

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

**INTRODUCED**

LLS NO. 01-0028.01 Julie Hoerner

**SENATE BILL 01-028**

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**SENATE SPONSORSHIP**

**Perlmutter**

**HOUSE SPONSORSHIP**

**Vigil**

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**Senate Committees**

Business, Labor, and Finance

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING CONSUMER PROTECTION RELATED TO MORTGAGE**  
102 **BROKERS.**

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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 adopted.)*

Creates a deceptive trade practice of engaging in activities of a mortgage broker without filing a \$50,000 fidelity bond with the office of the attorney general. Allows the attorney general to execute on the fidelity bond for fraud or conversion of a purchaser's funds or other defalcation by the broker.

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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.*

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

2 **SECTION 1.** Part 7 of article 1 of title 6, Colorado Revised  
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

4 **6-1-710. Mortgage brokers - deceptive trade practice.** (1) A  
5 PERSON WHO HOLDS HIMSELF OR HERSELF OUT TO THE PUBLIC AS A  
6 MORTGAGE BROKER AS DEFINED IN SECTION 18-15-109 (1) (d), C.R.S.,  
7 SHALL PROVIDE TO THE ATTORNEY GENERAL A FIDELITY BOND IN THE  
8 AMOUNT OF FIFTY THOUSAND DOLLARS CONDITIONED UPON FRAUD OR  
9 CONVERSION OF FUNDS OR OTHER DEFALCATION BY A MORTGAGE BROKER.  
10 THE FIDELITY BOND SHALL BE FILED WITH THE OFFICE OF THE ATTORNEY  
11 GENERAL AND SHALL BE DRAWN IN FAVOR OF THE ATTORNEY GENERAL FOR  
12 USE OF THE PEOPLE OF COLORADO. IF PURCHASER OBTAINS A JUDGMENT  
13 BY A COURT OF COMPETENT JURISDICTION THAT THE MORTGAGE BROKER  
14 HAS ACTED FRAUDULENTLY OR CONVERTED FUNDS OR OTHER  
15 DEFALCATION, THE PURCHASER MAY FILE A CLAIM WITH THE ATTORNEY  
16 GENERAL, AND THE ATTORNEY GENERAL SHALL EXECUTE ON THE FIDELITY  
17 BOND UP TO FIFTY THOUSAND DOLLARS. IN THE EVENT MORE THAN ONE  
18 CLAIM FOR EXECUTION OF A FIDELITY BOND IS FILED WITH THE ATTORNEY  
19 GENERAL AGAINST THE SAME MORTGAGE BROKER, THE ATTORNEY GENERAL  
20 SHALL ALLOCATE THE FIDELITY BOND PROPORTIONATELY TO THE CLAIMS  
21 FILED. THE FIDELITY BOND SHALL BE REVOCABLE ONLY UPON THE  
22 WRITTEN CONSENT OF THE ATTORNEY GENERAL. HOWEVER, A FINANCIAL  
23 INSTITUTION OR AUTHORIZED INSURER SHALL ONLY BE REQUIRED TO MAKE  
24 PAYMENT TO A PERSON MAKING A CLAIM AGAINST SUCH FIDELITY BOND IF  
25 A COURT OF COMPETENT JURISDICTION HAS RENDERED A FINAL JUDGMENT  
26 IN FAVOR OF SUCH PERSON BASED ON A FINDING THAT THE MORTGAGE  
27 BROKER HAS DEFRAUDED OR CONVERTED PURCHASER'S FUNDS OR OTHER

1 DEFALCATION OR UPON A CEASING OF BUSINESS OPERATIONS OR A  
2 BANKRUPTCY FILING BY THE MORTGAGE BROKER.

3 (2) FAILURE TO FILE A FIDELITY BOND, PURSUANT TO SUBSECTION  
4 (1) OF THIS SECTION, SHALL BE A DECEPTIVE TRADE PRACTICE.

5 **SECTION 2. Safety clause.** The general assembly hereby finds,  
6 determines, and declares that this act is necessary for the immediate  
7 preservation of the public peace, health, and safety.