

**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**

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**SENATE SPONSORSHIP**

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

**HOUSE SPONSORSHIP**

**Rice,**

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**Senate Committees**

Business, Labor and Technology  
Appropriations

**House Committees**

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**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 LICENSING 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, \_\_\_\_\_**  
108             **REQUIRING PERIODIC EXAMINATIONS OF TITLE ENTITIES, AND**  
109             **MAKING AN APPROPRIATION.**

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**Bill Summary**

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

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.

*adopted.)*

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.

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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 distinct but closely related part of the  
11 practice of these regulated professionals and have been offered only in  
12 connection with the other services offered by these professionals;

1           (c) Closing and settlement services are provided when the money  
2           of those purchasing real estate, the money to be used to pay off an  
3           existing mortgage, the money to pay the previously agreed-upon fees of  
4           licensed professionals, and other transaction costs are handled by a  
5           settlement service provider whose responsibility it is to disburse such  
6           funds and in whose name funds are made payable;

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

11          (e) These independent vendors are entrusted with large sums of  
12          money; and

13          (f) It is appropriate to once again regulate the providers of closing  
14          and settlement services.

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

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

24          **6-1-105. Deceptive trade practices.** (1) A person engages in a  
25          deceptive trade practice when, in the course of such person's business,  
26          vocation, or occupation, such person:

27          (yy) KNOWINGLY VIOLATES SECTION 10-11-108 (1) (c) OR (1) (d)

1 OR 10-11-124, C.R.S., OR ANY RULE OF THE INSURANCE COMMISSIONER IN  
2 FURTHERANCE OF SUCH SECTIONS, INCLUDING A KNOWING VIOLATION  
3 THROUGH THE CREATION OR OPERATION OF AN IMPROPER AFFILIATED  
4 BUSINESS ARRANGEMENT.

5 SECTION 3. 10-3-1104 (1) (ee), Colorado Revised Statutes, is  
6 amended to read:

7 10-3-1104. Unfair methods of competition and unfair or  
8 deceptive acts or practices. (1) The following are defined as unfair  
9 methods of competition and unfair or deceptive acts or practices in the  
10 business of insurance:

11 (ee) Willfully or repeatedly violating section 10-11-108 (1)(c) or  
12 (1) (d) OR 10-11-124, OR ANY RULE OF THE INSURANCE COMMISSIONER IN  
13 FURTHERANCE OF SUCH SECTIONS, including a willful or repeated  
14 violation through the creation or operation of an improper affiliated  
15 business arrangement.

16 SECTION 4. 10-11-102, Colorado Revised Statutes, is amended  
17 BY THE ADDITION OF A NEW SUBSECTION to read:

18 10-11-102. Definitions. As used in this article, unless the context  
19 otherwise requires:

20 (7.5) "TITLE ENTITY" INCLUDES A TITLE INSURANCE AGENT, A  
21 TITLE INSURANCE AGENCY, AND A TITLE INSURANCE COMPANY.

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

25 10-11-127. Periodic examinations - public disclosures - rules  
26 - coordination with attorney general - repeal. (1) IN ACCORDANCE  
27 WITH RULES OF THE COMMISSIONER, PROMULGATED THROUGH

1 RULE-MAKING HEARINGS COMMENCED ON OR BEFORE AUGUST 1, 2007,

2 THE DIVISION SHALL:

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

10 (II) FOR PURPOSES OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a),  
11 THE COMMISSIONER SHALL ADOPT RULES TO ESTABLISH GROUNDS FOR  
12 REASONABLE CAUSE TO SUSPECT NONCOMPLIANCE OR ACTIONS OR  
13 CONDUCT THAT MAY LEAD TO NONCOMPLIANCE. SUCH GROUNDS SHALL  
14 INCLUDE:

15 (A) AN INVALID CURRENT BUSINESS ADDRESS;

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

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

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

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

26 (F) INFORMATION PROVIDED TO THE DIVISION BY THE DIVISION OF  
27 REAL ESTATE OR THE ATTORNEY GENERAL; AND

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

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

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

21           (d) BEGINNING JANUARY 1, 2008:

