

**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. 07-0895.01 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
Appropriations

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 closing and settlement services, including the
9 handling of escrow accounts and the preparation of closing documents,
10 have 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 closing and

1 settlement services are provided is the single point at which the money of
2 those 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 closing and settlement services on an independent
9 basis, thus splitting off these services into a new, unregulated market that
10 is not 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 closing/settlement
15 service provider ceases to exist; and

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

19 (2) Accordingly, the general assembly finds that the extension of
20 existing regulatory requirements for the closing and settlement service
21 functions provided through existing comprehensive services of licensed
22 entities, so as to cover the identical services provided by independent
23 vendors, does not constitute the regulation of a previously unregulated
24 profession or occupation, and therefore no sunrise review is necessary
25 before such 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.** 10-11-102, Colorado Revised Statutes, is amended
18 **BY THE ADDITION OF A NEW SUBSECTION to read:**

19 **10-11-102. Definitions.** As used in this article, unless the context
20 otherwise requires:

21 (7.5) "TITLE ENTITY" INCLUDES A TITLE INSURANCE AGENT AND A
22 TITLE INSURANCE COMPANY.

23 **SECTION 5.** Article 11 of title 10, Colorado Revised Statutes, is
24 amended BY THE ADDITION OF THE FOLLOWING NEW
25 SECTIONS to read:

26 **10-11-127. Periodic examinations - public disclosures - rules**
27 **- coordination with attorney general - cash fund.** (1) IN ACCORDANCE

1 WITH RULES OF THE COMMISSIONER, PROMULGATED THROUGH
2 RULE-MAKING HEARINGS COMMENCED ON OR BEFORE AUGUST 1, 2007,
3 THE DIVISION SHALL:

4 (a) (I) ON AND AFTER JANUARY 1, 2008, CREATE AND IMPLEMENT
5 A PLAN OF EXAMINATIONS OF TITLE ENTITIES AS TO WHICH, IN THE
6 DIVISION'S JUDGMENT, THERE EXISTS REASONABLE CAUSE TO BELIEVE
7 THAT SUCH TITLE ENTITIES EITHER ARE NOT IN COMPLIANCE WITH THIS
8 ARTICLE OR RULES ADOPTED PURSUANT TO THIS ARTICLE OR ARE
9 ENGAGING IN ACTIONS OR CONDUCT THAT MAY LEAD TO SUCH
10 NONCOMPLIANCE.

11 (II) FOR PURPOSES OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a),
12 THE COMMISSIONER SHALL ADOPT RULES TO ESTABLISH GROUNDS FOR
13 REASONABLE CAUSE TO SUSPECT NONCOMPLIANCE OR ACTIONS OR
14 CONDUCT THAT MAY LEAD TO NONCOMPLIANCE. SUCH GROUNDS SHALL
15 INCLUDE, BUT ARE NOT LIMITED TO:

16 (A) AN INVALID CURRENT BUSINESS ADDRESS;

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

19 (C) INACCURATE OR INCOMPLETE INFORMATION RELATING TO THE
20 APPROPRIATE LICENSE STATUS OF THE TITLE ENTITY AND ANY OF ITS
21 PRODUCERS;

22 (D) COMPLAINTS FILED AGAINST THE TITLE ENTITY OR ANY OF ITS
23 PRODUCERS;

24 (E) INFORMATION ACQUIRED BY THE DIVISION THROUGH ANY
25 PRIOR EXAMINATION OR DATA COLLECTED ON TITLE ENTITIES BY THE
26 DIVISION;

27 (F) INFORMATION PROVIDED TO THE DIVISION BY THE DIVISION OF

1 REAL ESTATE OR THE ATTORNEY GENERAL;

2 (G) INFORMATION PROVIDED TO THE DIVISION BY OTHER STATE OR
3 NATIONAL REGULATORY AGENCIES, GOVERNMENTAL ENTITIES, OR OTHER
4 SOURCES; AND

5 (H) VIOLATIONS OF FIDUCIARY AUTHORITY.

6 (III) A TITLE ENTITY EXAMINED UNDER THIS PARAGRAPH (a) SHALL
7 NOT BE SUBJECT TO AN EXAMINATION UNDER PARAGRAPH (b) OF THIS
8 SUBSECTION (1) FOR AT LEAST TWO YEARS.

9 (b) EXAMINE TITLE ENTITIES WITH SUFFICIENT FREQUENCY THAT
10 THE RATE OF COMPLIANCE WITH THIS ARTICLE, AND WITH ALL APPLICABLE
11 RULES ADOPTED PURSUANT TO THIS ARTICLE, MAY REASONABLY BE
12 PREDICTED TO EQUAL OR EXCEED THE AVERAGE COMPLIANCE RATE OF
13 STATES WITH COMPARABLE REGULATORY SCHEMES. SUCH EXAMINATIONS,
14 AND ENFORCEMENT ACTIONS TAKEN BASED ON THE RESULTS OF THOSE
15 EXAMINATIONS, SHALL BE DESIGNED TO PROVIDE A SIGNIFICANT
16 DETERRENT TO INAPPROPRIATE BEHAVIORS OR ACTIONS OF TITLE ENTITIES
17 THAT WOULD INDICATE NONCOMPLIANCE WITH THIS ARTICLE OR WITH
18 APPLICABLE RULES ADOPTED PURSUANT TO THIS ARTICLE;

19 (c) BEGINNING JANUARY 1, 2008, ENSURE THAT ALL NEWLY
20 LICENSED TITLE ENTITIES WILL HAVE AN APPROPRIATE EXAMINATION NO
21 SOONER THAN TWELVE MONTHS AFTER INITIAL LICENSURE AND NO LATER
22 THAN TWENTY-FOUR MONTHS AFTER INITIAL LICENSURE. A TITLE ENTITY
23 EXAMINED UNDER THIS PARAGRAPH (c) SHALL NOT BE SUBJECT TO
24 FURTHER EXAMINATION FOR AT LEAST THREE YEARS UNLESS IT IS
25 IDENTIFIED UNDER PARAGRAPH (a) OF THIS SUBSECTION (1).

