

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

April 20, 2007
Date

Committee on Appropriations.

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

SB07-249 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Strike the Business, Labor and Technology Committee Report, dated
2 April 9, 2007.

3 Amend printed bill, strike everything below the enacting clause and
4 substitute the following:

5 **"SECTION 1. Legislative declaration.** (1) The general
6 assembly finds, determines, and declares that:

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

11 (b) Real estate closing and settlement services, including the
12 handling of escrow accounts and the preparation of closing documents,
13 have traditionally constituted a distinct but closely related part of the
14 practice of these regulated professionals and have been offered only in
15 connection with the other services offered by these professionals;

16 (c) Closing and settlement services are provided when the money
17 of those purchasing real estate, the money to be used to pay off an
18 existing mortgage, the money to pay the previously agreed-upon fees of
19 licensed professionals, and other transaction costs are handled by a

1 settlement service provider whose responsibility it is to disburse such
2 funds and in whose name funds are made payable;

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

7 (e) These independent vendors are entrusted with large sums of
8 money; and

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

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

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

20 **6-1-105. Deceptive trade practices.** (1) A person engages in a
21 deceptive trade practice when, in the course of such person's business,
22 vocation, or occupation, such person:

23 (yy) KNOWINGLY VIOLATES SECTION 10-11-108 (1) (c) OR (1) (d)
24 OR 10-11-124, C.R.S., OR ANY RULE OF THE INSURANCE COMMISSIONER IN
25 FURTHERANCE OF SUCH SECTIONS, INCLUDING A KNOWING VIOLATION
26 THROUGH THE CREATION OR OPERATION OF AN IMPROPER AFFILIATED
27 BUSINESS ARRANGEMENT.

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

30 **10-3-1104. Unfair methods of competition and unfair or**
31 **deceptive acts or practices.** (1) The following are defined as unfair
32 methods of competition and unfair or deceptive acts or practices in the

1 business of insurance:

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

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

9 **10-11-102. Definitions.** As used in this article, unless the context
10 otherwise requires:

11 (7.5) "TITLE ENTITY" INCLUDES A TITLE INSURANCE AGENT, A
12 TITLE INSURANCE AGENCY, AND A TITLE INSURANCE COMPANY.

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

16 **10-11-127. Periodic examinations - public disclosures - rules**
17 **- coordination with attorney general - repeal.** (1) IN ACCORDANCE
18 WITH RULES OF THE COMMISSIONER, PROMULGATED THROUGH
19 RULE-MAKING HEARINGS COMMENCED ON OR BEFORE AUGUST 1, 2007,
20 THE DIVISION SHALL:

21 (a) (I) ON AND AFTER JANUARY 1, 2008, CREATE AND IMPLEMENT
22 A PLAN OF EXAMINATIONS OF TITLE ENTITIES AS TO WHICH, IN THE
23 DIVISION'S JUDGMENT, THERE EXISTS REASONABLE CAUSE TO BELIEVE
24 THAT SUCH TITLE ENTITIES EITHER ARE NOT IN COMPLIANCE WITH THIS
25 ARTICLE OR RULES ADOPTED PURSUANT TO THIS ARTICLE OR ARE
26 ENGAGING IN ACTIONS OR CONDUCT THAT MAY LEAD TO SUCH
27 NONCOMPLIANCE.

28 (II) FOR PURPOSES OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a),
29 THE COMMISSIONER SHALL ADOPT RULES TO ESTABLISH GROUNDS FOR
30 REASONABLE CAUSE TO SUSPECT NONCOMPLIANCE OR ACTIONS OR
31 CONDUCT THAT MAY LEAD TO NONCOMPLIANCE. SUCH GROUNDS SHALL
32 INCLUDE:

1 (A) AN INVALID CURRENT BUSINESS ADDRESS;

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

4 (C) INACCURATE OR INCOMPLETE INFORMATION RELATING TO THE
5 APPROPRIATE LICENSE STATUS OF THE TITLE ENTITY AND ANY OF ITS
6 PRODUCERS;

7 (D) COMPLAINTS FILED AGAINST THE TITLE ENTITY OR ANY OF ITS
8 PRODUCERS;

9 (E) INFORMATION ACQUIRED BY THE DIVISION THROUGH ANY
10 PRIOR EXAMINATION OR DATA COLLECTED ON TITLE ENTITIES BY THE
11 DIVISION;

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

14 (G) INFORMATION PROVIDED TO THE DIVISION BY OTHER STATE OR
15 NATIONAL REGULATORY AGENCIES, GOVERNMENTAL ENTITIES, OR OTHER
16 SOURCES.