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

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

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

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

3           (D) VERIFICATION OF THE ENTITY'S COMPLIANCE WITH ANNUAL  
4           LICENSING REQUIREMENTS;

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

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

17           (a) BALANCES THE NEED FOR INFORMATION TO ASSESS THE TITLE  
18           ENTITY'S COMPLIANCE AGAINST THE DANGER OF IMPOSING AN UNDUE  
19           FINANCIAL BURDEN UPON THE TITLE ENTITY. A TITLE ENTITY SUBJECT TO  
20           A PENDING EXAMINATION SHALL BE GIVEN THE OPPORTUNITY TO REQUEST  
21           A CHANGE IN THE TYPE OF EXAMINATION TO BE APPLIED. THE DIVISION  
22           SHALL DETERMINE ANY SUCH REQUEST BASED UPON EVIDENCE, ADDUCED  
23           AT A PUBLIC HEARING, TENDING TO INDICATE THAT THE TITLE ENTITY  
24           WOULD SUFFER IRREPARABLE FINANCIAL HARDSHIP UNLESS THE REQUEST  
25           FOR A CHANGE WERE GRANTED.

26           (b) CONSERVES, TO THE EXTENT POSSIBLE, THE RESOURCES IN THE  
27           TITLE INSURANCE ENFORCEMENT CASH FUND CREATED IN SUBSECTION (5)

1 OF THIS SECTION WITHOUT COMPROMISING THE EFFICACY OF THE  
2 EXAMINATION.

3 (3) THE DIVISION SHALL COOPERATE WITH THE DEPARTMENT OF  
4 LAW AND THE DIVISION OF REAL ESTATE IN INVESTIGATING AND  
5 REFERRING FOR ENFORCEMENT ACTION BY THE ATTORNEY GENERAL,  
6 WHERE APPROPRIATE, ANY SUSPECTED VIOLATIONS OF THIS ARTICLE OR OF  
7 THE "COLORADO CONSUMER PROTECTION ACT", ARTICLE 1 OF TITLE 6,  
8 C.R.S. IN ADDITION, THE COMMISSIONER SHALL HAVE THE POWER AND  
9 DUTY TO ASSIST IN THE COLLECTION OF INFORMATION AND THE  
10 INVESTIGATION AND PROSECUTION OF VIOLATIONS USING ALL AUTHORITY  
11 GRANTED TO THE COMMISSIONER UNDER SECTION 10-1-108 AND PART 2 OF  
12 THIS ARTICLE.

13 (4) (a) THE COSTS INCURRED BY THE DIVISION AND THE  
14 DEPARTMENT OF LAW IN CONNECTION WITH THE IMPLEMENTATION OF THIS  
15 SECTION AND SECTION 6-1-105 (1) (yy) C.R.S., INCLUDING EXAMINATIONS  
16 AND ENFORCEMENT ACTIONS AND THE CREATION OF THE REPORTS  
17 REQUIRED BY SECTION 10-11-128, SHALL BE RECOVERED THROUGH THE  
18 ASSESSMENT OF A SURCHARGE UPON PERSONS LICENSED UNDER THIS  
19 ARTICLE, CALCULATED AS A PRO RATA SHARE OF THE TOTAL PREMIUMS  
20 DERIVED FROM THEIR TITLE INSURANCE BUSINESS CONDUCTED IN  
21 COLORADO FOR THE YEAR IMMEDIATELY PRECEDING THE ASSESSMENT.  
22 THE AMOUNT AND MANNER OF COLLECTION OF SUCH SURCHARGE SHALL  
23 BE ESTABLISHED BY THE COMMISSIONER, SUBJECT TO SECTION 24-75-402,  
24 C.R.S.; EXCEPT THAT THE TOTAL AMOUNT COLLECTED FROM ALL TITLE  
25 ENTITIES UNDER THIS SUBSECTION (4) SHALL NOT EXCEED FIVE HUNDRED  
26 THOUSAND DOLLARS PER FISCAL YEAR.