26 (d) BEGINNING JANUARY 1, 2008:

27 (I) REQUIRE EACH TITLE ENTITY TO FILE AN ANNUAL REPORT

1 CONTAINING CURRENT INFORMATION AS REQUIRED BY THE DIVISION,
2 INCLUDING, WITHOUT LIMITATION:

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

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

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

8 (D) VERIFICATION OF THE ENTITY'S COMPLIANCE WITH ANNUAL
9 LICENSING REQUIREMENTS;

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

19 (2) WHEN CONDUCTING AN EXAMINATION OF A TITLE ENTITY
20 PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE DIVISION SHALL
21 APPLY A TYPE AND METHOD OF EXAMINATION THAT:

22 (a) BALANCES THE NEED FOR INFORMATION TO ASSESS THE TITLE
23 ENTITY'S COMPLIANCE AGAINST THE DANGER OF IMPOSING AN UNDUE
24 FINANCIAL BURDEN UPON THE TITLE ENTITY. A TITLE ENTITY SUBJECT TO
25 A PENDING EXAMINATION SHALL BE GIVEN THE OPPORTUNITY TO REQUEST
26 A CHANGE IN THE TYPE OF EXAMINATION TO BE APPLIED. THE DIVISION
27 SHALL DETERMINE ANY SUCH REQUEST BASED UPON EVIDENCE, ADDUCED

1 AT A PUBLIC HEARING, TENDING TO INDICATE THAT THE TITLE ENTITY
2 WOULD SUFFER IRREPARABLE FINANCIAL HARDSHIP UNLESS THE REQUEST
3 FOR A CHANGE WERE GRANTED.

4 (b) CONSERVES, TO THE EXTENT POSSIBLE, THE RESOURCES IN THE
5 TITLE INSURANCE ENFORCEMENT CASH FUND CREATED IN SUBSECTION (5)
6 OF THIS SECTION WITHOUT COMPROMISING THE EFFICACY OF THE
7 EXAMINATION.

8 (3) THE DIVISION SHALL COOPERATE WITH THE DEPARTMENT OF
9 LAW AND THE DIVISION OF REAL ESTATE IN INVESTIGATING AND
10 REFERRING FOR ENFORCEMENT ACTION BY THE ATTORNEY GENERAL,
11 WHERE APPROPRIATE, ANY SUSPECTED VIOLATIONS OF THIS ARTICLE OR OF
12 THE "COLORADO CONSUMER PROTECTION ACT", ARTICLE 1 OF TITLE 6,
13 C.R.S. IN ADDITION, THE COMMISSIONER SHALL HAVE THE POWER AND
14 DUTY TO ASSIST IN THE COLLECTION OF INFORMATION AND THE
15 INVESTIGATION AND PROSECUTION OF VIOLATIONS USING ALL AUTHORITY
16 GRANTED TO THE COMMISSIONER UNDER SECTIONS 10-1-108 AND
17 10-1-201 TO 10-1-218.

18 (4) THE COSTS INCURRED BY THE DIVISION AND THE DEPARTMENT
19 OF LAW IN CONNECTION WITH THE IMPLEMENTATION OF THIS SECTION,
20 INCLUDING EXAMINATIONS AND ENFORCEMENT ACTIONS, AND THE
21 CREATION OF THE REPORTS REQUIRED BY SECTION 10-11-128 SHALL BE
22 RECOVERED THROUGH THE ASSESSMENT OF FEES UPON PERSONS LICENSED
23 UNDER THIS ARTICLE. THE AMOUNT AND MANNER OF COLLECTION OF
24 SUCH FEES SHALL BE ESTABLISHED BY THE COMMISSIONER IN A MANNER
25 SUBSTANTIALLY SIMILAR TO THAT SET FORTH IN SECTION 24-34-105,
26 C.R.S., AND SUBJECT TO SECTION 24-75-402, C.R.S.; EXCEPT THAT THE
27 AMOUNT OF THE FEE SHALL NOT EXCEED ONE DOLLAR AND FIFTY CENTS

1 PER TITLE POLICY ISSUED AND SHALL BE PERIODICALLY ADJUSTED,
2 PURSUANT TO RULES ADOPTED BY THE COMMISSIONER, SO THAT THE
3 BALANCE OF THE FUND CREATED IN SUBSECTION (5) OF THIS SECTION DOES
4 NOT EXCEED FIVE HUNDRED THOUSAND DOLLARS. THE COMMISSIONER
5 SHALL INITIATE RULE-MAKING TO IMPLEMENT THIS SUBSECTION (4) ON A
6 SCHEDULE THAT WILL PERMIT THE COLLECTION AND DISBURSEMENT OF
7 FEE REVENUES SUFFICIENT TO BEGIN IMPLEMENTING THIS SUBSECTION (4)
8 BY SEPTEMBER 1, 2007.

