLE FOR REGISTRATION FOR TWO YEARS AFTER THE
17 EFFECTIVE DATE OF THE REVOCATION.

18 (b) IF THE DIRECTOR OR AN ADMINISTRATIVE LAW JUDGE
19 DETERMINES THAT AN APPLICATION CONTAINED A MISSTATEMENT OF FACT
20 OR OMITTED A REQUIRED DISCLOSURE DUE TO AN UNINTENTIONAL ERROR,
21 THE DIRECTOR SHALL ALLOW THE APPLICANT TO CORRECT THE
22 APPLICATION. UPON RECEIPT OF THE CORRECTED AND COMPLETED
23 APPLICATION, THE DIRECTOR OR ADMINISTRATIVE LAW JUDGE SHALL NOT
24 BAR THE APPLICANT FROM BEING REGISTERED ON THE BASIS OF THE
25 UNINTENTIONAL MISSTATEMENT OR OMISSION.

26 (6) (a) THE DIRECTOR OR AN ADMINISTRATIVE LAW JUDGE MAY
27 ADMINISTER OATHS, TAKE AFFIRMATIONS OF WITNESSES, AND ISSUE

1 SUBPOENAS TO COMPEL THE ATTENDANCE OF WITNESSES AND THE
2 PRODUCTION OF ALL RELEVANT PAPERS, BOOKS, RECORDS, DOCUMENTARY
3 EVIDENCE, AND MATERIALS IN ANY HEARING OR INVESTIGATION
4 CONDUCTED BY THE DIRECTOR OR AN ADMINISTRATIVE LAW JUDGE.

5 (b) UPON FAILURE OF A WITNESS TO COMPLY WITH A SUBPOENA OR
6 PROCESS, THE DISTRICT COURT OF THE COUNTY IN WHICH THE
7 SUBPOENAED WITNESS RESIDES OR CONDUCTS BUSINESS MAY ISSUE AN
8 ORDER REQUIRING THE WITNESS TO APPEAR BEFORE THE DIRECTOR OR
9 ADMINISTRATIVE LAW JUDGE AND PRODUCE THE RELEVANT PAPERS,
10 BOOKS, RECORDS, DOCUMENTARY EVIDENCE, TESTIMONY, OR MATERIALS
11 IN QUESTION. FAILURE TO OBEY THE ORDER OF THE COURT MAY BE
12 PUNISHED AS A CONTEMPT OF COURT. THE DIRECTOR OR AN
13 ADMINISTRATIVE LAW JUDGE MAY APPLY FOR SUCH ORDER.

14 (7) (a) IF THE DIRECTOR HAS REASONABLE CAUSE TO BELIEVE THAT
15 A PERSON IS VIOLATING THIS PART 10, INCLUDING BUT NOT LIMITED TO
16 SECTION 12-61-1011 (1), THE DIRECTOR MAY ENTER AN ORDER REQUIRING
17 SUCH PERSON TO CEASE AND DESIST SUCH VIOLATIONS.

18 (b) THE DIRECTOR, UPON HIS OR HER OWN MOTION MAY, AND,
19 UPON THE COMPLAINT IN WRITING OF ANY PERSON, SHALL, INVESTIGATE
20 THE ACTIVITIES OF ANY REGISTRANT OR ANY PERSON WHO ASSUMES TO
21 ACT IN SUCH CAPACITY WITHIN THE STATE. IN ADDITION TO ANY OTHER
22 PENALTY THAT MAY BE IMPOSED PURSUANT TO THIS PART 10, A PERSON
23 VIOLATING ANY PROVISION OF THIS PART 10 OR ANY RULES PROMULGATED
24 PURSUANT TO THIS ARTICLE MAY BE FINED UPON A FINDING OF
25 MISCONDUCT BY THE DIRECTOR AS FOLLOWS:

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

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

4 (8) THE DIRECTOR SHALL KEEP RECORDS OF THE PERSONS
5 REGISTERED AS SETTLEMENT SERVICE PROVIDERS AND OF DISCIPLINARY
6 PROCEEDINGS. THE RECORDS KEPT BY THE DIRECTOR SHALL BE OPEN TO
7 PUBLIC INSPECTION IN A REASONABLE TIME AND MANNER DETERMINED BY
8 THE DIRECTOR.