27 (b) (I) FOR THE PURPOSE OF COVERING STARTUP COSTS FOR THE

1 IMPLEMENTATION OF THIS SECTION AND TO FUND ENFORCEMENT  
2 ACTIVITIES UNDERTAKEN BETWEEN JULY 1, 2007, AND MARCH 1, 2008,  
3 THE COMMISSIONER SHALL ASSESS A ONE-TIME SURCHARGE UPON ALL  
4 TITLE ENTITIES, CALCULATED AS A PRO RATA SHARE OF THE TOTAL  
5 PREMIUMS DERIVED FROM THEIR TITLE INSURANCE BUSINESS CONDUCTED  
6 IN COLORADO, THAT WERE SUBJECT TO SECTION 10-3-207 ON OR AFTER  
7 MARCH 1, 2007. THE SURCHARGE SHALL BE PAYABLE ON OR BEFORE  
8 SEPTEMBER 1, 2007, AND CALCULATED SO AS TO GENERATE TWO  
9 HUNDRED FIFTY THOUSAND DOLLARS IN REVENUE.

10 (II) THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE JULY 1, 2008.

11 (5) NOTWITHSTANDING ANY PROVISION OF SECTION 10-1-103 OR  
12 10-1-108 (9) TO THE CONTRARY, ALL FEES AND SURCHARGES COLLECTED  
13 PURSUANT TO THIS SECTION SHALL BE TRANSMITTED TO THE STATE  
14 TREASURER, WHO SHALL DEPOSIT THE SAME IN THE DIVISION OF  
15 INSURANCE CASH FUND CREATED IN SECTION 10-1-103, AND SHALL BE  
16 SUBJECT TO ANNUAL APPROPRIATION TO THE DIVISION AND TO THE  
17 DEPARTMENT OF LAW FOR THE PURPOSES SET FORTH IN THIS SECTION AND  
18 SECTION 10-11-128.

19 **10-11-128. Analysis - biennial reports - repeal.** (1) THE  
20 DIVISION SHALL CONDUCT AN ANALYSIS OF MARKET TRENDS, THE DATA  
21 COLLECTED AS REQUIRED BY SECTION 10-11-127, REGULATORY  
22 ENFORCEMENT ACTIONS, AND CONSUMER COMPLAINTS RELATED TO TITLE  
23 INSURANCE IN COLORADO. THE ANALYSIS SHALL EVALUATE DATA  
24 COLLECTED FROM JANUARY 1, 2008, THROUGH DECEMBER 31, 2008, AND  
25 FOR EVERY TWO-YEAR PERIOD THEREAFTER, BEGINNING JANUARY 1, 2009,  
26 INCLUDING DATA COLLECTED PURSUANT TO SECTION 10-11-127 AND, TO  
27 THE EXTENT PERMISSIBLE BY LAW, INFORMATION ON ANY PENDING

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

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

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

16 **SECTION 6.** Article 11 of title 10, Colorado Revised Statutes, is  
17 amended BY THE ADDITION OF A NEW PART to read:

18 PART 2

19 INDEPENDENT CLOSING/SETTLEMENT

20 SERVICE PROVIDERS

21 **10-11-201. Short title.** THIS PART 2 SHALL BE KNOWN AND MAY  
22 BE CITED AS THE "CLOSING/SETTLEMENT SERVICE PROVIDER LICENSING  
23 ACT".

24 **10-11-202. Definitions.** AS USED IN THIS PART 2, UNLESS THE  
25 CONTEXT OTHERWISE REQUIRES:

26 (1) "CLOSING AND SETTLEMENT SERVICES" MEANS SERVICES  
27 PROVIDED FOR THE BENEFIT OF ALL NECESSARY PARTIES IN CONNECTION

1 WITH SELLING, LEASING, ENCUMBERING, MORTGAGING, OR CREATING A  
2 SECURED INTEREST IN AND TO REAL PROPERTY AND THE RECEIPT AND  
3 DISBURSEMENT OF MONEY IN CONNECTION WITH ANY SALE, LEASE,  
4 ENCUMBRANCE, OR MORTGAGE OF, OR DEED OF TRUST TO, SUCH  
5 PROPERTY.