9 (5) NOTWITHSTANDING ANY PROVISION OF SECTION 10-1-108 (9)
10 TO THE CONTRARY, ALL FEES COLLECTED PURSUANT TO THIS SECTION
11 SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL DEPOSIT
12 THE SAME IN THE TITLE INSURANCE ENFORCEMENT CASH FUND, WHICH
13 FUND IS HEREBY ESTABLISHED IN THE STATE TREASURY. AT THE END OF
14 EACH FISCAL YEAR, ANY UNEXPENDED AND UNENCUMBERED MONEYS
15 REMAINING IN THE FUND, TOGETHER WITH ANY INTEREST EARNED ON THE
16 DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND, SHALL REMAIN IN THE
17 FUND AND SHALL NOT REVERT TO THE GENERAL FUND. MONEYS IN THE
18 FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION TO THE DIVISION AND
19 TO THE DEPARTMENT OF LAW FOR THE PURPOSES SET FORTH IN THIS
20 SECTION AND IN SECTION 10-11-128.

21 **10-11-128. Analysis - biennial reports - repeal.** (1) THE
22 DIVISION SHALL CONDUCT AN ANALYSIS OF MARKET TRENDS, THE DATA
23 COLLECTED AS REQUIRED BY SECTION 10-11-127, REGULATORY
24 ENFORCEMENT ACTIONS, AND CONSUMER COMPLAINTS RELATED TO TITLE
25 INSURANCE IN COLORADO. THE ANALYSIS SHALL EVALUATE DATA
26 COLLECTED FROM JANUARY 1, 2008, THROUGH DECEMBER 31, 2008, AND
27 FOR EVERY TWO-YEAR PERIOD THEREAFTER, BEGINNING JANUARY 1, 2009,

1 INCLUDING DATA COLLECTED PURSUANT TO SECTION 10-11-127 AND, TO
2 THE EXTENT PERMISSIBLE BY LAW, INFORMATION ON ANY PENDING
3 INVESTIGATIONS OR REGULATORY ACTIONS. THE DIVISION SHALL REPORT
4 ITS FINDINGS BASED ON SUCH ANALYSIS, INCLUDING THE DIVISION'S
5 RECOMMENDATIONS, IF ANY, FOR LEGISLATION DEALING WITH THE
6 REGULATION OF TITLE ENTITIES, TO THE BUSINESS AFFAIRS AND LABOR
7 COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND BUSINESS, LABOR,
8 AND TECHNOLOGY COMMITTEE OF THE SENATE, OR ANY SUCCESSOR
9 COMMITTEES, ON OR BEFORE MARCH 15, 2009, AND ON OR BEFORE MARCH
10 15 OF EACH ODD-NUMBERED YEAR THEREAFTER.

11 (2) TO THE EXTENT FEASIBLE AND APPROPRIATE, THE DIVISION
12 SHALL INCORPORATE IN ITS ANALYSIS AND REPORT ANY INFORMATION
13 GATHERED BY THE REAL ESTATE COMMISSION THROUGH INVESTIGATIONS
14 PURSUANT TO SECTION 12-61-113.2, C.R.S., AND ANY INFORMATION
15 GATHERED BY THE DIVISION OR THE DEPARTMENT OF LAW THROUGH
16 EXAMINATIONS AND INVESTIGATIONS PURSUANT TO SECTION 10-11-127.

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

18 **SECTION 6.** Article 61 of title 12, Colorado Revised Statutes, is
19 amended BY THE ADDITION OF A NEW PART to read:

20 PART 10

21 INDEPENDENT CLOSING/SETTLEMENT

22 SERVICE PROVIDERS

23 **12-61-1001. Short title.** THIS PART 10 SHALL BE KNOWN AND
24 MAY BE CITED AS THE "CLOSING/SETTLEMENT SERVICE PROVIDER
25 REGISTRATION ACT".

26 **12-61-1002. Definitions.** AS USED IN THIS PART 10, UNLESS THE
27 CONTEXT OTHERWISE REQUIRES:

1 (1) "CLOSING AND SETTLEMENT SERVICES" MEANS SERVICES
2 PROVIDED FOR THE BENEFIT OF ALL NECESSARY PARTIES IN CONNECTION
3 WITH SELLING, LEASING, ENCUMBERING, MORTGAGING, OR CREATING A
4 SECURED INTEREST IN AND TO REAL PROPERTY AND THE RECEIPT AND
5 DISBURSEMENT OF MONEY IN CONNECTION WITH ANY SALE, LEASE,
6 ENCUMBRANCE, OR MORTGAGE OF, OR DEED OF TRUST TO, SUCH
7 PROPERTY.

8 (2) "CLOSING/SETTLEMENT SERVICE PROVIDER" MEANS AN
9 INDIVIDUAL OR ENTITY THAT IS ENGAGED IN THE BUSINESS OF PROVIDING
10 CLOSING AND SETTLEMENT SERVICES.

11 (3) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OF REAL
12 ESTATE.

13 (4) "DIVISION" MEANS THE DIVISION OF REAL ESTATE.

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15 **12-61-1003. Registration required.** (1) (a) ON OR AFTER
16 JANUARY 1, 2008, UNLESS REGISTERED WITH THE DIRECTOR, A PERSON
17 SHALL NOT ACT OR OFFER TO ACT AS A CLOSING/SETTLEMENT SERVICE
18 PROVIDER.

