

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

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 13-0153.01 Duane Gall x4335

**SENATE BILL 13-156**

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**SENATE SPONSORSHIP**

**Tochtrop,**

**HOUSE SPONSORSHIP**

**Williams,**

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**Senate Committees**

Business, Labor, & Technology  
Appropriations

**House Committees**

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**A BILL FOR AN ACT**

101     **CONCERNING CONTINUATION OF THE BOARD OF MORTGAGE LOAN**  
102             **ORIGINATORS IN THE DIVISION OF REAL ESTATE, AND, IN**  
103             **CONNECTION THEREWITH, IMPLEMENTING THE**  
104             **RECOMMENDATIONS OF THE 2012 SUNSET REPORT BY THE**  
105             **DEPARTMENT OF REGULATORY AGENCIES.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

**Sunset Process - Senate Business, Labor, and Technology**

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.*

**Committee.** The bill implements the recommendations of the sunset review and report on the board of mortgage loan originators (board) by:

- ! Extending the repeal date of the board for 5 years, until September 1, 2018 (*Recommendation 1, sections 1 and 2*);
- ! Requiring the board to deny, refuse to renew, or revoke the licenses of persons who commit specified offenses, bringing Colorado's statutes in line with federal law (*Recommendation 2, section 3*);
- ! Allowing the board to deny, refuse to renew, or revoke the licenses of, or to discipline, persons who commit specified offenses and receive a deferred judgment (*Recommendation 3, sections 3 and 5*);
- ! Eliminating a self-contradictory provision from current law (*Recommendation 4, section 6*); and
- ! Clarifying that a mortgage company may act only through individuals who are licensed or in the process of becoming licensed (*Recommendation 5, section 4*).

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

2 **SECTION 1.** In Colorado Revised Statutes, 12-61-919, **amend**  
3 (1) as follows:

4 **12-61-919. Repeal of part.** (1) This part 9 is repealed, effective  
5 ~~July 1, 2013~~ SEPTEMBER 1, 2018.

6 **SECTION 2.** In Colorado Revised Statutes, 24-34-104, **amend**  
7 (44) introductory portion and (49.5) introductory portion; **repeal** (44) (p);  
8 and **add** (49.5) (e) as follows:

9 **24-34-104. General assembly review of regulatory agencies**  
10 **and functions for termination, continuation, or reestablishment.**

11 (44) The following agencies, functions, or both, ~~shall~~ terminate on July  
12 1, 2013:

13 (p) ~~The licensing of mortgage loan originators and the registration~~  
14 ~~of mortgage companies pursuant to part 9 of article 61 of title 12, C.R.S.;~~

15 (49.5) The following agencies, functions, or both, ~~shall~~ terminate  
16 on September 1, 2018:

1 (e) THE LICENSING OF MORTGAGE LOAN ORIGINATORS AND THE  
2 REGISTRATION OF MORTGAGE COMPANIES PURSUANT TO PART 9 OF  
3 ARTICLE 61 OF TITLE 12, C.R.S.

4 **SECTION 3. In Colorado Revised Statutes, 12-61-903, amend**  
5 **(1) (a); and repeal (5.7), as follows:**

6 **12-61-903. License required - rules. (1) (a) On or after August**  
7 **5, 2009, unless licensed by the board, an individual shall not originate a**  
8 **mortgage, offer to originate a mortgage, act as a mortgage loan originator,**  
9 **or offer to act as a mortgage loan originator. On or after December 31,**  
10 **2010; Unless licensed by the board and registered with the nationwide**  
11 **mortgage licensing system and registry as a state-licensed loan originator,**  
12 **an individual shall not originate or offer to originate a mortgage or act or**  
13 **offer to act as a mortgage loan originator.**

14 **(5.7) Any individual who obtains a license pursuant to this part 9**  
15 **prior to January 1, 2010, shall furnish at least the following information**  
16 **concerning the individual's identity to the nationwide mortgage licensing**  
17 **system and registry:**

18 **(a) Fingerprints for submission to the federal bureau of**  
19 **investigation and any government agency or entity authorized to receive**  
20 **fingerprints for a state, national, or international criminal history record**  
21 **check; and**

22 **(b) Personal history and experience in a form prescribed by the**  
23 **nationwide mortgage licensing system and registry, including submission**  
24 **of authorization for the nationwide mortgage licensing system and**  
25 **registry to obtain:**

26 **(i) An independent credit report from the consumer reporting**  
27 **agency described in the federal "Fair Credit Reporting Act", 15 U.S.C.**

1 ~~sec. 1681a (p); and~~  
2 ~~(H) Information related to any administrative, civil, or criminal~~  
3 ~~findings by a government jurisdiction.~~

4 **SECTION 4.** In Colorado Revised Statutes, 12-61-905, ~~==~~ ~~==~~  
5 **repeal** (1) (g), (1) (h), and (1) (i); and **add** (1.5) as follows:

6 **12-61-905. Powers and duties of the board.** (1) The board may  
7 deny an application for a license, refuse to renew, or revoke the license  
8 of an applicant or licensee who has:

9 ~~==~~  
10 (g) ~~Had a mortgage loan originator license or similar license~~  
11 ~~revoked in any jurisdiction; except that a revocation that was~~  
12 ~~subsequently formally nullified shall not be deemed a revocation for~~  
13 ~~purposes of this section;~~

14 (h) ~~At any time preceding the date of application for a license or~~  
15 ~~registration, been convicted of, or pled guilty or nolo contendere to, a~~  
16 ~~felony in a domestic, foreign, or military court if the felony involved an~~  
17 ~~act of fraud, dishonesty, breach of trust, or money laundering; except that,~~  
18 ~~if the individual obtains a pardon of the conviction, the individual shall~~  
19 ~~not be deemed convicted for purposes of this paragraph (h);~~

20 (i) ~~Been convicted of, or pled guilty or nolo contendere to, a~~  
21 ~~felony within the seven years immediately preceding the date of~~  
22 ~~application for a license or registration;~~

23 (1.5) THE BOARD SHALL DENY AN APPLICATION FOR A LICENSE,  
24 REFUSE TO RENEW, OR REVOKE THE LICENSE OF AN APPLICANT OR  
25 LICENSEE WHO HAS:

26 (a) (I) HAD A MORTGAGE LOAN ORIGINATOR LICENSE OR SIMILAR  
27 LICENSE REVOKED IN ANY JURISDICTION.

1 (II) IF A REVOCATION IS SUBSEQUENTLY FORMALLY NULLIFIED,  
2 THE LICENSE IS NOT REVOKED FOR PURPOSES OF THIS PARAGRAPH (a).

3 (b) (I) AT ANY TIME PRECEDING THE DATE OF APPLICATION FOR A  
4 LICENSE, BEEN CONVICTED OF, OR PLED GUILTY OR NOLO CONTENDERE TO,  
5 == A FELONY IN A DOMESTIC, FOREIGN, OR MILITARY COURT IF THE FELONY  
6 INVOLVED AN ACT OF FRAUD, DISHONESTY, BREACH OF TRUST, OR MONEY  
7 LAUNDERING.

8 (II) IF THE INDIVIDUAL OBTAINS A PARDON OF THE CONVICTION,  
9 THE BOARD SHALL NOT DEEM THE INDIVIDUAL CONVICTED FOR PURPOSES  
10 OF THIS PARAGRAPH (b).

11 (c) BEEN CONVICTED OF, OR PLED GUILTY OR NOLO CONTENDERE  
12 TO, == A FELONY WITHIN THE SEVEN YEARS IMMEDIATELY PRECEDING THE  
13 DATE OF APPLICATION FOR A LICENSE.

14 **SECTION 5.** In Colorado Revised Statutes, 12-61-905.1, **amend**  
15 (1) (c) as follows:

16 **12-61-905.1. Powers and duties of the board over mortgage**  
17 **companies - fines - rules.** (1) With respect to mortgage companies, the  
18 board may deny an application for registration; refuse to renew, suspend,  
19 or revoke the registration; enter cease-and-desist orders; and impose fines  
20 as set forth in this section as follows:

21 (c) If the mortgage company employs or ~~acts through~~ CONTRACTS  
22 WITH individuals ~~subject to its control~~ who are ~~unlicensed at the time of~~  
23 ~~hire and not in the process of becoming licensed, who are required to be~~  
24 ~~licensed pursuant to this part 9 or if the mortgage company, after notice,~~  
25 ~~continues to employ or act through individuals subject to its control~~  
26 ~~whose required licenses are not valid~~ AND WHO ARE NOT EITHER:

27 (I) LICENSED; OR

1 (II) IN THE PROCESS OF BECOMING LICENSED; or

2 ==

3 **SECTION 6.** In Colorado Revised Statutes, 12-61-911, **amend**

4 (1) (k) and (1) (l); and **repeal** (1) (m) as follows:

5 **12-61-911. Prohibited conduct - fraud - misrepresentation -**

6 **conflict of interest - rules.** (1) A mortgage loan originator, including a

7 mortgage loan originator otherwise exempted from this part 9 by section

8 12-61-904 (1) (b), shall not:

9 (k) Fail to pay a third-party provider, no later than thirty days after  
10 the recording of the loan closing documents or ninety days after  
11 completion of the third-party service, whichever comes first, unless  
12 otherwise agreed or unless the third-party service provider has been  
13 notified in writing that a bona fide dispute exists regarding the  
14 performance or quality of the third-party service; OR

15 (l) Collect, charge, attempt to collect or charge, or use or propose  
16 any agreement purporting to collect or charge any fee prohibited by  
17 section 12-61-914 or 12-61-915. ~~or~~

18 ~~(m) Fail to comply with any provision of this part 9 or any rule~~  
19 ~~adopted pursuant to this part 9.~~

20 **SECTION 7. Effective date.** This act takes effect July 1, 2013.

21 **SECTION 8. Safety clause.** The general assembly hereby finds,  
22 determines, and declares that this act is necessary for the immediate  
23 preservation of the public peace, health, and safety.