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

9 **10-11-203. License required.** (1) (a) ON OR AFTER JULY 1, 2007,  
10 UNLESS DULY LICENSED UNDER THIS PART 2, A PERSON SHALL NOT ACT OR  
11 OFFER TO ACT AS A CLOSING/SETTLEMENT SERVICE PROVIDER.

12 (b) A CLOSING/SETTLEMENT SERVICE PROVIDER SHALL APPLY FOR  
13 LICENSING IN SUBSTANTIALLY THE MANNER PROVIDED FOR THE LICENSING  
14 OF INSURANCE PRODUCERS UNDER PART 4 OF ARTICLE 2 OF THIS TITLE.

15 **10-11-204. Exemptions.** (1) THIS PART 2 SHALL NOT APPLY TO:

16 (a) (I) AN INDIVIDUAL OR ENTITY THAT IS LICENSED AS A REAL  
17 ESTATE BROKER, MORTGAGE BROKER, ATTORNEY, BANK, TITLE ENTITY, OR  
18 OTHER PRACTITIONER OF A REGULATED PROFESSION OR OCCUPATION THAT  
19 PROVIDES CLOSING AND SETTLEMENT SERVICES AS PART OF ITS PRACTICE  
20 OF THAT REGULATED PROFESSION OR OCCUPATION.

21 (II) AS USED IN THIS PARAGRAPH (a), "BANK" MEANS ANY BANK,  
22 SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, BUILDING AND LOAN  
23 ASSOCIATION, OR CREDIT UNION AND ANY BANK OR SAVINGS ASSOCIATION  
24 HOLDING COMPANY, BANK HOLDING COMPANY ORGANIZED UNDER THE  
25 LAWS OF ANY STATE, THE DISTRICT OF COLUMBIA, OR ANY TERRITORY OR  
26 PROTECTORATE OF THE UNITED STATES OR THE UNITED STATES, SUBJECT  
27 TO REGULATION AND SUPERVISORY BY A STATE OR FEDERAL AGENCY, AND

1 ANY OPERATING SUBSIDIARY, AFFILIATE, EMPLOYEE, OR EXCLUSIVE AGENT  
2 THEREOF.

3 (b) AN AFFILIATE OR ANY OFFICER, EMPLOYEE, OR INDEPENDENT  
4 CONTRACTOR OF ANY ENTITY LISTED IN PARAGRAPH (a) OF THIS  
5 SUBSECTION (1) WHILE ACTING WITHIN THE SCOPE OF HIS OR HER  
6 EMPLOYMENT;

7 (c) AN EMPLOYEE OF A REAL ESTATE DEVELOPMENT ENTITY  
8 REGISTERED AND IN GOOD STANDING WITH THE SECRETARY OF STATE;

9 (d) A COMMISSIONED COLORADO NOTARY PUBLIC WHOSE ACTIONS  
10 ARE LIMITED TO PRESENTING DOCUMENTS FOR EXECUTION OR WITNESSING  
11 EXECUTION OF SUCH DOCUMENTS; EXCEPT THAT THIS EXEMPTION SHALL  
12 NOT APPLY TO A NOTARY PUBLIC WHO DISBURSES SETTLEMENT FUNDS  
13 UNLESS OTHERWISE EXEMPTED IN ACCORDANCE WITH PARAGRAPH (a) OF  
14 THIS SUBSECTION (1);

15 (e) AN INDIVIDUAL OR ENTITY THAT IS PROVIDING CLOSING AND  
16 SETTLEMENT SERVICES IN CONNECTION WITH A TRANSACTION INVOLVING  
17 OIL, GAS, OR OTHER MINERALS AND ANY ASSOCIATED EASEMENTS, RIGHTS  
18 OF WAY, OR SURFACE USES.