19 (b) A CLOSING/SETTLEMENT SERVICE PROVIDER SHALL APPLY FOR
20 REGISTRATION IN ACCORDANCE WITH SUBSECTION (2) OF THIS SECTION
21 EVERY THREE YEARS.

22 (2) AN APPLICANT FOR REGISTRATION SHALL SUBMIT TO THE
23 DIRECTOR THE FOLLOWING:

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

26 (b) A DISCLOSURE OF ALL ADMINISTRATIVE DISCIPLINE TAKEN
27 AGAINST THE APPLICANT CONCERNING THE CATEGORIES LISTED IN SECTION

1 12-61-1005 (1) (c); AND

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

4 (3) PRIOR TO SUBMITTING AN APPLICATION FOR REGISTRATION, AN
5 APPLICANT SHALL SUBMIT A SET OF FINGERPRINTS TO THE COLORADO
6 BUREAU OF INVESTIGATION. UPON RECEIPT OF THE APPLICANT'S
7 FINGERPRINTS, THE COLORADO BUREAU OF INVESTIGATION SHALL USE THE
8 FINGERPRINTS TO CONDUCT A STATE AND NATIONAL CRIMINAL HISTORY
9 RECORD CHECK USING RECORDS OF THE COLORADO BUREAU OF
10 INVESTIGATION AND THE FEDERAL BUREAU OF INVESTIGATION. IF THE
11 FINGERPRINTS ARE NOT READABLE AND IF A READABLE SET OF
12 FINGERPRINTS CANNOT BE OBTAINED FROM THE APPLICANT, THE
13 COLORADO BUREAU OF INVESTIGATION SHALL PERFORM A CRIMINAL
14 HISTORY RECORD CHECK USING THE APPLICANT'S NAME AND OTHER
15 AVAILABLE IDENTIFICATION. ALL COSTS ARISING FROM SUCH CRIMINAL
16 HISTORY RECORD CHECK SHALL BE BORNE BY THE APPLICANT AND SHALL
17 BE PAID WHEN THE SET OF FINGERPRINTS IS SUBMITTED. UPON
18 COMPLETION OF THE CRIMINAL HISTORY RECORD CHECK, THE BUREAU
19 SHALL FORWARD THE RESULTS TO THE DIRECTOR.

20 (4) BEFORE REGISTERING AN APPLICANT, THE DIRECTOR SHALL
21 REQUIRE THE APPLICANT TO POST A BOND AS REQUIRED BY SECTION
22 12-61-1007.

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

27 **12-61-1004. Exemptions.** (1) THIS PART 10 SHALL NOT APPLY TO

1 AN INDIVIDUAL OR ENTITY THAT IS LICENSED OR REGISTERED AS A REAL
2 ESTATE BROKER, MORTGAGE BROKER, ATTORNEY, BANK, TITLE ENTITY, OR
3 OTHER PRACTITIONER OF A REGULATED PROFESSION OR OCCUPATION AND
4 PROVIDES CLOSING AND SETTLEMENT SERVICES AS PART OF ITS PRACTICE
5 OF THAT REGULATED PROFESSION OR OCCUPATION.

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

8 **12-61-1005. Powers and duties of the division.** (1) THE
9 DIRECTOR MAY DENY, REFUSE TO RENEW, OR REVOKE THE REGISTRATION
10 OF AN APPLICANT WHO HAS:

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

14 (b) WITHIN THE LAST FIVE YEARS, BEEN CONVICTED OF OR PLED
15 GUILTY OR NOLO CONTENDERE TO A CRIME INVOLVING FRAUD, DECEIT,
16 MATERIAL MISREPRESENTATION, THEFT, OR THE BREACH OF A FIDUCIARY
17 DUTY; OR

18 (c) WITHIN THE IMMEDIATELY PRECEDING FIVE YEARS, HAD A
19 LICENSE, REGISTRATION, OR CERTIFICATION ISSUED BY COLORADO OR
20 ANOTHER STATE REVOKED OR SUSPENDED FOR FRAUD, DECEIT, MATERIAL
21 MISREPRESENTATION, THEFT, OR THE BREACH OF A FIDUCIARY DUTY, AND
22 SUCH DISCIPLINE DENIED THE PERSON AUTHORIZATION TO PRACTICE AS:

23 (I) A MORTGAGE BROKER;

24 (II) A REAL ESTATE BROKER, AS DEFINED BY SECTION 12-61-101
25 (2);

26 (III) A REAL ESTATE SALESPERSON, AS DEFINED BY SECTION
27 12-61-101 (3);

1 (IV) A REAL ESTATE APPRAISER, AS DEFINED BY SECTION
2 12-61-702 (5);

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

5 (VI) A TITLE ENTITY;

6 (VII) AN ATTORNEY;

7 (VIII) A SECURITIES BROKER-DEALER, AS DEFINED BY SECTION
8 11-51-201 (2), C.R.S.;

9 (IX) A SECURITIES SALES REPRESENTATIVE, AS DEFINED BY
10 SECTION 11-51-201 (14), C.R.S.;

11 (X) AN INVESTMENT ADVISOR, AS DEFINED BY SECTION 11-51-201
12 (9.5), C.R.S.;

13 (XI) AN INVESTMENT ADVISOR REPRESENTATIVE, AS DEFINED BY
14 SECTION 11-51-201 (9.6), C.R.S.; OR

15 (XII) A CLOSING/SETTLEMENT SERVICES PROVIDER.