17 (b) EXAMINE TITLE ENTITIES WITH SUFFICIENT FREQUENCY THAT
18 THE RATE OF COMPLIANCE WITH THIS ARTICLE, AND WITH ALL APPLICABLE
19 RULES ADOPTED PURSUANT TO THIS ARTICLE, MAY REASONABLY BE
20 PREDICTED TO EQUAL OR EXCEED THE AVERAGE COMPLIANCE RATE OF
21 STATES WITH COMPARABLE REGULATORY SCHEMES. SUCH EXAMINATIONS,
22 AND ENFORCEMENT ACTIONS TAKEN BASED ON THE RESULTS OF THOSE
23 EXAMINATIONS, SHALL BE DESIGNED TO PROVIDE A SIGNIFICANT
24 DETERRENT TO INAPPROPRIATE BEHAVIORS OR ACTIONS OF TITLE ENTITIES
25 THAT WOULD INDICATE NONCOMPLIANCE WITH THIS ARTICLE OR WITH
26 APPLICABLE RULES ADOPTED PURSUANT TO THIS ARTICLE.

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



1 (d) BEGINNING JANUARY 1, 2008:

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

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

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

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

10 (D) VERIFICATION OF THE ENTITY'S COMPLIANCE WITH ANNUAL
11 LICENSING REQUIREMENTS;

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

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

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

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

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

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

29 (b) (I) FOR THE PURPOSE OF COVERING STARTUP COSTS FOR THE
30 IMPLEMENTATION OF THIS SECTION AND TO FUND ENFORCEMENT
31 ACTIVITIES UNDERTAKEN BETWEEN JULY 1, 2007, AND MARCH 1, 2008,
32 THE COMMISSIONER SHALL ASSESS A ONE-TIME SURCHARGE UPON ALL
33 TITLE ENTITIES, CALCULATED AS A PRO RATA SHARE OF THE TOTAL
34 PREMIUMS DERIVED FROM THEIR TITLE INSURANCE BUSINESS CONDUCTED
35 IN COLORADO, THAT WERE SUBJECT TO SECTION 10-3-207 ON OR AFTER
36 MARCH 1, 2007. THE SURCHARGE SHALL BE PAYABLE ON OR BEFORE
37 SEPTEMBER 1, 2007, AND CALCULATED SO AS TO GENERATE TWO
38 HUNDRED FIFTY THOUSAND DOLLARS IN REVENUE.

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

2 (5) NOTWITHSTANDING ANY PROVISION OF SECTION 10-1-103 OR
3 10-1-108 (9) TO THE CONTRARY, ALL FEES AND SURCHARGES COLLECTED
4 PURSUANT TO THIS SECTION SHALL BE TRANSMITTED TO THE STATE
5 TREASURER, WHO SHALL DEPOSIT THE SAME IN THE DIVISION OF
6 INSURANCE CASH FUND CREATED IN SECTION 10-1-103, AND SHALL BE
7 SUBJECT TO ANNUAL APPROPRIATION TO THE DIVISION AND TO THE
8 DEPARTMENT OF LAW FOR THE PURPOSES SET FORTH IN THIS SECTION AND
9 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 THE BUSINESS,
24 LABOR, AND TECHNOLOGY COMMITTEE OF THE SENATE, OR ANY
25 SUCCESSOR COMMITTEES, ON OR BEFORE MARCH 15, 2009, AND ON OR
26 BEFORE MARCH 15 OF EACH ODD-NUMBERED YEAR THEREAFTER.