9 (9) (a) THE DIRECTOR SHALL MAINTAIN A SYSTEM, WHICH MAY
10 INCLUDE, WITHOUT LIMITATION, A HOTLINE OR WEB SITE, THAT GIVES
11 CONSUMERS A REASONABLY EASY METHOD FOR MAKING COMPLAINTS
12 ABOUT A SETTLEMENT SERVICE PROVIDER.

13 (b) THE DIRECTOR SHALL REVIEW THE COMPLAINTS ANNUALLY
14 AND PREPARE A REPORT TO BE ISSUED TO THE COMMITTEE OF THE
15 GENERAL ASSEMBLY THAT HAS OVERSIGHT OF SETTLEMENT SERVICE
16 PROVIDERS. SUCH REPORT SHALL CONTAIN THE TRENDS IN COMPLAINTS
17 AND INVESTIGATIONS UNDER THIS PART 10.

18 **12-61-1006. Immunity.** A PERSON PARTICIPATING IN GOOD FAITH
19 IN THE FILING OF A COMPLAINT OR REPORT OR PARTICIPATING IN AN
20 INVESTIGATION OR HEARING BEFORE THE DIRECTOR OR AN
21 ADMINISTRATIVE LAW JUDGE PURSUANT TO THIS PART 10 SHALL BE
22 IMMUNE FROM ANY LIABILITY, CIVIL OR CRIMINAL, THAT OTHERWISE
23 MIGHT RESULT BY REASON OF SUCH ACTION.

24 **12-61-1007. Bond required.** (1) PRIOR TO REGISTRATION, AN
25 APPLICANT FOR REGISTRATION SHALL POST WITH THE DIRECTOR A SURETY
26 BOND, OR AN ALTERNATIVE AUTHORIZED BY ARTICLE 35 OF TITLE 11,
27 C.R.S., OF TWENTY-FIVE THOUSAND DOLLARS. A REGISTERED

1 SETTLEMENT SERVICE PROVIDER SHALL MAINTAIN SUCH BOND AT ALL
2 TIMES.

3 (2) THE SURETY SHALL NOT BE REQUIRED TO PAY A PERSON
4 MAKING A CLAIM UPON THE BOND UNTIL A FINAL DETERMINATION OF
5 FRAUD, FORGERY, CRIMINAL IMPERSONATION, OR FRAUDULENT
6 REPRESENTATION HAS BEEN MADE BY A COURT WITH JURISDICTION.

7 (3) THE SURETY BOND SHALL REQUIRE THE SURETY TO PROVIDE
8 NOTICE TO THE DIRECTOR WITHIN THIRTY DAYS IF PAYMENT IS MADE FROM
9 THE SURETY BOND OR IF THE BOND IS CANCELLED.

10 **12-61-1008. Errors and omissions insurance - duties of the**
11 **director - certificate of coverage - when required - group plan made**
12 **available - effect - rules.** (1) EVERY REGISTRANT UNDER THIS PART 10,
13 EXCEPT AN INACTIVE SETTLEMENT SERVICES PROVIDER, SHALL MAINTAIN
14 ERRORS AND OMISSIONS INSURANCE TO COVER ALL ACTIVITIES
15 CONTEMPLATED UNDER THIS PART 10.

16 (2) THE DIRECTOR SHALL DETERMINE THE TERMS AND CONDITIONS
17 OF COVERAGE REQUIRED UNDER THIS SECTION, INCLUDING THE MINIMUM
18 LIMITS OF COVERAGE, THE PERMISSIBLE DEDUCTIBLE, AND PERMISSIBLE
19 EXEMPTIONS. EACH REGISTRANT SHALL MAINTAIN EVIDENCE OF
20 COVERAGE, IN A MANNER SATISFACTORY TO THE DIRECTOR,
21 DEMONSTRATING CONTINUING COMPLIANCE WITH THE REQUIRED TERMS.