16 ==

17 (2) (a) IF THE DIRECTOR HAS REASONABLE GROUNDS TO BELIEVE
18 THAT A CLOSING/SETTLEMENT SERVICE PROVIDER IS NO LONGER
19 QUALIFIED UNDER SUBSECTION (1) OF THIS SECTION, THE DIRECTOR MAY
20 SUMMARILY SUSPEND THE CLOSING/SETTLEMENT SERVICE PROVIDER'S
21 REGISTRATION PENDING A HEARING TO REVOKE THE REGISTRATION. A
22 SUMMARY SUSPENSION SHALL CONFORM TO ARTICLE 4 OF TITLE 24, C.R.S.

23 (b) THE DIRECTOR SHALL SUSPEND THE REGISTRATION OF A
24 CLOSING/SETTLEMENT SERVICE PROVIDER WHO FAILS TO MAINTAIN THE
25 BOND REQUIRED BY SECTION 12-61-1007 UNTIL THE REGISTRANT
26 COMPLIES WITH SUCH SECTION.

27 (3) THE DIRECTOR OR AN ADMINISTRATIVE LAW JUDGE APPOINTED

1 PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S., SHALL
2 CONDUCT DISCIPLINARY HEARINGS CONCERNING CLOSING/SETTLEMENT
3 SERVICE PROVIDERS. SUCH HEARINGS SHALL CONFORM TO ARTICLE 4 OF
4 TITLE 24, C.R.S.

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

9 (b) IF THE DIRECTOR OR AN ADMINISTRATIVE LAW JUDGE
10 DETERMINES THAT AN APPLICATION CONTAINED A MISSTATEMENT OF FACT
11 OR OMITTED A REQUIRED DISCLOSURE DUE TO AN UNINTENTIONAL ERROR,
12 THE DIRECTOR SHALL ALLOW THE APPLICANT TO CORRECT THE
13 APPLICATION. UPON RECEIPT OF THE CORRECTED AND COMPLETED
14 APPLICATION, THE DIRECTOR OR ADMINISTRATIVE LAW JUDGE SHALL NOT
15 BAR THE APPLICANT FROM BEING REGISTERED ON THE BASIS OF THE
16 UNINTENTIONAL MISSTATEMENT OR OMISSION.

17 (5) (a) THE DIRECTOR OR AN ADMINISTRATIVE LAW JUDGE MAY
18 ADMINISTER OATHS, TAKE AFFIRMATIONS OF WITNESSES, AND ISSUE
19 SUBPOENAS TO COMPEL THE ATTENDANCE OF WITNESSES AND THE
20 PRODUCTION OF ALL RELEVANT PAPERS, BOOKS, RECORDS, DOCUMENTARY
21 EVIDENCE, AND MATERIALS IN ANY HEARING OR INVESTIGATION
22 CONDUCTED BY THE DIRECTOR OR AN ADMINISTRATIVE LAW JUDGE.

23 (b) UPON FAILURE OF A PERSON TO COMPLY WITH A SUBPOENA OR
24 PROCESS, THE DISTRICT COURT OF THE COUNTY IN WHICH THE
25 SUBPOENAED PERSON RESIDES OR CONDUCTS BUSINESS MAY ISSUE AN
26 ORDER REQUIRING THE PERSON TO APPEAR BEFORE THE DIRECTOR OR
27 ADMINISTRATIVE LAW JUDGE AND PRODUCE THE RELEVANT PAPERS,

1 BOOKS, RECORDS, DOCUMENTARY EVIDENCE, TESTIMONY, OR MATERIALS
2 IN QUESTION. FAILURE TO OBEY THE ORDER OF THE COURT MAY BE
3 PUNISHED AS A CONTEMPT OF COURT. THE DIRECTOR OR AN
4 ADMINISTRATIVE LAW JUDGE MAY APPLY FOR SUCH ORDER.

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

9 (b) THE DIRECTOR, UPON HIS OR HER OWN MOTION OR UPON THE
10 COMPLAINT IN WRITING OF ANY PERSON, MAY INVESTIGATE THE
11 ACTIVITIES OF ANY REGISTRANT OR ANY PERSON WHO ASSUMES TO ACT IN
12 SUCH CAPACITY WITHIN THE STATE. IN ADDITION TO ANY OTHER PENALTY
13 THAT MAY BE IMPOSED PURSUANT TO THIS PART 10, A PERSON VIOLATING
14 ANY PROVISION OF THIS PART 10 OR ANY RULES PROMULGATED PURSUANT
15 TO THIS ARTICLE MAY BE FINED UPON A FINDING OF MISCONDUCT BY THE
16 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 (7) THE DIRECTOR SHALL KEEP RECORDS OF THE PERSONS
23 REGISTERED AS CLOSING/SETTLEMENT SERVICE PROVIDERS AND OF
24 DISCIPLINARY PROCEEDINGS. THE RECORDS KEPT BY THE DIRECTOR SHALL
25 BE OPEN TO PUBLIC INSPECTION IN A REASONABLE TIME AND MANNER
26 DETERMINED BY THE DIRECTOR.

27 (8) (a) THE DIRECTOR SHALL MAINTAIN A SYSTEM, WHICH MAY

1 INCLUDE, WITHOUT LIMITATION, A HOTLINE OR WEB SITE, THAT GIVES
2 CONSUMERS A REASONABLY EASY METHOD FOR MAKING COMPLAINTS
3 ABOUT A CLOSING/SETTLEMENT SERVICE PROVIDER.