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

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

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

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PART 2
INDEPENDENT CLOSING/SETTLEMENT
SERVICE PROVIDERS

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

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

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

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

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

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

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

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

(II) AS USED IN THIS PARAGRAPH (a), "BANK" MEANS ANY BANK, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, BUILDING AND LOAN



1 ASSOCIATION, OR CREDIT UNION AND ANY BANK OR SAVINGS ASSOCIATION
2 HOLDING COMPANY, BANK HOLDING COMPANY ORGANIZED UNDER THE
3 LAWS OF ANY STATE, THE DISTRICT OF COLUMBIA, OR ANY TERRITORY OR
4 PROTECTORATE OF THE UNITED STATES OR THE UNITED STATES, SUBJECT
5 TO REGULATION AND SUPERVISORY BY A STATE OR FEDERAL AGENCY, AND
6 ANY OPERATING SUBSIDIARY, AFFILIATE, EMPLOYEE, OR EXCLUSIVE AGENT
7 THEREOF.

8 (b) AN AFFILIATE OR ANY OFFICER, EMPLOYEE, OR INDEPENDENT
9 CONTRACTOR OF ANY ENTITY LISTED IN PARAGRAPH (a) OF THIS
10 SUBSECTION (1) WHILE ACTING WITHIN THE SCOPE OF HIS OR HER
11 EMPLOYMENT;

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

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

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

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

26 **10-11-205. Enforcement - cease and desist orders - fines.**

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

31 (b) THE COMMISSIONER, UPON HIS OR HER OWN MOTION OR UPON
32 THE COMPLAINT IN WRITING OF ANY PERSON, MAY INVESTIGATE THE
33 ACTIVITIES OF ANY LICENSEE OR ANY PERSON WHO ASSUMES TO ACT IN
34 SUCH CAPACITY WITHIN THE STATE. IN ADDITION TO ANY OTHER PENALTY

1 THAT MAY BE IMPOSED PURSUANT TO THIS PART 2, A PERSON VIOLATING
2 ANY PROVISION OF THIS PART 2 OR ANY RULES PROMULGATED PURSUANT
3 TO THIS ARTICLE MAY BE FINED UPON A FINDING OF MISCONDUCT BY THE
4 COMMISSIONER AS FOLLOWS:

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

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

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

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

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

23 (b) THE COMMISSIONER MAY REVIEW THE COMPLAINTS ANNUALLY
24 AND PREPARE A REPORT TO BE ISSUED TO THE COMMITTEE OF THE
25 GENERAL ASSEMBLY THAT HAS OVERSIGHT OF CLOSING/SETTLEMENT
26 SERVICE PROVIDERS. SUCH REPORT SHALL CONTAIN THE TRENDS IN
27 COMPLAINTS AND INVESTIGATIONS UNDER THIS PART 2.

28 **10-11-206. Immunity.** A PERSON PARTICIPATING IN GOOD FAITH
29 IN THE FILING OF A COMPLAINT OR REPORT OR PARTICIPATING IN AN
30 INVESTIGATION OR HEARING BEFORE THE COMMISSIONER OR AN
31 ADMINISTRATIVE LAW JUDGE PURSUANT TO THIS PART 2 SHALL BE IMMUNE
32 FROM ANY LIABILITY, CIVIL OR CRIMINAL, THAT OTHERWISE MIGHT RESULT
33 BY REASON OF SUCH ACTION.

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

9 (2) THERE IS HEREBY CREATED IN THE STATE TREASURY THE
10 CLOSING/SETTLEMENT SERVICE PROVIDER LICENSING CASH FUND.
11 MONEYS IN THE FUND, INCLUDING INTEREST DERIVED FROM THE
12 INVESTMENT OF REVENUES IN THE FUND, SHALL BE SPENT ONLY TO
13 IMPLEMENT THIS PART 2 AND SHALL NOT REVERT TO THE GENERAL FUND
14 AT THE END OF THE FISCAL YEAR. THE FUND SHALL BE SUBJECT TO
15 ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY.

16 **10-11-208. Attorney general - district attorney - jurisdiction.**
17 THE ATTORNEY GENERAL SHALL HAVE CONCURRENT JURISDICTION WITH
18 THE DISTRICT ATTORNEYS OF THIS STATE TO INVESTIGATE AND PROSECUTE
19 ALLEGATIONS OF CRIMINAL VIOLATIONS OF THIS PART 2.