22 **12-61-1009. Fees - settlement service provider registration**
23 **cash fund - creation.** (1) THE DIRECTOR MAY SET THE FEE FOR
24 REGISTRATION UNDER THIS PART 10. THE FEE SHALL BE SET IN AN
25 AMOUNT SUFFICIENT TO OFFSET THE DIRECT AND INDIRECT COSTS OF
26 IMPLEMENTING THIS PART 10. THE MONEYS COLLECTED PURSUANT TO
27 THIS SECTION SHALL BE TRANSFERRED TO THE STATE TREASURER, WHO

1 SHALL CREDIT THE SAME TO THE SETTLEMENT SERVICE PROVIDER
2 REGISTRATION CASH FUND.

3 (2) THERE IS HEREBY CREATED IN THE STATE TREASURY THE
4 SETTLEMENT SERVICE PROVIDER REGISTRATION CASH FUND. MONEYS IN
5 THE FUND SHALL BE SPENT ONLY TO IMPLEMENT THIS PART 10 AND SHALL
6 NOT REVERT TO THE GENERAL FUND AT THE END OF THE FISCAL YEAR. THE
7 FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL
8 ASSEMBLY.

9 **12-61-1010. Attorney general - district attorney - jurisdiction.**
10 THE ATTORNEY GENERAL SHALL HAVE CONCURRENT JURISDICTION WITH
11 THE DISTRICT ATTORNEYS OF THIS STATE TO INVESTIGATE AND PROSECUTE
12 ALLEGATIONS OF CRIMINAL VIOLATIONS OF THIS PART 10.

13 **12-61-1011. Violations - injunctions.** (1) (a) ANY NATURAL
14 PERSON, FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY, OR
15 ASSOCIATION OR ANY CORPORATION VIOLATING THIS PART 10 BY ACTING
16 AS A SETTLEMENT SERVICE PROVIDER IN THIS STATE WITHOUT HAVING
17 REGISTERED OR BY ACTING AS A SETTLEMENT SERVICE PROVIDER AFTER
18 THAT PERSON'S REGISTRATION HAS BEEN REVOKED OR DURING ANY PERIOD
19 FOR WHICH SAID REGISTRATION MAY HAVE BEEN SUSPENDED IS GUILTY OF
20 A CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN
21 SECTION 18-1.3-501, C.R.S.; EXCEPT THAT, IF THE VIOLATOR IS NOT A
22 NATURAL PERSON, THE VIOLATOR SHALL BE PUNISHED BY A FINE OF NOT
23 MORE THAN FIVE THOUSAND DOLLARS.

24 (b) EACH SETTLEMENT SERVICE PROVIDED BY AN UNREGISTERED
25 PERSON SHALL BE A SEPARATE VIOLATION OF THIS SUBSECTION (1).

26 (2) THE DIRECTOR MAY FORWARD INFORMATION CONCERNING
27 POSSIBLE VIOLATIONS OF THE LAW COMMITTED BY OR COMPLAINTS FILED

1 AGAINST A SETTLEMENT SERVICE PROVIDER TO THE ATTORNEY GENERAL,
2 A DISTRICT ATTORNEY, OR A STATE OR FEDERAL LAW ENFORCEMENT
3 AGENCY.