4 (b) THE DIRECTOR MAY REVIEW THE COMPLAINTS ANNUALLY AND
5 PREPARE A REPORT TO BE ISSUED TO THE COMMITTEE OF THE GENERAL
6 ASSEMBLY THAT HAS OVERSIGHT OF CLOSING/SETTLEMENT SERVICE
7 PROVIDERS. SUCH REPORT SHALL CONTAIN THE TRENDS IN COMPLAINTS
8 AND INVESTIGATIONS UNDER THIS PART 10.

9 **12-61-1006. Immunity.** A PERSON PARTICIPATING IN GOOD FAITH
10 IN THE FILING OF A COMPLAINT OR REPORT OR PARTICIPATING IN AN
11 INVESTIGATION OR HEARING BEFORE THE DIRECTOR OR AN
12 ADMINISTRATIVE LAW JUDGE PURSUANT TO THIS PART 10 SHALL BE
13 IMMUNE FROM ANY LIABILITY, CIVIL OR CRIMINAL, THAT OTHERWISE
14 MIGHT RESULT BY REASON OF SUCH ACTION.

15 **12-61-1007. Bond required.** (1) PRIOR TO REGISTRATION, AN
16 APPLICANT FOR REGISTRATION SHALL POST WITH THE DIRECTOR A SURETY
17 BOND, OR AN ALTERNATIVE AUTHORIZED BY ARTICLE 35 OF TITLE 11,
18 C.R.S., OF TWENTY-FIVE THOUSAND DOLLARS. A REGISTERED
19 CLOSING/SETTLEMENT SERVICE PROVIDER SHALL MAINTAIN SUCH BOND AT
20 ALL TIMES.

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

25 (3) THE SURETY BOND SHALL REQUIRE THE SURETY TO PROVIDE
26 NOTICE TO THE DIRECTOR WITHIN THIRTY DAYS IF PAYMENT IS MADE FROM
27 THE SURETY BOND OR IF THE BOND IS CANCELLED.

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

7 (2) THE DIRECTOR SHALL DETERMINE THE TERMS AND CONDITIONS
8 OF COVERAGE REQUIRED UNDER THIS SECTION, INCLUDING THE MINIMUM
9 LIMITS OF COVERAGE, THE PERMISSIBLE DEDUCTIBLE, AND PERMISSIBLE
10 EXEMPTIONS. EACH REGISTRANT SHALL MAINTAIN EVIDENCE OF
11 COVERAGE, IN A MANNER SATISFACTORY TO THE DIRECTOR,
12 DEMONSTRATING CONTINUING COMPLIANCE WITH THE REQUIRED TERMS.

13 **12-61-1009. Fees - closing/settlement service provider**
14 **registration cash fund - creation.** (1) THE DIRECTOR MAY SET THE FEE
15 FOR REGISTRATION UNDER THIS PART 10. THE FEE SHALL BE SET IN AN
16 AMOUNT SUFFICIENT TO OFFSET THE DIRECT AND INDIRECT COSTS OF
17 IMPLEMENTING THIS PART 10. THE MONEYS COLLECTED PURSUANT TO
18 THIS SECTION SHALL BE TRANSFERRED TO THE STATE TREASURER, WHO
19 SHALL CREDIT THE SAME TO THE CLOSING/SETTLEMENT SERVICE PROVIDER
20 REGISTRATION CASH FUND.

21 (2) THERE IS HEREBY CREATED IN THE STATE TREASURY THE
22 CLOSING/SETTLEMENT SERVICE PROVIDER REGISTRATION CASH FUND.
23 MONEYS IN THE FUND SHALL BE SPENT ONLY TO IMPLEMENT THIS PART 10
24 AND SHALL NOT REVERT TO THE GENERAL FUND AT THE END OF THE FISCAL
25 YEAR. THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE
26 GENERAL ASSEMBLY.

27 **12-61-1010. Attorney general - district attorney - jurisdiction.**

1 THE ATTORNEY GENERAL SHALL HAVE CONCURRENT JURISDICTION WITH
2 THE DISTRICT ATTORNEYS OF THIS STATE TO INVESTIGATE AND PROSECUTE
3 ALLEGATIONS OF CRIMINAL VIOLATIONS OF THIS PART 10.

4 **12-61-1011. Violations - injunctions.** (1) (a) ANY NATURAL
5 PERSON, FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY, OR
6 ASSOCIATION OR ANY CORPORATION VIOLATING THIS PART 10 BY ACTING
7 AS A CLOSING/SETTLEMENT SERVICE PROVIDER IN THIS STATE WITHOUT
8 HAVING REGISTERED OR BY ACTING AS A CLOSING/SETTLEMENT SERVICE
9 PROVIDER AFTER THAT PERSON'S REGISTRATION HAS BEEN REVOKED OR
10 DURING ANY PERIOD FOR WHICH SAID REGISTRATION MAY HAVE BEEN
11 SUSPENDED IS GUILTY OF A CLASS 1 MISDEMEANOR AND SHALL BE
12 PUNISHED AS PROVIDED IN SECTION 18-1.3-501, C.R.S.; EXCEPT THAT, IF
13 THE VIOLATOR IS NOT A NATURAL PERSON, THE VIOLATOR SHALL BE
14 PUNISHED BY A FINE OF NOT MORE THAN FIVE THOUSAND DOLLARS.