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

21 **10-11-205. Enforcement - cease and desist orders - fines.**

22 (1) (a) IF THE COMMISSIONER HAS REASONABLE CAUSE TO BELIEVE THAT  
23 A PERSON IS VIOLATING OR HAS VIOLATED THIS PART 2, THE  
24 COMMISSIONER MAY ENTER AN ORDER REQUIRING SUCH PERSON TO CEASE  
25 AND DESIST SUCH VIOLATIONS.

26 (b) THE COMMISSIONER, UPON HIS OR HER OWN MOTION OR UPON  
27 THE COMPLAINT IN WRITING OF ANY PERSON, MAY INVESTIGATE THE

1 ACTIVITIES OF ANY LICENSEE OR ANY PERSON WHO ASSUMES TO ACT IN  
2 SUCH CAPACITY WITHIN THE STATE. IN ADDITION TO ANY OTHER PENALTY  
3 THAT MAY BE IMPOSED PURSUANT TO THIS PART 2, A PERSON VIOLATING  
4 ANY PROVISION OF THIS PART 2 OR ANY RULES PROMULGATED PURSUANT  
5 TO THIS ARTICLE MAY BE FINED UPON A FINDING OF MISCONDUCT BY THE  
6 COMMISSIONER AS FOLLOWS:

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

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

12 (c) ALL FINES COLLECTED PURSUANT TO THIS PART 2 SHALL BE  
13 TRANSFERRED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME  
14 TO THE DIVISION OF INSURANCE CASH FUND CREATED IN SECTION  
15 10-1-103.

16 (2) THE COMMISSIONER SHALL KEEP RECORDS OF THE PERSONS  
17 LICENSED AS CLOSING/SETTLEMENT SERVICE PROVIDERS AND OF  
18 DISCIPLINARY PROCEEDINGS. THE RECORDS KEPT BY THE COMMISSIONER  
19 SHALL BE OPEN TO PUBLIC INSPECTION IN A REASONABLE TIME AND  
20 MANNER DETERMINED BY THE COMMISSIONER.

21 (3) (a) THE COMMISSIONER SHALL MAINTAIN A SYSTEM, WHICH  
22 MAY INCLUDE, WITHOUT LIMITATION, A HOTLINE OR WEB SITE, THAT GIVES  
23 CONSUMERS A REASONABLY EASY METHOD FOR MAKING COMPLAINTS  
24 ABOUT A CLOSING/SETTLEMENT SERVICE PROVIDER.

25 (b) THE COMMISSIONER MAY REVIEW THE COMPLAINTS ANNUALLY  
26 AND PREPARE A REPORT TO BE ISSUED TO THE COMMITTEE OF THE  
27 GENERAL ASSEMBLY THAT HAS OVERSIGHT OF CLOSING/SETTLEMENT

1 SERVICE PROVIDERS. SUCH REPORT SHALL CONTAIN THE TRENDS IN  
2 COMPLAINTS AND INVESTIGATIONS UNDER THIS PART 2.

3 **10-11-206. Immunity.** A PERSON PARTICIPATING IN GOOD FAITH  
4 IN THE FILING OF A COMPLAINT OR REPORT OR PARTICIPATING IN AN  
5 INVESTIGATION OR HEARING BEFORE THE COMMISSIONER OR AN  
6 ADMINISTRATIVE LAW JUDGE PURSUANT TO THIS PART 2 SHALL BE IMMUNE  
7 FROM ANY LIABILITY, CIVIL OR CRIMINAL, THAT OTHERWISE MIGHT RESULT  
8 BY REASON OF SUCH ACTION.