4 (3) THE DIRECTOR MAY REQUEST THAT AN ACTION BE BROUGHT IN
5 THE NAME OF THE PEOPLE OF THE STATE OF COLORADO BY THE ATTORNEY
6 GENERAL OR THE DISTRICT ATTORNEY OF THE DISTRICT IN WHICH THE
7 VIOLATION IS ALLEGED TO HAVE OCCURRED TO ENJOIN A PERSON FROM
8 ENGAGING IN OR CONTINUING THE VIOLATION OR FROM DOING ANY ACT
9 THAT FURTHERS THE VIOLATION. IN SUCH AN ACTION, AN ORDER OR
10 JUDGMENT MAY BE ENTERED AWARDING SUCH PRELIMINARY OR FINAL
11 INJUNCTION AS IS DEEMED PROPER BY THE COURT. THE NOTICE, HEARING,
12 OR DURATION OF AN INJUNCTION OR RESTRAINING ORDER SHALL BE MADE
13 IN ACCORDANCE WITH THE COLORADO RULES OF CIVIL PROCEDURE.

14 (4) A VIOLATION OF THIS PART 10 SHALL NOT AFFECT THE
15 VALIDITY OR ENFORCEABILITY OF ANY REAL ESTATE CONTRACT,
16 MORTGAGE, OR DEED.

17 (5) AN UNLAWFUL ACT OR VIOLATION OF THIS PART 10 ON THE
18 PART OF AN EMPLOYEE, OFFICER, OR MEMBER OF A REGISTERED
19 SETTLEMENT SERVICE PROVIDER SHALL NOT BE CAUSE FOR DISCIPLINARY
20 ACTION AGAINST A SETTLEMENT SERVICE PROVIDER UNLESS IT APPEARS
21 THAT THE SETTLEMENT SERVICE PROVIDER KNEW OR SHOULD HAVE
22 KNOWN OF THE UNLAWFUL ACT OR VIOLATION OR HAD BEEN NEGLIGENT
23 IN THE SUPERVISION OF THE EMPLOYEE.

24 **12-61-1012. Rule-making authority.** THE DIRECTOR MAY ADOPT
25 REASONABLE RULES AS NECESSARY TO ENABLE THE DIRECTOR TO CARRY
26 OUT THE DIRECTOR'S DUTIES UNDER THIS PART 10. SUCH RULES SHALL
27 INCLUDE, WITHOUT LIMITATION, PROVISIONS SUBSTANTIALLY SIMILAR TO

1 THE APPLICABLE PROVISIONS OF CHAPTER 18, "ESCROW RECORDS", ___
2 CCR ___, AS SUCH RULES EXISTED ON MARCH 1, 2007.

3 **12-61-1013. Analysis - report - fees - cash fund.** (1) (a) THE
4 DIVISION SHALL CONDUCT AN ANALYSIS OF MARKET TRENDS, REGULATORY
5 ENFORCEMENT ACTIONS, CONSUMER COMPLAINTS, AND ANY OTHER
6 MATTERS IT DEEMS RELEVANT FOR REVIEW AND CONSIDERATION BY THE
7 GENERAL ASSEMBLY RELATED TO SETTLEMENT SERVICE PROVIDERS IN
8 COLORADO. THE ANALYSIS SHALL EVALUATE DATA FROM JANUARY 1,
9 2007, THROUGH DECEMBER 31, 2010. THE DIVISION SHALL REPORT ITS
10 FINDINGS BASED ON SUCH ANALYSIS, INCLUDING THE DIVISION'S
11 RECOMMENDATIONS, IF ANY, FOR LEGISLATION DEALING WITH THE
12 REGULATION OF THOSE TYPES OF ENTITIES REGULATED BY THE DIVISION
13 OF REAL ESTATE, TO THE HOUSE COMMITTEE ON BUSINESS AFFAIRS AND
14 LABOR, OR ITS SUCCESSOR COMMITTEE, AND THE SENATE COMMITTEE ON
15 BUSINESS AFFAIRS, LABOR, AND TECHNOLOGY, OR ITS SUCCESSOR
16 COMMITTEE, ON OR BEFORE MARCH 15, 2011. LEGISLATIVE
17 RECOMMENDATIONS MAY INCLUDE, WITHOUT LIMITATION, A
18 RECOMMENDATION ON WHETHER TO MOVE FROM REGISTRATION TO
19 LICENSING.