15 (b) EACH CLOSING AND SETTLEMENT SERVICE PROVIDED BY AN
16 UNREGISTERED PERSON SHALL BE A SEPARATE VIOLATION OF THIS
17 SUBSECTION (1).

18 (2) THE DIRECTOR MAY FORWARD INFORMATION CONCERNING
19 POSSIBLE VIOLATIONS OF THE LAW COMMITTED BY OR COMPLAINTS FILED
20 AGAINST A CLOSING/SETTLEMENT SERVICE PROVIDER TO THE ATTORNEY
21 GENERAL, A DISTRICT ATTORNEY, OR A STATE OR FEDERAL LAW
22 ENFORCEMENT AGENCY.

23 (3) THE DIRECTOR MAY REQUEST THAT AN ACTION BE BROUGHT IN
24 THE NAME OF THE PEOPLE OF THE STATE OF COLORADO BY THE ATTORNEY
25 GENERAL OR THE DISTRICT ATTORNEY OF THE DISTRICT IN WHICH THE
26 VIOLATION IS ALLEGED TO HAVE OCCURRED TO ENJOIN A PERSON FROM
27 ENGAGING IN OR CONTINUING THE VIOLATION OR FROM DOING ANY ACT

1 THAT FURTHERS THE VIOLATION. IN SUCH AN ACTION, AN ORDER OR
2 JUDGMENT MAY BE ENTERED AWARDING SUCH PRELIMINARY OR FINAL
3 INJUNCTION AS IS DEEMED PROPER BY THE COURT. THE NOTICE, HEARING,
4 OR DURATION OF AN INJUNCTION OR RESTRAINING ORDER SHALL BE MADE
5 IN ACCORDANCE WITH THE COLORADO RULES OF CIVIL PROCEDURE.

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

9 (5) AN UNLAWFUL ACT OR VIOLATION OF THIS PART 10 ON THE
10 PART OF AN EMPLOYEE, OFFICER, OR MEMBER OF A REGISTERED
11 CLOSING/SETTLEMENT SERVICE PROVIDER SHALL NOT BE CAUSE FOR
12 DISCIPLINARY ACTION AGAINST A CLOSING/SETTLEMENT SERVICE
13 PROVIDER UNLESS IT APPEARS THAT THE CLOSING/SETTLEMENT SERVICE
14 PROVIDER KNEW OR SHOULD HAVE KNOWN OF THE UNLAWFUL ACT OR
15 VIOLATION OR HAD BEEN NEGLIGENT IN THE SUPERVISION OF THE
16 EMPLOYEE.

17 **12-61-1012. Rule-making authority.** THE DIRECTOR MAY ADOPT
18 REASONABLE RULES AS NECESSARY TO ENABLE THE DIRECTOR TO CARRY
19 OUT THE DIRECTOR'S DUTIES UNDER THIS PART 10. SUCH RULES SHALL
20 INCLUDE, WITHOUT LIMITATION, PROVISIONS CONSISTENT WITH THE
21 DIRECTOR'S REGULATION OF REAL ESTATE BROKERS UNDER SECTIONS
22 12-61-102, 12-61-103 (7), 12-61-103 (8), AND 12-61-113 (1) AND RULES
23 E-1 TO E-5, E-21, AND E-29 TO E-31 AS DESCRIBED IN CHAPTER 18,
24 "ESCROW RECORDS", OF THE REAL ESTATE MANUAL PUBLISHED BY THE
25 DIVISION AND ACCESSIBLE THROUGH THE OFFICIAL STATE WEB PORTAL AS
26 OF MARCH 1, 2007.

27 **12-61-1013. Analysis - report - fees - cash fund.** (1) (a) THE

1 DIVISION SHALL CONDUCT AN ANALYSIS OF MARKET TRENDS, REGULATORY
2 ENFORCEMENT ACTIONS, CONSUMER COMPLAINTS, AND ANY OTHER
3 MATTERS IT DEEMS RELEVANT FOR REVIEW AND CONSIDERATION BY THE
4 GENERAL ASSEMBLY RELATED TO CLOSING/SETTLEMENT SERVICE
5 PROVIDERS IN COLORADO. THE ANALYSIS SHALL EVALUATE DATA FROM
6 JANUARY 1, 2008, THROUGH DECEMBER 31, 2010. THE DIVISION SHALL
7 REPORT ITS FINDINGS BASED ON SUCH ANALYSIS, INCLUDING THE
8 DIVISION'S RECOMMENDATIONS, IF ANY, FOR LEGISLATION DEALING WITH
9 THE REGULATION OF THOSE TYPES OF ENTITIES REGULATED BY THE
10 DIVISION OF REAL ESTATE, TO THE HOUSE COMMITTEE ON BUSINESS
11 AFFAIRS AND LABOR, OR ITS SUCCESSOR COMMITTEE, AND THE SENATE
12 COMMITTEE ON BUSINESS AFFAIRS, LABOR, AND TECHNOLOGY, OR ITS
13 SUCCESSOR COMMITTEE, ON OR BEFORE MARCH 15, 2011. LEGISLATIVE
14 RECOMMENDATIONS MAY INCLUDE, WITHOUT LIMITATION, A
15 RECOMMENDATION ON WHETHER TO MOVE FROM REGISTRATION TO
16 LICENSING.