9 **10-11-207. Fees - closing/settlement service provider licensing**  
10 **cash fund - creation.** (1) THE COMMISSIONER MAY SET THE FEE FOR  
11 LICENSES UNDER THIS PART 2. THE FEE SHALL BE SET IN AN AMOUNT  
12 SUFFICIENT TO OFFSET THE DIRECT AND INDIRECT COSTS OF IMPLEMENTING  
13 THIS PART 2. THE MONEYS COLLECTED PURSUANT TO THIS SECTION SHALL  
14 BE TRANSFERRED TO THE STATE TREASURER, WHO SHALL CREDIT THE  
15 SAME TO THE CLOSING/SETTLEMENT SERVICE PROVIDER LICENSING CASH  
16 FUND.

17 (2) THERE IS HEREBY CREATED IN THE STATE TREASURY THE  
18 CLOSING/SETTLEMENT SERVICE PROVIDER LICENSING CASH FUND.  
19 MONEYS IN THE FUND, INCLUDING INTEREST DERIVED FROM THE  
20 INVESTMENT OF REVENUES IN THE FUND, SHALL BE SPENT ONLY TO  
21 IMPLEMENT THIS PART 2 AND SHALL NOT REVERT TO THE GENERAL FUND  
22 AT THE END OF THE FISCAL YEAR. THE FUND SHALL BE SUBJECT TO  
23 ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY.

24 **10-11-208. Attorney general - district attorney - jurisdiction.**  
25 THE ATTORNEY GENERAL SHALL HAVE CONCURRENT JURISDICTION WITH  
26 THE DISTRICT ATTORNEYS OF THIS STATE TO INVESTIGATE AND PROSECUTE  
27 ALLEGATIONS OF CRIMINAL VIOLATIONS OF THIS PART 2.

1           **10-11-209. Violations - injunctions.** (1) (a) ANY NATURAL  
2 PERSON, FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY, OR  
3 ASSOCIATION OR ANY CORPORATION VIOLATING THIS PART 2 BY ACTING AS  
4 A CLOSING/SETTLEMENT SERVICE PROVIDER IN THIS STATE WITHOUT  
5 HAVING BEEN LICENSED OR BY ACTING AS A CLOSING/SETTLEMENT  
6 SERVICE PROVIDER AFTER THAT PERSON'S OR ENTITY'S LICENSE HAS BEEN  
7 REVOKED OR DURING ANY PERIOD FOR WHICH SAID LICENSE MAY HAVE  
8 BEEN SUSPENDED IS GUILTY OF A CLASS 1 MISDEMEANOR AND SHALL BE  
9 PUNISHED AS PROVIDED IN SECTION 18-1.3-501, C.R.S.; EXCEPT THAT, IF  
10 THE VIOLATOR IS NOT A NATURAL PERSON, THE VIOLATOR SHALL BE  
11 PUNISHED BY A FINE OF NOT MORE THAN FIVE THOUSAND DOLLARS.

12           (b) EACH CLOSING AND SETTLEMENT SERVICE PROVIDED BY AN  
13 UNLICENSED PERSON SHALL BE A SEPARATE VIOLATION OF THIS  
14 SUBSECTION (1).

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

20           (3) THE COMMISSIONER MAY REQUEST THAT AN ACTION BE  
21 BROUGHT IN THE NAME OF THE PEOPLE OF THE STATE OF COLORADO BY  
22 THE ATTORNEY GENERAL OR THE DISTRICT ATTORNEY OF THE DISTRICT IN  
23 WHICH THE VIOLATION IS ALLEGED TO HAVE OCCURRED TO ENJOIN A  
24 PERSON FROM ENGAGING IN OR CONTINUING THE VIOLATION OR FROM  
25 DOING ANY ACT THAT FURTHERS THE VIOLATION. IN SUCH AN ACTION, AN  
26 ORDER OR JUDGMENT MAY BE ENTERED AWARDING SUCH PRELIMINARY OR  
27 FINAL INJUNCTION AS IS DEEMED PROPER BY THE COURT. THE NOTICE,

1 HEARING, OR DURATION OF AN INJUNCTION OR RESTRAINING ORDER SHALL  
2 BE MADE IN ACCORDANCE WITH THE COLORADO RULES OF CIVIL  
3 PROCEDURE.