20 **10-11-209. Violations - injunctions.** (1) (a) ANY NATURAL
21 PERSON, FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY, OR
22 ASSOCIATION OR ANY CORPORATION VIOLATING THIS PART 2 BY ACTING AS
23 A CLOSING/SETTLEMENT SERVICE PROVIDER IN THIS STATE WITHOUT
24 HAVING BEEN LICENSED OR BY ACTING AS A CLOSING/SETTLEMENT
25 SERVICE PROVIDER AFTER THAT PERSON'S OR ENTITY'S LICENSE HAS BEEN
26 REVOKED OR DURING ANY PERIOD FOR WHICH SAID LICENSE MAY HAVE
27 BEEN SUSPENDED IS GUILTY OF A CLASS 1 MISDEMEANOR AND SHALL BE
28 PUNISHED AS PROVIDED IN SECTION 18-1.3-501, C.R.S.; EXCEPT THAT, IF
29 THE VIOLATOR IS NOT A NATURAL PERSON, THE VIOLATOR SHALL BE
30 PUNISHED BY A FINE OF NOT MORE THAN FIVE THOUSAND DOLLARS.

31 (b) EACH CLOSING AND SETTLEMENT SERVICE PROVIDED BY AN
32 UNLICENSED PERSON SHALL BE A SEPARATE VIOLATION OF THIS
33 SUBSECTION (1).

34 (2) THE COMMISSIONER MAY FORWARD INFORMATION
35 CONCERNING POSSIBLE VIOLATIONS OF THE LAW COMMITTED BY OR
36 COMPLAINTS FILED AGAINST A CLOSING/SETTLEMENT SERVICE PROVIDER



1 TO THE ATTORNEY GENERAL, A DISTRICT ATTORNEY, OR A STATE OR
2 FEDERAL LAW ENFORCEMENT AGENCY.

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

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

17 (5) AN UNLAWFUL ACT OR VIOLATION OF THIS PART 2 ON THE PART
18 OF AN EMPLOYEE, OFFICER, OR MEMBER OF A LICENSED
19 CLOSING/SETTLEMENT SERVICE PROVIDER SHALL NOT BE CAUSE FOR
20 DISCIPLINARY ACTION AGAINST A CLOSING/SETTLEMENT SERVICE
21 PROVIDER UNLESS IT APPEARS THAT THE CLOSING/SETTLEMENT SERVICE
22 PROVIDER KNEW OR SHOULD HAVE KNOWN OF THE UNLAWFUL ACT OR
23 VIOLATION OR HAD BEEN NEGLIGENT IN THE SUPERVISION OF THE
24 EMPLOYEE.

25 **10-11-210. Repeal of part.** (1) THE PROVISIONS OF SECTION
26 24-34-104, C.R.S., CONCERNING THE TERMINATION SCHEDULE FOR
27 REGULATORY BODIES OF THE STATE UNLESS EXTENDED, APPLY TO THE
28 LICENSING OF CLOSING/SETTLEMENT SERVICE PROVIDERS UNDER THIS
29 PART 2.

30 (2) THE SUNSET REVIEW PERFORMED PURSUANT TO SECTION
31 24-34-104, C.R.S., SHALL INCLUDE AN ANALYSIS OF THE NUMBER AND
32 TYPES OF COMPLAINTS AND WHETHER THE LICENSING OF
33 CLOSING/SETTLEMENT SERVICE PROVIDERS CORRELATES WITH THE PUBLIC
34 BEING PROTECTED FROM FRAUDULENT ACTIVITIES.