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

24 (2) (a) THE DIVISION'S COSTS INCURRED IN CONNECTION WITH THE
25 ANALYSIS AND REPORT REQUIRED BY SUBSECTION (1) OF THIS SECTION
26 SHALL BE RECOVERED THROUGH THE ASSESSMENT OF FEES UPON PERSONS
27 REGISTERED UNDER THIS PART 10. THE AMOUNT AND MANNER OF

1 COLLECTION OF SUCH FEES SHALL BE ESTABLISHED BY THE DIRECTOR IN A
2 MANNER SUBSTANTIALLY SIMILAR TO THAT SET FORTH IN SECTION
3 24-34-105, C.R.S., AND SUBJECT TO SECTION 24-75-402, C.R.S.

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

14 **12-61-1014. Repeal of part.** (1) THE PROVISIONS OF SECTION
15 24-34-104, C.R.S., CONCERNING THE TERMINATION SCHEDULE FOR
16 REGULATORY BODIES OF THE STATE UNLESS EXTENDED, APPLY TO THE
17 REGISTRATION OF CLOSING/SETTLEMENT SERVICE PROVIDERS UNDER THIS
18 PART 10.

19 (2) THE SUNSET REVIEW PERFORMED PURSUANT TO SECTION
20 24-34-104, C.R.S., SHALL INCLUDE AN ANALYSIS OF THE NUMBER AND
21 TYPES OF COMPLAINTS AND WHETHER THE REGISTRATION OF
22 CLOSING/SETTLEMENT SERVICE PROVIDERS CORRELATES WITH THE PUBLIC
23 BEING PROTECTED FROM FRAUDULENT ACTIVITIES.

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

25 **SECTION 7.** 10-11-108 (1), Colorado Revised Statutes, is
26 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

27 **10-11-108. Prohibitions.** (1) A title insurance company or title

1 insurance agent shall not:

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

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

8 **11-105-306. Mortgage loans - closing and settlement services**
9 **- use of unregistered closing/settlement service provider prohibited.**

10 IN CONNECTION WITH THE CLOSING OF A REAL ESTATE TRANSACTION, A
11 STATE BANK SHALL NOT EMPLOY, OR USE THE SERVICES OF, A
12 CLOSING/SETTLEMENT SERVICE PROVIDER THAT IS NOT REGISTERED AS
13 REQUIRED BY PART 10 OF ARTICLE 61 OF TITLE 12, C.R.S.

14 **SECTION 9.** 12-61-113 (1), Colorado Revised Statutes, is
15 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

16 **12-61-113. Investigation - revocation - actions against licensee**
17 **- repeal.** (1) The commission, upon its own motion, may, and, upon the
18 complaint in writing of any person, shall, investigate the activities of any
19 licensee or any person who assumes to act in such capacity within the
20 state, and the commission, after the holding of a hearing pursuant to
21 section 12-61-114, has the power to impose an administrative fine not to
22 exceed two thousand five hundred dollars for each separate offense and
23 to censure a licensee, to place the licensee on probation and to set the
24 terms of probation, or to temporarily suspend or permanently revoke a
25 license when the licensee has performed, is performing, or is attempting
26 to perform any of the following acts and is guilty of:

27 (y) EMPLOYING, OR USING THE SERVICES OF, A

1 CLOSING/SETTLEMENT SERVICE PROVIDER THAT IS NOT REGISTERED AS
2 REQUIRED BY PART 10 OF THIS ARTICLE.

3 **SECTION 10.** 12-61-905.5 (1), Colorado Revised Statutes, as
4 enacted by Senate Bill 07-203, enacted at the first regular session of the
5 sixty-sixth general assembly, is amended BY THE ADDITION OF A
6 NEW PARAGRAPH to read:

7 **12-61-905.5. Disciplinary actions - grounds - procedures -**
8 **rules.** (1) The director, upon his or her own motion, may, and, upon the
9 complaint in writing of any person, shall, investigate the activities of any
10 mortgage broker, and the director has the power to impose an
11 administrative fine in accordance with section 12-61-905 and to censure
12 a licensee, to place the licensee on probation and to set the terms of
13 probation, or to suspend or revoke a license when the director finds that
14 the licensee has performed, is performing, or is attempting to perform any
15 of the following acts:

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

19 **SECTION 11.** 24-34-104, Colorado Revised Statutes, is amended
20 BY THE ADDITION OF A NEW SUBSECTION to read:

21 **24-34-104. General assembly review of regulatory agencies**
22 **and functions for termination, continuation, or reestablishment.**

23 (49) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, SHALL TERMINATE
24 ON JULY 1, 2018: THE REGULATION OF CLOSING/SETTLEMENT SERVICE
25 PROVIDERS BY THE DIVISION OF REAL ESTATE IN ACCORDANCE WITH PART
26 10 OF ARTICLE 61 OF TITLE 12, C.R.S.

27 **SECTION 12.** 38-40-105 (1), Colorado Revised Statutes, is

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

2 **38-40-105. Prohibited acts by originators of certain mortgage**
3 **loans.** (1) The following acts by any mortgage broker or mortgage
4 originator with respect to any loan that is secured by a first or subordinate
5 mortgage or deed or trust lien against a dwelling are prohibited:

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

9 **SECTION 13. Effective date - applicability.** (1) Sections 5, 13,
10 and 14 of this act shall take effect upon passage.

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

14 **SECTION 14. Safety clause.** The general assembly hereby finds,
15 determines, and declares that this act is necessary for the immediate
16 preservation of the public peace, health, and safety.