20 (b) TO THE EXTENT FEASIBLE AND APPROPRIATE, THE DIVISION
21 SHALL INCORPORATE IN ITS ANALYSIS AND REPORT ANY INFORMATION
22 GATHERED BY THE REAL ESTATE COMMISSION THROUGH INVESTIGATIONS
23 PURSUANT TO SECTION 12-61-113.2, C.R.S., AND ANY INFORMATION
24 GATHERED BY THE DIVISION OF INSURANCE OR THE DEPARTMENT OF LAW
25 THROUGH EXAMINATIONS AND INVESTIGATIONS PURSUANT TO SECTION
26 10-11-127.

27 (2) (a) THE DIVISION'S COSTS INCURRED IN CONNECTION WITH THE

1 ANALYSIS AND REPORT REQUIRED BY SUBSECTION (1) OF THIS SECTION
2 SHALL BE RECOVERED THROUGH THE ASSESSMENT OF FEES UPON PERSONS
3 REGISTERED UNDER THIS PART 10. THE AMOUNT AND MANNER OF
4 COLLECTION OF SUCH FEES SHALL BE ESTABLISHED BY THE DIRECTOR IN A
5 MANNER SUBSTANTIALLY SIMILAR TO THAT SET FORTH IN SECTION
6 24-34-105, C.R.S., AND SUBJECT TO SECTION 24-75-402, C.R.S.

7 (b) ALL FEES COLLECTED PURSUANT TO THIS SECTION SHALL BE
8 TRANSMITTED TO THE STATE TREASURER, WHO SHALL DEPOSIT THEM IN
9 THE SETTLEMENT SERVICE PROVIDERS ANALYSIS CASH FUND, WHICH FUND
10 IS HEREBY ESTABLISHED IN THE STATE TREASURY. AT THE END OF EACH
11 FISCAL YEAR, ANY UNEXPENDED AND UNENCUMBERED MONEYS
12 REMAINING IN THE FUND, TOGETHER WITH ANY INTEREST EARNED ON THE
13 DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND, SHALL REMAIN IN THE
14 FUND AND SHALL NOT REVERT TO THE GENERAL FUND. MONEYS IN THE
15 FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION FOR THE PURPOSES
16 SET FORTH IN THIS SECTION.

17 **12-61-1014. Repeal of part.** (1) THE PROVISIONS OF SECTION
18 24-34-104, C.R.S., CONCERNING THE TERMINATION SCHEDULE FOR
19 REGULATORY BODIES OF THE STATE UNLESS EXTENDED, APPLY TO THE
20 REGISTRATION OF SETTLEMENT SERVICE PROVIDERS UNDER THIS PART 10.

21 (2) THE SUNSET REVIEW PERFORMED PURSUANT TO SECTION
22 24-34-104, C.R.S., SHALL INCLUDE AN ANALYSIS OF THE NUMBER AND
23 TYPES OF COMPLAINTS AND WHETHER THE REGISTRATION OF SETTLEMENT
24 SERVICE PROVIDERS CORRELATES WITH THE PUBLIC BEING PROTECTED
25 FROM FRAUDULENT ACTIVITIES.

26 (3) THIS PART 10 IS REPEALED, EFFECTIVE JULY 1, 2018.

27 **SECTION 6.** 10-11-108 (1), Colorado Revised Statutes, is

1 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

2 **10-11-108. Prohibitions.** (1) A title insurance company or title
3 insurance agent shall not:

4 (e) EMPLOY, OR USE THE SERVICES OF, A SETTLEMENT SERVICE
5 PROVIDER THAT IS NOT REGISTERED AS REQUIRED BY PART 10 OF ARTICLE
6 61 OF TITLE 12, C.R.S.

7 **SECTION 7.** Part 3 of article 105 of title 11, Colorado Revised
8 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
9 read:

10 **11-105-306. Mortgage loans - settlement services - use of**
11 **unregistered settlement service provider prohibited.** IN CONNECTION
12 WITH THE CLOSING OF A REAL ESTATE TRANSACTION, A STATE BANK SHALL
13 NOT EMPLOY, OR USE THE SERVICES OF, A SETTLEMENT SERVICE PROVIDER
14 THAT IS NOT REGISTERED AS REQUIRED BY PART 10 OF ARTICLE 61 OF
15 TITLE 12, C.R.S.