4 (4) A VIOLATION OF THIS PART 2 SHALL NOT AFFECT THE VALIDITY  
5 OR ENFORCEABILITY OF ANY REAL ESTATE CONTRACT, MORTGAGE, OR  
6 DEED.

7 (5) AN UNLAWFUL ACT OR VIOLATION OF THIS PART 2 ON THE PART  
8 OF AN EMPLOYEE, OFFICER, OR MEMBER OF A LICENSED  
9 CLOSING/SETTLEMENT SERVICE PROVIDER SHALL NOT BE CAUSE FOR  
10 DISCIPLINARY ACTION AGAINST A CLOSING/SETTLEMENT SERVICE  
11 PROVIDER UNLESS IT APPEARS THAT THE CLOSING/SETTLEMENT SERVICE  
12 PROVIDER KNEW OR SHOULD HAVE KNOWN OF THE UNLAWFUL ACT OR  
13 VIOLATION OR HAD BEEN NEGLIGENT IN THE SUPERVISION OF THE  
14 EMPLOYEE.

15 **10-11-210. Repeal of part.** (1) THE PROVISIONS OF SECTION  
16 24-34-104, C.R.S., CONCERNING THE TERMINATION SCHEDULE FOR  
17 REGULATORY BODIES OF THE STATE UNLESS EXTENDED, APPLY TO THE  
18 LICENSING OF CLOSING/SETTLEMENT SERVICE PROVIDERS UNDER THIS  
19 PART 2.

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

25 (3) THIS PART 2 IS REPEALED, EFFECTIVE JULY 1, 2017.

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

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

3           (e) EMPLOY, OR USE THE SERVICES OF, AN INDEPENDENT  
4 CLOSING/SETTLEMENT SERVICE PROVIDER THAT IS NOT LICENSED AS  
5 REQUIRED BY PART 2 OF THIS ARTICLE.

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

9           **11-105-306. Mortgage loans - closing and settlement services**  
10 **- use of unlicensed closing/settlement service provider prohibited.** IN  
11 CONNECTION WITH THE CLOSING OF A REAL ESTATE TRANSACTION, A  
12 STATE BANK SHALL NOT EMPLOY, OR USE THE SERVICES OF, A  
13 CLOSING/SETTLEMENT SERVICE PROVIDER THAT IS NOT LICENSED AS  
14 REQUIRED BY PART 2 OF ARTICLE 11 OF TITLE 10, C.R.S.

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

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

1           (y) EMPLOYING, OR USING THE SERVICES OF, A  
2 CLOSING/SETTLEMENT SERVICE PROVIDER THAT IS NOT LICENSED AS  
3 REQUIRED BY PART 2 OF ARTICLE 11 OF TITLE 10, C.R.S.

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

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

17           (y) EMPLOYING, OR USING THE SERVICES OF, A  
18 CLOSING/SETTLEMENT SERVICE PROVIDER THAT IS NOT LICENSED AS  
19 REQUIRED BY PART 2 OF ARTICLE 11 OF TITLE 10, C.R.S.

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

22           **24-34-104. General assembly review of regulatory agencies**  
23 **and functions for termination, continuation, or reestablishment.**  
24 (49) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, SHALL TERMINATE  
25 ON JULY 1, 2018: THE LICENSING OF CLOSING/SETTLEMENT SERVICE  
26 PROVIDERS BY THE DIVISION OF INSURANCE IN ACCORDANCE WITH PART 2  
27 OF ARTICLE 11 OF TITLE 10, C.R.S.

1           **SECTION 12.** 38-40-105 (1), Colorado Revised Statutes, is  
2 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

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

7           (e) TO EMPLOY, OR USE THE SERVICES OF, A CLOSING/SETTLEMENT  
8 SERVICE PROVIDER THAT IS NOT LICENSED AS REQUIRED BY PART 2 OF  
9 ARTICLE 11 OF TITLE 10, C.R.S.