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



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

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

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

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

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

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

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

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

33 **SECTION 10.** 12-61-905.5 (1), Colorado Revised Statutes, as



1 enacted by Senate Bill 07-203, enacted at the first regular session of the
2 sixty-sixth general assembly, is amended BY THE ADDITION OF A
3 NEW PARAGRAPH to read:

4 **12-61-905.5. Disciplinary actions - grounds - procedures -**
5 **rules.** (1) The commissioner, upon his or her own motion, may, and,
6 upon the complaint in writing of any person, shall, investigate the
7 activities of any mortgage broker, and the commissioner has the power to
8 impose an administrative fine in accordance with section 12-61-905 and
9 to censure a licensee, to place the licensee on probation and to set the
10 terms of probation, or to suspend or revoke a license when the
11 commissioner finds that the licensee has performed, is performing, or is
12 attempting to perform any of the following acts:

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

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

18 **24-34-104. General assembly review of regulatory agencies**
19 **and functions for termination, continuation, or reestablishment.**
20 (49) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, SHALL TERMINATE
21 ON JULY 1, 2018: THE LICENSING OF CLOSING/SETTLEMENT SERVICE
22 PROVIDERS BY THE DIVISION OF INSURANCE IN ACCORDANCE WITH PART 2
23 OF ARTICLE 11 OF TITLE 10, C.R.S.

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

26 **38-40-105. Prohibited acts by originators of certain mortgage**
27 **loans.** (1) The following acts by any mortgage broker or mortgage
28 originator with respect to any loan that is secured by a first or subordinate
29 mortgage or deed or trust lien against a dwelling are prohibited:

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

33 **SECTION 13.** 10-1-103 (3), Colorado Revised Statutes, is



1 amended to read:

2 **10-1-103. Division of insurance - subject to termination -**
3 **repeal of functions.** (3) All direct and indirect expenditures of the
4 division shall be paid from the division of insurance cash fund, which
5 fund is hereby created in the state treasury. All fees collected pursuant to
6 sections 8-44-204 (7), C.R.S., 8-44-205 (6), C.R.S., 10-2-413, 10-3-108,
7 10-3-207, 10-3.5-104, 10-3.5-107, ~~10-12-106~~, 10-11-127, 10-12-106,
8 10-15-103, 10-16-110 (1) and (2), 10-16-111 (1), 24-10-115.5 (5), C.R.S.,
9 and 29-13-102 (5), C.R.S., not including fees retained pursuant to
10 contracts entered into in accordance with section 10-2-402 (5) or
11 24-34-101, C.R.S., and all taxes collected pursuant to section 10-3-209
12 (4) designated for the division of insurance, shall be transmitted to the
13 state treasurer, who shall credit the same to the division of insurance cash
14 fund. All moneys credited to the division of insurance cash fund shall be
15 used as provided in this section and in section 24-48.5-106, C.R.S., shall
16 not be deposited in or transferred to the general fund of this state or to any
17 other fund, and shall be subject to annual appropriation by the general
18 assembly for the purposes authorized in this title and as otherwise
19 authorized by law. In accordance with section 24-36-114, C.R.S., all
20 interest derived from the deposit and investment of moneys in the fund
21 shall be credited to the general fund.

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

30 (b) In addition to any other appropriation, there is hereby
31 appropriated, out of any moneys in the division of insurance cash fund
32 created in section 10-1-103 (3), Colorado Revised Statutes, not otherwise
33 appropriated, for the fiscal year beginning July 1, 2007, to the department
34 of regulatory agencies, division of insurance, the sum of seven hundred
35 twenty-two thousand four hundred ten dollars (\$722,410), cash funds, and
36 11.1 FTE, or so much thereof as may be necessary, for the
37 implementation of this act.

38



1 (2) (a) In addition to any other appropriation, there is hereby
2 appropriated, to the department of law, for the fiscal year beginning July
3 1, 2007, the sum of ten thousand five hundred four dollars (\$10,504), or
4 so much thereof as may be necessary, for the provision of legal services
5 to the department of regulatory agencies related to the implementation of
6 this act. Said sum shall be from cash funds exempt received from the
7 department of regulatory agencies, executive director's office out of the
8 appropriation for legal services in subsection (1) (a) of this section.

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

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

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

25 Page 1, line 104, strike "**REGISTRATION**" and substitute "**LICENSING**";

26 line 107, strike "**AND**";

27 line 108, strike "**ENTITIES.**" and substitute "**ENTITIES, AND MAKING AN**
28 **APPROPRIATION.**".

** *** ** *** **