16 **SECTION 8.** 12-61-113 (1), Colorado Revised Statutes, is
17 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

18 **12-61-113. Investigation - revocation - actions against licensee**
19 **- repeal.** (1) The commission, upon its own motion, may, and, upon the
20 complaint in writing of any person, shall, investigate the activities of any
21 licensee or any person who assumes to act in such capacity within the
22 state, and the commission, after the holding of a hearing pursuant to
23 section 12-61-114, has the power to impose an administrative fine not to
24 exceed two thousand five hundred dollars for each separate offense and
25 to censure a licensee, to place the licensee on probation and to set the
26 terms of probation, or to temporarily suspend or permanently revoke a
27 license when the licensee has performed, is performing, or is attempting

1 to perform any of the following acts and is guilty of:

2 (y) EMPLOYING, OR USING THE SERVICES OF, A SETTLEMENT
3 SERVICE PROVIDER THAT IS NOT REGISTERED AS REQUIRED BY PART 10 OF
4 THIS ARTICLE.

5 **SECTION 9.** 12-61-905.5 (1), Colorado Revised Statutes, as
6 enacted by Senate Bill 07-203, enacted at the first regular session of the
7 sixty-sixth general assembly, is amended BY THE ADDITION OF A
8 NEW PARAGRAPH to read:

9 **12-61-905.5. Disciplinary actions - grounds - procedures -**
10 **rules.** (1) The director, upon his or her own motion, may, and, upon the
11 complaint in writing of any person, shall, investigate the activities of any
12 mortgage broker, and the director has the power to impose an
13 administrative fine in accordance with section 12-61-905 and to censure
14 a licensee, to place the licensee on probation and to set the terms of
15 probation, or to suspend or revoke a license when the director finds that
16 the licensee has performed, is performing, or is attempting to perform any
17 of the following acts:

18 (y) EMPLOYING, OR USING THE SERVICES OF, A SETTLEMENT
19 SERVICE PROVIDER THAT IS NOT REGISTERED AS REQUIRED BY PART 10 OF
20 THIS ARTICLE.

21 **SECTION 10.** 24-34-104, Colorado Revised Statutes, is amended
22 BY THE ADDITION OF A NEW SUBSECTION to read:

23 **24-34-104. General assembly review of regulatory agencies**
24 **and functions for termination, continuation, or reestablishment.**

25 (49) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, SHALL TERMINATE
26 ON JULY 1, 2018: THE REGULATION OF SETTLEMENT SERVICE PROVIDERS
27 BY THE DIVISION OF REAL ESTATE IN ACCORDANCE WITH PART 10 OF

1 ARTICLE 61 OF TITLE 12, C.R.S.

2 SECTION 11. 38-40-105 (1), Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

4 **38-40-105. Prohibited acts by originators of certain mortgage**
5 **loans.** (1) The following acts by any mortgage broker or mortgage
6 originator with respect to any loan that is secured by a first or subordinate
7 mortgage or deed or trust lien against a dwelling are prohibited:

8 (e) TO EMPLOY, OR USE THE SERVICES OF, A SETTLEMENT SERVICE
9 PROVIDER THAT IS NOT REGISTERED AS REQUIRED BY PART 10 OF ARTICLE
10 61 OF TITLE 12, C.R.S.

11 **SECTION 12. Effective date - applicability.** (1) Sections 4, 12,
12 and 13 of this act shall take effect upon passage.

13 (2) The remainder of this act shall take effect January 1, 2008, and
14 shall apply to settlement services provided on or after said date.

15 **SECTION 13. Safety clause.** The general assembly hereby finds,
16 determines, and declares that this act is necessary for the immediate
17 preservation of the public peace, health, and safety.