10           **SECTION 13.** 10-1-103 (3), Colorado Revised Statutes, is  
11 amended to read:

12           **10-1-103. Division of insurance - subject to termination -**  
13 **repeal of functions.** (3) All direct and indirect expenditures of the  
14 division shall be paid from the division of insurance cash fund, which  
15 fund is hereby created in the state treasury. All fees collected pursuant to  
16 sections 8-44-204 (7), C.R.S., 8-44-205 (6), C.R.S., 10-2-413, 10-3-108,  
17 10-3-207, 10-3.5-104, 10-3.5-107, ~~10-12-106~~, 10-11-127, 10-12-106,  
18 10-15-103, 10-16-110(1) and (2), 10-16-111 (1), 24-10-115.5 (5), C.R.S.,  
19 and 29-13-102 (5), C.R.S., not including fees retained pursuant to  
20 contracts entered into in accordance with section 10-2-402 (5) or  
21 24-34-101, C.R.S., and all taxes collected pursuant to section 10-3-209  
22 (4) designated for the division of insurance, shall be transmitted to the  
23 state treasurer, who shall credit the same to the division of insurance cash  
24 fund. All moneys credited to the division of insurance cash fund shall be  
25 used as provided in this section and in section 24-48.5-106, C.R.S., shall  
26 not be deposited in or transferred to the general fund of this state or to any  
27 other fund, and shall be subject to annual appropriation by the general

1 assembly for the purposes authorized in this title and as otherwise  
2 authorized by law. In accordance with section 24-36-114, C.R.S., all  
3 interest derived from the deposit and investment of moneys in the fund  
4 shall be credited to the general fund.

5 **SECTION 14. Appropriation.** (1) (a) In addition to any other  
6 appropriation, there is hereby appropriated, out of any moneys in the  
7 division of insurance cash fund created in section 10-1-103 (3), Colorado  
8 Revised Statutes, not otherwise appropriated, to the department of  
9 regulatory agencies, executive director's office, for the purchase of legal  
10 services, for the fiscal year beginning July 1, 2007, the sum of ten  
11 thousand five hundred four dollars (\$10,504), cash funds, or so much  
12 thereof as may be necessary, for the implementation of this act.

13 (b) In addition to any other appropriation, there is hereby  
14 appropriated, out of any moneys in the division of insurance cash fund  
15 created in section 10-1-103 (3), Colorado Revised Statutes, not otherwise  
16 appropriated, for the fiscal year beginning July 1, 2007, to the department  
17 of regulatory agencies, division of insurance, the sum of seven hundred  
18 twenty-two thousand four hundred ten dollars (\$722,410), cash funds, and  
19 11.1 FTE, or so much thereof as may be necessary, for the  
20 implementation of this act.

21 (2) (a) In addition to any other appropriation, there is hereby  
22 appropriated, to the department of law, for the fiscal year beginning July  
23 1, 2007, the sum of ten thousand five hundred four dollars (\$10,504), or  
24 so much thereof as may be necessary, for the provision of legal services  
25 to the department of regulatory agencies related to the implementation of  
26 this act. Said sum shall be from cash funds exempt received from the  
27 department of regulatory agencies, executive director's office out of the

1 appropriation for legal services in subsection (1) (a) of this section.

2 (b) In addition to any other appropriation, there is hereby  
3 appropriated, to the department of law, for allocation to the consumer  
4 protection section, for the fiscal year beginning July 1, 2007, the sum of  
5 one hundred two thousand four hundred eighty-seven dollars (\$102,487)  
6 and 1.0 FTE, or so much thereof as may be necessary, for the  
7 implementation of this act. Said sum shall be from cash funds exempt  
8 received from the department of regulatory agencies, division of  
9 insurance out of the appropriation to the division of insurance in  
10 subsection (1) (b) of this section.

11 **SECTION 15. Effective date - applicability.** This act shall take  
12 effect July 1, 2007, and shall apply to closing and settlement services  
13 provided on or after said date; except that Section 10 of this act shall take  
14 effect only if Senate Bill 07-203 is enacted and becomes law.

15 **SECTION 16. 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.